

Counsel, representatives of all sectors of the solar industry, public utilities, public entities, solar customers, agricultural boards, environmental organizations, and members of the general public.

During the APA-required comment period, three comments were filed. The commenters included two public utilities and Rate Counsel, the State's consumer advocate in utility proceedings before the Board. All commenters' views are documented and responded to by the Board in the original notice of adoption published in the December 18, 2023, New Jersey Register at 55 N.J.R. 2555(a); and the notice of proposed substantial changes published in the December 18, 2023, New Jersey Register at 55 N.J.R. 2461(a).

In addition to being published in the New Jersey Register, the notices of proposal were posted in the lobby of the Board's headquarters, posted on the Board's website and distributed to interested persons, the Board's electronic mailing list subscribers, and the print media, pursuant to the A.P.A. at N.J.S.A. 52:14B-4. The original notice of adoption was posted on the Board's website.

All comments in the rulemaking proceeding are available for viewing by the public on the Public Document Search page of the Board's website at https://publicaccess.bpu.state.nj.us/CaseSummary.aspx?case_id=2111549 under *In the Matter of a Rulemaking Proceeding To Amend the Successor Solar Incentive Rules and Establish a Competitive Solar Incentive pursuant to P.L. 2021, c. 169*, BPU Docket No. QX22100653. All New Jersey Register publications for the CSI Program rulemaking are available for viewing by the public on the Rules page of the Board's website at <https://www.nj.gov/bpu/agenda/rules/>.

SUBCHAPTER 11. SUCCESSOR SOLAR INCENTIVE PROGRAM

N.J.A.C. 14:8-11.10 Competitive Solar Incentive Solicitation Design

3. COMMENT: The commenter states that they previously made comments on amendments to N.J.A.C. 14:8-11.10(j) proposed in the February 2023 notice, supporting the Board's use of confidential price caps but suggesting that the language be amended to ensure that awards made in CSI Program solicitations reflected robust competition and minimized ratepayer costs. The commenter recited their previous recommendation that the solicitation process be modeled on SREC-based financing programs used by electric distribution companies Atlantic City Electric Company, Jersey Central Power and Light Company, and Rockland Electric Company that included safeguards to ensure competitive results. Recommended safeguards included making the confidential price caps mandatory and allowing the Board to review price caps as part of the review of the competitiveness of bids. The commenter noted the proposed language from the December 2023 and October 2024 notices, in which modifications were made to partially incorporate the commenter's previous suggestions. The commenter again states the strong preference for mandatory, rather than discretionary, price caps, and thanks the Board for the proposed amendments that give the Board broad discretion to review solicitation results and reject any bids that do not reflect rigorous competition. The commenter urges the Board to utilize this discretion to ensure that ratepayers do not overpay for solar electricity, and that developers do not receive excessive profits. (RC)

RESPONSE: The Board thanks Rate Counsel for its comments and support of the proposed amendments. The Board shares the concerns of Rate Counsel and takes seriously the protection of rate payers from excessive incentivization. The Board considers that price caps set before the opening of a solicitation window are intended to protect ratepayers against excessive bid prices, and incentive levels are capped at prices sufficient to facilitate development of large-scale solar projects in New Jersey at the lowest viable cost to New Jersey ratepayers. The discretion to analyze price caps and review bid competitiveness at the end of a solicitation provides the Board the ability to use the best available and most current fiscal data to consider successful bids, reject any bids where the Board determines the bid prices are not competitive, and continue to protect New Jersey's ratepayers.

Federal Standards Statement

N.J.S.A. 52:14B-1 et seq., requires State agencies that adopt, readopt, or amend State rules exceeding any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. This rulemaking has no Federal analogue and is not promulgated pursuant to

the authority of, or in order to implement, comply with, or participate in any program established pursuant to Federal law or pursuant to a State statute that incorporates or refers to Federal law, Federal standards, or Federal requirements. Accordingly, N.J.S.A. 52:14B-1 et seq. does not require a Federal standards analysis for the adopted amendments.

Full text of the adoption follows:

SUBCHAPTER 11. SUCCESSOR SOLAR INCENTIVE PROGRAM

14:8-11.5 Successor Solar Incentive Program Registration Process

(a)-(c) (No change.)

(d) The registrant shall meet minimum facility maturity standards according to the ADI or CSI Program conditions and provide all required documentation as part of its initial registration package.

1. (No change.)

2. For the CSI program, the registrant shall supply the following and any other information the Board, or its designee, may deem necessary to confirm eligibility for the program:

i.-iii. (No change.)

iv. Evidence of filed applications or approvals for all discretionary land use approvals and entitlements applicable to the project, such as municipal zoning permit or municipal site plan approval, county site plan approval, soil conservation district approval, and Pinelands Commission or Highlands Commission approval, with a list of all land use permits to be applied for;

v.-viii. (No change.)

3. (No change.)

(e)-(l) (No change.)

14:8-11.10 Competitive solar incentive solicitation design

(a)-(i) (No change.)

(j) The Board may establish, by Board Order, confidential, pre-determined price caps based on assessments of market conditions for any, or all, tranches prior to the solicitation. If the Board establishes confidential price caps, the Board may:

1. Revise confidential price caps by Board Order, based on an updated assessment of relevant parameters, including cost of capital, revenue expectations, and net installation and operational costs as specified in the Board Order establishing the caps;

2. Elect to award bids that do not exceed the price caps by more than 10 percent;

3. Adjust the number of megawatts awarded in a tranche, if bid prices are above or below any confidential price caps established for the solicitation; and/or

4. Reject bids above the confidential price cap, where the Board determines that the bid prices are not competitive and/or are not fiscally responsible, regardless of whether the targeted number of megawatts in that tranche or tranches have been met.

(k)-(l) (No change.)

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(a)

THE COMMISSIONER

Administration, Organization, Records Management, and Information Requests

Readoption with Amendments: N.J.A.C. 16:1A

Adopted Repeal and New Rule: N.J.A.C. 16:1A-1.1

Proposed: October 7, 2024, at 56 N.J.R. 1964(a).

Adopted: December 16, 2024, by Francis K. O'Connor,
Commissioner, Department of Transportation.

Filed: December 17, 2024, as R.2025 d.014, **without change**.

Authority: N.J.S.A. 27:1A-1, 27:1A-5, 27:1A-6, and 52:14B-1 et seq., particularly 52:14B-3 and 4.

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Effective Dates: December 17, 2024, Readoption;
January 21, 2025, Amendments, New Rule, and
Repeal.

Expiration Date: December 17, 2031.

Summary of Public Comment and Agency Response:
No comments were received.

Federal Standards Statement

A Federal standards analysis pursuant to Executive Order No. 27 (1994) and P.L. 1995, c. 65, is not required because the rules readopted with amendments, a repeal, and a new rule come within the authority of State statute only and are not subject to Federal requirements or standards.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 16:1A.

Full text of the adopted amendments and new rule follows:

SUBCHAPTER 1. GENERAL INFORMATION

16:1A-1.1 Mission statement of the Department

(a) The primary mission of the New Jersey Department of Transportation is to provide a safe, reliable, and efficient multi-modal transportation network that serves the mobility needs of residents, commerce, and visitors in a manner that promotes economic development and ensures environmental responsibility. The Department provides a system that:

1. Enhances the quality of life for residents and traveling public;
2. Achieves consistent progress through focused investments in keeping infrastructure in a state of good repair;
3. Stimulates and sustains smart development and economic growth;
4. Employs the latest technologies to adapt to changing conditions and environments;
5. Respects and protects the distinctive and delicate character of the State's natural resources; and
6. Eagerly embraces its role as a customer service organization.

16:1A-1.2 Organization of the Department

(a) The Department of Transportation is organized as indicated in the Organizational Chart found at www.nj.gov/transportation/about/pdf/orgchart.pdf and the functions and responsibilities of its officers are as follows:

1. The Commissioner of Transportation is the Chief Executive Officer of the Department and oversees all functions of the Department of Transportation.

i. The Assistant Commissioner or Director of Capital Program Management, having the necessary experience and a valid New Jersey Professional Engineer's license, is designated the State Transportation Engineer or the Deputy State Transportation Engineer;

2. The Deputy Commissioner reports to the Commissioner with principal responsibilities in the following areas:

i. (No change.)

ii. Operations—the Assistant Commissioner of Operations has principal responsibilities in the following areas:

(1)-(3) (No change.)

(4) Operations;

(5) (No change.)

(6) Traffic Operations; and

(7) Mobility and Systems Engineering;

iii. Statewide Planning, Safety and Capital Investment—the Assistant Commissioner of Statewide Planning, Safety and Capital Investment has principal responsibilities in the following areas:

(1) Statewide Planning;

(2) Capital Investment and Program Coordination; and

(3) Safety;

iv. Chief Financial Officer—the Chief Financial Officer has principal responsibilities in the following areas:

(1) (No change.)

(2) Enterprise Management Office;

Recodify existing (2)-(4) as (3)-(5) (No change in text.)

v. Administration—the Assistant Commissioner for Administration has principal responsibilities in the following areas:

(1) Human Resources; and

(2) Facilities and Support Services

vi. Local Resources and Community Development—Assistant Commissioner of Local Resources and Community Development has principal responsibilities in the following areas:

(1) Outdoor Advertising and Junkyard;

(2) Local Aid and Economic Development;

(3) Aeronautics and Modal Grants;

(4) Community Development; and

(5) Environmental Resources;

vii. Director of Civil Rights, Affirmative Action and Diversity, Equity and Inclusion—Director of Civil Rights, Affirmative Action and Diversity, Equity and Inclusion, has primary responsibilities for internal and external programs as it relates to the Division; and

viii. Legal Services;

3. The Chief of Staff reports to the Commissioner, with principal responsibilities for developing, recommending, and implementing, with Commissioner approval, solutions to problems related to both internal operations and policies; and serving as liaison with other agencies, the Legislature, and the Governor's office. Additionally, has principal responsibilities in the following areas:

(1) Communications;

(2) Community and Constituent Relations; and

(3) Legislative, Administrative, and Regulatory Actions; and

4. (No change in text.)

SUBCHAPTER 4. OBTAINING GOVERNMENT RECORDS

16:1A-4.1 General information

General information may be obtained from the Department by telephone or by request in writing to:

New Jersey Department of Transportation

PO Box 600

Trenton, NJ 08625-0600

(609) 963-1954

or on the Department's website at: www.nj.gov/transportation.

16:1A-4.2 Record requests

(a) (No change.)

(b) All requests for on-site inspection of the Department's records, except as set forth at (c), (d), (e), (f), and (g) below, shall be made, in writing, on the State of New Jersey's Government Records Request form and hand-delivered, mailed, or transmitted electronically to the custodian of records. The records request form may be obtained by written request to:

New Jersey Department of Transportation

Custodian of Records

C/O Office of Inspector General

1035 Parkway Avenue

PO Box 600

Trenton, NJ 08625-0600

Phone: (609) 963-1954

Fax: (609) 530-6694

or online at www.nj.gov/transportation/refdata/opra or by email to: njdot.opra@dot.nj.gov.

The request form shall include, but is not limited to, the following:

1.-6. (No change.)

(c) Requests for traffic control signal operation records shall be made in accordance with N.J.A.C. 16:1A-4.5.

(d) Requests for the traffic control signal maintenance records shall be made in accordance with N.J.A.C. 16:1A-4.5(b).

(e) Requests for traffic camera video records shall be made in accordance with N.J.A.C. 16:1A-4.6.

Recodify existing (e)-(f) as (f)-(g) (No change in text.)

16:1A-4.5 Traffic control signal records

(a) All requests for current traffic control signal records, other than date-specific signal records, shall be submitted, in writing, and mailed to:

Division of Traffic Engineering

New Jersey Department of Transportation

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PO Box 600
Trenton, NJ 08625-0600

(b) All requests for date-specific traffic control signal records or traffic control signal maintenance records shall be submitted, in writing, and mailed to:

Bureau of Operations Support and Engineering
New Jersey Department of Transportation
PO Box 600
Trenton, NJ 08625-0600

(c) (No change.)

16:1A-4.7 Traffic control device records

(a) All requests for specific traffic control device records shall be submitted, in writing, and mailed to:

Division of Traffic Engineering
New Jersey Department of Transportation
PO Box 600
Trenton, NJ 08625-0600

(b) All requests for information concerning whether a specific traffic control device on a State highway has received the approval of the Commissioner shall be submitted, in writing, to the Division, accompanied by a payment in the form of a check or money order in the

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amount of \$25.00 made payable to "New Jersey Department of Transportation."

(c) Requests for information concerning whether a specific traffic control device on a non-State highway has received approval shall first be directed to the appropriate authority having jurisdiction over that road. If the authority is unable to provide the requested information, the request may be submitted to the Division, accompanied by a \$25.00 fee in the form of a check or money order made payable to "New Jersey Department of Transportation," along with a copy of the authority's response to the request for the information. The Division will review Department records to determine if the requested information is available and advise the requester of its findings and provide the requested information, if available.

16:1A-4.8 Standard Specifications

(a) Standard Specifications are available on the Department's website at: www.nj.gov/transportation/eng/specs/2019/Division.shtml.

(b) All questions should be directed to the Department's engineering documents unit at EDU.Documents@dot.nj.gov or by phone at (609) 963-1465.

(c)-(d) (No change.)