

7:27-17.7 Permit to construct and certificate to operate

(a) No person shall construct or install any new equipment, or any new control apparatus, or alter any existing equipment or control apparatus from which TXS are emitted into the outdoor atmosphere without first having obtained a permit which authorizes the construction, installation, or alteration. The permit may be a preconstruction permit and certificate under N.J.A.C. 7:27-8, an operating permit under N.J.A.C. 7:27-22, or a facility-wide permit as defined at N.J.A.C. 7:1K-1.5.

(b) No person shall use or cause to be used any new or altered equipment, or any new or altered control apparatus from which TXS are emitted into the outdoor atmosphere, if the equipment or control apparatus is subject to the preconstruction permit requirements at N.J.A.C. 7:27-8, without first having obtained an operating certificate from the Department, in accordance with the provisions of N.J.A.C. 7:27-8.

(c) No person shall use or cause to be used any equipment or control apparatus from which TXS are emitted into the outdoor atmosphere unless all components connected, or attached to, or serving the equipment, including control apparatus, are functioning properly and are in use in accordance with any relevant "Permit to Construct, Install or Alter Control Apparatus or Equipment" and any relevant "Certificate to Operate Control Apparatus or Equipment".

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).
"TVOS" replaced by "TXS".

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 (a) and (b).

7:27-17.8 Applicability

(a) Operations and equipment covered by this subchapter shall include, but not be limited to, storage tanks, transfer operations, open top tanks, surface cleaning, surface coating, organic chemical manufacture, pharmaceutical manufacture, petroleum refining, and miscellaneous organic solvent uses in which one or more of the toxic substances in Table 1 are stored, used, or manufactured.

(b) Whenever persons, equipment, control apparatus or TXS subject to the provisions of this subchapter are also subject to the provisions of any other subchapters of this chapter, the requirements of the relevant provisions of this subchapter and all subchapters of this chapter will apply.

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

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).
"TVOS" replaced by "TXS".

7:27-17.9 Exceptions

(a) The provisions of sections 3, 4 and 6(c) of this subchapter shall not apply to the benzene constituent of gasoline which is discharged to the atmosphere from storage tanks or transfer operations.

(b) The provisions of this subchapter shall not apply to any TXS which:

1. Was not added to or deliberately formed in a raw material or a finished product; and
2. Does not exceed 0.25 percent by weight of any raw material or finished product; and
3. Is not emitted from any source operation, storage tank, or transfer operation at a rate in excess of 0.1 pounds (45.4 grams) per hour.

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).
"TVOS" replaced by "TXS".

SUBCHAPTER 18. CONTROL AND PROHIBITION OF AIR POLLUTION FROM NEW OR ALTERED SOURCES AFFECTING AMBIENT AIR QUALITY (EMISSION OFFSET RULES)

Authority

N.J.S.A. 26:2C-1 et seq., unless otherwise stated.

Subchapter Historical Note

R.1979 d.237, filed June 14, 1979 to become effective June 30, 1979. See: 11 N.J.R. 327(a). As amended R.1980 d.307, filed July 8, 1980 to become effective September 8, 1980. See: 11 N.J.R. 327(a), 12 N.J.R. 462(c).

Law Review and Journal Commentaries

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

New Rules Establish Clean Air Act Standards, 132 N.J.L.J. No. 8, S10 (1992).

7:27-18.1 Definitions

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

"Actual emissions" means the actual rate of emissions of an air contaminant from a source operation, equipment, or control apparatus. The actual rate of emissions, as of a particular date, shall equal the average rate at which the air contaminant was actually emitted during the two calendar years that are immediately preceding the particular date

provided these are representative of normal source operation. The Department may allow the use of a time period different from this two year period only upon a determination that the different time period is more representative of normal operation. Actual emissions shall be calculated using the actual operating hours, production rates, and types of materials used, processed, stored, or combusted during the selected time period. Generally, the particular date is the permit application date, but may be another date specified by the Department. For any equipment, source operation, or control apparatus which has not begun normal operations as of the particular date, the Department shall assume that its actual emissions equal its allowable emissions. Actual emissions shall, for the purposes of this subchapter, be expressed in tons per year.

“Aerodynamic diameter” means the theoretical diameter of a nonspherical particle having the same terminal settling velocity as an equally dense, spherical particle of such diameter.

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

“Air quality impact analysis” means a procedure, entailing the use of an air quality simulation model, for determining whether air contaminant emissions will result in an ambient air concentration that exceeds a standard established for the protection of human health and welfare and the environment.

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

“Allowable emission” means the rate at which an air contaminant may be emitted into the outdoor atmosphere. This rate shall be based on the maximum rated capacity of the equipment, unless the equipment is subject to Federally enforceable limits which restrict the operating rate, hours of operations, or both. In such cases this rate is based on the most stringent of the following:

1. Applicable standards of performance for new stationary sources (NSPS) as set forth in 40 CFR 60;
2. Applicable national emission standards for hazardous air pollutants (NESHAP) as set forth in 40 CFR 61;
3. Applicable emission, equipment, and operating standards as set forth in this chapter, including those with a future compliance date;
4. Applicable emission limitations specified in a Federally enforceable permit, including limitations with a future compliance date; and

5. Any emission limitation in an applicable State Implementation Plan (SIP).

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

1. If the equipment, control apparatus, or source operation is subject to preconstruction permit requirements, a change which requires a permit revision under N.J.A.C. 7:27-8.18; or
2. If the equipment, control apparatus, or source operation is at a facility for which an operating permit has been issued, a change which requires a minor modification or a significant modification of the permit under N.J.A.C. 7:27-22.23 or 24.

“Alternative fuel” means, with respect to any source operation, any fuel whose use is not authorized by any permit or, for a source operation without a permit, this term means any fuel not used in the source operation since December 21, 1976.

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

“Attainment area” means any area of the State which is not a nonattainment area.

“Banking” means the reservation of creditable emission reductions, pursuant to N.J.A.C. 7:27-18.8, for future use as emission offsets.

“Carbon monoxide” or “CO” means a gas having a molecular composition of one carbon atom and one oxygen atom.

“CAA” means the Clean Air Act as amended November 1990 (42 USC 7401 et seq., as amended by Pub. L. 101-549).

“Commence construction” or “commencement of construction” means, with respect to construction, reconstruction, or modification of equipment or control apparatus at a facility, the beginning of initiation of physical on-site construction. For the purpose of this subchapter, this term shall include installation activities on any source operation, equipment, or control apparatus, which are of a permanent nature. Such activities shall include, but are not limited to, establishment of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation at a facility, this term refers to the beginning of those on-site activities which mark the initiation of the change in method of operation.