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OPEN MARKET EMISSIONS TRADING

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Please note: The Department has made every effort to ensure that this text is identical to the official, legally effective version of this rule, set forth in the New Jersey Register. However, should there be any discrepancies between this text and the official version of the rule, the official version will prevail.

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7:27-30.1 Purpose and scope

- (a) This subchapter establishes procedures and standards for the Open Market Emissions Trading Program.
- (b) This subchapter includes procedures and standards for the generation, banking, transfer, voluntary retirement, invalidation, and cancelation of discrete emission reduction credits (DER credits) that are based on reduction of emissions of volatile organic compounds (VOC) and oxides of nitrogen (NO_x). It also includes procedures and standards for compliance with certain VOC and NO_x air pollution control requirements through the use of DER credits.
- (c) This subchapter also includes procedures and standards for the generation, banking, transfer, voluntary retirement, invalidation, and cancelation of discrete emission reduction credits (DER credits) that are based on reduction of emissions of greenhouse gases (GHG).
- (d) Nothing in this subchapter affects the applicability of the requirements of any other law, regulation, order or permit. For example, if N.J.A.C. 7:27-8 or 22 would require that a permit be revised or modified to reflect a physical or operational change that results in an emission increase, that permit revision or modification would still be required regardless of whether the change arose from the generation or use of DER credits.

7:27-30.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Activity” or “activity level” means, in reference to an emissions source, the duration or degree of its operation during a selected period of time, expressed in units that correspond to the units used in the denominator of an emission rate which applies to the source. For example:

1. If the emission rate is expressed as emissions per hour of operation, the source’s activity would be expressed as the number of hours of operation in the selected period of time; or
2. If the emission rate is expressed as emissions per BTU of fuel consumed, the source’s activity would be expressed as the number of BTUs of fuel consumed during the selected period of time.

“Air contaminant” means any substance, other than water or distillates of air, present in the atmosphere as solid particles, liquid particles, vapors, or gases.

“Air quality control region” means a geographic area designated by the EPA under 42 U.S.C. §7407(b) or (c), or any contiguous area which has not been so designated.

“Allowable emission rate” means the most stringent of any air quality emission limit or standard in any State or Federal law or rule which is applicable to a particular emissions source.

“Alternative emission limit” means an emission limit that the Department has established for a specific emissions source, which is less stringent than the limit in a State or federal rule that would otherwise apply to the source.

“AP-42” means the manual, published by the EPA, entitled “Compilation of Air Pollutant Emission Factors,” which is incorporated herein by reference, as amended and supplemented. This document may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, (703) 487-4650; or from the Superintendent of Documents, Government Printing Office, Washington, DC 20402, (202) 783-3228. In addition, this document can be downloaded electronically from the EPA's Technology Transfer Network Bulletin Board Service by dialing (919) 541-5742; or from the EPA website at <http://www.epa.gov/ttn/chief/ap42.html>.

“Area source” means a class of stationary sources or nonroad sources, where each source in the class is too small and/or too numerous to be individually listed in an emissions inventory submitted by the State to the EPA or in a facility's emission statement submitted pursuant to N.J.A.C. 7:27-21. An example of an area source is consumer and commercial products.

“Attainment area” means any area that the EPA has designated or redesignated at 40 CFR Part 81 or pursuant to 42 U.S.C. §7407 as “attainment” or “unclassifiable” for the ozone NAAQS.

“Batch” means, with respect to DER credits, the set of DER credits included in a single Notice of Generation submitted to the registry. Such a set shall include all credits resulting from the implementation of a specific generation strategy during a single generation period.

“Best available control technology (BACT)” is as defined in 40 CFR §51.166(b)(12).

“BTU” means British thermal unit.

“Calendar quarter” means January 1 through March 31; April 1 through June 30; July 1 through September 30; or October 1 through December 31.

“Carbon equivalent” means the weight of a quantity of a greenhouse gas multiplied by its global warming potential and then also multiplied by the ratio of the molecular weight of carbon to that of carbon dioxide.

“Ceiling rate” means the user source's maximum allowable emission rate during the use period, when DER credits are being used for permit insurance. Such a rate will typically be higher than the corresponding limit in the source's permit. A ceiling rate is selected and specified by the user and is set forth in the Notice of Intent to Use.

“Complete” means, with respect to a notice, containing all information, supporting documentation, statements, and certification required for such a notice under this subchapter.

“Creditable emission reduction” shall have the meaning defined for this term at N.J.A.C. 7:27-18.1.

“Curtailment” means a temporary or partial reduction in an emissions source’s economic output. For the purposes of this subchapter, this term does not include either of the following reductions:

1. A reduction in mobile source activity levels that results from an activity reduction plan approved by the EPA or by a State agency (such as an employee commute option plan approved by the State Department of Transportation under N.J.A.C. 16:50); or
2. A reduction in the production of electricity that results from implementing electrical energy efficiency measures.

“Day” means calendar day, unless the phrase business day or working day is used.

“Department” means the New Jersey Department of Environmental Protection (or its authorized agent).

“DER credit” or **“credit”** means a tradable entity, based on discrete emission reductions which meet the applicable requirements in this subchapter at N.J.A.C. 7:27-30.4(e) or (f) and at N.J.A.C. 7:27-30.6. The value of such a credit shall be given in units of weight, such as pounds or tons. There are three types of DER credits: VOC credits, NO_x credits, and GHG credits.

“Design margin” means the difference between the allowable emission limit for an emissions source, and the actual level of emissions that the source would be designed to achieve, such that expected variations in the source’s emissions would not cause it to exceed the allowable emission limit.

“Discrete emission reduction” means a quantity of emission reductions, given in units of weight such as pounds or tons, that were realized over a finite period of time and have been quantified in accordance with this subchapter.

“Economic output” means the goods and/or services which are produced by an emissions source during a specified period of time. Examples include quantity of products and product intermediates manufactured; the flux of useable energy, measured at the point of use, in units such as lumens of light, ton hours of cooling, British thermal units of thermal energy, or kilowatt hours of electricity; the number of square feet interior area illuminated, heated, or cooled to a given standard; or the number of miles a given number of individuals or a given weight or volume of materials are transported.

“Electric generator” means any person who generates electric power.

“Emission quantification protocol” means a method to determine the quantity of DERs generated or the quantity of DERs needed for compliance.

“Emissions source” means any mobile source, nonroad source, or stationary source.

“EPA” means the United States Environmental Protection Agency, or its authorized agent.

“Equipment” means any device capable of causing the emission of an air contaminant either directly or indirectly into the outdoor atmosphere, and any stack, chimney, conduit, flue, duct, vent, or similar device connected or attached to, or serving, the equipment. This term includes, but is not limited to, any equipment in which the preponderance of the air contaminants emitted is caused by a manufacturing process.

“Facility” means the combination of all structures, buildings, equipment, storage tanks, source operations, and other operations located on one or more contiguous or adjacent properties, which are under common control of the same person or persons.

“Federal Clean Air Act” means 42 U.S.C. §7401 et seq., as amended or supplemented.

“Fleet” means 10 or more vehicles under common ownership.

“Fugitive emissions” means any emissions of an air contaminant released directly or indirectly into the outdoor atmosphere which do not pass through any stack or chimney.

“Generation period” means that period of time during which a batch of DER credits is generated.

“Generator” means a person who generates one or more DER credits pursuant to this subchapter.

“Generator source” means any emissions source that generates emission reductions that are used as a basis for generation of DER credits.

“GHG credit” means a DER credit based on reductions of a greenhouse gas. One GHG credit has an assigned value of one metric ton (2,205 pounds) of carbon equivalent.

“Global warming potential” or **“GWP”** is the ratio of the global heat-trapping effect, both direct and indirect, of one mass unit of a gas to that of the same mass unit of carbon dioxide over a given period of time. The 100-year period recommended by the Intergovernmental Panel on Climate Change (IPCC) shall be used for the purposes of this subchapter. A list of the GWPs of greenhouse gases is provided in Appendix A of this subchapter, incorporated herein by reference.

“Greenhouse gas” or **“GHG”** means any of the following gases: carbon dioxide (CO₂); methane (CH₄); nitrous oxide (N₂O); certain hydrofluorocarbons (HFC-23, HFC-125, HFC-134a, HFC-143a, HFC-152a, HFC-227ea, HFC-236fa, HFC-4310mee); certain perfluorocarbons (CF₄, C₂F₆, C₄F₁₀, C₆F₁₄); and sulphur hexafluoride (SF₆).

“Hazardous air pollutant” or **“HAP”** means any air pollutant listed in or pursuant to 42 U.S.C. § 7412(b).

“Hold” means to have the registry show that a DER credit is credited to one’s account.

“Lowest achievable emission rate” or “LAER” means the control technology defined at 40 CFR §51.165(a)(1)(xiii).

“Maintenance area” means a former nonattainment area for which the EPA has approved a maintenance plan submitted by a state under 42 U.S.C. §7505a.

“MEG alert” means a period in which one or more electric generating units are operated at emergency capacity at the direction of the load dispatcher, in order to prevent or mitigate voltage reductions or interruptions in electric service, or both. A MEG alert begins and ends as follows:

1. An alert begins when one or more electric generating units are operated at emergency capacity after receiving notice from the load dispatcher, directing the electric generating unit to do so; and
2. An alert ends when the electric generating unit ceases operating its electric generating units at emergency capacity.

“Mobile source” means any of the following:

1. A vehicle or engine used for on-highway purposes;
2. A vehicle or engine used for nonroad purposes. Examples of vehicles used for nonroad purposes include marine vessels, locomotives, and airplanes. Examples of engines used for nonroad purposes include engines in the above vehicles, and engines smaller than 175 horsepower used in construction equipment or vehicles or farm equipment or vehicles;
3. A fuel intended for use in such a vehicle or engine; or
4. A fuel delivery system (including, but not limited to, pipelines, tanker trucks, storage tanks, and dispenser pumps) associated with a fuel intended for use by such a vehicle or engine.

“National ambient air quality standard” or “NAAQS” means an ambient air quality standard promulgated at 40 CFR Part 50.

“Nonattainment area” means any area that the EPA has designated or redesignated at 40 CFR Part 81 or pursuant to 42 U.S.C. §7407 as nonattainment for the ozone NAAQS.

“Nonroad source” means a nonroad engine or nonroad vehicle, as defined at 42 U.S.C. §7550. Examples of nonroad sources include gasoline-fueled lawnmowers, dredging and land-moving equipment, and tractors used in farming.

“Normal source operation” means a condition in which an emissions source’s activity level falls within a range that is typical for that emissions source.

“NO_x credit” means a DER credit based on reductions of NO_x. One NO_x credit has an assigned value of 100 pounds (that is, one-twentieth of a ton) of NO_x.

“Operating permit” is as defined in N.J.A.C. 7:27-22.1.

“Operator” means the individual who is in control of or in charge of an emissions source while it is in operation.

“Owner” means a person who claims lawful possession of an emissions source by virtue of legal title or equitable interest therein which entitles that person to such possession.

“Oxides of nitrogen” or **“NO_x”** means all oxides of nitrogen, except nitrous oxide (N₂O), as measured by test methods approved by the Department and EPA, such as the test methods set forth at 40 CFR Part 60 Appendix A, methods 7 through 7E.

“Ozone season” means the portion of each year beginning May 1 and ending September 30.

“Permit insurance” means a method for a permittee to comply, through use of DER credits in accordance with N.J.A.C. 7:27-30.14(d), with a permit limit, including a limit on the amount of emissions, activity level, or hours of operation. Under this method, the reduced emissions required pursuant to a permit limit are assured of being obtained. However, instead of the permittee reducing the emissions of the emissions source subject to the permit limit, the permittee relies on voluntary emission reductions from a different emissions source, which are used as the basis for DER credits, to meet the emission reduction requirement. Generally, this method is for complying with a limit currently established in the current permit; however, in some circumstances, if a permittee has submitted an application seeking a revised permit limit, this method may be used to comply with the limit that will be established when the Department acts on the permit application. The two classes of permit insurance authorized under this subchapter are set forth at N.J.A.C. 7:27-30.14(e).

“Person” means an individual, public or private corporation, company, international entity, institution, county, municipality, state, interstate body, the United States of America, or any agency, board, commission, employee, agent, officer, or political subdivision of a state, an interstate body, or the United States of America.

“Quantification protocol” means a document setting forth the quantification guidance and methods needed for credit generation and credit use, including, but not limited to, the following:

1. For a Notice of Generation, determining the number of DER credits that have been generated by a generator source;
2. For a Notice of Intent to Use, determining the number of DER credits that a user shall hold when the notice is submitted; and
3. For a Notice of Use, determining the number of DER credits used.

“Real” means actual, genuine and authentic.

“Registry” means the electronic database, designated by the Department, which records and tracks the generation, verification, transfer, voluntary retirement, use, and invalidation of DER credits.

“Retire” means, with respect to DER credits, to make a DER credit permanently unavailable for use.

“Shutdown” means the permanent cessation of production of an emissions source, such that it no longer has economic output or emissions. For the purposes of this subchapter, scrapping of mobile sources is not considered a shutdown.

“State Implementation Plan” or **“SIP”** means a plan developed by New Jersey, as required under Titles I and II of the Federal Clean Air Act, and submitted by the State to the EPA. The plan sets forth the means by which the State will attain or maintain the NAAQS established by the EPA.

“Stationary source” means generally any source of air contaminant emissions, except a mobile source or a nonroad engine or nonroad vehicle.

“Surplus” means, with respect to emission reductions used for the generation of DER credits, not required pursuant to any air quality emission limit or standard in any applicable State or Federal law, regulation, permit, or order and not relied upon in a SIP.

“ ‘Timely and Appropriate (T&A) Enforcement Response to High Priority Violations (HPVs)’ guidance document” means the EPA guidance document signed by Eric Schaeffer, Director of the Office of Regulatory Enforcement, Office of Enforcement and Compliance Assurance, on December 22, 1998, and as may be amended and supplemented, incorporated by reference herein. For reference, excerpts from this guidance document are set forth herein in Appendix B. However, if a discrepancy is found between Appendix B and the EPA document, the provisions of the EPA document shall prevail.

“Use period” means the period of time during which a user uses DER credits.

“Useful life” means the length of time that equipment or control apparatus can be expected, from the time it initially commences to operate, to continue to operate. For the purposes of this subchapter, in a case where the generation strategy is the replacement of equipment or control apparatus with lower-emitting equipment or control apparatus, this length of time shall be presumed to end five years from the date the new equipment or control apparatus commences to operate.

“User” means the owner or operator of a user source.

“User source” means any emissions source for which the owner or operator seeks to use DER credits for compliance in accordance with this subchapter.

“VOC credit” means a DER credit based on reductions of VOC. One VOC credit has an assigned value of 100 pounds (that is, one-twentieth of a ton) of VOC.

“Volatile organic compound” or **“VOC”** means any compound of carbon (other than carbon monoxide, carbon dioxide, carbonic acid, metallic carbonates, metallic carbides, and ammonium carbonate) which participates in atmospheric photochemical reactions. For the purpose of determining compliance with emission limits or content standards, VOC shall be measured by test methods in the approved SIP (such as N.J.A.C. 7:27B-3) or 40 CFR Part 60, Appendix A, as applicable, or which have been approved in writing by the Department and are acceptable to EPA. This term excludes those compounds which EPA has excluded from its definition of VOC in the list set forth at 40 CFR 51.100(s)(1), which is incorporated by reference herein, together with all amendments and supplements. As of April 9, 1998, the compounds and classes of perfluorocarbons excluded from EPA’s definition of VOC at 40 CFR 51.100(s) are set forth below:

methane
 ethane
 methylene chloride (dichloromethane)
 1,1,1-trichloroethane (methyl chloroform)
 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113)
 trichlorofluoromethane (CFC-11)
 dichlorodifluoromethane (CFC-12)
 chlorodifluoromethane (HCFC-22)
 trifluoromethane (HFC-23)
 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114)
 chloropentafluoroethane (CFC-115)
 2,2-dichloro-1,1,1-trifluoroethane (HCFC-123)
 1,1,1,2-tetrafluoroethane (HFC-134a)
 1,1-dichloro-1-fluoroethane (HCFC-141b)
 1-chloro-1,1-difluoroethane (HCFC-142b)
 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)
 pentafluoroethane (HFC-125)
 1,1,2,2-tetrafluoroethane (HFC-134)
 1,1,1-trifluoroethane (HFC-143a)
 1,1-difluoroethane (HFC-152a)
 parachlorobenzotrifluoride (PCBTF)
 cyclic, branched, or linear completely methylated siloxanes
 acetone
 perchloroethylene (tetrachloroethylene)
 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca)
 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb)
 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee)
 difluoromethane (HFC-32)
 ethylfluoride (HFC-161)
 1,1,1,3,3,3-hexafluoropropane (HFC-236fa)
 1,1,2,2,3-pentafluoropropane (HFC-245ca)
 1,1,2,3,3-pentafluoropropane (HFC-245ea)
 1,1,1,2,3-pentafluoropropane (HFC-245eb)
 1,1,1,3,3-pentafluoropropane (HFC-245fa)
 1,1,1,2,3,3-hexafluoropropane (HFC-236ea)
 1,1,1,3,3-pentafluorobutane (HFC-365mfc)
 chlorofluoromethane (HCFC-31)
 1-chloro-1-fluoroethane (HCFC-151a)
 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a)
 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C₄F₉OCH₃)
 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OC₂H₅)
 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅)
 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OC₂H₅)
 methyl acetate
 perfluorocarbon compounds which fall into these classes:
 cyclic, branched, or linear, completely fluorinated alkanes
 cyclic, branched, or linear, completely fluorinated ethers with no unsaturations

cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations
sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and
fluorine

If there is any conflict between the list at 40 CFR 51.100(s)(1) and the list set forth above, the list at
40 CFR 51.100(s)(1) shall control.

7:27-30.3 General provisions

- (a) A DER credit represents a tradeable quantity of emission reductions, recognized pursuant to this subchapter. A credit does not constitute or convey a property right. Nothing in this subchapter shall be construed to limit the authority of the State of New Jersey or the United States to terminate or limit DER credit(s).
- (b) A person may generate, transfer or voluntarily retire DER credits in accordance with this subchapter, without prior Federal, State or local government approval. A person may also use VOC or NO_x credits without such prior approval, except when the credits are to be used pursuant to N.J.A.C. 7:27-30.14(g) to comply with emission offset requirements under N.J.A.C. 7:27-18.
- (c) Only a whole number of DER credits may be generated, verified, transferred, voluntarily retired, used, found invalid, or cancelled.

7:27-30.4 DER credit generation: general requirements

- (a) A person may generate one or more DER credits pursuant to this section. However, no person may generate one or more credits unless the person:
 - 1. Implements a generation strategy which reduces the actual emissions of a generator source or group of generator sources below its baseline emissions;
 - 2. Conforms to all applicable provisions of this subchapter, including, but not limited to, the requirement that a DER credit be based on emission reductions that are real, surplus, and properly quantified; and
 - 3. Is authorized under (b) below to be the generator of the credits.
- (b) The generator of a DER credit shall be the owner or operator of the generator source, except as provided in (c) below, and except in the following circumstances:
 - 1. The generator source is a fuel, and the generation strategy is the reformulation of the fuel so as to decrease emissions from the fuel as it is distributed, stored, and/or sold for use in New Jersey. In such case, the person who implements the reformulation (that is, the owner or operator of the refinery or, if applicable, a person who is

defined pursuant to N.J.A.C. 7:27-25.1 as a blender) is authorized to be the generator;

2. The generator source(s) are mobile sources or nonroad sources operated in New Jersey, and the generation strategy is:
 - i. The reduction in the sources' activity levels through implementation of an activity reduction plan approved by the EPA or a State agency (such as an employee commute option plan approved by the State Department of Transportation under N.J.A.C. 16:50). In such case, the person who obtains approval of and implements the plan is authorized to be the generator;
 - ii. The replacement of conventional vehicles in a fleet with lower- emitting vehicles or the modification of fleet vehicles to make them lower- emitting. In such case, the owner of the fleet is authorized to be the generator; and
 - iii. The testing (or more frequent testing) and repair of motor vehicles. In such case, the person who conducts the test and repair program is authorized to be the generator;
3. The generator sources are consumer or commercial products (such as architectural coatings) which release emissions during their distribution, storage, or use, and the generation strategy is the reformulation or redesign of the products so that less emissions are released during the product's distribution, storage or use in New Jersey. In such case, the person who produces the reformulated or redesigned product (that is, the product manufacturer) is authorized to be the generator;
4. The generator sources are electric generating units located in New Jersey, and the generation strategy is the reduction in the electric generating units' activity level by implementing electrical energy efficiency measures in a residential, commercial, industrial, institutional, or governmental facility that is located in New Jersey. In such case, the person who is the electricity consumer (that is, the owner or operator of the facility) is authorized to be the generator; or
5. The generator source is the production of virgin materials (including, but not limited to, their extraction, harvesting, or manufacture, and their handling and transport) that are sold for use as a consumer or commercial product in New Jersey, or that are used as a raw material in a manufacturing process in New Jersey; and the generation strategy is the substitution of recycled materials for the virgin materials. In such case, the person who produces the recycled material in a form in which it is used (either as a product or as a raw material) as a substitute for virgin material is authorized to be the generator. For example, for recycled plastics, the post-consumer or post-industrial processor who produces recycled polymers in the form (pellets or flakes) that they are used by a plastics product manufacturer is authorized to be the generator.

- (c) If the person authorized to generate credits under (b) above enters a collective agreement under which the generation strategy would be implemented by another person authorized by the agreement to act on behalf of all signatories to the agreement, then the right to generate credits based on that strategy transfers to the other person, and the individual signatories are preempted from being generators.
- (d) If the generation strategy entails a change in equipment or control apparatus and that change is subject to permit requirements under N.J.A.C. 7:27-8 or 22, the following applies:
 - 1. A permittee shall obtain the new permit or the modification or revision of the existing permit prior to commencing implementation of the generation strategy; or
 - 2. If the “at-risk” provisions of N.J.S.A. 26:2C-9.3 and 4 and/or N.J.A.C. 7:27-8.25(a) apply, a permit applicant may commence implementation of the generation strategy while the review of the permit application is pending. However, if the Department does not approve the generation strategy as set forth in the permit application, the emissions reductions realized during the “at-risk” period may not be used as a basis for DER credit generation.
- (e) DER credits shall be based only on discrete emission reductions that are real and surplus, and are quantified in accordance with N.J.A.C. 7:27-30.5, 30.24, and 30.25.
- (f) If DER credits are to be based on reductions in emissions of a compound which may be classified as either a VOC or a GHG, then a generator may generate either VOC credits or GHG credits, but not both.
- (g) The generation period for any batch of DER credits shall not exceed one year. However, if a single generation strategy continues year after year to realize reductions, a generator may each year generate DER credits based on the strategy, provided that the generator meets the notice requirements set forth at N.J.A.C. 7:27-30.7 for each successive generation period.

7:27-30.5 DER credit generation: computation of credits

- (a) A generator shall calculate the quantity of DER credits generated in accordance with this section and a quantification protocol that satisfies the requirements of N.J.A.C. 7:27-30.24 and 30.25.
- (b) The number of DER credits generated shall be determined by calculating the quantity of discrete emission reductions on which credits may be based in accordance with (c) below; and then converting this quantity to a number of credits in accordance with (i) below.
- (c) The quantity of discrete emission reductions on which credits may be based shall be calculated in accordance with the following formula:

$$ER = (\text{Baseline Emissions}) - (\text{Actual Emissions})$$

where:

ER = the quantity of discrete emission reductions generated during the generation period, given in units of weight (for example, pounds or tons);

Baseline Emissions = the quantity of emissions which the generator source would have emitted during the generation period if the generator had not implemented the generation strategy to reduce the emissions. If the generator source is a facility, or is equipment, control apparatus, manufacturing process or other operation located at a facility, this quantity shall be determined in accordance with (d) below, except when the generator is generating credits over multiple consecutive years. In such case, for the second year, and each year thereafter, baseline emissions shall be determined in accordance with (g) below; and

Actual Emissions = the quantity of emissions that the generator source actually emitted during the generation period.

- (d) If the generator source is a facility, or is equipment, control apparatus, manufacturing process or other operation located at a facility, the source's baseline emissions shall equal the amount of the source's adjusted historic emissions, unless the source's allowable emissions and/or the source's measured emissions can be determined and unless either or both of these amounts of emissions are less than the source's adjusted historic emissions. In such case, the source's baseline emissions shall be the lowest of the following: the source's allowable emissions (if determined), the source's adjusted historic emissions, and the source's measured emissions (if determined). Each of these shall be determined as follows:
1. The source's allowable emissions cannot be determined if no emissions limit established by Federal or State law, rule, or regulation or by order applies to the source. However if such a limit applies, the source's allowable emissions, shall be determined using the source's actual activity level and actual hours of operation during the generation period and the lowest allowable emission rate which applies to the generator source during the generation period, minus a design margin. In determining the lowest allowable emission rate, the following shall be taken into consideration if applicable:
 - i. If the Department has approved a higher emission rate as an alternative emission limit for the source pursuant to N.J.A.C. 7:27-16 or 19, the rate which would have applied in the absence of the alternative emission limit (and not the alternative emission limit) shall be taken into consideration in determining the lowest allowable emission rate which applies to the source; and
 - ii. If a new permit or operating certificate, or a revision or modification of an existing permit or operating certificate, is required under N.J.A.C. 7:27-8 or 22 for the generation strategy, the permit or operating certificate limit which shall be taken into consideration in determining the lowest allowable emission rate which applies to the source is:

- (1) If the new permit or operating certificate, or a revision or modification of an existing permit or operating certificate, was issued by the Department prior to June 6, 2000, the new limit; and
 - (2) If the new permit or operating certificate, or a revision or modification of an existing permit or operating certificate, was issued by the Department on or after June 6, 2000, the limit which applied prior to the issuance of the new or revised permit or operating certificate (and not the new limit);
2. The source's adjusted historic emissions shall be its historic emissions adjusted for any difference between the source's economic output during the historic baseline period and during the generation period. A source's adjusted historic emissions shall be determined in accordance with the following formula:

$$\text{Adjusted Historic Emissions} = \left(\frac{\text{EO}_G}{\text{EO}_H} \right) (\text{Historic Emissions})$$

where:

Adjusted Historic Emissions = The source's historic emissions, adjusted for any difference between the source's economic output during the historic baseline period and during the generation period;

EO_G = The economic output of the generator source during the generation period;

EO_H = The generator source's historic economic output determined in accordance with (e) below, expressed in the same units as is used for economic output during the generation period; and

Historic Emissions = The emissions calculated in accordance with (e) below; or

3. The source's measured emissions cannot be determined if it is not technically feasible to measure the emission stream upstream of the point of application of the generation strategy. However if such measurements can be taken, the source's measured emissions shall be determined using the source's actual activity level and actual hours of operation during the generation period and the emission rate which would have resulted had the generation strategy not been applied, determined from measurements made upstream of the point of application of the generation strategy. If the strategy entails the replacement of a control apparatus, subtract the emission reductions that would have been realized by the replaced control from the total emissions calculated.

(e) A generator source's historic emissions shall be calculated using the source's historic emission rate, historic activity level, and historic hours of operation. These terms, as well as the source's historic economic output, shall be derived as follows:

1. Determine the source's historic baseline period, as follows:

- i. If the source has operated for less than two years since January 1, 1990, the source's historic baseline period shall be the interval which corresponds to the generation period in the year immediately preceding the first day of the generation period; and
- ii. If the source has operated for two or more years since January 1, 1990, the source's historic baseline period shall be one of the following:
 - (1) The two intervals which correspond to the generation period in each of the two years immediately preceding the first day of the generation period, unless the generator is generating "early" credits pursuant to N.J.A.C. 7:27-30.6(b)3 or (d). In such case, the source's historic baseline period shall be the two intervals which correspond to the generation period in each of the two years immediately preceding the date the generation strategy was first implemented; or
 - (2) If the generator demonstrates that any two intervals which correspond to the generation period within the five years preceding the first day of the generation period (or, for "early" credit generation, preceding the date the generation strategy was first implemented) are more representative of normal operations, these two other intervals;

2. Using the historic baseline period determined under (e)1 above, determine the value of the terms, as follows:

- i. The source's historic emission rate shall be its average emission rate during the historic baseline period;
- ii. The source's historic activity level shall be its average activity during the historic baseline period;
- iii. The source's historic hours of operation shall be its average hours of operation per interval during the historic baseline period. Therefore, if the historic baseline period includes two intervals, the source's historic hours of operation would be its total hours of operation during the historic baseline period divided by two; and
- iv. The source's historic economic output shall be its average economic output per interval during the historic baseline period. Therefore, if the historic baseline period includes two intervals, the source's historic economic output

would be its total economic output during the historic baseline period divided by two.

- (f) A time period shall be considered to be an interval that corresponds to a given generation period if the period begins in a different year but on the same calendar date (for example, April 15) as the generation period, and has the same duration as the generation period.
- (g) A generator who generates DER credits pursuant to N.J.A.C. 7:27-30.4(g), based on emission reductions realized over multiple years from implementation of a single generation strategy, may in the calculation of baseline emissions for the second year of DER credit generation, and each year thereafter, use the same values for “historic emissions” and “historic economic output” as were used in the first year, provided that:
 - 1. The generator generates credits for each successive consecutive generation period;
 - 2. This continuous generation is reflected in the generator’s annual submission of a Notice of Generation;
 - 3. Each year’s generation period corresponds to the initial generation period, as determined pursuant to (f) above;
 - 4. No new applicable maximum allowable emission rate that is lower than the historic emission rate is promulgated by EPA or the Department. If such a rate is promulgated, then the value for “historic emissions” shall be recalculated using the newly applicable maximum allowable emission rate, minus a design margin; and
 - 5. If the generator discontinues DER credit generation, and later decides to resume credit generation based on the initial generation strategy, “historic emissions” and “historic economic output” shall be recalculated pursuant to (d) above, using information from the years immediately preceding the new generation period.
- (h) The quantity of emission reductions calculated under (c) above shall be discounted in accordance with the following, as applicable:
 - 1. If the generation strategy results in increases of actual emissions of that air contaminant from one or more emissions sources other than the generator source, located at the facility or offsite, the quantity of emission reductions shall be reduced by the amount of those emission increases, as follows:
 - i. For each resulting pound of VOC increases (if VOC credits are being generated) or NO_x increases (if NO_x credits are being generated), a pound shall be subtracted; and
 - ii. For GHG, for each resulting pound of increased emissions of carbon equivalent, a pound of carbon equivalent shall be subtracted;

2. If the generator source's actual emissions or actual emission rate for any air contaminant during any part of the generation period exceeded any applicable limit established in its permit (unless the exceedance is authorized pursuant to the permit insurance provisions at N.J.A.C. 7:27-30.14(d) and (e)) or under applicable Federal or State law or rules, the quantity of emission reductions shall be reduced to reflect that no emission reduction, generated during that part of the generation period, may be used as the basis for a credit;
 3. For VOC and NO_x, if a portion of the emission reductions calculated under (c) above have been relied on in the SIP and are therefore not surplus, this portion shall be subtracted from the amount of emission reductions that was calculated;
 4. If the emission reductions are reductions that were banked pursuant to N.J.A.C. 7:27-18.8 and that are being converted to DER credits, the quantity of the emission reductions shall be reduced pursuant to N.J.A.C. 7:27-18.8(e) if the generator source is subject to a new emission limit established under a State or Federal statute, rule, or regulation; and
 5. If any amount of the emission reductions calculated under (c) above occurred at a generator source that is not located in New Jersey, the quantity of the emission reductions shall be reduced by that amount.
- (i) The number of DER credits generated shall be determined by converting the quantity of emission reductions calculated under (c) above, expressed in pounds, and as discounted pursuant to (h) above (if applicable), into the number of DER credits generated in accordance with the following:
1. For VOC or NO_x , divide the quantity of emission reductions (given in pounds) by 100 pounds;
 2. For a greenhouse gas, divide the quantity of emission reductions (given in pounds of carbon equivalent calculated pursuant to (j) below) by 2,205 pounds;
 3. If the registry will receive a complete Notice of Generation late, the number calculated pursuant to (i)1 or 2 above shall be reduced for such lateness in accordance with N.J.A.C. 7:27-30.7(b); and
 4. If the result obtained is a whole number, that is the number of DER credits generated; otherwise the result shall be rounded down to the next lowest whole number to determine the number of DER credits generated.
- (j) A quantity of any greenhouse gas, given in pounds, may be converted to a pound of carbon equivalent using the following formula:
- $$CE = 0.2727 \times (GHG) \times (GWP)$$

where:

CE = A quantity of carbon equivalent, expressed in pounds;

0.2727 = The ratio of the molecular weight of carbon to that of carbon dioxide;

GHG = A given quantity of a specific greenhouse gas, expressed in pounds; and

GWP = The global warming potential of the specific greenhouse gas, as listed in Appendix A.

- (k) For VOC and NO_x, if part of the generation period falls within the ozone season and part outside the ozone season, a generator shall perform the calculations in (c), (h) and (i) above separately for those emission reductions generated during the ozone season and for those emission reductions generated outside the ozone season. The total number of credits generated shall be the sum of the credits generated during the ozone season and the credits generated outside the ozone season.

7:27-30.6 DER credit generation: limitations

- (a) None of the following emission reductions is a basis for generation of a DER credit:
1. An emission reduction that results from a shutdown or curtailment;
 2. An emission reduction that results from modifying or discontinuing activity that violates any federal, State or local law, regulation, permit, or order;
 3. An emission reduction that is required to comply with a requirement in the Federal Clean Air Act, the New Jersey Air Pollution Control Act (N.J.S.A. 26:2C-1 et seq.), any regulation, permit, operating certificate, or order pursuant thereto; any air quality emission limit or standard in any applicable law, regulation, permit, or order; or any SIP or Federal Implementation Plan except:
 - i. If emissions are reduced below the level required to comply, they may be used as the basis for generation of a DER credit; and
 - ii. As provided in the procedures for calculating baseline emissions at N.J.A.C. 7:27-30.5(d)1ii.
 4. An emission reduction which has been used under any other emissions trading program as the basis for a credit under that other trading program. For example, an emission reduction which has been used as the basis for a claim for early reduction credit in the NO_x Budget Program pursuant to N.J.A.C. 7:27-31.12 may not also be used a basis for generation of a DER credit. However, this prohibition does not include emission reductions banked under the provisions of the emission offset rule at N.J.A.C. 7:27-18.8 or a NO_x Budget Program allowance which is being converted to a DER credit pursuant to N.J.A.C. 7:27-30.27;

5. An emission reduction which has previously been used as the basis for generating a DER credit under this subchapter;
 6. An emission reduction which is accompanied by an increase in a source's emissions of a HAP from a level below the applicable SOTA Threshold set forth in Table A or Table B at N.J.A.C. 7:27-8, Appendix 1 , to a level above the threshold;
 7. An emission reduction which is accompanied by an increase in emissions of any HAP (from the emissions source or from any other source at the facility or off-site) from a level which exceeds the applicable SOTA Threshold set forth in Table A or Table B at N.J.A.C. 7:27-8, Appendix 1, to a higher level. This SOTA Threshold level is the de minimis level designated for that HAP by the EPA pursuant to 42 U.S.C. § 7412(g). The de minimis levels are as currently set forth in a proposed rule at 59 F.R. 15504 (April 1, 1994). If the EPA adopts a final rule or publishes a new proposed rule to designate the de minimis levels, the Department will revise this paragraph through an administrative correction pursuant to N.J.A.C. 1:30-2.7;
 8. An emission reduction which is accompanied by a violation of a Federal or State law, regulation, order or permit. For example, if the generator source's actual emissions or actual emission rate for any air contaminant during any portion of the generation period exceeds any applicable limit established in the generator source's permit authorizes for such portion of the generation period, no DER credits shall have been generated during that portion of the generation period;
 9. An emission reduction that results from the implementation of a regionally significant highway project or a regionally significant transit project as defined in 40 CFR 93.101;
 10. An emission reduction that is not a consequence of an action taken by the generator, including, but not limited to, reductions resulting from chance events;
 11. An emission reduction from a generator source that is not located in New Jersey;
 12. An emission reduction from a new emissions source which has operated for less than one year prior to the first day of the generation period; or
 13. An emission reduction from a new product which has been distributed, stored, or sold for use in New Jersey for less than one year prior to the first day of the generation period.
- (b) None of the following emission reductions is a basis for generation of a VOC or NO_x credit:
1. An emission reduction below an alternative emission limit approved by the Department for the generator source(s) pursuant to the alternative control plan provisions at N.J.A.C. 7:27-16.17(a)2, the facility-specific NO_x emission limit provisions at N.J.A.C. 7:27-19.13(a)2, or the emission averaging provisions at N.J.A.C. 7:27-19.6, except to the extent that the emissions are reduced below the limit that would otherwise apply;

2. An emission reduction from a stationary source that is subject to N.J.A.C. 7:27-16 or 19, but for which the Department has not yet established an applicable RACT limit either in the rule or in a source-specific emissions limit submitted to the EPA as a SIP revision;
 3. An emission reduction generated before May 1, 1992. Furthermore, an emission reduction generated at any time between May 1, 1992 and August 2, 1996 may be a basis for generation of a DER credit only if it satisfies the applicable requirements of this subchapter, and one of the following occurred on or before October 31, 1996:
 - i. The Department informed the generator in writing that the emission reduction is real, surplus, and properly quantified; or
 - ii. The generator submitted to the Department and the registry a Notice of Generation in accordance with N.J.A.C. 7:27-30.7 for the emission reduction; or
 4. An emission reduction from a generator source whose emissions are not reflected in the emissions inventory submitted by the State to the EPA for inclusion in the SIP, or in the annual emissions inventory conducted pursuant to the emission statement program rules at N.J.A.C. 7:27-21.
- (c) None of the following emission reductions is a basis for generation of a GHG credit:
1. Reducing the amount of a hydroflouorocarbon (HFC) or a perflouorocarbon (PFC) that is used in a fire suppression system; and
 2. Reserved.
- (d) A GHG emission-reducing strategy that was implemented after 1990 but prior to June 6, 2000 may be used as a generation strategy, subject to the following constraints and limitations:
1. An emission reduction generated prior to June 6, 2000 may not be used as the basis for generation of a GHG credit; however, GHG credits may be based on the emission reductions realized from these strategies on and after June 6, 2000; and
 2. The Notice of Generation for the first generation period shall be submitted no later than September 4, 2001 and shall be for a generation period which commences on June 6, 2000.
- (e) A DER credit shall not be based on the reduction of a facility's fugitive emissions unless:
1. The facility is subject to a facility-wide permit issued under N.J.S.A. 13:1D-48; and

2. The fugitive emissions are reduced by the owner or operator taking pollution prevention measures.
- (f) If the generation strategy is the replacement of an existing emissions source with a lower-emitting source, notwithstanding the provisions of N.J.A.C. 7:27-30.4(g) which provide for continuing generation of DER credits year after year from a single generation strategy, no DER credit shall be based on the reductions realized by the replacement source after the end of the useful life of the replaced source.

7:27-30.7 DER credit generation: Notice of Generation

- (a) On and after June 6, 2000 a generator shall submit a Notice of Generation in accordance with this section, the general notice requirements at N.J.A.C. 7:27-30.18, and the requirements for submission of notices at N.J.A.C. 7:27-30.19. A Notice of Generation submitted prior to June 6, 2000 shall conform with the applicable requirements promulgated on August 5, 1996, at 28 N.J.R. 3786(b).
- (b) The deadline for timely submittal of a complete Notice of Generation is 90 days after the last day of the generation period. A Notice of Generation that is received by the registry after this deadline is late, and the following shall apply:
1. Within the notice the generator shall initially reduce the quantity of credits claimed in the notice by 10 percent for the lateness, and shall further reduce the number of credits claimed by an additional 10 percent of the original quantity claimed for each full increment of 30 days beyond the deadline that the notice is submitted. For example, if a generator could have claimed 100 credits, but submits the notice 40 days late, the generator shall claim only 80 credits; and
 2. A Notice of Generation shall not be submitted later than 270 days after the deadline.
- (c) Emission reductions from more than one generator source may be grouped together and submitted as a batch in single Notice of Generation only if:
1. The generator sources are:
 - i. All stationary sources subject to an averaging plan approved by the Department pursuant to N.J.A.C. 7:27-19.6; or
 - ii. A group of more than one stationary source of the same type located at a single facility and the same generation strategy is used for each;
 2. The reductions are the fugitive emission reductions at a facility subject to a facility-wide permit issued pursuant to N.J.S.A. 13:1D-48 which result from pollution prevention measures;

3. The reductions are generated through the implementation of any of the generation strategies listed at N.J.A.C. 7:27-30.4(b)2 through 5, and the reductions are realized from the implementation of a single generation strategy; or
4. The generator is an agent authorized under N.J.A.C. 7:27-30.4(c) to implement one or more emission reduction strategies for emissions sources owned or operated by the signatories to the agreement, and the emission reductions are the reductions realized from the implementation of a single generation strategy at facilities under the control of the signatories.

(d) A Notice of Generation shall include the following:

1. The name and address of the generator, the generator's type of business (for example, electric utility or architectural coating manufacturer), and other pertinent identifying information including the name and telephone number of a contact person;
2. If the generator is an agent authorized to act on behalf of all signatories to a multi-party agreement, and authorized pursuant N.J.A.C. 7:27-30.4(c) (in lieu of the signatories) to be the generator of DER credits, a copy of the collective agreement and a list of all signatories to the agreement, together with the identifying information required under (d)1 above for each signatory;
3. A description of the generation strategy employed;
4. For the generator source(s), the identifying information specified at N.J.A.C. 7:27-30.18(d), except in the cases given in (d)4i and ii below. In these cases only a general class (and not specific generator source(s)) shall be identified, and the additional requirements set forth in (d)4i and ii below shall be satisfied:
 - i. If the generation strategy is the implementation of energy efficiency measures, in lieu of identifying the specific generator source(s), the address and county of the facilities where the measures were implemented; and
 - ii. If the generation strategy is the substitution of recycled materials for virgin materials that would otherwise be sold for use as a consumer or commercial product or as a raw material in a manufacturing process, in lieu of identifying the specific production process for the virgin materials, the generator shall provide documentation that the recycled materials were sold for use as a consumer or commercial product in New Jersey, or were conveyed to a manufacturer in New Jersey for use as a raw material in the manufacturer's production process;
5. The month, day, and year of the first and last dates of the generation period;
6. A demonstration that the person submitting the notice is the person authorized under N.J.A.C. 7:27-30.4(b) to be the generator of the credits;

7. One of the following:
 - i. If a quantification protocol approved by EPA or the Department is used to calculate the number of DER credits generated, citation of that protocol; or
 - ii. The quantification protocol used, and a statement that the protocol meets the requirements for protocols at N.J.A.C. 7:27-30.25;
8. The type of DER credits being generated (for example, VOC credits or NO_x credits);
9. The number of each type of DER credits determined, pursuant to N.J.A.C. 7:27-30.5 and the quantification protocol, to have been generated; for VOC and NO_x credits, the number based on reductions during the ozone season and for the rest of the year shall be given separately;
10. If the generation of the DER credits resulted in an increase, de minimis or otherwise, in the actual emissions of any HAP, either at the facility or off-site, the name of the HAP specie(s) that had increased emissions and the amount of the increase, together with specification as to whether the increase was from the generator source, from other source(s) at the facility, and/or from source(s) off-site;
11. For GHG credits, a statement specifying whether or not the emission reductions on which the credits are based have also been reported to Energy Information Administration in the United States Department of Energy under its program for Voluntary Reporting of Greenhouse Gases under Section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. § 13385);
12. A demonstration that the emission reductions on which the DER credits are based are surplus. If the generation strategy is a highway project or a transit project, this demonstration shall include a showing that the emission reductions are not a result of the implementation of a regionally significant highway project or a regionally significant transit project as defined in 40 CFR 93.101;
13. For NO_x credits that are based on retired allowances allocated under the NO_x Budget Program, the following:
 - i. A copy of the Allowance Transfer Form that the Authorized Account Representative has submitted to the NO_x Allowance Tracking System Administrator indicating that the allowances are transferred to a retirement account, as required at N.J.A.C. 7:27-31.6(a)2; and
 - ii. If the retired allowances had been allocated to the owner or operator of a budget source, a demonstration that the budget source had NO_x emission reductions which were equal to or greater than the emissions value of the retired allowance(s); that the reductions qualify to be used as the basis for a DER credit under N.J.A.C. 7:27-30.4, 30.5, 30.6, and 31.6; and the

reductions occurred both within the NO_x Budget control period and within the generation period;

14. If the value used for “historic emissions” in the calculation of baseline emissions is the value used in an initial generation period pursuant to N.J.A.C. 7:27-30.5(g), the date the generation strategy was first implemented;
15. If the generation strategy is the replacement of an existing emissions source with a lower-emitting emissions source, the date that the equipment or control apparatus which was replaced commenced operating and the date of the end of the useful life of the equipment or control apparatus which was replaced;
16. All supporting documentation required to be submitted with the Notice of Generation pursuant to the quantification protocol, which at a minimum must conform with N.J.A.C. 7:27-30.25;
17. The following statements:
 - i. The emission reductions on which the DER credits are based are real;
 - ii. The DER credits were not based on a type of emission reduction which may not, pursuant to N.J.A.C. 7:27-30.6, be used as the basis for a DER credit, or on actions prohibited under this subchapter or other provisions of law;
 - iii. All calculations relied on in the notice have been performed in accordance with N.J.A.C. 7:27-30.5 (as applicable) and with a quantification protocol that meets the requirements of N.J.A.C. 7:27-30.24 and 30.25; and
 - iv. All supporting documentation required to be submitted with the notice by the approved quantification protocol or under N.J.A.C. 7:27-30.25 is enclosed;
18. If, pursuant to N.J.A.C. 7:27-30.27, the DER credits included in the notice were generated through the conversion of emission reductions banked under the provisions of the emission offset rule at N.J.A.C. 7:27-18.8, or through the conversion of allowances allocated under the provisions of the NO_x Budget Program at N.J.A.C. 7:27-31.7, a statement indicating this;
19. For any batch of DER credits based on emission reductions due to the implementation of an energy efficiency measure, a statement as to whether or not the implementation was subsidized in whole or in part by funding derived from the societal benefits charge levied pursuant to Section 12 of Electric Discount and Energy Competition Act at N.J.S.A. 48:3-60;
20. If any amount of the emission reductions calculated under N.J.A.C. 7:27-30.5(c) occurred at a generator source that is not located in New Jersey, this quantity of the out-of-state emission reductions, given in tons, may (at the option of the generator) be recorded in the notice;

21. Any other information required pursuant to N.J.A.C. 7:27-30.18(c); and
22. The certification by the generator as required at N.J.A.C. 7:27-30.18(e).

7:27-30.8 Registry

- (a) This section sets forth the procedures and standards for the banking of DER credits in a registry.
- (b) Any submittal of a notice or a request to the registry that is required or allowed under this subchapter shall be made to the following address:

OMET Registry Operator
Mosakin International Corporation
1075 Easton Avenue
Tower 3, Suite 4
Somerset, New Jersey 08873
Attn: Emissions Trading Registry

- (c) The registry includes information from the following notices (and from amendments thereto):
 1. Notices of Generation;
 2. Notices of Transfer;
 3. Notices of Verification;
 4. Notices of Intent to Use;
 5. Notices of Use;
 6. Notices of Credit Invalidation from the Department or the EPA pursuant to N.J.A.C. 7:27-30.29; and
 7. Notices of Retirement pursuant to N.J.A.C. 7:27-30.11.
- (d) A person has not satisfied a requirement to submit a notice to the registry until the date on which the registry receives a complete notice which includes all items required under this subchapter. If the notice is sent by certified mail or by another method which provides a receipt showing the date of delivery, the date shown on the receipt is the date on which the registry shall be deemed to have received the notice. Otherwise, the date which the registry's records show as the date of receipt shall control.
- (e) The operator of the registry shall process each notice or amendment it receives as follows:

1. Within one business day after receiving a notice or amendment thereto, the operator of the registry shall determine whether the notice or amendment contains all items required under this subchapter;
 2. If the notice or amendment contains all required items, then within one additional business day the operator of the registry shall update the registry to include the notice or amendment and perform the following, as applicable:
 - i. If the notice is a Notice of Generation, the operator of the registry shall assign a unique serial number to each DER credit claimed in the notice and note all such serial numbers on the registry's copy of the notice;
 - ii. If the notice is a Notice of Verification, the operator of the registry shall designate each credit in the batch as verified or not verified pursuant to N.J.A.C. 7:27-30.10(e);
 - iii. If the notice is an amendment of a Notice of Generation which reduces the number of credits originally claimed for the batch, the operator of the registry shall designate the withdrawn credits as canceled in accordance with N.J.A.C. 7:27-30.29;
 - iv. If the notice is an amendment of a Notice of Generation which renders prior Notice(s) of Verification invalid pursuant to N.J.A.C. 7:27- 30.10(f), the operator of the registry shall remove from the registry all designations, based on the Notice(s) of Verification, that credits are verified or not verified. The Notice(s) of Verification shall remain in the registry, but the operator of the registry shall label it invalid; and
 - v. If the notice is a Notice of Invalidation submitted by the Department or EPA pursuant to N.J.A.C. 7:27-30.29(a), the operator of the registry shall, for each affected credit, place a designation in the registry that the credit is invalid; and
 3. If the notice or amendment is missing a required item, the operator of the registry shall return the notice to the person who submitted it, together with an explanation of why the notice is incomplete, and shall not update the registry to include the notice or amendment.
- (f) The operator of the registry shall post in the registry a copy of each complete Notice of Generation, Notice of Intent to Use, or Notice of Use, and each amendment thereof, submitted electronically pursuant to N.J.A.C. 7:27-30.19(b), so that the notice or amendment may be examined and/or downloaded by any interested person.
- (g) If, pursuant to N.J.A.C. 7:27-30.10(h), the Department or the EPA finds a verification defective, the operator of the registry shall label the corresponding Notice of Verification as invalid. If the invalid Notice of Verification is the only Notice of Verification in the registry

that applies to a given batch of DER credits, the operator of the registry shall remove from the registry all designations that the credits in the batch are verified or not verified. If the invalid Notice of Verification is not the only Notice of Verification in the registry that applies to a given batch of DER credits, the operator of the registry shall designate all the credits in the batch as verified or not verified based on the Notices of Verification that are not labeled as invalid.

- (h) If a credit has been used, and if the operator of the registry takes either of the following actions which affects the status of the credit, the registry operator shall within seven days of taking the action provide notification, on paper, to the user and to the Department which identifies the credit by its serial number, states the action taken, and gives the basis for the action:
 - 1. Cancellation of the credit pursuant to (e)2iii above; or
 - 2. Removal of the designation of a credit's verification pursuant to (e)2iv above.

7:27-30.9 DER credit transfer

- (a) In order to effect the transfer of one or more DER credits from one holder to another, the transferee shall submit a Notice of Transfer to the registry in accordance with this section, the general notice requirements at N.J.A.C. 7:27-30.18, and the requirements for submission of notices at N.J.A.C. 7:27-30.19.
- (b) The transferor shall provide a complete copy of the following to the transferee at the time of the transfer:
 - 1. The Notice of Generation for each batch of DER credits of which the transferred credits are a part including any supporting documentation required pursuant to the quantification protocol or N.J.A.C. 7:27-30.25;
 - 2. The Notice(s) of Verification, if any, for each batch DER credits being transferred in full or in part; and
 - 3. Each amendment to these notices.
- (c) A Notice of Transfer shall include the following:
 - 1. Information to identify the transferor and the transferee;
 - 2. The serial numbers assigned to each DER credit being transferred;
 - 3. The average per-credit purchase price of DER credits generated during the ozone season paid by the transferee to the transferor and the average per-credit purchase price of DER credits generated outside the ozone season paid by the transferee to the

transferor. These prices shall be based on the full cost of the transaction, including, but not limited to, the amount paid for the credits and any associated service fees;

4. A statement that the (named) transferor has provided the documents listed in (b) above to the (named) transferee; and
 5. Certification by both the transferor and transferee as required under N.J.A.C. 7:27-30.18(e).
- (d) No DER credit shall be transferred if the credit has been used or retired, or if it has been canceled or designated as invalid pursuant to N.J.A.C. 7:27-30.29.

7:27-30.10 DER credit verification

- (a) A DER credit to be used in New Jersey shall be considered to be verified only if:
1. The credit is in the set of NO_x credits verified by the Department on April 25, 1995;
 2. The credit is in a batch verified by one of the following persons:
 - i. A professional engineer licensed by the New Jersey Board of Professional Engineers and Land Surveyors pursuant to N.J.S.A. 45:8-27 et seq.; or
 - ii. A certified public accountant licensed by the New Jersey Board of Accountancy pursuant to N.J.S.A. 45:2B-1 et seq.; or
 3. The credit has been verified by the air pollution control agency of another state or in accordance with the verification procedures of the other state, provided that:
 - i. The credit was generated in the other state; and
 - ii. The Department has entered into an interstate agreement with the air pollution control agency of the other state which expressly allows credit verifications performed under the auspices of the other state to be recognized in New Jersey.
- (b) Although a generator may engage a verifier to perform a verification, the verifier shall otherwise be independent of the generator. A verifier shall not be considered independent if:
1. The verifier is employed by the generator, or was employed by the generator within the six months before the verification;
 2. The verifier is employed by an entity that prepared the Notice of Generation or any of its supporting documentation for the batch of DER credits being verified, assisted the generator in such preparation, or otherwise assisted the generator in connection with the generation of the batch of DER credits being verified;

3. The generator is owned, in whole or part, or is subject to control, by the verifier or the verifier's employer; or
 4. The employer of the verifier is owned, in whole or part, or is subject to control, by the generator.
- (c) In performing a verification, a verifier shall consider all the DER credits included in the batch covered by a Notice of Generation. A verifier can verify a DER credit only if the verifier makes all of the following findings, based on diligent inquiry that is not limited to reliance upon representations made by the generator:
1. The Notice of Generation, together with any amendment thereto, includes all of the information, statements, supporting documentation, and certification required under this subchapter and the applicable quantification protocol;
 2. The Notice of Generation, together with any amendment thereto, and including all statements made therein and all the supporting documentation, appears on its face to be true, accurate and complete;
 3. The notice, together with any amendment thereto, documents that all calculations relied on in the notice were performed as required under N.J.A.C. 7:27-30.5 and a quantification protocol which meets the requirements of N.J.A.C. 7:27-30.24 and 30.25; and
 4. The notice, together with any amendment thereto, establishes that the DER credits are based on emission reductions which are real and surplus, and which satisfy all other applicable requirements of this subchapter for the generation of DER credits.
- (d) After making a determination as to whether some or all of the DER credits in the batch can be verified, the verifier shall submit a complete Notice of Verification to the registry in accordance with this section, the general notice requirements at N.J.A.C. 7:27-30.18, and the requirements for submission of notices at N.J.A.C. 7:27-30.19.
- (e) A Notice of Verification shall include the following:
1. The name, address, and other pertinent identifying information for:
 - i. The verifier, including the number of the verifier's New Jersey professional engineer or certified public accountant license;
 - ii. The verifier's employer; and
 - iii. The person for whom the verifier is performing the verification;
 2. The serial number assigned to each DER credit in the batch;

3. Specification of whether all the credits in the batch are verified, part of the credits in the batch is verified, or none of the batch is verified; if the verifier has determined that he or she is able to verify only part of the credits in the batch, specification of the number of credits verified, together with an explanation of why all the credits cannot be verified;
 4. The following statements:
 - i. A statement that the verifier has made each of the specific findings required under (c) above, based on the diligent inquiry required under (c) above; and
 - ii. A statement attesting that the verifier is, in accordance with (b) above, independent of the generator;
 5. Disclosure of whether or not the verifier or the verifier's employer is a holder of any credits in the batch; and
 6. The certification by the verifier as required under N.J.A.C. 7:27- 30.18(e).
- (f) A credit shall not be considered to be verified if the Notice of Verification that applies to the credit is no longer valid. No Notice of Verification is valid if, subsequent to the verifier's submission of the Notice of Verification to the registry, an amendment to the Notice of Generation is submitted to the registry which substantively changes any of the information on which the verification was based, including, but not limited to, changes to any of the following:
1. The number of DER credits which have been generated;
 2. The method used to calculate the number of DER credits generated; or
 3. The data or other information on which the calculation is based.
- (g) Any person may have a batch of DER credits verified, even if the batch has already been verified. Therefore, the registry may reflect more than one Notice of Verification for a single batch of DER credits.
- (h) If the Department or the EPA determines that a verification is defective, the Department or the EPA will notify the operator of the registry, the verifier, and any person who has used a credit in the batch of its finding.
- (i) Notwithstanding the provisions of this section, for any Notice of Generation submitted to the registry prior to June 6, 2000, a verifier shall meet the applicable requirements promulgated at N.J.A.C. 7:27-30.10 on August 5, 1996, at 28 N.J.R. 3786(b); and the verification shall be performed in accordance with the standards set forth in the rules promulgated on August 5, 1996, at 28 N.J.R. 3786(b).

7:27-30.11 Voluntary retirement of DER credits

- (a) A holder of a DER credit may voluntarily retire that credit by submitting a Notice of Retirement to the registry in accordance with this section, the general notice requirements at N.J.A.C. 7:27-30.18, and the requirements for submission of notices at N.J.A.C. 7:27-30.19.
- (b) A Notice of Retirement shall include the following:
 - 1. Information to identify the holder who is retiring the credit(s);
 - 2. The serial number assigned to each DER credit being voluntarily retired; and
 - 3. The certification by the holder who is retiring the credits as required pursuant to N.J.A.C. 7:27-30.18(e).
- (c) DER credits which are being voluntarily retired under this section do not need to be verified prior to being retired.
- (d) A person who submits a Notice of Retirement may subsequently amend the notice pursuant to N.J.A.C. 7:27-30.20 to correct an error in the notice.
- (e) When DER credits are being used pursuant to N.J.A.C. 7:27-30.12, a Notice of Retirement shall not be submitted for the retirement of 10 percent of the credits being used (or, if the use is a “permit insurance” use pursuant to N.J.A.C. 7:27-30.14(d) and (e), 20 percent of the credits being used) for the benefit of the environment. Such retirement is an integral part of the use and is covered in the Notice of Use.
- (f) No person may transfer or use a DER credit that has been retired, and no person may withdraw a Notice of Retirement.

7:27-30.12 VOC and NO_x credit use: general requirements

- (a) A DER credit, based on reductions of VOC or NO_x emissions, may be used for compliance under this section.
- (b) A VOC or NO_x credit shall be considered a limited authorization to emit NO_x or VOC in accordance with the provisions of this subchapter, the Federal Clean Air Act, the New Jersey Air Pollution Control Act (N.J.S.A. 26:2C-1 et seq.) and rules promulgated thereunder. However, nothing in this subchapter shall be construed to limit the authority of the State of New Jersey or the United States to terminate or limit such authorization.
- (c) A user may use a credit for compliance only if the registry shows that the user holds the credit, that the DER credit is verified, that the credit has not been used previously or retired, that the credit has not been cancelled pursuant to N.J.A.C. 7:27-30.29(b), and that the credit has not been found to be invalid by either the Department or the EPA.

- (d) A user shall not use a NO_x credit to comply with a VOC requirement, and shall not use a VOC credit to comply with a NO_x requirement.
- (e) A user shall not use a VOC or NO_x credit based on emission reductions that occurred outside the ozone season to comply with any requirement during the ozone season.
- (f) A use period shall not exceed one year. However, a given use may be continued over consecutive use periods, provided that the notice requirements set forth at N.J.A.C. 7:27-30.15 and 30.16 are met for each use period.
- (g) Except in a case where the use is exempted from the requirement for a Notice of Intent to Use pursuant to N.J.A.C. 7:27-30.15(e), a use period shall not begin until a complete Notice of Intent to Use has been submitted to the registry in accordance with N.J.A.C. 7:27-30.15 and 30.19. Additionally:
 - 1. If the user source is located within 100 kilometers of Edwin B. Forsythe National Wildlife Refuge (see Appendix C for a delineation of this area), the use period shall not begin until 30 days after the user submits a copy of the Notice of Intent to Use to the Federal Land Manager, pursuant to N.J.A.C. 7:27-30.19(h); and
 - 2. If the user source is permitted under N.J.A.C. 7:27-8 or 22, and the use entails an increase in the actual emissions of any air contaminant (including, but not limited to, any “permit insurance” use listed at N.J.A.C. 7:27-30.14(d)), the use period shall not begin until seven days after the Notice of Intent to Use has been submitted to the Department as a seven-day-notice, pursuant to N.J.A.C. 7:27-8.3(k) or 22.22(d).
- (h) Whenever credits are used, the user shall retire 10 percent of the total number of the credits used for the benefit of the environment, unless the use is a “permit insurance” use pursuant to N.J.A.C. 7:27-30.14(d) and (e), in which case the user shall retire 20 percent of the total number of the credits used for the benefit of the environment. In determining the number of credits needed for a use, the credits required to be retired are additional to the credits otherwise required for the use.
- (i) The user shall hold DER credits as follows:
 - 1. For a “permit insurance” use pursuant to N.J.A.C. 7:27-30.14(d) and (e), the user shall hold the full quantity of DER credits needed for compliance during the use period by the day the Notice of Intent to Use is submitted to the registry;
 - 2. For a use of DER credits to meet emission offset requirements, the user shall hold DER credits as required pursuant to N.J.A.C. 7:27-30.14(f);
 - 3. For a use for which no Notice of Intent to Use is required, pursuant to N.J.A.C. 7:27-30.15(e), the user shall hold the full quantity of DER credits required for compliance by the day the Notice of Use is submitted to the registry;

4. For any other use, the user shall hold the credits needed for compliance (including any credits required pursuant to N.J.A.C. 7:27- 30.13(d)2, 3 and 4ii, iii and iv) on any given date within the use period by the day before that date, except as provided at (i)5 below;
 5. If on any day within the use period the number of credits held by the user for the use is less than the number required to be held under (i)4 above, the number of DER credits needed for compliance for each day the shortfall occurs shall be tripled;
 6. Once a user holds a DER credit pursuant to (i)1 through 5 above, the user shall continue to hold the DER credits until the Notice of Use is filed; and
 7. In all cases the user is required to hold all DER credits needed for the use at the time the Notice of Use is submitted.
- (j) If any DER credit being held for a use pursuant to (i)2 through 7 above subsequently proves not to be needed for the use, the user may, after the Notice of Use is submitted, trade, voluntarily retire, or use these credits for other purposes allowed under this subchapter.
- (k) If a user has used a DER credit that is designated as invalid pursuant to N.J.A.C. 7:27-30.29(a) or cancelled pursuant to N.J.A.C. 7:27-30.29(b), the user shall, within 60 days after receiving notice of the invalidation or cancellation, submit to the registry an amendment of the Notice of Use which replaces the invalid DER credit with a valid credit, identified by its serial number.
- (l) If all the verifications of a DER credit that a user has used are rendered invalid pursuant to N.J.A.C. 7:27-30.10(f) or (h), the user shall, within 60 days after receiving notice of the invalidation of the verification:
1. Ensure that a new Notice of Verification is submitted to the registry which verifies the original DER credit; or
 2. Submit to the registry an amendment of the Notice of Use which replaces the invalid DER credit with a verified credit, identified by its serial number.
- (m) The Department may request an interim calculation to determine whether the user source's use of credits, as of any date during the use period, has exceeded the maximum number of credits, as set forth by the user in the Notice of Intent to Use. The user shall submit the interim calculation to the Department within 15 days after receiving the Department's request.
- (n) Any person who submits a Notice of Intent to Use to the registry shall, after the use period, submit a Notice of Use, in accordance with N.J.A.C. 7:27-30.16, even if the person determines that no credits were used during the use period.
- (o) If a permittee wants more flexibility, with respect to applicable permit limits, than is allowed under the "permit insurance" provisions at N.J.A.C. 7:27-30.14(d) and (e), then the permittee

may apply to the Department for approval of a 15-year plan for the permittee's facility, pursuant to N.J.S.A. 26:2C-9.2c(3).

7:27-30.13 VOC and NO_x credit use: computation of DER credits

(a) A user shall calculate the following in accordance with this section and a quantification protocol that satisfies the requirements of N.J.A.C. 7:27-30.24 and 30.25:

1. If the user is required to hold the full number of DER credits needed for compliance when a Notice of Intent to Use is submitted pursuant to N.J.A.C. 7:27-30.12(i)1, the number of credits that need to be held; and
2. The number of DER credits that were used during a use period.

(b) The number of DER credits that need to be held pursuant to N.J.A.C. 7:27-30.12(i)1 when a Notice of Intent to Use is submitted shall be determined as follows:

1. Determine the maximum quantity of excess VOC or NO_x emissions from the user source, expressed in pounds, that may occur during the use period. The maximum quantity of excess emissions shall be 100 percent of the increase in allowed emissions (above the permit limit in the current permit) of the equipment or control apparatus during the use period. This shall be determined in accordance with the following formula:

$$EE = (CR-PL) (T)$$

where:

EE = the maximum quantity of excess emissions which may be released during the use period, expressed in pounds of VOC or NO_x;

CR = the "ceiling rate," that is the maximum emission rate, specified by the user in the Notice of Intent to Use pursuant to N.J.A.C. 7:27-30.14(d)1ii, which is allowed during the use period, expressed in the same units as used above for the permit limit;

PL = the permit limit which is currently in effect. This limit establishes the rate which is (in the absence of the use of credits) the maximum allowable emission rate for the user source, expressed in emissions per unit time. If the limit in the permit is given in emissions per unit of time, the units used for this rate shall be the same as are used in the permit; otherwise, the limit in the permit shall be converted to and expressed as pounds per hour; and

T = the maximum amount of time within the use period which the equipment or control apparatus is allowed to operate under its

currently effective permit, expressed in the same units for time as are used to express the permit limit and the ceiling rate;

2. If the use of VOC or NO_x credits for compliance may result in increased actual emissions of VOC or NO_x, respectively, from one or more emissions sources other than the user source, located at the facility or offsite, add the quantity of those potential VOC or NO_x emission increases to the quantity of emission increases established under (b)1 above; and
 3. Convert the quantity of VOC or NO_x emission increases determined pursuant to (b)1 and 2 above to the number of DER credits that need to be held when a Notice of Intent to Use is submitted as follows:
 - i. Divide the quantity of emission increases calculated under (b)1 and 2 above, expressed in pounds, by 100;
 - ii. If the user will submit the complete Notice of Intent to Use late, increase the quantity calculated under (b)3i above for such lateness in accordance with N.J.A.C. 7:27-30.15(b);
 - iii. If the user fails to hold the full number of DER credits needed for compliance by the day the Notice of Intent to Use is submitted, increase the quantity calculated under (b)3i and ii above for such failure in accordance with N.J.A.C. 7:27-30.12(i)5;
 - iv. In order to ensure that the requirement to retire 10 percent of the total number of credits being used (or, if the use is a “permit insurance” use pursuant to N.J.A.C. 7:27-30.14(d) and (e), 20 percent of the total number of credits used) for the benefit of the environment pursuant to N.J.A.C. 7:27-30.12(h) is met, divide the result obtained under (b)3i through iii above by the following:
 - (1) If the use is a “permit insurance” use, by 0.8; and
 - (2) Otherwise, by 0.9; and
 - v. If the result obtained under (b)3iv above is a whole number, that is the number of DER credits that need to be held when a Notice of Intent to Use is submitted; otherwise round the result up to the next highest whole number to determine the number of DER credits that need to be held.
- (c) The number of DER credits that were used during a use period shall be determined as follows:
1. For uses subject to N.J.A.C. 7:27-30.12(i)1, where the full number of credits needed for compliance is to be held when the Notice of Intent to Use is submitted, the number of credits shall be determined in accordance with (b) above;
 2. Otherwise, the number shall be determined in accordance with (d) below.

(d) Pursuant to (c)2 above, the number of DER credits that were used during a use period shall be determined as follows:

1. Determine the quantity of emission increases which need to be compensated for with credits as follows:
 - i. For use of credits to meet emission offset requirements under N.J.A.C. 7:27-30.14(g), the quantity shall be an amount that is equal, in emissions value, to the emission offset requirement established in the permit pursuant to N.J.A.C. 7:27-18.3(d);
 - ii. For use of credits for a delay of testing under N.J.A.C. 7:27-30.14(a)5ii, where the permittee has not provided a waiver pursuant to N.J.A.C. 7:27-8.28(b) or 22.18(l), the quantity shall be 100 percent of the allowable emissions of the equipment and/or control apparatus during the calendar quarters identified pursuant to N.J.A.C. 7:27-30.14(a)5ii(1). This quantity shall be determined assuming that the emissions equal the maximum allowed under the permit and that the activity level and/or hours of operation are also the maximum allowed;
 - iii. For use of credits to compensate for excess NO_x emissions during a MEG alert pursuant to N.J.A.C. 7:27-30.14(b)1, the quantity shall be determined pursuant to N.J.A.C. 7:27-19.24(b) and (c); and
 - iv. Otherwise, the quantity shall be determined by calculating the difference between the user source's actual emissions and its baseline emissions, for each interval within the use period where this difference is positive and then summing these differences. The following formula describes the calculation:

$$EI = \sum I [(Actual Emissions) - (Baseline Emissions)]$$

where:

EI = the emission increases which need to be compensated for with credits, expressed in pounds of VOC or NO_x;

I = The number of intervals within the use period, where an interval is an extent of time, within a use period, throughout which the user source's actual emissions exceed its baseline emissions. (In a case where actual emissions continuously exceed baseline emissions throughout the use period there shall be only one interval within the use period);

Actual Emissions = for a given interval, the quantity of emissions that the user source actually emitted during the interval, expressed in pounds of VOC or NO_x;

Baseline Emissions = for a given interval, the quantity of emissions determined in accordance with (e) below, expressed in pounds of VOC or NO_x;

2. If the use of VOC or NO_x DER credits resulted in increased actual emissions of VOC or NO_x, respectively, from one or more emissions sources other than the user source, located at the facility or offsite, add the quantity of those actual VOC or NO_x emission increases to the quantity of emission increases established under (d)1 above; and
3. Convert the quantity of VOC or NO_x emission increases determined pursuant to (d)1 and 2 above to the number of DER credits needed for compliance as follows:
 - i. Divide the quantity of emission increases calculated under (d)1 and 2 above, expressed in pounds, by 100;
 - ii. If the user submitted a complete Notice of Intent to Use to the registry late, increase the quantity calculated under (d)3i above for such lateness in accordance with N.J.A.C. 7:27-30.15(b)3iii;
 - iii. If the user failed to hold the full number of DER credits needed for compliance by the day such holding is required pursuant to N.J.A.C. 7:27-30.12(i), for each day during the use period that the shortfall continued, triple the quantity calculated under (d)3i and ii above for such lateness in accordance with N.J.A.C. 7:27-30.12(i)3;
 - iv. In order to ensure that the requirement to retire 10 percent of the total number of credits used for the benefit of the environment pursuant to N.J.A.C. 7:27-30.12(h) is met, divide the result obtained under (d)3i, ii and iii above by 0.9; and
 - v. If the result obtained under (d)3iv above is a whole number, that is the number of DER credits needed for compliance; otherwise round the result up to the next highest whole number to determine the number of DER credits that were used during a use period.

(e) The quantity of baseline emissions shall be determined as follows:

1. Baseline emissions shall be zero for the additional hours of operation, if the use entails increasing the user source's hours of operation beyond the maximum hours of operation specified in a permit; and
2. Otherwise baseline emissions shall be the emissions that the user source would have emitted if:

- i. The user source's emissions rate equals the lowest allowable emission rate applicable during the use period, minus a design margin; and
 - ii. The user source's activity level and hours of operation are the lower of the following:
 - (1) The design capacity of the emissions source; or
 - (2) If applicable, the maximum allowed under its permit.
- (f) If part of the use period falls within the ozone season and part outside the ozone season, a user shall perform the calculations in (b) and (c) above separately for these two portions of the use period.

7:27-30.14 VOC and NO_x credit use: required, authorized and prohibited uses

- (a) The owner or operator of an emissions source shall use VOC or NO_x credits for compliance if such use is required under another provision of this chapter. Required uses of DER credits include:
- 1. Pursuant to N.J.A.C. 7:27-16.17(m), compensation for excess VOC emissions authorized under an alternative VOC control plan submitted to the Department for approval after August 2, 1996;
 - 2. Pursuant to N.J.A.C. 7:27-19.13(i), compensation for excess NO_x emissions authorized under an alternative maximum allowable emission rate submitted to the Department for approval after August 2, 1996;
 - 3. Pursuant to N.J.A.C. 7:27-19.23, compensation for any emissions attributable to the difference between the rate of NO_x emissions established as a limit which is to be attained under an innovative control technology plan approved pursuant to N.J.A.C. 7:27-19.23, and the actual rate of NO_x emissions after the date set pursuant to N.J.A.C. 7:27-19.23(c)5v on which the innovative control technology is required to be constructed and/or installed and full compliance attained;
 - 4. Pursuant to N.J.A.C. 7:27-19.24(c), compensation for NO_x emissions from an electric generating unit during a MEG alert that exceed the applicable permit limit; and
 - 5. Pursuant to N.J.A.C. 7:27-8.3(l) or 22.3(uu), compensation for a failure to perform timely testing of the VOC and/or NO_x emissions of equipment or control apparatus. If the testing delay is not approved by the Department, this compensation is in addition to any penalties which may apply. This paragraph shall apply in cases where testing, required by a date established pursuant to N.J.A.C. 7:27-8 or 22 and/or the applicable permit, or pursuant to a written request by the Department pursuant to

N.J.A.C. 7:27-8.4(f) or 8.7(f), is not performed within 90 days after the established date. Determination of the amount of compensation shall be based on the following:

- i. If the permittee has requested and obtained approval of the Department for a delay in testing pursuant to N.J.A.C. 7:27-8.28(a) or 22.18(k), if the permittee has waived its right to assert that its emissions during the period of delay were any different than the emissions measured by the test when performed (or, if applicable, the emissions calculated based on the measurements taken) pursuant to N.J.A.C. 7:27- 8.28(b) or 22.18(l), and if the testing is performed on the original equipment or control apparatus (not on replacement or reconstructed equipment or control apparatus which is subsequently installed), the following apply:
 - (1) The permittee shall record the hours of operation of the equipment or control apparatus from the date the testing was originally required to be performed until the date the testing is completed, and shall make such records available to the Department upon request;
 - (2) The use period shall be determined as follows:
 - (A) If the emissions source is a new or modified source, the use period shall begin on the date the new or modified source commenced operating; otherwise, the use period shall begin on the date by which the testing was required to be performed;
 - (B) The use period shall end on the earlier of the following: the date that the testing is completed, or the date which is the last day of the one year period which begins the first day of the use period;
 - (3) The determination of the source's actual emissions shall be based on the result obtained from the testing, whenever the testing is completed; and
 - (4) The compensation shall be for emissions in excess of the applicable permit limit, and the quantity of emission increases which need to be compensated for with credits shall be calculated pursuant to N.J.A.C. 7:27-30.13(d)iv;
- ii. Otherwise, the following apply:
 - (1) The permittee shall determine which calendar quarters fall, in whole or in part, in the period defined as follows:

- (A) The first calendar quarter is the calendar quarter which includes the date that is 90 days after the day by which the testing was required to be performed; and
 - (B) The last calendar quarter is the calendar quarter which includes the earlier of the following: the date that the testing is completed or the date that is one year and 90 days after the day by which the testing was required to be performed;
- (2) The initial use period shall begin on the first day of the calendar quarter determined pursuant to (a)5ii(1)(A) above. The final use period shall end on the last day of the calendar quarter determined pursuant to (a)5ii(1)(B) above. If the total number of calendar quarters is four or less, the calendar quarters may be combined into a single use period; and
 - (3) The compensation shall be for the source's allowable emissions, in full, for all of the quarters determined pursuant to (a)5ii(1) above, and the quantity of emission increases which need to be compensated for with credits shall be calculated pursuant to N.J.A.C. 7:27-30.13(d)1ii; but
 - iii. Notwithstanding (a)5i and ii above, no compensation is required if the delay is at the request of the Department; and
6. Pursuant to N.J.A.C. 7:27-8.3(l) or 22.3(uu), in addition to any penalties which may apply, compensation for an exceedance of a VOC or NO_x permit limit which results from operation of equipment, if the permittee has failed to install or operate a control apparatus required by a permit, or if the control apparatus serving the equipment has broken down or is dysfunctional.
- (b) A person may use DER credits, which have been verified in accordance with N.J.A.C. 7:27-30.10, in full or partial settlement of a monetary penalty pursuant to N.J.A.C. 7:27A-3.10(i).
 - (c) A person may use VOC or NO_x credits to comply with an emission limit established under this chapter, unless the use is prohibited by Federal or State law or is prohibited pursuant to (g) or (h) below. Examples of authorized uses include:
 - 1. Compliance with an applicable VOC control requirement under N.J.A.C. 7:27-16;
 - 2. Compliance with an applicable NO_x control requirement under N.J.A.C. 7:27-19;
 - 3. Compliance with a VOC content requirement for an architectural coating or for a consumer or commercial product pursuant to N.J.A.C. 7:27-23 or 24; however, use of DER credits does not relieve a person from responsibility for complying with the Federal architectural coating requirements at 40 CFR Part 59, Subpart D;

4. Compliance with any VOC or NO_x emissions limit established in a rule which becomes operative on or after August 2, 1996, unless the use of DER credits for such purpose is expressly prohibited;
 5. Compliance with emission offset requirements under N.J.A.C. 7:27-18, in accordance with (f) below; and
 6. For municipal waste combustors subject to 40 CFR Part 60, Subpart Cb, compliance with the NO_x requirements established pursuant to that subpart. (This does not apply however to a Standard of Performance for New Stationary Sources (commonly referred to as a New Source Performance Standard or NSPS) established under 42 U.S.C. § 7411.)
- (d) Notwithstanding any provision of N.J.A.C. 7:27-8 or 22 to the contrary, a permittee may use VOC or NO_x credits for “permit insurance” to comply, respectively, with a VOC or NO_x emissions limit in a permit. However, no permittee may implement a permit insurance use, unless the use belongs to one of the classes of “permit insurance” uses listed in (e) below and the following conditions are met:
1. In the Notice of Intent to Use, in addition to meeting the requirements for such a notice at N.J.A.C. 7:27-30.15, the user shall include the following:
 - i. Specify the length of the use period to be one, two, three, or four calendar quarters;
 - ii. Specify the maximum VOC or NO_x emission rate (that is, the “ceiling rate”) for the user source during the use period, given in emissions per unit time. This rate shall be an enforceable limit which may not be exceeded during the use period. For a Class 2 permit insurance use as described at (e)2 below, the ceiling rate shall not exceed the corresponding permit limit proposed in the pending permit application; and
 - iii. Include the statements required pursuant to N.J.A.C. 7:27- 30.15(d)13;
 2. The Notice of Intent to Use is submitted as seven-day-notice, in accordance with N.J.A.C. 7:27-30.19(g);
 3. More than one “permit insurance” use may be implemented concurrently at a facility; however, the resulting increase at the facility in actual emissions shall not exceed five tons of VOC or 10 tons of NO_x for all “permit insurance” uses combined, as determined for any 12 month period;
 4. The duration of a permit insurance use shall be limited to a maximum of one year unless:
 - i. One of the following apply:

- (1) The permittee has obtained a permit modification or revision which addresses the original reason permit insurance was needed, and the subsequent use goes beyond the original purpose (that is, entails a higher ceiling rate, a higher activity level, or more hours of operation); or
 - (2) The subsequent use is for a different purpose; or
 - ii. The maximum emission rate (that is, the “ceiling rate”) specified in the Notice of Intent to Use pursuant to (d)1ii above for the subsequent use is less than the rate at which an exceedance of the lowest allowable rate of emissions of VOC and/or NO_x, as applicable, for the equipment or control apparatus would be defined as a high priority violation, pursuant to EPA’s “Timely and Appropriate (T&A) Enforcement Response to High Priority Violations (HPVs)” guidance document;
 - 5. The number of DER credits used for compliance is the number of credits that is required to be held when the Notice of Intent to Use is submitted. This is the number determined pursuant to N.J.A.C. 7:27- 30.13(b);
 - 6. The use will not result in:
 - i. Emissions of an air contaminant not authorized to be emitted under the existing (approved) permit; and
 - ii. Actual emissions of any air contaminant, other than the air contaminant (VOC or NO_x) emissions which is being compensated for with credits, at a level which exceeds a limit in the permit for that air contaminant; and
 - 7. The use is not one of the uses prohibited pursuant to (h) or (i) below.
- (e) The classes of “permit insurance” uses are as follows:
- 1. A Class 1 “permit insurance” use applies in cases where actual emissions from existing equipment or control apparatus may exceed a permit limit due to a change in operation, including, but not limited to, the use of a new raw material or the increase in the source’s activity level. A use shall belong to this class only if:
 - i. The permittee has not made any physical change to the equipment or control apparatus for which a permit modification or revision is required; and
 - ii. One of the following apply at the time the Notice of Intent to Use is submitted:
 - (1) The permittee has not submitted a permit application to the Department for the change in operation; or

- (2) The permittee has submitted a permit application for the change in operation, but the Department has not yet acted upon (approved or disapproved) the application; and
 2. A Class 2 “permit insurance” use applies in cases where a permittee has submitted a permit application for a physical change to existing equipment or control apparatus and has constructed and/or installed the change, but the Department has not yet approved or disapproved the application; therefore any new emissions limit sought in the permit application has not yet received Department approval. Class 2 “permit insurance” allows a permittee to operate the equipment or control apparatus in accordance with changes in the permit application prior to the Department issuing the revised permit. A user may use Class 2 “permit insurance” only if the user understands and agrees that if during the use period the user source’s actual VOC and/or NO_x emission rate exceeds the limit included in the revised permit, as eventually approved by the Department, the permittee shall be considered to have violated the limit and may be subject to penalties under N.J.A.C. 7:27A-3.
- (f) A person may use VOC or NO_x credits to comply with the emission offset requirements of N.J.A.C. 7:27-18. However, no person shall use credits to meet emission offset requirements unless all of the following requirements are satisfied:
1. The generation and use of the DER credits meets all applicable requirements of 42 U.S.C. § 7503, 40 CFR 51.165(a), N.J.A.C. 7:27-18, and this subchapter, except as follows:
 - i. The permittee is not required to include in the emission offset demonstration submitted with the permit application a representation that the emission reductions on which the DER credits are based are permanent, notwithstanding N.J.A.C. 7:27-18.3(e);
 - ii. The permittee is not required to hold the DER credits prior to using them, notwithstanding N.J.A.C. 7:27-30.12(i);
 - iii. The permittee is not required to have the DER credits verified prior to using them, notwithstanding N.J.A.C. 7:27-30.12(c); and
 - iv. The permittee is not required to submit a complete Notice of Use within 30 days after the end of each use period, notwithstanding N.J.A.C. 7:27-30.16(a);
 2. The use is proposed in the permit application submitted pursuant to N.J.A.C. 7:27-18 and 22, and in addition to meeting the requirements at N.J.A.C. 7:27-18(e), the permit application shall include the following:
 - i. A draft initial Notice of Intent to Use is included in the permit application, which includes the quantification protocols both for the generation of the DER credits proposed to be used and for the proposed use; and

- ii. A demonstration that the permit applicant will be able, by relying on a series of consecutive temporary reductions, to obtain sufficient DER credits to satisfy the need for credits for the shorter of the following periods:
 - (1) The period that the user proposes to use DER credits to meet emission offset requirements; or
 - (2) The period that extends until the applicable primary standard attainment date established under 42 U.S.C. § 7511(a); and
- 3. In the permit issued pursuant to N.J.A.C. 7:27-22 and 18, the Department has approved the use of DER credits to comply with the emission offset requirements, and the approved permit includes the following as enforceable conditions:
 - i. The DER credits shall be generated during the use period in which they are used;
 - ii. Each year, the permittee shall submit a Notice of Intent to Use prior to the beginning of the use period, in accordance with N.J.A.C. 7:27-30.15. The notice shall include a legally binding commitment from one or more DER credit generators to generate the DER credits needed by the permittee for the upcoming use period and to transfer those DER credits to the user prior to the date the user's Notice of Use is due;
 - iii. The permittee shall continue to submit such a Notice of Intent to Use pursuant to (g)³ above for the shortest of the following periods:
 - (1) The life of the equipment;
 - (2) Until credits which meet the standards for creditable emission reductions at N.J.A.C. 7:27-18.5 are secured for use as emission offsets; or
 - (3) Until emission offset requirements no longer apply to the equipment;
 - iv. The permittee shall submit each Notice of Intent to Use in accordance with N.J.A.C. 7:27-30.19;
 - v. For each use period, the permittee shall submit a complete Notice of Use no later than 120 days after the last day of the use period; and
 - vi. The permittee shall hold the DER credits needed for compliance and ensure that they are verified prior to the submission of the Notice of Use.
- (g) The owner or operator of an emissions source shall not use VOC or NO_x credits for any of the following purposes:

1. To avoid the applicability of:
 - i. The Federal requirements for review of new sources and modifications at 40 CFR 51, Subpart I, and/or the State emission offset requirements at N.J.A.C. 7:27-18;
 - ii. The Federal prevention of significant deterioration requirements at 40 CFR 52.21; or
 - iii. The Federal operating permit requirements at 40 CFR 70.
 2. To comply with new source performance standards (NSPS) under 42 U.S.C. § 7411, lowest achievable emission rate (LAER) standards under 42 U.S.C. § 7503(a)(2), best available control technology (BACT) standards under 42 U.S.C. § 7475(a)(4), standards for hazardous air pollutants (HAPs) under 42 U.S.C. § 7412, standards for solid waste combustion under 42 U.S.C. § 7429 (except for a municipal waste combustor subject to 40 CFR 60, Subpart Cb, using DER credits for compliance with NO_x requirements pursuant to (b)6 above), acid deposition control requirements under 42 U.S.C. § 7651 through 7651o, or requirements under N.J.A.C. 7:27- 8.12 for documentation of state of the art (SOTA) or under N.J.A.C. 7:27-22.35 for incorporation of advances in the art of air pollution control;
 3. To comply with requirements for a vehicle inspection and maintenance program mandated under 42 U.S.C. §7511a(b)(4) or (c)(3), or for clean fueled fleets mandated under 42 U.S.C. §7511a(c)(4)(B) or 7586;
 4. To comply with motor vehicle emissions standards under 42 U.S.C. §7521, the standards for nonroad vehicles under 42 U.S.C. § 7547, or the motor vehicle emissions standards at N.J.A.C. 7:27-14, 15 and 26;
 5. To comply with requirements for reformulated gasoline under 42 U.S.C. § 7545(k), or for Reid vapor pressure under 42 U.S.C. § 7545(h) and (i) and N.J.A.C. 7:27-25;
 6. To comply with ozone control standards set under 42 U.S.C. § 7511b, except for NO_x RACT or VOC RACT requirements set forth at N.J.A.C. 7:27-16 or 19;
 7. To comply with the State prohibition of air pollution at N.J.A.C. 7:27- 5 or with the similar requirements at N.J.A.C. 7:27-8.3(j) and at N.J.A.C. 7:27-22.16(g)8; or
 8. To avoid having the facility becoming a “major facility,” as defined at N.J.A.C. 7:27-22.1.
- (h) A use of DER credits is prohibited if it may result in any of the following:

1. An increase in emissions (from the emissions source or from any other source at the facility or off-site) of any HAP from a level which exceeds the applicable SOTA Threshold set forth in Table A or Table B at N.J.A.C. 7:27-8, Appendix 1, to a higher level. This SOTA Threshold level is the de minimis level designated for that HAP by the EPA pursuant to 42 U.S.C. § 7412(g). The de minimis levels are as currently set forth in a proposed rule at 59 F.R. 15504 (April 1, 1994). If the EPA adopts a final rule or publishes a new proposed rule to designate the de minimis levels, the Department will revise this paragraph through an administrative correction pursuant to N.J.A.C. 1:30-2.7;
2. An increase in the source's emissions of a HAP from a level below the applicable SOTA Threshold set forth in Table A or Table B at N.J.A.C. 7:27-8, Appendix 1, to a level above the threshold; or
3. An increase in emissions of any air contaminant which would cause an exceedance of an applicable limit, including a permit limit, except under the terms set forth for such increases at N.J.A.C. 7:27-30.14(a)3 and 4, (b), (c)6 and (d).

7:27-30.15 VOC and NO_x credit use: Notice of Intent to Use

- (a) On and after June 6, 2000 a user shall submit a Notice of Intent to Use in accordance with this section, the general notice requirements at N.J.A.C. 7:27-30.18, and the requirements for submission of notices at N.J.A.C. 7:27-30.19. A Notice of Intent to Use submitted prior to June 6, 2000 shall conform with the applicable requirements promulgated on August 5, 1996, at 28 N.J.R. 3786(b).
- (b) A complete Notice of Intent to Use or amendment is due to the registry 30 days before the first day of the use period. If the registry receives the complete notice late, then the number of DER credits needed for the use shall be increased as follows:
 1. Determine the dates which fall within the 30-day period following the date the complete notice is received by the registry;
 2. Pursuant to N.J.A.C. 7:27-30.13, determine the number of credits needed to compensate for the emissions which were emitted on the dates within the use period which also fall within the 30-day period; and
 3. Multiply this number of credits by 1.5 to determine the total number of credits that, given the lateness of the submission, is required to be used for those dates.
- (c) Generally, a Notice of Intent to Use shall apply to a single emissions source. However, a single Notice of Intent to Use may apply to any of the following groups of sources, if the use is for compliance with a common regulatory requirement:
 1. All emissions sources owned by a single person and subject to an averaging plan approved by the Department pursuant to N.J.A.C. 7:27- 19.6;

2. A specified group of more than one stationary sources of the same type located at a single facility;
 3. Units of a product manufactured by a single person (including a motor vehicle fuel) during their storage, distribution, and/or use; or
 4. A fleet of motor vehicles.
- (d) A Notice of Intent to Use shall include the following:
1. The name and address of the user, the user's type of business (for example, electric utility or architectural coating manufacturer), and other pertinent identifying information including the name and telephone number of a contact person;
 2. For the user source(s), the identifying information specified at N.J.A.C. 7:27-30.18(d);
 3. The requirements in the law, regulation, permit, or order with which the user intends to comply through the use of DER credits, together with an explanation as to why the user is using credits to comply with these requirements (such as, because it is a cost-effective alternative to installing new control apparatus, or because control apparatus required by a permit has not yet been installed);
 4. The month, day, and year of the first and last dates of the use period;
 5. The following quantification protocol (or, if a protocol approved by EPA or the Department shall be used, citation of the protocol):
 - i. If the use is one where the full number of DER credits needed for compliance is required to be held when a Notice of Intent to Use is submitted pursuant to N.J.A.C. 7:27-30.12(i)1, the protocol used to calculate the number of DER credits that need to be held; or
 - ii. Otherwise, the protocol that will be used in the Notice of Use to calculate the number of DER credits used;
 6. If the use is one where the full number of DER credits needed for compliance is required to be held when a Notice of Intent to Use is submitted pursuant to N.J.A.C. 7:27-30.12(i)1, the following:
 - i. The maximum quantity of excess emissions calculated pursuant to N.J.A.C. 7:27-30.13(b)1, both for the ozone season and for the use period as a whole;
 - ii. The number of VOC credits or NO_x credits to be needed for the use calculated pursuant to N.J.A.C. 7:27-30.13(b); and the number of VOC

credits or NO_x credits held for the use, with the number for the ozone season and for the use period as a whole given separately; and

- iii. For each DER credit held for the use, its serial number, the location where the DER credit was generated, and a statement as to whether the credit was generated during the ozone season or outside the ozone season, with the DER credits of each type (VOC or NO_x) generated during the ozone season and outside the ozone season listed separately; and
 - iv. All supporting documentation required to be submitted with the Notice of Intent to Use pursuant to the quantification protocol specified pursuant to (d)5i above (the documentation shall, at a minimum, conform with N.J.A.C. 7:27- 30.25);
7. If the use is one where the full number of DER credits needed for compliance is not required to be held when a Notice of Intent to Use is submitted pursuant to N.J.A.C. 7:27-30.12(i)1, an estimate of the maximum number of DER credits that will be used during the use period;
 8. If the use of DER credits may reasonably be expected to result in an increase, de minimis or otherwise, in the actual emissions of any HAP, either at the facility or off-site, the name of the HAP specie(s) that may have increased emissions and the maximum amount of the increase, together with specification as to whether the increase is expected from the user source, from other source(s) at the facility, and/or from source(s) off-site;
 9. If the use is one of the “permit insurance” uses listed at N.J.A.C. 7:27-30.14(e), the items required pursuant to N.J.A.C. 7:27- 30.14(d)1;
 10. If the use is compliance with the emission offset requirements of N.J.A.C. 7:27-18, the legally binding commitment required pursuant to N.J.A.C. 7:27-30.14(g)3ii;
 11. The following statements:
 - i. The intended use is not prohibited under this subchapter or other provisions of law; and
 - ii. The quantification protocol to be used in the Notice of Use to calculate the number of DER credits used with the notice meets the requirements of N.J.A.C. 7:27-30.24 and 30.25;
 12. If the use is one where the full number of DER credits needed for compliance is required to be held when a Notice of Intent to Use is submitted pursuant to N.J.A.C. 7:27-30.12(i)1, the following statements:
 - i. All calculations relied on in the notice, including, but not limited to, quantification of the number of DER credits that need to be held when the Notice of Intent to Use is submitted, have been performed in accordance with

N.J.A.C. 7:27-30.13 and with a quantification protocol that meets the requirements of N.J.A.C. 7:27-30.24 and 30.25;

- ii. For this use, the user holds the number of NO_x DER credits or VOC DER credits that the user is required to hold, as determined in accordance with N.J.A.C. 7:27-30.13(b), both for the ozone season and for the use period as a whole, and will continue to hold these credits until the Notice of Use is submitted; and
 - iii. The maximum number of NO_x DER credits or VOC DER credits that will be used during the use period pursuant to this notice will not exceed, during either the ozone season or the use period as a whole, the number of credits the user is required to hold when this notice is submitted, as determined in accordance with N.J.A.C. 7:27-30.13(b);
13. If the use is one of the “permit insurance uses” listed at N.J.A.C. 7:27-30.14(e), the following statements:
- i. The use will not cause “air pollution” pursuant to N.J.A.C. 7:27- 5, including, but not limited to, unreasonable emission of odors, acid droplets, or materials that cause spotting; and
 - ii. The user source’s actual emission rate will not exceed the ceiling rate, specified pursuant to N.J.A.C. 7:27-30.14(d)1ii, at any time during the use period;
14. If the use is for compliance with emission offset requirements pursuant to N.J.A.C. 7:27-30.14(g), a statement that the use is approved in the permit issued pursuant to N.J.A.C. 7:27-22 and 18, together with the log number of the permit in which the approval is set forth;
15. Any other information required pursuant to N.J.A.C. 7:27- 30.18(c); and
16. The certification by the user as required at N.J.A.C. 7:27- 30.18(g).
- (e) Notwithstanding (a) above, if a person is using DER credits for any of the following, such person is not required to submit a Notice of Intent to Use:
- 1. A person using credits in full or partial settlement of a monetary penalty pursuant to N.J.A.C. 7:27-30.14(b) due to past emission exceedances; however, this exemption from Notice of Intent to Use requirements does not apply if the settlement is for future exceedances; and
 - 2. A person compensating for NO_x emissions in excess of the applicable permit limit from an electric generating unit during a MEG alert, pursuant to N.J.A.C. 7:27-19.24(c).

7:27-30.16 VOC and NO_x credit use: Notice of Use

- (a) Within 30 days after the end of each use period, the user shall submit a complete Notice of Use. If the corresponding Notice of Intent to Use was submitted to the registry on or after June 6, 2000, the Notice of Use shall be submitted in accordance with this section, the general notice requirements at N.J.A.C. 7:27-30.18, and the requirements for submission of notices at N.J.A.C. 7:27-30.19. If the corresponding Notice of Intent to Use was submitted to the registry prior to June 6, 2000, the Notice of Use shall be submitted in accordance with the applicable requirements promulgated on August 5, 1996, at 28 N.J.R. 3786(b).
- (b) A Notice of Use shall include the following:
1. For each item of information set forth pursuant to N.J.A.C. 7:27-30.15(d)1 through 6 in the Notice of Intent to Use (or subsequent amendment thereto), either confirmation that the information is still correct; or the corrected information, together with the basis therefor;
 2. The number of VOC credits and the number of NO_x credits that have been used, determined as follows:
 - i. If the use is one where the full number of DER credits needed for compliance is required to be held when a Notice of Intent to Use is submitted pursuant to N.J.A.C. 7:27-30.12(i)1, the number shall be determined pursuant to N.J.A.C. 7:27-30.13(b) and shall be the credits identified in the Notice of Intent to Use pursuant to N.J.A.C. 7:27-30.15(d)6iii; and
 - ii. Otherwise, the number shall be determined pursuant to N.J.A.C. 7:27-30.13(c);
 3. For each DER credit being used pursuant to (b)2ii above, its serial number, the location where the DER credit was generated, whether it was generated during the ozone season or outside the ozone season, with the DER credits used for ozone season compliance listed separately;
 4. If the use resulted in an increase in the actual emissions of any HAP, the name of the HAP specie(s) that had increased emissions and the amount of the increase, de minimis or otherwise, together with specification as to whether the increase was from the generator source, from other source(s) at the facility, and/or from source(s) off-site;
 5. The following demonstrations:
 - i. A demonstration that the required number of DER credits were held by the day they were required to be held, pursuant to N.J.A.C. 7:27-30.12(i); and
 - ii. If the use is one where the full number of DER credits needed for compliance is required to be held when a Notice of Intent to Use is submitted pursuant to N.J.A.C. 7:27-30.12(i)1, a demonstration that actual emissions of VOC or

NO_x during the use period, both for the ozone season and for the use period as a whole, did not exceed the maximum quantity of excess emissions calculated in the Notice of Intent to Use, pursuant to N.J.A.C. 7:27-30.13(b)1;

6. If the use is one of the “permit insurance” uses listed at N.J.A.C. 7:27-30.14(e), the following additional demonstrations:
 - i. A demonstration that the actual emission rate at no time during the use period exceeded the “ceiling rate” specified in the Notice of Intent to Use; and
 - ii. A demonstration that the emission increase resulting from the use, together with the emission increases resulting from any other “permit insurance” uses that were simultaneously implemented at the facility did not exceed five tons of VOC or 10 tons of NO_x , during any 12 month period. Such demonstration shall be based on calculation of actual emissions, using the methods set forth at N.J.A.C. 7:27-30.13(c)2i and ii;
 7. All supporting documentation required to be submitted with the Notice of Use pursuant to the approved quantification protocol which, at a minimum, shall conform with N.J.A.C. 7:27-30.25;
 8. The following statements:
 - i. The use of DER credits has been carried out in accordance with this subchapter and all other applicable provisions of law;
 - ii. All calculations relied on in the notice have been performed in accordance with N.J.A.C. 7:27-30.13 and with the quantification protocol specified pursuant to N.J.A.C. 7:27-30.15(d)5 in the corresponding Notice of Intent to Use;
 - iii. All supporting documentation required to be submitted with the notice pursuant to the approved quantification protocol or under N.J.A.C. 7:27-30.25 is enclosed; and
 - iv. The information in the registry and in the user’s own records indicate that the DER Credits used have not been previously used, retired, canceled, or found invalid by the Department or EPA;
 9. Any other information required pursuant to N.J.A.C. 7:27- 30.18(c); and
 10. The certification by the user as required at N.J.A.C. 7:27- 30.18(e).
- (c) For a use exempted, pursuant to N.J.A.C. 7:27-30.15(e), from the requirement to submit a Notice of Intent to Use, the Notice of Use shall meet the requirements in (b) above, except as follows:

1. For a person using credits in full or partial settlement of a monetary penalty, the following apply:
 - i. In lieu of (b)1 above, the Notice of Use shall include the information required at N.J.A.C. 7:27-30.15(d)1 through 3; however, the requirements of N.J.A.C. 7:27-30.15(d)4 through 6 shall not apply;
 - ii. In lieu of (b)2 above, the Notice of Use shall include the number of VOC credits and the number of NO_x credits agreed to by the Department's Office of Air and Environmental Quality Compliance and Enforcement;
 - iii. In lieu of (b)3 above, the Notice of Use shall give the serial number of each DER credit being used;
 - iv. The requirements of (b)4 through 7, and (b)8ii and iii, shall not apply; and
 - v. The Notice of Use shall include the log number(s) of the enforcement action(s) for which the DER credits are being used; and
 2. For a person using credits to compensate for excess NO_x emissions during a MEG alert, the following apply:
 - i. In lieu of (b)1 above, the Notice of Use shall include the information required at N.J.A.C. 7:27-30.15(d)1 through 5; however, the requirements of N.J.A.C. 7:27-30.15(d)6 shall not apply; and
 - ii. The requirements of (b)5 and 6 shall not apply.
- (d) Submission of a Notice of Use shall constitute a confirmation that the DER credits identified pursuant to (b)2 above have been used. These credits shall not subsequently be traded, retired, or used.

7:27-30.17 GHG credit use (Reserved)

7:27-30.18 General notice requirements

- (a) This section establishes general requirements for any of the following notices submitted pursuant to this subchapter:
1. A Notice of Generation pursuant to N.J.A.C. 7:27-30.7;
 2. A Notice of Transfer pursuant to N.J.A.C. 7:27-30.9;
 3. A Notice of Verification pursuant to N.J.A.C. 7:27-30.10;

4. A Notice of Retirement pursuant to N.J.A.C. 7:27-30.11.
 5. A Notice of Intent to Use pursuant to N.J.A.C. 7:27-30.15; and
 6. A Notice of Use pursuant to N.J.A.C. 7:27-30.16.
- (b) A person submitting a notice shall submit the notice on a form obtained from the registry.
- (c) In each notice, the person submitting a notice shall include the following information, as applicable:
1. The items specified at N.J.A.C. 7:27-30.7, 30.9, 30.10, 30.11, 30.15 or 30.16, as applicable; and
 2. The name and telephone number of the contact person who will provide, to any person who may request it, the opportunity to inspect a copy of the notice and/or any supporting documentation required for the notice or relied on pursuant to the quantification protocol.
- (d) In a Notice of Generation, a Notice of Intent to Use, or (if applicable) a Notice of Use, the generator or user shall include for the generator or user source(s) the following identifying information:
1. If the source(s) is a stationary source or a group of stationary sources at a facility, a description of the source, including any applicable identifying numbers (for example, plant ID number, a stack ID number, and/or a permit ID number); and the address and county of the source, including specification of where it is located within the facility; or
 2. If the source(s) is a mobile source, a nonroad source, or a group of stationary sources at various locations, a description of the source, including any applicable identifying numbers (for example, vehicle ID number); and the county(s) (and if feasible the specific locations) where the source(s) are operated.
- (e) Except pursuant to (f) and (g) below, any person who submits a notice or an amendment thereto pursuant to this subchapter shall include, as an integral part of the notice or amendment, the following two-part certification:
1. A certification, signed by the individual or individuals (including any consultants) with direct knowledge of and responsibility for the information contained in the certified document. The certification shall state:
“I certify under penalty of law that I believe the information provided in this document is true, accurate and complete. I am aware that there are significant civil and criminal penalties, including the possibility of fine or imprisonment or both, for submitting false, inaccurate or incomplete information.”

2. A certification signed by a responsible official, as defined at N.J.A.C. 7:27-1.4, which states:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attached documents and, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant civil and criminal penalties, including the possibility of fine or imprisonment or both, for submitting false, inaccurate or incomplete information.”

- (f) The certification at (e)2 above shall not be required if the individual required to sign the certification in (e)1 above is the same individual required to sign the certification in (e)2 above.
- (g) Instead of using the certification given at (e) above, a prospective user of DER credits shall certify a Notice of Intent to Use, or an amendment thereto as follows:
“I certify under penalty of law that I believe the information provided in this Notice of Intent to Use is true, accurate and complete. For those portions of the information in this Notice that are based on estimates, those estimates are the result of good faith application of sound professional judgment, using techniques, factors, or calculations approved by the Department or EPA or generally accepted in the trade. I am aware that there are significant civil and criminal penalties, including fines or imprisonment or both, for submitting false, inaccurate or incomplete information.”
- (h) If after submitting a notice, the person submitting the notice determines that the notice includes an error, that person shall timely correct the error through the amendment procedures set forth at N.J.A.C. 7:27- 30.20. A generator is not relieved of this requirement, even if the credits covered by a Notice of Generation have been verified and the error was not detected by the verifier.

7:27-30.19 Submission of notices

- (a) A person submitting a notice pursuant to this subchapter shall submit the notice on paper to the registry at the address given at N.J.A.C. 7:27- 30.8(b). The person shall at the same time also make all other submittals required in this section.
- (b) A person who submits a Notice of Generation, Notice of Intent to Use, or Notice of Use, and each amendment thereof, shall also submit a complete electronic copy of the notice or amendment to the registry at <http://www.omet.com>. A complete copy shall include all supporting documentation required pursuant to N.J.A.C. 7:27-30.25(b).
- (c) A user shall also submit on paper a copy of each Notice of Use to the Department at the applicable address(es) listed below:

1. If the user source is located in Mercer, Middlesex, Monmouth, Ocean, or Union County:
 - Department of Environmental Protection
 - Central Regional Office
 - Air and Environmental Quality Compliance & Enforcement
 - Horizon Center, PO Box 407
 - Robbinsville, NJ 08625-0407

 2. If the user source is located in Bergen, Essex, or Hudson County:
 - Department of Environmental Protection
 - Metropolitan Regional Office
 - Air and Environmental Quality Compliance & Enforcement
 - 2 Babcock Place
 - West Orange, NJ 07052-5504

 3. If the user source is located in Hunterdon, Morris, Passaic, Somerset, Sussex, or Warren County:
 - Department of Environmental Protection
 - Northern Regional Office
 - Air and Environmental Quality Compliance & Enforcement
 - 1259 Route 46 East, Building 2
 - Parsippany-Troy Hills, NJ 07054-4191

 4. If the user source is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, or Salem County:
 - Department of Environmental Protection
 - Southern Regional Office
 - Air and Environmental Quality Compliance & Enforcement
 - One Port Center
 - 2 Riverside Drive, Suite 201
 - Camden, NJ 08102
- (d) A permittee who generates DER credits through a mobile source generation strategy shall additionally submit the Notice of Generation to the following:
1. To the New Jersey Department of Transportation at the following address:
 - Transportation Systems Planning
 - Department of Transportation
 - 1035 Parkway Avenue
 - Main Office Building
 - PO Box 600
 - Trenton, NJ 08625-0600
 - Attn: Mobile Source Credit Generation

 2. And to the following, as applicable:

- i. If the generator source is located in Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union County, or Warren, to the executive director of the North Jersey Transportation Planning Authority (NJTPA) at the following address:
 North Jersey Transportation Planning Authority (NJTPA)
 One Newark Center, 17th Floor
 Newark, NJ 07102
 - ii. If the user source is located in Burlington, Camden, Gloucester, or Mercer County, to the executive director of the Delaware Valley Regional Planning Commission (DVRPC) at the following address:
 Delaware Valley Regional Planning Commission (DVRPC)
 Bourse Building
 111 South Independence Mall East
 Philadelphia, PA 19106
 - iii. If the user source is located in Atlantic, Cape May, Cumberland, or Salem County, to the executive director of the South Jersey Transportation Planning Organization (SJTPO) at the following address:
 South Jersey Transportation Planning Organization (SJTPO)
 18 N. East Avenue
 Vineland, NJ 08360
- (e) A permittee who generates DER credits through conversion of emission offsets to DER credits pursuant to N.J.A.C. 7:27-30.27(a) shall additionally submit the Notice of Generation to the emission offset bank at the address given at N.J.A.C. 7:27-18.8(a).
- (f) A permittee who intends to use DER credits to meet emission offset requirements shall additionally submit the Notice of Intent to Use to the address listed in N.J.A.C. 7:27-18.8(a).
- (g) If a use entails an increase in the actual emissions of any air contaminant (including, but not limited to, any “permit insurance” use listed at N.J.A.C. 7:27-30.14(d)), and if submission of a Notice of Intent to Use is required pursuant to N.J.A.C. 7:27-30.15, the permittee shall additionally:
- 1. At least seven days before the use period commences, submit a complete Notice of Intent to Use as a seven-day-notice, pursuant to N.J.A.C. 7:27-8.20(b)3 or 22.22(d)2, as applicable, to the following address:
 Department of Environmental Protection
 Air Quality Regulation Program
 PO Box 027
 Trenton, New Jersey 08625-0027
 Attn: OMET/Seven-day-notice
 - 2. If the user source is subject to the preconstruction permit requirements at N.J.A.C. 7:27-8, submit the service fee required for a seven-day-notice change at N.J.A.C. 7:27-8.6 to the address given at N.J.A.C. 7:27-8.6(g).

- (h) At least 30 days before the use period commences, if the user source is located within 100 kilometers of Edwin B. Forsythe National Wildlife Refuge, the user shall additionally submit the Notice of Intent to Use to the Federal Land Manager. For the convenience of persons submitting notices, a delineation of this area may be found in Appendix C; however, if there is a discrepancy between the size or location of this area given in Appendix C and the size or location given for this area in the Federal Register, the Federal Register shall take precedence. The notice shall be submitted to the Federal Land Manager at the following address:

Chief
Air Quality Branch
United States Fish and Wildlife Service
PO Box 25287
Lakewood, Colorado 80225

7:27-30.20 Amendment of notices

- (a) A person who has submitted a Notice to the registry may subsequently submit to the registry an amendment to the notice for the following purposes:
1. To correct an error in the notice; or
 2. To reflect a material change in any of the information, statements or certification in the notice or in any of the supporting documentation included with the notice.
- (b) An amendment shall include specification of the notice being amended, the information being amended, the corrected or changed information, an explanation of why it is appropriate to change this information, and the same certification as is required for the notice being amended.
- (c) Notwithstanding (a) above, none of the following may be amended:
1. For any notice, the name of the person (that is, generator, transferor, transferee, verifier, user, or retiree as applicable) except in the following case:
 - i. The person has legally changed its name; or it has merged into or been consolidated with another entity, such that the successor entity is known by a different name; and
 - ii. The renamed person or successor entity documents to the Department its assumption of all liability for the notice and the information set forth therein;
 2. For a Notice of Generation, the generator source(s) and the dates of the generation period;
 3. For a Notice of Intent to Use, the following:

- i. For any use, the user source(s); the first day of the use period; the maximum number of DER credits that may be used during the use period, both for the ozone season or during the use period as a whole; and the specific DER credits being held for the use (identified by their serial numbers); and
 - ii. For a permit insurance use, the last day of the use period, and the maximum emission rate (that is, the ceiling rate); and
- 4. For a Notice of Retirement, the number of credits retired (this number may neither be increased nor decreased).

7:27-30.21 Geographic scope of trading

- (a) A VOC or NO_x credit generated in New Jersey may be used anywhere in New Jersey.
- (b) A DER credit generated outside New Jersey may be used in New Jersey only if:
 - 1. The air pollution control agency of the state where the generator source is located is duly authorized to enter into a written agreement with the Department pertaining to interstate trading of credits;
 - 2. The Department and the authorized air pollution control agency of the other state have entered into a written agreement that addresses the items listed in (c) below; and
 - 3. The generator source is located as follows:
 - i. For a NO_x credit, the generator source is located either to the west and/or south of New Jersey or in the same nonattainment area as the user source; or
 - ii. For a VOC credit, the generator source and the user source are located in the same nonattainment area.
- (c) Any written agreement authorizing interstate trading of DER credits shall address the following:
 - 1. Interstate credit tracking procedures that ensure that the Department has reliable access, at a minimum, to information pertaining to the following:
 - i. Each use in another state of a DER credit generated in New Jersey; and
 - ii. The generation in another state of a DER credit used in New Jersey;

2. If the other state lies south and/or west of New Jersey, concurrence that no DER credits generated in New Jersey may be used in the other state, unless the generator source and the user source are located in the same interstate nonattainment area;
 3. Provision that, upon the Department's request, the other state's air pollution control agency will provide the Department with all information and documentation required to be submitted to that agency for use in that state of a DER credit generated in New Jersey, or pertaining to generation in that state of a DER credit used (or to be used) in New Jersey; and
 4. Consistency with applicable Federal laws, rules, and policies. The Department shall not enter into any agreement for interstate trading unless the agreement satisfies all applicable requirements established by the EPA for interstate DER trading agreements.
- (d) A written agreement authorizing interstate trading of DER credits may include provisions authorizing credit verifications performed under the auspices of the other state to be recognized in New Jersey. This would relieve any person using a credit in New Jersey that has been verified under the other state's procedures from the requirement to also have the credit verified, pursuant to N.J.A.C. 7:27-30.10, by a New Jersey verifier. The Department will not, however, enter into an agreement with another state that includes such a provision unless the Department is satisfied that the other state's verification procedures are substantially equivalent to New Jersey's.

7:27-30.22 Recordkeeping

- (a) For each batch of DER credits generated, the generator shall retain the following records until five years after the last Notice of Use or Notice of Retirement is submitted to the registry, reflecting that all DER credits in the batch (not including any that have been canceled or found to be invalid) have been used or voluntarily retired; the generator shall provide such records to the Department within 15 days after receiving a request from the Department:
1. The Notice of Generation and any amendment thereto; and
 2. All data and other records relevant to documenting the generation of the DER credits, as required pursuant to N.J.A.C. 7:27-30.25(c); and
 3. Any Notice of Invalidation for a credit in the batch.
- (b) For each DER credit used, the user shall retain the following records until five years after the end of the use period, and shall provide such records to the Department within 15 days after receiving a request from the Department:

1. The Notice of Generation, the Notice of Intent to Use, the Notice(s) of Verification, each Notice of Transfer which documents that the credits used were conveyed to the user, the Notice of Use, and any amendments to any of these notices;
 2. All data and other records relevant to documenting the generation and use of the DER credit(s), as required pursuant to N.J.A.C. 7:27-30.25(c); and
 3. If applicable, any notice that a credit that was used was subsequently canceled, or that the EPA or the Department has found a DER credit used by the user to be invalid; together with the record of replacement of such credits pursuant to N.J.A.C. 7:27-30.12(k).
- (c) If the generator source or user source is a stationary source, the generator or user shall retain at the facility where the generator source or user source is located the records required pursuant to (a) or (b) above.
- (d) Within 15 days after receiving a request from the Department, a generator, user or verifier shall submit to the Department information which the Department finds reasonably necessary to determine if the generation, verification, proposed use, or use of DER credits complies with this chapter and all applicable State and federal laws and regulations. This information includes, but is not limited to, copies of any notice required to be submitted to the registry under this subchapter, all supporting documentation required by the quantification protocol used or by N.J.A.C. 7:27-30.25.
- (e) The operator of the registry shall retain records of any notifications provided to users pursuant to N.J.A.C. 7:27-30.8(h) until five years after all DER credits in any affected batch (that are not canceled or found to be invalid) are used or voluntarily retired.

7:27-30.23 Public availability

- (a) All information submitted to the Department or the registry under this subchapter and any supporting documentation required to be retained by a generator or user pursuant to N.J.A.C. 7:27-30.25 is a public record under N.J.S.A. 47:1A-2. To inspect, copy or obtain a copy of any public record held by the registry, a person shall submit a request to the registry at the address listed in N.J.A.C. 7:27-30.8(b). To inspect, copy or obtain a copy of any public record held by the Department, a person shall submit a request to:
- Department of Environmental Protection
Office of Legal Affairs
Attention: Public Records Requests
401 East State Street
PO Box 402
Trenton, New Jersey 08625-0402
- (b) A generator or user shall make all notices and amendments thereto, as well as any required supporting documentation, available for inspection to any person who requests it.

7:27-30.24 Standards for quantification protocols

- (a) Each generator or user shall use a quantification protocol that conforms with this section and content requirements for quantification protocols at N.J.A.C. 7:27-30.25. A generator or user shall follow the protocol to perform the quantifications required for a Notice of Generation, a Notice of Intent to Use, or a Notice of Use. The generator or user shall demonstrate conformance with the protocol to show that the number of DER credits generated or needed for compliance has been properly calculated.
- (b) A generator shall use a given protocol only if it applies to the generator source and to the specific generation strategy implemented to reduce emissions. A user shall use a given protocol only if it applies to the user source and to the specific use.
- (c) A quantification protocol shall not be found acceptable by the Department or a verifier unless:
 - 1. The methods and guidance it sets forth conform with all applicable guidance issued by the EPA. If applicable EPA-approved measurement, testing and monitoring methods are available, the protocol shall specify that these methods shall be used;
 - 2. The method it prescribes for calculating the number of DER credits generated or the number of DER credits needed for compliance has sufficient detail so as to enable the Department, a verifier, or the EPA to evaluate the validity of the calculation; and
 - 3. The protocol requires that the data on which each calculation is based are the most representative, accurate, current, and reliable data available. Therefore, for emissions data:
 - i. If a generator or user would have actual emissions data available, the protocol shall specify that a generator or user shall use this data in the calculation, as applicable, rather than imputed or estimated amounts; and
 - ii. For a stationary source, the Department has prepared guidance to assist in selecting the technique(s) to be required by the protocol to measure and quantify actual emissions. This guidance document is entitled "Hierarchies of Quantification Techniques," and a copy of this guidance document may be obtained in accordance with (j) below. This guidance may be used to help select the technique(s) to be used for measuring and quantifying actual emissions. However, following this guidance will not necessarily, in all cases, lead to identifying the technique(s) which are the most accurate and reliable technique(s) available. In such a case, the guidance shall not be followed, and the technique(s) which are the most accurate and reliable technique(s) available shall be selected for inclusion in the protocol.
- (d) If the EPA has approved a quantification protocol that is applicable and that meets the requirements of N.J.A.C. 7:27-30.25, the generator or user shall use:

1. The EPA-approved protocol; or
 2. An alternate quantification protocol that deviates from the EPA- approved protocol, but meets the requirements of N.J.A.C. 7:27-30.25 and has been approved by EPA prior to the generator's submission of the Notice of Generation or the user's submission of the Notice of Intent to Use.
- (e) If the EPA has approved a quantification protocol that is applicable, but does not address all the requirements of N.J.A.C. 7:27-30.25, the generator or user shall use a quantification protocol that both meets the requirements of N.J.A.C. 7:27-30.25 and also incorporates one of the following:
1. The EPA-approved protocol; or
 2. Alternate elements that deviate from the EPA-approved quantification protocol, but that have been approved by EPA prior to the generator's submission of the Notice of Generation or the user's submission of the Notice of Intent to Use.
- (f) If the EPA has not approved a quantification protocol that is applicable, the generator or user shall use:
1. A protocol approved by the Department and made available pursuant to (h) below; or
 2. Another protocol that meets the requirements of N.J.A.C. 7:27- 30.25. The generator or user need not obtain EPA's or the Department's approval before using such a protocol.
- (g) In developing a generation protocol for emission reductions due to implementation of energy efficiency measures, a generator or user is encouraged to refer to and utilize, as applicable, the guidance document "Measurement Protocol for Commercial, Industrial and Residential Facilities," issued by New Jersey's Board of Public Utilities (BPU) on April 28, 1993. A copy of the document may be obtained from:
- New Jersey Board of Public Utilities
2 Gateway Center
Newark, New Jersey 07102
- (h) Before approving an emissions quantification protocol for any source or class of sources, the Department shall provide an opportunity, announced through a public notice in the New Jersey Register, for comment on the proposed protocol. Once the Department approves any emissions quantification protocol, it will make the protocol publicly available for use by owners or operators of generator sources or user sources to which the protocol applies. Copies of approved protocols may be requested as set forth in (j) below.
- (i) No generator or user may use a quantification protocol, unless they have available and are willing to provide in full the information required pursuant to a quantification protocol that meets the requirements of this section and N.J.A.C. 7:27-30.25.

- (j) A copy of an approved emissions quantification protocol or of the guidance document entitled “Hierarchies of Quantification Techniques” may be obtained as follows:
1. A copy may be downloaded from the Department’s website at <http://www.state.nj.us/dep/aqm/omet>; or
 2. A copy may be requested from:
Department of Environmental Protection
Office of Air Quality Management
PO Box 418
Trenton, New Jersey 08625-0418
Attention: OMET Program
Telephone: (609) 777-1345.

7:27-30.25 Contents of quantification protocols

- (a) A quantification protocol shall set forth the following:
1. The emissions source, or class of emission sources, to which the protocol applies. Each class shall be described with sufficient detail and specificity so as to enable a person to determine unambiguously whether or not any given source belongs to the class;
 2. The generation strategy(s) or use(s) to which the protocol applies. Each generation strategy and each use shall be described with sufficient detail and specificity so as to enable a person to determine unambiguously whether or not the protocol applies to any given generation strategy or use;
 3. The formula(s) to be used to calculate the number of DER credits that have been generated during the generation period; the number of DER credits that need to be held when a Notice of Intent to Use is submitted; the number of DER credits used during a use period; or the quantity of actual emission increases during the use period, as applicable;
 4. The method(s) to be used to derive each term used in the formula(s) specified pursuant to (a)3 above (for example, the method to be used for determining “baseline emissions”), including, but not limited to:
 - i. Any test method(s) or other technique(s) to be used for determining actual emission increases or decreases, together with specification of the parameters to be measured, the measurement methods to be used (for example, specific methods for continuous emissions monitoring, stack testing, or predictive emissions monitoring) and the rationale for requiring use of these specific methods;

- ii. For a stationary or mobile source, the method for establishing its activity level, including the measurement methods to be used to collect the activity level data (such as monitoring of fuel use or hours of operation), and the rationale for requiring use of these methods; and
 - iii. For a product, the methods for determining the quantity of product distributed, stored, or used in New Jersey, and the rationale for requiring use of these methods;
- 5. For a generation protocol, with respect to the “economic output” term in the formula, one of the following:
 - i. The unit of economic output to be used in the calculation, together with an explanation of why this is an appropriate unit, specification of the measurement methods to be used to collect the economic output data (such as monitoring of the BTU’s of heat energy supplied), and the rationale for requiring reliance on these methods; or
 - ii. The methods a generator shall use to develop an appropriate unit of economic output for the generator source;
- 6. The method(s) the generator or user shall use to document the derivation of each term used in the formula(s) given pursuant to (a)3 above, including, but not limited to, the procedures to be used to compile, summarize, analyze and report emissions data, activity level data, and economic output data;
- 7. For the air contaminant on which the credits are based (for example, for VOC, if the credits generated or used are VOC credits), the methods to be used for determining:
 - i. Whether the credit generation or credit use has resulted in an increase in emissions of that air contaminant, from other source(s) at the facility or off-site, including, but not limited to, increases due to a shifting of production to or an increase in activity of the other source; and
 - ii. If so, the method(s) to be used for determining the quantity of such emissions increase;
- 8. The methods for determining the design margin. Such methods shall take into account historical compliance margins for the parameter in question, reflecting the individual generator’s or user’s past performance in meeting the requirement. In the case of a new requirement, the methods may be based either on the individual generator’s or user’s past performance in meeting past requirements or on an industry average compliance level;
- 9. The methods to be used for determining if the generation or use of DER credits has resulted in an increase in the actual emissions of any other air contaminant, including any HAP, either from the generator or user source, from other source(s) at the

facility, and/or from source(s) off-site; and if so, the method(s) to be used for determining the quantity of the increase;

10. For DER credit generation, the methods to be used for determining the following:
 - i. The quantity of product distributed, stored or used in New Jersey, pursuant to N.J.A.C. 7:27-30.4(a)3; and
 - ii. The quantity of recycled materials that was sold for use as a consumer or commercial product in New Jersey, or were conveyed to a manufacturer in New Jersey for use as a raw material in the manufacturer's production process, pursuant to N.J.A.C. 7:27-30.4(a)5;
 11. Any emission factors or constants to be used, together with either a citation of the source of the factors or constants or an explanation of how they were derived; and
 12. Assumptions that a generator or user shall or may make in performing any of the calculations.
- (b) A quantification protocol shall specify the supporting documentation that a generator or user (as applicable) shall provide with a notice, as an integral part thereof. This documentation shall include:
1. Explanation of the following:
 - i. The assumptions made in the calculations, other than those required by the protocol to be used pursuant to (a)12 above;
 - ii. If the protocol allows the use of more than one method for monitoring, testing, or otherwise determining variables such as the quantity of emissions, activity level, or economic output), an explanation of why the method used was selected;
 - iii. The steps taken to minimize uncertainty in the methods used and the data on which the calculations are based, including a description of steps taken to assure precision and avoid bias; or if uncertainty cannot be minimized, an explanation of how the calculation method has been modified to account for imprecision and/or bias;
 - iv. If the generation or use of credits has resulted in an increase, from another source at the facility or elsewhere, in emissions of the same type of air contaminant as that on which the credits are based (for example, VOC emissions, if the credits generated or used are VOC credits), an explanation of the causes of the increase in emissions;
 - v. For a generation protocol, if the user determined the unit of economic output to be used in the calculations pursuant to (a)5ii, an explanation of why it is an

appropriate unit, the measurement methods used to collect the economic output data (such as monitoring of the BTU's of heat energy supplied), and the rationale for reliance on these methods;

2. Any calculations performed, including for the determination of:
 - i. The number of credits generated, the number of DER credits that need to be held when a Notice of Intent to Use is submitted, or the number of DER credits that were used during a use period;
 - ii. The quantity (if any) of the actual emissions increase of any HAP, including the quantity from the generator or user source, from other source(s) at the facility, and/or from source(s) off-site; and
 - iii. The quantity of the increase or decrease in actual emissions of VOC or NO_x;
 3. A listing of all State and Federal air quality regulations, orders and permits that apply (for generation protocols) to the generator source or (for use protocols) to the user source, and any emission limits set forth therein for the following:
 - i. The air contaminant (for example, VOC or NO_x) on which the credits being generated or used are based; and
 - ii. Any HAP;
 4. The data reports and summaries which set forth the data relied on in the calculations, together with adequate labeling and explanation of the data reports and summaries so as to enable proper interpretation; and
 5. The following demonstrations:
 - i. If a generator or user would have actual emissions data available, but the protocol specifies that a generator or user shall use another method which does not utilize the actual emissions data, a demonstration that this other method results in a determination of emissions that is more representative, accurate, current, and reliable; and
 - ii. If the protocol specifies the use, for a stationary source, of a technique for measuring and quantifying actual emissions that is different from the techniques that would be selected for the source using the Department's "Hierarchies of Quantification Techniques" guidance document, a demonstration that this other technique is the most accurate and reliable technique available for measuring and quantifying actual emissions.
- (c) A quantification protocol shall specify the data and other records relevant to documenting the quantification performed pursuant to N.J.A.C. 7:27-30.22(a) and (b) that, at a minimum, a generator or user shall retain. Such records will include, but not be limited to, the

following data sets, where summary data reports are provided in the Notice of Generation, Notice of Intent to Use, or the Notice of Use:

1. Any emissions data relied on in the calculations described in (a) and (b) above;
 2. For a stationary or mobile source, the data relied on to establish a generator source's or user source's activity level and hours of operation; and
 3. For a product, the data collected to determine the quantity of product distributed, stored, or used in New Jersey; and
 4. For a generation protocol, the data collected to establish the generator source's economic output.
- (d) A quantification protocol shall provide example calculations, based on the formulas and the requirements for calculation at N.J.A.C. 7:27-30.5 or 30.13.

7:27-30.26 (Reserved)

7:27-30.27 Interface with other trading programs

- (a) Allowances allocated under the NO_x Budget Program may be converted to NO_x credits, in accordance with N.J.A.C. 7:27-31.6(a).
- (b) Emission reduction credits generated under the Emission Offset Program may be converted to NO_x or VOC credits, in accordance with N.J.A.C. 7:27-18.11.
- (c) Use of DER credits that are based on the conversion of NO_x Budget allowances or emission reduction credits generated under the Emission Offset Program is subject to the geographic constraints set forth at N.J.A.C. 7:27- 30.21 rather than to any corresponding geographic requirements in NO_x Budget Program or the Emission Offset Program.

7:27-30.28 Compliance responsibilities

The generator is responsible for ensuring that it has generated DER credits in accordance with this subchapter. The verifier is responsible for making the Notice of Verification true, accurate and complete. The user is responsible for ensuring that its use of DER credits complies with this subchapter. In any enforcement action, the generator, verifier and user bear the burden of proof on each of their respective responsibilities.

7:27-30.29 Invalidation and cancellation of DER credits

- (a) If the Department or the EPA determines at any time that a DER credit does not satisfy all of the applicable requirements of this subchapter, the Department or the EPA may find the

credit invalid. The Department or the EPA shall effect such a finding by notifying the registry and the holder of the DER credit that the DER credit is invalid.

- (b) If a generator decides, for any reason, to reduce the number of credits claimed for a batch, the generator shall, pursuant to N.J.A.C. 7:27- 30.20, submit an amendment to a Notice of Generation requesting that a specified number of credits in the batch be canceled.
- (c) Within one business day of receiving a notice that one or more DER credits are invalid, and within one business day of receiving an amendment requesting that one or more DER credits be canceled, the registry operator shall designate in the registry, by serial number, each DER credit that is invalid or canceled. If a part of a batch of DER credits has been found invalid or been canceled, the registry operator shall designate those credits in the batch with the higher serial numbers as being invalid or canceled.
- (d) A generator, holder, or user of a DER credit, who is aggrieved with respect to a finding by the Department that a credit is invalid, may request an adjudicatory hearing, pursuant to N.J.A.C. 7:27-1.32.
- (e) No credit which has been designated as invalid or as canceled may be transferred, verified, retired, or used.

7:27-30.30 Penalties

A person who fails to comply with any provision of this subchapter shall be subject to civil administrative penalties in accordance with N.J.A.C. 7:27A- 3 and applicable criminal penalties including, but not limited to, those set forth at N.J.S.A. 2C:28 and N.J.S.A. 26:2C-19(f)1 and 2. If there is more than one owner or operator of an emissions source, all owners and operators are jointly and severally liable for such civil administrative penalties.

APPENDIX A

**Global Warming Potentials¹
(100 year time horizon)**

Gas	Global Warming Potential
Carbon dioxide (CO ₂)	1
Methane (CH ₄)	21
Nitrous oxide (N ₂ O)	310
HFC-23	11,700
HFC-125	2,800
HFC-134a	1,300
HFC-143a	3,800
HFC-152a	140
HFC-227ea	2,900
HFC-236fa	6,300
HFC-4310mee	1,300
CF ₄	6,500
C ₂ F ₆	9,200
C ₄ F ₁₀	7,000
C ₆ F ₁₄	7,400
SF ₆	23,900

¹Source: *Climate Change 1995: The Science of Climate Change, Report prepared for IPCC by Working Group I, Intergovernmental Panel on Climate Change, Organization for Economic Co-Operation and Development, Paris, France.*

APPENDIX B

Note: The material below has been excerpted from the "Timely and Appropriate (T&A) Enforcement Response to High Priority Violations (HPVs)" guidance document signed by Eric Schaeffer, Director of the Office of Regulatory Enforcement, Office of Enforcement and Compliance Assurance, United States Environmental Protection Agency, on December 22, 1998. A copy of the complete guidance document may be found on the EPA website at www.epa.gov/oeca/ore/aed or be requested from:

*Air & Environmental Quality Compliance and Enforcement
Department of Environmental Protection
P.O. Box 422
401 East State Street, Floor 4
Trenton, NJ 08625-0422*

II. Definition of High Priority Violations

When a violation is detected, the violation's characteristics shall be compared with the Definition of High Priority Violation given in Parts A and B below. To the extent that the violation fits one or more of the elements of the General High Priority Violation Criteria given in Part A or the High Priority Violation Matrix given in Part B, it shall be designated as a high priority violation and is subject to the Timely and Appropriate Section of this policy.

A. General HPV Criteria

The following criteria trigger HPV status. The criteria apply to the pollutant(s) of concern at major sources, (i.e., pollutant for which source is major) except where the criterion itself indicates otherwise (e.g., applies to a synthetic minor source). The determination of what is substantive/substantial shall be part of a case-by-case analysis/discussion by the EPA and the delegated agency.

1. Failure to obtain a PSD permit (and/or to install BACT), an NSR permit (and/or to install LAER or obtain offsets) and/or a permit for a major modification of either.
2. Violation of an air toxics requirement (i.e., NESHAP, MACT) that either results in excess emissions or violates operating parameter restrictions.
3. Violation by a synthetic minor of an emission limit or permit condition that affects the source's PSD, NSR or Title V status (i.e., fails to comply with permit restrictions that limit the source's potential emissions below the appropriate thresholds; refers only to pollutants for which the source is a synthetic minor. It is not necessary for a source's actual emissions to exceed the NSR/PSD/Title V thresholds.)
4. Violation of any substantive term of any local, state or federal order, consent decree or administrative order.

5. Substantial violation of the source's Title V certification obligations, e.g., failure to submit a certification.
6. Substantial violation of the source's obligation to submit a Title V permit application. (i.e., failure to submit a permit application within sixty (60) days of the applicable deadline)
7. Violations that involve testing, monitoring, record keeping or reporting that substantially interfere with enforcement or determining the source's compliance with applicable emission limits.
8. A violation of an allowable emission limit detected during a reference method stack test.
9. Clean Air Act (CAA) violations by chronic or recalcitrant* violators.
10. Substantial violation of Clean Air Act Section 112(r) requirements (for permitting authorities that are not implementing agencies under Section 112(r) program, limited to source's failure to submit Section 112(r) risk management plan).

*Chronic or recalcitrant violator refers to a source that may stay below the HPV threshold but continually violates requirements to the extent that it is mutually agreed by the Region and the delegated agency that the source should be bumped up into HPV status.

B. High Priority Violation Matrix

The matrix below contains specific criteria for assessing whether violations are high priority. The matrix is set out in six columns that identify: the violation, the means by which the violation was identified (method of detection), the applicable standard, the supplemental significance threshold, percentage in excess of the reference limit or standard and the time in excess of the reference limit or standard. A discussion of each of these elements of the matrix is set out below. Violations not on the High Priority Violation List may nonetheless be serious, but may not be initially subject to the provisions of this policy.

Violations and Method of Detection

The first column lists four types of violations addressed by the matrix. The second column identifies six methodologies for detecting the four types of violations listed in the first column. The following shows the four types of violations and the associated method(s) of detecting violations that are reflected in the first two columns of the matrix. Although the matrix provides specific detection methods for violations, nothing in this policy is intended to limit the agency in using other credible evidence to document a violation.

- I. Violation of Allowable Emissions Limitations
 - A. Reference Method Stack Testing or
 - B. Coatings Analysis, Fuel Samples or Other Process Material Sampling
- II. Violation of Parameter Emissions Limitations

- A. Continuous/Periodic Parameter Monitoring
- III. Violation of Applicable Standards (non-opacity)
 - A. Continuous Emissions Monitoring (where the CEM is certified under federal performance specifications)
- IV. Violation of Applicable Standards (opacity)
 - A. Continuous Opacity Monitoring or
 - B. Method 9 Visual Emissions Readings

Standards

This column identifies the standard(s) for which a violation is being assessed.

Supplemental Significance Threshold

This column provides a supplemental significance threshold (SST) that is to be considered along with the other matrix factors to determine high priority violations. The SST is intended only as a surrogate threshold against which a violation can be judged and obviates the situation that would occur if an emissions limitation was high enough that a less than 15% excursion of the applicable requirement would result in significant environmental impact. The SST is consistent with the level at which a source would be required to obtain a PSD permit for a major modification for the applicable criteria pollutant(s), expressed as an hourly emission rate. The use of an SST is not intended in and of itself to imply that a facility must obtain a PSD permit.

Percent in Excess of Limit/Parameter

This column is the yardstick by which a violation is judged to be a high priority violation. In some cases (i.e., where the word “FOR” connects this column with the last column), the percent in excess of the limit is paired with a time element. To determine the level of excess emissions for which a violation is considered high priority, multiply the applicable standard by the applicable percentage from this column.

Percent of Time in Excess of the Applicable Standard

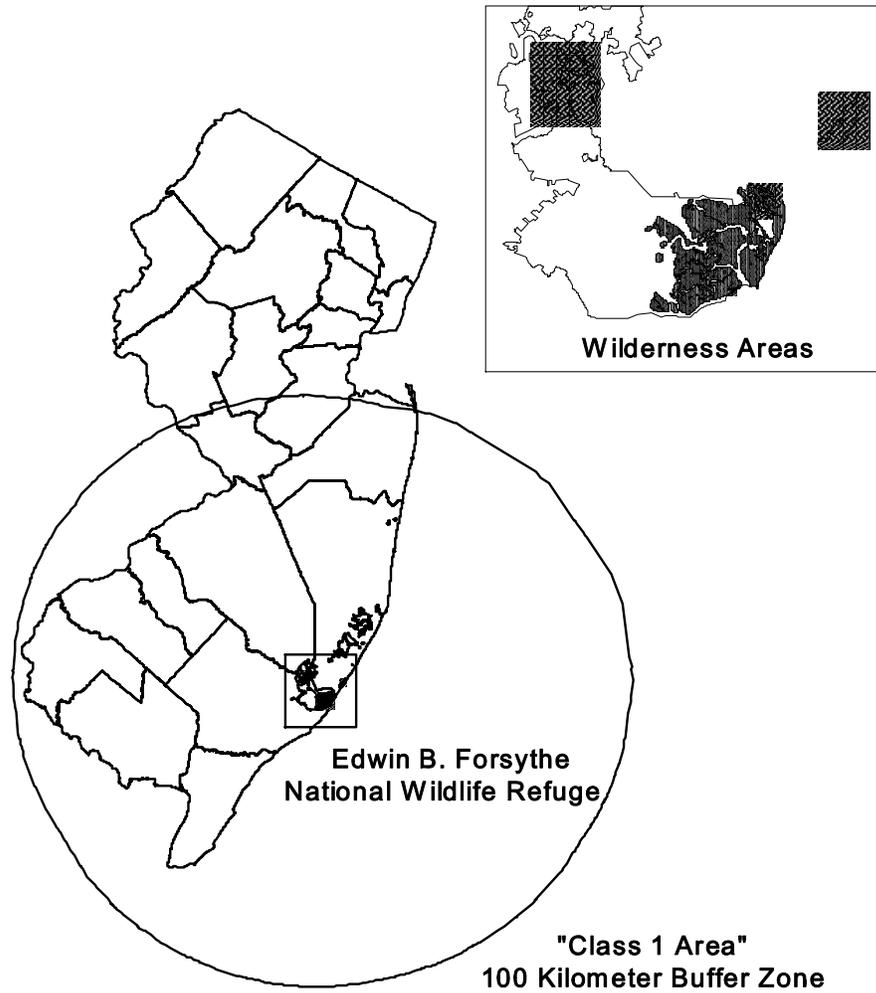
The percent of time in excess of the applicable standard is based on the operating time of the facility during the reporting period in which the violation was discovered.

VIOLATION	METHOD OF DETECTION	STANDARD	SUPPLEMENTAL SIGNIFICANT THRESHOLD¹	% IN EXCESS OF REFERENCE LIMIT/PARAMETER		% OF TIME IN EXCESS OF REFERENCE LIMIT
Violation of Allowable Emissions Limitations	Stack Testing	Any applicable requirement		Any violation of the applicable standard		N/A
	Coatings analysis, fuel samples, other process materials sampling or raw/process materials usage reports	Any applicable requirement	CO 23 lb/hr NOx 9 lb/hr SO2 9 lb/hr VOC 9 lb/hr PM 6 lb/hr PM10 3 lb/hr	>15% of the applicable emission limitation or the supplemental significant threshold (whichever is more stringent)		N/A
Violation of parameter limits where the parameter is a direct surrogate for an emissions limitation	Continuous/Periodic Parameter Monitoring (includes indicators of control device performance)	Any applicable requirement		>5% of the applicable parameter limit	FOR	>3% of the operating time during the reporting period
					OR	any exceedance of the parameter limit for >50% of the operating time during the reporting period ³
Violation of applicable non-opacity standard	Continuous Emissions Monitoring (where the CEM is certified under federal performance specifications)	≤24 hour averaging period (for example, one hour or three hour blocks)	CO 23 lb/hr NOx 9 lb/hr SO2 9 lb/hr VOC 9 lb/hr	15% of the applicable standard or, the supplemental significant threshold, (whichever is more stringent)	FOR	>5% of the operating time during the reporting period ^{4, 6}
					OR	any exceedance of the reference limit for >50% of the operating time during the reporting period ³
	Continuous Emissions Monitoring (where the CEM is certified under federal performance specifications)	> 24 hour averaging period		Any violation of the applicable standard		N/A
Violation of applicable opacity standard ²	Continuous Opacity Monitoring	0-20% opacity		>5% opacity over the limit	FOR	>5% of the operating time during the reporting period ^{4, 6}
		>20% opacity		>10% opacity over the limit		
	Method 9 VE Readings	0-20% opacity		>50% over limit	AND	Any violation of SIP/NSPS limits ⁵
		>20% opacity		>25% over limit		

Table Footnotes:

1. Supplemental Significant Threshold is based on PSD significant levels. The significant threshold value is the lb/hr emission rate at 8760 hours which would result in PSD review.
2. Based on the applicable averaging period (e.g. 6-minute block averages).
3. For the first reporting period. If exceedances occur for more than 25 % of the operating time during the first reporting period evaluated, and if such exceedances continue during the subsequent consecutive reporting period, the exceedances will be considered high priority violations for both reporting periods if the percent of time in excess exceeds 25% of the operating time during the second reporting period.
4. For the first reporting period. If exceedances occur for more than 3% of the operating time during the first reporting period evaluated, and if such exceedances continue during the subsequent consecutive reporting period, the exceedances will be considered high priority violations for both reporting periods if the percent of time in excess exceeds 3% of the operating time during the second reporting period.
5. Unless the state or local agency concludes that 1) the cause of the violation has been corrected within 30 days and the source has returned to compliance, or 2) the source was in compliance with an applicable mass limit at the time the Method 9 visual reading was taken.
6. This would not include any federally approved exempt period (e.g., startup/shutdown/malfunction 40 CFR 60.11), since these would not be violations.

APPENDIX C
Map indicating 100 Kilometer Buffer Zone
Surrounding Edwin B. Forsythe National Wildlife Refuge



60 0 60 120 Kilometers