ENVIRONMENTAL PROTECTION

AIR QUALITY, ENERGY, AND SUSTAINABILITY

DIVISION OF AIR QUALITY

NOTICE OF ACTION ON PETITION FOR RULEMAKING

Air Pollution Control, N.J.A.C. 7:27

Petitioners: EmpowerNJ, BlueWaveNJ, Clean Water Action NJ, Delaware Riverkeeper Network, Don't Gas the Meadowlands Coalition, Environment New Jersey, Food & Water Watch, and New Jersey Sierra Club

Take notice that the Department of Environmental Protection (Department) has denied the petition for rulemaking filed by EmpowerNJ, BlueWaveNJ, Clean Water Action NJ, Delaware Riverkeeper Network, Don't Gas the Meadowlands Coalition, Environment New Jersey, Food & Water Watch, and New Jersey Sierra Club (petitioners) described below. The Department received the petition on July 21, 2021, and published notice of receipt of the petition in the September 7, 2021, New Jersey Register (53 N.J.R. 1529(b)). On September 16, 2021, the Department sent notice to petitioners that the petition was being referred for further deliberation. The referral was published in the October 18, 2021, New Jersey Register (53 N.J.R. 1819(a)). On November 8, 2021, petitioners submitted a supplement in further support of their petition.

The Petition

The petitioners request that the Department adopt rules that 1) set a target to reduce by 2030, greenhouse gas emissions 50 percent from 2005 levels, 2) implement the means

necessary to achieve the reductions, and 3) impose additional restrictions for new fossil fuel projects in the State. The petition specifically requests that these rules include "restricting the issuance of operating permits for new fossil fuel infrastructure projects" and stopping "public forest logging programs."

Petitioners state that New Jersey, as a member of the United States Climate Alliance, committed itself to implement policies that advance the goals of the Paris Agreement to keep temperature increases below 1.5 degrees Celsius by committing to reduce collective net greenhouse gas emissions at least 50 to 52 percent below 2005 levels by 2030. Petitioners assert that New Jersey is not taking the actions needed to meet the 2030 commitment and to comply with the goals of the Global Warming Response Act, N.J.S.A. 26:2C-37 et seq. (GWRA), to reduce greenhouse gases by 80 percent by 2050. Petitioners request that the Department promulgate rules denying permits for any new fossil fuel project unless it certifies that (1) the 2030 greenhouse gas reduction target, interim benchmarks, and the 2050 clean energy standards can be met if the facility is constructed and operates, (2) there are no renewable energy alternatives to provide the energy the project would produce, and (3) New Jersey's energy requirements cannot be met by any other means, including through energy efficiency measures.

In support of the petition, the petitioners highlight an accelerating global climate change crisis; the impact of climate change on New Jersey in particular; the health and environmental costs associated with the extraction and combustion of fossil fuels; the need for and availability of renewable energy sources to replace natural gas; jobs that renewable energy projects will create; and purport that New Jersey has taken less aggressive actions to reduce greenhouse gases than the Federal, foreign and other state and local governments.

In their supplement, petitioners stated their petition was supported by two recent orders issued by the New York State Department of Environmental Conservation that separately denied two Title V permits under the State of New York's Climate Leadership and Community Protection Act.

The Department's Response to the Petition

Global atmospheric warming, caused largely by the burning of fossil fuels, is leading to significant changes in climate patterns here in New Jersey, across the United States, and around the world, representing the single greatest long-term threat currently facing humanity. New Jersey communities and the State's economy are uniquely vulnerable to its devastating effects. In an early acknowledgment of the deep need for State-based climate action, the New Jersey Legislature passed the GWRA in 2007 and updated the law in 2019, establishing a Statewide goal for reducing greenhouse gas emissions to 80% below 2006 levels by 2050 (the 80x50 goal) and requiring the Department to routinely assess the State's greenhouse gas emissions and, in collaboration with other State agencies, present recommendations for reducing emissions to the Legislature.

Recognizing the gravity of climate change and its impacts upon the State, as well as New Jersey's opportunities to spur innovation and economic growth in response to this challenge, through Executive Orders Nos. 7, 8, 23, and 28 (2018), Nos. 89 and 92 (2019), No. 100 (2020), and Nos. 221 and 274 (2021), Governor Philip D. Murphy established that it is the policy of the State to take aggressive climate action by reducing the emissions of climate pollutants on an economy-wide basis, charting a just and equitable transition away from our reliance on fossil

fuels while building a stronger and fairer economy fueled by clean and renewable energy, protecting and promoting the resilience of New Jersey's communities from the current and anticipated impacts of climate change through planning and regulation, and investing in climate solutions that create new economic opportunity and broadly shared prosperity. The most recent of these, Executive Order No. 274, established an interim benchmark for emissions reductions, declaring it the policy of the State to reduce greenhouse gas emissions to 50% below 2006 levels by the year 2030 (the 50x30 goal).

Pursuant to the foregoing directives, the Department and other State agencies have taken and continue to take significant steps to reduce emissions of climate pollutants in order to limit a worsening of adverse climate change impacts; while simultaneously working to enhance the State's resilience to those climate effects that cannot be avoided. Specific to the subject of this petition, on October 15, 2020, the Department delivered to the Legislature New Jersey's Global Warming Response Act 80x50 Report (80x50 Report), which communicated the limitations of existing State legislation, policies, and programs in reaching the 80x50 goal and provided detailed recommendations, across eight distinct emissions sectors, to assist policymakers in crafting new initiatives to bridge the resulting emissions reductions gap. See https://www.nj.gov/dep/climatechange/docs/nj-gwra-80x50-report-2020.pdf.

As outlined in the 80x50 Report, meeting the State's greenhouse gas emissions reduction goals requires deliberate and coordinated action by all levels of government, economic sectors, communities and individuals to transform the State's building sector, transportation sector, and electricity generation systems and the associated infrastructure. Given the need for such a comprehensive and coordinated approach, no single State agency or any one regulatory reform

or set of regulatory reforms by the Department can itself bring about the structural, economic, and societal changes necessary to reduce the worsening effects of climate change. For these reasons, and as explained more fully below, the Department has denied the petition.

Climate Change Science

Issued on August 6, 2021, Sixth Assessment Report of the United Nations Intergovernmental Panel on Climate Change (IPCC) – described by the United Nations Secretary General as "a code red for humanity" – is unequivocal in finding that effects of climate change are already happening and will worsen over the coming decades without aggressive, rapid and widespread emissions cuts. Intergovernmental Panel on Climate Change, 2021: Summary for Policymakers. In: *Climate Change 2021, The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* [Masson-Delmotte, V., P. Zhai, A. Pirani, S. L. Connors, C. Péan, S. Berger, N. Caud, Y. Chen, L. Goldfarb, M. I. Gomis, M. Huang, K. Leitzell, E. Lonnoy, J.B.R. Matthews, T. K. Maycock, T. Waterfield, O. Yelekçi, R. yu and B. Zhou (eds.)]. Cambridge University Press. In Press. https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_SPM.pdf.

Climate change "poses a severe threat to the environment, human health and welfare, and the economy—in New Jersey, across the United States, and around the world." 80x50 Report, October 15, 2020, Executive Summary, p. v, https://www.nj.gov/dep/climatechange/docs/nj-gwra-80x50-report-2020.pdf. These risks are heightened in New Jersey due to, among other things, the State's coastal location and population density. Rising sea-levels, higher temperature, more precipitation, more intense storms and droughts, and flooding are just some of the climate change threats that are and will continue to

impact the State. These impacts have stressed and will continue to stress the State's public health, ecological, social, and economic systems. See ibid.; New Jersey Scientific Report on Climate Change, Version 1.0 (Eds. R. Hill, M.M. Rutkowski, L.A. Lester, H. Genievich, N.A. Procopio) Trenton, NJ 184 pp. (2020 Report on Climate Change), https://www.nj.gov/dep/climatechange/docs/nj-scientific-report-2020.pdf.

Global Warming Response Act (GWRA) Goals

In 2007, in recognition of the growing climate crisis, the Legislature passed the GWRA, the terms of which established two greenhouse gas emission reduction goals. The first stated goal of the GWRA was to reduce emissions to 1990 levels by 2020, referred to as the "20x20 goal." The second stated goal of the GWRA is to reduce Statewide greenhouse gas emissions to 80 percent below the 2006 level by 2050, referred to as the 80x50 goal. Pursuant to Executive Order No. 274, and consistent with the GWRA amendments of 2019, Governor Murphy established an interim benchmark for reducing greenhouse gas emissions to 50 percent below 2006 levels by 2030, referred to as the "50x30 goal."

The State calculates its greenhouse gas emissions using the metric of carbon dioxide (CO_2) equivalent (CO_2e). CO_2e is a term for describing different greenhouse gases in a common unit. For any quantity and type of greenhouse gas, CO_2e signifies the amount of carbon dioxide CO_2 which would have the equivalent global warming impact, based on their relative global warming potential (GWP). See 80x50 Report, at p. 4, https://www.nj.gov/dep/climatechange/docs/nj-gwra-80x50-report-2020.pdf; 2019 Energy Master Plan: Pathway to 2050, at p. 22, https://nj.gov/emp/docs/pdf/2020_NJBPU_EMP.pdf (2019 EMP). In 2006, New Jersey's net emissions totaled 120.6 million metric tons (MMT) CO_2e. Therefore, New Jersey's 80x50 net

emission goal is 24.1 MMT CO_2e and the State's interim benchmark or 50x30 goal is 60.3 MMT CO_2e. See 80x50 Report at p.v.

Cross-Sector Coordination to Reduce Emissions of Climate Pollutants

Given the State's need for aggressive and concerted action to reduce emissions of climate pollutants on an economy-wide basis while charting a just and equitable transition away from the State's reliance on fossil fuels, Governor Murphy issued a series of Executive Orders that directed the Department and other State agencies, including the Board of Public Utilities (BPU), to develop the policy guidance to inform the cross-agency actions necessary to meet the State's 80x50 and 100 percent clean energy goals and strengthen social and economic resilience. See, e.g., Executive Order No. 28 (2018) (Energy Master Plan); Executive Order No. 100 (2020) (Protecting Against Climate Threats regulations); Executive Order No. 221 (2021) (Governor's Office of Climate Action and the Green Economy). Pursuant to Executive Order No. 28 (2018), the BPU updated the New Jersey Energy Master Plan, which includes a blueprint to convert the State's energy production profile to 100 percent clean energy by 2050, with complete conversion to clean energy a critical component of the State's emission reduction strategy As the BPU explained in the 2019 EMP, bold action is needed to reach these goals and the path to emission reduction through the conversation to clean energy not linear. "New Jersey's total energy system is a combination of electricity generation and consumption, transportation fuel, and building use, including heating, appliances, and industrial use." 2019 EMP at p. 35. Energy production and consumption generate 87 percent of the State's total greenhouse gas emissions. Id. at p. 23. Transportation and buildings are the source of the State's highest energy consumption and emissions, and electricity demand is only expected to increase. Ibid. Indeed, with the

electrification of buildings and transportation, the EMP predicts more than doubling energy demand and in-State dispatchable generation will be required to meet the State's energy demand. See id. at. pp. 17, 37. Fossil fuel-fired electric generation in the State will continue to be needed until clean energy sources come online and clean energy technology advances to meet anticipated electric demand.

As a result, "New Jersey must look broadly across the entire energy system and engage in a holistic transition to moderate the effects of climate change while continuing to grow the economy and maintain a modern way of life." Id. at 24. The 2019 EMP thus included extensive modeling that resulted in the identification of seven overarching strategies deployed over the next several decades that the State should pursue to meet the 80x50 goal and 100 percent clean energy goal.

As required pursuant to the GWRA, the Department followed the 2019 EMP with the 80x50 Report, which was released on October 15, 2020. The 80x50 Report builds on the 2019 EMP by analyzing New Jersey's emissions reductions, evaluating plans presently in place for further reducing emissions, and presenting a set of strategies across seven emission sectors for policymakers to consider in formulating legislation, rules, policies, and programs to ensure that New Jersey achieves the 80x50 goal. See 80x50 Report at p. v. The Department recommended various measures to meet the 80x50 goal, including interim goals for 2030 and 2035 consistent with the 2019 EMP and its attendant modeling. For example, the Department identified specific measures focused on the three sectors that represent the largest sources of greenhouse gas emissions—electric generation, transportation, and buildings. With respect to the transportation sector, the Department identified measures, such as targets for zero-emission sales of light-,

medium-, and heavy-duty vehicle, which implicates DEP authorities as well as those of the State's transportation agencies. See 80x50 Report at pp. 10, 14, 20, and 29. With respect to the buildings sector, the Department explained that, to achieve the 80x50 goal, "policies requiring net-zero emissions for new construction must be paired with aggressive requirements for electrification of older residential and commercial buildings," which must begin by 2030. Id. at pp. xii, 49. The necessary transition of the buildings sector will require the State to transition away from the natural gas use that fuels 75 percent of New Jersey residences to, for example, modern heat pumps. Ibid. With respect to the electric generation sector, the 80x50 Report identifies three emissions reduction pathways: (1) reducing energy demand; (2) transitioning from fossil fuel electric generation to renewable energy; and (3) procuring out-of-State renewable energy. Id. at pp. 66-73. Among other things, the Department evaluated the emission reductions associated with the expansion of in-State solar, offshore wind, and renewable biofuels envisioned in the 2019 EMP. Ibid. The Department noted that while emissions continuously drop under the 2019 EMP's least cost scenario, "the least cost pathway cannot foresee future developments and therefore cannot be viewed as establishing rigid tests of success or failure. Instead, it establishes timelines and targets that mark progress toward achieving the state's goals." Id. at 68.

As explained in the 80x50 Report, these measures require action by other State agencies, including the BPU, the Department of Transportation (DOT), the Motor Vehicle Commission (MVC), and the Department of Community Affairs (DCA). Recognizing that the Department, through its regulatory authorities and programs, could not alone facilitate the cross-sector transformation necessary to limit the worsening adverse impacts of climate change that

continued emissions will generate, the 80x50 Report recommended a number of initiatives for both executive branch agency and legislative action. Id. at 73-78.

With respect to climate mitigation actions within the Department's jurisdiction, the Department commenced the first phase of its Climate Pollutant Reduction (CPR) regulatory reforms, a part of the larger New Jersey Protecting Against Climate Threats (NJPACT) initiative directed by Executive Order 100 (2020). Phase I of CPR, which has been subject to early stakeholder feedback since the issuance of Executive Order 100, includes a suite of reforms to air quality regulations, three of which have been formally proposed as of the time of this petition response. These include a new Greenhouse Gas Monitoring and Reporting Rule, 53 N.J.R. 1063(a), which will better quantify emissions of climate pollutants to support future reduction reforms, an Advanced Clean Trucks and Fleet Reporting Rule, 53 N.J.R. 588(a), which will reduce the emissions of climate pollutants by increasing the percentage of electric vehicles sold in New Jersey through the institution of manufacturer sales requirements, and a Control and Prohibition of Carbon Dioxide Emissions Rule, 53 N.J.R. 1945(a), which will reduce emissions from fossil fuel-powered electric generating plants over the next decade consistent with 2019 EMP, further supporting the State's clean energy transition. The Department intends to pursue additional regulatory reforms consistent with the recommendations within the 80x50 Report.

Reasons for Denial of Petition

The Department fully recognizes, and its work is motivated by, the urgency of the climate crisis. That the Department joins petitioners in their call to action is evident in the Department's work to support and share the science of climate change, including through its issuance of the New Jersey Scientific Report on Climate Change,

https://www.nj.gov/dep/climatechange/docs/nj-scientific-report-2020.pdf, the development of policy prescriptions for meeting the State's emissions targets detailed in the 80x50 Report, and the regulatory actions that the Department has proposed, as well as those under active development.

As the Department reported in the 80x50 Report, without immediate, steep, and permanent reductions in emissions within the next several years, New Jersey will continue to experience worsening climate impacts for the foreseeable future. In the years ahead, New Jersey must implement an economy-wide transformation that steadily phases out the use of fossil fuels, expedites the deployment of renewable energy resources, electrifies new and existing buildings, facilitates a swift and steady transition from fossil fuel-powered to electric vehicles, and protects and expands upon existing natural carbon sinks such as marshlands and forests, among many other initiatives.

By aggressively pursuing the recommendations in the 80x50 Report and the 2019 EMP, New Jersey could reduce its emissions of climate pollutants by approximately 40 percent or more by 2030, 50 percent by 2035, and 80 percent by 2050. Governor Murphy recently acknowledged the need to further accelerate this work, establishing the interim benchmark of reducing emissions by 50 percent by 2030 as a matter of Statewide policy pursuant to Executive Order 274. To reach the State's emissions goals and successfully transition to 100 percent clean energy by 2050 while ensuring the delivery of reliable and affordable energy, there must be "thorough analysis and planning across the state and regional energy system." 2019 EMP at p. 32. Further emissions reduction and carbon sequestration strategies likewise implicate policy, planning and

regulatory actions by multiple State, local and non-governmental actors over time, as well as fundamental shifts in the way individuals approach their daily lives. 80x50 Report at p. v.

As examples of the transformative work before the State, the Clean Energy Act sets forth such goals as increasing the State's renewable portfolio standard to 50 percent by 2030, generating 3,500 MW of offshore wind and installing 2,000 MW of energy storage by 2030, increasing energy efficiency standards by 2024, and new solar programs—all of which are essential to achieving the State's interim and ultimate emission reduction goals. See 2019 EMP at p. 27; 2050 Report at p. 43. Similarly, the 80x50 Report establishes how New Jersey can transition to all-electric methods of transportation, conserve more land-based resources for purposes of sequestering carbon, reimagine agricultural and waste management practices to promote circularity and reduce emissions, and fundamentally change how we build and power our homes and businesses.

Consistent Statewide climate policy development underway since January 29, 2018, has demonstrated that New Jersey's response to the climate crisis is not a matter of environmental regulation alone; rather, it is a composite of concerted structural, economic, and societal change across sectors, aided by supportive regulatory reform where applicable. The complexity of achieving emissions reductions on the scale necessary does not lend to simplistic regulatory formulations as proposed by petitioners. Moreover, achieving these reductions implicates, *inter alia*, the regulation of energy markets, solicitation of renewable energy capacity, establishment of Statewide building codes, management of transportation systems, and other areas where the Department may lack sole authority. In areas of Department jurisdiction, including authorities arising under the Air Pollution Control Act, N.J.S.A 26:2C-1, et seq., the Commissioner has

proposed and continues to propose successive climate pollutant reduction rules as part of the Department's iterative NJPACT initiative.

Petitioners' Request to Codify Interim Benchmark as a Department Rule. Petitioners submit that the Department has not fulfilled the Legislative directive of the GWRA and seek the promulgation of rules establishing interim benchmarks and limiting the development of new fossil fuel infrastructure in the State. However, the Department has fulfilled the Legislature's direction in the 2007 GWRA, N.J.S.A. 26:2C-42, to prepare a report recommending measures necessary to achieve the 80x50 goal. On October 15, 2020, the Department delivered the 80x50 Report to the Legislature, identifying the limitations of existing legislation, policies, and programs in achieving the 80x50 goal and providing detailed recommendations for bridging the resulting emissions reductions gap. The 2019 GWRA amendments also directed the Department to adopt, within 18 months of transmittal of the 80x50 Report, rules establishing any interim benchmarks and measures necessary to meet both the 80x50 goal and any interim benchmarks. N.J.S.A. 26:2C-41. Thus, 2019 amendments effectively directed the Department to prepare the 80x50 Report recommending policy actions while simultaneously adopting rules to facilitate their implementation. In accordance with this statutory direction, the Department worked on parallel tracks to advance the long-term directional policy planning (in the form of the 80x50 Report) and commence the first phase of the CPR rules.

While petitioners seek the establishment of interim benchmarks by rule, the Department interprets N.J.S.A. 26:2C-41 as giving the Department discretion to first determine if establishing interim benchmarks as a matter of regulation is a prerequisite to achieving the 80x50 goal. By directing the Department to "include specific recommendations for legislative and regulatory

action that will be necessary to achieve the 2050 limit and *any* established interim benchmarks," the GWRA also appears to give the Department discretion to promulgate interim benchmarks by rule. Since the filing of the subject petition, an interim benchmark, *i.e.*, the 50x30 goal, has since been established pursuant to Executive Order 274. It bears noting, however, that other interim benchmarks have been accomplished without a specific regulatory codification. For example, the State achieved the 20x20 goal principally through ongoing efforts to reduce emissions in the electric generating sector. See New Jersey Department of Environmental Protection, *Environmental Trends, Greenhouse Gas Emissions Chapter*, September 2020, p. 2, https://www.nj.gov/dep/dsr/trends/ghg.pdf. The State also met the U.S. Climate Alliance goal of reducing emissions to 26 to 28 percent below 2005 levels without having codified the goal through rulemaking. 2019 EMP at p.22.

Achieving these prior benchmarks, of course, does not diminish the formidable task before the State, as meeting the 50x30 and 80x50 goals will require transitions on a far greater scale and far faster timeline. The Department will therefore continue to consider the role of benchmark codification in advancing the State's climate policy objectives, especially as the Department continues its pursuit of successive CPR rule proposals. With respect to the subject petition, however, it is the Department's view that the 80x50 Report, 2019 EMP, and any updates thereto, presently represent appropriate and effective vehicles for establishing any interim benchmarks, as these directional policy supports "are designed to be living documents to be continually reassessed, remodeled, and reprioritized as early objectives are achieved and newly emerging pathways mature." 2019 EMP at p. 33, 2050 Report at p. 3.

The State's use of such living, directional guideposts is appropriate. For example, as New Jersey moves toward the increased electrification of the transportation and buildings sectors, the State must consider multiple factors, including, but not limited to, the added demand for electric supply, the sources of electricity generated in New Jersey and through the regional transmission organization (PJM) for use in New Jersey, emerging technologies, and the costs associated with technologies and infrastructure. Each of these factors is variable; therefore, reporting and modeling must be updated periodically. For this reason, as stated in the 80x50 Report and the 2019 EMP, the Department, in collaboration with the BPU and multiple other State agencies, will regularly update the strategies and recommendations contained therein to consider the State's progress in reducing emissions, current modeling, emerging pathways and technologies, and a reassessment of priorities. See 80x50 Report at p. 3; 2019 EMP at p. 18.

Petitioners' Request to Limit Fossil Fuel Infrastructure Projects. In the course of New Jersey's just transition to a clean energy-based economy, there is and will continue to be a public need for the State to ensure the reliability and resilience of New Jersey's existing energy system, notwithstanding its reliance on fossil fuels. In light of this public need, and given that the Department alone cannot mandate all of the measures necessary to achieve the 50x30 or 80x50 goals, it would be impractical for the Department to undertake the broad rulemaking requested by petitioners to categorically limit fossil fuel project development in the State. The Department will nonetheless continue and accelerate its efforts to establish regulations, policies, and programs intended to reduce the emissions of climate pollutants consistent with Executive Order Nos. 100, 221, and 274, and in further coordination with the Governor's Office of Climate Action and the Green Economy, as well as other State, local and non-government actors.

For example, and as discussed above, the Department intends to continue its successive reforms as directed in Executive Order 100 and Administrative Order No. 2020-01 (2020). In accordance with these directives, throughout 2020, the Department conducted a series of stakeholder engagements sessions where several potential CPR rules were explored, including those that would reduce climate pollution from emissions sources in the electric generating and transportation sectors. Throughout 2021, potential rule proposals were developed, several were proposed in the New Jersey Register, and further proposals are being actively explored by the Department. More specifically:

On April 19, 2021, the Department published the proposed Advanced Clean Trucks and Fleet Reporting Rule (ACT Rules), 53 N.J.R. 588(a), aimed at reducing emissions of CO_2 and other climate pollutants from the transportation sector by incorporating by reference California's Advanced Clean Trucks regulation. The proposed ACT Rules require manufacturers of vehicles over 8,500 pounds gross vehicle weight rating (GVWR) to participate in a credit/deficit program intended to increase the percentage of zero-emission vehicles sold in New Jersey. The proposed ACT Rules include a one-time reporting requirement, in order that the Department can obtain information that will inform future decisions concerning further emission reductions from the transportation sector.

On June 20, 2021, the Department published proposed Greenhouse Gas Monitoring and Reporting rules, 53 N.J.R. 1063(a), to add a reporting threshold for methane. The proposed new rules also require natural gas public utilities to report information about their distribution pipelines in the State, including leaks and maintenance events that emit methane, the primary component of natural gas, and owners and operators of large, stationary, non-residential

refrigeration systems to track their use of halogenated gases. This information, along with the Department's emissions inventory which the Department has published since 2008, will assist the State's efforts to mitigate climate change.

On December 6, 2021, the Department published proposed rules, 53 N.J.R. 1945(a), to reduce carbon dioxide emissions from: (1) fossil fuel-fired electric generating units through the application of emission limits, (2) certain commercial and industrial fossil fuel-fired boilers based upon additional permit requirements, and (3) No. 4 and No. 6 fuel oil by banning its sale and use. If adopted, these new rules will have the additional benefit of reducing criteria air pollutants such as oxides of nitrogen, sulfur dioxide, direct particulate matter, and hazardous air pollutants.

Additionally, the Department engaged with stakeholders across multiple sectors about other potential near-term rulemakings intended to reduce emissions from 1) fossil fuel-fired vehicles by adopting California's heavy-duty engine and vehicle omnibus regulation, and 2) cargo handling equipment at ports also by adopting California's regulations. Other rulemaking concepts explored involved oceangoing vessels, cargo handling equipment at airports, and zero-emission fleets, each of which will be considered by the Department for successive proposals. See, e.g., NJ PACT: Protecting Against Climate Threats, https://www.nj.gov/dep/njpact/materials.html.

The Department intends to propose additional rulemakings in 2022 and beyond in its continuing work to reduce emissions of climate pollutants and thereby limit the risk of worsening climate impacts upon the State, its communities, residents, and businesses. Finally, in accordance with Administrative Order 2020-01, the Department will issue a broader plan that will set the

course for further policy and program change—including actions may not require rulemaking—for the express purposes of implementing the strategies of the 80x50 Report and 2019 EMP.

For the reasons stated hereinabove, the subject petition is hereby denied.

A copy of this notice has been mailed to the petitioner as required by N.J.A.C. 1:30-3.6.

Date: December 14, 2021

Shawn LaTourette, Commissioner
Department of Environmental Protection