

CHAPTER 8

RENEWABLE ENERGY AND ENERGY EFFICIENCY

Authority

N.J.S.A. 48:2-13, 48:3-48 et seq., 48:3-49 et seq.,
48:3-78 et seq. and 48:3-99 to 106.

Source and Effective Date

R.2006 d.178, effective May 15, 2006.
See: 37 N.J.R. 3911(a), 38 N.J.R. 2176(a).

Chapter Expiration Date

Chapter 8, Renewable Energy and Energy Efficiency, expires on April 18, 2011.

Subchapter 6, Qualified Offshore Wind Projects, expires on August 10, 2012.

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. 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: Source and Effective Date. See, also, section annotations.

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Appendix H of Subchapter 3, Label Update and Distribution Timing Requirements, was repealed by R.2010 d.011, effective January 4, 2010.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. See: 43 N.J.R. 658(a).

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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 EDCs;
2. Electric power suppliers;
3. BGS providers;
4. Renewable energy customer-generators; and
5. Clean power marketers.

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.

“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 electricity in which 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; and

2. Compensates the customer-generator at the end of the annualized period 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.

SUBCHAPTER 2. RENEWABLE PORTFOLIO STANDARDS

14:8-2.1 Purpose and scope

(a) Each supplier/provider, as defined at N.J.A.C. 14:8-1.2, that sells electricity to retail customers in New Jersey, shall include in its electric energy portfolio electricity generated from renewable energy sources. This subchapter is designed to encourage the development of renewable sources of electricity and new, cleaner generation technology; minimize the environmental impact of air pollutant emissions

from electric generation; reduce possible transport of emissions and minimize any adverse environmental impact from deregulation of energy generation; and support the reliability of the supply of electricity in New Jersey.

(b) This subchapter governs the retail electricity sales of each supplier/provider, as defined in N.J.A.C. 14:8-1.2. This subchapter does not govern installed capacity obligations, as defined at N.J.A.C. 14:8-2.2.

(c) This subchapter does not apply to a private or government aggregator that contracts for electric generation service

or electric related services, either separately or bundled, for its own facilities or on behalf of other business and residential customers in this State. This subchapter does not apply to an energy agent, as defined at N.J.A.C. 14:8-1.2. A supplier/provider that is contractually obligated to sell electricity to an aggregator shall comply with this subchapter by including the amount sold to the aggregator as part of its energy portfolio.

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

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

Rewrote the section.

Recodified from N.J.A.C. 14:4-8.1 and amended by R.2006 d.178, effective May 15, 2006.

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

Changed internal references to conform to the recodification of provisions.

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

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

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

Public Notice.

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

14:8-2.2 Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The total amount of financial assistance for solar electric generation paid from:

i. The societal benefits charge established under N.J.S.A. 48:3-60;

ii. The retail margin on certain hourly-priced and larger non-residential customers pursuant to the Board’s continuing regulation of Basic Generation Service pursuant to N.J.S.A. 48:3-51 and 57;

iii. Other monies appropriated for such purposes; and

iv. Cost recovery for renewable energy programs approved by the Board under N.J.S.A. 48:3-98.1, after January 13, 2008, which is paid from any source other than i, ii or iii above;

2. The total cost incurred by all suppliers/providers selling electricity to retail customers in New Jersey for solar RECs used for compliance with the solar electric generation requirement under N.J.A.C. 14:8-2.3, Table A; and

3. The total revenue from the payment of solar alternative compliance payments.

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

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

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

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

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

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

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

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

Rewrote the section.

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

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

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

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

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

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

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

14:8-2.3 Minimum percentage of renewable energy required

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

Table A

What Percentage Of Energy Supplied Must Be Renewable Energy?

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

Reporting Year	Solar Electric Generation (solar RECs)	Class I Renewable Energy	Class II Renewable Energy	Total Renewable Energy
June 1, 2007 – May 31, 2008	0.0817%	2.924%	2.5%	5.5057%
June 1, 2008 – May 31, 2009	0.16%	3.84%	2.5%	6.5%
June 1, 2009 – May 31, 2010	0.221%	4.685%	2.50%	7.406%
June 1, 2010 – May 31, 2011	0.305%	5.492%	2.50%	8.297%
June 1, 2011 – May 31, 2012	0.394%	6.320%	2.50%	9.214%
June 1, 2012 – May 31, 2013	0.497%	7.143%	2.50%	10.14%
June 1, 2013 – May 31, 2014	0.621%	7.977%	2.50%	11.098%
June 1, 2014 – May 31, 2015	0.765%	8.807%	2.50%	12.072%
June 1, 2015 – May 31, 2016	0.928%	9.649%	2.50%	13.077%
June 1, 2016 – May 31, 2017	1.118%	10.485%	2.50%	14.103%
June 1, 2017 – May 31, 2018	1.333%	12.325%	2.50%	16.158%
June 1, 2018 – May 31, 2019	1.572%	14.175%	2.50%	18.247%
June 1, 2019 – May 31, 2020	1.836%	16.029%	2.50%	20.365%
June 1, 2020 – May 31, 2021	2.120%	17.880%	2.50%	22.5%

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

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

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

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

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

1. Solar RECs may be used to meet any requirement in Table A, whether the requirement is for solar electric generation, class I renewable energy, or class II renewable energy;

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

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

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

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

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

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

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

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

(j) If the Board determines that the total cost of solar incentives for a reporting year exceeds two percent of the total retail cost of electricity for that reporting year, then the

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

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

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

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

i. For example, if the limitation in (j) above is imposed in the reporting year ending May 31, 2019, and the Board determines on December 1, 2020 that the two-percent threshold was not met in the reporting year ending May 31, 2020, then the percentage of solar electric generation required for the reporting year ending May 31, 2022 shall be 1.836 percent, and the percentage for the reporting year ending May 31, 2023 shall be 2.120 percent.

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

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

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

Section was "Implementation schedule".

Administrative correction.

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

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

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

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

Recodified from N.J.A.C. 14:4-8.3 and amended by R.2006 d.178, effective May 15, 2006.

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

Changed internal references to conform to the recodification of provisions throughout; in (a), substituted "(i)" for "(j)" in the introductory paragraph and inserted entries for June 1, 2009 through May 31, 2021 in table A; in (b), substituted "2022" for "2009" and "2021" for "2008"; rewrote (c) and (d); deleted (e); recodified (f) and (g) as (e) and (f); rewrote (f); deleted (h); recodified (i) and (j) as (g) and (h); rewrote (g); updated Table B in (h); and inserted (i).

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

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

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

Public Notice.

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

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

Table C
SACP Schedule

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

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

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

Recodified from N.J.A.C. 14:4-8.10 and amended by R.2006 d.178, effective May 15, 2006.

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

Changed internal references to conform to the recodification of provisions in the first sentence of (a).

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

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

In (c), substituted "other than" for "and" preceding "SACPs" and inserted the last sentence; and added (f).

Public Notice.

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

14:8-2.11 Demonstrating compliance, reporting and recordkeeping

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

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

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

1. The total number of megawatt-hours of electricity sold to retail customers in New Jersey;
2. The total number of megawatt hours of electricity sold to retail customers in New Jersey that qualify as class I renewable energy under N.J.A.C. 14:8-2.4;
3. The percentage of the supplier/provider's total New Jersey retail sales that the amount set forth under (c)2 above represents;

4. The total number of megawatt hours of electricity sold to retail customers in New Jersey that qualify as class II renewable energy under N.J.A.C. 14:8-2.5;

5. The percentage of the supplier/provider's total New Jersey retail sales that the amount set forth under (c)4 above represents;

6. The total number of megawatt hours of electricity sold to retail customers in New Jersey that qualify as solar electric generation under N.J.A.C. 14:8-2.4;

7. The percentage of the supplier/provider's total retail sales that the amount in (b)6 above represents;

8. The total amount of solar electric generation, class I renewable energy, and class II renewable energy represented by RECs submitted with the annual report;

9. The total number of ACPs and/or SACPs submitted with the annual report;

10. A summary demonstrating how compliance with the requirements in Table A has been achieved; and

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

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

1. Identification of each generating unit, including its location, fuel and technology type, and any unique State and/or Federal facility or plant identification number;

2. An affidavit from the operator of each generating unit that the specified amount of megawatt-hours from each renewable energy source was generated by and/or sold to the supplier/provider and that the supplier/provider has sole and exclusive title to the renewable energy and has not been used to meet the RPS energy requirements in any other state or jurisdiction;

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

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

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

(f) Each supplier/provider shall keep all records pertaining to the requirements in this subchapter for a period of five

years, including data on megawatt-hours resulting from owned generation, contracts, purchases from the wholesale market, and purchases of RECs. Each supplier/provider shall make all pertinent records available for review upon request by the Board or its designee.

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

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

Recodified from N.J.A.C. 14:4-8.11 and amended by R.2006 d.178, effective May 15, 2006.

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

Changed internal references to conform to the recodification of provisions in (b), (c), (d) and (e); deleted the exception from the end of (a); in (b), substituted "RECs or solar RECs" for "energy" and deleted "RECs, solar RECs," preceding "ACPs"; in (c), substituted "; and" for a period at the end of 10. and inserted 11.; substituted "www.njcleanenergy.com" for "www.bpu.state.nj.us" in (d)4.; deleted (e); recodified (f) and (g) as (e) and (f); and deleted (h) through (j).

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

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

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

Public Notice.

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

14:8-2.12 Enforcement

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

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

(b) In determining the appropriate sanction, the Board shall consider the following criteria and any other factors deemed appropriate and material to the electric power supplier's or basic generation service provider's failure to comply:

1. The good faith efforts, if any, of the entity charged in attempting to achieve compliance;
2. The gravity of the violation or failure to comply with the requirements in this subchapter;
3. The number of past violations by the entity charged regarding these standards and other standards adopted by the Board; and
4. The appropriateness of the sanction or fine to the size of the company charged.

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".

SUBCHAPTER 3. ENVIRONMENTAL INFORMATION DISCLOSURE

14:8-3.1 Scope

(a) Each electricity supplier or basic generation service provider serving retail customers in the State is required to disclose to such customers, including residential, commercial and industrial customers, a uniform, common set of information about the environmental characteristics of the energy purchased by the customer. The environmental information shall be published in a standardized label format, set forth in N.J.A.C. 14:8-3 Appendices A, B, and C, incorporated herein by reference, and distributed as part of the customer's billing materials and on customer contracts and marketing materials. This disclosure requirement is mandatory and applies to every electricity supplier and every electricity product, regardless of whether or not the supplier is making an environmental claim about the electricity product. The environmental information to be disclosed to the customer includes the following, as illustrated in Appendices A, B, and C:

1. The fuel mix associated with the generation of the electricity, including categories for coal, gas, hydroelectric (large), nuclear, oil and renewable energy, or regional average default values as determined by the New Jersey Board of Public Utilities;
2. Air emissions, in pounds per megawatt hour, of sulfur dioxide, carbon dioxide, oxides of nitrogen, and any other pollutants that are associated with the generation of the electricity and that the Board may determine to pose an environmental or health hazard, or emissions default values determined by the Board; and
3. The electricity supplier's support of energy efficiency, as reflected in the number of discrete emission reduction credits that are based on energy conservation measures and that are retired pursuant to rules adopted pursuant to P.L. 1995, c. 188.

(b) For the label in Appendix A, the environmental information shall be values based on actual data; for the label in Appendix B, the environmental information shall be a commitment by the supplier as to the electricity to be provided over the next year; and for the label in Appendix C, the environmental information shall be default values or averages determined in accordance with this subchapter.

(c) Electricity suppliers shall be permitted to elect whether to sell their entire portfolio of electricity supply as a single electricity product or to disaggregate their portfolio into distinct electricity products in accordance with N.J.A.C. 14:4-3.6(e).

(d) Environmental disclosure pertains to electricity purchases and not installed capacity purchases.

14:8-3.2 (Reserved)**14:8-3.3 Definitions**

(a) The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise. In addition, definitions set forth at N.J.A.C. 14:3-1.1 and 14:4-1.2 shall apply to this subchapter, unless the context clearly indicates otherwise.

“Benchmark” means a reference point, describing emissions levels, to allow customers to make comparisons among alternative electricity products offered by suppliers. That is, a point of comparison for the air emissions associated with the electricity product being offered or sold to the customer. The specific benchmarks shall be based on the most recent data available from the Energy Information Administration and shall reflect the average emission rate of all electric generating units in New Jersey for SO₂, CO₂, and NO_x.

“Bilateral contract” or “bilateral wholesale contract” means a unit or system contract, or a contract for specified resources, between an electricity supplier and a generating company or between an electricity supplier and a wholesale power marketer.

“Contract for specified resources” means a contract between an electricity supplier and a generating company or wholesale power marketer:

1. In which the types of generating resources that may supply the electricity are specified, along with any other environmental criteria applicable to those resources;
2. Which requires the generating company or wholesale power marketer to deliver the resources into the PJM control area, or for Orange & Rockland, into the New York Power Pool (NYPP); and
3. Which requires that the generating company or wholesale power marketer be able to identify, after the fact, and establish an audit trail to verify, the specific generating unit or units used to supply the contracts and to establish that the energy was generated and delivered into the PJM control area, or for Orange & Rockland, into the NYPP, and was not sold more than once.

“Default values” means the fuel mix and air emissions information set forth by the Board that electricity suppliers shall be allowed to disclose to retail customers in place of the actual fuel mix and air emissions information data, when required to do so pursuant to this subsection. The default value for fuel mix (energy source) is set forth in Appendix F, Table I. The default value for air emissions shall be the PJM average adjusted, as set forth in Appendix F, Table II.

“Electric generating unit” means a unit that generates electricity, if the owner or operator of the unit sells any portion of the electricity generated by the unit (or where the electricity produced by the unit is co-mingled at the facility at which the

unit is located with electricity produced by another unit, sells any portion of the co-mingled electricity).

“Electricity supplier” has the same meaning as “electric power supplier,” as defined at N.J.A.C. 14:4-1.2.

“Energy Information Administration” means the Energy Information Administration of the United States Department of Energy.

“Environmental characteristics” means, in respect to electricity that is supplied to a retail customer:

1. The fuel mix used to provide the energy; and
2. The amount of emissions associated with electric generating resources that produced the electricity.

“Fuel” means the material used in an electric generating unit to provide the energy to produce electricity.

“Generating company” means a company that owns electric generating resources.

“Generator” means a device that produces electricity.

“Incumbent utility” means, in New Jersey, the following electric public utilities: Atlantic Electric Company, GPU Energy, Rockland Electric Company and Public Service Electric and Gas Company or, as applicable, their corporate successors.

“Imported power” means electricity sold into the PJM control area from another control area.

“Load-serving entity” or “LSE” means an electric utility providing basic generation service, or an entity or organization that is licensed to serve retail load in New Jersey, otherwise referred to as an electricity supplier.

“On-site generation facility” means a generation facility, and equipment and services appurtenant to electric sales by such facility to the end use customer located on the property or on property contiguous to the property on which the end user is located. An on-site generation facility shall not be considered a public utility. The property of the end use customer and the property on which the on-site generation facility is located shall be considered contiguous if they are geographically located next to each other, but may be otherwise separated by an easement, public thoroughfare, transportation or utility-owned right-of-way.

“Owned generation” means electric power produced by electric generating resources located within the PJM control area that are owned by an electricity supplier. However, an electricity supplier that is an unregulated affiliate of an incumbent utility shall not be considered an owner of electric generating resources that are owned by such utility.

“PJM-GATS” means PJM’s Generation Attribute Tracking System (GATS), a regional environmental registry and information system that tracks the environmental and fuel at-

tributes of energy generation. PJM Environmental Information Services, Inc. (PJM EIS) owns and administers PJM-GATS.

“Program Administrator” means the office, to be established by the Board, to implement and oversee New Jersey’s environmental information disclosure program.

“Retail load” means the demand of retail customers for electricity.

“Schedule” means the process by which a generator, electricity supplier, or wholesale power marketer informs the PJM ISO or the NYPP ISO (in the case of Rockland Electric), or the PJM ISO or NYPP ISO itself determines, that a specific generating unit or units will operate for a specific period of time.

“Spot market” means the regional market administered by the PJM ISO in which electricity is scheduled by the PJM ISO for purchase and sale on the basis of a bid price. This term does not include the scheduling of bilateral contracts for the purchase and sale of hourly energy based on bid prices submitted by market participants other than the PJM ISO.

“System contract” means a bilateral contract between an electricity supplier and a generating company, or between an electricity supplier and a wholesale power marketer, pursuant to which the supplier purchases a share of a generating company’s system power, which is specifically identified in the contract and is backed by the generating company’s assets, excluding power that is sold pursuant to unit contracts or contracts for specified resources.

“System power” means all of the electric power generated by all units that are owned by a single generating company and located within the control area from which the power is being sold, excluding power that is sold pursuant to unit contracts or contracts for specified resources.

“Unit contract” means a contract between an electricity supplier and a generating company, or between an electricity supplier and a wholesale power marketer:

1. In which the generating unit or units are specified and receipt of electricity is tied to the performance of such unit or units;
2. For electricity for which the supplier has scheduled transmission into the PJM control area, or in Rockland & Orange’s case, into the NYPP control area; and
3. With respect to which the control area operator in the generator’s control area is able to verify the electricity being supplied was generated by the specified unit or units.

For the purposes of environmental disclosure, any contracts entered into under Federal PURPA or other similar State authority between an electric public utility serving retail load in New Jersey and an independent power producer shall be considered a unit contract.

“Wholesale electricity” means power sales or purchases that do not meet the definition of unit or system contracts, or contracts for specified resources.

(b) The following are measurements, abbreviations, and acronyms used in this subchapter:

Board or BPU	New Jersey Board of Public Utilities
Btu	British thermal unit
CO ₂	carbon dioxide
DER	Discrete Emission Reduction (credits)
EIA	Energy Information Administration
hr	hour
ISO	Independent System Operator
kWh	kilowatt hour
lb	pound
LSE	load-serving entity
mmBtu	million Btu
MWh	megawatt hour
NJDEP	New Jersey Department of Environmental Protection
NO _x	nitrogen oxides (or oxides of nitrogen)
NUG	Non-utility generator
NYPP	New York Power Pool
OMET	open market emission trading
PJM	Pennsylvania/New Jersey/Maryland (control area)
SO ₂	sulfur dioxide
T & D	transmission and distribution
ton	2,000 pounds
USEPA	US Environmental Protection Agency

Amended by R.2010 d.011, effective January 4, 2010.

See: 41 N.J.R. 2212(a), 42 N.J.R. 76(a).

Added definition “PJM-GATS”.

14:8-3.4 Environmental information required

(a) Pursuant to the mandates embodied in P.L. 1999, c. 23, the rules for environmental disclosure to retail customers require every electric service supplier to provide the following:

1. Standardized environmental information: Environmental disclosure information distributed to retail customers shall contain the following information:
 - i. Fuel mix, expressed in percent of the electricity provided that has been produced from each fuel;
 - ii. Air emissions, expressed in pounds of emissions per megawatt-hour of electricity supplied (lbs/MWh); and
 - iii. The electricity supplier’s support of energy efficiency, expressed in kilowatt hours (kWh) saved per year;
2. Fuel mix (energy source) information:
 - i. Electricity suppliers shall disclose to retail customers the fuels in the fuel mix associated with the generation of the electricity product being provided or

offered using the following energy resource categories: coal, gas, hydroelectric (large), nuclear, oil, and renewable energy, including captured methane gas, fuel cells, geothermal, hydroelectric (small), solar, solid waste, wind and wood or other biomass.

ii. An electricity supplier making a prospective offer for a “renewable energy” product may not be able to predict the exact percentages of each renewable resource it will provide. In this case, the electricity supplier may list a percentage of its fuel mix as being from “renewable energy,” without providing specific percentages for wind, solar, hydroelectric or other generating resources. In disclosure for existing products, based on a historical record, specific percentages shall be given for each renewable resource.

iii. If an electric power supplier or basic generator service provider arranges with a customer for the installation and use of fuel cells, geothermal technology, solar technology, or other renewable energy technologies to generate electricity, the supplier may claim the equivalent amount of electricity generated by the customer-generator as part of its renewable energy fuel mix. This shall not include renewable energy technologies funded through the Societal Benefits Charge;

3. Air emissions information: Each electricity supplier shall report for each electricity product it sells in New Jersey, the emissions of sulfur dioxide (SO₂), oxides of nitrogen (NO_x) and carbon dioxide (CO₂), based on a weighted average (expressed in lbs/MWh); and

4. Energy efficiency information: Each electricity supplier serving retail customers in New Jersey shall disclose, to its retail customers, the amount of electricity that has been saved through the supplier’s investments in energy efficiency. This shall not include electricity saved under energy efficiency programs funded through the Societal Benefits Charge. The supplier shall report the amount of electricity savings, expressed in kilowatt hours, represented by the retirement of emissions credits based on the implementation of electrical energy efficiency measures. Documentation of the kWhs saved is a component of the quantification required for the generation or claiming of these credits; therefore, the value of the credits in kWhs can readily be determined by consulting this documentation. All electricity suppliers will be required to file each disclosure label with the Board or Program Administrator.

Amended by R.2010 d.011, effective January 4, 2010.

See: 41 N.J.R. 2212(a), 42 N.J.R. 76(a).

In (a)4, deleted the former fourth sentence.

14:8-3.5 Determining the fuel and emissions characteristics

(a) For existing electricity products that have been offered for some period of time and are associated with a record of generation, the fuel mix and emissions information associated with such electricity products and disclosed on labels shall be

based on “historical” data that reflect the generation of the power provided by the supplier in the preceding year. These existing products include electricity the utility provides pursuant to its basic generation service obligations. These disclosure labels shall reflect to the extent feasible the characteristics of the emissions and fuel mix information of the actual electric generating units or systems used by an electricity supplier to meet its retail load in the most recent 12-month period, or an approximation of such units or systems, developed pursuant to the methodologies set forth in N.J.A.C. 14:8-3.6.

1. Notwithstanding (a) above, where landfill gas or sewage or agricultural waste digester gas is co-fired in a fossil-fuel plant, a supplier may present the fuel mix and emissions characteristics associated with the landfill, sewage or agricultural waste digester gas alone, if the supplier has purchased the electricity generated from the landfill, sewage or agricultural waste digester gas separately and the fossil fuel generator has agreed not to reflect the fuel mix and emissions characteristics of the landfill, sewage or agricultural waste digester gas in disclosure regarding the fossil-fuel plant.

(b) For new products and for new market entrants in New Jersey, electricity suppliers will be permitted to disclose environmental information on a prospective basis for a period up to one year (four quarters).

1. If the new supplier, however, is making an environmental claim for its product, then it may not use the default values, but rather shall prospectively disclose fuel mix and emissions of the electricity it intends to provide for a period of at least 12 months. For products with environmental claims, the use of default values shall only be allowed for energy that is purchased from the spot market or wholesale electricity purchased by the supplier only if and as long as contractual information that can trace the energy to its originating system or unit is not available.

2. As of the beginning of the next quarter, once the 12-month or 18-month period (as applicable) has ended, the supplier will commence providing a label based on historical information, as described in (b)1 above.

(c) New market entrants and electricity suppliers introducing new products may base their disclosure labels on prospective environmental claims for a period of 12 months. After the 12 months, the supplier will revise its disclosure labels to reflect the environmental information associated with the actual electric generating units or systems that generated the power it supplied during those first 12 months. Also following the 12 months, for the electricity it supplied during the 12-month period, the electric supplier will document that it has met the fuel mix and emissions specifications set forth in its prospective claims using one or more of the following, as applicable:

1. The emissions and fuel mix characteristics of electricity generated by owned units or systems;

2. The emissions and fuel mix characteristics of electricity that the electricity supplier purchased through unit or system contracts or contracts for specified resources that the electricity supplier enter into for electricity generated within PJM or for imported power, where the electricity supplier has filed with the Board or Program Administration documentation, which shows that the unit(s), specified resource(s) or system operated, that the electricity was transmitted to PJM and that the generating company has not sold the electricity to any other party; and

3. The default values for the fuel mix and emissions.

(d) As with disclosure based on historical data, electricity suppliers will determine the environmental characteristics of owned generation and electric power purchased through bilateral contracts by reference to information supplied by the generator or to publicly available information and will ascribe the default environmental characteristics set forth to all other resources.

(e) In determining whether a supplier has succeeded in documenting that the electricity provided has met the environmental claim for the new product, electricity suppliers will be permitted a margin of error. In respect to a claim for fuel mix, the claim will be considered to be met if the actual percentage of each given fuel type does not differ from the amount claimed by an amount equal to the lesser of 20 percent of the percentage indicated for any given fuel type or five percent of the total product. Thus, if an electricity supplier indicated that its product would include 10 percent wind power, it would be permitted to include between eight percent and 12 percent wind power. A product advertised as "90 percent hydropower" could range between 85 percent and 95 percent. In no case would the electricity supplier be allowed to serve its retail customers with power generated from fuels other than those claimed on the label. No margin of error for fuel mix shall be permitted for products comprised of 100 percent of a specified resource. In respect to emissions, an emissions claim will not be considered to be met if the emissions exceed the claim by more than five percent. Providing more than the specified percentage of renewable energy shall not constitute noncompliance with an environmental claim.

(f) A new market entrant that does not choose to base disclosure labels on prospective environmental claims shall disclose the default claim set forth by the Board for the emissions and fuel mix information for all products it sells in New Jersey for a period of 18 months, after which time it will update its disclosure labels to reflect actual electric generating units or systems that generated the power it supplied during those first 18 months.

14:8-3.6 Methodology for developing a disclosure label

(a) Each electricity supplier shall disclose the emissions and fuel mix associated with the electricity used to meet its retail load (except for new products) using information that is readily available to the supplier and verifiable by the Board or

Program Administrator. The electricity will fall in one of the following categories:

1. Electricity generated by units owned by the supplier;
2. Electricity purchased by the supplier through bilateral unit contracts (including imported power);
3. Electricity purchased by the supplier through bilateral system contracts or contracts for specified resources (including imported power);
4. Wholesale electricity purchased by the supplier; and
5. Electricity purchased by the supplier from the spot market administered by the PJM ISO.

(b) With respect to electricity where its point of generation is known by the supplier (that is, owned generation or electricity generated or controlled by another company with which the supplier has a bilateral contract; and unit or system power scheduled with the PJM ISO for sale to the supplier), the supplier shall use the actual emission rates and fuel characteristics for the most recent year for which they are available pertaining to the specific electric generating units in determining the fuel mix and emissions values to be disclosed on its label. (See (d) below.) The supplier can determine these characteristics utilizing information that is reported to, and made available by, the U.S. Environmental Protection Agency and Energy Information Administration, or information supplied by the generator that is made available to and is verifiable by the Board or Program Administrator. Each electricity supplier that is relying on publicly available information to determine the actual emission rates and fuel characteristics associated with electricity supplied will use the most recent year for which data is available, to develop its disclosure labels. The source of publicly available information shall be the USEPA's Emissions and Generation Resource Integrated Database (EGRID), which can be accessed at: www.epa.gov/cleanenergy/egrid/index.htm.

1. These emission rates and fuel characteristics shall be applied to the actual generating units or systems used by the electricity supplier to meet its retail load for the 12-month period being reported on the label.

2. In the case where information regarding emissions associated with NUG contracts is not available from the generator, the electricity supplier may calculate the emissions characteristics for the contract using the generation permit levels of the NUG, as allowed by the NJDEP, and a conservative estimated emission heat rate factor approved by Board staff.

(c) With respect to electricity, where its point of generation cannot be readily known by the supplier (that is, electricity purchased on the spot market or from a wholesale supplier), default values set forth in Appendix F shall be used to determine the environmental information to be disclosed on the label.

(d) In developing disclosure labels, each category of electric generating resources shall be treated as follows:

1. Owned generation. An electricity supplier that owns electric generating units located in the PJM control area shall disclose the fuel mix and emissions associated with all electricity generated from those units, unless the electricity was sold in the wholesale market through a unit or system contract, or contract for specified resources. If, in the previous calendar year, an electricity supplier's owned generation exceeded its retail load, the electricity supplier shall ascribe the average environmental characteristics of its owned electric generating units (minus the electricity sold through unit or system contracts or contracts for specified resources to the wholesale market) to its retail sales. If, in the previous calendar year, the electricity supplier's owned generation was less than its retail load, the electricity supplier shall ascribe the average environmental characteristics of its owned generation (again subtracting the electricity sold through unit or system contracts or contracts for specified resources to the wholesale market) to the portion of its retail load that is equal to the electricity it generated during that period. The remaining retail load shall be ascribed the environmental characteristics of unit contracts, system contracts or the default values set forth in Appendix F, as applicable.

2. Unit contracts. An electricity supplier that purchases electric power through a unit contract shall ascribe the fuel mix and emissions associated with the specified unit or units to all electric power purchased through that contract. With respect to a unit contract for imported power, the electricity supplier shall characterize this power with the electric generating unit's emissions and fuel mix information or the supplier shall characterize the electricity with the average environmental characteristics of the generating units owned by the company from which the electricity was purchased.

3. Contracts for specified resources. An electricity supplier that purchases electric power through a contract for specified resources shall ascribe the fuel mix and emissions associated with the resources actually used to supply the contract. With respect to imported power, the electricity supplier shall characterize this power with the electric generating unit's emissions and fuel mix information or the supplier shall characterize the electricity with the average environmental characteristics of the generating units owned by the company in the control area from which the electricity was purchased.

4. System contracts. Electricity suppliers that purchase electric power through bilateral system contracts shall characterize this power with the generating company's average fuel mix and emissions (less any electricity sold through unit contracts) if, in the previous calendar year, the generating company's owned generation exceeded its retail load. Such purchases shall be considered to be undifferentiated power obtained from a wholesale supplier and

characterized by the default fuel mix and emissions set by in this chapter, if the seller's retail load exceeded its owned generation in the previous calendar year.

5. With respect to a system contract for imported power, an electricity supplier shall characterize this power with the generating company's average emissions and fuel mix information or the supplier shall characterize the electricity with the average environmental characteristics of the generating units located in the control area from which the electricity was purchased.

6. Spot market purchases and wholesale electricity contracts. Electricity suppliers shall ascribe the default fuel mix and emissions to all electricity purchased from the spot market or purchased through wholesale electricity contracts. If a supplier can confirm the environmental characteristics of the energy from an undifferentiated wholesale electricity contract, it may report this data to the Program Administrator.

(e) Except for new products for which such information is not available, suppliers shall base disclosure for a product on a weighted average of the characteristics of the various electric generating units contracted to produce the electricity over the period of a single calendar year. The average emission rate (pounds per mWh) of a generating unit can, for most units, be determined by reference to the most recent data reported to, and made available to the public by, the USEPA and the EIA.

(f) Each electricity supplier shall be permitted to differentiate its electricity supply portfolio into discrete retail products. Such differentiation is subject to the following restrictions:

1. An electricity supplier's demonstration that a new electricity product supplied to New Jersey retail customers during a specific period met the environmental claims made for that product shall be based on owned generation or on one or more bilateral contracts. Any source of supply, where the generating unit or units are not so documented, shall be ascribed the default values for fuel mix or emissions characteristics;

2. The electricity supplier shall demonstrate its sources of electric supply, either from owned resources or through acquisitions in the wholesale market. The supplier shall be required to show that over a course of a given year its sources of supply were sufficient to meet its retail load for each of its products and for any wholesale sales it has made. The supplier shall also be able to demonstrate that no electricity has been double counted; and

3. The weighted average of the fuel mix and emissions disclosed for all products sold by an electricity supplier (both products for which an environmental claim is made and product(s) based on the remainder of the supplier's portfolio) shall correspond to the average fuel mix and emissions of the supplier's wholesale portfolio, minus the

supplier's wholesale sales, or to the default fuel mix and emissions.

(g) All electricity suppliers shall be required to disclose in the standard format authorized by the Board the amount of electricity saved as a result of their investment in energy efficiency measures in New Jersey, including an indication that no electricity has been saved if the supplier has not made any such investments. Electricity savings that result from energy efficiency programs subsidized by the State-mandated societal benefits charge authorized under N.J.S.A. 48:3-60 may not be included in the electricity savings disclosed to retail customers. In order to be eligible to claim the savings, electricity suppliers shall document electricity savings resulting from efficiency measures or by retiring NO_x allowances allocated under the State's NO_x budget program on the basis of implementation of energy efficiency measures. (See N.J.A.C. 14:8-3.4(a)4 on energy efficiency information.) Electricity suppliers may also claim credit for energy efficiency by purchasing and retiring DER credits or allowances created through energy efficiency measures implemented by another company. Emission credits and allowances shall be translated into electricity savings based on the mWh savings reported in the documentation for the generation of the emission credits for the claim of the allowances.

Amended by R.2010 d.011, effective January 4, 2010.

See: 41 N.J.R. 2212(a), 42 N.J.R. 76(a).

Rewrote (d)2, (d)3 and (d)5.

14:8-3.7 Disclosure information updating and reporting requirements

(a) Each electricity supplier (except for suppliers of new products) shall update and distribute the environmental information on its label(s) annually. The disclosure shall be based on data reflecting the product sold during the most recent 12-month period. Suppliers relying on historical information for disclosure shall be required to provide updated labels on November 1. This information shall be based on four quarters' information, but recognizing that some period is needed for information gathering and processing, a three-month lag will be allowed between the date that disclosure of an updated label is required and the last day of the period on which the label is based. For example, an updated label issued on November 1, 2000 shall be based on data reflecting the generation of power from June 1, 1999 to May 31, 2000.

(b) Suppliers of basic generation service shall provide environmental information to basic generation customers according to the schedule set forth in (a) above.

(c) Each electricity supplier of a new product for which an environmental claim is made shall distribute the label to their customers annually, whether making an environmental claim for the product or using the default label.

(d) A supplier that does not differentiate the electricity it supplies into distinct products on the basis of environmental characteristics shall disclose the same information on fuel mix, emissions and support of energy efficiency for all the

electricity it sells. An electricity supplier that does create distinct products on the basis of environmental characteristics shall follow the rules for product differentiation set forth in N.J.A.C. 14:8-3.6(f) to develop different labels for different products, and shall document that the weighted average of all its products is consistent with the supplier's overall portfolio of electricity used to meet its total retail load.

(e) The electricity supplier shall develop the environmental information for the existing product's disclosure label by determining the fuel mix and emissions associated with the electric generating resources it relied on in the most recent four quarters to meet the retail load resulting from sales of that product. The supplier will base its calculation of this environmental information upon actual information associated with generation from which the fuel use and emissions characteristics are readily known by the supplier and default fuel mix and emission characteristics associated with generation from which fuel use and emissions characteristics are not readily known by the supplier. For existing products, the use of default values shall only be allowed for energy that is purchased from the spot market or wholesale electricity purchases only if and as long as contractual information that can trace the energy to its originating system or unit is not available.

Amended by R.2010 d.011, effective January 4, 2010.

See: 41 N.J.R. 2212(a), 42 N.J.R. 76(a).

Rewrote (a); in (b), deleted "and in subchapter Appendix H, incorporated herein by reference" following "above"; and in (c), deleted "be required to update its label after a 12-month period for which power was supplied to the customer. However, suppliers of new products shall" preceding "distribute", and substituted "annually," for "semi-annually, as set forth in Appendix H,".

14:8-3.8 Environmental disclosure distribution

(a) Electricity suppliers will be required to disclose environmental information, in the uniform label format approved by the Board, to all prospective retail customers prior to signing them as customers. This does not apply in the case of a customer being returned to basic generation service provided by the local distribution company. Customers returned to basic generation service shall receive the next scheduled semi-annual report, as well as all subsequent reports. In addition, electricity suppliers shall include disclosure labels in: semi-annual mailings to all retail customers; all product-specific direct mail marketing materials or if a supplier offers only one product, in all direct mail marketing materials; all marketing materials that include a solicitation seeking to have the recipient sign up as a retail customer or that include an opportunity to enter into a contract, including those that are accessible to retail customers via computer; and any statement of terms and conditions sent to retail customers following sign-up.

1. Electricity suppliers shall be required to disclose that environmental information is available to the customer if electricity suppliers advertise in print advertisements, such as newspapers published in New Jersey or newspapers that permit the purchase of advertising space for distribution in

New Jersey in which a specific product is advertised. For specified products advertised, electricity suppliers shall indicate in all such materials that environmental information is available upon request, which, at a minimum, includes the environmental information provided in the standard label as set forth in Appendices A, B, or C, and shall provide a toll-free telephone number through which retail customers can access this information, in addition to any mailing address or Internet website address.

2. In other marketing efforts (for example, broadcast or telemarketing) in which a specific product is advertised or offered, electricity suppliers shall inform retail customers that environmental information on the advertised products is available which, at a minimum, includes the environmental information provided in the standard labels set forth in Appendices A, B or C, and shall provide a toll-free telephone number. If the electric power supplier or generation service provider maintains an Internet website, then the Internet address shall be provided.

(b) In April of each year, all New Jersey electric suppliers shall submit to the Board or the Program Administrator an annual report for the preceding calendar year (January through December) in accordance with guidelines established by the Board or the Program Administrator. In its report, each electricity supplier shall, on an annual basis, disclose all of the electricity products it has offered for sale in New Jersey, including the weighted average emissions performance (expressed in lbs/mWh) for NO_x, SO₂, and CO₂ and the weighted average fuel mix of all products sold to retail customers in New Jersey. An electricity supplier's annual report shall also include information, including the weighted average emissions performance (expressed in lbs/mWh) for NO_x, SO₂, and CO₂ and the weighted average fuel mix of the generating resources owned by all affiliated companies in the Eastern Interconnection. The boundaries of the Eastern Interconnection are established by the North American Electric Reliability Corporation (NERC) and can be viewed on its website at www.NERC.com.

1. An electricity supplier shall also inform all its retail customers, annually, that such a report is available upon request and shall provide a toll-free telephone number

through which retail customers can obtain this information. An electricity supplier shall also provide to all its retail customers the Internet site address maintained by the Board or Program Administrator as set forth in (c) below to allow customer Internet access to its annual report.

(c) The Program Administrator shall maintain an Internet site with information relevant to environmental disclosure. The Program Administrator shall see that the disclosure labels of all products supplied in New Jersey by all New Jersey registered electricity suppliers are posted on the site. The Internet site shall include other related information such as each supplier's annual report and whether each company has met its claims, and whether it has been fined or penalized by any State agency in relation to State disclosure requirements.

14:8-3.9 (Reserved)

Repealed by R.2010 d.011, effective January 4, 2010.

See: 41 N.J.R. 2212(a), 42 N.J.R. 76(a).

Section was "Certification by an independent entity".

14:8-3.10 Verification and penalties

(a) Until a Program Administrator is able to execute its function, the Board will be responsible for periodically auditing compliance with environmental disclosure requirements, including the proper development and distribution of disclosure labels. When the Program Administrator is in place, it shall provide reports of such audits to the Board, the New Jersey Department of Environmental Protection, the Office of the Ratepayer Advocate, and the Division of Consumer Affairs, for their review. The Board shall set up a dispute resolution process through which electricity suppliers can obtain a review of the Program Administrator's calculations and findings.

1. Electricity suppliers that have made prospective claims shall provide to the Board or Program Administrator in their semiannual report a demonstration either that appropriate progress has been made toward meeting the claim or, after the end of the year, that the electricity provided met the environmental claims made. Following the 12-month period for which the claim was made, electricity

suppliers shall have their demonstrations reviewed, verified, and certified by an independent certified public accountant, prior to their submittals to the Board of Program Administrator. Actions taken by the Program Administrator or the Board to address a supplier's failure to meet environmental claims shall not be confidential.

2. With respect to prospective claims, while electricity suppliers shall be allowed a full calendar year to meet an environmental claim, they shall report on their progress to the Program Administrator quarterly. To do this, electricity suppliers shall "close the books" on each product after each three-month period and calculate the extent to which it has met the environmental claims for the product. This assessment shall be done with a simple average. For example, to demonstrate progress toward meeting a fuel mix claim, an electricity supplier that has provided electricity in the first two quarters based on purchases of natural gas to meet 20 percent and 30 percent, respectively, of its retail load for a particular product would average these percentages to show that it is on target to create an annual product consisting of 25 percent natural gas.

3. If the Program Administrator determines that any supplier has failed to meet its obligations, including its obligation to meet its environmental claims over the calendar year, the Program Administrator shall refer the matter to the Board for further action.

(b) The Program Administrator shall refer violations of disclosure requirements to the Board for their consideration and possible proceedings before the Board, the Office of

Administrative Law, the Division of Consumer Affairs, or other venue. Where applicable and appropriate, the Board shall consult the Attorney General, the NJDEP, the Division of Consumer Affairs, and the Office of Ratepayer Advocate, in respect to these referrals.

1. Any party determined by the Board, after notice and hearing, to have violated any provision of these standards relating to environmental disclosure shall be subject to any one or more of the following penalties consistent with provisions of P.L. 1999, c. 23:

- i. Suspension or revocation of the electric power supplier's license;
- ii. Financial penalties as permitted by law; and
- iii. Prohibition on accepting new customers.

2. In determining the appropriate sanction, the Board shall consider the following criteria and any other factors deemed appropriate and material to the supplier's failure to comply:

- i. The good faith efforts, if any, of the entity charged in attempting to achieve compliance;
- ii. The gravity of the violation or failure to comply with the requirements of this chapter;
- iii. The number of past violations of this chapter and/or other Board rules by the entity charged; and
- iv. The appropriateness of the sanction or fine to the size of the company charged.

APPENDIX A

Label Based on Actual Generation Data

Environmental Information for the Electricity Product

Electricity supplied from January through December, 2006

(Insert product identification and company name)

Electricity can be generated in a number of ways with different impacts on the environment. The standardized environmental information shown below allows you to compare this electricity product with electricity products offered by other electric suppliers.

Energy Source

(Insert company name) relied on these energy resources to provide the electricity product.

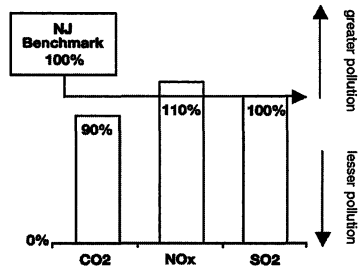
Renewable energy sources subtotal ____%

Coal	...35...%
Gas	...10...%
Hydroelectric (large)	...3...%
Nuclear	...46...%
Oil	...5...%
Renewable energy	
Captured methane gas	...0...%
Fuel cells	...0...%
Geothermal	...0...%
Hydroelectric (small)	...0...%
Solar	...0...%
Solid waste	...0...%
Wind	...0...%
Wood or other biomass	...1...%
TOTAL	100%

Air Emissions

The amount of air pollution associated with the generation of the electricity product is shown. This amount is compared to a New Jersey benchmark. The benchmark approximates the average emission rate for all electricity generation in New Jersey.

CO₂ is a "greenhouse gas" which may contribute to global climate change. SO₂ and NO_x react to form acids found in acid rain. NO_x also reacts to form ground level ozone, an unhealthful component of "smog."



Energy Conservation

The electricity generation and associated air emissions were avoided through (insert company name) Investments in conservation measures. Energy conservation measures means less electricity needs to be generated and pollution is avoided.

Avoided Generation	Avoided Air Emissions
____ kWh	____ tons CO ₂
	____ tons NO _x
	____ tons SO ₂

See your Terms of Service for further information regarding this label. You may also call XYZ Energy Supplier for additional information or a copy of the Terms of Service at (800) 555-5555.

APPENDIX B

Label for New Product Based on an Environmental Claim

Environmental Information for the Electricity Product (Insert Product Identification)

(This is a new energy product. The data shown below are prospective values based on the guarantees for electricity to be supplied from January through December, 2006.)

(Insert product identification and company name)

Electricity can be generated in a number of ways with different impacts on the environment. The standardized environmental information shown below allows you to compare this electricity product with electricity products offered by other electric suppliers.

Energy Source

(Insert company name) guarantees that these energy resources will be used to generate this new electricity product.

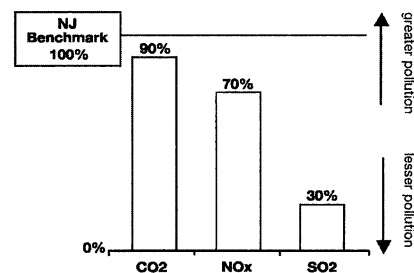
*38% of the renewable energy sources used to produce the product will be a combination of (list the renewable sources that will be used.)

Coal	...0..%
Gas	...40..%
Hydroelectric (large)	...20..%
Nuclear	...0..%
Oil	...2..%
Renewable energy	
Captured methane gas*	...18..%
Fuel cells*	...0..%
Geothermal*	...0..%
Hydroelectric (small)*	...15..%
Solar*	...3..%
Solid waste*	...0..%
Wind*	...2..%
Wood or other biomass*	...0..%
TOTAL	100%

Air Emissions

(Insert company name) guarantees that the amount of air pollution associated with the generation of the electricity product will not exceed the amount shown. This amount is compared to the New Jersey benchmark. The benchmark approximates the average emission rate for all electricity generation in New Jersey.

CO₂ is a "greenhouse gas" which may contribute to global climate change. SO₂ and NO_x react to form acids found in acid rain. NO_x also reacts to form ground level ozone, an unhealthful component of "smog."



Energy Conservation

(Insert company name) will invest in energy conservation measures sufficient to avoid the electricity generation shown and the associated air emissions. Energy conservation measures means less electricity needs to be generated and pollution is avoided.

Avoided Generation	Avoided Air Emissions
___ KWh	___ tons CO ₂
	___ tons NO _x
	___ tons SO ₂

See your Terms of Service for further information regarding this label. You may also call XYZ Energy Supplier for additional information or a copy of the Terms of Service at (800) 555-5555.

APPENDIX C

Label for New Product Based on Default Information

Environmental Information for the Electricity Product (Insert Product Identification)

(This is a new energy product. (Insert company name) has made no guarantee as to the environmental characteristics of the energy to be supplied from January through December, 2006. The data shown below are default values, and do not necessarily reflect the energy that (insert company name) will supply.)

(Insert product identification and company name)

Electricity can be generated in a number of ways with different impacts on the environment. The standardized environmental information shown below allows you to compare this electricity product with electricity products offered by other electric suppliers.

Energy Source

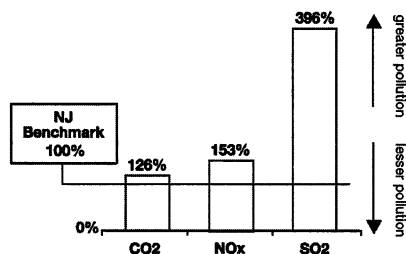
Default values are shown which represent 1996 regional averages.

Coal	...49..%
Gas	...7..%
Hydroelectric (large)	...2..%
Nuclear	...34..%
Oil	...6..%
Renewable energy	
Captured methane gas0..%
Fuel cells	...0..%
Geothermal	...0..%
Hydroelectric (small)	...0..%
Solar	...0..%
Solid waste	...2..%
Wind	...0..%
Wood or other biomass	...0..%
Renewable energy sources subtotal ____%	
TOTAL	100%

Air Emissions

The emission data given are default values and represent the average amount of air pollution associated with the generation of electricity in the region. This amount is compared to the New Jersey benchmark. The benchmark approximates the average emission rate for all electricity generation in New Jersey.

CO₂ is a "greenhouse gas" which may contribute to global climate change. SO₂ and NO_x react to form acids found in acid rain. NO_x also reacts to form ground level ozone, an unhealthful component of "smog."



Energy Conservation

(Insert company name) is not investing in energy conservation measures. Energy conservation measures means less electricity needs to be generated and pollution is avoided.

Avoided Generation	Avoided Air Emissions
__0_KWh	__0_tons CO ₂
	__0_tons NO _x
	__0_tons SO ₂

See your Terms of Service for further information regarding this label. You may also call XYZ Energy Supplier for additional information or a copy of the Terms of Service at (800) 555-5555.

APPENDIX D

(RESERVED)

APPENDIX E**Definitions of Fuel Types**

Coal	Coal—Steam Turbine Pumped Storage Hydro Powered by Coal
Gas	Natural Gas—Steam Turbine Natural Gas—Simple Combustion Turbine Natural Gas—Combined Cycle Combustion Turbine LPG Pumped Storage Hydro Powered by Gas
Hydro	Pondage Hydro Run-of-River Hydro
Nuclear	Boiling and Pressurized Water Reactors Pumped Storage Hydro Powered by Nuclear
Oil	Oil—Steam Turbine Oil—Simple Combustion Turbine Oil—Combined Cycle Combustion Turbine Diesel No. 2 Heating Oil Jet Fuel Gasoline Kerosene Pumped Storage Hydro Powered by Oil
Solar	Photovoltaics Fuel Cells Powered by Photovoltaics
Wind	Wind Turbines
Captured Methane Gas	Landfill Gas Sewage Gas Agricultural Waste Digesters Fuel Cells Powered by Methane
Biomass	Urban Wood Waste Pallet Waste Construction and Demolition Municipal Solid Waste Wood Mill Residue Wood Primary Wood Products Industries Secondary Wood Products Industries

	Harvested Wood Site Conversion Waste Wood Sivicultural Waste Wood Agricultural Residue Sustainable Yield Wood
Geothermal	Geothermal
Solid Waste Incineration	Municipal Solid Waste Tire Waste
Wave/Tidal Action	Wave/Tidal Action

APPENDIX F**Benchmark and default values****I. Default values for the “Energy Source” section of the label**

Coal	49 percent
Gas	7 percent
Hydroelectric (large)	2 percent
Nuclear	34 percent
Oil	6 percent
Renewable Energy Sources:	
Captured methane gas	0 percent
Fuel Cells	0 percent
Geothermal	0 percent
Hydroelectric (small)	0 percent
Solar	0 percent
Solid waste	2 percent
Wind	0 percent
Wood or other biomass	0 percent
TOTAL	100 percent

II. Benchmarks and defaults for “Air Emissions” section of the label

	Benchmarks (pounds per <u>megawatt-hour</u>)	Defaults (pounds per <u>megawatt-hour</u>)
CO ₂	1,213	1,525
NO _x	3.0	4.6
SO ₂	2.5	9.9

SUBCHAPTER 4. NET METERING FOR CLASS I RENEWABLE ENERGY SYSTEMS

14:8-4.1 Scope

This subchapter sets forth net metering requirements that apply to electric power suppliers, basic generation service providers and electric distribution companies, as defined at N.J.A.C. 14:4-1.2, which have customers who generate class I renewable energy, as defined at N.J.A.C. 14:8-1.2, on the customer's side of the meter.

Amended by R.2010 d.010, effective January 4, 2010.
See: 41 N.J.R. 2215(a), 42 N.J.R. 78(a).
Rewrote the section.

14:8-4.2 Net metering definitions

The following words and terms, when 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 14:8-1.2.

"Annualized period" means a period of 12 consecutive monthly billing periods. A customer-generator's first annualized period begins on the first day of any single monthly billing period, at the customer's choice.

"Avoided cost of wholesale power" means the average locational marginal price of energy in the applicable utility's transmission zone. This cost can be obtained through the website maintained by PJM Interconnection at www.pjm.com.

"Customer-generator" means an electricity customer, such as an industrial, large commercial, residential or small commercial customer that generates electricity on the customer's side of the meter, using a class I renewable energy source.

"Customer-generator facility" means the equipment used by a customer-generator to generate, manage and/or monitor electricity. A customer-generator facility typically includes an electric generator and/or interconnection equipment.

Petition for Rulemaking.
See: 40 N.J.R. 5878(a).
Amended by R.2009 d.68, effective March 2, 2009.
See: 40 N.J.R. 5531(a), 41 N.J.R. 1094(a).

In definition "Annualized period", substituted "any single" for "the first full" and "at the customer's choice" for "after which the customer-generator's facility is interconnected and is generating electricity"; and in definition "Customer-generator facility", inserted "or".
Amended by R.2010 d.010, effective January 4, 2010.
See: 41 N.J.R. 2215(a), 42 N.J.R. 78(a).

Section was "Definitions". Deleted definitions "Applicant", "Area network", "Equipment package", "Fault current", "Good utility practice", "IEEE standards", "Interconnection agreement", "Point of common coupling", "Small commercial customer" and "Spot network"; rewrote definition "Customer-generator"; and in definition "Customer-generator facility", deleted a comma following "manage", deleted "package" following the second occurrence of "equipment", and substituted "interconnection" for the second occurrence of "an".

14:8-4.3 Net metering general provisions, annualized period selection

(a) All electric distribution companies (EDCs) and supplier/providers, as defined at N.J.A.C. 14:4-1.2 and 14:8-1.2, respectively, shall offer net metering to their customers that generate electricity on the customer's side of the meter, using class I renewable energy sources, provided that the generating capacity of the customer-generator's facility does not exceed the amount of electricity supplied by the electric power supplier or basic generation service provider to the customer over an annualized period.

(b) The EDC shall develop a tariff providing for net metering. Each supplier/provider and EDC shall make net metering available to eligible customer-generators on a first-come, first-served basis.

(c) If, in a given monthly billing period, a customer-generator supplies more electricity to the electric distribution system than the EDC or supplier/provider delivers to the customer-generator, the EDC and supplier/provider shall credit the customer-generator for the excess. To do this, the EDC or supplier/provider shall reduce the customer-generator's bill for the next monthly billing period to compensate for the excess electricity from the customer-generator in the previous billing period.

(d) The EDC and supplier/provider shall carry over credit earned under (c) above from monthly billing period to monthly billing period, and the credit shall accumulate until the end of the annualized period, as defined at N.J.A.C. 14:8-4.2.

(e) At the end of each annualized period, the supplier/provider shall compensate the customer-generator 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.

(f) The EDC or supplier/provider shall offer each customer-generator one opportunity to select a monthly billing period as the start of the customer-generator's annualized period. This shall apply to all customer-generators, whether they began net metering prior to March 2, 2009, or after that date.

(g) A customer-generator may submit its annualized period selection to the EDC or supplier/provider at any time. However, an EDC or supplier/provider is not required to accept a customer-generator selection of an annualized period that begins before the first full day of the first monthly billing period after the submittal of the selection.

(h) If a customer-generator begins net metering after March 2, 2009, and does not submit an annualized period selection, the EDC or supplier/provider shall assign the customer-generator a default annualized period until such time as the customer-generator may choose to submit an annualized period selection. The default annualized period

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.

14:8-6.6 Funding mechanism (Reserved)

SUBCHAPTER 7. APPLIANCE EFFICIENCY, CERTIFICATION AND TESTING STANDARDS

14:8-7.1 Definitions

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

“Air-cooled air conditioner” means an air conditioner for commercial application that is rated at or above 240,000 Btu per hour and below 760,000 Btu per hour in cooling capacity that uses an air-cooled condenser.

“Air-cooled central air conditioning heat pump” means a type of “air-cooled very large commercial package air conditioning and heating equipment,” as that term is defined at N.J.S.A. 48:3-99.

“Btu” means British thermal unit, a standard unit of energy. One Btu is equal to the amount of heat required to raise the temperature of one pound of liquid water by one

degree Fahrenheit at its maximum density, which occurs at a temperature of 39.1 degrees Fahrenheit.

“Clothes washer” means an appliance designed to clean clothing, utilizing a water solution of soap or detergent, and mechanical agitation or other movement.

“Coefficient of performance” means, in relation to an air-cooled central air conditioning heat pump operating in the heating mode, the ratio of heating capacity in watts to the power input in watts, measured at standard rating conditions.

“Commercial clothes washer” means a soft mount front-loading or soft mount top-loading clothes washer that meets all of the following criteria:

1. The washer is designed for use by the occupants of more than one household, including:
 - i. Common areas in multi-family housing;
 - ii. Coin laundries; or
 - iii. Other commercial applications;
2. The washer does not require mechanical fastening to a floor for proper operating performance under typical commercial clothes washer conditions of use; and
3. The clothes container compartment is no greater than:
 - i. 3.5 cubic feet for a horizontal-axis clothes washer; and
 - ii. 4.0 cubic feet for a vertical-axis clothes washer.

“Commercial refrigerator, freezer, and refrigerator-freezer equipment” means refrigeration equipment that:

1. Is not a consumer product;
2. Operates at a chilled, frozen, combination chilled/frozen, or variable temperature;
3. Displays or stores merchandise either horizontally, semi-vertically, or vertically;
4. May have transparent or solid hinged doors or both, sliding doors, a combination of hinged and sliding doors or no doors;
5. Is designed either for pull-down temperature applications or holding temperature applications;
6. Is connected to a self-contained condensing unit; and
7. Is not a refrigerator, freezer, or refrigerator-freezer designed and marketed exclusively for medical, scientific, or research purposes.

“Consumer product” means any article of a type which, to any significant extent, is distributed in commerce for personal use or consumption by individuals.

“Distributor” means a person who sells, offers for sale or installs an appliance.

“Energy efficiency ratio” means, in relation to an air-cooled central air conditioner or an air-cooled central air conditioning heat pump, the ratio of the cooling capacity in Btu per hour to the power input values in watts obtained at standard rating conditions expressed in Btu per watt-hours.

“Front-loading clothes washer” means a clothes washer with the door for access to the clothes container compartment located on the front of the machine.

“Holding temperature application” means all uses of commercial refrigerator, freezer, and refrigerator-freezer equipment other than “pull-down temperature applications,” as defined in this section.

“Illuminated exit sign” means a sign that is designed to be permanently fixed in place and used to identify an exit, in which a light source illuminates the sign or letters from within, and the background of the sign is not transparent.

“kVa” means kilovolt amperes, which is a unit of measurement for electric power.

“Low-voltage dry-type distribution transformer” means a transformer with an input voltage of 600 volts or less, which is between 14 kVa and 2,501 kVa in size, is air-cooled, and does not use oil as a coolant. This term does not include the following:

1. Auto-transformers;
2. Drive transformers;
3. Grounding transformers;
4. Harmonic transformers;
5. Impedance transformers;
6. Machine tool transformers;
7. Rectifier transformers;
8. Regulating transformers;
9. Sealed and non-ventilating transformers;
10. Testing transformers;
11. Transformers with multiple voltage taps with the highest voltage tap more than 20 percent greater than the lowest voltage tap;
12. Uninterruptible power system (UPS) transformers; and
13. Welding transformers.

“Manufacturer” means any person engaged in the original production or assembly of an appliance.

“NJDEP” means the New Jersey Department of Environmental Protection.

“Packaged air-conditioning equipment” means air-conditioning equipment that is designed and manufactured so as to work without additional equipment, and is shipped as a whole to the site at which it will be used.

“Pull-down temperature applications” means the use of commercial refrigerator, freezer, and/or refrigerator-freezer equipment to rapidly reduce the temperature of the products it contains within the following parameters:

1. A minimum reduction rate of 4.3 degrees Fahrenheit per hour over a 12-hour period; and
2. An overall integrated product temperature of 38 degrees Fahrenheit when fully loaded with beverage containers.

“Self-contained condensing unit” means a factory-made assembly of refrigerating components designed to compress and liquefy a specific refrigerant that is an integral part of the refrigerated equipment. A self-contained condensing unit consists of one or more refrigerant compressors, refrigerant condensers, condenser fans and motors, and factory supplied accessories.

“Torchiere lighting fixture” means a portable, plug-in electric lighting fixture with a reflector bowl directing light upward to provide indirect illumination.

“Traffic signal module” means a standard eight-inch (200 mm) or 12-inch (300 mm) round traffic signal indicator, consisting of a light source, lens and all parts necessary for operation, which communicates movement messages to drivers through red, amber and green colors, and may include arrow modules in the same colors to indicate turning movements.

“Transformer” means a device consisting of two or more coils of insulated wire, which transfers alternating current by electromagnetic induction from one coil to another in order to change the original voltage or current value.

“Unit heater” means a self-contained fan-type heater that uses natural gas, propane, or fuel oil and is designed to be installed in a heated space. A unit heater contains an apparatus or appliance to supply heat, and a fan for circulating air over a heat exchange surface, all enclosed in a common casing. Unit heaters do not include “warm air furnaces” as defined under the Federal Energy Policy Act of 1992, Pub. L. 102-486.

Recodified from N.J.A.C. 14:8-5.1 by R.2010 d.010, effective January 4, 2010.
See: 41 N.J.R. 2215(a), 42 N.J.R. 78(a).

14:8-7.2 Purpose and scope

(a) This subchapter performs the following functions:

1. Establishes minimum energy and water efficiency standards for appliances described in this section;
2. Establishes testing requirements and procedures for appliances described in this section;
3. Requires manufacturer certification to the Board that appliances described in this section meet the efficiency standards established in this subchapter;

4. Prohibits the sale, offer for sale, and installation of appliances described in this section that do not meet the efficiency standards established in this subchapter;

5. Provides for Board staff to inspect distributors and retailers of appliances described in this section, to monitor compliance with this subchapter;

6. Provides for Board staff to investigate complaints and report violations to the Attorney General for enforcement;

7. Sets forth penalties for violations of this subchapter; and

8. Provides for the Board to coordinate with NJDEP and the New Jersey Department of Community Affairs to implement this subchapter.

(b) This subchapter governs the following persons:

1. A person or distributor that sells or offers for sale an appliance governed by this subchapter;
2. A manufacturer that produces an appliance governed by this subchapter; and
3. A person that installs an appliance governed by this subchapter.

(c) This subchapter governs the following appliances, as defined at N.J.A.C. 14:8-7.1:

1. Commercial clothes washers;
2. Commercial refrigerators and freezers;
3. Illuminated exit signs;
4. Air-cooled central air conditioners;
5. Air-cooled central air conditioning heat pumps;
6. Low-voltage dry-type distribution transformers;
7. Torchiere lighting fixtures;
8. Traffic signal modules; and
9. Unit heaters.

(d) Notwithstanding (c) above, this subchapter does not apply to the following:

1. New appliances manufactured in New Jersey and sold outside New Jersey;
2. New appliances manufactured outside New Jersey and sold at wholesale inside New Jersey for final retail sale and installation outside New Jersey;
3. Appliances installed in mobile manufactured homes at the time of construction of the manufactured home; and
4. Appliances designed expressly for installation and use in recreational vehicles.

(e) The Board may arrange for testing, using an accredited testing facility, to evaluate whether an appliance complies with this subchapter.

(f) If any Federal rule is in effect that governs the same subject matter, the Board shall not enforce this subchapter.

Recodified from N.J.A.C. 14:8-5.2 and amended by R.2010 d.010, effective January 4, 2010.

See: 41 N.J.R. 2215(a), 42 N.J.R. 78(a).

In the introductory paragraph of (c), updated the N.J.A.C. reference.

14:8-7.3 Standards and testing for commercial clothes washers

(a) No person shall sell, offer to sell, or install a commercial clothes washer in New Jersey after January 7, 2008, unless the clothes washer has been certified in accordance with N.J.A.C. 14:8-7.8 to meet the energy efficiency standards in Table A below.

(b) Beginning on January 1, 2010, no person shall sell, offer to sell, or install a commercial clothes washer in New Jersey, unless the clothes washer has been certified in accordance with N.J.A.C. 14:8-7.8 to meet both the energy efficiency standards, and the water efficiency standards in Table A below.

(c) The energy efficiency of a commercial clothes washer shall be determined by calculating the washer's energy factor. The energy factor of a clothes washer is the amount of energy the washer uses to wash one cubic foot of clothing for one cycle. The energy factor of a clothes washer is determined by:

1. Summing the energy (in kwh) used to run the washer, heat the water, and remove excess moisture after the cycle; and
2. Dividing the capacity of the clothes container (in cubic feet) by the total energy use derived under (c)1 above.

Table A

Energy and Water Efficiency Standards for
Commercial Clothes Washers

Appliance	Clothes Container Compartment Capacity (in cubic feet - ft ³)	Energy Factor (in kwhs per cubic foot per cycle)	Maximum Water (in gallons per cycle)
Front-loading clothes washer	< 3.5	1.26 or higher	9.5 or lower
Top-loading clothes washer	< 1.6 ≥ 1.6 and < 4.0	0.65 or higher 1.26 or higher	9.5 or lower 9.5 or lower

(d) By April 6, 2008, each manufacturer of commercial clothes washers shall ensure that a sample of each type of clothes washer manufactured, which is subject to this subchapter, is tested using the procedures specified in 10 CFR

§430.23(j) (Appendix J1 to Subpart B of Part 430) incorporated herein by reference.

Recodified from N.J.A.C. 14:8-5.3 and amended by R.2010 d.010, effective January 4, 2010.

See: 41 N.J.R. 2215(a), 42 N.J.R. 78(a).

In (a) and (b), updated the N.J.A.C. reference.

14:8-7.4 Standards and testing for commercial refrigerator, freezer and refrigerator-freezer equipment

(a) No person shall sell, offer to sell, or install commercial refrigerator, freezer, or refrigerator-freezer equipment in New Jersey on or after January 1, 2010, unless the equipment has been certified in accordance with N.J.A.C. 14:8-7.8 to meet the applicable energy efficiency standards in Table B or C below.

(b) If commercial refrigerator, freezer, or refrigerator-freezer equipment is designed for holding temperature applications, as defined at N.J.A.C. 14:8-7.1, the equipment shall use no more energy than the applicable maximum set forth in Table B below.

(c) For the purposes of Tables B and C below:

1. "V" means the chilled or frozen compartment volume, or the sum of both, in cubic feet;
2. "AV" means adjusted volume, which is equal to 1.63 x frozen temperature compartment volume + chilled temperature compartment volume, expressed in cubic feet; and
3. All compartment volumes shall be measured in accordance with the Association of Home Appliance Manufacturers Standard HRF-1-1979, which is incorporated by reference herein, as amended and supplemented, and can be obtained from the Association of Home Appliance Manufacturers, 1111 19th St. NW, Suite 402, Washington D.C., 20036; 202-872-5955.

Table B

Maximum Energy Consumption
Commercial Refrigerator, Freezer, or Refrigerator-Freezer
Equipment – Holding Temperature Applications

Appliance	Maximum Energy Consumption (kilowatt hours per day)
Refrigerator with solid doors	(0.10 x V) + 2.04
Refrigerator with transparent doors	(0.12 x V) + 3.34
Freezer with solid doors	(0.40 x V) + 1.38
Freezer with transparent doors	(0.75 x V) + 4.10
Refrigerator-freezer with solid doors	The greater of: • (0.27 x AV) - 0.71; or • 0.70
Refrigerator-freezer with a separate refrigeration system	Applicable refrigerator standard above + applicable freezer standard above

(d) If commercial refrigerator, freezer, and refrigerator-freezer equipment is designed for pull-down temperature applications, as defined at N.J.A.C. 14:8-7.1, the equipment shall use no more energy than the maximum set forth in Table C below:

Table C

Maximum Energy Consumption Commercial Refrigerator, Freezer, or Refrigerator-Freezer Equipment – Pull-Down Temperature Applications	
Appliance	Maximum Energy Consumption (kilowatt hours per day)
Refrigerator with transparent doors	$(0.126 \times V) + 3.51$
Freezer with transparent doors	$(0.788 \times V) + 4.3$ kilowatt hours per day

(e) The manufacturer of commercial refrigerator, freezer, and/or refrigerator-freezer equipment shall test the equipment in accordance with American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) Standard 117-2002 — “Method of Testing Closed Refrigerators” (ANSI Approved), which is incorporated by reference herein, as amended and supplemented, and is available at <http://www.ashrae.org>.

(f) For a refrigerator, freezer, or refrigerator-freezer with doors, the rating temperatures shall be the integrated average temperature of 38 degrees Fahrenheit (plus or minus two degrees Fahrenheit) for refrigerator compartments, and zero degrees Fahrenheit (plus or minus two degrees Fahrenheit for freezer compartments).

(g) For the purpose of this section, “integrated average temperature” means the average temperature of all of the test packages for which temperatures were taken during the test.

Recodified from N.J.A.C. 14:8-5.4 and amended by R.2010 d.010, effective January 4, 2010.

See: 41 N.J.R. 2215(a), 42 N.J.R. 78(a).

Updated the N.J.A.C. references throughout.

14:8-7.5 Standards and testing for air-cooled central air conditioners and air-cooled central air conditioning heat pumps

(a) No person shall sell, offer to sell, or install air-cooled central air conditioners or air-cooled central air conditioning heat pumps, as these terms are defined at N.J.A.C. 14:8-7.1, on or after January 1, 2010, unless the air conditioner or heat pump has been certified in accordance with N.J.A.C. 14:8-7.8.

(b) For an air-cooled central air conditioner, the energy efficiency ratio, as defined at N.J.A.C. 14:8-7.1, shall be as follows:

1. For an air conditioner with no heating equipment that is integrated into the air conditioner, the ratio shall be a minimum of 10.0 Btus per watt hour;

2. For an air conditioner with only electric resistance heating equipment integrated into the air conditioner, the ratio shall be a minimum of 10.0 Btus per watt hour; and

3. For an air conditioner with heating equipment, other than electric resistance heating, that is integrated into the air conditioner, the ratio shall be a minimum of 9.8 Btus per watt hour.

(c) For an air-cooled central air conditioning heat pump, the coefficient of performance, as defined at N.J.A.C. 14:8-7.1, shall be as follows:

1. For an air conditioning heat pump with no heating equipment that is integrated into the heat pump, the coefficient shall be a minimum of 9.5;

2. For an air conditioning heat pump with only electric resistance heating equipment integrated into the air conditioner, the coefficient shall be a minimum of 9.5; and

3. For an air conditioning heat pump with integrated heating equipment other than electric resistance heating, the coefficient shall be a minimum of 9.3.

(d) For an air-cooled central air conditioning heat pump operating in the heating mode, the coefficient of performance shall be no greater than 3.2, when tested at a high temperature of 47 degrees Fahrenheit dry bulb.

(e) By April 6, 2008, each manufacturer of air-cooled very large commercial packaged air conditioning and heating equipment shall ensure that a sample of each type of equipment manufactured is tested in accordance with Air-Conditioning and Refrigeration Institute Standard 340/360-2000 - “Commercial and Industrial Unitary Air-Conditioning and Heat Pump Equipment” (ANSI Approved), incorporated by reference herein as amended and supplemented. This Standard is available at <http://www.ashrae.org>.

Recodified from N.J.A.C. 14:8-5.5 and amended by R.2010 d.010, effective January 4, 2010.

See: 41 N.J.R. 2215(a), 42 N.J.R. 78(a).

In (a) and the introductory paragraph of (b) and of (c), updated the N.J.A.C. references throughout.

14:8-7.6 Standards and testing for low-voltage dry type distribution transformers

(a) No person shall sell, distribute, or install a low-voltage dry type distribution transformer, as defined at N.J.A.C. 14:8-7.1, after January 7, 2008, unless the transformer has been certified in accordance with N.J.A.C. 14:8-7.8 to meet or exceed the energy efficiency values shown in Table D below:

Table D

Energy Efficiency Standards for Low-Voltage Dry Type Distribution Transformers

Single Phase		Three Phase	
Rated Power Output (in kVa)	Minimum Efficiency Percent	Rated Power Output (in kVa)	Minimum Efficiency Percent
≥ 15 and < 25	97.7	≥ 15 and < 30	97.0
≥ 25 and < 37.5	98.0	≥ 30 and < 45	97.5
≥ 37.5 and < 50	98.2	≥ 45 and < 75	97.7
≥ 50 and < 75	98.3	≥ 75 and < 112.5	98.0
≥ 75 and < 100	98.5	≥ 112.5 and < 150	98.2
≥ 100 and < 167	98.6	≥ 150 and < 225	98.3
≥ 167 and < 250	98.7	≥ 225 and < 300	98.5
≥ 250 and < 333	98.8	≥ 300 and < 500	98.6
333	98.9	≥ 500 and < 750	98.7
--	--	≥ 750 and < 1,000	98.8
--	--	1,000	98.9

(b) Beginning April 6, 2008, each manufacturer of low-voltage dry-type distribution transformers shall ensure that a sample of each type of transformer that they manufacture is tested using the Standard Test Method for Measuring the Energy Consumption of Distribution Transformers (NEMA TP-2-2005), published by the National Electrical Manufacturers Association, incorporated by reference herein as amended and supplemented. This Standard is available at www.nema.org.

Recodified from N.J.A.C. 14:8-5.6 and amended by R.2010 d.010, effective January 4, 2010.

See: 41 N.J.R. 2215(a), 42 N.J.R. 78(a).

In (a), updated the N.J.A.C. references.

14:8-7.7 Standards and testing for exit signs, torchieres, traffic signals, and unit heaters

(a) No person shall sell, offer to sell, or install an illuminated exit sign, as defined at N.J.A.C. 14:8-7.1, after January 7, 2008, unless the sign has been certified in accordance with N.J.A.C. 14:8-7.8 to meet the requirements of the United States Environmental Protection Agency's (USEPA) "Energy Star Program Requirements for Exit Signs," incorporated by reference herein as amended and supplemented, which are available at <http://www.energystar.gov>.

(b) Beginning April 6, 2008, each manufacturer of illuminated exit signs shall ensure that a sample of each type of sign manufactured is tested, using the applicable testing procedures of the USEPA's Energy Star Specifications, Version 1.1, which are incorporated herein by reference, as amended and supplemented, and are available at <http://www.energystar.gov>.

(c) No person shall sell, offer to sell, or install a traffic signal module, as defined at N.J.A.C. 14:8-7.1, after January 7, 2008, unless the module has been certified in accordance with N.J.A.C. 14:8-7.8, to meet the USEPA's "Energy Star Program Requirements for Traffic Signals," which are

incorporated by reference herein as amended and supplemented, available at <http://www.energystar.gov>.

(d) Each manufacturer of traffic signal modules shall ensure that a sample of each module manufactured is tested, using the applicable testing procedures of the USEPA's Energy Star Specifications, Version 1.1, which are incorporated herein by reference as amended and supplemented, available at <http://www.energystar.gov>.

(e) No person shall sell, offer to sell, or install a torchiere lighting fixture, as defined at N.J.A.C. 14:8-7.1, after January 7, 2008, unless the fixture has been certified in accordance with N.J.A.C. 14:8-7.8 to consume 190 watts or less, and is not capable of operating using a bulb(s) that draws more than 190 watts.

(f) Beginning April 6, 2008, each manufacturer of torchiere lighting fixtures shall ensure that a sample of each module manufactured is tested using the IES LM-45 standard for bulb wattage, published by the Illuminating Engineering Society. This Standard is incorporated by reference herein, as amended and supplemented, and is available from the Illuminating Engineering Society, 120 Wall Street, Floor 17, New York, New York 10005-4001, 212-248-5000.

(g) No person shall sell, offer to sell, or install a unit heater, as defined at N.J.A.C. 14:8-7.1, after January 7, 2008, unless the heater has been certified in accordance with N.J.A.C. 14:8-7.8 to be equipped with an intermittent ignition device and has either power venting or an automatic flue damper.

Recodified from N.J.A.C. 14:8-5.7 and amended by R.2010 d.010, effective January 4, 2010.

See: 41 N.J.R. 2215(a), 42 N.J.R. 78(a).

In (a), (c), (e) and (g), updated the N.J.A.C. references throughout.

14:8-7.8 Certification

(a) No person shall sell, offer for sale, or install an appliance governed by this subchapter in New Jersey, unless the appliance is certified in accordance with this section.

(b) Each manufacturer of an appliance covered by this subchapter shall submit a certification to the Board. The certification shall contain the following information:

1. The name of the manufacturer and complete contact information;
2. A list of all appliances covered by this subchapter that the manufacturer produces, including different models if multiple models are manufactured;
3. The brand name of each appliance manufactured;
4. The model number, as it appears on the appliance name plate; and
5. The name and address of the laboratory where a sample of the model was tested.

(c) Each certification shall be dated and signed by the manufacturer or its authorized representative, and shall attest to the truth and accuracy of the information in the certification. Each certification shall contain a statement that the model(s) manufactured complies with this subchapter.

(d) The manufacturer shall retain the results of all tests performed for certification of an appliance model, for two years following the submittal of the certification for that model. This requirement applies to test results for all appliance models, including test results for models no longer manufactured.

(e) The manufacturer shall provide Board staff, upon request, with a copy of the test results for any appliance model for which a certification has been submitted, including documentation of the date, location, and laboratory used for the testing.

(f) If a manufacturer fails to provide the information required under (e) above for any appliance model within 45 days after a request from Board staff, the Board shall suspend the model's certification, and any person who sells, offers to sell, or installs the model shall be subject to Board enforcement action and penalties.

Recodified from N.J.A.C. 14:8-5.8 by R.2010 d.010, effective January 4, 2010.
See: 41 N.J.R. 2215(a), 42 N.J.R. 78(a).

14:8-7.9 Enforcement

(a) The Board, in consultation with the Commissioner of the NJDEP, may cause periodic inspections to be made of distributors or retailers of appliances subject to this subchapter, or of any person that sells, offers for sale, or installs appliances subject to this subchapter.

(b) If the Board's testing of appliances under N.J.A.C. 14:8-7.2(e) indicates that an appliance is not in compliance with this subchapter, the Board shall report the test results to the Commissioner of NJDEP, who shall, in accordance with N.J.S.A. 48:3-103c:

1. Charge the manufacturer of the appliance for the cost of purchase and testing of the appliance; and
2. Provide information to the public on appliances found not to be in compliance with this subchapter.

(c) The Board shall issue a warning to a manufacturer, retailer or distributor for the first violation of this subchapter. The Board shall offer the manufacturer, retailer or distributor an opportunity to demonstrate that the appliance complies with this subchapter. All subsequent violations shall, after written notice to the violator, be subject to a civil penalty of \$250.00. The written notice shall provide the opportunity for a hearing if a hearing request is submitted within 30 days of the notice.

(d) Each violation of a requirement of this subchapter shall constitute a separate offense. Each day that a violation continues shall constitute a separate offense.

(e) Penalties assessed under this section shall be in addition to any costs assessed by the Commissioner of NJDEP pursuant to (b) above.

(f) The penalties provided for in this subchapter may be enforced, if necessary, by summary proceedings instituted by the Board in the name of the State in accordance with the Penalty Enforcement Law, (N.J.S.A. 2A:58-1 et seq.).

(g) The Board shall also work with the Commissioner of Community Affairs to coordinate the inspections for new products that are also covered by the standard building code of New Jersey.

Recodified from N.J.A.C. 14:8-5.9 and amended by R.2010 d.010, effective January 4, 2010.

See: 41 N.J.R. 2215(a), 42 N.J.R. 78(a).

In the introductory paragraph of (b), updated the N.J.A.C. reference.

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.