

P.L. 2007, CHAPTER 112, *approved July 6, 2007*  
Assembly Committee Substitute (*First Reprint*) for  
Assembly, No. 3301

1 AN ACT concerning the reduction of greenhouse gases,  
2 supplementing Title 26 of the Revised Statutes, and amending  
3 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) This act shall be known and may be cited as  
9 the “Global Warming Response Act.”

10  
11 2. (New section) The Legislature finds and declares that  
12 internationally the issue of global warming has caused alarm,  
13 awareness, and action concerning climate changes occurring around  
14 the globe attributed to the high level of certain gases called  
15 “greenhouse gases” – gases that increase temperatures in the  
16 atmosphere and the risk of catastrophic changes to the Earth’s  
17 ecosystems and environment; that, while this global warming may  
18 be a theory to some, the effects of increasing levels of greenhouse  
19 gases in the atmosphere are accepted by many respected scientists  
20 and members of the international community as seriously  
21 detrimental to the ecosystems and environment of the world; that,  
22 ultimately, if steps are not taken to reverse these trends, the effects  
23 on human, animal and plant life on Earth may be catastrophic; that  
24 solutions exist to halt the increasing of greenhouse gases in the  
25 atmosphere and reduce these emissions; that, as a global issue, each  
26 country and region within a country must do its part to reduce these  
27 greenhouse gases that threaten the globe; and that, as a State, there  
28 are specific actions that can be taken to attack the problem of global  
29 warming, through reductions of greenhouse gas emissions in the  
30 State and participation in regional and interstate initiatives to reduce  
31 these emissions regionally, nationally, and internationally.

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

39  
40 3. (New section) For the purposes of this act:

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly ABU committee amendments adopted June 18, 2007.

1 “Department” means the Department of Environmental  
2 Protection.

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

8 <sup>1</sup> “[Leakage” means an increase in greenhouse gas emissions  
9 related to generation sources located outside of the State that are not  
10 subject to a state, interstate or regional greenhouse gas emissions  
11 cap that applies to generation sources located within the State.]<sup>1</sup>

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

17 “2020 limit” means the level of greenhouse gas emissions equal  
18 to the 1990 level of Statewide greenhouse gas emissions.

19 “2050 limit” means the level of greenhouse gas emissions equal  
20 to 80 percent less than the 2006 level of Statewide greenhouse gas  
21 emissions.

22  
23 4. (New section) a. No later than January 1, 2020, the level of  
24 Statewide greenhouse gas emissions shall be reduced to, or below,  
25 the 2020 limit. No later than January 1, 2050, the greenhouse gas  
26 emissions in the State shall be stabilized at or below the 2050 limit  
27 and shall not exceed that level thereafter. The department shall  
28 consider the economic impact upon the State and upon the emitters  
29 of a greenhouse gas for any measure imposed to meet the 2020 limit  
30 and the 2050 limit.

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

33 (1) an inventory of the current and 2006 Statewide greenhouse  
34 gas emissions; and

35 (2) an inventory of the 1990 level of Statewide greenhouse gas  
36 emissions.

37  
38 5. (New section) a. No later than January 1, 2009, the  
39 department shall adopt, pursuant to the “Administrative Procedure  
40 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations  
41 establishing a greenhouse gas emissions monitoring and reporting  
42 program to monitor and report Statewide greenhouse gas emissions.

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

- 1 (1) monitoring and reporting of existing emissions and changes  
2 in emissions over time from the sources identified by the  
3 department;
- 4 (2) reporting the levels of those emissions and changes in those  
5 emissions levels annually, commencing on January 1, 2009; and
- 6 (3) monitoring progress toward the 2020 limit and the 2050 limit.
- 7 c. Pursuant to the rules and regulations adopted pursuant to  
8 subsection a. of this section, the department shall require reporting  
9 of the greenhouse gas emissions:
- 10 (1) associated with fossil fuels used in the State, as reported by  
11 entities that are manufacturers and distributors of fossil fuels, which  
12 may include, but need not be limited to, oil refineries, oil storage  
13 facilities, natural gas pipelines, and fuel wholesale and retail  
14 distributors;
- 15 (2) from any entity generating electricity in the State and from  
16 any entity that generates electricity outside the State that is  
17 delivered for end use in the State. With respect to electricity  
18 generated outside the State and imported into the State, the  
19 department shall determine the emissions from that generation by  
20 subtracting the kilowatt-hours of electricity generated in the State  
21 from the kilowatt-hours of electricity consumed in the State, and  
22 multiplying the difference by a default emissions rate determined by  
23 the department;
- 24 (3) from any gas public utility as defined in section 3 of  
25 P.L.1999, c.23 (C.48:3-51); and
- 26 (4) from any additional entities that are significant emitters of  
27 greenhouse gases, as determined by the department, and as  
28 appropriate to enable the department to monitor compliance with  
29 progress toward the 2020 limit and the 2050 limit.
- 30 <sup>1</sup>[d. There is created in the department, a special, nonlapsing  
31 fund to be known as the "Greenhouse Gas Emissions Control  
32 Fund." The department may adopt, by rule or regulation, a schedule  
33 of reasonable fees to be paid by those entities required to report  
34 greenhouse gas emissions pursuant to this section, in an amount  
35 sufficient to cover the department's costs to administer the  
36 requirements of this act. The fees collected pursuant to this  
37 subsection shall be deposited in the Greenhouse Gas Emissions  
38 Control Fund and shall be made available to implement the  
39 provisions of this act.
- 40 e. Subsection d. of this section shall be without effect and the  
41 department shall have no authority to impose a fee pursuant to this  
42 section on and after the 10th day following a certification by the  
43 Director of the Division of Budget and Accounting in the  
44 Department of the Treasury pursuant to subsection b. of section 8 of  
45 this act.]<sup>1</sup>

1       6. (New section) a. The department, in consultation with the  
2 Board of Public Utilities, the Department of Agriculture, the  
3 Department of Transportation, and the Department of Community  
4 Affairs, shall evaluate policies and measures that will enable the  
5 State to achieve the 2020 limit, shall make specific  
6 recommendations on how to achieve the emission reduction targets,  
7 including measures that reduce emissions in all sectors of the  
8 economy including transportation, housing, and consumer products,  
9 and shall evaluate the economic benefits and costs of implementing  
10 these recommendations. The department shall coordinate its  
11 evaluation of greenhouse gas emission reduction policies and  
12 measures with the work of the Energy Master Plan Committee  
13 established pursuant to section 12 of P.L.1977, c.146 (C.52:27F-  
14 14).

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

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

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

45       e. Nothing in this act shall impose any limit on the existing  
46 authority of the department, the Board of Public Utilities, or any

1 other State department or agency to limit or regulate greenhouse gas  
2 emissions pursuant to law.

3

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

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

20

21 <sup>1</sup> 8. (New section) a. The annual appropriations act for each  
22 State fiscal year shall, without other conditions, limitations or  
23 restrictions, appropriate the amounts paid as fees imposed pursuant  
24 to subsection d. of section 5 of this act, for use by the Department  
25 of Environmental Protection to implement the provisions of this act.

26 b. If the requirements of subsection a. of this section are not met  
27 on the effective date of an annual appropriations act for the State  
28 fiscal year, or if an amendment or supplement to an annual  
29 appropriations act for the State fiscal year should violate any of the  
30 requirements of subsection a. of this section, the Director of the  
31 Division of Budget and Accounting in the Department of the  
32 Treasury shall, not later than five days after the enactment of the  
33 annual appropriations act, or the amendment or supplement thereto,  
34 that violates any of the requirements of subsection a. of this section,  
35 certify to the Commissioner of Environmental Protection and the  
36 State Treasurer that the requirements of subsection a. of this section  
37 have not been met.]<sup>1</sup>

38

39 <sup>1</sup>[9.] 8.<sup>1</sup> Section 38 of P.L. 1999, c.23 (C.48:3-87) is amended  
40 to read as follows:

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

- 1 (1) Its fuel mix, including categories for oil, gas, nuclear, coal,  
2 solar, hydroelectric, wind and biomass, or a regional average  
3 determined by the board;
- 4 (2) Its emissions, in pounds per megawatt hour, of sulfur  
5 dioxide, carbon dioxide, oxides of nitrogen, and any other pollutant  
6 that the board may determine to pose an environmental or health  
7 hazard, or an emissions default to be determined by the board; and
- 8 (3) Any discrete emission reduction retired pursuant to rules and  
9 regulations adopted pursuant to P.L.1995, c.188.
- 10 b. Notwithstanding any provisions of the "Administrative  
11 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
12 contrary, the board shall initiate a proceeding and shall adopt, in  
13 consultation with the Department of Environmental Protection, after  
14 notice and opportunity for public comment and public hearing,  
15 interim standards to implement this disclosure requirement,  
16 including, but not limited to:
- 17 (1) A methodology for disclosure of emissions based on output  
18 pounds per megawatt hour;
- 19 (2) Benchmarks for all suppliers and basic generation service  
20 providers to use in disclosing emissions that will enable consumers  
21 to perform a meaningful comparison with a supplier's or basic  
22 generation service provider's emission levels; and
- 23 (3) A uniform emissions disclosure format that is graphic in  
24 nature and easily understandable by consumers. The board shall  
25 periodically review the disclosure requirements to determine if  
26 revisions to the environmental disclosure system as implemented  
27 are necessary.
- 28 Such standards shall be effective as regulations immediately  
29 upon filing with the Office of Administrative Law and shall be  
30 effective for a period not to exceed 18 months, and may, thereafter,  
31 be amended, adopted or readopted by the board in accordance with  
32 the provisions of the "Administrative Procedure Act."
- 33 c. (1) The board may adopt, in consultation with the  
34 Department of Environmental Protection, after notice and  
35 opportunity for public comment, an emissions portfolio standard  
36 applicable to all electric power suppliers and basic generation  
37 service providers, upon a finding that:
- 38 (a) The standard is necessary as part of a plan to enable the  
39 State to meet federal Clean Air Act or State ambient air quality  
40 standards; and
- 41 (b) Actions at the regional or federal level cannot reasonably be  
42 expected to achieve the compliance with the federal standards.
- 43 (2) 【The】 If a State department or agency adopts regulations to  
44 implement a State policy or an interstate or regional agreement to  
45 reduce Statewide greenhouse gas emissions related to electricity  
46 generation, then the board shall adopt , pursuant to the  
47 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et

1 seq.), [an] a greenhouse gas emissions portfolio standard to  
2 mitigate leakage or another regulatory mechanism to mitigate  
3 leakage applicable to all electric power suppliers and basic  
4 generation service providers that provide electricity to customers  
5 within the State [, if two other states in the PJM power pool  
6 comprising at least 40 percent of the retail electric usage in the PJM  
7 Interconnection, L.L.C. independent system operator or its  
8 successor adopt such standards]. Any regulation to mitigate leakage  
9 shall:

10 (a) Allow a transition period, either before or after the effective  
11 date of the regulation to mitigate leakage, for a basic generation  
12 service provider or electric power supplier to either meet the  
13 emissions portfolio standard or other regulatory mechanism to  
14 mitigate leakage, or to transfer any customer to a basic generation  
15 service provider or electric power supplier that meets the emissions  
16 portfolio standard or other regulatory mechanism to mitigate  
17 leakage <sup>1</sup>. If the transition period allowed pursuant to this  
18 subparagraph occurs after the implementation of a emissions  
19 portfolio standard or other regulatory mechanism to mitigate  
20 leakage, the transition period shall be no longer than three years <sup>1</sup> ;  
21 and

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

25 d. Notwithstanding any provisions of the "Administrative  
26 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
27 contrary, the board shall initiate a proceeding and shall adopt, after  
28 notice, provision of the opportunity for comment, and public  
29 hearing, interim renewable energy portfolio standards that shall  
30 require:

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

35 (2) beginning on January 1, 2001, that one-half of one percent  
36 of the kilowatt hours sold in this State by each electric power  
37 supplier and each basic generation service provider be from Class I  
38 renewable energy sources. The board shall increase the required  
39 percentage for Class I renewable energy sources so that by January  
40 1, 2006, one percent of the kilowatt hours sold in this State by each  
41 electric power supplier and each basic generation service provider  
42 shall be from Class I renewable energy sources and shall  
43 additionally increase the required percentage for Class I renewable  
44 energy sources by one-half of one percent each year until January  
45 1, 2012, when four percent of the kilowatt hours sold in this State  
46 by each electric power supplier and each basic generation service  
47 provider shall be from Class I renewable energy sources.

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

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

10 e. Notwithstanding any provisions of the "Administrative  
11 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
12 contrary, the board shall initiate a proceeding and shall adopt, after  
13 notice, provision of the opportunity for comment, and public  
14 hearing:

15 (1) net metering standards for electric power suppliers and basic  
16 generation service providers. The standards shall require electric  
17 power suppliers and basic generation service providers to offer net  
18 metering at non-discriminatory rates to residential and small  
19 commercial customers that generate electricity, on the customer's  
20 side of the meter, using wind or solar photovoltaic systems for the  
21 net amount of electricity supplied by the electric power supplier or  
22 basic generation service provider over an annualized period. Where  
23 the amount of electricity generated by the customer-generator plus  
24 any kilowatt hour credits held over from the previous billing  
25 periods exceed the electricity supplied by the electric power  
26 supplier or basic generation service provider, the electric power  
27 supplier or basic generation service provider, as the case may be,  
28 shall credit the customer for the excess kilowatt hours until the end  
29 of the annualized period at which point the customer-generator will  
30 be compensated for any remaining credits at the electric power  
31 supplier's or basic generation service provider's avoided cost of  
32 wholesale power. The board may authorize an electric power  
33 supplier or basic generation service provider to cease offering net  
34 metering whenever the total rated generating capacity owned and  
35 operated by net metering customer-generators Statewide equals 0.1  
36 percent of the State's peak electricity demand or the annual  
37 aggregate financial impact to electric power suppliers and basic  
38 generation service providers Statewide, as determined by the board,  
39 exceeds \$2,000,000, whichever is less; and

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

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



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

6 f. The board may assess, by written order and after notice and  
7 opportunity for comment, a separate fee to cover the cost of  
8 implementing and overseeing an emission disclosure system or  
9 emission portfolio standard, which fee shall be assessed based on an  
10 electric power supplier's or basic generation service provider's share  
11 of the retail electricity supply market. 'The board shall not impose  
12 a fee for the cost of implementing and overseeing a greenhouse gas  
13 emissions portfolio standard adopted pursuant to paragraph (2) of  
14 subsection c. of this section, the electric energy efficiency portfolio  
15 standard adopted pursuant to subsection g. of this section, or the gas  
16 energy efficiency portfolio standard adopted pursuant to subsection  
17 h. of this section.<sup>1</sup>

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

28 h. The board may adopt, pursuant to the "Administrative  
29 Procedure Act," a gas energy efficiency portfolio standard that may  
30 require each gas public utility to implement energy efficiency  
31 measures that reduce natural gas usage for heating in the State by  
32 2020 to a level that is 20 percent below the usage projected by the  
33 board in the absence of such a standard. Nothing in this section  
34 shall be construed to prevent a gas public utility from meeting the  
35 requirements of this section by contracting with another entity for  
36 the performance of the requirements.

37 i. As used in this section:

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

42 "Greenhouse gas emissions portfolio standard" means a  
43 requirement that addresses or limits the amount of carbon dioxide  
44 emissions indirectly resulting from the use of electricity as applied  
45 to any electric power suppliers and basic generation service  
46 providers of electricity.

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

6 (cf: P.L.1999, c.23, s.38)

7  
8 **'[10.] 9.'** (New section) a. No later than June 30, 2008, the  
9 department shall designate an independent research review panel  
10 consisting of economists, business managers, 'nonprofit  
11 environmental organization representatives.' and public officials,  
12 and scientists from academia, industry and the government, to  
13 review the recommendations and evaluations submitted by the  
14 department and any other State agencies, as appropriate, in the  
15 reports required pursuant to section 6 of this act.

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

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

31  
32 **'[11.] 10.'** This act shall take effect immediately.

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36  
37 The "Global Warming Response Act."