

CHAPTER 27

AIR POLLUTION CONTROL

Authority

N.J.S.A. 26:2C-1 et seq. and N.J.S.A. 26:2D-1 et seq.

Executive Order No. 66(1978) Expiration Date

Chapter 27, Air Pollution Control, is exempt from Executive Order No. 66(1978).

Chapter Historical Note

Chapter 27, Air Pollution Control, was filed and became effective prior to September 1, 1969.

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SUBCHAPTER 1. GENERAL PROVISIONS

7:27-1.1 Scope

Unless otherwise provided by rule or statute, the following shall constitute the rules of the Bureau of Air Pollution Control and shall govern the emitting of and such activities as result in the introducing of contaminants into the ambient atmosphere.

7:27-1.2 Construction

(a) These rules shall be construed so as to permit the Department, the Bureau of Air Pollution Control and its various agencies to discharge its statutory functions.

(b) The Commissioner and the Director of the Division of Environmental Quality may amend, expand or repeal these rules after public hearing. Such actions shall be filed with the Secretary of State as required by law.

7:27-1.3 Practice where rules do not govern

The Commissioner, the Director of the Division of Environmental Quality or any agency chief shall exercise his discretion in respect of any other matters not governed by these rules.

7:27-1.4 Definitions

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

“Air pollution” means the presence in the outdoor atmosphere of substances in quantities which are injurious to human, plant or animal life or to property or unreasonably interfere with the comfortable enjoyment of life and property throughout the State and in such territories of the State as shall be affected thereby and excludes all aspects of employer-employee relationship as to health and safety hazards.

“Assertedly confidential information” means information which is the subject of a confidentiality claim, for which a confidentiality determination has not been made.

“ASTM” means the American Society for Testing and Materials.

“British thermal unit” or “BTU” means the quantity of heat required to raise the temperature of one avoirdupois pound of water one degree Fahrenheit at 39.1 degrees Fahrenheit.

“Carbon monoxide” or “CO” means a gas comprised of molecules consisting of one carbon atom and one oxygen atom.

“CFR” means the Code of Federal Regulations.

“Claimant” means any person who submits a confidentiality claim under this subchapter.

“Class confidentiality determination” means a confidentiality determination made by the Department under N.J.A.C. 7:27-1.17, for a class of information.

“Commissioner” means the State Commissioner of Environmental Protection who is the chief administrative officer of the State Department of Environmental Protection.

SUBCHAPTER 8. PERMITS AND CERTIFICATES FOR MINOR FACILITIES (AND MAJOR FACILITIES WITHOUT AN OPERATING PERMIT)

Subchapter Historical Note

Unless otherwise expressly noted, all provisions of this Subchapter were adopted pursuant to authority of N.J.S.A. 26:2C-8 and 26:2C-9 and were filed and became effective prior to September 1, 1969. Subsequent revisions were filed January 4, 1973, as R.1973 d.10 to become effective on March 5, 1973. See: 4 N.J.R. 184(b), 5 N.J.R. 38(a). Additional revisions were filed March 29, 1976, as R.1976 d.96 to become effective on June 1, 1976. See: 7 N.J.R. 308(a), 8 N.J.R. 221(c). See section annotations for subsequent rulemakings.

7:27-8.1 Definitions

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

“Actual emissions” means the rate at which an air contaminant is actually emitted, either directly or indirectly, to the outdoor atmosphere, in units of mass per calendar year, seasonal period, or other time period specified by the Department.

“Agricultural commodity” means any vegetable matter or animal matter.

“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 impact analysis” means a procedure, entailing the use of air quality simulation modeling, for determining whether air contaminant emissions will result in ambient air concentrations that exceed standards established for the protection of human health and welfare and the environment.

“Air quality simulation model” means a mathematical procedure, taking into account the dispersive capacity of the atmosphere, meteorological data, topography, and other relevant factors, to predict the concentration of an air contaminant in the ambient air. Such procedure may entail use of a mathematical model or a physical model.

“Air stripping equipment” means equipment used to transfer any air contaminant from water or other liquids directly or indirectly into the outdoor atmosphere including, but not limited to, packed columns and water spray equipment.

“Ambient air monitoring” means the measurement of concentrations of one or more air contaminants in the outdoor atmosphere.

“Amendment” means a change made to a permit and certificate under N.J.A.C. 7:27-8.21, Amendments.

“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.

“Banking” means the reservation of creditable emission reductions, pursuant to N.J.A.C. 7:27-18, for future use as emission offsets.

“Category I” means a class of applications which require less review and are therefore subject to a lower fee than Category II applications. A Category I application is an application which covers a significant source which includes the following types of equipment:

1. Metalworking equipment including, but not limited to, welders, grinders, and drill presses;
2. Enclosed stationary solid material handling equipment using pneumatic, bucket or belt conveying systems that have particulate control apparatus that achieves a minimum removal efficiency of 99 percent and the particulate control apparatus serving the equipment;
3. Plastics machining or extruding equipment; and
4. An open top surface cleaner which is equipped with a cover and free-board chiller. This does not include any surface cleaner which uses a HAP.

“Category II” means a class of applications for a preconstruction permit or certificate for certain types of significant sources. Category II applications are subject to different fees than Category I applications. Applications which are not defined above as belonging to Category I are Category II applications.

“Certificate” means either an operating certificate or a temporary operating certificate, which is legally valid.

“CFR” means the Code of Federal Regulations.

“Class I substance” means an air contaminant that is listed in 42 U.S.C. § 7671a(a), or promulgated by EPA in a Federal rule, as a substance that has been found to cause or contribute significantly to harmful effects on the stratospheric ozone layer.

“Class II substance” means an air contaminant that is listed in 42 U.S.C. § 7671a(b), or promulgated by EPA in a Federal rule, as a substance that is known or may reasonably be anticipated to cause or contribute to harmful effects on the stratospheric ozone layer.

“Clean Air Act” or “CAA” means the Federal Clean Air Act, 42 U.S.C. §§ 7401 et seq. and all subsequent amendments or supplements to that Act.

“Commercial fuel” means solid, liquid, or gaseous fuel normally produced or manufactured, and sold for the purpose of creating useful heat.

“Compliance inspection” means the on-site examination by representatives of the Department of equipment or control apparatus to determine if the requirements of this subchapter and other applicable laws have been and are being complied with.

“Compliance plan change” means a change made to a permit and certificate under N.J.A.C. 7:27-8.19, Compliance plan changes.

“Construct” or “construction” means to fabricate or erect equipment or control apparatus at a facility where it is intended to be used, but shall not include the dismantling of existing equipment or control apparatus, site preparation, or the ordering, receiving, temporary storage, or installation of equipment or control apparatus. Unless otherwise prohibited by Federal law, this term shall also not include the pouring of footings or placement of a foundation where equipment or control apparatus is intended to be used.

“Consumer Price Index” or “CPI” means the annual Consumer Price Index for a calendar year as determined year to year using the decimal increase in the September through August, 12-month average for the previous year of the Consumer Price Index for All Urban Consumers (CPI-U), as published by the United States Department of Labor.

“Control apparatus” means any device which prevents or controls emissions.

“Conveyorized surface cleaner” means a surface cleaner through which the parts to be cleaned are moved by means of a continuous, automatic system.

“Criteria pollutant” means any air contaminant for which a national ambient air quality standard has been promulgated under 40 CFR 50 or for which a State ambient air quality standard has been promulgated in N.J.A.C. 7:27-13.

“Delivery vessel” means any vehicle designed and constructed or converted to be capable of transporting liquid VOC cargo such as gasoline or fuel oil. This term includes, but is not limited to, tank trucks, tank trailers, railroad tank cars, and marine tank vessels.

“Department” means the New Jersey Department of Environmental Protection.

“Distillates of air” means helium (He), nitrogen (N₂), oxygen (O₂), neon (Ne), argon (Ar), krypton (Kr), xenon (Xe), and carbon dioxide(CO₂).

“Domestic treatment works” means a publicly or privately owned treatment works and includes a treatment works processing primarily domestic wastes together with any ground water, surface water, storm water, or industrial process wastewater that may be present.

“Domestic waste” means waste derived from humans, animals, households, restaurants, cafeterias, hotels, hospitals, markets, and similar installations.

“Dry cleaning equipment” means equipment, located at a commercial establishment, used for cleaning textiles or garments, in which the cleaning agent is a chemical or petroleum solvent.

“Dump” means a land site at which solid waste is disposed of in a manner which does not protect the environment, is susceptible to open burning, or is exposed to the elements, vectors and scavengers.

“Effective stack height” means the distance to the plume center line from the ground as determined by adding the plume rise to the physical height of the stack.

“Effluent limitation” means any restriction on quantities, quality, discharge rates, concentration of chemical, physical, thermal, biological, or other constituents of a pollutant. This term shall have the same meaning as defined for the term “effluent limitation” at N.J.A.C. 7:14A-1.9.

“Emergency” means any situation which arises from sudden and reasonably unforeseeable events beyond the control of a facility, such as an act of God, which requires immediate corrective action to restore normal operation and which causes the facility, due to unavoidable increases in emissions attributable to the emergency to exceed a technology-based emissions limitation set forth in its preconstruction permit and certificate in effect. This term shall not include non-compliance caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

“Emissions” means any air contaminant or category of air contaminants discharged directly or indirectly into the outdoor atmosphere.

“Emissions unit” means any part of activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under 42 U.S.C. § 7412(b).

“Emit” means to cause or release emissions.

“Environmental improvement pilot test” means a sampling and analytical program using prototype equipment or processes on a temporary basis for the purpose of collecting data necessary for the design of a full scale process to achieve an environmental improvement, or for the purpose of determining the feasibility of using the equipment or process for a particular environmental improvement.

“EPA” means the United States Environmental Protection Agency.

“Equipment” means any device capable of causing the emission of an air contaminant, and any stack or chimney, conduit, flue, duct, vent or similar device connected or attached to, or serving the equipment.

“Facility” means the combination of all structures, buildings, equipment, control apparatus, storage tanks, source operations, and other operations that are located on a single site or on contiguous or adjacent sites and that are under common control of the same person or persons.

“Facility-wide permit” means a single permit issued by the Department to the owner or operator of a priority industrial facility incorporating the permits, certificates, registrations, or any other relevant Department approvals previously issued to the owner or operator of the priority industrial facility pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., and the appropriate provisions of the Pollution Prevention Plan prepared by the owner or operator of the priority industrial facility pursuant to N.J.S.A. 13:1D-41 and 42. This term shall have the same meaning as defined for the term “facility-wide permit” at N.J.A.C. 7:1K-1.5.

“Farm” means any land which meets the eligibility requirements of the Farmland Assessment Act of 1964 (N.J.S.A. 54:4-23.1 et seq.) for land deemed in agricultural use.

“Federally enforceable” means any limitation or condition on operation, production, or emissions which can be enforced by the EPA. These limitations and conditions that can be enforced by EPA include, but are not limited to, those established pursuant to:

1. Any standard of performance for new stationary sources (NSPS) promulgated at 40 CFR Part 60 or promulgated under 42 U.S.C. § 7411;
2. Any national emission standard for hazardous air pollutants (NESHAP) promulgated at 40 CFR Part 61, 40 CFR Part 63, or promulgated under 42 U.S.C. § 7412;
3. Any standard or other requirement provided for in a SIP that has been approved by EPA, or promulgated through rulemaking by EPA; or
4. Any permit or order issued pursuant to requirements established at 40 CFR 51, Subpart I (including any pre-construction permit and certificate issued pursuant to N.J.A.C. 7:27-8 or any operating permit issued pursuant to N.J.A.C. 7:27-22); 40 CFR 52.21; 40 CFR Part 70; 40 CFR Part 71; or 40 CFR Part 72.

“Gasoline dispensing facility” means a facility consisting of one or more stationary gasoline storage tanks together with dispensing devices used to fill vehicle fuel tanks.

“General permit” means a type of standardized permit and certificate, issued by the Department under N.J.A.C. 7:27-8.8.

“Graphic arts operation” means the application of one or more surface coating formulations non-uniformly across a surface, using one or more printing units, together with any associated drying or curing areas. A single graphic arts operation ends after drying or curing and before other surface coating formulations are applied. For any web line, this term means an entire application system, including any associated drying ovens or areas between the supply roll and take-up roll or folder. This term does not include any surface coating operation.

“Greenhouse gas” means any of the following: carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), any hydrofluorocarbon (HFC), and sulphur hexafluoride (SF₆).

“Group 1 TXS” means an air contaminant that is found on the list of Group 1 TXS at N.J.A.C. 7:27-17.3, which is incorporated by reference herein, together with all amendments and supplements. As of June 12, 1998, the following is the complete list of Group 1 TXS: Benzene (Benzol), Carbon tetrachloride (Tetrachloromethane), Chloroform (Trichloromethane), Dioxane (1,4-Diethylene dioxide; 1,4-Dioxane), Ethylenimine (Aziridine), Ethylene dibromide (1,2-Dibromoethane), Ethylene dichloride (1,2-Dichloroethane), 1,1,2,2-Tetrachloroethane (sym Tetrachloroethane), Tetrachloroethylene (Perchloroethylene), 1,1,2-Trichloroethane (Vinyl trichloride), and Trichloroethylene (Trichloroethene).

“Group 2 TXS” means an air contaminant that is found on the list of Group 2 TXS at N.J.A.C. 7:27-17.3, which is incorporated by reference herein, together with all amendments and supplements. As of June 12, 1998, the following is the complete list of Group 2 TXS: Methylene chloride (Dichloromethane), 1,1,1-Trichloroethane (Methyl chloroform).

“HAP” or “hazardous air pollutant” means any air pollutant listed in or pursuant to subsection (b) of section 112 of the Federal Clean Air Act (42 U.S.C. § 7412).

“Hazardous waste” means those materials defined as hazardous waste under N.J.A.C. 7:26-8.

“Hazardous waste landfill” means a solid waste facility or part of a facility where hazardous waste is placed in or on land and which is not a land treatment facility, a surface impoundment, an injection well, or a waste pile.

“Identical” means, in relation to the replacement of equipment or control apparatus, that the equipment or

control apparatus is of the same type and size as the equipment or control apparatus being replaced, and is used in the same process, with the same materials.

“Incinerator” means any device, apparatus, equipment, or structure using combustion or pyrolysis for destroying, reducing or salvaging any material or substance, but does not include thermal or catalytic oxidizers used as control apparatus on manufacturing equipment.

“Indirect emissions” means a discharge of any air contaminant into the outdoor atmosphere through any opening that is not a stack or chimney directly connected to the equipment.

“Insignificant source” means, for the purposes of this subchapter, equipment or control apparatus that does not need a permit and certificate under N.J.A.C. 7:27-8.2.

“Install” or “installation” means to carry out final setup activities necessary to provide equipment or control apparatus with the capacity for use or service. This term includes, but is not limited to, connection of equipment or control apparatus, associated utilities, piping, ductwork or conveyor systems. This term does not include construction, as defined above, nor the reconfiguration of equipment or control apparatus to an alternate configuration specified in a permit application and approved by the Department. This term includes relocation of existing equipment or control apparatus.

“Intermediate product” means one or more desired result(s) of a production process that is made into a product in a subsequent production process at the same industrial facility, without the need for pollution treatment prior to its being made into a product. An intermediate product is not considered nonproduct output. Increases in quantities of intermediate products do not count towards use reduction or nonproduct output reduction goals. This term shall have the same meaning as defined for the term “intermediate product” at N.J.A.C. 7:1K-1.5.

“Laboratory operations” means any action, process, or treatment utilizing chemical, physical, or biological factors to conduct experimental research, tests, or demonstrations.

“Land treatment facility” means a facility, or part of a facility, at which waste is applied onto or incorporated into the soil surface so as to change the physical, chemical, or biological characteristics or composition of the waste.

“Liquid particles” means particles which have volume but are not of rigid shape.

“MACT standard” or “Maximum Achievable Control Technology standard” means a National Emission Standard for a Hazardous Air Pollutant (NESHAP) establishing an emission limitation for a specific category or subcategory of facilities which emit one or more hazardous air pollutants (HAPs), which NESHAP is:

1. Promulgated by EPA pursuant to 42 U.S.C. § 7412; or
2. Determined by the Department on a case-by-case basis pursuant to 42 U.S.C. § 7412(g) or (j).

“Major facility” means a facility which has the potential to emit any of the air contaminants listed below in an amount which is equal to or exceeds the applicable major facility threshold level given below. The major facility threshold levels are as follows:

<u>Air Contaminant</u>	<u>Major Facility Threshold Level</u>
Carbon monoxide	100 tons per year
PM-10	100 tons per year
TSP	100 tons per year
Sulfur dioxides	100 tons per year
NO _x	25 tons per year
VOC	25 tons per year
Lead	10 tons per year
Any HAP	10 tons per year
All HAPs, collectively	25 tons per year
Any other air contaminant	100 tons per year

“Manufacturing process” means any action, operation or treatment embracing chemical, industrial, manufacturing, or processing factors, methods or forms including, but not limited to, furnaces, kettles, ovens, converters, cupolas, kilns, crucibles, stills, dryers, roasters, crushers, grinders, mixers, reactors, regenerators, separators, filters, reboilers, columns, classifiers, screens, quenchers, cookers, digesters, towers, washers, scrubbers, mills, condensers or absorbers.

“Modify” or “modification” means any physical change in, or change in the method of operation of, existing equipment or control apparatus that increases the amount of actual emissions of any air contaminant emitted by that equipment or control apparatus or that results in the emission of any air contaminant not previously emitted. This term shall not include normal repair and maintenance. Also, for the purposes of this definition, “air contaminant” shall have the meaning of “category of air contaminants” in a case where the regulatory limit is placed on a grouping of contaminants (such as VOCs) rather than on a single species of contaminant.

“NESHAP” means a National Emission Standard for a Hazardous Air Pollutant as promulgated under 40 CFR Part 61 or 40 CFR Part 63.

“Nonattainment area” means any area identified by the Department as one in which the ambient air concentration of a criteria pollutant exceeds an ambient air quality standard.

“Non-commercial fuel” means solid, liquid or gaseous fuel not normally produced or manufactured, and sold for the purpose of creating useful heat.

“Nonproduct output” or “NPO” means all hazardous substances or hazardous wastes that are generated prior to storage, out-of-process recycling, treatment, control or disposal, and that are not intended for use as a product. NPO includes fugitive releases. This term shall have the same meaning as defined for the term “nonproduct output” at N.J.A.C. 7:1K-1.5.

“NO_x” means all oxides of nitrogen including, but not limited to, nitric oxide and nitrogen dioxide, except nitrous oxide.

“NSPS” means Standards of Performance for New Stationary Sources as promulgated under 40 CFR 60, commonly referred to as New Source Performance Standards.

“112(r) contaminant” means an air contaminant that is listed by EPA pursuant to 42 U.S.C. § 7412 as a substance which, in the case of an accidental release, is known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment.

“Operating certificate” or “certificate” means a certificate issued by the Department under this subchapter to authorize operation of equipment or control apparatus, pursuant to the Air Pollution Control Act of 1954, specifically N.J.S.A. 26:2C-9.2.

“Operating permit” means the permit described in Title V of the Federal Clean Air Act, 42 U.S.C. §§ 7661 et seq., and in N.J.A.C. 7:27-22. This term shall include a general operating permit which is applicable facility wide, but does not include a general operating permit which applies only to a part of a facility. Where a general operating permit applies only to a part of a facility, the general operating permit shall be incorporated into the operating permit. This term also includes an operating permit issued for a temporary facility; for a facility subject to a MACT or GACT standard pursuant to N.J.A.C. 7:27-22.26; or for a component of a facility pursuant to N.J.A.C. 7:27-22.5(j).

“Operational parameter” means a measurable characteristic of the operation of a piece of equipment or control apparatus.

“Order” means any and all orders issued by the Department including, but not limited to, Administrative Orders, and Administrative Consent Orders.

“Particles” means any material, except uncombined water, which exists as liquid particles or solid particles at standard conditions.

“Performance test” means a series of test runs used for the purpose of determining emissions of air contaminants to the outdoor atmosphere.

“Periodic compliance inspection” means any compliance inspection carried out in accordance with a schedule includ-

ed in the conditions of approval of a permit or certificate. This term does not include a compliance inspection which the Department may carry out as part of its consideration as to whether to approve or renew an operating certificate.

“Permit” means a preconstruction permit as defined in this section.

“Permit revision” means a change made to a permit and certificate under N.J.A.C. 7:27-8.18, Permit revisions.

“Permittee” means, for the purpose of this subchapter, any person to whom the Department has issued a permit or certificate pursuant to this subchapter.

“Person” means an individual, public or private corporation, company, partnership, firm, association, society, joint stock 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.

“Plume rise” means the vertical distance from the point at which an effluent stream is discharged into the outdoor atmosphere to the highest point attained by the center line of the effluent stream.

“PM-10” means a class of air contaminants which includes all particulate matter having an aerodynamic diameter less than or equal to a nominal 10 micrometers.

“Pollution Prevention Assessment” means an assessment of potential pollution prevention opportunities for the use, generation and release of non-hazardous substances, prepared by an owner or operator of a priority industrial facility that is covered by an effective facility-wide permit issued by the Department, containing the same elements as those required for hazardous substances by N.J.A.C. 7:1K-4.3 and 4.5. This term shall have the same meaning as defined for the term “Pollution Prevention Assessment” at N.J.A.C. 7:1K-1.5.

“Pollution Prevention Plan” means a plan required to be prepared by an industrial facility pursuant to N.J.S.A. 13:1D-41 and 42, N.J.A.C. 7:1K-3 and N.J.A.C. 7:1K-4. This term shall have the same meaning as defined for the term “Pollution Prevention Plan” at N.J.A.C. 7:1K-1.5.

“Pollution prevention process modification” means any physical or operational change to a process which reduces air contaminant emissions to the environment. This definition is solely for purposes of at risk construction or operation in accordance with N.J.S.A. 26:2C-9.4 and this subchapter and shall not be deemed to amend or otherwise affect the definition of “pollution prevention” set forth in the New Jersey Pollution Prevention Act at N.J.S.A. 13:1D-37.

“Potential to emit” means the same as that term is defined by the EPA at 40 CFR 70.2 or any subsequent amendments thereto. In general, the potential to emit is the maximum aggregate capacity of a source operation or of a facility to emit an air contaminant under its physical and operational design. Any physical or operational limitation on the capacity of a source operation or a facility to emit an air contaminant, including any limitation on fugitive emissions as a result of any applicable requirement, control apparatus, and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design, if the limitation is Federally enforceable. Unless otherwise indicated, source-related fugitive emissions shall be included in the determination of potential to emit. However, the determination shall not include any banked emission reductions that are held by the owner or operator.

“Preconstruction permit” or “permit” means a legally valid permit, authorizing construction, installation, reconstruction, or modification of a significant source, issued by the Department under this subchapter pursuant to the New Jersey Air Pollution Control Act and in particular N.J.S.A. 26:2C-9.2.

“Private entity” means any private individual, corporation, company, partnership, firm, association, owner or operator but shall not include any municipal, county, or State agency or authority or any agency, authority or subdivision created by any municipal, county or State government.

“Process material testing” means the testing of any solid, liquid, or gaseous substance involved in a manufacturing process or other operation. This term includes, but is not limited to, fuel and other feed material, process intermediates, products, by-products, and wastes, but excludes any source emission testing.

“Process unit” means equipment assembled to produce intermediate or final products. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product. The storage and transfer of product or raw materials to and from the process unit shall be considered separate from the process unit for the purposes of making reconstruction determinations. Product recovery equipment shall be considered to be part of the process unit, not part of the control apparatus.

“Product” means one or more desired result(s) of a production process that is used as a commodity in trade in the channels of commerce by the general public in the same form as it is produced. Products include intermediate products transferred to a separate industrial facility owned or operated by the same owner or operator. This term shall have the same meaning as defined for the term “product” at N.J.A.C. 7:1K-1.5.

“Production process” means a process, line, method, activity or technique, or a series or combination of processes, lines, methods or techniques, used to produce a product or reach a planned result. This term shall have the same meaning as defined for the term “production process” at N.J.A.C. 7:1K-1.5.

“PSD” or “prevention of significant deterioration” means the permitting process defined in 40 CFR Part 52, which applies to new or modified major sources located in areas which are in attainment of the national ambient air quality standards for at least one air contaminant.

“Publicly owned treatment works” (POTW) means any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a “State or municipality.” This term includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

“Rate of production” means the quantity per unit time of any process intermediate, product, by-product, or waste generated through the use of any equipment, source operation, or a process.

“Raw material” means any input to equipment, control apparatus, or a process, including fuels, but excluding heat and other forms of energy. Such inputs may include mixtures, composites, compounds and elemental substances.

“Reconfiguration” means a change in the setup of equipment or control apparatus, or both, to an alternate configuration. This term also includes reorientation or reconnection into an alternate pattern of equipment or control apparatus, or both. This term does not include a change in the location of equipment or control apparatus from that specified in the preconstruction permit.

“Reconstruct” or “reconstruction” means the replacement of part(s) of equipment included in a process unit, or the replacement of part(s) of control apparatus, if the fixed capital cost of replacing the part(s) exceeds both of the following amounts:

1. Fifty percent of the fixed capital cost that would be required to construct a comparable new process unit; or, if it is part(s) of control apparatus that is being replaced, 50 percent of the fixed capital cost that would be required to construct comparable new control apparatus; and
2. \$80,000, in 1995 dollars, adjusted by the Consumer Price Index (CPI).

“Repair or maintenance” means upkeep of existing equipment or control apparatus, including the replacement of parts, but does not include the reconstruction of equipment or control apparatus.

“Research” means investigations directed toward the discovery of facts, scientific principles, reactions, or substances.

“Risk assessment” means a procedure for characterizing the probability that potential exposure to air contaminants will result in adverse effects on human health, or welfare or the environment.

“Sampling” means the selective collection of a quantity of raw materials, process intermediates, products, by-products or wastes.

“Sanitary landfill” means a solid waste facility, at which solid waste is deposited on or into the land as fill for the purpose of permanent disposal or storage for a period of time exceeding six months, except that it does not include any waste facility approved for disposal of hazardous waste.

“Seven-day-notice change” means a change made to a permit and certificate under N.J.A.C. 7:27-8.20, Seven-day-notice changes.

“Significant net emission increase” means an emission increase of any air contaminant determined pursuant to the procedures set forth in N.J.A.C. 7:27-18.7 to be a significant net emission increase.

“Significant source operation” or “significant source” means, for the purposes of this subchapter, equipment or control apparatus that requires a permit and certificate under N.J.A.C. 7:27-8.2.

“Solid particles” means particles of rigid shape and definite volume.

“Solid waste facility” means any system, site, equipment, or building which is utilized for the storage, collection, processing, transfer, transportation, separation, recycling, recovery, or disposal of solid waste.

“Source emission testing” means the testing of a discharge of any air contaminant from equipment, control apparatus or source operation through any stack or chimney.

“Source operation” or “source” means any process or any identifiable part thereof that emits or can reasonably be anticipated to emit any air contaminant. A source operation may include one or more pieces of equipment or control apparatus.

“Stack or chimney” means a flue, conduit or opening designed, constructed, or utilized for the purpose of emitting any air contaminant into the outdoor atmosphere.

“Standard conditions” means 70 degrees Fahrenheit (21.1 degrees centigrade) and one atmosphere pressure (14.7 pounds per square inch absolute or 760.0 millimeters of mercury).

“State implementation plan (SIP)” means a plan for the attainment of any NAAQS, prepared by a state and approved by the EPA pursuant to 42 U.S.C. § 7410.

“Stationary storage tank” means any immobile storage tank. This term also includes any delivery vessel, excluding a sealed vessel, such as a railroad tank car or similar container, used for storing VOC remaining on site at a facility for more than 30 days.

“Storage tank” means any tank, reservoir, or vessel which is a container for liquids or gases, wherein:

1. No manufacturing process, or part thereof, other than filling or emptying takes place; and
2. The only treatment carried out is that necessary to prevent change from occurring in the physical condition or the chemical properties of the liquids or gases deposited into the container. Such treatment may include recirculating, agitating, maintaining the temperature of the stored liquids or gases, or replacing air in the vapor space above the stored liquids or gases with an inert gas in order to inhibit the occurrence of chemical reaction.

“Stratospheric ozone depleting substance” means any Class I substance or any Class II substance.

“Surface cleaner” means a device to remove unwanted foreign matter from the surfaces of materials by using VOC or HAP solvents in liquid or vapor state.

“Surface coating operation” means the application of one or more surface coating formulations uniformly across a surface, using one or more coating applicators, together with any associated drying or curing areas. A single surface coating operation ends after drying or curing and before other surface coating formulations are applied. For any web coating line, this term means an entire coating application system, including any associated drying ovens or areas between the supply roll and take-up roll, that is used to apply surface coating formulations onto a continuous strip or web. This term does not include any graphic arts operation.

“Surface impoundment” or “impoundment” means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

“Surface stripping” means the removal of paints and other coatings from the surface of materials.

“Temporary facility” means a facility which, by design, is intended to be operated at more than one location and which is relocated more than once in five years.

"Temporary operating certificate" means an operating certificate with a term shorter than five years, issued under N.J.A.C. 7:27-8.7(d).

"Testing" means a procedure for the determination of the kind and amount of one or more air contaminants, potential air contaminants or air contaminant precursors present. This term includes, but is not limited to, sampling, sample custody, analysis, and reporting of findings.

"Test run" or "run" means a single integrated measurement or procedure used for the purpose of collecting a sample of any air contaminant emitted during a specified time interval.

"Total fixed capital cost" means the total sum, in dollars, paid to purchase and install equipment or control apparatus, including any design costs incurred. This term does not include any costs of operation or startup. This term also does not include the costs of dismantling any equipment or control apparatus being replaced, site preparation, placement of any footings or foundation upon which the structural elements of the equipment or control apparatus rest. This term also does not include any charges for legal services, governmental taxes or fees, or any patent or licensing costs.

"Total suspended particulate matter" or "TSP" means any air contaminant dispersed in the outdoor atmosphere which exists as solid particles or liquid particles at standard conditions and is measured in accordance with N.J.A.C. 7:27B-1; 40 CFR 60, Appendix A, Methods 5 through 5H; or another method approved by the Department and EPA.

"Use" means to engage in any form or manner of operation of equipment or control apparatus subsequent to the installation of such equipment or control apparatus. This term includes any trial operation.

"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 emissions limits or content standards, VOC shall be measured by test methods which have been approved in writing by the Department and are acceptable to EPA. This term does not include the 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. The list at 40 CFR 51.100(s)(1) currently excludes the compounds, and the classes of perfluorocarbons, set forth below from the definition of VOC:

Excluded compounds:

acetone
parachlorobenzotrifluoride (PCBTF);

cyclic, branched, or linear completely methylated siloxanes;

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);
methane

ethane

methylene chloride (dichloromethane)

1,1,1-trichloroethane (methyl chloroform)

trichlorofluoromethane (CFC-11)

dichlorodifluoromethane (CFC-12)

trifluoromethane (HFC-23)

1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113)

1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114)

chloropentafluoroethane (CFC-115)

chlorodifluoromethane (HCFC-22)

2,2-dichloro-1,1,1-trifluoroethane (HCFC-123)

2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)

1,1-dichloro-1-fluoroethane (HCFC-141b)

1-chloro-1,1-difluoroethane (HCFC-142b)

pentafluoroethane (HFC-125)

1,1,2,2-tetrafluoroethane (HFC-134)

1,1,1,2-tetrafluoroethane (HFC-134a)

1,1,1-trifluoroethane (HFC-143a)

1,1-difluoroethane (HFC-152a)

parachlorobenzotrifluoride (PCBTF) cyclic, branched or linear completely methylated siloxanes

Excluded classes of perfluorocarbons:

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.

Amended by R.1985 d.96, effective March 4, 1985 (operative April 5, 1985).

See: 16 N.J.R. 167(a), 17 N.J.R. 587(a).

Substantially amended.

Amended by R.1991 d.109, effective March 4, 1991 (operative March 31, 1991).

See: 22 N.J.R. 292(a), 22 N.J.R. 593(a), 23 N.J.R. 723(a).

Definitions added and technical revisions made.

Amended by R.1992 d.102, effective March 2, 1992 (operative March 28, 1992).

See: 23 N.J.R. 1858(b), 24 N.J.R. 792(a).

Amended "source operation" and "surface cleaner"; added "volatile organic compound VOC" and deleted "mathematical combination" and "volatile organic substance".

Amended by R.1993 d.129, effective March 15, 1993 (operative April 20, 1993).

See: 24 N.J.R. 3459(a), 25 N.J.R. 1231(b).

Added definitions for "carbon monoxide", "federally enforceable", "lead or Pb", "major facility", "oxides of nitrogen or NO_x", "Ozone or O₃", "PM-10", "potential to emit", "significant net emission increase", "State implementation plan (SIP)", "sulfur dioxide or SO₂", and "total suspended particulate matter or TSP".

Amended by R.1993 d.428, effective September 7, 1993 (operative October 4, 1993).

See: 24 N.J.R. 4323(a), 25 N.J.R. 4075(b).

Amended by R.1994 d.313, effective June 20, 1994 (operative July 26, 1994).

See: 25 N.J.R. 3339(a), 26 N.J.R. 2600(a).

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).

Administrative Correction.

See: 27 N.J.R. 1406(a).

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.

Case Notes

Temporary operating certificate was license entitling operator to hearing prior to nonrenewal. New Jersey Dept. of Environmental Protection v. Atlantic States Cast Iron Pipe Co., 241 N.J.Super. 591, 575 A.2d 895 (A.D.1990).

7:27-8.2 Applicability

(a) This subchapter applies to certain sources of air contaminant emissions. Some of the sources are pieces of equipment; others are source operations or processes. A source that is required to have a permit and certificate under this subchapter is called a "significant source." A source that is not required to have a permit and certificate under this subchapter is called an "insignificant source."

(b) A significant source located at a facility covered by an operating permit issued by the Department under N.J.A.C. 7:27-22 is not subject to this subchapter. However, the following requirements apply to sources at operating permit facilities:

1. Until an operating permit is issued for a source subject to operating permit requirements, the source remains subject to this subchapter, and any permits or certificates required by this subchapter must be obtained and maintained.

2. If a new source which is subject to operating permit requirements elects under N.J.A.C. 7:27-22.5(g) to obtain a preconstruction permit and certificate under this subchapter prior to obtaining an operating permit, the source shall comply with this subchapter and with any Federal preconstruction requirements that apply; and

3. In some cases, a portion of an operating permit facility (such as a research and development operation) is not subject to operating permit requirements. In such a case, the portion of the facility that is not subject to

operating permit requirements would remain subject to this subchapter.

(c) The following equipment and control apparatus, if it emits air contaminants, requires a preconstruction permit and an operating certificate:

1. Commercial fuel burning equipment with a maximum rated heat input of 1,000,000 BTU per hour or greater to the burning chamber;

2. Equipment which has the potential to emit any Group 1 or Group 2 TXS (or a combination thereof) at a rate greater than 0.1 pounds per hour (45.4 grams per hour);

3. Dry cleaning equipment;

4. A surface cleaner which uses a cleaning solution containing five percent or more VOCs, HAPs, or VOC and HAP combined and which is:

i. An unheated open top surface cleaner with a top opening of greater than six square feet (0.56 square meters) or a capacity greater than 100 gallons;

ii. A heated open top surface cleaner;

iii. A conveyORIZED surface cleaner; or

iv. A stationary spray cleaning or surface stripping operation using one half gallon or more of cleaning solution in any one hour;

5. Equipment used in a graphic arts operation which includes newspaper, lithographic, gravure, flexographic, letterpress and screen printing, in which the quantity of ink, fountain solution, or cleaning material used by a source in any one hour is equal to or greater than one half gallon;

6. Any tank or vessel which has a capacity of more than 100 gallons and which is used:

i. In etching, pickling, or plating; or

ii. In chromium electroplating or chromium anodizing;

7. A transfer operation involving gasoline or other VOCs regulated under N.J.A.C. 7:27-16.3 or 16.4, or a marine tank vessel loading or ballasting operation regulated under N.J.A.C. 7:27-16.5, if the operation is required to have a control device other than bottom fill or submerged fill;

8. Stationary storage tanks which have a capacity in excess of 10,000 gallons and which are used for the storage of liquids, except water or distillates of air;

9. Stationary storage tanks which have a capacity of 2,000 gallons or greater and which are used for the storage of a VOC or mixture of VOCs having a vapor pressure or sum of partial pressures of 0.02 pounds per square inch absolute (1.0 millimeters of mercury) or greater at standard conditions;

10. Tanks, reservoirs, containers and bins which have a capacity in excess of 2,000 cubic feet and which are used for the storage of solid particles;

11. Stationary material handling equipment using pneumatic, bucket or belt conveying systems from which emissions occur;

12. Equipment used in a surface coating operation including, but not limited to, spray and dip painting, roller coating, and electrostatic depositing, in which the quantity of coating or cleaning material used by a source in any one hour is equal to or greater than one half gallon of liquid;

13. Any equipment used for the burning of noncommercial fuel, crude oil or process by-products in any form;

14. An incinerator, except an incinerator exempted under (d)9 below;

15. Equipment which is used for treating groundwater, industrial waste water, or municipal wastewater with a solids content of less than two percent by weight as it enters the equipment (typical operations performed by this type of equipment include, but are not limited to, air stripping, aeration, digestion, thickening, flocculating, surface impounding, and dewatering), if the equipment does either of the following:

i. Treats or handles influent which has one or both of the following:

(1) A total concentration of VOCs and Group 2 TXS in the influent of 3,500 parts per billion by weight (ppbw) or more; or

(2) A total Group 1 TXS concentration in the influent of 100 ppbw or more; or

ii. Discharges more than 50 pounds per hour of sludge. For the purposes of this paragraph, wastewater with a solids content of two percent by weight or greater is considered sludge;

16. Equipment used for treating waste soils or sludges, including municipal solid wastes, industrial solid wastes, or recycled materials, if the influent to the equipment has a solids content of two percent by weight or greater. Typical operations performed by this type of equipment include, but are not limited to, soil cleaning, composting, pelletizing, grit classifying, drying, and transfer station operations. However this shall not include an area used as a temporary storage area, such as a concrete pad or a roll-off container, provided that the area is not also used for treatment;

17. Equipment used for the purpose of venting a closed or operating dump, sanitary landfill, hazardous waste landfill, or other solid waste facility, directly or indirectly into the outdoor atmosphere including, but not limited to, any transfer station, recycling facility, or municipal solid waste composting facility;

18. Any control apparatus serving equipment for which a permit and certificate is required pursuant to this section; and

19. Equipment in which the combined weight of all raw materials used, excluding air and water, exceeds 50 pounds in any one hour, except for equipment excluded from permit requirements under (c)3 through 18 above.

(d) Even if a source is listed in (c) above, it does not need a permit and certificate if it is:

1. A storage tank maintained under a pressure greater than one atmosphere provided that any vent serving such storage tank has the sole function of relieving pressure under emergency conditions;

2. Storage tanks, reservoirs, containers, or bins used on any farm for the storage of agricultural commodities produced by or consumed in the farm's own operations. This exemption does not include storage tanks, reservoirs, containers or bins used by distributors of agricultural commodities or by research facilities which develop products for use in agricultural production;

3. Equipment or control apparatus located at a facility with an operating permit issued under N.J.A.C. 7:27-22. Until the operating permit is issued, however, the equipment and control apparatus remain subject to this subchapter;

4. Aeration basins, lagoons and settling basins at publicly owned treatment works or domestic treatment works;

5. Equipment which is used for the sole purpose of wood working by sanding, drilling, cutting or planing, unpainted wood or wood products, and which vents solely into a room;

6. Hand held equipment for buffing, polishing, cutting, drilling, sawing, grinding, turning, or machining wood, metal or plastic. For the purposes of this subsection, "hand held" means "can reasonably be carried by one person";

7. Equipment at a battery charging station, except at a battery manufacturing plant;

8. A source used in any of the following, if the source is not part of a production process:

i. The activities of maintenance shops, such as welding, gluing, and soldering, performed indoors or outdoors;

ii. A laundry operation that does not use dry cleaning processes, and which services uniforms or other clothing which is used at the facility;

iii. Architectural maintenance activities conducted to take care of the buildings and structures at a facility, including repainting, reroofing, and sandblasting; and

iv. Food preparation to service facility cafeterias and dining rooms;

Attaching control apparatus to ovens and kilns without appropriate permit constituted air pollution violation; penalty imposed. *Cerotech, Inc. v. Division of Environmental Quality*, 92 N.J.A.R.2d (EPE) 21.

7:27-8.4 Applications

(a) An application for a preconstruction permit and certificate, permit revision, compliance plan change, environmental improvement pilot test approval, or for a renewal thereof, as well as a general permit registration, or a seven-day-notice, shall be submitted to the Department on forms obtained from the Department, in accordance with this section.

(b) Application forms and information may be obtained in the following ways:

1. In paper form, by contacting the Department at:

Bureau of New Source Review
Air Quality Permitting Program
Department of Environmental Protection
401 East State Street, Second Floor
PO Box 027
Trenton, New Jersey 08625-0027
Telephone: (609) 292-6716 or 1-800 441-0065
DEP Electronic Bulletin Board Service: (609)
292-2006
E-mail: AIRFORMS@dep.state.nj.us; or

2. In electronic form, through the Department's Air Information Management System (AIMS), which can be accessed in accordance with the AIMS guidance manual, available from the Department at the address in (b)1 above.

(c) An application, registration, or notice shall be submitted to the Department in one of the following ways:

1. On paper, sent or delivered to the address listed on the application form; or
2. Electronically, through AIMS.

(d) An application, registration or notice shall contain such details regarding the equipment or control apparatus as necessary to determine that the equipment or control apparatus is designed to operate without causing a violation of any relevant State or Federal laws or regulations. In addition, if a source is required to document advances in the art of air pollution control (or SOTA) under N.J.A.C. 7:27-8.11, Standards for issuing a permit, the Department shall require information necessary to determine compliance with the SOTA requirement in accordance with N.J.A.C. 7:27-8.12, State of the art. Information required under this subsection may include description of processes, raw materials used, operating procedures, physical and chemical nature of any air contaminant, volume of gas discharged, and such other information as the Department considers necessary.

(e) All information submitted to the Department shall be public information except that which is designated confidential in accordance with N.J.S.A. 26:2C-9.2 and N.J.A.C. 7:27-1. To claim information submitted as part of an application, registration or notice as confidential information, the applicant shall clearly mark the information as required at N.J.A.C. 7:27-1.6. The Department shall handle the confidentiality claim in accordance with N.J.A.C. 7:27-1.6 through 1.30.

(f) Before an operating certificate, or any renewal thereof, is approved, the Department may require the applicant to conduct such testing as is necessary, at the discretion of the Department, to verify that the kind and amount of air contaminants emitted from the equipment or control apparatus are in compliance with the limits established in the preconstruction permit and certificate and that only the air contaminants approved in the preconstruction permit are being emitted. If such testing is required, the applicant shall:

1. Submit a source-specific testing protocol to the Department, if such a protocol is required in the conditions of approval of the preconstruction permit or certificate. The protocol shall be submitted at least 60 days prior to the anticipated date of the testing, except where the Department determines that a different submittal date is needed to allow for adequate testing;

2. Obtain approval of any required source-specific testing protocol from the Department in advance of conducting the testing;

3. Conduct the testing in accordance with a standard testing procedure acceptable to the Department or the approved source-specific testing protocol approved in advance by the Department;

4. Contact the Department to schedule mutually acceptable testing dates and startup times at least 30 days in advance of the planned testing date for any testing conducted pursuant to a source-specific testing protocol, except in cases where the Department has approved a different test notification requirement in the preconstruction permit or certificate;

5. Submit the test report to the Department within 30 days after the completion of the sampling, unless a longer period for submission is approved in writing by the Department; and

6. Have the test report from any source emission testing reviewed and certified by a licensed professional engineer, or by an industrial hygienist who has been certified by the American Board of Industrial Hygiene, prior to their submission to the Department.

(g) The application, registration or notice form shall require the applicant to provide information about significant sources. The applicant does not need to include information on any insignificant sources, except where emissions

from the insignificant source are released through the same control device as emissions from a significant source. Where this occurs, the form shall require a list of the emissions from the insignificant source(s), as well as the emissions from the significant source. (Even if emissions from an insignificant source are listed, there is no fee for the insignificant source. This is stated at N.J.A.C. 7:27-8.6(k).)

(h) In some cases, an application, registration or notice (and the issued permit) may cover more than one source. Determination of the number of sources to be included shall depend on how each source is vented or, in the case of batch processing operations, how the product is made or it may be based on another basis for a logical grouping, provided that this basis is approved by the Department:

1. For a single source that exhausts through one or more stacks or vents, the applicant shall apply for one permit;
2. For multiple sources that exhaust through a common stack or vent, or through common stacks or vents, the applicant shall apply for one permit to cover all these sources;
3. For multiple sources that each exhaust through an individual stack or vent, the applicant shall either apply for a single permit for each source, so that the number of permits will be equal to the number of sources, or shall apply for permit(s) based on logical grouping(s) approved by the Department; and
4. For batch processing operations in which two or more sources make up a process unit, an applicant may choose to include these sources in one permit application.

(i) Any person who is applying for a preconstruction permit or permit revision shall submit as part of the application, an NSPS and NESHAP applicability and compliance demonstration, if the proposed equipment or the intended use of the proposed equipment is within any source category to which any NSPS or NESHAP is applicable.

(j) If required under N.J.A.C. 7:27-8.5, an application shall include a protocol for conducting an air quality impact analysis. The protocol shall include a risk assessment if one is required under N.J.A.C. 7:27-8.5.

(k) An application, registration or notice shall, if required by the applicable form, list each air contaminant which meets either of the following conditions:

1. The source operation's potential to emit the air contaminant is equal to or higher than the applicable reporting threshold set forth in Table A or B in Appendix 1; or
2. The source operation may, under normal operations, emit the air contaminant in an amount which may result in noncompliance with the air pollution odor provisions at N.J.A.C. 7:27-8.3(j) and N.J.A.C. 7:27-5.

(l) When listing raw materials on an application, registration or notice, the applicant shall list each HAP raw material separately. Each non-HAP raw material shall be:

1. Listed separately; or
2. Listed in a group of non-HAP raw materials with similar physical and/or chemical properties. If a group is listed, the group shall be sufficiently limited so as to allow the Department to evaluate whether the source, using those raw materials, shall comply with specified maximum emission rates and applicable requirements. The grouping shall be approved by the Department.

(m) When listing the emissions for a contaminant for which emissions information is required under (k) above:

1. The applicant shall separately list emissions for each HAP;
2. Emissions for each non-HAP shall be:
 - i. Listed separately; or
 - ii. If the contaminant is a VOC or particulate, the emissions may be listed in a group of total VOCs or total particulates; and
3. If a source emits a contaminant that is both a HAP and is also a VOC or a particulate, emissions of that air contaminant shall be listed separately as a HAP, and shall also be included in any grouping of total VOCs or total particulates.

(n) In order to ensure timely renewal of an operating certificate, an application for renewal of an operating certificate shall be made to the Department on forms obtained from the Department not less than 90 days prior to the expiration date of the operating certificate.

(o) Any person submitting an application, registration or notice to the Department pursuant to this subchapter shall include, as an integral part of the application, certifications complying with N.J.A.C. 7:27-1.39.

(p) Any information an applicant wants the Department to take into consideration in making a decision on an application, registration or notice shall be submitted to the Department in writing prior to the Department's making a decision on the application, registration or notice.

(q) If the permit and certificate shall cover any of the sources listed below, the application, registration or notice shall also include a demonstration that appropriate odor prevention measures will ensure compliance with the odor provisions at N.J.A.C. 7:27-8.3(j) and 7:27-5:

1. Sewage sludge treatment and storage equipment;
2. Municipal wastewater treatment equipment;
3. A landfill;
4. A municipal solid waste transfer station;

5. A composting facility;
6. Coffee roasting equipment; or
7. Equipment used for slaughtering, meat or shellfish processing, meat byproduct processing, or rendering.

(r) If an application, registration or notice includes a voluntary pollution prevention measure(s) or voluntary air pollution control measure(s) not otherwise required, the applicant may request that the permit authorize use of the emission reductions resulting from the measure(s) as a basis for generating discrete emission reduction (DER) credits under N.J.A.C. 7:27-30.

(s) If the applicant intends to use DER credits to fulfill emission offset requirements under N.J.A.C. 7:27-18, the applicant shall indicate this in the permit application in accordance with N.J.A.C. 7:27-30.13(c).

(t) For a significant source included in any of the following categories, the Department has prepared permitting procedures manuals, which summarize certain alternative application and permitting procedures developed to take into consideration the specific characteristics of these sources. An applicant may elect, for sources in these categories, to use the alternative procedures, rather than the corresponding standard procedures set forth in this subchapter. The manuals are available from the Department at the address in (b) above:

1. Batch plants (see technical manual 1301);
2. Pilot plants (see technical manual 1302); and
3. Dual plants (see technical manual 1302).

Amended by R.1985 d.96, effective March 4, 1985 (operative April 5, 1985).

See: 16 N.J.R. 1671(a), 17 N.J.R. 587(a).

Substantially amended.

Amended by R.1991 d.109, effective March 4, 1991 (operative March 31, 1991).

See: 22 N.J.R. 292(a), 22 N.J.R. 593(a), 23 N.J.R. 723(a).

In (a), added application and information request address. In (b), stylistic change and reference to new subsections 8.14 through 8.23 added. Replaced (c) and (d). Added (e), (f), (g), (h), (i).

Amended by R.1993 d.129, effective March 15, 1993 (operative April 20, 1993).

See: 24 N.J.R. 3459(a), 25 N.J.R. 1231(b).

New subsections (j) and (k) added pertaining to air quality impact analysis protocol approval.

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).

Public Notice: Processing delays for temporary Certificates and renewals of five year Certificates.

See: 29 N.J.R. 3087(b).

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.

Case Notes

Evidence supported air pollution control permit for resource recovery facility. Matter of Stream Encroachment Permit No. 12400, 231 N.J.Super. 443, 555 A.2d 1123 (A.D.1989).

DEP complied with all Federal and State statutory and regulatory provisions in issuance of Air Pollution Control Permit and Solid Waste Permit to applicant. In the Matter of NJPDES Permit No. N.J. 0055247, et al, 216 N.J.Super. 1, 522 A.2d 1002 (App.Div.1987) certification denied 108 N.J. 185, 527 A.2d 1390 (1987).

Pollution control equipment. Campbell Foundry Co. v. Sullivan, 119 N.J.Super. 51, 289 A.2d 801 (App.Div.1972).

7:27-8.5 Air quality impact analysis

(a) An application shall include an air quality impact analysis, conducted in accordance with this section, if:

1. The application is subject to PSD air quality impact analysis requirements set forth at 40 CFR Part 52;

2. The proposed maximum allowable emissions of an air contaminant would result in a significant net emission increase, as calculated in accordance with N.J.A.C. 7:27-18.7, and:

- i. The facility for which the application is submitted is a major facility as defined at N.J.A.C. 7:27-8.1; or

- ii. The emission increase, proposed in the application for any air contaminant, by itself equals or exceeds the major facility threshold level which determines if a facility is a major facility for that air contaminant;

3. A State or Federal rule requires that an air quality impact analysis be performed; or

4. The Department determines that an air quality impact analysis is required for an accurate assessment of the environmental impact of the activities proposed.

(b) An air quality impact analysis shall include ambient air monitoring and risk assessment, if the Department determines that this is required for an accurate assessment of the impact of the activities proposed.

(c) An air quality impact analysis shall demonstrate whether the maximum controlled emissions stated on the preconstruction permit application may cause:

1. A violation of any State or Federal ambient air quality standard;

2. Any exceedance of a PSD increment as defined in 40 CFR Part 52;

3. An increase in ambient air concentration that equals or exceeds the significant air quality effect level, as set forth in Table 1 of N.J.A.C. 7:27-18.4(a), in a nonattainment area for any air contaminant; or

4. A contravention of any other criterion established by the Department to protect human health and welfare and the environment.

(d) An air quality impact analysis and/or a risk assessment shall be conducted in accordance with a protocol approved in advance by the Department. The Department shall not approve a protocol unless it takes all relevant site-specific and general factors into account. These factors include, but are not limited to, a land use analysis, proper consideration of topography, a good engineering practice stack height analysis, use of the most recent version of EPA-approved models, identification of the most appropriate meteorological data, and consideration of all relevant averaging times. The protocol shall document how the person proposes to conduct the air quality impact analysis and/or risk assessment, and how the results will be presented to the Department. Technical guidance on the preparation of a protocol can be found in the Air Quality Permitting Program's Technical Manual 1002 (Guidance on Preparing an Air Quality Modeling Protocol) and Technical Manual 1003 (Guidance on Preparing a Risk Assessment for Air Contaminant Emissions). Additional technical guidance on preparing a protocol may be requested from:

New Jersey Department of Environmental Protection
Air Quality Permitting Program
401 East State Street, 2nd Floor
PO Box 027
Trenton, New Jersey 08625-0027
Attention: Bureau of Air Quality Evaluation

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. 7:27-8.5, Public comment, recodified to N.J.A.C. 7:27-8.10.

7:27-8.6 Service fees

(a) Every application, notice, or registration submitted to the Department shall be accompanied by the fee, if any, set forth in the Base Fee Tables below.

(b) After an application, notice or registration is submitted, the Department will invoice each applicant for any additional fees due to the Department, assessed in accordance with the Base Fee Schedule and the Supplementary Fee Schedule below. The applicant shall submit any fees so assessed to the Department within 60 days of receipt of the invoice.

(c) The Base Fee Schedule and the Supplementary Fee Schedule apply to all applications, notices or registrations which are deemed administratively complete on or after the date on which this section is operative.

(d) If an application is denied or a permit is revoked, for any reason, and the applicant reapplies, the new application shall meet all application requirements, including the fee requirement.

(e) Any fee under this section that is subject to N.J.A.C. 7:1L shall be payable in installments in accordance with N.J.A.C. 7:1L.

(f) Except for applications for sources at facilities subject to (g) below, a complete application fee for a preconstruction permit and certificate shall include both a preconstruction permit application fee and an operating certificate fee, as set forth below in the Base Fee Tables.

(g) The owner or operator of a facility subject to N.J.A.C. 7:27-22 is not required to pay the operating certificate fees set forth in Tables 1, 2, 5, 6 and 10 below after June 30, 1995. However, the owner or operator of a facility subject to N.J.A.C. 7:27-22 is required to maintain operating certificates for sources at the facility under this subchapter until the issuance of an operating permit for the facility. In addition, after June 30, 1995 the owner or operator shall pay fees in accordance with N.J.A.C. 7:27-22.31 for any significant modification, as defined in the operating permit rules at N.J.A.C. 7:27-22.1, while the issuance of an operating permit for the facility is pending.

(h) Fees due to the Department may be paid by personal check, corporate check, or money order, made payable to "Treasurer, State of New Jersey."

(i) If both Category I and Category II sources are included in a single application, the Category I source(s) shall be subject to the Category I preconstruction permit fee, and the Category II source(s) shall be subject to the Category II preconstruction permit fee. All sources shall be subject to the Category II certificate fee.

(j) If one application for a Category II initial permit or permit revision includes multiple sources or control apparatus, there may in some cases be a fee for the additional sources or control apparatus. This subsection applies only to Category II initial permit applications under Table 2 below, and to Category II permit revisions under Table 6 below. Under those tables, the first significant source on the application is subject to a fee of \$500.00. If more than one source or control apparatus is included in the application, there is no additional fee for the additional sources or control apparatus if they are identical (as defined at N.J.A.C. 7:27-8.1) to the first one, for which a fee is already being paid. If an additional significant source or control apparatus does not meet the definition of identical at N.J.A.C. 7:27-8.1, the fee for the source or control apparatus is \$350.00. The following examples illustrate how to calculate these additional Category II fees under Tables 2 and 6:

1. An application which includes four identical boilers would require a fee of \$1,000: \$500.00 for the first boiler, no fee for the second, third and fourth identical boilers, and \$500.00 for the certificate fee;

(c) A gasoline-fueled motor vehicle which is subject to inspection pursuant to N.J.A.C. 7:27-15.5(a) shall, as a condition of compliance with said inspection, have properly functioning and properly maintained emission control apparatus as determined according to the inspection test procedures established at N.J.A.C. 7:27B-4.9, 4.10, 4.11, 4.12 and 4.13.

(d) Except as provided in (e) and (f) below, the applicability of the standards set forth in this subchapter and of the test procedures set forth at N.J.A.C. 7:27B-4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12 and 4.13 to a motor vehicle with an engine other than the engine originally installed by the manufacturer shall be based on the chassis type and model year of the motor vehicle, not on the engine model year.

(e) A motor vehicle that is modified to operate solely on a fuel other than that for which the motor vehicle was originally equipped shall be subject to the test procedures and standards applicable to a motor vehicle of the current fuel type. If the motor vehicle's fuel type after modification is one to which this subchapter does not apply (for example, a gasoline engine replaced with a diesel engine), the motor vehicle shall be exempt from this subchapter. If the motor vehicle's fuel type after modification is a fuel type to which this subchapter applies, but is other than gasoline (for example, a gasoline engine modified to operate solely on natural gas), the standards applicable to that motor vehicle shall be those prescribed in the Tables 1, 2, 3 and 4 above for motor vehicles powered by a fuel other than gasoline. Until such time that applicable exhaust emission standards are promulgated for motor vehicles powered by fuels other than gasoline, such vehicles shall be exempt from exhaust emission testing when operating on a fuel other than gasoline.

(f) A motor vehicle that is modified or manufactured to operate on more than one fuel type shall be subject to exhaust emission standards that apply to the motor vehicle for each fuel type for which the motor vehicle is equipped. Such motor vehicle shall be subject to an exhaust emission test for each fuel type on which it operates and shall comply with all applicable standards for each fuel type. Such motor vehicle shall also be subject to an evaporative pressure test and an evaporative purge test when operating on gasoline. If the motor vehicle is capable of simultaneous operation on more than one fuel type (for example, flexible fuel, gasoline-methanol vehicle), the motor vehicle shall be subject to an exhaust emission test using the fuel mixture in the vehicle at the time of inspection and subject to the exhaust emission standards applicable to vehicles powered by gasoline. When operating on a fuel other than gasoline, the exhaust emission standards applied to a motor vehicle shall be those prescribed in the Tables 1, 2, 3 and 4 above for motor vehicles powered by a fuel other than gasoline. Until such time that applicable exhaust emission standards are promulgated for motor vehicles powered by fuels other than gasoline, such vehicles shall be exempt from exhaust emission testing when operating on a fuel other than gasoline.

(g) The provisions of (d), (e), and (f) above shall not be construed to allow any of the following acts, if such act is prohibited by N.J.A.C. 7:27-15.7:

1. The installation of an engine into a motor vehicle other than the engine originally installed by the manufacturer;
2. The operation of a motor vehicle on a fuel other than that for which the motor vehicle was originally equipped; and
3. The modification of a motor vehicle to operate on more than one fuel type.

As amended, R.1975 d.22, eff. January 31, 1975.

See: 7 N.J.R. 102(b).

As amended, R.1975 d.91, eff. October 1, 1975.

See: 6 N.J.R. 173(a), 7 N.J.R. 206(c).

As amended, R.1975 d.92, eff. April 1, 1975.

See: 7 N.J.R. 206(c).

As amended, R.1976 d.12, eff. January 14, 1976.

See: 8 N.J.R. 62(c).

As amended, R.1977 d.1, eff. January 3, 1977.

See: 9 N.J.R. 77(c).

Amended by R.1985 d.1, effective January 21, 1985 (operative July 1, 1985).

See: 16 N.J.R. 2889, 17 N.J.R. 189(b).

Section substantially amended.

Amended by R.1985 d.331, effective July 1, 1985 (operative December 2, 1985).

See: 17 N.J.R. 781(a), 17 N.J.R. 1649(a).

"past-1984 model year" substituted for "light duty." Added text "weighing less than 8501 pounds."

Emergency recodification from 7:27-15.4 and amendment R.1995 d.409, effective June 29, 1995 (expires August 28, 1995).

See: 27 N.J.R. 2752(a).

Adopted Concurrent Proposal, R.1995 d.527, effective August 28, 1995, except changes upon adoption effective October 2, 1995 (operative October 27, 1995).

See: 27 N.J.R. 2752(a), 27 N.J.R. 3806(a).

Amended by R.1997 d.56, effective February 3, 1997 (operative March 8, 1997).

See: 28 N.J.R. 2298(b), 29 N.J.R. 498(a).

In (b), inserted tables, with amended effective dates, under Table 3, amended effective dates for tables under Table 4, and added Table 5; and in (c) and (d), amended N.J.A.C. references.

7:27-15.7 Prohibition of tampering with emission control apparatus

(a) No owner or operator of a gasoline-fueled motor vehicle shall cause, suffer, allow or permit any of the following, unless it is performed in accordance with EPA Memorandum 1A or it is exempt from prohibition by CARB executive order (information on devices or modifications approved by CARB executive order may be obtained from Air Resources Board, Haagen-Smit Laboratory, 9528 Telsstar Avenue, El Monte, CA 91731-2990):

1. The disconnection, detachment, deactivation, or any other alteration or modification from the design of the original vehicle manufacturer of an element of design installed on any motor vehicle with a certified configuration, except temporarily for the purpose of diagnosis, maintenance, repair or replacement;

2. The operation on the public roads, streets or highways of the State or any public or quasi-public property in the State of any motor vehicle with a certified configuration in which any element of design installed on such vehicle has been disconnected, detached, deactivated, or in any other way altered or modified from the design of the original vehicle manufacturer;

3. The sale, lease, or offer for sale or lease, of any motor vehicle with a certified configuration in which any element of design installed on such vehicle has been disconnected, detached, deactivated, or in any other way altered or modified from the design of the original vehicle manufacturer; or

4. The sale, or offer for sale, of any device or component as an element of design intended for use with, or as part of, any motor vehicle or motor vehicle engine with a certified configuration, which is not designed to duplicate the function and performance of any element of design installed by the original vehicle manufacturer.

New Rule, R.1985 d.1, effective January 21, 1985 (operative July 1, 1985).

See: 16 N.J.R. 2889, 17 N.J.R. 189(b).

New rule. Old rule recodified to 15.7.

Emergency recodification from 7:27-15.5 and amendment R.1995 d.409, effective June 29, 1995 (expires August 28, 1995).

See: 27 N.J.R. 2752(a).

Adopted Concurrent Proposal, R.1995 d.527, effective August 28, 1995 (operative October 27, 1995).

See: 27 N.J.R. 2752(a), 27 N.J.R. 3806(a).

7:27-15.8 Idle standard

(a) No person shall cause, suffer, allow, or permit the engine of a gasoline-fueled motor vehicle to idle for more than three consecutive minutes if the vehicle is not in motion.

(b) The provisions of (a) above shall not apply to:

1. Buses while discharging or picking up passengers;
2. Motor vehicles stopped in a line of traffic;
3. Motor vehicles whose primary and/or secondary power source is utilized in whole or in part for necessary and definitively prescribed mechanical operation other than propulsion, passenger compartment heating or air conditioning;
4. Motor vehicles being or waiting to be examined by State or Federal motor vehicle inspectors;
5. Emergency motor vehicles in an emergency situation;
6. Motor vehicles while being repaired;
7. Motor vehicles while engaged in the process of connection, detachment or exchange of trailers; or

8. Motor vehicles manufactured with a sleeper berth while being used, in a non-residentially zoned area, by the vehicle's operator for sleeping or resting.

Amended by R.1985 d.1, effective January 21, 1985 (operative July 1, 1985).

See: 16 N.J.R. 2889, 17 N.J.R. 189(b).

Rule recodified and substantially amended, to 15.8.

New Rule, R.1985 d.610, effective December 2, 1985 (operative May 5, 1986).

See: 16 N.J.R. 2886(a), 17 N.J.R. 2887(a).

Emergency recodification from 7:27-15.6 and amendment R.1995 d.409, effective June 29, 1995 (expires August 28, 1995).

See: 27 N.J.R. 2752(a).

Adopted concurrent proposal, R.1995 d.527, effective August 28, 1995 (operative October 27, 1995).

See: 27 N.J.R. 2752(a), 27 N.J.R. 3806(a).

7:27-15.9 Non-interference with the motor vehicle codes

Nothing in this subchapter is intended to limit or deny the inspection of motor vehicles in accordance with regulations established pursuant to N.J.S.A. 39:8-2, 39:3-70, 39:3-76, and 39:10-26.

Amended by R.1985 d.1, effective January 21, 1985 (operative July 1, 1985).

See: 16 N.J.R. 2889, 17 N.J.R. 189(b).

Recodified from 15.5; Old (a) deleted and (b)-(c) now (a)-(b).

Emergency recodification from 7:27-15.7 and amendment R.1995 d.409, effective June 29, 1995 (expires August 28, 1995).

See: 27 N.J.R. 2752(a).

Adopted Concurrent Proposal, R.1995 d.527, effective August 28, 1995 (operative October 27, 1995).

See: 27 N.J.R. 2752(a), 27 N.J.R. 3806(a).

SUBCHAPTER 16. CONTROL AND PROHIBITION OF AIR POLLUTION BY VOLATILE ORGANIC COMPOUNDS

Subchapter Historical Note

Subchapter 16 was adopted as R.1975 d.377, effective March 1, 1976. See: 7 N.J.R. 47(c), 8 N.J.R. 15(b). The subchapter was amended by R.1979 d.414, effective December 17, 1979. See: 10 N.J.R. 477(b), 11 N.J.R. 544(b). Further amendments were filed as R.1982 d.3, effective February 1, 1982 (operative, March 1, 1982). See: 13 N.J.R. 127(a), 14 N.J.R. 145(b). See section annotations for further rulemaking activity.

7:27-16.1 Definitions

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

“Actual emissions” means the rate at which an air contaminant is actually emitted, either directly or indirectly, to the outdoor atmosphere, in units of mass per calendar year, seasonal period, or other time period specified in this subchapter.

“Agitator” means an apparatus with an external seal used to shake, stir, or mix material in an enclosed vessel.

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

“Applicable VOC” means any VOC which has a vapor pressure or sum of partial pressures of organic substances of 0.02 pounds per square inch (1.0 millimeters of mercury) absolute or greater at standard conditions.

“Asphalt” means a solid, semisolid, or liquid material, produced by mixing bituminous substances together with gravel, crushed rock or similar materials, and used commonly as a coating or paving.

“ASTM” means the American Society for Testing and Materials.

“Background concentration” means, with respect to the measurement of the emission of VOC from a component, the concentration of VOC in the ambient air as determined within the facility and at least one meter upwind of the component being tested.

“Ballasting” means the loading of water or other liquid into a marine tank vessel’s cargo tank to obtain proper propeller, rudder, and hull immersion.

“Batch” means the material retained in a batch operation, measured at any instant prior to, during, or at the completion of the conversion.

“Batch cycle emission rate” means the total emissions of air contaminants per batch divided by the batch cycle time in hours.

“Batch cycle time” means the total elapsed time per batch in any single manufacturing process vessel, including all phases of the operation during which the vessel contains process materials, excluding time waiting for removal from the vessel.

“Batch operation” means a type of manufacturing process in which fixed amounts of one or more process materials are introduced into a manufacturing process vessel where they are retained for a prescribed amount of time during which they are converted. Starting materials for a batch are not introduced into the vessel until the previous batch has been removed.

“Batch mix asphalt plant” means an asphalt plant where the aggregate and asphalt cement or other binder are mixed in equipment other than a rotary dryer.

“Blowdown event” means the non-emergency release of natural gas from a pipeline for the purposes of inspection, maintenance, or repair and where, in the absence of control, more than 2,000 pounds of VOC could be released to the atmosphere.

“British thermal unit” or “BTU” means the quantity of heat required to raise the temperature of one avoirdupois pound of water one degree Fahrenheit at 39.1 degrees Fahrenheit.

“Calendar day” means the 24 hour period from 12 o’clock midnight to 12 o’clock midnight the following day.

“Capture efficiency” means the amount of VOC entering a capture system and delivered to a control device expressed as a ratio of the total VOC generated by a source of VOC.

“Carbon monoxide” or “CO” means a colorless, odorless, tasteless gas at standard conditions, having a molecular composition of one carbon atom and one oxygen atom.

“Cartridge filtration system” means a system in which perforated canisters containing filtration paper and/or activated carbon are used in a pressurized system to remove solid particles and fugitive dyes from soil-laden solvent.

“Catalytic oxidizer” means a type of control apparatus which reduces the emission of air contaminants by causing the air contaminant molecules to decompose by oxidation, accomplished by preheating the gases being emitted to a predetermined temperature, which is less than required for thermal oxidation, and contacting the preheated gases with catalysts to promote decomposition.

“Certificate” means either an operating certificate or a temporary operating certificate.

“CFR” means the Code of Federal Regulations.

“Chemical plant” means any facility, or any part thereof, classified within the Standard Industrial Code (SIC) Major Group 28, “Chemical and Allied Products.”

“Clear coating” means a coating which lacks color and opacity or is transparent and uses the undercoat as a reflectant base or undertone color and any coating used as an interior protective lining on any cylindrical metal shipping container of greater than one gallon capacity.

“Clear topcoat” means the final coating, which contains binders by not opaque pigments and which is specifically formulated to form a transparent or translucent solid protective film on wood furniture.

“CO” means carbon monoxide.

“Combined cycle gas turbine” means a gas turbine in which heat is recovered from the turbine’s exhaust gases to heat water or generate steam.

“Combustion source” means a source operation or item of equipment which combusts fuel.

“Complete” means, in reference to an application for a permit, that the application contains all of the information

necessary, as determined by the Department, for commencing technical review of the application. Designating an application complete for purposes of commencing technical review does not preclude the Department from requesting or accepting any additional information.

“Component” means, with respect to leak detection and repair, any part of a source operation, including any equipment and control apparatus, from which emissions of air contaminants may be released into the ambient air. This term includes, but is not limited to, any agitator, valve, flange, fitting, gasket, seal, joint, pump, compressor, pressure relief device, diaphragm, manhole, hatch, sight-glass, instrument connection or other connection, meter, or associate equipment. This term does not include a designed emission point of a stack or chimney.

“Compressor” means a device used to compress gases or vapors by the addition of energy, and includes all associated components used to make connections or seals.

“Conductive ink” means an ink used in screen printing which contains material that permits electric current to flow through printed lines or patterns.

“Conservation vent” means any valve designed and used to reduce evaporation losses of any VOC by limiting the amount of air admitted to, or vapors released from, the vapor space of a closed storage vessel.

“Construction ballast” means the filling of an underground storage tank with any VOC, including gasoline, to provide stability during construction.

“Control apparatus” means any device which prevents or controls the emission of any air contaminant directly or indirectly into the outdoor atmosphere.

“Conveyorized surface cleaner” means a surface cleaner through which the parts to be cleaned are moved by means of a continuous, automatic system.

“Custom topcoating of automobiles and light duty trucks” means the application of surface coating formulations, except during original equipment manufacturing, to the main body or other exterior areas of any passenger car or passenger car derivative capable of seating 15 or fewer passengers or any motor vehicle rated at 8,500 pounds (3,856 kilograms) gross weight or less which is designed for purposes of transportation of property, or a derivative of such vehicle including, but not limited to, pick-ups, vans, and window vans, to achieve a finish that meets individual specifications, including, but not limited to, custom color, design, or gloss. It shall not include the use of adhesion promoters, zinc phosphate pretreatments, uniforming finishes or blenders, specialty primers for plastics, or low reflective accessory coatings.

“Cutback asphalt” means any paving asphalt which has been liquefied by blending with petroleum solvents, or produced directly from the distillation of petroleum having vaporization properties similar to the blended and liquefied asphalt.

“Day” means calendar day.

“Delivery vessel” means any vehicle designed and constructed or converted to be capable of transporting liquid VOC cargo such as gasoline or fuel oil. This term includes, but is not limited to, tank trucks, tank trailers, railroad tank cars, and marine tank vessels.

“Department” means the New Jersey Department of Environmental Protection.

“Destruction efficiency” means the amount of VOC destroyed or removed by a control device expressed as a ratio of the total VOC entering the device.

“Development” means investigations in a laboratory or pilot plant directed toward the structuring or establishment of methods of manufacture or of specific designs of salable substances, devices or procedures, based upon previously discovered facts, scientific principles or substances. Development shall not include production for sale of established products through established processes; nor shall it include production in plant, works or semi-works equipment for distribution through market-testing channels.

“Difficult to monitor component” means any component located over 15 feet above ground when access is required from the ground, or any component located 9.6 feet away from a platform when access is required from a platform.

“Dilution gas” means air or gas from any source whatsoever added to the source gas emitted from a source operation.

“Distillates of air” means helium (He), nitrogen (N₂), oxygen (O₂), neon (Ne), argon (Ar), krypton (Kr), xenon (Xe), and carbon dioxide (CO₂).

“DOT” means the United States Department of Transportation.

“Double seal floating roof” means a floating roof with two complete and separate seal-envelope combinations, one above the other, containing an enclosed space between them. At least one of the seals must be supported by a mechanism which maintains constant seal contact with the inner surface of the vessel walls, despite surface and altitude irregularities.

“Drum mix asphalt plant” means an asphalt plant where the asphalt cement or other binder is added to the aggregate while the aggregate is still in the rotary dryer.

“Emission statement” means a report of the actual annual emissions of a facility submitted by the owner or operator to the Department pursuant to the requirements of N.J.A.C. 7:27-21.

“Emulsified asphalt” means asphalt which has been liquefied by mixing with water and an emulsifying agent.

“EPA” means the United States Environmental Protection Agency.

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

“Exclusion rate” means that rate at or below which the emission of an air contaminant into the outdoor atmosphere is not required to be controlled.

“Exempt organic substance” means an organic substance which is one of the chemical compounds specifically not included in the term “volatile organic compound” or “VOC” as defined in this section.

“External floating roof” means a movable roof in an otherwise open top storage vessel consisting of a floating deck resting on the surface of the liquid contents, a continuous seal supported against the inner surface of the tank shell, and an envelope closing the gap between the floating deck and the seal, the entire deck-seal-envelope combination free to rise and fall with the surface of the liquid during filling and emptying of the storage vessel.

“Extreme performance coating” means a coating formulated for and exposed to harsh environmental conditions including, but not limited to: outside weather conditions all of the time, or temperatures consistently above 95°C, or temperatures consistently below 0°C, or solvents, detergents, abrasives or scouring agents; or corrosive atmospheres or fluids.

“Fabric printing operation” means the decorative enhancement of knit or woven cloth including webs, sheets and towels, by applying a pattern or colored design with inks, dyes, or print pastes by techniques including, but not limited to, roller, flat screen, rotary screen, and silk screen printing.

“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 owned or operated by the same person. For the purposes of this definition, each natural gas pipeline compressor or pump station and each section of natural gas

pipeline between such compressor or pump station shall constitute a separate natural gas pipeline facility.

“Facility-wide permit” means a single permit issued by the Department to the owner or operator of a priority industrial facility incorporating the permits, certificates, registrations, or any other relevant Department approvals previously issued to the owner or operator of the priority industrial facility pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., and the appropriate provisions of the Pollution Prevention Plan prepared by the owner or operator of the priority industrial facility pursuant to N.J.S.A. 13:1D-41 and 42. This term shall have the same meaning as defined for the term “facility-wide permit” at N.J.A.C. 7:1K-1.5; if there is any conflict between the definition at N.J.A.C. 7:1K-1.5 and this one, the definition at N.J.A.C. 7:1K-1.5 shall control.

“Federally enforceable” means all limitations and conditions on operation, production, or emissions that can be enforced by EPA. The foregoing limitations and conditions that can be enforced by EPA include, but are not limited to, those established in:

1. Any standards of performance for new stationary sources (NSPS) promulgated at 40 CFR 60;
2. Any national emission standard for hazardous air pollutants (NESHAP) promulgated at 40 CFR 61;
3. Any provision of an applicable SIP;
4. Any permit issued pursuant to requirements established at 40 CFR 51, Subpart I; 40 CFR 52.21; 40 CFR 70; or 40 CFR 71; or
5. Any permit or order issued pursuant to the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., or this chapter.

“Fill pipe” means a device through which liquid is transferred into a receiving vessel.

“First attempt at repair” means rapid action taken for the purpose of stopping or reducing a leak. First attempts at repair include, but are not limited to, the following practices where practicable: tightening of packing gland nuts, tightening of flanges, and ensuring that the seal flush is operating at design pressure and temperature.

“Fitting” means a component used to attach or connect pipes or piping details including, but not limited to, flanges and threaded connections.

“Flare” means a device used for the destruction of waste or by-product gases by passing them through a flame and then directly into the outdoor atmosphere. Thermal oxidizers are not flares.

“Flexographic printing operation” means a system of transferring images onto a substrate through first applying ink to an inking roller which in turn transfers the ink onto the raised image areas of a rubber or elastomeric plate secured to a second roller, which then transfers the ink onto the substrate.

“Floating roof” means an external or internal pontoon type or double-deck type roof resting on the surface of the liquid contents in a storage vessel, and equipped with a mechanism providing one or more tight seals in the space between the floating roof rim and the vessel shell throughout the entire vertical travel distance of the roof, or any other floating type mechanism approved by the Department for the purpose of preventing air contaminants from being discharged into the outdoor atmosphere.

“Fountain solution” means an aqueous solution used in graphic arts operations to dampen the plate and prevent the non-image areas of the plate from accepting the hydrophobic inks used.

“Freeboard chiller” means a heat exchanger mounted on a surface cleaner freeboard to provide a chilled air layer immediately above the VOC vapor space to reduce VOC emissions.

“Freeboard height” means the vertical distance from either the VOC liquid level to the lip of an unheated open top surface cleaner or from the interface of the VOC vapor with the air to the lip of a vapor surface cleaner.

“Freeboard ratio” means a ratio of the freeboard height to the tank width or narrower dimension at the tank lip.

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

“Gaseous leak” means the emission of applicable VOC directly or indirectly to the atmosphere as a gas or vapor from a hole, crevice, or other opening in a component, other than an emission that is in accordance with the component’s design during normal operations.

“Gaseous service” means contact with applicable VOC that is in the gaseous state at operating conditions.

“Gasoline” means any petroleum distillate or petroleum distillate/oxygenated blend having a Reid vapor pressure of four pounds per square inch (207 millimeters of mercury) absolute or greater, and commonly or commercially known or sold as gasoline.

“Gasoline dispensing facility” means a facility consisting of one or more stationary gasoline storage tanks together with dispensing devices used to fill vehicle fuel tanks.

“Gas turbine” means an internal combustion engine fueled by liquid or gaseous fuel, in which blades are driven by combustion gases, and which generates mechanical energy in the form of a rotating shaft which is used to drive an electric generator or other industrial equipment.

“Graphic arts operation” means the application of one or more surface coating formulations across portions of a surface using one or more rotogravure or flexographic printers used to produce published material and packaging for commercial or industrial purposes, or any rotogravure or flexographic printers used to produce vinyl or urethane coated fabric or sheets, or any sheet-fed gravure, screen printing, or fabric printing operations together with any associated drying or curing areas. A single graphic arts operation ends after drying or curing and before other surface coating formulations are applied. For any web line, this term means an entire application system, including any associated drying ovens or areas between the supply roll and take-up roll or folder. This term does not include any surface coating operation.

“Gravure printing operation (sheet-fed)” means a system of transferring images onto a substrate through first applying ink to a cylinder into the surface of which small, shallow cells have been etched forming a pattern, then wiping the lands between the cells free of ink with a doctor blade, and finally contacting the substrate, which is fed in single sheets, onto the cylinder so that the surface of the substrate is pressed into the cells, transferring the ink to the substrate. This term does not include proof presses which are being used to check the quality of the image formation of newly engraved or etched gravure cylinders.

“Hatch” means a system, including a cover which may be opened or closed, that provides access to the interior of a tank or other enclosed container.

“Incinerator” means any device, apparatus, equipment, or structure using combustion or pyrolysis to oxidize, reduce or salvage any material or substance. “Incinerator” does not include thermal or catalytic oxidizers used as control apparatus on equipment, but it does include (without limitation) any thermal destruction facility which is a resource recovery facility, as such terms are defined in N.J.A.C. 7:26-1.4.

“Indirect emissions” means a discharge of any air contaminant into the outdoor atmosphere through any opening that is not a stack or chimney directly connected to the equipment.

“Industrial wastewater treatment system” means any structure or structures by means of which industrial liquid waste or sludges are subjected to any treatment process requiring the issuance of an individual NJPDES permit regulated by the Department pursuant to the New Jersey Pollutant Discharge Elimination System Permit Program, N.J.A.C. 7:14A, under the authority of the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.

“Ink transfer” means a decal, printed using screen printing onto a special release carrier, that will be transferred from the carrier to a substrate. Final transfer of the decal to the substrate may or may not occur at the screen printing facility.

“Laboratory operations” means any action, process, or treatment utilizing chemical, physical, or biological factors to conduct experimental research, tests, or demonstrations.

“Leak” means a gaseous leak or a liquid leak of applicable VOC.

“Light liquid” means a fluid with vapor pressure greater than 0.044 pounds per square inch absolute (2.27 millimeters of mercury) at 68°F.

“Light liquid service” means contact with a fluid that is 10 percent or greater by weight light liquid.

“Liquid leak” means the release of liquid applicable VOC from a hole, crevice, or other opening in a component subject to N.J.A.C. 7:27-16, other than a release of liquid VOC in accordance with the component’s design during normal operations. The presence of a drop, drip, accumulation, pool, or other visible evidence of a liquid, applicable VOC demonstrates that a liquid leak has occurred.

“Liquid particles” means particles which have volume but are not of rigid shape.

“Liquid service” means contact with applicable VOC that is in the liquid state at operating conditions.

“Lithographic printing operation” means printing by a planographic method in which the image and nonimage areas are on the same geometric plane.

“Local exhaust ventilation” means a system for capturing air contaminants within 36 inches (91.4 centimeters) of the points at which they emerge from a source operation.

“Major VOC facility” means any facility which has the potential to emit 25 or more tons of VOC per year.

“Manufacturing process” means any action, operation or treatment embracing chemical, industrial, manufacturing, or processing factors, methods or forms including, but not limited to, furnaces, kettles, ovens, converters, cupolas, kilns, crucibles, stills, dryers, roasters, crushers, grinders, mixers, reactors, regenerators, separators, filters, reboilers, columns, classifiers, screens, quenchers, cookers, digesters, towers, washers, scrubbers, mills, condensers, or absorbers.

“Manufacturing process vessel” means any container wherein a manufacturing process, or any part thereof, takes place.

“Marine tank vessel” means any tugboat, tanker, freighter, passenger ship, barge, boat, ship, or watercraft, which is

specifically constructed or converted to be capable of carrying liquid cargo in tanks.

“Marine terminal” means any facility, or part thereof, at which liquid cargo is loaded into or unloaded out of marine tank vessels.

“Maximum gross heat input rate” means the maximum amount of fuel a combustion source is able to combust in a given period as stated by the manufacturer of the combustion source. This term is expressed in BTUs per hour, based on the highest BTU value of the fuels combusted.

“Natural gas/gasoline processing plants” means facilities engaged in the separation of natural gas liquids from field gas and/or fractionation of the liquids into natural gas products such as ethane, propane, butane, and natural gasoline. Excluded from the definition are compressor stations, dehydration units, sweetening units, field treatment, underground storage, liquefied natural gas units, and field gas gathering systems unless these facilities are located as a gas plant.

“New Jersey’s coastal waters” means the Atlantic Ocean area and all areas under tidal influence within three nautical miles (5,566 meters) of the mean high water line as measured from the New Jersey coast, except that, if at any point along the line of measurement, within or beyond three nautical miles (5,566 meters), there is a meeting of waters under the exclusive jurisdiction of any other State or the United States of America, New Jersey’s jurisdiction shall end at that point. Any point of measurement shall be taken from a point of New Jersey land, permanent or nonpermanent, and extended azimuthally to a distance of three nautical miles (5,566 meters) or to the point where another State or the United States of America has jurisdiction.

“Non-utility boiler” means any steam generating unit which is not a utility boiler.

“Offset lithography” means a planographic method of printing in which the image and nonimage areas are on the same plane and where the ink is transferred from an image plate on one cylinder to an image blanket on a different cylinder. The ink is finally transferred from the image blanket to the surface to be printed.

“Opaque stain” means all stains that contain pigments but are not classified as semitransparent stains, and includes stains, glazes, and other opaque material applied to wood surfaces.

“Open burning” means any fire from which the products of combustion are emitted directly into the open air, and are not by design directed through a stack or chimney.

“Open top tank” means any vessel in which a manufacturing process, or any part thereof, takes place during which there is an opening to the atmosphere greater than 25

percent of the surface area of any liquid substance contained therein.

“Operating certificate” means a “Certificate to Operate Control Apparatus or Equipment” issued by the Department pursuant to the Air Pollution Control Act of 1954, specifically N.J.S.A. 26:2C-9.2, which is valid for a period of five years from the date of issuance, unless sooner revoked by the Department.

“Operating permit” means the permit described in Title V of the Federal Clean Air Act, 42 U.S.C. §§ 7661 et seq., and in N.J.A.C. 7:27-22. This term shall include a general operating permit which is applicable facility wide, but does not include a general operating permit which applies only to a part of a facility. Where a general operating permit applies only to a part of a facility, the general operating permit shall be incorporated into the operating permit. This term also includes an operating permit issued for a temporary facility; for a facility subject to a MACT or GACT standard pursuant to N.J.A.C. 7:27-22.26; or for a component of a facility pursuant to N.J.A.C. 7:27-22.5(j).

“Order” means any and all orders issued by the Department including, but not limited to, administrative orders and administrative consent orders.

“Other wastewater treatment system” means any structure or structures by means of which liquid waste or sludges (other than industrial liquid waste or sludges) are subjected to any treatment process requiring the issuance of an individual NJPDES permit pursuant to the New Jersey Pollutant Discharge Elimination System Permit Program, N.J.A.C. 7:14A, under the authority of the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.

“Partial pressure” means the pressure exerted by a specified component in a mixture of gases.

“Particles” means any material, except uncombined water, which exists as liquid particles or solid particles at standard conditions.

“Penetrating prime coat” means a low-viscosity liquid asphalt applied to a surface in order to prepare it for paving with an asphalt concrete.

“Permit” means preconstruction permit, operating permit, or facility-wide permit.

“Person” means any individual or entity and shall include, without limitation, corporations, companies, associations, societies, firms, partnerships, and joint stock companies, and shall also include, without limitation, all political subdivisions of any State or any agencies or instrumentalities thereof.

“Petroleum distillate” means any mixture of VOC produced by condensing vapors of petroleum during distillation, including, but not limited to, naphthas, aviation gasoline, motor gasoline, kerosene, diesel oil, domestic fuel oil, and petroleum solvents.

“Petroleum solvent dry cleaning” means a process in which textile and fabric articles are washed in a solution of organic material, and then dried by exposure to a heated air stream. The organic material is produced by petroleum distillation and is comprised of a hydrocarbon range of 8 to 12 carbon atoms per organic molecule.

“Pigmented coat” means opaque coatings that contain binders and colored pigments and are formulated to conceal the wood surface either as an undercoat or topcoat.

“Planography” means any method of printing from a flat surface.

“Plastic part” means a piece made from a substance that has been formed from a natural or synthetic resin through the application of pressure or heat or both.

“Plastisol” means a surface coating formulation that is a dispersion of finely divided polymeric resin in a high boiling solvent or softening agent that is added to increase flexibility or toughness and includes plastisols to which volatile solvent has been added.

“Platform” means any elevated horizontal surface, either temporary or permanent, used for the purpose of gaining access to a component.

“Positive pressure ventilation” means any ventilation system in which pressurized air from a compressed air manifold, fan, or similar device is blown into a work area.

“Potential to emit” means the maximum capacity of a source operation or a facility to emit an air contaminant under its physical and operational design. Any physical or operational limitation on the capacity of a source operation or a facility to emit an air contaminant, including control apparatus and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation is Federally enforceable. If there is no Federally enforceable limitation on the hours of operation of a source operation, then any determination of the maximum design capacity shall be based on a presumption of operation at 8760 hours per year. This term includes the fugitive emissions emitted by the source operation or facility as calculated in a manner consistent with the provisions of N.J.A.C. 7:27-21 and current guidance issued by the Department pursuant thereto.

“Ppm” means parts per million.

“Ppmvd” means parts per million by volume, dry basis. This is the number of parts in a mixture, by volume, which are of the specified substance, not including the number of parts contributed by water.

“Preconstruction permit” means a legally valid permit, authorizing construction, installation, reconstruction, or modification of a significant source, issued by the Department under N.J.A.C. 7:27-8 pursuant to the New Jersey Air Pollution Control Act and in particular N.J.S.A. 26:2C.

“Pressure relief device” means a type of component which is installed for safety to relieve elevated pressure within equipment, or within a conduit or duct serving equipment. Such a component is designed to release material contained within the system when the pressure within the system exceeds a set level.

“Pressure relief valve” means a type of pressure relief device which consists of a valve that automatically opens when the pressure within the system exceeds a set level and closes when the pressure drops below that level.

“Process emission rate” means the mass rate of air contaminants emitted from the final source operation of a process, exclusive of any type of control apparatus or product recovery device.

“Process unit shutdown” means a regularly scheduled work practice or operational procedure that stops production from a process unit or part of a process unit for 24 hours or such other longer time as the owner or operator of the unit establishes to be necessary for the removal of the process material so that repairs to the unit can be carried out in a safe manner. The use of spare equipment without stopping production is not a process unit shutdown.

“Pump” means a device used to transport fluids by the addition of energy, and includes all associate components used to make connections or seals.

“Receiving vessel” means any vessel into which an applicable VOC is introduced including, but not limited to, storage tanks, delivery vessels, and manufacturing process vessels.

“Refinishing of automobiles and light duty trucks” means the recoating of the main body or other exterior areas of any passenger car or passenger car derivative capable of seating 15 or fewer passengers or any motor vehicle rated at 8,500 pounds (3,856 kilograms) gross weight or less which is designed primarily for purposes of transportation of property, or a derivative of such vehicle including, but not limited to, pick-ups, vans, and window vans. It shall not include the use of adhesion promoters, zinc phosphate pretreatments, uniforming finishes or blenders, specialty primers for plastics, or low reflective accessory coatings.

“Regenerative cycle gas turbine” means a gas turbine which recovers heat from its exhaust gases and uses that heat to preheat the combustion air which is drawn into the gas turbine.

“Regulated leak” means any gaseous leak of applicable VOC at a concentration or level above any applicable limit established in Tables 18A and 18B and any liquid leak of an applicable VOC.

“Reid vapor pressure” or “RVP” means the absolute vapor pressure of a petroleum product in pounds per square inch (kilopascals) at 100 degrees Fahrenheit (°F) (37.8 degrees Celsius (°C)) as measured by “Method 1—Dry RVP Measurement Method” or “Method 2—Herzog Semi-Automatic Method” promulgated at 40 CFR 80, Appendix E; or any other test method approved in advance in writing by the Department and the EPA.

“Repair” means, with respect to a VOC leak, a corrective action taken to eliminate the leak or reduce the leak to below regulated levels.

“Research” means investigations directed toward the discovery of facts, scientific principles, reactions, or substances.

“Rotogravure printing operation (web-fed)” means a system of transferring images onto a substrate through first applying ink to a cylinder into the surface of which small, shallow cells have been etched forming an image or a pattern, then wiping the lands between the cells free of ink with a doctor blade, and finally contacting the substrate, which is fed from a continuous roll, over the cylinder so that the surface of the substrate is pressed into the cells, transferring the ink to the substrate. This term does not include proof presses which are being used to check the quality of the image formation of newly engraved or etched gravure cylinders.

“Rupture disc” means a type of pressure relief device which is designed to fracture, rupture, or burst under pressure when the pressure within the system exceeds a set level. Such a device is commonly a diaphragm held between flanges, which under conditions of normal operation remains intact and prevents gases from being released from the system.

“Screen printing operation” means a system of transferring images onto a substance in which the printing ink passes through a fabric to which a stencil has been applied. The openings in the stencil determine the form and dimensions of the imprint.

“Seal-envelope combination” means a barrier to the passage of VOC vapors between a floating roof and the inner surface of a storage vessel wall, consisting of a seal which maintains constant contact with the wall as the floating roof rises and descends with the level of the stored VOC, and a membrane, diaphragm, fabric, or blanket, known as an

envelope, which spans the gap between the floating roof and the seal and which is vapor-tight.

“Sealer” means coatings containing binders that seal a wood surface prior to application of subsequent coatings.

“Semitransparent stain” means stains that contain dyes and/or semitransparent pigments and are formulated to enhance wood grain and to change the color of the surface, but not to conceal the surface; including sap stain, toner, nongrain raising stains, pad stain, spatter stain, and other semitransparent stains.

“Simple cycle gas turbine” means a gas turbine which does not recover heat from its exhaust gases.

“Small appliances” means devices used primarily in households and offices including, but not limited to, fans, mixers, blenders, dehumidifiers, toasters, toaster-ovens, slow pot cookers, food processors, portable heaters, lamps, typewriters, staplers, and paper punches.

“Solid particles” means particles of rigid shape and definite volume.

“Solvent recovery dryer” means a class of dry cleaning dryers that employs a condenser to liquefy and recover solvent vapors evaporated in a closed-loop, recirculating stream of heated air.

“Source gas” means air or gases passed through, or generated by, a source operation and discharged from the source operation.

“Source operation” means any process or any identifiable part thereof that emits or can reasonably be anticipated to emit any air contaminant either directly or indirectly into the outdoor atmosphere. A source operation may include one or more pieces of equipment or control apparatus.

“Special purpose screen printing inks and coatings” means inks and coatings used in screen printing which are used to print ink transfers, or are designed to resist or withstand any of the following: more than two years of outdoor exposure, exposure to chemicals, solvents, acids, detergents, oil products or cosmetics, temperatures in excess of 170 degrees Fahrenheit, vacuum forming, embossing or molding.

“Stack or chimney” means a flue, conduit or opening designed, constructed or utilized for the purpose of emitting any air contaminant into the outdoor atmosphere.

“Standard conditions” means 70 degrees Fahrenheit (°F) (21.1 degrees Celsius (°C)) and one atmosphere pressure (14.7 pounds per square inch absolute or 760.0 millimeters of mercury).

“Standard Industrial Classification Code” or “SIC Code” means the system devised by the United States Office of Management and Budget to classify establishments according to the type of economic activity in which they are engaged.

“State implementation plan” or “SIP” means a plan for the attainment of any NAAQS, prepared by a state and approved by the EPA pursuant to Section 110 of the Clean Air Act (42 U.S.C., 1857 et seq.).

“Stationary gas turbine” means any simple cycle gas turbine, regenerative cycle gas turbine, or combined cycle gas turbine that is not self-propelled. The term includes a gas turbine of any of these types which is mounted on a vehicle for portability.

“Stationary internal combustion engine” means any internal combustion engine that is not self-propelled. This term includes internal combustion engines which are mounted on vehicles for portability.

“Steam generating unit” means any furnace, boiler, or other device which combusts fuel for the purpose of producing steam.

“Storage tank” means any tank, reservoir, or vessel which is a container for liquids or gases, wherein:

1. No manufacturing process, or part thereof, other than filling or emptying takes place; and
2. The only treatment carried out is that necessary to prevent change from occurring in the physical condition or the chemical properties of the liquids or gases deposited into the container. Such treatment may include recirculating, agitating, maintaining the temperature of the stored liquids or gases, or replacing air in the vapor space above the stored liquids or gases with an inert gas in order to inhibit the occurrence of chemical reaction.

“Submerged fill pipe” means a fill pipe whose point of discharge into the receiving vessel is entirely submerged when the liquid level is no more than 6 inches (15.2 centimeters) above the vessel bottom or, in the case of a top or side-entering fill pipe, when the liquid level is no more than three times the inside radius of the fill pipe plus 5 inches (12.7 centimeters), but no more than 42 inches (106.7 centimeters), above the vessel bottom.

“Surface cleaner” means a device to remove unwanted foreign matter from the surfaces of non-porous or non-absorbent materials by using VOC solvents in liquid or vapor state.

“Surface coating for insulation of magnet wire” means the application of electrically insulating varnish or enamel to aluminum or copper wire.

“Surface coating formulation” means the material used to form a protective, functional, or decorative film including, but not limited to, paint, varnish, ink, or adhesive, applied to or impregnated into a substrate. This term includes such material whether used in a surface coating or graphic arts operation.

“Surface coating formulation as applied” or “coating as applied” means the volume, in gallons or liters, of any surface coating formulation used in a surface coating operation, including any diluents or thinners added.

“Surface coating of automobiles and light-duty trucks” means the application, flash-off, and curing of prime, topcoat, and repair coat on main body and other exterior sheetmetal of any passenger car or passenger car derivative capable of seating 15 or fewer passengers or any motor vehicle rated at 8,500 pounds (3,856 kilograms) gross weight or less which is designed primarily for purposes of transportation of property, or a derivative of such vehicle including, but not limited to, pick-ups, vans, and window vans. This term means an entire coating application system, including all spray booths, flash-off areas, and ovens in which surface coating formulations within the same spray prime, topcoat, or repair operation category are applied, dried and cured.

“Surface coating of cans” means exterior coating and interior spray coating in two-piece can lines; interior and exterior coating in sheet coating lines for three-piece cans; side seam spray coating and interior spray coating in can fabricating lines for three-piece cans; and sealing compound application and sheet coating in end coating lines.

“Surface coating of coils” means the coating of any flat metal sheet or strip available in rolls or coils.

“Surface coating of fabrics” means the application of any surface coating formulation, except ink and plastisol, applied to a textile substrate in a fabric coating line.

“Surface coating of flat wood paneling” means the coating of hardwood, plywood, particle board, and hardboard paneling, excluding the coating of exterior siding, tile board, or particle board used in furniture manufacturing.

“Surface coating of glass” means the application of any surface coating formulation to glass lamps or bulbs.

“Surface coating of large appliances” means the application of any coating to the component parts including, but not limited to, doors, cases, lids, panels, and interior supports of residential and commercial washers, dryers, ranges, refrigerators, freezers, water heaters, dish washers, trash compactors, air conditioners, and other associated products.

“Surface coating of leather” means the application of any surface coating formulation to a leather substrate in a leather coating line.

“Surface coating of metal furniture” means the coating in a metal furniture coating line of any metal part which will be assembled with other metal, wood, fabric, plastic, or glass parts to form a furniture piece.

“Surface coating of miscellaneous metal parts and products” means the application of any coating, excluding an adhesive, to any metal part or product not elsewhere classified including, but not limited to, large and small farm machinery, small appliances, office machinery, vending machines, industrial machinery, metal-covered doors, door frames, and electrical machinery.

“Surface coating of paper” means the application of any coating, excluding plastisol, uniformly distributed across the web, which is put on paper, or on pressure-sensitive tapes regardless of substrate (including paper, fabric, or plastic film); related web coating processes on plastic film including, but not limited to, typewriter ribbons, photographic film, and magnetic tape; and decorative coating on metal foil including, but not limited to, gift wrap and packaging. This term does not include any graphic arts operation.

“Surface coating of pipe” means the application of any coating to a pipe of any composition, except plastic.

“Surface coating of wood furniture” means the application of any surface coating formulation to any furnishing made of wood or a composite of wood including, but not limited to, kitchen cabinets, equipment cabinets, household furniture and office furniture.

“Surface coating operation” means the application of one or more surface coating formulations across an entire surface, using one or more coating applicators, together with any associated drying or curing areas. A single surface coating operation ends after drying or curing and before other surface coating formulations are applied. For any web coating line, this term means an entire coating application system, including any associated drying ovens or areas between the supply roll and take-up roll, that is used to apply surface coating formulations onto a continuous strip or web. This term does not include any graphic arts operation.

“Synthetic organic chemical or polymer” means one or more of the substances listed in Appendix I.

“Tablet coating” means the application of any surface coating formulation to a formed pharmaceutical product.

“Tank” means any container whose walls are constructed of material which is rigid and self-supporting.

“Temporary operating certificate” means a “Certificate to Operate Control Apparatus or Equipment” issued by the Department pursuant to the Air Pollution Control Act of 1954, specifically N.J.S.A. 26:2C-9.2, which is valid for a period not to exceed 90 days.

“Thermal oxidizer” means a type of control apparatus which reduces the emission of air contaminants by subjecting the gases being emitted to elevated temperatures which cause the air contaminant molecules to decompose within an enclosed space. For the purposes of this subchapter, this term includes catalytic and non-catalytic thermal oxidizers.

“Toxic substance” or “TXS” means a substance listed in Table 1 of N.J.A.C. 7:27-17.3.

“Transfer efficiency” means the percent by weight, on a dry basis, of the total coating solids applied to an object which adhere to the object.

“Transfer operation” means the moving of any substance from any storage tank, manufacturing process vessel, or delivery vessel into any receiving vessel.

“Urethane coating” means the application of any surface coating formulation, except plastisol, to urethane coated fabric or urethane sheets that are more than 0.002 inches (50 micrometers) thick, except resilient floor covering and flexible packaging.

“Utility boiler” has the meaning defined in N.J.A.C. 7:27-19.

“Vacuum service” means equipment operating at an internal pressure which is at least 0.725 pounds per square inch (37.5 millimeters of mercury) below ambient pressure.

“Valve” means a device that regulates or isolates the fluid flow in a pipe, tube, or conduit by means of an external actuator.

“Vapor” means the gaseous form of substances which, under standard conditions, are in the solid or liquid state and which can be changed to these states by either increasing the pressure or decreasing the temperature.

“Vapor balance system” means a system for controlling vapor losses during the transfer of a VOC liquid from one vessel to another vessel or tank by means of the simultaneous counter-transfer of displaced vapors from the receiving vessel to the vessel supplying the liquid.

“Vapor control system” means a system for preventing the emission of organic vapors into the outdoor atmosphere.

“Vapor-mounted primary seal” means a seal-envelope combination which is mounted so that underneath the seal there is an annular vapor space which is bounded by the bottom of the seal, the vessel wall, the liquid surface, and the floating roof.

“Vapor pressure” means the pressure of the vapor phase of a substance, or the sum of the partial pressures of the vapor phases of individual substances in a mixture of substances, when in equilibrium with the non-vapor phase of the substance or substances.

“Vapor-tight” means not capable of allowing the passage of gases at the pressures encountered.

“Vinyl coating” means the application of any surface coating formulation, except ink and plastisol, to vinyl-coated fabric or vinyl sheets.

“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 does not include the 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. The list at 40 CFR 51.100(s)(1) currently includes the compounds and the classes of perfluorocarbons set forth below:

- methane
- ethane
- methylene chloride (dichloromethane)
- 1,1,1-trichloroethane (methyl chloroform)
- trichlorofluoromethane (CFC-11)
- dichlorodifluoromethane (CFC-12)
- trifluoromethane (HFC-23)
- 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113)
- 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114)
- chloropentafluoroethane (CFC-115)
- chlorodifluoromethane (HCFC-22)
- 2,2-dichloro-1,1,1-trifluoroethane (HCFC-123)
- 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)
- 1,1-dichloro-1-fluoroethane (HCFC-141b)
- 1-chloro-1,1-difluoroethane (HCFC-142b)
- pentafluoroethane (HFC-125)
- 1,1,2,2-tetrafluoroethane (HFC-134)
- 1,1,1,2-tetrafluoroethane (HFC-134a)
- 1,1,1-trifluoroethane (HFC-143a)
- 1,1-difluoroethane (HFC-152a)
- parachlorobenzotrifluoride (PCBTF) cyclic, branched or linear completely methylated siloxanes

Classes of perfluorocarbons:

- 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.

“Wash coat” means a coating containing binders that raise wood surfaces, prevent undesired staining, and control penetration.

“Worst case operating conditions” means the conditions of operation which result in the maximum VOC emission rate for any hour period for a continuous operation or the maximum VOC batch cycle emission rate for a batch operation, considering any enforceable limitations on the operation including those set forth in any applicable rule or regulation, permit, or operating certificate.

Amended by R.1986 d.379, effective September 22, 1986 (operative October 18, 1986).

See: 17 N.J.R. 1969(a), 18 N.J.R. 1936(a).

Substantially amended.

Amended by R.1988 d.44, effective January 19, 1988 (operative February 21, 1988).

See: 19 N.J.R. 1938(a), 20 N.J.R. 186(b).

Added definition “Gasoline dispensing facility”.

Amended by R.1989 d.62, effective February 6, 1989.

See: 20 N.J.R. 1866(a), 21 N.J.R. 321(a).

Added “barges as tankers” to “Delivery vessel” and added definition “marine delivery vessel”.

Amended by R.1989 d.331, effective June 19, 1989 (operative July 24, 1989).

See: 20 N.J.R. 3052(a), 21 N.J.R. 1669(b).

Added definition for “custom topcoating of automobiles and light duty trucks”, amended “refinishing of automobiles and light duty trucks” by referencing those coatings and finishes to be excluded and change number of passenger seating from 12 to 15 in “surface coating of automobiles and light-duty trucks”.

Public Notice: Petition for rulemaking concerning a Volatile Organic Substance.

See: 22 N.J.R. 1632(c).

Public Notice: Action on Petition for rulemaking concerning a Volatile Organic Substance.

See: 22 N.J.R. 2041(a).

Public Notice: Amend definition of volatile organic compounds to exclude four halogenated chlorofluorocarbons.

See: 22 N.J.R. 3165(c).

Amended by R.1992 d.102, effective March 2, 1992 (operative March 28, 1992).

See: 23 N.J.R. 1858(b), 24 N.J.R. 792(a).

Amended definitions for “air contaminant”, “conservation vent”, “control apparatus”, “conveyORIZED surface cleaner”, “department”, “equipment”, “facility”, “freeboard chiller”, “freeboard height”, “gasoline”, “liquid particles”, “particles”, “person”, “petroleum distillate”, “receiving vessel”, “ Reid vapor pressure”, “seal-envelope combination”, “source operation”, “stack or chimney”, “standard conditions”, “storage tanks”, “surface coating of automobiles and light-duty trucks”, “surface cleaners”, “surface coating formulation” and “surface coating operation”; added new definitions for “capture efficiency”, “certificate”, “destruction efficiency”, “distillates of air”, “EPA”, “exempt organic substance”, “indirect emissions”, “operating certificate”, “partial pressure”, “permit”, “surface coating formulation as applied”, “temporary operating certificate”, “vapor pressure”, “volatile organic compound (VOC)”, and “worst case operating conditions”; deleted definitions for “high performance architectural coating” and “volatile organic substances”.

Administrative corrections to “cutback asphalt”, “Department”, “fabric printing operation”, “graphic arts”, “storage tank” and “vapor balance system”.

See: 24 N.J.R. 1889(a).

Amended by R.1993 d.666, effective December 20, 1993 (operative July 26, 1994).

See: 25 N.J.R. 3339(a), 25 N.J.R. 4551(a), 25 N.J.R. 6002(a).

Amended by R.1994 d.313, effective June 20, 1994 (operative July 26, 1994).

See: 25 N.J.R. 3339(a), 26 N.J.R. 2600(a).

Administrative Correction.

See: 27 N.J.R. 1406(a).

Amended by R.1995 d.255, effective May 15, 1995 (operative June 19, 1995).

See: 26 N.J.R. 4478(a), 27 N.J.R. 1979(b).

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).

Inserted “Facility-wide permit”, “Operating permit”, and “Preconstruction permit”; and rewrote “Permit”.

Law Review and Journal Commentaries

Air Pollution Law Changes Target Nitrogen Oxides. Neale R. Bedrock, 136 N.J.L.J. No. 8, S17 (1994).

Explaining the facts of BACT, RACT and GACT. Neale R. Bedrock, 138 N.J.L.J. No. 8, S4 (1994).

Case Notes

Regulations prescribing implementation schedule for stage II vapor recovery system were valid. American Petroleum Institute v. New Jersey Dept. of Environmental Protection, 230 N.J.Super. 563, 554 A.2d 3 (A.D.1989).

7:27-16.1A Purpose, scope, applicability, and severability

(a) This subchapter establishes requirements and procedures concerning the control and prohibition of air pollution by volatile organic compounds. The purpose of this subchapter is to require any stationary source operation or group of source operations, located within a contiguous area and under common control to implement reasonably available control technology (RACT) to control VOC emissions. EPA defines RACT to mean the lowest emission limitation that a particular source is capable of meeting by the application of air pollution control technology which is reasonably available considering technological and economic feasibility. Specific applicability thresholds are provided throughout the subchapter. Carbon monoxide limits are included for combustion sources, in order to control VOC emissions, which are also products of incomplete combustion.

(b) As set forth at N.J.A.C. 7:27-17.4(c), this subchapter’s requirements for the implementation of control measures, including, but not limited to requirements for the installation and use of control apparatus, or the use of compliant coatings, shall apply with full force to Group II TXS until the Department amends this rule in response to EPA rulemaking or otherwise.

(c) Whenever persons, equipment, control apparatus or any VOC subject to the provisions of this subchapter are also subject to the provisions of any other subchapters of this chapter, the requirements of the relevant provisions of

this subchapter and all subchapters of this chapter will apply.

(d) Whenever a VOC subject to the emission rate provisions of this subchapter is also subject to the emission rate provisions of any other subchapters of the chapter, the relevant provisions of the subchapter requiring the lowest allowable rate will apply.

(e) Each owner and each operator of any equipment or source operation subject to this subchapter is responsible for ensuring compliance with all requirements of this subchapter. If there is more than one owner or operator of the equipment or source operation, each owner and each operator is jointly and severally liable for any penalties for violations of this subchapter.

(f) The owner or operator of a source operation subject to a VOC emissions limit under this subchapter may comply with the limit through the use of discrete emission reductions (DERs) in accordance with N.J.A.C. 7:27-30.

(g) If any provision of this subchapter or the application thereof to any person or circumstance is adjudicated to be invalid or unenforceable to any extent, the remainder of this subchapter or its application to any person or circumstance other than those that are the subject of the adjudication shall continue to be unaffected by the adjudication.

Recodified from 7:27-16.11 and amended by R.1994 d.313, effective June 20, 1994 (operative July 26, 1994).
 See: 25 N.J.R. 3339(a), 26 N.J.R. 2600(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).
 Added (f) and designated former (f) as (g).

7:27-16.2 Storage of volatile organic compounds

(a) General provisions are:

1. No person shall cause, suffer, allow, or permit the storage of any applicable VOC in any stationary storage tank having a maximum capacity of 2,000 gallons (7,570 liters) or greater exposed to the rays of the sun unless the external surface of the tank is painted and maintained white or an equivalent method of emission control approved by the Department is used.

2. The provisions of (a)1 above shall not apply to words and logograms applied to the external surface of a storage tank for purposes of identification provided such symbols do not cover more than 20 percent of the external surface area of the tank's sides and top or more than 200 square feet (18.6 square meters), whichever is less.

(b) No person shall cause, suffer, allow, or permit the storage of any applicable VOC in any stationary storage tank having a maximum capacity of 10,000 gallons (37,850 liters) or greater unless such stationary storage tank is equipped with control apparatus as determined in accordance with the procedures for using Table 2A or as approved by the Department as being equally or more effective in preventing the emission of a VOC into the outdoor atmosphere.

Procedure for Using Table 2A

- Step 1: Determine the vapor pressure at standard conditions in pounds per square inch absolute of the VOC to be stored.
- Step 2: Select the appropriate line in Table 2A for the vapor pressure determined in Step 1.
- Step 3: Determine the maximum tank capacity in thousands of gallons.
- Step 4: Find the tank capacity range classification for the vapor pressure determined under Step 1.
- Step 5: Determine the control requirements in accordance with the following:
 - Range I: No control apparatus required under this subsection.
 - Range II: Conservation vent required.
 - Range III: Floating roof required.

TABLE 2A
 DETERMINANTS OF TYPE CONTROL APPARATUS
 REQUIRED FOR STORAGE OF VOLATILE
 ORGANIC COMPOUNDS

Vapor Pressure in PSIA @ 70°F	Tank Capacity in Thousands of Gallons				
	Range I	Range II	Range II	Range III	Range III
Greater than	But not Greater than	Not Greater than	Greater than	But not Greater than	Greater than
*0.02	0.03	4,500	4,500	14,000	14,000
0.03	0.04	4,500	4,500	11,000	11,000
0.04	0.06	3,500	3,500	8,000	8,000
0.06	0.08	2,500	2,500	6,000	6,000
0.08	0.10	2,000	2,000	4,500	4,500
0.10	0.15	1,600	1,600	3,500	3,500
0.15	0.2	1,050	1,050	2,500	2,500
0.2	0.3	750	750	1,600	1,600
0.3	0.4	550	550	1,250	1,250
0.4	0.5	475	475	1,075	1,075
0.5	0.6	400	400	900	900
0.6	0.7	350	350	750	750
0.7	0.8	300	300	650	650
0.8	1.0	260	260	550	550
1.0	1.2	210	210	475	475
1.2	1.4	190	190	400	400
1.4	1.6	170	170	350	350
1.6	1.8	150	150	300	300
1.8	2.1	125	125	260	260
2.1	2.4	110	110	225	225
2.4	2.7	100	100	200	200
2.7	3.0	90	90	180	180
3.0	3.5	80	80	160	160
3.5	4.0	70	70	145	145
4.0	4.5	60	60	130	130
4.5	5.0	50	50	115	115
5.0	5.5	50	50	105	105
5.5	6.0	50	50	95	95
6.0	6.5	40	40	85	85
6.5	7.0	40	40	75	75
7.0	7.5	40	40	70	70
7.5	8.0	35	35	65	65
8.0	8.5	35	35	60	60
8.5	9.5	30	30	55	55
9.5	10.5	25	25	50	50
10.5	11.5	20	20	45	45
11.5	13.0	10	10	40	40

* Any VOC which has a vapor pressure of 0.02 pounds per square inch absolute at standard conditions is included in this line.

(e) Any person responsible for the emission of VOC shall, upon request of the Department, provide sampling facilities and testing facilities exclusive of instrumentation and sensing devices as may be necessary for the Department to determine the nature and quantity of the VOC being emitted into the outdoor atmosphere. During such testing by the Department, the equipment and all components connected, or attached to, or serving the equipment shall be used and operated under normal routine operating conditions or under such other conditions as may be requested by the Department. The facilities may be either permanent or temporary, at the discretion of the person responsible for their provision, and shall conform to all applicable laws and regulations concerning safe construction and safe practice.

(f) All testing and monitoring pursuant to the provisions of this subchapter shall be conducted using N.J.A.C. 7:27B-3 or other method approved in advance by the Department and acceptable to EPA.

(g) Hourly emissions limits apply to any consecutive 60 minute period, and testing performed to verify compliance shall be based on a 60 minute period during which the equipment or control apparatus is used and operated under conditions acceptable to the Department and consistent with the operational parameters and limits set forth in any permit or certificate in effect. If circumstances require that test periods be less than, or more than 60 minutes (such as when an operational duration is less than 60 minutes or when detectability limits are approached for low concentration gas streams), the Department may require different test periods in its review and approval of test protocols.

(h) Any record keeping requirement set forth at N.J.A.C. 7:27-16.2(k), 16.3(s), 16.7(m), 16.7(n), 16.16(g), or 16.20(g), shall become effective on October 1, 1992, except for record keeping based on continuous emission monitoring. Any record keeping requirement based on continuous emission monitoring shall become effective on April 1, 1993.

(i) Any person who reports information to the Department pursuant to the requirements set forth at N.J.A.C. 7:27-16.2(k), 16.3(s), 16.7(m) and (n), 16.16(g), or 16.20(g) may assert a confidentiality claim for that information in accordance with the procedures set forth at N.J.A.C. 7:27-1.6 through 1.30.

Recodification: Recodified from 16.8.
See: 17 N.J.R. 1969(a), 18 N.J.R. 1936(a).
Amended by R.1992 d.102, effective March 2, 1992 (operative March 28, 1992).
See: 23 N.J.R. 1858(b), 24 N.J.R. 792(a).
Require EPA approval of variances and access to records.
Amended by R.1993 d.128, effective March 15, 1993 (operative April 20, 1993).
See: 24 N.J.R. 2979(a), 25 N.J.R. 1254(a).
Corrected internal cite.
Recodified from 7:27-16.9 and amended by R.1994 d.313, effective June 20, 1994 (operative July 26, 1994).
See: 25 N.J.R. 3339(a), 26 N.J.R. 2600(a).
Administrative Correction.
See: 27 N.J.R. 2740(a).

7:27-16.23 Procedures for demonstrating compliance

(a) The owner or operator of equipment or a source operation subject to N.J.A.C. 7:27-16.8, 16.9, 16.10, 16.11 or 16.13 that is subject to an emission limit under this subchapter shall demonstrate compliance with the emission limit pursuant to (a)1 below if a continuous emissions monitoring system has been installed on the equipment or source operation for the air contaminant in question, or pursuant to (a)2 below if no such system has been installed for the air contaminant.

1. With respect to an emission limit for any air contaminant monitored by a continuous emissions monitoring system installed on the equipment or source operation, compliance with the limit is based upon the average of emissions over one calendar day, not including periods of equipment downtime.

2. With respect to an emission limit for any air contaminant that is not monitored by a continuous emissions monitoring system installed on the equipment or source operation, compliance with the limit is based upon the average of three one-hour tests, each performed over a consecutive 60-minute period specified by the Department and performed in compliance with N.J.A.C. 7:27-16.22.

(b) For any equipment or source operation subject to (a) above which was in operation before January 1, 1995, the owner or operator shall demonstrate compliance with this subchapter in accordance with (a)1 or 2 above by May 31, 1996, and thereafter at the frequency set forth in the permit or certificate for such equipment or source operation.

(c) For any equipment or source operation subject to (a) above which commences operations or is altered after January 1, 1995, the owner or operator shall demonstrate compliance with this subchapter in accordance with (a) or (b) above within 180 days from the date on which the source operation commences operation, and thereafter at the frequency set forth in the permit or certificate for such equipment or source operation.

(d) An exceedance of any applicable VOC or CO emission limit set forth in this subchapter, determined through testing or monitoring performed pursuant to (a) or (b) above or otherwise, is a violation of this subchapter.

New Rule, R.1994 d.313, effective June 20, 1994 (operative July 26, 1994).
See: 25 N.J.R. 3339(a), 26 N.J.R. 2600(a).

7:27-16.24 Adjusting combustion processes

When any provision of this subchapter requires the adjustment of a combustion process for any equipment or source operation, the owner or operator of the equipment or source operation shall do so in accordance with the terms and conditions of N.J.A.C. 7:27-19.16.

New Rule, R.1994 d.313, effective June 20, 1994 (operative July 26, 1994).

See: 25 N.J.R. 3339(a), 26 N.J.R. 2600(a).

7:27-16.25 (Reserved)

7:27-16.26 Variances

(a) Whenever a person responsible for the emission of any VOC believes that advances in the art of control for the kind and amount of VOC emitted have not developed to a degree which would enable the requirements of this subchapter to be attained, such person may apply to the Department in writing for a variance, setting forth any reason and justification therefor.

(b) Any person submitting an application for a variance to the Department is subject to the certification requirements set forth at N.J.A.C. 7:27-1.39.

(c) The Department may issue a variance which shall be valid for a period not to exceed three consecutive years from the date of issuance and may be renewed upon application to the Department setting forth reasons and justifications for its continuation.

(d) Variances issued under the provisions of this section shall be conditional upon:

1. Compliance with any requirements which the Department sets forth as conditions of approval; and
2. Approval by the EPA as a revision to the State Implementation Plan.

(e) Variances may be revoked at any time at the discretion of the Department.

(f) Any applicant aggrieved by the denial or revocation by the Department of a variance allowed under the provisions of this section may request an adjudicatory hearing pursuant to N.J.A.C. 7:27-1.32.

Recodification: From 16.9.

See: 17 N.J.R. 1969(a), 18 N.J.R. 1936(a).

Amended by R.1992 d.102, effective March 2, 1992 (operative March 28, 1992).

See: 23 N.J.R. 1858(b), 24 N.J.R. 792(a).

Addressed EPA-identified deficiencies.

Recodified from 7:27-16.10 by R.1994 d.313, effective June 20, 1994 (operative July 26, 1994).

See: 25 N.J.R. 3339(a), 26 N.J.R. 2600(a).

Administrative Correction.

See: 27 N.J.R. 2740(a).

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 (f), changed N.J.A.C. reference.

7:27-16.27 Exceptions

(a) The provisions of this subchapter shall not apply to any stationary vessel or delivery vessel maintained under a pressure greater than one atmosphere provided that any vent serving such vessel has the sole function of relieving pressure under abnormal emergency conditions.

(b) The provisions of this subchapter shall not apply to the emissions of VOC from the following source operations:

1. Offset lithography printing operations until November 15, 1994;
2. Surface coating of plastic parts until November 15, 1994;
3. Natural gas pipelines that are not major VOC facilities, with the exception of blowdown events as set forth in N.J.A.C. 7:27-16.21;
4. Industrial wastewater treatment systems until November 15, 1994;
5. All other wastewater treatment facilities until November 15, 1994; and
6. Open burning.

Recodification: From 16.12.

See: 17 N.J.R. 1969(a), 18 N.J.R. 1936(a).

Recodified from 16.13 by R.1992 d.102, effective March 2, 1992 (operative March 28, 1992).

See: 23 N.J.R. 1858(b), 24 N.J.R. 792(a).

Recodified from 7:27-16.12 and amended by R.1994 d.313, effective June 20, 1994 (operative July 26, 1994).

See: 25 N.J.R. 3339(a), 26 N.J.R. 2600(a).

SUBCHAPTER 17. CONTROL AND PROHIBITION OF AIR POLLUTION BY TOXIC SUBSTANCES

Subchapter Historical Note

Unless otherwise expressly noted, all provisions of this subchapter were adopted pursuant to authority of N.J.S.A. 13:1D-1 et seq. and 26:2C-1 et seq. and were filed and became effective on June 14, 1977, as R.1977 d.207. See: 9 N.J.R. 69(a), 9 N.J.R. 321(b). Amendments were filed on October 17, 1979, as R.1979 d.414 to become effective on December 17, 1979. See: 10 N.J.R. 477(b), 11 N.J.R. 544(b).

7:27-17.1 Definitions

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

“Aerodynamic downwash” means the rapid descent of a plume to ground level with little dilution and dispersion due to alteration of background air flow characteristics caused by the presence of buildings or other obstacles in the vicinity of the emission point.

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

“Asbestos” means actinolite, amosite, anthophyllite, chrysotile, crocidolite, tremolite.

“CFR” means the Code of Federal Regulations.

“Control apparatus” means any device which prevents or controls the emission of any air contaminant directly or indirectly into the outdoor atmosphere.

“Department” means the New Jersey Department of Environmental Protection.

“Distillates of air” means helium (He), nitrogen (N₂), oxygen (O₂), neon (Ne), argon (Ar), xenon (Xe), and carbon dioxide (CO₂).

“Effective stack height” means the distance to the plume center line from the ground as determined by adding the plume rise to the physical height of the stack. It shall be calculated by one of the following equations:

1. If the lowest possible temperature of the gas leaving the stack is 68 degrees Fahrenheit (20 degrees Celsius) or less:

$$\text{Effective stack height} = H_s + 2.76(D)(B)^{1/3}$$

where:

- H_s = the physical stack height above grade in meters
- D = the stack outlet in diameter in meters
- B = (V²)/T
- V = the stack gas exit velocity in meters per second
- T = the stack gas temperature at the stack outlet in degrees Kelvin

2. If the lowest possible temperature of the gas leaving the stack is greater than 68 degrees Fahrenheit (20 degrees Celsius):

$$\text{Effective stack height} = H_s + 8.28(F^{0.75})$$

where:

- H_s = the physical stack height above grade in meters
- F = (V)(D²)(T-293)/T
- V = the stack gas exit velocity in meters per second
- D = the stack outlet diameter in meters
- T = the stack gas temperature at the stack outlet in degrees Kelvin

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

“Gasoline” means any petroleum distillate or petroleum distillate/oxygenate blend having a Reid vapor pressure of four pounds per square inch (207 millimeters of mercury) absolute or greater, and commonly or commercially known or sold as gasoline.

“Indirect emissions” means a discharge of any air contaminant into the outdoor atmosphere through any opening that is not a stack or chimney directly connected to the equipment.

“Liquid particles” means particles which have volume but are not of rigid shape.

“Manufacturing process” means any action, operation or treatment embracing chemical, industrial, manufacturing, or processing factors, methods or forms including, but not

limited to, furnaces, kettles, ovens, converters, cupolas, kilns, crucibles, stills, dryers, roasters, crushers, grinders, mixers, reactors, regenerators, separators, filters, reboilers, columns, classifiers, screens, quenchers, cookers, digesters, towers, washers, scrubbers, mills, condensers or absorbers.

“Open top tank” means any vessel in which a manufacturing process, or any part thereof, takes place during which there is an opening to the atmosphere greater than 25 percent of the surface area of any liquid substance contained therein.

“Person” means any individual or entity and shall include, without limitation, corporations, companies, associations, societies, firms, partnerships, and joint stock companies, and shall also include, without limitation, all political subdivisions of this State or any agencies or instrumentalities thereof.

“Plume rise” means the vertical distance from the point at which an effluent stream is discharged into the outdoor atmosphere to the highest point attained by the center line of the effluent stream.

“Reid vapor pressure” or “RVP” means the absolute vapor pressure of a petroleum product in pounds per square inch (kilopascals) at 100 degrees Fahrenheit (°F) (37.8 degrees Celsius (°C)) as measured by “Method 1—Dry RVP Measured Method” or “Method 2—Herzog Semi-Automatic Method” promulgated at 40 CFR 80, Appendix E; or any other equivalent test method approved in advance in writing by the Department and the EPA.

“Solid particles” means particles of rigid shape and definite volume.

“Source operation” means any process or any identifiable part thereof that emits or can reasonably be anticipated to emit any air contaminant either directly or indirectly into the outdoor atmosphere.

“Stack or chimney” means a flue conduit or opening designed, constructed, or utilized for the purpose of emitting any air contaminant into the outdoor atmosphere.

“Standard conditions” means 70 degrees Fahrenheit (°F) (21.1 degrees Celsius (°C)) and one atmosphere pressure (14.7 pounds per square inch absolute or 760.0 millimeters of mercury).

“Storage tank” means any tank, reservoir, or vessel which is a container for liquids or gases, wherein:

1. No manufacturing process, or part thereof, other than filling or emptying takes place; and
2. The only treatment carried out is that necessary to prevent change from occurring in the physical condition or the chemical properties of the liquids or gases deposited into the container. Such treatment may include recirculating, agitating, maintaining the temperature of the stored liquids or gases, or replacing air in the vapor space above the stored liquids or gases with an inert gas in order to inhibit the occurrence of chemical reaction.

"Surface cleaner" means a device to remove unwanted foreign matter from the surfaces of materials by using VOC solvents in the liquid or vapor state.

"Surface coating formulation" means the material used to form a protective, functional, or decorative film including, but not limited to, any architectural coating, paint, varnish, ink or adhesive applied to or impregnated into a substrate.

"Surface coating operation" means the application of one or more surface coating formulations, using one or more coating applicators, together with any associated drying or curing areas. A single surface coating operation ends after drying or curing and before other surface coating formulations are applied. For any web coating line, this term means an entire coating application system, including any associated drying ovens or areas between the supply roll and take-up roll, that is used to apply surface coating formulations onto a continuous strip or web.

"Tank" means any container whose walls are constructed of material which is rigid and self-supporting.

"Toxic substance" or "TXS" means a substance listed in Table 1 of this subchapter.

"Transfer operation" means the moving of any substance from any storage tank, manufacturing process vessel, or delivery vessel into any receiving vessel.

"Vapor" means the gaseous form of substances which, under standard conditions, are in the solid or liquid state and which can be changed to these states by either increasing the pressure or decreasing the temperature.

"Vapor pressure" means the pressure of the vapor phase of a substance, or the sum of the partial pressures of the vapor phases of individual substances in a mixture of substances, when in equilibrium with the non-vapor phase of the substance or substances.

"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 does not include the 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. The list at 40 CFR 51.100(s)(1) currently includes the compounds and the classes of perfluorocarbons set forth below:

methane
ethane
methylene chloride (dichloromethane)
1,1,1-trichloroethane (methyl chloroform)
trichlorofluoromethane (CFC-11)
dichlorodifluoromethane (CFC-12)
trifluoromethane (HFC-23)
1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113)
1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114)
chloropentafluoroethane (CFC-115)
chlorodifluoromethane (HCFC-22)
2,2-dichloro-1,1,1-trifluoroethane (HCFC-123)
2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)
1,1-dichloro-1-fluoroethane (HCFC-141b)
1-chloro-1,1-difluoroethane (HCFC-142b)
pentafluoroethane (HFC-125)
1,1,2,2-tetrafluoroethane (HFC-134)
1,1,1,2-tetrafluoroethane (HFC-134a)
1,1,1-trifluoroethane (HFC-143a)
1,1-difluoroethane (HFC-152a)
parachlorobenzotrifluoride (PCBTF) cyclic, branched or linear completely methylated siloxanes

Classes of perfluorocarbons:

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.

Amended by R.1992 d.102, effective March 2, 1992 (operative March 28, 1992).

See: 23 N.J.R. 1858(b), 24 N.J.R. 792(a).

Definitions amended for consistency with N.J.A.C. 7:27-16.1; definition of "volatile organic compound (VOC)" replaces "volatile organic substance (VOS)".

Amended by R.1994 d.313, effective June 20, 1994 (operative July 26, 1994).

See: 25 N.J.R. 3339(a), 26 N.J.R. 2600(a).

Administrative Correction.

See: 27 N.J.R. 1406(a).

7:27-17.2 Asbestos surface coating

No person shall cause, suffer, allow or permit surface coating by spraying on any building, structure, facility, installation or internal or external portion thereof, asbestos or friable material containing in excess of 0.25 per cent by weight of asbestos.

7:27-18.10 Exemptions

(a) If a person demonstrates that a proposed significant net emission increase of an air contaminant which results from the use of alternative fuels in existing fuel burning equipment will not cause an exceedance of the significance level for the respective criteria pollutant in a nonattainment area for that pollutant, and will not prevent reasonable further progress toward attaining any NAAQS, the Department may, in its discretion, exempt the person from compliance with the provisions of this subchapter. No exemption shall be granted unless the person demonstrates, at a minimum, that:

1. The equipment was capable of burning the alternative fuel before December 21, 1976; or
2. The equipment must use such fuel by reason of an order in effect under Section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 792 et seq.) or under any superseding legislation, or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act of 1978 (16 U.S.C. 791a et seq.); or
3. The alternative fuel is derived from municipal solid waste; or
4. The alternative fuel is to be used by reason of an order or rule issued under Section 125 of the Clean Air Act.

(b) N.J.A.C. 7:27-18.3(c)1 does not apply to any person submitting an application for:

1. Portable facilities which will be relocated outside of a nonattainment area within six months of initiation of operation; or
2. Temporary source operations which produce an experimental product, and which cease operation within six months of initiation of operation.

(c) The exemption in (b) above may not be applied to the same portable facility or temporary source operation more than once within the lifetime of the portable facility or temporary source operation.

Recodified from 18.9 and amended by R.1993 d.129, effective March 15, 1993 (operative April 20, 1993).

See: 24 N.J.R. 3459(a), 25 N.J.R. 1231(b).

Changes made pursuant to 1990 Clean Air Act amendments.

Amended by R.1996 d.511, effective November 4, 1996 (operative November 23, 1996).

See: 28 N.J.R. 748(a), 28 N.J.R. 4784(b).

7:27-18.11 Procedures for interstate and intrastate trading (Reserved)

New Rule, R.1993 d.129, effective March 15, 1993 (operative April 20, 1993).

See: 24 N.J.R. 3459(a), 25 N.J.R. 1231(b).

7:27-18.12 Civil or criminal penalties for failure to comply

The owner or operator of any facility subject to this subchapter shall be responsible for ensuring compliance with all requirements of this subchapter. Failure to comply with any provision of this subchapter may subject the owner or operator to civil 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. 26:2C-19(f)1 and 2. If there is more than one owner or operator of a facility, all owners and operators are jointly and severally liable for such civil penalties.

New Rule, R.1993 d.129, effective March 15, 1993 (operative April 20, 1993).

See: 24 N.J.R. 3459(a), 25 N.J.R. 1231(b).

SUBCHAPTER 19. CONTROL AND PROHIBITION OF AIR POLLUTION FROM OXIDES OF NITROGEN
Authority

N.J.S.A. 13:1B-3, 13:1D-9, and 26:2C-1 et seq., in particular 26:2C-9(c) and 19.

Source and Effective Date

R.1993 d.682, effective December 20, 1993 (operative January 23, 1994).

See: 25 N.J.R. 631(a), 25 N.J.R. 5957(a).

Law Review and Journal Commentaries

Air Pollution Law Changes Target Nitrogen Oxides. Neale R. Bedrock, 136 N.J.L.J. No. 8, S17 (1994).

Explaining the Facts of BACT, RACT and GACT. Neale R. Bedrock, 138 N.J.L.J. No. 8, 54 (1994).

7:27-19.1 Definitions

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

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

“Ambient air quality standard” means a limit on the concentration of an air contaminant in the general outdoor atmosphere as set forth in N.J.A.C. 7:27-13 or 40 CFR 50.

“Alter” means to effect an alteration of equipment or control apparatus.

“Alteration” means one of the following changes to equipment or control apparatus, or to a source operation, for which a permit has been issued:

1. If the equipment, control apparatus, or source operation is subject to preconstruction permit requirements, a

change which requires a permit revision under N.J.A.C. 7:27-8.18; or

2. If the equipment, control apparatus, or source operation is at a facility for which an operating permit has been issued, a change which requires a minor modification or a significant modification of the permit under N.J.A.C. 7:27-22.23 or 24.

“Alternative maximum allowable emission rate” means a maximum allowable emission rate, set by the Department on a site-specific basis pursuant to N.J.A.C. 7:27-19.13.

“Anthracite coal” means coal that is classified as anthracite according to the ASTM Standard Specification for Classification of Coals by Rank, ASTM D 388-77, incorporated herein by reference. This specification can be obtained from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

“Asphalt” means a solid, semisolid, or liquid material, produced by mixing bituminous substances together with gravel, crushed rock or similar materials, and used commonly as a coating or paving.

“ASTM” means the American Society for Testing and Materials.

“Averaging” means complying with the requirements of this subchapter pursuant to N.J.A.C. 7:27-19.6, Emissions averaging.

“Averaging unit” means an individual source operation or item of equipment which is included in a designated set for the purpose of averaging pursuant to N.J.A.C. 7:27-19.6.

“Base year” means calendar year 1990 or other calendar year determined pursuant to N.J.A.C. 7:27-19.20(d)1, in connection with a plan for seasonal fuel switching.

“Batch type asphalt plant” means an asphalt plant where the aggregate and asphalt cement or other binder are mixed in equipment other than a rotary dryer.

“Bituminous coal” means coal that is classified as bituminous according to the ASTM Standard Specification for Classification of Coals by Rank, ASTM D 388-77. This specification can be obtained from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

“Borosilicate recipe” means a formula for making glass using 60 to 80 percent silicon dioxide, five to 35 percent boric oxides, and four to 23 percent other oxides.

“British thermal unit (BTU)” means the quantity of heat required to raise the temperature of one avoirdupois pound of water one degree Fahrenheit at 39.1 degrees Fahrenheit.

“Calendar day” means the 24 hour period from 12:00 o'clock midnight to 12:00 o'clock midnight the following day.

“Carbon monoxide (CO)” means a colorless, odorless, tasteless gas at standard conditions, having a molecular composition of one carbon atom and one oxygen atom.

“Certificate” means either an operating certificate or a temporary operating certificate.

“Cleaner fuel” means a fuel other than a combustion source’s primary fuel, the combustion of which results in a rate of NO_x emissions that is less than the rate of NO_x emissions when the primary fuel is combusted, all other circumstances being equal.

“Continuous emissions monitor” or “CEM” means a device which continuously measures the emissions from one or more source operations.

“Continuous monitoring system” or “CMS” means a system designed to continuously measure various parameters at a facility which may affect or relate to a facility’s emissions. Components of a CMS include, but are not limited to, any continuous emissions monitor (CEM), continuous opacity monitor (COM), continuous process monitor (CPM), or any other constantly operating measuring device and recording device approved by the Department to perform one or more of the functions of a CMS.

“CFR” means the Code of Federal Regulations.

“Coal” means anthracite coal, bituminous coal, coke, lignite, nonbanded coal, and/or subbituminous coal.

“Coke” means a fused, cellular, porous substance that remains after free moisture and the major portion of the volatile materials have been distilled from bituminous coal and other carbonaceous material by heating it in the absence of air or with a limited supply of air.

“Combined cycle gas turbine” means a gas turbine in which heat is recovered from the turbine’s exhaust gases to heat water or generate steam.

“Combustion source” means a source operation or item of equipment which combusts fuel.

“Commercial container glass” means clear or colored glass made of soda-lime recipe, which is formed into bottles, jars, ampoules or other containers, but does not include specialty container glass.

“Commercial fuel” means solid, liquid, or gaseous fuel which is ordinarily produced, manufactured, or sold for the purpose of creating heat.

“Comparable demand day” means, for any day in which an averaging unit is not operating, a day on which demand for electric power was within 10 percent of the demand on the day in question.

“Control apparatus” means any device which prevents or controls the emission of any air contaminant directly or indirectly into the outdoor atmosphere.

“Criteria pollutant” means any air contaminant for which a NAAQS has been promulgated under 40 CFR 50 or for which a New Jersey Ambient Air Quality Standard has been promulgated in N.J.A.C. 7:27-13.

“Cyclone-fired boiler” means a boiler which combusts fuel in a horizontal water-cooled cylinder before releasing the combustion gases into the boiler.

“Delivery vessel” means any mobile storage tank including, but not limited to, tank trucks or railroad tank cars. This term does not include marine tank vessels.

“Department” means the New Jersey Department of Environmental Protection.

“Designated set” means the averaging units which an owner or operator is authorized by the Department to include in an averaging plan pursuant to N.J.A.C. 7:27-19.6.

“Distillates of air” means helium (He), nitrogen (N₂), oxygen (O₂), neon (Ne), argon (Ar), krypton (Kr), xenon (Xe), and carbon dioxide (CO₂).

“Dry bottom utility boiler” means a utility boiler equipped with an ash disposal hopper bottom with sufficient cooling surface so that ash particles, when removed from the hopper, are in a solid state.

“Drum mix asphalt plant” means an asphalt plant where the asphalt cement or other binder is added to the aggregate while the aggregate is still in the rotary dryer.

“Duct burner” means an item of equipment used with a combined cycle gas turbine or a stationary internal combustion engine to increase the steam generating capacity of heat recovery steam generators. A duct burner consists of pipes and small burners that are placed in the exhaust duct upstream of the heat recovery steam generator; the duct burner allows firing of additional fuel to increase the exhaust heat energy. A duct burner is a type of indirect heat exchanger.

“Electric generating unit” means a combustion source used for generating electricity that delivers all or part of its power to the electric power distribution grid for commercial sale.

“Electric generating utility” means any person who is subject to regulation as a public utility (as defined in N.J.S.A. 48:2-13) for its provision of electric power to

another person or any person who would be subject to such regulation were it not for that person’s status as a municipality.

“Emergency capacity” means the generation of electricity by an electric generating unit at a rate in excess of the unit’s maximum normal power output rating. This maximum normal power output rating shall be that agreed upon by PJM and the owner or operator of the unit, and published by the owner or operator.

“Emergency generator” means a combustion source used to provide mechanical, thermal or electrical energy only when the facility’s primary source of that energy has been rendered inoperable by circumstances beyond the control of the owner or operator of the facility. The term does not include equipment used in circumstances other than emergencies, such as during high electric demand days. The term also does not include equipment which continues to be used after the primary energy source either has become operable again or should have become operable had the owner or operator made reasonable efforts to repair it.

“EPA” means the United States Environmental Protection Agency.

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

“Face-fired boiler” means a furnace firing design in which the burners are mounted on one or more walls of the furnace.

“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 owned or operated by the same person. This term does not include delivery vessels.

“Facility-wide permit” means a single permit issued by the Department to the owner or operator of a priority industrial facility incorporating the permits, certificates, registrations, or any other relevant Department approvals previously issued to the owner or operator of the priority industrial facility pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., and the appropriate provisions of the Pollution Prevention Plan prepared by the owner or operator of the priority industrial facility pursuant to N.J.S.A. 13:1D-41 and 42. This term shall have the same meaning as defined for the term “facility-wide permit” at N.J.A.C. 7:1K-1.5; if there is any conflict between the

definition at N.J.A.C. 7:1K-1.5 and this one, the definition at N.J.A.C. 7:1K-1.5 shall control.

“Federally enforceable” means all limitations and conditions on operation, production, or emissions which can be enforced by EPA pursuant to authorities which include, but are not limited to, those established in:

1. Any standards of performance for new stationary sources (NSPS) promulgated at 40 CFR 60;
2. Any national emission standard for hazardous air pollutants (NESHAP) promulgated at 40 CFR 61;
3. Any provision of an applicable SIP;
4. Any permit issued pursuant to requirements established at 40 CFR 51, Subpart I; 40 CFR 52.21; 40 CFR 70; or 40 CFR 71; or
5. Any permit issued pursuant to requirements established under the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., and this chapter.

“Fixed capital cost” means the capital needed to provide all the depreciable components of a facility, item of equipment or source operation.

“Fuel” means combustible material burned in boilers, furnaces or other machinery to generate heat or other forms of energy. This term includes commercial fuel and non-commercial fuel.

“Fuel oil” means a liquid or liquefiable petroleum product burned for the generation of light, heat or power and derived directly or indirectly from crude oil.

“Gas turbine” means an internal combustion engine fueled by liquid or gaseous fuel, which generates mechanical energy in the form of a rotating shaft which is used to drive an electric generator or other industrial equipment.

“Glass” means a hard, amorphous inorganic substance made by fusing silicates, and sometimes borates and phosphates, with certain basic oxides.

“Glass manufacturing furnace” means equipment which uses heat for the production of glass.

“Heat input” means heat derived from the combustion of fuel put into any boiler, furnace or other piece of equipment. This term does not include the heat from preheated combustion air, recirculated flue gases or exhaust gases from other sources.

“Higher heating value” means the total heat obtained from the complete combustion of a fuel which is at 60 degrees Fahrenheit when combustion begins, and the combustion products of which are cooled to 60 degrees Fahrenheit before the quantity of heat released is measured.

“Horsepower hour” means a unit of energy or work, equal to the work done by a mechanism with a power output of one horsepower over a period of one hour.

“Incinerator” means any device, apparatus, equipment, or structure using combustion or pyrolysis for destroying, reducing or salvaging any material or substance, but does not include thermal or catalytic oxidizers used as control apparatus on manufacturing equipment. For the purposes of this subchapter, this term includes (without limitation) any thermal destruction facility which is a resource recovery facility, as such terms are defined in N.J.A.C. 7:26-1.4.

“Indirect heat exchanger” means equipment in which heat from the combustion of fuel is transferred by conduction through a heat-conducting material to a substance being heated, so that the latter is not contacted by, and adds nothing to, the products of combustion. Examples of indirect heat exchangers include boilers, duct burners and process heaters.

“Innovative control technology” means a NO_x control measure that has a substantial likelihood of achieving lower continuous levels of NO_x emissions than are required under this subchapter, but has not been adequately demonstrated and is not available to be implemented before May 31, 1995. An item of equipment or control apparatus, a change in a process, or a pollution prevention strategy may qualify as an innovative control technology.

“Interim period” means the period of time beginning on May 31, 1995, and ending when phased compliance under N.J.A.C. 7:27-19.21, 19.22 or 19.23 (as applicable) is to be completed.

1. For purposes of phased compliance for repowering pursuant to N.J.A.C. 7:27-19.21, the interim period ends on the date when repowering of a combustion source is to be completed.
2. For purposes of phased compliance for reasons of practicability pursuant to N.J.A.C. 7:27-19.22, the interim period ends on the date when a combustion source is to attain full compliance with this subchapter.
3. For purposes of phased compliance for innovative control technology pursuant to N.J.A.C. 7:27-19.23, the interim period ends on the date when the innovative control technology is to be fully implemented.

“Lean-burn stationary internal combustion engine” means a stationary internal combustion engine which operates at an air-to-fuel ratio fuel-lean of stoichiometric and cannot operate with an exhaust oxygen concentration less than one percent.

“Lb/MMBTU” means pounds per million British Thermal Units.

“Lignite” means coal that is classified as lignite A or B according to the ASTM Standard Specification for Classification of Coals by Rank, ASTM D 388-77. This specification can be obtained from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

“Liquid particles” means particles which have volume but are not of rigid shape.

“Load dispatcher” means the employee or agent of the electric power distribution network, to which the electric generating unit is connected, who is responsible for determining that an MEG alert is the only feasible means of preventing or mitigating either a voltage reduction or an interruption in electric service or both.

“Major NO_x facility” means any facility which has the potential to emit 25 or more tons of NO_x per year.

“Manufacturing process” means any action, operation or treatment embracing chemical, industrial, manufacturing, or processing factors, methods or forms including, but not limited to, furnaces, kettles, ovens, converters, cupolas, kilns, crucibles, stills, dryers, roasters, crushers, grinders, mixers, reactors, regenerators, separators, filters, reboilers, columns, classifiers, screens, quenchers, cookers, digesters, towers, washers, scrubbers, mills, condensers or absorbers.

“Maximum allowable emission rate” means the maximum amount of an air contaminant which may be emitted into the outdoor air at any instant in time or during any prescribed interval of time.

“Maximum gross heat input rate” means the maximum amount of fuel a combustion source is able to combust in a given period as stated by the manufacturer of the combustion source. This term is expressed in BTUs per hour, based on the higher heating value of the fuel.

“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.

“MMBTU” means million British Thermal Units.

“National Ambient Air Quality Standard (NAAQS)” means an ambient air quality standard promulgated at 40 CFR 50.

“Natural gas reburning” means a control technology where natural gas is injected into a boiler downstream of the main combustion zone in order to reduce the amount of NO_x in the exhaust gas.

“NESHAP” means a National Emission Standard for a Hazardous Air Pollutant as promulgated under 40 CFR 61.

“Nitrogen dioxide (NO₂)” means a gaseous compound at standard conditions, having a molecular composition of one nitrogen atom and two oxygen atoms.

“Nitrogen oxide (NO)” means a gaseous compound at standard conditions, having a molecular composition of one nitrogen atom and one oxygen atom.

“Nonbanded coal” means coal that is classified as non-banded according to the ASTM Standard Definition of Terms Relating to Megascopic Description of Coal and Coal Beds and Microscopical Description and Analysis of Coals, ASTM D 2796-77, incorporated herein by reference. This document may be obtained from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

“Non-commercial fuel” means solid, liquid or gaseous fuel which is not ordinarily produced, manufactured, or sold for the purpose of creating heat.

“Non-utility boiler” means any steam generating unit which is not a utility boiler.

“NSPS” means Standards of Performance for New Stationary Sources as promulgated under 40 CFR 60, commonly referred to as New Source Performance Standards.

“Operating certificate” means a “Certificate to Operate Control Apparatus or Equipment” issued by the Department pursuant to the Air Pollution Control Act of 1954, specifically N.J.S.A. 26:2C-9.2, which is valid for a period of five years from the date of issuance, unless sooner revoked by the Department.

“Operating permit” means the permit described in Title V of the Federal Clean Air Act, 42 U.S.C. §§ 7661 et seq., and in N.J.A.C. 7:27-22. This term shall include a general operating permit which is applicable facility wide, but does not include a general operating permit which applies only to a part of a facility. Where a general operating permit applies only to a part of a facility, the general operating permit shall be incorporated into the operating permit. This term also includes an operating permit issued for a temporary facility; for a facility subject to a MACT or GACT standard pursuant to N.J.A.C. 7:27-22.26; or for a component of a facility pursuant to N.J.A.C. 7:27-22.5(j).

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

“Particles” means any material, except uncombined water, which exists as liquid particles or solid particles at standard conditions.

“Peak daily heat input rate,” for a combustion source or for a designated set that has no operating history, means the maximum gross heat input rate of the source or of all the sources in the designated set. For a combustion source or for a designated set that has an operating history, “peak daily heat input rate” means the average of the daily heat inputs to a combustion source or to a designated set on the five days on which the heat input was highest, over the following period:

1. For a combustion source or for a designated set that has been operating for at least five years, the five years preceding the date on which the owner or operator applied to the Department for approval of an emissions averaging plan, pursuant to N.J.A.C. 7:27-19.6; and
2. For a combustion source that has been operating for less than five years, the entire period during which the combustion source has been operating.

“Pennsylvania-New Jersey-Maryland Interconnection” or “PJM” means the combination of electric generating utilities, linked physically and through contractual arrangements, for coordinated electricity planning and operation in an area that as of 1994 includes New Jersey, Maryland, Pennsylvania, Virginia, Delaware and the District of Columbia.

“Permit” means preconstruction permit, operating permit, or facility-wide permit.

“Person” means any individual or entity and shall include, without limitation, corporations, companies, associations, societies, firms, partnerships and joint stock companies, and shall also include, without limitation, all political subdivisions of this State or any agencies or instrumentalities thereof.

“Potential to emit” means the capability of a source operation or of a facility to emit an air contaminant at maximum design capacity, except as constrained by any Federally enforceable condition. Such Federally enforceable conditions may include, but are not limited to, the effect of installed control apparatus, restrictions on the hours of operation, and restrictions on the type or amount of material combusted, stored, or processed.

“Ppmv” means a measurement of the concentration of a specified substance in air, expressed as the number of parts of the specified substance per million parts of air, by volume, including the number of parts contributed by water.

“Ppmvd” means a measurement of the concentration of a specified substance in air, expressed as the number of parts of the specified substance per million parts of air, by volume, not including the number of parts contributed by water.

“Preconstruction permit” means a legally valid permit, authorizing construction, installation, reconstruction, or modification of a significant source, issued by the Department under N.J.A.C. 7:27-8 pursuant to the New Jersey Air Pollution Control Act and in particular N.J.S.A. 26:2C-9.2.

“Primary fuel” means the fuel that provided the greatest heat input (expressed in BTU) to a combustion source in the base year.

“Process heater” means an item of equipment in which heat from fuel combustion is transferred to fluids contained in tubes without coming into contact with the fluid. A process heater is a type of indirect heat exchanger.

“Rebricking” means the replacement of damaged or worn bricks of a glass manufacturing furnace while the furnace does not contain molten glass.

“Reconstruction” means the replacement of components of an existing facility, item of equipment or source operation to such an extent that the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct an entirely new facility, item of equipment or source operation.

“Refinery fuel gas” means gaseous fuel derived from the refining process and used as a fuel at the refinery where it was produced.

“Refining process” means the combination of physical and chemical operations including, but not limited to, distillation, cracking, and reformulation, performed on crude oil (or derivatives of crude oil) in order to produce petroleum products.

“Regenerative cycle gas turbine” means a gas turbine which recovers heat from its exhaust gases and uses that heat to preheat the combustion air which is drawn into the gas turbine.

“Repowering” means the series of actions described in 1 and 2 below by an owner or operator:

1. The permanent ceasing of the operations of the steam generator in a steam generating unit, the gas turbine in a simple-cycle or combined-cycle gas turbine, or any other combustion source; and
2. The installation in the State of a new combustion source or the purchase of heat or power from the owner of a new combustion source that is located in the State that:
 - i. Has a maximum gross heat output rate that is at least 50 percent of the maximum gross heat output rate of the combustion source that is shut down under 1 above, or has a power output rate that is at least 50 percent of the power output rate of the combustion source that is shut down; and

ii. Incorporates technology capable of controlling multiple combustion emissions simultaneously with improved fuel efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

“Rich-burn stationary internal combustion engine” means a stationary internal combustion engine in which the concentration of oxygen in the exhaust is no greater than one percent.

“Rotary dryer” means a cylindrical device, which rotates about an axis, through which hot gases are passed for the purpose of removing moisture from any solid.

“Sampling” means the selective collection of a quantity of raw materials, process intermediates, products, by-products or wastes.

“Selective noncatalytic reduction” or “SNCR” means a noncombustion technology that reduces NO_x emissions without a catalyst by injecting a reducing agent (such as ammonia, urea or cyanuric acid) into the flue gas, downstream of the combustion zone; the injection of the reducing agent converts NO_x to molecular nitrogen, water, and (if the reducing agent is urea or cyanuric acid) carbon dioxide (CO_2).

“Significant air quality impact level” means an increase, greater than or equal to that specified in Table 1 at N.J.A.C. 7:27-18.4, in the ambient air concentration of a criteria pollutant.

“Simple cycle gas turbine” means a gas turbine which does not recover heat from its exhaust gases.

“Soda lime recipe” means a formula for making glass using 60 to 75 percent silicon dioxide and 25 to 40 percent other oxides and no lead oxides.

“Solid particles” means particles of rigid shape and definite volume.

“Source emission testing” means the testing of a discharge of any air contaminant from equipment, control apparatus or source operation through any stack or chimney.

“Source operation” means any process or any identifiable part thereof that emits or can reasonably be anticipated to emit any air contaminant either directly or indirectly into the outdoor atmosphere.

“Specialty container glass” means clear or colored glass made of soda-lime recipe, which is produced to meet the specifications of any standard set forth by The United States Pharmacopeia or The National Formulary, incorporated herein by reference, and which is used for pharmaceutical, cosmetic or scientific purposes. The referenced specifica-

tions can be obtained from the United States Pharmacopeial Convention, Inc., 12601 Twinbrook Parkway, Rockville, MD 20852.

“Stack or chimney” means a flue, conduit or opening designed, constructed, or used for the purpose of emitting any air contaminant into the outdoor atmosphere.

“Standard conditions” means 70 degrees Fahrenheit (21.1 degrees Celsius) and one atmosphere pressure (14.7 pounds per square inch absolute or 760.0 millimeters of mercury).

“State implementation plan (SIP)” means a plan for the attainment of any NAAQS, prepared by a state and approved by the EPA pursuant to Section 110 of the Clean Air Act (42 USC 1857 et seq.).

“Stationary gas turbine” means any simple cycle gas turbine, regenerative cycle gas turbine or combined cycle gas turbine that is not self-propelled. The term includes a gas turbine of any of these types which is mounted on a vehicle for portability.

“Stationary internal combustion engine” means any internal combustion engine that is not self-propelled. This term includes internal combustion engines which are mounted on vehicles for portability.

“Steam generating unit” means any furnace, boiler, or other device which combusts commercial fuel for the purpose of producing steam.

“Subbituminous coal” means coal that is classified as subbituminous according to the ASTM Standard Specification for Classification of Coals by Rank, ASTM D 388-77. This document may be obtained from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

“Tangential-fired boiler” means a furnace firing design where the burners are mounted at the corners of the furnace chamber.

“Testing” means a procedure for determining the kind and amount of one or more air contaminants, potential air contaminants or air contaminant precursors present. This term includes, but is not limited to, sampling, sample custody, analysis, and reporting of findings.

“Use” means to engage in any form or manner of operation of equipment or control apparatus subsequent to the installation of such equipment or control apparatus. This term includes any trial operation.

“Utility boiler” means a steam generating unit owned by an electric generating utility which is used for generating electricity for commercial use.

“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 which have been approved in writing by the Department. This term does not include the 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. The list at 40 CFR 51.100(s)(1) currently includes the compounds and the classes of perfluorocarbons set forth below:

Compounds

methane

ethane

methylene chloride (dichloromethane)

1,1,1-trichloroethane (methyl chloroform)

trichlorofluoromethane (CFC-11)

dichlorodifluoromethane (CFC-12)

trifluoromethane (FC-23)

1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113)

1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114)

chloropentafluoroethane (CFC-115)

chlorodifluoromethane (HCFC-22)

2,2-dichloro-1,1,1-trifluoroethane (HCFC-123)

2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)

pentafluoroethane (HFC-125)

1,1,2,2-tetrafluoroethane (HFC-134)

1,1,1,2-tetrafluoroethane (HFC-134a)

1,1-dichloro-1-fluoroethane (HCFC-141b)

1-chloro-1,1-difluoroethane (HCFC-142b)

1,1,1-trifluoroethane (HFC-143a)

1,1-difluoroethane (HFC-152a)

parachlorobenzotrifluoride (PCBTF) cyclic, branched or linear completely methylated siloxanes

Classes of perfluorocarbons:

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.

“Wet bottom utility boiler” means a utility boiler in which the ash is removed from the boiler in a molten state.

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).

Inserted “Facility-wide permit”, “Operating permit” and “Preconstruction permit”; and rewrote “Alteration” and “Permit”.

7:27-19.2 Purpose, scope and applicability

(a) This subchapter establishes requirements and procedures concerning the control and prohibition of air pollution by oxides of nitrogen. The purpose of this subchapter is to require any stationary source or group of sources, located within a contiguous area and under common control, that emits or has the potential to emit at least 25 tons of NO_x per year, to implement reasonably available control technology (RACT) to control NO_x emissions. EPA defines RACT to mean the lowest emission limitation that a particular source is capable of meeting by the application of air pollution control technology which is reasonably available considering technological and economic feasibility.

(b) The following types of equipment and source operations are subject to the provisions of this subchapter:

1. Any utility boiler;
2. Any non-utility boiler or other indirect heat exchanger which has a maximum gross heat input rate of at least 20 million BTUs per hour;
3. Any stationary gas turbine which has a maximum gross heat input rate of at least 30 million BTUs per hour;
4. Any stationary internal combustion engine capable of producing an output of more than 500 horsepower;
5. Any rotary dryer having the potential to emit at least 25 tons of NO_x per year, and located at an asphalt plant;
6. Any glass manufacturing furnace producing commercial container glass, and having a maximum potential production rate of at least 14 tons of glass removed from the furnace per day and has the potential to emit more than 10 tons of NO_x per year;

(b) Within two working days after the end of the MEG alert, the electric generating utility shall notify the Department by way of a report confirming the occurrence of the MEG alert. The electric generating utility shall certify the report in accordance with N.J.A.C. 7:27-1.39. In the report, the electric generating utility shall include the following information:

1. Information sufficient to identify each electric generating unit that operated at emergency capacity, including a brief description (for example, "dry-bottom coal-fired utility boiler"), its location, its permit number, any other identifying numbers, and any other information necessary to distinguish it from other equipment owned or operated by the utility;

2. The date and time at which the electric generating utility received notice from the load dispatcher, directing the utility to operate one or more electric generating units at emergency capacity;

3. For each electric generating unit listed in (b)1 above, the date and time at which the electric generating utility began to operate the electric generating unit at emergency capacity;

4. The date and time at which the electric generating utility received notice from the load dispatcher, advising the utility that it could cease operating its electric generating units at emergency capacity;

5. For each electric generating unit listed in (b)1 above, the date and time at which the electric generating utility ceased operating the electric generating unit at emergency capacity;

6. For each electric generating unit listed in 1 above, the amount by which the unit's NO_x emissions (expressed in pounds) during the MEG alert exceeded the maximum quantity of NO_x emissions allowed under this chapter. The excess NO_x emissions shall be calculated as follows for each day that the MEG alert continued:

$$E = (ER-M) \times H$$

where:

i. E is the excess NO_x emissions from the electric generating unit;

ii. ER is the average rate at which the electric generating unit emitted NO_x during the day of the MEG alert, determined in accordance with N.J.A.C. 7:27-19.15(a) and expressed in lb/MMBTU;

iii. M is the most stringent applicable NO_x emissions limit established under this chapter; and

iv. H the actual daily heat input to the electric generating unit during the MEG alert, expressed in MMBTU;

7. A copy of the calculations performed under (b)6 above; and

8. A description of the method by which the electric generating utility has provided or will provide compensatory reductions in NO_x emissions as required under (c) below.

(c) The electric generating utility shall use NO_x discrete emission reductions (DERs) in accordance with N.J.A.C. 7:27-30 to compensate for the excess NO_x emissions during the MEG alert. The ratio of the amount of the NO_x DERs required to the amount of the excess NO_x emissions calculated under (b)6 above shall be 1.3:1.

New Rule, R.1995 d.214, effective April 17, 1995 (operative May 23, 1995).

See: 26 N.J.R. 3298(a), 27 N.J.R. 1581(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 (c).

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 (b), changed N.J.A.C. reference.

7:27-19.25 Exemption for emergency use of fuel oil

(a) If a combustion source temporarily combusts fuel oil or other liquid fuel in place of natural gas in accordance with this section, the owner or operator is not required to have the combustion source comply with the applicable NO_x emission limits in N.J.A.C. 7:27-19.4, 19.5, 19.7, 19.8, 19.9 or 19.10, or an applicable NO_x emission limit established under N.J.A.C. 7:27-19.13, 19.20, 19.21, 19.22 or 19.23, while the fuel oil or other liquid fuel is burned. On each day that this exemption applies, for purposes of calculating daily or annual NO_x emissions the combustion source will be deemed to have emitted no NO_x and to have derived a heat input of 0.0 BTU.

(b) The exemption under (a) above is available only for a combustion source that uses natural gas as its primary fuel, or is seasonally combusting natural gas pursuant to a plan approved under N.J.A.C. 7:27-19.14 and 19.20. For a combustion source that uses natural gas as its primary fuel, the exemption under (a) above is available at any time during the year. For a combustion source that is seasonally combusting natural gas, the exemption under (a) above is available only from May 1 through September 15. This exemption is also available for those combustion sources which combust refinery gas as a primary fuel.

(c) The owner or operator of the combustion source is eligible for the exemption under (a) above only if the following requirements are met:

1. The owner or operator is not practicably able to obtain a sufficient supply of natural gas;

2. The owner or operator's inability to obtain natural gas is due to circumstances beyond the control of the owner or operator, such as a natural gas curtailment;

3. The combustion source ceases using fuel oil or other liquid fuel in place of natural gas and resumes using natural gas as soon as a sufficient supply of natural gas becomes practicably available;

4. The use of fuel oil or liquid fuel does not exceed 500 hours during any consecutive 12-month period; and

5. The owner or operator satisfies the recordkeeping requirements of N.J.A.C. 7:27-19.19(d) and (e), and the reporting requirements of (d) below.

(d) The owner or operator shall keep records of curtailment periods and incorporate such records into the required quarterly reports submitted to the Department. Such records shall include the following information:

1. Information sufficient to identify each combustion source for which the owner or operator claims an exemption under this section, including a brief description of the source (for example, "dry-bottom coal-fired utility boiler"), its location, its permit number, any other identifying numbers, and any other information necessary to distinguish it from other equipment owned or operated by the utility;

2. A statement that the owner or operator is not practicably able to obtain a sufficient supply of natural gas;

3. The date and time at which the owner or operator first became practicably unable to obtain natural gas; and

4. A description of the circumstances causing the owner or operator's inability to obtain natural gas.

New Rule, R.1995 d.214, effective April 17, 1995 (operative May 23, 1995).

See: 26 N.J.R. 3298(a), 27 N.J.R. 1581(a).

7:27-19.26 Penalties

Failure to comply with any provision of this subchapter shall subject the owner or operator to civil 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. 26:2C-28.3 and N.J.S.A. 26:2C-19(f)1 and 2.

Recodified from 7:27-19.20 by R.1995 d.214, effective April 17, 1995 (operative May 23, 1995).

See: 26 N.J.R. 3298(a), 27 N.J.R. 1581(a).

SUBCHAPTER 20. (RESERVED)

SUBCHAPTER 21. EMISSION STATEMENTS

Source and Effective Date

R.1993 d.128, effective March 15, 1993 (operative April 20, 1993).

See: 24 N.J.R. 2979(a), 25 N.J.R. 1254(a).

Law Review and Journal Commentaries

Air Pollution Law Changes Target Nitrogen Oxides. Neale R. Bedrock, 136 N.J.L.J. No. 8, S17 (1994).

New Rules Establish Clean Air Act Standards. Richard M. Hluchan and Terrie-Anne Duda, 132 N.J.L.J. No. 8, S10 (1992).

7:27-21.1 Definitions

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

"Actual emissions" means the rate at which an air contaminant is actually emitted, either directly or indirectly, to the outdoor atmosphere, in units of mass per calendar year, seasonal period, or other time period specified in this subchapter.

"Aerodynamic diameter" means the theoretical diameter of a nonspherical particle having the same terminal settling velocity as an equally dense, spherical particle of such diameter.

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

"AP-42" means the most recently published edition and any subsequent edition of the manual entitled "Compilation of Air Pollutant Emission Factors" published by the EPA. This document may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, (703) 487-4650 or the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, (202) 783-3228.

"Capture efficiency" means the amount of an air contaminant collected by a control apparatus serving the source operation, expressed as a percentage of the total amount of the air contaminant emitted by the source operation.

"Carbon monoxide" or "CO" means an air contaminant which is a colorless, odorless gas at standard conditions, having a molecular composition of one carbon atom and one oxygen atom.

"Certificate" means either an operating certificate or a temporary operating certificate.

"CFR" means the United States Code of Federal Regulations. This document may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, (202) 783-3228.

"Control apparatus" means any device which prevents or controls the emission of any air contaminant directly or indirectly into the outdoor atmosphere.

“Control efficiency” means the amount of an air contaminant prevented from being discharged into the outdoor atmosphere by a control apparatus, expressed as a percentage of the total amount of the air contaminant collected by the control apparatus.

“Department” means the New Jersey Department of Environmental Protection.

“Delivery vessel” means any mobile storage tank including, but not limited to, a marine vessel, tank truck or railroad tank car.

“Distillates of air” means the following chemical species: helium (He), nitrogen (N₂), oxygen (O₂), neon (Ne), argon (Ar), krypton (Kr), xenon (Xe), and carbon dioxide (CO₂).

“Emissions information” means, with reference to any source operation, equipment, or control apparatus:

1. Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any air contaminant which has been emitted by the source operation, equipment or control apparatus;
2. Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any air contaminant which, under an applicable standard or limitation, the source operation was authorized to emit (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source operation), or any combination of the foregoing; and
3. A general description of the location and/or nature of the source operation to the extent necessary to identify the source operation and to distinguish it from other source operations (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source operation).

The following list includes specific data fields which the Department considers to constitute emissions information. This list is not exhaustive and, therefore, other data might be found, in a proper case, to constitute emissions information:

Facility Identification

Plant name and related point identifiers

Address

City

County

AQCR (Air Quality Control Region)

MSA, PMSA, CMSA (Metropolitan Statistical Areas)

State

Zip Code

Ownership and point of contact information

Locational Identifiers:

Latitude & Longitude or UTM Coordinates

SIC Code (Standard Industrial Classification)

Emission point, device or operation description, information

SCC Code (Source Classification Codes)

Emissions Parameters

Emission type (for example, nature of emissions such as CO, particulate or a specific toxic compound, and origin of emissions such as process vents, storage tanks or equipment leaks)

Emission rate (for example, the amount released to the atmosphere over time such as pounds per hour or tons per year)

Release height (for example, height above ground level where the air contaminant is emitted to the atmosphere)

Description of terrain and surrounding structures (for example, the size of the area, with adjacent structures and terrain descriptions such as mountainous, urban, or rural)

Stack or vent diameter at point of emissions (for example the inside diameter of vent at the point of emission to the atmosphere)

Release velocity

Release temperature

Frequency of release (for example, how often a release occurs in events per year)

Duration of release (for example, the time associated with a release to the atmosphere)

Concentration (for example, the amount of an emission stream constituent relative to other stream constituents, expressed as parts per million (ppm), volume percent, or weight percent)

Density of the emissions stream or average molecular weight (for example, density expressed as fraction or multiple of the density of air; molecular weight)

Boiler or process design capacity (for example, the hourly gross heating value of fuel input to a boiler at its maximum design rate or maximum pounds per hour product rate)

Emission estimation method (for example, the method by which an emission estimate has been calculated such as material balance, stack test, use of AP-42 emission factors, etc.)

Percent space heat (for example, the percent of fuel used for space heating)

Hourly maximum design rate (for example, the greatest operating rate that would be expected for a source in a one hour period)

Control apparatus information (for example, type of primary and secondary control apparatus, capture efficiency, and control efficiency)

"EPA" means the United States Environmental Protection Agency.

"Equipment" means any device capable of causing the emission of an air contaminant either directly or indirectly to the outdoor atmosphere, and any stack or chimney, conduit, flue, duct, vent, or similar device connected or attached to, or serving the equipment. This term includes, but is not limited to, a device 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 owned or operated by the same person.

"Facility-wide permit" means a single permit issued by the Department to the owner or operator of a priority industrial facility incorporating the permits, certificates, registrations, or any other relevant Department approvals previously issued to the owner or operator of the priority industrial facility pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., and the appropriate provisions of the Pollution Prevention Plan prepared by the owner or operator of the priority industrial facility pursuant to N.J.S.A. 13:1D-41 and 42. This term shall have the same meaning as defined for the term "facility-wide permit" at N.J.A.C. 7:1K-1.5; if there is any conflict between the definition at N.J.A.C. 7:1K-1.5 and this one, the definition at N.J.A.C. 7:1K-1.5 shall control.

"Federally enforceable" means any limitation or condition on operation, production, or emissions that can be enforced by EPA. These limitations and conditions that can be enforced by EPA include, but are not limited to, those established pursuant to:

1. **Any standard of performance** for new stationary sources (NSPS) promulgated at 40 CFR Part 60, or promulgated under 42 U.S.C. § 7411;

2. Any national emission standard for hazardous air pollutants (NESHAP) promulgated at 40 CFR Part 61, 40 CFR Part 63, or promulgated under 42 U.S.C. § 7412;

3. Any standard or other requirement provided for in a SIP that has been approved by EPA, or promulgated through rulemaking by EPA; or

4. Any permit or order issued pursuant to requirements established at 40 CFR 51, Subpart I (including any pre-construction permit issued pursuant to N.J.A.C. 7:27-8 or any operating permit issued pursuant to N.J.A.C. 7:27-22); 40 CFR 52.21; 40 CFR Part 70; 40 CFR Part 71; or 40 CFR Part 72.

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

"Gasoline" means any petroleum distillate or petroleum distillate/oxygenate blend having a Reid vapor pressure of four pounds per square inch (207 millimeters of mercury) absolute or greater, sold for use or used in a motor vehicle or motor vehicle engine, and commonly or commercially known or sold as gasoline.

"Gasoline dispensing facility" means a facility consisting of one or more stationary gasoline storage tanks together with dispensing devices used to fill vehicle fuel tanks.

"Lead" or "Pb" means elemental lead or any compound containing lead measured as elemental lead.

"Liquid particles" means particles which have volume but are not of rigid shape.

"Manufacturing process" means any action, operation or treatment embracing chemical, industrial, manufacturing or processing factors, methods or forms including, but not limited to, furnaces, kettles, ovens, converters, cupolas, kilns, crucibles, stills, dryers, roasters, crushers, grinders, mixers, reactors, regenerators, separators, filters, reboilers, columns, classifiers, screens, quenchers, cookers, digesters, towers, washers, scrubbers, mills, condensers or absorbers.

"NESHAP" means a National Emission Standard for a Hazardous Air Pollutant as promulgated under 40 CFR 61.

"NSPS" means Standard of Performance for New Stationary Sources as promulgated under 40 CFR 60, commonly referred to as New Source Performance Standards.

"Operating certificate" means a "Certificate to Operate Control Apparatus or Equipment" issued by the Department pursuant to the Air Pollution Control Act, and in particular N.J.S.A. 26:2C-9.2, which is valid for a period of five years from the date of issuance, unless sooner revoked by the Department.

“Operating permit” means the permit described in Title V of the Federal Clean Air Act, 42 U.S.C. §§ 7661 et seq., and in N.J.A.C. 7:27-22. This term shall include a general operating permit which is applicable facility wide, but does not include a general operating permit which applies only to a part of a facility. Where a general operating permit applies only to a part of a facility, the general operating permit shall be incorporated into the operating permit. This term also includes an operating permit issued for a temporary facility; for a facility subject to a MACT or GACT standard pursuant to N.J.A.C. 7:27-22.26; or for a component of a facility pursuant to N.J.A.C. 7:27-22.5(j).

“Order” means any and all orders issued by the Department including, but not limited to, Administrative Orders and Administrative Consent Orders.

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

“Pb” see “lead.”

“Peak carbon monoxide season” means December 1 through the last day of February, inclusive.

“Peak ozone season” means June 1 through August 31, inclusive.

“Permit” means preconstruction permit, operating permit, or facility-wide permit.

“Person” means any individual or entity and shall include, without limitation, corporations, companies, associations, societies, firms, partnerships and joint stock companies as well as individuals, and shall also include all political subdivisions of this State or any agencies or instrumentalities thereof.

“PM₁₀” means a class of air contaminants which includes all particulate matter having an aerodynamic diameter less than or equal to a nominal 10 micrometers.

“Potential to emit” means the maximum aggregate capacity of a source operation or of a facility to emit an air contaminant under its physical and operational design. Any physical or operational limitation on the capacity of a source operation or a facility to emit an air contaminant, including control apparatus, and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation is Federally enforceable. Fugitive emissions shall be included in the determination of potential to emit. However, the determination shall not include any banked emission reductions that are held by the owner or operator.

“Preconstruction permit” means a legally valid permit, authorizing construction, installation, reconstruction, or modification of a significant source, issued by the Depart-

ment under N.J.A.C. 7:27-8 pursuant to the New Jersey Air Pollution Control Act and in particular N.J.S.A. 26:2C-9.2.

“Process intermediate” means any material used in a process which is neither a raw material nor a product.

“Process level” means the operation of a source, specific to the kind or type of fuel, input material, or mode of operation.

“Process rate” means the quantity per unit of time of any raw material or process intermediate consumed, or product generated, through the use of any equipment, source operation, or control apparatus. For a stationary internal combustion unit or any other fuel burning equipment, this term may be expressed as the quantity of fuel burned per unit of time.

“Product” means the output from a source operation, equipment, or control apparatus. Such outputs may include mixtures, composites, compounds and elemental substances.

“Raw material” means any input to equipment, control apparatus, or a source operation, including fuels, but excluding heat and other forms of energy. Such inputs may include mixtures, composites, compounds and elemental substances.

“Reid vapor pressure” means the absolute vapor pressure of a petroleum product in pounds per square inch (kilopascals) at 100 degrees Fahrenheit (°F) (37.8 degrees Celsius (°C)) as measured by “Method 1—Dry RVP Measurement” or “Method 2—Herzog Semi-Automatic Method” promulgated at 40 CFR 80, Appendix E; or any other test method approved in advance in writing by the Department and the EPA.

“Responsible official” means one of the following:

1. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

- i. The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

- ii. The delegation of authority to such representative is approved in advance by the Assistant Director for Air and Environmental Quality Enforcement, Division of Facility Wide Enforcement, Department of Environmental Protection;

2. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

3. For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unity of the agency (for example, a Regional Administrator of EPA); or

4. For affected sources under Title IV of the Clean Air Act:

i. The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Clean Air Act or the regulations promulgated thereunder are concerned; and

ii. The designated representative for any other purposes under 40 CFR part 70.

“SCC code” means the eight-position Source Classification Code that provides a detailed analysis of a process. See EPA document “AIRS Facility Subsystem Source Classification Codes and Emission Factor Listing for Criteria Air Pollutants” EPA 450/4-90-003, which may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia, 22161, (703) 487-4650 or the Superintendent of Documents, Government Printing Office, Washington, D.C., 20402, (202) 783-3228.

“Seasonal throughput” means the percent of the total yearly operating activity which occurs during each of the following periods:

1. December 1 through February 28/29 (for example, December 1, 1992, through February 28/29, 1993);
2. March 1 through May 31;
3. June 1 through August 31; and
4. September 1 through November 30.

“SIC code” means the Standard Industrial Classification code devised by the United States Office of Management and Budget to classify establishments according to the type of economic activity in which they are engaged.

“Solid particles” means particles of rigid shape and definite volume.

“Source operation” means any process or any identifiable part thereof emitting or having the potential to emit any air contaminant either directly or indirectly into the outdoor atmosphere.

“Stack equivalent” means an aggregation of more than one stack or chimney approved by the Department for use in calculating or measuring air contaminant emissions from a single source operation or a group of source operations with a common exhaust ventilation system.

“Stack or chimney” means a flue, conduit or opening designed, constructed or used for the purpose of emitting any air contaminant into the outdoor atmosphere.

“Sulfur dioxide,” or “SO₂,” means an air contaminant which is a colorless gas at standard conditions having a molecular composition of one sulfur atom and two oxygen atoms.

“Temporary operating certificate” means a “Certificate to Operate Control Apparatus or Equipment” issued by the Department pursuant to the Air Pollution Control Act, and in particular N.J.S.A. 26:2C-9.2, which is valid for a period not to exceed 90 days.

“Ton” means a unit of weight equal to 2,000 pounds (0.907 metric tons or 907.20 kilograms).

“Total suspended particulate matter,” or “TSP,” means any air contaminant dispersed in the outdoor atmosphere which exists as solid particles or liquid particles at standard conditions and is measured in accordance with N.J.A.C. 7:27B-1; 40 CFR 60, Appendix A, Methods 5 through 5H; or another method approved by the Department and EPA.

“USC” means the United States Code.

“UTM coordinates” means Universal Transverse Mercator geographic coordinates, specified by the UTM zone, horizontal coordinate and vertical coordinate.

“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 purpose of determining compliance with emissions limits or content standards, VOC shall be measured by test methods which have been approved in writing by the Department. This term does not include the 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. The list at 40 CFR 51.100(s)(1) currently includes the compounds and classes of perfluorocarbons set forth below:

Compounds

methane

ethane

methylene chloride (dichloromethane)

1,1,1-trichloroethane (methyl chloroform)

trichlorofluoromethane (CFC-11)

dichlorodifluoromethane (CFC-12)

chlorodifluoromethane (HCFC-22)

trifluoromethane (FC-23)

1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113)

1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114)

chloropentafluoroethane (CFC-115)

2,2-dichloro-1,1,1-trifluoroethane (HCFC-123)

2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)

pentafluoroethane (HFC-125)

1,1,2,2-tetrafluoroethane (HFC-134)

1,1,1,2-tetrafluoroethane (HFC-134a)

1,1-dichloro-1-fluoroethane (HCFC-141b)

1-chloro-1,1-difluoroethane (HCFC-142b)

1,1,1-trifluoroethane (HFC-143a)

1,1-difluoroethane (HFC-152a)

parachlorobenzotrifluoride (PCBTF)

cyclic, branched or linear completely methylated siloxanes

Classes of perfluorocarbons:

- (1) Cyclic, branched, or linear, completely fluorinated alkanes;
- (2) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- (3) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
- (4) 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.

Amended by R.1994 d.500, effective October 3, 1994 (operative October 31, 1994).

See: 25 N.J.R. 4033(a), 26 N.J.R. 4026(a).

Administrative Correction.

See: 27 N.J.R. 1406(a).

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 "Federally enforceable", "Operating permit", "Permit" and "Preconstruction permit"; and inserted "Facility-wide permit".

7:27-21.2 Applicability

(a) Any owner or operator of a facility is subject to the requirements of this subchapter for any calendar year in which the facility emits or has the potential to emit, directly or indirectly to the outdoor atmosphere, any air contaminant listed at Table 1 at a rate greater than or equal to the applicable threshold. Emission statements are required, starting for the 1992 calendar year, for any air pollutant exceeding the thresholds in Table 1.

TABLE 1
AIR CONTAMINANT REPORTING THRESHOLDS

Air Contaminant	Threshold in Tons per Year
VOC	10
NO _x	25
CO	100
SO ₂	100
TSP	100
PM ₁₀	100
Pb	5

(b) With respect to the provisions of (a) above, emissions associated with any delivery vessel loading operation shall be included in determining a facility's potential to emit. Emissions from any delivery vessel, used as a storage tank, which is subject to the requirements of N.J.A.C. 7:27-16.2 pursuant to N.J.A.C. 7:27-16.2(m), also shall be included in a facility's potential to emit. All other emissions associated with delivery vessels (for example, motor vehicle tailpipe emissions, locomotives, and tugboats) shall be excluded from a facility's potential to emit.

(c) Notwithstanding (a) above, no facility is required, pursuant to this subchapter, to submit an emission statement for SO₂, TSP, PM₁₀, or Pb with respect to emissions occurring in or before 1992.

(d) Any facility which is solely a retail gasoline dispensing facility is exempt from the requirements of this subchapter.

7:27-21.3 General provisions

(a) Except as provided in N.J.A.C. 7:27-21.2(b), each owner or operator of a facility shall submit to the Department an emission statement pertaining to the emissions released directly or indirectly into the outdoor atmosphere during any calendar year in which the facility is subject to this subchapter pursuant to N.J.A.C. 7:27-21.2. Such emission statement shall include information only for the air contaminant(s) for which the facility's potential to emit equals or exceeds the applicable threshold set forth at N.J.A.C. 7:27-21.2, Table 1; however, if the facility's potential to emit equals or exceeds the reporting threshold for VOC, NO_x, or CO, the facility must report information for VOC, NO_x and CO.

(b) The owner and operator of any facility subject to this subchapter shall be responsible for ensuring compliance with all requirements of this subchapter. Failure to comply

with any provision of this subchapter shall subject the owner and operator to civil 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. 26:2C-19(f)1 and 2. All owners and operators are jointly and severally liable for such civil and criminal penalties.

(c) Compliance with the emission statement requirements of this subchapter does not relieve any owner or operator of a facility from the responsibility to comply with any other applicable reporting requirements set forth in any Federal or state law, rule, or regulation, or in the conditions of approval of any permit or certificate in effect.

(d) Submittal of an emission statement to the Department, or the Department's acceptance thereof, does not constitute approval by the Department of unauthorized releases of air contaminants into the outdoor atmosphere or of any exceedance of any applicable emission limit established in any Federal or state law, rule, or regulation, or in the conditions of approval of any permit or certificate in effect.

(e) Acceptance or receipt of an emission statement by the Department does not constitute the Department's acceptance of the truth, accuracy or completeness of the emission statement. The Department's failure to act on the information contained in the emission statement at the time of its receipt does not bar the Department from any future action based on that information.

(f) With respect to the provisions of N.J.A.C. 7:27-21.5 below, emissions associated with any delivery vessel loading operation shall be included in a facility's emission statement submittal. Emissions from any delivery vessel, used as a storage tank, which is subject to the requirements of N.J.A.C. 7:27-16.2 pursuant to N.J.A.C. 7:27-16.2(m) also shall be included in a facility's emission statement submittal. All other emissions associated with delivery vessels (for example, motor vehicle tailpipe emissions, locomotives, and tugboats) shall be excluded from the requirements of N.J.A.C. 7:27-21.5(c) through (i).

Case Notes

Failure to submit required emission statement within mandatory time frame warranted assessment of civil administrative penalty. Department of Environmental Protection and Energy v. Northgate, 95 N.J.A.R.2d (EPE) 190.

7:27-21.4 Procedure for submitting an emission statement

(a) Emission statements shall be submitted to the Department on or before:

1. May 31, 1993 for a facility applicable to this subchapter due to the emissions of 1992; and
2. For each following year, April 15 of each calendar year following any calendar year in which the facility is subject to this subchapter.

(b) Emission statements shall be submitted to the following address:

Chief, Bureau of Air Quality Planning
Department of Environmental Protection
PO Box 418
Trenton, NJ 08625-0418
ATTN: Emission Statements

(c) Emission statements shall be submitted on a form obtainable from the Department at the address listed in (b) above.

(d) Any person submitting an emission statement shall transmit the report to the Department on paper. With the written prior approval of the Department, an emission statement may be submitted on computer diskette or electronically, in a form approved by the Department, in lieu of a submission of an emission statement on paper. Notwithstanding this subsection, certification in accordance with the provisions of N.J.A.C. 7:27-1.39 as required in this subchapter shall accompany any transmission of an emission statement to the Department.

(e) Any person who submits information to the Department may assert a confidentiality claim for that information in accordance with N.J.A.C. 7:27-1.6. Emissions information, as defined at N.J.A.C. 7:27-21.1, is not confidential. The Department will process and evaluate confidentiality claims in accordance with N.J.A.C. 7:27-1.6 through 1.30 inclusive.

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 (d), changed N.J.A.C. reference.

Case Notes

Failure to submit required emission statement within mandatory time frame warranted assessment of civil administrative penalty. Department of Environmental Protection and Energy v. Northgate, 95 N.J.A.R.2d (EPE) 190.

7:27-21.5 Required contents of an emission statement

(a) Any person who submits an emission statement to the Department shall include, as an integral part of the report:

1. Certification, in accordance with the requirements of N.J.A.C. 7:27-21.7; and
2. The date of the signature of certification, and the telephone number of the certifying individual.

(b) Emission statements shall include the following facility identification information:

1. The full name of the facility;
2. The parent company name, if applicable;
3. The physical location of the facility (that is, the street address);

4. The mailing address of the facility;
5. The SIC code(s) of the facility;
6. The UTM coordinates or latitude and longitude of the facility;
7. The calendar year of the emissions;
8. Number of employees;
9. Plant contact; and
10. Plant contact phone number.

(c) Emission statements shall include the following operating data for each source operation which has the potential to emit VOC or NO_x or both:

1. Seasonal throughput;
2. Average days of operation per week;

3. Average hours of operation per day; and
4. Total hours of operation for the year.

(d) Emission statements shall include the following information at the process level for NO_x (expressed as molecular weight of NO₂) and VOC:

1. Emissions information:

- i. The actual emissions of VOC and NO_x in tons per year;

- ii. The average actual emissions of VOC and NO_x in pounds per day of operation during the peak ozone season;

- iii. The code for the method used to quantify the actual emissions (see (l) and Table 2 below); and

(e) If a notification of non-applicability is received by the Department after February 1, the Department is under no obligation to respond to the notification and may take enforcement action pursuant to N.J.A.C. 7:27A-3.10 if the facility does not submit an emission statement pursuant to this subchapter and the Department determines that the facility was required to do so.

New Rule, R.1994 d.500, effective October 3, 1994 (operative October 31, 1994).
See: 25 N.J.R. 4033(a), 26 N.J.R. 4026(a).

7:27-21.10 Severability

If any section, subsection, provision, clause or portion of this subchapter or the application thereof to any person or circumstance is adjudged invalid or unconstitutional by a court of competent jurisdiction, the remainder of this subchapter and the application thereof to other persons or circumstances shall not be affected thereby, and shall remain in full force and effect.

Recodified from 7:27-21.8 by R.1994 d.500, effective October 3, 1994 (operative October 31, 1994).
See: 25 N.J.R. 4033(a), 26 N.J.R. 4026(a).

SUBCHAPTER 22. OPERATING PERMITS

Authority

N.J.S.A. 13:1B-3, 13:1D-9, and 26:2C-1 et seq.

Source and Effective Date

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).

Cross References

Application of N.J.A.C. 7:27-18 to applications submitted pursuant to this subchapter, see N.J.A.C. 7:27-18.2.

Law Review and Journal Commentaries

Business-Friendly Regulators Ease Air Pollution Rules. Neale R. Bedrock. 139 N.J.L.J. No.8, S10 (1995).

State Operating Permits Bring Major changes to New Jersey's Air Pollution Control Program. Paul H. Schneider, Peter L. Benza, 160 N.J.Law. 20 (Mag.) (April 1994).

7:27-22.1 Definitions

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

“Accountable” means, in respect to compliance with an emissions limit, verifiable through the keeping, maintenance, and accessibility of clear, appropriately comprehensive, and reliable records.

“Actual emissions” means the rate at which an air contaminant is actually emitted, either directly or indirectly, to the outdoor atmosphere, in units of mass per calendar year, seasonal period, or other time period specified by the Department.

“Administrative amendment” means the type of change made at a facility, and incorporated into an operating permit, through the procedures for administrative amendments at N.J.A.C. 7:27-22.20.

“Administratively complete application” means an application which includes sufficient information for the Department to commence review of the application. This information shall include all of the information required by this subchapter for the type of application being submitted, submitted on or with forms obtained from the Department and in accordance with the instructions accompanying the application forms. To be complete, an application shall include all preconstruction permits issued for the facility as of the date of the operating permit application. An application which is administratively complete may require supplementary information in order for the Department to take final action on the application.

“Affected state” means, in respect to an application for an operating permit, operating permit renewal, minor modification, or significant modification, any state in the United States that:

1. Is contiguous to New Jersey; or
2. Is located within 50 miles of the facility which is the subject of the application.

“Affected Title IV facility” means a facility that includes one or more “affected units,” as that term is defined in the acid deposition control provisions (commonly known as “acid rain” provisions) of Title IV of the CAA, 42 U.S.C. § 7651 et seq. This term has the same meaning as the term “affected source” as defined in 40 CFR 70.

“Affected Title IV unit” has the same meaning as the term “affected unit” in the regulations promulgated by EPA under the acid deposition control program, set forth at Title IV of the CAA.

“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 impact analysis” means a procedure entailing the use of air quality simulation modeling, for determining whether air contaminant emissions will result in ambient air concentrations that exceed standards established for the protection of human health and welfare and the environment.

“Air quality simulation model” means a mathematical procedure, taking into account the dispersive capacity of the

atmosphere and other relevant factors, to predict the concentration of an air contaminant in the ambient air.

“Allowance” means an authorization granted to an affected Title IV unit by the EPA under acid deposition control requirements at Title IV of the CAA. The authorization allows the unit to emit one ton of SO₂ during or after a specified calendar year.

“Ambient air monitoring” means the measurement of concentrations of one or more air contaminants in the outdoor atmosphere.

“Applicable Federal requirement” means any of the following standards, provisions or requirements as they apply to any source operation in a facility which is subject to this subchapter. Applicable requirements include requirements that have been promulgated or approved by EPA through rulemaking but have future-effective compliance dates:

1. Any standard or other requirement provided for in New Jersey's approved SIP (or FIP, if applicable), including any approved revisions;
2. Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I of the CAA, including Parts C or D;
3. Any NSPS or other standard or requirement under 42 U.S.C. § 7411 including 42 U.S.C. § 7411(d);
4. Any standard or other requirement concerning HAPs under 42 U.S.C. § 7412, including any requirement concerning accident prevention under 42 U.S.C. § 7412(r)(7);
5. Any standard or other requirement of the acid deposition control program under Title IV of the CAA or the regulations promulgated thereunder;
6. Any requirement established pursuant to the provisions for monitoring in Title V of the CAA at 42 U.S.C. § 7661c(b) or pursuant to the monitoring requirements at 42 U.S.C. § 7414(a)(3);
7. Any standard or other requirement governing solid waste incineration under 42 U.S.C. § 7429;
8. Any standard or other requirement for consumer and commercial products under 42 U.S.C. § 7511b(e);
9. Any standard or other requirement for marine tank vessels under 42 U.S.C. § 7511b(f);
10. Any standard or other requirement of the program to prevent or control the emission of air contaminants from outer continental shelf sources under 42 U.S.C. § 7627;

11. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the CAA, unless EPA has determined that such a requirement need not be contained in an operating permit;

12. Any of the following, but only as it would apply to temporary facilities permitted pursuant to the provisions for temporary facilities at 42 U.S.C. § 7661c(e):

- i. A NAAQS; or
- ii. An increment under the PSD provisions at 42 U.S.C. § 7473; or
- iii. A visibility requirement under 42 U.S.C. § 7491 or 7492.

“Applicable requirement” means any requirement which is an applicable State requirement or an applicable Federal requirement or both.

“Applicable State requirement” means any provision, standard or requirement in any statute or rule, as it applies to air contaminant emissions from a facility or source operation which is subject to this subchapter, except an applicable Federal requirement. This term includes requirements that have been promulgated by the Department and submitted to EPA as SIP revisions but have not yet been approved by EPA.

“Applicable VOC” means any VOC which has a vapor pressure or sum of partial pressures of organic substances of 0.02 pounds per square inch (1.0 millimeters of mercury) absolute or greater at standard conditions.

“Application shield” means the protection from enforcement action set forth at N.J.A.C. 7:27-22.7.

“Area source” means, in respect to MACT and GACT standards, any stationary source of hazardous air pollutant that is not a major HAP facility.

“Attainment area” means any area of the State which is not a nonattainment area.

“Banking” means the reservation of creditable emission reductions, pursuant to N.J.A.C. 7:27-18, for future use as emission offsets.

“BACT” or “best available control technology” has the meaning set forth for this term in the PSD regulations at 40 CFR 52.21.

“CFR” means the United States Code of Federal Regulations.

“Carbon monoxide” or “CO” means a gas having a molecular composition of one carbon atom and one oxygen atom.

“Category I” means the class of modification application for the following types of significant source operations:

1. Any gasoline vapor recovery system constructed, installed, or operated at any gasoline dispensing facility; this does not include gasoline vapor recovery systems at bulk terminals;

2. Any woodworking equipment including, but not limited to, saws, planers, and sanders, that has particulate control apparatus which achieves a minimum collection efficiency of 99 percent, and the particulate control apparatus serving the equipment;

3. Any metal working equipment including, but not limited to, welders, grinders, and drill presses, that has particulate control apparatus that achieves a minimum collection efficiency of 99 percent, and the particulate control apparatus serving the equipment.

4. Fossil fuel burning equipment used only for the burning of liquid or gaseous commercial fuel and having a designed heat input rate of less than 10 million BTU per hour; this does not include any equipment used for the burning of coal or other solid fuel, non-commercial fuel, crude oil or process by-products in any form;

5. Stationary storage tanks which have a capacity of less than 20,000 gallons and which are used for the storage of liquid substances and any control apparatus serving such tanks; this does not include any tank used to store a substance which is a TXS;

6. Emergency diesel generators with less than 10 megawatts of electrical output that operate less than 500 hours per year;

7. Any tank, reservoir, container or bin that is used for the storage of solid particles and has particulate control apparatus that achieves a minimum collection efficiency of 99 percent and the particulate control apparatus serving the equipment; this does not include any tank, reservoir, container or bin that is used for the storage of any TXS;

8. Enclosed stationary solid material handling equipment using pneumatic, bucket or belt conveying systems that have particulate control apparatus that achieves a minimum collection efficiency of 99 percent and the particulate control apparatus serving the equipment; this does not include any equipment used to handle any material which is a TXS;

9. Any paint spray operation or other surface coating operation that has particulate control and that uses less than one half gallon of paint per hour and the particulate control apparatus serving the spray booth; this does not include any paint spray operation or surface coating operation which emits any TXS;

10. Any enclosed sandblasting equipment that has a control apparatus that achieves a minimum particulate control efficiency of 99 percent;

11. Any plastics grinding equipment; and

12. Any open top surface cleaner which is equipped with a cover and free-board chiller. This does not include any surface cleaner which uses a HAP.

“Category II” means the class of modification application for any type of significant source operation except those types which are defined above as belonging to Category I.

“Chemical Abstract Service number” or “CAS number” means a number assigned to a chemical by the American Chemical Society’s Chemical Abstract Service Registry.

“Class I substance” means an air contaminant that is listed in 42 U.S.C. § 7671a(a), or promulgated by EPA in a Federal rule, as a substance that has been found to cause or contribute significantly to harmful effects on the stratospheric ozone layer.

“Class II substance” means an air contaminant that is listed in 42 U.S.C. § 7671a(b), or promulgated by EPA in a Federal rule, as a substance that is known or may reasonably be anticipated to cause or contribute to harmful effects on the stratospheric ozone layer.

“Clean Air Act” or “CAA” or “Federal Clean Air Act” means the Federal Clean Air Act, 42 U.S.C. § 7401 et seq., and any subsequent amendments or supplements to that act.

“Commercial fuel” means solid, liquid, or gaseous fuel normally produced or manufactured, and sold for the purpose of creating useful heat.

“Compliance plan” means a plan meeting the requirements of N.J.A.C. 7:27-22.9, which is developed and submitted as part of an application for an operating permit, renewal, or significant modification.

“Compliance schedule” means the portion of a compliance plan which fulfills the requirements of N.J.A.C. 7:27-22.9(c)5ii.

“Construct” or “construction” means to fabricate or erect equipment or control apparatus at a facility where it is intended to be used, but shall not include the dismantling of existing equipment or control apparatus, site preparation, or the ordering, receiving, temporary storage, or installation of equipment or control apparatus. Unless otherwise prohibited by federal law, this term shall also not include the pouring of footings or placement of a foundation where equipment or control apparatus is intended to be used.

“Construction of a major HAP facility” means, when used at N.J.A.C. 7:27-22.26, the fabrication (on site), erection, or installation of a new major HAP facility, or the fabrication (on site), erection, or installation of a new source operation at an existing facility if the new construction in and of itself constitutes a major HAP facility.

“Consumer Price Index” or “CPI” means the annual Consumer Price Index for a calendar year as determined year to year using the decimal increase in the September through August, 12-month average for the previous year of the Consumer Price Index for All Urban Consumers (CPI-U), as published by the United States Department of Labor.

“Continuous data recorder” means a mechanism which continuously records the information gathered by a CEM, CPM, COM, or other continuous measurement device.

“Continuous emissions monitor” or “CEM” means a device which continuously measures the emissions from one or more source operations.

“Continuous monitoring system” or “CMS” means a system designed to continuously measure various parameters at a facility which may affect or relate to a facility’s emissions. Components of a CMS include, but are not limited to, any continuous emissions monitor (CEM), continuous opacity monitor (COM), continuous process monitor (CPM), or any other constantly operating measuring device and recording device approved by the Department to perform one or more of the functions of a CMS. Ambient monitors, which measure the impact or concentration of air contaminants emitted by the source operation or facility in nearby areas, are not considered part of a facility’s CMS.

“Continuous opacity monitor” or “COM” means a device which continuously measures opacity of flue gases.

“Continuous process monitor” or “CPM” means an instrument or system which continuously measures an operational parameter at a facility, such as temperature or air flow rate.

“Control apparatus” means any device which prevents or controls the emission of any air contaminant directly or indirectly into the outdoor atmosphere.

“Co-product” means one or more incidental results of a production process that is not a primary product of the production process and that is sold in trade in the channels of commerce to the general public in the same form as it is produced, for any purpose except the purpose of energy recovery. A co-product is not considered nonproduct output. Increases in quantities of co-products do not count towards use reduction or nonproduct output reduction goals. This term shall have the same meaning as defined for the term “co-product” at N.J.A.C. 7:1K-1.5; if there is any conflict between the definition at N.J.A.C. 7:1K-1.5 and this one, the definition at N.J.A.C. 7:1K-5 shall control.

“Criteria pollutant” means any air contaminant for which a NAAQS has been promulgated under 40 CFR 50 or for which a NJAAQS has been promulgated at N.J.A.C. 7:27-13.

“Designated Title IV representative” means a responsible natural person authorized by the owners and operators of an affected Title IV facility and of all affected units at the Title IV facility, as evidenced by a certificate of representation submitted to EPA in accordance with Subpart B of 40 CFR Part 72, and to the Department, to represent and legally bind each owner and operator, as a matter of federal law, in all matters pertaining to the Federal Acid Rain Program. Whenever the term “responsible official” is used in this subchapter with regard to any matter under the federal Acid Rain Program, it shall be deemed to refer to the “designated Title IV representative.”

“DOT” means the New Jersey Department of Transportation.

“Draft general operating permit” means the version of a general operating permit which is developed by the Department and released for public input and an opportunity for a public hearing pursuant to N.J.A.C. 7:27-22.11. After receiving and considering the comments on the draft general operating permit, the Department will develop a proposed general operating permit for submittal to EPA for approval prior to issuing a final general operating permit.

“Draft operating permit” means the version of an operating permit which is developed by the Department after the Department’s receipt of an administratively complete application, and released for public comment and an opportunity for a public hearing pursuant to N.J.A.C. 7:27-22.11. After receiving and considering the comments on the draft operating permit, the Department will develop a proposed operating permit for submittal to EPA for approval prior to issuing a final operating permit.

“Effective stack height” means the distance to the plume center line from the ground as determined by adding the plume rise to the physical height of the stack.

“Emergency” means any situation arising from sudden and reasonably unforeseeable events beyond the control of a facility, such as an act of God, which requires immediate corrective action to restore normal operation, and which causes the facility, due to unavoidable increases in emissions attributable to the emergency to exceed a technology-based emission limitation set forth in its operating permit. This term shall not include noncompliance caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

“Emission fee” means an annual fee that is based on the emissions of any regulated air contaminant.

“Emission statement” means an annual reporting of actual emissions of air contaminants as prescribed by the Department at N.J.A.C. 7:27-21.

“Emission statement year” means the reporting period required by the emission statement rules at N.J.A.C. 7:27-21. The reporting period runs from December 1 through November 30. Each emission statement year is designated according to the calendar year in which 11 of the 12 months of the reporting period fall. For example, the period from December 1, 1998 through November 30, 1999 is emission statement year 1999, for which an emission statement submission is due in April 2000.

“Emissions” means any air contaminant or category of air contaminants discharged directly or indirectly into the atmosphere.

“Emissions cap” means an emissions limit, or limits, established in a permit for a group of source operations, which establishes the maximum quantity of emissions which may be released, in the aggregate, from a specified group of source operations.

“Enforceable” means, in respect to an emissions limit, based on sufficient statutory and regulatory authority to be recognized in a court of law.

“Environmental improvement pilot test” means a sampling and analytical program using prototype equipment or processes on a temporary basis for the purpose of collecting data necessary for the design of a full scale process to achieve an environmental improvement, or for the purpose of determining the feasibility of using the equipment or process for a particular environmental improvement.

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

“Exempt activity” means one of the following:

1. Source operations which have no potential for emitting any air contaminant, including but not limited to:
 - i. Stationary storage tanks which are used for the storage of water or distillates of air; and
 - ii. Enclosed stationary material handling equipment using pneumatic, bucket or belt conveying systems from which no emissions of air contaminants occur;
2. Any of the following activities, if the activity supports the one or more production processes of the facility, and does not itself constitute a facility production process or a part thereof:
 - i. Office activities and the equipment and implements used therein, such as typewriters, printers, and pens;

- ii. Interior maintenance activities and the equipment and supplies used therein, such as janitorial cleaning products and air fresheners; this does not include any cleaning of production equipment;

- iii. Bathroom and locker room ventilation and maintenance;

- iv. Copying and duplication activities for internal use and for support of office activities at the facility;

- v. The activities of maintenance shops, such as welding, gluing, and soldering, performed indoors or outdoors;

- vi. First aid or emergency medical care provided at the facility, including related activities such as sterilization and medicine preparation;

- vii. Laundry operations that service uniforms or other clothing used at the facility;

- viii. Architectural maintenance activities conducted to take care of the buildings and structures at the facility, including repainting, reroofing, and sandblasting;

- ix. Exterior maintenance activities conducted to take care of the grounds of the facility, including lawn maintenance;

- x. Food preparation to service facility cafeterias and dining rooms;

- xi. The use of portable space heaters which reasonably can be carried and relocated by an employee; and

- xii. Any laboratory hood used for research and development, quality assurance and quality control testing and sampling activities;

3. The engine of any vehicle, including but not limited to any marine vessel, aircraft, any vehicle running upon rails or tracks, any motor vehicle, any forklift, any tractor, or any mobile construction equipment;

4. Storage tanks, reservoirs, containers, or bins used on any farm for the storage of agricultural commodities produced by or consumed in the farm's own operations. This does not include storage tanks, reservoirs, containers or bins used by distributors of agricultural commodities or by research facilities which develop products for use in agricultural production;

5. Potable water treatment equipment, not including air stripping equipment;

6. A storage tank maintained under a pressure greater than one atmosphere provided that any vent serving such storage tank has the sole function of relieving pressure under emergency conditions; or

7. Equipment which is used for the sole purpose of woodworking by sanding, drilling, cutting or planing, un-

painted wood or wood products, and which vents into a room.

“Existing facility” means a facility which is in operation as of the applicable date of the provision for which this term is being used.

“Facility” means the combination of all structures, buildings, equipment, control apparatus, storage tanks, source operations, and other operations that are located on a single site or on contiguous or adjacent sites and that are under common control of the same person or persons. Research and development facilities that are located with other facilities shall be considered separate and independent entities for the purposes of complying with the operating permit requirements of N.J.S.A. 26:2C-1 et seq., or any codes, rules, or regulations adopted pursuant thereto.

“Facility-wide permit” means a single permit issued by the Department to the owner or operator of a priority industrial facility incorporating the permits, certificates, registrations, or any other relevant Department approvals previously issued to the owner or operator of the priority industrial facility pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., and the appropriate provisions of the Pollution Prevention Plan prepared by the owner or operator of the priority industrial facility pursuant to N.J.S.A. 13:1D-41 and 42. This term shall have the same meaning as defined for the term “facility-wide permit” at N.J.A.C. 7:1K-1.5; if there is any conflict between the definition at N.J.A.C. 7:1K-1.5 and this one, the definition at N.J.A.C. 7:1K-1.5 shall control.

“Federally enforceable” means any limitation or condition on operation, production, or emissions that can be enforced by EPA. These limitations and conditions that can be enforced by EPA include, but are not limited to, those established pursuant to:

1. Any standard of performance for new stationary sources (NSPS) promulgated at 40 CFR Part 60, or promulgated under 42 U.S.C. § 7411;
2. Any national emission standard for hazardous air pollutants (NESHAP) promulgated at 40 CFR Part 61, 40 CFR Part 63, or promulgated under 42 U.S.C. § 7412;
3. Any standard or other requirement provided for in a SIP that has been approved by EPA, or promulgated through rulemaking by EPA; or
4. Any permit or order issued pursuant to requirements established at 40 CFR 51, Subpart I (including any pre-construction permit and certificate issued pursuant to N.J.A.C. 7:27-8 or any operating permit issued pursuant to N.J.A.C. 7:27-22); 40 CFR 52.21; 40 CFR Part 70; 40 CFR Part 71; or 40 CFR Part 72.

“Federal Implementation Plan (FIP)” means a plan, or portion thereof, promulgated by EPA pursuant to the CAA to address or otherwise correct all or a portion of an inadequacy in a SIP.

“Final general operating permit” means the version of the general operating permit issued by the Department after completion of the procedures required by this subchapter for a draft general operating permit and a proposed general operating permit.

“Final operating permit” means the version of an operating permit issued by the Department after completion of the procedures required by this subchapter for a draft operating permit and a proposed operating permit.

“Fiscal year” or “FY” means the period from July 1 through June 30. Each fiscal year is designated according to the calendar year in which the end of the period falls. For example, the period from July 1, 1998 through June 30, 1999 is fiscal year 1999, or FY99.

“Fugitive emissions” means any air contaminant emissions released directly or indirectly into the outdoor atmosphere which can not reasonably pass through a stack or chimney.

“GACT standard” or “Generally Available Control Technology standard” means a National Emission Standard for a Hazardous Air Pollutant (NESHAP) establishing an emission limitation for a specific category or subcategory of area sources that emit hazardous air pollutants (HAPs), which NESHAP has been promulgated by EPA pursuant to 42 U.S.C. § 7412.

“General operating permit” means a standardized operating permit, which may be used to provide authorization to operate numerous similar source operations, groups of source operations, or facilities, each of which meets the applicability criteria set forth in the general operating permit, and is issued pursuant to the procedures in N.J.A.C. 7:27-22.14.

“Grandfathered” means, in reference to equipment or control apparatus, that construction, reconstruction, or modification occurred prior to the enactment of N.J.S.A. 26:2C-9.2 on June 15, 1967, or prior to the subsequent applicable revisions to rules and regulations codified at N.J.A.C. 7:27-8 that occurred March 5, 1973, June 1, 1976, April 5, 1985, and October 31, 1994, and no construction, reconstruction or modification of the equipment or control apparatus has occurred since.

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

“Initial operating permit” means the first operating permit issued pursuant to this subchapter which applies to a particular facility, or a portion thereof.

“Insignificant source operation” means a source operation which is one of the types of source operations set forth in paragraphs 1, 2, 5, 6, 7, 8, 9, 11, 14, 16, 17, or 18, in the definition of “significant source operation,” and which is smaller than, or has a lower production rather than, specified in the applicability levels for significant source operations.

“Install” or “installation” means to carry out final setup activities necessary to provide the equipment or control apparatus with the capacity for use or service. This term includes, but is not limited to, the connection of the equipment and control apparatus, associated utilities, piping, duct work or conveyor systems. This term does not include the construction or reconfiguration of equipment or control apparatus to an alternate configuration specified in the permit application and approved by the Department.

“Intermediate product” means one or more desired results of a production process that is made into a product in a subsequent production process at the same industrial facility, without the need for pollution treatment prior to its being made into a product. An intermediate product is not considered nonproduct output. Increases in quantities of intermediate products do not count towards use reduction or nonproduct output reduction goals. This term shall have the same meaning as defined for the term “intermediate product” at N.J.A.C. 7:1K-1.5; if there is any conflict between the definition at N.J.A.C. 7:1K-1.5 and this one, the definition at N.J.A.C. 7:1K-1.5 shall control.

“Lowest achievable emission rate” or “LAER” has the meaning assigned to this term at N.J.A.C. 7:27-18.1.

“Lead” or “Pb” means elemental lead or any compound containing lead measured as elemental lead.

“MACT standard” or “Maximum Achievable Control Technology standard” means a National Emission Standard for a Hazardous Air Pollutant (NESHAP) establishing an emission limitation for a specific category or subcategory of facilities which emit one or more hazardous air pollutants (HAPs), which NESHAP is:

1. Promulgated by EPA pursuant to 42 U.S.C. § 7412; or
2. Determined by the Department on a case-by-case basis pursuant to 42 U.S.C. § 7412(g) or (j).

“Major facility” means a facility which constitutes a major source, as defined by EPA at 40 CFR § 70.2 or any subsequent amendments thereto, and that has the potential to emit any of the air contaminants listed below in an amount that is equal to or exceeds the applicable major facility threshold level. The major facility threshold levels are as follows:

Air Contaminant	Major Facility Threshold Level
Carbon monoxide	100 tons per year
PM-10	100 tons per year
TSP	100 tons per year
Sulfur dioxide	100 tons per year
Oxides of nitrogen	25 tons per year
VOC	25 tons per year
Lead	10 tons per year
Any HAP	10 tons per year
All HAPs, collectively	25 tons per year
Any other air contaminant	100 tons per year

“Major Hazardous Air Pollutant (HAP) facility” means a major facility, or part thereof, which emits or has the potential to emit:

1. Ten tons or more per year of any HAP;
2. Twenty five tons or more per year of any combination of HAPs; or
3. Such lesser quantity, or different criterion, as the EPA may establish by rule.

“Manufacturing process” means any action, operation, or treatment embracing chemical, industrial, manufacturing, or processing factors, methods or forms including, but not limited to, furnaces, kettles, ovens, converters, cupolas, kilns, crucibles, stills, dryers, roasters, crushers, grinders, mixers, reactors, regenerators, separators, filters, reboilers, columns, classifiers, screens, quenchers, cookers, digesters, towers, washers, scrubbers, mills, condensers, and absorbers.

“Maximum allowable emissions” means, for the purpose of this subchapter, the maximum amount of an air contaminant allowed to be emitted, as specified in the final operating permit issued by the Department.

“Minor modification” means a change made at a permitted facility in accordance with N.J.A.C. 7:27-22.23.

“Modification of a major HAP facility” means, when used at N.J.A.C. 7:27-22.26, any physical change in, or change in the method of operation of, a major HAP facility, which:

1. Increases the facility’s actual emissions of any HAP by more than an amount established by EPA as de minimis for that HAP at 40 CFR 63; or
2. Results in the emission of any HAP not previously emitted, in more than the amount established by EPA as de minimis for that HAP at 40 CFR 63.

“Modify” or “modification” means any physical change in, or change in the method of operation of, existing equipment or control apparatus that increases the amount of actual emissions of any air contaminant emitted by that equipment or control apparatus or that results in the emission of any air contaminant not previously emitted. This term shall not include normal repair and maintenance. A modification may be incorporated into an operating permit through a

significant modification, a minor modification, or a seven-day-notice change.

“Monitoring” means to evaluate a facility’s processes, operations, emissions or other aspects over a period of time. Monitoring can be accomplished using CEMs, COMs, CMS, CPMs, or other measurement or evaluation mechanisms.

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

“NESHAP” means a National Emission Standard for a Hazardous Air Pollutant as promulgated under 40 CFR 63 and 61.

“New facility” means a facility which has not commenced operation as of the applicable date of the provision for which this term is being used.

“New Jersey ambient air quality standard” or “NJAAQS” means an ambient air quality standard promulgated at N.J.A.C. 7:27-13.

“Nonattainment area” means any area of the State:

1. Identified by the Department as one in which the ambient air concentration of a criteria pollutant exceeds a NAAQS or NJAAQS; or
2. Designated by the EPA at 40 CFR 81.331 as an area in which the ambient air concentration of a criteria pollutant exceeds the applicable NAAQS.

“Nonproduct output” or “NPO” means all hazardous substances or hazardous wastes that are generated prior to storage, out-of-process recycling, treatment, control or disposal, and that are not intended for use as a product. Nonproduct output includes fugitive releases. This term shall have the same meaning as defined for the term “nonproduct output” at N.J.A.C. 7:1K-1.5; if there is any conflict between the definition at N.J.A.C. 7:1K-1.5 and this one, the definition at N.J.A.C. 7:1K-1.5 shall control.

“NSPS” means a Standard of Performance for New Stationary Sources as promulgated under 40 CFR 60, commonly referred to as New Source Performance Standards.

“Operating certificate” or “certificate” means a “Certificate to Operate Control Apparatus or Equipment” issued by the Department pursuant to N.J.S.A. 26:2C-1 et seq., and in particular N.J.S.A. 26:2C-9.2, and implementing rules at N.J.A.C. 7:27-8. An operating certificate is generally issued for new or altered equipment at non major facilities for which operating permits are not required and for new or altered equipment at major facilities which are not yet required to have a final operating permit.

“Operating permit” means the permit described in Title V of the federal Clean Air Act, 42 U.S.C. § 7661 et seq., and in this subchapter. This term shall include a general operating permit which is applicable facility wide, but does not include a general operating permit which applies only to a part of a facility. Where a general operating permit applies only to a part of a facility, the general operating permit shall be incorporated into the operating permit. This term also includes an operating permit issued for a temporary facility; for a facility subject to a MACT or GACT standard pursuant to N.J.A.C. 7:27-22.26; or for a component of a facility pursuant to N.J.A.C. 7:27-22.5(j).

“Operating scenario” means a plan for operating a facility or a portion thereof in a way, or according to a method, or using methods or processes, which are different from other methods or processes used at the facility, or portion thereof. An operating scenario may be incorporated into a permit through issuance of an initial operating permit, minor modification, significant modification, or authorized through a seven-day-notice.

“Order” means any and all orders issued by the Department including, but not limited to, administrative orders and administrative consent orders.

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

“Permittee” means, for the purpose of this subchapter, any person to whom the Department has issued an operating permit.

“Person” means an individual, public or private corporation, company, partnership, firm, association, society, joint stock 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.

“Phase I” means a time period designated pursuant to the Title IV acid deposition control program as commencing January 1, 1995, and ending December 31, 1999.

“Phase II” means a time period designated pursuant to the Title IV acid deposition control program as commencing January 1, 2000, and continuing indefinitely.

“PM-10” means a class of air contaminants which includes all particulate matter having an aerodynamic diameter less than or equal to 10 micrometers.

“Pollution Prevention Assessment” means an assessment of potential pollution prevention opportunities for the use, generation and release of non-hazardous substances, prepared by an owner or operator of a priority industrial facility that is covered by an effective facility-wide permit issued by the Department, containing the same elements as those required for hazardous substances by N.J.A.C. 7:1K-4.3 and 4.5. This term shall have the same meaning as defined for the term “Pollution Prevention Assessment” at N.J.A.C. 7:1K-1.5; if there is any conflict between the definition at N.J.A.C. 7:1K-1.5 and this one, the definition at N.J.A.C. 7:1K-1.5 shall control.

“Pollution Prevention Plan” means a plan required to be prepared by an industrial facility pursuant to N.J.S.A. 13:1D-41 and 42, N.J.A.C. 7:1K-3 and N.J.A.C. 7:1K-4. This term shall have the same meaning as defined for the term “Pollution Prevention Plan” at N.J.A.C. 7:1K-1.5.

“Potential to emit” means the same as that term is defined by the EPA at 40 CFR § 70.2 or any subsequent amendments thereto. In general, the potential to emit is the maximum aggregate capacity of a source operation or of a facility to emit an air contaminant under its physical and operational design. Any physical or operational limitation on the capacity of a source operation or a facility to emit an air contaminant, including any limitation on fugitive emissions as a result of any applicable requirement, control apparatus, and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design, if the limitation is Federally enforceable. Unless otherwise indicated, fugitive emissions shall be included in the determination of potential to emit. However, the determination shall not include any banked emission reductions that are held by the owner or operator.

“Preconstruction permit” means a “Permit to Construct, Install, or Alter Control Apparatus or Equipment” issued by the Department pursuant to N.J.S.A. 26:2C-1 et seq., in particular N.J.S.A. 26:2C-9.2, and implementing rules at N.J.A.C. 7:27-8.

“Prevention of significant deterioration” or “PSD” means the permitting process, set forth at 40 CFR 52.21, which applies to new or modified major emitting facilities located in attainment areas. The EPA has delegated the administration of the PSD program in New Jersey to the Department.

“Process unit” means equipment assembled to produce intermediate or final products. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product. The storage and transfer of product or raw materials to and from the process unit shall be considered separate from the process unit for the purposes of making reconstruction determinations. Product recovery equipment shall be con-

sidered to be part of the process unit, not part of the control apparatus.

“Product” means one or more desired results of a production process that is used as a commodity in trade in the channels of commerce by the general public in the same form as it is produced. Products include intermediate products transferred to a separate industrial facility owned or operated by the same owner or operator. This term shall have the same meaning as defined for the term “product” at N.J.A.C. 7:1K-1.5; if there is any conflict between the definition at N.J.A.C. 7:1K-1.5 and this one, the definition at N.J.A.C. 7:1K-1.5 shall control.

“Production process” means a process, line, method, activity or technique, or a series or combination of processes, lines, method or techniques, used to produce a product or reach a planned result. This term shall have the same meaning as defined for the term “production process” at N.J.A.C. 7:1K-1.5.

“Proposed general operating permit” means the version of a general operating permit which is developed by the Department pursuant to N.J.A.C. 7:27-22.12, after receipt and consideration of public comments on the draft general operating permit. The Department forwards the proposed general operating permit to EPA for review, pursuant to the procedures at N.J.A.C. 7:27-22.12, prior to the issuance by the Department of the final general operating permit.

“Proposed operating permit” means the version of an operating permit which is developed by the Department pursuant to N.J.A.C. 7:27-22.12, after receipt and consideration of public comments on the draft operating permit. The Department forwards the proposed operating permit to EPA for review, pursuant to the procedures at N.J.A.C. 7:27-22.12 prior to the issuance by the Department of the final operating permit.

“Quantifiable” means measurable with an acceptable degree of accuracy and reliability.

“Rate of production” means the quantity per unit of time of any process intermediate, product, by-product, or waste generated through the use of any significant source operation.

“Raw material” means any input to a significant source operation, including fuels, but excluding heat and other forms of energy. Such inputs may include mixtures, composites, compounds, and elemental substances.

“Reconstruct” or “reconstruction” means the replacement of part(s) of equipment included in the process unit, or the replacement of part(s) of control apparatus, if the fixed capital cost of replacing the part(s) exceeds both of the following amounts:

1. Fifty percent of the fixed capital cost that would be required to construct a comparable new process unit; or,

if it is part(s) of control apparatus that is being replaced, 50 percent of the fixed capital cost that would be required to construct comparable new control apparatus; and

2. \$80,000, in 1995 dollars, adjusted by the Consumer Price Index (CPI).

“Reconstruction of a major HAP facility” means, when used at N.J.A.C. 7:27-22.26, the replacement of components at a facility to such an extent that the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to replace the facility at which the components are being replaced.

“Regulated air contaminant” means the same as the term “regulated air pollutant” as defined by EPA at 40 CFR § 70.2 or any subsequent amendments thereto.

“Renewal” means the procedure set forth at N.J.A.C. 7:27-22.30 by which an applicant may seek reissuance of an operating permit prior to its expiration date.

“Replace” means, in respect to equipment or control apparatus, to remove equipment or control apparatus and place or install a different piece of equipment or control apparatus at the same location and at the same point in the manufacturing process, provided that the newly placed equipment or control apparatus serves the same function, in the same manner.

“Replicable procedure” means a procedure, including any sampling, source emissions testing, or other monitoring procedure, which gives the same result when administered on a different occasion or by a different person.

“Research and development facility” means any facility the primary purpose of which is to conduct research and development into new processes and products, including academic and technological research and development, provided that such a facility is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for commercial sale, except in a de minimis manner.

“Responsible official” has the meaning defined for this term at N.J.A.C. 7:27-1.4.

“Risk assessment” means a procedure for characterizing the probability that potential exposure to air contaminants will result in adverse effects on human health, or welfare or the environment.

“Seven-day notice change” means, for the purpose of this subchapter, a change made at a facility covered by an operating permit in accordance with N.J.A.C. 7:27-22.22.

“Shutdown” means to discontinue use of a process, piece of equipment, control apparatus, or a source operation.

“SIC code” means the Standard Industrial Classification code, assigned by the United States Office of Management and Budget, which classifies establishments according to the type of economic activity in which they are engaged. An SIC manual is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

“Significant modification” means a change made at a facility covered by an operating permit and incorporated into the operating permit in accordance with N.J.A.C. 7:27-22.24.

“Significant net emission increase” means an emission increase of any air contaminant determined pursuant to the procedures set forth in N.J.A.C. 7:27-18.7 to be a significant net emission increase.

“Significant source operation” means any source operation which is one of the following:

1. Equipment used in a manufacturing process involving a surface coating operation or graphic arts operation including, but not limited to, spray and dip painting, roller coating, electrostatic depositing, surface stripping or spray cleaning, from which direct or indirect emissions of air contaminants occur and in which the quantity of coating or cleaning material used in any source operation is equal to or greater than one half gallon in any one hour;
2. All unheated open top surface cleaners having a top opening of greater than six square feet (0.56 square meters);
3. All heated open top surface cleaners;
4. All conveyORIZED surface cleaners;
5. Equipment, in addition to that set forth in paragraph 2, 3, and 4 above, used in a process involving surface cleaning or preparation including, but not limited to, degreasing, etching, pickling, or plating, from which direct or indirect emissions of any air contaminant occur from a tank or vessel, the capacity of which is in excess of 100 gallons;
6. Equipment, used in a process, other than as set forth in paragraphs 1, 2, 3, 4, and 5 above, from which direct or indirect emissions of any air contaminant occur and in which the combined weight of all raw materials, excluding air and water introduced into any one source operation is in excess of 50 pounds in any one hour;
7. Stationary storage tanks which have a capacity in excess of 10,000 gallons and which are used for the storage of liquids, except water or distillates of air, not including a storage tank maintained under a pressure greater than one atmosphere provided that any vent serving such storage tank has the sole function of relieving pressure under emergency conditions;

8. Stationary storage tanks which have a capacity of 2,000 gallons or greater and which are used for the storage of VOC having a vapor pressure or sum of partial pressures of 0.02 pounds per square inch absolute (one millimeter of mercury) or greater at standard conditions, not including a storage tank maintained under a pressure greater than one atmosphere provided that any vent serving such storage tank has the sole function of relieving pressure under emergency conditions;

9. Tanks, reservoirs, containers and bins which have a capacity in excess of 2,000 cubic feet and which are used for the storage of solid particles;

10. Stationary material handling equipment using pneumatic, bucket or belt conveying systems from which direct or indirect emissions of air contaminants occur;

11. Commercial fuel burning equipment having a heat input rate of 1,000,000 BTU per hour or greater to the burning chamber;

12. Any equipment used for the burning of noncommercial fuel, crude oil or process by-products in any form;

13. Any incinerator, except incinerators constructed, installed or used in one or two-family dwellings or in multi-occupied dwellings containing six or less family units, one of which is owner occupied;

14. Any waste or water treatment equipment which may emit air contaminants including, but not limited to, air stripping equipment, aeration basins, surface impoundments, lagoons, sludge tanks, dewatering equipment, soil cleaning equipment, conveying equipment, digesters, thickeners, flocculators, driers, fixation equipment, composting equipment, pelletizing equipment and grit classifying equipment. For water treatment equipment, the concentration in the water of any TXS must equal or exceed 100 parts per billion by weight or the total concentration in the water of VOC must equal or exceed 3,500 parts per billion by weight;

15. Equipment used for the purpose of venting a closed or operating dump, sanitary landfill, hazardous waste landfill, or other solid waste facility, directly or indirectly into the outdoor atmosphere including, but not limited to, any transfer station, recycling facility, or municipal solid waste composting facility;

16. Any source operation which has the potential to emit any TXS at a rate greater than 0.1 pounds per hour (45.4 grams per hour);

17. Any equipment required to have air pollution control apparatus pursuant to any applicable provision of N.J.A.C. 7:27-16;

18. Newspaper printing equipment from which direct or indirect emissions of air contaminants occur and in which the quantity of coating material used in any source operation is equal to or greater than one half gallon in any one hour.

“Source emission testing” means the testing of a discharge of any air contaminant from a source operation through any stack or chimney.

“Source operation” means any process, or any identifiable part thereof, that emits or can reasonably be anticipated to emit any air contaminant either directly or indirectly into the outdoor atmosphere. A source operation may include one or more pieces of equipment or control apparatus.

“Stack or chimney” means a flue, conduit or opening designed, constructed or used for emitting any air contaminant into the outdoor atmosphere.

“State Implementation Plan (SIP)” means a plan, or portion thereof, prepared by a State and approved by the EPA pursuant to 42 U.S.C. § 7410, which includes enforceable emission limitations or other control measures, means or techniques, and provides for implementation, maintenance, and enforcement of one or more NAAQS.

“Sulfur dioxide” or “SO₂” means a gas that has a molecular composition of one sulfur atom and two oxygen atoms.

“Temporary facility” means a major facility which, by design, is intended to be operated at more than one location and which is relocated more than once in five years.

“Testing” means a procedure for the determination of the kind and amount of one or more air contaminants or air contaminant precursors present. This term includes, but is not limited to, sampling, sample custody, analysis, and reporting of findings.

“Total suspended particulate matter” or “TSP” means any air contaminant dispersed in the outdoor atmosphere which exists as solid particles or liquid particles at standard conditions and is measured in accordance with N.J.A.C. 7:27B-1; 40 CFR 60, Appendix A, Methods 5 through 5H; or another method approved by the Department and EPA.

“TXS” means a substance regulated by N.J.A.C. 7:27-17.

“U.S.C.” means the United States Code.

“Use” means, in respect to equipment, control apparatus, or a source operation, to engage in any form or manner of operation of equipment, control apparatus or the source operation subsequent to its installation. This term includes any trial operation.

“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 emissions limits or content standards, VOC shall be measured by test methods which have been approved in writing by the Department. This term does not include the 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. The list at 40 CFR 51.100(s)(1) currently excludes the compounds and the classes of perfluorocarbons set forth below from the definition of VOC:

Compounds:

methane

ethane

methylene chloride (dichloromethane)

1,1,1-trichloroethane (methyl chloroform)

trichlorofluoromethane (CFC-11)

dichlorodifluoromethane (CFC-12)

trifluoromethane (FC-23)

1,1,1-trichloro-2,2,2-trifluoroethane (CFC-113)

1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114)

chloropentafluoroethane (CFC-115)

chlorodifluoromethane (CFC-22)

2,2-dichloro-1,1,1-trifluoroethane (HCFC-123)

2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)

pentafluoroethane (HFC-125)

1,1,2,2-tetrafluoroethane (HFC-134)

1,1,1,2-tetrafluoroethane (HFC-134a)

1,1-dichloro-1-fluoroethane (HCFC-141b)

1-chloro-1,1-difluoroethane (HCFC-142b)

1,1,1-trifluoroethane (HFC-143a)

1,1-difluoroethane (HFC-152a)

parachlorobenzotrifluoride (PCBTF) cyclic, branched or linear completely methylated siloxanes

Classes of perfluorocarbons:

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 set forth at 40 CFR 51.100(s)(1) and the list set forth above, the list at 40 CFR 51.100(s)(1) shall control.

Administrative Correction

See: 27 N.J.R. 1406(a)

Amended by 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).

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 "Federally enforceable", inserted a reference to certificates in 4; in "Modify" or "modification", inserted "of actual emissions" following "amount" in the first sentence; and in "Reconstruct" or "reconstruction", inserted "part(s) of" preceding "control" in the introductory paragraph, and rewrote 1.

7:27-22.2 Applicability

(a) This subchapter applies to any facility which is one of the following:

1. A facility which emits or has the potential to emit a Hazardous Air Pollutant (HAP) in an amount which equals or exceeds the amounts listed in (a)1i through iv below. For the purposes of this paragraph, the calculation of potential to emit shall include fugitive emissions, as defined at N.J.A.C. 7:27-22.1.

i. Ten tons per year of any HAP;

ii. Twenty-five tons per year of any combination of HAPs;

iii. Such lesser quantity of any HAP as the EPA may establish by rule, pursuant to 42 USC 7412(a)(1), as the threshold amount for a major HAP facility.

iv. Such quantity of any radionuclides as the EPA may establish by rule.

2. A facility which emits or has the potential to emit any of the air contaminants listed below in Table 1, in an amount which equals or exceeds the threshold amount for that contaminant.

Table 1

Air contaminant	Threshold Level
Carbon Monoxide	100 tons per year
PM-10	100 tons per year
TSP	100 tons per year
Sulfur Dioxide	100 tons per year
Oxides of Nitrogen	25 tons per year
VOC	25 tons per year
Lead	10 tons per year
Any other Air Contaminant	100 tons per year

For the purposes of this paragraph, the calculation of potential to emit shall include fugitive emissions only if the facility falls into one or more of the following categories:

- i. Coal cleaning plants (with thermal dryers);
- ii. Kraft pulp mills;
- iii. Portland cement plants;
- iv. Primary zinc smelters;
- v. Iron and steel mills;
- vi. Primary aluminum ore reduction plants;
- vii. Primary copper smelters;
- viii. Municipal incinerators capable of charging more than 250 tons of refuse per day;
- ix. Hydrofluoric, sulfuric, or nitric acid plants;
- x. Petroleum refineries;
- xi. Lime plants;
- xii. Phosphate rock processing plants;
- xiii. Coke oven batteries;
- xiv. Sulfur recovery plants;
- xv. Carbon black plants (furnace process);
- xvi. Primary lead smelters;
- xvii. Fuel conversion plant;
- xviii. Sintering plants;
- xix. Secondary metal production plants;
- xx. Chemical process plants;
- xxi. Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- xxii. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- xxiii. Taconite ore processing plants;
- xxiv. Glass fiber processing plants;
- xxv. Charcoal production plants;
- xxvi. Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or

(b) As set forth at N.J.A.C. 7:27-17.4(c), this subchapter's requirements for the implementation of control measures, including but not limited to, requirements for the installation and use of control apparatus, or the use of compliant coatings, shall apply with full force to Group II TXS until the Department amends this rule in response to EPA rulemaking or otherwise.

Amended by R.1992 d.102, effective March 2, 1992 (operative March 28, 1992).

See: 23 N.J.R. 1858(b), 24 N.J.R. 792(a).

Language added specifying architectural coatings are the subject of regulations.

Amended by R.1994 d.313, effective June 20, 1994 (operative July 26, 1994).

See: 25 N.J.R. 3339(a), 26 N.J.R. 2600(a).

Case Notes

Amendment to scheduling order or delay in implementation of state standards not justified. *American Lung Ass'n v. Kean*, D.N.J.1994, 856 F.Supp. 903.

Rule requiring reduction in volatile organic substances (VOS) content in certain air fresheners. *Matter of Adoption of Regulations Governing Volatile Organic Substances in Consumer Products*, N.J.A.C. 7:27-23, 239 N.J.Super. 407, 571 A.2d 971 (A.D.1990).

7:27-23.2 Definitions

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

"Air freshener" means any product available to a direct consumer which is marketed for the purpose of masking odors, providing a scent, or deodorizing, including, but not limited to, sprays, wicks, powders, and crystals. This does not include products for use on the human body.

"All other architectural coatings" means any coating which does not meet any other architectural coating definition.

"Architectural coating" means a surface coating formulation applied and dried at ambient conditions, and used to coat all or parts of stationary structures and their appurtenances, such as buildings, bridges, the interior or exterior of houses, and other items such as signs, curbs and pavements.

"ASTM" means the American Society for Testing and Materials.

"Bituminous coating" or "bituminous sealer" means a coating material, consisting mainly of hydrocarbons and soluble in carbon disulfide, which is obtained from natural deposits or as residue from the distillation of crude petroleum oils or of low grades of coal.

"Bond breaker" means any coating whose sole purpose, when applied between layers of concrete, is to prevent the freshly poured top layer of concrete from bonding to the substrate on which it is poured.

"Concrete curing compound" means any coating whose sole purpose is to retard the evaporation of water from the surface of freshly cast concrete, thereby strengthening it.

"Consumer insecticide" means those insecticide formulations available to a direct consumer which are not classified as restricted-use pesticides under the provisions of N.J.A.C. 7:30-2 of the New Jersey Pesticide Control Code and which are liquids marketed in containers of one gallon (3.79 liters) or less, or which are marketed in pressurized containers of four pounds (1.8 kilograms) or less net weight.

"Consumer product" means any of the wide variety of household products such as architectural coatings, toiletries, and cleaning agents, used by a direct or indirect consumer and available in retail markets, and includes, but is not limited to, personal products, pesticides, automotive products, cleaners, air fresheners, and food products.

"Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant, with or without causing abscission.

"Department" means the New Jersey Department of Environmental Protection.

"Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

"Direct consumer" means an individual who utilizes a consumer product in the satisfaction of his or her personal wants.

"Dry fog coating" means any spray coating which is formulated so that overspray droplets dry before falling on floors and other surfaces.

"EPA" means the United States Environmental Protection Agency.

"Fire retardant coating" means any coating which is designed to retard fire and which will reduce the rate of flame spread on the surface of a substrate to which the coating has been applied, resist ignition when exposed to high temperatures, or insulate the substrate to which such a coating has been applied and thus prolong the time required to reach ignition temperature.

"Flat architectural coating" means any coating which registers a gloss of 15 or less on a glossmeter held at an 85 degree angle to the coated surface or less than five on a glossmeter held at a 60 degree angle, or which is labeled as a flat coating.

"High heat resistant coating" means any coating formulated specifically for use in high temperature applications. These coatings are designed to withstand temperatures in excess of 400 degrees Fahrenheit.

"High performance coating" means an architectural coating formulated for and exposed to harsh environmental conditions including, but not limited to: outside weather conditions all the time, or temperatures consistently above 95 degrees Centigrade or below zero degrees Centigrade; or solvents, detergents, abrasives or scouring agents; or corrosive atmospheres or fluids.

"Indirect consumer" means a person who utilizes a consumer product in providing a service to others.

"Industrial maintenance primer" means any coating which is intended to be applied to the surface of a substrate, prior to the application of an industrial maintenance topcoat, to provide a firm bond between the substrate and subsequent coatings.

"Industrial maintenance topcoat" means any high performance coating which is formulated for the purpose of protecting against heavy abrasion or water immersion, or providing resistance to chemicals, corrosion, temperature extremes, electric potential, or solvents.

"Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as, for example, beetles, bugs, bees and flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as, for example, spiders, mites, ticks, centipedes and wood lice.

"Insecticide" means any substance or mixture of substances labeled, designed, or intended for use in preventing, destroying, repelling, or mitigating any insect, and includes, but is not limited to, ant and roach killers, room and outdoor foggers, flea and tick sprays, and personal and area insect repellants.

"Label" means anything functioning as a means of identification, such as any paper, plastic or printed inscription, placed on the container provided to direct or indirect consumers.

"Lacquer" means a clear or pigmented coating formulated with nitrocellulose or synthetic resins which dries by evaporation without chemical reaction and provides a quick drying, solid protective film.

"Mastic texture coating" means any coating, except waterproof mastic coatings, which is formulated to cover holes and minor cracks and to conceal surface irregularities.

"Metallic pigmented coating" means any coating which is formulated with a minimum of 0.4 pounds per gallon (0.05 kilograms per liter) of metallic pigment.

"Multicolored coating" means any coating which exhibits more than one color when applied in a single coat and which is packaged in a single container.

"Non-flat architectural coating" means a coating which registers a gloss of 15 or greater on a glossmeter held at an 85 degree angle to the coated surface or five or greater on a glossmeter held at a 60 degree angle.

"Normal environmental conditions" means temperatures above 50 degrees Fahrenheit (14 degrees Centigrade).

"Opaque stain" means any stain not classified as a semi-transparent stain.

"Person" means and includes corporations, companies, associations, societies, firms, partnerships and joint stock companies, as well as individuals, and shall also include all political subdivisions of this State or any agencies or instrumentalities thereof.

"Pest" means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life, or virus, bacteria, or other micro-organism (except viruses, bacterial or other micro-organisms on or in living man or other animals) which is injurious to health or the environment.

"Pesticide" means and includes any substance or mixture of substances labeled, designed or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant, or plant regulator; provided that the term "pesticide" shall not include any substance or mixture of substances which the EPA does not consider to be a pesticide.

"Plant regulator" means any substance or mixture of substances, intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

"Primer, sealer, and undercoater" means any coating which is intended to be applied to the surface of a substrate to perform one or more of the following functions: provide a firm bond between the substrate and subsequent coats; protect porous substrates; prevent subsequent coatings from being absorbed by the substrate; prevent harm to subsequent coatings by materials in the substrate; provide a smooth surface for subsequent coats; seal fire, smoke, or water damage; neutralize odors; block stains; block efflorescence; condition chalky surfaces; or coat acoustical materials without affecting their acoustical properties.

"Quick-dry primer, sealer, and undercoater" means any primer, sealer or undercoater which is intended to be applied to the surface of a substrate to perform one or more of the following functions: provide a firm bond between the substrate and subsequent coats; seal fire, smoke, or water damage; block stains; or condition porous surfaces; and which dries to touch within one-half hour and can be recoated in two hours, as determined by ASTM-D-1640, or other method approved by the Department based on a study of comparability data.

“Roof coating” means any coating which is formulated for the sole purpose of preventing penetration of the substrate by water, including but not limited to, bituminous roof and waterproof mastic coatings.

“Room fogger” means any pressurized consumer insecticide used in a room empty of occupants in order to mitigate infestations of insects such as fleas or cockroaches.

“Semitransparent stain” means any coating which is formulated to change the color of a surface but not conceal or change the texture of the surface.

“Shellac” means any clear or pigmented coating formulated solely with the resinous secretions of the lac beetle (*Laccifer lacca*), thinned with alcohol, and dried by evaporation without a chemical reaction.

“Sign paint” means any coating which is marketed solely for the application to indoor or outdoor signs, including lettering enamels, poster colors, and bulletin colors.

“Substrate” means any material to which an architectural coating is applied.

“Swimming pool coating” means any coating used on the interior surface of swimming pools which is specifically formulated to resist swimming pool chemicals.

“Tile-like glaze coating” means any coating which is formulated to provide a tough, extra durable coating system, applied as a continuous (seamless) high-build film, and which cures to a hard glaze finish.

“Toxic substance” or “TXS” means a substance listed in Table 1 of N.J.A.C. 7:27-17; that is, Benzene (Benzol), Carbon tetrachloride (Tetrachloromethane), Chloroform (Trichloromethane), Dioxane (1,4-Diethylene dioxide), Ethylene dibromide (1,2-Dibromoethane), Ethylene dichloride (1,2-Dichloroethane), 1,1,2,2-Tetrachloroethane (sym Tetrachloroethane), Tetrachloroethylene (Perchloroethylene), 1,1,2-Trichloroethane (Vinyl trichloride), Trichloroethylene (Trichloroethane), Methylene chloride (Dichloromethane), and 1,1,1-Trichloroethane (Methyl Chloroform).

“Traffic coating” means any coating formulated to be applied to public streets, highways, or other surfaces, including, but not limited to, curbs, berms, driveways, and parking lots.

“Varnish” means any clear or pigmented coating formulated with various resins to dry by chemical reaction on exposure to air and intended to provide a durable transparent or translucent solid protective film.

“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 does not include the 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. The list at 40 CFR 51.100(s)(1) currently includes the compounds and the classes of perfluorocarbons set forth below:

methane

ethane

methylene chloride (dichloromethane)

1,1,1-trichloroethane (methyl chloroform)

trichlorofluoromethane (CFC-11)

dichlorodifluoromethane (CFC-12)

trifluoromethane (HFC-23)

1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113)

1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114)

chloropentafluoroethane (CFC-115)

chlorodifluoromethane (HCFC-22)

2,2-dichloro-1,1,1-trifluoroethane (HCFC-123)

2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)

1,1-dichloro-1-fluoroethane (HCFC-141b)

1-chloro-1,1-difluoroethane (HCFC-142b)

pentafluoroethane (HFC-125)

1,1,2,2-tetrafluoroethane (HFC-134)

1,1,1,2-tetrafluoroethane (HFC-134a)

1,1,1-trifluoroethane (HFC-143a)

1,1-difluoroethane (HFC-152a)

parachlorobenzotrifluoride (PCBTF) cyclic, branched or linear completely methylated siloxanes

Classes of perfluorocarbons:

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.

“Waterproof mastic coating” means any weatherproof or waterproof coating formulated to cover holes and minor cracks and to conceal surface irregularities and which is applied in thicknesses of at least 15 mils.

“Wood preservative coating” means any coating which is formulated for the purpose of protecting exposed wood from decay or insect attack by the addition of a wood preservative product registered by the EPA.

“Waterproofing sealer” means any coating formulated for the sole purpose of protecting porous substrates by preventing the penetration of water.

Amended by R.1989 d.568, effective November 6, 1989 (operative December 12, 1989).

See: 21 N.J.R. 1055(a), 21 N.J.R. 3488(a).

Definitions added for “all others”, “flat architectural coating”, “high heat resistant coating”, “opaque stain”, “quick-dry primer, sealer and undercoater”, “semitransparent stain” and “waterproofing sealer”.

Amended by R.1990 d.342, effective July 16, 1990.

See: 21 N.J.R. 3360(a), 22 N.J.R. 2145(b).

Definitions for all other architectural coatings, label, shellac, volatile organic substance and wood preservative coating amended.

Amended by R.1992 d.102, effective March 2, 1992 (operative March 28, 1992).

See: 23 N.J.R. 1858(b), 24 N.J.R. 792(a).

Definitions for “Volatile organic substances (VOS)” replaced by “volatile organic compound (VOC)” and new definition “ASTM” added; others amended for consistency with preceding subchapters’ definitions.

Amended by R.1994 d.313, effective June 20, 1994 (operative July 26, 1994).

See: 25 N.J.R. 3339(a), 26 N.J.R. 2600(a).

Administrative Correction.

See: 27 N.J.R. 1406(a).

Case Notes

Amendment to scheduling order or delay in implementation of state standards not justified. American Lung Ass’n v. Kean, D.N.J.1994, 856 F.Supp. 903.

7:27-23.3 Architectural coatings

(a) No person shall sell, offer for sale, hold for sale, provide, apply, or manufacture for sale within New Jersey any architectural coating manufactured after January 1, 1990, for Group I coatings and after February 28, 1990, for Group II coatings which contains more than the applicable VOC content limit per volume of coating, excluding water and any colorant added to tint bases, as allowed in Table 1 in (f) below.

(b) Effective February 28, 1993, no person shall sell, offer for sale, provide or hold for sale within New Jersey any architectural coating which contains more than the applicable VOC content limit per volume of coating, excluding water and any colorant added to tint bases, as allowed in Table 1 in (f) below.

(c) For a specific architectural coating to which more than one VOC content limit in Table 1 is applicable, or for any architectural coating which has anywhere on the coating container, on any sticker or label affixed thereto, or in any sales or advertising literature, any indication that more than one VOC content limit in Table 1 is applicable, the most stringent limit is applicable.

(d) The provisions of (a), (b) and (c) above shall not apply to architectural coatings sold in:

1. New Jersey for shipment and use outside of the State. Documentation indicating the final destination of coating shipments shall be made available to representatives of the Department upon request.
2. Containers with a capacity of less than one quart (0.95 liter).

(e) Compliance with this section shall be determined using the following test methods: ASTM D-3960; ASTM D-1475-60; ASTM D-3792-79; ASTM D-2698-73; ASTM D-2369-81; ASTM D-4017-81; ASTM D-95-83; any other method approved by the Department.

(f) Table 1 contains the VOC content limits for architectural coatings:

TABLE 1
VOC CONTENT LIMITS FOR ARCHITECTURAL COATINGS

Type of Architectural Coating	Maximum Allowable VOC Content Per Volume of Coating Excluding Water	
	Pounds Per Gallon	Kilograms Per Liter
Group I		
Bituminous pavement sealer	0.8	0.10
Bond breaker	5.0	0.60
Concrete curing compound	2.9	0.35
Dry fog coating	3.3	0.40
Industrial maintenance primer or topcoat	3.8	0.45
Mastic texture coating	1.7	0.20
Metallic pigmented coating	4.2	0.50
Non-flat architectural coating	3.2	0.38
Primer, sealer, and undercoater	2.9	0.35
Roof coating	2.5	0.30
Swimming pool coating	5.0	0.60
Traffic coating	2.1	0.25
Waterproof mastic coating	2.5	0.30
Wood preservative coating	4.6	0.55
Group II		
Fire retardant coating		
opaque	4.2	0.50
all others	7.1	0.85
Flat architectural coating	2.1	0.25
High heat resistant coating	5.4	0.65
Lacquer	5.7	0.68
Multicolored coating	5.0	0.60

Type of Architectural Coating	Maximum Allowable VOC Content Per Volume of Coating Excluding Water	
	Pounds Per Gallon	Kilograms Per Liter
Quick-dry primer, sealer, undercoater	4.2	0.50
Shellac		
clear	6.1	0.73
pigmented	4.6	0.55
Sign paint	3.8	0.45
Stain		
semitransparent	4.6	0.55
opaque	2.9	0.35
Tile-like glaze coating	4.6	0.55
Varnish	3.8	0.45
Waterproofing sealer	5.0	0.60
All other architectural coatings	2.1	0.25

Petition for Rulemaking: grandfathering of existing stock of architectural coatings.

See: 21 N.J.R. 2132(d), 21 N.J.R. 2403(c).

Amended by R.1989 d.568, effective November 6, 1989 (operative December 12, 1989).

See: 21 N.J.R. 1055(a), 21 N.J.R. 3488(a).

Coatings categorized by groups and exemption for small containers at (c)2.

Amended by R.1990 d.342, effective July 16, 1990.

See: 21 N.J.R. 3360(a), 22 N.J.R. 2145(b).

Subsection (b) added, effective February 28, 1993.

Amended by R.1992 d.102, effective March 2, 1992 (operative March 28, 1992).

See: 23 N.J.R. 1858(b), 24 N.J.R. 792(a).

"VOS" replaced by "VOC"; at Table 1, Group II, Stain: semitransparent, maximum changed to 4.6 from 4.5.

Case Notes

Amendment to scheduling order or delay in implementation of state standards not justified. American Lung Ass'n v. Kean, D.N.J.1994, 856 F.Supp. 903.

7:27-23.4 (Reserved)

Amended by R.1989 d.568, effective November 6, 1989 (operative December 12, 1989).

See: 21 N.J.R. 1055(a), 21 N.J.R. 3488(a).

Includes prohibition against holding or storage as well as sale or manufacture.

Amended by R.1990 d.342, effective July 16, 1990.

See: 21 N.J.R. 3360(a), 22 N.J.R. 2145(b).

Subsection (b) added, effective February 28, 1993.

7:27-23.5 Labeling requirements

(a) For architectural coatings subject to the requirements of N.J.A.C. 7:27-23.3, the following shall apply:

1. The label on any side of the container except the bottom shall carry a statement of the manufacturer's recommendation regarding thinning of the coating. The statement shall either specify that the coating is to be applied under normal environmental conditions without thinning, or limit thinning required for normal environmental conditions such that after thinning the coating will not exceed its applicable standard as given in Table 1 at N.J.A.C. 7:27-23.3(f).

2. The label on any side of the container except the bottom shall include a statement which specifies the maximum pounds of VOC in a gallon of architectural coating as produced by that manufacturer, excluding wa-

ter and any colorant added to tint bases and after any recommended thinning. For architectural coatings manufactured after August 9, 1991, this statement shall be prominent and in print no smaller than 0.08 inches (two millimeters or eight point) in size.

(b) For all consumer products subject to (a) above, the label shall display the date on which the contents were manufactured or a code indicating the date of manufacture. The manufacturer shall supply an explanation of any code used to the Assistant Director, Enforcement Element, Division of Environmental Quality, CN 027, Trenton, New Jersey, 08625-0027, by February 28, 1990, and thereafter, 30 days prior to the use of any new or altered code.

(c) For labeling purposes only, terms other than VOC may be used provided that the volatile organic content level cited on the label is an accurate reflection of the VOC content of the coating, as defined in this subchapter.

(d) The provisions of this subchapter shall not apply to any architectural coating registered under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 et seq., provided the manufacturer has filed an application for any registration amendment necessary for compliance with this subchapter with EPA. A copy of this application shall be submitted by the manufacturer to the Assistant Director, Enforcement Element, Division of Environmental Quality, CN 027, Trenton, New Jersey 08625-0027 by August 31, 1990. Those products for which an application for an amended registration has been submitted in a timely manner are exempt until such time as EPA has rendered a decision upon the amendment request. Within 30 calendar days of receipt of notice of EPA action on an amendment request, a copy of that notice will be supplied to the Assistant Director, Enforcement Element, at the address specified above. Within 180 calendar days of the receipt of an approval of any necessary change, the manufacturer shall begin use of the complying product or label.

Amended by R.1989 d.568, effective November 6, 1989 (operative December 12, 1989).

See: 21 N.J.R. 1055(a), 21 N.J.R. 3488(a).

New (c) added and (c) recodified to (d) with provisions for applications for amended registrations to be filed with EPA.

Amended by R.1990 d.342, effective July 16, 1990.

See: 21 N.J.R. 3360(a), 22 N.J.R. 2145(b).

Location and print size of information specified; (a)2 and (b) deleted; new (a)2, (b) and (c) added; FIFRA manufacturers required to submit data to DEP; six months between approval and use of labels allowed in (e).

Administrative Correction in (a)2 changing the date from February 28 to August 9, 1991 for the statement; and change type size from 12 to eight.

See: 23 N.J.R. 303(a).

Amended by R.1992 d.102, effective March 2, 1992 (operative March 28, 1992).

See: 23 N.J.R. 1858(b), 24 N.J.R. 792(a).

"VOS" replaced by "VOC".

Case Notes

Amendment to scheduling order or delay in implementation of state standards not justified. *American Lung Ass'n v. Kean*, D.N.J.1994, 856 F.Supp. 903.

7:27-23.6 Administrative requirements

(a) Each manufacturer and distributor of an architectural coating subject to N.J.A.C. 7:27-23.3 shall include on the invoice, bill of lading, or other shipping document provided to the distributor or retailer receiving the product in New Jersey a statement indicating that the architectural coatings included on that shipping document and subject to N.J.A.C. 7:27-23.3, shipped by that manufacturer or distributor for sale in New Jersey, are in compliance with this subchapter. These documents shall be maintained by the manufacturer and the person receiving them for no less than five years and shall be made available to the Department upon request.

(b) Each manufacturer of a consumer product which contains greater than five percent by weight VOC having a vapor pressure or sum of partial pressures of organic substances of 0.02 pounds per square inch (1 millimeter of mercury), absolute or greater measured at standard conditions and is sold for use in New Jersey shall maintain calendar year records indicating the types of products containing greater than five percent by weight VOC having a vapor pressure or sum of partial pressures of organic substances of 0.02 pounds per square inch (1 millimeter of mercury), absolute or greater measured at standard conditions produced by that manufacturer for sale in New Jersey, the number of units produced, the VOC content by weight per unit and percent weight, and the approximate number of units sold in New Jersey. Within a given product category variations of products that have VOC contents within a range of five percent by weight may be combined for the purpose of record keeping, provided the maximum weight percent and maximum weight per unit within the product category is recorded. Upon the request of the Department, the manufacturer shall submit, within 90 days of the request, a report on forms obtained from the Department about products sold in New Jersey containing greater than five percent by weight VOC. Records sufficient to provide the above information shall be maintained by each manufacturer for five years after each calendar year for which the data is collected.

Amended by R.1990 d.342, effective July 16, 1990.

See: 21 N.J.R. 3360(a), 22 N.J.R. 2145(b).

Recordkeeping requirements revised.

Amended by R.1992 d.102, effective March 2, 1992 (operative March 28, 1992).

See: 23 N.J.R. 1858(b), 24 N.J.R. 792(a).

"VOS" replaced by "VOC".

Case Notes

Amendment to scheduling order or delay in implementation of state standards not justified. *American Lung Ass'n v. Kean*, D.N.J.1994, 856 F.Supp. 903.

7:27-23.7 Inspections

(a) The Department and its representatives shall have the right to enter and inspect any site, building or equipment, or any portion thereof, at any time, in order to ascertain compliance or non-compliance with the Air Pollution Control Act, N.J.S.A. 26:2C, this chapter, any permit, or any order or agreement issued or entered into pursuant thereto. Such right shall include, but not be limited to, the right to test or sample any materials at the facility, to sketch or photograph any portion of the site, building or equipment, to copy or photograph any document or records necessary to determine such compliance or non-compliance, and to interview any employees or representatives of the owner, operator or registrant. Such right shall be absolute and shall not be conditioned upon any action by the Department, except the presentation of appropriate credentials as requested and compliance with appropriate standard safety procedures.

(b) Owners or operators, and any employees or representatives thereof, of any manufacturing facility shall assist and shall not hinder or delay the Department and its representatives in the performance of all aspects of any inspection. Any facility manufacturing a coating will be considered a manufacturing facility for the purpose of this section, regardless of any other functions performed at the facility. Such assistance shall include making available sampling equipment necessary to conduct sampling at the facility and providing sampling facilities for the Department to determine the nature and quantity of architectural coating being provided, stored, transported, exchanged in trade, sold, or offered for sale at the manufacturing facility. During such testing by the Department, the equipment and all components connected, attached to, or serving the equipment shall be used and operated under normal routine operation conditions or under such other conditions as may be requested by the Department. The facilities may be either permanent or temporary, at the discretion of the person responsible for their provision, and shall conform to all applicable laws and regulations concerning safe construction and safe practice.

(c) Owners or operators, and any employees or representatives thereof, of any distribution facility, retail outlet or indirect consumer shall assist and shall not hinder or delay the Department and its representatives in the performance of all aspects of any inspection. Such assistance shall include providing any equipment necessary for access to all stock to allow the obtaining of samples by the Department to determine the nature and quantity of architectural coating being provided, stored, transported, exchanged in trade, sold, or offered for sale by the indirect consumer or at the retail or distribution outlet. In cases in which sampling equipment necessary to conduct sampling at the facility or sampling facilities to determine the nature and quantity of architectural coating at the facility are available on site, these equipment or facilities shall be made available for Department use.

Amended by R.1990 d.342, effective July 16, 1990.

See: 21 N.J.R. 3360(a), 22 N.J.R. 2145(b).

Requirements for manufacturing facilities separated from those for distributors and retailers.

Case Notes

Amendment to scheduling order or delay in implementation of state standards not justified. *American Lung Ass'n v. Kean*, D.N.J.1994, 856 F.Supp. 903.

SUBCHAPTER 24. CONTROL AND PROHIBITION OF VOLATILE ORGANIC COMPOUNDS FROM CONSUMER AND COMMERCIAL PRODUCTS

Authority

N.J.S.A. 13:1B-3 and 26:2C-1 et seq., in particular 26:2C-8.

Source and Effective Date

R.1995 d.567, effective November 6, 1995 (operative December 2, 1995).

See: 27 N.J.R. 1077(a), 27 N.J.R. 4291(a).

7:27-24.1 Definitions

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

“Aerosol product” means a consumer product that incorporates a pressurized spray system that dispenses product ingredients by means of a propellant or mechanically induced force. This term does not include pump sprays.

“Agricultural use” means the use of any pesticide or method or device for the control of pests in connection with the commercial production, storage or processing of animal or plant crops. This term does not include pesticides which are intended for and are labeled in packages or containers for:

1. Home use, that is use in a household or immediate environment;
2. Structural pest control;
3. Industrial use, that is use for or in a manufacturing, mining, or chemical process, or in use in the operation of factories, processing plants, and similar sites; or
4. Institutional use, that is within the confines of, or on property necessary for the operation of buildings such as hospitals, schools, libraries, auditoriums, and office complexes.

“Air freshener” means a consumer product including, but not limited to, sprays, wicks, powders and crystals, designed for the purpose of masking odors, or freshening, cleaning, scenting, or deodorizing the air. This term does not include products that are used on the human body, products that

function primarily as cleaning products, disinfectant products claiming to deodorize by killing germs on surfaces, or institutional/industrial disinfectants offered for sale solely through institutional and industrial channels of distribution. In determining whether a product is an air freshener, all verbal and visual representations regarding product use on the label and packaging, and in the product’s literature and advertising may be considered. The presence of and representation about a product’s fragrance and ability to deodorize resulting from surface application shall not constitute a claim of air freshening.

“All other forms” means all consumer product forms for which no form-specific VOC standard is specified. Unless specified otherwise by the applicable VOC standard, this term includes, but is not limited to, solids, liquids, wicks, powders, crystals, and cloth or paper wipes (towelettes).

“Antiperspirant” means a consumer product including, but not limited to, aerosols, roll-ons, sticks, pumps, pads, creams, gels, and squeeze bottles, which is marketed for the purpose of reducing perspiration in the human axilla by at least 20 percent in at least 50 percent of a target population.

“ASTM” means the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

“Bait station insecticide” means an insecticide consisting of a container enclosing an insecticidal bait that is designed to be ingested by insects and is composed of solid material feeding stimulants with less than five percent active ingredients.

“Bathroom and tile cleaner” means a consumer product designed to clean tile or surfaces in bathrooms. This term does not include products specifically designed to clean toilet bowls or toilet tanks.

“CARB” means the California Air Resources Board.

“Carburetor-choke cleaner” means a consumer product designed to remove dirt and other contaminants from a carburetor. This term does not include products designed to be introduced directly into the fuel lines or fuel storage tank prior to introduction into the carburetor.

“Construction and panel adhesive” means a one-component household adhesive which has gap filling capabilities and which distributes stress uniformly throughout the bonded area resulting in a reduction or elimination of the need for use of mechanical fasteners.

“Consumer” means a person who seeks, purchases, or acquires any consumer product for personal, family, household or institutional use. This term does not include a person acquiring a consumer product for resale.

“Consumer product” means a chemically formulated product sold at retail or wholesale and used by household,

commercial or institutional consumers. This term does not include paint, or architectural coatings.

“Contact adhesive” means a household adhesive that meets all of the following four criteria:

1. Is nitrile based, or contains polychlorobutadiene (neoprene, chloroprene, bayprene), or latex;
2. Forms an instantaneous, non-repositionable bond when applied to two substrates;
3. Exhibits a minimum 30 minute bonding range when dry to the touch; and
4. Bonds only to itself without the need for reactivation by solvents or heat.

“Container” means the part or parts of the consumer product which serve only to contain, enclose, incorporate, deliver, dispense, wrap or store the chemically formulated substance or mixture of substances which is solely responsible for accomplishing the purposes for which the product was designed or intended. This term includes any article onto or into which the principal display panel is incorporated, etched, printed or attached.

“Cooking spray” means an aerosol product designed either to reduce sticking on cooking and baking surfaces or to be applied on food, or both.

“Crawling bug insecticide” means any insecticide that is designed for use against ants, cockroaches, or other crawling household arthropods, including, but not limited to, mites, silverfish, or spiders. This term does not include products designed to be used exclusively on humans or animals.

“Deodorant” means a consumer product including, but not limited to, aerosols, roll-ons, sticks, pumps, pads, creams and squeeze bottles, that is intended by the manufacturer to be used to minimize odor in the human axilla by retarding the growth of bacteria which cause the decomposition of perspiration.

“Department” means the New Jersey Department of Environmental Protection.

“Device” means an instrument which is designed for trapping, destroying, repelling or mitigating any pest or any other form of plant or animal life, other than humans and other than bacteria, virus or other microorganism on or in living humans or other living animals. This term does not include equipment used for the application of pesticides if the equipment is sold separately from the pesticide. Additionally, the term does not include any instrument which is a firearm.

“Double phase aerosol air freshener” means an aerosol air freshener with liquid contents in two or more distinct phases that requires the product container to be shaken before use to mix the phases, producing an emulsion.

“Dusting aid” means a consumer product designed to assist removing dust and other soils from floors and other surfaces without leaving a wax or silicone-based coating. This term does not include products which consist entirely of compressed gases for use in electronic or other specialty areas.

“Engine degreaser” means a consumer product designed to remove grease, grime, oil and other contaminants from the external surfaces of engines and other mechanical parts.

“EPA” means the United States Environmental Protection Agency.

“Fabric protectant” means a consumer product designed to be applied to fabric substrates to protect the surface from soiling from dirt and other impurities or to reduce absorption of water into the fabric’s fibers. This term does not include silicone-based products whose function is to provide water repellency, or products designed for use solely on fabrics which are labeled for “dry clean only” and sold in containers of 10 fluid ounces or less.

“Flea and tick insecticide” means an insecticide that is designed for use against fleas, ticks, their larvae, or their eggs. This term does not include products that are designed to be used exclusively on humans or animals and their bedding.

“Flexible flooring material” means asphalt, cork, linoleum, no-wax, rubber, seamless vinyl, and vinyl composite flooring.

“Floor polish or wax” means a wax, polish or any other consumer product designed to polish, protect, or enhance floor surfaces by leaving a protective coating that is designed to be periodically replenished. This term does not include spray buff products, products designed solely for the purpose of cleaning floors, floor finish strippers, products designed for unfinished wood floors, and coatings subject to architectural coating rules at N.J.A.C. 7:27-23.

“Flying bug insecticide” means an insecticide that is designed for use against flying insects or other flying arthropods, including, but not limited to, flies, mosquitoes, moths or gnats. This term does not include wasp and hornet insecticides or products that are designed to be used exclusively on humans or animals.

“Fogger insecticide” means an insecticide designed to release all or most of its contents, as a fog or mist, into indoor areas during a single application.

“Fragrance” means a substance or complex mixture of aroma chemicals, natural essential oils, or other functional components with a combined vapor pressure not in excess of two millimeters of mercury at 20 degrees Celsius (°C), the sole purpose of which is to impart an odor or scent, or to counteract a malodor.

“Furniture maintenance product” means a wax, polish, conditioner, or any other consumer product designed for the purpose of polishing, protecting or enhancing finished wood surfaces other than floors. This term does not include dusting aids, products designed solely for the purpose of cleaning, and products designed to leave a permanent finish such as stains, sanding sealers and lacquers.

“Gel” means a colloid in which the disperse and continuous phases combine to form a semisolid material such as jelly.

“General purpose adhesive” means a non-aerosol household adhesive designed for use on a variety of substrates. This term does not include contact adhesives, structural waterproof adhesives, or construction and panel adhesives.

“General purpose cleaner” means a consumer product designed for general all-purpose cleaning, in contrast to cleaning products designed to clean specific substrates in certain situations. This term includes products designed for general floor cleaning, kitchen or countertop cleaning, and cleaners designed to be used on a variety of hard surfaces, but does not include degreasers.

“Glass cleaner” means a consumer product designed primarily for the purpose of cleaning surfaces made of glass. This term does not include products designed solely for the purpose of cleaning optical materials used in eyeglasses, photographic equipment, scientific equipment and photocopying machines.

“Hair mousse” means a consumer product that is a hairstyling foam designed to facilitate styling of a coiffure and provide limited holding power.

“Hair spray” means a consumer product designed primarily for the purpose of dispensing droplets of a resin on and into hair coiffure which will impart sufficient rigidity to the coiffure to establish or retain the style for a period of time.

“Hair styling gel” means a high viscosity, often gelatinous, consumer product that contains a resin and is designed for the application to hair to aid in styling and sculpting of the hair coiffure.

“High volatility organic compound (HVOC)” means any volatile organic compound that exerts a vapor pressure greater than 80 millimeters of mercury (mm Hg) when measured at 20 degrees Celsius (°C).

“Household adhesive” means any household product that is used to bond one surface to another by attachment. This term does not include products used on humans or animals, adhesive tape, contact paper, wallpaper, shelf liners, or any other product with an adhesive incorporated onto or in an inert substrate.

“Household product” means a consumer product that is primarily designed to be used inside or outside of living

quarters or residences that are occupied or intended for occupation by individuals, including the immediate surroundings.

“HVOC” (see “high volatility organic compound”).

“Innovative product exemption” means a determination from the California Air Resources Board that a particular consumer product will result in less VOC emissions as compared to a representative compliant consumer product or as compared to the reformulation of the particular product in order to comply with a VOC content limit due to some characteristic of the product formulation, design, delivery system, or other factor pursuant to the CARB’s consumer products regulations (including all amendments and supplements) at Title 17, Subchapter 8.5, Article 1, Section 94503.5 or Article 2, Section 94511 of the California Code of Regulations.

“Insecticide” means a pesticide that is designed for use against insects or other arthropods. This term does not include any product that is:

1. Designed for agricultural use;
2. Designed for structural pest control; or
3. A restricted material that requires a permit for use and possession.

Additionally, for the purpose of this subchapter, this term does not include solid fertilizers that also have insecticidal properties.

“Label” means any written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon any consumer product or consumer product package, for purposes of branding, identifying, or giving information with respect to the product or to the contents of the package.

“Laundry prewash” means a consumer product that is designed for application to a fabric prior to laundering and that supplements and contributes to the effectiveness of laundry detergents or provides specialized performance.

“Laundry starch product” means a consumer product that is designed for application to a fabric, either during or after laundering, to impart and prolong a crisp, fresh look and that may also act to help ease ironing of the fabric. This term includes, but is not limited to, fabric finish, sizing, and starch.

“Lawn and garden insecticide” means an insecticide designed primarily to be used in household lawn and garden areas to protect plants from insects or other arthropods.

“Liquid” means a substance or mixture of substances which is capable of a visually detectable flow as determined pursuant to ASTM D-4359-90. This term does not include

powders or other materials that are composed entirely of solid particles.

“Manufacturer” means any person who imports, manufactures, assembles, produces, packages, repackages, or relabels a consumer product. If the container or package of the consumer product lists two companies, firms or establishments, the manufacturer is the party which the product is “manufacturer for” or “distributed by,” as noted on the container or package of the consumer product.

“Maximum allowable VOC content (percent by weight)” means the total weight of VOC, except those VOCs exempted at N.J.A.C. 7:27-24.2(f), allowed to be in the consumer product. This term is expressed as a percentage of the total net weight of the product exclusive of the container or package and is calculated according to the following equation:

$$\text{Percent by weight} = \frac{B - C}{A} \times 100$$

where:

A = net weight of unit (excluding container and packaging)
 B = weight of VOCs per unit
 C = weight of VOCs exempted under N.J.A.C. 7:27-24.2(f) per unit

“Nail polish” means a clear or colored coating designed for application to the fingernails or toenails including, but not limited to, lacquers, enamels, acrylics, base coats and top coats.

“Nail polish remover” means a consumer product designed to remove nail polish and coatings from fingernails or toenails.

“Nonresilient flooring” means flooring of a mineral material(s) which is not flexible. This term includes terrazzo, marble, slate, granite, brick, stone, ceramic tile and concrete.

“Oven cleaner” means any consumer product designed to clean and to remove dried food deposits from oven walls.

“Packaging” means the part or parts of the consumer product which serve only to contain, enclose, incorporate, deliver, dispense, wrap or store the chemically formulated substance or mixture of substances which is solely responsible for accomplishing the purposes for which the product was designed or intended. This term includes any article onto or into which the principal display panel is incorporated, etched, printed or attached.

“Person” means any individual or entity and shall include, without limitation, corporations, companies, associations, societies, firms, partnerships, and joint stock companies, and shall also include, without limitation, all political subdivisions of this State or any agencies or instrumentalities thereof.

“Pesticide” means a consumer product which includes any substance or mixture of substances labeled, designed, or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed or intended for use as a defoliant, desiccant, or plant regulator. This term does not include any substance, mixture of substances, or device which the EPA does not consider to be a pesticide.

“Principal display panel or panels” means that part, or those parts, of a label that are so designed as to most likely be displayed, presented, shown, or examined under normal and customary conditions of display or purchase.

“Product category” means the category which best applies to a given consumer product as defined in this section and listed at N.J.A.C. 7:27-24.3 Table 1.

“Product form” means the applicable form which most accurately describes the product’s dispensing form, including aerosols, gels, liquids, pump sprays, and solids.

“Propellant” means a liquefied or compressed gas that is used in whole or in part, such as a cosolvent, to expel a liquid or any other material from the same self-pressurized container or from a separate container.

“Pump spray” means a packaging system in which the product ingredients within the container are not under pressure and from which the product is expelled only while a pumping action is applied to a button, trigger, or other actuator.

“Restricted materials” means pesticides established for restricted use under section 3(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. 136-136y).

“Shaving cream” means an aerosol product which dispenses a foam lather intended to be used with a blade or cartridge razor or other wet-shaving system in the removal of facial or other bodily hair.

“Single phase aerosol air freshener” means an aerosol air freshener which has the liquid contents in a single homogeneous phase and which does not require that the product container be shaken before use.

“Solid” means a substance or mixture of substances which is not capable of visually detectable flow as determined under ASTM D-4359-90. The substance or mixture of substances may be in a form either whole or subdivided (such as particles comprising a powder).

“Spray buff product” means a consumer product designed to restore a worn floor finish in conjunction with a floor buffing machine and special pad.

“Structural waterproof adhesive” means a household adhesive that:

1. Is designed for applications where the bond line must be resistant to condition of continuous immersion in fresh or salt water; and

2. Has passed Federal Specification MMM-A-181 (Type 1, Grade A), and MIL-A-46051 (Type 1, Grade A and Grade C).

“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 does not include the 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. The list at 40 CFR 51.100(s)(1) currently includes the compounds and the classes of perfluorocarbons set forth below:

methane
ethane
methylene chloride (dichloromethane)
1,1,1-trichloroethane (methyl chloroform)
trichlorofluoromethane (CFC-11)
dichlorodifluoromethane (CFC-12)
trifluoromethane (HFC-23)
1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113)
1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114)
chloropentafluoroethane (CFC-115)
chlorodifluoromethane (HCFC-22)
2,2-dichloro-1,1,1-trifluoroethane (HCFC-123)
2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)
1,1-dichloro-1-fluoroethane (HCFC-141b)
1-chloro-1,1-difluoroethane (HCFC-142b)
pentafluoroethane (HFC-125)
1,1,2,2-tetrafluoroethane (HFC-134)
1,1,1,2-tetrafluoroethane (HFC-134a)
1,1,1-trifluoroethane (HFC-143a)
1,1-difluoroethane (HFC-152a)
parachlorobenzotrifluoride (PCBTF)
cyclic, branched or linear completely methylated siloxanes

Classes of perfluorocarbons:

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.

“Wasp and hornet insecticide” means an insecticide that is designed for use against wasps, hornets, yellow jackets or bees by allowing the user to spray a high volume directed stream or burst from a safe distance at the intended pest or its hiding place.

“Wax” means a natural material or synthetic thermoplastic substance generally of high molecular weight hydrocarbons or high molecular weight esters of fatty acids or alcohols, except glycerol and high polymers (plastics). This term includes, but is not limited to, substances derived from the secretions of plants and animals such as caruba wax and beeswax, substances of a mineral origin such as ozocerite and paraffin, and synthetic polymers such as polyethylene.

“Wood floor wax” means a wax-based consumer product for use solely on wood floors.

Administrative Correction.
See: 28 N.J.R. 851(a).

7:27-24.2 Applicability, exemptions, and exclusions

(a) This subchapter applies to any person who sells, offers for sale, holds for sale, distributes, supplies, or manufactures any consumer product for use in New Jersey as specified at N.J.A.C. 7:27-24.3.

(b) The provisions of N.J.A.C. 7:27-24.3, 24.4, and 24.5 below do not apply to the following:

1. Any consumer product that is sold, supplied, offered for sale, held for sale, or manufactured for sale in New Jersey for shipment and use exclusively outside of the State of New Jersey. For such products that do not comply with the VOC content limits at N.J.A.C. 7:27-24.3, the shipping documentation shall include a statement that the shipment is not for sale and use in New Jersey and shall include the immediate destination. Documentation of product shipments shall be made available to representatives of the Department upon request;

2. Any bait station insecticide that contains bait that is not more than 0.5 ounces by weight;

3. Any air freshener or any insecticide which contains at least 98 percent by weight para-dichlorobenzene;

4. Any air freshener consisting entirely of one or more of the following:

- i. Fragrance;
- ii. Inorganic compounds;

- iii. Compounds excluded from the definition of VOC; and
 - iv. The compounds specified in (f) below; and
5. Any household adhesive sold in:
- i. A container of one fluid ounce or less; or
 - ii. A container of more than one U.S. gallon (128 fluid ounces).

(c) The maximum allowable VOC content limits (percent by weight) in N.J.A.C. 7:27-24.3 below do not apply to any consumer product manufactured prior to April 30, 1996, provided that the product is labelled with the date of manufacture or a date code as specified at N.J.A.C. 7:27-24.4(b) below which shows that the product was manufactured prior to April 30, 1996.

(d) The maximum allowable VOC content limits in N.J.A.C. 7:27-24.3 below do not apply to any consumer product if CARB has granted to the manufacturer of that product an Innovative Product Exemption pursuant to the CARB's consumer products regulations at Title 17, Subchapter 8.5, Article 1, Section 94503.5 or Article 2, Section 94511 of the California Code of Regulations, provided that the manufacturer claiming this exclusion submits a copy of the CARB exemption decision and CARB's statement of the conditions of its approval of the exemption to the following address:

Attn: Innovative Consumer Product
Bureau of Air Quality Planning
Department of Environmental Protection—CN 418
401 East State Street, 7th Floor
Trenton, New Jersey 08625-0418

(e) The maximum allowable VOC content limits in N.J.A.C. 7:27-24.3 below do not apply to any consumer product if an agency of another state which has an adopted consumer product variance provision in its rules as of December 2, 1995 has granted to the manufacturer of that product a variance (such as pursuant to the CARB consumer products regulations at Title 17, Subchapter 8.5, Article 1, Section 94514 or Article 2, Section 94505 of the California Code of Regulations or pursuant to Texas Natural Resources Conservation Commission's regulations at Title 30, Chapter 115, subchapter G, paragraph 613). This exclusion shall be effective in New Jersey until the other state agency's approved variance expires or is revoked, at which time the exclusion from the requirements of this subchapter shall automatically expire. This exclusion shall be effective in New Jersey provided that the manufacturer claiming this exclusion submits a copy of the state agency's exemption decision and statement of the conditions of its approval of the exemption to the following address:

Attn: Consumer Product Variance
Bureau of Air Quality Planning
Department of Environmental Protection—CN 418
401 East State Street, 7th Floor
Trenton, New Jersey 08625-0418

(f) The following compounds are excluded when determining compliance with the VOC limits specified at N.J.A.C. 7:27-24.3:

1. Any VOC which exerts a vapor pressure less than or equal to 0.1 millimeters of mercury at 20 degrees Celsius (°C);
2. Any VOC which consists of more than 12 atoms of carbon per molecule, if its vapor pressure is unknown;
3. Any VOC which has a melting point higher than 20 degrees Celsius and does not sublime, if its vapor pressure is not known; or
4. Any fragrances up to a combined level of two percent by weight contained in any consumer product.

(g) The requirements of N.J.A.C. 7:27-24.4(b) and (c) below do not apply to consumer products registered under Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. section 136-136y).

7:27-24.3 VOC content standards

(a) Except as provided at N.J.A.C. 7:27-24.2(b) through (e) and subsection (c) below, no person shall manufacture, distribute, or supply any consumer product for use in New Jersey which was manufactured after April 30, 1996, and contains VOC in excess of the limits specified in Table 1 below:

TABLE 1
VOC CONTENT LIMITS FOR
CONSUMER PRODUCTS

<u>Consumer Product Category</u>	<u>Maximum Allowable VOC Content (percent by weight)</u>
Air fresheners	
Single phase aerosol	70
Double-phase aerosol	30
Liquid/pump	18
Solid/gel	3
Antiperspirants	
Aerosol	HVOC 60
Non-aerosol	HVOC 0
Bathroom and tile cleaners	
Aerosols	7
All other forms	5
Carburetor choke cleaners	75
Cooking sprays, aerosol	18
Deodorants	
Aerosol	HVOC 20
Non-aerosol	HVOC 0
Dusting aids	
Aerosol	35
All other forms	7

Consumer Product Category	Maximum Allowable VOC Content (percent by weight)
Engine degreasers	75
Fabric protectants	75
Floor polishes/waxes	
Products for flexible flooring material	7
Products for nonresilient flooring	10
Wood floor wax	90
Furniture maintenance products, aerosol	25
General purpose cleaners	10
Glass cleaners	
Aerosols	12
All other forms	8
Hair mousses	16
Hair sprays	80
Hair styling gels	6
Household adhesives	
Aerosol	75
Contact	80
Construction and panel	40
General purpose	10
Structural waterproof	(Reserved)
Insecticides	
Crawling bug	40
Flea and tick	25
Flying bug	35
Foggers	45
Lawn and garden	20
Laundry prewash	
Aerosol/solids	22
All other forms	5
Laundry starch products	5
Nail polish removers	85
Oven cleaners	
Aerosol/pump sprays	8
Liquids	5
Shaving creams	5

(b) For consumer products for which the label, packaging, or accompanying literature specifically states that the product should be diluted prior to use, the limits specified in (a) above shall apply to the product only after the minimum recommended dilution has taken place. Such minimum recommended dilution does not include recommendations for incidental use of a concentrated product to deal with limited special applications such as hard-to-remove soils or stains.

(c) For those consumer products that are registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. Section 136-136y), the most effective date of the VOC standards specified in (a) above is April 30, 1997.

7:27-24.4 Administrative requirements

(a) Any manufacturer that manufactures a consumer product for sale in New Jersey that is required to meet a VOC content limit in N.J.A.C. 7:27-24.3 above shall submit a registration report to the Department by no later than October 1, 1996. Any manufacturer of a new consumer product for sale in New Jersey that is required to meet a VOC content limit in N.J.A.C. 7:27-24.3 above shall submit a registration report by no later than five months after the initial date of manufacture for sale in New Jersey.

1. The registration shall include the following information:

- i. The name of the manufacturer;
- ii. The full mailing address of the manufacturer;
- iii. The name and telephone number of contact person; and
- iv. A list of the categories of products manufactured that are subject to a VOC content limit at N.J.A.C. 7:27-24.3 (for example: lawn and garden insecticides, aerosol household adhesives, floor wax for non-resilient flooring).

2. The registration shall be sent to the Department at the following address:

Attn: Consumer Product Registration
Bureau of Air Quality Planning
Department of Environmental Protection—CN 418
401 East State Street
Trenton, New Jersey 08625-0418

(b) Each manufacturer of a consumer product subject to N.J.A.C. 7:27-24.3 above shall clearly display on each consumer product container or packaging the month and year in which the product was manufactured (or a code indicating such date). This subsection does not apply to products which are offered to consumers free of charge for the purpose of sampling the product.

(c) If a manufacturer uses a code indicating the date of manufacture in order to comply with (b) above, the manufacturer shall provide to the Department or its representative within 30 days a description of such code upon request.

(d) Each manufacturer of a product subject to a VOC content limit in N.J.A.C. 7:27-24.3 shall keep records demonstrating compliance with the VOC content limits. Such records shall consist of the results of testing or the calculations based upon the constituents used to manufacture the product as required at N.J.A.C. 7:27-24.5(a) or (b). These records are required to be kept for a period of at least three years. Such records shall be made available within 30 days of receipt of request by the Department.

(e) Within 90 days of a request by the Department, each manufacturer shall submit the information required to be kept in (d) above in addition to estimates of the quantities of consumer products sold in New Jersey on forms provided by the Department.

(f) A person who holds for sale, offers for sale, or sells any consumer product to a consumer shall, upon request, identify the distributor or company from whom the consumer product was obtained to the Department or its representative upon request.

(g) Any person who submits information to the Department pursuant to this subchapter may assert a confidentiality claim for that information in accordance with N.J.A.C. 7:27-1.6. The Department will process and evaluate confidentiality claims in accordance with N.J.A.C. 7:27-1.6 through 1.30 inclusive.

7:27-24.5 Test methods

(a) Any person performing tests to determine compliance with the VOC content limits in N.J.A.C. 7:27-24.3 shall use methods which are shown to accurately determine the concentration of VOCs in a product. Such methods shall include any methods issued by EPA or CARB which have been established for the measurement of VOCs in consumer products.

(b) Compliance determinations may also be demonstrated through calculation of the VOC content of a consumer product from records of the amounts of constituents used to make the product.

(c) Testing to determine whether a product is a liquid or a solid shall be performed using ASTM D4359-90, which is incorporated by reference herein.

7:27-24.6 Federal supersession

(a) If EPA promulgates any consumer or commercial product regulation pursuant to 42 U.S.C. 7511b(e) which conflicts with the applicability standards or VOC content limits in this subchapter, the applicability standards or VOC content limits of the conflicting portion of the Federal regulation shall automatically supersede the applicability standards or the VOC content limits in this subchapter as follows:

1. If the Federal regulation establishes a VOC content standard for a category of consumer products that is also regulated in this subchapter, the VOC content standard shall be superseded where:

i. The Federal VOC content standard is either more stringent or less stringent than the VOC content standard in this subchapter; or

ii. The Federal standard is expressed in units other than the units expressed in this subchapter (for example: percent by volume, weight by VOC per volume of product, or emissions per use);

2. If the Federal regulation establishes a scope of applicability for a category of consumer products that is also regulated in this subchapter, the scope of applicability in this subchapter shall be superseded where:

i. The scope of applicability of the category in the Federal rule is defined differently; or

ii. The scope of applicability in the Federal rule provides a different exclusion or exemption as to which products within the category are required to meet the VOC standard; or

3. If the Federal regulation excludes specific compounds or substances from the allowable VOC content for any specific category of consumer products or all categories of consumer products, the same compounds or substances shall be excluded from the allowable VOC content for the same categories in this subchapter.

(b) If the Federal regulation does not establish a VOC content standard (or does not otherwise limit the emissions of VOC) for a category of consumer products that is regulated in this subchapter, the provisions of this subchapter that regulate such a category shall remain in full force and effect.

Administrative Correction.
See: 28 N.J.R. 851(a).

7:27-24.7 Civil or criminal penalties for failure to comply

Any person subject to this subchapter shall be responsible for ensuring compliance with all requirements of this subchapter. Failure to comply with any provision of this subchapter may subject the person to civil 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. 26:2C-19(f)1 and 2.

SUBCHAPTER 25. CONTROL AND PROHIBITION OF AIR POLLUTION BY VEHICULAR FUELS

Authority

N.J.S.A. 13:1B-3, 26:2C-1 et seq., specifically N.J.S.A. 26:2C-8.

Source and Effective Date

R.1989 d.123, effective February 21, 1989.
See: 20 N.J.R. 1631(a), 21 N.J.R. 483(a).

Subchapter Historical Note

Public Notice: Pre-publication meeting on proposal. See: 24 N.J.R. 2128(a).

Law Review and Journal Commentaries

New Rules Establish Clean Air Act Standards. Richard M. Hluchan and Terrie-Anne Duda, 132 N.J.L.J. No. 8, S10 (1992).

7:27-25.1 Definitions

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

“ASTM” means the American Society for Testing and Materials.

“Blender” means any person who carries out a blending process.

"Blending process" means the combination of physical and chemical operations in which components including, but not limited to, gasoline, gasoline blendstocks, and other chemical components are combined to create a finished gasoline or gasoline blendstock.

"Carbon monoxide (CO)" means a gas having a molecular composition of one carbon atom and one oxygen atom.

"Control area" means a geographic area within which gasoline to be used, sold, or dispensed as vehicular fuel in New Jersey is subject to the applicable standards set forth at N.J.A.C. 7:27-25.3 during the specified control period.

"Control period" means the applicable period each year during which gasoline within a control area is subject to the oxygen content or RVP standards set forth at N.J.A.C. 7:27-25.3.

"Crude oil" means a petroleum liquid removed from the earth and not previously used including, but not limited to, partially refined oil.

"Department" means the New Jersey Department of Environmental Protection.

"Distribution capacity" means capacity for transportation, storage and blending.

"Distributor" means any person who transports or stores or causes the transportation or storage of gasoline at any point between any gasoline refinery or importer's facility and any retail outlet or wholesale purchaser-consumer's facility.

"EPA" means the United States Environmental Protection Agency.

"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 owned or operated by the same person.

"Gasoline" means any petroleum distillate or petroleum distillate/oxygenate blend having a Reid vapor pressure of four pounds per square inch (207 millimeters of mercury) absolute or greater, and commonly or commercially known or sold as gasoline.

"Importer" means a person who imports gasoline from a foreign country into the United States.

"Motor vehicle" means all vehicles propelled by an internal combustion engine, excepting motorized bicycles and such vehicles as run only upon rails or tracks.

"National ambient air quality standard" or "NAAQS" means an ambient air quality standard promulgated at 40 CFR 50.

"Nitrogen dioxide (NO₂)" means a gaseous compound at standard conditions, having a molecular composition of one nitrogen atom and two oxygen atoms.

"Nitrogen oxide (NO)" means a gaseous compound at standard conditions, having a molecular composition of one nitrogen atom and one oxygen atom.

"Nonconforming gasoline" means any gasoline the RVP or oxygen content of which does not during the applicable control period conform with the standards set forth in N.J.A.C. 7:27-25.3.

"Oxides of nitrogen (NO_x)" means any of the oxides of nitrogen including, but not limited to, nitrogen oxide and nitrogen dioxide.

"Oxygen content" means, in respect to the composition of gasoline, the percentage of oxygen by weight (unless specified as being by volume) contained in the gasoline. The percentage of oxygen by weight of the gasoline shall be based upon its percentage oxygenate by volume excluding denaturants and other non-oxygen-containing components. All volume measurements are adjusted to 60 degrees Fahrenheit.

"Oxygen program control area" means the area containing the counties of Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union and Warren.

"Oxygen program control period" means the control period in New Jersey during which oxygen content standards set forth at N.J.A.C. 7:27-25.3 are applicable to gasoline.

"Oxygenate" means any substance which, when blended into gasoline, increases the amount of oxygen in that gasoline blend and which is allowed to be used as a gasoline additive pursuant to 42 USC 7545.

"Oxygenate blend" means a gasoline produced by blending one or more oxygenates into a base gasoline.

"Person" means any individual or entity and includes, without limitation, corporations, companies, associations, societies, firms, partnerships and joint stock companies, as well as individuals, and shall also include all political subdivisions of the State or any agencies or instrumentalities thereof.

"Petroleum distillate" means any mixture of volatile organic compounds produced by a refining process including, but not limited to, naphthas, aviation gasoline, motor vehicle gasoline, kerosene, diesel oil, domestic fuel oil, and petroleum products.

"Product development" means investigations directed toward the establishment of methods of manufacture or of specific designs of salable substances, devices, or procedures, based on previously discovered facts, scientific principles or substances.

"Refiner" means any person who owns, leases, operates, controls, or supervises a refinery.

"Refinery" means a facility which carries out refining processes.

"Refining process" means the combination of physical and chemical operations including, but not limited to, distillation, cracking, and reformulation, performed on crude oil in order to produce petroleum products, including gasoline.

"Reid vapor pressure" (RVP) means the absolute vapor pressure of a petroleum product in pounds per square inch (or kilopascals) at 100 degrees Fahrenheit (37.8 degrees Celsius).

"Research" means investigation directed toward the discovery of facts, scientific principles, reactions, or substances.

"Retail outlet" means any establishment at which gasoline is provided, sold, or offered for sale directly for use in motor vehicles.

"Retailer" means any person who owns, leases, operates, controls, or supervises a retail outlet.

"RVP control area" means the entire geographic area within the State of New Jersey.

"RVP control period" means the period from May 1 through and including September 15 of each year during which the RVP standard set forth at N.J.A.C. 7:27-25.3 is applicable to gasoline to be used in New Jersey as vehicular fuel.

"Standard conditions" means 70 degrees Fahrenheit (21.1 degrees Celsius) and one atmosphere pressure (14.7 pounds per square inch absolute or 760.0 millimeters of mercury).

"State" means the State of New Jersey.

"Trial use" means use of a product in an experiment or series of experiments by the manufacturer or importer of that product.

"Vapor" means the gaseous form of substances which, under standard conditions, is in the solid or liquid state and which can be changed to these states by either increasing the pressure or decreasing the temperature.

"Vapor pressure" means the pressure of the vapor phase of a substance, or the sum of the partial pressures of the vapor phases of individual substances in a mixture of substances, when in equilibrium with the non-vapor phase of the substance or substances.

"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 does not include the 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. The list at 40 CFR 51.100(s)(1) currently includes the compounds and the classes of perfluorocarbons set forth below:

methane

ethane

methylene chloride (dichloromethane)

1,1,1-trichloroethane (methyl chloroform)

trichlorofluoromethane (CFC-11)

dichlorodifluoromethane (CFC-12)

trifluoromethane (HFC-23)

1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113)

1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114)

chloropentafluoroethane (CFC-115)

chlorodifluoromethane (HCFC-22)

2,2-dichloro-1,1,1-trifluoroethane (HCFC-123)

2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)

1,1-dichloro-1-fluoroethane (HCFC-141b)

1-chloro-1,1-difluoroethane (HCFC-142b)

pentafluoroethane (HFC-125)

1,1,2,2-tetrafluoroethane (HFC-134)

1,1,1,2-tetrafluoroethane (HFC-134a)

1,1,1-trifluoroethane (HFC-143a)

1,1-difluoroethane (HFC-152a)

parachlorobenzotrifluoride (PCBTF)

cyclic, branched or linear completely methylated soloxanes

Classes of perfluorocarbons:

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.

Amended by R.1991 d.462, effective September 3, 1991 (operative November 2, 1991).

See: 23 N.J.R. 45(b), 23 N.J.R. 2656(a).

Changed heading; old title "Applicability." Added "as motor vehicle fuels."

Amended by R.1991 d.462, effective September 3, 1991 (operative November 2, 1991).

See: 23 N.J.R. 45(b), 23 N.J.R. 2656(a).

Substantial revision of definitions; added definitions for "ASTM", "EPA", "Facility", "Nonconforming gasoline", "Product development", "Research", "Trial use", "Volatile organic substances".

Amended by R.1992 d.102, effective March 1992 (operative March 28, 1992).

See: 23 N.J.R. 1858(b), 24 N.J.R. 792(a).

Added definition for "volatile organic compound" and amended "petroleum distillate" table consistent with change from "substance" to "compound".

Recodified from N.J.A.C. 7:27-25.2 and amended by R.1992 d.382, effective October 5, 1992.

See: 24 N.J.R. 2386(a), 24 N.J.R. 3539(a).

Fifteen definitions added.

The former section N.J.A.C. 7:27-25.1, Scope, was repealed by this rulemaking. Prior rulemaking activities are as follows:

Amended by R.1991 d.462, effective September 3, 1991 (operative November 2, 1991).

See: 23 N.J.R. 45(b), 23 N.J.R. 2656(a).

Administrative correction to the definition of "southern oxygen program control area".

See: 24 N.J.R. 4524(b).

Amended by R.1994 d.313, effective June 20, 1994 (operative July 26, 1994).

See: 25 N.J.R. 3339(a), 26 N.J.R. 2600(a).

Amended by R.1994 d.483, effective September 19, 1994 (operative October 24, 1994).

See: 26 N.J.R. 1048(a), 26 N.J.R. 3835(a).

Emergency Amendment, R.1995 d.129, effective February 8, 1995 (to expire April 9, 1995).

See: 27 N.J.R. 787(a).

Administrative Correction.

See: 27 N.J.R. 1406(a).

Adopted Concurrent Proposal, R.1995 d.236, effective April 7, 1995 (operative June 5, 1995).

See: 27 N.J.R. 787(a), 27 N.J.R. 1479(a), 27 N.J.R. 1794(b).

Provisions of emergency amendment, R.1995 d.129, adopted without change.

Emergency Amendment, R.1995 d.562, effective September 28, 1995 (expires November 27, 1995).

See: 27 N.J.R. 4004(a).

Public Notice: Emergency amendment R.1995 d.562 terminated October 2, 1995 by order of the United States District Court, District of New Jersey.

See: 27 N.J.R. 4116(a).

Emergency Amendment R.1995 d.607, effective October 27, 1995 (expires December 26, 1995).

See: 27 N.J.R. 4731(a).

Adopted Concurrent Proposal, R.1996 d.49, effective December 26, 1995 (operative February 24, 1996).

See: 27 N.J.R. 4731(a), 28 N.J.R. 851(b).

7:27-25.2 Scope and applicability

(a) This subchapter prescribes the rules of the Department for the control and prohibition of air pollution by vehicular fuels. This subchapter governs the standards for fuels used as motor vehicle fuels and provided for use as motor vehicle fuels in the State and the methods to be followed by refiners, importers, blenders, distributors, wholesaler purchaser-consumers and retailers to assure these standards are met.

(b) Any refiner, importer, blender, distributor, wholesale purchaser-consumer or retailer of gasoline for use as motor vehicle fuel in the State is subject to the provisions of this subchapter.

New Rule, R.1992 d.382, effective October 5, 1992.

See: 24 N.J.R. 2386(a), 24 N.J.R. 3539(a).

7:27-25.3 General provisions

(a) Except as provided for use in (b) and (h) below, no refiner, importer, blender, distributor, wholesale purchaser-consumer, or retailer shall provide, store, offer for sale, sell, transport, import, or exchange in trade for use in New Jersey during the RVP control period each year, starting in 1989, gasoline having a RVP greater than 9.0 pounds per square inch.

(b) The following compliance schedule shall be in effect in 1989 only; after 1989, the compliance schedule set out in (a) above shall be in effect:

1. No refiner or importer shall provide, store, offer for sale, sell, transport, import or exchange in trade for use in New Jersey during the period May 1 through September 15, 1989, gasoline having a Reid vapor pressure greater than 9.0 pounds per square inch.

2. No blender or distributor shall provide, store, offer for sale, sell, transport, import or exchange in trade for use in New Jersey during the period June 1 through September 15 of 1989, gasoline having a Reid vapor pressure greater than 9.0 pounds per square inch.

3. No wholesale purchaser-consumer or retailer shall provide, store, offer for sale, sell, transport, import or exchange in trade for use in New Jersey during the period July 1 through September 15 of 1989, gasoline having a Reid vapor pressure greater than 9.0 pounds per square inch.

(c) Except as provided for at N.J.A.C. 7:27-25.9, no refiner, importer, blender, distributor, wholesale purchaser-consumer, or retailer shall provide, store, offer for sale, sell, transport, import, or exchange in trade gasoline for use in the oxygen program control area, unless:

1. The oxygen content of the gasoline equals or exceeds 2.7 percent from November 1 through and including the last day of the following February; and
2. The oxygen content of the gasoline equals or is less than 3.5 percent.

(d) The standards set forth in (c) above shall become operative on November 1, 1992 or on such delayed effective date as EPA establishes, pursuant to 42 USC 7545(m)(3)(C), due to a determination that there is or is likely to be, for any control area, an inadequate domestic supply of or distribution capacity for:

1. Oxygenated gasoline that meets the standard set forth in (c) above; or
2. The oxygenates needed to blend into gasoline to make fuel that conforms with (c) above.

(e) At no time shall a refiner, importer, blender, distributor, wholesale purchaser-consumer or retailer provide, store, offer for sale, sell, transport, import or exchange in trade for use in New Jersey gasoline unless, pursuant to 42 USC 7545, the EPA has:

1. Determined to its satisfaction that the gasoline and any oxygenate or a combination of oxygenates blended into the gasoline are substantially similar to any gasoline and any concentration of an oxygenate or a combination of oxygenates utilized, pursuant to 42 USC 7525, in the certification of any model year 1975, or subsequent model year, vehicle or engine; or
2. Waived the requirement for the gasoline and any oxygenate or a combination of oxygenates blended into the gasoline to be substantially similar to any fuel or fuel additive utilized, pursuant to 42 USC 7525, in the certification of any model year 1975, or subsequent model year, vehicle or engine.

(f) Notwithstanding the provisions of (c) above, a refiner, importer, blender, or distributor may provide, store, offer for sale, sell, transport, import, or exchange in trade gasoline which has an oxygen content less than 2.7 percent, provided that:

1. The gasoline is destined for one of the following uses:
 - i. Provision, sale, or exchange in trade to a retailer or wholesale purchaser-consumer at a facility located outside the oxygen program control area;

ii. Provision, sale, or exchange in trade to a retailer or wholesale purchaser-consumer at a time which is outside the oxygen program control period applicable to that retailer or wholesale purchaser-consumer;

iii. Provision, sale, or exchange in trade to another refiner, importer, blender, or distributor; or

iv. Blending with oxygenate so that the gasoline has an oxygen content which equals or exceeds 2.7 percent prior to providing, selling, or otherwise exchanging in trade the gasoline to a retailer or wholesale purchaser-consumer;

2. Documents associated with the gasoline, including, but not limited to, any record, invoice, or bill of lading, specify which one of the uses given in (f)1 above applies to the gasoline; and

3. The refiner, importer, blender or distributor ensures that gasoline is provided, sold, stored, transported, imported, or exchanged in trade in accordance with the use specified in (f)2 above.

(g) Upon the request of any consumer, a retailer shall inform the consumer as to the category of oxygenate, either alcohol or ether blends, being dispensed from any of the gasoline dispensing devices at the facility.

(h) Wholesale purchaser-consumers and retailers shall be exempt from the RVP standard established in (a) above during the month of May.

Amended by R.1992 d.382, effective October 5, 1992.
See: 24 N.J.R. 2386(a), 24 N.J.R. 3539(a).

New (c) through (e) added.
Administrative correction to (a).
See: 24 N.J.R. 4524(b).

Amended by R.1994 d.85, effective February 22, 1994 (operative March 14, 1994).

See: 25 N.J.R. 4039(a), 26 N.J.R. 1148(a).
Emergency Amendment, R.1995 d.129, effective February 8, 1995 (to expire April 9, 1995).

See: 27 N.J.R. 787(a).
Adopted Concurrent Proposal, R.1995 d.236, effective April 7, 1995 (operative June 5, 1995).

See: 27 N.J.R. 787(a), 27 N.J.R. 1479(a), 27 N.J.R. 1794(b).
Provisions of emergency amendment, R.1995 d.129, adopted without change.

Emergency Amendment, R.1995 d.562, effective September 28, 1995 (expires November 27, 1995).

See: 27 N.J.R. 4004(a).

Public Notice: Emergency Amendment R.1995 d.562 terminated October 2, 1995 by order of the United States District Court, District of New Jersey.

See: 27 N.J.R. 4116(a).

Emergency Amendment R.1995 d.607, effective October 27, 1995 (expires December 26, 1995).

See: 27 N.J.R. 4731(a).

Adopted Concurrent Proposal, R.1996 d.49, effective December 26, 1995 (operative February 24, 1996).

See: 27 N.J.R. 4731(a), 28 N.J.R. 851(b).

7:27-25.4 Recordkeeping and compliance determinations

(a) Each refiner, importer, blender or distributor shall:

7:27-25.10 Owner and operator responsibility

The owner and operator of any facility subject to this subchapter shall be responsible for ensuring compliance with all requirements of this subchapter. Failure to comply with any provision of this subchapter may subject the owner and operator to civil penalties in accordance with N.J.A.C. 7:27A-3 and criminal penalties pursuant to N.J.S.A. 26:2C-19(f)1 and 2. If there is more than one owner or operator of a facility, all owners and operators are jointly and severally liable for such civil and criminal penalties.

New Rule, R.1992 d.382, effective October 5, 1992.

See: 24 N.J.R. 2386(a), 24 N.J.R. 3539(a).

Recodified from 7:27-25.11 by R.1994 d.85, effective February 22, 1994 (operative March 14, 1994).

See: 25 N.J.R. 4039(a), 26 N.J.R. 1148(a).

7:27-25.11 Service fees

(a) Any person who applies for an exemption pursuant to N.J.A.C. 7:27-25.7 shall submit with the application, as an integral part thereof, a non-refundable service fee of \$500.00.

(b) Any person to whom the Department has issued an exemption pursuant to N.J.A.C. 7:27-25.7 shall remit to the Department within 60 days after receipt of an invoice, an annual compliance inspection fee of \$500.00 for each year that the exemption remains in effect.

(c) Any person who applies for a variance pursuant to N.J.A.C. 7:27-25.9 shall submit with the application a non-refundable service fee of \$500.00. No application shall be deemed complete without the required fee.

(d) Any person to whom the Department has issued a variance pursuant to N.J.A.C. 7:27-25.9 shall remit to the Department within 60 days after receipt of an invoice, a compliance inspection fee of \$200.00. Such person is subject to a compliance inspection fee only if the Department conducts at the facility one or more compliance inspections pursuant to the variance during any year, or part thereof, that the variance is in effect. The Department shall not charge such person a compliance inspection fee more frequently than once per year.

New Rule, R.1991 d.462, effective September 3, 1991.

See: 23 N.J.R. 45(b), 23 N.J.R. 2656(a).

Recodified from N.J.A.C. 7:27-25.8 and amended by R.1992 d.382, effective October 5, 1992.

See: 24 N.J.R. 2386(a), 24 N.J.R. 3539(a).

New subsections (c) and (d) added.

Recodified from 7:27-25.12 by R.1994 d.85, effective February 22, 1994 (operative March 14, 1994).

See: 25 N.J.R. 4039(a), 26 N.J.R. 1148(a).

Amended by R.1994 d.483, effective September 19, 1994 (operative October 24, 1994).

See: 26 N.J.R. 1048(a), 26 N.J.R. 3835(a).

Emergency Amendment, R.1995 d.562, effective September 28, 1995 (expires November 27, 1995).

See: 27 N.J.R. 4004(a).

Public Notice: Emergency amendment by R.1995 d.562 terminated October 2, 1995 by order of the United States District Court, District of New Jersey.

See: 27 N.J.R. 4116(a).

SUBCHAPTER 26. OZONE TRANSPORT COMMISSION—LOW EMISSION VEHICLES PROGRAM

Authority

N.J.S.A. 13:1B-3(e), 13:10-9 and 26:2C-1 et seq., specifically 26:2C-8.

Source and Effective Date

R.1995 d.661, effective December 18, 1995 (operative January 21, 1996).

See: 27 N.J.R. 1910(a), 27 N.J.R. 5016(a).

7:27-26.1 Definitions

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

“Air contaminant emission control system” means the equipment designed for installation on a motor vehicle or motor vehicle engine for the purpose of reducing the air contaminants emitted from the motor vehicle or motor vehicle engine, or a system or engine modification on a motor vehicle or motor vehicle engine which causes a reduction of air contaminants emitted from the motor vehicle or motor vehicle engine, including but not limited to exhaust control systems, fuel evaporation control systems and crankcase ventilating systems.

“Business” means an occupation, profession or trade; a person or partnership or corporation engaged in commerce, manufacturing, or a service; a profit-seeking enterprise or concern.

“California Air Resources Board” or “CARB” means the agency established and empowered to regulate sources of air pollution in the state of California, including motor vehicles, pursuant to California Health & Safety Code Sections 39500 et seq.

“California standards” means those emission standards for motor vehicles and new motor vehicle engines that the state of California has adopted and for which it has received a waiver from the United States Environmental Protection Agency pursuant to the authority of 42 U.S.C.A. Section 7543 and which other states are permitted to adopt pursuant to 42 U.S.C.A. Section 7507.

“CCR” shall mean the California Code of Regulations (Barclays, 1991).

“Certificate of conformity” means that document issued by the Executive Officer of the California Air Resources

Board, or the United States Environmental Protection Agency.

“Certification application” means the application and associated information that a motor vehicle manufacturer, a motor vehicle engine manufacturer or an air contaminant emission control system manufacturer submits to the California Air Resources Board in the process of applying for certification of a motor vehicle, motor vehicle engine, engine family or air contaminant emission control system.

“Certified” means the finding by the California Air Resources Board that a motor vehicle, motor vehicle engine or engine family, or air contaminant emission control system has satisfied the criteria adopted by the California Air Resources Board for the control of specified air contaminants from motor vehicles.

“Dealer” includes every person actively engaged in the business of buying, transferring, leasing, selling or exchanging motor vehicles and who has an established place of business.

“Department” means the New Jersey Department of Environmental Protection.

“Diesel” means powered by an engine where the primary means of controlling power output is by limiting the amount of fuel that is injected into the combustion chambers of the engine.

“Dual fueled” means a motor vehicle that is engineered and designed to be capable of operating on a petroleum fuel and on another fuel which is stored separately on-board the vehicle.

“Durability vehicle basis” means the number of miles during which the test vehicle used by a motor vehicle manufacturer to certify to the prescribed exhaust emission standards must maintain those specified standards.

“Emission standards” means specified limitations on the discharge of air contaminants into the atmosphere.

“Engine family” means the basic classification unit comprised of the engine and drive-train configuration selected by a manufacturer and used for the purpose of certification testing.

“Established place of business” means a place actually occupied either continuously or at regular periods for business use.

“Evaporative emissions” means vaporized fuel emitted into the atmosphere from the fuel system of a motor vehicle.

“Field fixes” mean modifications, to motor vehicle engines or air contaminant emission control systems, specified by the vehicle manufacturer that are to be effected by the manufacturer’s authorized service representative, and that are implemented to correct design defects that may result in excess emissions from the motor vehicle.

“Fleet average” means a motor vehicle manufacturer’s average vehicle emissions of all non-methane organic gases from all vehicles subject to this subchapter which are produced and delivered for sale in the State of New Jersey in any model year, beginning with model year 1996, based on the calculation in N.J.A.C. 7.27-26.5(a).

“49-State Low Emission Vehicle (49SLEV) Program” means an alternative voluntary nationwide program that would achieve emission reductions from new motor vehicles in the Ozone Transport Region (OTR) equivalent to or greater than would be achieved by the OTC-LEV Program and that would advance motor vehicle control technology.

“Fuel flexible” means a methanol-fueled motor vehicle that is engineered and designed to be operated using any gasoline-methanol fuel mixture or blend.

“Fuel system” means the combination of fuel tank(s), fuel lines and carburetor, or fuel injector, and includes all vents and fuel evaporative emission control systems or devices.

“G/mi” means grams per mile.

“Gross vehicle weight rating” means the value specified by the manufacturer as the maximum design loaded weight of a single vehicle.

“Heavy-duty vehicle” means any motor vehicle having a manufacturer’s gross vehicle weight rating greater than 6,000 pounds, except passenger cars.

“HEV contribution factor” means the NMOG emission contribution of HEVs to the fleet average NMOG value.

“Highway” means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel, and also includes any limited-access highway designated as a “freeway” or “parkway” by authority of law, and any semi-public or private way to which the provisions of Subtitle 1 of Title 39 of the Revised Statutes, N.J.S.A. 39:1-1 et seq., have been made applicable pursuant to the provisions of N.J.S.A. 39:5A-1.

“Hybrid electric vehicle” or “HEV” means a motor vehicle which allows power to be delivered to the driver wheels solely by a battery-powered electric motor but which also incorporates the use of a combustion engine to provide power to the battery, or any vehicle which allows power to be delivered to the driver wheels by either a combustion engine and/or by a powered electric motor.

"Intermediate compliance standards" means in-use compliance standards that are effective prior to the effective date of the final in-use compliance standards.

"Intermediate volume manufacturer" means any vehicle manufacturer with sales between 3,001 and 35,000 new light-duty and medium-duty vehicles per model year based on the average number of vehicles sold in California by the manufacturer each model year from 1989 to 1993; provided that, for manufacturers certifying for the first time in California, model year sales shall be based on projected California sales.

"In-use compliance" means the adherence of a motor vehicle to specified exhaust emission standards while the motor vehicle is used and properly maintained within the guidelines of the motor vehicle manufacturer.

"Light-duty truck" means any motor vehicle, rated at 6,000 pounds gross vehicle weight or less and a loaded vehicle weight of 5,750 pounds or less, which is designed primarily for purposes of transportation of property or is a derivative of such a vehicle, or is available with special features enabling off-street or off-highway operation and use.

"Light-duty vehicle" means light-duty trucks and passenger cars.

"Loaded vehicle weight" or "LVW" means vehicle curb weight plus 300 pounds.

"Low emission vehicle" or "LEV" means a motor vehicle which has been certified as not exceeding the applicable standards set forth in N.J.A.C. 7:27-26.4.

"Manufacturer's sales fleet" means all passenger cars and light-duty trucks a manufacturer sells or offers for sale in New Jersey.

"Medium-duty vehicle" means any pre-1995 model year heavy-duty vehicle having a manufacturer's gross vehicle weight rating of 8,500 pounds or less, any 1992 and subsequent model year heavy-duty low emission vehicle or ultra-low emission vehicle having a manufacturer's gross vehicle weight rating of 14,000 pounds or less, or any 1995 and subsequent model year heavy-duty vehicle having a manufacturer's gross vehicle weight rating of 14,000 pounds or less.

"Mg/mi" means milligrams per mile.

"Model-year" or "MY" means the manufacturers' annual production period as set forth in 40 C.F.R. Part 85, Subpart X.

"Motor vehicle" or "vehicle" means every device in, upon, or by which a person or property is or may be transported otherwise than by muscular power, excepting

such devices as run only upon rails or tracks and motorized bicycles.

"Motor vehicle engine" means an engine that is used to propel a motor vehicle.

"New motor vehicle" or "new vehicle" means a motor vehicle, the equitable or legal title to which has never been transferred to the ultimate purchaser.

"New motor vehicle dealer" means the agent, distributor or authorized dealer of the manufacturer of a new motor vehicle who has an established place of business.

"New motor vehicle engine" means a new engine in a motor vehicle.

"Non-methane organic gas" or "NMOG" shall mean the total mass of oxygenated and non-oxygenated hydrocarbon emissions.

"Off-highway" means any place other than a highway.

"Offset vehicle" means a Federally-certified light-duty vehicle that has been certified by the California Air Resources Board as meeting the standards and procedures set forth in the "Guidelines for Certification of 1983 and Subsequent Model Year Federally Certified Light-Duty Motor Vehicles for Sale in California," adopted July 20, 1982, as last amended July 12, 1991.

"Organic material hydrocarbon equivalent" or "OMHCE" means the sum of the carbon mass contributions of non-oxygenated hydrocarbons, methanol and formaldehyde as contained in an exhaust gas sample, expressed as gasoline-fueled vehicle hydrocarbons. In the case of exhaust emissions, the hydrocarbon-to-carbon ratio of the equivalent hydrocarbon is 1.85:1. In the case of diurnal and hot-soak emissions, the hydrocarbon-to-carbon ratios of the equivalent hydrocarbons are 2.33:1, respectively.

"OTC-LEV Program" means a LEV program as set forth in 40 CFR 51.120(c).

"Ozone Transport Region or OTR" means the ozone transport region established pursuant to 42 U.S.C. 7511c(a), comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Pennsylvania, Vermont, the Consolidated Metropolitan Statistical Area that includes northern portions of Virginia and the District of Columbia.

"Passenger car" or "PC" means any motor vehicle designed primarily for transportation of persons and having a design capacity of 12 persons or less.

"Person" means an individual, public or private corporation, company, partnership, firm, association, society or joint stock company, municipality, state, interstate body, the United States, or any Board, commission, employee, agent,

officer or political subdivision of a state, an interstate body or the United States.

“Reactivity adjustment factor” means a fraction applied to the NMOG emissions from a vehicle powered by a fuel other than conventional gasoline for the purpose of determining a gasoline-equivalent NMOG level. The reactivity adjustment factor means the ozone-forming potential of clean fuel vehicle exhaust divided by the ozone-forming potential of gasoline vehicle exhaust.

“Rental agency” means a business engaged in renting motor vehicles for temporary use.

“Running changes” mean modifications, to motor vehicle engines or air contaminant emission control systems, specified by the vehicle manufacturer that are to be effected by the manufacturer during vehicle production, and which are implemented to correct design defects that may result in excess emissions from the motor vehicle.

“Sale” or “sell” means the transfer of equitable or legal title to a motor vehicle or motor vehicle engine to the ultimate or subsequent purchaser.

“Small volume manufacturer” means any vehicle manufacturer with sales less than or equal to 3,000 new light-duty vehicles and medium-duty vehicles per model year based on the average number of vehicles sold in California by the manufacturer each model year from 1989 to 1991; provided that, for manufacturers certifying for the first time in California, model-year sales shall be based on projected California sales.

“Standard vehicle” or “SV” means a motor vehicle which has been certified as not exceeding the applicable standards set forth in N.J.A.C. 7:27-26.4.

“State” means the State of New Jersey, unless otherwise specified.

“Transitional low emission vehicle” or “TLEV” means a motor vehicle which has been certified as not exceeding the applicable standards set forth in N.J.A.C. 7:27-26.4.

“Type A HEV” shall mean an HEV which achieves a minimum range of 60 miles over the All-Electric Range Test as defined in “California Exhaust Emission Standards and Test Procedures for 1988 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles” as incorporated by reference in section 1960.1(k) of Title-13, California Code of Regulations.

“Type B HEV” shall mean an HEV which achieves a range of 40 to 59 miles over the All-Electric Range Test as defined in “California Exhaust Emission Standards and Test Procedures for 1988 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles” as incorporated by reference in section 1960.1(k) of Title-13, California Code of Regulations.

“Type C HEV” shall mean an HEV which achieves a range of 0 to 39 miles over the All-Electric Range Test and all other HEVs excluding “Type A” and “Type B” HEVs as defined in “California Exhaust Emission Standards and Test Procedures for 1988 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles” as incorporated by reference in section 1960.1(k) of Title-13, California Code of Regulations.

“Ultra low emission vehicle” or “ULEV” means a motor vehicle which has been certified as not exceeding the applicable standards set forth in N.J.A.C. 7:27-26.4.

“Ultimate purchaser” means, with respect to any new motor vehicle or new motor vehicle engine, the first person who in good faith purchases a new motor vehicle or new motor vehicle engine for purposes other than resale.

“Useful life” means a period of use denoted by the emission standards to which a given vehicle is certifying. For those light-duty vehicles certified to optional 100,000 mile standards and those 1996 and subsequent model year vehicles certified to 100,000 emission standards, and for those transitional low-emission, low-emission, and ultra-low emission vehicles and hybrid electric vehicles (HEVs) certified to 100,000 emission standards, the useful life shall mean 10 years or 100,000 miles, whichever first occurs. For light-duty vehicles certified only to 50,000 mile standards useful life shall mean five years or 50,000 miles, whichever first occurs.

“Vehicle curb weight” means the actual or the manufacturer’s estimated weight of the vehicle in operational status with all standard equipment, and weight of fuel at nominal tank capacity, and the weight of optional equipment computed in accordance with 40 C.F.R. 86.082-24. Incomplete light-duty trucks shall have the curb weight specified by the manufacturer.

“Zero emission vehicle” or “ZEV” means any vehicle which is certified by the Executive Officer of the California Air Resources Board to produce zero emissions of any criteria pollutants under any and all possible operational modes and conditions. Incorporation of a fuel-fired heater shall not preclude a vehicle from being certified as a ZEV provided the fuel-fired heater cannot be operated at ambient temperatures above 40 degrees Fahrenheit and the heater is demonstrated to have zero evaporative emissions under any and all possible operational modes and conditions.

7:27-26.2 Applicability

(a) This subchapter shall apply to all 1999 model year and subsequent model year motor vehicles which are passenger cars and light-duty trucks, motor vehicle engines in such motor vehicles, and air contaminant emission control systems for such motor vehicles and motor vehicle engines.

(b) Notwithstanding (a) above, the provisions of this subchapter shall not apply in the event that:

1. The USEPA determines through rulemaking that the 49SLEV is an acceptable alternative for the OTC-LEV Program; and
2. The USEPA finds that the 49SLEV program is in effect.

(c) In the event that the USEPA makes the determination and finding at (b)1 and 2 above, but then the USEPA or the Department in conjunction with the USEPA subsequently determines that the 49SLEV Program is not timely implemented or no longer an acceptable alternative to the OTC-LEV Program or finds that the 49SLEV Program is no longer in effect throughout the OTR, the provisions of this subchapter shall apply.

(d) Notwithstanding (a) above, the provisions of this subchapter shall not apply unless the combined number of registrations or new motor vehicles in those states and the District of Columbia, excluding New Jersey, within the OTR that have enacted legislation or adopted rules and regulations establishing and implementing a low emission vehicle program for a motor vehicle model year not later than 1999, is equal to or greater than 40 percent of the total number of registrations of new motor vehicles in all of the states and the District of Columbia within the OTR.

7:27-26.3 Prohibitions

(a) No person who is a resident of or who operates an established place of business within this State shall sell, register, import, deliver, purchase, lease, give, acquire, receive or otherwise transfer a 1999 model year or subsequent model-year new motor vehicle, new motor vehicle engine, or motor vehicle with a new motor vehicle engine, for use, registration or resale within this State, unless such new motor vehicle or new motor vehicle engine has been certified in accordance with this subchapter. No person shall attempt or assist in any such action.

(b) No person who is a resident of or who operates an established place of business within this State shall offer for rent a 1999 model year or subsequent model year motor vehicle for use within this State unless such motor vehicle has been certified in accordance with this subchapter.

1. If a vehicle which is delivered to a New Jersey rental car agency from a non-New Jersey origination point is not rented to a final destination outside of New Jersey within 30 days from such delivery to the New Jersey rental car agency, it shall remain idle until it is next rented with a final destination outside of New Jersey.

(c) The prohibitions contained in (a) and (b) above shall not apply to the following passenger cars or light-duty trucks:

1. The exhaust emission certification standards for non-methane hydrocarbons, carbon monoxide and oxides of nitrogen are set forth in Table 1.

1. A vehicle acquired by a resident of this State for the purpose of replacing a vehicle registered to such resident which was damaged, or became inoperative, beyond reasonable repair or was stolen while out of this State; provided that such replacement vehicle is acquired out of State at the time the previously owned vehicle was either damaged or became inoperative or was stolen;

2. A vehicle transferred by inheritance;

3. A vehicle transferred by court decree;

4. A vehicle transferred after the date on which this subchapter becomes applicable under N.J.A.C. 7:27-26.2, if the vehicle was registered in this State before such date;

5. A vehicle having a certificate of conformity issued pursuant to the Federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) and originally registered in another state by a resident of that state who subsequently establishes residence in this State;

6. A vehicle which is an offset vehicle;

7. A vehicle transferred by a dealer to another dealer;

8. A vehicle transferred for the purpose of being wrecked or dismantled;

9. A vehicle transferred for use exclusively off-highway; or

10. A vehicle transferred for registration out of State.

(d) To register any vehicle exempted under (c) above, the person seeking registration must provide satisfactory evidence, as determined by the New Jersey Division of Motor Vehicles, demonstrating that the exemption is applicable.

(e) For the purposes of this subchapter, it is conclusively presumed that the equitable or legal title to any motor vehicle with an odometer reading of 7,500 miles or more has been transferred to an ultimate purchaser, and that the equitable or legal title to any motor vehicle with an odometer reading of less than 7,500 miles has not been transferred to an ultimate purchaser.

7:27-26.4 Emission certification standards

(a) Except as otherwise provided in N.J.A.C. 7:27-26.3(c), all 1999 model year and subsequent model year motor vehicles subject to this subchapter must be certified as not exceeding the following emission standards for standard vehicles, low emission vehicles, transitional low emission vehicles, ultra-low emission vehicles, zero emission vehicles or hybrid electric vehicles. Vehicles must be certified as meeting the applicable emission certification standards for one of such categories of vehicles.

(b) The exhaust emission certification standards for 1999 model year and subsequent model year passenger cars and light duty trucks which are certified as standard vehicles are as follows:

Table 1

1999 MODEL YEAR AND SUBSEQUENT MODEL YEAR PASSENGER CAR
AND LIGHT-DUTY TRUCK STANDARD VEHICLE EXHAUST EMISSION CERTIFICATION STANDARDS

Vehicle Type ⁽¹⁾	Loaded Vehicle Weight (lbs)	Durability Vehicle Basis (mi)	Non-Methane Hydrocarbons (g/mi) ⁽²⁾	Carbon Monoxide (g/mi)	Oxides of Nitrogen (g/mi)
PC	All	50,000	0.25	3.4	0.4
PC	All	100,000	0.31	4.2	0.6
Diesel PC (Option 2)	All	100,000	0.31	4.2	1.0
LDT	0-3,750	50,000	0.25	3.4	0.4
LDT	0-3,750	100,000	0.31	4.2	0.6
Diesel LDT (Option 2)	0-3,750	100,000	0.31	4.2	1.0
LDT	3,751-5,750	50,000	0.32	4.4	0.7
LDT	3,751-5,750	100,000	0.40	5.5	0.97
Diesel LDT (Option 1)	3,751-5,750	100,000	0.40	5.5	1.5

(1) "PC" means passenger cars, "LDT" means light-duty trucks.

(2) For methanol- or ethanol-fueled vehicles certifying to these standards, including fuel-flexible vehicles when certifying on methanol or ethanol, "Non-Methane Hydrocarbons" shall mean "Organic Material Non-Methane Hydrocarbon Equivalent" (or "OMNMHCE").

2. Methanol-fueled passenger cars, and methanol-fueled light-duty trucks up to 3,750 pounds loaded vehicle weight, certifying to these standards are subject to a formaldehyde exhaust emission standard and an in-use compliance standard of 15 mg/mi., determined on a 50,000 mile durability vehicle basis. Methanol-fueled light-duty trucks from 3,751 to 5,750 pounds loaded vehicle weight certifying to these standards are subject to a formaldehyde exhaust emission standard and an in-use compliance standard of 18 mg/mi., determined on a 50,000 mile durability vehicle basis.

3. The maximum projected emissions of oxides of nitrogen measured on the Federal Highway Fuel Economy Test (HWFET; 40 CFR Part 600 Subpart B) shall be not greater than 1.33 times the applicable passenger car standards and 2.00 times the applicable light-duty truck standards shown in Table 1. Both the projected emissions and the HWFET standard shall be rounded in accordance with American Society for Testing Materials (ASTM) E29-67 to the nearest 0.1 g/mi before being compared.

4. Diesel passenger cars and light-duty trucks certifying to these standards are subject to a particulate exhaust emission standard of 0.08 g/mi, determined on a 50,000 mile durability vehicle basis.

5. For all vehicles, except those certifying to optional diesel standards, in-use compliance with the exhaust emission standards shall be limited to vehicles with less than 75,000 miles.

6. For the 1995 and 1996 model years, all manufacturers, except those certifying to optional diesel standards, are permitted alternative in-use compliance. Alternative in-use compliance is permitted for 60 percent of a manufacturer's vehicles in the 1995 model year and 20 percent of a manufacturer's vehicles in the 1996 model year. For the 1995 and 1996 model years, small volume manufacturers only are permitted alternative in-use compliance for 100 percent of the fleet. The percentages shall be applied to the manufacturers' total projected sales of California-certified passenger cars and light-duty trucks for the model-year. "Alternative in-use compliance" shall consist of the following:

i. For all passenger cars and those light-duty trucks from zero to 3,750 pounds, loaded vehicle weight, except those diesel vehicles certifying to optional 100,000 mile standards, in-use compliance standards shall be 0.32 g/mi non-methane hydrocarbon and 5.2 g/mi carbon monoxide for 50,000 miles.

ii. For light-duty trucks from 3,751 to 5,750 pounds, loaded vehicle weight, except those diesel light-duty trucks certifying to optional 100,000 mile standards, in-use compliance standards shall be 0.41 g/mi non-methane hydrocarbon and 6.7 g/mi carbon monoxide for 50,000 miles.

iii. In-use compliance standards shall be waived beyond 50,000 miles.

7. All passenger cars and light-duty trucks, except those diesel vehicles certifying to optional standards, are subject to non-methane hydrocarbon, carbon monoxide and oxides of nitrogen standards determined on a 50,000 mile durability basis and non-methane hydrocarbon and carbon monoxide standards determined on an 100,000 mile durability basis.

(b) If the entity which promulgated a document or source incorporated by reference into this subchapter proposes to amend or supplement the document or source, the Department will publish a notice of the proposed amendment or supplement in the New Jersey Register. The notice shall state how to obtain a copy of the proposal, and to whom comments on the proposal can be submitted. The Department will publish the notice within 60 days after publication of the proposed amendment or supplement.

(c) The adoption of any proposed amendment or supplement described in (b) above shall become operative in New Jersey no earlier than 30 days after publication by the Department of a notice of such adoption in the New Jersey Register.

(d) If the Department proposes to not incorporate any future supplements or amendments to any of the documents or sources incorporated by reference into this subchapter, the Department will propose an amendment to this subchapter, and will provide opportunity for public comment on such proposed amendment, in accordance with the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq.

(e) The following documents and sources are incorporated by reference within this subchapter:

1. California Code of Regulations, Title-13, Section 1968.1;
2. "Guidelines for Certification of 1983 and Subsequent Model Year Federally Certified Light-Duty Motor Vehicles for Sale in California," adopted July 20, 1982, as last amended July 12, 1991, CARB;
3. "California Non-Methane Organic Gas Test Procedures" adopted September 22, 1993, CARB;
4. "California Exhaust Emission Standards and Test Procedures for 1988 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," adopted May 20, 1987, as last amended September 22, 1993, CARB;
5. "California Evaporative Emission Standards and Test Procedures for 1978 and Subsequent Model Motor Vehicles," adopted April 16, 1975, as last amended December 15, 1994, CARB;
6. "California Motor Vehicle Emission Control Label Specifications" adopted March 1, 1978, as last amended July 12, 1991, CARB;
7. California's "Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks," adopted March 26, 1976, as last amended February 21, 1990, CARB;
8. American Society for Testing Materials Standard Practice E29-88;
9. "Federal Highway Fuel Economy Test Procedure" 40 C.F.R. Part 600 Subpart B; and

10. 40 C.F.R. 86.082-24

11. "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines: Certification and Test Procedures," 40 C.F.R. Part 86, Subparts A and B.

12. 40 Code of Federal Regulations (CFR) Parts 51, 52 and 85.

(f) Any of the documents in (e) above may be obtained by contacting the Office of Administrative Law or by contacting:

Department of Environmental Protection
Office of Air Quality Management
Bureau of Transportation Control
CN 411
Trenton, New Jersey 08625

7:27-26.16 Severability

Each section of this subchapter is severable. In the event that any section, subsection or division is held invalid in a court of law, the remainder of this subchapter shall continue in full force and effect.

SUBCHAPTER 27. CONTROL AND PROHIBITION OF MERCURY EMISSIONS

Authority

N.J.S.A. 13:1B-3 and 26:2C-1 et seq., specifically 26:2C-8.

Source and Effective Date

R.1994 d.537, effective November 7, 1994
(operative November 27, 1994).
See: 26 N.J.R. 1050(a), 26 N.J.R. 4355(a).

7:27-27.1 Definitions

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

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

"Annual average" means the arithmetic average of all compliance tests conducted during a calendar year. The annual average is obtained by first determining the arithmetic average of all test runs conducted each quarter and then determining the arithmetic average of the quarterly averages.

"Coal" means all solid fuels classified as anthracite, bituminous, subbituminous, or lignite by the American Society of Testing and Materials, Designation D388-77.

“Coal burning boiler” means a furnace used in the process of burning coal for the purpose of producing steam by heat transfer.

“Compliance testing” means a series of no fewer than three test runs conducted in a calendar quarter. The results of compliance testing shall be expressed as the arithmetic average of the results of all test runs conducted during the quarter.

“Control apparatus” means any device which prevents or controls the emission of any air contaminant directly or indirectly into the outdoor atmosphere.

“Department” means the New Jersey Department of Environmental Protection.

“Equipment” means any device capable of causing the emission of any air contaminant either directly or indirectly into the outdoor atmosphere, and any stack or chimney, conduit, flue, duct, vent or similar device connected or attached to, or serving the equipment.

“Facility” means the combination of all structures, buildings, equipment, source operations, and other operations located on one or more contiguous or adjacent properties owned or operated by the same person.

“Hazardous waste” means any solid waste or combination of solid wastes, including toxic, corrosive, irritating, sensitizing, radioactive, biologically infectious, explosive or flammable solid waste, which poses a present or potential threat to human health, living organisms or the environment, provided that the solid waste is hazardous in accordance with the standards and procedures set forth in N.J.A.C. 7:26-8.

“Hazardous waste incinerator” means any enclosed device burning hazardous waste using controlled flame combustion that neither meets the criteria for classification as an industrial boiler nor is defined as an industrial furnace. It also includes boilers and industrial furnaces which do not conform with the criteria for these devices under N.J.A.C. 7:26-9.1(c)9.

“Incinerator” means any device, apparatus, equipment, or structure using combustion or pyrolysis for destroying, reducing or salvaging any material or substance, but does not include thermal or catalytic oxidizers used as control apparatus on manufacturing equipment.

“Manufacturing process” means any action, operation or treatment embracing chemical, industrial, manufacturing, or processing factors, method or forms including, but not limited to, furnaces, kettles, ovens, converters, cupolas, kilns, crucibles, stills, dryers, roasters, crushers, grinders, mixers, reactors, regenerators, separators, filters, reboilers, columns, classifiers, screens, quenchers, cookers, digesters, towers, washers, scrubbers, mills, condensers, or absorbers.

“Medical waste” means any solid waste which is generated in the diagnosis, treatment (for example, provision of medical services), or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals. The term does not include any hazardous waste identified or listed under 40 CFR Part 261 or any household waste generated from home self-care as defined in N.J.A.C. 7:26-3A.5.

“Mercury (Hg)” means all inorganic and organic compounds of mercury, including elemental mercury, expressed as elemental mercury.

“ $\mu\text{g}/\text{dscm}$ ” means a measurement of the concentration of a specified substance, expressed as micrograms per dry standard cubic meter.

“Municipal solid waste (MSW)” means residential, commercial and institutional solid waste generated within a community.

“Municipal solid waste incinerator” means an incinerator which burns municipal solid waste.

“Operator” means any person who operates, leases, controls, or supervises a facility.

“Owner” means any person who owns a facility.

“Person” means any individual or entity and shall include, without limitation, corporations, companies, associations, societies, firms, partnerships and joint stock companies as well as individuals, and shall also include, without limitation, all political subdivisions of this state or any agencies or instrumentalities thereof.

“Preconstruction permit” means a “Permit to Construct, Install, or Alter Control Apparatus or Equipment” issued by the Department pursuant to the Air Pollution Control Act of 1954, specifically N.J.S.A. 26:2C-9.2.

“Sewage sludge” means a solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage, scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and a material derived from sewage sludge.

“Solid waste” has the meaning as defined for this term at N.J.A.C. 7:26-1.6.

“Test run” means a single integrated measurement or procedure used for the purpose of collecting a sample of air contaminants emitted to the outdoor atmosphere during a specified time interval.

(d) Any owner or operator of a MSW incinerator that submits to the Department a report of compliance testing, including all test runs, for a MSW incinerator shall have such report reviewed prior to submission and certified by a licensed professional engineer or an industrial hygienist certified by the American Board of Industrial Hygiene.

(e) Any owner or operator of a MSW incinerator shall maintain at the facility a complete record, including all test reports, of all compliance testing, including all test runs, conducted at the facility on equipment subject to this subchapter. The Department may specify in writing that such reports be maintained in a specific format.

(f) Any owner or operator of a MSW incinerator who submits to the Department a report of compliance testing, including all test runs, shall certify that report in accordance with N.J.A.C. 7:27-8.24.

(g) The owner or operator shall make any record made pursuant to (e) above available to the Department, or its authorized representatives, for inspection for a period of five years after the date the record is made.

7:27-27.10 Penalties

Failure to comply with any provision of this subchapter shall subject the owner or operator to civil 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-28.3 and N.J.S.A. 26:2C-19(f)1 and 2.

SUBCHAPTERS 28 THROUGH 29. (RESERVED)

SUBCHAPTER 30. OPEN MARKET EMISSIONS TRADING

Authority

N.J.S.A. 26:2C, especially 26:2C-8 and 26:2C-9.8.

Source and Effective Date

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).

7:27-30.1 Purpose and scope

(a) This subchapter establishes procedures and standards for persons who generate discrete emission reductions (DERs) and persons who use DERs to comply with certain air pollution control requirements.

(b) 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 re-

quire that a permit be revised to reflect a physical or operational change that results in an emission increase, that permit revision would still be required regardless of whether the change arose from the generation or use of DERs.

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” means an emission source’s activity during a selected period of time, expressed in units that correlate directly with the source’s emission rate. For example, if a source’s emission rate is expressed as pounds of VOC per hour, activity would be expressed in hours; if a source’s emission rate is expressed as pounds of NO_x per million BTU, activity would be expressed in millions of BTU.

“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.

“Area source” means a stationary source which:

1. Is not located at a facility subject to the emission statement requirements of N.J.A.C. 7:27-21; or
2. Is located at a facility subject to the emission statement requirements of N.J.A.C. 7:27-21, but is not individually listed in the facility’s emission statement as a source operation with VOC or NO_x emissions.

“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 of DERs” means the set of NO_x and/or VOC DERs generated by a single emissions source and included in a single Notice and Certification of DER Generation submitted to the registry.

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

"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 activity level (for example, hours of operation or process rate). 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 an electric generator's activity level that results from implementing electrical energy efficiency measures in residential, commercial, industrial, institutional or government facilities.

"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).

"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" or DER means a unit of emission reductions generated over a finite period of time in accordance with this subchapter.

"Economic output" means the output which an emission source produces during a selected period of time. Examples of economic output may include production output, amount of coating application, or vehicle miles traveled.

"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 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.

"Generation period" means that period of time over which a batch of DERs is generated.

"Generator" means the owner or operator of a generator source, or a person who causes emission reductions to be generated through actions listed in N.J.A.C. 7:27-30.4(a)1 or 2.

"Generator source" means any emissions source that generates emission reductions to be used as a basis for a batch of DERs.

"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 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.

"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.

“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.

“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, 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.

“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.

“Real” means actual, genuine and authentic.

“Registry” means the electronic database, designated by the Department, which records and tracks the generation, verification, transfer and use of DERs.

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

“Shutdown” means the permanent cessation of the activity that results in emissions at all or part of an emissions source. 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 an emissions source that is not a mobile source.

“Surplus” means, with respect to emission reductions used for the generation of DERs, not required pursuant to any air quality emission limit or standard in any applicable law, regulation, permit, or order and not relied upon in a SIP. An emission reduction calculated in accordance with N.J.A.C. 7:27-30.5 and 30.20, and not prohibited as a basis for DERs under N.J.A.C. 7:27-30.6, is considered surplus.

“Use period” means the period of the time when a user uses DERs to comply with an applicable emission limit.

“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 DERs for compliance in accordance with this subchapter.

“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 purpose of determining compliance with emissions 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, as applicable, or which have been approved in writing by the Department and are acceptable to EPA. This term does not include the 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. The list at 40 CFR §51.100(s)(1) currently includes the compounds and classes of perfluorocarbons set forth below:

Compounds

methane
 methylene chloride (dichloromethane)
 1,1,1-trichloroethane (methyl chloroform)
 trichlorofluoromethane (CFC-11)
 dichlorodifluoromethane (CFCC-12)
 chlorodifluoromethane (HCFC-22)
 trifluoromethane (FC-23)
 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113)
 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114)
 chloropentafluoroethane (CFC-115)
 2,2-dichloro-1,1,1-trifluoroethane (HCFC-123)
 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)
 pentafluoroethane (HFC-125)
 1,1,2,2-tetrafluoroethane (HFC-134)
 1,1,1,2-tetrafluoroethane (HFC-134a)
 1,1-dichloro-1-fluoroethane (HCFC-141b)
 1-chloro-1,1-difluoroethane (HCFC-142b)
 1,1,1-trifluoroethane (HFC-143a)
 1,1-difluoroethane (HFC-152A)
 acetone

Classes of perfluorocarbons:

(1) Cyclic, branched, or linear, completely fluorinated alkanes;

(2) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(3) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

(4) 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 used for compliance under this subchapter is 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. A DER 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 such authorization.

(b) A person may generate, transfer or use DERs in accordance with this subchapter, without prior Federal, State or local government approval except when DERs are to be used pursuant to N.J.A.C. 7:27-30.13(c) to comply with emission offset requirements under N.J.A.C. 7:27-18.

(c) Any submittal to the Department that is required or allowed under this subchapter shall be made to the applicable address listed below:

1. If the submittal concerns a generator source or user source located in Burlington, Mercer, Middlesex, Monmouth, or Ocean County:

Department of Environmental Protection
Central Regional Office
Air and Environmental Quality Enforcement
PO Box 407
Trenton, NJ 08625-0407

2. If the submittal concerns a generator source or user source located in Bergen, Essex, Hudson, or Union County:

Department of Environmental Protection
Metro Regional Office
Air and Environmental Quality Enforcement
2 Babcock Place
West Orange, NJ 07052

3. If the submittal concerns a generator source or user source located in Hunterdon, Morris, Passaic, Somerset, Sussex, or Warren County:

Department of Environmental Protection
Northern Regional Office
Air and Environmental Quality Enforcement
1259 Route 46, Building 2
Parsippany-Troy Hills, NJ 07054

4. If the submittal concerns a generator source or user source located in Atlantic, Camden, Cape May, Cumberland, Gloucester, or Salem County:

Department of Environmental Protection
Southern Regional Office
Air and Environmental Quality Enforcement
20 East Clementon Road
Gibbsboro, NJ 08525

- (d) Any submittal to the registry that is required under this subchapter shall be made to the following address:

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

- (e) A DER represents one-twentieth of a ton of emission reductions. Any quantity of DERs generated shall be rounded to the next lowest twentieth of a ton. Any quantity of DERs used shall be rounded to the next highest twentieth of a ton. Only whole DERs may be transferred.

Administrative change.
See: 29 N.J.R. 2561(a).

In (d), changed the address for emissions trading registry submittals.
Administrative change.
See: 30 N.J.R. 4041(a).

7:27-30.4 DER generation: general requirements

(a) Except as provided under N.J.A.C. 7:27-30.6, a person may generate one or more DERs by taking an action to reduce the actual emission rate of a generator source owned or operated by the person below the source's baseline emission rate. An owner or operator of a facility may also generate one or more DERs, if the facility is subject to a facility-wide permit issued under N.J.S.A. 13:1D-48, by taking pollution prevention measures which reduce the facility's fugitive emissions (as defined at N.J.A.C. 7:27-18.1); and an owner or operator of a refinery may generate one or more DERs by reformulating motor vehicle fuel sold in New Jersey. In addition, a person may generate one or more DERs through the reduction of emissions from sources not owned or operated by that person by causing emission reductions to result from either of the following:

1. A reduction in mobile source activity levels that results from 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); or