

(o) This section shall not limit the Department's authority to pursue any form of relief or remedy provided by law or regulation, including injunctive relief, pursuant to N.J.S.A. 26:2C-19(a), civil administrative penalties pursuant to N.J.S.A. 26:2C-19(b), civil penalties pursuant to N.J.S.A. 26:2C-19(d) and criminal sanctions pursuant to N.J.S.A. 26:2C-19(f).

New Rule, R.1995 d.493, effective September 5, 1995 (operative October 8, 1995).
See: 27 N.J.R. 1040(a), 27 N.J.R. 3421(a).
Amended by R.1999 d.242, effective August 2, 1999 (operative August 31, 1999).
See: 30 N.J.R. 2396(a), 31 N.J.R. 2200(a).
Rewrote (h).

7:27-22.26 MACT and GACT standards

(a) This section shall take effect upon EPA's interim approval of the Department's operating permit program except for (f)1, 2 and 3 below, which shall take effect upon EPA's interim approval of the Department's operating permit program or EPA promulgation of rules implementing 42 U.S.C. 7412(g), whichever is later.

(b) Except as provided at (c) and (d) below, an owner or operator of a facility subject to an EPA-promulgated MACT or GACT standard, or a case-by-case MACT standard, shall submit an application to the Department to have the MACT or GACT standard incorporated into the facility's operating permit pursuant to the relevant provisions of N.J.A.C. 7:27-22.5 for initial operating permits, N.J.A.C. 7:27-22.20 for administrative amendments, N.J.A.C. 7:27-22.23 for minor modifications, or N.J.A.C. 7:27-22.24 for significant modifications.

(c) An owner or operator of an area source subject to an EPA-promulgated MACT or GACT standard is not required to obtain an operating permit if the MACT or GACT standard as promulgated by EPA explicitly states that state agencies are given the option of excluding affected area sources from the requirement to obtain operating permits, provided that the only reason for needing an operating permit is the MACT or GACT standard.

(d) An owner or operator of an area source subject to an EPA-promulgated MACT or GACT standard may postpone applying for an operating permit for five years from the promulgation of the MACT or GACT standard, if the MACT or GACT standard as promulgated by EPA explicitly states that state agencies may defer the requirement to obtain operating permits for affected area sources, provided that the only reason for needing an operating permit is the MACT or GACT standard.

(e) A facility or source operation shall be subject to a MACT or GACT standard promulgated by EPA if:

1. The facility or source operation is in operation at the time the MACT or GACT standard is promulgated, and the facility or source operation meets the applicability criteria set forth in the MACT or GACT standard;

2. The facility or source operation is subsequently modified such that the facility or source operation would meet the applicability criteria set forth in the MACT or GACT standard; or

3. A new facility or source operation is constructed such that the new facility or source operation meets the applicability criteria set forth in the MACT or GACT standard.

(f) A case-by-case MACT standard shall be established for a facility or any source operation(s) which constitutes a major HAP facility if any of the following occur:

1. The construction of a major HAP facility, if EPA has not promulgated a specific MACT standard applicable to the new source operation(s);

2. The reconstruction of a major HAP facility, if EPA has not promulgated a specific MACT standard applicable to the reconstructed source operation(s);

3. The modification of a major HAP facility, if EPA has not promulgated a specific MACT standard applicable to the new or modified source operation(s), provided that:

- i. Any physical change in, or change in the method of operation of, the major HAP facility increases the facility's actual emissions of any HAP by an amount that exceeds the de minimis emission rates set forth in the EPA document "Documentation of De minimis Rates for Proposed 40 CFR 63 Subpart B" (EPA 453/R-93-035); or

- ii. Any physical change in, or change in the method of operation of, the major HAP facility results in the emission of any HAP not previously emitted in an amount that exceeds the de minimis emission rates set forth in the EPA document "Documentation of De minimis Rates for Proposed 40 CFR 63 Subpart B" (EPA 453/R-93-035); or

4. The failure of EPA to promulgate the specific MACT standard applicable to an existing major HAP facility by 18 months after the deadline set by EPA for such promulgation at 58 FR 63941.

(g) Case-by-case MACT standards established for major HAP facilities, or source operations which constitute a major HAP facility, shall be established in accordance with the provisions of 40 C.F.R. 63.

(h) The Department may allow a six year extension of time for complying with a MACT or GACT standard promulgated by EPA for one or more source operations at a facility, if the source operation achieves sufficient early reductions of HAP emissions as described in N.J.A.C. 7:27-22.34.

(i) A source operation for which construction or reconstruction is commenced after EPA proposes an applicable MACT or GACT standard, but before the MACT or GACT standard is promulgated, shall not be required to comply with

the standard as promulgated until three years after the date construction or reconstruction is commenced, provided that the source operation, as authorized in the preconstruction permit, complies with the MACT or GACT standard as proposed. However, the source operation will still be subject to the operating permit application requirements described in (b) above.

(j) A facility which has installed BACT, pursuant to a permit required under 40 CFR 52.21, or LAER, pursuant to N.J.A.C. 7:27-18, prior to EPA's promulgation of a MACT or GACT standard applicable to that facility, shall not be required to comply with the MACT or GACT standard until five years after the date of that installation of BACT or LAER, if the BACT or LAER controls the same pollutant(s) as that identified in the MACT or GACT standard. However, the facility will still be subject to the operating permit application requirements described in (b) above.

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

7:27-22.27 Operating scenarios

(a) The Department will include operating scenarios in an operating permit, if the operating scenarios meet all applicable requirements, including, but not limited to, all applicable emission standards.

1. Operating scenarios may, as appropriate, be incorporated into a permit through an application for an initial operating permit, a significant modification, or a minor modification pursuant to N.J.A.C. 7:27-22.5, 22.24 or 22.23, respectively.

2. New operating scenarios may be authorized through a notice of a seven-day-notice change pursuant to N.J.A.C. 7:27-22.22, provided the emission limit for a source operation included in operating scenarios which are being added by a seven-day-notice to an existing operating permit shall not exceed the maximum allowable emission limits in the existing operating permit for the source operation.

(b) At a facility authorized to operate under one or more operating scenarios, the permittee shall maintain contemporaneous information on the change from one operating scenario to another. This can be any means of recording information associated with the scenario in question, either manually or electronically, including but not limited to: batch sheets, production sheets, fuel records, and process records.

(c) The permittee shall ensure that operation under an operating scenario meets all permit conditions, applicable requirements, and the requirements of this chapter.

(d) An applicant or permittee seeking authorization for operating scenarios shall provide to the Department, in the application for an initial operating permit, significant modification,

or minor modification, or in a seven-day-notice, at least the following information:

1. A description of each proposed operating scenarios, including, but not limited to, information on any emission changes from existing approved operating scenarios;

2. The specific source operations that are to be included in the proposed operating scenarios;

3. If the equipment combusts fuel, the fuels that will be used under the proposed operating scenarios, and the maximum quantity of fuel proposed to be used annually;

4. The product(s) that will be produced under the proposed operating scenarios; and

5. For any operating parameter addressed or limited in the existing operating permit that may be changed under the proposed operating scenario, proposed ranges or limits for that parameter relevant to air contaminant emissions. This shall include, but not be limited to, parameters such as the quantity or type of raw material used. Operating parameters which do not affect emissions need not be included in the operating scenario. As long as the facility operates within the range or limit of each specified parameter in an approved operating scenario, such operation shall be considered consistent with that operating scenario.

(e) In addition to the information required at (d) above, the following information shall be provided to the Department if the operating scenario is proposed to be added to an existing operating permit as a seven-day-notice:

1. For each source operation included in the operating scenario:

i. The maximum allowable emissions limits established in the operating permit for each air contaminant;

ii. A demonstration that each of the emissions limits listed pursuant to (e)i above will not be exceeded under the proposed operating scenario; and

iii. A demonstration that, under the proposed operating scenario, any new air contaminant not authorized by the existing operating permit would be emitted at a rate less than the applicable threshold for reporting emissions set forth in Table A or B in the Appendix to this subchapter.

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

7:27-22.28 CO₂ budget trading program

(a) A permittee for a facility subject to N.J.A.C. 7:27C shall incorporate the requirements of the CO₂ budget trading program at N.J.A.C. 7:27C, as applicable, into the operating permit.