

Recent CPI-U = the CPI-U for the August before January 1 of the next five-year period in Table 1. For example, a five-year period in Table 1 starts on January 1, 2015. The August before January 1, 2015 is August 2014. Therefore, the Recent CPI-U would equal the CPI-U for August 2014. Use the year as directed in Table 1.

Base CPI-U = the CPI-U for the sixth August before January 1 of the next five-year period in Table 1. An exception is that the Base CPI-U for the five-year period, January 1, 2010 through December 31, 2014, shall be the CPI-U for August 2003. Use the year as directed in Table 1.

<u>Five-Year Period</u>	<u>Base CPI-U</u>	<u>Recent CPI-U</u>	<u>New Jersey Register Publication</u>
January 1, 2010 through December 31, 2014	August 2003	August 2009	November 2009
January 1, 2015 through December 31, 2019	August 2009	August 2014	November 2014
January 1, 2020 through December 31, 2024	August 2014	August 2019	November 2019
January 1, 2025 through December 31, 2029	August 2019	August 2024	November 2024
January 1, 2030 through December 31, 2034	August 2024	August 2029	November 2029

4. If the inflation factor is a negative number, the fees set forth in (r), (s) and (t) above shall remain unchanged.

5. If the inflation factor is a positive number, the percent increase shall be rounded to one decimal place. Each of the fees set forth in (r), (s) and (t) above shall be multiplied by the rounded percent increase to preliminarily determine each fee's increase. Each fee's increase shall then be added to the fee to preliminarily determine the adjusted fee. The final adjusted fee shall then be determined by rounding up the preliminary adjusted fee to the next five dollars.

6. In November of the year preceding the year in which the adjusted fees are to be operative, the Department shall provide a public notice, which shall set forth the adjusted fees, if any, established under this subsection and operative on the following January 1. The Department shall provide public notice by publication of the notice and a notice of administrative change, setting forth the adjusted fees, in the New Jersey Register according to the schedule in Table 1

above. For example, the adjusted fees effective January 1, 2010 shall be published in November 2009.

7. The adjusted fees shall be operative starting the first day of each five year period stated in Table 1.

8. The applicable fee schedule shall be determined as follows:

i. The Base Fee shall be the Base Fee operative on the date the Department receives an administratively complete application or notice.

ii. The Supplementary Fee shall be the Supplementary Fee operative on the date performance of the supplementary activity is completed.

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.

**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