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BOARD OF PUBLIC UTILITIES**Renewable Energy and Energy Efficiency****Proposed Readoption with Amendments: N.J.A.C. 14:8-1, 2, 4, 5 and 8****Proposed Repeal and New Rule: N.J.A.C. 14:8-2.4****Proposed New Rule: N.J.A.C. 14:8-3****Proposed Recodification with Amendments: N.J.A.C. 14:8-2.12 as 1.3**

Authorized By: Board of Public Utilities, Lee A. Solomon, President; Jeanne M. Fox, Joseph L. Fiordaliso, Nicholas Asselta, Commissioners.

Authority: N.J.S.A. 48:2-13 and 48:3-87.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

BPU Docket Number: EX10050322.

Proposal Number: PRN 2011-110.

Comments may be submitted through July 1, 2011, through either of the following methods:

- Electronically, in **Microsoft WORD format**, or in a format that can be **easily converted to WORD**, by e-mailing them to the following e-mail address: rule.comments@bpu.state.nj.us; or
- On paper to:

Kristi Izzo, Secretary
New Jersey Board of Public Utilities
ATTN: BPU Docket Number: EX10050322
Two Gateway Center, Suite 801
Newark, New Jersey 07102

The Agency proposal follows:

Summary

The New Jersey Board of Public Utilities (Board) is proposing the readoption with amendments of its Renewable Energy and Energy Efficiency rules at N.J.A.C. 14:8 (Chapter 8). If not readopted, these rules will expire on April 18, 2011. As the Board has filed this notice of readoption with the Office of Administrative Law, the expiration date is extended 180 days to October 15, 2011, pursuant to N.J.S.A. 52:14B-5.1c.

Chapter 8 includes subchapters governing renewable portfolio standards (RPS); environmental information disclosure; net metering for class I renewable energy systems; qualified offshore wind projects; interconnection of class I renewable energy systems; appliance efficiency, certification and testing standards; and standard offer contracts.

N.J.A.C. 14:8, and in particular the subchapters regarding RPS, net metering and interconnection, have undergone extensive amendment over the past five years. The Board has implemented several significant statutory changes through the chapter, and more changes will be necessary to implement additional recent statutory changes.

Among other changes, this rulemaking includes provisions to implement statutory amendments made through the Solar Energy Advancement and Fair Competition Act (SEAFCA), P.L. 2009, c. 289, as do specially adopted amendments to N.J.A.C. 14:8-2.2 and 2.3, published elsewhere in this issue of the New Jersey Register (Special Adoption). The Board is currently conducting stakeholder outreach regarding additional amendments to implement statutory changes, and will initiate rulemakings to make these amendments in the near future. All proposed rule amendments will be published in the New Jersey Register for a 60-day public comment period prior to being adopted and taking legal effect.

As the Board has provided a 60-day comment period on the notice of rules proposed for readoption with amendments, new rules and repeals, this notice is excepted from the rulemaking calendar requirements set forth at N.J.A.C. 1:30-3.1 and 3.2, pursuant to N.J.A.C. 1:30-3.3(a)5.

A section-by-section summary of each subchapter is set forth below.

SUBCHAPTER 1. Renewable Energy General Provisions and Definitions

N.J.A.C. 14:8-1.1 includes an overview of the applicability of Chapter 8, and N.J.A.C. 14:8-1.2 sets forth definitions that are used in more than one subchapter in Chapter 8. These sections are proposed for readoption with minor modifications and cross-references that do not change their meanings.

N.J.A.C. 14:8-1.3 is proposed for recodification with amendments from N.J.A.C. 14:8-2.12 and contains basic enforcement provisions that the Board may apply to a violation of any provision of Chapter 8. The Board's enforcement jurisdiction actually applies to all of Chapter 8, so these provisions are being relocated for clarity and accuracy and are proposed for amendment to apply to all of Chapter 8.

SUBCHAPTER 2. Renewable Portfolio Standards

The renewable portfolio standards (RPS) rules at N.J.A.C. 14:8-2 implement provisions of the Electric Discount Energy Competition Act (EDECA) that require each electric power supplier or basic generation service provider (supplier/provider) that sells electricity to retail customers in New Jersey to include in its electricity portfolio a certain amount of electricity generated from renewable energy sources. A supplier/provider's electricity portfolio is the combined electricity supplied to retail end users by that supplier/provider.

The RPS rules have been amended extensively in recent years due to numerous statutory changes (see N.J.S.A. 48:3-87). This readoption proposal includes amendments reflecting certain recent statutory changes made by the Solar Energy Advancement and Fair Competition Act (SEAFCA). As mentioned above, certain other SEAFCA amendments have already been incorporated into N.J.A.C. 14:8-2.2 and 2.3 through the Special Adoption. The Board is required to readopt those amendments through standard notice and comment rulemaking within 18 months. As the Special Adoption rulemaking has so recently taken effect and will be subject to rulemaking prior to September 30, 2012, the Board is not proposing to readopt or accept comments on those amendments at this time. Rather, the Board will gain experience with the amendments and solicit input from stakeholders prior to proposing any changes to the specially adopted amendments.

N.J.A.C. 14:8-2.1 contains provisions describing the purpose of the RPS rules, and the types of entities and activities that are subject to the rules. No changes are proposed to this section.

N.J.A.C. 14:8-2.2 contains definitions of terms used only in the RPS subchapter. Some SEAFCA amendments to definitions found in this section have already been made through the Special Adoption. Additional amendments are now proposed to implement other provisions of the SEAFCA, while others are minor clarifying changes based on the Board's experience with the RPS program. Among these, the definition of "qualification life" is amended to account for delays between interconnection of a solar electric generation facility and the start of its operation and to clarify that once a qualification life is assigned to a solar facility, it applies to each piece of the facility, as well as to the facility itself. This clarification carries out the intent of the qualification life concept, which is to encourage the installation of new solar electric generating capacity in New Jersey. The term "qualified renewable energy" is deleted as it is no longer used in the rules and a definition of "solar electric generating facility" is added.

One definitional change in SEAFCA was the definition of solar renewable energy certificate (SREC) as a separate entity, apart from other class I RECs. Therefore, throughout the chapter, where the term "REC" or "class I REC" is used, the term "SREC" is added where appropriate to ensure that SRECs are also covered.

N.J.A.C. 14:8-2.3 sets forth the minimum amounts of renewable energy required under the subchapter. There are separate requirements for solar electric generation, class I renewable energy and class II renewable energy. The requirement for solar electric generation is a subset of the overall class I renewable energy requirement.

Compliance with the rules must be demonstrated through the retirement of renewable energy certificates or solar renewable energy certificates (RECs and SRECs, respectively), or through the submittal of alternative compliance payments or solar alternative compliance payments (ACPs and SACPs), as described below. RECs and SRECs are

issued by PJM Environmental Information Services (PJM-EIS) through its Generation Attribute Tracking System (GATS). Many SEAFCA changes were made to this section through the Special Adoption.

At N.J.A.C. 14:8-2.3(b), new SEAFCA requirements are added, mandating that the Board periodically consider increasing the RPS requirements, in consultation with certain other stakeholders and State agencies. In addition, existing N.J.A.C. 14:8-2.3(h) is proposed for deletion because it has become obsolete. The provision covers previously executed contracts for electricity supply that are now expired. Other than these amendments, the section is proposed for reoption without any other change.

It should be noted that the Board will, within the next three years, implement additional SEAFCA requirements for an automatic increase in the solar RPS requirements, which will be triggered when certain indicators show an abundant supply of SRECs. In addition, the Board recently adopted RPS requirements for offshore wind renewable energy certificates (ORECs), in accordance with other recent statutory amendments (see P.L. 2009, c. 289). See N.J.A.C. 14:8-6, the specially adopted new rules, effective March 7, 2011, at 43 N.J.R. 658(a).

Existing N.J.A.C. 14:8-2.4 includes a requirement that SRECs be used to fulfill solar RPS requirements and a prohibition on use of an SREC for RPS compliance if the SREC has been used elsewhere. These two requirements are already found in the existing rules at N.J.A.C. 14:8-2.3(c) and (i), respectively. Therefore, existing N.J.A.C. 14:8-2.4 is proposed for repeal and replacement with a section containing conditions that must be met for solar electric generation to be eligible for an SREC. This new section collects all requirements that apply to solar electric generation in one place for clarity.

As in the existing rules, energy must meet the definition of solar electric generation, must be generated during a solar facility's qualification life (relocated from existing N.J.A.C. 14:8-2.9(l) and also must be generated at a facility that meets certain requirements, including being built within certain timeframes. In addition, new provisions are proposed limiting issuance of SRECs to energy generated at a facility that has been pre-registered with the Board. These new provisions require advance notice of the installation of new solar electric generating facilities or significant changes in existing facilities. Because the price of SRECs will vary greatly depending upon the amount of solar electricity generated, it is important for the Board, supplier/providers and other participants in the SREC market to have advance notice of increases in solar electric generation. Proposed new N.J.A.C. 14:8-2.4(b) includes a new requirement that an SREC will be issued only if the solar electric generating equipment is new or was used only in a solar facility with at least 12 months left in its qualification life.

Existing N.J.A.C. 14:8-2.5 sets forth the types of energy that qualify as class I renewable energy. Renewable energy generated from biomass must have a biomass sustainability determination from the New Jersey Department of Environmental Protection (NJDEP). The existing section also sets forth the procedure for obtaining the NJDEP determination and other submittal requirements. The heading of the section and subsection (a) are amended to clarify that the provisions are focused on class I renewable energy for the purpose of obtaining a class I REC. No other changes to the section are proposed.

Existing N.J.A.C. 14:8-2.6 sets forth the types of energy that qualify as class II renewable energy, the procedure for obtaining an NJDEP environmental compliance determination for energy generated at a resource recovery facility and information submittal requirements to document that energy is in fact class II renewable energy. The heading of the section and subsection (a) are amended to clarify that the provisions are focused on class II renewable energy for the purpose of obtaining a class II REC. No other changes to the section are proposed.

Existing N.J.A.C. 14:8-2.7 requires that class I and II renewable energy be generated within PJM or delivered into PJM in order to qualify for a class I or class II REC. The heading of the section is amended for clarity. A web address for the PJM Operating Agreement is also updated. Several minor clarifying changes, which do not affect the substance of the section are also proposed.

Existing N.J.A.C. 14:8-2.8 governs the issuance of RECs and the use of RECs and SRECs for compliance with the RPS subchapter. This section and existing N.J.A.C. 14:8-2.9 are reorganized to put all

provisions relating to use of RECs and SRECs in this section (N.J.A.C. 14:8-2.8), and to put all provisions relating to issuance of RECs and SRECs into N.J.A.C. 14:8-2.9. The headings of both sections are amended accordingly. The specific changes proposed in each section are described below.

Existing N.J.A.C. 14:8-2.8(a) is deleted because the use of RECs and SRECs for RPS compliance is no longer optional. N.J.A.C. 14:8-2.8(b) limits the use of RECs and SRECs depending on when the energy upon which the REC or SREC is based was generated. This subsection is deleted, and replaced with updated provisions at proposed new N.J.A.C. 14:8-2.8(a), which allow for the use of class I RECs and SRECs for compliance with RPS requirements for three energy years, rather than only two. This change is mandated by SEAFCA. The term "SREC" is added to existing N.J.A.C. 14:8-2.8(b) to clarify that everything in the subsection applies to SRECs, as well as to class I and class II RECs.

Existing N.J.A.C. 14:8-2.8(c) is deleted because it is proposed for relocation and updating at proposed new N.J.A.C. 14:8-2.9(a). The proposed new provision is simpler and more accurate in describing the current system for issuance of RECs and SRECs. Existing N.J.A.C. 14:8-2.8(d) is deleted because the Board no longer limits RPS compliance to RECs or SRECs from generating facilities eligible for net metering. N.J.A.C. 14:8-2.8(e) is amended to add SRECs.

Existing N.J.A.C. 14:8-2.9 provides for the Board or its designee to issue RECs. The section is amended to reflect the fact that, for the present, the Board has delegated to PJM-EIS the responsibility for issuing RECs and SRECs through GATS. Additional proposed amendments set minimum requirements for meters, remove a waiver provision at subsection (e) and delete existing subsections (f) and (j) because they address issues better handled by PJM-EIS. The option to use engineering estimates of generation for REC and SREC issuance purposes is deleted and requirements that meters meet ANSI for meters and PJM standards are added. The phrase "or SRECs" is added to each mention of "REC" in the section, as each provision applies to both types of RECs. The last sentence of existing subsection (g), all of subsection (h) and the first sentence of existing subsection (i) are deleted because they address issuance of RECs, which is covered by updated provisions at proposed N.J.A.C. 14:8-2.8(a). The phrase "or SRECs" is added to each mention of "REC" in the section, as each provision applies to both types of RECs. Existing N.J.A.C. 14:8-2.9(l) deals only with SRECs, so it is proposed for relocation to the section on SRECs at new N.J.A.C. 14:8-2.4(b).

N.J.A.C. 14:8-2.10 provides for the submittal of an alternative compliance payment (ACP) or solar alternative compliance payment (SACP) as a method of complying with the RPS requirements. The existing section provides for an advisory committee to make recommendations to the Board in determining and adjusting the amount of the ACP and SACP, and requires the Board to use the payment money to fund additional renewable energy projects. In accordance with SEAFCA amendments provide for a 15-year SACP schedule and specify that SACP monies shall not, like other ACPs, be used for renewable energy projects, but instead shall be refunded to ratepayers. Minor clarifying amendments are proposed and explanatory language is deleted from existing subsection (c) for the sake of brevity.

Existing N.J.A.C. 14:8-2.11 sets forth requirements for supplier/provider recordkeeping and reporting and requirements for documenting compliance with the RPS subchapter. Minor changes are made at N.J.A.C. 14:8-2.11(c) to simplify reporting and to require that the price of RECs and SRECs retired be included in the report. No other changes are proposed to this section.

Existing N.J.A.C. 14:8-2.12 contains provisions for enforcement. As discussed above, these provisions are proposed to be recodified as N.J.A.C. 14:8-1.3 and amended to make the section apply to the entire chapter, not just Subchapter 2.

SUBCHAPTER 3. Environmental Information Disclosure

N.J.A.C. 14:8-3 requires the disclosure of certain environmental information regarding the means by which electricity is generated. The new subchapter, which replaces it is significantly simpler and more closely tracks the underlying statutory authority. The landscape of the energy market has changed greatly since the Board originally adopted the environmental information disclosure rules and the Board has gained

experience with the rules through implementing them. The existing environmental information disclosure rules do not reflect current conditions in the electricity market and in addition are overly detailed and complex. Therefore, the Board is not readopting the existing rules and allowed them to expire; instead choosing to replace the subchapter with the basic environmental information disclosure requirements as they appear in the EDECA. This will reduce the burden on electricity suppliers and BGS providers, while continuing to fulfill the statutory requirements and provide appropriate information to electricity customers.

Proposed N.J.A.C. 14:8-3 requires that each electric supplier or basic generation service provider serving retail customers in New Jersey disclose to those customers information regarding the environmental characteristics of the energy provided. These rules implement N.J.S.A. 48:3-87. The supplier/provider shall provide the information on a schedule and in a graphic format, which the Board will post on its website. The information shall include three types of information: fuel mix used in generating electricity, air emissions resulting from the generation and energy efficiency programs.

SUBCHAPTER 4. Net Metering For Class I Renewable Energy Systems

Net metering occurs when an electricity customer operates a renewable energy generating unit on the customer's side of the electric meter. This allows the customer-generator to offset its load by generating some or all of the electricity consumed on the premises. If the customer-generator's renewable energy generating unit produces more electricity than the customer-generator uses, the customer-generator's meter, in effect, "runs backwards"; that is, the excess electricity feeds back into the electric distribution system, and the EDC or electric power supplier gives the customer-generator credit or compensation for the excess generation. The net metering rules require each electric power supplier, basic generation service provider and electric distribution company to offer net metering to customers who install class I renewable energy generators on the customer's side of the electric meter.

Minor clarifying amendments are proposed to N.J.A.C. 14:8-4.2, 4.3 and 4.4, including the insertion of references to provisions regarding a customer-generator's selection of its annualized period, the deletion of a provision relating to a date that has passed and deletion of a nonfunctional cross-reference. The remainder of the subchapter is proposed for readoption without change.

N.J.A.C. 14:8-4.1 sets forth the scope and applicability of the net metering subchapter.

N.J.A.C. 14:8-4.2 sets forth definitions of terms that appear only in the net metering subchapter.

N.J.A.C. 14:8-4.3 sets forth general provisions, including who can net meter, limits on the size and type of customer-generator facility and the method by which the customer-generator is credited for any excess generation. Any customer may net meter. However, the capacity of a customer-generator facility may not exceed the customer-generator's average electricity consumption. This reflects the fact that the intent of the net metering program is to allow customers to offset their own electricity use, not to enable customers to sell significant amounts of electricity into the grid.

N.J.A.C. 14:8-4.4 specifies the minimum requirements for meters used for net metering. The section also provides for the allocation of meter costs. On January 13, 2008, statutory amendments were enacted that allow electric public utilities to recover the costs of any new net meters, upgraded net meters, system reinforcements or upgrades, and interconnection costs through either their regulated rates or from the net metering customer-generator. The Board is proposing to readopt the existing provisions governing when the electric public utility may charge net metering customer-generators directly for net metering equipment. For other net metering equipment covered by these statutory provisions, the Board will consider costs through its normal ratemaking process. The Board may in the future determine that a rulemaking regarding these other costs would be appropriate, but has not done so at this time.

N.J.A.C. 14:8-4.5 sets forth reporting requirements for electric distribution companies (EDCs) that serve net metering customer-generators. Not only does the information reported enable Board staff to monitor compliance with the rules, but it also enables the Board to track

and understand the development of renewable energy resources in the net metering program.

SUBCHAPTER 5. Interconnection of Class I Renewable Energy Systems

N.J.A.C. 14:8-5 contains requirements for the processing of customer applications to interconnect their class I renewable energy generation systems to the EDCs' electric distribution system and requirements for how the interconnection is accomplished.

Interconnection definitions are found in N.J.A.C. 14:8-5.1, which includes minor clarifying changes, and a new definition for IEEE Standard 1547. N.J.A.C. 14:8-5.2 includes general information regarding the types of interconnection approvals, the types of information required in an application for interconnection and cross-references to other applicable requirements. A provision clarifying the method through which an EDC must notify a customer-generator when it is authorized to energize its facility is relocated to N.J.A.C. 14:8-5.2 from 5.8(a) and additional detail is added. In addition, a provision prohibiting an EDC from requiring additional controls, tests or insurance is relocated to N.J.A.C. 14:8-5.2 from 5.8(b). Both of these amendments are intended to clear up confusion that has arisen regarding procedures for interconnection approvals.

N.J.A.C. 14:8-5.3 describes the process for certification of certain interconnection equipment as compliant with certain industry standards. To be eligible for interconnection review using the simpler level 1 and level 2 interconnection approval procedures, a class I renewable energy generation facility must use certified equipment. No changes are proposed.

N.J.A.C. 14:8-5.4 provides a step-by-step outline of the level 1 interconnection approval process. This is the simplest level of interconnection review, for inverter-based systems of 10 kw or less, using certified interconnection equipment. It requires action by the EDC on each application within strict deadlines. Since the original adoption of the interconnection rules, the interconnection application process has developed some standard procedures, and Board staff have identified some gaps in the rules that cause confusion between the EDCs and interconnection applicants. Therefore, amendments are proposed to close those gaps, clarify deadlines for EDC action, and add more detail regarding the chain of events through which a level 1 interconnection is approved.

The proposed changes include a requirement for written notice to the applicant as to whether an inspection is waived or not, a requirement that the customer-generator submit documentation of local code approval to the EDC, a requirement that the EDC notify the customer-generator of authorization to energize its facility, and a system for scheduling an EDC inspection, as well as deadlines for EDC response to a customer-generator in each step of the existing review process. In addition, minor proposed updates at existing subsection (h) and paragraph (k)2 and new subsections (l) through (o) provide names for certain forms and documents involved in the approval process. Existing subsections (l) through (o) are deleted as the proposed amendments have provided a more detailed and clear explanation of the review procedure, and have thus also made the default approval unnecessary.

N.J.A.C. 14:8-5.5 contains the review procedure for a level 2 interconnection approval. This applies to systems that are greater than 10 kW but less than two MW and also use certified interconnection equipment. As with the level 1 interconnection review procedures, some confusion has arisen as to the deadline for certain steps in the interconnection review process. Therefore, amendments are proposed to clarify this process and its timing. As with the level 1 amendments, the proposed changes include a requirement that the customer-generator submit documentation of local code approval to the EDC, a requirement that the EDC notify the customer-generator of authorization to energize its facility and a system for scheduling an EDC inspection, as well as deadlines for EDC response to a customer-generator in each step of the existing review process. In addition, existing subsection (r) is proposed for deletion, as it is redundant with the proposed review procedure provisions.

N.J.A.C. 14:8-5.6 contains the review procedure for a level 3 interconnection approval. This applies to all systems that are not eligible

for review under the level 1 or 2 procedure. A level 3 review is a complex, multi-step process, requiring individual studies of various aspects of the class I renewable energy generation facility and the potential impact of interconnection on the electric distribution system. The section is proposed for readoption with no changes.

N.J.A.C. 14:8-5.7 sets forth the fees that an EDC may charge a customer-generator for review of an application for interconnection. The more complex an interconnection application, the higher the fee. A prohibition on EDCs imposing extra fees is relocated into this section from existing N.J.A.C. 14:8-5.8(c).

Existing N.J.A.C. 14:8-5.8 sets forth obligations that the EDC and the customer-generator must meet after an interconnection is approved. N.J.A.C. 14:8-5.8(a) through (c) are proposed to be relocated in other, more appropriate sections (as described above). No changes are proposed to the remaining subsections, which address testing, maintenance and inspection of the customer-generator facility during its operation. The section heading is modified to more accurately describe the contents of the section.

N.J.A.C. 14:8-5.9 requires interconnection reporting by EDCs. The information reported provides the Board with data on class I renewable energy generation facilities of different types and capacities, as well as information that Board staff finds useful in monitoring trends in interconnection practices around the State. No changes are proposed to this section.

SUBCHAPTER 6. Qualified Offshore Wind Projects

On June 28, 2010, the New Jersey Legislature passed the Offshore Wind Economic Development Act (OWEDA), P.L. 2010, c. 57, which Governor Christie signed into law on August 19, 2010. The law amends and supplements the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq. (EDECA). OWEDA amends EDECA to add an offshore wind renewable energy certificate (OREC) program, and establishes a renewable energy portfolio standard (RPS) to require that a percentage of the kilowatt hours sold in New Jersey by each electric power supplier and each basic generation service provider be from offshore wind energy in order to support at least 1,100 megawatts of generation from qualified offshore wind (OSW) projects.

On February 10, 2011, the Board enacted the OSW rules, which were published in the New Jersey Register on March 7, 2011 at 43 N.J.R. 658(a). Because the rules were promulgated through a special rulemaking process, the Board is required to propose and adopt the rules through the traditional notice and comment process within 18 months. As these rules have so recently taken effect and will be subject to being repropoed prior to August 10, 2012, the Board is not proposing to readopt the OSW rules at this time, and is not accepting comments on the OSW subchapter. Rather, the Board will solicit input from stakeholders and gain experience with the rules prior to proposing any changes.

SUBCHAPTER 7. Appliance Efficiency, Certification and Testing Standards

N.J.A.C. 14:8-7 contained energy efficiency standards for certain commercial appliances. In its continuing effort to reduce unnecessary regulation, the Board reviewed these rules in light of other applicable law and determined that the rules were superseded by Federal standards. Therefore, the Board did not propose to readopt these provisions, and instead the entire subchapter expired on April 18, 2011.

SUBCHAPTER 8. Standard Offer Contracts

The Board is proposing to readopt N.J.A.C. 14:8-8, which contains rules regarding Standard Offer contracts, without change. These contracts were executed under the Board's Demand Side Management (DSM) program for energy conservation, which was discontinued in 2001. However, many of the contracts executed under that DSM program are still in effect, so these rules will continue to ensure completion of all activities covered by those contracts.

Social Impact

The proposed readoption with amendments, repeals and new rules of the renewable portfolio standards rules (N.J.A.C. 14:8-2), the net metering rules (N.J.A.C. 14:8-4), and the interconnection rules (N.J.A.C. 14:8-5), will have a positive social impact for New Jersey, because these

subchapters help increase investment in renewable energy, including distributed renewable energy (distributed renewable energy is located close to the source of energy consumption). These rules are important components of New Jersey's initiative to increase the use and generation of renewable energy in New Jersey. The use of renewable energy helps reduce air pollution and dependence on foreign oil and gas resources. Air pollution has a negative effect on biodiversity, climate change and forest ecosystems, for example through greenhouse gases and acid rain. Global environmental benefits of these rules include carbon sequestration and biodiversity conservation. Distributed renewable energy has the two added benefits of 1) helping alleviate the need for large electric transmission lines; and 2) reducing congestion and overloading of existing electric transmission lines, thus reducing power outages and improving the reliability of electric service to customers.

In addition, the interconnection rules provide standard application requirements and procedures for the approval of interconnections, which help ensure predictability for customer-generators, electric power suppliers, basic generation service providers and the Board. As the number and size of renewable energy generating units in New Jersey increases, it is more important than ever that interconnection procedures are user-friendly and efficient, so that they do not unduly burden or delay interconnection of renewable energy generators to the electricity grid.

The proposed new environmental information disclosure subchapter (N.J.A.C. 14:8-3) will have a positive social impact in that it will significantly reduce the compliance burden associated with statutory environmental information mandates, while continuing to ensure that New Jersey electricity customers receive information about the environmental characteristics of the electricity that they purchase.

The Board's determination that allowed the appliance efficiency standards rules at N.J.A.C. 14:8-7 to expire had a beneficial social impact because it reduced unnecessary regulation, and clarified that Federal standards take precedence in this area.

The readoption of the Standard Offer contract rules (N.J.A.C. 14:8-8) will have a positive social impact because these rules ensure the completion of energy conservation measures planned and committed to under the Board's previous DSM program.

Economic Impact

The RPS, net metering and interconnection rules undoubtedly result in some costs to electric power suppliers, BGS providers and EDCs. However, the RPS rules also reduce electricity costs in the near-term by increasing distributed renewable energy generation, and in the long-term by supporting the development of renewable energy in New Jersey and beyond. Under the RPS rules, supplier/providers must purchase and retire RECs and SRECs, EDCs must process applications to interconnect and allow for interconnection and net metering. The Board may authorize EDCs to pass on these costs to electricity customers through rates, assuming the costs meet the Board's standard that the costs are reasonable and prudent. BGS providers and electric power suppliers will need to recoup these costs through the pricing of their electricity supply. These costs are counterbalanced by the economic benefits of distributed energy generation, which reduces the need for EDCs to build additional transmission capacity, and reduces the need for construction of power plants using traditional, non-renewable sources, thus saving money for ratepayers. In the long term, the Board's programs for developing renewable energy use and generation can act as a spur to development of renewable energy markets, thus reducing use of environmentally damaging fossil fuels and decreasing U.S. dependence on foreign oil imports. Ultimately, this will have an important beneficial economic impact on the country as a whole.

The amendments and new rules proposed will update the rules to include statutory changes supporting solar energy generation, and will improve the rules by clarifying deadlines and exemptions, codifying the SREC registration process and upgrading the accuracy of the meters required for obtaining RECs and SRECs.

An important long-term economic benefit of the RPS, net metering and interconnection rules is to build the renewable energy market in New Jersey and the nation. New Jersey is a leader in renewable energy. Through the efforts of New Jersey and other states and organizations, the use of renewable energy is steadily increasing and the cost of renewable

energy technology is steadily decreasing. Increasing renewable energy use has beneficial environmental impacts, which translate into economic benefits. Extensive literature quantifies the environmental impacts of generating electricity, and estimates significant economic impacts resulting from the environmental effects of increasing renewable energy use and decreasing traditional energy use.

The readoption of the net metering rules will also have a positive economic impact on installers of renewable energy systems and on electric customers who wish to net meter. The readoption may have a short-term negative economic impact on EDCs. However, if EDC costs are deemed prudent, the Board may permit the EDC to recover those costs through rates.

The readoption of the interconnection rules will have a beneficial economic impact in that these rules provide a clear and predictable system for obtaining authorization to interconnect class I renewable energy systems to the grid. Predictability benefits both the EDCs and potential net metering customer-generators by saving time and reducing the potential need for hired assistance in obtaining authorization to interconnect. The application fees in the subchapter are based on the size of the class I renewable energy generation facility, which allows for fees to reflect more closely the actual cost of the review procedure involved. The rules entail some compliance costs for EDCs in processing applications for interconnection, but these are likely to be minor, and these costs can be considered by the Board during ratemaking proceedings.

The existing environmental information disclosure subchapter imposes compliance requirements that result in some costs to EDCs and supplier/providers. The proposed new subchapter contains streamlined provisions that are closer to the statutory mandate, will have a beneficial economic impact, in that it will reduce compliance costs for EDCs and supplier/providers.

Allowing the appliance standards rules to lapse is not likely to have a direct economic impact, as these rules have been superseded by Federal standards. However, simplifying and clarifying the rules may have a slight economic benefit, in that they make it easier for appliance manufacturers, distributors and installers to understand that they are now subject to Federal, rather than New Jersey, compliance obligations.

The Standard Offer contract rules have an economic impact in that they continue existing contracts, thus continuing economic arrangements made previously by the parties to the contract. This could be economically beneficial or adverse to one or the other of the parties, depending on the particular contract.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-22 through 24 require State agencies that adopt, readopt or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. The following subchapters are not promulgated under the authority of, or in order to implement, comply with or participate in any program established under Federal law or under a State statute that incorporates or refers to Federal law, Federal standards or Federal requirements: N.J.A.C. 14:8-1, General Provisions and Definitions, 14:8-2, Renewable Portfolio Standards, 14:8-3, Environmental Information Disclosure, 14:8-4, Net Metering, and 14:8-8, Standard Offer contracts. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. do not require a Federal standards analysis for the proposed readoption of these subchapters.

Regarding N.J.A.C. 14:8-5, the interconnection subchapter, the Federal Regulatory Energy Commission (FERC) has interconnection rules at 18 CFR 35 that apply to interconnection with transmission lines. The Board's interconnection rules apply only to interconnections with the electric distribution system. Therefore, no Federal standards analysis is required.

There are Federal rules governing appliance efficiency at 10 CFR 430. The New Jersey rules at existing N.J.A.C. 14:8-7 are preempted by those Federal rules and therefore are not being proposed for readoption.

Jobs Impact

The Board does not anticipate that the proposed readoption with amendments, repeals and new rules of Chapter 8 will have a material impact on jobs in New Jersey. A regulated entity may need to assign staff

to ensure compliance with these rules, but the amount of staff time required should be minimal, and any staff needed will already be in place as the rules have been in effect for some time. The simplification of the environmental information disclosure rules may slightly reduce the need for supplier/providers to hire consultants to comply with the rules, but this effect will be minimal.

The readoption of the RPS rules, the net metering rules and the interconnection rules will continue to encourage renewable energy generation systems in New Jersey, thus continuing to support jobs for the designers, manufacturers and installers of renewable energy equipment.

The Board does not anticipate that the expiration of the appliance standards rules will result in a gain or loss of jobs in New Jersey. Most manufacturers of these products are national or even international corporations, and very similar Federal standards will apply to the same subject matter. The proposed readoption of the Standard Offer contracts rules will not affect jobs in New Jersey, because the sole effect of the rules is to continue existing contracts.

Agriculture Industry Impact

The readoption of the RPS, net metering and interconnection rules is likely to have a positive impact on the agriculture industry in New Jersey. First, farmers are often in a good position to lease land to those who wish to build biomass, solar or wind generators, so to the extent that the rules stimulate installation of these generating facilities, farmers are likely to benefit financially. Second, since farms often require energy in more remote areas, alternative energy technology is especially useful to those in the agriculture industry. Thus, by encouraging a thriving market for alternative energy systems, these rules could cause an overall improvement in the availability, efficiency and price of alternative energy equipment, which could ultimately benefit farmers who need remote sources of energy. Third, the rules will have a positive impact by reducing air pollution caused by non-renewable energy generation. Air pollution has a negative impact on crop yields, including timber and forest products, and air pollution may also impact aquaculture operations. Other than these beneficial impacts, these rules are not expected to affect agriculture any differently than other energy consumers.

The Board does not anticipate that the readoption of the environmental information disclosure rules and Standard Offer contract rules will have a significant impact on the agriculture industry in New Jersey. These rules will apply to agricultural energy customers in the same way as any other energy customer.

Regulatory Flexibility Analysis

The proposed readoption with amendments, repeals and new rules of N.J.A.C. 14:8 will impose minimal recordkeeping, reporting or other compliance requirements on small businesses. A small business, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., is a business that has fewer than 100 full-time employees.

The Renewable Portfolio Standards at N.J.A.C. 14:8-2 apply to EDCs, electric power suppliers and basic generation service (BGS) providers. None of New Jersey's EDCs or BGS providers are small businesses. While many electric power suppliers are undoubtedly small businesses, it is impossible to estimate the number of these suppliers that will be affected by these rules. New Jersey currently has approximately 37 licensed electric power suppliers, but these suppliers constantly enter and exit the New Jersey electricity market, depending on business conditions and energy prices. Any electric power supplier that operates in New Jersey would have to comply with the RPS requirements. N.J.A.C. 14:8-2.11 requires each supplier/provider to demonstrate compliance by submitting an annual report to the Board. These reports are necessary, so that the Board can assure that the rule's requirements are met. Further, the reports are not so burdensome as to require differing standards for small businesses.

The environmental information disclosure rules apply to electric power suppliers and BGS providers. The rules impose some compliance requirements on electric power suppliers and BGS providers, in that the preparation and distribution of the environmental disclosure labels requires some effort and expenditure. However, the Board has proposed simplification of the rules in order to minimize any compliance burden, and does not anticipate that the rules will require expenditures for capital costs or compliance assistance.

The proposed readoption of the rules governing net metering for class I renewable energy systems (N.J.A.C. 14:8-4), and the rules governing interconnection of such systems (N.J.A.C. 14:8-5), will not impose recordkeeping, reporting or other compliance requirements on small businesses. The net metering and interconnection rules apply to EDCs; electric power suppliers; net metering customer-generators; and the consultants, manufacturers and contractors that design, build and install the equipment needed for net metering.

The reporting and compliance requirements of the net metering rules apply only to EDCs, none of which are small businesses. The proposed readoption of the interconnection rules (N.J.A.C. 14:8-5) will continue provisions that systematize procedures for interconnection and thus minimize the compliance burden on small businesses, as well as other regulated entities. The majority of small business applicants for interconnection will not incur capital costs or require professional help, because they are likely to install small renewable energy generation facilities that require only the simple, Level 1 interconnection review procedure. The exception to this would be a large and/or complex interconnection application, which requires detailed information regarding the potential impact of the interconnection on the electric distribution system. While it is unlikely that a small business would install such a generation system, it is possible. In such a case, the interconnection application could require capital costs or professional help. However, careful review of an application to interconnect a large or complex generation facility to the electric distribution system is of utmost importance, as a technical error could result in potentially dangerous electrical conditions that could cause serious injury and/or major property damage. Therefore, the Board has not developed special interconnection provisions for small businesses that choose to install large or complex renewable energy generation facilities.

It is likely that some small businesses are parties to contracts that were executed under a Standard Offer contract authorized by the existing rules. For those businesses, the rules do not require any professional services or reporting, recordkeeping or compliance requirements. As no new contracts will be executed under these rules, the Board has not proposed any special provisions to accommodate small businesses.

Smart Growth Impact

The Board anticipates that the proposed readoption with amendments, repeals and new rules of Chapter 8 will have no impact on either the achievement of smart growth or the implementation of the State Development and Redevelopment Plan (State Plan). The State Plan is intended to “provide a coordinated, integrated and comprehensive plan for the growth, development, renewal and conservation of the State and its regions” and to “identify areas for growth, agriculture, open space conservation and other appropriate designations.” N.J.S.A. 52:18A-199a. Smart growth is based on the concepts of “focusing new growth into redevelopment of older urban and suburban areas, protecting open space, conserving natural resources, increasing transportation options and transit availability, reducing automobile traffic and dependency, stabilizing property taxes, and providing affordable housing.” These rules apply uniformly Statewide and are intended to develop the market for renewable energy, and thus are likely to contribute to steady improvements in renewable energy technology over the next 20 to 30 years. Eventually, these improvements in renewable energy markets and technology may cause an increase in construction of off-grid residences and other structures, which could have a slight impact on the location of development. However, any such impact will take many years to come to fruition. In addition, the primary problem from constructing structures in areas not designated for growth is that once utility infrastructure is in place to serve one such structure, it increases the likelihood of additional development in that area. An off-grid structure will not cause this result, as it will not require extension of utility infrastructure. Therefore, the rules proposed for readoption with amendments, repeals and new rules are not likely to have an impact on smart growth or the State Plan.

Housing Affordability Impact

The rules proposed for readoption with amendments, repeals and new rules will have an insignificant impact on affordable housing in New Jersey because the scope of the rules is limited solely to continuing existing regulatory requirements intended to increase the use of

renewable energy, and to continuing existing energy efficiency contracts. These existing regulatory requirements, while they probably have some effect on electricity rates, do not affect the availability or price of housing. In addition, there is an extreme unlikelihood that the rules proposed for readoption with amendments, repeals and new rules would evoke a change in the average costs associated with housing, because the rules address only renewable energy generation and energy efficiency contracts and do not affect housing prices or the housing market.

Smart Growth Development Impact

The rules proposed for readoption with amendments, repeals and new rules will have an insignificant impact on smart growth in New Jersey because the scope of the rules is limited solely to regulatory requirements intended to increase use of renewable energy, and to continue existing energy efficiency contracts. These existing regulatory requirements are intended to develop the market for renewable energy, and thus are likely to contribute to steady improvements in renewable energy technology over the next 20 to 30 years. Eventually, these improvements in renewable energy markets and technology may cause an increase in construction of off-grid residences and other structures, which could have a slight impact on the location of development. However, any such impact will take many years to come to fruition. In addition, there is an extreme unlikelihood that the rules proposed for readoption with amendments, repeals and new rules would evoke a change in housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan, because the rules target the method of electricity generation, and do not affect the location of housing construction or the housing market.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 14:8.

Full text of the rule proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 14:8-2.4.

Full text of the proposed amendments, recodifications and new rules follows (additions indicated in boldface **thus**; deletions indicated with brackets [thus]):

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. (No change.)
3. **Basic generation service, or BGS**, providers;
- 4.-5. (No change.)

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.

...
 “Net metering” means a system of metering **and billing for** 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 **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.

14:8-[2.12]1.3 Enforcement

(a) Failure to comply with any provision of this [sub]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.-4. (No change.)

(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] **violator’s** failure to comply:

1. (No change.)

2. The gravity of the violation or failure to comply with the requirements in this [sub]chapter;

3.-4. (No change.)

SUBCHAPTER 2. RENEWABLE PORTFOLIO STANDARDS

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:

...
 “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:] **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 [completion of the interconnection] **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.**

...
 [“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.]

...
 “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.**

14:8-2.3 Amount of renewable energy required

(a) (No change.)

(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. [Each of the rules setting such minimum amount shall be adopted at least two years prior to the minimum amount being required.] **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 (j) through (o) below. 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 [Department of Environmental Protection] NJDEP; or

2. (No change.)

(d)-(g) (No change.)

(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]

(Reserved)

(i)-(o) (No change.)

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. The registration process shall be administered by Board staff or the Board’s designee.

(b) To be eligible for issuance of an SREC usable for compliance with this subchapter, electricity shall:

1. **Meet the definition of solar electric generation at N.J.A.C. 14:8-1.2;**

2. **Be generated at a facility that has been issued a New Jersey State Certification Number by Board staff;**

3. **Be generated during the generating facility’s qualification life, as defined at N.J.A.C. 14:8-2.2. Solar electric generation produced after the end of a facility’s qualification life shall not be used as the basis for an SREC, but may be used as the basis for a class I REC under N.J.A.C. 14:8-2.5; and**

4. **Be generated using equipment that meets either of the following criteria:**

i. **The equipment is new, that is, none of the equipment has been used prior to the installation of the solar electric generating facility; or**

ii. **The equipment was previously used in a solar facility with an unexpired qualification life and all of the following criteria are met:**

(1) **The previous solar facility was located in New Jersey;**

(2) **The previous solar facility was issued a New Jersey State Certification Number by Board staff;**

(3) **There are at least 12 full months left in the qualification life of the previous solar facility; and**

(4) **Any sale or other transfer of the equipment during the qualification life of the previous solar facility is recorded with the Board and with PJM through submittal of a PJM system change form.**

(c) To comply with (b)2 above, a solar electric generating facility that was not issued a New Jersey State Certification Number prior to (the effective date of this new rule), shall obtain a New Jersey State Certification Number through the registration process set forth in this section. The registration process includes three important deadlines:

1. The submittal of an initial registration package under (f)1 below shall occur no later than:

i. Ten business days after execution of the contract for purchase or installation, whichever comes first, of the photovoltaic panels to be used in the solar facility;

ii. If a contract for purchase and/or installation of photovoltaic panels for the solar facility was executed prior to (the effective date of this new rule), the deadline for submittal of an initial registration package shall be (30 days after the effective date of this new rule); or

iii. In a case where a conditional registration or extension was previously issued but expired before construction of the solar facility was substantially completed, a new registration package shall be submitted prior to completion of construction;

2. Construction of the solar facility shall not begin until Board staff has issued a conditional registration for the facility under (f)5 below; and

3. Construction of the solar facility shall be completed and local code approval granted prior to the expiration of the conditional registration or any extension granted under (g) below.

(d) A solar electric generating facility, and all equipment included in or appurtenant to the solar facility, shall permanently retain the qualification life originally assigned to the solar facility, regardless of any interruption in the solar facility's operation, or any relocation, sale or transfer of the facility or of any of the equipment.

(e) If the applicable submittal deadline in (c)1 above is met, SRECs, based on electricity generated by the solar facility, shall be usable for compliance with this chapter immediately upon the issuance of a New Jersey State Certification Number for the facility, subject to any other applicable limits on use of SRECs. If the applicable deadline is not met, any SRECs based on electricity generated by the solar facility shall not be usable for compliance with this chapter until 12 months after the solar facility has received authorization to energize in accordance with the Board's interconnection rules at N.J.A.C. 14:8-5.

(f) Registration of a solar electric generating facility requires completion of the following process:

1. The registrant shall submit an initial registration package to the Board, completed in accordance with (j) below, within the applicable deadline at (c)1 or 2 above;

2. Upon receipt of an initial registration package, Board staff shall review the package for completeness. If the initial registration package is incomplete or deficient, Board staff shall notify the registrant in writing of the deficiencies;

3. Once the registration package is complete, Board staff shall review the package to determine whether the solar facility meets the SREC eligibility requirements of this subchapter. If the facility does not meet these requirements, Board staff shall notify the registrant. The registrant shall revise the package and resubmit it within one year of this notice. Failure to resubmit within this time will result in cancellation of the registration process, in which case a complete new registration process shall be required for the solar facility to obtain a New Jersey State Certification Number;

4. If the solar facility as described in the initial registration package meets SREC eligibility requirements, Board staff shall issue notice to the registrant of a conditional registration for the facility. The notice of the conditional registration shall:

i. State that, if the solar facility is constructed as described in the initial registration package, Board staff will issue a New Jersey State Certification Number for the solar facility upon construction completion and inspection; and

ii. Include an expiration date 12 months after the date of the notice; and

5. After issuance of the notice of conditional registration, construction of the solar facility as described in the initial registration package may begin.

(g) Construction of the solar electric generating facility shall be completed prior to expiration of the conditional registration. The registrant may request one extension prior to the expiration of the conditional registration, and shall include an updated schedule for completion. Board staff may authorize one extension for the project on a case-by-case basis, based on the likelihood of timely and successful completion of the solar facility. An extension shall provide a new expiration date, six months from the expiration of the original conditional registration. If the conditional registration, or extension, expires before construction is complete, the registrant shall begin the entire registration process again by submitting an initial registration package. Board staff shall treat the new registration package as if it were a first-time submittal, with no reference to the previous registration process.

(h) Each initial registration package shall be completed in accordance with the instructions found on the Board's New Jersey Clean Energy Program website at www.njcleanenergy.com. The registration instructions shall require the following basic types of information:

1. Information identifying and describing the owner, host location, builder/installer and operator of the solar electric generating facility;

2. Basic information describing the solar facility, including its capacity, manufacturer and expected output;

3. A technical worksheet, in a form provided on the Board's NJCEP website, detailing the technical specifications of the solar facility;

4. A construction schedule for completing the solar facility, including significant milestones;

5. A signed contract between the owner and installer of the solar facility, or other binding legal document that provides reasonable assurance that the solar facility will be constructed;

6. Basic information regarding the cost of equipment and installation, presented as a simple budget;

7. A site map of the land upon which the generating facility will be located, including all features that may affect the construction and/or performance of the solar facility; and

8. Any other data or information necessary for Board staff to determine whether the solar electric generation from the facility will meet the requirements for SRECs under this chapter.

(i) When construction of the solar electric generating facility is complete, the facility owner shall submit a post-construction certification package that meets the requirements of (j) below, and shall request an inspection of the facility by Board staff, or an inspection waiver, through the Board's NJCEP website at www.njcleanenergy.com.

(j) A post-construction certification package shall include all of the following:

1. A copy of the conditional registration notice issued by the Board under this section;

2. A final "as built" technical worksheet, detailing the technical specifications of the completed solar electric generating facility, including any changes from the technical worksheet submitted as part of the initial registration package;

3. Digital photographs of the site and the completed solar facility;

4. A shading analysis, detailing any shade that will affect the facility;

5. An estimate of the electricity production of the solar facility;

6. Where applicable, documentation of compliance with all applicable Federal, State and local law, including eligibility for any tax incentives or other government benefits;

7. A copy of the initial application to interconnect the facility to the distribution and transmission system, as well as the EDC or PJM approval to interconnect and energize the facility; and

8. A statement that an inspection of the solar facility, or an inspection waiver, has been requested through the Board's NJCEP website, and the date of the request.

(k) After receiving the inspection request and complete final documentation required under (j) above, Board staff shall conduct an inspection or shall notify the registrant that no inspection is required.

(l) If no inspection is required, or if the inspection indicates that the solar electric generating facility has been constructed in accordance with the conditional registration, and/or any Board-authorized changes made under (m) below, Board staff shall assign a New Jersey State Certification Number to the solar facility for use in obtaining SRECs from PJM-EIS GATS.

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

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

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

14:8-2.5 [Compliance with] Energy that qualifies for a class I [renewable energy requirements] REC

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

(b)-(l) (No change.)

14:8-2.6 [Compliance with] Energy that qualifies for a class II [renewable energy requirements] REC

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

(b)-(i) (No change.)

14:8-2.7 [Requirements that apply to both class] Class I and class II renewable energy—generation within PJM

(a) To qualify [as] for a class I or class II [renewable energy] REC, energy shall meet the applicable requirements in N.J.A.C. 14:8-2.5 and 2.6, and in addition shall meet the requirements of this section.

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

(c) If class I or class II renewable energy is generated outside of the PJM region, but was delivered into the PJM region, the energy may be used [to meet the requirements of] as the basis for a REC usable for compliance with this subchapter only if the energy was generated at a facility that commenced construction on or after January 1, 2003.

14:8-2.8 [Renewable Energy Certificates (] Using RECs[])] and SRECs for RPS compliance

[(a) A supplier/provider may submit one or more Renewable Energy Certificates, or RECs, as defined in N.J.A.C. 14:8-2.2, to meet the percentage of renewable energy required under Table A in N.J.A.C. 14:8-2.3. A supplier/provider that wishes to use RECs to comply with this subchapter shall meet the requirements of this section.

(b) RECs may be used for compliance with this subchapter as follows:

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

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

3. For all RECs other than solar RECs, all RECs used for compliance with this subchapter shall be based on energy that was generated during the reporting year for which the REC is submitted.

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

(c) A REC used for compliance with this subchapter shall be issued by the Board or its designee, or by PJM-EIS through GATS, as follows:

1. A class I REC that is based on electricity generated on a customer-generator's premises shall be issued by the Board or its designee in accordance with N.J.A.C. 14:8-2.9;

2. A solar REC shall be issued by the Board or its designee in accordance with N.J.A.C. 14:8-2.9;

3. A class I REC that is not based on electricity generated on a customer-generator's premises shall be issued by PJM-EIS through GATS; and

4. A class II REC shall be issued by PJM-EIS through GATS.

(d) A supplier/provider shall not use a REC that is based on electricity generated on a customer-generator's premises to comply with this subchapter unless the customer-generator facility is eligible for net metering under N.J.A.C. 14:8-3.]

(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.

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

14:8-2.9 [Board issuance] Issuance of RECs and SRECs

(a) The Board [or its designee shall] has designated PJM-EIS GATS as the entity that issues class I RECs, class II RECs and SRECs [in accordance with this section.] for use in complying with [the class I renewable portfolio standard in Table A of N.J.A.C. 14:8-2.3, based on electricity generated by a customer-generator on the customer-generator's

premises. The Board or its designee shall issue solar RECs in accordance with this section, for use in complying with the renewable portfolio standard for solar electric generation in Table A of N.J.A.C. 14:8-2.3, based on electricity generated by a solar electric generation facility] **this subchapter.**

(b) The Board may[, after public notice,] issue an order discontinuing [Board issuance of such RECs] **the designation of PJM-EIS GATS under (a) above,** and/or approving use of [such] RECs or SRECs issued by [PJM Interconnection or] 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.**

[(b)] (c) [In] **Beginning (six months after effective date of this amendment),** in measuring generation [in order] to determine the number of RECs or SRECs to issue, the Board or its designee shall accept [either of the following measurement methods, as applicable:

1. Periodic] **only** readings of a meter that records megawatt-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[; or]:

[2. For a solar electricity system with a capacity of less than 10 kilowatts, annual engineering estimates and/or monitoring protocols approved by the Board. Acceptable estimation methodologies and monitoring protocols are located on the Board's website at www.njcleanenergy.com. This method is not applicable for class I RECs.]

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, 2010; which are incorporated herein by reference, as amended and supplemented, and can be found at www.PJM-EIS.com.

[(c)] (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.

[(d)] (e) [For the purposes of this subsection, "electric distribution system" has the meaning set forth at N.J.A.C. 14:4-1.2 and "electric distribution company" means the owner or operator of an electric distribution system.] Electric generation qualifies for issuance of RECs **or SRECs** only if:

1. It is produced by a generating facility that is interconnected with an electric distribution system, **as defined at N.J.A.C. 14:8-2.2,** that supplies **electricity to one or more end users located in New Jersey;** or

2. [For] **It is class I renewable energy, other than solar electric generation,** [it is produced by a generating facility that is not interconnected with an electric distribution system that supplies New Jersey] 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 [via a meter that satisfies all requirements of American National Standards Institute (ANSI) "Electric Meters Code for Electricity Metering," C12.1-2008, incorporated herein by reference, as amended or supplemented], and complies with any additional requirements established by PJM;

ii. All of the following requirements are met:

[ii.] (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[, via a meter that satisfies all requirements of American National Standards Institute (ANSI) "Electric Meters Code for Electricity Metering," C12.1-2008, and complies with any additional requirements established by PJM and that];

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

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

iii. The generating facility has [its] **the sale of the class I renewable energy** settled in the PJM wholesale market.

[(e)] The Board may waive the requirements at (d) above by Board order if the Board determines that such waiver would facilitate participation in the regional REC tracking system adopted by the Board, and determines that such a waiver would significantly advance the purposes expressed in N.J.A.C. 14:8-2.1(a).

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

[(g)] (f) If a generator has accumulated a fraction of a megawatt hour by the end of [a reporting] **an energy** year, the fraction may be carried over and combined with energy generated in [one or more] a subsequent [reporting] **energy** year[s] 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 [reporting] **energy** year in which accumulated generation reaches one full megawatt hour. Only a fraction of a megawatt hour shall be carried over. [If a full megawatt hour is generated by the end of a reporting year and an application for a REC is not submitted by the end of the true-up period immediately following the reporting year, the megawatt hour shall not be eligible for a REC and shall not be usable for RPS compliance.]

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

[(i)] (g) [A request for issuance of a solar REC or class I RECs shall be submitted to the Board on a form posted on the Board's website at www.njcleanenergy.com.] The Board shall require submittal of information and certifications needed to enable the Board or its designee to verify the generation that forms the basis of the requested RECs. The Board shall require inspections, **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**.

[(j)] Each REC shall include the following:

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

2. The date upon which the REC was issued;

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

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

[(k)] (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.

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

[(m)] (i) (No change in text.)

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

(a) A supplier/provider may choose to [submit] **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[, in lieu of supplying the percentage of renewable energy required under Table A in N.J.A.C. 14:8-

2.3]. A supplier/provider that wishes to use ACPs or SACPs to comply with this subchapter shall meet the requirements of this section.

(b) The President of the Board shall appoint an ACP advisory committee to provide recommendations to the Board regarding the appropriate cost of ACPs 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.-2. (No change.)

(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.**

(c) (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. [The purposes of the review shall include providing the Board with supporting information to establish the amount of the SACP for the first reporting year for which no SACP has been established in Table C below, in consultation with the ACP advisory committee, based on the Board's determination of what will be needed to comply with (b)1 and 2 above in that reporting year.]

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

1.-2. (No change.)

(e) (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. [The Board shall use SACP monies to fund solar energy projects through the New Jersey 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) Each EDC shall refund the dollar amount determined under (g)4 above to its customers as follows:

1. The EDC shall provide all refunds through a billing credit;

2. The EDC shall provide the billing credit to all customers to which the EDC issues a bill covering the November 30th following the end of the subject energy year;

3. The EDC shall issue the billing credit no later than January 31st following the end of the subject energy year; and

4. The EDC shall determine the amount refunded to each eligible customer as follows:

i. The EDC shall divide the dollar amount determined under (g)4 above by the total kWhs delivered to the customers described in (h)2 above during the 12-month period ending the November 30th following the end of the subject energy year; and

ii. The EDC shall multiply the dollar amount determined under (h)4i above by the number of kWhs delivered to each customer

during the 12-month period ending the November 30th following the end of the subject energy year.

[(f)] (i) (No change in text.)

14:8-2.11 Demonstrating compliance, reporting and recordkeeping

(a)-(b) (No change.)

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

1. (No change.)

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

3. (No change.)

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

5. (No change.)

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] **SRECs retired for the purpose of compliance with this chapter;**

7.-9. (No change.)

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[.]; and

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

(d) (No change.)

(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]1.3.

(f) (No change.)

(Agency Note: N.J.A.C. 14:8-2.12 is proposed for recodification with amendments as N.J.A.C. 14:8-1.3.)

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.

(b) The disclosure required under this section shall include:

1. The fuel mix used in generating the electricity supplied, including categories for oil, gas, nuclear, coal, solar, hydroelectric, wind and biomass. If the fuel mix for particular electricity cannot practicably be determined, the supplier/provider shall include a regional average determined by the Board;

2. The air pollutants that were emitted as a result of the generation of the energy, expressed in pounds per megawatt hour, and including categories for sulfur dioxide, carbon dioxide and oxides of nitrogen. If the emissions for particular electricity cannot practicably be determined, the supplier/provider shall include an emissions default determined by the Board; and

3. Any discrete emission reduction retired pursuant to rules adopted pursuant to P.L. 1995, c. 188.

(c) The disclosure required under this section shall be provided in a graphic format provided by the Board through a posting on its website.

SUBCHAPTER 4. NET METERING FOR CLASS I RENEWABLE ENERGY SYSTEMS

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. **Each customer-generator selects an annualized period under N.J.A.C. 14:8-4.3.**

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 **that the customer-generator selects in accordance with this section.**

(b)-(c) (No change.)

(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 **customer-generator’s** annualized period[, as defined at N.J.A.C. 14:8-4.2].

(e) At the end of [each] **a customer-generator’s** 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)-(n) (No change.)

14:8-4.4 Meters and metering

(a)-(b) (No change.)

(c) If the customer-generator’s existing electric revenue meter does not meet the requirements in (b) above, the EDC shall install a new revenue meter for the customer-generator, at the company’s expense within 10 business days after the interconnection is approved in accordance with N.J.A.C. 14:8-5.4 [or (n)], 5.5 or 5.6, as applicable. Any subsequent revenue meter change necessitated by the customer-generator, whether because of a decision to stop net metering or for any other reason, shall be paid for by the customer-generator.

(d) (No change.)

SUBCHAPTER 5. INTERCONNECTION OF CLASS I RENEWABLE ENERGY SYSTEMS

14:8-5.1 Interconnection 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.

“Electrical power system” or “EPS” has the same meaning as is assigned to this term in IEEE standard 1547. As of [January 4, 2010] **(the effective date of this amendment)**, IEEE standard 1547 defined EPS as a facility that delivers electric power to a load.

“IEEE Standard 1547” means IEEE Standard 1547-2003, which was approved in 2003 and reaffirmed in 2008.

“Point of common coupling” has the same meaning as assigned to this term in IEEE Standard 1547 Section 3.0, which is incorporated herein by reference as amended and supplemented. IEEE standard 1547 can be obtained through the IEEE website at www.ieee.org. As of [January 4, 2010] **(the effective date of this amendment)**, IEEE standard 1547 Section 3.0 defined this term as “the point where a Local EPS is connected to an Area EPS.”

“Spot network” has the same meaning as assigned to the term under IEEE Standard 1547 Section 4.1.4, (published July, 2003), which is incorporated herein by reference as amended and supplemented. IEEE standard 1547 can be obtained through the IEEE website at www.ieee.org. As of [October 4, 2004] **(the effective date of this amendment)**, IEEE Standard 1547 defined “spot network” as “a type of electric distribution system that uses two or more inter-tied transformers to supply an electrical network circuit.” A spot network is generally used to supply power to a single customer or a small group of customers.

14:8-5.2 General interconnection provisions

(a)-(e) (No change.)

(f) [(Reserved)] **An EDC shall not require a customer-generator whose facility meets the criteria for interconnection approval under the level 1 or level 2 interconnection review procedure at N.J.A.C. 14:8-5.4 and 5.5 to install additional controls or external disconnect switches not included in the interconnection equipment, to perform or pay for additional tests or to purchase additional liability insurance, except if agreed to by the applicant.**

(g)-(h) (No change.)

(i) **Once a customer-generator has met the level 1 interconnection requirements at N.J.A.C. 14:8-5.4, or has met the level 2 interconnection requirements at N.J.A.C. 14:8-5.5, the EDC shall notify the customer-generator in writing that the customer-generator is authorized to energize the customer-generator facility, as follows:**

1. The EDC shall send the authorization to the e-mail address, and to the U.S. Postal Service mailing address that is listed on the customer-generator’s submitted interconnection application form; and

2. The EDC shall not condition the authorization to energize on the EDC’s replacement of the customer-generator’s meter.

14:8-5.4 Level 1 interconnection review

(a)-(g) (No change.)

(h) An applicant shall submit an [application] **Interconnection Application/Agreement Form** for level 1 interconnection review [on a]. **The standard form[,] is available from the EDC, and includes a Part 1 (Terms and Conditions) and a Part 2 (Certificate of Completion).** [An applicant may choose to simultaneously submit an EDC’s standard form interconnection agreement executed by the applicant.]

(i)-(j) (No change.)

(k) If [a customer-generator facility meets all of the applicable criteria at (c) through (g) above,] **the EDC notifies the customer-generator under (j)1 above that the facility will be approved,** the EDC shall, within three business days after sending the notice [of approval] under (j)1 above, do both of the following:

1. Notify the applicant [if] by e-mail or other writing of whether an EDC inspection of the customer-generator facility [for compliance with this subchapter] is required prior to [starting operation of] energizing the facility; or that the EDC waives inspection; and

2. [Execute and send] Return to the applicant [a level 1 interconnection agreement, unless:] Part 1 of the original application, signed by the appropriate EDC representative.

[i. The EDC does not require an interconnection agreement for customer-generator facilities that qualify for level 1 interconnection review; or

ii. The applicant has already submitted such an agreement with its application for interconnection, in accordance with (h) above.]

[(l) An applicant that receives an interconnection agreement under (k) above shall execute the agreement and return it to the EDC. If the EDC requires an inspection of the customer-generator facility, the EDC shall promptly complete the inspection and the applicant shall not begin operating the facility until completion of the inspection.

(m) Upon receipt of the executed interconnection agreement from the customer-generator and satisfactory completion of an inspection, if required, the EDC shall notify the customer-generator in writing that the interconnection is approved, conditioned on approval by the electrical code officials with jurisdiction over the interconnection.

(n) If an EDC does not notify a level 1 applicant in writing or by e-mail whether the interconnection is approved or denied within 20 business days after the receipt of an application, the interconnection shall be deemed approved. The 20 days shall begin on the date that the EDC sends the written or e-mail notice or application receipt required under (i) above.

(o) A customer-generator shall notify the EDC of the anticipated start date for operation of the customer-generator facility at least five days prior to starting operation, either through the submittal of the interconnection agreement or in a separate notice.]

(l) Once an applicant receives Part 1 of the application with the EDC signature in accordance with (k) above, and has installed and interconnected the customer-generator facility, the applicant shall obtain approval of the facility by the appropriate construction official, as defined at N.J.A.C. 5:23-4.1.

(m) The customer-generator shall submit documentation of the construction official's approval to the EDC, along with a copy of Part 2 of the application, signed by the customer-generator.

(n) If inspection of the customer-generator facility was waived under (k)1 above, the EDC shall, within five business days after receiving the submittal required under (m) above, notify the customer-generator of authorization to energize the facility. The notice to the customer-generator shall be provided in the format required under N.J.A.C. 14:8-5.2(i).

(o) If inspection of the customer-generator facility was not waived under (k)1 above, the following process shall apply:

1. The customer-generator shall submit the construction official's approval and signed Part 2 as required at (m) above, and inform the EDC that the customer-generator facility is ready for EDC inspection;

2. Within three business days after the customer-generator notifies the EDC under (o)1 above that the facility is ready for inspection, the EDC shall offer the customer-generator two or more available four-hour inspection appointments (for example, February 4th from noon to 4:00 P.M. or February 6th from 10:00 A.M. to 2:00 P.M.);

3. The appointments offered under (o)2 above shall be no later than 10 business days after the EDC offers the appointments (that is, within 13 business days after the customer-generator submittal under (m) above);

4. The customer-generator shall notify the EDC which of the offered inspection times the customer-generator prefers, or shall arrange another time by mutual agreement with the EDC; and

5. Within five business days after successful completion of the EDC inspection, the EDC shall notify the customer-generator that it is authorized to energize the facility. The notice shall be provided in the format required under N.J.A.C. 14:8-5.2(i).

(p) (No change.)

14:8-5.5 Level 2 interconnection review

(a)-(l) (No change.)

(m) An applicant shall submit an [application] **Interconnection Application/Agreement Form** for level 2 interconnection review [on a]. The standard form[,] is available from the EDC, **and includes a Part 1 (Terms and Conditions) and a Part 2 (Certificate of Completion).** [An applicant may choose to simultaneously submit an EDC's standard form interconnection agreement executed by the applicant.]

(n) (No change.)

(o) Within 15 business days after the EDC notifies the applicant that the application is complete under (n) above, the EDC shall [perform an initial review of the proposed interconnection to determine whether the interconnection meets the applicable requirements at (c) through (l) above. During this initial review,] **notify the applicant by e-mail or in writing of one of the determinations at (o)1 through 4 below, as applicable. During the 15 business days provided under this subsection, the EDC may, at its own expense, conduct any studies or**

tests it deems necessary to evaluate the proposed interconnection[. The initial review shall result in] **and arrive at** one of the following determinations:

1. The customer-generator facility meets the applicable requirements in (c) through (l) above. In this case, the EDC shall [notify]:

i. Notify the applicant that the interconnection will be finally approved upon completion of the process set forth at (p) through (r) below[.]; **and**

ii. Within three business days after [this] the notice in (o)1i above, the EDC shall [provide] return to the applicant [with an executable interconnection agreement] Part 1 of the original application, signed by the appropriate EDC representative;

2. The customer-generator facility has failed to meet one or more of the applicable requirements at (c) through (l) above, but the EDC has nevertheless determined that the customer-generator facility can be interconnected consistent with safety, reliability[,] and power quality. In this case, the EDC shall [notify]:

i. Notify the applicant **by e-mail or other writing** that the interconnection will be finally approved upon completion of the process set forth at (p) through (r) below[.]; **and**

ii. Within five business days after [this] the notice in (o)2i above, the EDC shall [provide] return to the applicant [with an executable interconnection agreement] Part 1 of the original application, signed by the appropriate EDC representative;

3. The customer-generator facility has failed to meet one or more of the applicable requirements at (c) through (l) above, but the initial review indicates that additional review may enable the EDC to determine that the customer-generator facility can be interconnected consistent with safety, reliability[,] and power quality. In such a case, the EDC shall:

i. Notify the customer-generator of, and offer to perform, additional review to determine whether minor modifications to the electric distribution system (for example, changing meters, fuses[,] or relay settings) would enable the interconnection to be made consistent with safety, reliability and power quality. The EDC notice shall provide to the applicant a nonbinding, good faith estimate of the costs of such additional review, and/or such minor modifications[.The EDC shall undertake the additional review or modifications only after the applicant];

ii. If the customer-generator notifies the EDC that the customer-generator consents to pay for the review and/or modifications[; or], the EDC shall undertake the review or modifications within 15 business days after this notice from the customer-generator; and

iii. Within 15 business days after the review or modifications are complete, the EDC shall return to the customer-generator Part 1 of the original application, signed by the appropriate EDC representative; or

4. The customer-generator facility has failed to meet one or more of the applicable requirements at (c) through (l) above, and the initial review indicates that additional review would not enable the EDC to determine that the customer-generator facility could be interconnected consistent with safety, reliability[,] and power quality. In such a case, the EDC shall [notify]:

i. Notify the [applicant] **customer-generator in writing** that the interconnection application has been denied[.]; and [shall provide an]

ii. Provide a written explanation of the reason(s) for the denial, including a list of additional information and/or modifications to the customer-generator's facility, which would be required in order to obtain an approval under level 2 interconnection procedures.

(p) [An applicant that receives an interconnection agreement under] **Once a customer-generator receives Part 1 of the application with the EDC signature in accordance with (o)1, [or] 2 or 3 above [shall:**

1. Execute the agreement and return it to the EDC at], and has installed and interconnected the customer-generator facility to the EDC's distribution system, the customer-generator shall obtain approval of the facility from the appropriate construction official, as defined at N.J.A.C. 5:23-1.4.

(q) At least 10 business days prior to starting operation of the customer-generator facility (unless the EDC does not [so] require 10 days notice)[; and], the customer-generator shall:

1. Provide the EDC with documentation that the interconnection has been approved by the appropriate construction official;

2. Submit Part 2 of the application, signed by the customer-generator; and

[2.] 3. (No change in text.)

[(q)] (r) The EDC may require an EDC inspection of a customer-generator facility [for compliance with this subchapter] prior to operation, and may require and arrange for witness of commissioning tests as set forth in IEEE standard 1547 (published July 2003). The EDC shall schedule any inspections or tests under this section promptly and within a reasonable time after submittal of the application.] **in accordance with the following:**

1. The customer-generator shall submit the construction official's approval and the signed Part 2 under (q) above and inform the EDC that the customer-generator facility is ready for EDC inspection;

2. Within 15 business days after the customer-generator informs the EDC under (r)1 above that the customer-generator facility is ready for inspection, the EDC shall notify the customer-generator of three or more available four-hour inspection appointments (for example, February 4th from noon to 4:00 P.M., February 6th from 10:00 A.M. to 2:00 P.M., or February 7th from 1:00 P.M. to 5:00 P.M.);

3. The appointments offered under (r)2 above shall be no later than 15 business days after the EDC offers the appointments, (that is, within 18 business days after the customer-generator submittal under (r)1 above);

4. The customer-generator shall notify the EDC which of the offered inspection appointments the customer-generator prefers or shall arrange another time by mutual agreement with the EDC;

5. Within five business days after successful completion of the EDC inspection, the EDC shall notify the customer-generator that it is authorized to energize the facility. The notice shall be provided in the format required under N.J.A.C. 14:8-5.2(i); and

6. The applicant shall not begin operating the customer-generator facility until after the inspection and testing is completed.

[(r) For an applicant that receives an interconnection agreement under (p)1 or 2 above, approval of interconnected operation of the customer-generator facility shall be conditioned on all of the following occurring:

1. The interconnection has been approved by the electrical code official with jurisdiction over the interconnection;

2. Any EDC inspection and/or witnessing of commissioning tests arranged under (q) above are successfully completed; and

3. The planned start date provided by the applicant under (q) above has passed.]

(s) (No change.)

14:8-5.7 Interconnection fees

(a)-(c) (No change.)

(d) An EDC shall not charge any fee or other charge for connecting to the EDC's equipment or for operation of a customer-generator facility for the purposes of net metering, except for the fees provided for under this subchapter.

14:8-5.8 [Requirements] **Testing, maintenance and inspection after interconnection approval** [of an interconnection]

[(a) Once the customer-generator has met all requirements for interconnection approval under N.J.A.C. 14:8-5.4, 5.5 or 5.6, the EDC shall notify the customer-generator in writing that the customer-generator is authorized to energize the customer-generator facility.

(b) An EDC shall not require an applicant whose facility meets the criteria for interconnection approval under the level 1 or level 2 interconnection review procedure required pursuant to N.J.A.C. 14:8-5.4 and 5.5 to install additional controls or external disconnect switches not included in the interconnection equipment, to perform or pay for additional tests, or to purchase additional liability insurance, except if agreed to by the applicant.

(c) An EDC shall not charge any fee or other charge for connecting to the EDC's equipment or for operation of a customer-generator facility for the purposes of net metering, except for the fees provided for under this subchapter.]

Recodify existing (d)-(f) as (a)-(c) (No change in text.)

TRANSPORTATION

(a)

DIVISION OF PROCUREMENT

Construction Services

Proposed Amendments: N.J.A.C. 16:44-3.2, 3.8 and 7.1

Authorized By: James S. Simpson, Commissioner, Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:7-21 and 27:7-35.1 et seq. Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2011-107.

Submit comments by July 1, 2011 to:

Miriam Weeks, Administrative Practice Officer
New Jersey Department of Transportation
1035 Parkway Avenue
PO Box 600
Trenton, New Jersey 08625-0600
Fax: (609) 530-3841

The agency proposal follows:

Summary

State law mandates that the Department utilize competitive bidding practices and qualify prospective bidders as to the character and amount of work that a contractor may bid when awarding contracts for Department construction projects. The purpose of N.J.A.C. 16:44, Construction Services, is to provide current and prospective contractors with the procedures and criteria used in the bidder classification process, information about the bidding procedure for Department construction projects, certain contractual requirements, payment provisions, contractor eligibility and debarment and suspension procedures. These rules contribute to an efficient bidding process, and provide uniform standards by which all contractors are evaluated, rated and classified. Since the Department has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

As part of the recent readoption of N.J.A.C. 16:44, the Department received a comment relating to the term "employee" as found in N.J.A.C. 16:44-3.2(a)7. Upon review, it was determined that an amendment was needed and, in fact, should have been addressed in a prior readoption. Due to the substantive nature of the change, the amendment could not be made upon adoption. The Department now proposes an amendment to N.J.A.C. 16:44-3.2(a)7 to reflect the information that must be submitted on Form DC-74A by contractors who wish to bid on Department projects. The term "employee" is overbroad and the amendment will specify that it does not mean **all** employees, but refers to any employee or person with the ability to control a contractor's operations.

N.J.A.C. 16:44-3.8(d) is amended to further simplify the method by which a project rating is calculated. As currently written, a contractor's project rating, when based on their performance rating, is determined in one of three ways: 1) If their overall performance rating is 80 or above, their project rating is the same as their financial capability, as referenced in Table I at N.J.A.C. 16:44-3.6; 2) if their performance rating is less than 70, a project rating may not be assigned or may be limited; and 3) for contractors whose rating is between 71 and 79, the Department utilizes a formula to calculate the project rating. That formula is their overall performance rating multiplied by a dollar amount equal to three times the largest Department project completed by the contractor, or the largest equivalent or related non-Department project completed by the contractor with the last four years. The contractor's project rating then is the range found in Table I at N.J.A.C. 16:44-3.6 within which the resulting dollar figure falls.

This methodology was incorporated into the chapter in the last readoption with amendments in 2010 (see 41 N.J.R. 3387(a); 42 N.J.R. 1239(a)). Following the adoption of those amendments, discussions with representatives from the construction industry led the Department to