

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, and 8.11; and 39:8-61.

Chapter Expiration Date

Chapter 27, Air Pollution Control, is exempt from expiration under Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1 pursuant to 42 U.S.C. §§7401 et seq.

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Subchapter 30, Open Market Emissions Trading, was repealed by R.2004 d.129, effective April 5, 2004 (operative April 25, 2004).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, NOx 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Subchapter 26, National Low Emission Vehicle (NLEV) Program, and Subchapter 26 Appendix were repealed and Subchapter 29, Low Emission Vehicle Program, was adopted as new rules by R.2006 d.34, effective January 17, 2006 (operative January 27, 2006).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).

Subchapter 30, CAIR NOx Trading Program, was adopted as new rules by R.2007 d.223, effective July 16, 2007 (operative August 17, 2007). See: 39 N.J.R. 300(a), 39 N.J.R. 2637(a).

Subchapter 32, Diesel Retrofit Program, was adopted as new rules by R.2007 d.235, effective August 6, 2007 (operative September 8, 2007). See: 38 N.J.R. 5244(a), 39 N.J.R. 3352(a).

Subchapter 26, Prevention of Air Pollution from Adhesives, Sealants, Adhesive Primers and Sealant Primers, and Subchapter 34, TBAC Emissions Reporting, were adopted as new rules by R.2008 d.366, effective December 1, 2008 (operative December 29, 2008). See: 39 N.J.R. 4492(a), 40 N.J.R. 6769(a).

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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.

1. During any 12 consecutive months, the geometric mean value of all 24-hour averages of suspended particulate matter concentrations in ambient air shall not exceed 60 micrograms per cubic meter; and

2. During any 12 consecutive months, 24-hour average concentrations may exceed 150 micrograms per cubic meter no more than once.

7:27-13.4 Ambient air quality standards for sulfur dioxide

(a) The primary air quality standards are:

1. During any 12 consecutive months, the arithmetic mean concentration of sulfur dioxide in ambient air shall not exceed 80 micrograms per cubic meter (0.03 ppm); and

2. During any 12 consecutive months, 24-hour average concentrations may exceed 365 micrograms per cubic meter (0.14 ppm) no more than once.

(b) The secondary air quality standards are:

1. During any 12 consecutive months, the arithmetic mean concentration of sulfur dioxide in ambient air shall not exceed 60 micrograms per cubic meter (0.02 ppm);

2. During any 12 consecutive months, 24-hour average concentrations may exceed 260 micrograms per cubic meter (0.1 ppm) no more than once; and

3. During any 12 consecutive months, three-hour average concentrations may exceed 1,300 micrograms per cubic meter (0.5 ppm) no more than once.

7:27-13.5 Ambient air quality standards for carbon monoxide

(a) The primary and secondary air quality standards are:

1. During any 12 consecutive months, eight-hour average concentrations of carbon monoxide in ambient air may exceed ten milligrams per cubic meter (9 ppm) no more than once; and

2. During any 12 consecutive months, one-hour average concentrations may exceed 40 milligrams per cubic meter (35 ppm) no more than once.

Amended by R.1985 d.252, effective May 20, 1985 (operative June 6, 1985).

See: 16 N.J.R. 1676(a), 17 N.J.R. 1292(a).

7:27-13.6 Ambient air quality standards for ozone

(a) The primary air quality standard is:

1. During any 12 consecutive months, daily maximum one-hour average concentrations of ozone in ambient air may exceed 0.12 ppm (235 micrograms per cubic meter) no more than once.

(b) The secondary air quality standard is:

1. During any 12 consecutive months, one-hour average concentrations of ozone in ambient air may exceed 0.08 ppm (160 micrograms per cubic meter) no more than once.

Amended by R.1985 d.252, effective May 20, 1985 (operative June 6, 1985).

See: 16 N.J.R. 1676(a), 17 N.J.R. 1292(a).

(a) added; original section is now (b)1.

7:27-13.7 Ambient air quality standards for lead

(a) The primary and secondary air quality standards are:

1. During any three consecutive months, the arithmetic mean of 24-hour averages of lead concentrations in ambient air shall not exceed 1.5 micrograms per cubic meter.

Amended by R.1985 d.252, effective May 20, 1985 (operative June 6, 1985).

See: 16 N.J.R. 1676(a), 17 N.J.R. 1292(a).

Deleted old text and substituted new.

7:27-13.8 Ambient air quality standards for nitrogen dioxide

(a) The primary and secondary air quality standards are:

1. During any 12 consecutive months, the arithmetic mean concentration of nitrogen dioxide in ambient air shall not exceed 100 micrograms per cubic meter (0.05 ppm).

Amended by R.1985 d.252, effective May 20, 1985 (operative June 6, 1985).

See: 16 N.J.R. 1676(a), 17 N.J.R. 1292(a).

Added "(a) The primary ... standards are:".

SUBCHAPTER 14. CONTROL AND PROHIBITION OF AIR POLLUTION FROM DIESEL-POWERED MOTOR VEHICLES

7:27-14.1 Definitions

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

"Alternative smoke opacity standard" means the smoke opacity standard applicable to a specific vehicle-engine-chassis combination, as determined by the procedure set forth at N.J.A.C. 7:27B-4.5.

"California Air Resources Board" or "CARB" means the agency of the State of California established and empowered to regulate sources of air pollution, including motor vehicles, pursuant to California Health and Safety Code, Sections 39500 et seq.

"Certified configuration" means a heavy-duty diesel engine design or a light-duty diesel-powered motor vehicle-engine-

chassis design certified by either of the following agencies as meeting the applicable emission standards for heavy-duty diesel engines or light-duty diesel-powered motor vehicles manufactured in a given model year:

1. EPA, for model year 1971 or for a more recent model year heavy-duty diesel vehicle engine;
2. EPA, for model year 1968 or for a more recent model year light-duty diesel vehicle;
3. CARB, for model year 1973 or for a more recent model year heavy-duty diesel vehicle engine; or
4. CARB, for model year 1966 or for a more recent model year light-duty diesel vehicle.

“Closed crankcase ventilation system” means a system installed upon an internal combustion engine and that is designed to capture all solids, liquids and gases that are emitted from the vent and divert them to the engine intake air plenum for recombustion.

“Data link connector” or “DLC” means a standardized 16-pin diagnostic test receptacle used to connect an analyzer to a motor vehicle.

“Department” means the New Jersey Department of Environmental Protection.

“Diagnostic Trouble Code” or “DTC” means an alphanumeric code stored in the on board diagnostic system of a motor vehicle, which generally indicates the malfunction of a system or component. These codes are defined by SAE J2012 Diagnostic Trouble Code Definitions, (MAR92). Copies of SAE J2012 may be obtained from the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, PA 15096-0001.

“Diesel bus” means any diesel-powered autobus or motorbus of any size or configuration, whether registered in this State or elsewhere, that is designed or used for intrastate or interstate transportation of passengers for hire or otherwise on a public road, street or highway or any public or quasi-public property in this State, including, but not limited to, autobuses under the jurisdiction of the New Jersey Department of Transportation pursuant to Titles 27 or 48 of the Revised Statutes; autobuses of the New Jersey Transit Corporation and its contract carriers that are under the inspection jurisdiction of the New Jersey Department of Transportation; autobuses that are subject to Federal motor carrier safety regulations; autobuses under the authority of the Interstate Commerce Commission or its successor agency; school buses, as defined pursuant to N.J.S.A. 39:1-1; and hotel, casino, charter, and special buses.

“Diesel emission inspection center” or “DEIC” means a diesel emissions inspection center licensed by the MVC pursuant to N.J.S.A. 39:8-59 et seq. and N.J.A.C. 13:20-47.

“Diesel emissions testing equipment” means equipment used to conduct a test of a diesel-powered motor vehicle in accordance with N.J.A.C. 7:27B-4 and, which satisfies all applicable specifications set forth at N.J.A.C. 7:27B-4.2(d) and 4.6. For motor vehicle inspections conducted pursuant to N.J.A.C. 7:27B-4 and this subchapter, this term shall include all devices used for performing a motor vehicle inspection including, but not limited to, smoke opacity meters, exhaust gas analyzers, on board diagnostic scanners and analyzers and computers and related software.

“Diesel engine” means a compression ignition type of internal combustion engine.

“Diesel particulate filter” means an exhaust emissions aftertreatment device that physically entraps and prevents from being emitted into the air at least 85 percent of the particulate matter contained in the full exhaust stream emitted by the engine.

“Diesel-powered” means utilizing a diesel engine.

“Electrification technology” means a technology that harnesses an off-vehicle electrical system to provide a vehicle with climate control and other needs.

“Element of design” means any part or system on a motor vehicle or a motor vehicle engine pertaining to the vehicle’s or engine’s certified configuration.

“Emission control apparatus” means any device utilized by the vehicle manufacturer and/or the engine manufacturer to control the release of any regulated emission, including any associated component, which monitors the function and maintenance of such a device, regardless of the location of the device on the vehicle. This term shall also include any retrofit device added to the vehicle or engine as part of a mandatory or voluntary retrofit program for emission control.

“EPA” means the United States Environmental Protection Agency.

“EPA Memorandum 1A” means the memorandum dated June 25, 1974 and issued by the EPA’s Office of Enforcement and General Counsel, which sets forth the EPA’s interim tampering enforcement policy. This term also includes any revisions to the policy set forth in the June 25, 1974 memorandum that are subsequently issued by the EPA. A copy of this EPA memorandum has been filed with the Office of Administrative Law and may be obtained from the Bureau of Motor Vehicle Inspection and Maintenance in the Department of Environmental Protection.

“Exhaust emissions” means the emissions (including any liquid or solid particles in the gaseous stream) released into the atmosphere from any opening downstream from the exhaust ports of a motor vehicle engine.

“Gross vehicle weight rating” or “GVWR” means the value specified by the vehicle manufacturer as the maximum loaded weight of a single or combination vehicle.

“Heavy-duty diesel vehicle” or “HDDV” means a diesel-powered motor vehicle, other than a diesel bus, that has a GVWR exceeding 8,500 pounds and is designed primarily for transporting persons or property.

“High speed diesel engine” means any diesel engine with a maximum governed engine speed over 2,800 RPM.

“Idle” means an operating mode where the vehicle engine is in operation while the vehicle is stationary at any location.

“Light-duty diesel vehicle” or “LDDV” means a diesel-powered motor vehicle, other than a diesel bus, that has a GVWR of 8,500 pounds or less and is designed primarily for transporting persons or property.

“Low speed diesel engine” means any diesel engine with a maximum governed engine speed of no more than 2,200 RPM.

“Malfunction indicator light” or “MIL” means the light located on the dashboard instrument panel of an OBD-equipped motor vehicle that indicates a malfunction detected by the OBD system by illuminating the words “check engine,” “service engine” or an engine pictograph with the word “check” or “service.”

“Medium speed diesel engine” means any diesel engine with a maximum governed engine speed of 2,201 RPM to 2,800 RPM.

“Model year” means the engine manufacturer’s annual production period, consistent with 40 C.F.R. 86.082, as the same is amended or supplemented, which includes January 1 of such calendar year, provided, that if the manufacturer has no annual production period, this term shall mean a calendar year. The manufacturer’s annual production period shall include January 1 of the calendar year for which it is designated and shall not include a January 1 of any other calendar year. Thus, the maximum duration of a model year is one calendar year plus 364 days (or 365 days if the model year includes February 29 in a leap year).

“Motor vehicle” means all vehicles propelled otherwise than by muscular power, excepting motorized bicycles and such vehicles as run only upon rails or tracks.

“MVC” means the New Jersey Motor Vehicle Commission.

“NJ DEIC Inspection Form” means the form issued by the MVC to document inspections performed in connection with the periodic inspection program established pursuant to N.J.A.C. 13:20-26.

“OBD-eligible” means capable of receiving an OBD inspection as determined by the Department in accordance with N.J.A.C. 7:27-14.5(g).

“On board diagnostics” or “OBD” means an automotive diagnostic system complying with California OBD regulations at Title 13 California Code section 1968.1 or EPA OBD regulations at 40 CFR Part 86.

“Opacity” means the property of a substance whereby it partially or wholly obstructs the transmission of visible light expressed as the percentage to which light is obstructed.

“Peak smoke opacity” means the highest numerical value of smoke opacity obtained through the testing procedures for the snap acceleration smoke opacity test at N.J.A.C. 7:27B-4.3(a), or the rolling acceleration smoke opacity test at N.J.A.C. 7:27B-4.3(b), or the stall smoke opacity test at N.J.A.C. 7:27B-4.3(c).

“Person” means any individual or entity and shall include, without limitation, corporations, companies, associations, societies, firms, partnerships, and joint stock companies, and shall also include, without limitation, all political subdivisions of any states, and any agencies or instrumentalities thereof.

“Quasi-public roadway” means any roadway that, although under private ownership or control, is accessible to the public. This term shall include, but shall not be limited to, the New Jersey Turnpike, the Garden State Parkway, and the Atlantic City Expressway, but shall not include shopping mall roadways and parking lots, private business roadways, residential and nonresidential parking lots, and private driveways.

“Regulated emission” means any solid, liquid or gaseous substance which is emitted from a motor vehicle or motor vehicle engine and which is regulated by the EPA pursuant to 40 C.F.R. Part 86.

“Retrofit device” means any emissions control apparatus, including exhaust aftertreatment device, that has been installed on the vehicle or engine after the original manufacturing date of the complete vehicle.

“Retrofitted EPA urban diesel bus” means a diesel bus which is equipped with an engine which has been retrofitted or rebuilt to meet a particulate emission standard of 0.10 g/bhp-hr (grams per brake horsepower per hour) in conformance with the requirements set forth at 40 C.F.R. 85.1403(b) or (c).

“Smoke” means the emissions, including airborne solid and/or liquid particles, exclusive of water vapor, released into the atmosphere from a process of combustion.

R.1970 d.148, eff. June 19, 1971.

See: 2 N.J.R. 54(c), 3 N.J.R. 4(a).

Amended by R.1985 d.1, effective January 21, 1985 (operative July 1, 1985).

See: 16 N.J.R. 2888, 17 N.J.R. 189(b).

Section substantially amended.

Administrative Corrections.

See: 23 N.J.R. 1432(d).

Amended by R.1997 d.393, effective September 15, 1997 (operative October 7, 1997).

See: 29 N.J.R. 971(a), 29 N.J.R. 4108(a).

Added "Alternative smoke opacity standard", "Black smoke", "Blue smoke", "California Air Resources Board", "Certified configuration", "Diesel bus", "Division of Motor Vehicles", "Element of design", "Emission control apparatus", "EPA", "Gross vehicle weight rating", "Heavy-duty diesel vehicle", "Light-duty diesel vehicle", "Low speed engine", "Model year", "Peak smoke opacity", "Quasi-public roadway", "Regulated emission", "Retrofitted diesel bus" and "Smokemeter"; amended and changed the name of "Diesel-powered engine" to read "Diesel engine" and "Diesel-powered motor vehicle" to read "Diesel powered"; deleted "Autobus"; and amended "Department", "Exhaust emissions", "Idle", "Opacity", "Person" and "Smoke".

Amended by R.1998 d.309, effective July 6, 1998 (operative July 21, 1998).

See: 30 N.J.R. 901(a), 30 N.J.R. 2476(b).

Deleted "Smokemeter" definition.

Amended by R.1999 d.210, effective July 6, 1999 (operative August 10, 1999).

See: 31 N.J.R. 828(a), 31 N.J.R. 1803(b).

Inserted "High speed diesel engine" and "Medium speed diesel engine"; and rewrote "Low speed engine" as "Low speed diesel engine". Administrative change.

See: 33 N.J.R. 3550(a).

Amended by R.2007 d.201, effective July 2, 2007.

See: 38 N.J.R. 3728(b), 39 N.J.R. 2531(a).

Added definitions "Diesel particulate filter" and "Electrification technology"; and in definition "Idle", substituted "the vehicle engine is in operation while the vehicle is stationary at any location" for "the vehicle engine is not engaged in gear and where the engine operates at a speed at the revolutions per minute specified by the engine or vehicle manufacturer".

Amended by R.2007 d.235, effective August 6, 2007 (operative September 8, 2007).

See: 38 N.J.R. 5244(a), 39 N.J.R. 3352(a).

Added definitions "Closed crankcase ventilation system", "Diesel emission inspection center", "MVC", "NJ DEIC Inspection Form" and "Retrofit device"; deleted definition "Division of Motor Vehicles"; and substituted definition "Retrofitted EPA urban diesel bus" for definition "Retrofitted diesel bus".

Amended by R.2009 d.343, effective November 16, 2009 (operative December 18, 2009).

See: 41 N.J.R. 1606(a), 41 N.J.R. 4195(b).

Deleted definitions "Black smoke" and "Blue smoke"; added definitions "Data link connector", "Diagnostic Trouble Code", "Diesel emissions testing equipment", "EPA Memorandum IA", "Malfunction indicator light", "OBD-eligible" and "On board diagnostics"; and rewrote definitions "Emission control apparatus" and "Retrofit device".

7:27-14.2 Applicability

(a) Except as provided in (b) and (c) below, this subchapter applies to all diesel-powered motor vehicles.

(b) This subchapter shall not apply to a diesel-powered motor vehicle that is owned and operated by a county, municipality, fire district, or duly incorporated nonprofit organization for first aid, emergency, ambulance, rescue, or fire-fighting purposes; and that is generally held in ready status, and only brought into service during an emergency requiring immediate action. Such vehicles do not include multi-purpose utility vehicles, such as dump trucks, highway construction vehicles, or other vehicles used to perform temporary emergency service.

Repeal and New Rule, R.1997 d.393, effective September 15, 1997 (operative October 7, 1997).

See: 29 N.J.R. 971(a), 29 N.J.R. 4108(a).

For inspection standards formerly codified at this section see N.J.A.C. 7:27-14.6.

Amended by R.2009 d.159, effective May 4, 2009 (operative June 2, 2009).

See: 40 N.J.R. 3541(a), 40 N.J.R. 4478(a), 41 N.J.R. 2009(a).

Rewrote (b).

Amended by R.2009 d.343, effective November 16, 2009 (operative December 18, 2009).

See: 41 N.J.R. 1606(a), 41 N.J.R. 4195(b).

Deleted (c).

7:27-14.3 General prohibitions

(a) No person shall cause, suffer, allow, or permit the engine of a diesel-powered motor vehicle to idle for more than three consecutive minutes if the vehicle is not in motion, except:

1. A motor vehicle that has been stopped for three or more hours may idle for up to 15 consecutive minutes when the ambient temperature is below 25 degrees Fahrenheit; and

2. A diesel bus while it is actively discharging or picking up passengers may idle for 15 consecutive minutes in a 60-minute period.

(b) The provisions of (a) above shall not apply to:

1. Any motor vehicle idling in traffic, or a motor vehicle other than a school bus idling in a queue of motor vehicles, that are intermittently motionless and moving because the progress of the motor vehicles in the traffic or the queue has been stopped or slowed by the congestion of traffic on the roadway or by other conditions over which the driver of the idling motor vehicle has no control;

2. A motor vehicle whose primary power source is utilized in whole or in part for necessary and definitively prescribed mechanical operation other than propulsion. This use includes, but is not limited to, operating lift gate pumps and controlling cargo temperature. This exemption does not apply to passenger compartment heating or passenger compartment air conditioning;

3. A motor vehicle being or waiting to be examined by a State or Federal motor vehicle inspector;

4. Vehicles that are actively performing emergency services. Examples include fire vehicles, police vehicles, public utility vehicles, military tactical vehicles and snow removal vehicles, during the time that such vehicles are actively performing emergency services;

5. A motor vehicle while it is being repaired or serviced, provided that operation of the engine is essential to the proper repair or service;

6. On or before April 30, 2011, a motor vehicle, manufactured with a sleeper berth, while it is being used, in a non-residentially zoned area, by the vehicle's operator for sleeping or resting, unless the vehicle is equipped with a functional auxiliary power system designed in whole or in part to maintain cabin or sleeper berth comfort or to mitigate cold weather start-up difficulties;

7. Beginning May 1, 2011, a vehicle equipped with a sleeper berth, which vehicle is equipped with a model year 2007 or newer engine, or has been retrofitted with a diesel particulate filter that is connected and properly functioning; or

8. The operation of technology designed to reduce engine idling, such as auxiliary or alternate power units (APUs), generator sets, and bunk heaters, provided the vehicle's main engine is not operating.

(c) Beginning May 1, 2008, no person shall cause, suffer, allow, or permit the engine of a diesel-powered motor vehicle to idle for more than three consecutive minutes when that vehicle is parked in a parking space with available electrification technology.

(d) In no case shall the provisions of (a) and (b) above relieve any person from compliance with N.J.A.C. 7:27-5, Prohibition of Air Pollution, or any other applicable local, State or Federal law.

(e) Except as set forth in (e)1 below, no person shall cause, suffer, allow or permit any emission control apparatus or element of design installed on any diesel-powered motor vehicle or diesel engine to be disconnected, detached, deactivated or in any other way rendered inoperable or less effective, in respect to limiting or controlling emissions than it was designed to be by the original equipment or vehicle manufacturer, except for the purposes of diagnostics, maintenance, repair or replacement and only for the duration of such operations.

1. Any modification to an emission control apparatus or element of design shall be performed in accordance with EPA Memorandum 1A. A device that modifies an emission control apparatus or element of design may be installed only if it is exempt from prohibition by CARB executive order. Information on devices or modifications approved by CARB executive order may be obtained from the California Air Resources Board, 1001 "I" Street, PO Box 2815, Sacramento, CA 95812 or at www.arb.ca.gov.

(f) No person shall cause, suffer, allow or permit any retrofit device or any part thereof, or any closed crankcase ventilation system or any part thereof, installed on any diesel-powered motor vehicle pursuant to N.J.S.A. 26:2C-8.26 et seq. and N.J.A.C. 7:27-32 to be disconnected, detached, deactivated, or in any other way rendered inoperable or less effective, in respect to limiting or controlling emissions, than it was designed to be by the original retrofit device or closed crankcase ventilation system manufacturer, except for the purposes of diagnostics, maintenance, repair or replacement and only for the duration of such operations.

R.1970 d.148, eff. June 19, 1971.

See: 2 N.J.R. 54(c), 3 N.J.R. 4(a).

Amended by R.1985 d.1, effective January 21, 1985 (operative July 1, 1985).

See: 16 N.J.R. 2888, 17 N.J.R. 189(b).

Section recodified to 14.2 and this section repealed.

New Rule, R.1985 d.610, effective December 2, 1985 (operative May 5, 1986).

See: 16 N.J.R. 2886(a), 17 N.J.R. 2887(a).

Amended by R.1997 d.393, effective September 15, 1997 (operative October 7, 1997).

See: 29 N.J.R. 971(a), 29 N.J.R. 4108(a).

In (b)1, substituted "diesel bus" for "autobus"; in (b)8, added ", unless the vehicle ... start-up difficulties"; and added (c) and (d).

Amended by R.2007 d.201, effective July 2, 2007.

See: 38 N.J.R. 3728(b), 39 N.J.R. 2531(a).

Rewrote the section.

Amended by R.2007 d.235, effective August 6, 2007 (operative September 8, 2007).

See: 38 N.J.R. 5244(a), 39 N.J.R. 3352(a).

Added new (f).

Amended by R.2009 d.343, effective November 16, 2009 (operative December 18, 2009).

See: 41 N.J.R. 1606(a), 41 N.J.R. 4195(b).

In the introductory paragraph of (e), substituted "Except as set forth in (e)1 below, no" for "No", deleted a comma following "deactivated"; and added (e)1.

Administrative change.

See: 42 N.J.R. 791(a).

7:27-14.4 General public highway standards

(a) No person shall cause, suffer, allow or permit the operation of any diesel-powered motor vehicle upon the public roads, streets or highways of the State or upon any public property or upon any quasi-public roadway in the State, if the vehicle:

1. Emits smoke in the exhaust emissions, the opacity of which exceeds any applicable smoke opacity standards set forth at N.J.A.C. 7:27-14.6;

2. Emits visible smoke of any color in the exhaust emissions for more than three consecutive seconds when the engine is at normal operating temperature;

3. Does not have a properly functioning and properly maintained emission control apparatus, as determined according to the emissions control apparatus examination procedures established at N.J.A.C. 7:27B-4.4;

4. Has an emission control apparatus or an element of design installed on the vehicle or diesel engine or exhaust system, which has been disconnected, detached, deactivated or in any other way rendered inoperable or less effective than designed by the original equipment or vehicle or engine manufacturer; or

5. Has a retrofit device or any part thereof, or a closed crankcase ventilation system or any part thereof, that was installed pursuant to N.J.S.A. 26:2C-8.26 et seq. and N.J.A.C. 7:27-32 and that has been disconnected, detached, deactivated, or in any other way rendered inoperable or less effective, with respect to limiting or controlling emissions, than it was designed to be by the original retrofit device or closed crankcase ventilation system manufacturer.

New Rule, R.1997 d.393, effective September 15, 1997 (operative October 7, 1997).

See: 29 N.J.R. 971(a), 29 N.J.R. 4108(a).

Administrative change.

See: 33 N.J.R. 3550(a).

Amended by R.2007 d.235, effective August 6, 2007 (operative September 8, 2007).

See: 38 N.J.R. 5244(a), 39 N.J.R. 3352(a).

In (a)3, deleted "or" from the end; in (a)4, substituted "; or" for a period at the end; and added (a)5.

Amended by R.2009 d.159, effective May 4, 2009 (operative June 2, 2009).

See: 40 N.J.R. 3541(a), 40 N.J.R. 4478(a), 41 N.J.R. 2009(a).

Rewrote (a)2.

Amended by R.2009 d.343, effective November 16, 2009 (operative December 18, 2009).

See: 41 N.J.R. 1606(a), 41 N.J.R. 4195(b).

In (a)4, inserted "or exhaust system," and deleted a comma following "deactivated".

7:27-14.5 Test requirements

(a) A person testing a heavy-duty diesel vehicle as part of the roadside enforcement program established pursuant to N.J.S.A. 39:8-64 and N.J.A.C. 13:20-46 shall use diesel emissions testing equipment and shall use one or more of the following tests, as designated by the Chief Administrator of the MVC in consultation with the Department and the New Jersey Department of Transportation, and with the approval of the Attorney General:

1. The snap acceleration smoke opacity test, for a vehicle with a low or a medium speed diesel engine, only, as described at N.J.A.C. 7:27B-4.3(a);

2. The rolling acceleration smoke opacity test, as described at N.J.A.C. 7:27B-4.3(b); or

3. The power brake smoke opacity test, for a vehicle with an automatic transmission, only, as described at N.J.A.C. 7:27B-4.3(c).

(b) A person testing a heavy-duty diesel vehicle as part of the periodic inspection program established pursuant to N.J.S.A. 39:8-64 and N.J.A.C. 13:20-26.17; a diesel bus as part of the periodic inspection program pursuant to N.J.A.C. 13:20-30, or N.J.S.A. 48:4-1 et seq. and N.J.A.C. 16:53; or a diesel-powered motor vehicle as part of the self-inspection programs pursuant to N.J.A.C. 13:20-26 or 16:53-3.27, shall use diesel emissions testing equipment and shall use one of the following tests:

1. The snap acceleration smoke opacity test, for a vehicle with a low or a medium speed diesel engine, only, as described at N.J.A.C. 7:27B-4.3(a);

2. The rolling acceleration smoke opacity test, as described at N.J.A.C. 7:27B-4.3(b); or

3. The power brake smoke opacity test, for a vehicle with an automatic transmission, only, as described at N.J.A.C. 7:27B-4.3(c).

(c) A person testing a light-duty diesel vehicle subject to inspection in accordance with N.J.S.A. 39:8-1 shall use the following:

1. A visible smoke test conducted in accordance with N.J.A.C. 7:27B-4.7; and

2. For light-duty diesel vehicles of model year 1997 or later, an OBD inspection utilizing diesel emissions testing equipment and conducted in accordance with N.J.A.C. 7:27B-4.8.

(d) A person testing a diesel-powered motor vehicle, as part of either the roadside enforcement program established pursuant to N.J.S.A. 39:8-64 and N.J.A.C. 13:20-46 or the periodic inspection program established pursuant to N.J.S.A. 39:8-64 and N.J.A.C. 13:20-26.17, or the self-inspection program established pursuant to N.J.A.C. 13:20-26 and 16:53-3, shall conduct an examination of the emission control apparatus as described at N.J.A.C. 7:27B-4.4(a).

(e) A person inspecting a diesel-powered motor vehicle as part of the one-time compliance inspection for a retrofit device required at N.J.A.C. 7:27-32.21 shall conduct an examination as described at N.J.A.C. 7:27B-4.4(c).

(f) A person inspecting a diesel bus as part of the closed crankcase ventilation system compliance inspection required at N.J.A.C. 7:27-32.6 shall conduct an examination as described at N.J.A.C. 7:27B-4.4(d).

(g) A motor vehicle that is not equipped with an OBD system is not OBD-eligible. A motor vehicle that is equipped with an OBD system is OBD-eligible, unless it meets one of the following criteria:

1. The motor vehicle has a DLC that is in a location not readily accessible during a typical inspection procedure, provided that the DLC is in its original configuration as supplied by the motor vehicle manufacturer and has not been obstructed, damaged, removed or modified;

2. The motor vehicle OBD system, as designed by the motor vehicle manufacturer, has difficulty setting or maintaining an adequate number of readiness monitors;

3. The motor vehicle OBD system, as designed by the motor vehicle manufacturer, employs a communications protocol that is currently incompatible with approved diesel emissions testing equipment; or

4. The motor vehicle is otherwise identified by the EPA or the Department as not technologically or functionally capable of OBD inspection.

(h) The Department shall maintain a list of makes and model years of motor vehicles that it has determined to not be OBD-eligible, based on the criteria set forth at (g) above. A

copy of this list will be available from the Department by contacting the Bureau of Motor Vehicle Inspection and Maintenance at (609) 530-4035 and can also be viewed and downloaded from the Department's website at www.state.nj.us/dep/aqm.

New Rule, R.1997 d.393, effective September 15, 1997 (operative October 7, 1997).

See: 29 N.J.R. 971(a), 29 N.J.R. 4108(a).

Amended by R.1998 d.309, effective July 6, 1998 (operative July 21, 1998).

See: 30 N.J.R. 901(a), 30 N.J.R. 2476(b).

Inserted new (b)4; deleted (c); and recodified former (d) through (f) as (c) through (e).

Amended by R.1999 d.210, effective July 6, 1999 (operative August 10, 1999).

See: 31 N.J.R. 828(a), 31 N.J.R. 1803(b).

In (a)1 and (b)1, substituted references to low and medium speed diesel engines for references to low speed engines; and in (a)3 and (b)3, inserted references to medium and high speed diesel engines.

Administrative change.

See: 33 N.J.R. 3550(a).

Amended by R.2007 d.235, effective August 6, 2007 (operative September 8, 2007).

See: 38 N.J.R. 5244(a), 39 N.J.R. 3352(a).

In the introductory paragraph of (a), substituted "Chief Administrator of the MVC" for "Director of the Division of Motor Vehicles"; in (a)3, (b)3, (c)2 and (d)3, substituted "power brake" for "stall"; in the introductory paragraph of (d), deleted the comma preceding "shall use"; and added (f) and (g).

Amended by R.2009 d.343, effective November 16, 2009 (operative December 18, 2009).

See: 41 N.J.R. 1606(a), 41 N.J.R. 4195(b).

In the introductory paragraph of (a), substituted "heavy-duty diesel" for "diesel-powered motor" and inserted "use diesel emissions testing equipment and shall"; in (a)2 and (b)2, inserted "or" at the end; in (a)3 and (b)3, deleted "a medium or high speed diesel engine and" following "with" and substituted a period for "; or" at the end; deleted (a)4 and (b)4; rewrote the introductory paragraph of (b); rewrote (c); deleted former (d); recodified former (e) through (g) as (d) through (f); and added new (g) and (h).

7:27-14.6 Inspection standards

(a) Before December 2, 2009, no heavy-duty diesel vehicle or diesel bus shall be deemed to have passed an inspection unless it meets:

1. The general public highway standards set forth at N.J.A.C. 7:27-14.4; and
2. The applicable smoke opacity standards set forth in (b), (c), (d) and (e) below.

(b) Before December 2, 2009, a heavy-duty diesel vehicle, tested using the snap acceleration smoke opacity test, the rolling acceleration smoke opacity test, or the power brake smoke opacity test set forth at N.J.A.C. 7:27B-4, shall not emit smoke in the exhaust emissions which exceeds the following opacity standards:

1. For model years 1973 and older, the level of peak smoke opacity shall not exceed 70 percent;
2. For model years 1974 through 1990, the level of peak smoke opacity shall not exceed 55 percent;

3. For model years 1991 and newer, the level of peak smoke opacity shall not exceed 40 percent; and

4. (Reserved)

(c) Before December 2, 2009, a diesel bus, tested using the snap acceleration smoke opacity test, the rolling acceleration smoke opacity test or the power brake smoke opacity test, set forth at N.J.A.C. 7:27B-4, shall not emit smoke in the exhaust emissions, which exceeds the following opacity standards:

1. For model years 1987 and older, the level of peak smoke opacity shall not exceed 40 percent;

2. For model years 1988 and newer, the level of peak smoke opacity shall not exceed 30 percent; and

3. (Reserved)

(d) Before December 2, 2009, a retrofitted diesel bus, tested using the snap acceleration smoke opacity test, the rolling acceleration smoke opacity test or the power brake smoke opacity test, set forth at N.J.A.C. 7:27B-4, shall not emit smoke in the exhaust emissions, which exceeds a peak smoke opacity standard of 30 percent.

(e) Before December 2, 2009, a diesel-powered motor vehicle, tested using the snap acceleration smoke opacity test, the rolling acceleration smoke opacity test or the power brake smoke opacity test, set forth at N.J.A.C. 7:27B-4, and for which an alternative smoke opacity standard has been established in accordance with the procedures set forth at N.J.A.C. 7:27B-4.5, shall not emit smoke in the exhaust emissions which exceeds the smoke opacity standard established as the alternative smoke opacity standard for that vehicle.

(f) A diesel-powered motor vehicle required to have been retrofitted pursuant to N.J.A.C. 7:27-32 shall be deemed to have passed a one-time retrofit compliance inspection if a visual check confirms the installation and presence of the retrofit device.

(g) A diesel bus required to have been equipped with a closed crankcase ventilation system pursuant to N.J.A.C. 7:27-32 shall be deemed to have passed a one-time compliance inspection if a visual check confirms the installation and presence of the closed crankcase ventilation system.

(h) On and after December 2, 2009, no diesel-powered motor vehicle shall be deemed to have passed an inspection unless it meets:

1. The general public highway standards set forth at N.J.A.C. 7:27-14.4; and

2. The applicable smoke opacity standards set forth in (i) through (k) below.

(i) On and after December 2, 2009, a heavy-duty diesel vehicle, tested using the snap acceleration smoke opacity test, the rolling acceleration smoke opacity test, or the power brake smoke opacity test set forth at N.J.A.C. 7:27B-4, shall

not emit smoke in the exhaust emissions that exceeds the following opacity standards:

1. For model years 1990 and older, the level of peak smoke opacity shall not exceed 40 percent;
2. For model years 1991 through 1996, the level of peak smoke opacity shall not exceed 30 percent; and
3. For model years 1997 and newer, the level of peak smoke opacity shall not exceed 20 percent.

(j) On and after December 2, 2009, a diesel bus, tested using the snap acceleration smoke opacity test, or the power brake smoke opacity test, set forth at N.J.A.C. 7:27B-4, shall not emit smoke in the exhaust emissions that exceeds the following opacity standards:

1. For model years 1987 and older, the level of peak smoke opacity shall not exceed 40 percent;
2. For model years 1988 through 1993, the level of peak smoke opacity shall not exceed 30 percent; and
3. For model years 1994 and newer, the level of peak smoke opacity shall not exceed 20 percent.

(k) On and after December 2, 2009, a retrofitted diesel bus, tested using the snap acceleration smoke opacity test, or the power brake smoke opacity test, set forth at N.J.A.C. 7:27B-4, shall not emit smoke in the exhaust emissions that exceeds the following opacity standards:

1. For model years 1993 and older, the level of peak smoke opacity shall not exceed 30 percent;
2. For model years 1994 and newer, the level of peak smoke opacity shall not exceed 20 percent.

(l) A light-duty diesel vehicle shall not emit visible smoke of any color in the exhaust emissions or in the crankcase emissions for a period in excess of three consecutive seconds when measured using the test procedure established at N.J.A.C. 7:27B-4.7.

(m) If, pursuant to the provisions of N.J.A.C. 7:27-14.5(c)2, a light-duty diesel vehicle is subject to an OBD inspection conducted in accordance with the inspection test procedure at N.J.A.C. 7:27B-4.8, it shall be considered to have passed said inspection, unless:

1. The DLC cannot be found or is damaged/obstructed in such a way as to not allow a connection between the analyzer and the motor vehicle;
2. Communication cannot be established between the analyzer and the vehicle's OBD system;
3. The MIL is not illuminating when commanded to light;
4. The number of systems that have non-continuous readiness monitors that are not ready for inspections equals or exceeds the following criteria: three "not ready" codes

for motor vehicles model year 1997 through 2000 and two "not ready" codes for motor vehicles model year 2001 and newer;

5. Any continuous readiness monitor is not supported or not ready;
6. The MIL is illuminated while the vehicle's engine is running; or
7. DTCs have been detected by the OBD system to cause the MIL to be commanded on.

New Rule, R.1997 d.393, effective September 15, 1997 (operative October 7, 1997).

See: 29 N.J.R. 971(a), 29 N.J.R. 4108(a).

Amended by R.1998 d.309, effective July 6, 1998 (operative July 21, 1998).

See: 30 N.J.R. 901(a), 30 N.J.R. 2476(b).

Inserted new (b)4 and (c)3.

Administrative change.

See: 33 N.J.R. 3550(a).

Amended by R.2007 d.235, effective August 6, 2007 (operative September 8, 2007).

See: 38 N.J.R. 5244(a), 39 N.J.R. 3352(a).

In the introductory paragraphs of (b) and (c) and in (d) and (e), substituted "power brake" for "stall"; in (d), inserted "EPA urban" and substituted a period for a semicolon at the end; and added (f) and (g).

Amended by R.2009 d.159, effective May 4, 2009 (operative June 2, 2009).

See: 40 N.J.R. 3541(a), 40 N.J.R. 4478(a), 41 N.J.R. 2009(a).

In the introductory paragraph of (a), substituted "Before December 2, 2009, no" for "No"; in the introductory paragraph of (b) and (c), and in (d) and (e), substituted "Before December 2, 2009, a" for "A"; in the introductory paragraph of (b), inserted a comma following "vehicle"; and added (h) through (k).

Amended by R.2009 d.343, effective November 16, 2009 (operative December 18, 2009).

See: 41 N.J.R. 1606(a), 41 N.J.R. 4195(b).

In the introductory paragraph of (a), substituted "heavy-duty diesel" for "diesel-powered motor" and inserted "or diesel bus"; in the introductory paragraph of (c) and in (d), inserted "the rolling acceleration smoke opacity test" and inserted a comma following "emissions"; and added (l) and (m).

7:27-14.7 Diesel emissions inspectors

(a) On and after January 1, 2009, no person shall perform a diesel emission inspection under the periodic inspection program established pursuant to N.J.A.C. 13:20-26 unless the person is certified by the Department as a diesel emission inspector.

(b) No person shall perform a visual verification of compliance required by N.J.A.C. 7:27-32.6 or a one-time compliance inspection required by N.J.A.C. 7:27-32.21 unless the person is certified by the Department as a diesel emission inspector or has successfully completed Department-approved training to perform such inspections.

(c) In order to be certified by the Department, a diesel emission inspector shall complete a Department-approved course of instruction, as described at N.J.A.C. 7:27-14.9(c). The Department will accept three years of documented professional experience in the inspection of diesel engines and related systems as a substitute for successful completion of the Department-approved course of instruction.

(d) Upon completion of a Department-approved emission inspector course of instruction, the applicant shall submit an application for certification to the Department on a form supplied by the Department or in a format approved by the Department. The applicant shall provide the information required on the form, including personal contact information and information regarding the professional expertise and training of the applicant, and shall include with the application proof of training course completion, as described at N.J.A.C. 7:27-14.9(g) or documentation of substitute work experience, as provided at (c) above.

(e) The Department will review the application, and will issue a diesel emission inspector certificate and assign a unique non-sequential certificate number to an applicant who has satisfied (c) and (d) above.

(f) The diesel emission inspector certificate issued by the Department is valid for two years. The Department will recertify an inspector upon a showing of proof of completion of all required training updates, as described in (g) below. The recertification is valid for two years.

(g) A certified diesel emission inspector shall complete all training updates that the Department determines necessary as a result of advances in diesel engine and emissions control and testing technology. The Department will notify certified inspectors when training updates have been prepared and must be completed.

(h) A certified diesel emission inspector shall be responsible for the completion of a NJ DEIC Inspection Form for each vehicle for which the inspector conducted a periodic inspection or reinspection. The inspector shall provide the information required on the NJ DEIC Inspection Form, which includes, but is not limited to, owner's contact information, vehicle and engine identification requirements, ambient weather conditions, engine test parameters, and emission inspection results, and shall maintain a copy of the NJ DEIC Inspection Form for a period of two years from the date of the periodic inspection or reinspection.

(i) On and after January 1, 2009, a certified diesel emission inspector shall electronically submit to the Department the NJ DEIC Inspection Form completed pursuant to (h) above, within five business days of the MVC audit of the DEIC that immediately follows the inspection of the vehicle for which the form was prepared.

(j) If it is a hardship for a certified diesel emission inspector to submit an NJ DEIC Inspection Form electronically, the inspector can request approval from the Department to submit the NJ DEIC Inspection Form in paper format to the MVC auditor for transmission to the Department. The approval is valid for six months. The Department will approve such a request provided that:

1. The inspector certifies the request in accordance with N.J.A.C. 7:27-1.39; and

2. The inspector states:

i. The basis for the claim that electronic submittal would impose a hardship;

ii. The effort(s) the inspector will make to ensure the inspector's ability to make electronic submittals in the future; and

iii. That the inspector agrees to make every effort to become able to submit the form electronically within a reasonable amount of time.

(k) A certified diesel emission inspector submitting a paper version of the NJ DEIC Inspection Form pursuant to (j) above shall submit the form to the MVC auditor at the time of the MVC audit of the DEIC that immediately follows the inspection of the vehicle for which the form was prepared.

New Rule, R.2007 d.235, effective August 6, 2007 (operative September 8, 2007).

See: 38 N.J.R. 5244(a), 39 N.J.R. 3352(a).

Former N.J.A.C. 7:27-14.7, Non-interference with the motor vehicle codes, recodified to N.J.A.C. 7:27-14.11.

7:27-14.8 Diesel emissions repair technicians

(a) On and after January 1, 2009, no person other than a certified diesel emission repair technician or a person performing repairs under the direct supervision of a certified diesel emission repair technician shall perform any emission-related repair upon a diesel-powered motor vehicle that has failed a periodic or roadside emission inspection or reinspection.

(b) Except as provided at (c) below, in order to be certified by the Department, a diesel emission repair technician shall complete a Department-approved course of instruction, as described at N.J.A.C. 7:27-14.9(c)2.

(c) The Department will accept professional certifications from the National Institute for Automotive Service Excellence (ASE) program, or original equipment manufacturer training programs approved by the Department, or five years of documented professional experience in the repair and maintenance of diesel engines and related systems for the portions of the Department-approved course of instruction required at (b) above that pertain to general engine operations and diagnosis.

(d) Upon completion of a Department-approved diesel emission repair technician course of instruction, the applicant shall submit an application for certification to the Department on a form supplied by the Department or in a format approved by the Department. The applicant shall provide the information required on the form, including personal contact information and information regarding the professional expertise and training of the applicant, and shall include with the application proof of training course completion as described at N.J.A.C. 7:27-14.9(h) or documentation of substitute work experience, as provided at (c) above.

(e) The Department will review the application, and will issue a diesel emission repair technician certificate and assign a unique non-sequential certificate number to an applicant who has satisfied the requirements at (b) through (d) above.

(f) The diesel emissions repair technician certificate issued by the Department is valid for five years. The Department will recertify a diesel emission repair technician upon a showing of proof of completion of all required training updates, as described at (g) below. The recertification is valid for five years.

(g) A certified diesel emission repair technician shall complete all training updates that the Department determines necessary as a result of advances in diesel engine and emission control and testing technology. The Department will notify certified diesel emission repair technicians when training updates have been prepared and must be completed.

(h) A certified diesel emission repair technician shall be responsible for preparing the NJ Diesel Emission Repair Report form, which is available from the Department, for each vehicle on which the technician performed emission-related repairs to correct the problems which caused the vehicle to fail a periodic or roadside inspection or reinspection. The technician shall provide the information required on the NJ Diesel Emission Repair Report form, including vehicle owner's contact information, technician identification information and place of employment, vehicle and engine identification requirements, and repairs performed on the vehicle. On and after January 1, 2009, the technician shall submit the NJ Diesel Emission Repair Report form electronically, within five business days after performing the repairs. The technician shall maintain a copy of each NJ Diesel Emission Repair Report form he or she prepared for a period of two years from the date the repairs were completed.

(i) If it is a hardship for a certified diesel emission repair technician to submit an NJ Diesel Emission Repair Report form electronically, the technician can request approval from the Department to submit the NJ Diesel Emission Repair Report form in a paper format. The approval is valid for six months. The Department will approve such a request provided that:

1. The technician certifies the request in accordance with N.J.A.C. 7:27-1.39; and
2. The technician states:
 - i. The basis for the claim that electronic submittal would impose a hardship;
 - ii. The effort(s) the technician will make to ensure his or her ability to make electronic submittals in the future; and
 - iii. That the technician agrees to make every effort to become able to submit the form electronically within a reasonable amount of time.

New Rule, R.2007 d.235, effective August 6, 2007 (operative September 8, 2007).
See: 38 N.J.R. 5244(a), 39 N.J.R. 3352(a).

7:27-14.9 Training providers for diesel emissions inspectors and diesel emissions repair technicians

(a) An applicant seeking approval as a provider of an emission inspector or repair technician training program shall have a minimum of two years' experience in diesel technology training or two years' experience in either the development of a diesel emissions inspector or diesel emission repair technician training program or the administration of an emission inspector or repair technician training program for either a basic or enhanced inspection and maintenance program for motor vehicles.

(b) A training provider seeking approval of a training program for diesel emission inspectors or diesel emission repair technicians shall file with the Department an application that includes:

1. Contact and ownership information for the provider;
2. The names of trainers employed by the training program provider and copies of their qualifications;
3. Copies of any accreditations held by the training provider;
4. Verification that the provider possesses or has available to it at least one type of approved emissions inspection equipment for hands-on training; and
5. A curriculum pursuant to (c) below.

(c) A training provider shall develop a curriculum in consultation with the Department. The training provider shall submit a curriculum to the Department for approval, and shall use only a curriculum that has been approved by the Department. An approvable curriculum must contain the following elements:

1. For diesel emission inspector training:
 - i. Theory of diesel engine operation and exhaust emissions;
 - ii. Emission standards set forth at N.J.A.C. 7:27-14; and
 - iii. Test methods and equipment-operating principles, and proper use of the emission testing and diagnostic equipment pursuant to N.J.A.C. 7:27B-4.
2. For diesel emission repair technician training:
 - i. Theory of diesel engine operation, the combustion cycle, and the production of exhaust emissions;
 - ii. Emission standards set forth at N.J.A.C. 7:27-14;
 - iii. Diesel inspection program test methods set forth at N.J.A.C. 7:27B-4;

- iv. Exhaust emission reduction technology;
- v. Emission control systems;
- vi. Engine diagnostics, including electronic diagnosis;
- vii. Repairs to emission-related systems; and
- viii. Repairs and maintenance practices that help to reduce exhaust emissions.

(d) The classroom facility and course materials of a training provider are subject to inspection by the Department.

(e) A training provider shall provide:

1. Classroom instruction, including hands-on emissions testing demonstrations;
2. Adequate materials or facilities relating to the subject matter of the training for each student, including seating, display apparatus, and writing and instructional materials;
3. Trained instructors in a student to instructor ratio in each class sufficient to ensure that each student is provided with adequate interaction with the instructor, but not to exceed a ratio of 25 students per instructor per class; and
4. A motor vehicle for hands-on emissions and test demonstration.

(f) A training provider shall ensure that the emission testing equipment is calibrated, operated and maintained as required by the equipment manufacturer. If the training provider uses a simulator in the class, he or she shall submit a written explanation of its design and function for Department approval.

(g) A training provider shall present a certificate of training course completion to each student who passes a written test designed to demonstrate a thorough understanding of the subject matter and who otherwise successfully completes the training program. This certificate shall contain:

1. The name of the diesel emission inspector or diesel emission repair technician training program;
2. A unique, non-sequential certificate number assigned to the applicant;
3. The following statement, appropriately completed: "This is to certify that (name of student) has successfully completed the New Jersey Department of Environmental Protection Diesel Emission (Inspector or Repair Technician) training on this (number) day, (month) of (year)";
4. The printed name of the instructor;
5. The dated signature of instructor; and

6. The name, address, and phone number of the training provider.

(h) A training provider shall prepare course updates as may be required by the Department due to advances in diesel engine and emissions control and testing technology.

(i) For each person who enrolls in the diesel emission inspector or diesel emission repair technician course of study, whether or not the person completes the training, a training program provider shall maintain at its principal place of business a record of the contact information for the student, the name of the course for which the student enrolled, the name of the course instructor, and the dates the course was given. The training program provider shall maintain the record in hard copy or electronic form, at its principal place of business, available for Department inspection for a period of at least five years.

(j) For each calendar quarter in which a training program provider offers classes in diesel emission inspector training or diesel emission repair technician training, the training program provider shall submit to the Department the information required under (i) above no later than 10 business days after the end of the calendar quarter for which the report was prepared. The training provider shall provide the report to the Department on a form supplied by the Department and in a format approved by the Department. The training provider shall submit the report electronically, unless otherwise approved by the Department. The Department will notify training program providers of the appropriate form or format on its website at www.nj.gov/dep.

(k) Within 10 business days after the completion of each training class, the training provider shall send the Department a list of the students who have successfully completed the diesel emission inspector training class or diesel emission repair technician training class.

New Rule, R.2007 d.235, effective August 6, 2007 (operative September 8, 2007).

See: 38 N.J.R. 5244(a), 39 N.J.R. 3352(a).

7:27-14.10 Penalties

Any person who violates the provisions of this subchapter may be subject to civil administrative penalties under the provisions of N.J.A.C. 7:27A-3.10(m)14. The Department may also revoke a certification issued pursuant to N.J.A.C. 7:27-14.7(e) and 14.8(e) and an approval as a training provider issued pursuant to N.J.A.C. 7:27-14.9(b) after a diesel emission inspector, diesel emission repair technician or training provider has violated, for the third or subsequent time, the provisions of N.J.A.C. 7:27-14.7(g) through (i) or (k); 14.8(g) or (h); or 14.9(c) through (k).

New Rule, R.2007 d.235, effective August 6, 2007 (operative September 8, 2007).

See: 38 N.J.R. 5244(a), 39 N.J.R. 3352(a).

7:27-14.11 Non-interference with the motor vehicle codes

Nothing in this subchapter is intended to limit or deny any existing authority to inspect diesel-powered motor vehicles in accordance with regulations established pursuant to N.J.S.A. 26:2C-8.44, 39:8-2, 39:3-70, 39:3-76, 39:10-26 and 48:4-2.1a.

New Rule, R.1997 d.393, effective September 15, 1997 (operative October 7, 1997).
See: 29 N.J.R. 971(a), 29 N.J.R. 4108(a).
Recodified from N.J.A.C. 7:27-14.7 and amended by R.2007 d.235, effective August 6, 2007 (operative September 8, 2007).
See: 38 N.J.R. 5244(a), 39 N.J.R. 3352(a).
Inserted "26:2C-8.44,".

APPENDIX

The following table highlights the provisions of N.J.A.C. 7:27-14.5 to show generally the emissions tests to be administered to each category of vehicle inspected or reinspected:

<u>Test/model year</u>	<u>1996 and older</u>	<u>1997 and newer</u>
smoke opacity	GVWR > 8,500	GVWR > 8,500
visible smoke (periodic inspection)	GVWR < 8,501	GVWR < 8,501
visible smoke (roadside inspection)	all	all
OBD	=	GVWR < 8,501

New Appendix, R.2009 d.343, effective November 16, 2009 (operative December 18, 2009).
See: 41 N.J.R. 1606(a), 41 N.J.R. 4195(b).

SUBCHAPTER 15. CONTROL AND PROHIBITION OF AIR POLLUTION FROM GASOLINE-FUELED MOTOR VEHICLES**Authority**

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

Subchapter Historical Note

Subchapter 15, Control and Prohibition of Air Pollution from Light-Duty Gasoline-Fueled Motor Vehicles, was adopted as R.1972 d.1, effective July 5, 1972. See: 3 N.J.R. 103(a), 4 N.J.R. 21(c). Subchapter 15 was amended by R.1974 d.169, effective July 1, 1974. See: 6 N.J.R. 173(a), 6 N.J.R. 305(b).

N.J.A.C. 7:27-15.1, Standards for specific exhaust gas analytical systems, was amended by emergency adoption R.1983 d.407, effective September 2, 1983 (to expire November 1, 1983). The provisions of R.1983 d.407 were readopted by R.1983 d.536, effective November 2, 1983. Pursuant to Executive Order No. 66(1978) and 42 U.S.C. § 7401 et seq., R.1983 d.536 is exempt from expiration. See: 15 N.J.R. 1607(a), 15 N.J.R. 1943(b).

7:27-15.1 Definitions

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

“Autobus” means any bus of any size or configuration, whether registered in this State or elsewhere, that is designed or used for intrastate or interstate transportation of passengers for hire or otherwise on a public road, street or highway or any public or quasi-public property in this State, including, but not limited to, autobuses under the jurisdiction of the New Jersey Department of Transportation pursuant to Titles 27 or 48 of the Revised Statutes; autobuses of the New Jersey Transit Corporation and its contract carriers that are under the inspection jurisdiction of the New Jersey Department of Transportation; autobuses that are subject to Federal motor carrier safety regulations; autobuses under the authority of the Interstate Commerce Commission or its successor agency; school buses, as defined pursuant to N.J.S.A. 39:1-1; and hotel, casino, charter and special buses.

“California Air Resources Board” or “CARB” means the agency of the State of California established and empowered to regulate sources of air contaminant emissions, including motor vehicles, pursuant to California Health & Safety Code, Sections 39500 et seq.

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

“Certified configuration” means a vehicle-engine-chassis design for LDGVs and LDGTs or an engine design for HDGVs certified by either of the following agencies as meeting the applicable emission standards for motor vehicles manufactured in a given model year:

1. EPA for model year 1968 or for a more recent model year; or
2. CARB for model year 1966 or for a more recent model year.

“Clean Air Act” or “CAA” means the Federal Clean Air Act (42 U.S.C. 7401 et seq.) which consists of Public Law 159 (July 14, 1955; Stat. 322) and all subsequent amendments thereto.

“Commissioner” means the Commissioner of the Department of Environmental Protection.

“Crankcase emissions” means substances emitted into the atmosphere from any portion of the engine crankcase ventilation or lubrication system.

“Data link connector” or “DLC” means a standardized 16-pin diagnostic test receptacle used to connect an analyzer to a motor vehicle.

“Department” means the Department of Environmental Protection.

“Diagnostic Trouble Code” or “DTC” means an alphanumeric code stored in the on board diagnostic system of a motor vehicle, which generally indicates the malfunction of a system or component. These codes are defined by SAE J2012 Diagnostic Trouble Code Definitions, (MAR92). Copies of SAE J2012 may be obtained from the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, PA 15096-0001.

“Element of design” means any automotive part or system on a motor vehicle that is subject to the Federal emission standards at 40 CFR Part 86 or California emission standards at California Code of Regulations Title 13 which:

1. Is included in the motor vehicle’s certified configuration; and
2. Could affect the emission of any regulated air contaminant from the motor vehicle.

“Emission control apparatus” means any device employed by the vehicle manufacturer which prevents or controls the emission of any air contaminant, including associated components which monitor the function and maintenance of these devices.

“EPA” means the United States Environmental Protection Agency.

“EPA Memorandum 1A” means the memorandum dated June 25, 1974, and issued by the EPA’s Office of Enforcement and General Counsel, which sets forth the EPA’s interim tampering enforcement policy. This term also includes any revisions to the policy set forth in the June 25, 1974 memorandum that are subsequently issued by the EPA. A copy of this EPA memorandum has been filed with the Office of Administrative Law and may be obtained from the Bureau of Motor Vehicle Inspection and Maintenance in the Department of Environmental Protection.

“Exhaust emissions” means substances emitted into the atmosphere from any opening downstream from the exhaust ports of a motor vehicle engine.

“G/mi” means grams per mile.

“Gasoline-fueled” means powered in whole or in part by a hydrocarbon fuel other than diesel fuel, including, but not limited to, gasoline, natural gas, liquefied petroleum gas or propane or powered by alcohol fuels, hydrocarbon-alcohol fuel blends or hydrogen.

“Gross vehicle weight rating” or “GVWR” means the value specified by the manufacturer as the maximum loaded weight of a single or combination vehicle.

“Heavy-duty gasoline-fueled vehicle” or “HDGV” means a gasoline-fueled motor vehicle that has a GVWR exceeding

8,500 pounds and is designed primarily for transporting persons or property.

“Hydrocarbons (HC)” means any compound or mixture of compounds whose molecules consist of atoms of hydrogen and carbon only.

“Idle” means an operating mode where the vehicle engine is not engaged in gear and where the engine operates at a speed at the revolutions per minute specified by the engine or vehicle manufacturer.

“Light-duty gasoline-fueled truck” or “LDGT” means a gasoline-fueled motor vehicle that has a GVWR of 8,500 pounds or less, a vehicle curb weight of 6,000 pounds or less, and a basic frontal area of 45 square feet or less, and that:

1. Is designed primarily for the transportation of property or more than 12 passengers; or
2. Is available with special features enabling off-street or off-highway operation and use.

“Light-duty gasoline-fueled truck 1” or “LDGT1” means a light-duty gasoline-fueled truck with a GVWR of 6,000 pounds or less.

“Light-duty gasoline-fueled truck 2” or “LDGT2” means a light-duty gasoline-fueled truck with a GVWR of more than 6,000 pounds.

“Light-duty gasoline-fueled vehicle” or “LDGV” means a gasoline-fueled motor vehicle that has a GVWR of 8,500 pounds or less, is designed primarily for use as a passenger car or is a passenger car derivative and is capable of seating no more than 12 passengers.

“Malfunction indicator light” or “MIL” means the light located on the dashboard instrument panel of an OBD-equipped motor vehicle that indicates a malfunction detected by the OBD system by illuminating the words “check engine,” “service engine” or an engine pictograph with the word “check” or “service.”

“Model year” means the manufacturer’s annual production period (as determined under 40 CFR section 85.2304 (60 Fed. Reg. 4738, Jan. 24, 1995), as the same is amended or supplemented) which includes January 1 of such calendar year, provided, that if the manufacturer has no annual production period, this term shall mean the calendar year. A specific model year shall include January 1 of the calendar year for which it is designated and shall not include a January 1 of any other calendar year. Thus, the maximum duration of a model year is one calendar year plus 364 days (or 365 days if a leap year).

“Motor vehicle” means all vehicles propelled otherwise than by muscular power, excepting motorized bicycles and such vehicles as run only upon rails or tracks.

“Motor Vehicle Commission” or “MVC” means the New Jersey Motor Vehicle Commission established by the Motor Vehicle Security and Customer Service Act (N.J.S.A. 39:2A-1 et seq.).

“Motor vehicle testing equipment” means equipment used to conduct a test of a gasoline-fueled motor vehicle set forth at N.J.A.C. 7:27B-5, and which satisfies all applicable specifications set forth at N.J.A.C. 7:27B-5.8, Specifications for motor vehicle testing equipment for use in the New Jersey Enhanced Inspection and Maintenance Program. For motor vehicle inspections conducted pursuant to N.J.A.C. 7:27B-5 and this subchapter, this term shall include all devices used for performing a motor vehicle inspection, including, but not limited to, exhaust gas analyzers, dynamometers, on-board diagnostic scanners and analyzers, fuel cap leak testers and computers and related software.

“Motorized bicycle” means a pedal bicycle which is capable of a maximum speed of no more than 25 miles per hour on a flat surface and which has a helper motor which;

1. Has a maximum piston displacement that is less than 50 cubic centimeters; or
2. Is rated at no more than 1.5 brake horsepower.

“New motor vehicle” means a newly-manufactured motor vehicle, prior to its delivery to the ultimate purchaser.

“New motor vehicle dealer” means any person licensed pursuant to N.J.S.A. 39:10-19 to sell new motor vehicles.

“OBD-eligible” means capable of receiving an OBD inspection as determined by the Department in accordance with N.J.A.C. 7:27-15.5(m).

“Official inspection facility” means a test-only inspection facility operated by, licensed by or under contract with the MVC, whose exclusive function is conducting emissions inspections.

“On board diagnostics” or “OBD” means an automotive diagnostic system complying with California OBD regulations at Title 13 California Code section 1968.1 or EPA OBD regulations at 40 CFR Part 86.

“Oxides of nitrogen” or “NO_x” means all the oxides of nitrogen including, but not limited to, nitric oxide (NO) and nitrogen dioxide (NO₂), except nitrous oxide (N₂O).

“Person” means any individual or entity and shall include, without limitation, corporations, companies, associations, societies, firms, partnerships, and joint stock companies, and shall also include, without limitation, all political subdivisions of any States, and any agencies or instrumentalities thereof.

“Predelivery checklist” means a schedule of items and procedures which a new motor vehicle dealer is required or

requested by a manufacturer to check or follow prior to delivery of a new motor vehicle to the ultimate purchaser.

“Private inspection facility” or “PIF” means a facility licensed by the MVC to perform emissions inspections that may also offer motor vehicle parts and repair services.

“Quasi-public property” means any property that, although under private ownership or control, is accessible to the public. This term shall include, but shall not be limited to, the New Jersey Turnpike, the Garden State Parkway, shopping mall roadways and parking lots, private business roadways and nonresidential parking lots.

“RPM” means revolutions per minute.

“Smoke” means small gasborne and airborne particles, exclusive of water vapor, arising from a process of combustion in sufficient number to be observable.

“Tier 1 Standards” means standards for LDGTs and LDGVs of model years 1994 and later, prescribed at section 202(g) of the Clean Air Act, 42 U.S.C.A. 7521(g).

“Ultimate purchaser” means any person, other than a motor vehicle dealer purchasing in his capacity as a motor vehicle dealer, who in good faith purchases a motor vehicle for purposes other than for resale as a motor vehicle dealer.

“Vehicle curb weight” means the actual weight of a motor vehicle in operational status or the weight given by the manufacturer for such a motor vehicle. Such weight shall include the weight of all standard equipment, of the fuel at nominal tank capacity, and of optional equipment computed in accordance with 40 CFR section 86.082-24. This term, with respect to an incomplete light-duty gasoline truck, shall be the weight given by the manufacturer for such a truck.

Amended by R.1985 d.1, effective January 21, 1985 (operative July 1, 1985).

See: 16 N.J.R. 2889, 17 N.J.R. 189(b).
Administrative Corrections.

See: 23 N.J.R. 1432(d).

Emergency Amendment R.1995 d.409, effective June 29, 1995 (expires August 28, 1995).

See: 27 N.J.R. 2752(a).

Adopted concurrent proposal, R.1995 d.527, effective August 28, 1995, (operative October 27, 1995).

See: 27 N.J.R. 2752(a), 27 N.J.R. 3806(a).

Provisions of R.1995 d.409 readopted, with changes effective October 2, 1995.

Amended by R.1996 d.302, effective July 1, 1996 (operative July 30, 1996).

See: 28 N.J.R. 138(a), 28 N.J.R. 3413(a).

Amended “Quasi-public property”.

Amended by R.1997 d.283, effective July 7, 1997 (operative August 11, 1997).

See: 29 N.J.R. 726(a), 29 N.J.R. 2826(b).

Amended “Gasoline-fueled”, “Heavy-duty gasoline-fueled vehicle”, “Hydrocarbons (HC)”, and “Motor vehicle emission testing equipment”; and added “Idle”.

Administrative correction.

See: 31 N.J.R. 872(a).

Administrative change.

See: 33 N.J.R. 3550(a).

Amended by R.2003 d.47, effective January 21, 2003 (operative February 18, 2003).

See: 34 N.J.R. 1811(a), 35 N.J.R. 429(a).

Added "Data link connector" or "DLC", "OBD-eligible" and "On-board diagnostics" or "OBD"; rewrote "Motor vehicle testing equipment".

Amended by R.2009 d.343, effective November 16, 2009 (operative December 18, 2009).

See: 41 N.J.R. 1606(a), 41 N.J.R. 4195(b).

Added definitions "Autobus", "Diagnostic Trouble Code", "Malfunction indicator light" and "Motor Vehicle Commission"; deleted definitions "Division of Motor Vehicles", "Loaded vehicle weight" and "Low mileage vehicle"; in definition "EPA Memorandum 1A", substituted "Motor Vehicle Inspection and Maintenance" for "Transportation Control"; in definition "Gasoline-fueled", inserted "in whole or in part" and deleted a comma following "petroleum gas" and "propane"; in definition "Motor vehicle testing equipment", updated the second N.J.A.C. reference and deleted a comma following "testers"; in definition "Official inspection facility", deleted a comma following "licensed by" and substituted "MVC," for "DMV"; rewrote definition "On board diagnostics"; and in definition "Private inspection facility", substituted "MVC" for "DMV".

7:27-15.2 Applicability

(a) Except as provided in (b) and (c) below, this subchapter applies to all light-duty gasoline-fueled vehicles, light-duty gasoline-fueled trucks and heavy-duty gasoline-fueled vehicles.

(b) This subchapter does not apply to:

1. Motor vehicles operated solely on diesel fuel; and
2. Motorcycles.

(c) N.J.A.C. 7:27-15.3, 15.4, 15.5 and 15.6 apply only to those light-duty gasoline-fueled vehicles, light-duty gasoline-fueled trucks and heavy-duty gasoline-fueled vehicles that are subject to inspection in accordance with N.J.S.A. 39:8.

(d) This subchapter shall apply to any person and the United States, all political subdivisions of the United States, and any agencies or instrumentalities thereof.

Emergency New Rule, R.1995 d.409, effective June 29, 1995 (expires August 28, 1995).

See: 27 N.J.R. 2752(a).

Adopted Concurrent Proposal, R.1995 d.527, effective August 28, 1995 (operative October 27, 1995).

See: 27 N.J.R. 2752(a), 27 N.J.R. 3806(a).

7:27-15.3 General public highway standards

(a) No owner or operator of a gasoline-fueled motor vehicle shall cause, suffer, allow or permit the operation of the motor vehicle upon the public roads, streets or highways of the State or any public or quasi-public property in the State if the vehicle emits visible smoke in the exhaust emissions or in the crankcase emissions for a period in excess of three consecutive seconds.

(b) No owner or operator of a gasoline-fueled motor vehicle shall cause, suffer, allow or permit the operation of the motor vehicle upon the public roads, streets or highways of the State or any public or quasi-public property in the State, if the vehicle emits hydrocarbons (HC) or carbon monoxide

(CO) in the exhaust emissions in excess of any applicable standards set forth at N.J.A.C. 7:27-15.6(b).

(c) No owner or operator of a gasoline-fueled motor vehicle shall cause, suffer, allow or permit the operation of the motor vehicle upon the public roads, streets or highways of the State or any public or quasi public property in the State if the motor vehicle does not satisfy and pass all applicable motor vehicle inspection testing requirements at N.J.A.C. 7:27-15.5.

(d) No owner or operator of a gasoline-fueled motor vehicle shall cause, suffer, allow or permit the operation of the motor vehicle upon the public roads, streets or highways of the State or any public or quasi-public property in the State if the motor vehicle is a 1968 or later model year vehicle (or, if the vehicle was originally sold in California, a 1966 or later model year vehicle), and the motor vehicle is not certified by either of the following agencies as meeting the applicable emission standards for motor vehicles manufactured in the model years listed below:

1. EPA for model years 1968 and later; or
2. CARB for model year 1966 and later motor vehicles originally sold in California.

Amended by R.1985 d.1, effective January 21, 1985 (operative July 1, 1985).

See: 16 N.J.R. 2889, 17 N.J.R. 189(b).

Section substantially amended.

Emergency recodification from 7:27-15.2 and amendment R.1995 d.409, effective June 29, 1995 (expires August 28, 1995).

See: 27 N.J.R. 2752(a).

Adopted Concurrent Proposal, R.1995 d.527, effective August 28, 1995 (operative October 27, 1995).

See: 27 N.J.R. 2752(a), 27 N.J.R. 3806(a).

Amended by R.2009 d.343, effective November 16, 2009 (operative December 18, 2009).

See: 41 N.J.R. 1606(a), 41 N.J.R. 4195(b).

In (b), deleted a comma following "streets" and "State", substituted "or" for a comma following "(HC)" and deleted " , or oxides of nitrogen (NO_x)" following "(CO)"; and in (c), deleted "unless the motor vehicle has been issued a waiver in accordance with N.J.A.C. 13:20-43.13" from the end.

7:27-15.4 New motor vehicle dealer inspections

(a) A new motor vehicle dealer shall ensure that, prior to delivery by the new motor vehicle dealer to the ultimate purchaser, any gasoline-fueled new motor vehicle subject to this subchapter pursuant to N.J.A.C. 7:27-15.2 conforms to the emission specifications prescribed by the manufacturer for the new motor vehicle. These specifications may be prescribed by the manufacturer in the new motor vehicle predelivery check list provided for the dealer's use in assuring proper functioning of the vehicle emission control apparatus.

(b) Whenever applicable emission specifications are not prescribed by the manufacturer, the inspection standards as set forth in N.J.A.C. 7:27-15.6(b) shall apply to the new motor vehicle.

Amended by R.1985 d.1, effective January 21, 1985 (operative July 1, 1985).

See: 16 N.J.R. 2889, 17 N.J.R. 189(b).

Section substantially amended.

Emergency recodification from 7:27-15.3 and amendment R.1995 d.409, effective June 29, 1995 (expires August 28, 1995).

See: 27 N.J.R. 2752(a).

Adopted Concurrent Proposal, R.1995 d.527, effective August 28, 1995 (operative October 27, 1995).

See: 27 N.J.R. 2752(a), 27 N.J.R. 3806(a).

7:27-15.5 Motor vehicle inspections

(a) The owner of a motor vehicle subject to this section pursuant to N.J.A.C. 7:27-15.2 shall have the motor vehicle periodically inspected in accordance with this section.

(b) The motor vehicle shall be inspected at least once every two years. This biennial inspection shall be deemed an "on-cycle" inspection and shall include an initial inspection, together with any reinspections required pursuant to (h) below. In addition, in accordance with its procedures, the MVC may require the owner of a motor vehicle to have it inspected more frequently than every two years. Such more frequent inspections shall be deemed to be "off-cycle" inspections and shall also include an initial inspection together with any reinspections required pursuant to (h) below. In the case of a motor vehicle subject to the school bus inspection program as generally set forth at N.J.A.C. 13:20-30, an initial inspection shall be required annually as provided at N.J.A.C. 13:20-30.13.

(c) Initial inspections and reinspections for an on-cycle or an off-cycle inspection shall be performed at either an official inspection facility or at a PIF, or, in the case of a motor vehicle subject to the MVC's school bus inspection program as generally set forth at N.J.A.C. 13:20-30.1, at the premises or place of business of the operator of such vehicle, as provided at N.J.A.C. 13:20-30.13.

(d) A motor vehicle inspection is not complete until the motor vehicle passes all of the tests and satisfies all of the requirements, as specified in (f) below, that constitute the inspection or reinspection at an appropriate inspection facility, as specified in (c) above.

(e) The motor vehicle shall be inspected as presented at the inspection facility without repair or adjustment prior to the inspection.

(f) A motor vehicle inspection shall include the following:

1. A visible smoke test conducted in accordance with N.J.A.C. 7:27B-5.3(a);
2. Unless the motor vehicle is exempt pursuant to N.J.A.C. 7:27-15.6(e) or (f), an exhaust emission test or an OBD inspection utilizing motor vehicle testing equipment approved by the Department. The specific exhaust emission test or OBD inspection to be conducted shall be determined in accordance with (g) below;

3. For an LDGV, LDGT or HDGV of model year 1975 or later, an emission control apparatus compliance examination conducted in accordance with N.J.A.C. 7:27B-5.5;

4. For an LDGV, LDGT or HDGV of model year 2000 or earlier originally equipped with a sealed fuel filler cap (that is, not a directly vented fuel filler cap), a fuel cap leak test utilizing motor vehicle testing equipment approved by the Department and conducted in accordance with N.J.A.C. 7:27B-5.7; and

5. For any motor vehicle that is subject to a recall notice issued to the owner on or after January 1, 1995, pursuant to either a "Voluntary Emissions Recall" as defined at 40 C.F.R. section 85.1902(d) or to a remedial plan determination made pursuant to 42 U.S.C.A. section 7541(c), the provision by the owner of the motor vehicle of documentation that all applicable recall repairs have been completed; provided, however, for any recall notice received fewer than 60 days prior to inspection, provision of this documentation may, instead, be provided at the next scheduled vehicle inspection.

(g) An OBD-eligible motor vehicle will receive an OBD inspection. For a motor vehicle that is not OBD-eligible the exhaust emission test to be used pursuant to (f)2 above shall be as follows:

1. The idle test set forth at N.J.A.C. 7:27B-5.3(b), if the motor vehicle is either of the following types:

- i. A motor vehicle of model year 1980 or earlier; or
- ii. A motor vehicle that has a GVWR in excess of 8,500 pounds; or

2. The two speed idle test at N.J.A.C. 7:27B-5.4, if the motor vehicle is either of the following types and is not otherwise designated for testing with the idle test, as determined at (g)1 above:

- i. A motor vehicle of model year 1981 through model year 1995; or
- ii. A motor vehicle of model year 1996 or later that is not OBD-eligible;

(h) The owner of a motor vehicle that fails to pass all of the tests that constitute a motor vehicle inspection pursuant to (f) above shall have it reinspected in accordance with every applicable element of (f) above by the deadline specified by the MVC at N.J.A.C. 13:20-7.5, 7.6(a) or 43.14(g), as applicable. Operation of the motor vehicle upon the public roads, streets or highways of the State or any public or quasi-public property in the State shall be prohibited pursuant to N.J.A.C. 7:27-15.3(c) unless, by the deadline established by the MVC at N.J.A.C. 13:20-7.5, 7.6(a) or 43.14(g), as applicable, the motor vehicle passes all of the tests and meets all the requirements that constitute the inspection or reinspection.

(i) An on-road inspection conducted pursuant to N.J.A.C. 13:20-43.14 may include the following:

1. A visible smoke test conducted in accordance with N.J.A.C. 7:27B-5.3(a);
2. Unless the motor vehicle is exempt pursuant to N.J.A.C. 7:27-15.6(e) or (f), an idle test utilizing motor vehicle testing equipment approved by the Department and conducted in accordance with N.J.A.C. 7:27B-5.3(b);
3. A two speed idle test utilizing motor vehicle testing equipment and conducted in accordance with N.J.A.C. 7:27B-5.4;
4. For an LDGV, LDGT or HDGV of model year 1975 or later, an emission control apparatus compliance examination conducted in accordance with N.J.A.C. 7:27B-5.5;
5. For an LDGV, LDGT or HDGV of model year 2000 or earlier originally equipped with a sealed fuel filler cap (that is, not a directly vented fuel filler cap), a fuel cap leak test utilizing motor vehicle testing equipment approved by the Department and conducted in accordance with N.J.A.C. 7:27B-5.7;
6. For an LDGV or LDGT of model year 1996 or later, an OBD inspection utilizing motor vehicle testing equipment approved by the Department and conducted in accordance with N.J.A.C. 7:27B-5.6; and

7. Any other tests deemed appropriate by the Chief Administrator of the MVC that are directed toward detecting acts of tampering with emission control apparatus specifically prohibited at N.J.A.C. 7:27-15.7(a)1 or toward identifying vehicles operated in violation of N.J.A.C. 7:27-15.3(d). Such tests may include visual or functional checks of emission control apparatus and elements of design.

(j) A motor vehicle inspection test using remote sensing techniques shall include the following:

(Reserved)

(k) Any motor vehicle that fails an on-road inspection conducted pursuant to (i) above or a remote sensing test conducted pursuant to (j) above shall be subject to an off-cycle inspection. An off-cycle inspection shall consist of all test procedures and requirements to which a motor vehicle would normally be subject in accordance with (f) above. If the motor vehicle fails the initial off-cycle inspection, the provisions of (h) above apply.

(l) Each year MVC shall conduct a program evaluation test, which shall entail additional testing for at least 0.1 percent of those motor vehicles subject to inspection during that year. The motor vehicles subject to the program evaluation testing shall be selected by the MVC in accordance with its procedures. The results of the program evaluation test shall not be used in determining whether a motor vehicle has passed or failed its motor vehicle inspection with regard to exhaust emissions.

(m) A motor vehicle that is not equipped with an OBD system is not OBD-eligible. A motor vehicle of model year 1996 or later that is equipped with an OBD system will be presumed to be eligible for an OBD inspection unless it meets one of the following criteria:

1. The motor vehicle has a DLC which is in a location not readily accessible during a typical inspection procedure, provided that the DLC is in its original configuration as supplied by the motor vehicle manufacturer and has not been obstructed, damaged, removed or modified;
2. The motor vehicle OBD system, as designed by the motor vehicle manufacturer, has difficulty setting or maintaining an adequate number of readiness monitors;
3. The motor vehicle OBD system, as designed by the motor vehicle manufacturer, employs a communications protocol which is currently incompatible with approved motor vehicle testing equipment; or
4. The motor vehicle is otherwise identified by the EPA or the Department as not technologically or functionally capable of OBD inspection.

(n) The Department shall maintain a list of makes and model years of motor vehicles that it has determined to not be OBD-eligible, based on the criteria set forth at (m) above. A copy of this list will be available from the Department by contacting the Bureau of Motor Vehicle Inspection and Maintenance at (609) 530-4035 and can also be viewed and downloaded from the Department's website at www.state.nj.us/dep/aqm.

Emergency New Rule, R.1995 d.409, effective June 29, 1995 (expires August 28, 1995).

See: 27 N.J.R. 2752(a).

Adopted Concurrent Proposal, R.1995 d.527, effective August 28, 1995, (operative October 27, 1995).

See: 27 N.J.R. 2752(a), 27 N.J.R. 3806(a).

Provisions of R.1995 d.409 readopted, with changes effective October 2, 1995.

Amended by R.1997 d.56, effective February 3, 1997 (operative March 8, 1997).

See: 28 N.J.R. 2298(b), 29 N.J.R. 498(a).

Updated model year references and inserted references to HDGVs and to twelve months after EPA interim approval of plan revisions throughout; substantially amended (c); inserted (f)6 and (f)7 and recodified former (f)6 as (f)8; inserted (g)1iii; and substantially amended (g)2.

Amended by R.1997 d.283, effective July 7, 1997 (operative August 11, 1997).

See: 29 N.J.R. 726(a), 29 N.J.R. 2826(b).

Inserted text in (f)7.

Amended by R.1999 d.408, effective November 15, 1999 (operative December 7, 1999).

See: 31 N.J.R. 2572(a), 31 N.J.R. 3627(a).

In (f), (g) and (i), changed N.J.A.C. references throughout; in (f), rewrote 3, 4, 5 and 7; in (g)1, rewrote ii and deleted a former iii; rewrote (g)3 and (i)4; and in (l), substituted "one or more" for "two" preceding "IM240" in the third sentence.

Administrative change.

See: 33 N.J.R. 3550(a).

Amended by R.2003 d.47, effective January 21, 2003 (operative February 18, 2003).

See: 34 N.J.R. 1811(a), 35 N.J.R. 429(a).

Rewrote the section.

Amended by R.2009 d.343, effective November 16, 2009 (operative December 18, 2009).
See: 41 N.J.R. 1606(a), 41 N.J.R. 4195(b).

In (b), substituted "MVC" for "DMV" and deleted "semi-" preceding "annually"; in (c), substituted "MVC's" for "DMV's"; rewrote (d) and (h); in (f)3, substituted "5.5" for "5.6"; in (f)4, inserted "of model year 2009 or earlier" and substituted "5.7" for "5.8"; rewrote the introductory paragraph of (g), in (g)1ii, inserted "or" at the end; rewrote (g)2; in (l), substituted "MVC" for "DMV", inserted a comma following "test" and deleted the former third sentence; and in (n), substituted "Motor Vehicle Inspection and Maintenance" for "Transportation Control".

Cross References

Testing procedures for fuel cap leak test, see N.J.A.C. 7:27B-4.13.

7:27-15.6 Motor vehicle inspection standards

(a) A light-duty gasoline-fueled vehicle, light-duty gasoline-fueled truck or heavy-duty gasoline-fueled vehicle shall not emit visible smoke in the exhaust emissions or in the crankcase emissions for a period in excess of three consecutive seconds when measured using the test procedure established at N.J.A.C. 7:27B-5.3(a).

(b) A light-duty gasoline-fueled vehicle, light-duty gasoline-fueled truck or heavy-duty gasoline-fueled vehicle shall not emit carbon monoxide (CO) or hydrocarbons (HC) in the exhaust emissions in excess of the following standards:

1. If, pursuant to the provisions of N.J.A.C. 7:27-15.5(g), a motor vehicle is tested using the idle test, the motor vehicle shall be subject to the exhaust emission standards set forth in Table 1 below. Compliance with these standards shall be determined in accordance with the inspection test procedure at N.J.A.C. 7:27B-5.3(b);

**TABLE 1
EXHAUST EMISSION STANDARDS
FOR THE IDLE TEST
LDGVs and LDGTs Powered by Gasoline**

Model Year	CO (% by volume)	HC (ppm as hexane)
Pre-1968	8.5	1400
1968-1970	7.0	700
1971-1974	5.0	500
1975-1980	3.0	300
1981 & Later	1.2	220

HDGVs Powered by Gasoline

Model Year	CO (% by volume)	HC (ppm as hexane)
Pre-1968	8.5	1400
1968-1970	8.5	1200
1971-1974	6.0	700
1975-1978	4.0	500
1979 & Later	3.0	300

2. If, pursuant to the provisions of N.J.A.C. 7:27-15.5(g), a motor vehicle is tested using the two speed idle test, the motor vehicle shall be subject to the applicable

exhaust emission standards set forth in Table 2 below. Compliance with these standards shall be determined in accordance with the inspection test procedure at N.J.A.C. 7:27B-5.4;

**TABLE 2
EXHAUST EMISSION STANDARDS
FOR THE TWO SPEED IDLE TEST
LDGVs and LDGTs Powered by Gasoline**

Model Year	CO (% by volume)	HC (ppm as hexane)
1981 & Later	1.2	220

3. If, pursuant to the provisions of N.J.A.C. 7:27-15.5(g), a motor vehicle is tested using an OBD inspection conducted in accordance with the inspection test procedure at N.J.A.C. 7:27B-5.6, it shall be considered to have passed said inspection unless:

- i. The DLC cannot be found or is damaged/obstructed in such a way as to not allow a connection between the analyzer and the motor vehicle;
- ii. Communication cannot be established between the analyzer and the vehicle's OBD system;
- iii. The MIL is not illuminating when commanded to light;
- iv. The number of systems that have non-continuous readiness monitors, which are not ready for inspections equals or exceeds the following criteria: three "not ready" codes for motor vehicles model year 1996 through 2000 and two "not ready" codes for motor vehicles model year 2001 and newer, as established at 40 CFR 51.357, incorporated herein by reference;
- v. Any continuous readiness monitor is not supported or not ready;
- vi. The MIL is illuminated while the vehicle's engine is running;
- vii. DTCs have been detected by the OBD system to cause the MIL to be commanded on; or
- viii. A motor vehicle fails an initial OBD inspection as indicated by one or more catalyst DTCs and the catalyst readiness monitor indicates the monitor is not ready during the OBD reinspection.

(c) A gasoline-fueled motor vehicle, which is subject to inspection pursuant to N.J.A.C. 7:27-15.5(a) shall, as a condition of compliance with said inspection, have a properly functioning and properly maintained emission control apparatus as determined according to the inspection test procedures established at N.J.A.C. 7:27B-5.5.

(d) Except as provided in (e) and (f) below, the applicability of the standards set forth in this subchapter and of the test procedure set forth at N.J.A.C. 7:27B-5.3 through

5.7, to a motor vehicle with an engine other than the engine originally installed by the manufacturer shall be based on the chassis type and model year of the motor vehicle, not on the engine model year.

(e) A motor vehicle that is modified to operate solely on a fuel other than that for which the motor vehicle was originally equipped shall be subject to the test procedures and standards applicable to a motor vehicle of the current fuel type. If the motor vehicle's fuel type after modification is one to which this subchapter does not apply (for example, a gasoline engine replaced with a diesel engine), the motor vehicle shall be exempt from this subchapter.

(f) A motor vehicle that is modified or manufactured to operate on more than one fuel type shall be subject to exhaust emission standards that apply to the motor vehicle for each fuel type for which the motor vehicle is equipped. Such motor vehicle shall be subject to an exhaust emission test for each fuel type on which it operates and shall comply with all applicable standards for each fuel type. Such motor vehicle shall also be subject to a fuel cap leak test when operating on gasoline. If the motor vehicle is capable of simultaneous operation on more than one fuel type (for example, flexible fuel, gasoline-methanol vehicle), the motor vehicle shall be subject to an exhaust emission test using the fuel mixture in the vehicle at the time of inspection and subject to the exhaust emission standards applicable to vehicles powered by gasoline.

(g) The provisions of (d), (e), and (f) above shall not be construed to allow any of the following acts, if such act is prohibited by N.J.A.C. 7:27-15.7:

1. The installation of an engine into a motor vehicle other than the engine originally installed by the manufacturer;
2. The operation of a motor vehicle on a fuel other than that for which the motor vehicle was originally equipped; and
3. The modification of a motor vehicle to operate on more than one fuel type.

As amended, R.1975 d.22, eff. January 31, 1975.

See: 7 N.J.R. 102(b).

As amended, R.1975 d.91, eff. October 1, 1975.

See: 6 N.J.R. 173(a), 7 N.J.R. 206(c).

As amended, R.1975 d.92, eff. April 1, 1975.

See: 7 N.J.R. 206(c).

As amended, R.1976 d.12, eff. January 14, 1976.

See: 8 N.J.R. 62(c).

As amended, R.1977 d.1, eff. January 3, 1977.

See: 9 N.J.R. 77(c).

Amended by R.1985 d.1, effective January 21, 1985 (operative July 1, 1985).

See: 16 N.J.R. 2889, 17 N.J.R. 189(b).

Section substantially amended.

Amended by R.1985 d.331, effective July 1, 1985 (operative December 2, 1985).

See: 17 N.J.R. 781(a), 17 N.J.R. 1649(a).

"past-1984 model year" substituted for "light duty." Added text "weighing less than 8501 pounds."

Emergency recodification from 7:27-15.4 and amendment R.1995 d.409, effective June 29, 1995 (expires August 28, 1995).

See: 27 N.J.R. 2752(a).

Adopted Concurrent Proposal, R.1995 d.527, effective August 28, 1995, except changes upon adoption effective October 2, 1995 (operative October 27, 1995).

See: 27 N.J.R. 2752(a), 27 N.J.R. 3806(a).

Amended by R.1997 d.56, effective February 3, 1997 (operative March 8, 1997).

See: 28 N.J.R. 2298(b), 29 N.J.R. 498(a).

In (b), inserted tables, with amended effective dates, under Table 3, amended effective dates for tables under Table 4, and added Table 5; and in (c) and (d), amended N.J.A.C. references.

Amended by R.1999 d.408, effective November 15, 1999 (operative December 7, 1999).

See: 31 N.J.R. 2572(a), 31 N.J.R. 3627(a).

Changed N.J.A.C. 7:27B references throughout; and in (b), substituted references to 2001 for references to 1999 and substituted references to 2002 for references to 2000 in Tables 3 and 4.

Administrative change.

See: 33 N.J.R. 3550(a).

Amended by R.2003 d.47, effective January 21, 2003 (operative February 18, 2003).

See: 34 N.J.R. 1811(a), 35 N.J.R. 429(a).

Rewrote the section.

Amended by R.2009 d.343, effective November 16, 2009 (operative December 18, 2009).

See: 41 N.J.R. 1606(a), 41 N.J.R. 4195(b).

In the introductory paragraph of (b), substituted "or" for a comma following "(CO)" and deleted ", or oxides of nitrogen (NO_x)"; in Table 1 of (b)1, deleted "LDGVs and LDGTs Powered by a Fuel Other Than Gasoline (Reserved)" and "HDGVs Powered by a Fuel Other Than Gasoline (Reserved)"; in (b)2, substituted "two speed idle" for "2,500 RPM"; in Table 2 of (b)2, substituted "TWO SPEED IDLE" for "2500 RPM" in the heading, "1.2" for "0.5" under the "CO" column and "220" for "100" under the "HC" column, and deleted "LDGVs and LDGTs Powered by a Fuel Other Than Gasoline (Reserved)"; deleted former (b)3; recodified former (b)4 as (b)3; in the introductory paragraph of (b)3, updated the second N.J.A.C. reference; in (b)3iv, substituted "that" for "which" and "CFR" for "C.F.R. §" and inserted "non-continuous", inserted a comma following "monitors" and inserted "equals or"; added new (b)3v and (b)3vi; recodified former (b)3v and (b)3vi as (b)3vii and (b)3viii; in (b)3viii, deleted a comma following "DTCs" and deleted "fails a tailpipe test conducted on reinspection to confirm catalyst repairs in the case where"; in (c), inserted a comma following "vehicle" and updated the N.J.A.C. reference; in (d), substituted "5.7" for "5.8" and deleted "inclusive," preceding "to a motor"; and in (e) and (f), deleted the last two sentences.

7:27-15.7 Prohibition of tampering with emission control apparatus

(a) No owner or operator of a gasoline-fueled motor vehicle shall cause, suffer, allow or permit any of the following, unless it is performed in accordance with EPA Memorandum 1A or it is exempt from prohibition by CARB executive order (information on devices or modifications approved by CARB executive order may be obtained from the California Air Resources Board, 1001 "I" Street, PO BOX 2815, Sacramento, CA 95812 or at www.arb.ca.gov):

1. The disconnection, detachment, deactivation, or any other alteration or modification from the design of the original vehicle manufacturer of an element of design installed on any motor vehicle with a certified configuration, except temporarily for the purpose of diagnosis, maintenance, repair or replacement;

2. The operation on the public roads, streets or highways of the State or any public or quasi-public property in the State of any motor vehicle with a certified configuration in which any element of design installed on such vehicle has been disconnected, detached, deactivated, or in any other way altered or modified from the design of the original vehicle manufacturer;

3. The sale, lease, or offer for sale or lease, of any motor vehicle with a certified configuration in which any element of design installed on such vehicle has been disconnected, detached, deactivated, or in any other way altered or modified from the design of the original vehicle manufacturer; or

4. The sale, or offer for sale, of any device or component as an element of design intended for use with, or as part of, any motor vehicle or motor vehicle engine with a certified configuration, which is not designed to duplicate the function and performance of any element of design installed by the original vehicle manufacturer.

New Rule, R.1985 d.1, effective January 21, 1985 (operative July 1, 1985).

See: 16 N.J.R. 2889, 17 N.J.R. 189(b).

New rule. Old rule recodified to 15.7.

Emergency recodification from 7:27-15.5 and amendment R.1995 d.409, effective June 29, 1995 (expires August 28, 1995).

See: 27 N.J.R. 2752(a).

Adopted Concurrent Proposal, R.1995 d.527, effective August 28, 1995 (operative October 27, 1995).

See: 27 N.J.R. 2752(a), 27 N.J.R. 3806(a).

Amended by R.2009 d.343, effective November 16, 2009 (operative December 18, 2009).

See: 41 N.J.R. 1606(a), 41 N.J.R. 4195(b).

In the introductory paragraph of (a), inserted "the California" and substituted "1001 'P' Street, PO BOX 2815, Sacramento, CA 95812 or at www.arb.ca.gov" for "Haagen-Smit Laboratory, 9528 Telstar Avenue, El Monte, CA, 91731-2990".

7:27-15.8 Idle standard

(a) No person shall cause, suffer, allow, or permit the engine of a gasoline-fueled motor vehicle to idle for more than three consecutive minutes if the vehicle is not in motion.

(b) The provisions of (a) above shall not apply to:

1. Buses while actively discharging or picking up passengers. This exemption is limited to 15 consecutive minutes in a 60-minute period;

2. Any motor vehicle idling in traffic, or a motor vehicle other than a school bus idling in a queue of motor vehicles, that are intermittently motionless and moving because the progress of the motor vehicles in the traffic or the queue has been stopped or slowed by the congestion of traffic on the roadway or by other conditions over which the driver of the idling motor vehicle has no control;

3. Motor vehicles whose primary and/or secondary power source is utilized in whole or in part for necessary and definitively prescribed mechanical operation other than propulsion. This use includes, but is not limited to, oper-

ating lift gate pumps and controlling cargo temperature. This exemption does not apply to passenger compartment heating or passenger compartment air conditioning;

4. Motor vehicles being or waiting to be examined by State or Federal motor vehicle inspectors;

5. Vehicles that are actively performing emergency services. Examples include fire vehicles, police vehicles, public utility vehicles, military tactical vehicles and snow removal vehicles, during the time that such vehicles are actively performing emergency services;

6. Motor vehicles while being repaired or serviced, provided that operation of the engine is essential to the proper repair or service; or

7. Motor vehicles manufactured with a sleeper berth while being used, in a non-residentially zoned area, by the vehicle's operator for sleeping or resting, unless the vehicle is equipped with a functional auxiliary power system designed in whole or in part to maintain cabin or sleeper berth comfort or to mitigate cold weather start-up difficulties.

Amended by R.1985 d.1, effective January 21, 1985 (operative July 1, 1985).

See: 16 N.J.R. 2889, 17 N.J.R. 189(b).

Rule recodified and substantially amended, to 15.8.

New Rule, R.1985 d.610, effective December 2, 1985 (operative May 5, 1986).

See: 16 N.J.R. 2886(a), 17 N.J.R. 2887(a).

Emergency recodification from 7:27-15.6 and amendment R.1995 d.409, effective June 29, 1995 (expires August 28, 1995).

See: 27 N.J.R. 2752(a).

Adopted concurrent proposal, R.1995 d.527, effective August 28, 1995 (operative October 27, 1995).

See: 27 N.J.R. 2752(a), 27 N.J.R. 3806(a).

Amended by R.2009 d.343, effective November 16, 2009 (operative December 18, 2009).

See: 41 N.J.R. 1606(a), 41 N.J.R. 4195(b).

Rewrote (b)1, (b)2, (b)3, (b)5 and (b)6, deleted former (b)7; recodified (b)8 as (b)7; and rewrote (b)7.

7:27-15.9 Non-interference with the motor vehicle codes

Nothing in this subchapter is intended to limit or deny the inspection of motor vehicles in accordance with regulations established pursuant to N.J.S.A. 39:8-2, 39:3-70, 39:3-76, and 39:10-26.

Amended by R.1985 d.1, effective January 21, 1985 (operative July 1, 1985).

See: 16 N.J.R. 2889, 17 N.J.R. 189(b).

Recodified from 15.5; Old (a) deleted and (b)-(c) now (a)-(b).

Emergency recodification from 7:27-15.7 and amendment R.1995 d.409, effective June 29, 1995 (expires August 28, 1995).

See: 27 N.J.R. 2752(a).

Adopted Concurrent Proposal, R.1995 d.527, effective August 28, 1995 (operative October 27, 1995).

See: 27 N.J.R. 2752(a), 27 N.J.R. 3806(a).

APPENDIX

The following table highlights the provisions of N.J.A.C. 7:27-15.5(f) to show generally the emissions tests to be administered to each category of vehicle inspected or reinspected:

Test/model year	1980 and older	1981 – 1995	1996 and newer
idle	all	GVWR > 8,500	GVWR > 8,500
two speed idle	=	GVWR < 8,501	all OBD-equipped but not OBD-eligible with GVWR < 8,501
OBD	=	=	all OBD-equipped and eligible with GVWR < 8,501
Gas Cap	all equipped with sealed systems (1971 and newer)	all	all models through 2000
Visible smoke	all	all	all
Catalytic converter check	all originally equipped (1975 and newer)	all	all

New Rule, R.2003 d.47, effective January 21, 2003 (operative February 18, 2003).
 See: 34 N.J.R. 1811(a), 35 N.J.R. 429(a).
 Amended by R.2009 d.343, effective November 16, 2009 (operative December 18, 2009).
 See: 41 N.J.R. 1606(a), 41 N.J.R. 4195(b).
 Rewrote the appendix.

SUBCHAPTER 16. CONTROL AND PROHIBITION OF AIR POLLUTION BY VOLATILE ORGANIC COMPOUNDS

Subchapter Historical Note

Subchapter 16 was adopted as R.1975 d.377, effective March 1, 1976. See: 7 N.J.R. 47(c), 8 N.J.R. 15(b). The subchapter was amended by R.1979 d.414, effective December 17, 1979. See: 10 N.J.R. 477(b), 11 N.J.R. 544(b). Further amendments were filed as R.1982 d.3, effective February 1, 1982 (operative, March 1, 1982). See: 13 N.J.R. 127(a), 14 N.J.R. 145(b). See section annotations for further rulemaking activity.

7:27-16.1 Definitions

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

“AASHTO” means American Association of State Highway and Transportation Officials.

“Aboveground storage tank” or “AST” means any storage tank that is not an underground storage tank.

“Actual emissions” means the rate at which an air contaminant is actually emitted, either directly or indirectly, to the outdoor atmosphere, in units of mass per calendar year, seasonal period, or other time period specified in this subchapter.

“Agitator” means an apparatus with an external seal used to shake, stir, or mix material in an enclosed vessel.

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

“Airless cleaning system” means a solvent cleaning machine that operates under vacuum and seals at a differential pressure of 0.50 pounds per square inch or less, prior to the introduction of solvent or solvent vapor into the cleaning chamber, and maintains this differential pressure under vacuum during all cleaning and drying cycles.

“Airless spray” means a spray coating method in which the coating is atomized by forcing it through a small nozzle opening at high pressure. The coating is not mixed with air before it exits from the nozzle opening.

“Air-tight cleaning system” means a solvent cleaning machine that seals at a differential pressure of 0.50 pounds per square inch or less, prior to the introduction of solvent or solvent vapor into the cleaning chamber, and maintains this differential pressure during all cleaning and drying cycles.

“Alter” means to effect an alteration of equipment or control apparatus.

“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.

“AP-42” means the January 1995, 5th edition of the manual entitled “Compilation of Air Pollutant Emission Factors,” which is published by the EPA, including supplements A through G and any subsequent revisions, as supplemented or amended and incorporated herein by reference. The manual may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia, 22161, (703) 487-4650; or from the Superintendent of Documents, Government Printing Office, Washington, D.C., 20402, (202) 783-3228. In addition, the manual can be accessed electronically through the EPA Technology Transfer

Network CHIEF site at <http://www.epa.gov/ttn/chief/ap42/index.html>.

“Applicable VOC” means any VOC which has a vapor pressure or sum of partial pressures of organic substances of 0.02 pounds per square inch (1.0 millimeters of mercury) absolute or greater at standard conditions.

“Asphalt” means a solid, semisolid, or liquid material, produced by mixing bituminous substances together with gravel, crushed rock or similar materials, and used commonly as a coating or paving.

“Asphalt pavement production plant” means a batch type asphalt plant or drum mix asphalt plant operated to manufacture asphalt pavement.

“ASTM” means the American Society for Testing and Materials.

“Authorized inspection agency” means any one of the following that employs an authorized inspector:

1. An insurance company that is licensed or registered in New Jersey to write aboveground storage tank insurance;
2. An owner or operator of one or more aboveground storage tanks; or
3. An independent organization or person contracted by an aboveground storage tank owner or operator to perform an inspection.

“Authorized inspector” means a person authorized by the tank owner or operator to conduct floating roof inspections. This person may be an employee of the tank owner or operator or a contractor.

“Automated parts handling system” means, with respect to a solvent cleaning machine, a mechanical device that carries parts and/or baskets containing parts at a controlled speed from the initial loading of soiled or wet parts through the removal of the cleaned or dried parts.

“Automobile or light duty truck surface coating operation” means the application, flash-off, and curing of the primer, topcoat, and repair coat on the main body and other exterior sheetmetal of any passenger car or passenger car derivative capable of seating 15 or fewer passengers, or any motor vehicle rated at 8,500 pounds (3,856 kilograms) gross vehicle weight or less which is designed primarily for purposes of transportation of property, or a derivative of such vehicle including, but not limited to, pick-ups, vans, and window vans. This term includes the entire coating application system, including all spray booths, flash-off areas, and ovens in which surface coating formulations within the same spray primer, topcoat, or repair operation category are applied, dried and cured.

“Automotive elastomeric coating” means a coating designed for application over surfaces of flexible mobile equipment and mobile equipment components, such as elastomeric bumpers.

“Automotive impact resistant coating” means a coating designed to resist chipping caused by road debris.

“Automotive jamming clear coat” means a fast-drying, ready-to-spray clear coat applied to surfaces such as door jambs and trunk and hood edges to allow for quick closure.

“Automotive lacquer” means a thermoplastic coating applied directly to the bare metal surfaces of mobile equipment and mobile equipment components which dries primarily by solvent evaporation, and which is resoluble in its original solvent.

“Automotive low-gloss coating” means a coating which exhibits a gloss reading less than or equal to 25 on a 60(glossmeter).

“Automotive multi-colored topcoat” means a topcoat that exhibits more than one color, is packaged in a single container, and camouflages surface defects on areas of heavy use, including, but not limited to, cargo beds and other surfaces of trucks and other utility vehicles.

“Automotive pretreatment” means a primer that contains a minimum of 0.5 percent acid, by weight, that is applied directly to the bare metal surfaces of mobile equipment and mobile equipment components to provide corrosion resistance and to promote adhesion of subsequent coatings.

“Automotive primer-sealer” means a coating applied to mobile equipment and mobile equipment components prior to the application of a topcoat to provide corrosion resistance, to promote adhesion of subsequent coatings, to promote color uniformity, and to promote the ability of the undercoat to resist penetration by the topcoat.

“Automotive primer-surfacer” means a coating applied to mobile equipment and mobile equipment components prior to the application of a topcoat for the purpose of:

1. Filling surface imperfections in the substrate;
2. Providing corrosion resistance; and
3. Promoting adhesion of subsequent coatings.

“Automotive specialty coating” means a coating which has been determined by the Department to have only specialized, relatively low-volume uses. This term includes, but is not limited to, elastomeric coatings, adhesion promoters, low gloss coatings, bright metal trim repair coatings, jamming clear coats, impact resistant coatings, rubberized asphaltic underbody coatings, uniform finish blenders, or weld-through primers applied to automotive surfaces and lacquer topcoats applied to a historic motor vehicle.

“Automotive topcoat” means a coating or a series of coatings applied over an automotive primer-surfacer, automotive primer-sealer or existing finish on the surfaces of mobile equipment and mobile equipment components for the purpose of protection or beautification.

“Automotive touch up repair and refinish” means an application of automotive topcoat to cover minor finishing imperfections which are equal to or less than one inch in diameter.

“Background concentration” means, with respect to the measurement of the emission of VOC from a component, the concentration of VOC in the ambient air as determined within

Case Notes

DEP complied with all Federal and State statutory and regulatory provisions in issuance of permit. In the Matter of NJPDES Permit No. N.J. 0055247, et al., 216 N.J.Super. 1, 522 A.2d 1002 (App.Div.1987) certification denied 108 N.J. 185, 527 A.2d 1390 (1987).

7:27-22.14 General operating permits

(a) The Department may promulgate a rule to issue one or more general operating permits, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-2 et seq. The Department may also publish a technical manual for each general permit, pursuant to N.J.S.A. 13:1D-111. The technical manual shall contain the information required under N.J.S.A. 13:1D-111, including, but not limited to, information that details and clarifies the Department's interpretation of standards or other requirements that are not defined by regulation. However, if the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., establishes an alternative procedure for issuing general permits without rulemaking under the Administrative Procedure Act, the Department will issue general permits in accordance with that procedure. Otherwise, in issuing a general permit, the Department shall comply with:

1. The Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.;
2. The public comment procedures set forth at N.J.A.C. 7:27-22.11;
3. EPA comment procedures set forth at N.J.A.C. 7:27-22.12;
4. Any other procedural requirements related to the issuance of an operating permit; and
5. N.J.S.A. 13:1D-111.

(b) In accordance with the procedures set forth in this section, an owner or operator may apply to the Department for authorization under a general operating permit to operate any source operation, group of source operations, or facility which meets the applicability criteria set forth in a general operating permit issued by the Department. A separate application for a preconstruction permit is not required. Approval of the general operating permit shall also constitute preconstruction permit approval. If the general operating permit applies to the entire facility, the general operating permit may serve as the operating permit for the facility. If the general operating permit applies to a part of the facility, the general operating permit may serve as a component of the operating permit for the facility.

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

1. Equipment in which the combined weight of all raw materials used exceeds 50 pounds in any one hour, in accordance with paragraph 6 in the definition of "significant source operation" N.J.A.C. 7:27-22.1, provided the emissions of all air contaminants are less than the reporting threshold specified in the General Operating Permit. In determining the weight of the raw materials used, the weight of the following shall be excluded, in accordance

with subparagraph 6ii in the definition of "significant source operation" in N.J.A.C. 7:27-22.1:

- i. Air;
 - ii. Water;
 - iii. Containers, provided that the container is not consumed as part of the operation of the equipment; and
 - iv. Paper, metal, or plastic that is twisted, bent or folded, in the equipment, provided that the twisting, bending, or folding does not cause visible emissions or air pollution;
2. Combined heat and power (CHP) combustion turbines, as follows:
 - i. A single CHP combustion turbine, with or without a duct burner, that has a maximum heat input rate, including any duct burner heat input, less than or equal to 65 MMBTU/hr; or
 - ii. Multiple CHP combustion turbines, with or without duct burners, that have a combined total maximum heat input rate, including any duct burner heat input, less than or equal to 65 MMBTU/hr;
 3. Combined heat and power (CHP) stationary spark ignition reciprocating engines, as follows:
 - i. A single CHP stationary spark ignition reciprocating engine, with or without a duct burner, that has a maximum heat input rate, including any duct burner heat input, less than or equal to 65 MMBTU/hr; or
 - ii. Multiple CHP stationary spark ignition reciprocating engines, with or without duct burners, that have a combined total maximum heat input rate, including any duct burner heat input, less than or equal to 65 MMBTU/hr;
 4. A single emergency generator, 2007 model year or later, having a maximum heat input rate less than or equal to 30 million BTU per hour (MMBTU/hr) based on the higher heating value (HHV) of the fuel, and complying with the New Source Performance Standard for Stationary Compression Ignition Internal Combustion Engines, 40 CFR 60 (NSPS Subpart III). The general operating permit is titled, Emergency Generator (GOP-003); and
 5. Emergency generator burning gaseous fuels (GOP-004).
- (d) In an application for authorization to operate under a general operating permit, the owner or operator shall demonstrate how the facility or portion thereof:
1. Meets the applicability criteria set forth in the general operating permit; and
 2. Will comply with all of the conditions of the general operating permit.
- (e) The Department shall grant a facility's request to operate under a general operating permit without repeating the public and EPA comment procedures specified in (a)

above if the general operating permit includes applicable requirements for all relevant source operations at the facility.

(f) A permittee shall operate a facility, or any portion thereof, for which authorization to operate under a general operating permit has been obtained from the Department, according to the terms and conditions of the general operating permit.

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).

Public Notice: General operating permit 001—drycleaning operation.

See: 35 N.J.R. 3721(a).

Public Notice: Small Emitter General Permit (SEGAP)(GOP-002).

See: 36 N.J.R. 4543(b).

Administrative change.

See: 37 N.J.R. 4912(a).

Public Notice: Opportunity for Public Comment: Draft General Operating Permit.

See: 42 N.J.R. 2640(a), 2641(a).

Administrative change and Announcement of General Permit (GP-021) and General Operating Permit (GOP-005).

See: 43 N.J.R. 2523(a).

Administrative change and Announcement of General Permit (GP-022) and General Operating Permit (GOP-006).

See: 43 N.J.R. 2524(a).

Public Notice: Opportunity for Public Comment: Draft General Operating Permit.

See: 45 N.J.R. 69(a).

Administrative change and Availability of General Operating Permit (GOP-003).

See: 45 N.J.R. 1916(a).

Administrative change and Announcement of General Operating Permit (GOP-004).

See: 47 N.J.R. 895(b).

Public Notice: Opportunity for Public Comment: Proposed General Operating Permit (GOP-008).

See: 48 N.J.R. 1971(a).

7:27-22.15 Temporary facility operating permits

(a) The Department may issue an operating permit to an owner or operator of a temporary facility which authorizes operation in more than one location during the term of the operating permit, provided that all locations at which the facility may be operated are listed in the operating permit.

(b) An operating permit issued for a temporary facility shall require the permittee to:

1. Comply with all applicable requirements at all locations at which the temporary facility is operated;
2. Comply with all other applicable provisions of this chapter; and
3. Provide written notice, received at least 10 days in advance of each change in location, to:
 - i. The mayor of the municipality, or if there is no mayor, the governing body of the municipality to which the facility will be moved;
 - ii. The board of chosen freeholders or other governing body of the county to which the facility will be moved;
 - iii. The local health agency, certified pursuant to the County Environmental Health Act, N.J.S.A. 26:3A2-21

et seq. (CEHA), and its implementing regulations, N.J.A.C. 7:1H, in the county to which the facility will be moved; and

iv. The Department at the address given at N.J.A.C. 7:27-22.3(t) and the address given below:

Department of Environmental Protection
Division of Air and Hazardous Materials
Enforcement
401 East State Street, 4th Floor East
Mail Code 401-04B
P.O. Box 420
Trenton, NJ 08625-0420.

(c) The notice required pursuant to (b)3 above shall include:

1. The location being vacated;
2. The location to which the facility will be moved;
3. The name, address, and telephone number of the permittee;
4. The Department assigned permit number, which identifies the operating permit; and
5. As to the local officials identified in (b) above, a copy of the operating permit.

(d) An operating permit issued for a temporary facility shall not relieve any person from the obligation to comply with any provision of this chapter, to obtain any other necessary authorization from other governmental agencies, or to comply with all other applicable Federal, State, and local laws, rules or regulations.

(e) In accordance with N.J.A.C. 7:27-22.29(g), a facility subject to EPA's acid deposition control program pursuant to Title IV of the CAA, 42 U.S.C. § 7651 et seq., shall not be eligible for a temporary facility operating permit.

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).

Administrative change.

See: 43 N.J.R. 2328(a).

7:27-22.16 Operating permit contents

(a) The Department will include in each operating permit, drafted for, or issued to, a facility, emission limitations and standards, including any operational requirement necessary to assure compliance with all applicable requirements which apply to a source operation or a group of source operations or to the facility as a whole at the time of permit issuance.

(b) For each significant source operation at the facility, or, if applicable, for each group of source operations or for the entire facility, the operating permit shall:

1. Specify each applicable requirement and each associated permit condition, including any emission limitations and standards and any operational requirements;
2. Cite to the specific legal authority, including any State or Federal rule or regulation or any permit, which

establishes the applicable requirement and any associated permit conditions;

3. Identify any difference in form between the permit condition and the applicable requirement upon which the permit condition is based;

4. Specify the compliance assurance method (including a reference, if applicable, to where the method is published) required to be used to determine compliance with the permit condition; and

5. Specifically designate as not being Federally enforceable any permit condition based on an applicable state requirement.

(c) If any other applicable Federal requirement is more stringent than an applicable requirement of EPA's acid deposition control regulations, both requirements shall be set forth in the operating permit pursuant to (b) above and both shall be enforceable by the Department and EPA.

(d) An operating permit may contain an alternative emission limit pursuant to N.J.A.C. 7:27-22.3(m), if:

1. The applicant has proposed the alternative emission limit in the application for the operating permit;

2. The applicant has proposed procedures that ensure that the alternative emissions limit is quantifiable, accountable, enforceable, and based on replicable procedures;

3. The Department has determined, based on an equivalency demonstration provided by the applicant, that the alternative emissions limit proposed by the applicant is equivalent to, or more stringent than, that contained in an applicable requirement; and

4. The Department determines that the alternative emission limit is consistent with the SIP.

(e) The Department shall incorporate into each operating permit the provisions of any effective preconstruction permit and operating certificate issued for the facility, or any part thereof, if the preconstruction permit or operating certificate was:

1. Issued prior to the date the applicant submitted the application for the operating permit to the Department, and included by the applicant in the application; or

2. Issued subsequent to the date the application was submitted to the Department and prior to the date the Department issues the draft operating permit.

(f) Each operating permit shall contain a severability clause which ensures the continued validity of all other permit conditions in the event of a challenge to any part of the operating permit.

(g) Each operating permit shall include, but not be limited to, the following statements:

1. The permittee shall comply with all conditions of the operating permit including the approved compliance plan. Any noncompliance with a permit condition constitutes a violation of the New Jersey Air Pollution Control Act N.J.S.A. 26:2C-1 et seq., or the CAA, 42 U.S.C. § 7401 et seq., or both, and is grounds for enforcement action; for termination, revocation and reissuance, or for modification of the operating permit; or for denial of an application for a renewal of the operating permit;

2. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of its operating permit;