

CHAPTER 8

RENEWABLE ENERGY AND ENERGY EFFICIENCY

Authority

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

Source and Effective Date

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

Chapter Expiration Date

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

Subchapter 7, Aggregated Net Metering, expires on September 20, 2014. See: 45 N.J.R. 951(a).

Chapter Historical Note

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

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

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

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

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

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

Appendix H of Subchapter 3, Label Update and Distribution Timing Requirements, was repealed by R.2010 d.011, effective January 4, 2010.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

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

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

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

Subchapter 1, Renewable Energy General Provisions and Definitions, Subchapter 2, Renewable Portfolio Standards, Subchapter 4, Net Meter-

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

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

Subchapter 7, Aggregated Net Metering, was adopted as special adopted new rules by R.2013 d.065, effective March 21, 2013 (to expire September 20, 2014). See: 45 N.J.R. 951(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 electric distribution companies or EDCs;
2. Electric power suppliers;
3. Basic generation service, or BGS, providers;
4. Renewable energy customer-generators; and
5. Clean power marketers.

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

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

14:8-1.2 Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Added definition "EDC".

14:8-1.3 Enforcement

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

1. Suspension or revocation of an electric power supplier's license and/or any other previously issued Board approval;
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 violator'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 chapter;
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".

Recodified from N.J.A.C. 14:8-2.12 and amended by R.2012 d.107, effective June 4, 2012.

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

In the introductory paragraph of (a) and in (b)2, substituted "chapter" for "subchapter"; in (a)1, inserted "and/or any other previously issued Board approval"; and in the introductory paragraph of (b), substituted "violator's" for "electric power supplier's or basic generation service provider's".

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 to comply with the class I or class II renewable energy requirement in 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.

"Energy year" or "EY" means the 12-month period from June 1st through May 31st and shall be numbered according to the calendar year in which it ends.

“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 authorized to energize under N.J.A.C. 14:8-5.8 and ending on the first May 31 that is at least 15 years after the date of authorization to energize. 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. A solar facility’s qualification life applies to the facility itself, and to each piece of equipment included in the facility, regardless of any interruption in the solar facility’s operation; or of any disassembly, relocation, sale or transfer of any piece of equipment included in the facility.

“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 produces class I or class II renewable energy, but shall not include a solar renewable energy certificate.

“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.

“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 (MWh), which a supplier/provider may submit to the Board to comply with the solar electric generation requirements under N.J.S.A. 48:3-87.

“Solar electric generating facility” or “solar facility” means equipment used to produce solar electric generation, as defined at N.J.A.C. 14:8-1.2.

“Solar renewable energy certificate” or “SREC” means a certificate issued by the Board or its designee, which represents one megawatt-hour (MWh) of solar energy that is generated by a facility connected to the distribution system in New Jersey, and has value based upon, and driven by, the energy market.

“True-up period” means the period each year from the end of the energy year until October 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).

Special amendment, R.2011 d.130, effective March 30, 2011 (to expire September 30, 2012).

See: 43 N.J.R. 1206(a).

In definition "Alternative compliance payment", substituted "to comply with" for "in lieu of supplying" and "requirement in" for "required under"; added definition "Energy year"; rewrote definitions "Renewable Energy Certificate" and "Solar alternative compliance payment"; deleted definitions "Reporting year", "Total cost of solar incentives" and "Total retail cost of electricity"; substituted definition "Solar renewable energy certificate" or "SREC" for definition "Solar REC"; and rewrote definition "Solar renewable energy certificate" or "SREC".

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

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

Rewrote definition "Qualification life"; deleted definition "Qualified renewable energy"; and added definition "Solar electric generating facility".

Readoption of special amendment, R.2013 d.049, effective February 20, 2013.

See: 44 N.J.R. 2358(a), 45 N.J.R. 664(a).

Provisions of R.2011 d.130 readopted without change.

14:8-2.3 Amount 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 energy year in New Jersey includes at least the minimum amount of qualified renewable energy, as defined at N.J.A.C. 14:8-2.2, required for that energy year, as specified in this section. Requirements for class I and class II renewable energy are set forth in Table A below:

Table A

What Percentage Of Energy Supplied Must Be Class I Or Class II Renewable Energy?

<u>Energy Year</u>	<u>Class I Renewable Energy</u>	<u>Class II Renewable Energy</u>
June 1, 2004 - May 31, 2005	.74%	2.50%
June 1, 2005 - May 31, 2006	0.983%	2.50%
June 1, 2006 - May 31, 2007	2.037%	2.50%
June 1, 2007 - May 31, 2008	2.924%	2.50%
June 1, 2008 - May 31, 2009	3.84%	2.50%
June 1, 2009 - May 31, 2010	4.685%	2.50%
EY 2011: June 1, 2010 - May 31, 2011	5.492%	2.50%
EY 2011: June 1, 2011 - May 31, 2012	6.320%	2.50%
EY 2011: June 1, 2012 - May 31, 2013	7.143%	2.50%
EY 2011: June 1, 2013 - May 31, 2014	7.977%	2.50%
EY 2011: June 1, 2014 - May 31, 2015	8.807%	2.50%
EY 2011: June 1, 2015 - May 31, 2016	9.649%	2.50%
EY 2011: June 1, 2016 - May 31, 2017	10.485%	2.50%
EY 2011: June 1, 2017 - May 31, 2018	12.325%	2.50%
EY 2011: June 1, 2018 - May 31, 2019	14.175%	2.50%

<u>Energy Year</u>	<u>Class I Renewable Energy</u>	<u>Class II Renewable Energy</u>
EY 2011: June 1, 2019 - May 31, 2020	16.029%	2.50%
EY 2011: June 1, 2020 - May 31, 2021	17.880%	2.50%

(b) The Board shall adopt rules setting minimum amounts of solar electric generation, class I renewable energy and class II renewable energy required for EY 2022 and each subsequent energy year. These minimum amounts shall be no lower than those required for EY 2021. The Board, in consultation with the NJDEP, EDCs, Rate Counsel, the solar energy industry and relevant stakeholders, shall periodically consider increasing the renewable energy portfolio standards beyond the minimum amounts set forth in this chapter, taking into account the cost impacts and public benefits of such increases including, but not limited to:

1. Reductions in air pollution, water pollution, land disturbance and greenhouse gas emissions;
2. Reductions in peak demand for electricity and natural gas and the overall impact on the costs to electricity and natural gas customers;
3. Increases in renewable energy development, manufacturing, investment and job creation opportunities in New Jersey; and
4. Reductions in State and national dependence on fossil fuels.

(c) Each supplier/provider's solar electric generation obligation shall be calculated in accordance with the requirements of P.L. 2012, c. 24. A supplier/provider shall meet the requirements for solar electric generation through:

1. Retirement of SRECs through a renewable energy trading program approved by the Board in consultation with the NJDEP; or
2. Submittal of one or more SACPs.

(d) A supplier/provider may meet the class I and class II renewable energy requirements in Table A above by retiring RECs in accordance with N.J.A.C. 14:8-2.8. Alternatively, a supplier/provider may comply with the class I and class II requirements of this subchapter by submitting the appropriate number of ACPs, in accordance with N.J.A.C. 14:8-2.10.

(e) (Reserved.)

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

1. SRECs may be used to meet any requirement 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.

(h) (Reserved)

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

1. Creation of an SREC 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) Each megawatt-hour (MWh) of retail electricity supplied in New Jersey by a supplier/provider subject to this subchapter carries with it an accompanying solar obligation. For Energy Year 2013, each supplier/provider shall calculate its solar obligation as set forth in (k) below. Subsection (k) below allocates the Table B Statewide solar obligation among all supplier/providers that are subject to this subchapter. All supplier/provider solar obligations, taken together, must equal the Statewide solar obligation set forth in Table B below for Energy Year 2013.

(k) For electricity supplied during EY 2013, a supplier/provider shall calculate its solar obligation as follows:

1. Determine the supplier/provider's market share of all electricity supplied Statewide during the applicable energy year, as follows:

i. Consult the Board's NJCEP website to determine the number of MWhs of electricity supplied Statewide during the energy year by all supplier/providers subject to this subchapter;

ii. Determine the number of MWhs of electricity the supplier/provider supplied during the energy year; and

iii. Divide (k)1ii above by (k)1i above to obtain a fraction representing the supplier/provider's market share; and

2. Multiply the supplier/provider's market share from (k)1 above by the applicable Statewide solar obligation

from Table B below. The result is the supplier/provider's solar obligation for the electricity that it supplied during the energy year.

Table B
Total Statewide Solar Obligation
Starting June 1, 2010

Energy Year	Statewide Solar Obligation in GWhs
EY 2011: June 1, 2010 - May 31, 2011	306
EY 2012: June 1, 2011 - May 31, 2012	442
EY 2013: June 1, 2012 - May 31, 2013	596

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).

Special amendment, R.2011 d.130, effective March 30, 2011 (to expire September 30, 2012).

See: 43 N.J.R. 1206(a).

Section was "Minimum percentage of renewable energy required". Rewrote the section.

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

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

In the introductory paragraph of (b), deleted a comma following the first occurrence of "energy", and rewrote the last sentence; added (b)1 through (b)4; in (c)1, substituted "NJDEP" for "Department of Environmental Protection"; and deleted and reserved (h).

The following parts of R.2011 d.130 were not proposed for re-adoption and expired on September 30, 2012: N.J.A.C. 14:8-2.3(k), (l), (m), (n), and rows "EY 2014" through "EY 2027 and beyond" of Table B in (o)2.

Re-adoption of special amendment, R.2013 d.049, effective February 20, 2013.

See: 44 N.J.R. 2358(a), 45 N.J.R. 664(a).

Provisions of R.2011 d.130 re-adopted with amendments, effective March 18, 2013: in the introductory paragraph of (c), substituted "the requirements of P.L. 2012, c. 24" for "(j) through (o) below"; rewrote (j); allowed special adopted (k), (l), (m) and (n) to expire on September 30, 2012; recodified (o) as new (k); in the introductory paragraph of (k), deleted "or later" following "FY 2013"; in (k)1iii, substituted "(k)1ii" for "(o)1ii" and "(k)1i" for "(o)1i"; in (k)2, substituted "(k)1" for "(o)1"; and in Table B in (k)2, allowed the special adopted fourth through the 17th rows to expire on September 30, 2012.

14:8-2.4 Energy that qualifies for an SREC; registration requirement

(a) To be eligible to form the basis for an SREC usable for compliance with this subchapter, electricity shall meet all requirements in this section, as well as all other applicable

requirements in this chapter. The registration process required in this section for construction of new solar electric generation facilities is intended to provide advance notice to the public and the renewable energy markets when increases in solar electric generation capacity in New Jersey are planned.

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

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

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

Rewrote (b).

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

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

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

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

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

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

- i. The energy year in which the underlying energy was generated; or

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

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

3. An SREC based on energy generated before July 1, 2010 shall be used only to comply with the requirements of this subchapter for the energy year during which the underlying energy was generated, and/or the subsequent energy year; and

4. A class I REC based on energy generated before July 1, 2010 shall be used only to comply with the requirements of this subchapter for the energy year during which the underlying energy was generated.

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

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

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

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

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

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

In (c), rewrote the second sentence.

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

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

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

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

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

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

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

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

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

Public Notice.

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

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

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

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

Case Notes

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

14:8-2.9 Issuance of RECs and SRECs

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

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

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

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

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

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

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

1. It is solar electric generation produced by a generating facility that is interconnected with an electric distri-

bution system, as defined at N.J.A.C. 14:4-1.2, that supplies electricity to one or more end users located in New Jersey; or

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

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

ii. All of the following requirements are met:

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

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

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

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

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

(g) The Board shall require submittal of information and certifications needed to enable the Board or its designee to verify the generation that forms the basis of the requested RECs. The Board shall require inspections, as appropriate, of generation equipment, monitoring and metering equipment, and other facilities relevant to verifying electric generation. The Board shall impose application fees, inspection fees and/or other charges for any work required to verify electric generation and issue RECs or SRECs.

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

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

the energy it generates on or after March 16, 2009, unless there is a contract with an express provision that assigns ownership of the renewable attributes.

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

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

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

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

Rewrote (a) and (e).

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

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

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

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

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

Rewrote (a); deleted and reserved (e); in (i), deleted "based on electricity generated on a customer-generator's premises" following "class I RECs"; added new reserved (f); recodified former (f) as (m); and in (m), substituted "A" for "In accordance with N.J.A.C. 14:8-4.3, a" in the first sentence and inserted the second sentence.

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

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

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

Public Notice.

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

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

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

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

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

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

Rewrote (d) and (e).

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

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

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

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

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

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

Petition for Rulemaking.

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

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

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

(b) The President of the Board shall appoint an ACP advisory committee to provide recommendations to the Board regarding the appropriate cost of ACPs and SACPs, as well as other characteristics of their use. The Board shall consider the

advisory committee’s recommendation and shall, through Board order, set prices for ACPs and SACPs. At a minimum, the price of an ACP or an SACP shall be higher than the estimated competitive market cost of the following:

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

(c) The Board shall establish and maintain a 15-year SACP schedule. The Board may increase the SACP amount for one or more energy years, after appropriate notice and opportunity for public comment and public hearing. However, in accordance with N.J.S.A. 48:3-87(j), the Board shall neither reduce the previously established SACP amounts, nor provide any type of relief from the obligation to pay an SACP.

(d) The Board shall review the amount of ACPs, other than SACPs, at least once per year, in consultation with the ACP advisory committee, and shall adjust these amounts as needed to comply with (b)1 and 2 above and to reflect changing conditions in the environment, the energy industry and markets.

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

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

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

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

1. Determine the total MWhs of electricity subject to solar RPS requirements that was delivered by all EDCs combined during the subject energy year;
2. Determine the number of MWhs of electricity subject to solar RPS requirements that was delivered by the EDC during the energy year;
3. Divide (g)2 above by (g)1 above to obtain a fraction that represents the EDC’s share of the total MWhs of electricity subject to solar RPS requirements that were delivered during the energy year; and

4. For each EDC, multiply the fraction determined in (g)3 above by the total Statewide SACP monies to be refunded for the energy year, to obtain a dollar figure for the amount of SACP monies the EDC shall refund.

(h) Table C sets forth the SACP for each 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).
 Amended by R.2012 d.107, effective June 4, 2012.
 See: 43 N.J.R. 1162(a), 44 N.J.R. 1703(a).
 Rewrote (a); in the introductory paragraph of (b), inserted “and SACPs”; added new (c); recodified former (c) through (e) as (d) through (f); rewrote (d); in (f), inserted “class I and class II”, and deleted the last sentence; added (g); and recodified former (f) as (h).

14:8-2.11 Demonstrating compliance, reporting and recordkeeping

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

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

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

1. The total number of megawatt-hours of electricity sold to retail customers in New Jersey;

2. The total number of class I RECs retired Statewide for the purpose of compliance with this chapter;

3. The percentage of the supplier/provider's total New Jersey retail sales that the amount set forth under (c)2 above represents;

4. The total number of class II RECs retired for the purpose of compliance with this chapter;

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

6. The total number of SRECs retired for the purpose of compliance with this chapter;

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

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

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

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

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

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

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

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

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

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

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

(e) Failure of a supplier/provider to demonstrate compliance with this subchapter in accordance with this section, within the deadlines set forth in this section, shall subject the supplier/provider to penalties under N.J.A.C. 14:8-1.3.

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

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

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

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

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

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

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

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

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

Public Notice.

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

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

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

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

14:8-2.12 (Reserved)

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

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

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

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

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

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

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

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

Section was "Enforcement".

SUBCHAPTER 3. ENVIRONMENTAL INFORMATION DISCLOSURE

14:8-3.1 Environmental information disclosure

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