

of the anticipated rulemaking described above, the existing chapter remains necessary, proper, reasonable, efficient, understandable, and responsive for the purposes for which it was originally promulgated, as amended and supplemented over time, and should be readopted.

(a)

DIVISION OF GAMING ENFORCEMENT
Notice of Readoption
Gaming Operation Controls and Standards
Readoption: N.J.A.C. 13:69D

Authority: N.J.S.A. 5:12-69.a, 70.a(8), 70.a(11), and 70.a(13).
 Authorized By: David L. Rebuck, Director, Division of Gaming Enforcement.

Effective Date: December 14, 2018.
 New Expiration Date: December 14, 2025.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 13:69D were scheduled to expire on March 19, 2019. N.J.A.C. 13:69D establishes the procedures and methodologies for casino accounting, certification of revenue, surveillance, security, moving money across a casino floor, and granting casino credit, as well as the standards for a casino's organization.

The Director of the Division of Gaming Enforcement has reviewed N.J.A.C. 13:69D and has determined that the chapter remains necessary, proper, reasonable, efficient, understandable, and responsive to the purposes for which it was originally promulgated, as amended and supplemented over time, and should be readopted without amendment. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), N.J.A.C. 13:69D is readopted without amendment and shall continue in effect for a seven-year period.

(b)

DIVISION OF GAMING ENFORCEMENT
Notice of Readoption
Gaming Equipment
Readoption: N.J.A.C. 13:69E

Authority: N.J.S.A. 5:12-69.a, 70.a(7), and 70.a(10).
 Authorized By: David L. Rebuck, Director, Division of Gaming Enforcement.

Effective Date: December 14, 2018.
 New Expiration Date: December 14, 2025.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 13:69E were scheduled to expire on March 19, 2019. N.J.A.C. 13:69E establishes the process for obtaining approval of, deploying, and using gaming equipment, including the equipment needed for table games and the processes for the testing, inspection, and deployment of slot machines.

The Director of the Division of Gaming Enforcement has reviewed N.J.A.C. 13:69E and has determined that the chapter remains necessary, proper, reasonable, efficient, understandable, and responsive to the purposes for which it was originally promulgated, as amended and supplemented over time, and should be readopted without amendment. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), N.J.A.C. 13:69E is readopted without amendment and shall continue in effect for a seven-year period.

(c)

DIVISION OF GAMING ENFORCEMENT
Notice of Readoption
Rules of the Games
Readoption: N.J.A.C. 13:69F

Authority: N.J.S.A. 5:12-69.a, 70.a(7), and 100.e.
 Authorized By: David L. Rebuck, Director, Division of Gaming Enforcement.

Effective Date: December 14, 2018.
 New Expiration Date: December 14, 2025.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 13:69F were scheduled to expire on March 19, 2019. N.J.A.C. 13:69F establishes the rules for table games and electronic table games, including the types of wagers permitted on all games and the variations of games that are permitted.

The Director of the Division of Gaming Enforcement has reviewed N.J.A.C. 13:69F and has determined that the chapter remains necessary, proper, reasonable, efficient, understandable, and responsive to the purposes for which it was originally promulgated, as amended and supplemented over time, and should be readopted without amendment. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), N.J.A.C. 13:69F is readopted without amendment and shall continue in effect for a seven-year period.

(d)

DIVISION OF GAMING ENFORCEMENT
Applications
Temporary Adopted New Rule: N.J.A.C. 13:69A-9.11

Authority: N.J.S.A. 5:12-69.a, 69.e, and 70.a(6).

Take notice that the Division of Gaming Enforcement (Division) shall, pursuant to N.J.S.A. 5:12-69.e, adopt a temporary new rule regarding fees for initial applications and resubmissions for casino key employee licenses. The new rules provide for a maximum fee that can be charged in connection with the Division's investigation of an application.

The experiment for the fees will be conducted in accordance with the temporary new rule, which shall be available in each participating casino and shall also be available from the Division upon request.

This experiment could begin on or after January 14, 2019, and continue for a maximum of 270 days from that date, unless otherwise terminated by the Division pursuant to the terms and conditions of the experiment.

Should the temporary new rule prove successful in the judgment of the Division, the Division will propose it for final adoption in accordance with the public notice and comment requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and N.J.A.C. 1:30.

PUBLIC UTILITIES

(e)

BOARD OF PUBLIC UTILITIES
Renewable Energy and Energy Efficiency
Adopted Amendment: N.J.A.C. 14:8-2.4

Proposed: August 6, 2018, at 50 N.J.R. 1708(a).
 Adopted: December 19, 2018, by the New Jersey Board of Public Utilities, Joseph L. Fiordaliso, President, Mary-Anna Holden, Dianne Solomon, Upendra J. Chivukula, and Robert M. Gordon, Commissioners.

Filed: December 19, 2018, as R.2019 d.010, **without change**.

Authority: N.J.S.A. 48:2-1 et seq., in particular 48:2-13, 48:3-51, and 48:3-87; and P.L. 2018, c. 17.

BPU Docket Number: QO18060647.

Effective Date: January 22, 2019.

Expiration Date: May 1, 2019.

Summary of Public Comments and Agency Responses:

The Board of Public Utilities (“BPU” or “Board”) received comments from the following: Stephanie Brand, N.J. Division of Rate Counsel (RC); Lyle K. Rawlings P.E., Mid-Atlantic Solar Energy Industries Association (MSEIA); Larry Barth, New Jersey Resources (NJR); Joseph A. Shea, Jr., Public Service Gas and Electric (PSE&G); collectively, David Gahl, Solar Energy Industries Association (SEIA), Fred DeSanti, New Jersey Solar Energy Coalition (NJSEC), and Tom Lynch, KDC Solar (KDC).

1. COMMENT: The amendments appear to properly implement the determination of the New Jersey Legislature that the Solar Renewable Energy Certificate (SREC) program should terminate within the time frame specified in the Clean Energy Act of 2018, P.L. 2018, c. 17 (Clean Energy Act). (RC)

RESPONSE: The Board appreciates the commenter’s support of the Board’s efforts.

2. COMMENT: The commenters are in support of closing the existing SREC program but underscore the need to close it in an orderly and transparent way. (PSE&G, MSEIA, NJR, SEIA, NJSEC, and KDC).

RESPONSE: The Board appreciates the commenters’ support of the Board’s efforts.

3. COMMENT: The final regulation should set forth the sources of data to be used along with the analytical methods and calculations for determining when the 5.1 percent threshold has been attained. (PSE&G, MSEIA, NJR, SEIA, NJSEC, and KDC).

4. COMMENT: Proposed language is silent on several key issues, most notably, the regulatory proposal does not clarify exactly how the Board will determine the goal for solar generation, contributing to the overall electric supply that has been reached. (SEIA, NJSEC, and KDC).

5. COMMENT: The phrase “attainment of the 5.1 percent RPS” requires a more precise definition and clarification as it has major implications on jobs, future market confidence, and the Board’s ability to meet its goal of a stable, orderly transition. (PSE&G, MSEIA, NJR, SEIA, NJSEC, and KDC).

RESPONSE TO COMMENTS 3, 4, AND 5: Stakeholders have offered several alternative milestones for SREC program closure to the 5.1 percent milestone that is mandated by the statute at N.J.S.A. 48:3-87.d(3). While the law particularly requires that the Board adopt rules to close the SREC program to new applications when the 5.1 percent threshold is met, the Board seeks additional stakeholder input and technical assistance from interested parties such as the Electric Distribution Companies and PJM Environmental Information Systems to assist in tracking and reporting both solar electricity generated and retail electricity sales to make a determination on when solar electric generation comprises 5.1 percent of retail electricity sales.

6. COMMENT: One interpretation for the definition of “attainment” should be actual solar generation, which should be determined by solar production data provided by PJM-EIS’s Generation Attribute Tracking System (PJM-EIS GATS) and actual kilowatt-hour sales should be sourced from the Office of Clean Energy’s annual Statewide load determination. (PSE&G).

7. COMMENT: If the Board were to propose a mechanism based on projections to estimate the 5.1 percent threshold, the Board should understand that the models are inherently uncertain and highly sensitive to a host of assumptions concerning anticipated load, solar unit production, and solar capacity additions. (PSE&G).

RESPONSE TO COMMENTS 6 AND 7: The Board appreciates these suggested data sources for determining “attainment” of the ratio of solar electricity to total retail sales. Unfortunately, PJM-EIS GATS does not receive solar production data on a consistent basis to enable a timely determination of achievement of the 5.1 percent solar electricity sold milestone. The Board encourages the commenter to work with staff in the stakeholder process to develop a recommended approach for the Board’s consideration.

8. COMMENT: Another interpretation of the statutory provisions for closure of the SREC Registration Program (SRP) suggests looking at the capacity of solar power systems approved by SRP, as this is echoed in the

new RPS schedule that peaks at 5.1 percent and then declines at a rate that matches the rate at which older solar systems cease to produce SRECs. (MSEIA, SEIA, NJSEC, and KDC).

RESPONSE: Capacity accepted in the SRP is not equivalent to solar electricity sold since the registered projects must complete construction and become operational in order to produce electricity. The time period from registration acceptance to construction completion can span two years.

9. COMMENT: The commenter suggested two other possible interpretations the Board should consider with regards to the definition of “attainment.” The first is if the Board raises the RPS schedule to 5.1 percent or 6.1 percent to match generating capacity that will be built as approved, however, this will thwart the law’s 5.1 percent limitation and counter the efforts to contain costs and reduce the cost of achieving the solar energy goals. The second scenario is if the RPS remains at a 5.1 percent peak, the SREC program will be oversupplied by 14 to 20 percent within the first year after closure; thereafter, the supply would carry forward into the second year creating a compounding effect for five years, wherein the market oversupply would reach 70 percent to 100 percent. This scenario will likely cause the SREC market to crash. (NJR).

RESPONSE: The Board appreciates the commenters offer of a solution should capacity registered prior to achievement of the SRP closure milestone and installed after closure, but finds the suggestion not to be germane to the issue of milestone determination. The Board encourages the commenter to work with staff in the stakeholder process to develop a recommended approach for the Board’s consideration.

10. COMMENT: If the current program were to continue and new applicants are approved after January 2019, there would be 600 to 700 MW of approved projects in the pipeline at the time the market closes at the 5.1 percent in June 2020, this could be realized in the first quarter of 2019. (NJR)

11. COMMENT: If the pipeline is not allowed to be constructed and the market closes in June 2020, there will be an oversupply of 80 percent by 2030, and it will create stranded development cost issues like those experienced when the SREC market crashed in 2011. (NJR)

12. COMMENT: Closing the current market should be viewed as an opportunity to make needed improvements to better control market supply, reduce regulatory and market risks, and incent ongoing cost reductions for new projects. (NJR)

13. COMMENT: Potential build-up will result in several issues, specifically, if the market closes before the time a successor program is available, it is likely to cause job loss related to sales, marketing, installation, and development. (SEIA, NJSEC, and KDC)

14. COMMENT: The Board must consider and minimize costs to ratepayers; therefore, it is suggested that the Board create a bridge or interim program between the existing SREC program and the successor program that is currently being developed. (PSE&G, MSEIA, NJR, SEIA, NJSEC, and KDC)

RESPONSE TO COMMENTS 10, 11, 12, 13, AND 14: The Board appreciates the concern for projects developed during the pendency of “attainment” of the ratio of solar electricity to total retail sales, but finds the issue to be outside the scope of the current rulemaking. The Board encourages the commenters to work with staff in the upcoming stakeholder process to develop a recommended approach for accommodating these projects for the Board’s consideration.

15. COMMENT: If the pipeline were to be constructed, the current program would need to close with installed projects representing 6.1 percent of the kilowatt-hours sold, not 5.1 percent. (NJR)

RESPONSE: The statute requires closure upon attainment of 5.1 percent and, thus, the Board will not consider any other attainment percentage such as 6.1 percent as the commenter recommends. Any suggestions to adjust the RPS percentage requirements are outside of the scope of this rulemaking, but the Board will take this into consideration with the process discussed in the Response to Comments 3, 4, and 5.

16. COMMENT: Policies leading to the oversupply to capacity installed at the time of market closure will be detrimental to the SREC market. (NJR)

RESPONSE: The Board appreciates the concern over impacts to the SREC market from projects developed during the pendency of “attainment” of the ratio of solar electricity to total retail sales and

encourages the commenter to work with staff in the upcoming stakeholder process to develop a recommended approach for accommodating these projects for the Board’s consideration and further rulemaking if necessary, however at this time, the comments submitted are outside the scope of this rulemaking.

17. COMMENT: A suggested solution to the requirement for an orderly and efficient closure, replacement, or modification of the SRP would be to close the current program at the 5.1 percent mark and implement an interim program for a limited time (two years) and for a limited amount of solar development. (MSEIA, SEIA, NJSEC, and KDC)

18. COMMENT: An interim program will reduce the cost of achieving the solar energy goals, a fixed-price SREC interim program is the lowest cost program that can be implemented in a short amount of time. (MSEIA)

19. COMMENT: Additional recommendations for an interim program should support the emergence of community solar, reestablish a tradable SREC at reduced SACP incentive levels, which will reduce ratepayer costs and create financial support, and include market sector targets to be managed by the Board or its agent to prevent oversupply. (SEIA, NJSEC, and KDC)

RESPONSE TO COMMENTS 17, 18, AND 19: The Board appreciates the recommendation for enabling continued market development during the pendency of “attainment” of the ratio of solar electricity to total retail sales but finds the definition of an interim program to be outside the scope of the current rulemaking. The Board encourages the commenters to work with staff in the upcoming stakeholder process to develop a more fully detailed approach for the Board’s consideration.

20. COMMENT: The Board should look to other states in the Northeast and Mid-Atlantic region for alternative SREC programs. (MSEIA)

RESPONSE: Suggestions for review of the alternatives to an SREC program are outside of the scope of this rulemaking. However, toward furtherance of other provisions in the statute, the Board has issued a Request for Quotation toward engaging a contractor to fulfill the statutory requirements to modify or replace the existing SREC program and will review other programs in its development of recommendations for the Board’s consideration.

21. COMMENT: Suggestion that the interim program occurs outside of the Energy Master Plan (EMP) and urges the Board to implement a stakeholder process to consider the design of an interim program. (SEIA, NJSEC, and KDC).

RESPONSE: The Board appreciates the commenters’ suggestion that an interim program occur outside the Energy Master Plan; however, the comments submitted are outside the scope of this rulemaking, but the Board encourages the commenters to work with staff in the stakeholder process.

Federal Standards Statement

Executive Order No. 27 (1994) and 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. The Solar rules have no Federal analogue and 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. 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 adopted amendments.

Full text of the adoption follows:

SUBCHAPTER 2. RENEWABLE PORTFOLIO STANDARDS

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) (No change.)

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

1.-3. (No change.)

4. 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;

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

i. (No change.)

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

(1)-(3) (No change.)

(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-EIS through submittal of a PJM-EIS system change form; and

6. No new SREC registration program submittal shall be accepted following a determination by the Board that 5.1 percent of the kilowatt-hours sold in the State by each electric power supplier and each basic generation provider comes from solar electric power generators connected to the State’s electric distribution system has been attained.

i. Termination of SREC registration program shall occur no later than June 1, 2021.

(c)-(q) (No change.)

TRANSPORTATION

(a)

MOTOR VEHICLE COMMISSION

Enforcement Service

Adopted New Rules: N.J.A.C. 13:20-50B.50 and 51.16

Proposed: May 21, 2018, at 50 N.J.R. 1250(a).

Adopted: December 11, 2018, by the Motor Vehicle Commission, B. Sue Fulton, Chair and Chief Administrator.

Filed: December 27, 2018, as R.2019 d.013, **without change**.

Authority: N.J.S.A. 39:2-3, 39:2A-28, 39:3-10, 39:3-11, 39:3-43, 39:3-63, 39:3-77, 39:3B-5, 39:3B-10, 39:3B-24, 39:5-30, 39:5B-29a, 39:8-1, 39:8-2, 39:8-4, 39:8-4.1, 39:8-10, 39:8-77, and 39:10-4.

Effective Date: January 22, 2019.

Expiration Date: December 4, 2020.

Summary of Public Comment and Agency Response:

No comments were received.

Federal Standards Statement

49 CFR Part 571, provides manufacturing standards for all school buses subject to inspection. The adopted new rules at N.J.A.C. 13:20-50B.50 and 51.16 require that, as of the time of manufacture, all school buses subject to inspection will meet the Federal manufacturing standards currently in effect or that will be promulgated in the future.

Full text of the adopted new rules follows:

SUBCHAPTER 50B. BODY STANDARDS FOR SCHOOL BUSES MANUFACTURED JANUARY 2006 AND THEREAFTER

13:20-50B.50 School bus sensor system

(a) Pursuant to N.J.A.C. 6A:27-7.13, each school bus shall be equipped with a properly designed and installed sensor to determine the presence of person(s) or object(s) located in, but not limited to, the front and back of the school bus.

(b) All equipment subject to inspection shall meet the standards for the applicable date of manufacture now or hereafter prescribed by Federal law or regulation at 49 CFR Part 571, New Jersey statute, or Motor Vehicle Commission or State Board of Education rule, including the school bus sensor system to detect the presence of person(s) or object(s) located in, but not limited to, the front and rear of the school bus, which sensor shall conform to the guidelines and specifications under N.J.A.C. 6A:27-7.13.