

CHAPTER 278

AN ACT concerning the purchase and use of unit concrete products that utilize carbon footprint-reducing technology and supplementing Titles 27, 52, and 54 of the Revised Statutes, Title 54A of the New Jersey Statutes, and P.L.1971, c.198.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.52:27D-141.15 Findings, declarations relative to fossil fuels.

1. The Legislature finds and declares that the burning of fossil fuels and other industrial processes release harmful greenhouse gases into the atmosphere, which in turn contribute to climate change; that, in the coming years, New Jersey is likely to experience increased flooding, drought, and other severe weather effects caused by climate change; and that, in order to help mitigate the serious impacts of climate change, the State must drastically reduce its consumption of fossil fuels and its greenhouse gas emissions.

The Legislature further finds that concrete is the most widely used construction material in the world due to its low cost, strength, and durability; that the production of ordinary Portland cement, the critical ingredient in concrete, is responsible for almost eight percent of the world's carbon dioxide emissions; that ordinary Portland cement requires significant amounts of energy to produce, resulting in high carbon dioxide emissions; that modern technology allows concrete to be produced utilizing less energy, and the emission of carbon dioxide from cement manufacturing can be greatly reduced by capturing and utilizing carbon dioxide in the unit concrete product manufacturing process, including the chemical reaction that results in strength and durability of concrete; and that this process can sequester carbon dioxide in the unit concrete product or chemically transform the carbon dioxide into mineral form, embedding it into the concrete and preventing its release as a gas.

The Legislature therefore determines that it is in the public interest to encourage and support the purchase of unit concrete products that utilize carbon footprint-reducing technology in the State; that unit concrete products that utilize carbon footprint-reducing technology will greatly reduce greenhouse gas emissions from the concrete and construction industries; and that incentives for permeable pavers that are unit concrete products that utilize carbon footprint-reducing technology will further help enhance stormwater management, reduce stormwater runoff, and decrease the risk of flooding in the State.

C.52:27D-141.16 Use of unit concrete products that utilize carbon footprint-reducing technology.

2. a. A builder shall, for any new construction that requires the use of unit concrete products, where technically feasible, offer as an option unit concrete products that utilize carbon footprint-reducing technology in the new construction, whenever a prospective client enters into negotiations with the builder to construct or purchase a new residential dwelling or commercial building in the State.

The requirements of this section shall not apply whenever a prospective client enters into negotiations with a builder for new construction of an individual unit of condominiums as defined in the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.) or attached single-family townhouses or row houses for which title to the individual condominium, townhouse, or row house unit will be held in fee simple but the maintenance, repair, or replacement of improvements constructed with unit concrete products are the responsibility of a non-profit homeowners association.

b. A builder shall disclose in writing pursuant to paragraph (3) of subsection c. of this section, in a form and manner as determined by the commissioner:

(1) that the prospective client may choose to use unit concrete products that utilize carbon footprint-reducing technology in the new construction;

(2) the total cost to be charged by the builder to the prospective client of using unit concrete products that utilize carbon footprint-reducing technology in the new construction;

(3) general information on the environmental and other benefits of using unit concrete products that utilize carbon footprint-reducing technology; and

(4) information concerning any applicable tax credits, rebates, or other incentives that may be available for the use of unit concrete products that utilize carbon footprint-reducing technology pursuant to P.L.2021, c.278 (C.52:27D-141.15 et al.).

c. The commissioner, in consultation with the Department of Environmental Protection, shall:

(1) publish educational materials to demonstrate how builders may incorporate unit concrete products that utilize carbon footprint-reducing technology into new construction;

(2) provide builders with information concerning applicable tax credits, rebates, or other incentives that may be available for the use of unit concrete products that utilize carbon footprint-reducing technology pursuant to P.L.2021, c.278 (C.52:27D-141.15 et al.) or any other law; and

(3) provide builders with a separate form that the builder shall present, along with the materials required pursuant to subsection b. and c. of this section, to the prospective client prior to entering into a contract, which form shall allow a prospective client to accept or decline the option to use unit concrete products that utilize carbon footprint-reducing technology in the new construction.

d. Notwithstanding the provisions of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the commissioner, in consultation with the Department of Environmental Protection, may adopt, immediately upon filing the proper notice with the Office of Administrative Law, rules and regulations that the commissioner determines to be necessary to implement this section. These rules and regulations shall be in effect for a period not to exceed 365 days after the date of the filing. The rules and regulations shall thereafter be amended, adopted, or readopted in accordance with the requirements of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

e. The commissioner shall enforce the provisions of this section and may penalize and assess violators of this section in accordance with the penalties and procedures provided for under section 18 of P.L.1977, c.419 (C.45:22A-38).

f. If a prospective client accepts, pursuant to a written contract, the builder’s offer to use unit concrete products that utilize carbon footprint-reducing technology in the new construction, then the builder shall use unit concrete products that utilize carbon footprint-reducing technology subject to material availability or acts of force majeure, in which case the builder shall complete construction as soon as reasonably practical.

g. As used in this section:

“Advertising” means the same as the term is defined in section 3 of P.L.1977, c.419 (C.45:22A-23).

“Builder” means a person who constructs, or offers to construct, a new residential dwelling or commercial building in the State.

“Commissioner” means the Commissioner of Community Affairs.

“Prospective client” means a person who contemplates acquiring a legal or equitable interest in or constructing a new residential dwelling or commercial building.

“Unit concrete product” means a concrete building product that is fabricated under controlled conditions separate and remote from the intended point of use and is produced in a wet cast or dry cast method in a factory setting and then transported to the location of intended

use for installation, including, but not limited to, all concrete pavers, whether permeable or non-permeable, and concrete block. “Unit concrete product” shall not include ready mix concrete, sand, stone, gravel, or bituminous concrete or asphalt.

“Unit concrete product that utilizes carbon footprint-reducing technology” means a unit concrete product that is certified by the Department of Environmental Protection, or any independent third party authorized by the department, pursuant to section 10 of P.L.2021, c.278 (C.52:27D-141.17), as generating at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement. Such products shall also conform with the relevant requirements of the “State Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by reference TMS 402/602 Building Code Requirements and Specification for Masonry Structures.

C.54:32B-8.65 Sale receipts of unit concrete products that utilize carbon footprint-reducing technology.

3. a. Receipts from the sale of unit concrete products that utilize carbon footprint-reducing technology, which may include permeable pavement, used in the construction or improvement of any residential dwelling or commercial building located in the State shall be exempt from the tax imposed under the “Sales and Use Tax Act,” P.L.1966, c.30 (C.54:32B-1 et seq.).

b. As used in this section:

“Permeable pavement” means a concrete product that allows rainwater to penetrate the pavement and percolate into the supporting soils and includes, but is not limited to, pervious concrete, permeable interlocking concrete pavers, and concrete grid pavers.

“Unit concrete product” means a concrete building product that is fabricated under controlled conditions separate and remote from the intended point of use and is produced in a wet cast or dry cast method in a factory setting and then transported to the location of intended use for installation, including, but not limited to, all concrete pavers, whether permeable or non-permeable, and concrete block. “Unit concrete product” shall not include ready mix concrete, sand, stone, gravel, or bituminous concrete or asphalt.

“Unit concrete product that utilizes carbon footprint-reducing technology” means a unit concrete product that is certified by the Department of Environmental Protection, or any independent third party authorized by the department, pursuant to section 10 of P.L.2021, c.278 (C.52:27D-141.17), as generating at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement. Such products shall also conform with the relevant requirements of the “State Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by reference TMS 402/602 Building Code Requirements and Specification for Masonry Structures.

C.54:10A-5.48 Tax credit for taxpayer’s purchase of unit concrete products that utilize carbon footprint-reducing technology.

4. a. A taxpayer who in a privilege period purchases unit concrete products that utilize carbon footprint-reducing technology, which may include permeable pavement, for use in the construction or improvement of any residential dwelling or commercial building, or in the replacement of an impervious surface with permeable pavement, in the State shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to \$2.00 per square foot of unit concrete products that utilize carbon footprint-reducing technology, which may include permeable pavement, used in the construction or improvement of any residential dwelling or commercial building, or in the replacement of an

impervious surface with permeable pavement. The credit shall be allowed in the privilege period in which the purchase is made. The value of tax credits allowed to a taxpayer pursuant to this section shall not exceed \$3,000 for a residential property, and \$30,000 for a commercial property in a single privilege period. In order to qualify for the tax credit pursuant to this section, a person shall purchase at least 100 square feet of unit concrete products that utilize carbon footprint-reducing technology, which may include permeable pavement.

b. The order of priority of the application of the tax credit allowed pursuant to this section, and any other credits allowed against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period, shall be as prescribed by the director. The amount of the credit applied pursuant to this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall not reduce a taxpayer's tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax credit otherwise allowable under this section which cannot be applied for the privilege period due to the limitations of this subsection or under other provisions of P.L.1945, c.162 (C.54:10A-1 et seq.) may be carried forward, if necessary, to the seven privilege periods following the privilege period for which the tax credit was allowed.

c. In order to be allowed a tax credit pursuant to subsection a. of this section, a taxpayer who has purchased 100 or more square feet of unit concrete products certified pursuant to section 10 of P.L.2021, c.278 (C.52:27D-141.17) shall attach receipts for the unit concrete products for which the tax credit is claimed and an affidavit that the unit concrete products are or will be used exclusively in the State to any return the taxpayer is required to file under P.L.1945, c.162 (C.54:10A-1 et seq.). A credit shall be initially allowed for the privilege period in which the unit concrete products are purchased, and any unused portion thereof may be carried forward into subsequent privilege periods as provided in subsection b. of this section.

d. No amount of cost included in calculation of the credit allowed under this section shall be included in the costs for calculation of any other credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

e. The value of tax credits allowed by the director pursuant to this section and pursuant to section 5 of P.L.2021, c.278 (C.54A:4-22) shall not exceed a cumulative total of \$20,000,000 in each fiscal year to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. and the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

f. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the director, in consultation with the Department of Environmental Protection, shall adopt, immediately upon filing the proper notice with the Office of Administrative Law, rules and regulations as are necessary to implement the provisions of this section. These rules and regulations shall be in effect for a period not to exceed 365 days after the date of the filing. The rules and regulations shall thereafter be amended, adopted, or readopted in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The director may require the submission of any information the director deems necessary to award a tax credit pursuant to this section.

g. As used in this section:

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Permeable pavement" means a concrete product that allows rainwater to penetrate the pavement and percolate into the supporting soils and includes, but is not limited to, pervious concrete, permeable interlocking concrete pavers, and concrete grid pavers.

"Unit concrete product" means a concrete building product that is fabricated under controlled conditions separate and remote from the intended point of use and is produced in a

wet cast or dry cast method in a factory setting and then transported to the location of intended use for installation, including, but not limited to, all concrete pavers, whether permeable or non-permeable, and concrete block. “Unit concrete product” shall not include ready mix concrete, sand, stone, gravel, or bituminous concrete or asphalt.

“Unit concrete product that utilizes carbon footprint-reducing technology” means a unit concrete product that is certified by the Department of Environmental Protection, or any independent third party authorized by the department, pursuant to section 10 of P.L.2021, c.278 (C.52:27D-141.17), as generating at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement. Such products shall also conform with the relevant requirements of the “State Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by reference TMS 402/602 Building Code Requirements and Specification for Masonry Structures.

C.54A:4-22 Tax credit for taxpayer’s purchase of unit concrete products that utilize carbon footprint-reducing technology.

5. a. A taxpayer who in a privilege period purchases unit concrete products that utilize carbon footprint-reducing technology, which may include permeable pavement, for use in the construction or improvement of any residential dwelling or commercial building, or in the replacement of an impervious surface with permeable pavement, in the State shall be allowed a credit against the tax otherwise due for the taxable year under the “New Jersey Gross Income Tax Act” N.J.S.54A:1-1 et seq., in an amount equal to \$2.00 per square foot of unit concrete products that utilize carbon footprint-reducing technology, which may include permeable pavement, used in the construction or improvement of any residential dwelling or commercial building, or in the replacement of an impervious surface with permeable pavement. The credit shall be allowed in the taxable year in which the purchase is made. The total amount of the tax credit granted pursuant to this section shall not exceed \$3,000 for a residential property, and \$30,000 for a commercial property in a single taxable year. In order to qualify for the tax credit pursuant to this section, a person shall purchase at least 100 square feet of unit concrete products that utilize carbon footprint-reducing technology, which may include permeable pavement.

b. The order of priority of the application of the credit allowed pursuant to this section, and any other credits allowed against the tax imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year, shall be as prescribed by the director. The amount of the credit applied under this section against the New Jersey gross income tax imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year, when taken together with any other payments, credits, deductions, and adjustments allowed by law, shall not reduce a taxpayer's tax liability to an amount less than zero. The amount of the tax credit otherwise allowable under this section which cannot be applied for the taxable year due to the limitations of this section or other provisions of N.J.S.54A:1-1 et seq. may be carried forward, if necessary, to the seven taxable years following the taxable year for which the tax credit was allowed.

c. (1) A business entity that is classified as a partnership for federal income tax purposes shall not be allowed a credit under this section directly, but the amount of credit of a taxpayer in respect of a distributive share of partnership income under the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et seq., shall be determined by allocating to the taxpayer that proportion of the credit acquired by the partnership that is equal to the taxpayer’s share, whether or not distributed, of the total distributive income or gain of the partnership for its taxable year ending within or with the taxpayer’s taxable year.

(2) A New Jersey S Corporation shall not be allowed a credit under this section directly, but the amount of the tax credit of a taxpayer in respect of a pro rata share of S Corporation income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the New Jersey S Corporation that is equal to the taxpayer's share, whether or not distributed, of the total pro rata share of S Corporation income of the New Jersey S Corporation for its privilege period ending within or with the taxpayer's taxable year.

d. In order to be allowed a tax credit pursuant to subsection a. of this section, a taxpayer who has purchased 100 or more square feet of unit concrete products certified pursuant to section 10 of P.L.2021, c.278 (C.52:27D-141.17) shall attach receipts for the unit concrete products for which a tax credit is claimed and an affidavit that the unit concrete products are or will be used exclusively in New Jersey to any return the taxpayer is required to file under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. A credit shall be initially allowed for the taxable year in which the unit concrete products are purchased, and any unused portion thereof may be carried forward into subsequent taxable years as provided in subsection b. of this section.

e. No amount of cost included in calculation of the credit allowed under this section shall be included in the costs for calculation of any other credit against the gross income tax imposed pursuant to N.J.S.54A:1-1 et seq.

f. The value of tax credits allowed by the director pursuant to this section and pursuant to section 4 of P.L.2021, c.278 (C.54:10A-5.48) shall not exceed a cumulative total of \$20,000,000 in each fiscal year to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. and the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

g. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the director, in consultation with the Department of Environmental Protection, shall adopt, immediately upon filing the proper notice with the Office of Administrative Law, rules and regulations as are necessary to implement the provisions of this section. These rules and regulations shall be in effect for a period not to exceed 365 days after the date of the filing. The rules and regulations shall thereafter be amended, adopted, or readopted in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The director may require the submission of any information the director deems necessary to award a tax credit pursuant to this section.

h. As used in this section:

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

"Permeable pavement" means a concrete product that allows rainwater to penetrate the pavement and percolate into the supporting soils and includes, but is not limited to, pervious concrete, permeable interlocking concrete pavers, and concrete grid pavers.

"Unit concrete product" means a concrete building product that is fabricated under controlled conditions separate and remote from the intended point of use and is produced in a wet cast or dry cast method in a factory setting and then transported to the location of intended use for installation, including, but not limited to, all concrete pavers, whether permeable or non-permeable, and concrete block. "Unit concrete product" shall not include ready mix concrete, sand, stone, gravel, or bituminous concrete or asphalt.

"Unit concrete product that utilizes carbon footprint-reducing technology" means a unit concrete product that is certified by the Department of Environmental Protection, or any independent third party authorized by the department, pursuant to section 10 of P.L.2021, c.278 (C.52:27D-141.17), as generating at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement. Such products shall also conform with the relevant requirements of the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-

119 et seq.) that incorporate by reference TMS 402/602 Building Code Requirements and Specification for Masonry Structures.

C.52:32-62 Required use of unit concrete products that utilize carbon footprint-reducing technology.

6. a. Notwithstanding the provisions of any other law, rule, or regulation to the contrary, the Director of the Division of Purchase and Property in the Department of the Treasury, the Director of the Division of Property Management and Construction in the Department of the Treasury, and any State agency having authority to contract for the purchase of goods or services, shall, whenever technically feasible, use or require the use of unit concrete products that utilize carbon footprint-reducing technology, which may include permeable pavement, when entering into a contract for the purchase of unit concrete products, or for any construction or improvement project that requires the use of unit concrete products, including the replacement of impervious surfaces with permeable pavement.

b. The Division of Purchase and Property and the Division of Property Management and Construction, in consultation with the Department of Environmental Protection, shall develop and publish guidelines for implementing the requirement established pursuant to subsection a. of this section. The guidelines shall conform to any standards or procedures established pursuant to section 10 of P.L.2021, c.278 (C.52:27D-141.17). Whenever any agency or department of State government purchases unit concrete products, or undertakes any construction or improvement project that requires the use of unit concrete products, the agency or department shall follow the guidelines therefor established by the director.

c. In preparing the specifications for any contract for the purchase of unit concrete products, or for any construction or improvement project that requires the use of unit concrete products, the Director of the Division of Purchase and Property, the Director of the Division of Property Management and Construction, or any State agency having authority to contract for the purchase of goods or services shall include in the invitation to bid, where relevant, a statement that any response to the invitation shall use unit concrete products that utilize carbon footprint-reducing technology whenever technically feasible. The State agency shall include in its project specifications a specific line item for each unit concrete product to be used in the project.

d. The provisions of this section shall not apply to:

(1) any binding contractual obligations for the purchase of goods or services entered into prior to the effective date of P.L.2021, c.278 (C.52:27D-141.15 et al.);

(2) bid packages advertised and made available to the public, or to any competitive and sealed bids received by the State, prior to the effective date of P.L.2021, c.278 (C.52:27D-141.15 et al.);

(3) any amendment, modification, or renewal of a contract, which contract was entered into prior to the effective date of P.L.2021, c.278 (C.52:27D-141.15 et al.) where the application would delay timely completion of a project or involve an increase in the total moneys to be paid by the State under that contract; or

(4) a contract when the Director of the Division of Purchase and Property, the Director of the Division of Property Management and Construction, or the head of any State agency having authority to contract for the purchase of goods or services determines, in their sole discretion, that the purchase and use of unit concrete products that utilize carbon footprint-reducing technology would increase the cost of the contract by an unreasonable amount.

e. As used in this section:

“Permeable pavement” means a concrete product that allows rainwater to penetrate the pavement and percolate into the supporting soils and includes, but is not limited to, pervious concrete, permeable interlocking concrete pavers, and concrete grid pavers.

“Unit concrete product” means a concrete building product that is fabricated under controlled conditions separate and remote from the intended point of use and is produced in a wet cast or dry cast method in a factory setting and then transported to the location of intended use for installation, including, but not limited to, all concrete pavers, whether permeable or non-permeable, and concrete block. “Unit concrete product” shall not include ready mix concrete, sand, stone, gravel, or bituminous concrete or asphalt.

“Unit concrete product that utilizes carbon footprint-reducing technology” means a unit concrete product that is certified by the Department of Environmental Protection, or any independent third party authorized by the department, pursuant to section 10 of P.L.2021, c.278 (C.52:27D-141.17), as generating at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement. Such products shall also conform with the relevant requirements of the “State Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by reference TMS 402/602 Building Code Requirements and Specification for Masonry Structures.

C.40A:11-4.13 Required use of unit concrete products that utilize carbon footprint-reducing technology.

7. a. Notwithstanding the provisions of any other law, rule, or regulation to the contrary, a local contracting unit shall, whenever technically feasible, use or require the use of unit concrete products that utilize carbon footprint-reducing technology, which may include permeable pavers, when entering into a contract for the purchase of unit concrete products, or for any construction or improvement project that requires the use of unit concrete products, including the replacement of impervious surfaces with permeable pavement.

b. The director, in consultation with the Department of Environmental Protection, shall develop and publish guidelines for implementing the requirement established pursuant to subsection a. of this section. The guidelines shall conform to any standards or procedures established pursuant to section 10 of P.L.2021, c.278 (C.52:27D-141.17). Whenever a local contracting unit purchases unit concrete products, or undertakes any construction or improvement project that requires the use of unit concrete products, the local contracting unit shall follow the guidelines therefor established by the director.

c. In preparing the specifications for a contract for the purchase of unit concrete products, or for any construction or improvement project that requires the use of unit concrete products, a local contracting unit shall include in the invitation to bid, including in the specifications for all contracts for county or municipal work or for work for which it will pay any part of the cost, or work which by contract or ordinance it will ultimately own and maintain, where relevant, a statement that any response to the invitation shall use unit concrete products that utilize carbon footprint-reducing technology whenever technically feasible. The local contracting unit shall include in its project specifications a specific line item for each unit concrete product to be used in the project.

d. The provisions of this section shall not apply to:

(1) any binding contractual obligations for the purchase of goods or services entered into prior to the effective date of P.L.2021, c.278 (C.52:27D-141.15 et al.);

(2) bid packages advertised and made available to the public, or to any competitive and sealed bids received by the local contracting unit, prior to the effective date of P.L.2021, c.278 (C.52:27D-141.15 et al.);

(3) any amendment, modification, or renewal of a contract, which contract was entered into prior to the effective date of P.L.2021, c.278 (C.52:27D-141.15 et al.) where the application

would delay timely completion of a project or involve an increase in the total moneys to be paid by the local contracting unit under that contract; or

(4) a contract when the head of a local contracting unit determines, in their sole discretion, that the purchase and use of unit concrete products that utilize carbon footprint-reducing technology would increase the cost of the contract.

e. As used in this section:

“Director” means the Director of the Division of Local Government Services in the Department of Community Affairs.

“Local contracting unit” means any public agency subject to the provisions of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., the "State College Contracts Law," P.L.1986, c.43 (C.18A:64-52 et seq.), or the "County College Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.).

“Permeable pavement” means a concrete product that allows rainwater to penetrate the pavement and percolate into the supporting soils and includes, but is not limited to, pervious concrete, permeable interlocking concrete pavers, and concrete grid pavers.

“Unit concrete product” means a concrete building product that is fabricated under controlled conditions separate and remote from the intended point of use and is produced in a wet cast or dry cast method in a factory setting and then transported to the location of intended use for installation, including, but not limited to, all concrete pavers, whether permeable or non-permeable, and concrete block. “Unit concrete product” shall not include ready mix concrete, sand, stone, gravel, or bituminous concrete or asphalt.

“Unit concrete product that utilizes carbon footprint-reducing technology” means a unit concrete product that is certified by the Department of Environmental Protection, or any independent third party authorized by the department, pursuant to section 10 of P.L.2021, c.278 (C.52:27D-141.17), as generating at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement. Such products shall also conform with the relevant requirements of the “State Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by reference TMS 402/602 Building Code Requirements and Specification for Masonry Structures.

C.27:1B-21.38 Program established to implement the use of unit concrete products that utilize carbon footprint-reducing technology.

8. a. The Department of Transportation shall establish and implement a program to use, to the greatest extent practicable as determined by the Commissioner of Transportation, unit concrete products that utilize carbon footprint-reducing technology, which may include permeable pavement, in the design, construction, reconstruction, or repair of any public highway, parking lot, sidewalk, walkway, patio, or other public infrastructure project that requires the use of unit concrete products, or in the replacement of an impervious surface with permeable pavement, and that is funded in whole or in part from the “Special Transportation Fund” established pursuant to section 21 of P.L.1984, c.73 (C.27:1B-21).

b. As used in this section:

“Permeable pavement” means a concrete product that allows rainwater to penetrate the pavement and percolate into the supporting soils and includes, but is not limited to, pervious concrete, permeable interlocking concrete pavers, and concrete grid pavers.

“Unit concrete product” means a concrete building product that is fabricated under controlled conditions separate and remote from the intended point of use and is produced in a wet cast or dry cast method in a factory setting and then transported to the location of intended use for installation, including, but not limited to, all concrete pavers, whether permeable or

non-permeable, and concrete block. “Unit concrete product” shall not include ready mix concrete, sand, stone, gravel, or bituminous concrete or asphalt.

“Unit concrete product that utilizes carbon footprint-reducing technology” means a unit concrete product that is certified by the Department of Environmental Protection, or any independent third party authorized by the department, pursuant to section 10 of P.L.2021, c.278 (C.52:27D-141.17), as generating at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement. Such products shall also conform with the relevant requirements of the “State Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by reference TMS 402/602 Building Code Requirements and Specification for Masonry Structures.

C.52:32-1b Use of unit concrete products that utilize carbon footprint-reducing technology.

9. a. Any person or entity that purchases unit concrete products, or that undertakes any construction or improvement that requires the use of unit concrete products, including the replacement of impervious surface with permeable pavement, the cost or contract price of which is financed, in whole or in part, by State funds, shall, as a condition of receiving State funds, use unit concrete products that utilize carbon footprint-reducing technology, provided that such utilization does not conflict with federal funding conditions.

b. As used in this section:

“Permeable pavement” means a concrete product that allows rainwater to penetrate the pavement and percolate into the supporting soils and includes, but is not limited to, pervious concrete, permeable interlocking concrete pavers, and concrete grid pavers.

“Unit concrete product” means a concrete building product that is fabricated under controlled conditions separate and remote from the intended point of use and is produced in a wet cast or dry cast method in a factory setting and then transported to the location of intended use for installation, including, but not limited to, all concrete pavers, whether permeable or non-permeable, and concrete block. “Unit concrete product” shall not include ready mix concrete, sand, stone, gravel, or bituminous concrete or asphalt.

“Unit concrete product that utilizes carbon footprint-reducing technology” means a unit concrete product that is certified by the Department of Environmental Protection, or any independent third party authorized by the department, pursuant to section 10 of P.L.2021, c.278 (C.52:27D-141.17), as generating at least 50 percent less carbon dioxide emissions in the production and utilization of the unit concrete product than conventional unit concrete products made with ordinary Portland cement. Such products shall also conform with the relevant requirements of the “State Uniform Construction Code Act,” P.L.1975, c.217 (C.52:27D-119 et seq.) that incorporate by reference TMS 402/602 Building Code Requirements and Specification for Masonry Structures.

C.52:27D-141.17 Standards, procedures, implementation.

10. a. The Commissioner of Environmental Protection shall establish any standards and procedures necessary to implement the provisions of P.L.2021, c.278 (C.52:27D-141.15 et al.), including, but not limited to, production and use standards, and a process for certifying whether the production and use of a unit concrete product generates at least 50 percent less carbon dioxide emissions than conventional unit concrete products made with ordinary Portland cement. The commissioner shall publish on the department’s Internet website a list of unit concrete products certified by the department pursuant to this subsection. The Department of Environmental Protection shall consider a consensus evaluation and reporting standard developed by an independent private organization such as the International Organization for

Standardization or the American National Standards Institute that creates a uniform system for self-evaluation and self-reporting by unit concrete product manufacturers, and shall give preference to a standard supported by the unit concrete product industry or industry associations.

b. Notwithstanding the provisions of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the State Treasurer, the Commissioner of Environmental Protection, the Commissioner of Transportation, the Commissioner of Community Affairs, and the Secretary of Higher Education may adopt, immediately upon filing the proper notice with the Office of Administrative Law, any rules and regulations necessary to implement the provisions of P.L.2021, c.278 (C.52:27D-141.15 et al.). These rules and regulations shall be in effect for a period not to exceed 365 days after the date of the filing. The rules and regulations shall thereafter be amended, adopted, or readopted in accordance with the requirements of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.).

11. This act shall take effect immediately and sections 4 and 5 shall apply to purchases of unit concrete products that utilize carbon footprint-reducing technology made on or after the first day of the second month next following the date of enactment.

Approved November 8, 2021.