

CHAPTER 27

AIR POLLUTION CONTROL

Authority

N.J.S.A. 13:1B-3, 13:1B-3(e), 13:1D-9, 13:1D-134 et seq., 26:2C-1 et seq., in particular 26:2C-9b(7)(b), 9.2 and 9.5, 26:2C-8 et seq., specifically 26:2C-8, 8.1 through 8.5, 8.11, and 39:8-61.

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Subchapter 30, Open Market Emissions Trading, was repealed by R.2004 d.129, effective April 5, 2004 (operative April 25, 2004).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

Subchapter 31, NO_x Budget Program, was adopted as new rules by 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).

Subchapter 26, National Low Emission Vehicle (NLEV) Program, and Subchapter 26 Appendix were repealed and Subchapter 29, Low Emission Vehicle Program, was adopted as new rules by R.2006 d.34, effective January 17, 2006 (operative January 27, 2006).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).

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).

Overturning 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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APPENDIX. CHEMICALS DEFINING SYNTHETIC ORGANIC CHEMICAL AND POLYMER MANUFACTURING

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.

Section 2143	Failure Levels Triggering Recall
Section 2144	Emission Warranty Information Report
Section 2145	Field Information Report
Section 2146	Emissions Information Report
Section 2147	Demonstration of Compliance with Emission Standards
Section 2148	Evaluation of Need for Recall
Section 2149	Notification of Subsequent Action
	Chapter 3
	Surveillance Testing
Section 2150	Assembly-Line Surveillance
Section 2151	New Motor Vehicle Dealer Surveillance
	Chapter 4.4
	Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks
Section 2235	Requirements

(h) Any of the documents in (e) above may be obtained by contacting:

Department of Environmental Protection
Division of Air Quality
Bureau of Motor Vehicle Inspection and Maintenance
PO Box 437
Trenton, New Jersey 08625-0411
Attention: LEV Program

They may also be obtained by contacting:

State of California
Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, California 95814-4339

or at the California Office of Administrative Law website at www.oal.ca.gov

7:27-29.14 Severability

Each section of this subchapter is severable. In the event that any section, subsection or division is held invalid in a court of law, the remainder of this subchapter shall continue in full force and effect.

SUBCHAPTER 30. (RESERVED)

SUBCHAPTER 31. NO_x BUDGET PROGRAM

7:27-31.1 Purpose and scope

This subchapter establishes a NO_x Budget Program in New Jersey which, beginning in 1999, limits emissions from stationary sources of NO_x. It sets forth requirements for the monitoring, recordkeeping, and reporting of NO_x 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_x Budget Program set forth in this subchapter is intended to confirm with and meet USEPA's NO_x 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_x 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_x authorized account representative for a NO_x Budget source or a group of identified NO_x Budget sources who is authorized to represent the owners and operators of such NO_x 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_x Allowance Tracking System pursuant to N.J.A.C. 7:27-31.13, NO_x 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_x Allowance Tracking System compliance account or general account.

“Allowance” means a tradeable unit which represents the limited authorization to emit one ton of NO_x during a control period.

“Allowance deduction” means the withdrawal by the NATS Administrator of one or more allowances from a NO_x 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_x 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_x 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_x emission inventory.

“Baseline NO_x 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_x 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 NOx Budget Program in limiting NO_x 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:

ii. For a source not used to generate electricity, compliance with this subchapter for the 2003 control period by May 1, 2003 would create undue risk for the source or its associated industry to a degree that is comparable to the risk described in (b)6i above;

iii. It would not be possible for the source to comply with this subchapter by generating early reduction allowances or acquiring early reduction allowances from other sources;

iv. It would not be possible to comply with this subchapter by acquiring sufficient allowances from other persons who hold allowances; and

v. The owner or operator has made a written commitment to the Department to install advanced NO_x control systems or to repower, either of which is designed to achieve a 90 percent NO_x emission rate reduction.

7. The Department shall review all requests made pursuant to (b)6 above, and shall ensure the public an opportunity, through a public hearing process, to comment on the appropriateness of the allocating compliance supplement pool allowances to the requests interimly approved by the Department before allocating the allowances pursuant to (b)4 above.

New Rule. 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).

APPENDIX

CHEMICALS DEFINING SYNTHETIC ORGANIC CHEMICAL AND POLYMER

MANUFACTURING

CAS #	Chemical	CAS #	Chemical
105-57-7	Acetal	123-30-8	p-Aminophenol
75-07-0	Acetaldehyde	628-63-7, 123-92-2	Amyl acetates
107-89-1	Acetaldol	71-41-0,†	Amyl alcohols
60-35-5	Acetamide	110-58-7	Amyl amine
103-84-4	Acetanilide	543-59-9	Amyl chloride
64-19-7	Acetic acid	110-66-7,†	Amyl mercaptans
108-24-7	Acetic anhydride	1322-06-1	Amyl phenol
67-64-1	Acetone	62-53-3	Aniline
75-86-5	Acetone cyanohydrin	142-04-1	Aniline hydrochloride
75-05-8	Acetonitrile	29191-52-4	Anisidine
96-86-2	Acetophenone	100-66-3	Anisole
75-36-5	Acetyl chloride	118-92-3	Anthranilic acid
74-86-2	Acetylene	84-65-1	Anthraquinone
107-02-8	Acrolein	100-52-7	Benzaldehyde
79-06-1	Acrylamide	55-21-0	Benzamide
79-10-7	Acrylic acid	71-43-2	Benzene
107-13-1	Acrylonitrile	98-48-6	Benzenedisulfonic acid
124-04-9	Adipic acid	98-11-3	Benzenesulfonic acid
111-69-3	Adiponitrile	134-81-6	Benzil
††	Alkyl naphthalenes	76-93-7	Benzilic acid
107-18-6	Allyl alcohol	65-85-0	Benzoic acid
107-05-1	Allyl chloride	119-53-9	Benzoin
1321-11-5	Aminobenzoic acid	100-47-0	Benzonitrile
111-41-1	Aminoethylethanolamine	119-61-9	Benzophenone
		98-07-7	Benzotrichloride
		98-88-4	Benzoyl chloride
		100-51-6	Benzyl alcohol
		100-46-9	Benzylamine
		120-51-4	Benzyl benzoate
		100-44-7	Benzyl chloride
		98-87-3	Benzal chloride
		92-52-4	Biphenyl
		80-05-7	Bisphenol A
		108-86-1	Bromobenzene
		27497-51-4	Bromonaphthalene
		106-99-0	Butadiene
		106-98-9	l-butene
		123-86-4	n-butyl acetate
		141-32-2	n-butyl acrylate
		71-36-3	n-butyl alcohol
		78-92-2	s-butyl alcohol
		75-65-0	t-butyl alcohol
		109-73-9	n-butylamine
		13952-84-6	s-butylamine
		75-64-9	t-butylamine
		98-73-7	4-tert-butyl benzoic acid
		107-88-0	1,3-butylene glycol
		123-72-8	n-butyraldehyde
		107-92-6	Butyric acid
		106-31-0	Butyric anhydride
		109-74-0	Butyronitrile
		105-60-2	Caprolactam
		75-15-50	Carbon disulfide
		558-13-4	Carbon tetrabromide
		56-23-5	Carbon tetrachloride
		9004-35-7	Cellulose acetate
		79-11-8	Chloroacetic acid
		108-42-9	m-chloroaniline
		95-51-2	o-chloroaniline
		106-47-8	p-chloroaniline
		35913-09-8	Chlorobenzaldehyde
		108-90-7	Chlorobenzene
		†	Chlorobenzene acid
		†	Chlorobenzotrichloride
		1321-03-5	Chlorobenzoyl chloride
		25497-29-4	Chlorodifluoromethane

CAS #	Chemical	CAS #	Chemical
75-45-6	Chlorodifluoroethane	75-18-3	Dimethyl sulfide
67-66-3	Chloroform	67-68-5	Dimethyl sulfoxide
25586-43-0	Chloronaphthalene	120-61-6	Dimethyl terephthalate
88-73-3	o-chloronitrobenzene	99-34-3	3,5-dinitrobenzoic acid
100-00-5	p-chloronitrobenzene	51-28-5	2,4-dinitrophenol
25167-80-0	Chlorophenols	25321-14-6	Dinitrotoluene
126-99-8	Chloroprene	123-91-1	Dioxane
7790-94-5	Chlorosulfonic acid	646-06-0	Dioxolane
108-41-8	m-chlorotoluene	122-39-4	Diphenylamine
95-49-8	o-chlorotoluene	101-84-8	Diphenyl oxide
106-43-4	p-chlorotoluene	102-08-9	Diphenyl thiourea
75-72-9	Chlorotrifluoromethane	25265-71-8	Dipropylene glycol
108-39-4	m-cresol	25378-22-7	Dodecene
95-48-7	o-cresol	28675-17-4	Dodecylaniline
106-44-5	p-cresol	27193-86-8	Dodocylphenol
1319-77-3	Mixed cresols	106-89-8	Epichlorohydrin
1319-77-3	Cresylic acid	64-17-5	Ethanol
4170-30-0	Crotonaldehyde	†	Ethanolamines
3724-65-0	Crotonic acid	141-78-6	Ethyl acetate
98-82-8	Cumene	141-97-9	Ethyl acetoacetate
80-15-9	Cumene hydroperoxide	140-88-5	Ethyl acrylate
372-09-8	Cyanoacetic acid	75-04-7	Ethylamine
506-77-4	Cyanogen chloride	100-41-4	Ethylbenzene
108-80-5	Cyanuric acid	74-96-4	Ethyl bromide
108-77-0	Cyanuric chloride	9004-57-3	Ethylcellulose
110-82-7	Cyclohexane	75-00-3	Ethyl chloride
108-93-0	Cyclohexanol	105-39-5	Ethyl chloroacetate
108-04-1	Cyclohexanone	105-56-6	Ethylcyanoacetate
110-83-8	Cyclohexene	74-85-1	Ethylene
108-91-8	Cyclohexylamine	96-49-1	Ethylene carbonate
111-78-4	Cyclooctadiene	107-07-3	Ethylene chlorohydrin
112-30-1	Decanol	107-15-3	Ethylenediamine
123-42-2	Diacetone alcohol	106-93-4	Ethylene dibromide
27576-04-1	Diaminobenzoic acid	107-21-1	Ethylene glycol
†	Dichloroaniline	111-55-7	Ethylene glycol diacetate
541-73-1	m-dichlorobenzene	110-71-4	Ethylene glycol dimethyl ether
95-50-1	o-dichlorobenzene	111-76-2	Ethylene glycol monobutyl ether
106-46-7	p-dichlorobenzene	112-07-2	Ethylene glycol monobutyl ether acetate
75-71-8	Dichloroethane	110-80-5	Ethylene glycol monoethyl ether
107-06-2	1,2-dichloroethane (EDC)	111-15-9	Ethylene glycol monoethyl ether acetate
111-44-4	Dichloroethyl ether	109-86-4	Ethylene glycol monomethyl ether
96-23-1	Dichlorohydrin	110-49-6	Ethylene glycol monomethyl ether acetate
26952-23-8	Dichloropropene	122-99-6	Ethylene glycol monophenyl ether
101-83-7	Dicyclohexylamine	2807-30-9	Ethylene glycol monopropyl ether
109-89-7	Diethylamine	75-21-8	Ethylene oxide
111-46-6	Diethylene glycol	60-29-7	Ethyl ether
112-36-7	Diethylene glycol diethyl ether	104-76-7	2-ethylhexanol
111-96-6	Diethylene glycol dimethyl ether	122-51-0	Ethyl orthoformate
112-34-5	Diethylene glycol monobutyl ether	95-92-1	Ethyl oxalate
124-17-4	Diethylene glycol monobutyl ether acetate	41892-71-1	Ethyl sodium oxalacetate
111-90-0	Diethylene glycol monoethyl ether	50-00-0	Formaldehyde
112-15-2	Diethylene glycol monoethyl ether acetate	75-12-7	Formamide
111-77-3	Diethylene glycol monomethyl ether	64-18-6	Formic acid
64-67-5	Diethyl sulfate	110-17-8	Fumaric acid
75-37-6	Difluoroethane	98-01-1	Furfural
25167-70-8	Diisobutylene	56-81-5	Glycerol
26761-40-0	Diisodecyl phthalate	26545-73-7	Glycerol dichlorohydrin
27554-26-3	Diisooctyl phthalate	25791-96-2	Glycerol triether
674-82-8	Diketene	56-40-6	Glycine
124-40-3	Dimethylamine	107-22-2	Glyoxal
121-69-7	N,N-dimethylaniline	118-74-1	Hexachlorobenzene
115-10-6	N,N-dimethyl ether	67-72-1	Hexachloroethane
68-12-2	N,N-dimethylformamide	36653-82-4	Hexadecanol
57-14-7	Dimethylhydrazine	124-09-4	Hexamethylenediamine
77-78-1	Dimethyl sulfate	629-11-8	Hexamethylene glycol
		100-97-0	Hexamethylenetetramine