

Department shall incorporate any changes the Department deems appropriate. The Department shall then announce the final general permit, and add it to the list of sources in (c) above, through a notice of administrative change published in the New Jersey Register.

(n) If the Department changes an existing general permit, it shall notify each person who has registered under the general permit. The registrant shall comply with any applicable new requirements as follows:

1. If the change to the general permit is required by a statute or regulation, a registrant shall comply by the date required for compliance in the statute or regulation. If the registrant cannot comply by that date, the registrant must stop operating the source or obtain by that date a source-specific permit and certificate which authorizes continued operation; and

2. If the change to the general permit is not required by a statute or regulation, a registrant shall comply by the date which is 90 days after the date that the notice was received from the Department or the date when the registration, whichever is later. Thereafter, the registrant shall comply with the changed general permit.

(o) A person who wishes to register a source under a general permit may obtain the registration form, the general permit, and the General Procedures for General Permits, at the address in N.J.A.C. 7:27-8.4(b).

New Rule, R.1998 d.231, effective May 4, 1998 (operative June 12, 1998).

See: 29 N.J.R. 3521(a), 30 N.J.R. 1563(b).

Former N.J.A.C. 7:27-8.8, Conditions of approval, recodified to N.J.A.C. 7:27-8.13.

Public Notice: Draft General Permits comment opportunity.

See: 32 N.J.R. 605(a).

Administrative change.

See: 32 N.J.R. 2081(b).

Added (c)8.

Public Notice: Draft General Permits comment opportunity.

See: 33 N.J.R. 590(a).

Administrative change.

See: 33 N.J.R. 1377(a).

Public Notice: Air Quality Permit clarification of terminology.

See: 33 N.J.R. 3221(a).

Amended by R.2002 d.53, effective February 4, 2002 (operative March 12, 2002).

See: 33 N.J.R. 3290(a), 34 N.J.R. 756(a).

In (c), substituted "propane, diesel or kerosene" for "or both fuels" in 3, and inserted "number 2 fuel oil or kerosene," following "diesel fuel" and added "or propane" in 4.

Administrative change.

See: 34 N.J.R. 2804(a).

Public Notice: Draft General Permits comment opportunity.

See: 35 N.J.R. 3415(b).

Public Notice: General Permit (GP-010) for Degreasing Operations Using Non-HAP Volatile Organic Compounds (VOCs).

See: 35 N.J.R. 3966(b).

Public Notice: Draft General Permits comment opportunity.

See: 35 N.J.R. 5308(c).

Administrative change.

See: 36 N.J.R. 183(a), 184(a), 1790(d), 3076(a).

Public Notice: Draft General Permits comment opportunity.

See: 36 N.J.R. 3303(b), 3303(c), 3304(a).

Administrative change.

See: 36 N.J.R. 4511(a), 4512(a), 4513(a).

Public Notice: Small Emitter General Air Permit (SEGAP)(GP-016).

See: 36 N.J.R. 4544(a).

Public Notice: Draft General Permit (GP-015) for Non-MACT Plating Operations.

See: 37 N.J.R. 142(a).

Administrative change.

See: 37 N.J.R. 4436(a), 4911(a).

Public Notice: Draft General Permit (GP-020) for Research and Development.

See: 38 N.J.R. 343(a).

Public Notice: Air Quality Permitting: Opportunity for Public Comment on Revised General Permit (GP-005) for Emergency Generators.

See: 38 N.J.R. 1351(a).

Amended by R.2006 d.212, effective June 19, 2006 (operative June 30, 2006).

See: 37 N.J.R. 4728(a), 38 N.J.R. 2691(b).

Inserted "of" after "instructions for the use" in (g).

Administrative change.

See: 38 N.J.R. 2798(b).

Public Notice: Announcement of Revised General Permit GP-008.

See: 38 N.J.R. 2799(a).

Administrative change.

See: 39 N.J.R. 383(a).

Public Notice: Draft General Permits comment opportunity.

See: 39 N.J.R. 4452(a), 4867(c).

Administrative change.

See: 40 N.J.R. 880(a), 1646(a).

Public Notice: Draft General Permits comment opportunity.

See: 40 N.J.R. 5073(a).

Administrative change and Announcement of General Permits (GP-017 and GP-018).

See: 41 N.J.R. 583(a).

Public Notice.

See: 41 N.J.R. 2730(b).

Public Notice: Opportunity for Public Comment: Draft General Permit.

See: 42 N.J.R. 2640(a), 2641(a).

Administrative change and Announcement of General Permit (GP-021) and General Operating Permit (GOP-005).

See: 43 N.J.R. 2523(a).

Administrative change and Announcement of General Permit (GP-022) and General Operating Permit (GOP-006).

See: 43 N.J.R. 2524(a).

Public Notice: Opportunity for Public Comment: Draft General Permit (GP-009A).

See: 44 N.J.R. 180(a).

Public Notice: Opportunity for Public Comment: Draft General Permit (GP-004A).

See: 44 N.J.R. 1661(a).

Administrative change and Announcement of General Permit (GP-009A).

See: 45 N.J.R. 895(a).

Administrative change and Announcement of General Permit (GP-004A).

See: 45 N.J.R. 1247(a).

Public Notice: Opportunity for Public Comment: Draft General Permit (GP-001A).

See: 45 N.J.R. 1848(a).

### 7:27-8.9 Environmental improvement pilot tests

(a) A person may seek approval for a preconstruction permit and certificate for an environmental improvement pilot test, as defined at N.J.A.C. 7:27-8.1, of air pollution control equipment or other environmental clean-up equipment under this section.

(b) An applicant for an environmental improvement pilot test shall ensure that the equipment shall comply with all applicable requirements, and that the activities shall not cause impacts outside the property boundary.

(c) An applicant for an environmental improvement pilot test approval shall submit the application on a form obtained from the Department at the address in N.J.A.C. 7:27-8.4(b). The application shall meet the requirements of N.J.A.C. 7:27-8.4, and shall include information regarding the planned sampling, analysis, equipment or processes, potential environmental impacts, the length of time requested for the test, projected emission rates, and any other information necessary for the Department to ensure that the proposed activities fit within the definition of an environmental improvement pilot test at N.J.A.C. 7:27-8.1.

(d) The Department shall take final action on the application within 30 days of its receipt of a complete application.

(e) The Department shall determine the term of a permit and certificate for an environmental improvement pilot test approval on a case-by-case basis, but in no case shall the approval last longer than 90 days from the start of the actions covered by the environmental improvement pilot test approval. If the permittee wishes to extend the pilot test for 90 or fewer days, the permittee shall submit a new application for a preconstruction permit and operating certificate for an environmental improvement pilot test to the Department. The Department shall approve this application only if the applicant demonstrates that continued testing of the equipment or process is needed, and that the proposed activities remain within the definition of an environmental improvement pilot test at N.J.A.C. 7:27-8.1.

(f) The fee for an environmental improvement pilot test is set forth at N.J.A.C. 7:27-8.6.

(g) The holder of an environmental improvement pilot test approval shall keep records of product run time, emission testing performed, and other data relevant to the emission of air contaminants. These records shall be kept for a minimum of five years, and any relevant data obtained must be submitted with any future application covering the source.

(h) Upon completion of the environmental improvement pilot test, the equipment involved shall cease operating, or shall return to operating under the conditions of the existing permit, if any. An environmental improvement pilot test approval does not constitute Departmental acceptance of equipment or a process for future production purposes.

New Rule, R.1998 d.231, effective May 4, 1998 (operative June 12, 1998).

See: 29 N.J.R. 3521(a), 30 N.J.R. 1563(b).

Former N.J.A.C. 7:27-8.9, Reporting requirements, recodified to N.J.A.C. 7:27-8.15.

Amended by R.2006 d.212, effective June 19, 2006 (operative June 30, 2006).

See: 37 N.J.R. 4728(a), 38 N.J.R. 2691(b).

In (e), deleted "The approval may be renewed by application", added "If the permittee . . . pilot test" and substituted "approve this application" for "renew the environmental improvement pilot test approval".

#### 7:27-8.10 Public comment

(a) The Department shall seek comments from the general public prior to making any final decision on those applica-

tions for which such comment is required by State or Federal statutes. Such applications include, but are not limited to, those applications which:

1. Are subject to the PSD requirements published at 40 CFR 52;
2. Must be submitted to the EPA for approval as revisions to any state implementation plan; or
3. Are subject to emissions offset requirements under N.J.A.C. 7:27-18.

(b) The Commissioner of the Department may seek comments from the public whenever the Commissioner finds a significant degree of public interest in an application, or whenever the Commissioner determines such comments might clarify one or more issues involved in the decision on the application. In determining whether to seek or accept public comment, the Commissioner shall consider factors relevant to the subject application and the applicable requirements. These factors may include, but are not limited to, the following:

1. The extent of any emissions increase;
2. The impact of any emissions increase on ambient air quality, human health and welfare, and the environment;
3. The applicant's record of compliance with air pollution control requirements;
4. Any other air pollution control aspects of the application or facility which might make the application of particular interest to the public.

(c) The Department shall notify those who submitted a written request for public comment of the Commissioner's decision regarding their request. The Commissioner's notification shall be in writing, and if the decision is a denial, the notification shall include a discussion of the factors in (b) above, as well as a description of all other factors which formed the basis for the decision.

New Rule, R.1991 d.109, effective March 4, 1991 (operative March 31, 1991).

See: 22 N.J.R. 292(a), 23 N.J.R. 723(a).

Old section recodified to 8.6.

Amended by R.1994 d.502, effective October 3, 1994 (operative October 31, 1994).

See: 25 N.J.R. 3963(a), 25 N.J.R. 4836(a), 26 N.J.R. 793(a), 26 N.J.R. 3943(b).

Recodified from N.J.A.C. 7:27-8.5 and amended by R.1998 d.231, effective May 4, 1998 (operative June 12, 1998).

See: 29 N.J.R. 3521(a), 30 N.J.R. 1563(b).

Rewrote the section. Former N.J.A.C. 7:27-8.10, Revocation, recodified to N.J.A.C. 7:27-8.16.

#### 7:27-8.11 Standards for issuing a permit

(a) To obtain approval of a permit and certificate, a permit revision, or a compliance plan change, an applicant shall document that:

<u>Activity</u>	<u>Basis</u>	<u>Amount</u>
i. Evaluate Equipment Protocol	Per Protocol Per Stack	\$585.00
ii. Evaluate Performance Specification Test Protocol	Per Protocol Per Stack	\$585.00
iii. Review Testing Report	Per Report Per Stack	\$585.00
c. On-site Monitoring of Sample Collection Pursuant to an Approved Source-Specific Testing Protocol	Per Day Per Person	\$880.00
d. Periodic Monitoring Equipment Protocol	Per Protocol	\$295.00

(x) Effective January 1, 2010 through December 31, 2014, the adjusted fee schedule for a registration that is part of a significant modification application shall be (x)1 and 2 below.

<u>Activity</u>	<u>Basis Per Electronic Registration</u>
1. Registration for initial authorization, or renewal of authorization, to act under a General Operating Permit	\$410.00
2. Registration for, or five-year renewal of, authorization to operate a used oil space heater under N.J.A.C. 7:27-20.3	\$295.00

New Rule, R.1995 d.492, effective September 5, 1995 (operative October 8, 1995).  
 See: 27 N.J.R. 22(b), 27 N.J.R. 3472(a).  
 Amended by R.1995 d.493, effective September 5, 1995 (operative October 8, 1995).  
 See: 27 N.J.R. 1040(a), 27 N.J.R. 3421(a).  
 Public Notice: Supplemental surcharge fee amount for operating permit facilities.  
 See: 28 N.J.R. 1562(b).  
 Public Notice: Air Contaminant Emission Fee and Reconstruction Determination.  
 See: 30 N.J.R. 4079(a).  
 Public Notice: Air Contaminant Emission Fee and Reconstruction Determination.  
 See: 32 N.J.R. 116(a).  
 Public Notice: Air Contaminant Emission Fee and Reconstruction Determination.  
 See: 32 N.J.R. 4478(a).  
 Public Notice: Air Contaminant Emission Fee and Reconstruction Determination.  
 See: 34 N.J.R. 782(c).  
 Public Notice: Air Contaminant Emission Fee and Reconstruction Determination.  
 See: 34 N.J.R. 4474(b).  
 Amended by R.2003 d.86, effective February 18, 2003 (operative March 24, 2003).  
 See: 34 N.J.R. 695(a), 35 N.J.R. 1059(a).  
 In (b), substituted "reporting" for "emission statement" following "during the" in the introductory paragraph and inserted a third sentence.  
 Public Notice: Consumer Price Index Percentage Increase and Air Contaminant Emission Fee.  
 See: 35 N.J.R. 5444(b).  
 Public Notice: Consumer Price Index Percentage Increase and Air Contaminant Emission Fee.  
 See: 36 N.J.R. 5171(b).  
 Public Notice: Consumer Price Index Percentage Increase and Air Contaminant Emission Fee.  
 See: 37 N.J.R. 4475(a).

Amended by R.2006 d.212, effective June 19, 2006 (operative June 30, 2006).  
 See: 37 N.J.R. 4728(a), 38 N.J.R. 2691(b).  
 Rewrote section.  
 Public Notice: Consumer Price Index Percentage Increase and Air Contaminant Emission Fee.  
 See: 38 N.J.R. 4760(b).  
 Public Notice: Consumer Price Index Percentage Increase and Air Contaminant Emission Fee.  
 See: 39 N.J.R. 4961(b).  
 Public Notice: Consumer Price Index Percentage Increase and Air Contaminant Emission Fee.  
 See: 40 N.J.R. 6487(a).  
 Administrative change.  
 See: 41 N.J.R. 4207(a).  
 Public Notice: Consumer Price Index Percentage Increase and Air Contaminant Emission Fee.  
 See: 43 N.J.R. 319(a).  
 Public Notice: Consumer Price Index Percentage Increase and Air Contaminant Emission Fee.  
 See: 44 N.J.R. 599(a), 3083(b).

**7:27-22.32 Hearings and appeals**

(a) An adjudicatory hearing regarding a determination made by the Department pursuant to this subchapter may be requested and granted in accordance with N.J.A.C. 7:27-1.32.

(b) If a person does not have a right to request an adjudicatory hearing pursuant to N.J.A.C. 7:27-1.32, there is final agency action as to that person when the Department takes final action on the application.

(c) If a person does have a right to request an adjudicatory hearing pursuant to N.J.A.C. 7:27-1.32, there is final agency action as to that person when the Department denies the request for an adjudicatory hearing, or when the Commissioner issues a final decision on the matter, whichever is later.

(d) A person who wishes to appeal a penalty assessed for a violation of this subchapter may request an adjudicatory hearing pursuant to the procedures at N.J.A.C. 7:27A.

(e) The Department's failure to take final action on an administratively complete application for an initial operating permit, renewal, minor modification or significant modification, within the deadlines provided by this subchapter, shall constitute grounds for the commencement of an action in lieu of the prerogative writ of mandamus, to compel Departmental action on the application.

Amended by R.1998 d.231, effective May 4, 1998 (operative June 12, 1998).

See: 29 N.J.R. 3521(a), 30 N.J.R. 1563(b).

In (a) through (c), changed N.J.A.C. references.

### 7:27-22.33 Preconstruction review

(a) This section sets forth the procedures by which the Department will implement the preconstruction review requirements of N.J.S.A. 26:2C-1 et seq., as they apply to facilities subject to this subchapter.

(b) The owner or operator of a facility subject to this subchapter, which is in operation prior to the applicable application deadline at N.J.A.C. 7:27-22.5(c), shall obtain and maintain all preconstruction permits and operating certificates required pursuant to N.J.A.C. 7:27-8 until an operating permit is issued for the facility. These approvals will be superseded by the operating permit when it is issued.

(c) The owner or operator of a facility subject to this subchapter, which commences operation after the applicable application deadline at N.J.A.C. 7:27-22.5(c), shall submit an application for an initial operating permit by the deadline established at N.J.A.C. 7:27-22.5(f). Until the issuance of an operating permit for the facility, the owner or operator of the facility shall obtain and maintain all preconstruction permits and operating certificates required pursuant to N.J.A.C. 7:27-8. These approvals will be superseded by the operating permit when it is issued.

(d) An application for a minor modification pursuant to N.J.A.C. 7:27-22.23, or a significant modification pursuant to N.J.A.C. 7:27-22.24, shall be subject to preconstruction review, which will include a demonstration that any equipment or control apparatus which is constructed, reconstructed, or modified incorporates advances in the art of air pollution control for the kind and amount of air contaminant emitted pursuant to N.J.A.C. 7:27-22.35.

(e) The Department will perform the preconstruction and operating permit reviews of an application for a minor or significant modification simultaneously. Ordinarily, the Department will issue an operating permit modification which includes preconstruction approval. However, if requested by an applicant for a modification, the Department will issue the preconstruction approval simultaneously with the draft permit which is forwarded to EPA pursuant to N.J.A.C. 7:27-22.12. This preconstruction approval will authorize the permittee to begin construction and operation of a minor modification, at the permittee's own risk, in accordance with N.J.A.C. 7:27-

22.23. For a significant modification of the operating permit, the permittee may begin construction of a significant modification, but may not operate the modified facility until final issuance of the significant modification.

(f) If a facility or source operation becomes subject to a case-by-case MACT standard pursuant to N.J.A.C. 7:27-22.26(c) prior to issuance of an operating permit for the facility, the owner or operator of the facility shall establish a case-by-case MACT standard pursuant to N.J.A.C. 7:27-22.26(e). The owner or operator of the facility shall obtain and maintain a preconstruction permit and operating certificate pursuant to N.J.A.C. 7:27-8, which applies the case-by-case MACT standard to the appropriate source operation(s), until an operating permit covering the facility is issued which incorporates the case-by-case MACT standard.

New Rule, R.1995 d.493, effective September 5, 1995 (operative October 8, 1995).

See: 27 N.J.R. 1040(a), 27 N.J.R. 3421(a).

### 7:27-22.34 Early reduction of HAP emissions

(a) This section shall take effect upon EPA's interim approval of the Department's operating permit program.

(b) The Department may allow a six year extension of time for complying with a MACT or GACT standard promulgated by EPA for one or more source operations at a facility, if the source operation achieves sufficient early reductions of HAP emissions. To be eligible for such a compliance extension, an applicant shall demonstrate that, between the end of a representative year and the date upon which EPA proposed the MACT or GACT standard, the relevant source operation(s) at the facility achieved at least the following emission reductions:

1. Ninety percent of all non-particulate HAP emissions; and
2. Ninety-five percent of all particulate HAP emissions.

(c) An applicant seeking an extension pursuant to (b) above shall, in accordance with the procedures at 40 CFR 63 Subpart D, provide to the Department:

1. The quantity of verifiable actual emissions released from the facility during a representative year no earlier than 1987. No year may be used as the representative year for which there is any evidence that emissions during that year are artificially or substantially greater than emissions