

CHAPTER 8

RENEWABLE ENERGY AND ENERGY EFFICIENCY

Authority

N.J.S.A. 48:2-13, 48:3-49 et seq., and 48:3-87

Source and Effective Date

R.2012 d.107, effective May 1, 2012.
See: 43 N.J.R. 1162(a), 44 N.J.R. 1703(a).

Chapter Expiration Date

Chapter 8, Renewable Energy and Energy Efficiency, expires on May 1, 2019.

In accordance with N.J.S.A. 52:14B-5.1.c(2), Subchapter 7, Aggregated Net Metering, expires on March 19, 2015. See: 46 N.J.R. 2012(a).

Chapter Historical Note

Chapter 8, Railroads, was recodified as 16:23 by R.1995 d.278, effective June 5, 1995. See: 27 N.J.R. 1155(a), 27 N.J.R. 2247(a).

Chapter 8, Renewable Energy and Energy Efficiency, was adopted as new rules by R.2006 d.178, effective May 15, 2006. As a part of R.2006 d.178, Subchapter 2, Interim Renewable Energy Portfolio Standards, was recodified from N.J.A.C. 14:4-8 and renamed Subchapter 2, Renewable Portfolio Standards. See: 37 N.J.R. 3911(a), 38 N.J.R. 2176(a).

Subchapter 8, Standard Offer Contracts, was adopted as new rules by R.2007 d.215, effective July 16, 2007. See: 39 N.J.R. 158(a), 39 N.J.R. 2652(a).

Subchapter 5, Appliance Efficiency, Certification, and Testing Standards, was adopted as new rules by R.2008 d.4, effective January 7, 2008. See: 39 N.J.R. 349(a), 40 N.J.R. 187(a).

Subchapter 3, Environmental Information Disclosure, and Subchapter 4, Net Metering and Interconnection Standards For Class I Renewable Energy Systems, were adopted as new rules by R.2008 d.130, effective May 19, 2008. See: 39 N.J.R. 1405(a), 40 N.J.R. 2526(a).

Subchapter 4, Net Metering and Interconnection Standards for Class I Renewable Energy Systems, was renamed Net Metering for Class I Renewable Energy Systems; Subchapter 5, Appliance Efficiency, Certification, and Testing Standards was recodified to Subchapter 7 and renamed Appliance Efficiency, Certification and Testing Standards; and Subchapter 5, Interconnection of Class I Renewable Energy Systems, was adopted as new rules by R.2010 d.010, effective January 4, 2010. See: 41 N.J.R. 2215(a), 42 N.J.R. 78(a).

Appendix H of Subchapter 3, Label Update and Distribution Timing Requirements, was repealed by R.2010 d.011, effective January 4, 2010. See: 41 N.J.R. 2212(a), 42 N.J.R. 76(a).

Subchapter 6, Qualified Offshore Wind Projects, was adopted as special new rules by R.2011 d.087, effective February 10, 2011 (to expire August 20, 2012). See: 43 N.J.R. 658(a).

Subchapter 3, Environmental Information Disclosure, and Subchapter 7, Renewable Energy and Energy Efficiency, expired on April 18, 2011.

In accordance with N.J.S.A. 52:14B-5.1b, Subchapter 1, Renewable Energy General Provisions and Definitions, Subchapter 2, Renewable Portfolio Standards, Subchapter 4, Net Metering for Class I Renewable Energy Systems Subchapter 5, Interconnection of Class I Renewable Energy Systems, and Subchapter 8, Standard Offer Contracts, were scheduled to expire on October 15, 2013. See: 43 N.J.R. 1203(a).

Subchapter 1, Renewable Energy General Provisions and Definitions, Subchapter 2, Renewable Portfolio Standards, Subchapter 4, Net Metering for Class I Renewable Energy Systems, Subchapter 5, Interconnection of Class I Renewable Energy Systems, and Subchapter 8, Standard Offer Contracts, were readopted as R.2012 d.107, effective May 1, 2012. As a part of R.2012 d.107, Subchapter 3, Environmental Information Disclosure, was adopted as new rules, effective June 4, 2012. See: Source and Effective Date. See, also, section annotations.

Subchapter 6, Qualified Offshore Wind Projects, was readopted as R.2013 d.039, effective January 23, 2013. See: 44 N.J.R. 2102(a), 45 N.J.R. 336(a).

Subchapter 7, Aggregated Net Metering, was adopted as special adopted new rules by R.2013 d.065, effective March 21, 2013 (scheduled to expire September 20, 2014). See: 45 N.J.R. 951(a).

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. RENEWABLE ENERGY GENERAL PROVISIONS AND DEFINITIONS

- 14:8-1.1 Applicability
- 14:8-1.2 Definitions
- 14:8-1.3 Enforcement

SUBCHAPTER 2. RENEWABLE PORTFOLIO STANDARDS

- 14:8-2.1 Purpose and scope
- 14:8-2.2 Definitions
- 14:8-2.3 Amount of renewable energy required
- 14:8-2.4 Energy that qualifies for an SREC; registration requirement
- 14:8-2.5 Energy that qualifies for a class I REC
- 14:8-2.6 Energy that qualifies for a class II REC
- 14:8-2.7 Class I and class II renewable energy—generation within PJM
- 14:8-2.8 Using RECs, SRECs, and ORECs for RPS compliance
- 14:8-2.9 Issuance of RECs and SRECs
- 14:8-2.10 Alternative compliance payments (ACPs and SACPs)
- 14:8-2.11 Demonstrating compliance, reporting and recordkeeping
- 14:8-2.12 (Reserved)

SUBCHAPTER 3. ENVIRONMENTAL INFORMATION DISCLOSURE

- 14:8-3.1 Environmental information disclosure

SUBCHAPTER 4. NET METERING FOR CLASS I RENEWABLE ENERGY SYSTEMS

- 14:8-4.1 Scope
- 14:8-4.2 Net metering definitions
- 14:8-4.3 Net metering general provisions, annualized period selection
- 14:8-4.4 Meters and metering
- 14:8-4.5 Net metering reporting requirements for EDCs
- 14:8-4.6 through 14:8-4.11 (Reserved)

SUBCHAPTER 5. INTERCONNECTION OF CLASS I RENEWABLE ENERGY SYSTEMS

- 14:8-5.1 Interconnection definitions
- 14:8-5.2 General interconnection provisions
- 14:8-5.3 Certification of customer-generator interconnection equipment
- 14:8-5.4 Level 1 interconnection review
- 14:8-5.5 Level 2 interconnection review
- 14:8-5.6 Level 3 interconnection review
- 14:8-5.7 Interconnection fees
- 14:8-5.8 Testing, maintenance and inspection after interconnection approval
- 14:8-5.9 Interconnection reporting requirements for EDCs

SUBCHAPTER 6. QUALIFIED OFFSHORE WIND PROJECTS

- 14:8-6.1 Definitions
- 14:8-6.2 Offshore wind renewable portfolio standards requirements
- 14:8-6.3 Application process
- 14:8-6.4 Determination of completeness of application
- 14:8-6.5 Application requirements
- 14:8-6.6 Funding mechanism (Reserved)

SUBCHAPTER 7. AGGREGATED NET METERING

- 14:8-7.1 Scope
- 14:8-7.2 Definitions
- 14:8-7.3 Aggregated net metering general provisions
- 14:8-7.4 Third-party contracts
- 14:8-7.5 Cost recovery

SUBCHAPTER 8. STANDARD OFFER CONTRACTS

- 14:8-8.1 Applicability
- 14:8-8.2 Definitions
- 14:8-8.3 Term of existing Standard Offer contracts

SUBCHAPTER 1. RENEWABLE ENERGY GENERAL PROVISIONS AND DEFINITIONS

14:8-1.1 Applicability

(a) This chapter applies to the following, as these terms are defined at N.J.A.C. 14:4-1.2 and 14:8-1.2:

1. Electric public utilities, also known as electric distribution companies or EDCs;
2. Electric power suppliers;
3. Basic generation service, or BGS, providers;
4. Renewable energy customer-generators; and
5. Clean power marketers.

Amended by R.2012 d.107, effective June 4, 2012.
See: 43 N.J.R. 1162(a), 44 N.J.R. 1703(a).

In (a)1, inserted "electric distribution companies or"; and in (a)3, inserted "Basic generation service, or" and a comma following "BGS".

14:8-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise. Additional definitions that apply to this chapter can be found at N.J.A.C. 14:3-1.1 and 14:4-1.2.

"Class I renewable energy" means electric energy produced from solar technologies, photovoltaic technologies, wind energy, fuel cells powered by renewable fuels, geothermal technologies, wave or tidal action, and/or methane gas from landfills or a biomass facility, provided that the biomass is cultivated and harvested in a sustainable manner. Types of class I renewable energy that qualify for use in meeting the requirements of this subchapter are set forth at N.J.A.C. 14:8-2.5.

"Class II renewable energy" means electric energy produced at a resource recovery facility or hydro power facility, provided that such facility is located where retail competition is permitted and provided further that the Commissioner of Environmental Protection has determined that such facility meets the highest environmental standards and minimizes any impacts to the environment and local communities. Types of class II renewable energy that qualify for use in meeting the requirements of this subchapter are set forth at N.J.A.C. 14:8-2.6.

"EDC" means an electric public utility as defined in N.J.A.C. 14:3-1.1.

"Fossil fuel" means natural gas, petroleum, coal, or any form, of solid, liquid, or gaseous fuel derived from such material.

"Net metering" means a system of metering and billing for electricity in which the supplier/provider and/or the EDC:

1. Credits a customer-generator at the full retail rate for each kilowatt-hour produced by a class I renewable energy system installed on the customer-generator's side of the electric revenue meter, up to the total amount of electricity used by that customer during an annualized period determined under N.J.A.C. 14:8-5.3; and

2. Compensates the customer-generator at the end of the annualized period determined under N.J.A.C. 14:8-5.3 for any remaining credits, at a rate equal to the supplier/provider's avoided cost of wholesale power.

"NJDEP" means the New Jersey Department of Environmental Protection.

"Renewable energy" means class I renewable energy or class II renewable energy, as those terms are defined in this section.

"Societal benefits charge" or "SBC" means a charge imposed by an electric public utility, at a level determined by the Board, in accordance with N.J.S.A. 48:3-60.

"Solar electric generation" means creation of electricity using a system that employs solar radiation to produce energy that powers an electric generator. Solar electric generation includes technologies that utilize the photovoltaic effect. Solar electric generation is a type of class I renewable energy.

"Supplier/provider" means an electric power supplier or a basic generation service provider, as these terms are defined at N.J.A.C. 14:4-1.2.

Amended by R.2012 d.107, effective June 4, 2012.
See: 43 N.J.R. 1162(a), 44 N.J.R. 1703(a).

In definition "Net metering", in the introductory paragraph, inserted "and billing for" and "the supplier/provider and/or", and in paragraphs 1 and 2, inserted "determined under N.J.A.C. 14:8-5.3".

Amended by R.2013 d.066, effective April 15, 2013.
See: 44 N.J.R. 2043(a), 45 N.J.R. 942(a).

Added definition "EDC".

Number to the solar facility for use in obtaining SRECs from PJM-EIS GATS.

(m) If, after submittal of an initial registration package, an increase or decrease of more than 10 percent in the solar electric generating facility's generating capacity is planned, the registrant shall notify Board staff by e-mail to oce@bpu.state.nj.us. The e-mail shall be sent within 10 business days after the execution of the change order for the increase or decrease, or the contract for purchase, installation or removal of the photovoltaic panels included in the capacity increase or decrease.

(n) Board staff shall publish the registrations on the Board's Clean Energy Program website at: <http://www.njcleanenergy.com/renewable-energy/program-activity-reports/program-status-reports/srec-registration-program-status-reports>.

(o) A registrant may elect to file a request for confidentiality for any information submitted under this chapter, by using the procedures set forth in the Board's Open Public Records Act (OPRA) rules at N.J.A.C. 14:1-12.

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 "Reporting requirements of the interim standards".

Recodified from N.J.A.C. 14:4-8.4 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 "in" for "of" and deleted the last sentence; inserted ", or used for any other purpose, market or program," in (b); and deleted (c).

Repeal and New Rule, R.2012 d.107, effective June 4, 2012.

See: 43 N.J.R. 1162(a), 44 N.J.R. 1703(a).

Section was "Compliance with solar electric generation requirements".

Administrative correction.

See: 44 N.J.R. 1783(a).

Case Notes

Instructions in the rules in N.J.A.C. 14:8-2.4, in conjunction with the additional detail provided on the N.J. Clean Energy Program website, satisfied the Legislature's directive in N.J.S.A. 48:3-87(u) to develop a registration program containing periodic milestone filings in the implementation of the Solar Act. Thus, no further rulemaking was necessary to comply with subsection (u). In the Matter of the Implementation of L. 2012, C. 24, The Solar Act of 2012, Dkt. No. EO12090832V; Dkt. No. EO12090862V; Dkt. No. EO13010009V, 2013 N.J. PUC Lexis 27, Final Decision (January 24, 2013).

14:8-2.5 Energy that qualifies for a class I REC

(a) This section sets forth the types of energy that qualify as class I renewable energy for the purposes of issuance of a class I REC usable for compliance with this subchapter. The Board has determined that energy listed at (b) below qualifies as class I renewable energy, with no prior approval required. Energy listed at (d) and (e) below shall qualify as class I renewable energy if the conditions specified in those subsections are met.

(b) The following qualify as class I renewable energy for the purposes of this subchapter, with no prior approval required:

1. Solar electric generation in the form of solar RECs;
2. Electricity derived from wind energy;
3. Electricity derived from wave or tidal action;
4. Electricity that is geothermal energy, as defined in N.J.A.C. 14:8-2.2;
5. Electricity generated by the combustion of methane gas captured from a landfill;
6. Electricity generated by a fuel cell powered by methanol, ethanol, landfill gas, digester gas, biomass gas, or other renewable fuel. Electricity generated by a fuel cell powered by a fossil fuel shall not qualify as class I renewable energy for the purposes of this subchapter; and
7. Electricity generated by the combustion of gas from the anaerobic digestion of food waste and sewage sludge at a biomass generating facility.

(c) For purposes of this section, the term "combustion of biomass" includes both the burning of captured methane gas derived from biomass, as well as the direct firing of biomass.

(d) Electricity produced through combustion of the following types of biomass shall qualify as class I renewable energy, provided that the NJDEP provides Board staff with a biomass sustainability determination for the biomass in accordance with (f) and (g) below:

1. A bioenergy crop, as defined at N.J.A.C. 14:8-2.2, including wood produced at a biomass energy plantation;
2. Wood from the thinning or trimming of trees and/or from a forest floor, provided that the wood is not old-growth timber, as defined at N.J.A.C. 14:8-2.2; and that the wood is unadulterated by non-cellulose substances or material;
3. Gas generated by anaerobic digestion of biomass fuels other than food waste and sewage sludge, including bioenergy crops and agricultural waste; and
4. Either of the following types of wood, provided that the wood is unadulterated by non-cellulose substances or material:

- i. Ground or shredded pallets or other scrap wood, with all nails and other metal removed, produced at a facility that is classified as a Class B recycling facility by the New Jersey Department of Environmental Protection's Bureau of Landfill and Recycling Management, or at an equivalent recycling facility approved by the State environmental agency in which the facility is located; or
- ii. Wood shavings and/or scrap from a lumberyard or a paper mill, excluding black liquor, as defined at N.J.A.C. 14:8-2.2.

(e) Electricity produced through combustion of a type of biomass not described in this section may qualify as class I renewable energy for the purposes of this subchapter,

provided that the NJDEP provides Board staff with a biomass sustainability determination for the biomass in accordance with (f) and (g) below.

(f) To support a biomass sustainability determination, a supplier/provider or biomass facility operator shall demonstrate all of the following:

1. The generation facility meets NJDP requirements for state-of-the-art (SOTA) air pollution control at N.J.A.C. 7:27-8;

2. The generation facility's ash management practices comply with NJDEP requirements; and

3. All plant matter used directly as biomass fuel was cultivated and harvested in a sustainable manner, in accordance with a management plan approved by the State environmental agency or agricultural agency in the state in which the plant was grown. If the plant matter is not used directly as biomass fuel, but is subject to alteration after its harvest and before its use as biomass fuel, this determination is not required.

(g) To obtain a biomass sustainability determination, a supplier/provider or biomass facility operator shall submit a request for the determination, including any documentation required by NJDEP. The request shall be submitted to the NJBPU Office of Clean Energy, PO Box 350, Trenton, New

Jersey 08625. The supplier/provider or biomass 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.

(h) If a biomass sustainability determination is required for class I renewable energy used to comply with this subchapter, the supplier/provider shall submit the determination as part of the annual report required under N.J.A.C. 14:8-2.11, or the biomass facility operator shall submit the determination by September 1 of each year. If the determination is not submitted annually, the energy shall not qualify for use to comply with this subchapter, and the supplier/provider shall submit RECs or ACPs to make up the shortfall. A determination submitted to board staff after the due date of the annual report shall not be accepted, and the electricity shall not be counted towards the supplier/provider's compliance with this subchapter.

(i) A supplier/provider that uses electricity generated through use of biomass to comply with this subchapter shall maintain documentation that the biomass meets the requirements of this section. If the supplier/provider or biomass facility operator obtained an NJDEP biomass sustainability determination, the supplier/provider or biomass facility operator shall maintain the request for the determination and all supporting documentation on file for five years, and shall produce that documentation upon request by the Board or its

designee. In addition, the supplier/provider or biomass facility operator shall annually provide to the Board an affidavit from the operator of the generating facility, certifying that the generating facility continues to operate in conformity with the request and documentation originally provided.

(j) If a generating facility that uses biomass is covered by a NJDEP biomass sustainability determination, and there is a change in the operation of the facility or in the composition of the biomass used as fuel, including in its cultivation and harvesting, any supplier/provider that intends to rely on the facility in the following year for RPS compliance shall do one of the following:

1. Submit a new application for a biomass sustainability determination to the Board. The new application shall be submitted as part of the annual report required under N.J.A.C. 14:8-2.11; or
2. Ensure that the biomass facility operator submits a new determination within 30 days after the change is made, and no later than the date upon which the annual report is due under N.J.A.C. 14:8-2.11.

(k) Failure to submit the information required under (j) above shall disqualify the electricity produced from the facility from use as class I renewable energy as of the date the change in the operation or fuel was made.

(l) Electricity produced through combustion of the following substances shall not qualify as class I renewable energy for the purposes of this subchapter:

1. Treated, painted or chemically coated wood;
2. Municipal solid waste;
3. Tires;
4. Sewage sludge;
5. Wood waste, including demolition waste and construction waste;
6. Old-growth timber, as defined at N.J.A.C. 14:8-2.2; and
7. Wood harvested from a standing forest, except for a forest that is part of a bioenergy plantation.

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 "Calculation methodology".

Recodified from N.J.A.C. 14:4-8.5 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 (b), rewrote 1., inserted "and" at the end of 6., substituted a period for a semicolon at the end of 7 and deleted 8 and 9. Amended by R.2012 d.107, effective June 4, 2012.

See: 43 N.J.R. 1162(a), 44 N.J.R. 1703(a).

Section was "Compliance with class I renewable energy requirements". In (a), inserted "issuance of a class I REC usable for compliance with".

14:8-2.6 Energy that qualifies for a class II REC

(a) This section sets forth the types of energy that qualify as class II renewable energy for the purposes of issuance of a class II REC usable for compliance with this subchapter. The Board has determined that energy listed at (b) below qualifies as class II renewable energy, with no prior approval required. Energy described at (c) below shall qualify as class II renewable energy if the conditions specified in (c) are met.

(b) The following qualify as class II renewable energy for the purposes of this subchapter:

1. Electricity generated by a hydroelectric facility that has a maximum design capacity of 30 megawatts or less from all generating units combined; and
2. Electricity generated by a resource recovery facility located in New Jersey, covered by all required NJDEP approvals, and operating in compliance with all applicable New Jersey environmental laws.

(c) Electricity generated by a resource recovery facility located outside of New Jersey shall qualify as class II renewable energy if both of the following criteria are met:

1. The facility is located in a state with retail competition, as defined at N.J.A.C. 14:4-1.2; and
2. NJDEP makes an environmental compliance determination, stating that the facility meets or exceeds all 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).

Amended by R.2012 d.107, effective June 4, 2012.

See: 43 N.J.R. 1162(a), 44 N.J.R. 1703(a).

Section was "Compliance with class II renewable energy requirements". In (a), inserted "issuance of a class II REC usable for compliance with".

14:8-2.7 Class I and class II renewable energy— generation within PJM

(a) To qualify for a class I or class II REC, energy shall meet the applicable 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 for a class I or class II REC, energy shall be generated within or delivered into the PJM region, as defined in N.J.A.C. 14:4-1.2. Energy generated outside the PJM region shall be considered delivered into the PJM region if it has been added to the PJM region through dynamic scheduling of the output to load inside the PJM region, pursuant to section 1.12(b) of the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C., including future supplements and amendments. The Amended and Restated Operating Agreement is available at <http://www.pjm.com/~media/documents/agreements/oa.ashx>.

(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 as the basis for a REC usable for compliance with 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).

Amended by R.2009 d.266, effective September 8, 2009.

See: 40 N.J.R. 6759(a), 40 N.J.R. 6955(b), 41 N.J.R. 3309(a).

Rewrote (b).

Amended by R.2012 d.107, effective June 4, 2012.

See: 43 N.J.R. 1162(a), 44 N.J.R. 1703(a).

Section was "Requirements that apply to both class I and class II renewable energy". In (a) and (b), substituted "for a" for "as" and "REC" for "renewable energy for the purposes of this subchapter"; in (a), inserted "applicable"; and in (c), substituted "as the basis for a REC usable for compliance with" for "to meet the requirements of".

14:8-2.8 Using RECs, SRECs, and ORECs for RPS compliance

(a) An REC, SREC, or OREC shall be used to meet New Jersey RPS requirements for specific energy years, based on the type of renewable energy upon which the REC, SREC, or OREC is based, and the energy year during which the renewable energy was generated, as follows:

1. A class I REC based on energy generated on or after July 1, 2010, an SREC based on energy generated on or after July 1, 2010 but before July 23, 2012, or an OREC based on energy generated on or after July 23, 2012, shall be used to comply with RPS requirements for any one of the following three energy years:

- i. The energy year in which the underlying energy was generated; or
- ii. Either of the two energy years immediately following the energy year in which the underlying energy was generated;

2. A class II REC shall be used only to comply with the RPS requirements for the energy year during which the underlying energy was generated;

3. An SREC based on energy generated on or after July 23, 2012 shall be used to comply with RPS requirements for any of the following energy year periods:

- i. The energy year in which the underlying energy was generated; or
- ii. Any of the four energy years immediately following the energy year in which the underlying energy was generated.

(b) Once a REC or SREC has been used for compliance with this subchapter, the REC or SREC 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.

Public Notice.

See: 41 N.J.R. 1532(b).

Amended by R.2012 d.107, effective June 4, 2012.

See: 43 N.J.R. 1162(a), 44 N.J.R. 1703(a).

Section was "Renewable Energy Certificates (RECs)". Deleted former (a) through (d); added new (a); recodified former (e) as (b); and rewrote (b).

Amended by R.2014 d.048, effective March 17, 2014.

See: 45 N.J.R. 455(a), 46 N.J.R. 549(a).

Section was "Using RECs and SRECs for RPS compliance". Rewrote (a).

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 Issuance of RECs and SRECs

(a) The Board has designated PJM-EIS GATS as the entity that issues class I RECs, class II RECs and SRECs for use in complying with this subchapter.

(b) The Board may issue an order discontinuing the designation of PJM-EIS GATS under (a) above, and/or approving use of RECs or SRECs issued by another entity for compliance with this subchapter. The Board shall post a notice of its intent to issue such an order at least 30 days prior to issuing the order, and may, in its discretion, choose to accept public comment on the notice.

(c) Beginning December 4, 2012, in measuring generation to determine the number of RECs or SRECs to issue, the Board or its designee shall accept only readings of a meter that records kilowatt-hour production of electrical energy, and which meets all applicable requirements at (c)1 and 2 below. The readings may be taken or submitted by any person, but shall be verified by the Board or its designee:

1. The American National Standards Institute (ANSI) Standard C12.1-2008, Electric Meters Code for Electricity Metering, incorporated herein by reference, as amended or supplemented; and

2. Any additional requirements in the PJM-EIS Generation Attribute Tracking System Operating Rules, Revision 6, September 2010; and the PJM-EIS Generation Attribute Tracking System Terms of Use, last modified on January 3, 2011; which are incorporated herein by reference, as amended and supplemented, and can be found at www.PJM-EIS.com.

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

(e) Electric generation qualifies for issuance of RECs or SRECs only if:

1. It is solar electric generation produced by a generating facility that is interconnected with an electric distribution system, as defined at N.J.A.C. 14:4-1.2, that supplies electricity to one or more end users located in New Jersey; or

2. It is class I renewable energy, other than solar electric generation, and one or more of the following requirements is met:

i. The generating facility reports its generation electronically to PJM-EIS no less frequently than monthly, and complies with any additional requirements established by PJM;

ii. All of the following requirements are met:

(1) The generating facility reports its generation electronically no less frequently than monthly to an electric distribution company, as defined at N.J.A.C. 14:4-1.2, that is a member of PJM;

(2) The electric distribution company then provides the generator's report electronically no less frequently than monthly to PJM-EIS; and

(3) The generating facility complies with any additional requirements established by PJM-EIS; or

iii. The generating facility has the sale of the class I or class II renewable energy settled in the PJM wholesale market.

(f) If a generator has accumulated a fraction of a megawatt hour by the end of an energy year, the fraction may be carried over and combined with energy generated in a subsequent energy year in order to make a full megawatt hour that is eligible for a REC or SREC. In such a case, the combined energy shall be eligible for issuance of a REC or SREC only during the energy year in which accumulated generation reaches one full megawatt hour. Only a fraction of a megawatt hour shall be carried over.

(g) 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, as appropriate, 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 any work required to verify electric generation and issue RECs or SRECs.

(h) The Board or its designee shall not issue a REC or SREC 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.

(i) 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); 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.

Public Notice.

See: 41 N.J.R. 1532(b).

Amended by R.2009 d.266, effective September 8, 2009.

See: 40 N.J.R. 6759(a), 40 N.J.R. 6955(b), 41 N.J.R. 3309(a).

In (d), inserted "; or, for class I renewable energy other than solar electric generation, the electric generation need not be interconnected with an electric distribution system that supplies New Jersey if its sale is settled in the PJM wholesale market"; deleted "adopts a joint or regional REC tracking system, and" preceding "determines", and inserted "regional REC tracking" and "adopted by the Board".

Amended by R.2010 d.012, effective January 4, 2010.

See: 41 N.J.R. 3206(a), 42 N.J.R. 75(a).

Rewrote (d) and (e).

Amended by R.2012 d.107, effective June 4, 2012.

See: 43 N.J.R. 1162(a), 44 N.J.R. 1703(a).

Section was "Board issuance of RECs". Rewrote the section.

Amended by R.2013 d.066, effective April 15, 2013.

See: 44 N.J.R. 2043(a), 45 N.J.R. 942(a).

In (e)2iii, inserted "or class II".

Petition for Rulemaking.

See: 45 N.J.R. 1972(a).

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

(a) A supplier/provider may choose to comply with RPS requirements by submitting 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. A supplier/provider that wishes to use ACPs or SACP's 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 and SACP's, 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 SACP's. 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 establish and maintain a 15-year SACP schedule. The Board may increase the SACP amount for one or more energy years, after appropriate notice and opportunity for public comment and public hearing. However, in accordance with N.J.S.A. 48:3-87(j), the Board shall neither reduce the previously established SACP amounts, nor provide any type of relief from the obligation to pay an SACP.

(d) The Board shall review the amount of ACPs, other than SACP's, 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.

(e) To comply with this subchapter using ACPs or SACP's, 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.

(f) The Board shall use the ACP monies submitted to meet the class I and class II requirements of this subchapter to fund renewable energy projects through the Clean Energy Program.

(g) For each energy year, all SACP monies submitted to comply with solar electric generation requirements for that energy year shall be refunded to ratepayers by the EDCs. The Board shall divide the total Statewide SACP monies to be refunded for a particular energy year among the EDCs as follows:

1. Determine the total MWhs of electricity subject to solar RPS requirements that was delivered by all EDCs combined during the subject energy year;
2. Determine the number of MWhs of electricity subject to solar RPS requirements that was delivered by the EDC during the energy year;
3. Divide (g)2 above by (g)1 above to obtain a fraction that represents the EDC's share of the total MWhs of electricity subject to solar RPS requirements that were delivered during the energy year; and
4. For each EDC, multiply the fraction determined in (g)3 above by the total Statewide SACP monies to be refunded for the energy year, to obtain a dollar figure for the amount of SACP monies the EDC shall refund.

(h) Table C sets forth the SACP for each energy year from energy year 2013 through energy year 2028:

Table C
SACP Schedule

<u>Energy Year</u>	<u>SACP</u>
June 1, 2012 - May 31, 2013	\$641.00
June 1, 2013 - May 31, 2014	\$339.00
June 1, 2014 - May 31, 2015	\$331.00
June 1, 2015 - May 31, 2016	\$323.00
June 1, 2016 - May 31, 2017	\$315.00
June 1, 2017 - May 31, 2018	\$308.00
June 1, 2018 - May 31, 2019	\$300.00
June 1, 2019 - May 31, 2020	\$293.00
June 1, 2020 - May 31, 2021	\$286.00
June 1, 2021 - May 31, 2022	\$279.00
June 1, 2022 - May 31, 2023	\$272.00
June 1, 2023 - May 31, 2024	\$266.00
June 1, 2024 - May 31, 2025	\$260.00
June 1, 2025 - May 31, 2026	\$253.00
June 1, 2026 - May 31, 2027	\$250.00
June 1, 2027 - May 31, 2028	\$239.00

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 "SACP's" and inserted the last sentence; and added (f).
 Public Notice.
 See: 41 N.J.R. 1532(b).
 Amended by R.2012 d.107, effective June 4, 2012.
 See: 43 N.J.R. 1162(a), 44 N.J.R. 1703(a).
 Rewrote (a); in the introductory paragraph of (b), inserted "and SACP's"; added new (c); recodified former (c) through (e) as (d) through (f); rewrote (d); in (f), inserted "class I and class II", and deleted the last sentence; added (g); and recodified former (f) as (h).

Amended by R.2014 d.048, effective March 17, 2014.
See: 45 N.J.R. 455(a), 46 N.J.R. 549(a).
Rewrote (h).

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 class I RECs retired Statewide for the purpose of compliance with this chapter;

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 class II RECs retired for the purpose of compliance with this chapter;

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 SRECs retired for the purpose of compliance with this chapter;

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;

11. An accounting issued by PJM-EIS that shows the number of RECs purchased and/or held by the supplier/provider; and

12. The price of each REC and/or SREC that was retired during the energy year.

(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. 14:8-1.3.

(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".

Public Notice.

See: 41 N.J.R. 1532(b).

Amended by R.2012 d.107, effective June 4, 2012.

See: 43 N.J.R. 1162(a), 44 N.J.R. 1703(a).

Rewrote (c)2, (c)4 and (c)6; in (c)10, deleted "and" from the end; in (c)11, substituted "; and" for a period at the end; added (c)12; and in (e), updated the N.J.A.C. reference.

14:8-2.12 (Reserved)

Recodified from N.J.A.C. 14:4-8.8 and amended by R.2004 d.151, effective April 19, 2004.

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

Added a new (a); deleted (b); recodified former (b)i through iv as (a)1 through 4; recodified former (c) as (b), and in (b)3, deleted "interim" preceding "standards".

Recodified from N.J.A.C. 14:4-8.12 and amended by R.2006 d.178, effective May 15, 2006.

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

Former N.J.A.C. 14:4-8.12, heading was "Penalties".

Recodified as N.J.A.C. 14:8-1.3 by R.2012 d.107, effective June 4, 2012.

See: 43 N.J.R. 1162(a), 44 N.J.R. 1703(a).

Section was "Enforcement".

SUBCHAPTER 3. ENVIRONMENTAL INFORMATION DISCLOSURE

14:8-3.1 Environmental information disclosure

(a) Each supplier/provider shall disclose on customer bills, on customer contracts or on its marketing materials, a uniform, common set of information about the environmental characteristics of the electricity purchased by the customer. The supplier/provider shall disclose this information periodically, as directed by the Board through the posting of a secretary's letter on the Board's website.

requirements of the project over a 20-year period including the cost of equipment, financing, taxes, construction, operation, and maintenance, offset by any state or Federal tax or production credits and other subsidies or grants. The value of the electricity and related capacity payments associated with the ORECs shall not be deducted when calculating the OREC price.

viii. OREC pricing proposals shall specify:

- (1) Total equipment, construction, operation, and maintenance costs of the project;
- (2) Tax credits, subsidies, or grants the project will qualify for;
- (3) Debt service costs and return on equity assumptions;
- (4) Taxes and depreciation assumptions;
- (5) The nameplate capacity of the project;
- (6) The expected energy output of the project;
- (7) The assumed capacity factor and the number of ORECs to be produced by the project; and
- (8) The price per OREC (megawatt hours (MWh)) necessary to make the project commercially viable.

ix. The value of electric energy, capacity payments, and any other environmental attributes or other benefits shall be returned to ratepayers for the term of the OREC pricing method. Such other benefits include, but are not limited to, tax credits, subsidies, grants, or other funding not previously identified in the application and not included in the calculation of the OREC price submitted to the Board. To the extent that the project produces energy revenues exceeding those associated with the sale of ORECs, the applicant may propose that it retain up to 25 percent of the incremental energy revenues, but not any other environmental attributes or other benefits, with the remainder to be returned to ratepayers. The annual amount of revenues from whatever source expected to be generated by the project shall be reflected in the revenue plan;

13. A timeline for the permitting, licensing and construction of the proposed offshore wind project. The proposal must specify the expected project time requirements in the aggregate from start to finish as well as the time required to accomplish each specific activity related to project design, resource monitoring, impact studies, permitting, construction, and decommissioning activities with associated milestones delineated for each category of activity;

14. A plan for interconnection, including engineering specifications and costs.

i. Applicants shall document tasks required and discuss issues associated with electrical interconnection, including the distance between the project and a suitable

point to interconnect with the electrical grid. Each proposed point of interconnection shall be discussed.

ii. Land acquisition requirements, new equipment to be installed, upgrades to existing equipment required, and any feasibility studies required and the time frame for review must be identified.

iii. A detailed description of how the proposed project will address and mitigate load constraints in the electric distribution and PJM transmission system must be included for each site.

iv. The proposal must demonstrate to the greatest extent possible how the project will address current or potential future load pocket or constraint problems with the electric distribution system and the PJM transmission system.

v. The applicant shall indicate the location of transmission lines and all points of interconnection to the PJM system serving New Jersey.

vi. Applicants shall provide information to the Board for costs associated with network upgrades that flow from the project even if not directly caused by the interconnection;

15. All applicants must place a minimum of \$100,000 on deposit with the State to reimburse the Board for the costs of consultants and other costs associated with the review of the application.

i. Board staff will direct the applicant, if appropriate, to place an additional amount on deposit with the State, based upon the current and expected costs associated with the application review and related administrative proceedings.

ii. Failure to replenish the account to the level required by Board staff within 21 days of notification will serve to render the application incomplete and toll the time for review.

iii. Subsequent to approval of a qualified offshore wind facility, the successful applicant may, at the direction of Board staff, be required to place additional amounts on deposit with the State for the purpose of reimbursing the Board for costs related to regulatory review of the project, including, but not limited to, consulting services, oversight, inspections, and audits; and

16. Any other information deemed necessary by the Board in order to conduct a thorough evaluation of the proposal. The Board may hire consultants or other experts if the Board determines that obtaining such outside expertise would be beneficial to the review of the proposal.

(b) In considering an application for a qualified offshore wind project, submitted pursuant to (a) above, the Board shall determine that the application satisfies, at a minimum, the following conditions:

1. The filing must be consistent with the New Jersey Energy Master Plan, adopted pursuant to section 12 of P.L. 1977, c. 146 (N.J.S.A. 52:27F-14), in effect at the time the Board deems the application complete;

2. The cost-benefit analysis must demonstrate positive economic and environmental net benefits to the State because it is a key component of the legislation;

3. The comparison of purchases of Class I RECs to out-of-State wind projects;

4. An applicant's cost-benefit analysis must provide three basic types of information:

i. Impacts on New Jersey ratepayers: an analysis of the potential impacts on residential and industrial ratepayers of electricity rates over the life of the project that may be caused by incorporating any State subsidy into rates;

ii. Net benefits to the New Jersey economy through impacts on income, employment, wages, indirect business taxes, and output, with particular emphasis on in-State manufacturing employment; and

iii. Net environmental effects of the project;

5. Applicants shall show that the financing mechanism is based upon the actual electrical output of the project, and fairly balances the risks and rewards of the project between ratepayers and shareholders. Applicants shall ensure that any costs of non-performance, in either the construction or operational phase of the project, shall be borne by shareholders; and

6. Applicants shall demonstrate financial integrity and sufficient access to capital to allow for a reasonable expectation of completion of construction of the project.

i. Applicants shall prove that they have the financial resources to perform the proposed work, appropriate technical expertise, access to adequate facilities or the ability to get them, a good performance record and be qualified under all applicable laws and regulations.

ii. Applicants shall submit audited financial statements or other evidence of adequate financial capacity to the Board in order to ensure that the project can be successfully completed as proposed.

Amended by R.2013 d.039, effective February 19, 2013.
See: 44 N.J.R. 2102(a), 45 N.J.R. 336(a).

Rewrote (a).

14:8-6.6 Funding mechanism (Reserved)

SUBCHAPTER 7. (RESERVED)

SUBCHAPTER 8. STANDARD OFFER CONTRACTS

14:8-8.1 Applicability

(a) This subchapter applies to a Standard Offer contract that meets all of the following criteria and in addition the criteria at (b) below:

1. The contract was executed in accordance with the Board's Demand Side Management (DSM) rules, formerly found at N.J.A.C. 14:12;

2. The contract was executed prior to July 16, 2007; and

3. The contract was in effect as of July 16, 2007.

(b) This subchapter applies to a Standard Offer contract between an energy public utility and any of the following:

1. A customer;

2. An energy service company or ESCO, as defined at N.J.A.C. 14:8-8.2; or

3. A third-party contractor working with a customer.

(c) This subchapter shall not affect the validity or conditions of contracts in any way not specifically set forth at N.J.A.C. 14:8-8.3.

14:8-8.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. Additional definitions that apply to this subchapter can be found at N.J.A.C. 14:3-1.1 and 14:4-1.2.

"Energy public utility" means a public utility, as defined at N.J.A.C. 14:3-1.1, that provides electricity or natural gas. This term does not include a subsidiary or affiliate of a public utility, nor does it include a municipal public utility.

"Energy service company" or "ESCO" means a company that provides energy efficiency and load management equipment and/or services to energy customers.

14:8-8.3 Term of existing Standard Offer contracts

(a) Standard Offer programs conducted pursuant to the Board's Demand Side Management (DSM) rules, formerly found at N.J.A.C. 14:12, have been and are suspended. Standard Offer contracts outstanding as of July 16, 2007 shall remain in effect in accordance with their terms and conditions.

(b) Notwithstanding anything in (a) above, in the event that the primary term of a contract described at N.J.A.C. 14:8-8.1(a) and (b) is less than the maximum term specified in the Standard Offer, after July 16, 2007, the primary term shall not be extended up to the maximum term, regardless of any contract provision to the contrary. This restriction shall not affect any contract whose primary term has, prior to July 16, 2007, already been extended beyond July 16, 2007.

electric generation system by the third party for the purpose of net metering aggregation.

14:8-7.3 Aggregated net metering general provisions

(a) All electric distribution companies (EDCs) shall, and suppliers may, offer aggregated net metering to eligible customers that operate a solar electric power generation system, provided that the following criteria are met:

1. The eligible customer operates the system using a net metered billing account;
2. The generating capacity of the eligible customer's system does not exceed the combined metered annual energy usage of the customer's qualified facilities;
3. The system is located on property owned by the eligible customer, provided that the property is not land that has been actively devoted to agricultural or horticultural use and that is valued, assessed, and taxed pursuant to the Farmland Assessment Act of 1964 at any time within the 10 years prior to July 23, 2012. The municipal planning board of a municipality in which a solar electric power generation system is located may waive the requirement that the land not have been actively devoted to agricultural or horticultural use and that is valued, assessed, and taxed pursuant to the Farmland Assessment Act of 1964 at any time within the 10 years prior to July 23, 2012.
4. The system is not an on-site generation system.

(b) All of the customer qualified facilities combined for the purpose of net metering aggregation must be:

1. Located within the service territory of a single electric public utility;
2. Served by the same basic generation provider or by the same electric power supplier; and
3. Belong to the same customer rate class under the applicable electric public utility tariff or are served by the same supplier.

(c) The EDC shall develop a tariff providing for aggregated net metering.

(d) If, in a given monthly period, an eligible customer supplies more electricity to the electric distribution system than the EDC or supplier delivers to the host site, the EDC or supplier shall credit the eligible customer for the excess up to the amount of energy consumed at the host site meter, if any. To do this, the EDC or supplier shall reduce the eligible customer's bill for the next monthly billing period to compensate for the excess electricity from the eligible customer in the previous billing period. Such credit shall not exceed the amount of energy consumed at the host site meter, if any, during the previous billing period.

(e) The EDC or supplier shall carry over credit earned under (d) above from monthly billing period to monthly

billing period, and the credit shall accumulate until the end of the eligible customer's annualized period.

(f) At the end of the eligible customer's annualized period, the EDC or supplier shall compensate the eligible customer for any excess kilowatt hours generated, at the electric power supplier's or basic generation service provider's avoided cost of wholesale power, as defined at N.J.A.C. 14:8-4.2, or the PJM electric power pool real-time locational marginal pricing rate. Excess kilowatt hours, if any, shall be calculated by comparing the generation of the solar electric generation system with the combined energy usage at the qualified facilities over the annualized period.

(g) The EDC or supplier shall offer each eligible customer one opportunity to select an annualized period in accordance with the provisions of N.J.A.C. 14:8-4.3.

(h) An eligible customer that installs a solar electric generation system owns the renewable attributes of the electricity it generates unless there is a contract with an express provision that assigns ownership of the renewable attributes. The eligible customer may trade or sell the attributes to another person, or may use the attributes as the basis for an application for one or more SRECs.

14:8-7.4 Third-party contracts

(a) An eligible customer may contract with a third party to own and/or operate a solar electric power generation system for the purpose of net metering aggregation.

(b) Any third-party contract shall include contractual protections that provide for adequate performance and provision for construction and operation for the term of the contract, including any appropriate bonding or escrow requirements.

14:8-7.5 Cost recovery

An EDC may recover any incremental costs due to aggregated net metering from the eligible customer to which the incremental cost may be attributed. Incremental costs due to aggregated net metering shall not be recovered through rates other than under the EDC's aggregated net metering tariff.

SUBCHAPTER 8. STANDARD OFFER CONTRACTS

14:8-8.1 Applicability

(a) This subchapter applies to a Standard Offer contract that meets all of the following criteria and in addition the criteria at (b) below:

1. The contract was executed in accordance with the Board's Demand Side Management (DSM) rules, formerly found at N.J.A.C. 14:12;
2. The contract was executed prior to July 16, 2007; and

3. The contract was in effect as of July 16, 2007.

(b) This subchapter applies to a Standard Offer contract between an energy public utility and any of the following:

1. A customer;
2. An energy service company or ESCO, as defined at N.J.A.C. 14:8-8.2; or
3. A third-party contractor working with a customer.

(c) This subchapter shall not affect the validity or conditions of contracts in any way not specifically set forth at N.J.A.C. 14:8-8.3.

14:8-8.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. Additional definitions that apply to this subchapter can be found at N.J.A.C. 14:3-1.1 and 14:4-1.2.

“Energy public utility” means a public utility, as defined at N.J.A.C. 14:3-1.1, that provides electricity or natural gas.

This term does not include a subsidiary or affiliate of a public utility, nor does it include a municipal public utility.

“Energy service company” or “ESCO” means a company that provides energy efficiency and load management equipment and/or services to energy customers.

14:8-8.3 Term of existing Standard Offer contracts

(a) Standard Offer programs conducted pursuant to the Board’s Demand Side Management (DSM) rules, formerly found at N.J.A.C. 14:12, have been and are suspended. Standard Offer contracts outstanding as of July 16, 2007 shall remain in effect in accordance with their terms and conditions.

(b) Notwithstanding anything in (a) above, in the event that the primary term of a contract described at N.J.A.C. 14:8-8.1(a) and (b) is less than the maximum term specified in the Standard Offer, after July 16, 2007, the primary term shall not be extended up to the maximum term, regardless of any contract provision to the contrary. This restriction shall not affect any contract whose primary term has, prior to July 16, 2007, already been extended beyond July 16, 2007.