

(v) The Department may terminate an operating permit upon request of the permittee if the Department determines that the facility is no longer subject to operating permit requirements pursuant to N.J.A.C. 7:27-22.2.

(w) Except as provided in the permit shield provisions at N.J.A.C. 7:27-22.17, an operating permit does not relieve any person from the obligation to comply with all applicable provisions of this chapter, including preconstruction requirements under this subchapter, to obtain any other necessary authorizations from other governmental agencies, or to comply with all other applicable Federal, State, and local laws, rules or regulations.

(x) Notwithstanding the other provisions of this section, if any of the acid deposition control provisions of N.J.A.C. 7:27-22.29 conflicts with any other provision of the subchapter, the requirements of N.J.A.C. 7:27-22.29 shall prevail for an affected Title IV facility.

(y) The owner or operator of any facility which contains equipment or control apparatus that is subject to preconstruction permit and operating certificate requirements under N.J.A.C. 7:27-8 shall continue to obtain, maintain, and renew 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.

(z) For a facility with an approved facility-wide permit issued under N.J.S.A. 13:1D-35 et seq., the facility-wide permit shall constitute the operating permit under N.J.A.C. 7:27-22 if:

1. The air pollution control portion of the facility-wide permit meets the requirements of N.J.A.C. 7:27-22 and EPA approves the Department's request to allow a facility-wide permit to constitute a facility's operating permit; and

2. The facility-wide permit was issued after the date of such EPA approval.

(aa) The provisions of N.J.A.C. 7:27-22.20, 22.22, 22.23, and 22.24, concerning modifications to operating permits, shall not apply to repair or maintenance of a significant source operation.

(bb) This subchapter shall not preclude the owner or operator of a facility from voluntarily treating an insignificant source operation as a significant source operation for the purposes of obtaining or modifying an operating permit. Treating an insignificant source operation in such a manner shall subject it to all of the requirements in this subchapter which apply to a significant source operation.

(cc) The Department shall deny an application for an initial operating permit, minor modification, significant modification, or renewal, if approval of the application would authorize a violation of any applicable requirement, or a contravention of other criteria established by the Department by rule or pursuant to technical manuals published with public input, to protect human health and welfare and the environment, unless the Department simultaneously approves a compliance schedule to achieve compliance.

(dd) The Department will deny an application for a minor modification or significant modification of an operating permit that constitutes construction, reconstruction, or modification unless the applicant shows, to the satisfaction of the Department, that the significant source operation covered by the proposed permit provisions incorporates advances in the art of air pollution control pursuant to N.J.A.C. 7:27-22.35, Advances in the art of air pollution control.

(ee) No person shall carry out, or allow to be carried out, any change designated in this subchapter as a minor modification or significant modification to any source operation unless the changed source operation meets the requirements of N.J.A.C. 7:27-22.35, Advances in the Art of Air Pollution Control.

(ff) The Department may deny an application for an initial operating permit, minor modification, significant modification, or renewal, if the applicant fails to provide all information requested by the Department within 30 days after the request, or within a longer response period if approved in writing by the Department.

(gg) The Department may deny an application for an initial operating permit, minor modification, significant modification, or renewal, if the applicant fails to pay any monies due and owing to the Department, and those monies are related to the fees specified in N.J.A.C. 7:27-22.31.

(hh) The Department will deny an operating permit application, or modification to an operating permit, that includes a paint spray operation that is a significant source operation, unless at a minimum the operation is served by particulate control apparatus.

(ii) No person may construct, install, or change any source operation for which a minor modification or significant modification of the operating permit is required pursuant to this subchapter other than as described in N.J.A.C. 7:27-22.23 and 22.24, respectively. Full responsibility for adequate design and construction shall be with the person to whom the Department has issued the permit.

(jj) The Department may establish conditions of approval of any operating permit, administrative amendment, minor modification, or significant modification. In the event that a discrepancy exists between the information in an application and the conditions of its approval, the conditions of approval shall prevail.

(kk) The Department may withdraw its approval of an operating permit, minor modification, or significant modification if the person to whom the Department has issued the permit or modification:

1. Does not begin construction or installation within one year from the date of approval of the permit or modification; or

2. Discontinues construction or installation for a period of more than one year.

(ll) Any person who is subject to the provisions of this chapter and who fails to conform to its requirements may be subject to civil penalties in accordance with N.J.A.C. 7:27A-3 or criminal penalties pursuant to N.J.S.A. 26:2C-19 or both.

(mm) Any information which the Department needs to take into consideration in making a decision on an application shall be submitted to the Department for incorporation into the application prior to the Department making a decision on the application. If the Department needs any information beyond what is submitted in the application, the Department shall request such additional information from the applicant.

(nn) An affirmative defense to liability shall be available pursuant to the conditions of this section for penalties or other sanctions for violating certain provisions or conditions of an operating permit. The affirmative defense shall be available for a violation of a provision or condition of the operating permit only if:

1. The violation occurred as a result of an equipment malfunction, an equipment start-up or shutdown, or during the performance of necessary equipment maintenance; and
2. The affirmative defense is asserted and established as required by N.J.S.A. 26:2C-19.1 through 19.5 and any implementing rules.

(oo) Any person who has submitted to the Department an administratively complete application for an initial operating permit or for a modification to an operating permit may, during the Department's review of the application, place the equipment or control apparatus covered by the application on the footings or foundation where it is intended to be used, provided that:

1. The person notifies the Department, via certified mail, of the intent to so place the equipment or control apparatus, at least seven days prior to commencing the placement; and
2. Such placement is not prohibited by Federal law.

(pp) If a person constructs or places equipment or control apparatus in accordance with (oo) above, and the Department determines that the equipment or control apparatus or its placement is inconsistent with applicable State law or rules, the person shall be subject to civil or criminal penalties for the inconsistent action only if the construction or placement results in air contaminant emissions. Any costs incurred by the person in connection with the construction or placement may not be used as grounds for an appeal of the Department's decision on the permit application.

(qq) No permittee shall test or operate air pollution control apparatus or process equipment that has been installed at risk, pursuant to (oo) above, until a minor modification or significant modification of the operating permit has been submitted and a preconstruction approval has been issued by the Department.

(rr) For a person seeking approval of an environmental improvement pilot test, as defined at N.J.A.C. 7:27-22.1, of air pollution control equipment or other environmental clean-up equipment, the Department will take final action on the application for preconstruction approval within 30 days of an administratively complete application. An administratively complete application shall meet all application contents requirements for a minor modification of the operating permit set forth at N.J.A.C. 7:27-22.23(f) and (g). The approval will be effective for 90 days, and may be renewed by application to the Department. The fee for an environmental improvement pilot test is set forth at N.J.A.C. 7:27-22.31.

(ss) For the purposes of this subchapter, any VOCs which are neither HAPs, nor are specified by the Department as air contaminants regulated by New Jersey pursuant to N.J.S.A. 26:2C-9.2i (P.L. 1995, c.188, § 4(i)), shall be considered as a single air contaminant, and may be used interchangeably. Such use shall not be considered installation or modification.

(tt) The following information is available from the Department:

1. A list of air contaminants currently listed by EPA as HAPs pursuant to 42 U.S.C. § 7412(b) may be requested from the Department at the address set forth at N.J.A.C. 7:27-22.3(t). A list of regulated air contaminants may also be requested from the Department at that address; and
2. Technical manuals may be requested from the Department at the following address:

New Jersey Department of Environmental Protection
Map Sales and Publications Office
CN 417
Trenton, New Jersey 08625-0417
Telephone: (609) 777-1039

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).
Amended by R.1996 d.303, effective July 1, 1996 (operative August 2, 1996).
See: 28 N.J.R. 1147(b), 28 N.J.R. 3414(a).
Amended (l).

7:27-22.4 General application procedures

(a) The procedures in this section apply to all applications and notices submitted to the Department pursuant to this subchapter. Specific procedures for initial operating permits, administrative amendments, seven-day-notice changes, minor modifications, significant modifications, and renewals can be found at N.J.A.C. 7:27-22.5, 22.20, 22.22, 22.23, 22.24, and 22.30, respectively.

(b) Any application or any notice of a seven-day-notice change shall be submitted to the Department on forms obtained from the Department at the address at N.J.A.C. 7:27-22.3(t), or in accordance with electronic data interchange (EDI) procedures established by the Department.

(c) An applicant may submit an application or notice to the Department electronically, using predefined standards and information exchange protocols to be contained in the Department's Technical Manual on Electronic Transfer of Information, which will be available from the Department at the address listed at N.J.A.C. 7:27-22.3(t). This technical manual will specify a data dictionary and a file format, and any ANSI X12 compliant conventions required by the Department.

(d) A copy of any application or notice submitted to the Department shall also be submitted to EPA at the following address, unless EPA waives the requirement for notice at 40 CFR 70.8, or determines that an application summary, with any relevant portion of the permit application, may be submitted in lieu of the complete application.

United States Environmental Protection Agency,
Region II
Air Compliance Branch
290 Broadway
New York, New York 10007-1866

(e) An applicant for an initial operating permit or operating permit renewal is encouraged to submit an application to the Department no less than 90 days prior to the applicable application deadline set forth at N.J.A.C. 7:27-22.5 or 22.30, respectively.

(f) Within 30 days of receipt of an application, the Department will issue a letter detailing any deficiencies in respect to administrative completeness in the application, thereby providing the applicant the opportunity to correct the deficiencies prior to the application deadline.

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).

7:27-22.5 Application procedures for initial operating permits

(a) The application procedures in this section apply to all applications submitted to the Department for initial operating permits.

(b) The owner or operator of a facility subject to this subchapter shall submit a timely and administratively complete application for an initial operating permit. To be considered timely, an administratively complete application for an initial operating permit shall be submitted to the Department no later than the applicable deadline established in this section. An applicant for an initial operating permit is encouraged to submit the application to the De-

partment no less than 90 days prior to the applicable application deadline set forth in this section. Within 30 days of receipt of an application, the Department will issue a letter detailing any deficiencies in respect to administrative completeness in the application, thereby providing the applicant the opportunity to correct the deficiencies prior to the complete application deadline listed at (c) below. An application shall be deemed administratively complete if the Department does not notify the applicant, within 60 days of its receipt of the application, that additional information is required.

(c) For an existing facility subject to this subchapter, the applicable deadline for submitting an administratively complete application for an initial operating permit is the earliest deadline below which applies to the facility:

1. For affected Title IV facilities with source operations subject to the acid deposition control program Phase II requirements for initial operating permits, the applicable deadline specified at N.J.A.C. 7:27-22.29(b);
2. For facilities with any source operation designated by EPA pursuant to 40 CFR 70.3(a)(5) as requiring an operating permit, within 12 months after the effective date of EPA's designation, or by a later deadline specified by EPA in its designation; and
3. For all other facilities, by the deadline in the table below as determined by the facility's primary SIC code, as reported to the New Jersey Secretary of State:

SIC Code	Complete Application deadline	Suggested Early Submittal
2000 through 2086	8/15/95	5/15/95
2088 through 2199	8/15/95	5/15/95
4900 through 4910	8/15/95	5/15/95
4911 ¹	8/15/95	5/15/95
4912 through 4939	8/15/95	5/15/95
6400 through 6999	8/15/95	5/15/95
8300 through 9999	8/15/95	5/15/95
4911 ²	11/15/95	8/15/95
4200 through 4399	11/15/95	8/15/95
5900 through 6399	11/15/95	8/15/95
7000 through 7199	11/15/95	8/15/95
7500 through 8299	11/15/95	8/15/95
0000 through 1299	5/15/96	2/15/96
1400 through 1999	5/15/96	2/15/96
3200 through 3599	5/15/96	2/15/96
4000 through 4199	5/15/96	2/15/96
4400 through 4499	5/15/96	2/15/96
4800 through 4899	5/15/96	2/15/96
5300 through 5499	5/15/96	2/15/96
1300 through 1399	11/15/96	8/15/96
2700 through 2799	11/15/96	8/15/96
2900 through 2999	11/15/96	8/15/96
3600 through 3999	11/15/96	8/15/96
4500 through 4799	11/15/96	8/15/96
7300 through 7499	11/15/96	8/15/96
2200 through 2599	5/15/97	2/15/97
3000 through 3199	5/15/97	2/15/97
5000 through 5299	5/15/97	2/15/97
5500 through 5899	5/15/97	2/15/97

SIC Code	Complete Application deadline	Suggested Early Submittal
7200 through 7299	5/15/97	2/15/97
2087	11/15/97	8/15/97
2600 through 2699	11/15/97	8/15/97
2835 through 2899	11/15/97	8/15/97
2800 through 2834	5/15/98	2/15/98
4940 through 4999	5/15/98	2/15/98

(1) If the facility is located in Atlantic, Burlington, Gloucester, Hudson, Hunterdon, Salem, Union, Camden, Monmouth, Sussex, or Warren County.

(2) If the facility is located in Bergen, Cape May, Cumberland, Essex, Mercer, Middlesex, Ocean, Morris, Passaic, or Somerset County.

(d)-(e) (Reserved)

(f) For a new facility subject to this subchapter, the deadline for submitting an initial operating permit application is the later of the following:

1. The applicable deadline set forth at (c) above; or
2. Twelve months after the new facility commences operation.

(g) A new facility subject to this subchapter may either obtain preconstruction permit and operating certificate approval pursuant to N.J.A.C. 7:27-8 or such facility may elect to obtain both preconstruction and operating permit approval by the submittal and approval of an operating permit application pursuant to this subchapter prior to construction of the facility. In either situation, the facility must submit an application for an operating permit pursuant to (f) above.

(h) For an existing facility that becomes subject to this subchapter through a change to the facility or to any source operation, or to the use thereof, the applicable deadline for submitting the application for an initial operating permit is the later of the following:

1. The applicable deadline set forth at (c) above; or
2. Twelve months after the new or changed facility commences operation.

(i) For a facility that becomes subject to this subchapter through a change to any applicable requirement, or creation of a new applicable requirement, the applicable deadline for submitting the application for an initial operating permit, if no deadline is specified in the new requirement, is the later of the following:

1. The applicable deadline set forth at (c) above; or
2. Twelve months after the effective date of the new applicable requirement.

(j) If a facility has over 100 source operations, the owner or operator may elect to divide the facility into two or more components, and submit a separate application for an initial operating permit for each component. Such applications shall be submitted on a schedule proposed by the owner or operator and approved by the Department, except that the application for the final component shall be submitted no later than the application deadline established for the facility pursuant to (c) above.

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).

7:27-22.6 Operating permit application contents

(a) To be administratively complete, an application for an initial operating permit shall include all information required by this section and all application fees required pursuant to N.J.A.C. 7:27-22.31. The required information shall be provided on and with forms obtained from the Department, which will direct the applicant to set the information forth in a format such that the Department can incorporate the information readily into the draft operating permit.

(b) The required contents of an application for authorization to operate under a general operating permit, an administrative amendment, a minor modification, a significant modification, or a renewal of an operating permit are not set forth in this section, but rather are set forth at N.J.A.C. 7:27-22.14, 22.20, 22.23, 22.24, and 22.30, respectively. Requirements for submitting a notice of a seven-day-notice change are set forth at N.J.A.C. 7:27-22.22.

(c) Any source operation at a facility subject to this subchapter shall be included in the facility's application for an operating permit, except for exempt activities as defined at N.J.A.C. 7:27-22.1.

(d) All source operations which are not exempt as defined at N.J.A.C. 7:27-22.1 and are significant or insignificant source operations shall be included in a facility's application for an operating permit. Source operations shall be classified as either significant or insignificant, as defined at N.J.A.C. 7:27-22.1. Different types and amounts of information are required for significant and insignificant source operations in the application for an operating permit.

(e) In an application, an owner or operator may claim a source operation to be an insignificant source operation as defined at N.J.A.C. 7:27-22.1.

(f) An application for an initial operating permit shall include all information required by the application form, the instructions accompanying the application form, and the applicable completeness checklist(s) for the application. This shall include, but is not limited to, the following:

1. Information pertaining to the identification of the applicant, including:
 - i. The company name and mailing address, division name and the plant name and address (if different);
 - ii. The name and address of each owner, each owner's agent (if any), and each operator of the facility;
 - iii. The name and telephone number of the on-site facility manager and of any additional on-site contact person; and