

**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 adopted and became effective prior to September 1, 1969.

Subchapter 30, Open Market Emissions Trading, was adopted as 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).

Subchapter 30, Open Market Emissions Trading, was repealed by R.2004 d.129, effective April 5, 2004 (operative April 25, 2004).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).

**Law Review and Journal Commentaries**

Air Pollution Regulations and Trends. I. Leo Motiuk, Joan E. Pearson, 133 N.J.Law. 34 (Mag.) (March/April 1990).

Overturing Environmental Regulations: A Primer on Breaching The Regulatory Walls. John A. McKinney, Jr., J. Wylie Donald, 160 N.J.Law. 48 (Mag.) (April 1994).

Limitations on state agency authority to adopt environmental standards more stringent than federal standards: Policy considerations and interpretive problems. Jerome M. Organ, 54 Md.L.Rev. 1373 (1995). WESTLAW cite: 54 MDLR 1373.

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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.

(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 applica-

tion, 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;

2. An application which includes four different non-identical boilers would require a fee of \$2,050: \$500.00 for the first boiler, \$350.00 each for the second, third and fourth boilers, and \$500.00 for the certificate fee; and

3. An application which includes four identical reactors, served by four non-identical control apparatus, would require a fee of \$2,400: \$500.00 for the first boiler, no fee for the other three identical boilers, \$350.00 for the first control apparatus, \$350.00 each for the second, third, and fourth control apparatus, and \$500.00 for the certificate fee.

(k) There is no fee for an insignificant source, even if emissions from an insignificant source must be listed on an application under N.J.A.C. 7:27-8.4(g).

A. BASE FEE TABLES

Table 1  
Category I permit fees

Activity	Basis	Amount
Preconstruction permit	Per application	\$100.00
Operating certificate	Per application	\$150.00
Total Category I initial permit fee		\$250.00

Table 2  
Category II permit fees

Activity	Basis	Amount
Preconstruction permit	Per first significant source per application	\$500.00
Additional fee	Per each additional non-identical significant source or control apparatus on the same application <sup>1</sup>	\$350.00
Operating certificate	Per application	\$500.00
Total Category II initial permit fee		\$1,000 plus \$350 per additional non-identical significant source or control apparatus

<sup>1</sup>See (j) above.

Table 3  
Environmental improvement pilot test fees

Activity	Basis	Amount
Application for environmental improvement pilot test	Per Application or per renewal	\$250.00

Table 4  
Registration Fees  
Part 4a

General permit registration fees

Activity	Basis	Amount
Registration for authorization to act under a general permit under N.J.A.C. 7:27-8.8(c)	Per Registration	\$250.00

Part 4b

Used oil space heater registration fees

Activity	Basis	Amount
Registration for authorization to operate a used oil space heater under N.J.A.C. 7:27-20.3	Per Registration	\$250.00
Five year renewal for a used oil space heater under N.J.A.C. 7:27-20.3	Per Registration	\$250.00

Table 5  
Category I permit revision fees

Activity	Basis	Amount
Preconstruction permit revision	Per revision application	\$100.00
Operating certificate revision	Per revision application	\$150.00
Total Category I permit revision fee		\$250.00

Table 6  
Category II permit revision fees

Activity	Basis	Amount
Preconstruction permit revision	Per first changed significant source per permit revision application	\$500.00
Additional fee	Per each additional non-identical significant source or control apparatus being changed on the same permit revision application <sup>2</sup>	\$350.00
Operating certificate revision	Per permit revision application	\$500.00
Total Category II permit revision fee		\$1,000 plus \$350 per additional non-identical significant source or control apparatus

<sup>2</sup>See (j) above.

Table 7  
Compliance plan change fees

Activity	Basis	Amount
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Category I compliance plan change	Per application	\$ 50.00
Category II compliance plan change	Per application	\$250.00

Transfer of ownership under N.J.A.C. 7:27-8.21(b)2	Per Facility	\$ 50.00
Change in equipment or stack designation under N.J.A.C. 7:27-8.21(b)3	Per Preconstruction Permit	\$ 00.00
A change listed in N.J.A.C. 7:27-8.21(b)4, 5, 6, or 7	Per submitted amendment	\$200.00
Correction of a typographical error under N.J.A.C. 7:27-8.21(b)8	Per Preconstruction Permit	\$ 00.00

**Table 8**  
Seven-day-notice change fees

<u>Activity</u>	<u>Basis</u>	<u>Amount</u>
Category I seven-day-notice change	Per notice	\$50.00
Category II seven-day-notice change	Per notice	\$250.00

**Table 9**  
Amendment fees

<u>Activity</u>	<u>Basis</u>	<u>Amount</u>
Change in identifying information under N.J.A.C. 7:27-8.21(b)1	Per Preconstruction Permit	\$ 00.00

**Table 10**  
Certificate Renewal fees

<u>Activity</u>	<u>Basis</u>	<u>Amount</u>
Category I	Per Operating Certificate	\$250.00
Category II	Per Operating Certificate	\$500.00

**B. SUPPLEMENTARY FEE SCHEDULE**

<u>Activity</u>	<u>Basis</u>	<u>Amount</u>
1. Prevention of Significant Deterioration		
a. Engineering Review	Per Applicable Air Contaminant	\$500.00
b. Implement Public Comment Requirement	Per Comment Period	500.00
2. Ambient Air Monitoring		
a. Review Protocol	Per Protocol	500.00
b. Inspect Monitoring Locations and Equipment Installation	Per Inspection	500.00
c. Review Quality Assurance Plan	Per Plan	500.00
d. Review Data	Per Required Report	500.00
3. Air Quality Impact Analysis		
a. Evaluate Protocol	Per Protocol	500.00
b. Review Screening Modeling	Per Review	500.00
c. Review Refined Modeling	Per Review	500.00
4. Risk Assessment		
a. Evaluate Protocol	Per Protocol	500.00
b. Review Risk Assessment	Per Review	500.00
5. Testing		
a. Evaluate Source-Specific Testing Protocol		
i. Process Materials Testing	Per Protocol	450.00
ii. Source Emission Testing	Per Protocol	500.00
b. On-site Monitoring of Sample Collection Pursuant to an Approved Source-Specific Testing Protocol		
i. Process Materials Testing	Per Collection Event	200.00
ii. Source Emissions Testing	Per Performance Test	500.00
c. Review Testing Report		
i. Process Materials Testing	Per Report	200.00
ii. Source Emissions Testing	Per Report	500.00
6. Audit Performance of Continuous Emission Monitors		
a. Evaluate Protocol	Per Protocol Per Permit	500.00
b. Observe Testing	Per Protocol Per Permit	500.00
c. Review Testing Report	Per Report	500.00
7. Periodic Compliance Inspection	Per Inspection Per Certificate	200.00

New Rule, R.1991 d.109, effective March 4, 1991 (operative March 31, 1991).  
 See: 22 N.J.R. 292(a), 23 N.J.R. 723(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).

Deleted references and fee schedule regarding mathematical combinations.  
 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).

Amended by R.1995 d.205, effective April 17, 1995.

See: 26 N.J.R. 3922(a), 27 N.J.R. 1576(b).

Recodified from N.J.A.C. 7:27-8.11 and 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. Former N.J.A.C. 7:27-8.6, Denials, recodified to N.J.A.C. 7:27-8.14.

Amended by R.1999 d.428, effective December 6, 1999 (operative January 8, 2000).

See: 30 N.J.R. 4003(a), 31 N.J.R. 4016(a).

In the Base Fee Tables, changed Table 4 designation, inserted Table 4a designation and inserted Table 4b.

Amended by R.2002 d.53, effective February 4, 2002 (operative March 12, 2002).

See: 33 N.J.R. 3290(a), 34 N.J.R. 756(a).

In A. Base Fee Tables, rewrote Table 4, substituted "Part 4a" for "Table 4a", and "Part 4b" for "Table 4b".

### 7:27-8.7 Operating certificates

(a) In order to operate a source covered by a preconstruction permit, the source shall also be covered by an operating certificate, which authorizes operation of the source. The preconstruction permit application form also serves as the application form for the operating certificate, and the Department shall issue the preconstruction permit and operating certificate simultaneously, combined in one document.

(b) To obtain an operating certificate or a temporary operating certificate (see (d) below), an applicant shall follow the procedures for applying for a permit and certificate under N.J.A.C. 7:27-8.4.

(c) An operating certificate (except for a temporary operating certificate issued under (d) below) expires five years after the date the preconstruction permit for the source was issued.

(d) In some cases, the Department needs information obtained while a source is operating, such as stack testing results, in order to issue a final operating certificate. In such a case, the Department shall issue one of the following two types of temporary operating certificates:

1. A 90 day temporary operating certificate, which is valid for 90 days and may be renewed by the Department one or more times; or
2. A continuing temporary operating certificate, which continues in effect until the earliest of the following triggering events:
  - i. The Department notifies the permittee that the operating certificate has been converted to a 90 day temporary operating certificate;
  - ii. The Department issues a conventional operating certificate for the source; or
  - iii. Five years has passed since the issuance of a preconstruction permit for the source.

(e) The operating certificate shall be renewed prior to its expiration if the source is to continue to operate. In order to ensure timely renewal of an operating certificate, an application for renewal of an operating certificate shall be made to the Department at least 90 days prior to the expiration date of the operating certificate. An application for renewal may be submitted electronically only if the entire permit application is, or has been, submitted to the Department through e-NJEMS prior to the submittal of the renewal application.

(f) Before renewing an operating certificate, the Department may require testing to ensure compliance with State and Federal air pollution control requirements.

New Rule, R.1991 d.109, effective March 4, 1991 (operative March 31, 1991).

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

Repeal and 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. 7:27-8.7, Approvals, repealed.

Amended by R.2002 d.53, effective February 4, 2002 (operative March 12, 2002).

See: 33 N.J.R. 3290(a), 34 N.J.R. 756(a).

In (e), substituted "e-NJEMS" for "AIMS".

### 7:27-8.8 General permits

(a) A general permit is a pre-approved permit and certificate which applies to a specific class of significant sources. By issuing a general permit pursuant to N.J.S.A. 26:2C-9.2(h), the Department indicates that it approves the activities authorized by the general permit, provided that the owner or operator of the source registers with the Department and meets the requirements of the general permit. If a source belongs to a class of sources which qualify for a general permit, and the owner or operator of the source registers for the general permit and complies with this section, the registration satisfies the requirements at N.J.A.C. 7:27-8.3 for a permit and certificate.

(b) A general permit may not be used to cover a source which is subject to PSD requirements under 40 CFR 52.21, or which is subject to emissions offsets requirements under N.J.A.C. 7:27-18.

(c) A general permit is available for the following sources:

1. One or more tanks and/or pumps used for storing and/or pumping gasoline, diesel fuel, or kerosene, located at a single service station (retail or non-retail), if the station:
  - i. Receives gasoline, diesel fuel, or kerosene from a delivery vessel and puts it into a stationary storage tank;
  - ii. Transfers gasoline from a storage tank into a gasoline vapor laden fuel tank;

iii. Has Stage 1 vapor recovery equipment which complies with N.J.A.C. 7:27-16.3 on all gasoline tanks at the station; and

iv. Has Stage 2 vapor recovery equipment which complies with N.J.A.C. 7:27-16 on all gasoline pumps at the station;

2. One or more pieces of woodworking equipment, located at the same facility, where all air contaminant emissions from the equipment are captured and vented to a particulate control apparatus with a minimum removal efficiency of 99 percent;

3. A single boiler with a maximum rated heat input of less than 10 million BTUs per hour, combusting natural gas, number 2 commercial fuel oil, propane, diesel or kerosene (and no other fuels);

4. A single emergency generator which operates no more than 500 hours per year, and which has a maximum rated heat input that is less than or equal to 15 million BTU per hour (generating approximately 1.5 megawatts of electricity) when the generator combusts diesel fuel, number 2 fuel oil or kerosene, or 40 million BTU per hour (generating approximately 4.0 megawatts of electricity) when the generator combusts natural gas or propane;

5. A bulk solid materials receiving and storage system, which uses pneumatic or mechanical conveying, where all particulate air contaminant emissions are captured and vented to a particulate control apparatus with a minimum removal efficiency of 99 percent;

6. One or more pieces of enclosed abrasive blasting equipment, located at the same facility, where all particulate air contaminant emissions from the equipment are captured and vented to a particulate control apparatus with a minimum removal efficiency of 99 percent;

7. A stationary storage tank which:

- i. Does not have a floating roof;
- ii. Has a maximum capacity of 300,000 gallons; and
- iii. Is used for storing VOC's with a vapor pressure within the applicable limit below:

(1) If the tank has a maximum capacity of 20,000 gallons or less, vapor pressure shall be less than 11.1 psia (pounds per square inch absolute) at 70 degrees Fahrenheit;

(2) If the tank has a maximum capacity of more than 20,000 gallons but less than or equal to 40,000 gallons, vapor pressure shall be less than 4.0 psia at 70 degrees Fahrenheit; or

(3) If the tank has a maximum capacity of more than 40,000 gallons but less than or equal to 300,000 gallons, less than .75 psia at 70 degrees Fahrenheit;

8. A soil vapor extraction system or a groundwater air stripping system used for the remediation of a gasoline-

contaminated vehicle fueling station at one of the following types of locations:

- i. A current or former gasoline retail station;
- ii. A municipal, county or State garage;
- iii. A police or fire department;
- iv. A commercial or industrial site; or

v. A property adjacent to an approved remediation site, provided the remediation activities are relevant to the adjacent property and are conducted concurrently with the remediation activities of the approved site;

9. A single or multiple external combustion unit with a maximum rated heat input of less than 10 million BTUs per hour, firing natural gas, propane, kerosene, diesel oil, or number 2 fuel oil (no other fuels); and

10. One or more of any combination of non-HAP VOCs solvent degreasers of the following types:

i. Cold cleaning machines that use a VOC solvent with a vapor pressure of less than 0.02 Psi (1 mm Hg) at 20 degrees centigrade (68 degrees Fahrenheit);

ii. Heated cleaning machines that use a VOC solvent with a vapor pressure of less than 0.02 Psi (1 mm Hg) at 20 degrees centigrade (68 degrees Fahrenheit);

iii. Batch vapor cleaning machines;

iv. In-line (conveyorized) vapor cleaning machines; or

11. A single or multiple boiler(s) and other indirect fired external combustion equipment with a maximum heat input capacity of greater than or equal to 10 million BTU per hour and less than 50 million BTU per hour, firing natural gas, propane, kerosene, diesel oil or no. 2 fuel oil exclusively, or firing natural gas or propane with limited back-up of kerosene, diesel oil, or no. 2 fuel oil;

12. Equipment located at a dry cleaning facility that uses 150 gallons or less of perchloroethylene (PERC) per 12-month period if the equipment is:

i. A dry-to-dry machine(s) equipped with a refrigerated condenser as the primary control and also equipped with a carbon adsorber on the cylinder outlet designed to reduce the PERC concentration below 300 ppm;

ii. A non-HAP VOC dry-to-dry machine(s) where the facility uses less than 1,000 gallons of non-HAP VOC solvent per 12-month period; or

iii. One or more boilers or heaters that meets the definition of a significant source, with a combined maximum heat input of less than or equal to 3 million Btu/hour burning natural gas, propane, No. 2 fuel oil, diesel, kerosene, or any combination of these fuels;

13. Solvent degreasers using only Methylene Chloride or 1,1,1 Trichloroethane of the following types:

- i. Batch vapor cleaning machines; or
- ii. In-line vapor cleaning machines;

14. Equipment located at a dry cleaning facility if the equipment is:

- i. Non-HAP VOC Dry-to-Dry Machines where the facility uses less than 1,000 gallons of Non-HAP VOC solvent per 12-month period; or
- ii. Dry Cleaning Machines that use Carbon Dioxide (CO<sub>2</sub>); or

15. One or more tanks and/or pumps used for storing and/or pumping gasoline, diesel fuel, or kerosene, located at a single gasoline dispensing facility (retail or non-retail), if the facility:

- i. Receives gasoline, diesel fuel, or kerosene from a delivery vessel and puts it into a stationary storage tank;
- ii. Transfers gasoline from a storage tank into a gasoline vapor laden fuel tank;
- iii. Has Stage 1 vapor recovery equipment which complies with N.J.A.C. 7:27-16.3 on all gasoline tanks at the station; and
- iv. Is not required to under N.J.A.C. 7:27-16.3 to have Stage 2 vapor recovery equipment which complies with N.J.A.C. 7:27-16 on all gasoline pumps at the station.

(d) For each general permit, the Department shall provide a registration form, the general permit itself, and a document entitled "General Procedures for General Permits."

(e) The registration form shall include instructions for completing the form. The registration form shall require information identifying the registrant, identifying the source(s) which shall be covered by the registration, showing that the source meets the criteria for the general permit, and showing that the source will be operated in accordance with the general permit. In many cases, the registration form shall require the registrant to choose from among different options tailored to the source's size, operating characteristics, fuel used, and other parameters. Once the source is described or an option selected on the registration form, the registrant shall continue to operate the source within the parameters of the description and/or the selected option. The registration form shall require the registrant to certify the truth and accuracy of the information on the form. The certification shall meet the requirements of N.J.A.C. 7:27-1.39.

(f) The general permit shall include all of the conditions and requirements which must be met in order to act under the authority of the general permit, including:

1. A description of the class of significant sources which qualify for the general permit, including an explanation of how many of each type of source may be covered by one general permit registration;

2. All requirements which apply to the source and which are satisfied by the general permit;

3. Any monitoring, recordkeeping or reporting requirements;

4. If applicable, standards the source must meet to comply with N.J.A.C. 7:27-8.12, State of the art; and

5. Citations to the laws or rules which form the basis for the requirements listed in (f)2 through 4 above.

(g) The "General Procedures for General Permits" shall apply to all general permits, and shall include instructions for the use general permits, a list of available general permits, and citations to regulatory provisions that apply to the use of general permits.

(h) Some general permits apply to only one source, while others may apply to a class of sources located at the same facility. Each general permit shall specify whether it applies to a group or to a single source. If a general permit applies to only one source, and if several sources at one facility qualify for that general permit, a separate registration, including a fee, shall be submitted for each source.

(i) The authority to act under a general permit begins upon the registrant's receipt of proof of the Department's receipt of the properly completed registration form (including the registration fee specified at N.J.A.C. 7:27-8.6). This proof can be a certified mail receipt, or a copy of the Department's written acknowledgment, issued under (k) below. A registrant may continue to act under the general permit for five years after the date of the proof of receipt, unless:

1. A shorter term is specified in the general permit or the General Procedures for General Permits; or

2. The Department amends the general permit based on a change to a law or regulation in accordance with (n) below.

(j) The registrant is fully responsible for ensuring that the requirements of the general permit, the General Procedures for General Permits, and this section are complied with. If an owner or operator has registered a source under a general permit and the registration is incorrect or deficient, the owner or operator may be liable for penalties for acting without a permit or certificate. Examples of ways a registration might be incorrect or deficient include: if the registered source does not qualify for the general permit; if the registration was improperly completed; or if the registration did not include a key element such as required information or the correct fee.

(k) The Department shall send an acknowledgment when a registration, including the appropriate fee, is received. However, the acknowledgment only indicates that the Department received the registration, and does not mean that the Department has reviewed or approved the registration. Therefore, if the registration is incorrect or deficient, the Department's acknowledgment does not in any way relieve the owner or operator from liability for penalties for any unauthorized activities.

(l) A registrant shall operate within the conditions of the general permit. If the registration form allows the registrant to choose a particular option tailored to the source, the registrant shall operate the source within the parameters set forth in that option. Failure to operate within the parameters of the chosen option and within the general permit conditions shall constitute violation of a permit. If a registrant wants to make a change to a source which has been registered under a general permit, a new general permit registration is required, unless the changed source would remain within the class of sources which qualify for the general permit, and the source would continue to be operated in accordance with the parameters set forth in the option chosen in the registration.

(m) To issue a general permit, or to amend an existing one, the Department shall draft a new or amended registration form and general permit, and shall publish a notice in the New Jersey Register that these documents are available for review and comment. When the comment period closes, the Department shall incorporate any changes the Department deems appropriate. The Department shall then announce the final general permit, and add it to the list of sources in (c) above, through a notice of administrative change published in the New Jersey Register.

(n) If the Department changes an existing general permit, it shall notify each person who has registered under the general permit. The registrant shall comply with any applicable new requirements as follows:

1. If the change to the general permit is required by a statute or regulation, a registrant shall comply by the date required for compliance in the statute or regulation. If the registrant cannot comply by that date, the registrant must stop operating the source or obtain by that date a source-specific permit and certificate which authorizes continued operation; and

2. If the change to the general permit is not required by a statute or regulation, a registrant shall comply by the date which is 90 days after the date that the notice was received from the Department or the date when the registration, whichever is later. Thereafter, the registrant shall comply with the changed general permit.

(o) A person who wishes to register a source under a general permit may obtain the registration form, the general permit, and the General Procedures for General Permits, at the address in N.J.A.C. 7:27-8.4(b).

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. 7:27-8.8, Conditions of approval, recodified to N.J.A.C. 7:27-8.13.

Public Notice: Draft General Permits comment opportunity.

See: 32 N.J.R. 605(a).

Administrative change.

See: 32 N.J.R. 2081(b).

Added (c)8.

Public Notice: Draft General Permits comment opportunity.

See: 33 N.J.R. 590(a).

Administrative change.

See: 33 N.J.R. 1377(a).

Public Notice: Air Quality Permit clarification of terminology.

See: 33 N.J.R. 3221(a).

Amended by R.2002 d.53, effective February 4, 2002 (operative March 12, 2002).

See: 33 N.J.R. 3290(a), 34 N.J.R. 756(a).

In (c), substituted "propane, diesel or kerosene" for "or both fuels" in 3, and inserted "number 2 fuel oil or kerosene," following "diesel fuel" and added "or propane" in 4.

Administrative change.

See: 34 N.J.R. 2804(a).

Public Notice: Draft General Permits comment opportunity.

See: 35 N.J.R. 3415(b).

Public Notice: General Permit (GP-010) for Degreasing Operations Using Non-HAP Volatile Organic Compounds (VOCs).

See: 35 N.J.R. 3966(b).

Public Notice: Draft General Permits comment opportunity.

See: 35 N.J.R. 5308(c).

Administrative change.

See: 36 N.J.R. 183(a), 184(a), 1790(d), 3076(a).

Public Notice: Draft General Permits comment opportunity.

See: 36 N.J.R. 3303(b), 3303(c), 3304(a).

Administrative change.

See: 36 N.J.R. 4511(a), 4512(a), 4513(a).

Public Notice: Small Emitter General Air Permit (SEGAP)(GP-016).

See: 36 N.J.R. 4544(a).

### 7:27-8.9 Environmental improvement pilot tests

(a) A person may seek approval for a preconstruction permit and certificate for an environmental improvement pilot test, as defined at N.J.A.C. 7:27-8.1, of air pollution control equipment or other environmental clean-up equipment under this section.

(b) An applicant for an environmental improvement pilot test shall ensure that the equipment shall comply with all applicable requirements, and that the activities shall not cause impacts outside the property boundary.

(c) An applicant for an environmental improvement pilot test approval shall submit the application on a form obtained from the Department at the address in N.J.A.C. 7:27-8.4(b). The application shall meet the requirements of N.J.A.C. 7:27-8.4, and shall include information regarding the planned sampling, analysis, equipment or processes, potential environmental impacts, the length of time requested for the test, projected emission rates, and any other information necessary for the Department to ensure that the proposed activities fit within the definition of an environmental improvement pilot test at N.J.A.C. 7:27-8.1.

(d) The Department shall take final action on the application within 30 days of its receipt of a complete application.

(e) The Department shall determine the term of a permit and certificate for an environmental improvement pilot test approval on a case-by-case basis, but in no case shall the approval last longer than 90 days from the start of the actions covered by the environmental improvement pilot test approval. The approval may be renewed by application to the Department. The Department shall renew the environmental improvement pilot test approval only if the applicant demonstrates that continued testing of the equipment or process is needed, and that the proposed activities remain within the definition of an environmental improvement pilot test at N.J.A.C. 7:27-8.1.

(f) The fee for an environmental improvement pilot test is set forth at N.J.A.C. 7:27-8.6.

(g) The holder of an environmental improvement pilot test approval shall keep records of product run time, emission testing performed, and other data relevant to the emission of air contaminants. These records shall be kept for a minimum of five years, and any relevant data obtained must be submitted with any future application covering the source.

(h) Upon completion of the environmental improvement pilot test, the equipment involved shall cease operating, or shall return to operating under the conditions of the existing permit, if any. An environmental improvement pilot test approval does not constitute Departmental acceptance of equipment or a process for future production purposes.

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. 7:27-8.9, Reporting requirements, recodified to N.J.A.C. 7:27-8.15.

#### 7:27-8.10 Public comment

(a) The Department shall seek comments from the general public prior to making any final decision on those applications for which such comment is required by State or Federal statutes. Such applications include, but are not limited to, those applications which:

1. Are subject to the PSD requirements published at 40 CFR 52;
2. Must be submitted to the EPA for approval as revisions to any state implementation plan; or
3. Are subject to emissions offset requirements under N.J.A.C. 7:27-18.

(b) The Commissioner of the Department may seek comments from the public whenever the Commissioner finds a significant degree of public interest in an application, or whenever the Commissioner determines such comments might clarify one or more issues involved in the decision on the application. In determining whether to seek or accept public comment, the Commissioner shall consider factors relevant to the subject application and the applicable requirements. These factors may include, but are not limited to, the following:

1. The extent of any emissions increase;
2. The impact of any emissions increase on ambient air quality, human health and welfare, and the environment;
3. The applicant's record of compliance with air pollution control requirements;
4. Any other air pollution control aspects of the application or facility which might make the application of particular interest to the public.

(c) The Department shall notify those who submitted a written request for public comment of the Commissioner's decision regarding their request. The Commissioner's notification shall be in writing, and if the decision is a denial, the notification shall include a discussion of the factors in (b) above, as well as a description of all other factors which formed the basis for the decision.

New Rule, R.1991 d.109, effective March 4, 1991 (operative March 31, 1991).

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

Old section recodified to 8.6.

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).

Recodified from N.J.A.C. 7:27-8.5 and 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. Former N.J.A.C. 7:27-8.10, Revocation, recodified to N.J.A.C. 7:27-8.16.

#### 7:27-8.11 Standards for issuing a permit

(a) To obtain approval of a permit and certificate, a permit revision, or a compliance plan change, an applicant shall document that:

1. Each significant source included on the application meets all of the following standards which apply:
  - i. RACT requirements under N.J.A.C. 7:27-16 or 19;
  - ii. NSPS requirements;
  - iii. PSD requirements under 40 CFR 52.21; and
  - iv. All other applicable State or Federal air pollution control standards, codes, rules, or regulations;
2. Each significant source incorporates advances in the art of air pollution control (also called "state of the art" or "SOTA"), developed for the kind and amount of air contaminant emitted by the equipment and control apparatus, if:
  - i. The source meets the criteria at N.J.A.C. 7:27-8.12(a); and
  - ii. The applicant proposes to construct, install, reconstruct, or modify the source.

New Rule, R.1998 d.231, effective May 4, 1998 (operative June 12, 1998).

**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, crushers, grinders, mixers, crucibles, stills, dryers, roasters, 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.

**7:27-27.2 Applicability**

Any municipal solid waste incinerator, including any municipal solid waste incinerator located at an apartment building or commercial facility, regardless of size, is subject to all applicable provisions of this subchapter.

**7:27-27.3 General provisions**

(a) Each owner or operator of any equipment or source operation subject to this subchapter is responsible for ensuring compliance with all applicable requirements of this subchapter.

(b) 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 violation of this subchapter.

(c) Any person who fails to comply with any applicable provision of this subchapter shall be subject to civil penalties in accordance with N.J.A.C. 7:27A-3 and to applicable criminal penalties and sanctions 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.

**7:27-27.4 Municipal solid waste (MSW) incinerators**

(a) Each owner or operator of a MSW incinerator, which is capable of incinerating 9.6 tons or more of MSW per day, shall install and operate mercury emissions control apparatus by December 31, 1995, designed to reduce at a minimum 80 percent of the emissions of mercury from any MSW incinerator. Such design shall be capable of reducing the concentration of mercury in the flue gas from the MSW incinerator from 140  $\mu\text{g}/\text{dscm}$  (corrected to seven percent oxygen) to 28  $\mu\text{g}/\text{dscm}$  (corrected to seven percent oxygen) or less after the control apparatus. Compliance with this section shall be determined by comparing the design of the mercury emission control apparatus with the design of the control apparatus installed on similar operating facilities.

(b) Each owner or operator of a MSW incinerator of any size shall operate the MSW incinerator in accordance with provisions specified in either (b)1 or 2 below:

1. The emission of mercury from any MSW incinerator, as determined pursuant to (c) below, shall not exceed:

i. Commencing on January 1, 1996 through and including December 31, 1999, 65  $\mu\text{g}/\text{dscm}$ , based on an annual average and with each test run corrected to seven percent oxygen, as tested in accordance with a test protocol approved pursuant to (f) and (g) below; and

ii. On and after January 1, 2000, 28  $\mu\text{g}/\text{dscm}$ , based on an annual average and with each test run corrected to seven percent oxygen, as tested in accordance with a test protocol approved pursuant to (f) and (g) below; or

2. On and after January 1, 1996, mercury emissions at the exit of the control apparatus of any MSW incinerator, as determined pursuant to (c) below, shall not exceed 20 percent of the mercury emissions in the effluent from the MSW incinerator, prior to the inlet to the control apparatus, based on each quarterly average.

(c) Commencing in January 1996, the owner or operator of a MSW incinerator served by control apparatus shall perform compliance testing every quarter to measure mercury in the gas stream at the inlet of the air pollution control apparatus serving each incinerator and simultaneously perform compliance testing every quarter to measure mercury in the gas stream at the exit of the control apparatus. There shall be at least a 45 calendar day interval between the testing performed for a given quarter and the testing performed for the preceding quarter, unless a shorter period is approved by the Department. Any MSW incinerator without control apparatus shall perform compliance testing every quarter to measure mercury in the gas stream in the stack. The compliance testing shall be conducted in accordance with a test protocol approved pursuant to (f) and (g) below.

(d) Compliance with (b) above shall be determined as follows:

1. Compliance with (b)1 above shall be determined annually based on the average of all compliance testing performed in a calendar year; or

2. Compliance with (b)2 above shall be determined quarterly based on the compliance testing performed during that quarter.

(e) Notwithstanding the provisions of (c) above, any person who achieves and maintains compliance with (b)1 or 2 above, for all applicable incinerators located at a facility, during two consecutive calendar years, may reduce the frequency of compliance testing from each quarter to compliance testing performed only in the first quarter of each calendar year. However, if subsequent compliance testing fails to demonstrate compliance with (b) above, then the frequency of compliance testing shall revert to that indicated in (c) above.

(f) Compliance testing performed pursuant to (c) and (e) above shall be conducted in accordance with a test protocol approved by the Department. To obtain the approval of the Department of a test protocol, the owner or operator shall submit to the Department a proposed test protocol, setting forth all test methods, including, but not limited to, sampling and analytical procedures; a description of sampling equipment and the source sampling location(s); and provide sample calculations that will be used to determine the concentration of mercury in the gas stream. The owner or operator shall submit for review and approval a proposed test protocol each year, no less than 90 calendar days prior to the conduct of first quarter compliance testing for that calendar year to the following address:

Chief  
Bureau of Technical Services  
Department of Environmental Protection  
CN-411  
Trenton, New Jersey 08625-0411

(g) The Department shall not approve any proposed test protocol submitted pursuant to (f) above unless the test method proposed to measure mercury is:

1. EPA Reference Method 29, including all supplements and amendments thereto. This method is published in the EPA Main Bulletin Board, the Technical Transfer Network of the USEPA, under the area of Emissions Measurement Technical Information, with the file name of "M-29.ZIP-Multiple Metals" under the access number of (919) 541-5742; or

2. An equivalent method demonstrated, to the satisfaction of the Department, to be as conservative and reliable as EPA Reference Method 29 for measuring mercury.

(h) Any person who is required to alter any equipment or control apparatus in order to operate in conformance with any requirement of this subchapter shall apply to the Department for a preconstruction permit in accordance with N.J.A.C. 7:27-8.3, by December 27, 1994.

(i) The owner or operator of any MSW incinerator that has a reagent based mercury emission control system shall conduct optimization tests to determine the optimized reagent feed rate, for mercury emissions control apparatus, to determine the reagent feed rate at which the emissions of mercury below the applicable limits of (b) above are optimally minimized, as follows:

1. The optimization tests shall be performed during first quarter compliance testing required pursuant to (c) above.

2. If the owner or operator of any MSW incinerator owns or operates more than one identical incinerator at the same facility, then optimization tests may be performed on one incinerator, and the results applied to the other incinerators which are identical to that incinerator at that facility.

(j) The owner or operator of any MSW incinerator that has a reagent based mercury emission control system shall, within 60 calendar days of the conclusion of the optimization tests, submit to the Department for approval a proposed optimized reagent feed rate which minimizes mercury emission below the applicable limits, while considering the amount of reagent used. The optimized reagent feed rate is the reagent feed rate such that a higher reagent feed rate will not appreciably reduce mercury emissions compared to the amount of reagent added.

(k) The owner or operator of any MSW incinerator that has a reagent based mercury emission control system shall operate each MSW incinerator at, or above, the optimized reagent feed rate approved by the Department.

**7:27-27.5 through 7:27-27.8 (Reserved)**

**7:27-27.9 Reporting and recordkeeping**

(a) Unless prior approval is granted by the Department for later submittal, the owner or operator subject to the testing requirements of N.J.A.C. 7:27-27.4(c) or (e) shall submit a copy of the report of the results of compliance testing, including all test runs, conducted at any MSW incinerator pursuant to this subchapter within 60 calendar days after completion of the compliance testing required for that quarter to the following address:

Chief  
Bureau of Technical Services  
Department of Environmental Protection  
CN-411  
Trenton, New Jersey 08625-0411

(b) Unless prior approval is granted by the Department for later submittal, the owner or operator subject to the optimization requirements of N.J.A.C. 7:27-27.4(i) shall submit a copy of the report of the results of optimization tests conducted at any MSW incinerator pursuant to this subchapter within 60 calendar days after completion of the required tests, to the following address:

Chief  
Bureau of Air Quality Engineering  
Department of Environmental Protection  
CN-027  
Trenton, NJ 08625-0027

(c) If compliance is based on annual averages pursuant to N.J.A.C. 7:27-27.4(d)1 or (e), an owner or operator of a MSW incinerator shall report, for the preceding calendar year, the annual average mercury emissions by February 28, or the next business day if February 28 falls on a weekend or holiday, of each year. If compliance is based on quarterly averages pursuant to N.J.A.C. 7:27-27.4(d)2 or (e), an owner or operator of a MSW incinerator shall report the quarterly average control efficiency within 60 calendar days after completion of each calendar quarter. Such reports shall be submitted to:

Assistant Director  
Air and Environmental Quality Enforcement  
Department of Environmental Protection  
CN-422  
Trenton, NJ 08625-0422

(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.

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## SUBCHAPTERS 28 THROUGH 30. (RESERVED)

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## SUBCHAPTER 31. NO<sub>x</sub> BUDGET PROGRAM

### Authority

N.J.S.A. 13:1B-3 and 26:2C-1 et seq.

### Source and Effective Date

R.1998 d.379, effective July 20, 1998 (operative August 16, 1998).  
See: 29 N.J.R. 3924(b), 29 N.J.R. 4226(a), 30 N.J.R. 2660(a).

#### 7:27-31.1 Purpose and scope

This subchapter establishes a NO<sub>x</sub> Budget Program in New Jersey which, beginning in 1999, limits emissions from stationary sources of NO<sub>x</sub>. It sets forth requirements for the monitoring, recordkeeping, and reporting of NO<sub>x</sub> emissions and for certification of compliance with this program. It makes available a trading mechanism, which allows intrastate trading as well as interstate trading. In order to support the trading mechanism, this subchapter establishes rules and procedures for the allocation of the tradeable

units (that is, allowances); the transfer, use, and retirement of the allowances; and the tracking of the allowances. The NO<sub>x</sub> Budget Program set forth in this subchapter is intended to confirm with and meet USEPA's NO<sub>x</sub> Budget rules at 40 CFR 96 and meets USEPA's requirements at 40 CFR 51.121 for mitigating the interstate transport of both ozone and nitrogen oxides, a precursor to the formation of ground-level ozone.

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).

Added the last sentence.

#### 7:27-31.2 Definitions

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

“AAR” means authorized account representative.

“Account” means the place in the NO<sub>x</sub> Allowance Tracking System where allowances are held for a specific person or purpose. Such a place may be a compliance account, a general account, or a retirement account.

“Account certificate of representation” means the completed and signed submission required by N.J.A.C. 7:27-31.13 for certifying the designation of a NO<sub>x</sub> authorized account representative for a NO<sub>x</sub> Budget source or a group of identified NO<sub>x</sub> Budget sources who is authorized to represent the owners and operators of such NO<sub>x</sub> Budget source or sources with regard to matters under this subchapter.

“Account number” means the identification number given by the NATS Administrator to an account in which allowances are held in the NO<sub>x</sub> Allowance Tracking System pursuant to N.J.A.C. 7:27-31.13, NO<sub>x</sub> Allowance Tracking System.

“Acid Rain emissions limitation” means the term as defined at 40 CFR 72.2, which is a limitation on emissions of sulfur dioxide or nitrogen oxides under the Acid Rain Program under Title IV of the Clean Air Act.

“Acquiring account” means the account in an allowance transfer to which allowances are conveyed.

“Administrator” means the Administrator of the United States Environmental Protection Agency or the Administrator's duly authorized representative.

“Allocate” or “allocation” means:

1. In respect to New Jersey, the assignment of allowances pursuant to N.J.A.C. 7:27-31.7, Annual allowance allocation; or in respect to another jurisdiction, the assignment of allowances pursuant to that jurisdiction's comparable rules; and

2. The recording of the assigned allowances by the NATS Administrator in the appropriate NO<sub>x</sub> Allowance Tracking System compliance account or general account.

“Allowance” means a tradeable unit which represents the limited authorization to emit one ton of NO<sub>x</sub> during a control period.

“Allowance deduction” means the withdrawal by the NATS Administrator of one or more allowances from a NO<sub>x</sub> Allowance Tracking System general account or compliance account and the recording of such allowances in a retirement account. As prescribed in the procedures at N.J.A.C. 7:27-31.17 and 31.19, allowance deduction events relating to end-of-season reconciliation and penalty deductions may only be made from compliance accounts. As prescribed at N.J.A.C. 7:27-31.10, allowance deduction events relating to voluntary retirement may be made from a compliance account or a general account.

“Allowance transfer” means the withdrawal by the NATS Administrator of one or more allowances from a NO<sub>x</sub> Allowance Tracking System general account or compliance account and the recording of such allowances in a different general account or compliance account.

“Allowance transfer deadline” means the deadline by which an allowance transfer request may be submitted to the NATS Administrator to effect an allowance transfer for the purpose of meeting the requirement of N.J.A.C. 7:27-31.3(i) for the year’s control period. For each year from 1999 through 2002, this deadline shall be midnight December 31. For the year 2003 and each year thereafter, this deadline shall be midnight November 30, except that for the year 2003 and each year thereafter, if November 30 is not a business day, then the deadline shall be midnight of the first business day after November 30.

“Alternative monitoring system” means a monitoring system other than a CEMS, or component of such a system, that is designed to determine mass emissions per time period, air contaminant concentrations, or volumetric flow of a given source or group of sources, as provided for in N.J.A.C. 7:27-31.14, Emissions monitoring.

“Authorized account representative (AAR)” means the responsible individual designated in writing by the person who holds an account. This individual (or his or her alternate) is the sole person who has the authority, on behalf of the account, to:

1. Submit allowance transfer requests to the NATS Administrator;
2. Certify and submit information required in this subchapter, including reports to the NATS and the NETS; and

3. With respect to a budget source, to represent and legally bind each owner and operator in matters pertaining to the NO<sub>x</sub> Budget Program.

“Banked allowance” means an allowance in a general account or a compliance account which has been neither used to reconcile emissions in the year it was originally allocated nor retired, and which is therefore carried forward in the account into the next year or into successive future years. The NATS Administrator shall flag such an allowance as “banked.”

“Base budget” or “base emission budget” means the emissions budget for each control period as prescribed by the USEPA at 40 CFR 51.121, or that has been developed by applying the emission limits, jointly agreed to by the jurisdictions who are signatories of the OTC MOU, to the baseline sources’ baseline emissions, whichever is less. This term when used in respect to:

1. A specific jurisdiction, is the emission budget so established for that jurisdiction; and
2. The interstate trading program as a whole, is the sum of the emission budgets so established for all jurisdictions in the region.

“Banking” means the retention in a general account or a compliance account of one or more allowances that were allocated for use in the current or in a previous control period, but have been neither used nor retired. Such allowances may be used or retired in a future control period.

“Baseline” means, when used in reference to the emissions or productivity of a source, one of the following:

1. For an opt-in source, the average emissions or average productivity of that source during the two consecutive May 1 through September 30 periods on which the increase in the New Jersey emission budget made to accommodate the source was based, pursuant to N.J.A.C. 7:27-31.4; or
2. For a baseline source, the emissions or productivity attributed to that source in the 1990 baseline NO<sub>x</sub> emission inventory.

“Baseline NO<sub>x</sub> emission inventory” means the emissions inventory which developed jointly by all jurisdictions in the OTR and which sets forth, for all baseline sources, the NO<sub>x</sub> emissions of these sources for the period May 1 and September 30, 1990. This inventory is the emission baseline from which emission reductions are calculated for purposes of determining the effectiveness of the NO<sub>x</sub> Budget Program in limiting NO<sub>x</sub> emissions.

“Baseline source” means a source which is one of the following and which operated during the May 1 through September 30 period in 1990: