

**Solar Act 2012 Changes to the
Energy Efficiency and Renewable Energy Rules (N.J.A.C 14:8)**

August 15, 2013 (Revised)

➤ **Redefined Class I and Class II** (N.J.S.A. 48:3-51)

*"Class I renewable energy' means electric energy produced from solar technologies, photovoltaic technologies, wind energy, fuel cells, geothermal technologies, wave or tidal action, **small scale hydropower facilities with a capacity of three megawatts or less and put into service after the effective date of P.L.2012, c.24**, and methane gas from landfills or a biomass facility, provided that the biomass is cultivated and harvested in a sustainable manner;"*

- Class I renewable energy is now to include small scale hydropower facilities of 3 MW or less that are placed in service after July 23, 2012 (the effective date of S.B. 1925); located in the state and connected to the distribution system.

*"Class II renewable energy' means electric energy produced at a hydropower facility with **a capacity of greater than three megawatts or a resource recovery facility**, provided that such facility is located where retail competition is permitted and provided further that the Commissioner of Environmental Protection has determined that such facility meets the highest environmental standards and minimizes any impacts to the environment and local communities;"*

- The definition of Class II renewable energy is expanded to include electricity generated by hydropower facilities larger than 3 megawatts (MW)

➤ **Definitions Pertinent to Subsection t.-** regarding solar development on brownfields, properly closed landfills and historic fills. They have been newly defined to encourage solar development on those types of sites. (N.J.S.A. 48:3-51)

*"**Brownfield'** means any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of a contaminant;*

*"**Properly closed sanitary landfill facility'** means a **sanitary landfill facility, or a portion of a sanitary landfill facility, for which performance is complete with respect to all activities** associated with the design, installation, purchase, or construction of all measures, structures, or equipment required by the Department of Environmental Protection, pursuant to law, in order to prevent, minimize, or monitor pollution or health hazards resulting from a sanitary landfill facility subsequent to the termination of operations at any portion thereof, including, but not necessarily limited to, the placement of earthen or vegetative cover, and the installation of methane gas vents*

or monitors and leachate monitoring wells or collection systems at the site of any sanitary landfill facility;

“Historic fill” means generally large volumes of non-indigenous material, no matter what date they were emplaced on the site, used to raise the topographic elevation of a site, which were contaminated prior to emplacement and are in no way connected with the operations at the location of emplacement and which include, but are not limited to, construction debris, dredge spoils, incinerator residue, demolition debris, fly ash, and non-hazardous solid waste. “Historic fill” shall not include any material which is substantially chromate chemical production waste or any other chemical production waste or waste from processing of metal or mineral ores, residues, slags, or tailings;”

➤ **Connected to the distribution system** (N.J.S.A. 48:3-51)

“Connected to the distribution system” means, for a solar electric power generation facility, that the facility is: (1) connected to a net metering customer’s side of a meter, regardless of the voltage at which that customer connects to the electric grid, (2) an on-site generation facility, (3) qualified for net metering aggregation as provided pursuant to paragraph (4) of subsection e. of section 38 of P.L. 1999, c.23 (C.48:3-87), (4) owned or operated by an electric public utility and approved by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1), (5) directly connected to the electric grid at 69kilovolts or less, regardless of how an electric public utility classifies that portion of its electric grid, and is designated as “connected to the distribution system” by the board pursuant to subsections q. through s. of section 38 of P.L. 1999, c.23 (C.48:3-87), or (6) is certified by the board, in consultation with the Department of Environmental Protection, as being located on a brownfield, on an area of historic fill, or on a properly closed sanitary landfill facility. Any solar electric power generation facility, other than that of a net metering customer on the customer’s side of the meter, connected above 69 kilovolts shall not be considered connected to the distribution system;”

➤ **Farmland** (subsection s) (N.J.S.A. 48:3-51)

“Farmland” means land actively devoted to agricultural or horticultural use that is valued, assessed, and taxed pursuant to the “Farmland Assessment Act of 1964,” P.L. 1964, c.48 (C.54:4-23.1 et seq.);”

- Farmland is defined due to its pertinence to subsection s. , as the board looks to phase out solar project development on farmland and encourage development on brownfields, properly closed landfills, and historic fills.

➤ **Net metering aggregation** (subsection e-4) (N.J.S.A. 48:3-51)

“Net metering aggregation’ means a procedure for calculating the combination of the annual energy usage for all facilities owned by a single customer where such customer is a State entity, school district, county, county agency, county authority, municipality, municipal agency, or municipal authority, and which are served by a solar electric power generating facility as provided pursuant to paragraph (4) of subsection e. of section 38 of P.L.1999, c.23 (C.48:3-87):”
ALREADY COMPLETED!

➤ **RPS return to percentage requirement** [N.J.S.A. 48:3-87(d)]

*“the board establish a multi-year schedule, applicable to each electric power supplier or basic generation service provider in this State, beginning with the one-year period commencing on June 1, 2010, and continuing for each subsequent one-year period up to and including, the one-year period commencing on June 1, 2028, that **requires the following number or percentage, as the case may be, of kilowatt-hours sold in this State** by each electric power supplier and each basic generation service provider to be from solar electric power generators connected to the distribution system in this State”*

- The legislation passed in 2010 detailed that the RPS would be in GWh. In 2010 the legislation required that electric suppliers obtain a minimum of 195 GWh of solar electric power in EY 2010 and increasing to 5, 316 GWs in EY 2027. (N.J.A.C. 14:8-2)
- The 2012 legislation returns the RPS back to a percentage requirement and accelerates the requirements with the following schedule for the solar carve out beginning in EY 2014: [N.J.S.A 48:3-87(d)(3)]

➤ **RPS Solar carve out- 4.1%** of sales from qualifying solar electric generation facilities by EY 2028 [N.J.S.A. 48:3-87(d)(3)]

“...EY 2028 4.100%, and for every energy year thereafter, at least 4.100% per energy year to reflect an increasing number of kilowatt-hours to be purchased by suppliers or providers from solar electric power generators connected to the distribution system in this State, and to establish a framework within which, of the electricity that the generators sell in this State, suppliers and providers shall each obtain at least 3.470% in the energy year 2021 and 4.100% in the energy year 2028 from solar electric power generators connected to the distribution system in this State...”

Previous Solar Carve out
Solar Advancement Act of 2010 (P.L. 2009, c. 289)

Adjusted Solar Carve Out Schedule
Solar Act of 2012 (P.L. 2012, c. 24)

EY 2011	306 GWhrs	EY 2011	306 GWhrs
EY 2012	442 GWhrs	EY 2012	442 GWhrs
EY 2013	596 GWhrs	EY 2013	596 GWhrs
EY 2014	772 GWhrs	EY 2014	2.050%
EY 2015	965 GWhrs	EY 2015	2.450%
EY 2016	1,150 GWhrs	EY 2016	2.750%
EY 2017	1,357 GWhrs	EY 2017	3.000%
EY 2018	1,591 GWhrs	EY 2018	3.200%
EY 2019	1,858 GWhrs	EY 2019	3.290%
EY 2020	2,164 GWhrs	EY 2020	3.380%
EY 2021	2,518 GWhrs	EY 2021	3.470%
EY 2022	2,928 GWhrs	EY 2022	3.560%
EY 2023	3,433 GWhrs	EY 2023	3.650%
EY 2024	3,989 GWhrs	EY 2024	3.740%
EY 2025	4,610 GWhrs	EY 2025	3.830%
EY 2026	5,316 GWhrs	EY 2026	3.920%
EY 2027 +>	5,316 GWhrs	EY 2027	4.010%
		EY 2028 +>	4.010%

➤ **Mitigating Solar Development Volatility** [N.J.S.A. 48:3- 87 (d)(3)(b)]

“No more than 24 months following the date of enactment of P.L.2012, c.24, the board shall complete a proceeding to investigate approaches to mitigate solar development volatility and prepare and submit, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a report to the Legislature, detailing its findings and recommendations.”

- **At the October 4, 2012 Board Agenda meeting, the board kicked off the proceedings by approving a board order that directed the staff to investigate the volatility.**
- **On November 9, 2012, a public meeting was held to begin the discussion and review the solar market development data.**
- **Stakeholder discussion has continued since then at the regularly scheduled monthly Renewable Energy Committee meetings.**
- **The Board staff has requested and received comments on the definition and solutions to solar development volatility.**
- **The next steps include to discuss the potential solutions and to assemble the record/scope of work for CEEEP to contract out for a study to be completed by May 2014. NO RULE MAKING REQUIRED!**

➤ **Grandfathering GWhr RPS Obligations** [N.J.S.A 48:3-87(d)(3)(c)]

“The solar renewable portfolio standards requirements in this paragraph shall exempt those existing supply contracts which are effective prior to the date of enactment of P.L.2012, c.24 from any increase beyond the number of SRECs mandated by the solar

renewable portfolio standards requirements that were in effect on the date that the providers executed their existing supply contracts.”

- Contracts that occurred under the previous solar act requirement are to be grandfathered into the new legislation – to ensure that entities that paid for SRECS under the absolute GWhrs do not receive undue harm by the change
- The goal is to any “subsidies between supplies and providers and to promote competition in the electricity supply industry”.

➤ **Net Metering Aggregation for Public Entities** [N.J.S.A 48:3-87(e)(4)]

“Notwithstanding any provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the board shall initiate a proceeding and shall adopt, after notice, provision of the opportunity for comment, and public hearing: (1) net metering standards for electric power suppliers and basic generation service providers. The standards shall require electric power suppliers and basic generation service providers to offer net metering at non-discriminatory rates to industrial, large commercial, residential and small commercial customers, as those customers are classified or defined by the board, that generate electricity, on the customer's side of the meter, using a Class I renewable energy source, for the net amount of electricity supplied by the electric power supplier or basic generation service provider over an annualized period. Systems of any sized capacity, as measured in watts, are eligible for net metering.”

- **Public entities have the ability to aggregate usage at multiple facilities; any extra electricity generated at the end of the annualized period will be the credited at the wholesale price not the retail price.**
- **The board is directed to adopt standards within 270 days after the Solar Act enactment date. ALREADY COMPLETED!**

➤ **Adjusted SACP schedule** [N.J.S.A. 48:3-87(j)]

- Used as an additional way (as opposed to retired SRECs) to comply with the solar electric generation requirements of the RPS, beginning in EY 2014 through 2028, per megawatt hour.
- The 2012 Solar Act maintains the 15 year schedule, but payments have been reduced in comparison to past SACP schedules.

<i>Previous SACP Schedule</i>		<i>Adjusted SACP Schedule</i>	
EY2012	\$658	--	
EY 2013	\$641	--	
EY 2014	\$625	EY 2014	\$339
EY 2015	\$609	EY 2015	\$331
EY 2016	\$594	EY 2016	\$315
EY 2017	\$475	EY 2017	\$308
EY 2028	\$463	EY 2018	\$300
EY 2019	\$451	EY 2019	\$293
EY 2020	\$440	EY 2020	\$286
EY 2021	\$429	EY 2021	\$286
EY 2022	\$418	EY 2022	\$279
EY 2023	\$407	EY 2023	\$272
EY 2024	\$397	EY 2024	\$266
EY 2025	\$387	EY 2025	\$260
EY 2026	\$377	EY 2026	\$253
		EY 2027	\$250
		EY 2028	\$239

➤ **Extended SREC Life** [N.J.S.A. 48:3-87(p)]

*“Class I RECs and **ORECs** shall be eligible for use in renewable energy portfolio standards compliance in the energy year in which they are generated, and for the following two energy years. **SRECs shall be eligible for use in renewable energy portfolio standards compliance in the energy year in which they are generated, and for the following four energy years.**”*

- The SREC life has been extended from 3 years to 5 years. This extension will have the following affect for SREC generation and their eligibility for compliance toward the RPS:

Pre Solar Act 2012:

- Class I RECs and SRECs based on electricity generated after July 1, 2010 thru the end of EY 2011 (May 31, 2011) can be used for RPS compliance in EY 2011, EY 2012 or EY 2013. In addition, Class I RECs and SRECs based on electricity generated on or after June 1, 2011 thru May 31, 2012 (EY 2012) can be used for RPS compliance in EY 2012, EY 2013 or EY 2014
 - Class I RECs based on electricity generated in June 2010 can only be used for EY 2011 compliance. SRECs based on electricity generated in June 2010 can be used for compliance in EY 2011 or EY 2012.

Post Solar Act 2012:

- SRECs based on electricity generated between June 1, 2012 and July 31, 2012 can be used for RPS compliance in EY 2013, EY 2014 or EY 2015.
 - SRECs based on electricity generated after July 31, 2012 can be used for RPS compliance in EY 2013, EY 2014, EY 2015, EY 2016 or EY 2017.
 - Class I RECs and ORECs based on electricity generated on or after July 31, 2012 can be used for RPS compliance in EY 2013, EY 2014 and EY 2015.

➤ **Projects not already “Connected to the Distribution System”** [N.J.S.A. 48:3-87 (r)]

*“For all proposed solar electric power generation facility projects except for those solar electric power generation facility projects approved pursuant to subsection q. of this section, and for all projects proposed in each energy year following energy year 2016, a **proposed solar electric power generation facility that is neither net metered nor an on-site generation facility, may be considered “connected to the distribution system” only upon designation as such by the board, after notice to the public and opportunity for public comment or hearing,**”*

- Any solar generation project that is not already defined as connected to distribution, other than those under subsection q., projects after EY 2017, and that are not considered net metered or on site generation, must be designated and approved as “connected to the distribution system” by the board.
- The board shall approve designation of the proposed solar electric generation facility as “connected to the distribution system” based on the following criteria:
 - a) *“the SRECs forecasted to be produced by the facility do not have a detrimental impact on the SREC market or on the appropriate development of solar power in the State;*
 - b) *the approval of the designation of the proposed facility would not significantly impact the preservation of open space in this State;*
 - c) *the impact of the designation on electric rates and economic development is beneficial; and*
 - d) *there will be no impingement on the ability of an electric public utility to maintain its property and equipment in such a condition as to enable it to provide safe, adequate, and proper service to each of its customers.”*

➤ **Encourage solar project on landfill, brownfields, and historic landfills** [N.J.S.A 48: 3-87(t)] In compliance with the statute, the board acted within 180 days of the passage of the Solar Act, and opened subsection t application period- however is mindful of the rule making obligation needed to further define the subsection.

“No more than 180 days after the date of enactment of P.L.2012, c.24, the board shall, in consultation with the Department of Environmental Protection and the New Jersey

*Economic Development Authority, and, after notice and opportunity for public comment and public hearing, complete a proceeding to **establish a program to provide SRECs to owners of solar electric power generation facility projects certified by the board, in consultation with the Department of Environmental Protection, as being located on a brownfield, on an area of historic fill or on a properly closed sanitary landfill facility, including those owned or operated by an electric public utility and approved pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1).***”

- Subsection t. directed the board staff to establish a program to provide SRECs to owners of solar generation projects certified by the board as being located on a brownfield, historic land fill or a properly closed sanitary land fill property.
 - These projects need to be certified under this sections as “connected to the distribution system” in order to generate SRECS – Board is to identify and define what it means to be connected to the distribution system.

➤ **SREC Projects addition to Prevailing Wage Statute** [N.J.S.A. 48:3-87(v)]

“The issuance of SRECs for all solar electric power generation facility projects pursuant to this section, for projects connected to the distribution system with a capacity of one megawatt or greater, shall be deemed “Board of Public Utilities financial assistance” as provided pursuant to section 1 of P.L.2009, c.89 (C.48:2-29.47)”

- Solar electric projects that generate SRECS will be deemed as receiving “Board of Public Utilities financial assistance”, and added to the existing Prevailing Wage Statute, which details that workers employed for the construction of projects that receive Board of Public Utility financial assistance will not be paid less than the prevailing wage rate.

➤ **Energy Years 2014, 2015, and 2016** [N.J.S.A. 48:3-87(q)]

Subsection (q) of the Solar Act charges the Board with accepting and approving or conditionally approving qualifying applications from certain proposed grid supply solar facilities for designation as “connected to the distribution system” during energy years 2014, 2015 and 2016. Subsection (q) also provides that an applicant must make an escrow \$40,000 per megawatt of the proposed capacity of the facility. **Any applicants receiving an approval will need to submit or re-submit SREC registrations for their projects.**

- Current SREC Registration Program rules require that this be done within 10 days of the execution of a contract to construct or procure panels.
- These rules will need to be waived by the Board for successful (q) applicants in the near term; in the longer term, the Board will need to approve modifications to the SRP rules to bring them into conformance with the Solar Act’s requirements.