

SENATE, No. 1206

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JANUARY 25, 2018

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Co-Sponsored by:

Senator Greenstein

SYNOPSIS

Requires large food waste generators to separate and recycle food waste and amends definition of “Class I renewable energy.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning food waste recycling and food waste-to-energy
2 production, supplementing Titles 13 and 52 of the Revised
3 Statutes, and amending P.L.1999, c.23.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) As used in this act:

9 “Alternative authorized food waste recycling method” means (1)
10 recycling food waste at the site at which it is generated as
11 authorized by the Department of Environmental Protection, (2)
12 treating food waste at the site at which it is generated pursuant to a
13 permit issued by the department, (3) sending food waste for offsite
14 use for agricultural purposes, including as animal feed, (4) sending
15 food waste offsite for treatment with sewage sludge in an anaerobic
16 digester for biogas recovery as authorized by the department, or (5)
17 any other method of recycling or reuse of food waste, as authorized
18 by the department.

19 “Authorized food waste recycling facility” means a recycling
20 center within the State authorized to accept, store, process, or
21 transfer food waste or compostable material, pursuant to subsection
22 b. of section 41 of P.L.1987, c.102 (C.13:1E-99.34).

23 “Department” means the Department of Environmental
24 Protection.

25 “Food waste” means food processing vegetative waste, food
26 processing residue generated from processing and packaging
27 operations, overripe produce, trimmings from food, food product
28 over-runs, soiled and unrecyclable paper, and used cooking fats, oil,
29 and grease, but shall not include food donated by the generator for
30 human consumption.

31 “Large food waste generator” means any commercial food
32 wholesaler, distributor, industrial food processor, supermarket,
33 resort, conference center, banquet hall, restaurant, educational or
34 religious institution, military installation, prison, hospital, medical
35 facility, or casino that produces at least 52 tons per year of food
36 waste.

37 “Source separate” or “source separated” means the process by
38 which food waste is separated at the point of generation by the
39 generator thereof from other solid waste for the purpose of
40 recycling.

41
42 2. (New section) a. Beginning January 1, 2020, each large
43 food waste generator that is located within 25 road miles of an
44 authorized food waste recycling facility and that generates an
45 average projected volume of 104 or more tons per year of food

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 waste shall: (1) source separate its food waste from other solid
2 waste; and (2) send the source separated food waste to an
3 authorized food waste recycling facility that has available capacity
4 and will accept it.

5 b. Beginning January 1, 2023, each large food waste generator
6 that is located within 25 road miles of an authorized food waste
7 recycling facility and that generates an average projected volume of
8 52 or more tons per year of food waste, and which is not already
9 subject to the provisions of subsection a. of this section, shall: (1)
10 source separate its food waste from other solid waste; and (2) send
11 the source separated food waste to an authorized food waste
12 recycling facility that has available capacity and will accept it.

13 c. Notwithstanding the provisions of subsections a. and b. of
14 this section:

15 (1) If a large food waste generator is not located within 25 road
16 miles of an authorized food waste recycling facility, or the
17 authorized food waste recycling facility will not accept the
18 generator's food waste, the large food waste generator may send the
19 food waste for final disposal at a solid waste facility as provided in
20 the approved district solid waste management plan for the solid
21 waste management district in which the generator is located;

22 (2) Any large food waste generator that is obligated to source
23 separate and recycle its food waste pursuant to subsection a. or b. of
24 this section, and which (a) performs enclosed on-site composting, or
25 anaerobic or aerobic digestion of its source separated food waste in
26 accordance with standards adopted by the department pursuant to
27 subsection e. of this section, or (b) recycles food waste using an
28 alternative authorized food waste recycling method, shall be
29 deemed to be in compliance with the provisions of this section;

30 (3) A large food waste generator may petition the Department of
31 Environmental Protection for a waiver of the requirements in
32 subsection a. or b. of this section if the cost of transporting the food
33 waste plus the fee charged by an authorized food waste recycling
34 facility located within 25 road miles of the large food waste
35 generator is at least 10 percent more than the cost of transporting
36 the food waste for disposal as solid waste plus the disposal fee
37 charged for solid waste disposal in the State for noncontract
38 commercial waste by a properly licensed transfer station, sanitary
39 landfill facility, incinerator, or resource recovery facility located
40 within 25 road miles of the large food waste generator; and

41 (4) A large food waste generator shall be deemed in compliance
42 with the provisions of this section if: (a) the large food waste
43 generator sends its food waste for final disposal to a sanitary
44 landfill facility that has a landfill gas recovery system that was
45 financed by the New Jersey Environmental Infrastructure Trust, the
46 Department of Environmental Protection, or both; and (b) the food
47 waste is sent to the sanitary landfill facility no later than 15 years
48 after receipt of that financing by the sanitary landfill facility.

1 d. Any person who violates this act, or any rule or regulation
2 adopted pursuant thereto, shall be subject to a civil penalty of \$250
3 for the first offense, \$500 for the second offense, and \$1,000 for the
4 third and each subsequent offense, to be collected in a civil action
5 by a summary proceeding under the “Penalty Enforcement Law of
6 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.). If the violation is of a
7 continuing nature, each day during which it continues shall
8 constitute an additional, separate, and distinct offense. The
9 Superior Court and the municipal court shall have jurisdiction to
10 enforce the provisions of the “Penalty Enforcement Law of 1999” in
11 connection with this subsection.

12 e. Within 180 days after the date of enactment of this act, the
13 Department of Environmental Protection shall adopt, pursuant to
14 the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1
15 et seq.), rules and regulations necessary to implement this section,
16 including, but not limited to:

17 (1) record keeping and reporting requirements for large food
18 waste generators and authorized food waste recycling facilities, as
19 determined necessary by the department;

20 (2) guidelines and procedures for businesses to follow to
21 determine whether they are subject to the requirements of
22 subsection a. or b. of this section, including food waste generation
23 estimates and food waste audits or assessments;

24 (3) a list of food waste products that must be source separated
25 and recycled pursuant to subsection a. or b. of this section;

26 (4) standards for the enclosed on-site composting, or anaerobic
27 or aerobic digestion of source separated food waste, including
28 requirements for energy production and other sustainable uses of
29 the byproducts of recycled food waste; and

30 (5) a list of actions businesses may take to reduce the amount of
31 food waste they generate to a level below the threshold amounts
32 established in subsection a. and b. of this section.

33 f. The department shall publish on its Internet website the
34 name, location, and contact information for each authorized food
35 waste recycling facility in the State.

36
37 3. (New section) a. Any municipality within which an
38 authorized food waste recycling facility is located, pursuant to an
39 adopted and approved district solid waste management plan, shall
40 be entitled to an economic benefit of not less than the equivalent of
41 \$0.50 per ton, to be paid and adjusted quarterly, of all food waste
42 accepted for processing at the authorized food waste recycling
43 facility during the 2019 calendar year and each year thereafter. The
44 owner or operator of the authorized food waste recycling facility
45 shall pay quarterly to the municipality the full amount due under
46 this subsection. The municipality is authorized to anticipate this
47 amount for the purposes of preparing its annual budget.

1 b. For the purposes of calculating the payments, the owner or
2 operator of the authorized food waste recycling facility may, subject
3 to the prior agreement of the municipality and approval of the
4 Department of Environmental Protection, provide the municipality
5 with any of the following benefits in consideration for the use of
6 land within the municipality's boundaries as the location of the
7 authorized food waste recycling facility:

8 (1) quarterly payments of money in lieu of taxes on the land
9 used for the authorized food waste recycling center or other
10 authorized facility;

11 (2) exemption from all fees and charges for the acceptance of
12 food waste for composting, anaerobic or aerobic digestion, or other
13 processing, as approved by the department, of food waste generated
14 within the municipality's boundaries;

15 (3) quarterly lump sum cash payments; or

16 (4) any combination thereof.

17

18 4. (New section) a. There is established in the Department of
19 Environmental Protection a Food Waste Recycling Market
20 Development Council, which shall consist of 12 members. The
21 members shall include the Commissioner of Environmental
22 Protection, the President of the Board of Public Utilities, the
23 Commissioner of Transportation, the Secretary of Agriculture, the
24 State Treasurer, and the Attorney General, or their designees, who
25 shall serve ex officio; and six citizens of the State appointed by the
26 Commissioner of Environmental Protection. Of the appointed
27 members: two shall be actively engaged in the composting
28 industry, of whom one shall be a representative of the National
29 Waste and Recycling Association and one shall be a representative
30 of the National Biosolids Partnership or equivalent entities; two
31 shall be actively engaged in the recycling or solid waste collection
32 industry, of whom one shall be a representative of the Association
33 of New Jersey Recyclers or equivalent entities; and two shall
34 represent the general public. The Commissioner of Environmental
35 Protection shall appoint the chairperson and the vice-chairperson of
36 the council from the citizen members.

37 b. Members of the council shall serve without compensation,
38 but shall be reimbursed for expenses incurred in attending meetings
39 and performing their duties to the extent funds are available
40 therefor.

41 c. Within 18 months after the date of enactment of this act, the
42 Food Waste Recycling Market Development Council shall prepare a
43 report on the existing markets for any products and energy produced
44 from food recycling facilities, food waste composting facilities, and
45 anaerobic and aerobic digestion facilities that accept food waste
46 material. The council shall investigate the feasibility of providing
47 preferences for products or energy produced from food recycling
48 facilities, food waste composting facilities, and anaerobic and

1 aerobic digestion facilities in the State procurement process,
2 including how to stimulate the use in public projects of compost or
3 soil amendment products derived from these facilities. The council
4 shall provide recommendations on changes needed to State laws or
5 rules or regulations to stimulate the market for products and energy
6 produced from food recycling facilities, food waste composting
7 facilities, and anaerobic and aerobic digestion facilities that accept
8 food waste material. The report shall be transmitted to the
9 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
10 19.1), to the Legislature.

11

12 5. (New section) a. Every State department or agency that
13 engages in landscaping or construction activities on State land, or
14 for State projects or facilities, shall use, where technically feasible,
15 environmentally sound, and competitively priced, compost, mulch,
16 or other soil amendments produced from municipal solid waste,
17 food waste, sludge, yard waste, clean wood waste, or other organic
18 materials. Such compost, mulch, or soil amendments shall be used
19 in place of chemical fertilizers or soil amendments.

20 b. In purchasing compost, mulch, or other soil amendments for
21 use by the various departments or agencies of State government, the
22 Director of the Division of Purchase and Property in the Department
23 of the Treasury, whenever the price is competitive and the quality
24 satisfactory for the purpose intended, shall make contracts available
25 for compost, mulch, or other soil amendments produced from
26 municipal solid waste, food waste, sludge, yard waste, clean wood
27 waste, or other organic materials.

28 c. As used in this section:

29 "Competitive" or "competitively priced" means a price of no
30 more than 10% above the price of products which are manufactured
31 or produced from virgin materials; except that the Director of the
32 Division of Purchase and Property, upon consultation with the
33 Department of Environmental Protection, may make contracts
34 available for compost, mulch, or other soil amendments produced
35 from municipal solid waste, food waste, sludge, yard waste, clean
36 wood waste, or other organic materials at a price no more than 15%
37 above the price of products manufactured or produced from virgin
38 materials whenever the director determines that a 15% price
39 differential is in the best interest of the State.

40 "Food waste" shall have the same meaning as provided in section
41 1 of P.L. , c. (C.) (pending before the Legislature as this
42 bill).

43

44 6. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read
45 as follows:

46 3. As used in P.L.1999, c.23 (C.48:3-49 et al.):

47 "Assignee" means a person to which an electric public utility or
48 another assignee assigns, sells, or transfers, other than as security,

1 all or a portion of its right to or interest in bondable transition
2 property. Except as specifically provided in P.L.1999,
3 c.23 (C.48:3-49 et al.), an assignee shall not be subject to the public
4 utility requirements of Title 48 or any rules or regulations adopted
5 pursuant thereto.

6 "Base load electric power generation facility" means an electric
7 power generation facility intended to be operated at a greater than
8 50 percent capacity factor including, but not limited to, a combined
9 cycle power facility and a combined heat and power facility.

10 "Base residual auction" means the auction conducted by PJM, as
11 part of PJM's reliability pricing model, three years prior to the start
12 of the delivery year to secure electrical capacity as necessary to
13 satisfy the capacity requirements for that delivery year.

14 "Basic gas supply service" means gas supply service that is
15 provided to any customer that has not chosen an alternative gas
16 supplier, whether or not the customer has received offers as to
17 competitive supply options, including, but not limited to, any
18 customer that cannot obtain such service for any reason, including
19 non-payment for services. Basic gas supply service is not a
20 competitive service and shall be fully regulated by the board.

21 "Basic generation service" or "BGS" means electric generation
22 service that is provided, to any customer that has not chosen an
23 alternative electric power supplier, whether or not the customer has
24 received offers for competitive supply options, including, but not
25 limited to, any customer that cannot obtain such service from an
26 electric power supplier for any reason, including non-payment for
27 services. Basic generation service is not a competitive service and
28 shall be fully regulated by the board.

29 "Basic generation service provider" or "provider" means a
30 provider of basic generation service.

31 "Basic generation service transition costs" means the amount by
32 which the payments by an electric public utility for the procurement
33 of power for basic generation service and related ancillary and
34 administrative costs exceeds the net revenues from the basic
35 generation service charge established by the board pursuant to
36 section 9 of P.L.1999, c.23 (C.48:3-57) during the transition period,
37 together with interest on the balance at the board-approved rate, that
38 is reflected in a deferred balance account approved by the board in
39 an order addressing the electric public utility's unbundled rates,
40 stranded costs, and restructuring filings pursuant to P.L.1999,
41 c.23 (C.48:3-49 et al.). Basic generation service transition costs
42 shall include, but are not limited to, costs of purchases from the
43 spot market, bilateral contracts, contracts with non-utility
44 generators, parting contracts with the purchaser of the electric
45 public utility's divested generation assets, short-term advance
46 purchases, and financial instruments such as hedging, forward
47 contracts, and options. Basic generation service transition costs
48 shall also include the payments by an electric public utility pursuant

1 to a competitive procurement process for basic generation service
2 supply during the transition period, and costs of any such process
3 used to procure the basic generation service supply.

4 "Board" means the New Jersey Board of Public Utilities or any
5 successor agency.

6 "Bondable stranded costs" means any stranded costs or basic
7 generation service transition costs of an electric public utility
8 approved by the board for recovery pursuant to the provisions of
9 P.L.1999, c.23 (C.48:3-49 et al.), together with, as approved by the
10 board: (1) the cost of retiring existing debt or equity capital of the
11 electric public utility, including accrued interest, premium and other
12 fees, costs, and charges relating thereto, with the proceeds of the
13 financing of bondable transition property; (2) if requested by an
14 electric public utility in its application for a bondable stranded costs
15 rate order, federal, State and local tax liabilities associated with
16 stranded costs recovery, basic generation service transition cost
17 recovery, or the transfer or financing of the property, or both,
18 including taxes, whose recovery period is modified by the effect of
19 a stranded costs recovery order, a bondable stranded costs rate
20 order, or both; and (3) the costs incurred to issue, service or
21 refinance transition bonds, including interest, acquisition or
22 redemption premium, and other financing costs, whether paid upon
23 issuance or over the life of the transition bonds, including, but not
24 limited to, credit enhancements, service charges,
25 overcollateralization, interest rate cap, swap or collar, yield
26 maintenance, maturity guarantee or other hedging agreements,
27 equity investments, operating costs, and other related fees, costs,
28 and charges, or to assign, sell, or otherwise transfer bondable
29 transition property.

30 "Bondable stranded costs rate order" means one or more
31 irrevocable written orders issued by the board pursuant to P.L.1999,
32 c.23 (C.48:3-49 et al.) which determines the amount of bondable
33 stranded costs and the initial amount of transition bond charges
34 authorized to be imposed to recover the bondable stranded costs,
35 including the costs to be financed from the proceeds of the
36 transition bonds, as well as on-going costs associated with servicing
37 and credit enhancing the transition bonds, and provides the electric
38 public utility specific authority to issue or cause to be issued,
39 directly or indirectly, transition bonds through a financing entity
40 and related matters as provided in P.L.1999, c.23 (C.48:3-49 et al.),
41 which order shall become effective immediately upon the written
42 consent of the related electric public utility to the order as provided
43 in P.L.1999, c.23 (C.48:3-49 et al.).

44 "Bondable transition property" means the property consisting of
45 the irrevocable right to charge, collect, and receive, and be paid
46 from collections of, transition bond charges in the amount necessary
47 to provide for the full recovery of bondable stranded costs which
48 are determined to be recoverable in a bondable stranded costs rate

1 order, all rights of the related electric public utility under the
2 bondable stranded costs rate order including, without limitation, all
3 rights to obtain periodic adjustments of the related transition bond
4 charges pursuant to subsection b. of section 15 of P.L.1999,
5 c.23 (C.48:3-64), and all revenues, collections, payments, money,
6 and proceeds arising under, or with respect to, all of the foregoing.

7 "British thermal unit" or "Btu" means the amount of heat
8 required to increase the temperature of one pound of water by one
9 degree Fahrenheit.

10 "Broker" means a duly licensed electric power supplier that
11 assumes the contractual and legal responsibility for the sale of
12 electric generation service, transmission, or other services to end-
13 use retail customers, but does not take title to any of the power sold,
14 or a duly licensed gas supplier that assumes the contractual and
15 legal obligation to provide gas supply service to end-use retail
16 customers, but does not take title to the gas.

17 "Brownfield" means any former or current commercial or
18 industrial site that is currently vacant or underutilized and on which
19 there has been, or there is suspected to have been, a discharge of a
20 contaminant.

21 "Buydown" means an arrangement or arrangements involving the
22 buyer and seller in a given power purchase contract and, in some
23 cases third parties, for consideration to be given by the buyer in
24 order to effectuate a reduction in the pricing, or the restructuring of
25 other terms to reduce the overall cost of the power contract, for the
26 remaining succeeding period of the purchased power arrangement
27 or arrangements.

28 "Buyout" means an arrangement or arrangements involving the
29 buyer and seller in a given power purchase contract and, in some
30 cases third parties, for consideration to be given by the buyer in
31 order to effectuate a termination of such power purchase contract.

32 "Class I renewable energy" means electric energy produced from
33 solar technologies, photovoltaic technologies, wind energy, fuel
34 cells, geothermal technologies, wave or tidal action, small scale
35 hydropower facilities with a capacity of three megawatts or less and
36 put into service after the effective date of P.L.2012, c.24, **[and]**
37 methane gas from landfills **[or]** , methane gas from a biomass
38 facility**[.]** provided that the biomass is cultivated and harvested in a
39 sustainable manner , or methane gas from a composting or
40 anaerobic or aerobic digestion facility that converts food waste or
41 other organic waste to energy.

42 "Class II renewable energy" means electric energy produced at a
43 hydropower facility with a capacity of greater than three megawatts,
44 but less than 30 megawatts, or a resource recovery facility, provided
45 that the facility is located where retail competition is permitted and
46 provided further that the Commissioner of Environmental
47 Protection has determined that the facility meets the highest
48 environmental standards and minimizes any impacts to the

1 environment and local communities. Class II renewable energy
2 shall not include electric energy produced at a hydropower facility
3 with a capacity of greater than 30 megawatts on or after the
4 effective date of P.L.2015, c.51.

5 "Co-generation" means the sequential production of electricity
6 and steam or other forms of useful energy used for industrial or
7 commercial heating and cooling purposes.

8 "Combined cycle power facility" means a generation facility that
9 combines two or more thermodynamic cycles, by producing electric
10 power via the combustion of fuel and then routing the resulting
11 waste heat by-product to a conventional boiler or to a heat recovery
12 steam generator for use by a steam turbine to produce electric
13 power, thereby increasing the overall efficiency of the generating
14 facility.

15 "Combined heat and power facility" or "co-generation facility"
16 means a generation facility which produces electric energy and
17 steam or other forms of useful energy such as heat, which are used
18 for industrial or commercial heating or cooling purposes. A
19 combined heat and power facility or co-generation facility shall not
20 be considered a public utility.

21 "Competitive service" means any service offered by an electric
22 public utility or a gas public utility that the board determines to be
23 competitive pursuant to section 8 or section 10 of P.L.1999,
24 c.23 (C.48:3-56 or C.48:3-58) or that is not regulated by the board.

25 "Commercial and industrial energy pricing class customer" or
26 "CIEP class customer" means that group of non-residential
27 customers with high peak demand, as determined by periodic board
28 order, which either is eligible or which would be eligible, as
29 determined by periodic board order, to receive funds from the Retail
30 Margin Fund established pursuant to section 9 of P.L.1999,
31 c.23 (C.48:3-57) and for which basic generation service is hourly-
32 priced.

33 "Comprehensive resource analysis" means an analysis including,
34 but not limited to, an assessment of existing market barriers to the
35 implementation of energy efficiency and renewable technologies
36 that are not or cannot be delivered to customers through a
37 competitive marketplace.

38 "Connected to the distribution system" means, for a solar electric
39 power generation facility, that the facility is: (1) connected to a net
40 metering customer's side of a meter, regardless of the voltage at
41 which that customer connects to the electric grid; (2) an on-site
42 generation facility; (3) qualified for net metering aggregation as
43 provided pursuant to paragraph (4) of subsection e. of section 38 of
44 P.L.1999, c.23 (C.48:3-87); (4) owned or operated by an electric
45 public utility and approved by the board pursuant to section 13 of
46 P.L.2007, c.340 (C.48:3-98.1); (5) directly connected to the electric
47 grid at 69 kilovolts or less, regardless of how an electric public
48 utility classifies that portion of its electric grid, and is designated as

1 "connected to the distribution system" by the board pursuant to
2 subsections q. through s. of section 38 of P.L.1999, c.23 (C.48:3-
3 87); or (6) is certified by the board, in consultation with the
4 Department of Environmental Protection, as being located on a
5 brownfield, on an area of historic fill, or on a properly closed
6 sanitary landfill facility. Any solar electric power generation
7 facility, other than that of a net metering customer on the customer's
8 side of the meter, connected above 69 kilovolts shall not be
9 considered connected to the distribution system.

10 "Customer" means any person that is an end user and is
11 connected to any part of the transmission and distribution system
12 within an electric public utility's service territory or a gas public
13 utility's service territory within this State.

14 "Customer account service" means metering, billing, or such
15 other administrative activity associated with maintaining a customer
16 account.

17 "Delivery year" or "DY" means the 12-month period from June
18 1st through May 31st, numbered according to the calendar year in
19 which it ends.

20 "Demand side management" means the management of customer
21 demand for energy service through the implementation of cost-
22 effective energy efficiency technologies, including, but not limited
23 to, installed conservation, load management, and energy efficiency
24 measures on and in the residential, commercial, industrial,
25 institutional, and governmental premises and facilities in this State.

26 "Electric generation service" means the provision of retail
27 electric energy and capacity which is generated off-site from the
28 location at which the consumption of such electric energy and
29 capacity is metered for retail billing purposes, including agreements
30 and arrangements related thereto.

31 "Electric power generator" means an entity that proposes to
32 construct, own, lease, or operate, or currently owns, leases, or
33 operates, an electric power production facility that will sell or does
34 sell at least 90 percent of its output, either directly or through a
35 marketer, to a customer or customers located at sites that are not on
36 or contiguous to the site on which the facility will be located or is
37 located. The designation of an entity as an electric power generator
38 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in
39 and of itself, affect the entity's status as an exempt wholesale
40 generator under the Public Utility Holding Company Act of 1935,
41 15 U.S.C. s.79 et seq., or its successor act.

42 "Electric power supplier" means a person or entity that is duly
43 licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et
44 al.) to offer and to assume the contractual and legal responsibility to
45 provide electric generation service to retail customers, and includes
46 load serving entities, marketers, and brokers that offer or provide
47 electric generation service to retail customers. The term excludes an
48 electric public utility that provides electric generation service only

1 as a basic generation service pursuant to section 9 of P.L.1999,
2 c.23 (C.48:3-57).

3 "Electric public utility" means a public utility, as that term is
4 defined in R.S.48:2-13, that transmits and distributes electricity to
5 end users within this State.

6 "Electric related service" means a service that is directly related
7 to the consumption of electricity by an end user, including, but not
8 limited to, the installation of demand side management measures at
9 the end user's premises, the maintenance, repair, or replacement of
10 appliances, lighting, motors, or other energy-consuming devices at
11 the end user's premises, and the provision of energy consumption
12 measurement and billing services.

13 "Electronic signature" means an electronic sound, symbol, or
14 process, attached to, or logically associated with, a contract or other
15 record, and executed or adopted by a person with the intent to sign
16 the record.

17 "Eligible generator" means a developer of a base load or mid-
18 merit electric power generation facility including, but not limited to,
19 an on-site generation facility that qualifies as a capacity resource
20 under PJM criteria and that commences construction after the
21 effective date of P.L.2011, c.9 (C.48:3-98.2 et al.).

22 "Energy agent" means a person that is duly registered pursuant to
23 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), that arranges the
24 sale of retail electricity or electric related services, or retail gas
25 supply or gas related services, between government aggregators or
26 private aggregators and electric power suppliers or gas suppliers,
27 but does not take title to the electric or gas sold.

28 "Energy consumer" means a business or residential consumer of
29 electric generation service or gas supply service located within the
30 territorial jurisdiction of a government aggregator.

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

35 "Energy year" or "EY" means the 12-month period from June 1st
36 through May 31st, numbered according to the calendar year in
37 which it ends.

38 "Existing business relationship" means a relationship formed by
39 a voluntary two-way communication between an electric power
40 supplier, gas supplier, broker, energy agent, marketer, private
41 aggregator, sales representative, or telemarketer and a customer,
42 regardless of an exchange of consideration, on the basis of an
43 inquiry, application, purchase, or transaction initiated by the
44 customer regarding products or services offered by the electric
45 power supplier, gas supplier, broker, energy agent, marketer,
46 private aggregator, sales representative, or telemarketer; however, a
47 consumer's use of electric generation service or gas supply service
48 through the consumer's electric public utility or gas public utility

1 shall not constitute or establish an existing business relationship for
2 the purpose of P.L.2013, c.263.

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

7 "Federal Energy Regulatory Commission" or "FERC" means the
8 federal agency established pursuant to 42 U.S.C. s.7171 et seq. to
9 regulate the interstate transmission of electricity, natural gas, and
10 oil.

11 "Final remediation document" shall have the same meaning as
12 provided in section 3 of P.L.1976, c.141 (C.58:10-23.11b).

13 "Financing entity" means an electric public utility, a special
14 purpose entity, or any other assignee of bondable transition
15 property, which issues transition bonds. Except as specifically
16 provided in P.L.1999, c.23 (C.48:3-49 et al.), a financing entity
17 which is not itself an electric public utility shall not be subject to
18 the public utility requirements of Title 48 of the Revised Statutes or
19 any rules or regulations adopted pursuant thereto.

20 "Gas public utility" means a public utility, as that term is defined
21 in R.S.48:2-13, that distributes gas to end users within this State.

22 "Gas related service" means a service that is directly related to
23 the consumption of gas by an end user, including, but not limited to,
24 the installation of demand side management measures at the end
25 user's premises, the maintenance, repair or replacement of
26 appliances or other energy-consuming devices at the end user's
27 premises, and the provision of energy consumption measurement
28 and billing services.

29 "Gas supplier" means a person that is duly licensed pursuant to
30 the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and
31 assume the contractual and legal obligation to provide gas supply
32 service to retail customers, and includes, but is not limited to,
33 marketers and brokers. A non-public utility affiliate of a public
34 utility holding company may be a gas supplier, but a gas public
35 utility or any subsidiary of a gas utility is not a gas supplier. In the
36 event that a gas public utility is not part of a holding company legal
37 structure, a related competitive business segment of that gas public
38 utility may be a gas supplier, provided that related competitive
39 business segment is structurally separated from the gas public
40 utility, and provided that the interactions between the gas public
41 utility and the related competitive business segment are subject to
42 the affiliate relations standards adopted by the board pursuant to
43 subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58).

44 "Gas supply service" means the provision to customers of the
45 retail commodity of gas, but does not include any regulated
46 distribution service.

47 "Government aggregator" means any government entity subject
48 to the requirements of the "Local Public Contracts Law," P.L.1971,

1 c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law,"
2 N.J.S.18A:18A-1 et seq., or the "County College Contracts Law,"
3 P.L.1982, c.189 (C.18A:64A-25.1 et seq.), that enters into a written
4 contract with a licensed electric power supplier or a licensed gas
5 supplier for: (1) the provision of electric generation service, electric
6 related service, gas supply service, or gas related service for its own
7 use or the use of other government aggregators; or (2) if a
8 municipal or county government, the provision of electric
9 generation service or gas supply service on behalf of business or
10 residential customers within its territorial jurisdiction.

11 "Government energy aggregation program" means a program and
12 procedure pursuant to which a government aggregator enters into a
13 written contract for the provision of electric generation service or
14 gas supply service on behalf of business or residential customers
15 within its territorial jurisdiction.

16 "Governmental entity" means any federal, state, municipal, local,
17 or other governmental department, commission, board, agency,
18 court, authority, or instrumentality having competent jurisdiction.

19 "Greenhouse gas emissions portfolio standard" means a
20 requirement that addresses or limits the amount of carbon dioxide
21 emissions indirectly resulting from the use of electricity as applied
22 to any electric power suppliers and basic generation service
23 providers of electricity.

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

35 "Incremental auction" means an auction conducted by PJM, as
36 part of PJM's reliability pricing model, prior to the start of the
37 delivery year to secure electric capacity as necessary to satisfy the
38 capacity requirements for that delivery year, that is not otherwise
39 provided for in the base residual auction.

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

45 "Locational deliverability area" or "LDA" means one or more of
46 the zones within the PJM region which are used to evaluate area
47 transmission constraints and reliability issues including electric

1 public utility company zones, sub-zones, and combinations of
2 zones.

3 "Long-term capacity agreement pilot program" or "LCAPP"
4 means a pilot program established by the board that includes
5 participation by eligible generators, to seek offers for financially-
6 settled standard offer capacity agreements with eligible generators
7 pursuant to the provisions of P.L.2011, c.9 (C.48:3-98.2 et al.).

8 "Market transition charge" means a charge imposed pursuant to
9 section 13 of P.L.1999, c.23 (C.48:3-61) by an electric public
10 utility, at a level determined by the board, on the electric public
11 utility customers for a limited duration transition period to recover
12 stranded costs created as a result of the introduction of electric
13 power supply competition pursuant to the provisions of P.L.1999,
14 c.23 (C.48:3-49 et al.).

15 "Marketer" means a duly licensed electric power supplier that
16 takes title to electric energy and capacity, transmission and other
17 services from electric power generators and other wholesale
18 suppliers and then assumes the contractual and legal obligation to
19 provide electric generation service, and may include transmission
20 and other services, to an end-use retail customer or customers, or a
21 duly licensed gas supplier that takes title to gas and then assumes
22 the contractual and legal obligation to provide gas supply service to
23 an end-use customer or customers.

24 "Mid-merit electric power generation facility" means a
25 generation facility that operates at a capacity factor between
26 baseload generation facilities and peaker generation facilities.

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

35 "Net proceeds" means proceeds less transaction and other related
36 costs as determined by the board.

37 "Net revenues" means revenues less related expenses, including
38 applicable taxes, as determined by the board.

39 "Offshore wind energy" means electric energy produced by a
40 qualified offshore wind project.

41 "Offshore wind renewable energy certificate" or "OREC" means
42 a certificate, issued by the board or its designee, representing the
43 environmental attributes of one megawatt hour of electric
44 generation from a qualified offshore wind project.

45 "Off-site end use thermal energy services customer" means an
46 end use customer that purchases thermal energy services from an
47 on-site generation facility, combined heat and power facility, or co-
48 generation facility, and that is located on property that is separated

1 from the property on which the on-site generation facility,
2 combined heat and power facility, or co-generation facility is
3 located by more than one easement, public thoroughfare, or
4 transportation or utility-owned right-of-way.

5 "On-site generation facility" means a generation facility,
6 including, but not limited to, a generation facility that produces
7 Class I or Class II renewable energy, and equipment and services
8 appurtenant to electric sales by such facility to the end use customer
9 located on the property or on property contiguous to the property on
10 which the end user is located. An on-site generation facility shall
11 not be considered a public utility. The property of the end use
12 customer and the property on which the on-site generation facility is
13 located shall be considered contiguous if they are geographically
14 located next to each other, but may be otherwise separated by an
15 easement, public thoroughfare, transportation or utility-owned
16 right-of-way, or if the end use customer is purchasing thermal
17 energy services produced by the on-site generation facility, for use
18 for heating or cooling, or both, regardless of whether the customer
19 is located on property that is separated from the property on which
20 the on-site generation facility is located by more than one easement,
21 public thoroughfare, or transportation or utility-owned right-of-way.

22 "Person" means an individual, partnership, corporation,
23 association, trust, limited liability company, governmental entity, or
24 other legal entity.

25 "PJM Interconnection, L.L.C." or "PJM" means the privately-
26 held, limited liability corporation that is a FERC-approved Regional
27 Transmission Organization, or its successor, that manages the
28 regional, high-voltage electricity grid serving all or parts of 13
29 states including New Jersey and the District of Columbia, operates
30 the regional competitive wholesale electric market, manages the
31 regional transmission planning process, and establishes systems and
32 rules to ensure that the regional and in-State energy markets operate
33 fairly and efficiently.

34 "Preliminary assessment" shall have the same meaning as
35 provided in section 3 of P.L.1976, c.141 (C.58:10-23.11b).

36 "Private aggregator" means a non-government aggregator that is
37 a duly-organized business or non-profit organization authorized to
38 do business in this State that enters into a contract with a duly
39 licensed electric power supplier for the purchase of electric energy
40 and capacity, or with a duly licensed gas supplier for the purchase
41 of gas supply service, on behalf of multiple end-use customers by
42 combining the loads of those customers.

43 "Properly closed sanitary landfill facility" means a sanitary
44 landfill facility, or a portion of a sanitary landfill facility, for which
45 performance is complete with respect to all activities associated
46 with the design, installation, purchase, or construction of all
47 measures, structures, or equipment required by the Department of
48 Environmental Protection, pursuant to law, in order to prevent,

1 minimize, or monitor pollution or health hazards resulting from a
2 sanitary landfill facility subsequent to the termination of operations
3 at any portion thereof, including, but not necessarily limited to, the
4 placement of earthen or vegetative cover, and the installation of
5 methane gas vents or monitors and leachate monitoring wells or
6 collection systems at the site of any sanitary landfill facility.

7 "Public utility holding company" means: (1) any company that,
8 directly or indirectly, owns, controls, or holds with power to vote,
9 10 percent or more of the outstanding voting securities of an
10 electric public utility or a gas public utility or of a company which
11 is a public utility holding company by virtue of this definition,
12 unless the Securities and Exchange Commission, or its successor,
13 by order declares such company not to be a public utility holding
14 company under the Public Utility Holding Company Act of 1935,
15 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the
16 Securities and Exchange Commission, or its successor, determines,
17 after notice and opportunity for hearing, directly or indirectly, to
18 exercise, either alone or pursuant to an arrangement or
19 understanding with one or more other persons, such a controlling
20 influence over the management or policies of an electric public
21 utility or a gas public utility or public utility holding company as to
22 make it necessary or appropriate in the public interest or for the
23 protection of investors or consumers that such person be subject to
24 the obligations, duties, and liabilities imposed in the Public Utility
25 Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its
26 successor act.

27 "Qualified offshore wind project" means a wind turbine
28 electricity generation facility in the Atlantic Ocean and connected
29 to the electric transmission system in this State, and includes the
30 associated transmission-related interconnection facilities and
31 equipment, and approved by the board pursuant to section 3 of
32 P.L.2010, c.57 (C.48:3-87.1).

33 "Registration program" means an administrative process
34 developed by the board pursuant to subsection u. of section 38 of
35 P.L.1999, c.23 (C.48:3-87) that requires all owners of solar electric
36 power generation facilities connected to the distribution system that
37 intend to generate SRECs, to file with the board documents
38 detailing the size, location, interconnection plan, land use, and other
39 project information as required by the board.

40 "Regulatory asset" means an asset recorded on the books of an
41 electric public utility or gas public utility pursuant to the Statement
42 of Financial Accounting Standards, No. 71, entitled "Accounting for
43 the Effects of Certain Types of Regulation," or any successor
44 standard and as deemed recoverable by the board.

45 "Related competitive business segment of an electric public
46 utility or gas public utility" means any business venture of an
47 electric public utility or gas public utility including, but not limited

1 to, functionally separate business units, joint ventures, and
2 partnerships, that offers to provide or provides competitive services.

3 "Related competitive business segment of a public utility holding
4 company" means any business venture of a public utility holding
5 company, including, but not limited to, functionally separate
6 business units, joint ventures, and partnerships and subsidiaries, that
7 offers to provide or provides competitive services, but does not
8 include any related competitive business segments of an electric
9 public utility or gas public utility.

10 "Reliability pricing model" or "RPM" means PJM's capacity-
11 market model, and its successors, that secures capacity on behalf of
12 electric load serving entities to satisfy load obligations not satisfied
13 through the output of electric generation facilities owned by those
14 entities, or otherwise secured by those entities through bilateral
15 contracts.

16 "Renewable energy certificate" or "REC" means a certificate
17 representing the environmental benefits or attributes of one
18 megawatt-hour of generation from a generating facility that
19 produces Class I or Class II renewable energy, but shall not include
20 a solar renewable energy certificate or an offshore wind renewable
21 energy certificate.

22 "Resource clearing price" or "RCP" means the clearing price
23 established for the applicable locational deliverability area by the
24 base residual auction or incremental auction, as determined by the
25 optimization algorithm for each auction, conducted by PJM as part
26 of PJM's reliability pricing model.

27 "Resource recovery facility" means a solid waste facility
28 constructed and operated for the incineration of solid waste for
29 energy production and the recovery of metals and other materials
30 for reuse, which the Department of Environmental Protection has
31 determined to be in compliance with current environmental
32 standards, including, but not limited to, all applicable requirements
33 of the federal "Clean Air Act" (42 U.S.C. s.7401 et seq.).

34 "Restructuring related costs" means reasonably incurred costs
35 directly related to the restructuring of the electric power industry,
36 including the closure, sale, functional separation, and divestiture of
37 generation and other competitive utility assets by a public utility, or
38 the provision of competitive services as those costs are determined
39 by the board, and which are not stranded costs as defined in
40 P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be limited
41 to, investments in management information systems, and which
42 shall include expenses related to employees affected by
43 restructuring which result in efficiencies and which result in
44 benefits to ratepayers, such as training or retraining at the level
45 equivalent to one year's training at a vocational or technical school
46 or county community college, the provision of severance pay of two
47 weeks of base pay for each year of full-time employment, and a
48 maximum of 24 months' continued health care coverage. Except as

1 to expenses related to employees affected by restructuring,
2 "restructuring related costs" shall not include going forward costs.

3 "Retail choice" means the ability of retail customers to shop for
4 electric generation or gas supply service from electric power or gas
5 suppliers, or opt to receive basic generation service or basic gas
6 service, and the ability of an electric power or gas supplier to offer
7 electric generation service or gas supply service to retail customers,
8 consistent with the provisions of P.L.1999, c.23 (C.48:3-49 et al.).

9 "Retail margin" means an amount, reflecting differences in
10 prices that electric power suppliers and electric public utilities may
11 charge in providing electric generation service and basic generation
12 service, respectively, to retail customers, excluding residential
13 customers, which the board may authorize to be charged to
14 categories of basic generation service customers of electric public
15 utilities in this State, other than residential customers, under the
16 board's continuing regulation of basic generation service pursuant to
17 sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and 48:3-57), for the
18 purpose of promoting a competitive retail market for the supply of
19 electricity.

20 "Sales representative" means a person employed by, acting on
21 behalf of, or as an independent contractor for, an electric power
22 supplier, gas supplier, broker, energy agent, marketer, or private
23 aggregator who, by any means, solicits a potential residential
24 customer for the provision of electric generation service or gas
25 supply service.

26 "Sanitary landfill facility" shall have the same meaning as
27 provided in section 3 of P.L.1970, c.39 (C.13:1E-3).

28 "School district" means a local or regional school district
29 established pursuant to chapter 8 or chapter 13 of Title 18A of the
30 New Jersey Statutes, a county special services school district
31 established pursuant to article 8 of chapter 46 of Title 18A of the
32 New Jersey Statutes, a county vocational school district established
33 pursuant to article 3 of chapter 54 of Title 18A of the New Jersey
34 Statutes, and a district under full State intervention pursuant to
35 P.L.1987, c.399 (C.18A:7A-34 et al.).

36 "Shopping credit" means an amount deducted from the bill of an
37 electric public utility customer to reflect the fact that the customer
38 has switched to an electric power supplier and no longer takes basic
39 generation service from the electric public utility.

40 "Site investigation" shall have the same meaning as provided in
41 section 3 of P.L.1976, c.141 (C.58:10-23.11b).

42 "Small scale hydropower facility" means a facility located within
43 this State that is connected to the distribution system, and that
44 meets the requirements of, and has been certified by, a nationally
45 recognized low-impact hydropower organization that has
46 established low-impact hydropower certification criteria applicable
47 to: (1) river flows; (2) water quality; (3) fish passage and
48 protection; (4) watershed protection; (5) threatened and endangered

1 species protection; (6) cultural resource protection; (7) recreation;
2 and (8) facilities recommended for removal.

3 "Social program" means a program implemented with board
4 approval to provide assistance to a group of disadvantaged
5 customers, to provide protection to consumers, or to accomplish a
6 particular societal goal, and includes, but is not limited to, the
7 winter moratorium program, utility practices concerning "bad debt"
8 customers, low income assistance, deferred payment plans,
9 weatherization programs, and late payment and deposit policies, but
10 does not include any demand side management program or any
11 environmental requirements or controls.

12 "Societal benefits charge" means a charge imposed by an electric
13 public utility, at a level determined by the board, pursuant to, and in
14 accordance with, section 12 of P.L.1999, c.23 (C.48:3-60).

15 "Solar alternative compliance payment" or "SACP" means a
16 payment of a certain dollar amount per megawatt hour (MWh)
17 which an electric power supplier or provider may submit to the
18 board in order to comply with the solar electric generation
19 requirements under section 38 of P.L.1999, c.23 (C.48:3-87).

20 "Solar renewable energy certificate" or "SREC" means a
21 certificate issued by the board or its designee, representing one
22 megawatt hour (MWh) of solar energy that is generated by a facility
23 connected to the distribution system in this State and has value
24 based upon, and driven by, the energy market.

25 "Standard offer capacity agreement" or "SOCA" means a
26 financially-settled transaction agreement, approved by board order,
27 that provides for eligible generators to receive payments from the
28 electric public utilities for a defined amount of electric capacity for
29 a term to be determined by the board but not to exceed 15 years,
30 and for such payments to be a fully non-bypassable charge, with
31 such an order, once issued, being irrevocable.

32 "Standard offer capacity price" or "SOCP" means the capacity
33 price that is fixed for the term of the SOCA and which is the price
34 to be received by eligible generators under a board-approved
35 SOCA.

36 "State entity" means a department, agency, or office of State
37 government, a State university or college, or an authority created by
38 the State.

39 "Stranded cost" means the amount by which the net cost of an
40 electric public utility's electric generating assets or electric power
41 purchase commitments, as determined by the board consistent with
42 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), exceeds the
43 market value of those assets or contractual commitments in a
44 competitive supply marketplace and the costs of buydowns or
45 buyouts of power purchase contracts.

46 "Stranded costs recovery order" means each order issued by the
47 board in accordance with subsection c. of section 13 of P.L.1999,
48 c.23 (C.48:3-61) which sets forth the amount of stranded costs, if

1 any, the board has determined an electric public utility is eligible to
2 recover and collect in accordance with the standards set forth in
3 section 13 of P.L.1999, c.23 (C.48:3-61) and the recovery
4 mechanisms therefor.

5 "Telemarketer" shall have the same meaning as set forth in
6 section 2 of P.L.2003, c.76 (C.56:8-120).

7 "Telemarketing sales call" means a telephone call made by a
8 telemarketer to a potential residential customer as part of a plan,
9 program, or campaign to encourage the customer to change the
10 customer's electric power supplier or gas supplier. A telephone call
11 made to an existing customer of an electric power supplier, gas
12 supplier, broker, energy agent, marketer, private aggregator, or
13 sales representative, for the sole purpose of collecting on accounts
14 or following up on contractual obligations, shall not be deemed a
15 telemarketing sales call. A telephone call made in response to an
16 express written request of a customer shall not be deemed a
17 telemarketing sales call.

18 "Thermal efficiency" means the useful electric energy output of a
19 facility, plus the useful thermal energy output of the facility,
20 expressed as a percentage of the total energy input to the facility.

21 "Transition bond charge" means a charge, expressed as an
22 amount per kilowatt hour, that is authorized by and imposed on
23 electric public utility ratepayers pursuant to a bondable stranded
24 costs rate order, as modified at any time pursuant to the provisions
25 of P.L.1999, c.23 (C.48:3-49 et al.).

26 "Transition bonds" means bonds, notes, certificates of
27 participation, beneficial interest, or other evidences of indebtedness
28 or ownership issued pursuant to an indenture, contract, or other
29 agreement of an electric public utility or a financing entity, the
30 proceeds of which are used, directly or indirectly, to recover,
31 finance or refinance bondable stranded costs and which are, directly
32 or indirectly, secured by or payable from bondable transition
33 property. References in P.L.1999, c.23 (C.48:3-49 et al.) to
34 principal, interest, and acquisition or redemption premium with
35 respect to transition bonds which are issued in the form of
36 certificates of participation or beneficial interest or other evidences
37 of ownership shall refer to the comparable payments on such
38 securities.

39 "Transition period" means the period from August 1, 1999
40 through July 31, 2003.

41 "Transmission and distribution system" means, with respect to an
42 electric public utility, any facility or equipment that is used for the
43 transmission, distribution, or delivery of electricity to the customers
44 of the electric public utility including, but not limited to, the land,
45 structures, meters, lines, switches, and all other appurtenances
46 thereof and thereto, owned or controlled by the electric public
47 utility within this State.

1 "Universal service" means any service approved by the board
2 with the purpose of assisting low-income residential customers in
3 obtaining or retaining electric generation or delivery service.

4 "Unsolicited advertisement" means any advertising claims of the
5 commercial availability or quality of services provided by an
6 electric power supplier, gas supplier, broker, energy agent,
7 marketer, private aggregator, sales representative, or telemarketer
8 which is transmitted to a potential customer without that customer's
9 prior express invitation or permission.
10 (cf: P.L.2015, c.51, s.1)

11

12 7. This act shall take effect immediately.

13

14

15

STATEMENT

16

17 This bill would require certain generators of solid waste to
18 separate and recycle food waste, and amend the definition of "Class
19 I renewable energy."

20 Specifically, under the bill, beginning January 1, 2020, every
21 large food waste generator that is located within 25 road miles of an
22 authorized food waste recycling facility and that generates an
23 average projected volume of 104 or more tons per year of food
24 waste would be required to: (1) source separate its food waste from
25 other solid waste; and (2) send that source separated food waste to
26 an authorized food waste recycling facility that has available
27 capacity and will accept it. Beginning January 1, 2023, large food
28 waste generators that produce an average projected volume of 52 or
29 more tons per year of food waste would have to comply with these
30 requirements.

31 Under the bill, if a large food waste generator is not located
32 within 25 road miles of an authorized food waste recycling facility,
33 or the facility will not accept the generator's food waste, the
34 generator may send the food waste for final disposal at a solid waste
35 management facility. In addition, a large food waste generator
36 would be deemed in compliance with the bill if the generator: (1)
37 performs enclosed, on-site composting or anaerobic or aerobic
38 digestion of its source separate food waste; or (2) recycles food
39 waste using an alternative authorized food waste recycling method.
40 Moreover, the bill would authorize a large food waste generator to
41 petition the Department of Environmental Protection (DEP) for a
42 waiver of the recycling requirement if the transportation cost
43 together with the fee for recycling is at least 10 percent more than
44 the transportation costs and disposal fee for noncontract commercial
45 solid waste disposal. The bill provides that a large food waste
46 generator would be deemed to be in compliance with the bill if: (1)
47 the large food waste generator sends its food waste for final
48 disposal to a sanitary landfill facility that has a landfill gas recovery

1 system that was financed by the New Jersey Environmental
2 Infrastructure Trust, the DEP, or both; and (2) the food waste is sent
3 to the sanitary landfill facility no later than 15 years after receipt of
4 that financing by the sanitary landfill facility.

5 Any person who violates the bill would be subject to a civil
6 penalty of \$250 for the first offense, \$500 for the second offense,
7 and \$1,000 for the third and subsequent offenses. If the violation is
8 of a continuing nature, each day during which the violation
9 continues would constitute a separate offense.

10 The DEP would be required to adopt regulations concerning: (1)
11 recording keeping and reporting requirements for large food waste
12 generators and authorized food waste recycling centers; (2)
13 guidelines and procedures for businesses to follow to determine
14 whether they are subject to the requirements of the bill; (3) a list of
15 food waste products that must be source separated and recycled
16 pursuant to the bill; (4) standards for the enclosed on-site
17 composting or anaerobic or aerobic digestion of source separated
18 food waste, including requirements for energy production and other
19 sustainable uses of the byproducts of recycled food waste; and (5) a
20 list of actions businesses may take to reduce the amount of food
21 waste they generate to a level below the threshold amounts
22 established in the bill. The DEP would publish on its Internet
23 website the name, location, and contact information for each
24 authorized food waste recycling facility in the State.

25 The bill would provide for a local economic benefit payment to
26 any municipality that hosts a facility approved to accept food waste.
27 The bill would also establish the Food Waste Recycling Market
28 Development Council. The bill would require State departments
29 and agencies to use, where technically feasible, environmentally
30 sound, and competitively priced, compost, mulch, or other soil
31 amendments produced from municipal solid waste, food waste,
32 sludge, yard waste, clean wood waste, or other similar materials.
33 Finally, the bill would amend the definition of "Class I renewable
34 energy" to include electric energy produced from methane gas from
35 a composting or anaerobic or aerobic digestion facility that converts
36 food waste or other organic waste to energy.