

CHAPTER 112

AN ACT concerning the reduction of greenhouse gases, supplementing Title 26 of the Revised Statutes, and amending P.L.1999, c.23.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.26:2C-37 Short title.

1. This act shall be known and may be cited as the “Global Warming Response Act.”

C.26:2C-38 Findings, declarations relative to greenhouse gas emissions.

2. The Legislature finds and declares that internationally the issue of global warming has caused alarm, awareness, and action concerning climate changes occurring around the globe attributed to the high level of certain gases called “greenhouse gases” – gases that increase temperatures in the atmosphere and the risk of catastrophic changes to the Earth’s ecosystems and environment; that, while this global warming may be a theory to some, the effects of increasing levels of greenhouse gases in the atmosphere are accepted by many respected scientists and members of the international community as seriously detrimental to the ecosystems and environment of the world; that, ultimately, if steps are not taken to reverse these trends, the effects on human, animal and plant life on Earth may be catastrophic; that solutions exist to halt the increasing of greenhouse gases in the atmosphere and reduce these emissions; that, as a global issue, each country and region within a country must do its part to reduce these greenhouse gases that threaten the globe; and that, as a State, there are specific actions that can be taken to attack the problem of global warming, through reductions of greenhouse gas emissions in the State and participation in regional and interstate initiatives to reduce these emissions regionally, nationally, and internationally.

The Legislature therefore finds and declares that it is in the public interest to establish a greenhouse gas emissions reduction program to limit the level of Statewide greenhouse gas emissions, and greenhouse gas emissions from electricity generated outside the State but consumed in the State, to the 1990 level or below, of those emissions by the year 2020, and to reduce those emissions to 80% below the 2006 level by the year 2050.

C.26:2C-39 Definitions relative to greenhouse gas emissions.

3. For the purposes of this act:

“Department” means the Department of Environmental Protection.

“Greenhouse gas” means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other gas or substance determined by the Department of Environmental Protection to be a significant contributor to the problem of global warming.

“Statewide greenhouse gas emissions” means the sum of calendar year emissions of greenhouse gases from all sources within the State, and from electricity generated outside the State but consumed in the State, as determined by the department pursuant to subsection c. of section 5 of this act.

“2020 limit” means the level of greenhouse gas emissions equal to the 1990 level of Statewide greenhouse gas emissions.

“2050 limit” means the level of greenhouse gas emissions equal to 80 percent less than the 2006 level of Statewide greenhouse gas emissions.

C.26:2C-40 Limit on Statewide greenhouse gas emissions mandated for 2020, 2050.

4. a. No later than January 1, 2020, the level of Statewide greenhouse gas emissions shall be reduced to, or below, the 2020 limit. No later than January 1, 2050, the greenhouse gas emissions in the State shall be stabilized at or below the 2050 limit and shall not exceed that level thereafter. The department shall consider the economic impact upon the State and upon the emitters of a greenhouse gas for any measure imposed to meet the 2020 limit and the 2050 limit.

b. No later than one year after the date of enactment of this act, the department shall establish:

- (1) an inventory of the current and 2006 Statewide greenhouse gas emissions; and
- (2) an inventory of the 1990 level of Statewide greenhouse gas emissions.

C.26:2C-41 Rules, regulations for monitoring, reporting emissions.

5. a. No later than January 1, 2009, the department shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations establishing a greenhouse gas emissions monitoring and reporting program to monitor and report Statewide greenhouse gas emissions.

b. The rules and regulations adopted pursuant to subsection a. of this section shall identify all significant sources of Statewide greenhouse gas emissions and shall provide for, but need not be limited to, the following:

- (1) monitoring and reporting of existing emissions and changes in emissions over time from the sources identified by the department;
- (2) reporting the levels of those emissions and changes in those emissions levels annually, commencing on January 1, 2009; and
- (3) monitoring progress toward the 2020 limit and the 2050 limit.

c. Pursuant to the rules and regulations adopted pursuant to subsection a. of this section, the department shall require reporting of the greenhouse gas emissions:

(1) associated with fossil fuels used in the State, as reported by entities that are manufacturers and distributors of fossil fuels, which may include, but need not be limited to, oil refineries, oil storage facilities, natural gas pipelines, and fuel wholesale and retail distributors;

(2) from any entity generating electricity in the State and from any entity that generates electricity outside the State that is delivered for end use in the State. With respect to electricity generated outside the State and imported into the State, the department shall determine the emissions from that generation by subtracting the kilowatt-hours of electricity generated in the State from the kilowatt-hours of electricity consumed in the State, and multiplying the difference by a default emissions rate determined by the department;

(3) from any gas public utility as defined in section 3 of P.L.1999, c.23 (C.48:3-51); and

(4) from any additional entities that are significant emitters of greenhouse gases, as determined by the department, and as appropriate to enable the department to monitor compliance with progress toward the 2020 limit and the 2050 limit.

C.26:2C-42 Evaluation of policies, measures for achievement of 2020 limit, 2050 limit; reports.

6. a. The department, in consultation with the Board of Public Utilities, the Department of Agriculture, the Department of Transportation, and the Department of Community Affairs, shall evaluate policies and measures that will enable the State to achieve the 2020 limit, shall make specific recommendations on how to achieve the emission reduction targets, including

measures that reduce emissions in all sectors of the economy including transportation, housing, and consumer products, and shall evaluate the economic benefits and costs of implementing these recommendations. The department shall coordinate its evaluation of greenhouse gas emission reduction policies and measures with the work of the Energy Master Plan Committee established pursuant to section 12 of P.L.1977, c.146 (C.52:27F-14).

b. No later than June 30, 2008, the department, and any other State agencies, as appropriate, shall prepare a report recommending the measures necessary to reduce greenhouse gas emissions to achieve the 2020 limit. The report shall include specific recommendations for legislative and regulatory action that will be necessary to achieve the 2020 limit. The report shall be transmitted to the Governor, to the State Treasurer, to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) and to the members of the Senate Environment Committee and the Assembly Environment and Solid Waste Committee.

c. No later than June 30, 2010, the department, and any other State agencies, as appropriate, shall prepare a report recommending the measures necessary to reduce greenhouse gas emissions to achieve the 2050 limit. The report shall include specific recommendations for legislative and regulatory action that will be necessary to achieve the 2050 limit. The report shall also include recommendations for additional policies and measures that will be required if the State is otherwise expected to exceed the 2020 limit and any additional measures that will be required to meet the 2050 limit. The report shall be transmitted to the Governor, to the State Treasurer, to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) and to the members of the Senate Environment Committee and the Assembly Environment and Solid Waste Committee.

d. The Energy Master Plan Committee shall include in its adoption of the first update of the energy master plan completed after the date of enactment of this act, a list of recommended policies and measures to reduce the emission of greenhouse gases from the production, processing, distribution, transmission, storage, or use of energy that will contribute to achieving the 2020 limit.

e. Nothing in this act shall impose any limit on the existing authority of the department, the Board of Public Utilities, or any other State department or agency to limit or regulate greenhouse gas emissions pursuant to law.

C.26:2C-43 Transmission of biennial report on greenhouse gas emission statistics; 2015 evaluation.

7. a. No later than January 1, 2009, and biennially thereafter, the department shall prepare and transmit, in writing, a report to the Governor, to the State Treasurer, to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) and to the members of the Senate Environment Committee and the Assembly Environment and Solid Waste Committee, on the status of the greenhouse gas emissions monitoring and reporting program established pursuant to this act, the current level of greenhouse gas emissions in the State and the progress made toward compliance with the 2020 limit and the 2050 limit established pursuant to this act. The report shall also include updated and comparative inventories of Statewide greenhouse gas emissions.

b. No later than January 1, 2015, the department shall evaluate the ecological, economic, and environmental factors and the technological capability affecting the attainment or maintenance of the 2020 limit and the 2050 limit established pursuant to this act.

8. Section 38 of P.L. 1999, c.23 (C.48:3-87) is amended to read as follows:

C.48:3-87 Environmental disclosure requirements; standards; terms defined.

38. a. The board shall require an electric power supplier or basic generation service provider to disclose on a customer's bill or on customer contracts or marketing materials, a uniform, common set of information about the environmental characteristics of the energy purchased by the customer, including, but not limited to:

(1) Its fuel mix, including categories for oil, gas, nuclear, coal, solar, hydroelectric, wind and biomass, or a regional average determined by the board;

(2) Its emissions, in pounds per megawatt hour, of sulfur dioxide, carbon dioxide, oxides of nitrogen, and any other pollutant that the board may determine to pose an environmental or health hazard, or an emissions default to be determined by the board; and

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

b. 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, in consultation with the Department of Environmental Protection, after notice and opportunity for public comment and public hearing, interim standards to implement this disclosure requirement, including, but not limited to:

(1) A methodology for disclosure of emissions based on output pounds per megawatt hour;

(2) Benchmarks for all suppliers and basic generation service providers to use in disclosing emissions that will enable consumers to perform a meaningful comparison with a supplier's or basic generation service provider's emission levels; and

(3) A uniform emissions disclosure format that is graphic in nature and easily understandable by consumers. The board shall periodically review the disclosure requirements to determine if revisions to the environmental disclosure system as implemented are necessary.

Such standards shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted by the board in accordance with the provisions of the "Administrative Procedure Act."

c. (1) The board may adopt, in consultation with the Department of Environmental Protection, after notice and opportunity for public comment, an emissions portfolio standard applicable to all electric power suppliers and basic generation service providers, upon a finding that:

(a) The standard is necessary as part of a plan to enable the State to meet federal Clean Air Act or State ambient air quality standards; and

(b) Actions at the regional or federal level cannot reasonably be expected to achieve the compliance with the federal standards.

(2) If a State department or agency adopts regulations to implement a State policy or an interstate or regional agreement to reduce Statewide greenhouse gas emissions related to electricity generation, then the board shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a greenhouse gas emissions portfolio standard to mitigate leakage or another regulatory mechanism to mitigate leakage applicable to all electric power suppliers and basic generation service providers that provide electricity to customers within the State. Any regulation to mitigate leakage shall:

(a) Allow a transition period, either before or after the effective date of the regulation to mitigate leakage, for a basic generation service provider or electric power supplier to either meet the emissions portfolio standard or other regulatory mechanism to mitigate leakage, or to transfer any customer to a basic generation service provider or electric power supplier that meets the emissions portfolio standard or other regulatory mechanism to mitigate leakage. If the transition period allowed pursuant to this subparagraph occurs after the implementation of an emissions portfolio standard or other regulatory mechanism to mitigate leakage, the transition period shall be no longer than three years; and

(b) Exempt the provision of basic generation service pursuant to a basic generation service purchase and sale agreement effective prior to the date of the regulation.

d. 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, interim renewable energy portfolio standards that shall require:

(1) that two and one-half percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider be from Class I or Class II renewable energy sources; and

(2) beginning on January 1, 2001, that one-half of one percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider be from Class I renewable energy sources. The board shall increase the required percentage for Class I renewable energy sources so that by January 1, 2006, one percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider shall be from Class I renewable energy sources and shall additionally increase the required percentage for Class I renewable energy sources by one-half of one percent each year until January 1, 2012, when four percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider shall be from Class I renewable energy sources.

An electric power supplier or basic generation service provider may satisfy the requirements of this subsection by participating in a renewable energy trading program approved by the board in consultation with the Department of Environmental Protection.

Such standards shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted by the board in accordance with the provisions of the "Administrative Procedure Act."

e. 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 residential and small commercial customers that generate electricity, on the customer's side of the meter, using wind or solar photovoltaic systems for the net amount of electricity supplied by the electric power supplier or basic generation service provider over an annualized period. Where the amount of electricity generated by the customer-generator plus any kilowatt hour credits held over from the previous billing periods exceed the electricity supplied by the electric power supplier or basic generation service provider, the electric power supplier or basic generation service provider, as the case may be, shall credit the customer for the excess kilowatt hours

until the end of the annualized period at which point the customer-generator will be compensated for any remaining credits at the electric power supplier's or basic generation service provider's avoided cost of wholesale power. The board may authorize an electric power supplier or basic generation service provider to cease offering net metering whenever the total rated generating capacity owned and operated by net metering customer-generators Statewide equals 0.1 percent of the State's peak electricity demand or the annual aggregate financial impact to electric power suppliers and basic generation service providers Statewide, as determined by the board, exceeds \$2,000,000, whichever is less; and

(2) safety and power quality interconnection standards for wind and solar photovoltaic systems that shall be eligible for net metering.

Such standards shall take into consideration the standards of other states and the Institute of Electrical and Electronic Engineers and shall allow customers to use a single, non-demand, non-time differentiated meter.

Such standards shall be effective as regulations immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 18 months, and may, thereafter, be amended, adopted or readopted by the board in accordance with the provisions of the "Administrative Procedure Act."

f. The board may assess, by written order and after notice and opportunity for comment, a separate fee to cover the cost of implementing and overseeing an emission disclosure system or emission portfolio standard, which fee shall be assessed based on an electric power supplier's or basic generation service provider's share of the retail electricity supply market. The board shall not impose a fee for the cost of implementing and overseeing a greenhouse gas emissions portfolio standard adopted pursuant to paragraph (2) of subsection c. of this section, the electric energy efficiency portfolio standard adopted pursuant to subsection g. of this section, or the gas energy efficiency portfolio standard adopted pursuant to subsection h. of this section.

g. The board may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric energy efficiency portfolio standard that may require each electric public utility to implement energy efficiency measures that reduce electricity usage in the State by 2020 to a level that is 20 percent below the usage projected by the board in the absence of such a standard. Nothing in this section shall be construed to prevent an electric public utility from meeting the requirements of this section by contracting with another entity for the performance of the requirements.

h. The board may adopt, pursuant to the "Administrative Procedure Act," a gas energy efficiency portfolio standard that may require each gas public utility to implement energy efficiency measures that reduce natural gas usage for heating in the State by 2020 to a level that is 20 percent below the usage projected by the board in the absence of such a standard. Nothing in this section shall be construed to prevent a gas public utility from meeting the requirements of this section by contracting with another entity for the performance of the requirements.

i. As used in this section:

"Energy efficiency portfolio standard" means a requirement to procure a specified amount of energy efficiency or demand side management resources as a means of managing and reducing energy usage and demand by customers.

"Greenhouse gas emissions portfolio standard" means a requirement that addresses or limits the amount of carbon dioxide emissions indirectly resulting from the use of electricity

as applied to any electric power suppliers and basic generation service providers of electricity.

“Leakage” means an increase in greenhouse gas emissions related to generation sources located outside of the State that are not subject to a state, interstate or regional greenhouse gas emissions cap or standard that applies to generation sources located within the State.

C.26:2C-44 Designation of independent research panel to review agency reports.

9. a. No later than June 30, 2008, the department shall designate an independent research review panel consisting of economists, business managers, nonprofit environmental organization representatives, and public officials, and scientists from academia, industry and the government, to review the recommendations and evaluations submitted by the department and any other State agencies, as appropriate, in the reports required pursuant to section 6 of this act.

b. The independent research review panel shall review the recommendations and evaluations of the department and any other State agencies, as appropriate, and shall, within 12 months of the date of transmittal of the reports required pursuant to section 6 of this act, prepare and transmit a report evaluating the ecological, economic and social impact of the proposed recommendations submitted by the department and any other State agencies, as appropriate, to the Governor, to the State Treasurer, to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) and to the members of the Senate Environment Committee and the Assembly Environment and Solid Waste Committee.

c. This section shall not be construed to affect the requirements of the greenhouse gas emissions monitoring and reporting program or the department’s administration of the program established pursuant to this act.

10. This act shall take effect immediately.

Approved July 6, 2007.