

CHAPTER 29

ENERGY EMERGENCY

Authority

N.J.S.A. 52:27F-16 through 18, and 21 and 24.

Source and Effective Date

R.2006 d.211, effective May 12, 2006.
See: 37 N.J.R. 4518(a), 38 N.J.R. 2509(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 29, Energy Emergency, expires on November 8, 2013. See: 45 N.J.R. 1371(a).

Chapter Historical Note

Chapter 29, Energy Emergency, was originally codified in Title 14A as Chapter 2, Energy Emergency. Chapter 2 was adopted as R.1977 d.432, effective November 21, 1977. See: 9 N.J.R. 488(d); 9 N.J.R. 592(b).

Chapter 29, Energy Emergency, was adopted as new rules by R.1991 d.112, effective March 4, 1991. See: 22 N.J.R. 3692(a), 23 N.J.R. 706(a).

Pursuant to Executive Order No. 66(1978), Chapter 29, Energy Emergency, was readopted as R.1996 d.128, effective February 8, 1996, and Subchapter 5, State Set-Aside for Petroleum Products, was repealed and a new Subchapter 5, Petroleum Products, was adopted as R.1996 d.128, effective March 4, 1996. See: 27 N.J.R. 4852(b), 28 N.J.R. 1398(a).

Pursuant to Executive Order No. 66(1978), Chapter 29, Energy Emergency, was readopted as R.2001 d. 87, effective February 8, 2001. See: 32 N.J.R. 3717(a), 33 N.J.R. 839(a).

Subchapter 7, Supplier of Petroleum Products, was repealed by R.2004 d.13, effective January 5, 2004. See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).

Chapter 29, Energy Emergency, was readopted as R.2006 d.211, effective May 12, 2006. See: Source and Effective Date. See, also, section annotations.

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 29, Energy Emergency, was scheduled to expire on May 12, 2013. See: 43 N.J.R. 1203(a).

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SUBCHAPTER 1. GENERAL PROVISIONS

14:29-1.1 Scope

(a) The Board of Public Utilities shall implement this chapter when the Governor, by Executive Order, has proclaimed a state of energy emergency under N.J.S.A. 52:27F-17, except that the Board may implement N.J.A.C. 14:29-2.2, Public appeal, 5.3(a) (designated representative), and 4.1(b) (load interruption plan) prior to a Governor's declaration of an energy emergency.

(b) The Governor's declaration of a state of energy emergency shall be based upon a finding by the Board that there impends or exists an energy supply shortage of a dimension which endangers the public health, safety or welfare in all or any part of the State.

(c) In making a finding under this section, the Board shall state whether the shortage is limited to a specific energy form or to any specific area of the State.

Amended by R.2004 d.13, effective January 5, 2004.
See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).

Rewrote the section.

14:29-1.2 Definitions

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

“Authorized emergency vehicles” means vehicles of fire departments, utilities, police vehicles, ambulances, and such other vehicles as are approved by the Director of the Division of Motor Vehicles in the Department of Law and Public Safety pursuant to N.J.S.A. 39.

“Board” means the New Jersey Board of Public Utilities.

“Boiler fuel” means natural gas or petroleum product(s) used as a fuel for the generation of steam or electricity. This term includes natural gas or petroleum product(s) used in gas turbines for the generation of electricity.

“BTUH” means British thermal units per hour, and pertains to the volume of natural gas.

“Commercial” means a classification of service to customers engaged primarily in the sale of goods or services, including institutions and local, State and Federal government agencies for uses other than those involving manufacturing or electrical power generation.

“Commercial vehicle” means a motor vehicle used for commercial purposes on the highways, such as for the transportation of goods, which either bears commercial plates or bears the name and address of the owner of the vehicle affixed to the exterior of the vehicle in the manner prescribed for commercial vehicles in N.J.S.A. 39:4. This term includes motor vehicles designed but not used for the transportation of passengers, and also includes motor vehicles that are not designed for the transportation of passengers.

“Electric utility” means a public utility, as that term is defined in N.J.S.A. 48:2-13, that transmits and distributes electricity to end-users within the State of New Jersey.

“End-user” means any person who is a retail consumer of energy.

“Energy emergency” means a shortage in the supply of a particular source of energy of a dimension which endangers the public health, safety or welfare in all or any part of the State of New Jersey.

“Farm vehicle” means any vehicle registered under the provisions of N.J.S.A. 39:3-24 (self-propelled farm tractors, traction equipment, and farm machinery) and N.J.S.A. 39:3-15 (farm trucks) which bear farmer, farm use, or tractor plates.

“Feedstock gas” means natural gas used as raw material for its chemical properties in creating an end product.

“Firm” means a classification of energy service from schedules or contracts under which seller is expressly obligated to deliver specific energy units within a given time period and which anticipates no interruption, but which may

permit unexpected interruption in case the supply to higher priority customers is threatened.

“Gas utility” means all public utilities engaged in the distribution of gas within the State of New Jersey.

“Industrial” means a classification of energy service to customers engaged primarily in a process which creates or changes raw or unfinished materials into another form or product, including the generation of electric power.

“Interruptible” means a classification of energy service from schedules or contracts under which seller is not expressly obligated to deliver specific energy units within a given time period, and which anticipates and permits interruption on short notice, or service under schedules or contracts which expressly or impliedly require installation of equipment to allow use of an alternative fuel.

“Mcf/d” means thousand cubic feet per day, and pertains to the volume of natural gas.

“Motor fuel” means a mixture of volatile hydrocarbons such as gasoline or diesel fuel used in motor vehicles.

“Motor vehicle” means any vehicle propelled by a petroleum product, electricity or natural gas, excepting such vehicles as run only upon rails or tracks.

“Omnibus” means a motor vehicle used for the transportation of passengers for hire, including transit buses, taxicabs, and livery car services. This term does not include a commuter van or vehicle used in ridesharing arrangements, or a school bus, unless the van, vehicle or school bus is otherwise used in the transportation of passengers for hire.

“Passenger automobile” means any motor vehicle used and designed for transportation of passengers, except omnibus, school bus, and authorized emergency vehicle.

“Person” means and includes natural persons and partnerships, firms, associations, joint stock companies, syndicates and corporations, and any receiver, trustee, conservator, or other officer appointed pursuant to law or by any court, State or Federal; also counties, municipalities, authorities and other political subdivisions of this State, singular or plural, and the State of New Jersey.

“President of the Board” means the President of the New Jersey Board of Public Utilities.

“Prime supplier” means supplier, or producer who makes the first sale of petroleum products into the State distribution system for consumption within the State.

“Purchase” means and includes, in addition to its ordinary meaning, any acquisition of ownership or possession.

“Regulated petroleum product” means any of the following: motor fuel, as defined herein; aviation gasoline; jet fuel; kerosene; diesel fuel; number 1 distillate fuel; number 2 fuel oil; number 4 fuel oil; residual fuel oil; and propane.

“Residential” means a classification of energy service to all buildings and structures, or parts thereof, in which families or households live, or in which sleeping accommodations are provided for individuals with or without dining facilities.

“Retail dealer” means any person who engages in the business of selling motor fuel from a fixed location such as a service station, filling station, store, or garage directly to the operator of a motor vehicle by dispensing such motor fuel into the service tank of the motor vehicle.

“Sale” means and includes, in addition to its ordinary meaning, any exchange, gift or other disposition. In every case where motor fuel is exchanged, given, or otherwise disposed of, it shall be deemed to have been sold.

“School bus” means a motor vehicle used for the transportation of children to or from school for secular or religious education, operated by, or under contract with, a public or governmental agency, or religious or other charitable organization or corporation, or privately operated for compensation, which complies with the regulations of the Department of Education affecting school buses.

“Truck” means a commercial vehicle, as defined herein, which is designed, used, or maintained primarily for the transportation of goods. This term does not include sport utility vehicles (SUVs).

“Truck stop” means any retail dealer who provides service predominantly to trucks and truck tractors, as these terms are defined in N.J.S.A. 39:1-1.

Amended by R.2001 d.87, effective March 5, 2001.
See: 32 N.J.R. 3717(a), 33 N.J.R. 839(a).

Rewrote “Electric utility”.

Amended by R.2004 d.13, effective January 5, 2004.
See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).
Rewrote the section.

14:29-1.3 Exemptions

(a) A person may apply to the Division of Energy in the Board of Public Utilities, or its successor, for an exemption from one or more of the requirements of this chapter on the basis of extraordinary hardship or public welfare.

(b) The exemptions in this section do not apply to the odd/even motor fuel purchase restrictions at N.J.A.C. 14:6, except if an exemption from those restrictions has been applied for under N.J.A.C. 14:29-6 and denied. Procedures for applying for an exemption covering odd/even motor fuel restrictions can be found at N.J.A.C. 14:29-6.

(c) To obtain an exemption based on extraordinary hardship, a person shall submit documentation demonstrating that:

1. Compliance with the requirement for which exemption is requested would subject the person to an unreasonable burden that is disproportionately heavier than the

burden placed on others who must comply with this chapter; and

2. The disproportionate burden placed on the person is not caused directly or indirectly by the person's action or omission.

(d) To obtain an exemption based on public welfare, a person shall submit documentation demonstrating that compliance with the requirement from which exemption is requested would result in denial of a public benefit to the community, and/or to the citizens of New Jersey.

(e) An application under this section shall contain, at a minimum:

1. The name, mailing address, e-mail address (if available) and telephone number of the applicant;
2. A citation to the requirement of this chapter from which an exemption is requested;
3. A description of the activity that violates this chapter; and
4. The documentation required at (c) or (d) above, as applicable.

(f) An application under this section shall be submitted by mail to the Division of Energy in the Board of Public Utilities, at the address in N.J.A.C. 14:29-7.2.

Amended by R.2004 d.13, effective January 5, 2004.
See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).
Rewrote the section.

14:29-1.4 Modification of this chapter during emergency

The Board may modify any of the measures set out in this chapter, and/or may implement said measures in whole or in part, as necessary to address the energy emergency.

Amended by R.2004 d.13, effective January 5, 2004.
See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).
Rewrote the section.

14:29-1.5 Delegation to Board President

In cases where a Board action or decision is urgently needed and a quorum cannot be convened in a timely manner, or as authorized by statute or executive order, the President may exercise any Board authority under this chapter. Any decision or action taken by the President of the Board under this section shall have the same legal authority as if taken by the entire Board.

New Rule, R.2004 d.13, effective January 5, 2004.
See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).

14:29-1.6 Website

The New Jersey Board of Public Utilities maintains a website at www.bpu.state.nj.us. If the Governor declares an energy emergency, information pertaining to the energy

emergency will be posted on the website from time to time to assist the public.

New Rule. R.2004 d.13, effective January 5, 2004.
See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).

SUBCHAPTER 2. END-USE ENERGY REDUCTION

14:29-2.1 Scope

This subchapter shall apply to all energy end-users in New Jersey, and to any person, as defined at N.J.A.C. 14:29-1.2, that provides an energy product for sale to end-users within the State of New Jersey.

Amended by R.2004 d.13, effective January 5, 2004.
See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).
Rewrote the section.

14:29-2.2 Public appeal

In the event of an impending shortage of energy supplies, the Board may make public appeals or require electric and gas utilities and suppliers of regulated petroleum products to make public appeals through appropriate news media, requesting end-users to reduce their use of electricity, natural gas, and regulated petroleum products.

Amended by R.2004 d.13, effective January 5, 2004.
See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).
Rewrote the section.

Cross References

Additional restrictions, see N.J.A.C. 14:29-2.4.

Exemptions, see N.J.A.C. 14:29-2.5.

Involuntary curtailment, see N.J.A.C. 14:29-3.2.

Residential curtailment, see N.J.A.C. 14:29-3.4.

Waiver, see N.J.A.C. 14:29-6.8.

14:29-2.3 Energy reduction measures

(a) Upon the Governor's declaration of an energy emergency, the Board may require energy end-users to implement in whole or in part various energy reduction measures or limitations of energy uses and reductions of hours of operation described in this section.

(b) The measures in this section are not listed in priority order. The Board shall implement these measures in the order most likely to effectively address the energy emergency.

(c) Measures for all energy users are as follows:

1. Heating energy sources shall not be used to maintain temperatures within public buildings of State, county, local governments and school boards, including educational institutions, industrial and commercial establishments, at warmer than 65 degrees Fahrenheit during business hours, including start-up and preparation time, and not warmer than 55 degrees Fahrenheit during non-business hours. This provision covers all public buildings of State, county, and local governments, including school boards and educational institutions, and covers all industrial and commercial establishments.

2. Where separate thermostats for heating and cooling are in use, air conditioning thermostats shall be at 80 degrees Fahrenheit or at some other level such that cooling energy is not used to achieve prescribed heating levels.

3. Temperatures within all single and multiple family dwellings shall be set at 65 degrees Fahrenheit from 6:00 A.M. to 11:00 P.M. and 60 degrees Fahrenheit from 11:00 P.M. to 6:00 A.M.

4. Portable space heaters shall not be used as supplementary heating sources.

5. Where applicable, window draperies and blinds shall be used to cut down heat losses by setting them to the closed position during the nighttime hours and on cold, cloudy days, and setting them to the open position during periods of sunshine.

6. Thermostat control devices for hot water shall be set to maintain a maximum temperature of no more than 110 degrees Fahrenheit.

7. Steps shall be taken to eliminate heating in all unused and seldom used areas, such as stairwells, where economically feasible.

8. Work schedules for building cleaning, maintenance, restocking, and so forth, shall be revised as necessary to minimize the necessity for offices or industrial facilities to be open beyond normal working hours.

9. Professional sports, entertainment and recreational activities shall be suspended or rescheduled as directed by the Board.

10. All public museums, art galleries and historic buildings shall be closed.

11. Retail establishments shall be closed on Sunday except for those providing essential services to the public, such as retail suppliers of food and energy.

12. Retail establishments shall be closed from 7:00 P.M. to 9:00 A.M. each day, except those providing essential services to the public, such as retail suppliers of food and energy.

13. Swimming pool water shall not be heated.

14. All nonessential energy uses shall be discontinued.

(d) Measures for electricity users are as follows:

i. All outdoor flood and advertising lighting shall be eliminated, except for the minimum level to protect life and property and, where feasible, a single illuminated sign identifying commercial facilities that are open after dark.

ii. General lighting levels in stores and offices shall be reduced as close to minimum safety levels as possible.

iii. Show window and display lighting shall be eliminated.

iv. The number of elevators operating in office buildings during non-peak hours shall be reduced by at least 50 percent.

v. All aesthetic, ornamental lights shall be extinguished.

(e) Measures for natural gas users are as follows:

i. All aesthetic, ornamental gas lights shall be extinguished.

ii. All exterior gas lighting, except for essential safety and security purposes, shall be eliminated.

Amended by R.2004 d.13, effective January 5, 2004.

See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).

Rewrote the section.

Cross References

Additional restrictions, see N.J.A.C. 14:29-2.4.

Exemptions, see N.J.A.C. 14:29-2.5.

Involuntary curtailment, see N.J.A.C. 14:29-3.2.

Residential curtailment, see N.J.A.C. 14:29-3.4.

Waiver, see N.J.A.C. 14:29-6.8.

14:29-2.4 Hour limitations

In the event that measures taken under this subchapter fail to provide adequate relief, the Board may impose further restrictions upon the hours of operation of industrial and commercial operations.

Amended by R.2004 d.13, effective January 5, 2004.

See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).

Rewrote the section.

Cross References

Involuntary curtailment, see N.J.A.C. 14:29-3.2.

Residential curtailment, see N.J.A.C. 14:29-3.4.

Waiver, see N.J.A.C. 14:29-6.8.

14:29-2.5 Exemptions from end-use energy reduction measures

(a) The following shall be exempt from the requirements of N.J.A.C. 14:29-2.3 and 2.4, so long as the person or facility exempted has taken reasonable steps to reduce all non-essential energy use. However, this exemption may be modified or suspended by the Board:

1. Hospitals and other facilities licensed to provide medical care;

2. Persons who depend on life support systems; and

3. Electric sales for resale under FERC jurisdiction.

Amended by R.2004 d.13, effective January 5, 2004.

See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).

Rewrote the section.

SUBCHAPTER 3. NATURAL GAS

14:29-3.1 Scope, interruptible customers

(a) This subchapter shall apply to all natural gas utilities that provide distribution or commodity natural gas service within the State of New Jersey and to all commercial and industrial customers of these utilities.

(b) During an energy emergency that was declared based on the shortage of a regulated petroleum product, a natural gas utility shall not reduce or discontinue supply to interruptible customers for economic reasons, if the reduction or discontinuation would cause the customer to increase its use of a regulated petroleum product. This provision shall not apply in the case where the continuation of these interruptible customers on the system will jeopardize the supply to firm customers or in the case of a coincident natural gas and petroleum shortage.

Amended by R.2004 d.13, effective January 5, 2004.

See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).

Rewrote the section.

14:29-3.2 Priority plan for mandatory curtailment

(a) In the event that measures taken under N.J.A.C. 14:29-2.2, 2.3 and 2.4 do not provide sufficient relief to achieve a balance between the supply of and demand for natural gas, the Board shall require the implementation of the following mandatory steps, which shall be implemented in the order listed, except in accordance with (b) below or N.J.A.C. 14:29-1.4:

1. Reduce gas service to a minimum at gas company facilities;

2. Suspend all interruptible natural gas service, as defined at N.J.A.C. 14:29-1.2;

3. Suspend all firm industrial service of 50 Mcfd (two million BTUH) or more for process and/or feedstock gas.

Use of process and/or feedstock gas shall be discontinued as soon as possible without damaging equipment or facilities;

4. Suspend all firm commercial service of 50 Mcfd (two million BTUH) or more for other than heating. Close all business and reduce heat to the minimum necessary to protect any buildings, or 40 degrees Fahrenheit, whichever is lower;

5. Firm industrial customers with over 50 Mcfd service shall cease operating;

6. Suspend all firm industrial service of 50 Mcfd or less. Firm industrial customers with service of 50 Mcfd or less shall cease operating and shall reduce heat to the minimum necessary to protect any buildings, or to 40 degrees Fahrenheit, whichever is lower;

7. Firm commercial customers with service of 50 Mcfd or less shall cease operating and shall reduce heat to the minimum necessary to protect any buildings, or to 40 degrees Fahrenheit, whichever is lower;

8. Suspend all gas service to industrial customers, including natural gas necessary to protect buildings.

(b) Consecutive steps in the list in (a) above may be taken simultaneously if necessary to provide sufficient relief in a timely manner. However, higher priority steps will be implemented prior to lower priority steps, except in accordance with N.J.A.C. 14:29-1.4.

Amended by R.2001 d.87, effective March 5, 2001.

See: 32 N.J.R. 3717(a), 33 N.J.R. 839(a).

In (a)9, deleted "residential and".

Amended by R.2004 d.13, effective January 5, 2004.

See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).

Rewrote the section.

14:29-3.3 Inter-gas utility allocations

Pursuant to N.J.S.A. 52:27F-17(b)(3), the Board may order the allocation of specific quantities of natural gas from one gas utility to another to prevent the curtailment of service to residential and commercial end-users.

Amended by R.2004 d.13, effective January 5, 2004.

See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).

Amended N.J.S.A. reference. Inserted "service to" following "curtailment of" and "and commercial" following "residential".

14:29-3.4 Residential and commercial curtailment

(a) Where all possible means of carrying system load have been taken, including those measures set forth in N.J.A.C. 14:29-2.2, 2.3, 2.4 and 3.2, and the natural gas supplier determines that load reduction is still required in order to ensure that demand does not exceed supply, a gas utility shall take one of the actions at (b) or (c) below, as applicable.

(b) If a natural gas supplier determines under (a) above that load reduction is required, the gas utility shall notify the Board as soon as is reasonably feasible and request from the

Board the authority to reduce or eliminate the supply of natural gas to residential and/or commercial end-users pursuant to N.J.S.A. 52:27F-17(b)(3).

(c) If a system emergency is imminent and the notification procedure set forth in (b) above will cause a delay that could unduly jeopardize the integrity and proper operation of the system, the gas utility may reduce or discontinue service to residential and/or commercial end-users without prior approval from the Board.

(d) If a gas utility acts without prior approval from the Board in accordance with (c) above, the utility shall notify the Board as soon as possible, and in no case any later than four hours after beginning the reduction or elimination of service to residential and/or commercial end-users.

(e) A gas utility that reduces or eliminates service to residential and/or commercial end-users under this section shall make every effort to notify affected noninterruptible customers at least two hours prior to the service reduction or elimination.

Amended by R.2001 d.87, effective March 5, 2001.

See: 32 N.J.R. 3717(a), 33 N.J.R. 839(a).

In (a), added N.J.A.C. references in the introductory paragraph.

Amended by R.2004 d.13, effective January 5, 2004.

See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).

Rewrote the section.

SUBCHAPTER 4. ELECTRIC

14:29-4.1 Scope; load interruption plan

(a) This subchapter shall apply to all electric utilities that supply or distribute electricity within the State of New Jersey.

(b) Each electric utility shall file with the Board a load interruption plan, which details how the utility will implement rotating interruptions of service if requested to do so by PJM or another system operator. This plan shall meet the following requirements:

1. The service interrupted shall total at least 10 percent (in megawatts) of the utility's prior year peak load;
2. The plan shall not call for interruption of service to hospitals;
3. The plan shall not call for interruption of service to any one customer for more than three consecutive hours; and
4. The plan shall identify all of the following:
 - i. The circuits to be interrupted;
 - ii. The estimated peak load (in megawatts) of each circuit to be interrupted; and
 - iii. The municipalities in which the interrupted circuits are located.

(c) The electric public utility shall update the plan submitted under (b) above annually, by March 1st of each year.

Amended by R.2004 d.13, effective January 5, 2004.
See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).

Rewrote the section.

Amended by R.2006 d.211, effective June 5, 2006.
See: 37 N.J.R. 4518(a), 38 N.J.R. 2509(a).

In the introductory paragraph of (b), substituted “of service if requested to do so by PJM or another system operator.” for “of service if necessary”, and rewrote the last sentence; inserted (b)1 through (b)4; and in (c), inserted “electric public utility shall update the”.

14:29-4.2 Programs to reduce energy consumption

(a) If the PJM independent system operator (ISO) determines that the measures set forth in N.J.A.C. 14:29-2.2, 2.3 and 2.4, combined with any simultaneous or anticipated relief actions by the PJM independent system operator (ISO) and the New York ISO, do not provide sufficient relief from energy emergency conditions, the electric utilities may take the following actions:

1. Departures from normal operating procedures, which have an acceptable impact on reliability and economy. These include, but are not limited to, the following:

- i. Voluntary customer energy reduction programs, as agreed upon from time to time by an electric utility and its customers, shall be placed in effect;
- ii. A five percent voltage reduction; and
- iii. Other reliability measures which, from time to time, may be authorized by the Board;

2. Load interruptions, implemented in accordance with a plan filed by each electric utility with the Board in accordance with N.J.A.C. 14:29-4.1(b).

(b) If an electric utility implements the measures set forth at (a) above, the utility shall inform the Board of the implementation as soon as reasonably feasible and, if possible, prior to implementation of these measures.

(c) The Board may require the electric utilities to take any of the measures at (a) above if necessary to address conditions caused by the energy emergency.

Amended by R.2001 d.87, effective March 5, 2001.
See: 32 N.J.R. 3717(a), 33 N.J.R. 839(a).

Rewrote the section.

Partially recodified from N.J.A.C. 14:29-4.3 and amended by R.2004 d.13, effective January 5, 2004.

See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).
Rewrote the section.

14:29-4.3 Reserved

Amended by R.2001 d.87, effective March 5, 2001.
See: 32 N.J.R. 3717(a), 33 N.J.R. 839(a).

Deleted “consistent with the interconnection agreements to which they are signatories”.

Repealed by R.2004 d.13, effective January 5, 2004.
See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).

Section was “Implementation”.

SUBCHAPTER 5. PETROLEUM PRODUCTS

14:29-5.1 Required set aside of regulated petroleum products

(a) During an energy emergency, each prime supplier of a regulated petroleum product shall maintain a store of each regulated petroleum product that it supplies. This stored product shall be known as a “set aside,” and the amount of each supplier’s set aside for each regulated petroleum product shall be determined in accordance with this section.

(b) The amount of each prime supplier’s set aside for a particular regulated petroleum product for a particular upcoming month shall be three percent of the amount of that product sold in New Jersey by that prime supplier during the same month of the previous year, as reported to the U.S. Department of Energy’s Energy Information Agency on Form EIA-782C, Monthly Report of Prime Supplier Petroleum Product Sold for Consumption.

(c) Seven business days before the start of each month, each prime supplier shall notify the Board of the quantity of its set aside for the upcoming month for each regulated petroleum product handled by the supplier. Notification must be made by mail or by facsimile.

(d) If any portion of a set aside has not been used by the close of business on the 27th day of the month, the prime supplier may release this unused portion.

(e) The Board may increase or decrease the amount or percentage of the required set aside as necessary to address an energy emergency. The Board shall notify all prime suppliers at least two days before the adjusted set aside requirement takes effect.

New Rule, R.2004 d.13, effective January 5, 2004.

See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).

Section was “Scope and purpose”.

Amended by R.2006 d.211, effective June 5, 2006.

See: 37 N.J.R. 4518(a), 38 N.J.R. 2509(a).

Substituted “three percent” for “five percent” in (b).

14:29-5.2 Redirection of petroleum set aside

At any time during an energy emergency, the Board may, if necessary to facilitate relief of any hardship and meet the demand for regulated petroleum products, require one or more prime suppliers to redirect some or all of their set aside for one or more regulated petroleum products to a specified end-user.

Recodified from N.J.A.C. 14:29-5.1 and amended by R.2004 d.13, effective January 5, 2004.

See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).

Rewrote the section. Former N.J.A.C. 14:29-5.2. Responsibilities of prime suppliers, recodified to N.J.A.C. 14:29-5.3.

14:29-5.3 Prime suppliers—reporting, non-discrimination

(a) Each prime supplier, as defined at N.J.A.C. 14:29-1.2, shall continuously maintain and designate a representative to

act on behalf of the prime supplier with respect to available supplies. Each prime supplier shall notify the Board in writing of such designation, and shall include the name, office telephone number, e-mail address, fax number and cell phone (if available) of the representative. The prime supplier shall resubmit this information annually on March 1st of each year. In the event of a redesignation, the prime supplier shall notify the Board of such redesignation within one day of its occurrence.

(b) The representative identified under (a) above shall provide daily updates to the Board during a declared energy emergency. The updates shall provide information regarding available and anticipated supplies of the regulated petroleum products handled by the supplier.

(c) Each prime supplier shall submit to the Board the New Jersey posted dealer tank wagon price, posted reseller tank car price, or other posted price for each regulated petroleum product for each class of customer within 24 hours after a price change. Submittals postmarked within 24 hours after a price change shall be deemed to be in compliance with this subsection.

(d) The information required under this section shall be sent to:

Energy Emergency Coordinator
Division of Energy
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
PO Box 350
Trenton, New Jersey 08625-0350

(e) Each prime supplier shall distribute regulated petroleum products fairly without discrimination between wholly owned affiliates and nonwholly owned affiliates.

(f) During an energy emergency, a prime supplier shall not make any change in its distribution of regulated petroleum products without prior approval by the Board.

Recodified from N.J.A.C. 14:29-5.2 and amended by R.2004 d.13, effective January 5, 2004.

See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).

Rewrote the section.

Administrative change.

See: 43 N.J.R. 1896(a).

14:29-5.4 Interruptible dual-fuel (natural gas and petroleum) customers

In accordance with N.J.A.C. 14:29-3.1(b), during an energy emergency that was declared based on the shortage of a regulated petroleum product, a natural gas utility shall not reduce or discontinue supply to interruptible customers for economic reasons, if the reduction or discontinuation would cause the customer to increase its use of a regulated petroleum product. This provision shall not apply in the case of a coincident natural gas and petroleum shortage.

New Rule, R.2004 d.13, effective January 5, 2004.

See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).

SUBCHAPTER 6. REGULATION AND CONTROL OF SALE OF MOTOR FUEL

14:29-6.1 Scope

If, during an energy emergency, the Board determines that there is a significant shortage of motor fuel, this subchapter shall apply to all sales of motor fuel made by retail dealers to operators of motor vehicles. The terms "sales," "motor fuel," "retail dealer" and "motor vehicle" are defined at N.J.A.C. 14:29-1.2.

Amended by R.2004 d.13, effective January 5, 2004.

See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).

Rewrote the section.

14:29-6.2 Days of access to retail dealers—odd/even measure

(a) Upon determination of motor fuel shortage by the Board in accordance with N.J.A.C. 14:29-6.1, no retail dealer shall sell any motor fuel for use in a service tank in a passenger automobile, as defined at N.J.A.C. 14:29-1.2, except as set forth in the following schedule:

1. Operators of passenger automobiles bearing license plates the last number of which is an even number shall be permitted to purchase motor fuel for use in the service tank of said passenger automobile on even numbered days of each month;

2. Operators of passenger automobiles bearing license plates the last number of which is an odd number or containing no number shall be permitted to purchase motor fuel for use in the service tank of said passenger automobile on odd numbered days of each month; and

3. Operators of passenger automobiles bearing license plates from any other state or foreign nation shall be permitted to purchase motor fuel on the same odd/even basis described at (a)1 and 2 above.

Amended by R.2004 d.13, effective January 5, 2004.

See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).

Rewrote the section.

Cross References

Exemptions, see N.J.A.C. 14:29-6.5.

Exceptions, see N.J.A.C. 14:29-6.7.

14:29-6.3 Quantity of motor fuel

Upon a determination by the Board in accordance with N.J.A.C. 14:29-6.1, the Board may establish minimum or

maximum quantities of motor fuel to be sold to any purchaser, including limitations on the number of gallons to be sold and/or limitations on the number of dollars worth of motor fuel to be sold.

Amended by R.2004 d.13, effective January 5, 2004.

See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).

Rewrote the section.

Cross References

Exceptions, see N.J.A.C. 14:29-6.7.

14:29-6.4 Methods for notifying public

(a) Every retail dealer of motor fuel shall conspicuously display a flag, so that it is easily visible to the public, during such time that his or her place of business is open, as follows:

1. A red flag shall be displayed when motor fuel is not available for sale to members of the general public;

2. A green flag shall be displayed when all grades of motor fuel are available for sale to members of the general public without limitations in regard to the maximum amount which may be purchased; and

3. A yellow flag shall be displayed when motor fuel is available to members of the general public but such sales are limited in regard to the maximum amount which may be purchased, or there is a grade of motor fuel which is unavailable for sale to members of the general public.

(b) Whenever a retail dealer displays a yellow flag, he or she shall post in a conspicuous place and manner the limitations applicable to sales of motor fuel.

(c) Every retail dealer of motor fuel shall post in a conspicuous place and manner the hours during which he or she will sell motor fuel to members of the general public.

(d) All signs posted by a retail dealer relating to the price of motor fuel being sold shall be properly maintained and accurately reflect the current selling price.

(e) Every retail dealer shall, at least 15 minutes prior to closing, prominently indicate the last motor vehicle eligible to receive motor fuel from the retail dealer prior to closing.

(f) If a minimum or maximum purchase or minimum or maximum sale requirement is in effect, every retail dealer of motor fuel shall post in a conspicuous place and manner the requirement which is in effect at that time.

Amended by R.2004 d.13, effective January 5, 2004.
See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).

In (e), inserted " , at least 15 minutes prior to closing, " following "Every dealer shall"; in (f), inserted "or maximum" following "minimum" throughout; neutralized gender references throughout.

14:29-6.5 Exemptions from odd/even limits; self-implementing

(a) This section provides for self-implementing exemptions for certain vehicles from the odd/even restrictions on sales of motor fuel at N.J.A.C. 14:29-6.2. The exemptions provided for in this section are self-implementing and shall not require an application or prior approval.

(b) The following vehicles shall be exempt from the odd/even motor fuel restrictions at N.J.A.C. 14:29-6.2:

1. Motor vehicles bearing license plates with "MD" identification marks, provided that a physician is riding in the vehicle on medical business at the time of the motor fuel purchase;

2. Commercial vehicles, farm vehicles, omnibuses, and school buses, as those terms are defined at N.J.A.C. 14:29-1.2;

3. Authorized emergency vehicles, as defined at N.J.A.C. 14:29-1.2, whether or not the motor fuel is purchased under a contract; and

4. Vehicles owned and operated by the Federal government, or by the State of New Jersey or political subdivisions thereof, such as counties and municipalities.

Amended by R.2004 d.13, effective January 5, 2004.
See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).
Rewrote the section.

14:29-6.6 Exemptions from odd/even limits; by application

(a) This section provides for exemptions for certain vehicles, to be issued by the Division of Energy in the Board of Public Utilities or its successor, from the odd/even restrictions on sales of motor fuel at N.J.A.C. 14:29-6.2. An exemption issued under this section applies to the vehicle and not to its operator.

(b) Once issued, an exemption under this section is not transferable to another vehicle. All exemptions issued under this section shall expire upon the lifting of the energy emergency.

(c) Vehicles owned by employees or elected officials, who serve county and/or municipal governments, are not eligible for exemption under this section.

(d) To obtain an exemption under this section, a person shall submit an application to the Division of Energy at the address in N.J.A.C. 14:29-5.3(d), which includes documentation that one or more of the following criteria are met:

1. The exemption is necessary in order to maintain critical community services, such as meals on wheels or senior citizen transport;

2. The exemption is necessary to enable a licensed health care professional to perform their work;

3. The exemption is necessary to maintain operation of a commuter van pool that is recognized by the New Jersey Department of Transportation; or

4. Both of the following criteria are met:

i. The exemption will result in clear, tangible, and critical benefits to the community; and

ii. Compliance with the odd/even restrictions on motor fuel will interfere with the community benefit that would otherwise result from use of the vehicle.

(e) To obtain an exemption under this section, a person shall submit a completed application to the Division of Energy. The Division of Energy shall determine the type and amount of documentation necessary to adequately demonstrate that a vehicle meets the criteria at (d) above.

Amended by R.2004 d.13, effective January 5, 2004.
See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).
Rewrote the section.

14:29-6.7 Truck stops

(a) If a retailer dealer has operated a truck stop, as defined at N.J.A.C. 14:29-1.2, continuously since January 1, 2002, the dealer may choose to restrict its sales of motor fuel to the operators of trucks, as defined at N.J.A.C. 14:29-1.2, and truck tractors only.

(b) If a retail dealer chooses to restrict its sales in accordance with (a) above, the dealer shall not sell motor fuel to any operator of a passenger automobile during the energy emergency. If a retail dealer sells motor fuel to an operator of a passenger automobile, the retail dealer shall be required to sell to all operators of passenger automobiles to the extent allowable under this chapter.

(c) If a retail dealer chooses to sell only to the operators of trucks and truck tractors under this section, the dealer shall post this restriction in a conspicuous place.

Amended by R.2004 d.13, effective January 5, 2004.
See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).
Rewrote the section.

14:29-6.8 Police authority to waive regulations in cases of emergency

(a) Notwithstanding any of the provisions of this subchapter, police departments of the Division of State Police in the Department of Law and Public Safety and police departments of any New Jersey municipality may, in cases of bona fide emergency, permit a retail dealer to sell motor fuel at any time to the operator of a motor vehicle who would otherwise not be entitled to purchase motor fuel under this subchapter.

(b) In every instance where a waiver of these rules is granted, the police department involved shall make a written record, setting forth the name of the person requesting such waiver, the name of the person granting the waiver, the waiver granted and the reasons therefor.

(c) For the purposes of this subchapter, a bona fide emergency shall be deemed to exist when a police officer determines that the use of a motor vehicle is necessary for the life, health or safety of an individual or community.

(d) Any person procuring motor fuel by falsely claiming bona fide emergency shall be deemed to be in violation of this section.

Amended by R.2004 d.13, effective January 5, 2004.
See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).
Rewrote the section.

14:29-6.9 Sale to emergency vehicles on demand

Notwithstanding any provision of this chapter to the contrary, a retail dealer shall sell motor fuel to an operator of an authorized emergency vehicle, as defined at N.J.A.C. 14:29-1.2, immediately upon demand at any time including those hours when a retail dealer is not open for the sale of motor fuel to the general public.

Amended by R.2004 d.13, effective January 5, 2004.
See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).
Rewrote the section.

14:29-6.10 Preemption of local law

All local and county regulations, statutes, ordinances and proclamations dealing with the subject matter of this subchapter are hereby superseded, to the extent that they conflict with this subchapter.

Amended by R.2004 d.13, effective January 5, 2004.
See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).
Rewrote the section.

14:29-6.11 Interference with compliance

(a) No person shall threaten, interfere, or attempt to interfere with the retail dealer with respect to compliance with the provisions of this subchapter.

(b) No person shall knowingly or willfully misrepresent a motor vehicle as one entitled to an exemption from this subchapter or to a priority thereunder. Such misrepresentation includes, but is not limited to, falsely identifying a motor vehicle as a commercial vehicle.

(c) If such misrepresentation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. Penalties imposed resulting from a violation of this section shall not preclude the application of any other penalties, civil or criminal, as prescribed by law.

Amended by R.2004 d.13, effective January 5, 2004.
See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).
Added (c).

14:29-6.12 Preferred customers; sale on first-come, first-served basis

(a) No retail dealer shall give preferential treatment including, but not limited to, separate pumps, separate pump lines, separate hours of sale, or sale by appointment to preferred or regular customers.

(b) All sales of motor fuel shall be on a first-come, first-served basis.

Recodified from N.J.A.C. 14:29-6.13 by R.2004 d.13, effective January 5, 2004.
See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).
Former N.J.A.C. 14:29-6.12, Modification or suspension of regulations, repealed.

14:29-6.13 Sale of motor fuel in containers

(a) No person shall, for other than commercial or farm purposes, purchase or attempt to purchase from a retail dealer by distribution directly into a container unrelated to an internal combustion engine more than one gallon of motor fuel.

(b) No retail dealer shall, for other than commercial or farm purposes, sell, or attempt to sell, by distribution directly into a container unrelated to an internal combustion engine more than one gallon of motor fuel.

Recodified from N.J.A.C. 14:29-6.14 by R.2004 d.13, effective January 5, 2004.

See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).

Former N.J.A.C. 14:29-6.13, Preferred customers; sale on first-come, first served basis, recodified to N.J.A.C. 14:29-6.12.

14:29-6.14 (Reserved)

Repealed by R.2004 d.13, effective January 5, 2004.

See: 35 N.J.R. 1508(a), 36 N.J.R. 205(a).

Section 14:29-6.14, "Sale of motor fuel in containers", recodified to 14:29-6.13.

SUBCHAPTER 7. (RESERVED)