

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:

¹ 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 ¹“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.]¹

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 ¹[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.]¹

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 ¹ 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.]¹
38

39 ¹[9.] 8.¹ 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 ¹. 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 ¹ ;
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.¹

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.

33
34
35
36
37 The "Global Warming Response Act."