

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
Revision to the Classification and Implementation of the 2015 Ozone National Ambient Air Quality Standard for the Northern Virginia Nonattainment Area.	Northern Virginia Ozone Nonattainment Area.	8/28/20	3/3/22, [insert <b>Federal Register</b> citation].	This revision consists of an amendment to an existing regulation which adds a new section listing the localities that comprise the Northern Virginia ozone nonattainment area.

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[FR Doc. 2022-04362 Filed 3-2-22; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 55

[EPA-R02-OAR-2021-0747; FRL-9241-02-R2]

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing an update of a portion of the Outer Continental Shelf (OCS) Air Regulations proposed in the **Federal Register** on November 23, 2021. Requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be 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 for which the State of New Jersey is the COA. 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 will be incorporated by reference into the Code of Federal Regulations and are listed in the appendix to the OCS air regulations.

**DATES:** This final rule is effective on April 4, 2022.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID Number EPA-R02-OAR-2021-0747. All documents in the docket are listed on the <http://www.regulations.gov> website.

**FOR FURTHER INFORMATION CONTACT:** Viorica Petriman, Air Programs Branch, Permitting Section, U.S. Environmental

Protection Agency, Region 2, 290 Broadway, New York, New York 10007, (212) 637-4021, [petriman.viorica@epa.gov](mailto:petriman.viorica@epa.gov).

**SUPPLEMENTARY INFORMATION:** The **SUPPLEMENTARY INFORMATION** section is arranged as follows:

#### Table of Contents

- I. What is the background for this action?
- II. What comments were received in response to the EPA's proposed action?
- III. What action is the EPA taking?
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

#### I. What is the background for this action?

On November 23, 2021, EPA proposed to incorporate requirements into the OCS Air Regulations at 40 CFR part 55<sup>1</sup> pertaining to the State of New Jersey. See 86 FR 66505. Section 328(a) of the CAA requires that for such OCS sources located within 25 miles of a State's seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the corresponding onshore area (COA). Because the OCS requirements are based on onshore requirements, and onshore requirements may change, CAA section 328(a)(1) requires that the EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

To comply with this statutory mandate, the EPA must incorporate by reference into part 55 all relevant state rules in effect for onshore sources, so they can be applied to OCS sources located offshore. This limits EPA's flexibility in deciding which requirements will be incorporated into 40 CFR part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into 40 CFR 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 rules 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.

40 CFR 55.12 specifies certain times at which part 55's incorporation by reference of a state's rules must be updated. One time such a "consistency update" must occur is when any OCS source applicant submits a Notice of Intent (NOI) under 40 CFR 55.4 for a new or a modified OCS source. 40 CFR 55.4(a) requires that any OCS source applicant must submit to EPA a NOI before performing any physical change or change in method of operation that results in an increase in emissions. EPA must conduct any necessary consistency update when it receives a NOI, and prior to receiving any application for a preconstruction permit from the OCS source applicant. 40 CFR 55.6(b)(2) and 55.12(f).

On September 14, 2021, the EPA received a NOI from Ocean Wind, LLC to submit an OCS air permit application for the construction and operation of a new OCS source (a wind energy project) about 15 miles offshore New Jersey.

The EPA reviewed the New Jersey Department of Environmental Protection ("NJDEP") air rules currently in effect, to ensure that they are rationally related to the attainment or maintenance of Federal and State Ambient Air Quality Standards (AAQS) or part C of title I of the CAA, that they are not designed expressly to prevent exploration and development of the OCS, and that they are applicable to OCS sources. See 40 CFR 55.1. The EPA has also evaluated the rules to ensure they are not arbitrary and capricious. See 40 CFR 55.12(e). The EPA has excluded New Jersey's administrative or procedural rules,<sup>2</sup> and

<sup>1</sup> EPA promulgated 40 CFR part 55 on September 4, 1992. The reader may refer to the proposed rulemaking to promulgate part 55 from 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.

<sup>2</sup> Each COA, which has been delegated the authority to implement and enforce part 55, will use its administrative and procedural rules as onshore. However, in those instances where EPA has not delegated authority to implement and enforce part 55, as in New Jersey, EPA will use its own administrative and procedural requirements to

requirements that regulate toxics which are not related to the attainment and maintenance of Federal and State AAQS.

## II. What comments were received in response to the EPA's proposed action?

The EPA did not receive any comments on the November 23, 2021, proposal to update a portion of the OCS Air Regulations to incorporate requirements into 40 CFR part 55 pertaining to the State of New Jersey.

## III. What action is the EPA taking?

The EPA is taking final action to update the "New Jersey" section of Appendix A to 40 CFR part 55 to incorporate by reference relevant New Jersey air pollution control rules that are currently in effect. EPA is approving this action under section 328(a) of the Act, 42 U.S.C. 7627(a). 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, the EPA must incorporate applicable onshore rules into 40 CFR part 55 as they exist onshore.

## IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the NJDEP air rules that are applicable to OCS sources and currently in effect, and which are described in the amendments to 40 CFR part 55 set forth below. The EPA has made, and will continue to make, these documents available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 2 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

## V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore air control requirements. To comply with this statutory mandate, the EPA must incorporate applicable onshore rules into part 55 as they exist onshore. 42 U.S.C. 7627(a)(1); 40 CFR 55.12. Thus, in promulgating OCS consistency

updates, the EPA's role is to maintain consistency between OCS regulations and the regulations of onshore areas, provided that they meet the criteria of the Clean Air Act. Accordingly, this action simply updates the existing OCS requirements to make them consistent with requirements onshore, without the exercise of any policy discretion by the EPA.

### a. Executive Order 12866, Regulatory Planning and Review

This action is not a "significant regulatory action" under the terms of Executive Orders (E.O.) 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011) and is therefore not subject to review under the E.O.

### b. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under PRA because this action only updates the state rules that are incorporated by reference into 40 CFR part 55, Appendix A. OMB has previously approved the information collection activities contained in the existing regulations at 40 CFR part 55 and, by extension, this update to part 55, and has assigned OMB control number 2060-0249. This action does not impose a new information burden under PRA because this action only updates the state rules that are incorporated by reference into 40 CFR part 55, Appendix A.

### c. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant impact on a substantial number of small entities under the RFA. This proposed rule does not impose any requirements or create impacts on small entities. This proposed consistency update under CAA section 328 will not create any new requirements but simply proposes to update the State requirements incorporated by reference into 40 CFR part 55 to match the current State requirements.

### d. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate or significantly or uniquely affect small governments as described in UMRA, 2 U.S.C. 1531-1538. The action imposes no enforceable duty on any state, local or tribal governments.

### e. Executive Order 13132, Federalism

This action does not have federalism implications. It 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.

### f. Executive Order 13175, Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because it does not have a substantial direct effect on one or more Indian tribes, 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, nor does it impose substantial direct costs on tribal governments, nor preempt tribal law. It merely updated the State law incorporated by reference into 40 CFR part 55 to match current State requirements.

### g. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 and simply proposes to update the State requirements incorporated by reference into 40 CFR part 55 to match the current State requirements.

### h. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

### i. National Technology Transfer and Advancement Act

This rulemaking is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

### j. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Population

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it

implement the substantive requirements. See 40 CFR 55.14(c)(4).

does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health, or environmental effects, using practicable and legally permissible methods.

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 action 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 the 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).

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 May 2, 2022. Filing a petition for reconsideration by the Administrator of this final rule 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* CAA 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: February 23, 2022.

**Lisa Garcia,**  
Regional Administrator, Region 2.

For the reasons set out in the preamble, title 40 of the Code of Federal Regulations, part 55, is amended as follows.

#### PART 55—OUTER CONTINENTAL SHELF AIR REGULATIONS

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

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

■ 2. Section 55.14 is amended by revising the paragraph (e)(15)(i)(A) to read as follows:

#### § 55.14 Requirements that apply to OCS sources located within 25 miles of states' seaward boundaries, by state.

\* \* \* \* \*

(e) \* \* \*

(15) \* \* \*

(i) \* \* \*

(A) State of New Jersey Requirements Applicable to OCS Sources, October 6, 2021.

\* \* \* \* \*

■ 3. Appendix A to 40 CFR part 55 is amended by revising the entry for “New Jersey” to read as follows:

#### Appendix A to 40 CFR Part 55—Listing of State and Local Requirements Incorporated by Reference Into 40 CFR Part 55, by State

\* \* \* \* \*

##### New Jersey

(a) State requirements.

(1) The following State of New Jersey requirements are applicable to OCS Sources, as of October 6, 2021. 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 6/20/1994)

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 2/4/2002)

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 4/20/2009)

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 10/12/1977)

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 6/12/1998)

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. Emissions 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 11/6/2017)

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 4/6/2020)

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. 7:27–8.4. How to apply, register, submit a notice, or renew

N.J.A.C. 7:27–8.5. Air quality impact analysis

N.J.A.C. 7:27–8.6. Service fees

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. 7:27–8.23. 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. 7:27–8.27. Special facility-wide permit provisions

Appendix 1

#### Chapter 27 Subchapter 9—Sulfur in Fuels (Effective 9/20/2010)

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

#### Chapter 27 Subchapter 10—Sulfur in Solid Fuels (Effective 9/6/2011)

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  
N.J.A.C. 7:27–10.5. SO<sub>2</sub> emission rate determinations

**Chapter 27 Subchapter 11—Incinerators (Effective 5/4/1998)**

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 5/20/1974)**

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 1/16/2018)**

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. VOC 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. Alternative and 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. 7:27–16.27. Exceptions  
Appendix I  
Appendix II

**Chapter 27 Subchapter 18—Control and Prohibition of Air Pollution From New or Altered Sources Affecting Ambient Air Quality (Emission Offset Rules) (Effective 11/6/2017)**

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 1/16/2018)**

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. Alternative and facility-specific NO<sub>x</sub> 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. 7:27–19.25. Exemption for emergency use of fuel oil  
N.J.A.C. 7:27–19.26. Penalties

**Chapter 27 Subchapter 20—Used Oil Combustion (Effective 9/6/2011)**

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 1/16/2018)**

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  
Appendix 1

**Chapter 27 Subchapter 22—Operating Permits (Effective 11/2/2020)**

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

**Chapter 27B Subchapter 1—Sampling and Analytical Procedures for Determining Emissions of Particles From Manufacturing Processes and From Combustion of Fuels (Effective 6/21/1976)**

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 Visual Determination of the Opacity (Percent) and Shade or Appearance (Ringelmann Number) of Emissions From Sources (Effective 6/21/1976)**

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  
 References  
 Appendix

**Chapter 27B Subchapter 3—Air Test Method 3: Sampling and Analytical Procedures for the Determination of Volatile Organic Compounds From Source Operations (Effective 12/1/2008)**

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.

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[FR Doc. 2022–04271 Filed 3–2–22; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[EPA–HQ–OPP–2021–0292; FRL–9420–01–OCSPP]

**Polyammonium Bisulfate; Exemption From the Requirement of a Tolerance**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of Polyammonium bisulfate (PABS) (CAS Reg. No. 10043–02–4), herein referred to as PABS, when used as an inert ingredient (carrier, adjuvant, buffer and stabilizer) in/on growing crops and raw agricultural commodities pre- and post-harvest, limited to 40% in pesticide non-residential formulations and 5% in pesticide formulations for residential use. An exemption is also established for its use in antimicrobial formulations applied to food-contact surfaces in public eating places, dairy-processing

equipment, food-processing equipment and utensils, limited to 250 parts per million (ppm). Spring Regulatory Sciences on behalf of Earth Science Laboratories, Inc., submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting the establishment of exemptions from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of PABS.

**DATES:** This regulation is effective March 3, 2022. Objections and requests for hearings must be received on or before May 2, 2022, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2021–0292, is available at <https://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is open to visitors by appointment only. For the latest status information on EPA/DC services and access, visit <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Marietta Echevarria, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: [RDfRNotices@epa.gov](mailto:RDfRNotices@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this action apply to me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include: