

Monthly rate			
No dependents	One dependent	Two dependents	Additional for each additional dependent
\$1263.00	\$1299.00	\$1330.00	\$16.00

(Authority: 38 U.S.C. 3015)

(iii) For training that occurs after September 30, 2007, and before August 1, 2008:

Monthly rate			
No dependents	One dependent	Two dependents	Additional for each additional dependent
\$1289.00	\$1325.00	\$1356.00	\$16.00

(Authority: 38 U.S.C. 3015)

\* \* \* \* \*

(c) *Rates for servicemembers.* Except as provided in paragraph (d) of this section, the monthly rate of basic educational assistance for a servicemember may not exceed the lesser of:

(1) The monthly rate stated in paragraph (a) of this section; or

(2) The monthly rate of the cost of the course. If there is no cost for the course, educational assistance is not payable.

(Authority: 38 U.S.C. 3015)

\* \* \* \* \*

■ 8. Amend § 21.7139 by revising paragraph (f)(1)(i) to read as follows:

**§ 21.7139 Conditions which result in reduced rates or no payment.**

\* \* \* \* \*

(f) \* \* \*

(1) \* \* \*

(i) The rates specified in §§ 21.7136(b)(2), (c)(2), (d)(4) through (d)(6), (f)(4), and (h)(2) and 21.7137(a)(2); and

\* \* \* \* \*

■ 9. Amend § 21.7140 by revising paragraph (d) to read as follows:

**§ 21.7140 Certifications and release of payments.**

\* \* \* \* \*

(d) *Payment for intervals and temporary school closings.* In administering 38 U.S.C. chapter 30, VA will apply the provisions of § 21.4138(f) when determining whether an individual is entitled to payment for an interval or temporary school closing.

(Authority: 38 U.S.C. 3034, 3680)

\* \* \* \* \*

## Subpart L—Educational Assistance for Members of the Selected Reserve

■ 10. Revise the authority citation for part 21, subpart L to read as follows:

**Authority:** 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), 512, ch. 36 and as noted in specific sections.

■ 11. Amend § 21.7640 by:

■ a. Revising the heading for paragraph (b).

■ b. In paragraph (b), removing “a break, including an interval between terms” and adding, in its place, “an interval or temporary school closing”.

The revision reads as follows:

**§ 21.7640 Release of payments.**

\* \* \* \* \*

(b) *Payment for intervals and temporary school closings.* \* \* \*

\* \* \* \* \*

[FR Doc. E8-26176 Filed 10-31-08; 8:45 am]

**BILLING CODE 8320-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 55

[EPA-R02-OAR-2008-0308; FRL-8731-2]

### Outer Continental Shelf Air Regulations Update To Include New Jersey State Requirements

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing the update of the Outer Continental Shelf (OCS) Air Regulations proposed in the **Federal Register** on July 7, 2008. Requirements applying to OCS sources located within 25 miles of States' seaward boundaries must be promulgated into part 55 and updated periodically to remain consistent with the requirements of the corresponding onshore area (COA), as mandated by section 328(a)(1) of the Clean Air Act (CAA). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources in the State of New Jersey. The intended effect of approving the OCS requirements for the State of New Jersey is to regulate emissions from OCS sources in accordance with the requirements onshore. The requirements discussed below are incorporated by reference into the Code of Federal Regulations and are listed in the appendix to the OCS air regulations.

**DATES:** *Effective Date:* This rule is effective on December 3, 2008.

This incorporation by reference of certain publications listed in this rule is

approved by the Director of the Federal Register as of December 3, 2008.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R02-OAR-2008-0308. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the U.S. Environmental Protection Agency, Region 2, 290 Broadway, New York, New York 10007. **FOR FURTHER INFORMATION CONTACT:** Steven Riva, Air Programs Branch, U.S. Environmental Protection Agency, Region 2, 290 Broadway, New York, New York 10007; telephone number: (212) 637-4074; e-mail address: [riva.steven@epa.gov](mailto:riva.steven@epa.gov).

## SUPPLEMENTARY INFORMATION:

### Table of Contents

- I. Background Information
- II. Public Comment and EPA Response
- III. EPA Action
- IV. Administrative Requirements
  - A. Executive Order 12866: Regulatory Planning and Review
  - B. Paperwork Reduction Act
  - C. Regulatory Flexibility Act
  - D. Unfunded Mandates Reform Act
  - E. Executive Order 13132: Federalism
  - F. Executive Order 13175: Coordination With Indian Tribal Government
  - G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
  - H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
  - I. National Technology Transfer and Advancement Act
  - J. Congressional Review Act
  - K. Petitions for Judicial Review

### I. Background Information

Throughout this document, the terms “we,” “us,” and “our” refer to the U.S. EPA.

On September 4, 1992, EPA promulgated 40 CFR part 55,<sup>1</sup> which established requirements to control air pollution from OCS sources in order to attain and maintain Federal and State ambient air quality standards (AAQS) and to comply with the provisions of part C of title I of the CAA. Part 55 applies to all OCS sources offshore of the States except those located in the Gulf of Mexico west of 87.5 degrees longitude.

On July 7, 2008 (73 FR 38356), EPA proposed to approve requirements into

<sup>1</sup> The reader may refer to the Notice of Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.

the OCS Air Regulations pertaining to the State of New Jersey. EPA has evaluated the proposed regulations to ensure that they are rationally related to the attainment or maintenance of Federal or State ambient air quality standards or Part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the OCS and that they are applicable to OCS sources. 40 CFR 55.1. EPA has also evaluated the rules to ensure that they are not arbitrary or capricious. 40 CFR 55.12(e). In addition, EPA has excluded administrative or procedural rules.

Section 328(a) of the CAA requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of States' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable rules in effect for onshore sources into part 55. This limits EPA's flexibility in deciding which requirements will be incorporated into part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into part 55 that do not conform to all of EPA's state implementation plan (SIP) guidance or certain requirements of the CAA. Inclusion in the OCS rule does not imply that a rule meets the requirements of the CAA for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

## II. Public Comment and EPA Response

EPA's proposed action provided a 30-day public comment period which closed on August 6, 2008. During this period EPA received no comments on the proposed action.

## III. EPA Action

In this document, EPA takes final action to incorporate the proposed changes into 40 CFR part 55. In preparing this final rulemaking, EPA identified several typographical errors contained in the list of applicable requirements contained in the proposal. EPA is correcting these in the final rulemaking. These corrections do not add or subtract any requirements that were included in New Jersey's submittal. EPA is approving the proposed actions under section 328(a)(1) of the Act, 42 U.S.C. 7627. Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of States' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must

incorporate applicable onshore rules into part 55 as they exist onshore.

## IV. Administrative Requirements

### A. Executive Order 12866: Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

### B. Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant economic impact on a substantial number of small entities. This rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the CAA, without the exercise of any policy discretion by EPA. These OCS rules already apply in the COA, and EPA has no evidence to suggest that these OCS rules have had a significant economic impact on a substantial number of small entities. As required by section 328 of the CAA, this action simply incorporates the existing rules in the COA. Therefore, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities.

### D. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, and tribal governments in the aggregate; or to the private sector, of \$100 million or more in any one year. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be

significantly or uniquely impacted by the rule.

EPA has determined that today's final rule contains no Federal mandates that may result in expenditures of \$100 million or more for State, local, or tribal governments, in the aggregate, or to the private sector in any one year. This action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local or tribal governments, or to the private sector, result from this action.

### E. Executive Order 13132: Federalism

*Federalism* (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (*Federalism*) and 12875 (*Enhancing the Intergovernmental Partnership*). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a State rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of

section 6 of the Executive Order do not apply to this rule.

*F. Executive Order 13175: Coordination With Indian Tribal Governments*

Executive Order 13175, entitled “Consultation and Coordination With Indian Tribal Governments” (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” This final rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Thus, Executive Order 13175 does not apply to this rule.

*G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks*

Executive Order 13045, entitled “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885 (April 23, 1997)), applies to any rule that: (1) Is determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

*H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This final rule is not subject to Executive Order 13211, entitled “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement

Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use voluntary consensus standards (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable laws or otherwise impractical.

The EPA believes that VCS are inapplicable to this section. Today’s action does not require the public to perform activities conducive to the use of VCS.

*J. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2). This action will be effective December 3, 2008.

*K. Petition for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 2, 2009. Filing a petition for reconsideration by the Administrator of this final action does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

**List of Subjects in 40 CFR Part 55**

Environmental protection, Administrative practice and procedures, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Outer Continental Shelf, Ozone, Particulate matter, Permits, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 30, 2008.

**George Pavlou,**

*Acting Regional Administrator, Region 2.*

■ Title 40, chapter I of the Code of Federal Regulations, is to be amended as follows:

**PART 55—[AMENDED]**

■ 1. The authority citation for Part 55 continues to read as follows:

**Authority:** Section 328 of the CAA (42 U.S.C. 7401, *et seq.*) as amended by Public Law 101–549.

■ 2. Section 55.14 is amended by adding new paragraphs (d)(15) and (e)(15) to read as follows:

**§ 55.14 Requirements that apply to OCS sources located within 25 miles of States’ seaward boundaries, by State.**

\* \* \* \* \*

(d) \* \* \*

(15) New Jersey

(i) 40 CFR part 52, subpart FF.

(ii) [Reserved]

\* \* \* \* \*

(e) \* \* \*

(15) New Jersey

(i) State Requirements.

(A) State of New Jersey Requirements

Applicable to OCS Sources, February 19, 2008

(B) [Reserved]

(ii) Local requirements.

(A) [Reserved]

\* \* \* \* \*

■ 3. Appendix A to Part 55 is amended by adding an entry for New Jersey in alphabetical order to read as follows:

**Appendix A to Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State**

\* \* \* \* \*

**NEW JERSEY**

(a) State requirements.

(1) The following State of New Jersey requirements are applicable to OCS Sources, February 19, 2008. New Jersey State Department of Environmental Protection—New Jersey Administrative Code. The following sections of Title 7:

**Chapter 27 Subchapter 2—Control and Prohibition of Open Burning (effective 7/15/96)**

N.J.A.C. 7:27–2.1. Definitions

N.J.A.C. 7:27–2.2. Open burning for salvage operations

N.J.A.C. 7:27–2.3. Open burning of refuse

N.J.A.C. 7:27–2.4. General provisions

N.J.A.C. 7:27–2.6. Prescribed burning

N.J.A.C. 7:27–2.7. Emergencies

N.J.A.C. 7:27–2.8. Dangerous material

N.J.A.C. 7:27–2.12. Special permit

N.J.A.C. 7:27–2.13. Fees

**Chapter 27 Subchapter 3—Control and Prohibition of Smoke from Combustion of Fuel (effective 2/4/02)**

N.J.A.C. 7:27–3.1. Definitions

N.J.A.C. 7:27–3.2. Smoke emissions from stationary indirect heat exchangers  
 N.J.A.C. 7:27–3.3. Smoke emissions from marine installations  
 N.J.A.C. 7:27–3.4. Smoke emissions from the combustion of fuel in mobile sources  
 N.J.A.C. 7:27–3.5. Smoke emissions from stationary internal combustion engines and stationary turbine engines  
 N.J.A.C. 7:27–3.6. Stack test  
 N.J.A.C. 7:27–3.7. Exceptions

**Chapter 27 Subchapter 4—Control and Prohibition of Particles from Combustion of Fuel (effective 2/4/02)**

N.J.A.C. 7:27–4.1. Definitions  
 N.J.A.C. 7:27–4.2. Standards for the emission of particles  
 N.J.A.C. 7:27–4.3. Performance test principle  
 N.J.A.C. 7:27–4.4. Emissions tests  
 N.J.A.C. 7:27–4.6. Exceptions

**Chapter 27 Subchapter 5—Prohibition of Air Pollution (effective 7/8/98)**

N.J.A.C. 7:27–5.1. Definitions  
 N.J.A.C. 7:27–5.2. General provisions

**Chapter 27 Subchapter 6—Control and Prohibition of Particles from Manufacturing Processes (effective 7/6/98)**

N.J.A.C. 7:27–6.1. Definitions  
 N.J.A.C. 7:27–6.2. Standards for the emission of particles  
 N.J.A.C. 7:27–6.3. Performance test principles  
 N.J.A.C. 7:27–6.4. Emission tests  
 N.J.A.C. 7:27–6.5. Variances  
 N.J.A.C. 7:27–6.7. Exceptions

**Chapter 27 Subchapter 7—Sulfur (effective 7/15/96)**

N.J.A.C. 7:27–7.1. Definitions  
 N.J.A.C. 7:27–7.2. Control and prohibition of air pollution from sulfur compounds

**Chapter 27 Subchapter 8—Permits and Certificates for Minor Facilities (and Major Facilities without an Operating Permit) (effective 2/19/08)**

N.J.A.C. 7:27–8.1. Definitions  
 N.J.A.C. 7:27–8.2. Applicability  
 N.J.A.C. 7:27–8.3. General provisions  
 N.J.A.C. 7:27–8.5. Air quality impact analysis  
 N.J.A.C. 7:27–8.7. Operating certificates  
 N.J.A.C. 7:27–8.8. General permits  
 N.J.A.C. 7:27–8.9. Environmental improvement pilot tests  
 N.J.A.C. 7:27–8.11. Standards for issuing a permit  
 N.J.A.C. 7:27–8.12. State of the art  
 N.J.A.C. 7:27–8.13. Conditions of approval  
 N.J.A.C. 7:27–8.14. Denials  
 N.J.A.C. 7:27–8.15. Reporting requirements  
 N.J.A.C. 7:27–8.16. Revocation  
 N.J.A.C. 7:27–8.17. Changes to existing permits and certificates  
 N.J.A.C. 7:27–8.18. Permit revisions  
 N.J.A.C. 7:27–8.19. Compliance plan changes  
 N.J.A.C. 7:27–8.20. Seven day notice changes  
 N.J.A.C. 7:27–8.21. Amendments  
 N.J.A.C. 7:27–8.22. Changes to sources permitted under batch plant, pilot plant, dual plant, or laboratory operations permitting procedures  
 N.J.A.C. 7:27–8.23. Reconstruction  
 N.J.A.C. 7:27–8.24. Special provisions for construction but not operation

N.J.A.C. 7:27–8.25. Special provisions for pollution control equipment or pollution prevention process modifications  
 N.J.A.C. 7:27–8.26. Civil or criminal penalties for failure to comply  
 N.J.A.C. 7:27–8.27. Special facility-wide permit provisions  
 N.J.A.C. 7:27–8.28. Delay of testing  
 Appendix I

**Chapter 27 Subchapter 9—Sulfur in Fuels (effective 6/19/06)**

N.J.A.C. 7:27–9.1. Definitions  
 N.J.A.C. 7:27–9.2. Sulfur content standards  
 N.J.A.C. 7:27–9.3. Exemptions  
 N.J.A.C. 7:27–9.4. Waiver of air quality modeling  
 N.J.A.C. 7:27–9.5. Incentive for conversion to coal or other solid fuel

**Chapter 27 Subchapter 10—Sulfur in Solid Fuels (effective 6/1/98)**

N.J.A.C. 7:27–10.1. Definitions  
 N.J.A.C. 7:27–10.2. Sulfur contents standards  
 N.J.A.C. 7:27–10.3. Expansion, reconstruction or construction of solid fuel burning units  
 N.J.A.C. 7:27–10.4. Exemptions

**Chapter 27 Subchapter 11—Incinerators (effective 6/1/98)**

N.J.A.C. 7:27–11.1. Definitions  
 N.J.A.C. 7:27–11.2. Construction standards  
 N.J.A.C. 7:27–11.3. Emission standards  
 N.J.A.C. 7:27–11.4. Permit to construct; certificate to operate  
 N.J.A.C. 7:27–11.5. Operation  
 N.J.A.C. 7:27–11.6. Exceptions

**Chapter 27 Subchapter 12—Prevention and Control of Air Pollution Emergencies (effective 6/1/98)**

N.J.A.C. 7:27–12.1. Definitions  
 N.J.A.C. 7:27–12.2. Emergency criteria  
 N.J.A.C. 7:27–12.3. Criteria for emergency termination  
 N.J.A.C. 7:27–12.4. Standby plans  
 N.J.A.C. 7:27–12.5. Standby orders  
 Table I Emission Reduction Objectives  
 Table II Emission Reduction Objectives  
 Table III Emission Reduction Objectives

**Chapter 27 Subchapter 16—Control and Prohibition of Air Pollution by Volatile Organic Compounds (effective 11/19/07)**

N.J.A.C. 7:27–16.1. Definitions  
 N.J.A.C. 7:27–16.1A. Purpose, scope, applicability, and severability  
 N.J.A.C. 7:27–16.2. Stationary storage tanks  
 N.J.A.C. 7:27–16.3. Gasoline transfer operations  
 N.J.A.C. 7:27–16.4. VOC transfer operations, other than gasoline  
 N.J.A.C. 7:27–16.5. Marine tank vessel loading and ballasting operations  
 N.J.A.C. 7:27–16.6. Open top tanks and solvent cleaning operations  
 N.J.A.C. 7:27–16.7. Surface coating and graphic arts operations  
 N.J.A.C. 7:27–16.8. Boilers  
 N.J.A.C. 7:27–16.9. Stationary combustion turbines  
 N.J.A.C. 7:27–16.10. Stationary reciprocating engines  
 N.J.A.C. 7:27–16.12. Surface coating operations at mobile equipment repair and refinishing facilities

N.J.A.C. 7:27–16.13. Flares  
 N.J.A.C. 7:27–16.16. Other source operations  
 N.J.A.C. 7:27–16.17. Facility-specific VOC control requirements  
 N.J.A.C. 7:27–16.18. Leak detection and repair  
 N.J.A.C. 7:27–16.19. Application of cutback and emulsified asphalts  
 N.J.A.C. 7:27–16.21. Natural gas pipelines  
 N.J.A.C. 7:27–16.22. Emission information, record keeping and testing  
 N.J.A.C. 7:27–16.23. Procedures for demonstrating compliance  
 N.J.A.C. 7:27–16.26. Variances  
 N.J.A.C. 7:27–16.27. Exceptions

**APPENDIX I**

**Chapter 27 Subchapter 18—Control and Prohibition of Air Pollution from New or Altered Sources Affecting Ambient Air Quality (Emission Offset Rules) (effective 12/6/04)**

N.J.A.C. 7:27–18.1. Definitions  
 N.J.A.C. 7:27–18.2. Facilities subject to this subchapter  
 N.J.A.C. 7:27–18.3. Standards for issuance of permits  
 N.J.A.C. 7:27–18.4. Air quality impact analysis  
 N.J.A.C. 7:27–18.5. Standards for use of emission reductions as emission offsets  
 N.J.A.C. 7:27–18.6. Emission offset postponement  
 N.J.A.C. 7:27–18.7. Determination of a net emission increase or a significant net emission increase  
 N.J.A.C. 7:27–18.8. Banking of emission reductions  
 N.J.A.C. 7:27–18.9. Secondary emissions  
 N.J.A.C. 7:27–18.10. Exemptions  
 N.J.A.C. 7:27–18.12. Civil or criminal penalties for failure to comply

**Chapter 27 Subchapter 19—Control and Prohibition of Air Pollution from Oxides of Nitrogen (effective 4/2/07)**

N.J.A.C. 7:27–19.1. Definitions  
 N.J.A.C. 7:27–19.2. Purpose, scope and applicability  
 N.J.A.C. 7:27–19.3. General provisions  
 N.J.A.C. 7:27–19.4. Boilers serving electric generating units  
 N.J.A.C. 7:27–19.5. Stationary combustion turbines  
 N.J.A.C. 7:27–19.6. Emissions averaging  
 N.J.A.C. 7:27–19.7. Industrial/commercial/institutional boilers and other indirect heat exchangers  
 N.J.A.C. 7:27–19.8. Stationary reciprocating engines  
 N.J.A.C. 7:27–19.11. Emergency generators—recordkeeping  
 N.J.A.C. 7:27–19.13. Facility-specific NOX emission limits  
 N.J.A.C. 7:27–19.14. Procedures for obtaining approvals under this subchapter  
 N.J.A.C. 7:27–19.15. Procedures and deadlines for demonstrating compliance  
 N.J.A.C. 7:27–19.16. Adjusting combustion processes  
 N.J.A.C. 7:27–19.17. Source emissions testing  
 N.J.A.C. 7:27–19.18. Continuous emissions monitoring  
 N.J.A.C. 7:27–19.19. Recordkeeping and recording  
 N.J.A.C. 7:27–19.20. Fuel switching

N.J.A.C. 7:27–19.21. Phased compliance—repowering  
N.J.A.C. 7:27–19.23. Phased compliance—use of innovative control technology  
N.J.A.C. 7:27–19.24. MEG alerts  
N.J.A.C. 7:27–19.25. Exemption for emergency use of fuel oil  
N.J.A.C. 7:27–19.26. Penalties  
N.J.A.C. 7:27–19.27. Use of NO<sub>x</sub> budget allowances by a former DER credit user

#### **Chapter 27 Subchapter 20—Used Oil Combustion (effective 6/19/06)**

N.J.A.C. 7:27–20.1. Definitions  
N.J.A.C. 7:27–20.2. General provisions  
N.J.A.C. 7:27–20.3. Burning of on-specification used oil in space heaters covered by a registration  
N.J.A.C. 7:27–20.4. Burning of on-specification used oil in space heaters covered by a permit  
N.J.A.C. 7:27–20.5. Demonstration that used oil is on-specification  
N.J.A.C. 7:27–20.6. Burning of on-specification oil in other combustion units  
N.J.A.C. 7:27–20.7. Burning of off-specification used oil  
N.J.A.C. 7:27–20.8. Ash standard  
N.J.A.C. 7:27–20.9. Exception

#### **Chapter 27 Subchapter 21—Emission Statements (effective 8/4/03)**

N.J.A.C. 7:27–21.1. Definitions  
N.J.A.C. 7:27–21.2. Applicability  
N.J.A.C. 7:27–21.3. General provisions  
N.J.A.C. 7:27–21.4. Procedures for submitting an emission statement  
N.J.A.C. 7:27–21.5. Required contents of an emission statement  
N.J.A.C. 7:27–21.6. Methods to be used for quantifying actual emissions  
N.J.A.C. 7:27–21.7. Recordkeeping requirements  
N.J.A.C. 7:27–21.8. Certification of information  
N.J.A.C. 7:27–21.9. Request for extensions  
N.J.A.C. 7:27–21.10. Determination of non-applicability  
N.J.A.C. 7:27–21.11. Severability

#### **Chapter 27 Subchapter 22—Operating Permits (effective 11/19/07)**

N.J.A.C. 7:27–22.1. Definitions  
N.J.A.C. 7:27–22.2. Applicability  
N.J.A.C. 7:27–22.3. General provisions  
N.J.A.C. 7:27–22.4. General application procedures  
N.J.A.C. 7:27–22.5. Application procedures for initial operating permits  
N.J.A.C. 7:27–22.6. Operating permit application contents  
N.J.A.C. 7:27–22.7. Application shield  
N.J.A.C. 7:27–22.8. Air quality simulation modeling and risk assessment  
N.J.A.C. 7:27–22.9. Compliance plans  
N.J.A.C. 7:27–22.10. Completeness reviews  
N.J.A.C. 7:27–22.11. Public comment  
N.J.A.C. 7:27–22.12. EPA comment  
N.J.A.C. 7:27–22.13. Final action on an application  
N.J.A.C. 7:27–22.14. General operating permits  
N.J.A.C. 7:27–22.15. Temporary facility operating permits  
N.J.A.C. 7:27–22.16. Operating permit contents  
N.J.A.C. 7:27–22.17. Permit shield

N.J.A.C. 7:27–22.18. Source emissions testing and monitoring  
N.J.A.C. 7:27–22.19. Recordkeeping, reporting and compliance certification  
N.J.A.C. 7:27–22.20. Administrative amendments  
N.J.A.C. 7:27–22.21. Changes to insignificant source operations  
N.J.A.C. 7:27–22.22. Seven-day-notice changes  
N.J.A.C. 7:27–22.23. Minor modifications  
N.J.A.C. 7:27–22.24. Significant modifications  
N.J.A.C. 7:27–22.24A. Reconstruction  
N.J.A.C. 7:27–22.25. Department initiated operating permit modifications  
N.J.A.C. 7:27–22.26. MACT and GACT standards  
N.J.A.C. 7:27–22.27. Operating scenarios  
N.J.A.C. 7:27–22.28A. Emissions trading  
N.J.A.C. 7:27–22.28B. Facility-specific emissions averaging programs  
N.J.A.C. 7:27–22.29. Facilities subject to acid deposition control  
N.J.A.C. 7:27–22.30. Renewals  
N.J.A.C. 7:27–22.31. Fees  
N.J.A.C. 7:27–22.32. Hearings and appeals  
N.J.A.C. 7:27–22.33. Preconstruction review  
N.J.A.C. 7:27–22.34. Early reduction of HAP emissions  
N.J.A.C. 7:27–22.35. Advances in the art of air pollution

#### **APPENDIX**

#### **TABLE A**

#### **TABLE B**

#### **Chapter 27 Subchapter 30—Clean Air Interstate Rule (CAIR) NO<sub>x</sub> Trading Program (effective 8/6/07)**

N.J.A.C. 7:27–30.1. Purpose and scope  
N.J.A.C. 7:27–30.2. Definitions  
N.J.A.C. 7:27–30.3. Allocation of CAIR NO<sub>x</sub> annual allowances & CAIR NO<sub>x</sub> ozone season allowances  
N.J.A.C. 7:27–30.4. The compliance supplement pool  
N.J.A.C. 7:27–30.5. Claims for incentive allowances  
N.J.A.C. 7:27–30.6. Reporting requirements

#### **Chapter 27 Subchapter 31—NO<sub>x</sub> Budget Program (effective 8/6/07)**

N.J.A.C. 7:27–31.1. Purpose and scope  
N.J.A.C. 7:27–31.2. Definitions  
N.J.A.C. 7:27–31.3. Applicability and general provisions  
N.J.A.C. 7:27–31.4. Opt-in provisions  
N.J.A.C. 7:27–31.5. Interface with the emission offset program  
N.J.A.C. 7:27–31.6. Use of allowances by former users of DER credits  
N.J.A.C. 7:27–31.7. Annual allowance allocation  
N.J.A.C. 7:27–31.8. Claims for incentive allowances  
N.J.A.C. 7:27–31.9. Permits  
N.J.A.C. 7:27–31.10. Allowance use, transfer and retirement  
N.J.A.C. 7:27–31.11. Allowance banking  
N.J.A.C. 7:27–31.12. Early reductions  
N.J.A.C. 7:27–31.13. NO<sub>x</sub> allowance tracking system (NATS)  
N.J.A.C. 7:27–31.14. Emission monitoring  
N.J.A.C. 7:27–31.15. Recordkeeping  
N.J.A.C. 7:27–31.16. Reporting

N.J.A.C. 7:27–31.17. End-of-season reconciliation  
N.J.A.C. 7:27–31.18. Compliance certification  
N.J.A.C. 7:27–31.19. Excess emissions deduction  
N.J.A.C. 7:27–31.20. Program audit  
N.J.A.C. 7:27–31.21. Guidance documents and sources incorporated by reference

#### **Chapter 27B Subchapter 1—Sampling and Analytical Procedures for Determining Emissions of Particles from Manufacturing Processes and from Combustion of Fuels (effective 9/4/07)**

N.J.A.C. 7:27B–1.1. Definitions  
N.J.A.C. 7:27B–1.2. Acceptable test methods  
N.J.A.C. 7:27B–1.3. Operating conditions during the test  
N.J.A.C. 7:27B–1.4. Sampling facilities to be provided by the person responsible for emissions  
N.J.A.C. 7:27B–1.5. Sampling train  
N.J.A.C. 7:27B–1.6. Performance test principle  
N.J.A.C. 7:27B–1.7. General testing requirements  
N.J.A.C. 7:27B–1.8. Required test data  
N.J.A.C. 7:27B–1.9. Preparation for sampling  
N.J.A.C. 7:27B–1.10. Sampling  
N.J.A.C. 7:27B–1.11. Sample recovery  
N.J.A.C. 7:27B–1.12. Analysis  
N.J.A.C. 7:27B–1.13. Calculations  
N.J.A.C. 7:27B–1.14. Validation of test

#### **Chapter 27B Subchapter 2—Procedures for the Visual Determination of the Opacity (Percent) and the Shade or Appearance (Ringelmann Number) of Emissions from Sources (effective 6/1/76)**

N.J.A.C. 7:27B–2.1. Definitions  
N.J.A.C. 7:27B–2.2. Acceptable observation methods  
N.J.A.C. 7:27B–2.3. Observation principle  
N.J.A.C. 7:27B–2.4. General observation requirements  
N.J.A.C. 7:27B–2.5. Required observation data  
N.J.A.C. 7:27B–2.6. Certification

#### **Chapter 27B Subchapter 3—Air Test Method 3: Sampling and Analytical Procedures for the Determination of Volatile Organic Compounds from Source Operations (effective 3/1/99)**

N.J.A.C. 7:27B–3.1. Definitions  
N.J.A.C. 7:27B–3.2. Sampling and analytical protocol: acceptable test methods  
N.J.A.C. 7:27B–3.3. Operating conditions during the test  
N.J.A.C. 7:27B–3.4. Sampling facilities  
N.J.A.C. 7:27B–3.5. Source operations and applicable test methods  
N.J.A.C. 7:27B–3.6. Procedures for the determinations of vapor pressures of a single known VOC or mixtures of known and/or unknown VOC  
N.J.A.C. 7:27B–3.7. Procedures for the direct measurement of volatile organic compounds using a flame ionization detector (FID), a photoionization detector (PID) or a non-dispersive infrared analyzer (NDIR)  
N.J.A.C. 7:27B–3.8. Procedures for the direct measurement of volatile organic compounds using a gas chromatograph (GC) with a flame ionization detector (FID) or other suitable detector

N.J.A.C. 7:27B-3.9. Procedures for the sampling and remote analysis of known volatile organic compounds using a gas chromatograph (GC) with a flame ionization detector (FID) or other suitable detector

N.J.A.C. 7:27B-3.10. Procedures for the determination of volatile organic compounds in surface coating formulations

N.J.A.C. 7:27B-3.11. Procedures for the determination of volatile organic compounds emitted from transfer operations using a flame ionization detector (FID) or non-dispersive infrared analyzer (NDIR)

N.J.A.C. 7:27B-3.12. Procedures for the determination of volatile organic compounds in cutback and emulsified asphalts

N.J.A.C. 7:27B-3.13. Procedures for the determination of leak tightness of gasoline delivery vessels

N.J.A.C. 7:27B-3.14. Procedures for the direct detection of fugitive volatile organic compound leaks

N.J.A.C. 7:27B-3.15. Procedures for the direct detection of fugitive volatile organic compound leaks from gasoline tank trucks and vapor collection systems using a combustible gas detector

N.J.A.C. 7:27B-3.18. Test methods and sources incorporated by reference

#### REFERENCE

#### APPENDIX 1

#### APPENDIX 3

\* \* \* \* \*

[FR Doc. E8-26022 Filed 10-31-08; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

#### 43 CFR Part 11

RIN 1090-AA97

#### Natural Resource Damages for Hazardous Substances

**AGENCY:** Office of the Secretary, Interior.  
**ACTION:** Final rule; correction.

**SUMMARY:** The Department of the Interior is correcting a final rule that appeared in the **Federal Register** on October 2, 2008 (73 FR 57259). The document issued a final rule that will regulate restoring, replacing, or acquiring the equivalent of public natural resources that are injured or destroyed as a result of releases of hazardous substances

**DATES:** *Effective Date:* November 3, 2008.

**FOR FURTHER INFORMATION CONTACT:** Frank DeLuise, 1849 C Street, NW., Washington, DC 20240. Telephone: 202-208-4143.

**SUPPLEMENTARY INFORMATION:** In FR Doc. E8-23225 appearing on page 57259 in the **Federal Register** of Thursday, October 2, 2008, the following correction is made:

1. On page 57266, in the second column, amendment 6, the instruction “In § 11.82, revise paragraphs (a), (b)(1)(iii), and (c) to read as follows:” is corrected to read, “In § 11.82, revise paragraphs (a), (b)(1)(iii), and (c)(1) to read as follows:”

Dated: October 30, 2008.

**James E. Cason,**

*Associate Deputy Secretary.*

[FR Doc. E8-26248 Filed 10-31-08; 8:45 am]

BILLING CODE 4310-RG-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 20

[FWS-R9-MB-2008-0090; 91200-1231-9BPP-L2]

RIN 1018-AW19

#### Migratory Bird Hunting; Hunting Methods for Resident Canada Geese

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service or “we”) is amending the regulations on resident Canada goose management. This final rule clarifies the requirements for use of expanded hunting methods during special September hunting seasons. One requirement in the regulations has been misinterpreted, and we are taking this action to make sure that our regulations are clear for the States and the public.

**DATES:** This rule is effective on December 3, 2008.

**ADDRESSES:** You may view comments received on the proposed rule at <http://www.regulations.gov> or you may inspect them during normal business hours at the Service’s Division of Migratory Bird Management office in room 4107, Arlington Square Building, 4501 N. Fairfax Drive, Arlington, Virginia. You may obtain copies of the Final Environmental Impact Statement (FEIS) on resident Canada goose management from the above address or from the Division of Migratory Bird Management Web site at <http://www.fws.gov/migratorybirds/issues/cangeese/finaleis.htm>.

**FOR FURTHER INFORMATION CONTACT:** Robert Blohm, Chief, Division of Migratory Bird Management, or Ron Kokel (703) 358-1714 (see **ADDRESSES**).

## SUPPLEMENTARY INFORMATION:

### Authority and Responsibility

Migratory birds are protected under four bilateral migratory bird treaties the United States entered into with Great Britain (for Canada in 1916 as amended in 1999), the United Mexican States (1936 as amended in 1972 and 1999), Japan (1972 as amended in 1974), and the Soviet Union (1978). Regulations allowing the take of migratory birds are authorized by the Migratory Bird Treaty Act (16 U.S.C. 703-711), and the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 712). The Migratory Bird Treaty Act (Act), which implements the above-mentioned treaties, provides that, subject to and to carry out the purposes of the treaties, the Secretary of the Interior is authorized and directed to determine when, to what extent, and by what means allowing hunting, killing, and other forms of taking of migratory birds, their nests, and eggs is compatible with the conventions. The Act requires the Secretary to implement a determination by adopting regulations permitting and governing those activities.

Canada geese are Federally protected by the Act by reason of the fact that they are listed as migratory birds in all four treaties. Because Canada geese are covered by all four treaties, regulations must meet the requirements of the most restrictive of the four. For Canada geese, this is the treaty with Canada. All regulations concerning resident Canada geese are compatible with its terms, with particular reference to Articles VII, V, and II.

Each treaty not only permits sport hunting, but permits the take of migratory birds for other reasons, including scientific, educational, propagative, or other specific purposes consistent with the conservation principles of the various Conventions. More specifically, Article VII, Article II (paragraph 3), and Article V of “The Protocol Between the Government of the United States of America and the Government of Canada Amending the 1916 Convention between the United Kingdom and the United States of America for the Protection of Migratory Birds in Canada and the United States” provides specific limitations on allowing the take of migratory birds for reasons other than sport hunting. Article VII authorizes permitting the take, kill, etc., of migratory birds that, under extraordinary conditions, become seriously injurious to agricultural or other interests. Article V relates to the taking of nests and eggs, and Article II, paragraph 3, states that, in order to ensure the long-term conservation of