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**N.J.A.C. 7: 27D
GLOBAL WARMING SOLUTIONS FUND**

Statutory Authority: N.J.S.A. 26:2C-37 et seq. and 26:2C-45 et seq., specifically, 26:2C-50 to 53

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SUBCHAPTER 1. GENERAL PROVISIONS

7:27D-1.1 Purpose

This chapter establishes guidelines and a priority ranking system for the EDA, the BPU, and the Department to use when they establish a multi-year strategic funding plan and select eligible programs and projects that will receive funding from the Global Warming Solutions Fund. Further, this chapter establishes criteria for new, efficient electric generation facilities to be considered state of the art for the purpose of determining eligibility for funding by the EDA.

7:27D-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Agencies" means the New Jersey Board of Public Utilities, the New Jersey Department of Environmental Protection, and the New Jersey Economic Development Authority.

"Beneficial" means tending to help, but not necessary.

"BPU" means the New Jersey Board of Public Utilities.

"CO₂" means carbon dioxide.

"CO₂ allowance" means a limited authorization to emit up to one ton of carbon dioxide or its equivalent.

"CO₂ allowance auction" means the sale of CO₂ allowances through competitive bidding as administered in accordance with N.J.A.C. 7:27C-11.

"Co-benefits" means benefits that result or are expected to result from a project or program other than a net reduction in greenhouse gas emissions, net reduction in energy use, or

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net sequestration of carbon. Co-benefits include, but are not limited to, the creation of job opportunities, reduction of air pollutants (other than greenhouse gases), reduction of the costs of electricity or natural gas to consumers, improvements in local electric system reliability, and contribution to regional initiatives to reduce greenhouse gas emissions.

“Critical” means necessary.

“Department” means the New Jersey Department of Environmental Protection.

“Economic aid” means loans, loan guaranties, investments, debt service, matching funds, cost sharing arrangements, energy cost reductions for residential electricity consumers, incentives, rebates, or grants provided by the EDA, the BPU, or the Department.

“EDA” means the New Jersey Economic Development Authority.

“Electric generating unit” or “EGU” means a combustion or steam generating source used for generating electricity that delivers all or part of its power to the electric power distribution grid for commercial sale.

“Global Warming Response Act” or “GWRA” means N.J.S.A. 26:2C-37 et seq.

“Global Warming Solutions Fund” or “Fund” means the fund established by N.J.S.A. 26:2C-50 and administered by the Treasurer, State of New Jersey, which is credited with monies received as a result of the CO₂ allowance auctions held pursuant to the rules at N.J.A.C. 7:27C-11.

“Greenhouse gas” means any gas that absorbs infrared radiation in the atmosphere, which includes CO₂, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, halogenated ethers, and other halogenated species that are listed in the United

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Nations Intergovernmental Panel on Climate Change (IPCC) Fourth Assessment Report: Climate Change 2007, which is incorporated herein by reference, as amended and supplemented.

"Heat input" means the measure of energy, in British Thermal Units (Btu), consumed by an electric generating unit over a period of time. For purposes of N.J.A.C. 7:27D-3, heat input is based on the lower heating value of the fuel used by an electric generating unit.

"Heat rate" means the amount of energy, in British Thermal Units (Btu), used by an electric generating unit to generate one kilowatt hour (kWhr) of useful electricity output.

"Initiative" means a funding strategy that is predicted to advance one or more of the objectives listed in N.J.A.C. 7:27D-2.2(a), which have been identified as critical.

"Institutional" means serving a non-profit or public purpose, such as a library, hospital, public school, institution of higher education, municipal utility, public recreation or cultural facility, or government entity.

"International Organization for Standardization conditions" or "ISO conditions" means, for purposes of N.J.A.C. 7:27D-3, 59 degrees Fahrenheit (ambient air temperature), 14.7 psia sea level elevation, and 60 percent relative humidity.

"Local government" is one or a cooperating combination of the entities defined as a contracting unit under the Local Public Contracts Law, N.J.S.A. 40A:11-2(1); a board of education under the Public School Contracts Law, N.J.S.A. 18A:18A-2.a; or a county college under the County College Contracts Law, N.J.S.A. 18A:64A-25.2.b.

"Measurable" means quantifiable and verifiable to enable the assessment of results.

"Net reduction" means a measurable reduction relative to a baseline or standard.

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“Net sequestration” means a measurable increase in sequestration of carbon relative to a baseline or standard.

“Person” means any individual or entity and includes, without limitation, corporations, companies, associations, societies, firms, partnerships, and joint stock companies and shall also include, without limitation, all political subdivisions of this State or any agencies or instrumentalities thereof.

“Regional Greenhouse Gas Initiative” or “RGGI” means the market-based cap-and-trade program initiated as a cooperative effort among states to cap and reduce power sector carbon dioxide emissions.

“Resilience” means the ability to prepare for and adapt to changing conditions and withstand and recover timely from disruptions.

“Sequestration” means the measurable transfer of carbon containing substances from the atmosphere or from a flux entering the atmosphere (such as power plant exhaust) by a physical, chemical, or biological process to a repository that is expected to contain and, thus, prevent the subsequent release to the atmosphere of 99 percent or more of the carbon contained for a period not less than 20 years.

“Strategic funding period” means the period of time that a particular strategic funding plan is in effect, ending with the publication of the subsequent strategic funding plan.

“Strategic funding plan” means a multi-year report in which the agencies identify the initiatives that each agency has chosen to sponsor during the corresponding strategic funding period.

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"Thermal efficiency" means the useful electricity output of an electric generating unit, plus the useful thermal energy output of the electric generating unit, expressed as a percentage of the total heat input to the electric generating unit. For purposes of N.J.A.C. 7:27D-3, thermal efficiency is based on the lower heating value of the fuel used by an electric generating unit.

"Uncertainty" means the range within which the true value of a measured quantity or estimated quantity is expected to fall with a specified level of confidence.

"Useful electricity output" means the net electric energy produced for market or for use in other manufacturing or commercial processes at a facility.

"Useful thermal energy output" means the net thermal energy produced for market or for use in other manufacturing or commercial processes at a facility.

7:27D-1.3 Severability

If any subchapter, section, subsection, provision, clause, or portion of this chapter, or the application thereof to any person, is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the subchapter, section, subsection, provision, clause, portion, or application directly involved in the controversy in which the judgment was rendered and it shall not affect or impair the remainder of this chapter or the application thereof to other persons.

SUBCHAPTER 2. DEVELOPMENT OF THE STRATEGIC FUNDING PLAN, SELECTION OF INITIATIVES, ELIGIBILITY OF PROGRAMS AND PROJECTS, GUIDELINES AND PRIORITY RANKING SYSTEM, AWARD OF ECONOMIC AID, AND MEASURABLE BENEFITS

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7:27D-2.1 Procedure for development of a strategic funding plan

(a) The EDA, the BPU, and the Department shall coordinate the use of each agency's allocation from the Global Warming Solutions Fund by periodically developing a strategic funding plan. The agencies shall develop initiatives in a strategic funding plan that will assist in the selection of eligible projects and programs to receive funding from the Global Warming Solutions Fund.

(b) Each strategic funding plan shall identify the initiative(s) that each agency will sponsor during the corresponding strategic funding period, the objective(s) considered critical or beneficial to each initiative, and the information and materials the agencies relied upon in their selection of initiatives.

(c) Each strategic funding plan published subsequent to the first strategic funding plan shall also contain information about each project and program that has received funding from the Global Warming Solutions Fund, to the extent that such information is available and has not been reported in an earlier strategic funding plan. This information shall include, but not be limited to:

1. A description of the project or program;
2. The amount of money earmarked by the agency to fund the program or project, as well as the type and amount of economic aid awarded;
3. The sponsored initiative corresponding to the project or program;
4. To the extent feasible, an account of the measurable benefits the project or program reported for each critical objective it was predicted to advance; and

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5. The status of the project or program.

(d) The agencies shall develop the first strategic funding plan and publish it on their websites no later than 30 days after the certification of the results of the first CO₂ allowance auction that New Jersey participates in pursuant to N.J.A.C. 7:27C-11, CO₂ Allowance Auctions. Thereafter, the agencies shall periodically develop and publish on their websites a new strategic funding plan, not less than once every three years.

(e) Before publishing a strategic funding plan, the agencies shall host at least one public meeting with representatives from all of the agencies. Each agency shall also host at least one additional public meeting with representatives from their own agency.

(f) The Board or Commissioner of any one of the agencies may compel the initiation of the process to develop and publish a new strategic funding plan at any time by writing to the Board or Commissioner of the other two agencies. The writing shall demonstrate a need to address newly discovered information that will have a significant impact upon the initiatives, projects, or programs in the current strategic funding plan. New information may include, but need not be limited to, changes in funding sources or levels, State or national economic conditions, environmental degradation or climate change, or technology.

(g) The development of each strategic funding plan will be the product of a coordinated effort among the EDA, the BPU, and the Department. Notwithstanding the coordinated effort to develop a strategic funding plan, each agency shall employ an independent, agency-specific process to select the eligible programs and projects to be funded during the corresponding strategic funding period.

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7:27D-2.2 Selection of strategic funding plan initiatives

(a) In every strategic funding plan, the agencies shall sponsor initiatives that, collectively, advance the following six objectives:

1. Result in a net reduction in greenhouse gases in the State or in greenhouse gas emissions from electricity produced out of the State, but consumed in the State, or net sequestration of carbon;
2. Result in significant reductions in greenhouse gas emissions relative to the cost of the project or program and the reduction of impacts on ratepayers attributable to the implementation of N.J.S.A. 26:2C-45 et seq., and the ability of the project or program to significantly contribute to achievement of the State's 2050 limit established pursuant to the Global Warming Response Act, relative to the cost of the project or program;
3. Reduce energy use;
4. Be directly responsive to the negative effects on human health and the environment in communities that are disproportionately impacted by the effects of environmental degradation and climate change;
5. Be directly responsive to the recommendations submitted by the Department to the Legislature pursuant to section 6 of the Global Warming Response Act; and
6. Provide co-benefits to the State.

(b) For every initiative identified in a strategic funding plan, the agencies shall rank the importance of each objective as either critical or beneficial.

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- (c) Every initiative sponsored in a strategic funding plan shall have at least one objective ranked as critical.
- (d) Each of the objectives shall be ranked as critical to at least one initiative sponsored in a strategic funding plan.
- (e) To inform their selection of the initiatives and ranking of the objectives in a strategic funding plan, the agencies shall coordinate a review and evaluation of relevant materials and information, including, but not limited to, the level of greenhouse gas emissions by sector, the level of anticipated funding from the CO₂ allowance auctions, existing technology, resilience planning and management, input from public meetings, State plans, and action plans.

7:27D-2.3 Eligible projects and programs

- (a) Each agency shall ensure that projects or programs that are selected to receive funding from the Global Warming Solutions Fund meet the following eligibility criteria:
 - 1. Sixty percent of the Global Warming Solutions Fund shall be allocated to the EDA to provide funding to commercial, institutional, or industrial entities to:
 - i. Support an end-use energy efficiency project, including, but not limited to, renewable energy applications;
 - ii. Support a new, efficient electric generation facility that is state of the art in accordance with N.J.A.C. 7:27D-3, including, but not limited to, energy efficiency and renewable energy applications;

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- iii. Develop a combined heat and power production and other high efficiency electric generation facility;
- iv. Stimulate or reward investment in the development of an innovative carbon emissions abatement technology with significant carbon emissions reduction or avoidance potential; and/or
- v. Develop qualified offshore wind projects pursuant to N.J.S.A. 48:3-87.1 and assist manufacturers of equipment associated with qualified offshore wind projects.

2. Twenty percent of the Global Warming Solutions Fund shall be allocated to the BPU to provide funding to support the reduction of electricity demand or costs to electricity customers in the low- and moderate-income residential sector with a focus on urban areas, including efforts to address the heat island effect and reduce impacts on ratepayers attributable to the implementation of N.J.S.A. 26:2C-45 et seq.

3. Ten percent of the Global Warming Solutions Fund shall be allocated to the Department to provide funding to promote local government efforts to plan, develop, and implement measures to reduce greenhouse gas emissions, to award grants and other forms of assistance to local governments to conduct and implement energy efficiency, renewable energy, and distributed energy programs, and/or land use planning where the grant or assistance results in a measurable reduction of the emission of greenhouse gases or a measurable reduction in energy demand. An additional 10 percent of the Global Warming Solutions Fund shall be allocated to the

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Department to enhance the stewardship and restoration of the State's forests and tidal marshes that provide important opportunities to sequester or reduce greenhouse gases.

7:27D-2.4 Agency selection of eligible projects and programs using the guidelines and the priority ranking system

(a) An agency shall select for funding during a strategic funding period only those eligible programs and projects that both fall within the scope of an initiative identified in the corresponding strategic funding plan and are predicted to advance the objective(s) identified as critical to that initiative. An agency's selection of eligible projects and programs shall comply with N.J.S.A. 26:2C-51.

(b) An agency's selection of an eligible program or project shall be supported by an evaluation of:

1. The degree to which the project or program is predicted to advance the objectives ranked as critical to the applicable initiative; and
2. The degree to which the project or program is predicted to advance the objectives ranked as beneficial to the applicable initiative.

(c) If circumstances require an agency to choose between more than one eligible program and/or project, the agency shall give priority to the program and/or project that is predicted to best advance the objective(s) identified as critical to the applicable initiative. If more than one eligible program and/or project are predicted to equally advance the objective(s) identified as critical to the applicable initiative, the agency shall give priority to the program and/or project

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predicted to best advance the objective(s) considered to be beneficial to the applicable initiative.

7:27D-2.5 Award of economic aid pursuant to a program or project

Any individual award of economic aid made pursuant to a program or project shall be made in accordance with N.J.S.A. 26:2C-51. Notwithstanding the requirements of N.J.S.A. 26:2C-51, nothing in this chapter shall be construed as a limitation on an agency's authority, pursuant to that agency's funding practices, policies, or rules, to require an applicant for economic aid to submit an application, bid, or proposal disclosing other information or materials that may be considered by that agency in making an award of economic aid pursuant to an eligible program or project.

7:27D-2.6 Measurable benefits

(a) An agency shall not provide funding from the Global Warming Solutions Fund, unless the program or project includes, in its design, a requirement that the critical objectives that are expected to be advanced by the program or project are measurable and verifiable for the duration of the program or project.

(b) The method used by the program or project to measure benefits shall:

1. Be sufficient to allow the funding agency, or one of the other agencies with appropriate technical expertise, to assess baselines, quantitative goals, and quantities of reductions or sequestration resulting from, or expected to result from, the project or program;

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2. Include an estimate of the uncertainty associated with measured or estimated baselines, quantitative goals, and quantities of reductions or sequestration. The method shall also include a description of how the uncertainty will be addressed, or why addressing the uncertainty is impracticable; and
3. Incorporate existing, scientifically accepted, greenhouse gas emissions accounting protocols and include existing or otherwise readily available information, such as records of fuel or electricity use.

SUBCHAPTER 3. STATE-OF-THE-ART ELECTRIC GENERATING FACILITIES

7:27D-3.1 State-of-the-art electric generating facilities

(a) An electric generating unit is state of the art, for purposes of N.J.A.C. 7:27D-2.3(a)1i and ii, if it:

1. Is a unit whose primary activity is the production of useful electricity output or the production of useful electricity output and useful thermal energy output;
2. Demonstrates advances in the art of air pollution control in accordance with N.J.A.C. 7:27-22.35 for a major facility, as defined at N.J.A.C. 7:27-22.1, or in accordance with N.J.A.C. 7:27-8.12 for other facilities; and
3. Demonstrates that the electric generating unit meets or exceeds the efficiency thresholds set forth in (b) below.

(b) An electric generating unit shall demonstrate that it meets or exceeds the efficiency thresholds set forth below:

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1. If the useful thermal energy output from the electric generating unit is 16 percent or less of its total heat input, the heat rate shall meet one of the following efficiency thresholds:
 - i. For an EGU less than or equal to 40 megawatts of capacity, a heat rate of 6,900 or less British thermal units (Btu) consumed per kilowatt hour of useful electricity output;
 - ii. For an EGU greater than 40 megawatts of capacity and less than or equal to 120 megawatts of capacity, a heat rate of 6,550 Btu or less consumed per kilowatt hour of useful electricity output;
 - iii. For an EGU greater than 120 megawatts of capacity and less than or equal to 240 megawatts of capacity, a heat rate of 6,400 Btu or less consumed per kilowatt hour of useful electricity output; or
 - iv. For an EGU greater than 240 megawatts of capacity, a heat rate of 5,750 Btu or less consumed per kilowatt hour of useful electricity output.
2. If the useful thermal energy output from the electric generating unit is greater than 16 percent of its total heat input, the overall thermal efficiency of the electric generating unit, considering both useful electricity output and useful thermal energy output, shall be at least 65 percent.

(c) The heat rate shall be determined at conditions representing the continuous power output rating that can be counted upon for 6,000 or more hours of operation per year at ISO conditions without exceeding normal gas turbine wear and maintenance.

(d) The heat input shall be determined at ISO conditions.