

Administrative correction.
 See: 34 N.J.R. 770(a).
 Amended by R.2003 d.86, effective February 18, 2003 (operative March 24, 2003).
 See: 34 N.J.R. 695(a), 35 N.J.R. 1059(a).
 Rewrote the section.
 Administrative correction.
 See: 35 N.J.R. 2529(a).

7:27-21.6 Methods to be used for quantifying actual emissions

(a) The method used for quantifying actual emissions for use in preparing emission information required at N.J.A.C. 7:27-21.5(e) shall be determined as follows:

1. If a permit or certificate issued by the Department pursuant to N.J.A.C. 7:27-8 or 22 specifies a method for quantifying actual emissions of a given air contaminant, then that method shall be used; and
2. For all other cases, the method that shall be used is the best available quantification method selected from Table 3 below. The best available quantification method is a method listed in Table 3 that is reasonably available, as defined at N.J.A.C. 7:27-21.1, and provides the most accurate estimation of the actual emissions from the source operation. An owner or operator submitting an Emission Statement shall presume that the highest-ranked method in Table 3, which is also reasonably available, is the best available quantification method and use that method, unless a different method is selected pursuant to (b) below.

TABLE 3

RANKING OF METHODS FOR QUANTIFYING ACTUAL EMISSIONS

<u>Rank</u>	<u>Method</u>
1	Continuous Emissions Monitoring
2	Predictive Emissions Monitoring
3	Department Approved and Supervised Source Emission Testing Performed during the Reporting Year
4	Department Approved and Supervised Source Emission Testing Performed in a Prior Year
5	Mass/Material Balance
6	AP-42 Emission Factor or Other EPA-Approved Emission Estimation Methodology (for example, TANKS4 and WATER9) or Selection of a Source Emission Test for a Similar Size Unit from the AP-42 Basis and Background Documents
7	Manufacturer's Estimate
8	Others (including): Industry Council or Organization Emission Factor —Source Emission Testing Not Approved or Supervised by the Department —Good Engineering Judgement/Factor

(b) A method listed in Table 3, which is ranked lower than the highest-ranked reasonably available method, may be used to quantify actual emissions for an Emission Statement if any of the following conditions are met:

1. The owner or operator can demonstrate that use of the lower-ranked method results in more accurate quantification of emissions than what would have been achieved using any higher-ranked method that is reasonably available; or
2. Use of the lower-ranked method is consistent with EPA's guidance, including its hierarchy for emission calculation methods and/or its identification of preferred methods for specific types of source operations, as set forth in the most current version of EPA's Emissions Inventory Improvement Program Guidance Document.

(c) For each emissions calculation method used in an Emission Statement which is a lower-ranked method being used pursuant to (b) above, a written justification shall be prepared documenting the basis for the use of the lower-ranked method. This justification shall be maintained on-site and be provided upon request to the Department. It shall include:

1. Identification of the quantification method that was the highest-ranked reasonably available method pursuant to the rankings in Table 3;
2. Identification of the method selected by the owner or operator pursuant to (b) above; and
3. An explanation of how selection of this method conforms with the applicable condition(s) in (b) above.

New Rule by R.2003 d.86, effective February 18, 2003 (operative March 24, 2003).
 See: 34 N.J.R. 695(a), 35 N.J.R. 1059(a).
 Rewrote the section. Recodified from 7:27-21.6(l).

7:27-21.7 Recordkeeping requirements

(a) For each Emission Statement submitted to the Department, the owner or operator of the facility subject to this subchapter shall maintain the following records at the facility for a period of five years from the date each submittal is due:

1. A copy of the Emission Statement submitted to the Department;
2. Records indicating how the information submitted in the Emission Statement was determined, including any calculations, data, measurements, and estimates used; and
3. Each written justification required pursuant to N.J.A.C. 7:27-21.6(c) documenting the basis for the selection of a lower-ranked method for quantifying emissions.

(b) Upon the request of the Department, the owner or operator of the facility shall make these records available at the facility for inspection by any representative of the Department during normal business hours.

(c) Upon receipt of a written request from the Department, the owner or operator of the facility shall timely submit a copy of the records specified in (a) above to the

Department by mail or by other means as agreed to by the Department.

Recodified from N.J.A.C. 7:27-21.6 and amended by R.2003 d.86, effective February 18, 2003 (operative March 24, 2003).

See: 34 N.J.R. 695(a), 35 N.J.R. 1059(a).

In (a), rewrote the introductory paragraph and added 3; added (c). Former N.J.A.C. 7:27-21.7, Certification of information, recodified to N.J.A.C. 7:27-21.8.

7:27-21.8 Certification of information

(a) Any owner or operator who submits an Emission Statement to the Department shall include, as an integral part of the Emission Statement, the following two-part certification:

1. A certification signed by the individual or individuals (including any consultants) with direct knowledge of and responsibility for the information contained in the Emission Statement. The certification shall state:

"I certify under penalty of law that I believe the information provided in this emission statement is true, accurate and complete. For those portions of the above information based on estimates, those estimates are the result of good faith application of sound professional judgment, using techniques, factors, or calculations approved by the Department or EPA, or generally accepted in the trade. I am aware that there are significant civil and criminal penalties, including fines or imprisonment or both, for submitting false, inaccurate or incomplete information."

2. A certification signed by a responsible official, as defined at N.J.A.C. 7:27-21.1, which states:

(b) Certification of an Emission Statement, pursuant to (a) above, shall be performed in accordance with the following:

1. If the Emission Statement is being submitted electronically, the responsible official shall certify the submittal either by signing the certification on a paper form obtained from the Department or by inserting his or her personal identification number (PIN), as assigned by the Department, into the applicable signature area following the text of the certification language given on the electronic Emission Statement form; and this signature or insertion of a PIN shall constitute certification of the Emission Statement in accordance with (a) above; or

2. If the Emission Statement is being submitted on a paper form obtained from the Department, the responsible official shall sign the certification on the paper form; and this signature shall constitute certification of the Emission Statement in accordance with the certification language at (a) above.

(c) If a claim of confidentiality is being asserted pursuant to N.J.A.C. 7:27-1.6 for any part of an Emission Statement, both of the submittals shall be certified. That is, the submittal which omits the confidential information, and which includes only the information for which no claim of confidentiality is being made, shall be certified; and also the submittal which includes all the required Emission Statement information, including the information for which a claim of confidentiality is being made, shall be certified.

Recodified from N.J.A.C. 7:27-21.7 and amended by R.2003 d.86, effective February 18, 2003 (operative March 24, 2003).

See: 34 N.J.R. 695(a), 35 N.J.R. 1059(a).

In (a), substituted "owner of operator" for "person" in the introductory paragraph; added (b) and (c). Former N.J.A.C. 7:27-21.8, Request for extension, recodified to N.J.A.C. 7:27-21.9.

7:27-21.9 Request for extension

(a) If meeting the due date set forth at N.J.A.C. 7:27-21.4 for submittal of an Emission Statement would cause extreme hardship, an owner or operator may request an extension.

(b) A request for an extension shall include the following information:

1. The name of the facility; the mailing address of the facility, including its zip code; and its facility ID number, as assigned by the Department;

2. The name of the Emission Statement contact for the facility and the contact person's telephone number;

3. The name of the responsible official and the responsible official's telephone number;

4. The reasons and justifications for the inability to submit the Emission Statement by the due date and the extreme hardship that would be prevented if the Department allows an extension of the due date;

5. The revised date by which the owner or operator commits to submitting the Emission Statement. This revised date can be no later than one month from the due date; and

6. A certification, signed by the responsible official, in accordance with N.J.A.C. 7:27-1.39.

(c) A request for an extension shall be submitted, in writing, to the following address:

Chief, Bureau of Air Quality Planning
Department of Environmental Protection
PO Box 418
Trenton, N.J. 08625-0418
ATTN: Emission Statements—Extension Request

(d) A request to extend the due date must be received by the Department by April 1 of the submittal year for a paper submittal and by May 1 of the submittal year for an electronic submittal. The Department will not consider a request for an extension it receives after these dates.

(e) Within 10 working days after receipt of a request for extension, the Department will respond with its determina-

tion as to whether the request for extension is denied or granted and, if granted, the revised date by which the Emission Statement is due. The Department will grant an extension if the extension is necessary to prevent extreme hardship.

Case Notes

DEP complied with all Federal and State statutory and regulatory provisions in issuance of permit. 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).

7:27-22.14 General operating permits

(a) The Department may promulgate a rule to issue one or more general operating permits, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-2 et seq. The Department may also publish a technical manual for each general permit, pursuant to N.J.S.A. 13:1D-111. The technical manual shall contain the information required under N.J.S.A. 13:1D-111, including, but not limited to, information that details and clarifies the Department's interpretation of standards or other requirements that are not defined by regulation. However, if the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., establishes an alternative procedure for issuing general permits without rulemaking under the Administrative Procedure Act, the Department will issue general permits in accordance with that procedure. Otherwise, in issuing a general permit, the Department shall comply with:

1. The Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.;
2. The public comment procedures set forth at N.J.A.C. 7:27-22.11;
3. EPA comment procedures set forth at N.J.A.C. 7:27-22.12;
4. Any other procedural requirements related to the issuance of an operating permit; and
5. N.J.S.A. 13:1D-111.

(b) In accordance with the procedures set forth in this section, an owner or operator may apply to the Department for authorization under a general operating permit to operate any source operation, group of source operations, or facility which meets the applicability criteria set forth in a general operating permit issued by the Department. A separate application for a preconstruction permit is not required. Approval of the general operating permit shall also constitute preconstruction permit approval. If the general operating permit applies to the entire facility, the general operating permit may serve as the operating permit for the facility. If the general operating permit applies to a part of the facility, the general operating permit may serve as a component of the operating permit for the facility.

(c) In an application for authorization to operate under a general operating permit, the owner or operator shall demonstrate how the facility or portion thereof:

1. Meets the applicability criteria set forth in the general operating permit; and
2. Will comply with all of the conditions of the general operating permit.

(d) The Department shall grant a facility's request to operate under a general operating permit without repeating the public and EPA comment procedures specified in (a) above if the general operating permit includes applicable requirements for all relevant source operations at the facility.

(e) A permittee shall operate a facility, or any portion thereof, for which authorization to operate under a general operating permit has been obtained from the Department, according to the terms and conditions of the general operating permit.

Amended by R.1995 d.493, effective September 5, 1995 (operative October 8, 1995).

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

7:27-22.15 Temporary facility operating permits

(a) The Department may issue an operating permit to an owner or operator of a temporary facility which authorizes operation in more than one location during the term of the operating permit, provided that all locations at which the facility may be operated are listed in the operating permit.

(b) An operating permit issued for a temporary facility shall require the permittee to:

1. Comply with all applicable requirements at all locations at which the temporary facility is operated;
2. Comply with all other applicable provisions of this chapter; and
3. Provide written notice, received at least 10 days in advance of each change in location, to:
 - i. The mayor of the municipality, or if there is no mayor, the governing body of the municipality to which the facility will be moved;
 - ii. The board of chosen freeholders or other governing body of the county to which the facility will be moved;
 - iii. The local health agency, certified pursuant to the County Environmental Health Act, N.J.S.A. 26:3A2-21 et seq. (CEHA), and its implementing regulations, N.J.A.C. 7:1H, in the county to which the facility will be moved; and
 - iv. The Department at the address given at N.J.A.C. 7:27-22.3(t) and the address given below:

NJDEP

Air and Environmental Quality Enforcement

401 E. State Street

CN 422

Trenton, NJ 08625-0422

(c) The notice required pursuant to (b)3 above shall include:

1. The location being vacated;

2. The location to which the facility will be moved;
3. The name, address, and telephone number of the permittee;
4. The Department assigned permit number, which identifies the operating permit; and
5. As to the local officials identified in (b) above, a copy of the operating permit.

(d) An operating permit issued for a temporary facility shall not relieve any person from the obligation to comply with any provision of this chapter, to obtain any other necessary authorization from other governmental agencies, or to comply with all other applicable Federal, State, and local laws, rules or regulations.

(e) In accordance with N.J.A.C. 7:27-22.29(g), a facility subject to EPA's acid deposition control program pursuant to Title IV of the CAA, 42 U.S.C. § 7651 et seq., shall not be eligible for a temporary facility operating permit.

Amended by R.1995 d.493, effective September 5, 1995 (operative October 8, 1995).
See: 27 N.J.R. 1040(a), 27 N.J.R. 3421(a).

7:27-22.16 Operating permit contents

(a) The Department will include in each operating permit, drafted for, or issued to, a facility, emission limitations and standards, including any operational requirement necessary to assure compliance with all applicable requirements which apply to a source operation or a group of source operations or to the facility as a whole at the time of permit issuance.

(b) For each significant source operation at the facility, or, if applicable, for each group of source operations or for the entire facility, the operating permit shall:

1. Specify each applicable requirement and each associated permit condition, including any emission limitations and standards and any operational requirements;
2. Cite to the specific legal authority, including any State or Federal rule or regulation or any permit, which establishes the applicable requirement and any associated permit conditions;
3. Identify any difference in form between the permit condition and the applicable requirement upon which the permit condition is based;
4. Specify the compliance assurance method (including a reference, if applicable, to where the method is published) required to be used to determine compliance with the permit condition; and
5. Specifically designate as not being Federally enforceable any permit condition based on an applicable state requirement.

(c) If any other applicable Federal requirement is more stringent than an applicable requirement of EPA's acid deposition control regulations, both requirements shall be set forth in the operating permit pursuant to (b) above and both shall be enforceable by the Department and EPA.

(d) An operating permit may contain an alternative emission limit pursuant to N.J.A.C. 7:27-22.3(m), if:

1. The applicant has proposed the alternative emission limit in the application for the operating permit;
2. The applicant has proposed procedures that ensure that the alternative emissions limit is quantifiable, accountable, enforceable, and based on replicable procedures;
3. The Department has determined, based on an equivalency demonstration provided by the applicant, that the alternative emissions limit proposed by the applicant is equivalent to, or more stringent than, that contained in an applicable requirement; and
4. The Department determines that the alternative emission limit is consistent with the SIP.

(e) The Department shall incorporate into each operating permit the provisions of any effective preconstruction permit and operating certificate issued for the facility, or any part thereof, if the preconstruction permit or operating certificate was:

1. Issued prior to the date the applicant submitted the application for the operating permit to the Department, and included by the applicant in the application; or
2. Issued subsequent to the date the application was submitted to the Department and prior to the date the Department issues the draft operating permit.

(f) Each operating permit shall contain a severability clause which ensures the continued validity of all other permit conditions in the event of a challenge to any part of the operating permit.

(g) Each operating permit shall include, but not be limited to, the following statements:

1. The permittee shall comply with all conditions of the operating permit including the approved compliance plan. Any noncompliance with a permit condition constitutes a violation of the New Jersey Air Pollution Control Act N.J.S.A. 26:2C-1 et seq., or the CAA, 42 U.S.C. § 7401 et seq., or both, and is grounds for enforcement action; for termination, revocation and reissuance, or for modification of the operating permit; or for denial of an application for a renewal of the operating permit;
2. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of its operating permit;