

CHAPTER 27

AIR POLLUTION CONTROL

Authority

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

Executive Order No. 66(1978) Expiration Date

Chapter 27, Air Pollution Control, is exempt from Executive Order No. 66(1978).

Chapter Historical Note

Chapter 27, Air Pollution Control, was filed and became effective prior to September 1, 1969.

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APPENDIX. CHEMICALS DEFINING SYNTHETIC ORGANIC CHEMICAL AND POLYMER MANUFACTURING

SUBCHAPTER 1. GENERAL PROVISIONS

7:27-1.1 Scope

Unless otherwise provided by rule or statute, the following shall constitute the rules of the Bureau of Air Pollution Control and shall govern the emitting of and such activities as result in the introducing of contaminants into the ambient atmosphere.

7:27-1.2 Construction

(a) These rules shall be construed so as to permit the Department, the Bureau of Air Pollution Control and its various agencies to discharge its statutory functions.

(b) The Commissioner and the Director of the Division of Environmental Quality may amend, expand or repeal these rules after public hearing. Such actions shall be filed with the Secretary of State as required by law.

7:27-1.3 Practice where rules do not govern

The Commissioner, the Director of the Division of Environmental Quality or any agency chief shall exercise his discretion in respect of any other matters not governed by these rules.

7:27-1.4 Definitions

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

“Air pollution” means the presence in the outdoor atmosphere of substances in quantities which are injurious to human, plant or animal life or to property or unreasonably interfere with the comfortable enjoyment of life and property throughout the State and in such territories of the State as shall be affected thereby and excludes all aspects of employer-employee relationship as to health and safety hazards.

“Assertedly confidential information” means information which is the subject of a confidentiality claim, for which a confidentiality determination has not been made.

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

“British thermal unit” or “BTU” means the quantity of heat required to raise the temperature of one avoirdupois pound of water one degree Fahrenheit at 39.1 degrees Fahrenheit.

“Carbon monoxide” or “CO” means a gas comprised of molecules consisting of one carbon atom and one oxygen atom.

“CFR” means the Code of Federal Regulations.

“Claimant” means any person who submits a confidentiality claim under this subchapter.

“Class confidentiality determination” means a confidentiality determination made by the Department under N.J.A.C. 7:27-1.17, for a class of information.

“Commissioner” means the State Commissioner of Environmental Protection who is the chief administrative officer of the State Department of Environmental Protection.

3. The appropriate completed forms which are obtained from the Department by submitting to written request to the following address:

New Jersey Department of Environmental Protection
Air Quality Permitting Program
PO Box 27
Trenton, New Jersey 08625-0027; and

4. Certifications complying with N.J.A.C. 7:27-1.39.

(b) Upon request by the Department, any person to whom the Department has issued a permit to burn used oil in a space heater pursuant to N.J.A.C. 7:27-8 or 7:27-22, as applicable, shall submit to the Department information relevant to the operation of the equipment and control apparatus including, but not limited to, the following: a diagram of the facility, records documenting any use of any equipment, and records documenting any construction, installation, or alteration;

(c) The Department may include, as a condition of approval for a permit to burn used oil in a space heater pursuant to N.J.A.C. 7:27-8 or 7:27-22, as applicable, that a person to whom the Department has issued a permit provide verification that the equipment and control apparatus is being used in compliance with the provisions and conditions of its permit. Such verification may include periodic testing; installation, operation, and maintenance of instrumentation and sensing devices; recordkeeping; and reporting.

(d) After an application for permit is filed with the Department, the space heater(s) shall not be installed and operated until an approved permit is issued by the Department pursuant to N.J.A.C. 7:27-8 or 7:27-22.

7:27-20.5 Demonstration that used oil is on-specification

(a) A permittee subject to N.J.A.C. 7:27-20.6(a) shall confirm that the used oil to be combusted is on-specification used oil, as defined in N.J.A.C. 7:27-20.1. This confirmation shall be done by either performing an analysis or obtaining copies of the analysis from the supplier, documenting that each shipment received from off-site or batch generated on-site of used oil meets the on-specification standards.

(b) The permittee shall keep copies of the analysis of used oil and other information, as required by (a) above, on-site in a central file in a permanently bound logbook or in readily accessible computer memories and make these copies available for inspection by the Department for a period of three years after the date of each record, which is consistent with N.J.A.C. 7:26A-6.9(c)2.

(c) Suppliers of used oil shall provide a copy of the analysis to the permittee upon delivery of each shipment of used oil, documenting that the used oil is on-specification.

7:27-20.6 Burning of on-specification oil in other combustion units

(a) Except as prohibited by N.J.A.C. 7:27-20.2(b) or (c), a permittee may burn on-specification used oil or processed used oil fuel in a combustion unit without having to modify the permit, provided that:

1. The rated gross heat input is greater than 20 million BTU per hour;
2. The combustion device is capable of burning Number 6 fuel oil; and
3. The Department has issued a permit which authorizes the unit to burn Number 6 fuel oil;
4. The permittee confirms, prior to burning, and pursuant to N.J.A.C. 7:27-20.5, that the used oil combusted is on-specification used oil;
5. The permittee confirms, prior to burning, that the used oil combusted meets the ash standard outlined in N.J.A.C. 7:27-20.8; and
6. The on-specification used oil or processed used oil fuel or blend of any on-specification used oil or processed used oil fuel with commercial fuel meets the applicable sulfur standard of N.J.A.C. 7:27-9.

(b) Any combustion unit which meets the provisions of (a) above may also combust a blend of on-specification used oil or processed used oil fuel and a commercial fuel oil. The blend shall meet the provisions of N.J.A.C. 7:27-20.8.

(c) Any person who sells or conveys to another party commercial fuel blended with used oil to be burned in New Jersey in a combustion unit pursuant to (a) above shall provide certification that only on-specification used oil is in the blend, consistent with N.J.A.C. 7:27-20.5 and that the ash content in the blend is less than 0.15 percent by weight, pursuant to N.J.A.C. 7:27-20.8(a).

(d) Any blends of off-specification used oil with commercial fuel oil or with on-specification used oil shall be subject to the provisions of N.J.A.C. 7:27-20.7.

7:27-20.7 Burning of off-specification used oil

(a) A person wishing to burn off-specification used oil shall apply to the Department for a permit pursuant to N.J.A.C. 7:27-8 or 7:27-22, as applicable, provided that:

1. The combustion device for which the permit is sought has air pollution control devices which control the emissions of the off-specification contaminants;
2. The combustion device for which the permit is sought is one of the following:
 - i. An industrial furnace, as defined at N.J.A.C. 7:26-1.4;
 - ii. A boiler, as defined at N.J.A.C. 7:26-1.4, which is any of the following:

(1) An industrial boiler located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical process; or

(2) A utility boiler used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale; or

iii. A hazardous waste incinerator subject to regulation under 40 C.F.R. Parts 264 or 265, as incorporated by reference at N.J.A.C. 7:26G-8 or 9; and

3. The combustion device for which the permit is sought complies with all applicable air pollution control regulations at N.J.A.C. 7:27.

7:27-20.8 Ash standard

(a) Except as provided in (b) below, the ash content of on-specification used oil to be combusted or processed used oil fuel to be combusted shall not exceed 0.15 percent by weight. Any blends of on-specification used oil or processed used oil fuel with commercial fuel oil shall meet the 0.15 percent by weight maximum ash content standard, except as provided by (b) below.

(b) Any person may request a different ash content limit if the combustion device incorporates air pollution control for particulates. The Department shall approve such request if compliance with all applicable air pollution control regulations is demonstrated in a permit application pursuant to N.J.A.C. 7:27-8 or 7:27-22.

(c) The ash content limit in (a) and (b) above shall be measured with ASTM Standard Test Method for Ash from Petroleum Products by ASTM D 482-91, incorporated herein by reference. This specification can be obtained from the ASTM, 1916 Race Street, Philadelphia, Pennsylvania 19103.

(d) The vendor or permittee shall verify the ash content standard in (a) and (b) above for on-specification used oil or processed used oil fuel or blend of any on-specification used oil or processed used oil fuel with commercial fuel by sampling and analysis.

(e) Used oil space heaters with a capacity of not greater than 500,000 BTU/hr subject to N.J.A.C. 7:27-20.3 or 20.4 that comply with N.J.A.C. 7:27-20.3(b)2, 3, 6 and 13 are exempt from this section.

7:27-20.9 Exception

The provisions of this subchapter shall not apply to any used oil charged to a fluid catalytic cracking unit at a petroleum refinery.

SUBCHAPTER 21. EMISSION STATEMENTS

Source and Effective Date

R.1993 d.128, effective March 15, 1993 (operative April 20, 1993).
See: 24 N.J.R. 2979(a), 25 N.J.R. 1254(a).

Law Review and Journal Commentaries

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

New Rules Establish Clean Air Act Standards. Richard M. Hluchan and Terrie-Anne Duda, 132 N.J.L.J. No. 8, S10 (1992).

7:27-21.1 Definitions

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

“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.

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

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

“AP-42” means the most recently published edition and any subsequent edition of the manual entitled “Compilation of Air Pollutant Emission Factors” published by the EPA. This document may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, (703) 487-4650 or the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, (202) 783-3228.

“Capture efficiency” means the amount of an air contaminant collected by a control apparatus serving the source operation, expressed as a percentage of the total amount of the air contaminant emitted by the source operation.

“Carbon monoxide” or “CO” means an air contaminant which is a colorless, odorless gas at standard conditions, having a molecular composition of one carbon atom and one oxygen atom.

“Certificate” means either an operating certificate or a temporary operating certificate.

“CFR” means the United States Code of Federal Regulations. This document may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, (202) 783-3228.

“Control apparatus” means any device which prevents or controls the emission of any air contaminant directly or indirectly into the outdoor atmosphere.

“Control efficiency” means the amount of an air contaminant prevented from being discharged into the outdoor atmosphere by a control apparatus, expressed as a percentage of the total amount of the air contaminant collected by the control apparatus.

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

“Delivery vessel” means any mobile storage tank including, but not limited to, a marine vessel, tank truck or railroad tank car.

“Distillates of air” means the following chemical species: helium (He), nitrogen (N₂), oxygen (O₂), neon (Ne), argon (Ar), krypton (Kr), xenon (Xe), and carbon dioxide (CO₂).

“Emissions information” means, with reference to any source operation, equipment, or control apparatus:

1. Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any air contaminant which has been emitted by the source operation, equipment or control apparatus;
2. Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any air contaminant which, under an applicable standard or limitation, the source operation was authorized to emit (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source operation), or any combination of the foregoing; and
3. A general description of the location and/or nature of the source operation to the extent necessary to identify the source operation and to distinguish it from other source operations (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source operation).

The following list includes specific data fields which the Department considers to constitute emissions information. This list is not exhaustive and, therefore, other data might be found, in a proper case, to constitute emissions information:

Facility Identification

Plant name and related point identifiers

Address

City

County

AQCR (Air Quality Control Region)

MSA, PMSA, CMSA (Metropolitan Statistical Areas)

State

Zip Code

Ownership and point of contact information

Locational Identifiers:

Latitude & Longitude or UTM Coordinates

SIC Code (Standard Industrial Classification)

Emission point, device or operation description, information

SCC Code (Source Classification Codes)

Emissions Parameters

Emission type (for example, nature of emissions such as CO, particulate or a specific toxic compound, and origin of emissions such as process vents, storage tanks or equipment leaks)

Emission rate (for example, the amount released to the atmosphere over time such as pounds per hour or tons per year)

Release height (for example, height above ground level where the air contaminant is emitted to the atmosphere)

Description of terrain and surrounding structures (for example, the size of the area, with adjacent structures and terrain descriptions such as mountainous, urban, or rural)

Stack or vent diameter at point of emissions (for example the inside diameter of vent at the point of emission to the atmosphere)

Release velocity

Release temperature

Frequency of release (for example, how often a release occurs in events per year)

Duration of release (for example, the time associated with a release to the atmosphere)

Concentration (for example, the amount of an emission stream constituent relative to other stream constituents, expressed as parts per million (ppm), volume percent, or weight percent)

Density of the emissions stream or average molecular weight (for example, density expressed as fraction or multiple of the density of air; molecular weight)

Boiler or process design capacity (for example, the hourly gross heating value of fuel input to a boiler at its maximum design rate or maximum pounds per hour product rate)

Emission estimation method (for example, the method by which an emission estimate has been calculated such as material balance, stack test, use of AP-42 emission factors, etc.)

Percent space heat (for example, the percent of fuel used for space heating)

Hourly maximum design rate (for example, the greatest operating rate that would be expected for a source in a one hour period)

Control apparatus information (for example, type of primary and secondary control apparatus, capture efficiency, and control efficiency)

"EPA" means the United States Environmental Protection Agency.

"Equipment" means any device capable of causing the emission of an air contaminant either directly or indirectly to the outdoor atmosphere, and any stack or chimney, conduit, flue, duct, vent, or similar device connected or attached to, or serving the equipment. This term includes, but is not limited to, a device in which the preponderance of the air contaminants emitted is caused by a manufacturing process.

"Facility" means the combination of all structures, buildings, equipment, storage tanks, source operations, and other operations located on one or more contiguous or adjacent properties owned or operated by the same person.

"Facility-wide permit" means a single permit issued by the Department to the owner or operator of a priority industrial facility incorporating the permits, certificates, registrations, or any other relevant Department approvals previously issued to the owner or operator of the priority industrial facility pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., and the appropriate provisions of the Pollution Prevention Plan prepared by the owner or operator of the priority industrial facility pursuant to N.J.S.A. 13:1D-41 and 42. This term shall have the same meaning as defined for the term "facility-wide permit" at N.J.A.C. 7:1K-1.5; if there is any conflict between the definition at N.J.A.C. 7:1K-1.5 and this one, the definition at N.J.A.C. 7:1K-1.5 shall control.

"Federally enforceable" means any limitation or condition on operation, production, or emissions that can be enforced by EPA. These limitations and conditions that can be enforced by EPA include, but are not limited to, those established pursuant to:

1. Any standard of performance for new stationary sources (NSPS) promulgated at 40 CFR Part 60, or promulgated under 42 U.S.C. § 7411;

2. Any national emission standard for hazardous air pollutants (NESHAP) promulgated at 40 CFR Part 61, 40 CFR Part 63, or promulgated under 42 U.S.C. § 7412;

3. Any standard or other requirement provided for in a SIP that has been approved by EPA, or promulgated through rulemaking by EPA; or

4. Any permit or order issued pursuant to requirements established at 40 CFR 51, Subpart I (including any pre-construction permit issued pursuant to N.J.A.C. 7:27-8 or any operating permit issued pursuant to N.J.A.C. 7:27-22); 40 CFR 52.21; 40 CFR Part 70; 40 CFR Part 71; or 40 CFR Part 72.

"Fugitive emissions" means any emissions of an air contaminant released directly or indirectly into the atmosphere which do not pass through a stack or chimney.

"Gasoline" means any petroleum distillate or petroleum distillate/oxygenate blend having a Reid vapor pressure of four pounds per square inch (207 millimeters of mercury) absolute or greater, sold for use or used in a motor vehicle or motor vehicle engine, and commonly or commercially known or sold as gasoline.

"Gasoline dispensing facility" means a facility consisting of one or more stationary gasoline storage tanks together with dispensing devices used to fill vehicle fuel tanks.

"Lead" or "Pb" means elemental lead or any compound containing lead measured as elemental lead.

"Liquid particles" means particles which have volume but are not of rigid shape.

"Manufacturing process" means any action, operation or treatment embracing chemical, industrial, manufacturing or processing factors, methods or forms including, but not limited to, furnaces, kettles, ovens, converters, cupolas, kilns, crucibles, stills, dryers, roasters, crushers, grinders, mixers, reactors, regenerators, separators, filters, reboilers, columns, classifiers, screens, quenchers, cookers, digesters, towers, washers, scrubbers, mills, condensers or absorbers.

"NESHAP" means a National Emission Standard for a Hazardous Air Pollutant as promulgated under 40 CFR 61.

"NSPS" means Standard of Performance for New Stationary Sources as promulgated under 40 CFR 60, commonly referred to as New Source Performance Standards.

"Operating certificate" means a "Certificate to Operate Control Apparatus or Equipment" issued by the Department pursuant to the Air Pollution Control Act, and in particular N.J.S.A. 26:2C-9.2, which is valid for a period of five years from the date of issuance, unless sooner revoked by the Department.

“Operating permit” means the permit described in Title V of the Federal Clean Air Act, 42 U.S.C. §§ 7661 et seq., and in N.J.A.C. 7:27-22. This term shall include a general operating permit which is applicable facility wide, but does not include a general operating permit which applies only to a part of a facility. Where a general operating permit applies only to a part of a facility, the general operating permit shall be incorporated into the operating permit. This term also includes an operating permit issued for a temporary facility; for a facility subject to a MACT or GACT standard pursuant to N.J.A.C. 7:27-22.26; or for a component of a facility pursuant to N.J.A.C. 7:27-22.5(j).

“Order” means any and all orders issued by the Department including, but not limited to, Administrative Orders and Administrative Consent Orders.

“Oxides of nitrogen” or “NO_x” means all oxides of nitrogen, except nitrous oxide, as measured by test methods approved by the Department and EPA, such as the test methods set forth at 40 CFR 60 Appendix A Methods 7 through 7E.

“Pb” see “lead.”

“Peak carbon monoxide season” means December 1 through the last day of February, inclusive.

“Peak ozone season” means June 1 through August 31, inclusive.

“Permit” means preconstruction permit, operating permit, or facility-wide permit.

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

“PM₁₀” means a class of air contaminants which includes all particulate matter having an aerodynamic diameter less than or equal to a nominal 10 micrometers.

“Potential to emit” means the maximum aggregate capacity of a source operation or of a facility to emit an air contaminant under its physical and operational design. Any physical or operational limitation on the capacity of a source operation or a facility to emit an air contaminant, including control apparatus, and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation is Federally enforceable. Fugitive emissions shall be included in the determination of potential to emit. However, the determination shall not include any banked emission reductions that are held by the owner or operator.

“Preconstruction permit” means a legally valid permit, authorizing construction, installation, reconstruction, or modification of a significant source, issued by the Depart-

ment under N.J.A.C. 7:27-8 pursuant to the New Jersey Air Pollution Control Act and in particular N.J.S.A. 26:2C-9.2.

“Process intermediate” means any material used in a process which is neither a raw material nor a product.

“Process level” means the operation of a source, specific to the kind or type of fuel, input material, or mode of operation.

“Process rate” means the quantity per unit of time of any raw material or process intermediate consumed, or product generated, through the use of any equipment, source operation, or control apparatus. For a stationary internal combustion unit or any other fuel burning equipment, this term may be expressed as the quantity of fuel burned per unit of time.

“Product” means the output from a source operation, equipment, or control apparatus. Such outputs may include mixtures, composites, compounds and elemental substances.

“Raw material” means any input to equipment, control apparatus, or a source operation, including fuels, but excluding heat and other forms of energy. Such inputs may include mixtures, composites, compounds and elemental substances.

“Reid vapor pressure” means the absolute vapor pressure of a petroleum product in pounds per square inch (kilopascals) at 100 degrees Fahrenheit (♦F) (37.8 degrees Celsius (♦C)) as measured by “Method 1—Dry RVP Measurement” or “Method 2—Herzog Semi-Automatic Method” promulgated at 40 CFR 80, Appendix E; or any other test method approved in advance in writing by the Department and the EPA.

“Responsible official” means one of the following:

1. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

i. The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

ii. The delegation of authority to such representative is approved in advance by the Assistant Director for Air and Environmental Quality Enforcement, Division of Facility Wide Enforcement, Department of Environmental Protection;

2. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

3. For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unity of the agency (for example, a Regional Administrator of EPA); or

4. For affected sources under Title IV of the Clean Air Act:

i. The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Clean Air Act or the regulations promulgated thereunder are concerned; and

ii. The designated representative for any other purposes under 40 CFR part 70.

“SCC code” means the eight-position Source Classification Code that provides a detailed analysis of a process. See EPA document “AIRS Facility Subsystem Source Classification Codes and Emission Factor Listing for Criteria Air Pollutants” EPA 450/4-90-003, which may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia, 22161, (703) 487-4650 or the Superintendent of Documents, Government Printing Office, Washington, D.C., 20402, (202) 783-3228.

“Seasonal throughput” means the percent of the total yearly operating activity which occurs during each of the following periods:

1. December 1 through February 28/29 (for example, December 1, 1992, through February 28/29, 1993);
2. March 1 through May 31;
3. June 1 through August 31; and
4. September 1 through November 30.

“SIC code” means the Standard Industrial Classification code devised by the United States Office of Management and Budget to classify establishments according to the type of economic activity in which they are engaged.

“Solid particles” means particles of rigid shape and definite volume.

“Source operation” means any process or any identifiable part thereof emitting or having the potential to emit any air contaminant either directly or indirectly into the outdoor atmosphere.

“Stack equivalent” means an aggregation of more than one stack or chimney approved by the Department for use in calculating or measuring air contaminant emissions from a single source operation or a group of source operations with a common exhaust ventilation system.

“Stack or chimney” means a flue, conduit or opening designed, constructed or used for the purpose of emitting any air contaminant into the outdoor atmosphere.

“Sulfur dioxide,” or “SO₂,” means an air contaminant which is a colorless gas at standard conditions having a molecular composition of one sulfur atom and two oxygen atoms.

“Temporary operating certificate” means a “Certificate to Operate Control Apparatus or Equipment” issued by the Department pursuant to the Air Pollution Control Act, and in particular N.J.S.A. 26:2C-9.2, which is valid for a period not to exceed 90 days.

“Ton” means a unit of weight equal to 2,000 pounds (0.907 metric tons or 907.20 kilograms).

“Total suspended particulate matter,” or “TSP,” means any air contaminant dispersed in the outdoor atmosphere which exists as solid particles or liquid particles at standard conditions and is measured in accordance with N.J.A.C. 7:27B-1; 40 CFR 60, Appendix A, Methods 5 through 5H; or another method approved by the Department and EPA.

“USC” means the United States Code.

“UTM coordinates” means Universal Transverse Mercator geographic coordinates, specified by the UTM zone, horizontal coordinate and vertical coordinate.

“Volatile organic compound” or “VOC” means any compound of carbon (other than carbon monoxide, carbon dioxide, carbonic acid, metallic carbonates, metallic carbides, and ammonium carbonate) which participates in atmospheric photochemical reactions. For the purpose of determining compliance with emission limits or content standards, VOC shall be measured by test methods which have been approved in writing by the Department. This term excludes those compounds which EPA has excluded from its definition of VOC in the list set forth at 40 CFR 51.100(s)(1), which is incorporated by reference herein, together with all amendments and supplements. As of April 9, 1998, the compounds and classes of perfluorocarbons excluded from EPA’s definition of VOC at 40 CFR 51.100(s) are set forth below:

methane

ethane

methylene chloride (dichloromethane)

1,1,1-trichloroethane (methyl chloroform)

1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113)

trichlorofluoromethane (CFC-11)

dichlorodifluoromethane (CFC-12)

chlorodifluoromethane (HCFC-22)

- trifluoromethane (HFC-23)
- 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114)
- chloropentafluoroethane (CFC-115)
- 2,2-dichloro-1,1,1-trifluoroethane (HCFC-123)
- 1,1,1,2-tetrafluoroethane (HFC-134a)
- 1,1-dichloro-1-fluoroethane (HCFC-141b)
- 1-chloro-1,1-difluoroethane (HCFC-142b)
- 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)
- pentafluoroethane (HFC-125)
- 1,1,2,2-tetrafluoroethane (HCFC-134)
- 1,1,1-trifluoroethane (HFC-143a)
- 1,1-difluoroethane (HFC-152a)
- parachlorobenzotrifluoride (PCBTF)
- cyclic, branched, or linear completely methylated siloxanes
- acetone
- perchloroethylene (tetrachloroethylene)
- 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca)
- 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb)
- 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee)
- difluoromethane (HFC-32)
- ethylfluoride (HFC-161)
- 1,1,1,3,3,3-hexafluoropropane (HFC-236fa)
- 1,1,2,2,3-pentafluoropropane (HFC-245ca)
- 1,1,2,3,3-pentafluoropropane (HFC-245ea)
- 1,1,1,2,3-pentafluoropropane (HFC-245eb)
- 1,1,1,3,3-pentafluoropropane (HFC-245fa)
- 1,1,1,2,3,3-hexafluoropropane (HFC-236ea)
- 1,1,1,3,3-pentafluorobutane (HFC-365mfc)
- chlorofluoromethane (HCFC-31)
- 1-chloro-1-fluoroethane (HCFC-151a)
- 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a)
- 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C₄F₉OCH₃)
- 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CFCF₂OCH₃)
- 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅)

- 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CFCF₂OC₂H₅)
- methyl acetate

- perfluorocarbon compounds which fall into these classes:
 - cyclic, branched, or linear, completely fluorinated alkanes
 - cyclic, branched, or linear, completely fluorinated ethers with no unsaturations
 - cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations
 - sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine

If there is any conflict between the list at 40 CFR 51.100(s)(1) and the list set forth above, the list at 40 CFR 51.100(s)(1) shall control.

Amended by R.1994 d.500, effective October 3, 1994 (operative October 31, 1994).
 See: 25 N.J.R. 4033(a), 26 N.J.R. 4026(a).
 Administrative Correction.
 See: 27 N.J.R. 1406(a).
 Amended by R.1998 d.231, effective May 4, 1998 (operative June 12, 1998).
 See: 29 N.J.R. 3521(a), 30 N.J.R. 1563(b).
 Rewrote "Federally enforceable", "Operating permit", "Permit" and "Preconstruction permit"; and inserted "Facility-wide permit".
 Administrative change.
 See: 31 N.J.R. 639(b).

7:27-21.2 Applicability

(a) Any owner or operator of a facility is subject to the requirements of this subchapter for any calendar year in which the facility emits or has the potential to emit, directly or indirectly to the outdoor atmosphere, any air contaminant listed at Table 1 at a rate greater than or equal to the applicable threshold. Emission statements are required, starting for the 1992 calendar year, for any air pollutant exceeding the thresholds in Table 1.

**TABLE 1
 AIR CONTAMINANT REPORTING THRESHOLDS**

Air Contaminant	Threshold in Tons per Year
VOC	10
NO _x	25
CO	100
SO ₂	100
TSP	100
PM ₁₀	100
Pb	5

(b) With respect to the provisions of (a) above, emissions associated with any delivery vessel loading operation shall be included in determining a facility's potential to emit. Emissions from any delivery vessel, used as a storage tank, which is subject to the requirements of N.J.A.C. 7:27-16.2 pursuant to N.J.A.C. 7:27-16.2(m), also shall be included in a facility's potential to emit. All other emissions associated

with delivery vessels (for example, motor vehicle tailpipe emissions, locomotives, and tugboats) shall be excluded from a facility's potential to emit.

(c) Notwithstanding (a) above, no facility is required, pursuant to this subchapter, to submit an emission statement for SO₂, TSP, PM₁₀, or Pb with respect to emissions occurring in or before 1992.

(d) Any facility which is solely a retail gasoline dispensing facility is exempt from the requirements of this subchapter.

7:27-21.3 General provisions

(a) Except as provided in N.J.A.C. 7:27-21.2(b), each owner or operator of a facility shall submit to the Department an emission statement pertaining to the emissions released directly or indirectly into the outdoor atmosphere during any calendar year in which the facility is subject to this subchapter pursuant to N.J.A.C. 7:27-21.2. Such emission statement shall include information only for the air contaminant(s) for which the facility's potential to emit equals or exceeds the applicable threshold set forth at N.J.A.C. 7:27-21.2, Table 1; however, if the facility's potential to emit equals or exceeds the reporting threshold for VOC, NO_x, or CO, the facility must report information for VOC, NO_x and CO.

(b) The owner and operator of any facility subject to this subchapter shall be responsible for ensuring compliance with all requirements of this subchapter. Failure to comply with any provision of this subchapter shall subject the owner and operator to civil penalties in accordance with N.J.A.C. 7:27A-3 and applicable criminal penalties including, but not limited to, those set forth at N.J.S.A. 26:2C-19(f)1 and 2. All owners and operators are jointly and severally liable for such civil and criminal penalties.

(c) Compliance with the emission statement requirements of this subchapter does not relieve any owner or operator of a facility from the responsibility to comply with any other applicable reporting requirements set forth in any Federal or state law, rule, or regulation, or in the conditions of approval of any permit or certificate in effect.

(d) Submittal of an emission statement to the Department, or the Department's acceptance thereof, does not constitute approval by the Department of unauthorized releases of air contaminants into the outdoor atmosphere or of any exceedance of any applicable emission limit established in any Federal or state law, rule, or regulation, or in the conditions of approval of any permit or certificate in effect.

(e) Acceptance or receipt of an emission statement by the Department does not constitute the Department's acceptance of the truth, accuracy or completeness of the emission statement. The Department's failure to act on the information contained in the emission statement at the time of its receipt does not bar the Department from any future action based on that information.

(f) With respect to the provisions of N.J.A.C. 7:27-21.5 below, emissions associated with any delivery vessel loading operation shall be included in a facility's emission statement submittal. Emissions from any delivery vessel, used as a storage tank, which is subject to the requirements of N.J.A.C. 7:27-16.2 pursuant to N.J.A.C. 7:27-16.2(m) also shall be included in a facility's emission statement submittal. All other emissions associated with delivery vessels (for example, motor vehicle tailpipe emissions, locomotives, and tugboats) shall be excluded from the requirements of N.J.A.C. 7:27-21.5(c) through (i).

Case Notes

Failure to submit required emission statement within mandatory time frame warranted assessment of civil administrative penalty. Department of Environmental Protection and Energy v. Northgate, 95 N.J.A.R.2d (EPE) 190.

7:27-21.4 Procedure for submitting an emission statement

(a) Emission statements shall be submitted to the Department on or before:

1. May 31, 1993 for a facility applicable to this subchapter due to the emissions of 1992; and
2. For each following year, April 15 of each calendar year following any calendar year in which the facility is subject to this subchapter.

(b) Emission statements shall be submitted to the following address:

Chief, Bureau of Air Quality Planning
Department of Environmental Protection
PO Box 418
Trenton, NJ 08625-0418
ATTN: Emission Statements

(c) Emission statements shall be submitted on a form obtainable from the Department at the address listed in (b) above.

(d) Any person submitting an emission statement shall transmit the report to the Department on paper. With the written prior approval of the Department, an emission statement may be submitted on computer diskette or electronically, in a form approved by the Department, in lieu of a submission of an emission statement on paper. Notwithstanding this subsection, certification in accordance with the provisions of N.J.A.C. 7:27-1.39 as required in this subchapter shall accompany any transmission of an emission statement to the Department.

(e) Any person who submits information to the Department may assert a confidentiality claim for that information in accordance with N.J.A.C. 7:27-1.6. Emissions information, as defined at N.J.A.C. 7:27-21.1, is not confidential. The Department will process and evaluate confidentiality claims in accordance with N.J.A.C. 7:27-1.6 through 1.30 inclusive.

Amended by R.1998 d.231, effective May 4, 1998 (operative June 12, 1998).

See: 29 N.J.R. 3521(a), 30 N.J.R. 1563(b).

In (d), changed N.J.A.C. reference.

Case Notes

Failure to submit required emission statement within mandatory time frame warranted assessment of civil administrative penalty. Department of Environmental Protection and Energy v. Northgate, 95 N.J.A.R.2d (EPE) 190.

7:27-21.5 Required contents of an emission statement

(a) Any person who submits an emission statement to the Department shall include, as an integral part of the report:

1. Certification, in accordance with the requirements of N.J.A.C. 7:27-21.7; and
2. The date of the signature of certification, and the telephone number of the certifying individual.

(b) Emission statements shall include the following facility identification information:

1. The full name of the facility;
2. The parent company name, if applicable;
3. The physical location of the facility (that is, the street address);
4. The mailing address of the facility;
5. The SIC code(s) of the facility;
6. The UTM coordinates or latitude and longitude of the facility;
7. The calendar year of the emissions;
8. Number of employees;
9. Plant contact; and
10. Plant contact phone number.

(c) Emission statements shall include the following operating data for each source operation which has the potential to emit VOC or NO_x or both:

1. Seasonal throughput;
2. Average days of operation per week;
3. Average hours of operation per day; and
4. Total hours of operation for the year.

(d) Emission statements shall include the following information at the process level for NO_x (expressed as molecular weight of NO₂) and VOC:

1. Emissions information:
 - i. The actual emissions of VOC and NO_x in tons per year;

ii. The average actual emissions of VOC and NO_x in pounds per day of operation during the peak ozone season;

iii. The code for the method used to quantify the actual emissions (see (l) and Table 2 below); and

iv. Any emission factor used to determine actual emissions;

2. Control apparatus information:

i. Current primary, secondary and tertiary control apparatus identification codes (see Table 3 below);

ii. Actual capture efficiencies achieved by the capture device. If the actual capture efficiency is unavailable, the capture device design efficiency shall be used; and

iii. Actual control efficiencies achieved by the control apparatus. If the actual control efficiency is unavailable, the control apparatus design efficiency shall be used; and

3. Process rate data:

i. The annual process rate; and

ii. The average process rate per day of operation during the peak ozone season.

(e) Emission statements shall include the following operating data for each source operation which has the potential to emit CO:

1. Seasonal throughput;
2. Average days of operation per week;
3. Average hours of operation per day; and
4. Total hours of operation for the year.

(f) Emission statements shall include the following information at the process level for CO:

1. Emissions information:

i. The actual emissions of CO in tons per year;

ii. The average actual emissions of CO in pounds per day of operation during the peak ozone season;

iii. The average actual emissions of CO in pounds per day of operation during the peak carbon monoxide season;

iv. The code for the method used to quantify the actual emissions (see (l) and Table 2 below); and

v. Any emission factor used to determine actual emissions;

2. Control apparatus information:

i. Current primary, secondary and tertiary control apparatus identification codes (see Table 3);

ii. Actual capture efficiencies achieved by the capture device. If the actual capture efficiency is unavailable, the capture device design efficiency shall be used; and

iii. Actual control efficiencies achieved by the control apparatus. If the actual control efficiency is unavailable, the control apparatus design efficiency shall be used; and

3. Process rate data:

i. The annual process rate;

ii. The average process rate per day of operation during the peak ozone season; and

iii. The average process rate per day of operation during the peak carbon monoxide season.

(g) Emission statements shall include the following operating data for each source operation which has the potential to emit SO₂, TSP, PM₁₀ and/or Pb:

1. Seasonal throughput;

2. Average days of operation per week;

3. Average hours of operation per day; and

4. Total hours of operation for the year.

(h) Emission statements shall include the following information at the process level for SO₂, TSP, PM₁₀ and/or Pb:

1. Emissions information:

i. The actual emissions in tons per year;

ii. The code for the method used to quantify the actual emissions (see (l) and Table 2 below); and

iii. Any emission factor used to determine actual emissions;

2. Control apparatus information:

i. Current primary, secondary and tertiary control apparatus identification codes (see Table 3);

ii. Actual capture efficiencies achieved by the capture device. If the actual capture efficiency is unavailable, the capture device design efficiency shall be used; and

iii. Actual control efficiencies achieved by the control apparatus. If the actual control efficiency is unavailable, the control apparatus design efficiency shall be used; and

3. Process rate data:

i. The annual process rate; and

ii. The average process rate per day of operation during the peak ozone season.

(i) The following information may replace the more detailed information required at (c) through (h) above only for any source operation which has the potential to emit less than 0.1 ton per year of Pb or less than one ton per year of any other air contaminant required to be reported pursuant to this subchapter:

1. The following information shall be supplied:

i. A description of each source operation; and

ii. Actual emissions of each air contaminant emitted from each source operation shall be estimated at 0.1 ton per year for Pb and one ton per year for any other air contaminant; and

iii. Code 10 from Table 2 below; or

2. The following information shall be supplied:

i. A description of each source operation;

ii. Estimated actual emission in tons per year;

iii. The code for the method used to quantify the actual emissions (see (l) and Table 2 below); and

iv. Any emission factor used to determine actual emissions.

(j) Emission statements shall include cumulative total fugitive emissions for the facility for all fugitive emissions that cannot be reported in the information pursuant to (c) through (i) above. Such fugitive emissions shall be expressed:

1. In tons per year;

2. For CO, VOC and NO_x emissions, in average pounds per day of operation during the peak ozone season; and

3. For CO emissions, in average pounds per day of operation during the peak carbon monoxide season.

(k) Emission statements shall also include any other information required by any Federal regulation or emission statement guidance published by EPA. Any additional information required by this provision will be published in a New Jersey Register notice and will be clearly indicated on the emission statement forms for the applicable year.

(l) The method used for quantifying actual emissions for a source operation for use in preparing emission information required in (d)1, (f)1, (h)1 or (i)2 above shall be the method from Table 2 which is reasonably available and which the departing entity believes best estimates the actual emissions from the source operation, unless an operating permit pursuant to Title V of the Federal Clean Air Act has been issued by the Department for the facility. In such case, the method used shall be the method specified in the operating permit.

TABLE 2
CODES FOR METHODS OF QUANTIFYING
ACTUAL EMISSIONS

Method	Code
Emissions based on Continuous Emission Monitoring	1
Emissions based on source test or other measurements	2
Emissions based on material balance using engineering knowledge of the process	3
Emissions based on AP-42	4
Emissions based on best engineering judgment	5
Emissions based on a state or local agency's emission factor	6
New construction not yet operational; emissions are zero	7
Source closed, operation ceased	8
Emissions to be computer calculated by the Department or EPA based on standard emission factor (SCC emission factor file)	9†
Emissions to be computer calculated by the Department or EPA based on other approved emission factor	10†
Emissions estimated at one ton per year (0.1 ton per year for Pb)	11‡

† Codes 8 and 9 may only be used for selected source operations with prior notice or approval from the Department

‡ Code 10 may only be used for source operations which meet the criteria to report pursuant to (i)1 above

TABLE 3
CONTROL APPARATUS IDENTIFICATION CODES

Control Apparatus	Code
No control apparatus	000
Wet scrubber high efficiency	001
Wet scrubber medium efficiency	002
Wet scrubber low efficiency	003
Gravity collector high efficiency	004
Gravity collector medium efficiency	005
Gravity collector low efficiency	006
Centrifugal collector high efficiency	007
Centrifugal collector medium efficiency	008
Centrifugal collector low efficiency	009
Electrostatic precipitator high efficiency	010
Electrostatic precipitator medium efficiency	011
Electrostatic precipitator low efficiency	012
Gas scrubber—general	013
Mist eliminator high velocity	014
Mist eliminator low velocity	015
Fabric filter high temperature	016
Fabric filter medium temperature	017
Fabric filter low temperature	018
Catalytic afterburner	019
Catalytic afterburner-heat exchange	020
Direct flame afterburner	021
Direct flame afterburner-heat exchange	022
Flaring	023
Modified furnace or burner	024
Staged combustion	025
Flue gas recirculation	026
Reduced combustion-air preheat	027
Steam or water injection	028
Low excess-air firing	029
Fuel-low nitrogen content	030
Air injection	031
Ammonia injection	032
Control of % O ₂ in combustion air	033
Wellman-Lord/sodium sulfate scrubber	034
Magnesium oxide scrubbing	035
Dual alkali scrubbing	036
Citrate process scrubbing	037
Ammonia scrubbing	038
Catalytic oxidation—flue gas desulfuring	039
Alkalized alumina	040
Dry limestone injection	041
Wet limestone injection	042
Sulfuric acid plant—contact process	043
Sulfuric acid plant—double contact process	044
Sulfur plant	045
Process change	046
Vapor recovery system	047
Activated carbon adsorption	048
Liquid filtration system	049
Packed-gas absorption	050
Tray-type gas absorption column	051
Spray Tower	052
Venturi scrubber	053
Process enclosed	054
Impingement plate scrubber	055
Dynamic separator (dry)	056
Dynamic separator (wet)	057
Mat or panel filter	058
Metal fabric filter screen	059
Process gas recovery	060
Dust suppressor—water spray	061
Dust suppressor—chemical stabilization/wet agents	062
Gravel bed filter	063
Annular ring filter	064
Catalytic reduction	065
Molecular sieve	066
Wet lime slurry scrubbing	067
Alkaline fly ash scrubbing	068
Sodium carbonate scrubbing	069
Sodium-alkaline scrubbing	070
Fluid bed dry scrubber	071
Tube and shell condenser	072
Refrigerated condenser	073
Barometric condenser	074
Single cyclone	075
Multiple cyclone without fly ash reinjection	076
Baffle	078
Multiple cyclone with fly ash injection	079
Chemical oxidation	080
Chemical reduction	081
Ozonation	082
Chemical neutralization	083
Activated clay adsorption	084
Wet cyclonic separator	085
Water curtain	086
Nitrogen blanket	087
Conservation vent	088
Bottom filling	089
Conversion to variable vapor space tank	090
Conversion to floating roof tank	091
Conversion to pressurized tank	092
Submerged filling	093
Underground tank	094
White paint	095
Vapor lock balance recovery system	096
Installation of secondary seal for external floating roof tank	097
Moving bed dry scrubber	098
Miscellaneous control devices	099

Control Apparatus
High efficiency particulate air filter

Code
101

Administrative correction.
See: 34 N.J.R. 770(a).

7:27-21.6 Recordkeeping requirements

(a) Each owner or operator of a facility subject to this subchapter shall maintain the following records on the operating premises for a period of five years from the due date of each emission statement:

1. A copy of the emission statement submitted to the Department; and
2. Records indicating how the information submitted in the emission statement was determined, including any calculations, data, measurements, and estimates used.

(b) Upon the request of the Department, the owner or operator of the facility shall make these records available at the facility for inspection by any representative of the Department during normal business hours.

7:27-21.7 Certification of information

(a) Any person who submits an emission statement to the Department shall include, as an integral part of the emission statement, the following two-part certification:

1. A certification signed by the individual or individuals (including any consultants) with direct knowledge of and responsibility for the information contained in the emission statement. The certificate shall state:

"I certify under penalty of law that I believe the information provided in this emission statement is true, accurate and complete. For those portions of the above information based on estimates, those estimates are the result of good faith application of sound professional judgment, using techniques, factors, or calculations approved by the Department or EPA, or generally accepted in the trade. I am aware that there are significant civil and criminal penalties, including fines or imprisonment or both, for submitting false, inaccurate or incomplete information."

2. A certification signed by a responsible official, as defined at N.J.A.C. 7:27-21.1, which states:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this emission statement and all attached documents and, based on my inquiry of those officials immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I certify that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe any estimates are the result of good faith application of sound professional judgment, using techniques, factors, or standards approved by the Department or EPA, or generally accepted in the trade. I am aware that there are significant civil and criminal penalties, including fines or imprisonment or both, for submitting false, inaccurate or incomplete information."

7:27-21.8 Request for extensions

(a) A responsible official who is unable to submit an emission statement pursuant to this subchapter by the due date may request an extension to submit an emission statement.

(b) A request for an extension shall include the following information:

1. The Air Pollution Control Plant Identification Number of the facility (if one exists);
2. The plant contact and telephone number;
3. The name and telephone number of the responsible official;
4. The reasons and justifications for the inability to submit the emission statement by the due date and the extreme hardship that would be prevented by submitting the emission statement after the due date; and
5. The date by which the responsible official commits to submit the emission statement which can be no later than one month from the due date.

(c) A request for an extension shall be submitted, in writing, to the following address:

Chief, Bureau of Air Quality Planning
Department of Environmental Protection
PO Box 418
Trenton, NJ 08625-0418
ATTN: Emission Statements—Extension Request

(d) The Department recommends that an initial request for an extension be submitted by April 1. The Department will not consider an initial request for an extension if the Department receives it after April 15.

(e) A responsible official may request one additional request for an extension as long as the Department receives it before the initial extension has expired.

(f) Within 10 working days after receipt of a request for extension, the Department will respond with its determination as to whether the request for extension is denied or granted and the date by which the emission statement is due. The Department will grant an extension if the extension is necessary to prevent extreme hardship.

(g) A request for an extension shall be automatically granted if all of the following conditions are met:

1. The Department receives a request for an extension from the responsible official by the date set forth in (d) above for an initial request or in (e) above for an additional request;
2. The date that the responsible official commits to submit the emission statement is no later than one month after the due date as set forth in (b)5 above; and

3. The Department does not respond within 10 working days of receipt of the request.

New Rule, R.1994 d.500, effective October 3, 1994 (operative October 31, 1994).
See: 25 N.J.R. 4033(a), 26 N.J.R. 4026(a).

7:27-21.9 Notification of non-applicability

(a) If conditions at a facility have changed in a manner such that a facility which was required to submit an emission statement in the previous year is not required to submit an emission statement in the current year, the responsible official shall notify the Department in accordance with this section. The responsible official shall submit such notification of non-applicability to the Department by February 1 of the first year in which the facility is not required to submit an emission statement. For example, if in calendar year 1994 the facility does not meet the applicability requirements for submitting an emission statement in 1995, the responsible official must submit the notification of non-applicability by February 1, 1995.

(b) A notification of non-applicability must include the following information:

1. The plant ID of the facility;
2. The plant contact and telephone number;
3. The name and telephone number of the responsible official;
4. The reasons and justifications as to why the responsible official believes that the facility is not required to submit an emission statement pursuant to N.J.A.C. 7:27-21.2 including, but not limited to, the following:
 - i. The maximum annual quantity of air contaminants allowed to be emitted from all sources pursuant to each preconstruction permit held by the facility at any time during the year;
 - ii. The maximum annual quantity of air contaminants that can be emitted from all source operations at their maximum design capacity that are not subject to a preconstruction permit;
 - iii. The maximum annual quantity of all air contaminants that can be emitted as fugitive emissions; and
 - iv. Whether the facility is required to obtain or has voluntarily applied for an operating permit pursuant to N.J.A.C. 7:27-22; and

5. A statement as to whether the owner or operator anticipates that conditions at the facility may change in a manner that the facility may in future years be required to submit an emission statement pursuant to N.J.A.C. 7:27-21.2.

(c) A notification of non-applicability shall be submitted to the following address:

Chief, Bureau of Air Quality Planning
Department of Environmental Protection
PO Box 418
Trenton, NJ 08625-0418
ATTN: Emission Statements—Notification of Non-applicability

(d) By April 1, the Department shall respond with its determination as to whether the Department concurs with the responsible official's statement that the facility is not required to submit an emission statement. Failure of the Department to meet this deadline does not relieve the facility's responsibility to comply with all applicable provisions of this subchapter nor does it constitute the Department's concurrence with the responsible official's statement that the facility is not required to submit an emission statement.

(e) If a notification of non-applicability is received by the Department after February 1, the Department is under no obligation to respond to the notification and may take enforcement action pursuant to N.J.A.C. 7:27A-3.10 if the facility does not submit an emission statement pursuant to this subchapter and the Department determines that the facility was required to do so.

New Rule, R.1994 d.500, effective October 3, 1994 (operative October 31, 1994).
See: 25 N.J.R. 4033(a), 26 N.J.R. 4026(a).

7:27-21.10 Severability

If any section, subsection, provision, clause or portion of this subchapter or the application thereof to any person or circumstance is adjudged invalid or unconstitutional by a court of competent jurisdiction, the remainder of this subchapter and the application thereof to other persons or circumstances shall not be affected thereby, and shall remain in full force and effect.

Recodified from 7:27-21.8 by R.1994 d.500, effective October 3, 1994 (operative October 31, 1994).
See: 25 N.J.R. 4033(a), 26 N.J.R. 4026(a).

SUBCHAPTER 22. OPERATING PERMITS

Authority

N.J.S.A. 13:1B-3, 13:1D-9, and 26:2C-1 et seq.

Source and Effective Date

R.1994 d.502, effective October 3, 1994 (operative October 31, 1994).
See: 25 N.J.R. 3963(a), 25 N.J.R. 4836(a),
26 N.J.R. 793(a), 26 N.J.R. 3943(b).

Cross References

Application of N.J.A.C. 7:27-18 to applications submitted pursuant to this subchapter, see N.J.A.C. 7:27-18.2.

Law Review and Journal Commentaries

Business-Friendly Regulators Ease Air Pollution Rules. Neale R. Bedrock. 139 N.J.L.J. No.8, S10 (1995).

State Operating Permits Bring Major changes to New Jersey's Air Pollution Control Program. Paul H. Schneider, Peter L. Benza, 160 N.J.Law. 20 (Mag.) (April 1994).

7:27-22.1 Definitions

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

"Accountable" means, in respect to compliance with an emissions limit, verifiable through the keeping, maintenance, and accessibility of clear, appropriately comprehensive, and reliable records.

"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 by the Department.

"Administrative amendment" means the type of change made at a facility, and incorporated into an operating permit, through the procedures for administrative amendments at N.J.A.C. 7:27-22.20.

"Administratively complete application" means an application which includes sufficient information for the Department to commence review of the application. This information shall include all of the information required by this subchapter for the type of application being submitted, submitted on or with forms obtained from the Department and in accordance with the instructions accompanying the application forms. To be complete, an application shall include all preconstruction permits issued for the facility as of the date of the operating permit application. An application which is administratively complete may require supplementary information in order for the Department to take final action on the application.

"Affected state" means, in respect to an application for an operating permit, operating permit renewal, minor modification, or significant modification, any state in the United States that:

1. Is contiguous to New Jersey; or
2. Is located within 50 miles of the facility which is the subject of the application.

"Affected Title IV facility" means a facility that includes one or more "affected units," as that term is defined in the acid deposition control provisions (commonly known as "acid rain" provisions) of Title IV of the CAA, 42 U.S.C. § 7651 et seq. This term has the same meaning as the term "affected source" as defined in 40 CFR 70.

"Affected Title IV unit" has the same meaning as the term "affected unit" in the regulations promulgated by EPA under the acid deposition control program, set forth at Title IV of the CAA.

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

"Air quality impact analysis" means a procedure entailing the use of air quality simulation modeling, for determining whether air contaminant emissions will result in ambient air concentrations that exceed standards established for the protection of human health and welfare and the environment.

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

"Allowance" means an authorization granted to an affected Title IV unit by the EPA under acid deposition control requirements at Title IV of the CAA. The authorization allows the unit to emit one ton of SO₂ during or after a specified calendar year.

"Ambient air monitoring" means the measurement of concentrations of one or more air contaminants in the outdoor atmosphere.

"Applicable Federal requirement" means any of the following standards, provisions or requirements as they apply to any source operation in a facility which is subject to this subchapter. Applicable requirements include requirements that have been promulgated or approved by EPA through rulemaking but have future-effective compliance dates:

1. Any standard or other requirement provided for in New Jersey's approved SIP (or FIP, if applicable), including any approved revisions;
2. Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I of the CAA, including Parts C or D;
3. Any NSPS or other standard or requirement under 42 U.S.C. § 7411 including 42 U.S.C. § 7411(d);
4. Any standard or other requirement concerning HAPs under 42 U.S.C. § 7412, including any requirement concerning accident prevention under 42 U.S.C. § 7412(r)(7);
5. Any standard or other requirement of the acid deposition control program under Title IV of the CAA or the regulations promulgated thereunder;

6. Any requirement established pursuant to the provisions for monitoring in Title V of the CAA at 42 U.S.C. § 7661c(b) or pursuant to the monitoring requirements at 42 U.S.C. § 7414(a)(3);

7. Any standard or other requirement governing solid waste incineration under 42 U.S.C. § 7429;

8. Any standard or other requirement for consumer and commercial products under 42 U.S.C. § 7511b(e);

9. Any standard or other requirement for marine tank vessels under 42 U.S.C. § 7511b(f);

10. Any standard or other requirement of the program to prevent or control the emission of air contaminants from outer continental shelf sources under 42 U.S.C. § 7627;

11. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the CAA, unless EPA has determined that such a requirement need not be contained in an operating permit;

12. Any of the following, but only as it would apply to temporary facilities permitted pursuant to the provisions for temporary facilities at 42 U.S.C. § 7661c(e):

- i. A NAAQS; or
- ii. An increment under the PSD provisions at 42 U.S.C. § 7473; or
- iii. A visibility requirement under 42 U.S.C. § 7491 or 7492.

“Applicable requirement” means any requirement which is an applicable State requirement or an applicable Federal requirement or both.

“Applicable State requirement” means any provision, standard or requirement in any statute or rule, as it applies to air contaminant emissions from a facility or source operation which is subject to this subchapter, except an applicable Federal requirement. This term includes requirements that have been promulgated by the Department and submitted to EPA as SIP revisions but have not yet been approved by EPA.

“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.

“Application shield” means the protection from enforcement action set forth at N.J.A.C. 7:27-22.7.

“Area source” means, in respect to MACT and GACT standards, any stationary source of hazardous air pollutant that is not a major HAP facility.

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

“BACT” or “best available control technology” has the meaning set forth for this term in the PSD regulations at 40 CFR 52.21.

“Banking” means the reservation of creditable emission reductions, pursuant to N.J.A.C. 7:27-18, for future use as emission offsets.

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

“Category I” means the class of modification application for the following types of significant source operations:

1. Any gasoline vapor recovery system constructed, installed, or operated at any gasoline dispensing facility; this does not include gasoline vapor recovery systems at bulk terminals;

2. Any woodworking equipment including, but not limited to, saws, planers, and sanders, that has particulate control apparatus which achieves a minimum collection efficiency of 99 percent, and the particulate control apparatus serving the equipment;

3. Any metal working equipment including, but not limited to, welders, grinders, and drill presses, that has particulate control apparatus that achieves a minimum collection efficiency of 99 percent, and the particulate control apparatus serving the equipment.

4. Fossil fuel burning equipment used only for the burning of liquid or gaseous commercial fuel and having a designed heat input rate of less than 10 million BTU per hour; this does not include any equipment used for the burning of coal or other solid fuel, non-commercial fuel, crude oil or process by-products in any form;

5. Stationary storage tanks which have a capacity of less than 20,000 gallons and which are used for the storage of liquid substances and any control apparatus serving such tanks; this does not include any tank used to store a substance which is a TXS;

6. Emergency diesel generators with less than 10 megawatts of electrical output that operate less than 500 hours per year;

7. Any tank, reservoir, container or bin that is used for the storage of solid particles and has particulate control apparatus that achieves a minimum collection efficiency of 99 percent and the particulate control apparatus serving the equipment; this does not include any tank, reservoir, container or bin that is used for the storage of any TXS;

8. Enclosed stationary solid material handling equipment using pneumatic, bucket or belt conveying systems that have particulate control apparatus that achieves a

minimum collection efficiency of 99 percent and the particulate control apparatus serving the equipment; this does not include any equipment used to handle any material which is a TXS;

9. Any paint spray operation or other surface coating operation that has particulate control and that uses less than one half gallon of paint per hour and the particulate control apparatus serving the spray booth; this does not include any paint spray operation or surface coating operation which emits any TXS;

10. Any enclosed sandblasting equipment that has a control apparatus that achieves a minimum particulate control efficiency of 99 percent;

11. Any plastics grinding equipment; and

12. Any open top surface cleaner which is equipped with a cover and free-board chiller. This does not include any surface cleaner which uses a HAP.

“Category II” means the class of modification application for any type of significant source operation except those types which are defined above as belonging to Category I.

“CFR” means the United States Code of Federal Regulations.

“Chemical Abstract Service number” or “CAS number” means a number assigned to a chemical by the American Chemical Society’s Chemical Abstract Service Registry.

“Class I substance” means an air contaminant that is listed in 42 U.S.C. § 7671a(a), or promulgated by EPA in a Federal rule, as a substance that has been found to cause or contribute significantly to harmful effects on the stratospheric ozone layer.

“Class II substance” means an air contaminant that is listed in 42 U.S.C. § 7671a(b), or promulgated by EPA in a Federal rule, as a substance that is known or may reasonably be anticipated to cause or contribute to harmful effects on the stratospheric ozone layer.

“Clean Air Act” or “CAA” or “Federal Clean Air Act” means the Federal Clean Air Act, 42 U.S.C. § 7401 et seq., and any subsequent amendments or supplements to that act.

“Commercial fuel” means solid, liquid, or gaseous fuel normally produced or manufactured, and sold for the purpose of creating useful heat.

“Compliance plan” means a plan meeting the requirements of N.J.A.C. 7:27-22.9, which is developed and submitted as part of an application for an operating permit, renewal, or significant modification.

“Compliance schedule” means the portion of a compliance plan which fulfills the requirements of N.J.A.C. 7:27-22.9(c)5ii.

“Construct” or “construction” means to fabricate or erect equipment or control apparatus at a facility where it is intended to be used, but shall not include the dismantling of existing equipment or control apparatus, site preparation, or the ordering, receiving, temporary storage, or installation of equipment or control apparatus. Unless otherwise prohibited by federal law, this term shall also not include the pouring of footings or placement of a foundation where equipment or control apparatus is intended to be used.

“Construction of a major HAP facility” means, when used at N.J.A.C. 7:27-22.26, the fabrication (on site), erection, or installation of a new major HAP facility, or the fabrication (on site), erection, or installation of a new source operation at an existing facility if the new construction in and of itself constitutes a major HAP facility.

“Consumer Price Index” or “CPI” means the annual Consumer Price Index for a calendar year as determined year to year using the decimal increase in the September through August, 12-month average for the previous year of the Consumer Price Index for All Urban Consumers (CPI-U), as published by the United States Department of Labor.

“Continuous data recorder” means a mechanism which continuously records the information gathered by a CEM, CPM, COM, or other continuous measurement device.

“Continuous emissions monitor” or “CEM” means a device which continuously measures the emissions from one or more source operations.

“Continuous monitoring system” or “CMS” means a system designed to continuously measure various parameters at a facility which may affect or relate to a facility’s emissions. Components of a CMS include, but are not limited to, any continuous emissions monitor (CEM), continuous opacity monitor (COM), continuous process monitor (CPM), or any other constantly operating measuring device and recording device approved by the Department to perform one or more of the functions of a CMS. Ambient monitors, which measure the impact or concentration of air contaminants emitted by the source operation or facility in nearby areas, are not considered part of a facility’s CMS.

“Continuous opacity monitor” or “COM” means a device which continuously measures opacity of flue gases.

“Continuous process monitor” or “CPM” means an instrument or system which continuously measures an operational parameter at a facility, such as temperature or air flow rate.

“Control apparatus” means any device which prevents or controls the emission of any air contaminant directly or indirectly into the outdoor atmosphere.

“Co-product” means one or more incidental results of a production process that is not a primary product of the production process and that is sold in trade in the channels of commerce to the general public in the same form as it is produced, for any purpose except the purpose of energy recovery. A co-product is not considered nonproduct output. Increases in quantities of co-products do not count towards use reduction or nonproduct output reduction goals. This term shall have the same meaning as defined for the term “co-product” at N.J.A.C. 7:1K-1.5; if there is any conflict between the definition at N.J.A.C. 7:1K-1.5 and this one, the definition at N.J.A.C. 7:1K-5 shall control.

“Criteria pollutant” means any air contaminant for which a NAAQS has been promulgated under 40 CFR 50 or for which a NJAAQS has been promulgated at N.J.A.C. 7:27-13.

“Designated Title IV representative” means a responsible natural person authorized by the owners and operators of an affected Title IV facility and of all affected units at the Title IV facility, as evidenced by a certificate of representation submitted to EPA in accordance with Subpart B of 40 CFR Part 72, and to the Department, to represent and legally bind each owner and operator, as a matter of federal law, in all matters pertaining to the Federal Acid Rain Program. Whenever the term “responsible official” is used in this subchapter with regard to any matter under the federal Acid Rain Program, it shall be deemed to refer to the “designated Title IV representative.”

“DOT” means the New Jersey Department of Transportation.

“Draft general operating permit” means the version of a general operating permit which is developed by the Department and released for public input and an opportunity for a public hearing pursuant to N.J.A.C. 7:27-22.11. After receiving and considering the comments on the draft general operating permit, the Department will develop a proposed general operating permit for submittal to EPA for approval prior to issuing a final general operating permit.

“Draft operating permit” means the version of an operating permit which is developed by the Department after the Department’s receipt of an administratively complete application, and released for public comment and an opportunity for a public hearing pursuant to N.J.A.C. 7:27-22.11. After receiving and considering the comments on the draft operating permit, the Department will develop a proposed operating permit for submittal to EPA for approval prior to issuing a final operating permit.

“Effective stack height” means the distance to the plume center line from the ground as determined by adding the plume rise to the physical height of the stack.

“Emergency” means any situation arising from sudden and reasonably unforeseeable events beyond the control of a

facility, such as an act of God, which requires immediate corrective action to restore normal operation, and which causes the facility, due to unavoidable increases in emissions attributable to the emergency to exceed a technology-based emission limitation set forth in its operating permit. This term shall not include noncompliance caused by improperly designed equipment, lack of preventive maintenance, carelessness or improper operation, or operator error.

“Emission fee” means an annual fee that is based on the emissions of any regulated air contaminant.

“Emission statement” means an annual reporting of actual emissions of air contaminants as prescribed by the Department at N.J.A.C. 7:27-21.

“Emission statement year” means the reporting period required by the emission statement rules at N.J.A.C. 7:27-21. The reporting period runs from December 1 through November 30. Each emission statement year is designated according to the calendar year in which 11 of the 12 months of the reporting period fall. For example, the period from December 1, 1998 through November 30, 1999 is emission statement year 1999, for which an emission statement submission is due in April 2000.

“Emissions” means any air contaminant or category of air contaminants discharged directly or indirectly into the atmosphere.

“Emissions cap” means an emissions limit, or limits, established in a permit for a group of source operations, which establishes the maximum quantity of emissions which may be released, in the aggregate, from a specified group of source operations.

“Enforceable” means, in respect to an emissions limit, based on sufficient statutory and regulatory authority to be recognized in a court of law.

“Environmental improvement pilot test” means a sampling and analytical program using prototype equipment or processes on a temporary basis for the purpose of collecting data necessary for the design of a full scale process to achieve an environmental improvement, or for the purpose of determining the feasibility of using the equipment or process for a particular environmental improvement.

“Equipment” means any device capable of causing the emission of an air contaminant either directly or indirectly to the outdoor atmosphere, and any stack or chimney, conduit, flue, duct, vent or similar device connected or attached to, or serving the equipment. This term includes, but is not limited to, a device in which the preponderance of the air contaminants emitted is caused by a manufacturing process.

“Exempt activity” means one of the following:

1. Source operations which have no potential for emitting any air contaminant, including but not limited to:
 - i. Stationary storage tanks which are used for the storage of water or distillates of air; and
 - ii. Enclosed stationary material handling equipment using pneumatic, bucket or belt conveying systems from which no emissions of air contaminants occur;
2. Any of the following activities, if the activity supports the one or more production processes of the facility, and does not itself constitute a facility production process or a part thereof:
 - i. Office activities and the equipment and implements used therein, such as typewriters, printers, and pens;
 - ii. Interior maintenance activities and the equipment and supplies used therein, such as janitorial cleaning products and air fresheners; this does not include any cleaning of production equipment;
 - iii. Bathroom and locker room ventilation and maintenance;
 - iv. (Reserved);
 - v. The activities of maintenance shops, such as welding, gluing, and soldering, performed indoors or outdoors;
 - vi. First aid or emergency medical care provided at the facility, including related activities such as sterilization and medicine preparation;
 - vii. Laundry operations that service uniforms or other clothing used at the facility, not including:
 - (1) Any dry cleaning process; and
 - (2) Any dryer that is fuel burning equipment having a maximum rated heat input of 1,000,000 BTU per hour or greater;
 - viii. Architectural maintenance activities conducted to take care of the buildings and structures at the facility, including repainting, reroofing, and sandblasting;
 - ix. Exterior maintenance activities conducted to take care of the grounds of the facility, including lawn maintenance;
 - x. Food preparation to service facility cafeterias and dining rooms;
 - xi. The use of portable space heaters which reasonably can be carried and relocated by an employee; and
 - xii. Any laboratory hood used for research and development, quality assurance and quality control testing and sampling activities;
3. The engine of any vehicle, including but not limited to any marine vessel, aircraft, any vehicle running upon rails or tracks, any motor vehicle, any forklift, any tractor, or any mobile construction equipment;
4. Storage tanks, reservoirs, containers, or bins used on any farm for the storage of agricultural commodities produced by or consumed in the farm's own operations. This does not include storage tanks, reservoirs, containers or bins used by distributors of agricultural commodities or by research facilities which develop products for use in agricultural production;
5. Potable water treatment equipment, not including air stripping equipment;
6. A storage tank maintained under a pressure greater than one atmosphere provided that any vent serving such storage tank has the sole function of relieving pressure under emergency conditions;
7. Equipment used in copying and duplication activities, including any microfiche copier, photocopier, xerography machine, or other photographic processing equipment by which an image is reproduced upon material sensitized by radiant energy;
8. A fuel cell system that uses hydrogen without a fuel processor, or a fuel cell system that uses a natural gas fuel processor and that has a power output no greater than 500 kilowatts;
9. Hand held equipment for buffing, polishing, cutting, drilling, sawing, grinding, turning, or machining wood, metal or plastic. For the purposes of this paragraph, "hand held" means "can reasonably be carried and used by one person for the purpose for which the equipment was designed";
10. Equipment at a battery charging station, except at a battery manufacturing plant;
11. Electric, plasma, or gaseous-fuel cutting equipment used to cut metal or metal products, provided the metal or metal product does not contain stainless steel, alloys of lead, alloys of arsenic, or alloys of beryllium;
12. Equipment that blends or mixes potting soil (including, but not limited to, soil, compost, artificial media or soil-less media, and/or peat moss) which is used on site in a commercial or non-commercial greenhouse or nursery operation for plant propagation and which is not for commercial sale;
13. Equipment or a source operation being used in a site remediation process that is being carried out under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) 42 U.S.C. §§ 9601 et seq.;
14. Equipment or a source operation, which satisfy 14i through iii below:

i. The equipment or source operation is one of the following:

(1) A mixer, cutter, molder, conveyor, blender, filler, or cooking kettle which processes material intended as food for direct human consumption, provided that the temperature of the food does not exceed 225 degrees Fahrenheit;

(2) Equipment that sands, drills, buffs, polishes, mills, carves, presses, or planes metal or metal products, except metal products containing stainless steel, alloys of lead, alloys of arsenic, or alloys of beryllium;

(3) Equipment that sands, drills, cuts, or planes untreated and unpainted wood or wood products; or

(4) Equipment that cuts, trims, perforates, folds, or molds paper or paper products;

ii. The following criteria are met:

(1) The source has no visible emissions, exclusive of water vapor, to the outdoor atmosphere;

(2) The source does not emit any air contaminant which may cause an odor detectable outside the property boundaries of the facility;

(3) The source is located in an enclosed work area equipped with heating and ventilation; emissions from the source are vented directly into the work area where the equipment is located and are free from the influence of any local exhaust ventilation system; and the work area meets an OSHA indoor air quality standard for occupancy even though the emissions are being released into the work area;

(4) The source is not subject to any NSPS, NESH-APS, or MACT air pollution control standard;

(5) The source's potential to emit each TXS and each HAP does not exceed the de minimis reporting thresholds as specified in N.J.A.C. 7:27-8, Appendix 1, Table A for each TXS and Table B for each HAP; and

(6) The percentage by weight of all HAPs collectively in the raw material is less than 1.0 percent; and

iii. The owner or operator of the source has readily available upon Department request a statement certified in accordance with N.J.A.C. 7:27-1.39, signed by the responsible official, as defined at N.J.A.C. 7:27-1.4, that:

(1) Specifies the contents of the vessel, if the source is a mixing or blending vessel;

(2) Affirms that the source meets all the criteria listed in 14ii above; and

(3) Attests that the source is in compliance with all other applicable State or Federal air pollution requirements.

"Existing facility" means a facility which is in operation as of the applicable date of the provision for which this term is being used.

"Facility" means the combination of all structures, buildings, equipment, control apparatus, storage tanks, source operations, and other operations that are located on a single site or on contiguous or adjacent sites and that are under common control of the same person or persons. Research and development facilities that are located with other facilities shall be considered separate and independent entities for the purposes of complying with the operating permit requirements of N.J.S.A. 26:2C-1 et seq., or any codes, rules, or regulations adopted pursuant thereto.

"Facility-wide permit" means a single permit issued by the Department to the owner or operator of a priority industrial facility incorporating the permits, certificates, registrations, or any other relevant Department approvals previously issued to the owner or operator of the priority industrial facility pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., and the appropriate provisions of the Pollution Prevention Plan prepared by the owner or operator of the priority industrial facility pursuant to N.J.S.A. 13:1D-41 and 42. This term shall have the same meaning as defined for the term "facility-wide permit" at N.J.A.C. 7:1K-1.5; if there is any conflict between the definition at N.J.A.C. 7:1K-1.5 and this one, the definition at N.J.A.C. 7:1K-1.5 shall control.

"Federally enforceable" means any limitation or condition on operation, production, or emissions that can be enforced by EPA. These limitations and conditions that can be enforced by EPA include, but are not limited to, those established pursuant to:

1. Any standard of performance for new stationary sources (NSPS) promulgated at 40 CFR Part 60, or promulgated under 42 U.S.C. § 7411;

2. Any national emission standard for hazardous air pollutants (NESHAP) promulgated at 40 CFR Part 61, 40 CFR Part 63, or promulgated under 42 U.S.C. § 7412;

3. Any standard or other requirement provided for in a SIP that has been approved by EPA, or promulgated through rulemaking by EPA; or

4. Any permit or order issued pursuant to requirements established at 40 CFR 51, Subpart I (including any preconstruction permit and certificate issued pursuant to N.J.A.C. 7:27-8 or any operating permit issued pursuant to N.J.A.C. 7:27-22); 40 CFR 52.21; 40 CFR Part 70; 40 CFR Part 71; or 40 CFR Part 72.

"Federal Implementation Plan (FIP)" means a plan, or portion thereof, promulgated by EPA pursuant to the CAA to address or otherwise correct all or a portion of an inadequacy in a SIP.

"Final general operating permit" means the version of the general operating permit issued by the Department after completion of the procedures required by this subchapter for a draft general operating permit and a proposed general operating permit.

"Final operating permit" means the version of an operating permit issued by the Department after completion of the procedures required by this subchapter for a draft operating permit and a proposed operating permit.

"Fiscal year" or "FY" means the period from July 1 through June 30. Each fiscal year is designated according to the calendar year in which the end of the period falls. For example, the period from July 1, 1998 through June 30, 1999 is fiscal year 1999, or FY99.

"Fuel cell system" means an electrochemical device that converts the chemical energy in its fuel directly into electricity and heat. This term also includes any associated fuel processor, such as a reformer, that produces the fuel.

"Fugitive emissions" means any air contaminant emissions released directly or indirectly into the outdoor atmosphere which can not reasonably pass through a stack or chimney.

"GACT standard" or "Generally Available Control Technology standard" means a National Emission Standard for a Hazardous Air Pollutant (NESHAP) establishing an emission limitation for a specific category or subcategory of area sources that emit hazardous air pollutants (HAPs), which NESHAP has been promulgated by EPA pursuant to 42 U.S.C. § 7412.

"General operating permit" means a standardized operating permit, which may be used to provide authorization to operate numerous similar source operations, groups of source operations, or facilities, each of which meets the applicability criteria set forth in the general operating permit, and is issued pursuant to the procedures in N.J.A.C. 7:27-22.14.

"Grandfathered" means, in reference to equipment or control apparatus, that construction, reconstruction, or modification occurred prior to the enactment of N.J.S.A. 26:2C-9.2 on June 15, 1967, the initial promulgation of the rules codified at N.J.A.C. 7:27-8, or any subsequent applicable revisions to the rules; and there has been no construction, reconstruction or modification of the equipment or control apparatus.

"Hazardous air pollutant" or "HAP" means an air contaminant listed in or pursuant to 42 U.S.C. § 7412(b).

"Initial operating permit" means the first operating permit issued pursuant to this subchapter which applies to a particular facility, or a portion thereof.

"Insignificant source operation" means equipment or a source operation which is one of the following:

1. Equipment or a source operation which is the same type as is included within a category described in paragraphs 1, 3, 4, 5, 7, 8, 9, 11, 14, 16, 17, 18, or 19 in the definition of "significant source operation," but which is excluded from the category because it does not meet an applicability threshold set forth in the description of the category. That is, the equipment or source operation has a lower capacity, weight of materials processed, vapor pressure, or consumption of BTUs, or otherwise falls outside a parameter that is included in the description of the category;

2. A stationary storage tank or mixing or blending vessel, provided that 2i, ii and iii below are satisfied:

- i. The tank or vessel is one of the following:

- (1) A tank used solely to store a food-grade liquid, which in its stored form is intended as food for direct human consumption. For the purposes of this subparagraph, food-grade liquids do not include liquids stored in a concentrated form; vitamins and drugs; or food additives, preservatives, or other ingredients that in their stored or manufactured form are not intended for direct human consumption;

- (2) A tank used to store liquids, provided that:

- (A) The operating temperature of the tank is not greater than 350 degrees Fahrenheit; and

- (B) The vapor pressure of the liquid, excluding the vapor pressure of water, is less than 0.02 pounds per square inch absolute at the liquid's actual temperature or at 70 degrees Fahrenheit, whichever temperature is higher; or

- (3) Any of the following vessels used to mix and blend liquids, if the vessel would otherwise be classified as a significant source solely because it meets the criteria in paragraph 6 of the definition of "significant source":

- (A) A vessel with a capacity of 1,000 gallons or greater in which the mixing or blending of liquids takes place in a non-reactive process, provided that:

- I. The operating temperature of the vessel is not greater than 350 degrees Fahrenheit; and

- II. The vapor pressure of the liquid, excluding the vapor pressure of water, is less than 0.02 pounds per square inch absolute at the liquid's actual temperature or at 70 degrees Fahrenheit, whichever temperature is higher;

- (B) A vessel with a capacity of less than 1,000 gallons in which the mixing or blending of liquids takes place in a non-reactive process, provided that the vapor pressure of the liquid, excluding the vapor pressure of water, is less than 1.5 pounds per square inch; or

(C) A vessel with a capacity of less than 1,000 gallons in which the mixing or blending of either solids and liquids or solids only takes place in a non-reactive process, provided that:

I. The vapor pressure of any liquid, excluding the vapor pressure of water, is less than 1.5 pounds per square inch; and

II. The vessel is equipped with a control apparatus designed to remove particulate emissions at a minimum efficiency of 99 percent or is located inside a room that is equipped with a control apparatus designed to remove particulate emissions at a minimum efficiency of 99 percent;

ii. The following criteria are met:

(1) The tank or vessel has no visible emissions, exclusive of water vapor, to the outdoor atmosphere;

(2) The tank or vessel does not emit any air contaminant which may cause an odor detectable outside the property boundaries of the facility;

(3) The tank or vessel is not subject to any NESH-APS, MACT, or NSPS air pollution control standards, excluding the NSPS requirements to maintain a record of the contents of the tank or vessel, the period of storage of these contents, and the maximum true vapor pressure of the liquid stored;

(4) The tank's or vessel's potential to emit each TXS and each HAP does not exceed the de minimis reporting thresholds as specified in N.J.A.C. 7:27-8, Appendix 1, Table A for each TXS and Table B for each HAP;

(5) The percentage by weight of all HAPs collectively in the raw material stored in the tank, or mixed or blended in the vessel, is less than 1.0 percent; and

iii. The owner or operator of the tank or vessel has readily available upon Department request a statement certified in accordance with N.J.A.C. 7:27-1.39, signed by the responsible official, as defined at N.J.A.C. 7:27-1.4, that:

(1) Specifies the contents of the tank or vessel;

(2) Affirms that the tank or vessel meets all of the criteria listed in 1 and 2 above; and

(3) Attests that the tank or vessel is in compliance with all other applicable State or Federal air pollution requirements; or

3. Any equipment or a source operation which may emit air contaminant(s) directly or indirectly into the outdoor air and which is not defined either as a significant source operation or an exempt activity.

“Install” or “installation” means to carry out final setup activities necessary to provide the equipment or control apparatus with the capacity for use or service. This term

includes, but is not limited to, the connection of the equipment and control apparatus, associated utilities, piping, duct work or conveyor systems. This term does not include the construction or reconfiguration of equipment or control apparatus to an alternate configuration specified in the permit application and approved by the Department.

“Intermediate product” means one or more desired results of a production process that is made into a product in a subsequent production process at the same industrial facility, without the need for pollution treatment prior to its being made into a product. An intermediate product is not considered nonproduct output. Increases in quantities of intermediate products do not count towards use reduction or nonproduct output reduction goals. This term shall have the same meaning as defined for the term “intermediate product” at N.J.A.C. 7:1K-1.5; if there is any conflict between the definition at N.J.A.C. 7:1K-1.5 and this one, the definition at N.J.A.C. 7:1K-1.5 shall control.

“Lead” or “Pb” means elemental lead or any compound containing lead measured as elemental lead.

“Lowest achievable emission rate” or “LAER” has the meaning assigned to this term at N.J.A.C. 7:27-18.1.

“MACT standard” or “Maximum Achievable Control Technology standard” means a National Emission Standard for a Hazardous Air Pollutant (NESHAP) establishing an emission limitation for a specific category or subcategory of facilities which emit one or more hazardous air pollutants (HAPs), which NESHAP is:

1. Promulgated by EPA pursuant to 42 U.S.C. § 7412; or
2. Determined by the Department on a case-by-case basis pursuant to 42 U.S.C. § 7412(g) or (j).

“Major facility” means a facility which constitutes a major source, as defined by EPA at 40 CFR § 70.2 or any subsequent amendments thereto, and that has the potential to emit any of the air contaminants listed below in an amount that is equal to or exceeds the applicable major facility threshold level. The major facility threshold levels are as follows:

Air Contaminant	Major Facility Threshold Level
Carbon monoxide	100 tons per year
PM-10	100 tons per year
TSP	100 tons per year
Sulfur dioxide	100 tons per year
Oxides of nitrogen	25 tons per year
VOC	25 tons per year
Lead	10 tons per year
Any HAP	10 tons per year
All HAPs, collectively	25 tons per year
Any other air contaminant	100 tons per year

“Major Hazardous Air Pollutant (HAP) facility” means a major facility, or part thereof, which emits or has the potential to emit:

1. Ten tons or more per year of any HAP;
2. Twenty five tons or more per year of any combination of HAPs; or
3. Such lesser quantity, or different criterion, as the EPA may establish by rule.

“Manufacturing process” means any action, operation, or treatment embracing chemical, industrial, manufacturing, or processing factors, methods or forms including, but not limited to, furnaces, kettles, ovens, converters, cupolas, kilns, crucibles, stills, dryers, roasters, crushers, grinders, mixers, reactors, regenerators, separators, filters, reboilers, columns, classifiers, screens, quenchers, cookers, digesters, towers, washers, scrubbers, mills, condensers, and absorbers.

“Maximum allowable emissions” means, for the purpose of this subchapter, the maximum amount of an air contaminant allowed to be emitted, as specified in the final operating permit issued by the Department.

“Minor modification” means a change made at a permitted facility in accordance with N.J.A.C. 7:27-22.23.

“Modification of a major HAP facility” means, when used at N.J.A.C. 7:27-22.26, any physical change in, or change in the method of operation of, a major HAP facility, which:

1. Increases the facility’s actual emissions of any HAP by more than an amount established by EPA as de minimis for that HAP at 40 CFR 63; or
2. Results in the emission of any HAP not previously emitted, in more than the amount established by EPA as de minimis for that HAP at 40 CFR 63.

“Modify” or “modification” means any physical change in, or change in the method of operation of, existing equipment or control apparatus that increases the amount of actual emissions of any air contaminant emitted by that equipment or control apparatus or that results in the emission of any air contaminant not previously emitted. This term shall not include normal repair and maintenance. A modification may be incorporated into an operating permit through a significant modification, a minor modification, or a seven-day-notice change.

“Monitoring” means to evaluate a facility’s processes, operations, emissions or other aspects over a period of time. Monitoring can be accomplished using CEMs, COMs, CMS, CPMs, or other measurement or evaluation mechanisms.

“National ambient air quality standard” or “NAAQS” means an ambient air quality standard promulgated at 40 CFR 50.

“NESHAP” means a National Emission Standard for a Hazardous Air Pollutant as promulgated under 40 CFR Part 61 or 40 CFR Part 63.

“New facility” means a facility which has not commenced operation as of the applicable date of the provision for which this term is being used.

“New Jersey ambient air quality standard” or “NJAAQS” means an ambient air quality standard promulgated at N.J.A.C. 7:27-13.

“Nonattainment area” means any area of the State:

1. Identified by the Department as one in which the ambient air concentration of a criteria pollutant exceeds a NAAQS or NJAAQS; or
2. Designated by the EPA at 40 CFR 81.331 as an area in which the ambient air concentration of a criteria pollutant exceeds the applicable NAAQS.

“Nonproduct output” or “NPO” means all hazardous substances or hazardous wastes that are generated prior to storage, out-of-process recycling, treatment, control or disposal, and that are not intended for use as a product. Nonproduct output includes fugitive releases. This term shall have the same meaning as defined for the term “nonproduct output” at N.J.A.C. 7:1K-1.5; if there is any conflict between the definition at N.J.A.C. 7:1K-1.5 and this one, the definition at N.J.A.C. 7:1K-1.5 shall control.

“NSPS” means a Standard of Performance for New Stationary Sources as promulgated under 40 CFR 60, commonly referred to as New Source Performance Standards.

“Operating certificate” or “certificate” means a “Certificate to Operate Control Apparatus or Equipment” issued by the Department pursuant to N.J.S.A. 26:2C-1 et seq., and in particular N.J.S.A. 26:2C-9.2, and implementing rules at N.J.A.C. 7:27-8. An operating certificate is generally issued for new or altered equipment at non major facilities for which operating permits are not required and for new or altered equipment at major facilities which are not yet required to have a final operating permit.

“Operating permit” means the permit described in Title V of the federal Clean Air Act, 42 U.S.C. § 7661 et seq., and in this subchapter. This term shall include a general operating permit which is applicable facility wide, but does not include a general operating permit which applies only to a part of a facility. Where a general operating permit applies only to a part of a facility, the general operating permit shall be incorporated into the operating permit. This term also includes an operating permit issued for a temporary facility; for a facility subject to a MACT or GACT standard pursuant to N.J.A.C. 7:27-22.26; or for a component of a facility pursuant to N.J.A.C. 7:27-22.5(j).

“Operating scenario” means a plan for operating a facility or a portion thereof in a way, or according to a method, or using methods or processes, which are different from other methods or processes used at the facility, or portion thereof. An operating scenario may be incorporated into a permit through issuance of an initial operating permit, minor modification, significant modification, or authorized through a seven-day-notice.

“Order” means any and all orders issued by the Department including, but not limited to, administrative orders and administrative consent orders.

“Oxides of nitrogen” or “NO_x” means all oxides of nitrogen, except nitrous oxide, as measured by test methods approved by the Department and EPA, such as the test methods set forth at 40 CFR 60, Appendix A, Methods 7 through 7E.

“Permittee” means, for the purpose of this subchapter, any person to whom the Department has issued an operating permit.

“Person” means an individual, public or private corporation, company, partnership, firm, association, society, joint stock company, international entity, institution, county, municipality, state, interstate body, the United States of America, or any agency, board, commission, employee, agent, officer, or political subdivision of a state, an interstate body, or the United States of America.

“Phase I” means a time period designated pursuant to the Title IV acid deposition control program as commencing January 1, 1995, and ending December 31, 1999.

“Phase II” means a time period designated pursuant to the Title IV acid deposition control program as commencing January 1, 2000, and continuing indefinitely.

“PM-10” means a class of air contaminants which includes all particulate matter having an aerodynamic diameter less than or equal to a nominal 10 micrometers.

“Pollution Prevention Assessment” means an assessment of potential pollution prevention opportunities for the use, generation and release of non-hazardous substances, prepared by an owner or operator of a priority industrial facility that is covered by an effective facility-wide permit issued by the Department, containing the same elements as those required for hazardous substances by N.J.A.C. 7:1K-4.3 and 4.5. This term shall have the same meaning as defined for the term “Pollution Prevention Assessment” at N.J.A.C. 7:1K-1.5; if there is any conflict between the definition at N.J.A.C. 7:1K-1.5 and this one, the definition at N.J.A.C. 7:1K-1.5 shall control.

“Pollution Prevention Plan” means a plan required to be prepared by an industrial facility pursuant to N.J.S.A. 13:1D-41 and 42, N.J.A.C. 7:1K-3 and N.J.A.C. 7:1K-4.

This term shall have the same meaning as defined for the term “Pollution Prevention Plan” at N.J.A.C. 7:1K-1.5.

“Potential to emit” means the same as that term is defined by the EPA at 40 CFR § 70.2 or any subsequent amendments thereto. In general, the potential to emit is the maximum aggregate capacity of a source operation or of a facility to emit an air contaminant under its physical and operational design. Any physical or operational limitation on the capacity of a source operation or a facility to emit an air contaminant, including any limitation on fugitive emissions as a result of any applicable requirement, control apparatus, and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design, if the limitation is Federally enforceable. Unless otherwise indicated, fugitive emissions shall be included in the determination of potential to emit. If the owner or operator is using DER credits pursuant to the “permit insurance” provisions at N.J.A.C. 7:27-30.14(d) and (e) for compliance, the increase in allowable emissions due to this use of DER credits shall be included in the determination of potential to emit for the duration of the use period. However, the determination shall not include the holding of any of the following by the owner or operator: emission reductions that are banked pursuant to N.J.A.C. 7:27-18.8, DER credits generated pursuant to N.J.A.C. 7:27-30.4, or NO_x allowances allocated pursuant to N.J.A.C. 7:27-31.7.

“Preconstruction permit” means a “Permit to Construct, Install, or Alter Control Apparatus or Equipment” issued by the Department pursuant to N.J.S.A. 26:2C-1 et seq., in particular N.J.S.A. 26:2C-9.2, and implementing rules at N.J.A.C. 7:27-8.

“Prevention of significant deterioration” or “PSD” means the requirements pursuant to 40 CFR 51.166, administered through the Department’s permitting process, which apply to a new or modified major facility located in an attainment area. The Department accepted delegation of the administration of the PSD program from EPA on February 22, 1983.

“Process unit” means equipment assembled to produce intermediate or final products. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product. The storage and transfer of product or raw materials to and from the process unit shall be considered separate from the process unit for the purposes of making reconstruction determinations. Product recovery equipment shall be considered to be part of the process unit, not part of the control apparatus.

“Product” means one or more desired results of a production process that is used as a commodity in trade in the channels of commerce by the general public in the same form as it is produced. Products include intermediate products transferred to a separate industrial facility owned

or operated by the same owner or operator. This term shall have the same meaning as defined for the term "product" at N.J.A.C. 7:1K-1.5; if there is any conflict between the definition at N.J.A.C. 7:1K-1.5 and this one, the definition at N.J.A.C. 7:1K-1.5 shall control.

"Production process" means a process, line, method, activity or technique, or a series or combination of processes, lines, method or techniques, used to produce a product or reach a planned result. This term shall have the same meaning as defined for the term "production process" at N.J.A.C. 7:1K-1.5.

"Proposed general operating permit" means the version of a general operating permit which is developed by the Department pursuant to N.J.A.C. 7:27-22.12, after receipt and consideration of public comments on the draft general operating permit. The Department forwards the proposed general operating permit to EPA for review, pursuant to the procedures at N.J.A.C. 7:27-22.12, prior to the issuance by the Department of the final general operating permit.

"Proposed operating permit" means the version of an operating permit which is developed by the Department pursuant to N.J.A.C. 7:27-22.12, after receipt and consideration of public comments on the draft operating permit. The Department forwards the proposed operating permit to EPA for review, pursuant to the procedures at N.J.A.C. 7:27-22.12 prior to the issuance by the Department of the final operating permit.

"Quantifiable" means measurable with an acceptable degree of accuracy and reliability.

"Rate of production" means the quantity per unit of time of any process intermediate, product, by-product, or waste generated through the use of any significant source operation.

"Raw material" means any input to a significant source operation, including fuels, but excluding heat and other forms of energy. Such inputs may include mixtures, composites, compounds, and elemental substances.

"Reconstruct" or "reconstruction" means the replacement of part(s) of equipment included in the process unit, or the replacement of part(s) of control apparatus, if the fixed capital cost of replacing the part(s) exceeds both of the following amounts:

1. Fifty percent of the fixed capital cost that would be required to construct a comparable new process unit; or, if it is part(s) of control apparatus that is being replaced, 50 percent of the fixed capital cost that would be required to construct comparable new control apparatus; and
2. \$80,000, in 1995 dollars, adjusted by the Consumer Price Index (CPI).

"Reconstruction of a major HAP facility" means, when used at N.J.A.C. 7:27-22.26, the replacement of components at a facility to such an extent that the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to replace the facility at which the components are being replaced.

"Regulated air contaminant" means the same as the term "regulated air pollutant" as defined by EPA at 40 CFR § 70.2 or any subsequent amendments thereto.

"Renewal" means the procedure set forth at N.J.A.C. 7:27-22.30 by which an applicant may seek reissuance of an operating permit prior to its expiration date.

"Replace" means, in respect to equipment or control apparatus, to remove equipment or control apparatus and place or install a different piece of equipment or control apparatus at the same location and at the same point in the manufacturing process, provided that the newly placed equipment or control apparatus serves the same function, in the same manner.

"Replicable procedure" means a procedure, including any sampling, source emissions testing, or other monitoring procedure, which gives the same result when administered on a different occasion or by a different person.

"Research and development facility" means any facility the primary purpose of which is to conduct research and development into new processes and products, including academic and technological research and development, provided that such a facility is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for commercial sale, except in a de minimis manner.

"Responsible official" has the meaning defined for this term at N.J.A.C. 7:27-1.4.

"Risk assessment" means a procedure for characterizing the probability that potential exposure to air contaminants will result in adverse effects on human health, or welfare or the environment.

"Seven-day notice change" means, for the purpose of this subchapter, a change made at a facility covered by an operating permit in accordance with N.J.A.C. 7:27-22.22.

"Shutdown" means to discontinue use of a process, piece of equipment, control apparatus, or a source operation.

"SIC code" means the Standard Industrial Classification code, assigned by the United States Office of Management and Budget, which classifies establishments according to the type of economic activity in which they are engaged. An SIC manual is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

“Significant modification” means a change made at a facility covered by an operating permit and incorporated into the operating permit in accordance with N.J.A.C. 7:27-22.24.

“Significant net emission increase” means an emission increase of any air contaminant determined pursuant to the procedures set forth in N.J.A.C. 7:27-18.7 to be a significant net emission increase.

“Significant source operation” means any source operation which is one of the following unless the source operation is explicitly specified, in the definition of “exempt activity,” as an exempt activity, and unless the source operation is explicitly specified, in paragraphs 1 or 2 of the definition of “insignificant source,” as an insignificant source:

1. Equipment that is used in a surface coating operation including, but not limited to, spray or dip painting, roller coating, electrostatic depositing, surface stripping or spray cleaning in which the quantity of coating or cleaning material used in any one hour is equal to or greater than one half gallon;
2. Dry cleaning equipment;
3. A surface cleaner that uses a cleaning solution containing five percent or more VOCs, HAPs, or VOC and HAP combined, and which is:
 - i. An unheated open top surface cleaner with a top opening of greater than six square feet (0.56 square meters) or a capacity greater than 100 gallons;
 - ii. A heated open top surface cleaner;
 - iii. A conveyerized surface cleaner; or
 - iv. A stationary spray cleaning or surface stripping operation using one half gallon or more of cleaning solution in any one hour;
4. Equipment that shreds wood, if the engine powering the equipment has a maximum rated gross heat input of 1,000,000 BTU per hour or greater; or
5. Equipment, in addition to a surface cleaner as set forth in paragraph 3 above that has a capacity of more than 100 gallons and that is used in a process involving surface cleaning or preparation including, but not limited to, degreasing, etching, pickling, plating, chromium electroplating, or chromium anodizing;
6. Equipment in which the combined weight of all raw materials used exceeds 50 pounds in any one hour, provided:
 - i. Such equipment shall not include equipment which is the same type as is included within a category described in paragraphs 1, 3, 4 or 5 above, or in paragraphs 7, 8, 9, 11, 14, 16, 17, 18 or 19 below; but which is excluded from the category because it does not meet an applicability threshold set forth in the descrip-

tion of the category. That is, the equipment has a lower capacity, weight of materials processed, vapor pressure, or consumption of BTUs, or otherwise falls outside a parameter that is included in the description of the category;

ii. In determining the weight of the raw materials used, the weight of the following shall be excluded:

- (1) Air;
- (2) Water;
- (3) Containers, provided that the container is not consumed as part of the operation of the equipment; and
- (4) 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;

7. Stationary storage tanks which have a capacity in excess of 10,000 gallons and which are used for the storage of liquids, except water or distillates of air, not including a storage tank maintained under a pressure greater than one atmosphere provided that any vent serving such storage tank has the sole function of relieving pressure under emergency conditions;

8. Stationary storage tanks which have a capacity of 2,000 gallons or greater and which are used for the storage of a VOC or mixture of VOCs having a vapor pressure or sum of partial pressures of 0.02 pounds per square inch absolute (one millimeter of mercury) or greater at standard conditions, not including a storage tank maintained under a pressure greater than one atmosphere provided that any vent serving such storage tank has the sole function of relieving pressure under emergency conditions;

9. Tanks, reservoirs, containers and bins which have a capacity in excess of 2,000 cubic feet and which are used for the storage of solid particles;

10. Stationary material handling equipment using pneumatic, bucket or belt conveying systems from which direct or indirect emissions of air contaminants occur;

11. Commercial fuel burning equipment that has a maximum rated heat input of 1,000,000 BTU per hour or greater to the burning chamber;

12. Except where a registration has been filed pursuant to N.J.A.C. 7:27-20.3, any equipment that is used for the burning of noncommercial fuel, crude oil or process by-products in any form. This includes off-specification used oil, processed used oil fuel, or on specification used oil as defined in N.J.A.C. 7:27-20.1;

13. Any incinerator, except incinerators constructed, installed or used in one or two-family dwellings or in multi-occupied dwellings containing six or less family units, one of which is owner occupied;

14. Any waste or water treatment equipment which may emit air contaminants including, but not limited to, air stripping equipment, aeration basins, surface impoundments, lagoons, sludge tanks, dewatering equipment, soil cleaning equipment, conveying equipment, digesters, thickeners, flocculators, driers, fixation equipment, composting equipment, pelletizing equipment and grit classifying equipment. For water treatment equipment, the concentration in the water of any TXS must equal or exceed 100 parts per billion by weight or the total concentration in the water of VOC must equal or exceed 3,500 parts per billion by weight;

15. Equipment used for the purpose of venting a closed or operating dump, sanitary landfill, hazardous waste landfill, or other solid waste facility, directly or indirectly into the outdoor atmosphere including, but not limited to, any transfer station, recycling facility, or municipal solid waste composting facility;

16. Any source operation or equipment that has the potential to emit any Group 1 or Group 2 TXS (or a combination thereof) at a rate greater than 0.1 pounds per hour (45.4 grams per hour);

17. A transfer operation involving gasoline or other VOCs regulated under N.J.A.C. 7:27-16.3 or 16.4, or a marine tank vessel loading or ballasting operation regulated under N.J.A.C. 7:27-16.5, if the operation is required to have a control device other than bottom fill or submerged fill;

18. Equipment that is used in a graphic arts operation including, but not limited to, newspaper, lithographic, gravure, flexographic, letterpress and screen printing, in which the quantity of ink, fountain solution, or cleaning material used in any one hour is equal to or greater than one half gallon; or

19. Welding equipment, if the weight of the welding rod or welding wire used in the process is greater than 12 pounds in any calendar day.

“Source emission testing” means the testing of a discharge of any air contaminant from a source operation through any stack or chimney.

“Source operation” means any process, or any identifiable part thereof, that emits or can reasonably be anticipated to emit any air contaminant either directly or indirectly into the outdoor atmosphere. A source operation may include one or more pieces of equipment or control apparatus.

“Stack or chimney” means a flue, conduit or opening designed, constructed or used for emitting any air contaminant into the outdoor atmosphere.

“State Implementation Plan (SIP)” means a plan, or portion thereof, prepared by a State and approved by the EPA pursuant to 42 U.S.C. § 7410, which includes enforceable emission limitations or other control measures, means or techniques, and provides for implementation, maintenance, and enforcement of one or more NAAQS.

“Sulfur dioxide” or “SO₂” means a gas that has a molecular composition of one sulfur atom and two oxygen atoms.

“Temporary facility” means a major facility which, by design, is intended to be operated at more than one location and which is relocated more than once in five years.

“Testing” means a procedure for the determination of the kind and amount of one or more air contaminants, potential air contaminants or air contaminant precursors present. This term includes, but is not limited to, sampling, sample custody, analysis, and reporting of findings.

“Total suspended particulate matter” or “TSP” means any air contaminant dispersed in the outdoor atmosphere which exists as solid particles or liquid particles at standard conditions and is measured in accordance with N.J.A.C. 7:27B-1; 40 CFR 60, Appendix A, Methods 5 through 5H; or another method approved by the Department and EPA.

“TXS” means a substance regulated by N.J.A.C. 7:27-17.

“U.S.C.” means the United States Code.

“Use” means, in respect to equipment, control apparatus, or a source operation, to engage in any form or manner of operation of equipment, control apparatus or the source operation subsequent to its installation. This term includes any trial operation.

“Volatile organic compound” or “VOC” means any compound of carbon (other than carbon monoxide, carbon dioxide, carbonic acid, metallic carbonates, metallic carbides, and ammonium carbonate) which participates in atmospheric photochemical reactions. For the purpose of determining compliance with emission limits or content standards, VOC shall be measured by test methods which have been approved in writing by the Department. This term excludes those compounds which EPA has excluded from its definition of VOC in the list set forth at 40 CFR 51.100(s)(1), which is incorporated by reference herein, together with all amendments and supplements. As of April 9, 1998, the compounds and classes of perfluorocarbons excluded from EPA’s definition of VOC at 40 CFR 51.100(s) are set forth below:

methane

ethane

methylene chloride (dichloromethane)

1,1,1-trichloroethane (methyl chloroform)

1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113)

trichlorofluoromethane (CFC-11)

dichlorodifluoromethane (CFC-12)

chlorodifluoromethane (HCFC-22)

trifluoromethane (HFC-23)

1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114)
 chloropentafluoroethane (CFC-115)
 2,2-dichloro-1,1,1-trifluoroethane (HCFC-123)
 1,1,1,2-tetrafluoroethane (HFC-134a)
 1,1-dichloro-1-fluoroethane (HCFC-141b)
 1-chloro-1,1-difluoroethane (HCFC-142b)
 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)
 pentafluoroethane (HFC-125)
 1,1,2-tetrafluoroethane (HFC-134)
 1,1,1-trifluoroethane (HFC-143a)
 1,1-difluoroethane (HFC-152a)
 parachlorobenzotrifluoride (PCBTF)
 cyclic, branched, or linear completely methylated siloxanes
 acetone
 perchloroethylene (tetrachloroethylene)
 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca)
 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb)
 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee)
 difluoromethane (HFC-32)
 ethylfluoride (HFC-161)
 1,1,1,3,3,3-hexafluoropropane (HFC-236fa)
 1,1,2,2,3-pentafluoropropane (HFC-245ca)
 1,1,2,3,3-pentafluoropropane (HFC-245ea)
 1,1,1,2,3-pentafluoropropane (HFC-245eb)
 1,1,1,3,3-pentafluoropropane (HFC-245fa)
 1,1,1,2,3,3-hexafluoropropane (HFC-236ea)
 1,1,1,3,3-pentafluorobutane (HFC-365mfc)
 chlorofluoromethane (HCFC-31)
 1-chloro-1-fluoroethane (HCFC-151a)
 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a)
 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C₄F₉OCH₃)
 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OCH₃)
 1-ethoxy-1,1,2,2,3,3,4,4-nonafluorobutane (C₄F₉OC₂H₅)
 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OC₂H₅)

methyl acetate

perfluorocarbon compounds which fall into these classes:
 cyclic, branched, or linear, completely fluorinated alkanes

cyclic, branched, or linear, completely fluorinated ethers with no unsaturations

cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations

sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine

If there is any conflict between the list at 40 CFR 51.100(s)(1) and the list set forth above, the list at 40 CFR 51.100(s)(1) shall control.

Administrative correction

See: 27 N.J.R. 1406(a)

Amended by R.1995 d.492, effective September 5, 1995 (operative October 8, 1995).

See: 27 N.J.R. 22(b), 27 N.J.R. 3472(a).

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).

Amended by R.1998 d.231, effective May 4, 1998 (operative June 12, 1998).

See: 29 N.J.R. 3521(a), 30 N.J.R. 1563(b).

In "Federally enforceable", inserted a reference to certificates in 4; in "Modify" or "modification", inserted "of actual emissions" following "amount" in the first sentence; and in "Reconstruct" or "reconstruction", inserted "part(s) of" preceding "control" in the introductory paragraph, and rewrote 1.

Administrative change.

See: 31 N.J.R. 639(b).

Amended by R.1999 d.242, effective August 2, 1999 (operative August 31, 1999).

See: 30 N.J.R. 2396(a), 31 N.J.R. 2200(a).

In "Exempt activity", added 8; inserted "Fuel cell system"; and in "Insignificant source operation", substituted "rate" for "rather" following "production".

Amended by R.2000 d.204, effective May 15, 2000 (operative June 6, 2000).

See: 31 N.J.R. 1671(a), 32 N.J.R. 1808(a).

In "Potential to emit", inserted a new fifth sentence, and rewrote the last sentence.

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

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

Rewrote "Air quality simulation model", "Exempt Activity", "Grandfathered", "Insignificant source operation", "NESHAP", "PM-10", "Prevention of significant deterioration", "Significant source operation", and "Testing".

7:27-22.2 Applicability

(a) This subchapter applies to any facility which is one of the following:

1. A facility which emits or has the potential to emit a Hazardous Air Pollutant (HAP) in an amount which equals or exceeds the amounts listed in (a)1i through iv below. For the purposes of this paragraph, the calculation of potential to emit shall include fugitive emissions, as defined at N.J.A.C. 7:27-22.1.

i. Ten tons per year of any HAP;

ii. Twenty-five tons per year of any combination of HAPs;

iii. Such lesser quantity of any HAP as the EPA may establish by rule, pursuant to 42 USC 7412(a)(1), as the threshold amount for a major HAP facility.

iv. Such quantity of any radionuclides as the EPA may establish by rule.

2. A facility which emits or has the potential to emit any of the air contaminants listed below in Table 1, in an amount which equals or exceeds the threshold amount for that contaminant.

Table 1

Air contaminant	Threshold Level
Carbon Monoxide	100 tons per year
PM-10	100 tons per year
TSP	100 tons per year
Sulfur Dioxide	100 tons per year
Oxides of Nitrogen	25 tons per year
VOC	25 tons per year
Lead	10 tons per year
Any other Air Contaminant	100 tons per year

For the purposes of this paragraph, the calculation of potential to emit shall include fugitive emissions only if the facility falls into one or more of the following categories:

- i. Coal cleaning plants (with thermal dryers);
- ii. Kraft pulp mills;
- iii. Portland cement plants;
- iv. Primary zinc smelters;
- v. Iron and steel mills;
- vi. Primary aluminum ore reduction plants;
- vii. Primary copper smelters;
- viii. Municipal incinerators capable of charging more than 250 tons of refuse per day;
- ix. Hydrofluoric, sulfuric, or nitric acid plants;
- x. Petroleum refineries;
- xi. Lime plants;
- xii. Phosphate rock processing plants;
- xiii. Coke oven batteries;
- xiv. Sulfur recovery plants;
- xv. Carbon black plants (furnace process);
- xvi. Primary lead smelters;
- xvii. Fuel conversion plant;
- xviii. Sintering plants;
- xix. Secondary metal production plants;

xx. Chemical process plants;

xxi. Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

xxii. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

xxiii. Taconite ore processing plants;

xxiv. Glass fiber processing plants;

xxv. Charcoal production plants;

xxvi. Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or

xxvii. All other stationary source categories regulated by a standard promulgated under 42 U.S.C. 7411, Standards of Performance for New Stationary Sources. However, for a facility in this category, fugitive emissions need only be included when calculating the potential to emit those air contaminants which EPA has regulated for that stationary source category.

3. An affected Title IV facility, as defined at N.J.A.C. 7:27-22.1;

4. A facility with any source operation in a source category designated by EPA. EPA is authorized to designate source categories as subject to operating permit requirements pursuant to 40 CFR 70.3(a)(5);

5. A facility with a solid waste incineration unit which combusts municipal waste and which has a combustion capacity greater than 250 tons of municipal waste per day; or

6. A facility for which an owner or operator elects to obtain an operating permit pursuant to (e) below.

(b) A non-major facility not included in (a) above shall become subject to this subchapter if EPA promulgates rules requiring an operating permit for that category of non-major facilities pursuant to 40 CFR 70.3(b)1 or 2.

(c) Notwithstanding (a) above, a facility is not subject to this subchapter if the only applicable requirement which applies to the facility is:

1. A requirement pursuant to 40 CFR 60, Subpart AAA, Standards of Performance for New Residential Wood Heaters;

2. A requirement pursuant to 40 CFR 61, Subpart M—National Emission Standard for HAPs for Asbestos, Section 61.145, Standard for Demolition and Renovation; or

3. A regulation or requirement under 42 U.S.C. 7412(r), Prevention of Accidental Releases.

(d) For the purposes of determining applicability pursuant to (a) above, an owner or operator may elect to treat a research and development operation as a separate facility. For source operations whose primary function changes on an ongoing basis between manufacturing products for commercial use and research and development operations, the source operations may be considered part of a separate research and development facility only during the period of time when those source operations are being used for research and development purposes. Appropriate documentation shall be maintained at the facility to delineate when source operations are used for research and development purposes. If any research and development operation is treated separately for applicability purposes, the emissions or the potential to emit of the operation may be considered separately from the emissions or potential to emit of the remainder of the facility. If any research and development equipment is also used for other operations, the emissions from the equipment shall be calculated separately for each use of the equipment, such that only the emissions generated during research and development are included in the calculation of research and development emissions.

(e) If a facility is not subject to this subchapter, but has equipment or control apparatus subject to the operating certificate requirements at N.J.A.C. 7:27-8, the owner or operator may voluntarily elect to obtain an operating permit for the facility in lieu of obtaining operating certificate(s) for the equipment or control apparatus.

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).

Amended by R.1999 d.242, effective August 2, 1999 (operative August 31, 1999).

See: 30 N.J.R. 2396(a), 31 N.J.R. 2200(a).

In (b), substituted "promulgates rules" for "completes rulemaking" following "EPA".

7:27-22.3 General provisions

(a) The owner or operator of a facility subject to this subchapter shall obtain and maintain an operating permit for the facility pursuant to this subchapter.

(b) The owner or operator of a facility subject to this subchapter shall ensure that no person shall use or operate any significant source operation at the facility without a

valid operating permit for the facility, which covers the source operation.

(c) The owner or operator of a facility subject to this subchapter shall ensure that no air contaminant is emitted from any significant source operation at a rate, calculated as the potential to emit, that exceeds the applicable threshold for reporting emissions set forth in Table A or B in the Appendix to this subchapter, incorporated herein by reference, unless emission of the air contaminant is authorized by the operating permit.

(d) A permittee shall ensure that any source operation and any other activity covered by the operating permit, and all components connected to, attached to, or serving the source operation are operated and maintained properly and according to the requirements of the operating permit.

(e) A permittee shall ensure that all requirements of the operating permit are met.

(f) Each owner and each operator of any facility, source operation, or activity to which this subchapter applies is responsible for ensuring compliance with all requirements of this subchapter. If the owner and operator are separate persons, or if there is more than one owner or operator, each owner and each operator is jointly and severally liable for any fees due under this subchapter, and for any penalties for violation of this subchapter.

(g) Any provision of any other rule, statute or other document, incorporated into this subchapter, includes all future supplements and amendments to the incorporated document, unless the context of this subchapter clearly indicates otherwise.

(h) The provisions of (b), (c), (d), and (e) above shall not apply at a facility:

1. Prior to the applicable deadline for applying for an initial operating permit, set forth at N.J.A.C. 7:27-22.5; or

2. If a timely and administratively complete application has been filed and an application shield is in effect for the facility pursuant to N.J.A.C. 7:27-22.7.

(c) For an existing facility subject to this subchapter, the applicable deadline for submitting an administratively complete application for an initial operating permit is the earliest deadline below which applies to the facility:

1. For affected Title IV facilities with source operations subject to the acid deposition control program Phase II requirements for initial operating permits, the applicable deadline specified at N.J.A.C. 7:27-22.29(b);
2. For facilities with any source operation designated by EPA pursuant to 40 CFR 70.3(a)(5) as requiring an operating permit, within 12 months after the effective date of EPA's designation, or by a later deadline specified by EPA in its designation; and
3. For all other facilities, by the deadline the table below as determined by the facility's primary SIC code, as reported to the New Jersey Secretary of State:

SIC Code	Complete Application Deadline	Early Submittal
2000 through 2086	8/15/95	5/15/95
2088 through 2199	8/15/95	5/15/95
4900 through 4910	8/15/95	5/15/95
4911 ¹	8/15/95	5/15/95
4912 through 4939	8/15/95	5/15/95
6400 through 6999	8/15/95	5/15/95
8300 through 9999	8/15/95	5/15/95
4911 ²	11/15/95	8/15/95
4200 through 4399	11/15/95	8/15/95
5900 through 6399	11/15/95	8/15/95
7000 through 7199	11/15/95	8/15/95
7500 through 8299	11/15/95	8/15/95
0000 through 1299	5/15/96	2/15/96
1400 through 1999	5/15/96	2/15/96
3200 through 3599	5/15/96	2/15/96
4000 through 4199	5/15/96	2/15/96
4400 through 4499	5/15/96	2/15/96
4800 through 4899	5/15/96	2/15/96
5300 through 5499	5/15/96	2/15/96
1300 through 1399	11/15/96	8/15/96
2700 through 2799	11/15/96	8/15/96
2900 through 2999	11/15/96	8/15/96
3600 through 3999	11/15/96	8/15/96
4500 through 4799	11/15/96	8/15/96
7300 through 7499	11/15/96	8/15/96
2200 through 2599	5/15/97	2/15/97
3000 through 3199	5/15/97	2/15/97
5000 through 5299	5/15/97	2/15/97
5500 through 5899	5/15/97	2/15/97
7200 through 7299	5/15/97	2/15/97
2087	11/15/97†	8/15/97†
2600 through 2699	11/15/97†	8/15/97†
2835 through 2899	11/15/97†	8/15/97†
2800 through 2834	5/15/98††	2/15/98††
4940 through 4999	5/15/98††	2/15/98††

- (1) If the facility is located in Atlantic, Burlington, Gloucester, Hudson, Hunterdon, Salem, Union, Camden, Monmouth, Sussex, or Warren County.
- (2) If the facility is located in Bergen, Cape May, Cumberland, Essex, Mercer, Middlesex, Ocean, Morris, Passaic, or Somerset County.

- † If submitted electronically, applications may be submitted by February 4, 1999. The recommended early submittal date for an electronic submittal is November 4, 1998. If the application includes information for which a claim of confidentiality is being asserted, this extended deadline shall apply to both the electronic submittal and the accompanying paper submittal which includes the information being claimed confidential. See N.J.A.C. 7:27-22.4(c).
- †† If submitted electronically, applications may be submitted by May 4, 1999. The recommended early submittal date for an electronic submittal is February 4, 1999. If the application includes information for which a claim of confidentiality is being asserted, this extended deadline shall apply to both the electronic submittal and the accompanying paper submittal which includes the information being claimed confidential. See N.J.A.C. 7:27-22.4(c).

(d)-(e) (Reserved)

(f) For a new facility subject to this subchapter, the deadline for submitting an initial operating permit application is the later of the following:

1. The applicable deadline set forth at (c) above; or
2. Twelve months after the new facility commences operation.

(g) A new facility subject to this subchapter may either obtain preconstruction permit and operating certificate approval pursuant to N.J.A.C. 7:27-8 or such facility may elect to obtain both preconstruction and operating permit approval by the submittal and approval of an operating permit application pursuant to this subchapter prior to construction of the facility. In either situation, the facility must submit an application for an operating permit pursuant to (f) above.

(h) For an existing facility that becomes subject to this subchapter through a change to the facility or to any source operation, or to the use thereof, the applicable deadline for submitting the application for an initial operating permit is the later of the following:

1. The applicable deadline set forth at (c) above; or
2. Twelve months after the new or changed facility commences operation.

(i) For a facility that becomes subject to this subchapter through a change to any applicable requirement, or creation of a new applicable requirement, the applicable deadline for submitting the application for an initial operating permit, if no deadline is specified in the new requirement, is the later of the following:

1. The applicable deadline set forth at (c) above; or
2. Twelve months after the effective date of the new applicable requirement.

(j) If a facility has over 100 source operations, the owner or operator may elect to divide the facility into two or more components, and submit a separate application for an initial

operating permit for each component. Such applications shall be submitted on a schedule proposed by the owner or operator and approved by the Department, except that the application for the final component shall be submitted no later than the application deadline established for the facility pursuant to (c) above.

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).

Amended by R.1997 d.453, effective October 20, 1997.

See: 29 N.J.R. 2509(a), 29 N.J.R. 4567(a).

In (c)3, in the footnotes to the table, added the dagger footnote regarding electronic submission of applications.

Public Notice: Notice of Receipt of and Action on Petitions for Rulemaking.

See: 29 N.J.R. 5333(c), 30 N.J.R. 240(a).

Amended by R.1998 d.229, effective May 4, 1998.

See: 30 N.J.R. 264(a), 30 N.J.R. 1600(a).

2. Discontinues construction or installation for a period of more than one year.

(ll) Any person who is subject to the provisions of this chapter and who fails to conform to its requirements may be subject to civil penalties in accordance with N.J.A.C. 7:27A-3 or criminal penalties pursuant to N.J.S.A. 26:2C-19 or both.

(mm) Any information which the Department needs to take into consideration in making a decision on an application shall be submitted to the Department for incorporation into the application prior to the Department making a decision on the application. If the Department needs any information beyond what is submitted in the application, the Department shall request such additional information from the applicant.

(nn) An affirmative defense to liability shall be available pursuant to the conditions of this section for penalties or other sanctions for violating certain provisions or conditions of an operating permit. The affirmative defense shall be available for a violation of a provision or condition of the operating permit only if:

1. The violation occurred as a result of an equipment malfunction, an equipment start-up or shutdown, or during the performance of necessary equipment maintenance; and

2. The affirmative defense is asserted and established as required by N.J.S.A. 26:2C-19.1 through 19.5 and any implementing rules.

(oo) Any person who has submitted to the Department an administratively complete application for an initial operating permit or for a modification to an operating permit may, during the Department's review of the application, place the equipment or control apparatus covered by the application on the footings or foundation where it is intended to be used, provided that:

1. The person notifies the Department, via certified mail, of the intent to so place the equipment or control apparatus, at least seven days prior to commencing the placement; and

2. Such placement is not prohibited by Federal law.

(pp) If a person constructs or places equipment or control apparatus in accordance with (oo) above, and the Department determines that the equipment or control apparatus or its placement is inconsistent with applicable State law or rules, the person shall be subject to civil or criminal penalties for the inconsistent action only if the construction or placement results in air contaminant emissions. Any costs incurred by the person in connection with the construction or placement may not be used as grounds for an appeal of the Department's decision on the permit application.

(qq) No permittee shall test or operate air pollution control apparatus or process equipment that has been installed at risk, pursuant to (oo) above, until a minor modification or significant modification of the operating permit has been submitted and a preconstruction approval has been issued by the Department.

(rr) For a person seeking approval of an environmental improvement pilot test, as defined at N.J.A.C. 7:27-22.1, of air pollution control equipment or other environmental clean-up equipment, the Department will take final action on the application for preconstruction approval within 30 days of an administratively complete application. An administratively complete application shall meet all application contents requirements for a minor modification of the operating permit set forth at N.J.A.C. 7:27-22.23(f) and (g). The approval will be effective for 90 days, and may be renewed by application to the Department. The fee for an environmental improvement pilot test is set forth at N.J.A.C. 7:27-22.31.

(ss) For the purposes of this subchapter, any VOCs which are neither HAPs, nor are specified by the Department as air contaminants regulated by New Jersey pursuant to N.J.S.A. 26:2C-9.2i (P.L. 1995, c.188, § 4(i)), shall be considered as a single air contaminant, and may be used interchangeably. Such use shall not be considered installation or modification.

(tt) Notwithstanding (qq) above, a permittee may use DER credits to comply with a VOC or NO_x permit limit established pursuant to this subchapter, provided that:

1. Such use is allowed pursuant to N.J.A.C. 7:27-30.14(a)3, (b), (c)6 and (d);

2. The permittee conforms with the applicable seven-day-notice requirements at N.J.A.C. 7:27-22.22;

3. If the use is a "permit insurance" use, the permittee conforms with the conditions for "permit insurance" uses set forth at N.J.A.C. 7:27-30.14(d); and

4. The permittee complies with all applicable requirements for DER credit use set forth at N.J.A.C. 7:27-30.

(uu) In accordance with N.J.A.C. 7:27-30.14(a)5 and 6, a permittee shall compensate for the following through use of DER credits:

1. Failure to perform timely testing in accordance with N.J.A.C. 7:27-22.18(k) of the VOC and/or NO_x emissions of equipment or control apparatus; and

2. Operation of equipment, if the permittee has failed to install or operate a control apparatus required by a permit.

(vv) The following information is available from the Department:

1. A list of air contaminants currently listed by EPA as HAPs pursuant to 42 U.S.C. § 7412(b) may be requested from the Department at the address set forth at N.J.A.C. 7:27-22.3(t). A list of regulated air contaminants may also be requested from the Department at that address; and

2. Technical manuals may be requested from the Department at the following address:

New Jersey Department of Environmental Protection
Map Sales and Publications Office
PO Box 417
Trenton, New Jersey 08625-0417
Telephone: (609) 777-1039

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).

Amended by 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).

Amended (*l*).

Amended by R.2000 d.204, effective May 15, 2000 (operative June 6, 2000).

See: 31 N.J.R. 1671(a), 32 N.J.R. 1808(a).

Inserted new (tt) and (uu); and recodified former (tt) as (vv).

7:27-22.4 General application procedures

(a) The procedures in this section apply to all applications and notices submitted to the Department pursuant to this subchapter. Specific procedures for initial operating permits, administrative amendments, seven-day-notice changes, minor modifications, significant modifications, and renewals can be found at N.J.A.C. 7:27-22.5, 22.20, 22.22, 22.23, 22.24, and 22.30, respectively.

(b) Any application or any notice of a seven-day-notice change shall be submitted to the Department on forms obtained from the Department at the address at N.J.A.C. 7:27-22.3(t), or in accordance with electronic data interchange (EDI) procedures established by the Department.

(c) An applicant may submit an application or notice to the Department electronically, using the Air Information Management System (AIMS). However, if the applicant is asserting a confidentiality claim for any element of information in the application pursuant to N.J.A.C. 7:27-1.6(a), the applicant shall omit the confidential information from the electronically submitted application, as the electronic copy of the application shall be a public copy which the Department may disclose to any person, without restriction or limitation. In such case, the applicant shall also make a paper submission of the application in accordance with N.J.A.C. 7:27-1.6 which included the confidential information. Information about AIMS and guidance regarding electronic submittal of an application or notice is available from the Department at the address listed at N.J.A.C. 7:27-22.3(t).

(d) A copy of any application or notice submitted to the Department shall also be submitted to EPA at the following address, unless EPA waives the requirement for notice at 40 CFR 70.8, or determines that an application summary, with any relevant portion of the permit application, may be submitted in lieu of the complete application.

United States Environmental Protection Agency,
Region II
Air Compliance Branch
290 Broadway
New York, New York 10007-1866

(e) An applicant for an initial operating permit or operating permit renewal is encouraged to submit an application to the Department no less than 90 days prior to the applicable application deadline set forth at N.J.A.C. 7:27-22.5 or 22.30, respectively.

(f) Within 30 days of receipt of an application, the Department will issue a letter detailing any deficiencies in respect to administrative completeness in the application,

thereby providing the applicant the opportunity to correct the deficiencies prior to the application deadline.

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).

Amended by R.1997 d.453, effective October 20, 1997.

See: 29 N.J.R. 2509(a), 29 N.J.R. 4567(a).

In (c), rewrote the first sentence as the first and third sentences, deleted the existing second sentence, and inserted a new second sentence.

7:27-22.5 Application procedures for initial operating permits

(a) The application procedures in this section apply to all applications submitted to the Department for initial operating permits.

(b) The owner or operator of a facility subject to this subchapter shall submit a timely and administratively complete application for an initial operating permit. To be considered timely, an administratively complete application for an initial operating permit shall be submitted to the Department no later than the applicable deadline established in this section. An applicant for an initial operating permit is encouraged to submit the application to the Department no less than 90 days prior to the applicable application deadline set forth in this section. Within 30 days of receipt of an application, the Department will issue a letter detailing any deficiencies in respect to administrative completeness in the application, thereby providing the applicant the opportunity to correct the deficiencies prior to the complete application deadline listed at (c) below. An application shall be deemed administratively complete if the Department does not notify the applicant, within 60 days of its receipt of the application, that additional information is required.

(c) For an existing facility subject to this subchapter, the applicable deadline for submitting an administratively complete application for an initial operating permit is the earliest deadline below which applies to the facility:

1. For affected Title IV facilities with source operations subject to the acid deposition control program Phase II requirements for initial operating permits, the applicable deadline specified at N.J.A.C. 7:27-22.29(b);
2. For facilities with any source operation designated by EPA pursuant to 40 CFR 70.3(a)(5) as requiring an operating permit, within 12 months after the effective date of EPA's designation, or by a later deadline specified by EPA in its designation; and
3. For all other facilities, by the deadline the table below as determined by the facility's primary SIC code, as reported to the New Jersey Secretary of State:

SIC Code	Complete Application Deadline	Early Submittal
2000 through 2086	8/15/95	5/15/95
2088 through 2199	8/15/95	5/15/95
4900 through 4910	8/15/95	5/15/95
4911 ¹	8/15/95	5/15/95
4912 through 4939	8/15/95	5/15/95
6400 through 6999	8/15/95	5/15/95
8300 through 9999	8/15/95	5/15/95
4911 ²	11/15/95	8/15/95
4200 through 4399	11/15/95	8/15/95
5900 through 6399	11/15/95	8/15/95
7000 through 7199	11/15/95	8/15/95
7500 through 8299	11/15/95	8/15/95
0000 through 1299	5/15/96	2/15/96
1400 through 1999	5/15/96	2/15/96
3200 through 3599	5/15/96	2/15/96
4000 through 4199	5/15/96	2/15/96
4400 through 4499	5/15/96	2/15/96
4800 through 4899	5/15/96	2/15/96
5300 through 5499	5/15/96	2/15/96
1300 through 1399	11/15/96	8/15/96
2700 through 2799	11/15/96	8/15/96
2900 through 2999	11/15/96	8/15/96
3600 through 3999	11/15/96	8/15/96
4500 through 4799	11/15/96	8/15/96
7300 through 7499	11/15/96	8/15/96
2200 through 2599	5/15/97	2/15/97
3000 through 3199	5/15/97	2/15/97
5000 through 5299	5/15/97	2/15/97
5500 through 5899	5/15/97	2/15/97
7200 through 7299	5/15/97	2/15/97
2087	11/15/97†	8/15/97†
2600 through 2699	11/15/97†	8/15/97†
2835 through 2899	11/15/97†	8/15/97†
2800 through 2834	5/15/98††	2/15/98††
4940 through 4999	5/15/98††	2/15/98††

(1) If the facility is located in Atlantic, Burlington, Gloucester, Hudson, Hunterdon, Salem, Union, Camden, Monmouth, Sussex, or Warren County.

(2) If the facility is located in Bergen, Cape May, Cumberland, Essex, Mercer, Middlesex, Ocean, Morris, Passaic, or Somerset County.

† If submitted electronically, applications may be submitted by February 4, 1999. The recommended early submittal date for an electronic submittal is November 4, 1998. If the application includes information for which a claim of confidentiality is being asserted, this extended deadline shall apply to both the electronic submittal and the accompanying paper submittal which includes the information being claimed confidential. See N.J.A.C. 7:27-22.4(c).

†† If submitted electronically, applications may be submitted by May 4, 1999. The recommended early submittal date for an electronic submittal is February 4, 1999. If the application includes information for which a claim of confidentiality is being asserted, this extended deadline shall apply to both the electronic submittal and the accompanying paper submittal which includes the information being claimed confidential. See N.J.A.C. 7:27-22.4(c).

(d)-(e) (Reserved)

(f) For a new facility subject to this subchapter, the deadline for submitting an initial operating permit application is the later of the following:

1. The applicable deadline set forth at (c) above; or
2. Twelve months after the new facility commences operation.

(g) A new facility subject to this subchapter may either obtain preconstruction permit and operating certificate approval pursuant to N.J.A.C. 7:27-8 or such facility may elect to obtain both preconstruction and operating permit approval by the submittal and approval of an operating permit application pursuant to this subchapter prior to construction of the facility. In either situation, the facility must submit an application for an operating permit pursuant to (f) above.

(h) For an existing facility that becomes subject to this subchapter through a change to the facility or to any source operation, or to the use thereof, the applicable deadline for submitting the application for an initial operating permit is the later of the following:

1. The applicable deadline set forth at (c) above; or
2. Twelve months after the new or changed facility commences operation.

(i) For a facility that becomes subject to this subchapter through a change to any applicable requirement, or creation of a new applicable requirement, the applicable deadline for submitting the application for an initial operating permit, if no deadline is specified in the new requirement, is the later of the following:

1. The applicable deadline set forth at (c) above; or
2. Twelve months after the effective date of the new applicable requirement.

(j) If a facility has over 100 source operations, the owner or operator may elect to divide the facility into two or more components, and submit a separate application for an initial operating permit for each component. Such applications shall be submitted on a schedule proposed by the owner or operator and approved by the Department, except that the application for the final component shall be submitted no later than the application deadline established for the facility pursuant to (c) above.

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).

Amended by R.1997 d.453, effective October 20, 1997.

See: 29 N.J.R. 2509(a), 29 N.J.R. 4567(a).

In (c)3, in the footnotes to the table, added the dagger footnote regarding electronic submission of applications.

Public Notice: Notice of Receipt of and Action on Petitions for Rulemaking.

See: 29 N.J.R. 5333(c), 30 N.J.R. 240(a).

Amended by R.1998 d.229, effective May 4, 1998.

See: 30 N.J.R. 264(a), 30 N.J.R. 1600(a).

Rewrote the table in (c)3.

7:27-22.6 Operating permit application contents

(a) To be administratively complete, an application for an initial operating permit shall include all information required by this section and all application fees required pursuant to N.J.A.C. 7:27-22.31. The required information shall be provided on and with forms obtained from the Department, which will direct the applicant to set the information forth in a format such that the Department can incorporate the information readily into the draft operating permit.

(b) The required contents of an application for authorization to operate under a general operating permit, an administrative amendment, a minor modification, a significant modification, or a renewal of an operating permit are not set forth in this section, but rather are set forth at N.J.A.C. 7:27-22.14, 22.20, 22.23, 22.24, and 22.30, respectively. Requirements for submitting a notice of a seven-day-notice change are set forth at N.J.A.C. 7:27-22.22.

(c) Any source operation at a facility subject to this subchapter shall be included in the facility's application for an operating permit, except for exempt activities as defined at N.J.A.C. 7:27-22.1.

(d) All source operations which are not exempt as defined at N.J.A.C. 7:27-22.1 and are significant or insignificant source operations shall be included in a facility's application for an operating permit. Source operations shall be classified as either significant or insignificant, as defined at N.J.A.C. 7:27-22.1. Different types and amounts of information are required for significant and insignificant source operations in the application for an operating permit.

(e) In an application, an owner or operator may claim a source operation to be an insignificant source operation as defined at N.J.A.C. 7:27-22.1.

(f) An application for an initial operating permit shall include all information required by the application form, the instructions accompanying the application form, and the applicable completeness checklist(s) for the application. This shall include, but is not limited to, the following:

1. Information pertaining to the identification of the applicant, including:

- i. The company name and mailing address, division name and the plant name and address (if different);
- ii. The name and address of each owner, each owner's agent (if any), and each operator of the facility;
- iii. The name and telephone number of the on-site facility manager and of any additional on-site contact person; and
- iv. The name and address of any responsible official, as defined at N.J.A.C. 7:27-1.4;

2. For the source operations proposed to be classified as insignificant source operations pursuant to (d) or (e) above, the following information:

- i. A list of the types of insignificant source operations found at the facility; and
- ii. An estimate of the total emissions from all insignificant source operations, listed separately for each criteria pollutant; and
- iii. A listing of applicable requirements which generally apply to insignificant source operations at the facility;

3. For each significant source operation at the facility which will be subject to the operating permit, information including but not limited to the following:

- i. A brief description of the source operation;
- ii. The identification number of any preconstruction permit issued by the Department for the source operation;
- iii. Identification of any stack or chimney which serves the source operation and specification of:

(1) Any stack designation assigned by the Department for the stack or chimney; and

(2) Any stack designation assigned by the facility for the stack or chimney; and

iv. Identification of the production process in which the source operation is used;

4. A general description of each of the facility's production processes and products, identified by SIC Code, in sufficient detail to determine which applicable requirements apply to the facility. This description shall set forth for each production process:

i. The significant source operations associated with the production process pursuant to (f)3iv above;

ii. The product(s) or intermediate product(s), together with any associated co-products, produced by the production process; and

iii. A general description of the operating scenario used to produce the product(s) or intermediate product(s), and a description of any operating scenarios which may be used to produce the same product(s) or intermediate product(s). Such description of an operating scenario shall be prepared pursuant to N.J.A.C. 7:27-22.27;

5. The following information pertaining to emissions at the facility:

i. For each significant source operation, each air contaminant that it may emit and its potential to emit that air contaminant, including any non-captured emissions, in tons per year, and any other units, for example pounds per hour, required to verify compliance with

any applicable requirement. If the source operation's potential to emit a given air contaminant does not exceed the applicable threshold for reporting emissions set forth in Table A or B in the Appendix to this subchapter, the air contaminant need not be included;

ii. For the facility, each air contaminant, if any, emitted as fugitive emissions and not associated with any source operation; the cause of that air contaminant being emitted as fugitive emissions; and a reasonable estimate of the facility's fugitive emissions of that air contaminant, in tons per year, and any other units required to verify compliance with any applicable requirement. However, if the facility's potential to emit a given air contaminant as fugitive emissions does not exceed the applicable threshold for reporting emissions set forth in Table A or B in the Appendix to this subchapter, the information required by this paragraph need not be given in respect to that air contaminant;

iii. For the facility as a whole, the facility's aggregate potential to emit, in tons per year, each air contaminant that may be emitted within the facility, including the emissions determined pursuant to (f)5i and ii above;

iv. Identification of each stack or chimney at the facility and, for each stack or chimney, designation of which significant source operations are vented through the stack and chimney;

v. For each source operation, a listing of any fuels used and the maximum quantity of each commercial fuel or non-commercial fuel to be used annually;

vi. For each production process, the raw materials to be used, and either the maximum rate of production and the maximum annual hours of operation, or the maximum batch size and the maximum number of batches per year;

vii. For each source operation, a description of the control apparatus, if any, serving the source operation; if the control apparatus is not used for all operating scenarios, a description of the circumstances under which it is not used;

viii. For the facility, identification and description of all monitoring devices or activities proposed to verify compliance with applicable requirements;

ix. Any additional emissions information or emissions-related information needed to verify whether any potentially applicable requirement applies to the facility or to any source operation at the facility;

x. Any other information required by an applicable requirement;

xi. Any calculations upon which information in (f)5i through x is based; and

xii. For each criteria pollutant, any emission reductions which have been banked, pursuant to N.J.A.C. 7:27-18.8, and an indication as to whether they are held by the owner or operator of the facility or by another person;

6. For each significant source operation at the facility or, if applicable, for each group of source operations or for the facility as a whole, information pertaining to air pollution control requirements as follows:

i. Description of each applicable requirement;

ii. Citation to the State or Federal rule, regulation, permit or other authority, which establishes each applicable requirement upon which the proposed permit conditions are based;

iii. For each applicable requirement, each provision of the applicable requirement which sets forth a maximum allowable emissions limitation, a limitation on operation affecting emissions, or a work practice standard affecting emissions applicable to the facility;

iv. The proposed permit conditions which incorporate and reflect each provision provided pursuant to (f)6ii above;

v. Identification of any difference in form between a proposed permit condition and the applicable requirement upon which the proposed permit condition is based; and

vi. If the owner or operator seeks to have, pursuant to N.J.A.C. 7:27-22.3(m), the operating permit include an alternative emission limit for any significant source operation or any group of significant source operations, a demonstration that:

(1) The proposed alternative emissions limit is allowed in the SIP;

(2) The proposed alternative emissions limit is equivalent to, or more stringent than, that contained in an applicable requirement; and

(3) The proposed alternative emissions limit is quantifiable, accountable, enforceable, and based on replicable procedures;

7. An explanation of any proposed exemption from an otherwise applicable provision of an applicable requirement, including a citation of the legal authority authorizing the exemption;

8. A proposed compliance plan meeting the requirements of N.J.A.C. 7:27-22.9;

9. A listing of any preconstruction permits issued by the Department pursuant to N.J.A.C. 7:27-8 prior to the date of application and any applications for preconstruction permits not yet finally acted upon;

10. A statement that a copy of the application, or a summary of the application with any relevant portion of the permit application as determined by EPA under 40 CFR 70.8, has been sent to EPA; and

11. Certification of the application pursuant to N.J.A.C. 7:27-1.39; and

12. Any other information that is reasonably necessary to enable the Department to determine whether the applicant has satisfied the requirements of this subchapter for the issuance of a permit.

(g) Any applicant who seeks an operating permit authorizing the operation of a production process in one or more alternative modes shall propose these modes as operating scenarios, in the application for an operating permit or significant modification, pursuant to N.J.A.C. 7:27-22.27. If the Department approves one or more operating scenarios as part of an operating permit, the production process may be operated in any of the modes specified in the approved operating permit, and may be changed between those modes, without modification of the operating permit or notification to the Department.

(h) Any applicant who seeks an operating permit authorizing implementation of an emissions trading program requiring prior Department approval pursuant to N.J.A.C. 7:27-22.28A(b) shall propose the emissions trading in an application for an initial operating permit, minor modification, significant modification, or in a seven-day-notice, as appropriate. An applicant may propose emissions trading for more than one group of source operations at the facility.

(i) Any applicant who seeks an operating permit including different emissions limits that apply to a source operation during startup, shutdown, or necessary equipment maintenance, shall propose such emissions limits in the application for the operating permit or significant modification. An applicant may propose such startup, shutdown, or maintenance emissions limits for more than one source operation in the application provided that these limits do not conflict with the SIP or any state or Federal regulation.

(j) An applicant may elect to propose, in the application for an initial operating permit, the methods to be used to determine the actual emissions of each significant source operation at the facility, for the purpose of preparing emission statements required for the facility pursuant to N.J.A.C. 7:27-21.

(k) (Reserved)

(l) Any applicant who, pursuant to N.J.A.C. 7:27-22.14, seeks to include as a component of the operating permit for the facility, one or more general operating permits shall specify the general operating permit(s) proposed to be included, identify each source operation to which the general operating permit would apply, and meet all other general operating permit application requirements set forth at

N.J.A.C. 7:27-22.14. The conditions of such general operating permit, if applicable, will be incorporated into the operating permit for the facility.

(m) If an applicant seeks acknowledgement in the operating permit that any specific provision of a potentially applicable requirement does not in fact apply to the facility, the applicant may cite such a specific provision, explain why it does not apply, and request that the provision be specifically identified in the operating permit as being inapplicable to the facility.

(n) If an applicant for an initial operating permit seeks to have a compliance extension for a MACT or GACT standard incorporated into the operating permit, the applicant shall demonstrate in the application, pursuant to N.J.A.C. 7:27-22.34, that sufficient early reductions of HAP emissions have been achieved.

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).

Amended by 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).

Amended (h).

Amended by R.1999 d.242, effective August 2, 1999 (operative August 31, 1999).

See: 30 N.J.R. 2396(a), 31 N.J.R. 2200(a).

In (f)5iii, made internal citation change.

7:27-22.7 Application shield

(a) An application shield provides that the owner or operator of a facility subject to this subchapter will not be subject to penalties for operating the facility without an operating permit during the time the application shield is in effect.

(b) An application shield is in effect for a facility if:

1. The owner or operator of the facility has submitted to the Department an application for an initial operating permit or for a renewal, in accordance with N.J.A.C. 7:27-22.5 or 22.30, whichever applies; and

2. The application is administratively complete by the applicable deadline for submittal of the application, as set forth at N.J.A.C. 7:27-22.5 or 22.30, whichever applies.

(c) The protection afforded by the application shield begins the date the application is due to the Department.

(d) An application which is administratively incomplete at the time of the application deadline applicable to the facility, but which is later completed, is ineligible for coverage by an application shield. Similarly, an administratively complete application which is submitted after the applicable deadline for its submittal is ineligible for an application shield. As set forth at N.J.A.C. 7:27-22.4(e), applicants are advised to submit the application 90 days prior to the application deadline to ensure that any deficiencies may be corrected by the deadline.

(e) An application shield does not relieve an applicant of the responsibility for compliance with all other requirements of this chapter, or any permit, order, or other legal document issued pursuant thereto.

(f) An application shield terminates automatically upon either of the following:

1. The Department's final action on the application for the initial operating permit or for the renewal; or
2. Failure of the applicant to submit additional information requested by the Department within the deadline established by the Department pursuant to N.J.A.C. 7:27-22.10, Completeness review.

7:27-22.8 Air quality simulation modeling and risk assessment

(a) An applicant for an initial operating permit for a new major facility, or for a minor modification or significant modification to an existing operating permit, shall conduct air quality simulation modeling in accordance with (c) below if:

1. The application is subject to PSD air quality impact analysis requirements set forth at 40 CFR 52;
2. The application is subject to the air quality impact analysis requirements set forth at N.J.A.C. 7:27-18.4;
3. The application includes relocation of a temporary facility to a site not specifically authorized in the operating permit, and air quality simulation modeling or risk assessment was required for the location(s) authorized in the operating permit; or
4. The application includes source operations which, based on screening procedures published in technical manuals by the Department, have the potential to cause any of the adverse air quality effects listed in (b)1 through 4 below.

(b) The air quality simulation modeling shall be used to determine whether the potential to emit proposed in the permit application may cause:

1. A violation of any New Jersey Ambient Air Quality Standard (NJAAQS) or National Ambient Air Quality Standard (NAAQS);
2. An exceedance of a Prevention of Significant Deterioration (PSD) increment as defined in 40 CFR 52;
3. An increase in the ambient air concentration that equals or exceeds the significant air quality effect level, as set forth in Table 1 of N.J.A.C. 7:27-18.4(a), in a nonattainment area for any air contaminant; or
4. Air pollution as defined in P.L. 1954 c.212 (N.J.S.A. 26:2C-1 et seq.).

(c) The air quality simulation modeling shall be conducted using procedures published in technical manuals by the Department and in accordance with a protocol approved in advance by the Department. The protocol shall document how the air quality simulation modeling is to be conducted and how the results of the analysis are to be presented to the Department. The protocol shall be prepared in accordance with the Department's technical manuals on Air Quality Modeling (technical manual 1002) and Risk Assessment (technical manual 1003), available at the following address:

New Jersey Department of Environmental Protection
Map Sales and Publications Office
PO Box 417
Trenton, New Jersey 08625-0417
Telephone: (609) 777-1039

(d) An applicant not subject to (a) above may voluntarily perform air quality simulation modeling and risk assessment for existing source operations and submit these to the Department, to be made available as part of the public review process for applications for initial operating permits or renewals.

1. Performance of voluntary modeling and risk assessment should be considered by the applicant if the facility's potential to emit any hazardous air pollutant exceeds the thresholds contained in the Department's technical manual for Risk Assessment for Operating Permits (technical manual 1004), available at the address in (c) above.
2. Guidance on conducting air quality simulation modeling and risk assessment is available in the Department's technical manual for Risk Assessment for Operating Permits (technical manual 1004), available at the address in (c) above.
3. An applicant for an initial operating permit or the renewal of an operating permit may voluntarily prepare a risk assessment based on ambient air quality monitoring of actual levels of hazardous air pollutants, in lieu of an assessment based on air quality simulation modeling. Guidance on conducting air monitoring is available at the following address:

New Jersey Department of Environmental Protection
Office of Air Quality Management
PO Box 418
Trenton, New Jersey 08625-0418
Attention: Air Monitoring
Telephone: (609) 292-0138

(e) Any new or revised technical manuals referenced in this section will be subject to public input prior to finalization.

New Rule, R.1995 d.493, effective September 5, 1995 (operative October 8, 1995).

See: 27 N.J.R. 1040(a), 27 N.J.R. 3421(a).

7:27-22.9 Compliance plans

(a) Pursuant to N.J.A.C. 7:27-22.6(f)8, an applicant for an initial operating permit shall submit a proposed compliance plan, drafted in accordance with this section and certified in accordance with N.J.A.C. 7:27-1.39, as part of an application for the initial operating permit.

(b) An applicant for a renewal, significant modification, or minor modification shall draft proposed revisions to any portion of the facility's compliance plan affected by any change to the facility made since the operating permit was issued. The proposed revisions shall be drafted in accordance with this section and submitted as part of the application for the renewal, significant modification, or minor modification.

(c) A proposed compliance plan shall include the following:

1. A description of the current compliance status of the facility with respect to all applicable requirements;
2. For each applicable requirement, a statement setting forth the methods used to determine the facility's compliance status, including a description of any monitoring, recordkeeping, reporting or test methods, and any other information necessary to verify compliance with or enforce any proposed permit condition or any applicable requirement. This statement shall include, but is not limited to:

i. All monitoring, analysis procedures, recordkeeping, reporting, or test methods required by any applicable requirement, including any applicable monitoring procedures or methods required under the Federal "enhanced monitoring program" set forth at 40 CFR Part 64;

ii. Where the applicable requirement does not require monitoring, recordkeeping, reporting, or test methods sufficient to demonstrate the facility's compliance with the operating permit, proposed monitoring, recordkeeping, reporting, or test methods which:

(1) Are sufficient to demonstrate compliance;

(2) Use terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement; and

(3) Can be used for enforcement of the applicable requirement;

iii. Proposed requirements concerning the use, maintenance, and installation of monitoring equipment and concerning monitoring, recordkeeping, reporting, or test methods. This shall include, but is not limited to, schedules for monitoring, recordkeeping, reporting, and source emissions testing; specification of parameters to be measured, recorded, and reported; and formats for recording and reporting; and

iv. Where the permittee proposes to use monitoring of operating parameters to demonstrate compliance (as opposed to direct emissions testing or monitoring), a proposed enforceable limit or range of operation for the parameter monitored, and how this parameter correlates to the emission limit.

(e) In addition to the information required at (d) above, an applicant may submit proposed methods to be used to determine the actual emissions of each significant source operation, for the purpose of preparing emission statements required for the facility pursuant to N.J.A.C. 7:27-21. This is useful where a different method is more accurate than the general methods provided for in the guidelines for emission statement preparation.

(f) An application for the renewal of an operating permit may, at the applicant's option, include air quality simulation modeling and risk assessment for the facility or a portion thereof, pursuant to N.J.A.C. 7:27-22.8. Where a modification of the operating permit requires air quality simulation modeling, pursuant to N.J.A.C. 7:27-22.8, such modeling shall be submitted with the application.

(g) If an administratively complete application for renewal is received by the Department at least 12 months prior to the date the operating permit expires, the facility will be covered by the application shield set forth at N.J.A.C. 7:27-22.7.

(h) An application for renewal of an operating permit is subject to the requirements for public comment and EPA comment set forth at N.J.A.C. 7:27-22.11 and 22.12.

(i) Unless a facility subject to this subchapter is covered by an application shield pursuant to N.J.A.C. 7:27-22.7, the right to operate the facility terminates upon the expiration of its operating permit.

(j) If an operating permit has expired, the conditions of the operating permit remain enforceable until the operating permit is reissued, except as provided in acid deposition control regulations promulgated by EPA under Title IV of the CAA.

(k) A permit shield provided pursuant to N.J.A.C. 7:27-22.17 shall apply to an operating permit renewal approved by the Department.

New Rule, R.1995 d.493, effective September 5, 1995 (operative October 8, 1995).

See: 27 N.J.R. 1040(a), 27 N.J.R. 3421(a).

Amended by R.1996 d.303, effective July 1, 1996 (operative August 2, 1996).

See: 28 N.J.R. 1147(b), 28 N.J.R. 3414(a).

In (d), added reference to DER generation.

7:27-22.31 Fees

(a) The owner or operator of a facility subject to this subchapter shall submit fees to the Department in accordance with this section. The type of fee due, and the amount due, will vary depending on the fiscal year, the amount of regulated air contaminant emissions at the facility, and the number of significant source operations at the facility. Table 2 below summarizes which fees are due for each fiscal year. The types of fees are:

1. Annual emission fees, set forth at (b) below;

2. Supplemental surcharge fees, based on emissions, set forth at (c) below;

3. Initial operating permit application fees, based on the number of significant source operations at a facility, set forth at (d) below; and

4. Modification fees, based on the number of significant source operations being modified, set forth at (e) below;

(b) Emission fees shall be paid by January 31 of each fiscal year, except for the emission fee for fiscal year 1995, which is due October 8, 1995. Emission fees shall be based on the facility's actual emissions during the emission-statement year which was two years prior to the fiscal year for which the fee is due. If actual emission information on a source operation is unavailable, or an emission statement has not been filed for a source operation, the emission fee shall be based on permitted emissions, or if no permit has been issued, on the facility's potential to emit. Guidance on calculating actual emissions and potential to emit may be requested from the Department at the address in N.J.A.C. 7:27-22.3(t). Guidance on calculating the CPI for purposes of fee calculations can be found at (i) below. A facility's emission fee shall be calculated as follows:

1. For fiscal year 1995, the emission fee shall be \$25.00 (in 1989 dollars, adjusted by the CPI) per ton of emissions. (For FY95, \$25.00 in 1989 dollars adjusted by the CPI is equal to \$30.07.) The emission fee for FY95 shall be payable only on the following emissions:

- i. NO_x emissions, up to 8,000 tons;
- ii. VOC emissions, up to 8,000 tons;
- iii. One half the total emissions of CO; and
- iv. Emissions of all other regulated air contaminants, up to 4,000 tons;

2. For fiscal years 1996 and 1997, the emission fee shall be \$25.00 (in 1989 dollars, adjusted by the CPI) per ton of emissions, payable on the same emissions as for FY95 in 1 above, except that each facility subject to this subchapter shall pay a minimum emission fee of \$1,000; and

3. For FY98 and thereafter, the emission fee shall be \$25.00 (in 1989 dollars adjusted by the CPI) per ton of emissions, payable on all emissions of any regulated air contaminant except CO, and each facility subject to this subchapter shall pay a minimum emission fee of \$1,000.

(c) Supplemental surcharge fees shall be paid for FY95 and FY96 by all facilities subject to this subchapter. No supplemental surcharge fee shall exceed \$20,000 per facility per fiscal year. The FY95 supplemental surcharge fee shall be paid by October 8, 1995. The FY96 supplemental surcharge fee (excluding the excess, if any, payable under (f) below) shall be paid by January 31, 1996, and shall be based on the facility's actual annual emissions as reported on the facility's emission statement. If actual emission information on a source operation is unavailable, or an emission state-

ment has not been filed for a source operation, the supplemental surcharge fee shall be based on permitted emissions, or if no permit has been issued, on the facility's potential to emit. The supplemental surcharge fee shall be calculated according to the following formulas:

$$(Q \times Te_s + (\$20,000 \times L)) = \$1,500,000$$

where:

Q is the per-ton supplemental surcharge, expressed in dollars per ton;

Te_s is the total emissions, expressed in tons, from facilities with emissions below the size threshold;

L is the number of facilities above the size threshold; and

The size threshold is $\$20,000 \div Q$

For FY95, the supplemental surcharge fee is \$20.00 per ton, payable on all emissions of any regulated air contaminant, except for CO. The Department shall publish a notice in the New Jersey Register, stating the supplemental surcharge fee for FY96 and describing how the fee was calculated.

(d) The initial operating permit application fee shall be paid on or before the deadline for submittal on the facility's initial operating permit application, except for applications due on August 15, 1995, for which application fees are due October 8, 1995. The application fee calculation is the same for all fiscal years. The application fee shall be \$125.00 for each piece of equipment listed on the permit application which, considered singly, constitutes a significant source operation as defined at N.J.A.C. 7:27-22.1. However, no initial operating permit application fee shall exceed \$25,000.

(e) Operating permit modification fees shall be paid upon submittal of an application for a minor or significant modification, in accordance with (k) through (s) below.

(f) The Department will make forms available to use for submittal of fees. The Department may also provide estimated emission fee or supplemental surcharge fee calculations for individual facilities. If a person required to submit any fees pursuant to this section does not receive a fee form, the person shall obtain a fee form from the Department at the address set forth in N.J.A.C. 7:27-22.3(t), and shall submit the required fees by the deadlines set forth in this section. Any person submitting fees shall provide the information specified on the fee form. Backup information and calculations carried out pursuant to this section to determine the fee amount shall be maintained by the facility for at least five years after submittal of the fee, and shall be made available to the Department upon request.

(g) All fee payments required by this section shall be submitted to the Department by check or money order made payable to the "Treasurer, State of New Jersey," shall be accompanied by a completed fee form, and shall be submitted to:

Department of Environmental Protection
Bureau of Revenue
PO Box 417
Trenton, New Jersey 08625-0417

(h) On or before March 1, 1996, and annually thereafter, the Department shall prepare and submit to the Governor and the Legislature the report required by P.L. 1995, c.188, § 7 (N.J.S.A. 26:2C), which will include information on whether there is a need for legislative action to adjust the annual emission fee to adequately fund the operating permit program.

(i) The Consumer Price Index which is used to adjust the emission fee shall be calculated using the CPI-U data published monthly by the U.S. Department of Labor. The CPI-U data is re-published monthly in the Survey of Current Business, Bureau of Economic Analysis, U.S. Department of Commerce. The percentage increase in the CPI for the current year, relative to the CPI for 1989, shall be determined in accordance with the following procedure:

1. The CPI for 1989 is 122.15, representing the average of the monthly CPI-U for the 12 month period ending August 31, 1989;

2. The CPI to be used in calculating the fee for the current fiscal year shall be the average of the monthly CPI-U for the 12 month period ending August 31 of the current fiscal year. For example, the CPI for the fee which is due on January 31, 1999, for fiscal year 1999 shall be the average of the monthly CPI-U for the 12 month period ending August 31, 1998; and

3. The percentage increase in the current CPI relative to the 1989 CPI shall be calculated in accordance with the following formula:

$$i. \text{ Percentage Increase} = 100 \times \frac{\text{Current Year CPI} - 122.15}{122.15}$$

ii. Where:

Current Year CPI is the CPI determined pursuant to (i)2 above; and

122.15 is the CPI for 1989, pursuant to (i)1 above.

(j) To assist in calculations of the annual emission fee required pursuant to this section, the Department will annually publish a notice in the New Jersey Register in November of the fiscal year in which the fee is due, setting forth the percentage increase, for that year, of the current CPI relative to the 1989 CPI and the resultant per-ton emission fee for the year. The Department will calculate the percentage increase in accordance with the procedure set forth in (i) above. For the FY95 emission fee, which is due October 8, 1995, the per-ton emission fee is \$30.07.

TABLE 2
SUMMARY OF FEES BY FISCAL YEAR

	FY95	FY96	FY97	FY98 and on
Emission fee	\$251/ton on: up to 8,000 tons of NO _x , VOC; ½ of CO emissions, 4,000 tons of all other RACs ²	Same as FY95, except that all facilities must pay at least \$1,000	Same as FY96	\$253/ton on all RACs except CO, all facilities must pay at least \$1,000. No emission caps
Initial application fee	\$125 per significant source operation, up to \$25,000	Same as FY95	Same as FY95	Same as FY95
Supplemental surcharge fee	\$20 per ton of emissions of any RAC except CO, up to \$20,000	Subject to adjustment pursuant to N.J.A.C. 7:27-22.31(c)	None	None
Modification fee	As set forth at N.J.A.C. 7:27-22.31(k), up to \$25,000 per application	Same as FY95, except that, for certain source operations, the fee is limited to \$500 per piece of equipment modified ⁴	Same as FY96	Fees for significant modifications only, as set forth at N.J.A.C. 7:27-22.31(k) through (s), up to \$25,000 per application

1 In 1989 dollars adjusted by the CPI.
 2 For purposes of this table, RAC means regulated air contaminant.
 3 In 1989 dollars adjusted by the CPI.
 4 The limit for \$500 per piece of equipment applies to all source operations EXCEPT solid or hazardous waste treatment and disposal equipment, reciprocating engines, and fuel combustion processes with heat input greater than 100 million BTU/hour or that burn solid fuel.*

(k) A permittee shall submit, as part of each application for a minor or significant modification of an operating permit, a modification application fee, not to exceed \$25,000 per modification, consisting of:

1. The base fee for application review, from the Base Fee schedule in (r) below; and
2. Any applicable fees for additional services, assessed in accordance with the Supplementary Fee Schedule in (s) below.

(l) In some cases, the supplementary fees due pursuant to (k)2 above cannot be determined at the time of the submittal of the modification application. Prior to taking final action on any modification, the Department will invoice the applicant for any unpaid fee due pursuant to (k) above. The applicant shall submit all fees to the Department within 60 days of receipt of the invoice.

(m) A modification application fee shall not exceed \$25,000 per minor or significant modification, and shall be assessed as follows:

1. For FY95, the application fee shall be that required pursuant to (k) above, and shall be charged for both minor and significant modifications;
2. For FY96 and 97, the modification application fee shall be that required pursuant to (k) above, and shall be

charged for both minor and significant modifications. However, for all but the following source operations, the modification fee shall be limited to \$500.00 per piece of equipment:

- i. Solid or hazardous waste treatment and disposal equipment;
- ii. Reciprocating engines; and
- iii. Fuel combustion processes with heat input greater than 100 million BTU/hour or that burn solid fuel; and

3. For FY98 and thereafter, the modification application fee shall be that required pursuant to (k) above, but shall only be charged for significant modifications.

(n) Consistent with N.J.A.C. 7:27-22.10(e) and (f), if an applicant fails to submit additional information on the application, requested by the Department, by the due date provided in the request, the Department may deny the application. In such a case, a new fee shall be due for any subsequent application.

(o) If the operating permit requires the Department to incur any of the following charges, the permittee shall reimburse the Department for the full amount of these charges:

1. The charges billed by a telephone company for the maintenance of a dedicated telephone line for the electronic transmission of data; or
2. The charges billed by a laboratory for analyzing audit samples.

(p) If a request for an approval of an environmental improvement pilot test or a general permit registration is related to an application for a minor or significant modification, it shall be accompanied by the applicable supplementary fee from the Supplementary Fee Schedule at (s) below, as well as the modification application fee set forth in the Base Fee Schedule below at (r).

(q) (Reserved)

(r) The Base Fee Schedule for modification applications is as follows:

Activity	Basis	Amount
1. Category I ¹	Per application	\$100.00
2. Category II	Per first new or modified significant source operation, plus Per each additional new or modified significant source operation, provided that identical equipment to be used in identical processes and using identical materials shall be treated as one piece of equipment (or significant source operation) for fee calculations.	\$500.00 \$350.00

Activity	Basis	Amount
3. Application for environmental improvement pilot test	Per application	250.00
4. General Permit Registration	Per registration for each new or modified significant source operation	250.00

¹ Should both Category I and Category II equipment and control apparatus be included in a single application, the new or modified Category I equipment and control apparatus will be subject to the Category I fee; and the new or modified Category II equipment and control apparatus will be subject to the Category II fee.

(s) The Supplementary Fee Schedule for modification applications is as follows:

Activity	Basis	Amount
1. Prevention of significant deterioration		
i. Engineering review	Per air contaminant	\$500.00
ii. Implement public comment procedures	Per comment period	\$500.00
2. Ambient air monitoring		
i. Review protocol	Per protocol	\$500.00
ii. Inspect monitoring locations and equipment installation	Per inspection	\$500.00
iii. Review quality assurance plan	Per plan	\$500.00
iv. Review data	Per report	\$500.00
3. Air quality impact analysis		
i. Evaluate protocol	Per protocol	\$500.00
ii. Review screening modeling	Per review	\$500.00
iii. Review refined modeling	Per review	\$500.00
4. Risk assessment		
i. Evaluate protocol	Per protocol	\$500.00
ii. Review risk assessment	Per review	\$500.00
5. Testing		
i. Evaluate source-specific testing protocol		
(1) Process materials testing	Per protocol	\$450.00
(2) Source emission testing	Per protocol	\$500.00
ii. On-site monitoring of sample collection pursuant to an approved source-specific testing protocol		
(1) Process materials testing	Per collection event	\$200.00
(2) Source emissions testing	Per performance test	\$500.00
iii. Review testing report		
(1) Process materials testing	Per report	\$200.00
(2) Source emissions testing	Per report	\$500.00
6. Audit performance of continuous monitoring system		
i. Evaluate protocol	Per protocol per permit	\$500.00
ii. Observe testing	Per protocol per permit	\$500.00
iii. Review testing report	Per report	\$500.00

New Rule, R.1995 d.492, effective September 5, 1995 (operative October 8, 1995).

See: 27 N.J.R. 22(b), 27 N.J.R. 3472(a).

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: Supplemental surcharge fee amount for operating permit facilities.

See: 28 N.J.R. 1562(b).

Public Notice: Air Contaminant Emission Fee and Reconstruction Determination.

See: 30 N.J.R. 4079(a).

Public Notice: Air Contaminant Emission Fee and Reconstruction Determination.

See: 32 N.J.R. 116(a).

Public Notice: Air Contaminant Emission Fee and Reconstruction Determination.

See: 32 N.J.R. 4478(a).

Public Notice: Air Contaminant Emission Fee and Reconstruction Determination.

See: 34 N.J.R. 782(c).

Public Notice: Air Contaminant Emission Fee and Reconstruction Determination.

See: 34 N.J.R. 4474(b).

7:27-22.32 Hearings and appeals

(a) An adjudicatory hearing regarding a determination made by the Department pursuant to this subchapter may be requested and granted in accordance with N.J.A.C. 7:27-1.32.

(b) If a person does not have a right to request an adjudicatory hearing pursuant to N.J.A.C. 7:27-1.32, there is final agency action as to that person when the Department takes final action on the application.

(c) If a person does have a right to request an adjudicatory hearing pursuant to N.J.A.C. 7:27-1.32, there is final agency action as to that person when the Department denies the request for an adjudicatory hearing, or when the Commissioner issues a final decision on the matter, whichever is later.

(d) A person who wishes to appeal a penalty assessed for a violation of this subchapter may request an adjudicatory hearing pursuant to the procedures at N.J.A.C. 7:27A.

(e) The Department's failure to take final action on an administratively complete application for an initial operating permit, renewal, minor modification or significant modification, within the deadlines provided by this subchapter, shall constitute grounds for the commencement of an action in lieu of the prerogative writ of mandamus, to compel Departmental action on the application.

Amended by R.1998 d.231, effective May 4, 1998 (operative June 12, 1998).

See: 29 N.J.R. 3521(a), 30 N.J.R. 1563(b).

In (a) through (c), changed N.J.A.C. references.

7:27-22.33 Preconstruction review

(a) This section sets forth the procedures by which the Department will implement the preconstruction review requirements of N.J.S.A. 26:2C-1 et seq., as they apply to facilities subject to this subchapter.

(b) The owner or operator of a facility subject to this subchapter, which is in operation prior to the applicable application deadline at N.J.A.C. 7:27-22.5(c), shall obtain and maintain all preconstruction permits and operating certificates required pursuant to N.J.A.C. 7:27-8 until an operating permit is issued for the facility. These approvals will be superseded by the operating permit when it is issued.