

**CHAPTER 27A****AIR ADMINISTRATIVE PROCEDURES AND PENALTIES****Authority**

N.J.S.A. 13:1B-3(e), 13:1D-9 and 26:2C-1 et seq.,  
in particular 26:2C-8 and 26:2C-9.2.

**Source and Effective Date**

R.2005 d.155, effective April 21, 2005.  
See: 36 N.J.R. 5293(a), 37 N.J.R. 1789(a).

**Chapter Expiration Date**

Chapter 27A, Air Administrative Procedures and Penalties, expires on April 21, 2010.

**Chapter Historical Note**

Chapter 27A, Rules of Practice and Procedure of the Bureau of Air Pollution Control, was adopted as R.1973 d.165, effective June 21, 1973. See: 5 N.J.R. 221(c). Pursuant to Executive Order No. 66(1978), Chapter 27A expired on October 7, 1985.

Chapter 27A, Air Administrative Procedures and Penalties, was adopted as new rules by R.1989 d.596, effective December 4, 1989, operative January 5, 1990. See: 21 N.J.R. 729(a), 21 N.J.R. 3751(a).

Pursuant to Executive Order No. 66(1978), Chapter 27A, Air Administrative Procedures and Penalties, was readopted as R.1995 d.5, effective December 2, 1994. See: 26 N.J.R. 3566(a), 27 N.J.R. 93(a), 27 N.J.R. 498(a).

Pursuant to Executive Order No. 66(1978), Chapter 27A, Air Administrative Procedures and Penalties, was readopted as R.1999 d.423, effective November 9, 1999. See: 31 N.J.R. 2582(a), 31 N.J.R. 4040(a).

Chapter 27A, Air Administrative Procedures and Penalties, was readopted as R.2005 d.155, effective April 25, 2005. See: Source and Effective Date.

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SUBCHAPTERS 1 THROUGH 2. (RESERVED)

**SUBCHAPTER 3. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS****7:27A-3.1 Scope and purpose**

(a) This subchapter shall govern the Department's assessment of civil administrative penalties for violations of the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., including violation of any rule promulgated, or administrative order, operating certificate, registration requirement or permit issued pursuant to the Act. This subchapter shall also govern the procedures for requesting an adjudicatory hearing on a notice of civil administrative penalty assessment or an administrative order.

(b) The Department may assess a civil administrative penalty of not more than \$10,000 for the first offense, not more than \$25,000 for the second offense, and not more than \$50,000 for the third and each subsequent offense for each violation of each provision of the Act, or of any rule promulgated, or administrative order, operating certificate, registration requirement or permit issued pursuant to the Act.

(c) Each day during which a violation continues shall constitute an additional, separate, and distinct offense.

(d) Neither the assessment of a civil administrative penalty nor the payment of any such civil administrative penalty shall be deemed to affect the availability of any other enforcement provision provided for by the Act, or any other statute, in connection with the violation for which the assessment is levied.

**7:27A-3.2 Definitions**

The following words and terms, when used in this subchapter, have the following meanings unless the context clearly indicates otherwise. Unless otherwise specified below, all words and terms are as defined in N.J.S.A. 26:2C-2, N.J.A.C. 7:27 and N.J.A.C. 7:27C.

“Act” means the Air Pollution Control Act (1954), as amended, N.J.S.A. 26:2C-1 et seq.

“AAQS” means Ambient Air Quality Standards, as defined in N.J.A.C. 7:27-13.

“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.

“EHS” means Extraordinarily Hazardous Substance, as defined in N.J.A.C. 7:31-1.

“Emission increase” means a release of an air contaminant not listed in a permit; a release of an air contaminant above the limit set forth in the applicable permit; a release of an air contaminant above the limit in any State or Federal law, or any rule promulgated, or administrative order, operating certificate, registration requirement or permit issued pursuant thereto; or a release of an air contaminant that may have been caused by a malfunction of a piece of equipment or a pollution control device regulated by State or Federal law, or any rule promulgated, or administrative order, operating certificate, registration requirement or permit issued pursuant thereto.

“EOR” means Emission Offset Rule, as set forth in N.J.A.C. 7:27-18.

“Grace period” means the period of time afforded under N.J.S.A. 13:1D-125 et seq., commonly known as the Grace Period Law, for a person to correct a minor violation in order to avoid imposition of a penalty that would be otherwise applicable for such violation.

“HAP (Table B)” means a hazardous air pollutant listed in N.J.A.C. 7:27-8, Appendix 1, Table B.

“Hazardous air pollutant” or “HAP” means air contaminant listed in or pursuant to 42 U.S.C. § 7412(b).

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

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

“Offense” means each individual violation of the Act or of any rule promulgated, or administrative order, operating certificate, registration requirement or permit issued pursuant thereto. Subsequent offenses are not conditioned upon a prior conviction, final order, or entry of judgment. In addition, a single administrative order and notice of civil administrative penalty assessment may relate to more than one offense.

“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.

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

“PSD” or “prevention of significant deterioration” means the requirements pursuant to 40 CFR 51.166, administered through the Department’s permitting process, which apply to a new or modified major facility located in an attainment area. The Department accepted delegation of the administration of the PSD program from EPA on February 22, 1983.

“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. This term includes the term “emissions unit” as defined at 40 CFR 70.2.

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

“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 excludes those 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. As of April 9, 1998, the compounds and classes of perfluorocarbons excluded from EPA’s definition of VOC at 40 CFR 51.100(s) are set forth below:

methane	1,1,1,3,3-pentafluoropropane (HFC-245fa)
ethane	1,1,1,2,3,3-hexafluoropropane (HFC-236ea)
methylene chloride (dichloromethane)	1,1,1,3,3-pentafluorobutane (HFC-365mfc)
1,1,1-trichloroethane (methyl chloroform)	chlorofluoromethane (HCFC-31)
1,1,2-trichloro-1,1,2,2-trifluoroethane (CFC-113)	1-chloro-1-fluoroethane (HCFC-151a)
trichlorofluoromethane (CFC-11)	1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a)
dichlorodifluoromethane (CFC-12)	1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C[4]F[9]OCH[3])
chlorodifluoromethane (HCFC-22)	2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF[3])[2]CF[2] OCH[3])
trifluoromethane (HFC-23)	1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C[4]F[9]OC[2]H[5])
1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114)	2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF[3])[2]CF[2] OC[2]H[5])
chloropentafluoroethane (CFC-115)	methyl acetate
2,2-dichloro-1,1,1-trifluoroethane (HCFC-123)	perfluorocarbon compounds which fall into these classes:
1,1,1,2-tetrafluoroethane (HFC-134a)	cyclic, branched, or linear, completely fluorinated alkanes
1,1-dichloro-1-fluoroethane (HCFC-141b)	cyclic, branched, or linear, completely fluorinated ethers with no unsaturations
1-chloro-1,1-difluoroethane (HCFC-142b)	cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations
2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)	sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine
pentafluoroethane (HFC-125)	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.
1,1,2,2-tetrafluoroethane (HFC-134)	Amended by R.1992 d.102, effective March 2, 1992 (operative March 28, 1992).
1,1,1-trifluoroethane (HFC-143a)	See: 23 N.J.R. 1858(b), 24 N.J.R. 792(a).
1,1-difluoroethane (HFC-152a)	Replaced "TVOS" with "TXS" and "VOS" with definition of "volatile organic compound (VOC)"; added "partial pressure".
parachlorobenzotrifluoride (PCBTF)	Amended by R.1994 d.313, effective June 20, 1994 (operative July 26, 1994).
cyclic, branched, or linear completely methylated siloxanes	See: 25 N.J.R. 3339(a), 26 N.J.R. 2600(a).
acetone	Amended by R.1994 d.501, effective October 3, 1994 (operative October 31, 1994).
perchloroethylene (tetrachloroethylene)	See: 25 N.J.R. 4045(a), 25 N.J.R. 4836(a), 26 N.J.R. 4030(a).
3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca)	Administrative Correction.
1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb)	See: 27 N.J.R. 1406(a).
1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee)	Amended by R.1996 d.303, effective July 1, 1996 (operative August 2, 1996).
difluoromethane (HFC-32)	See: 28 N.J.R. 1147(b), 28 N.J.R. 3414(a).
ethylfluoride (HFC-161)	Added "Discrete emission reduction" and "Oxides of nitrogen".
1,1,1,3,3,3-hexafluoropropane (HFC-236fa)	Administrative change.
1,1,2,2,3-pentafluoropropane (HFC-245ca)	See: 31 N.J.R. 639(b).
1,1,2,3,3-pentafluoropropane (HFC-245ea)	Amended by R.2003 d.86, effective February 18, 2003 (operative March 24, 2003).
1,1,1,2,3-pentafluoropropane (HFC-245eb)	See: 34 N.J.R. 695(a), 35 N.J.R. 1059(a).
	Rewrote the section.

Amended by R.2004 d.129, effective April 5, 2004 (operative April 25, 2004).

See: 35 N.J.R. 3486(a), 36 N.J.R. 1791(a).

Deleted "Discrete emission reduction" or "DER".

Amended by R.2005 d.155, effective May 16, 2005 (operative June 17, 2005).

See: 36 N.J.R. 5293(a), 37 N.J.R. 1789(a).

Added "Emission increase" and "Grace period".

Amended by R.2008 d.338, effective November 17, 2008 (operative December 9, 2008).

See: 40 N.J.R. 3792(a), 40 N.J.R. 6541(b).

Substituted a comma for "and in" following "26:2C-2" and inserted "and N.J.A.C. 7:27C".

#### Case Notes

Incineration company violated permit and certificate; penalties imposed based upon current regulations. *New Jersey Department of Environmental Protection v. Trofe Incineration Inc.* 93 N.J.A.R.2d (EPE) 177.

### 7:27A-3.3 Procedures for assessment and payment of civil administrative penalties

(a) In order to assess a civil administrative penalty under the Act, for violation of the Act or any rule promulgated, or administrative order, operating certificate, registration requirement or permit issued pursuant to the Act, the Department shall, by means of an administrative order and notice of civil administrative penalty assessment, notify the violator by certified mail (return receipt requested) or by personal service. The Department may, in its discretion, assess a civil administrative penalty for more than one offense in a single administrative order and notice of civil administrative penalty assessment or in multiple administrative orders and notices of civil administrative penalty assessment. This Administrative Order and Notice of Civil Administrative Penalty Assessment shall:

1. Identify the section of the Act, rule, administrative order, operating certificate, registration requirement or permit violated;
2. Concisely state the facts which constitute the violation;
3. Order such violation to cease;
4. Specify the amount of the civil administrative penalty to be imposed; and
5. Advise the violator of the right to request an adjudicatory hearing pursuant to the procedures in N.J.A.C. 7:27A-3.4.

(b) Payment of the civil administrative penalty is due upon receipt by the violator of the Department's Final Order in a contested case or when a Notice of Civil Administrative Penalty Assessment becomes a Final Order, as follows:

1. If no hearing is requested pursuant to the procedures in N.J.A.C. 7:27A-3.4, a Notice of Civil Administrative Penalty Assessment becomes a Final Order on the 21st day

following receipt of the Notice of Civil Administrative Penalty Assessment by the violator;

2. If the Department denies the hearing request, a Notice of Civil Administrative Penalty Assessment becomes a Final Order upon receipt by the violator of notice of such denial; or

3. If an adjudicatory hearing is conducted, a Notice of Civil Administrative Penalty Assessment becomes a Final Order upon receipt by the violator of a Final Order in a contested case.

### 7:27A-3.4 Procedures to request an adjudicatory hearing to contest an administrative order and notice of civil administrative penalty assessment and procedures for conducting adjudicatory hearings

(a) To request an adjudicatory hearing to contest an administrative order and notice of civil administrative penalty assessment issued pursuant to the Act, the violator shall submit the following information in writing to the Department, at Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, Department of Environmental Protection, PO Box 402, Trenton, New Jersey 08625-0402:

1. The name, address, and telephone number of the violator and its authorized representative;
2. The violator's defenses to each of the Department's findings of fact in the administrative order and notice of civil administrative penalty assessment stated in short and plain terms;
3. An admission or denial of each of the Department's findings of fact in the administrative order and notice of civil administrative penalty assessment. If the violator is without knowledge or information sufficient to form a belief as to the truth of a finding, the violator shall so state and this shall have the effect of a denial. A denial shall fairly meet the substance of the findings denied. When the violator intends in good faith to deny only a part or a qualification of a finding, the violator shall specify so much of it as is true and material and deny only the remainder. The violator may not generally deny all of the findings but shall make all denials as specific denials of designated findings. For each finding the violator denies, the violator shall allege the fact or facts as the violator believes it or them to be;
4. Information supporting the request and specific reference to or copies of other written documents relied upon to support the request;
5. An estimate of the time required for the hearing (in days and/or hours); and
6. A request, if necessary, for a barrier-free hearing location for physically disabled persons.

Citation	Rule Summary	Type of Violation	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.A.C. 7:27-22.18(e)3	Submit Source Emissions Test Report	M	\$500 <sup>2</sup>	\$1,000 <sup>2</sup>	\$2,500 <sup>2</sup>	\$7,500 <sup>2</sup>
N.J.A.C. 7:27-22.18(f)	Perform Periodic Source Emissions Testing	NM	\$2,000 <sup>2</sup>	\$4,000 <sup>2</sup>	\$10,000 <sup>2</sup>	\$30,000 <sup>2</sup>
N.J.A.C. 7:27-22.18(g)3	Schedule Performance Specification Test Date	M	\$300 <sup>2</sup>	\$600 <sup>2</sup>	\$1,500 <sup>2</sup>	\$4,500 <sup>2</sup>
N.J.A.C. 7:27-22.18(g)4	Conduct Performance Specification Test	NM	\$1,000 <sup>2</sup>	\$2,000 <sup>2</sup>	\$5,000 <sup>2</sup>	\$15,000 <sup>2</sup>
N.J.A.C. 7:27-22.18(g)5	Submit Performance Specification Report	M	\$500 <sup>2</sup>	\$1,000 <sup>2</sup>	\$2,500 <sup>2</sup>	\$7,500 <sup>2</sup>
N.J.A.C. 7:27-22.18(h)	Certify Source Emission Test Report or Performance Specification Test Report	M	\$300 <sup>2</sup>	\$600 <sup>2</sup>	\$1,500 <sup>2</sup>	\$4,500 <sup>2</sup>
N.J.A.C. 7:27-22.19(a)	Maintain Records of Source Emissions Testing or Monitoring	M	\$500 <sup>2</sup>	\$1,000 <sup>2</sup>	\$2,500 <sup>2</sup>	\$7,500 <sup>2</sup>
N.J.A.C. 7:27-22.19(c)	Submit Source Emissions Testing and Monitoring Reports	M	\$500 <sup>2</sup>	\$1,000 <sup>2</sup>	\$2,500 <sup>2</sup>	\$7,500 <sup>2</sup>
N.J.A.C. 7:27-22.19(f)	Submit Periodic Compliance Certification	NM	\$1,000 <sup>2</sup>	\$2,000 <sup>2</sup>	\$5,000 <sup>2</sup>	\$15,000 <sup>2</sup>
N.J.A.C. 7:27-22.19(h)	Submit Operating Permit or Emissions Records	M	\$500 <sup>2</sup>	\$1,000 <sup>2</sup>	\$2,500 <sup>2</sup>	\$7,500 <sup>2</sup>
N.J.A.C. 7:27-22.19(i)	Make Information Readily Available	M	\$500 <sup>2</sup>	\$1,000 <sup>2</sup>	\$2,500 <sup>2</sup>	\$7,500 <sup>2</sup>
N.J.A.C. 7:27-22.27(b)	Maintain Information for Alternative Operating Scenarios	M	\$500 <sup>2</sup>	\$1,000 <sup>2</sup>	\$2,500 <sup>2</sup>	\$7,500 <sup>2</sup>
N.J.A.C. 7:27-22.28(i)	Maintain Emissions Trading Log	M	\$500 <sup>2</sup>	\$1,000 <sup>2</sup>	\$2,500 <sup>2</sup>	\$7,500 <sup>2</sup>

<sup>4</sup> Per Air Contaminant Exceeding Allowable Standard—Revoke Certificate to Operate Under N.J.A.C. 7:27-8 or Revoke Operating Permit Under N.J.A.C. 7:27-22 (if applicable).

<sup>5</sup> (Reserved)

<sup>6</sup> NSPS (40 CFR 60)  
 NESHAP (40 CFR 61)  
 PSD (40 CFR 51)  
 EOR (N.J.A.C. 7:27-18)  
 TXS (N.J.A.C. 7:27-17)  
 HAP Table B (N.J.A.C. 7:27-22, Appendix, Table B)

<sup>7-9</sup> (Reserved)

<sup>10</sup>Based on each Preconstruction Permit incorporated into the Operating Permit, if applicable, or if not, estimate of air contaminants with the stated emission rate without controls.

23. The violations of N.J.A.C. 7:27-23, Architectural Coatings, and the civil administrative penalty amounts for each violation are as set forth in the following table:

Citation	Class	Type of Violation	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.A.C. 7:27-23.3(a) standards	Applier for Compensation	NM	\$500 <sup>2</sup>	\$1,000 <sup>2</sup>	\$2,500 <sup>2</sup>	\$7,500 <sup>2</sup>
CLASS: Manufacturer, Distributor, Seller, Applier for Compensation Per Gallon or any part thereof:						
1. Less than 25 percent over the allowable standard		NM	\$300 <sup>3</sup>	\$600 <sup>3</sup>	\$1,500 <sup>3</sup>	\$4,500 <sup>3</sup>
2. From 25 through 50 percent over the allowable standard		NM	\$600 <sup>3</sup>	\$1,200 <sup>3</sup>	\$3,000 <sup>3</sup>	\$9,000 <sup>3</sup>
3. Greater than 50 percent over the allowable standard		NM	\$1,000 <sup>3</sup>	\$2,000 <sup>3</sup>	\$5,000 <sup>3</sup>	\$15,000 <sup>3</sup>

Citation	Class	Type of Violation	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.A.C. 7:27-23.3(d) Painting Practices	Applier for Compensation	NM	\$500 <sup>2</sup>	\$1,000 <sup>2</sup>	\$2,500 <sup>2</sup>	\$7,500 <sup>2</sup>
N.J.A.C. 7:27-23.3(e)	Applier for Compensation	NM	\$500 <sup>2</sup>	\$1,000 <sup>2</sup>	\$2,500 <sup>2</sup>	\$7,500 <sup>2</sup>

<u>Citation</u>	<u>Class</u>	<u>Type of Violation</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>	<u>Fourth and Each Subsequent Offense</u>
Thinning N.J.A.C. 7:27-23.3(f)	Applier for Compensation	NM	\$500	\$1,000	\$2,500	\$7,500
Rust Preventative Coatings N.J.A.C. 7:27-23.4(f)	Manufacturer	M	\$2,000	\$4,000	\$10,000	\$30,000
Request For Analysis N.J.A.C. 7:27-23.4(g)	Manufacturer	M	\$2,000	\$4,000	\$10,000	\$30,000
Duplicate Samples N.J.A.C. 7:27-23.5	Manufacturer	M	\$2,000	\$4,000	\$10,000	\$30,000
Labeling N.J.A.C. 7:27-23.6(a)	Manufacturer, Distributor, Seller	M	\$4,000	\$8,000	\$20,000	\$50,000
Shipping Documentation, In State N.J.A.C. 7:27-23.6(b)	Manufacturer, Distributor, Seller	M	\$4,000	\$8,000	\$20,000	\$50,000
Shipping Documentation, Out of State N.J.A.C. 7:27-23.6(c)	Manufacturer	M	\$500	\$1,000	\$2,500	\$7,500
Product Reporting N.J.A.C. 7:27-23.6(e) & (f)	Manufacturer	M	\$4,000	\$8,000	\$20,000	\$50,000
Records N.J.A.C. 7:27-23.6(g)	Manufacturer	M	\$4,000	\$8,000	\$20,000	\$50,000
Testing Reporting N.J.A.C. 7:27-23.6(h)	Manufacturer, Distributor, Seller, Applier	M	\$8,000	\$16,000	\$40,000	\$50,000
Distributor Identification N.J.A.C. 7:27-23.7	for Compensation Manufacturer, Distributor, Seller, Applier	NM	\$10,000	\$25,000	\$50,000	\$50,000
Inspections N.J.A.C. 7:27-23.8(b)	for Compensation Manufacturer, Distributor, Seller	NM	\$10,000	\$25,000	\$50,000	\$50,000
Recall						

24. Civil administrative penalties for each violation of N.J.A.C. 7:27-24, Control of Air Pollution from Consumer Products, are as set forth in the following table:

<u>Citation and Rule Summary</u>	<u>Class</u>	<u>Type of Violation</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>	<u>Fourth and Each Subsequent Offense</u>
N.J.A.C. 7:27-24.3(b) Distributor identification and shipping documentation availability	Manufacturer, Distributor, Seller	M	\$8,000	\$16,000	\$40,000	\$50,000
N.J.A.C. 7:27-24.4(a) VOC standards (Per unit-eight pounds or any part thereof)						
N.J.A.C. 7:27-24.4(a) Less than 25 percent over the standard	Manufacturer, Distributor, Seller	NM	\$300	\$600	\$1,500	\$4,500
N.J.A.C. 7:27-24.4(a) From 25 through 50 percent over the allowable standard	Manufacturer, Distributor, Seller	NM	\$600	\$1,200	\$3,000	\$9,000
N.J.A.C. 7:27-24.4(a) Greater than 50 percent over the allowable standard	Manufacturer, Distributor, Seller	NM	\$1,000	\$2,000	\$5,000	\$15,000
N.J.A.C. 7:27-24.4(h) Charcoal lighter product requirements	Manufacturer	NM	\$500	\$1,000	\$2,500	\$7,500
N.J.A.C. 7:27-24.4(j) IPE, ACP and variance requirements	Manufacturer	M	\$500	\$1,000	\$2,500	\$7,500
N.J.A.C. 7:27-24.4(l)	Manufacturer, Distributor, Seller	NM	\$500	\$1,000	\$2,500	\$7,500

<u>Citation and Rule Summary</u>	<u>Class</u>	<u>Type of Violation</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>	<u>Fourth and Each Subsequent Offense</u>
Toxic content in aerosol adhesive						
N.J.A.C. 7:27-24.5(a)	Manufacturer	M	\$500	\$1,000	\$2,500	\$7,500
Registration requirements						
N.J.A.C. 7:27-24.5(d)	Manufacturer	M	\$2,000	\$4,000	\$10,000	\$30,000
Date or date-code requirement						
N.J.A.C. 7:27-24.5(e)	Manufacturer	M	\$500	\$1,000	\$2,500	\$7,500
Date-code registration						
N.J.A.C. 7:27-24.5(g)	Manufacturer	M	\$500	\$1,000	\$2,500	\$7,500
Information on aerosol adhesive products after 1/1/05						
N.J.A.C. 7:27-24.5(h)	Manufacturer	M	\$2,000	\$4,000	\$10,000	\$30,000
Floor wax stripper products after 1/1/05						
N.J.A.C. 7:27-24.5(i)	Manufacturer, Distributor, Seller	M	\$2,000	\$4,000	\$10,000	\$30,000
Defacing of label						
N.J.A.C. 7:27-24.6(a)	Manufacturer	M	\$4,000	\$8,000	\$20,000	\$50,000
Recordkeeping for chemically formulated products subject to VOC limits						
N.J.A.C. 7:27-24.6(b)	Manufacturer	M	\$4,000	\$8,000	\$20,000	\$50,000
Submit information on product						
N.J.A.C. 7:27-24.6(c)	Manufacturer	M	\$1,000	\$2,000	\$5,000	\$15,000
Recordkeeping for chemically formulated products not subject to VOC limits						
N.J.A.C. 7:27-24.6(d)	Manufacturer	NM	\$4,000	\$8,000	\$20,000	\$50,000
Keep records for 5 years						
N.J.A.C. 7:27-24.6(e)	Manufacturer, Distributor	M	\$4,000	\$8,000	\$20,000	\$50,000
Submit information upon written request						
N.J.A.C. 7:27-24.6(f)	Manufacturer, Distributor, Seller	M	\$8,000	\$16,000	\$40,000	\$50,000
Distributor identification						
N.J.A.C. 7:27-24.6(g)	Manufacturer	M	\$4,000	\$8,000	\$20,000	\$50,000
Charcoal lighter product records submittal						
N.J.A.C. 7:27-24.6(h)	Manufacturer	M	\$1,000	\$2,000	\$5,000	\$15,000
Submit results from testing						
N.J.A.C. 7:27-24.6(i)	Manufacturer, Distributor, Seller	NM	\$10,000	\$25,000	\$50,000	\$50,000
Falsification of records						
N.J.A.C. 7:27-24.6(j)	Manufacturer	M	\$1,000	\$2,000	\$5,000	\$15,000
IPE, ACP, and variance documentation						
N.J.A.C. 7:27-24.7(a)	Manufacturer	NM	\$2,000	\$4,000	\$10,000	\$30,000
Testing of the product						
N.J.A.C. 7:27-24.8(a)	Manufacturer, Distributor, Seller	NM	\$300.00	\$600.00	\$1,500	\$4,500
Fuel container requirements						
N.J.A.C. 7:27-24.8(b)	Manufacturer, Distributor, Seller	NM	\$300.00	\$600.00	\$1,500	\$4,500
Fuel container and spout requirements						
N.J.A.C. 7:27-24.8(c)	Manufacturer, Distributor, Seller	NM	\$300.00	\$600.00	\$1,500	\$4,500
Sell through requirements for fuel containers						
N.J.A.C. 7:27-24.8(e)	Manufacturer	NM	\$500.00	\$1,000	\$2,500	\$7,500
IPE and variance requirements						
N.J.A.C. 7:27-24.9(a) and (b)	Manufacturer	NM	\$2,000	\$4,000	\$10,000	\$30,000
Labeling of fuel container						
N.J.A.C. 7:27-24.10(a)	Manufacturer	M	\$4,000	\$8,000	\$20,000	\$50,000
Recordkeeping for fuel containers						
N.J.A.C. 7:27-24.10(b)	Manufacturer	M	\$1,000	\$2,000	\$5,000	\$15,000
IPE and variance documentation						
N.J.A.C. 7:27-24.10(c)	Manufacturer	M	\$500.00	\$1,000	\$2,500	\$7,500

Citation and Rule Summary	Class	Type of Violation	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
Date-code registration N.J.A.C. 7:27-24.10(e)	Manufacturer	M	\$500.00	\$1,000	\$2,500	\$7,500
Registration schedule N.J.A.C. 7:27-24.10(f)	Manufacturer	M	\$500.00	\$1,000	\$2,500R	\$7,500
Register code change N.J.A.C. 7:27-24.11(a)	Manufacturer	NM	\$2,000	\$4,000	\$10,000	\$30,000
Testing of portable fuel containers N.J.A.C. 7:27-24.12(b)	Manufacturer, Distributor, Seller	NM	\$10,000	\$25,000	\$50,000	\$50,000
Order violation and recall of chemically formulated consumer products N.J.A.C. 7:27-24.12(c)	Manufacturer, Distributor, Seller	NM	\$10,000	\$25,000	\$50,000	\$50,000
Order violation and recall of portable fuel container/spouts						

25. The violations of N.J.A.C. 7:27-25, Control and Prohibition of Air Pollution by Vehicular Fuels, and the civil administrative penalty amounts for each violation, per source, are as set forth in the following table:

Citation	Class	Type of Violation	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.A.C. 7:27-25.3(a)	Less than 15,000 gallon tank capacity.	NM	\$2,000	\$4,000	\$10,000	\$30,000
	From 15,000 up to 50,000 gallon tank capacity.	NM	\$4,000	\$8,000	\$20,000	\$50,000
	From 50,000 up to 500,000 gallon tank capacity.	NM	\$8,000	\$16,000	\$40,000	\$50,000
	Greater than 500,000 gallon tank capacity.	NM	\$10,000	\$20,000	\$50,000	\$50,000
N.J.A.C. 7:27-25.4(a)1	Test/Document	NM	\$1,000	\$2,000	\$5,000	\$15,000
N.J.A.C. 7:27-25.4(a)2	Certify/Document	NM	\$1,000	\$2,000	\$5,000	\$15,000
N.J.A.C. 7:27-25.4(a)3	Records	M	\$500	\$1,000	\$2,500	\$7,500
N.J.A.C. 7:27-25.4(b)	Records	M	\$500	\$1,000	\$2,500	\$7,500
N.J.A.C. 7:27-25.7(g)	Readily Available	M	\$100	\$200	\$500	\$1,500
N.J.A.C. 7:27-25.7(h)1-2	Records	M	\$500	\$1,000	\$2,500	\$7,500
N.J.A.C. 7:27-25.7(h)3	Readily Available	M	\$100	\$200	\$500	\$1,500
N.J.A.C. 7:27-25.7(h)4	Submittal	M	\$300	\$600	\$1,500	\$4,500

26. (Reserved)

27. The violations of N.J.A.C. 7:27-27, Control and Prohibition of Mercury Emissions, and the civil administrative penalty amounts for each violation are as set forth in the following table:

Citation	Rule Summary	Type of Violation	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.A.C. 7:27-27.4(a)1 N.J.A.C. 7:27-27.4(a)2	Municipal Solid Waste Incinerators (MSW) Mercury Emissions Detected by Compliance Testing from Source Operation					
	1. Less than 25 percent over the allowable standard	NM	\$8,000 <sup>3</sup>	\$16,000 <sup>3</sup>	\$40,000 <sup>3</sup>	\$50,000 <sup>3</sup>
	2. From 25 through 50 percent over the allowable standard	NM	\$10,000 <sup>3</sup>	\$20,000 <sup>3</sup>	\$50,000 <sup>3</sup>	\$50,000 <sup>3</sup>
	3. Greater than 50 percent over the allowable standard	NM	\$10,000 <sup>3</sup>	\$20,000 <sup>3</sup>	\$50,000 <sup>3</sup>	\$50,000 <sup>3</sup>

Citation	Rule Summary	Type of Violation	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.A.C. 7:27-31.14(d)	Install/Operate Monitoring System	NM	\$10,000	\$20,000	\$50,000	\$50,000
N.J.A.C. 7:27-31.14(d)	Certify Monitoring System	NM	\$1,000	\$2,000	\$5,000	\$15,000
N.J.A.C. 7:27-31.14(g)	Demonstrate Compliance	M	\$2,000	\$4,000	\$10,000	\$30,000
N.J.A.C. 7:27-31.14(h)	Monitoring	M	\$2,000	\$4,000	\$10,000	\$30,000
N.J.A.C. 7:27-31.15	Records	M	\$500	\$1,000	\$2,500	\$7,500
N.J.A.C. 7:27-31.16(a)	Submit Information	M	\$300	\$600	\$1,500	\$4,500
N.J.A.C. 7:27-31.16(e)	Emissions Reporting	M	\$500	\$1,000	\$2,500	\$7,500
N.J.A.C. 7:27-31.16(f)	Make Information Available	M	\$500	\$1,000	\$2,500	\$7,500
N.J.A.C. 7:27-31.18(a) or (b)	Submit Compliance Certification	M	\$1,000	\$2,000	\$5,000	\$15,000

32. The violations of N.J.A.C. 7:27-32, Diesel Retrofit Program, and the civil administrative penalty amounts for each violation, per vehicle or piece of equipment for each day of violation, are as set forth in the following table:

Citation	Class	Type of Violation	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.A.C. 7:27-32.4(b)	1-10 vehicles	NM	\$1,000	\$2,000	\$3,000	\$5,000
Required installation of closed crankcase ventilation systems by owner of regulated school buses	11-20 vehicles	NM	\$3,000	\$4,000	\$5,000	\$5,000
	More than 20 vehicles	NM	\$5,000	\$5,000	\$5,000	\$5,000
	Failure to submit cost estimate	M	\$100	\$200	\$300	\$400
N.J.A.C. 7:27-32.4(d)	Complete and submit compliance form	M	\$250	\$500	\$750	\$1,000
N.J.A.C. 7:27-32.4(e)	Repair of all leaks and maintain closed crankcase ventilation system in accordance with manufacturer's instructions	NM	\$100	\$500	\$1,000	\$2,000
N.J.A.C. 7:27-32.5(a), (b) and (c)						
N.J.A.C. 7:27-32.6(a) and (b)	1-10 vehicles	NM	\$1,000	\$2,000	\$3,000	\$5,000
Verify installation of closed crankcase ventilation system on regulated school bus	11-20 vehicles	NM	\$3,000	\$5,000	\$5,000	\$5,000
	More than 20 vehicles	NM	\$5,000	\$5,000	\$5,000	\$5,000
	1-10 vehicles	NM	\$1,000	\$2,000	\$3,000	\$5,000
N.J.A.C. 7:27-32.7(a), (b), (e) and (f)	11-20 vehicles	NM	\$3,000	\$4,000	\$5,000	\$5,000
	More than 20 vehicles	NM	\$5,000	\$5,000	\$5,000	\$5,000
	Required retrofitting by owner of regulated vehicles and regulated equipment					
N.J.A.C. 7:27-32.10(a)	Labeling of retrofit devices	M	\$500	\$750	\$1,000	\$2,000
N.J.A.C. 7:27-32.12(a), (b) and (c)	Inventory	M	\$500	\$1,000	\$1,500	\$2,000
	Notice that the owner has chosen to comply	M	\$500	\$1,000	\$1,500	\$2,000
	Fleet plan in lieu of complying through the use of BART	M	\$500	\$1,000	\$1,500	\$2,000
Required submissions by owner of regulated vehicles and regulated equipment	Late or incomplete submittal	M	\$500	\$1,000	\$1,500	\$2,000
N.J.A.C. 7:27-32.14(c)	Failure to retire or replace	NM	\$1,000	\$2,000	\$3,000	\$5,000
N.J.A.C. 7:27-32.14(d)	Failure to include certification	M	\$100	\$200	\$300	\$400
N.J.A.C. 7:27-32.17(h), (i) and (k)	Late or incomplete submittal of final revised plan	M	\$100	\$200	\$300	\$400
N.J.A.C. 7:27-32.17(n)	Failure to meet emission reduction limit in fleet averaging or combined fleet averaging plan	NM	\$1,000	\$2,000	\$3,000	\$5,000
N.J.A.C. 7:27-32.19(c) and (i)	Failure to submit annual supplement	M	\$100	\$200	\$300	\$400
N.J.A.C. 7:27-32.20(d) through (g)	Failure to electronically complete and submit compliance form	M	\$100	\$200	\$300	\$400
N.J.A.C. 7:27-32.20(h)	Retaining form on regulated school bus, regulated vehicle, piece of equipment; record copies	M	\$100	\$200	\$300	\$400

Citation	Class	Type of Violation	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.A.C. 7:27-32.21(a) and (b)	Failure to have vehicle inspected	NM	\$500	\$1,000	\$1,500	\$2,000
N.J.A.C. 7:27-32.21(c), (d) and (e)	Failure to inspect and certify inspection	M	\$100	\$200	\$300	\$400
N.J.A.C. 7:27-32.22(a), (c) and (d)	Recordkeeping requirements	M	\$100	\$200	\$300	\$400

(n) The Department shall determine the amount of civil administrative penalty for violations of N.J.A.C. 7:27-8 and 7:27-22 as follows: for violations detected by continuous monitoring systems in accordance with (n)1 below; for continuous monitoring systems not installed, out of service or out of control in accordance with (n)2 below; and for violations of continuous monitoring systems recordkeeping and reporting requirements in accordance with (n)3 below. The rule summaries for the requirements set forth in the Civil Administrative Penalty Schedule in this subsection are provided for informational purposes only and have no legal effect.

1. The Department shall determine the amount of civil administrative penalty for violations of N.J.A.C. 7:27-8.3(e) and 7:27-22.3(e) as indicated by continuous monitoring systems on the basis of the severity level, duration of the offense and the size or nature of the source operation associated with the violation as follows:

i. Table 1 of this section shall be used to determine the level of offense, based on the percentage or amount of differential from the standard or allowable set forth in the Preconstruction Permit or Operating Certificate issued pursuant to N.J.A.C. 7:27-8 or Operating Permit issued pursuant to N.J.A.C. 7:27-22.

ii. Tables 2A or 2B of this section shall be used to determine the amount of the base penalty. The level of offense determined from Table 1 is used in conjunction with either Table 2A (for any major source operation) or Table 2B (for any minor source operation) as defined in the corresponding footnotes below Tables 2A and 2B.

iii. Table 3 shall be used to determine a multiplier which shall be applied to the base penalty from either Table 2A or 2B. The multipliers included in Table 3 each correspond to the duration of the offense or the length of the averaging time provided in the Preconstruction Permit or Operating Certificate issued pursuant to N.J.A.C. 7:27-8 or Operating Permit issued pursuant to N.J.A.C. 7:27-22. The base penalty determined from Table 2A or 2B is multiplied by the appropriate Table 3 multiplier to determine the penalty amount of the offense.

### CONTINUOUS MONITORING SYSTEMS<sup>7</sup>

TABLE 1

LEVEL OF OFFENSE	CONTINUOUS EMISSION MONITORS			CONTINUOUS PROCESS MONITORS		
	AIR CONTAMINANTS (% above allowable emission rate or concentration)	OPACITY	OXYGEN (%)	pH	TEMPERATURE degrees Rankine (°F+ 460)	OTHER MINIMUM OR MAXIMUM SPECIFICATIONS <sup>2</sup>
LEVEL I	Greater than 0% up to and including 25%	Greater than the standard up to and including 20%	75% to less than 100% of the minimum oxygen concentration	pH differential of less than 2	Any deviation greater than 0% up to and including 5% of the standard	Any deviation greater than 0% up to and including 25% of the standard
LEVEL II	Greater than 25% up to and including 50%	Greater than 20% up to and including 40%	50% to less than 75% of the minimum oxygen concentration	pH differential of 2 through 5	Any deviation greater than 5% up to and including 15% of the standard	Any deviation greater than 25% up to and including 50% of the standard
LEVEL III	Greater than 50%	Greater than 40%	Less than 50% of the minimum oxygen concentration	pH differential of greater than 5	Any deviation greater than 15% of the standard	Any deviation greater than 50% of the standard

<sup>1</sup> If applicable, use Level of Offense established in the Preconstruction Permit or Operating Certificate issued pursuant to N.J.A.C. 7:27-8 or Operating Permit issued pursuant to N.J.A.C. 7:27-22, if different from Table 1.

<sup>2</sup> e.g., Pressure Drop, Flow Rate, Oxidation Reduction Potential, etc.

CONTINUOUS MONITORING SYSTEMS<sup>7</sup>

TABLE 3

Averaging time or duration	Multiplier
≤ 30 minutes	1
> 30 min. & ≤ 1 hr	2
> 1 hr & ≤ 3 hr	4
> 3 hr & ≤ 8 hr	6
> 8 hr & ≤ 24 hr	8
> 24 hr	10

table 2a  
MAJOR SOURCE OPERATION<sup>4</sup>

LEVEL	Base Penalty
I	\$200
II	\$400
III	\$1,000

table 2b  
MINOR SOURCE OPERATION<sup>3</sup>

LEVEL	Base Penalty
	\$100
II	\$200
III	\$300

<sup>3</sup> Any source operation with estimated potential emissions without control of greater than 22.8 pounds per hour, or greater than 5.7 pounds per hour for VOC and NO<sub>x</sub> or air contaminants regulated pursuant to NSPS, NESHAP, PSD, EOR, TXS and HAP (Table B) based on Preconstruction Permit or Certificate issued pursuant to N.J.A.C. 7:27-8 or Operating Permit issued pursuant to N.J.A.C. 7:27-22.

<sup>4</sup> Any source operation with estimated potential emissions without control of 22.8 pounds per hour or less, or 5.7 pounds per hour or less for VOC and NO<sub>x</sub> based on a Preconstruction Permit or Certificate issued pursuant to N.J.A.C. 7:27-8 or an Operating Certificate issued pursuant to N.J.A.C. 7:27-22.

2. The violations of N.J.A.C. 7:27-8.3(e) and N.J.A.C. 7:27-22.3(d) or (e) for continuous monitoring systems not installed, out of service or out of control and the civil administrative penalty amounts for each violation are set forth in the following Table:

Citation	Rule Summary	Type of Violation	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.A.C. 7:27-8.3(e) and N.J.A.C. 7:27-22.3(d) and (e)	Continuous Monitoring Systems Not Installed, Out of Service, Or Out of Control					
Class:						
1.	Major Source Operation <sup>3</sup>					
	Each day through day five <sup>5</sup>	NM	\$200 <sup>6</sup>	\$400 <sup>6</sup>	\$1,000 <sup>6</sup>	\$3,000 <sup>6</sup>
	Day six and each subsequent day thereafter <sup>5</sup>	NM	\$500 <sup>6</sup>	\$1,000 <sup>6</sup>	\$2,500 <sup>6</sup>	\$7,500 <sup>6</sup>
2.	Minor Source Operation <sup>4</sup>					
	Each day through day five <sup>5</sup>	NM	\$100 <sup>6</sup>	\$200 <sup>6</sup>	\$500 <sup>6</sup>	\$1,500 <sup>6</sup>
	Day six and each subsequent day thereafter <sup>5</sup>	NM	\$250 <sup>6</sup>	\$500 <sup>6</sup>	\$1,250 <sup>6</sup>	\$3,750 <sup>6</sup>

3. The violations of N.J.A.C. 7:27-8.3(e) and N.J.A.C. 7:27-22.3(e) for continuous monitoring systems recordkeeping and reporting requirements and the civil administrative penalty amounts for each violation are set forth in the following Table:

Citation	Rule Summary	Type of Violation	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.A.C. 7:27-8.3(e) and N.J.A.C. 7:27-22.3(e)	Comply with Preconstruction Permit, Certificate and Operating Certificate Requirements for Continuous Monitoring Systems					
Class:						
1.	Keep Records <sup>5</sup>	NM	\$500 <sup>6</sup>	\$1,000 <sup>6</sup>	\$2,500 <sup>6</sup>	\$7,500 <sup>6</sup>
2.	Submit Reports <sup>5</sup>	M	\$300 <sup>6</sup>	\$600 <sup>6</sup>	\$1,500 <sup>6</sup>	\$4,500 <sup>6</sup>

<sup>3</sup> Any source operation with estimated potential emissions without controls of greater than 22.8 pounds per hour, or greater than 5.7 pounds per hour for VOC and NO<sub>x</sub>, or air contaminants regulated pursuant to NSPS, NESHAP, PSD, EOR, TXS and HAP (Table B) based on Preconstruction Permit or Certificate issued pursuant to N.J.A.C. 7:27-8 or Operating Permit issued pursuant to N.J.A.C. 7:22.

<sup>4</sup> Any source operation with estimated potential emissions without controls of 22.8 pounds per hour or less, or 5.7 pounds per hour or less for VOC and NO<sub>x</sub>, based on a Preconstruction Permit or Certificate issued pursuant to N.J.A.C. 7:27-8 or an Operating Permit issued pursuant to N.J.A.C. 7:27-22.

<sup>5</sup> Number of days after subtracting downtime allowance pursuant to N.J.A.C. 7:27-1, or a Preconstruction Permit or Certificate issued pursuant to N.J.A.C. 7:27-8 or an Operating Permit issued to N.J.A.C. 7:27-22.

<sup>6</sup> Per continuous monitor.

<sup>7</sup> For instance, a Preconstruction Permit and Operating Certificate issued pursuant to N.J.A.C. 7:27-8 or an Operating Permit issued pursuant to N.J.A.C. 7:27-22 requires that for any 1-hour period, the average concentration of nitrogen oxides (NO<sub>x</sub>) in the stack gas shall not exceed 300 parts per million by volume as determined by continuous monitoring. A violator emitted NO<sub>x</sub> from a major source operation at an hourly averaged concentration rate of 350 parts per million by volume. Using Table 1, determine the level of offense for the air contaminant (NO<sub>x</sub>). Because the violator emitted NO<sub>x</sub> at a concentration less than 25% above the allowable, the Level of Offense is Level I. The source operation is considered major because it emits NO<sub>x</sub> in excess of 5.7 pounds per hour. Using Table 2A for a major source operation, determine the base penalty that corresponds to Level I. The base penalty for a Level I offense for a major source operation is \$200. Using Table 3, determine the multiplier corresponding to a 1 hour averaging time. Multiply \$200 by 2, the multiplier from Table 3. The penalty for the offense is \$400.

(o) For any violation of N.J.A.C. 7:27-5.2 where the emission of air contaminants is in such quantities and duration as are, or tend to be, injurious to human health or welfare, animal or plant life or property, the assessed penalty shall in no case be reduced by more than 95 percent of the maximum civil administrative penalty pursuant to (m)5 above, or shall in no case exceed the maximum civil administrative penalty set forth in N.J.S.A. 26:2C-19(b).

<u>Citation</u>	<u>Class</u>	<u>Type of Violation</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>	<u>Fourth and Each Subsequent Offense</u>
N.J.A.C. 7:27C-5.2(c)2	Establish a general account	M	\$2,000	\$4,000	\$10,000	\$30,000
N.J.A.C. 7:27C-5.4(d)	Provide on-site access to records	M	\$2,000	\$4,000	\$10,000	\$30,000
N.J.A.C. 7:27C-5.4(d)	Provide false or misleading information	NM	\$500,000 <sup>1</sup>	Not Applicable <sup>1</sup>	Not Applicable <sup>1</sup>	Not Applicable <sup>1</sup>
N.J.A.C. 7:27C-5.12(g)	Provide false or misleading information	NM	\$2,000	\$4,000	\$10,000	\$30,000

<sup>1</sup> The facility referenced in the sworn affidavit shall not be eligible to be certified as a dispatch agreement facility. In addition to these penalties, the court may assess against the violator the amount of any economic benefit accruing to the violator from the violation.

6. The violations of N.J.A.C. 7:27C-6, CO<sub>2</sub> Allowance Tracking System, and the civil administrative penalty amounts for each violation are as set forth in the following table:

<u>Citation</u>	<u>Class</u>	<u>Type of Violation</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>	<u>Fourth and Each Subsequent Offense</u>
N.J.A.C. 7:27C-6.5(d)	Submit a revised application	M	\$2,000	\$4,000	\$10,000	\$30,000
N.J.A.C. 7:27C-6.9(e)	Transfer required allowances	M	\$2,000	\$4,000	\$10,000	\$30,000

7. (Reserved)

8. The violations of N.J.A.C. 7:27C-8, Monitoring and Reporting, and the civil administrative penalty amounts for each violation are as set forth in the following table:

<u>Citation</u>	<u>Class</u>	<u>Type of Violation</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>	<u>Fourth and Each Subsequent Offense</u>
N.J.A.C. 7:27C-8.1(a) and (d)	Monitoring requirements	NM	\$10,000	\$20,000	\$50,000	\$50,000
N.J.A.C. 7:27C-8.1(e) and (f)	Monitor, record and report data	NM	\$10,000	\$20,000	\$50,000	\$50,000
N.J.A.C. 7:27C-8.2(g)	Submit dates of certification	M	\$2,000	\$4,000	\$10,000	\$30,000
N.J.A.C. 7:27C-8.2(h)	Submit certification application	M	\$2,000	\$4,000	\$10,000	\$30,000
N.J.A.C. 7:27C-8.2(o)	Substitute data	NM	\$10,000	\$20,000	\$50,000	\$50,000
N.J.A.C. 7:27C-8.2(q)	Alternate Monitoring system	NM	\$10,000	\$20,000	\$50,000	\$50,000
N.J.A.C. 7:27C-8.3(a)	Substitute data	NM	\$10,000	\$20,000	\$50,000	\$50,000
N.J.A.C. 7:27C-8.4	Written notice	M	\$2,000	\$4,000	\$10,000	\$30,000
N.J.A.C. 7:27C-8.5(a), (b), (c) and (d)	Recordkeeping and reporting	M	\$2,000	\$4,000	\$10,000	\$30,000
N.J.A.C. 7:27C-8.7(a) and (b)	Submit report	M	\$2,000	\$4,000	\$10,000	\$30,000
N.J.A.C. 7:27C-8.8(a), (b), (c), (d), (e) and (f)	Submit additional data	M	\$2,000	\$4,000	\$10,000	\$30,000
N.J.A.C. 7:27C-8.8(g)	Quality control activities	M	\$2,000	\$4,000	\$10,000	\$30,000
N.J.A.C. 7:27C-8.8(h)	Retain data	M	\$2,000	\$4,000	\$10,000	\$30,000
N.J.A.C. 7:27C-8.8(i)	Submit annual report	M	\$2,000	\$4,000	\$10,000	\$30,000

9. (Reserved)

10. The violations of N.J.A.C. 7:27C-10, CO<sub>2</sub> Emissions Offset Projects, and the civil administrative penalty amounts for each violation are as set forth in the following table:

<u>Citation</u>	<u>Class</u>	<u>Type of Violation</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>	<u>Fourth and Each Subsequent Offense</u>
N.J.A.C. 7:27C-10.3(j)	Access agreement	M	\$2,000	\$4,000	\$10,000	\$30,000
N.J.A.C. 7:27C-10.11(e)	Submit monitoring and verification report	M	\$2,000	\$4,000	\$10,000	\$30,000

- Amended by R.1992 d.102, effective March 2, 1992 (operative March 28, 1992).  
 See: 24 N.J.R. 1858(b), 24 N.J.R. 792(a).  
 Penalties for violation of recordkeeping requirements added.  
 Amended by R.1992 d.382, effective October 5, 1992.  
 See: 24 N.J.R. 2386(a), 24 N.J.R. 3539(a).  
 Penalties added at (e)25.  
 Administrative correction to (e)25.  
 See: 24 N.J.R. 4524(b).  
 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).  
 Added new (e)21 regarding Emission Statements.  
 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).  
 New Rule, 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).  
 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).  
 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.500, effective October 3, 1994 (operative October 31, 1994).  
 See: 25 N.J.R. 4033(a), 26 N.J.R. 4026(a).  
 Amended by R.1994 d.501, effective October 3, 1994 (operative October 31, 1994).  
 See: 25 N.J.R. 4045(a), 25 N.J.R. 4836(a), 26 N.J.R. 4030(a).  
 New Rule, 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).  
 Amended by R.1995 d.5, effective January 3, 1995 (operative January 27, 1995).  
 See: 26 N.J.R. 3566(a), 27 N.J.R. 93(a).  
 Amended 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).  
 Administrative correction.  
 See: 27 N.J.R. 2212(b).  
 Emergency 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).  
 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 by R.1998 d.379, effective July 20, 1998 (operative August 16, 1998).  
 See: 29 N.J.R. 3924(b), 30 N.J.R. 2660(a).  
 In (m), added a new 31.  
 Amended by R.1998 d.419, effective August 17, 1998 (operative September 9, 1999).  
 See: 29 N.J.R. 3222(a), 30 N.J.R. 3025(b), 31 N.J.R. 3087(b).  
 In (m)25, rewrote the table.  
 Amended by R.1999 d.423, effective December 6, 1999 (operative January 7, 2000).  
 See: 31 N.J.R. 2582(a), 31 N.J.R. 4040(a).  
 Made internal reference changes throughout.  
 Amended by R.2000 d.204, effective May 15, 2000 (operative June 6, 2000).  
 See: 31 N.J.R. 1671(a), 32 N.J.R. 1808(a).  
 Rewrote (i); and in (m), changed table references throughout, substituted a reference to N.J.A.C. 7:27A-3.10(n) for a reference to N.J.A.C. 7:27A-3.10(m), and inserted a reference to N.J.A.C. 7:27-8.3(l) in 8, inserted a reference to N.J.A.C. 7:27-22.3(uu) and substituted a reference to \$12,000 for a reference to \$12,500 in 22, and rewrote 30.  
 Amended by R.2000 d.351, effective August 21, 2000 (operative September 29, 2000).  
 See: 31 N.J.R. 2100(a), 32 N.J.R. 3119(a).  
 Rewrote (m)31.  
 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).  
 Amended the tables in (m) and (n).  
 Amended by R.2002 d.224, effective June 2, 2003 (operative June 29, 2003).  
 See: 34 N.J.R. 2489(a), 35 N.J.R. 2509(a).  
 In (m)16, amended the tables.  
 Administrative correction.  
 See: 35 N.J.R. 3840(a).  
 Amended by R.2004 d.129, effective April 5, 2004 (operative April 25, 2004).  
 See: 35 N.J.R. 3486(a), 36 N.J.R. 1791(a).  
 Reserved (i); rewrote (m).  
 Amended by R.2004 d.182, effective May 3, 2004 (operative June 6, 2004).  
 See: 35 N.J.R. 4241(b), 36 N.J.R. 2218(a).  
 Added (m)24.  
 Amended by R.2004 d.236, effective June 21, 2004 (operative July 20, 2004).  
 See: 35 N.J.R. 2983(a), 35 N.J.R. 4241(a), 36 N.J.R. 3078(a).  
 Rewrote (m)23.  
 Administrative correction.  
 See: 36 N.J.R. 5442(a).  
 Amended by R.2004 d.443, effective December 6, 2004 (operative January 3, 2005).  
 See: 36 N.J.R. 123(a), 36 N.J.R. 5406(a).  
 In (m), rewrote 27.  
 Amended by R.2005 d.155, effective May 16, 2005 (operative June 17, 2005).  
 See: 36 N.J.R. 5293(a), 37 N.J.R. 1789(a).  
 Rewrote (m) and (n); added (q) through (t).  
 Amended by R.2005 d.343, effective October 17, 2005 (operative date of November 7, 2005).  
 See: 36 N.J.R. 4228(a), 37 N.J.R. 3976(a).  
 Rewrote tables in (m)16 and 19.  
 Amended by R.2006 d.34, effective January 17, 2006 (operative January 27, 2006).  
 See: 37 N.J.R. 2762(a), 38 N.J.R. 497(b).  
 Added (m)29.  
 Amended by R.2006 d.309, effective September 5, 2006 (operative November 4, 2006).  
 See: 37 N.J.R. 2783(a), 38 N.J.R. 3572(a).  
 In (m)27, added entry "N.J.A.C. 7:27-27.7(k)".  
 Amended by R.2007 d.201, effective July 2, 2007.  
 See: 38 N.J.R. 3728(b), 39 N.J.R. 2531(a).  
 In the table in (m)14, added entries "School Bus Owner" and "School District, if the School District Does not Own the Bus <sup>1</sup>" and the corresponding note; and in the entries "Commercial Vehicle Registration" and "Property Owner", substituted "\$250" for "\$200" in the "First Offense" column, "\$500" for "\$400" in the "Second Offense" column and "\$1,000" for "\$3,000" in the "Fourth and Each Subsequent Offense" column.  
 Amended by R.2007 d.223, effective July 16, 2007 (operative August 17, 2007).  
 See: 39 N.J.R. 300(a), 39 N.J.R. 2637(a).  
 Added (m)30.  
 Amended by R.2007 d.235, effective August 6, 2007 (operative September 8, 2007).  
 See: 38 N.J.R. 5244(a), 39 N.J.R. 3352(a).  
 In (l), added the last two sentences; rewrote (m)14; and added (m)32.  
 Amended by R.2008 d.338, effective November 17, 2008 (operative December 9, 2008).  
 See: 40 N.J.R. 3792(a), 40 N.J.R. 6541(b).  
 Added (u).

#### Case Notes

New rules reducing penalty assessment for remediation of offending odor violation properly applied to reduce penalty for violations that occurred when former rules were in effect. *NJDEPE v. American National Can Company*, 96 N.J.A.R.2d (EPE) 123.

Debtor charged with excess carbon monoxide emissions was not entitled to stay penalty assessment proceedings based upon subsequent bankruptcy filing. *DEPE v. Prospect Industries Corporation*, 96 N.J.A.R.2d (EPE) 118.

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.

Evidence proved air pollution from sewage plant; penalty assessed. *Division of Environmental Quality v. Township of Cedar Grove*, 92 N.J.A.R.2d (EPE) 252.

Perforation of gasoline pump nozzle "vapor boot"; air pollution penalty assessed. *New Jersey Department of Environmental Protection v. Columbus Texaco*, 92 N.J.A.R.2d (EPE) 235.

Odor emitted by chemical manufacturing facility constituted air pollution; penalty assessed. *Givaudan Corporation v. New Jersey Department of Environmental Protection*, 92 N.J.A.R.2d (EPE) 130.

Farmer who obtained permits to perform burning of tree trimmings violated air pollution regulation even though dispersal of ash caused by wind shift; penalty reduced. *DeEugenio & Sons v. Division of Environmental Quality*, 92 N.J.A.R.2d (EPE) 47.

**7:27A-3.11 Civil administrative penalty for violations of N.J.S.A. 26:2C-19(e)**

(a) The Department shall determine the amount of the civil administrative penalty for violations in this section on the basis of the provision violated and the frequency of the violation as follows:

Citation	Type of Violation	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.S.A. 26:2C-19(e), failure to immediately notify the Department of release of air contaminants in a quantity or concentration which poses a potential threat to public health, welfare or the environment	NM	\$2,000	\$4,000	\$10,000	\$30,000

Citation	Type of Violation	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.S.A. 26:2C-19(e), failure to immediately notify the Department of release of air contaminants in a quantity or concentration which might reasonably result in citizen complaints, but which does not pose a potential threat to public health, welfare or the environment	M	\$200	\$400	\$1,000	\$3,000

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).  
 Reference to TVOS and VOS changed to TXS and VOC.  
 Amended by R.1995 d.5, effective January 3, 1995 (operative January 27, 1995).  
 See: 26 N.J.R. 3566(a), 27 N.J.R. 93(a).  
 Amended by R.2005 d.155, effective May 16, 2005 (operative June 17, 2005).  
 See: 36 N.J.R. 5293(a), 37 N.J.R. 1789(a).  
 Rewrote the section.

as a civil administrative penalty the economic benefit (in dollars) which the violator has realized as a result of not complying with or by delaying compliance with the requirements of the Act, or any rule, administrative order, operating certificate or permit issued pursuant thereto. If the total economic benefit was derived from more than one offense, the total economic benefit amount may be apportioned among the offenses from which it was derived so as to increase each civil administrative penalty assessment to an amount no greater than \$10,000 for the first offense, no greater than \$25,000 for the second offense, and no greater than \$50,000 for the third offense and each subsequent offense.

**7:27A-3.12 Economic benefit component of a civil administrative penalty**

The Department may, in addition to any other civil administrative penalty assessed pursuant to this subchapter, include