

# RULE PROPOSAL

## INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

## PUBLIC UTILITIES

### (a)

#### BOARD OF PUBLIC UTILITIES

#### Solar Transition Incentive

#### Proposed New Rules: N.J.A.C. 14:8-10

#### Proposed Amendments: N.J.A.C. 14:8-2.2, 2.3, 2.4, 2.8, 2.9, and 2.11

Authorized By: New Jersey Board of Public Utilities, Joseph L. Fiordaliso, President, Mary-Anna Holden, Dianne Solomon, Upendra Chivukula, and Robert M. Gordon, Commissioners.

Authority: N.J.S.A. 48:2-1 et seq., in particular 48:2-13, 48:3-51, and 48:3-87.

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

BPU Docket Number: QX20030253.

Proposal Number: PRN 2020-052.

Comments may be submitted through July 17, 2020, by email in Microsoft Word format, or in a format that can be easily converted to Word, to: [rule.comments@bpu.nj.gov](mailto:rule.comments@bpu.nj.gov), or on paper to:

Aida L. Camacho-Welch, Secretary  
New Jersey Board of Public Utilities  
ATTN: BPU Docket Number: QX20030253  
44 South Clinton Avenue  
PO Box 350  
Trenton, NJ 08625-0350

The agency proposal is as follows:

#### Summary

The Board of Public Utilities (Board) is proposing to amend its existing solar energy rule and create a new subchapter establishing a Transition Incentive (TI) Program to facilitate the replacement of the Solar Renewable Energy Certificate (SREC) Program. The Clean Energy Act of 2018, P.L. 2018, c. 17 (Clean Energy Act) mandates that the Board close the SREC Program upon the State's attainment of 5.1 percent of its retail electricity sales from solar electric generation facilities (5.1% Milestone). The Board envisions moving the State's solar energy program in two stages. The first, is a TI Program to be established through this rulemaking and the second, a long-term solar Successor Incentive Program, would be established through a separate rulemaking. The TI is a Transition Renewable Energy Certificate (TREC) designed to ensure a smooth and efficient transition from the current SREC Program to a new solar Successor Incentive Program. The TI Program will provide stability to developers and owners of solar installations in the SREC Program pipeline at the time the Board closes the SREC Program to new

registrations and until the Board implements a successor incentive program.

At N.J.A.C. 14:8-2.2, the Board proposes to add definitions for the terms "Generation Attribute Tracking System," "Transition Incentive (TI)-Eligible Project," "Transition Renewable Energy Certificate," and "TREC Administrator."

At N.J.A.C. 14:8-2.3, the Board proposes to amend the renewable energy requirements for electricity suppliers/providers (TPS/BGS Providers) in New Jersey to include a TREC purchase obligation, replaces the term "solar energy" or "solar electric generation" with either SRECs or both SRECs and TRECs as relevant, and updated the cross-references to the applicable laws. At N.J.A.C. 14:8-2.3(r), (s), and (t), the Board proposes the method by which the TREC obligation will be established and administered.

At N.J.A.C. 14:8-2.4, the Board proposes to amend the SREC Registration process by setting a deadline by which a facility owner must notify the Board that a facility has commenced commercial operations and submit its post-construction certification package. The Board also proposes to correct a typographic error addressing where the certification package must be submitted.

At N.J.A.C. 14:8-2.8, the Board proposes to define the energy years during which a TREC can be used to comply with the Renewable Portfolio Standards (RPS) requirements. The Board also proposes that in using TRECs for RPS compliance, TRECs be treated like SRECs and RECs such that TRECs cannot be used for other purposes or retired more than once.

At N.J.A.C. 14:8-2.9, the Board proposes to extend provisions relating to the issuance of RECs and SRECs to include the TRECs.

At N.J.A.C. 14:8-2.11, the Board proposes to amend the RPS Compliance annual report deadline for TPS/BGS providers, and includes TRECs in the reporting requirements.

At new N.J.A.C. 14:8-10, the Board proposes the creation of a solar Transition Incentive. Specifically, at N.J.A.C. 14:8-10.1, the Board sets forth the purpose and scope of this new subchapter, namely the creation of rules for the establishment of a solar energy Transition Incentive Program.

At N.J.A.C. 14:8-10.2, the Board proposes to define certain terms specific to this subchapter.

At N.J.A.C. 14:8-10.3, the Board proposes the structure of the TI Program through the creation of TRECs and a TI-Renewable Portfolio Standard (TI-RPS).

At N.J.A.C. 14:8-10.4, the Board proposes the characteristics for Transition Incentive-eligible projects.

At N.J.A.C. 14:8-10.5, the Board proposes the method by which the value of a TREC would be determined.

At N.J.A.C. 14:8-10.6, the Board proposes the mechanism through which TRECs are created.

As the Board has provided a 60-day comment period on 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.

#### Social Impact

This rulemaking will have a positive social impact on New Jersey by facilitating a seamless transition between the closure of the SREC Program and the opening of a new solar Successor Incentive Program. In slightly over 15 years, the SREC Program has provided more than \$3.3 billion in incentives to in excess of 120,000 residential, commercial, industrial, and institutional projects, leveraging over \$10 billion in private sector investments. These investments have resulted in over three gigawatts (GW) of installed solar electricity generating capacity that has reduced Statewide expenditures on imported electricity and the costs of its associated air pollution.

#### Economic Impact

The implementation of the proposed TI Program is anticipated to encourage an estimated \$980 million in investments through the installation of approximately 430 Megawatt dc (MWdc) of new solar electricity generating capacity. The Board expects that approximately 20 percent of this capacity will be installed on residential rooftops, 60 percent on non-residential rooftops or adjacent land, and the remainder on landfills or brownfields. The projects are anticipated to be installed over the next year and a half and result in average annual direct expenditures of approximately \$60 million per year for 15 years, after an initial ramp-up period. As with most capital infrastructure investments, the continued investment in solar electricity generating capacity will stimulate additional indirect economic benefits through local jobs and services. Additionally, clean, local, renewable electricity generation reduces greenhouse gas emissions, as well as those linked to negative impacts on human health and biodiversity. Cleaner air brings real economic benefits from improved health outcomes for New Jersey residents.

#### Federal Standards Statement

N.J.S.A. 52:14B-1 et seq., require State agencies that adopt, readopt, or amend State rules exceeding any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. This rulemaking has no Federal analogue and is 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. 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 amendments and new rules.

#### Jobs Impact

This rulemaking is designed to facilitate the continued development of the solar market in New Jersey, by providing a bridge between the closure of the SREC Program and the opening of a successor Incentive Program. This rulemaking operates as a carve-out of the existing New Jersey Class I RPS, and, thus, contributes to maintaining jobs in the development, construction, and operation of solar facilities.

#### Agriculture Industry Impact

This rulemaking does not establish additional standards for the preservation of farmland in New Jersey per se, but by establishing the prerequisite that only those grid supply projects approved by the Board pursuant to Subsection t or Subsection r of the Solar Act of 2012 are eligible for TRECs builds upon the eligibility criteria established in earlier solar incentive programs. Specifically, existing solar rules at N.J.A.C. 14:8-2.4(g) incorporated into the TI Program prohibit the siting of solar projects on land designated as farmland. The proposed TI Program also provides a higher level of incentive to projects that are located on rooftops, landfills, and brownfields, or that participate in the New Jersey Community Solar Program.

#### Regulatory Flexibility Statement

This rulemaking will not impose any 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. With regard to utilities, this new subchapter requires regulated electric

distribution companies (EDCs) to jointly procure a TREC Administrator that will have the responsibility to obtain and allocate TRECs to load serving entities with obligations to comply with the Board's Renewable Portfolio Standard rules. The TREC Administrator will be required to report on program activity. The EDCs will recover program costs from their ratepayers. With regard to businesses that qualify as small businesses under the Act, the Transition Incentive Program is a voluntary program and, as such, will not impose any requirements on any small business that chooses not to participate in the program.

#### Housing Affordability Impact Analysis

This rulemaking will not impact the affordability of housing in New Jersey, nor is it anticipated that they will have an impact on the average cost of housing. This rulemaking only addresses a solar energy program and will not directly affect housing prices or the housing market.

#### Smart Growth Development Impact Analysis

This rulemaking will not impact smart growth development in New Jersey. This rulemaking will not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey. The scope of the rulemaking is limited to establishing a program that will allow the solar industry in New Jersey to smoothly transition to a new solar incentive program.

#### Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Board evaluated this rulemaking and determined that it will not have an impact on pretrial, detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

**Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

### SUBCHAPTER 2. RENEWABLE PORTFOLIO STANDARDS

#### 14:8-2.2 Definitions

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

...

**“Generation Attribute Tracking System” or “GATS” means the platform providing Renewable Portfolio Standard and Environmental Compliance rule facilitation services to the 13 member states of PJM Interconnection LLC. GATS creates RECs based upon metered electricity supplied by project owners or their representatives and tracks RECs through the various transactions, which ultimately result in retirement for RPS compliance purposes.**

...

**“Transition Incentive (“TI”)-Eligible Project” means a solar electric generation facility that registered its intent to participate in the SREC market pursuant to N.J.A.C. 14:8-10.4(a) after October 29, 2018, and has maintained its SREC eligibility, but has not commenced commercial operations before the Board determines that the State has attained 5.1 percent of its retail sales from solar electric generation facilities. Following the closure of the SREC Program, the Board shall allow projects that meet the TI eligibility requirements an opportunity to register to participate in the TI Program until the establishment of a registration program for a solar Successor Incentive Program.**

**“Transition Renewable Energy Certificate” or “TREC” means a certificate issued by the Board or its designee, representing the environmental attributes of one megawatt-hour of electric generation from a TI-Eligible Project.**

**“TREC Administrator” means the agent jointly procured and/or assigned by the State’s Electric Distribution Companies to utilize the Generation Attribute Tracking System to procure and allocate TRECs pursuant to this subchapter.**

...

14:8-2.3 Amount of renewable energy required

(a) Each supplier/provider, as defined at N.J.A.C. 14:8-1.2, that sells electricity to retail customers in New Jersey, shall ensure that the electricity it sells each energy year in New Jersey includes at least the

minimum amount of qualified renewable energy[, as defined at N.J.A.C. 14:8-2.2,] required for that energy year, as specified in this section. Requirements for class I, class II, [and solar renewable energy] SRECs, and TRECs are set forth in Table A below:

Table A

What Percentage of Energy Supplied Must Be [Solar] TRECs, SRECs, Class I, or Class II Renewable Energy

<u>Energy Year</u>	<u>TRECs</u>	<u>[Solar] SRECs</u>	<u>Class I</u>	<u>Class II</u>	<u>Total</u>
June 1, 2018 - May 31, 2019	0%	4.30%	14.175%	2.50%	20.975%
June 1, 2018 - May 31, 2019*	0%	3.29%*	14.175%*	2.50%*	19.965%*
June 1, 2019 - Dec. 31, 2019	0%	4.90%	16.029%	2.50%	18.529%
June 1, 2019 - Dec. 31, 2019*	0%	3.38%*	16.029%*	2.50%*	21.909%*
January 1, 2020 - May 31, 2020	0%	4.90%	21.0%	2.50%	23.50%
January 1, 2020 - May 31, 2020*	0%	3.38%*	21.0%*	2.50%*	26.88%*
June 1, 2020 - May 31, 2021	<b>based on retail sales</b>	5.10%	21.0%	2.50%	23.50%
June 1, 2020 - May 31, 2021*	<b>based on retail sales</b>	3.47%*	21.0%	2.50%	26.97%
June 1, 2021 - May 31, 2022	<b>based on retail sales</b>	5.10%	21.0%	2.50%	23.50%
June 1, 2022 - May 31, 2023	<b>based on retail sales</b>	5.10%	22.0%	2.50%	24.50%
June 1, 2023 - May 31, 2024	<b>based on retail sales</b>	4.90%	27.0%	2.50%	29.50%
June 1, 2024 - May 31, 2025	<b>based on retail sales</b>	4.80%	35.0%	2.50%	37.50%
June 1, 2025 - May 31, 2026	<b>based on retail sales</b>	4.50%	38.0%	2.50%	40.50%
June 1, 2026 - May 31, 2027	<b>based on retail sales</b>	4.35%	41.0%	2.50%	43.50%
June 1, 2027 - May 31, 2028	<b>based on retail sales</b>	3.74%	44.0%	2.50%	46.50%
June 1, 2028 - May 31, 2029	<b>based on retail sales</b>	3.07%	47.0%	2.50%	49.50%
June 1, 2029 - May 31, 2030	<b>based on retail sales</b>	2.21%	50.0%	2.50%	52.50%
June 1, 2030 - May 31, 2031	<b>based on retail sales</b>	1.58%	50.0%	2.50%	52.50%
June 1, 2031 - May 31, 2032	<b>based on retail sales</b>	1.40%	50.0%	2.50%	52.50%
June 1, 2032 - May 31, 2033	<b>based on retail sales **</b>	1.10%	50.0%	2.50%	52.50%

(\*BGS Providers with existing contracts)

**\*\*The TREC Obligation expressed as a percentage of retail sales in a given energy year will not be known until each energy year when the volume of retail sales subject to the RPS has been determined. Allocation of the Statewide obligation to individual TPS/BGS providers will follow the method set forth at (r) and (t) below.**

(b) Each supplier/provider that sells electricity to retail customers in New Jersey shall ensure that the electricity it sells each reporting year in New Jersey includes at least the minimum percentage of [solar energy] SRECs and TRECs required for that energy year as set by the Board. 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.-4. (No change.)

(c) Each supplier/provider's [solar electric generation] SREC obligation shall be calculated in accordance with the requirements of [P.L. 2012, c. 24] P.L. 2018, c. 17. A supplier/provider shall meet the requirements for [solar electric generation] SRECs through:

1.-2. (No change.)

(d) Beginning in EY20, SREC obligations and TREC obligations are a component of class I renewable energy requirements, and satisfaction of SREC and TREC obligations shall be counted toward class I renewable energy requirements.

(e)-(i) (No change.)

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

1. (No change.)

2. Creation of a REC under N.J.A.C. 14:8-2.8 or 2.9; [or]

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

**4. Creation of a TREC under N.J.A.C. 14:8-10.**

(k) (No change.)

(l) Each megawatt-hour (MWh) of retail electricity supplied in New Jersey by a TPS/BGS provider subject to this subchapter carries with it an accompanying [solar] SREC obligation. For any electricity supplied by a TPS, such TPS shall calculate its [solar] SREC obligation by multiplying its total retail sales by the applicable percentage requirement in Table A above. For Energy Year 2019, 2020, or 2021, each BGS provider shall calculate its [solar] SREC obligation as set forth in (m) or (n) below. Subsection (m) allocates the [solar] SREC obligation of BGS providers with electricity supply contracts that were effective prior to date of enactment of P.L. 2018, c. 17. Subsection (n) below allocates the Table A Statewide [solar] SREC obligation among all BGS providers that are subject to this subchapter. All BGS provider [solar] SREC obligations, taken together, must equal the Statewide [solar] SREC obligation set forth in Table A above for Energy Year 2019, 2020, or 2021.

(m) Notwithstanding any other provision of this section, if a BGS provider has, prior to May 23, 2018, executed a BGS contract to provide retail electricity, the [solar] SREC obligation resulting from the electricity supplied under that contract shall be determined using the provisions of this subchapter that were in effect at the time the contract was executed. For the purpose of this section, the electricity supply covered by these contracts shall be called "exempt electricity," and electricity supply not covered by such a contract shall be called "non-exempt electricity."

(n) All contracts subject to exemption under (m) above will expire on or before May 31, 2021. Therefore, for EY 2019, 2020, or 2021, the [solar] SREC obligation that attaches to exempt electricity supply must be calculated separately from the [solar] SREC obligation for non-exempt electricity supply, in accordance with the applicable provisions of (o) and (p) below. If a BGS provider's energy portfolio includes both exempt and non-exempt electricity supply, the [solar] SREC obligation for each shall be calculated separately and summed to determine that BGS provider's total [solar] SREC obligation for the energy year.

(o) For any exempt electricity supplied, a provider shall calculate its [solar] SREC obligation as follows:

1. (No change.)

2. Determine the [solar] SREC electric generation percentage requirement in effect when the BGS contract subject to (m) above was executed; and

3. Multiply (o)1 by (o)2 above.

(p) For any non-exempt electricity supplied during EY 2020, 2021, 2022, or 2023, a BGS provider shall calculate its [solar] SREC obligation as follows:

1. Determine the provider's contemporaneous [solar] SREC obligation for non-exempt electricity by multiplying their total non-exempt retail electricity sales in MWh during the energy year by the applicable percentage requirement in Table A above.

2. Determine the provider's share of the banked obligations from the increased [solar] SREC requirements avoided by exempt retail electricity in the previous energy year or previous two energy years, as follows:

i. (No change.)

3. Determine the total deferred [solar] SREC obligation incurred from exempt electricity supply during the previous energy year(s) as follows:

i. Consult Table A above to determine the total Statewide [solar] SREC obligation for all electricity supplied during the energy year and the percentage requirement for exempt supply.

ii. Consult the Board's NJCEP website to obtain the deferred [solar] SREC obligation for the exempt electricity that was supplied during the previous energy year or previous two energy years, as applicable.

iii. The total amount of increased [solar] SREC obligation avoided by exempt electricity supply in an energy year shall be allocated to the following two energy years.

4. Multiply the BGS provider's non-exempt market share from (p)2i above by the total deferred [solar] SREC obligation from (p)3 above. The result is the provider's [solar] SREC obligation for the deferred exempt electricity based on the share of non-exempt electricity that it supplied during the energy year.

5. Add the BGS provider's contemporaneous [solar] SREC obligations in MWh resulting from (p)1 above to the banked share resulting from calculated (p)4 above in MWh above to arrive at the total RPS [solar] SREC obligation.

(q) For electricity supplied during EY 2024 or later, a BGS provider shall calculate its [solar] SREC obligation by multiplying its total retail sales by the applicable percentage required in Table A above.

**(r) Each megawatt-hour (MWh) of retail electricity supplied in New Jersey by a TPS/BGS provider subject to this subchapter carries with it an accompanying TREC obligation. For any electricity supplied by a TPS/BGS provider, such supplier/provider shall calculate its TREC obligation based upon the total number of TRECs procured by the TREC Administrator within the applicable Energy Year and the market share of retail electricity sold by the supplier/provider within the Energy Year.**

**(s) All TRECs shall be created by GATS and procured by a TREC Administrator under contract with the State's electric distribution companies.**

**(t) During the true-up period following each Energy Year, Board staff shall calculate the market share of total Statewide retail electricity sold by each TPS/BGS provider. The TREC Administrator will allocate a proportionate percentage of the total TRECs procured during the Energy Year to each TPS/BGS Provider. Each TREC allocated by the TREC Administrator shall be retired by, or on behalf of, the TPS/BGS Provider.**

14:8-2.4 Energy that qualifies for an SREC; registration requirement; additional approval, designation, and certification processes for grid supply projects; termination of registration program

(a)-(j) (No change.)

(k) When construction of the solar electric generating facility is complete and the facility has commenced commercial operations consistent with the determination made pursuant to (b)7iii above, the facility owner shall submit, no later than 90 days following the commencement of commercial operations, a post-construction

certification package that meets the requirements of (l) below, and shall request an inspection of the facility by Board staff, or an inspection waiver, through the Board's [NJDEP] **New Jersey Clean Energy Program (NJCEP)** website at [www.njcleanenergy.com](http://www.njcleanenergy.com).

(l)-(s) (No change.)

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

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

1.-2. (No change.)

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

i. (No change.)

ii. Any of the four energy years immediately following the energy year in which the underlying energy was generated[.]; **and**

**4. A TREC shall be used to comply with RPS requirements for one of two energy year periods:**

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

**ii. The energy year following the energy year in which the underlying energy was generated.**

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

14:8-2.9 Issuance of RECs [and], SRECs, **and TRECs**

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

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

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

1.-2. (No change.)

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

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

1.-2. (No change.)

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

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

(h) The Board, or its designee, shall not issue a REC, **TREC**, or SREC based on electric generation that has previously been used for compliance

with this subchapter, or that has been used to satisfy another state's renewable energy requirements or any voluntary clean electricity market or program.

(i) (No change.)

14:8-2.11 Demonstrating compliance, reporting, and recordkeeping

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

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

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

1.-5. (No change.)

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

7. (No change.)

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

9.-11. (No change.)

12. The price of each REC [and/or], SREC, **and/or TREC** that was retired during the energy year.

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

1.-3. (No change.)

4. For each [solar REC] **SREC and TREC** submitted, certification of compliance with the requirement at [N.J.A.C. 14:8-2.4(b)] **N.J.A.C. 14:8-2.4(b) or 10.6(b)** that the REC has not been used to satisfy another state's renewable energy requirements. The certification shall be in a form required by the Board, and available on the BPU website at [www.njcleanenergy.com](http://www.njcleanenergy.com).

(e)-(f) (No change.)

**SUBCHAPTER 10. SOLAR TRANSITION INCENTIVE**

**14:8-10.1 Purpose and scope**

**This subchapter sets forth the rules for the establishment of a solar energy Transition Incentive (TI) Program designed to provide a bridge between the SREC Program and a solar Successor Incentive Program under development by the Board. Owners and developers of proposed solar electric generation facilities that received a conditional registration pursuant to N.J.A.C. 14:8-2.4(h)4 that has not expired, been cancelled, or commenced commercial operations prior to the State's attainment of 5.1 percent of its retail electricity sales from solar electric generation facilities (5.1% Milestone), which the Board determined to be April 30, 2020, and submitted a post-construction certification package within 90 days of the 5.1% Milestone, will be instructed by Board staff on how to transfer their project to the Transition Incentive registration pipeline. Following April 30, 2020, and prior to the Board's announcement of the opening of a registration process for the solar Successor Incentive Program, solar electric generating facilities meeting the TI eligibility criteria established in this subchapter may register for the Transition Incentive Program.**

**14:8-10.2 Definitions**

**For the purposes of this subchapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.**

**"Net-metered non-residential" means a solar system that receives a net metering credit on a non-residential tariff. A net-metered non-residential system must be a "customer-generator" as the term is defined at N.J.A.C. 14:8-4.2.**

**"Net-metered residential" means a solar system that receives a net metering credit on a residential tariff. A net-metered residential**

system must be a “customer-generator” as the term is defined at N.J.A.C. 14:8-4.2.

“PJM Environmental Information Services” or “PJM-EIS” means the unregulated affiliate of PJM Interconnection LLC, that operates the Generation Attribute Tracking System (GATS).

“Subsection (r)” means the provision of the Solar Act of 2012 that provides the criteria for SREC eligibility for grid supply solar installations not addressed by Subsection (q), Subsection (s), or Subsection (t) of the Solar Act of 2012.

“Subsection (t)” means the provision of the Solar Act of 2012 that provides the criteria for SREC eligibility for grid supply solar installations located on properly closed sanitary landfills, brownfields, or areas of historic fill.

“Transition Incentive Renewable Portfolio Standard” or “TI-RPS” means the total sum of TRECs retired each year, which shall be a carve-out of the current standard Class I RPS requirement with each TREC allocated to, and retired on behalf of, the TPS/BGS provider.

“TREC qualification life” means, pursuant to N.J.A.C. 14:8-10.6(f), TI-Eligible Projects that create TRECs for 15 years following the date of commencement of commercial operations as evidenced by the authorization to energize provided by a project’s local electric distribution company through a Permission to Operate (PTO) letter or email.

#### 14:8-10.3 Transition Incentive Program structure

(a) The Transition Incentive Program shall be comprised of TRECs that are created by PJM-EIS on the Generation Attribute Tracking System (GATS) for each megawatt-hour generated and metered by eligible solar projects.

(b) TRECs shall be jointly procured by the EDCs to satisfy compliance obligations pursuant to the Transition Incentive Renewable Portfolio Standards (TI-RPS) at (c) below. The EDCs shall work with Board staff to jointly procure a TREC Administrator, who will be responsible for administering the procurement, allocation, and coordinating retirement of TRECs

(c) The TI-RPS is a carve-out of the Class I RPS requirement. Each TREC shall be allocated to, and retired on behalf of, New Jersey’s TPS/BGS providers based on their respective market share of retail sales. Each TREC retired shall reduce the Class I requirement by one REC as set forth at N.J.A.C. 14:8-2.3(d) and (r).

(d) Irrevocable Standing Orders shall be treated as follows.

1. An Irrevocable Standing Order, defined in the GATS Operating Rule as “A reoccurring automatic transfer of certificates for a given generating unit from the account holder’s active subaccount to the active subaccount held by different account holders,” shall be created in GATS for each TREC eligible project. The Irrevocable Standing Order will cause the automatic transfer of TRECs created by an eligible solar project to the EDC Joint GATS Account.

i. The Irrevocable Standing Order shall require for that Generator that 100 percent of the certificates be automatically transferred from each meter reading to the EDC Joint GATS Account.

ii. A Standing Order is not activated until the transferor confirms, and the TREC administrator accepts, the Standing Order transfer.

2. Solar aggregators, brokers, and installers acting on behalf of solar project owners may perform the role of transferor, register as the project owner and create an Irrevocable Standing Order for each eligible project for which it is reporting generation into GATS.

3. The TREC Administrator will confirm that:

i. Each account holder has created the Irrevocable Standing Order;

ii. Each Irrevocable Standing Order is complete, identifies the transferor, and represents 100 percent of all TRECS for that generator;

iii. The solar aggregator, broker, installer, or other account holder has the authority to create the Irrevocable Standing Order; and

iv. The automatic transfer of TRECs has occurred.

4. Irrevocable Standing Orders authorizing transfers can only be terminated with the assent of both parties.

#### 14:8-10.4 Transition Incentive eligibility

(a) The Transition Incentive shall be available to projects that submitted a complete SREC Registration Program registration or a complete subsection t application after October 29, 2018, but have not received a Permission to Operate at the time the Board determines that the State has attained 5.1 percent of its retail sales from solar electric generation facilities and closes the SRP to new registrations. The Transition Incentive shall also be available to the Subsection r applications that received conditional certification from the Board in an Order dated March 29, 2019, if they have not received a Permission to Operate at the time the Board determines that the State has attained 5.1 percent of its retail sales from solar electric generation facilities (5.1% Milestone). The Transition Incentive eligibility criteria for these projects that will be transferred into the Transition Incentive Program are set forth at (d) below.

(b) In the event that the SREC Registration Program is closed to new registrations before the establishment of a registration program for the solar Successor Incentive Program, the Board may allow projects that comport with the SREC eligibility requirements at N.J.A.C. 14:8-2.4, the Board’s Implementing Orders, and the definition of “connected to the distribution system” at N.J.A.C. 14:8-1.2, to register for the TI Program. However, no new registrations for Subsection (r) applications shall be accepted. The Transition Incentive eligibility criteria for these new projects registering for the Transition Incentive Program after the attainment of the 5.1% Milestone are set forth at (e) below.

(c) A proposed project submitted for registration in the TI-RPS following the closure of the SREC registration program must be registered prior to the Board’s establishment of a registration program for the Successor Incentive Program. Said projects shall not be subject to the deadline set forth at N.J.A.C. 14:8-2.4(c)1, which requires projects to register within 14 days of the execution of a contract. Projects will, therefore, also not be subject to the penalty for non-compliance with this 14-day deadline set forth at N.J.A.C. 14:8-2.4(e). In lieu of an executed contract, a TI registration package must contain a consumer disclosure form executed by the solar developer and customer-generator on a standard form made available on the website of the New Jersey Clean Energy Program (NJCEP).

(d) Solar electric generation facilities that have received a conditional registration for SRECs pursuant to N.J.A.C. 14:8-2.4(h)4 that has not expired, been cancelled, or commenced commercial operations prior to the 5.1% Milestone and have not submitted a post-construction certification package within 90 days of the 5.1% Milestone that have been transferred to the Transition Incentive registration program will receive a new conditional registration. The new registration will incorporate a requirement to commence commercial operations and submit a post-construction certification package within one year of the date that the Board determines that the 5.1% Milestone has been attained, except for projects granted conditional certification under the Subsection (r) program (N.J.S.A. 48:3-887(r)), which will retain the registration expiration date set by the Board Order granting the project conditional certification; projects granted conditional certification under the Subsection (t) program (N.J.S.A. 48:3-87(t)) prior to April 30, 2020, which will receive a new registration on the later of the date set by the Board Order granting the project conditional certification, plus any extensions that have been granted or April 30, 2021, which is one year from the date that the Board determines that the 5.1% Milestone has been attained.

1. Such facilities must utilize the NJCEP website to confirm registration transfer from the SREC registration program to the Transition Incentive registration program and identify the defined market segment described at N.J.A.C. 14:8-10.5(b)1.

2. Facilities registered for TREC eligibility, if they commence commercial operations and submit a post-construction certification package prior to the one-year anniversary of the date that the Board determined the 5.1% Milestone was attained (or as described in this subsection for Subsection (t) and Subsection (r) projects), will be

assigned a New Jersey State Certification Number for use in obtaining TRECs from PJM-EIS GATs.

3. Facilities registered for TREC eligibility, if they do not commence commercial operations and submit a post-construction certification package prior to the one-year anniversary of the date that the Board determined the 5.1% Milestone was attained (or as described in this subsection for Subsection (t) and Subsection (r) projects), will not be eligible for TRECs.

(e) Solar electric generation facilities seeking Transition Incentive program eligibility following the determination that the 5.1% Milestone has been met and prior to the Board’s announcement of the opening of a registration process for the Successor Incentive Program must complete the following process in order to be issued a notice of conditional registration:

1. The registrant shall submit a complete registration package to the Board prior to the Board’s announcement of the opening of a Successor Incentive program. 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](http://www.njcleanenergy.com). The registration instructions shall require the following basic types of information:

- i. Information identifying and describing the owner, host location, builder/installer, and operator of the solar electric generating facility;
- ii. Basic information describing the solar facility, including its capacity, manufacturer, and expected output;
- iii. A technical worksheet, in a form provided on the Board’s NJCEP website, detailing the technical specifications of the solar facility;
- iv. A construction schedule for completing the solar facility, including significant milestones;
- v. For net metered projects, a consumer disclosure agreement executed between the owner and installer of the solar facility;
- vi. For grid supply projects applying under Subsection (t), a binding legal document that provides reasonable assurance that the solar facility will be constructed;
- vii. Basic information regarding the cost of equipment and installation, presented as a simple budget;
- viii. 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
- ix. Any other data or information necessary for Board staff to determine whether the solar electric generation from the facility will meet the requirements for TRECs under this subchapter;

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. The registrant shall revise the package and resubmit it within seven business days 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;

3. Once the registration package is complete, Board staff shall review the package to determine whether the solar facility meets the TREC eligibility requirements of this subchapter. If the facility does not meet these requirements, Board staff shall notify the registrant; and

4. If the solar facility as described in the initial registration package meets TREC 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 subject to conditions referenced in this subsection;
- ii. Include an expiration date occurring on:
  - (1) The one-year anniversary of the registrant’s notice of conditional registration for facilities that are net metered, provide on-

site generation, or provide power for a qualified customer engaged in aggregated net metering; or

(2) For Subsection (t) projects (that is, projects granted conditional certification pursuant to N.J.S.A. 48:3-87(t)), the two-year anniversary of the registrant’s Board Order granting conditional certification; and

iii. Include notice that construction of the facility must be completed prior to the expiration of the conditional registration.

(f) 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 (g) 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](http://www.njcleanenergy.com).

(g) 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, executed by the relevant EDC, to interconnect the facility to the corresponding EDC’s distribution 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.

(h) Additional requirements to establish TI eligibility for Subsection (t) projects are enumerated at N.J.S.A. 48:3-87(t), the Solar Act of 2012, and the Board’s Implementing Orders, and are incorporated herein by reference. Developers must apply to the Board for conditional certification of projects seeking eligibility for TRECs using the same process developed for SREC eligibility pursuant to P.L. 2012, c. 24 (N.J.S.A. 48:3-87(t)).

(i) Except as modified in this subchapter, all TI Program projects must comply with all rules and regulations of the SREC Registration program at N.J.A.C. 14:8-2.4.

14:8-10.5 TREC value

(a) The base compensation value of a TREC shall be \$152.00 per mega-watt hour (MWh) for eligible electricity generated during each year of a project’s 15-year TREC qualification life.

(b) Each project registered in the SREC or TREC registration program shall be assigned a TREC factor by staff based on the following defined market segments.

1. The factors for the defined market segments are as follows:

<u>Defined Market Segments</u>	<u>Factor</u>
Subsection (t) landfill, brownfield, areas of historic fill.	1.0
Subsection (r) rooftop	1.0
Net-metered non-residential rooftop and canopy	1.0
Community solar	0.85
Subsection (r) ground mount	0.6
Net-metered residential ground mount	0.6
Net-metered residential rooftop and canopy	0.6
Net-metered non-residential ground mount	0.6

2. A TI-Eligible Project that, in its entirety, is eligible for multiple factors shall be assigned the lower project classification factor.

3. A TI-Eligible Project with multiple segments eligible for multiple factors must separately meter each segment as separate projects to enable application of the appropriate factor to the electricity generated by each segment.

(c) The actual value of a TREC will be calculated based upon the factor assigned to each TI-Eligible Project, by multiplying the base compensation value by the appropriate project factor.

#### 14:8-10.6 Mechanism for creation of TRECs

(a) TRECs shall be created in the same manner in which SRECs are created pursuant to N.J.A.C. 14:8-2.4 and 2.9, which is based upon metered generation supplied to GATS by the owners of eligible facilities or their agents.

(b) One TREC shall be created for each mega-watt hour (MWh) of eligible electricity produced from a TI-Eligible Project. A TREC created for eligible electricity shall not be used for a purpose other

than satisfying the TI-RPS and upon retirement the reduction in the Class I obligation of a TPS/BGS provider.

(c) All solar electricity must be metered using an ANSI c-12 certified meter consistent with the provisions governing SREC creation at N.J.A.C. 14:8-2.9(c)1 and 2.

(d) A TREC may be redeemed in GATS in the energy year in which the electricity was produced or in the following energy year.

(e) Electricity generated by an eligible facility more than two years before it is entered into the GATS system, shall not be eligible for a TREC, but is eligible to create a New Jersey Class I REC.

(f) A TI-Eligible Project shall be eligible to generate TRECs for 15 years following the date of commencement of commercial operation (the TREC Qualification Life).

(g) Qualified projects may be eligible for a New Jersey Class I REC at the conclusion of the 15-year TREC Qualification Life.