

7:27-2.13 Fees

(a) Applications for permits for open burning pursuant to the provisions of this subchapter shall be accompanied by a service fee in accordance with the following schedule and no permit will be issued until the service fee is received.

| Section of Subchapter | Term of Permit | Service Fee |
|---|---------------------|--|
| 2.5 Infested plant life | 30 days or less | \$10.00 |
| 2.6 Prescribed burning | Specified on permit | No Fee |
| 2.7 Emergencies | 7 days or less | 10.00 |
| 2.8 Dangerous materials | 7 days or less | 10.00 |
| | to 60 days | 25.00 |
| | to 6 months | 50.00 |
| 2.9 Herbaceous plant life and hedgerows | 7 days or less | 10.00 |
| | to 90 days | 25.00 |
| | to 1 year | 50.00 |
| 2.10 Orchard prunings and cullings | 7 days or less | 10.00 |
| | to 90 days | 25.00 |
| | to 1 year | 50.00 |
| 2.11 Land clearing | 90 days or less | 25.00 |
| | | Minimum plus \$1 per acre to \$50.00 maximum |

(b) Service fees shall be submitted in the form of a check or postal money order made payable to the order of the Treasurer, State of New Jersey. Fees paid pursuant to N.J.A.C. 7:27-2.5, 2.9, 2.10, and 2.11 shall be submitted to the Bureau of Forest Fire Management, Division of Parks and Forestry. Fees paid pursuant to N.J.A.C. 7:27-2.7 and 2.8 shall be submitted respectively to the Bureau of Enforcement Services and the Bureau of New Source Review, Division of Environmental Quality.

Amended by R.1981 d.135, effective May 7, 1981 (to become operative June 7, 1981).

See: 12 N.J.R. 690(a), 13 N.J.R. 264(a).

Administrative Correction to (b).

See: 23 N.J.R. 1166(b).

Historical Note

Rules concerning the subject or "Fees" were formerly codified at N.J.A.C. 7:27-2.11.

SUBCHAPTER 3. CONTROL AND PROHIBITION OF SMOKE FROM COMBUSTION OF FUEL**Subchapter Historical Note**

Unless otherwise expressly noted, all provisions of this subchapter were adopted pursuant to authority of N.J.S.A. 26:2C-1 et seq. and were filed on November 17, 1971, as R.1971 d.210 to become effective on January 16, 1972. See: 3 N.J.R. 4(c), 3 N.J.R. 255(a). Revisions to this subchapter were filed on August 5, 1977, as R.1977 d.284 to become effective on October 12, 1977. See 8 N.J.R. 375(a), 9 N.J.R. 420(a).

7:27-3.1 Definitions

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

"Department" means the Department of Environmental Protection.

"Direct heat exchanger" means equipment in which heat from the combustion of fuel is transferred to a substance being heated so that the latter is contacted by the products of combustion and may contribute to the total effluent.

"Fuel" means solid, liquid or gaseous materials used to produce useful heat by burning.

"Indirect heat exchanger" means equipment in which heat from the combustion of fuel is transferred by conduction through a heat-conducting material to a substance being heated, so that the latter is not contacted by, and adds nothing to, the products of combustion. "Internal cross-sectional dimension" means any maximum linear perpendicular distance from an inside wall of a stack or chimney to the inside of an opposite wall, such as the diameter of a circular cross-section or the length or width of a rectangular cross-section.

"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.

"Marine installation" means equipment for propulsion, power or heating on all types of marine craft and floating equipment.

"Mobile source" means equipment designed or constructed to be portable or movable from one location to another including but not limited to aircraft, locomotives operating on rails, tractors, earth moving equipment, hoists and mobile power generators.

"Motor vehicle" means any vehicle propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks.

"Opacity" means the property of a substance which renders it partially or wholly obstructive to the transmission of visible light expressed as the percentage to which the light is obstructed.

"Ringelmann smoke chart" means the Ringelmann's scale for grading the density of smoke as published by the United States Bureau of Mines or any chart, recorder, indicator or device which is approved by the Department as the equivalent of said Ringelmann's scale for the measurement of smoke density.

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

“Stack or chimney” means a flue, conduit or opening designed, constructed, and/or utilized for the purpose of emitting air contaminants into the outdoor air.

“Visible smoke” means smoke which obscures light to a degree readily discernible by visual observation.

7:27-3.2 Smoke emissions from stationary indirect heat exchangers

(a) No person shall cause, suffer, allow or permit visible smoke to be emitted into the outdoor air from the combustion of fuel in any stationary indirect heat exchanger except as provided in (b) below.

(b) No person shall cause, suffer, allow or permit smoke the shade or appearance of which is darker than number 1 on the Ringelmann smoke chart or greater than 20 percent opacity, exclusive of visible condensed water vapor, to be emitted into the outdoor air from the combustion of fuel in any stationary indirect heat exchanger having a rated hourly capacity of 200 million BTU or greater gross heat input and discharging through a stack or chimney having all internal cross-sectional dimensions of 60 inches or greater.

(c) The provisions of (a) and (b) above shall not apply to smoke which is visible for a period of not longer than three minutes in any consecutive 30-minute period.

Administrative correction to section heading changing sanitary to stationary.
See: 23 N.J.R. 61(a).

Case Notes

Violations of Solid Waste Management Act warranted imposition of civil penalties totaling \$204,400. Department of Environmental Protection v. Standard Tank Cleaning, 95 N.J.A.R.2d (EPE) 31.

7:27-3.3 Smoke emissions from marine installations

(a) No person shall cause, suffer, allow or permit smoke the shade or appearance of which is darker than number 1 on the Ringelmann smoke chart or greater than 20 percent opacity, exclusive of visible condensed water vapor, to be emitted into the outdoor air from the combustion of fuel in the indirect heat exchanger of any marine installation.

(b) The provisions of (a) above shall not apply to smoke which is visible for a period of not longer than three minutes in any consecutive 30-minute period.

7:27-3.4 Smoke emissions from the combustion of fuel in mobile sources

No person shall cause, suffer, allow or permit smoke the shade or appearance of which is darker than number 2 on the Ringelmann smoke chart or greater than 40 percent opacity, exclusive of visible condensed water vapor, to be emitted into the outdoor air from the combustion of fuel in any mobile source for a period of more than 10 consecutive seconds.

7:27-3.5 Smoke emissions from stationary internal combustion engines and stationary turbine engines

No person shall cause, suffer, allow or permit smoke the shade or appearance of which is darker than number 1 on the Ringelmann smoke chart or greater than 20 percent opacity, exclusive of visible condensed water vapor, to be emitted into the outdoor air from the combustion of fuel in any stationary internal combustion engine or any stationary turbine engine for a period of more than 10 consecutive seconds.

7:27-3.6 Stack test

(a) Any person responsible for the construction, installation, alteration or use of an indirect heat exchanger shall, when requested by the department, provide the facilities and necessary equipment for determining the density or opacity of smoke being discharged into the open air and shall conduct such smoke tests using methods approved by the department.

(b) All smoke test data shall be recorded in a permanent log at such time intervals as specified by the department.

(c) The data shall be maintained for a period of not less than one year and shall be available for review by the department.

7:27-3.7 Exceptions

The provisions of this subchapter shall not apply to direct heat exchangers, manufacturing processes or any motor vehicle while operating upon the public highways.

SUBCHAPTER 4. CONTROL AND PROHIBITION OF PARTICLES FROM COMBUSTION OF FUEL

Subchapter Historical Note

Unless otherwise expressly noted, all provisions of this subchapter were adopted pursuant to authority of N.J.S.A. 26:2C-1 et seq. and were filed on January 27, 1972, as R.1972 d.16 to become effective on March 27, 1972. See: 3 N.J.R. 248(a), 4 N.J.R. 23(b). Revisions to this subchapter were filed on August 5, 1977, as R.1977 d.284 to become effective on October 12, 1977. See: 8 N.J.R. 375(a), 9 N.J.R. 420(a).

7:27-4.1 Definitions

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

“Air contaminant” means solid particles, liquid particles, vapors or gases which are discharged into the outdoor atmosphere.

SUBCHAPTER 8. PERMITS AND CERTIFICATES FOR MINOR FACILITIES (AND MAJOR FACILITIES WITHOUT AN OPERATING PERMIT)

Subchapter Historical Note

Unless otherwise expressly noted, all provisions of this Subchapter were adopted pursuant to authority of N.J.S.A. 26:2C-8 and 26:2C-9 and were filed and became effective prior to September 1, 1969. Subsequent revisions were filed January 4, 1973, as R.1973 d.10 to become effective on March 5, 1973. See: 4 N.J.R. 184(b), 5 N.J.R. 38(a). Additional revisions were filed March 29, 1976, as R.1976 d.96 to become effective on June 1, 1976. See: 7 N.J.R. 308(a), 8 N.J.R. 221(c). See section annotations for subsequent rulemakings.

Law Review and Journal Commentaries

Transition Game: NJDEP's Air Pollution Control Program. James Sherman, 162 N.J.L.J. 301 (2000).

7:27-8.1 Definitions

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

“Actual emissions” means the 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.

“Agricultural commodity” means any vegetable matter or animal matter.

“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.

“Air stripping equipment” means equipment used to transfer any air contaminant from water or other liquids directly or indirectly into the outdoor atmosphere including, but not limited to, packed columns and water spray equipment.

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

“Amendment” means a change made to a permit and certificate under N.J.A.C. 7:27-8.21, Amendments.

“AP-42” means the manual, published by the EPA, entitled “Compilation of Air Pollutant Emission Factors”, which is incorporated herein by reference, as amended and supplemented. This document may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia, 22161, (703) 487-4650; or from the Superintendent of Documents, Government Printing Office, Washington, DC 20402, (202) 783-3228. In addition, this document can be downloaded electronically from the EPA's Technology Transfer Network Bulletin Board Service by dialing (919) 541-5742.

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

“Category I” means a class of applications which require less review and are therefore subject to a lower fee than Category II applications. A Category I application is an application which covers a significant source which includes the following types of equipment:

1. Metalworking equipment including, but not limited to, welders, grinders, and drill presses;
2. Enclosed stationary solid material handling equipment using pneumatic, bucket or belt conveying systems that have particulate control apparatus that achieves a minimum removal efficiency of 99 percent and the particulate control apparatus serving the equipment;
3. Plastics machining or extruding equipment;
4. An 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; and
5. Used oil space heaters which burn on-specification used oil and have a capacity of 500,000 British Thermal Units per hour or less for which a registration has not been filed pursuant to N.J.A.C. 7:27-20.3. The terms space heater, on-specification used oil, and registration are as defined in N.J.A.C. 7:27-20.1.

“Category II” means a class of applications for a preconstruction permit or certificate for certain types of significant sources. Category II applications are subject to different fees than Category I applications. Applications which are not defined above as belonging to Category I are Category II applications.

“Certificate” means either an operating certificate or a temporary operating certificate, which is legally valid.

“CFR” means the Code of Federal Regulations.

“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” means the Federal Clean Air Act, 42 U.S.C. §§ 7401 et seq. and all 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 inspection” means the on-site examination by representatives of the Department of equipment or control apparatus to determine if the requirements of this subchapter and other applicable laws have been and are being complied with.

“Compliance plan change” means a change made to a permit and certificate under N.J.A.C. 7:27-8.19, Compliance plan changes.

“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.

“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.

“Control apparatus” means any device which prevents or controls emissions.

“Conveyorized surface cleaner” means a surface cleaner through which the parts to be cleaned are moved by means of a continuous, automatic system.

“Criteria pollutant” means any air contaminant for which a national ambient air quality standard has been promulgated under 40 CFR 50 or for which a State ambient air quality standard has been promulgated in N.J.A.C. 7:27-13.

“Delivery vessel” means any vehicle designed and constructed or converted to be capable of transporting liquid VOC cargo such as gasoline or fuel oil. This term includes, but is not limited to, tank trucks, tank trailers, railroad tank cars, and marine tank vessels.

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

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

“Domestic treatment works” means a publicly or privately owned treatment works and includes a treatment works processing primarily domestic wastes together with any ground water, surface water, storm water, or industrial process wastewater that may be present.

“Domestic waste” means waste derived from humans, animals, households, restaurants, cafeterias, hotels, hospitals, markets, and similar installations.

“Dry cleaning equipment” means equipment, located at a commercial establishment, used for cleaning textiles or garments, in which the cleaning agent is a chemical or petroleum solvent.

“Dump” means a land site at which solid waste is disposed of in a manner which does not protect the environment, is susceptible to open burning, or is exposed to the elements, vectors and scavengers.

“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.

“Effluent limitation” means any restriction on quantities, quality, discharge rates, concentration of chemical, physical, thermal, biological, or other constituents of a pollutant. This term shall have the same meaning as defined for the term “effluent limitation” at N.J.A.C. 7:14A-1.9.

“Emergency” means any situation which arises 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 emissions limitation set forth in its preconstruction permit and certificate in effect. This term shall not include non-compliance caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

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

“Emissions unit” means any part of activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under 42 U.S.C. § 7412(b).

“Emit” means to cause or release emissions.

“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.

“EPA” means the United States Environmental Protection Agency.

“Equipment” means any device capable of causing the emission of an air contaminant, and any stack or chimney, conduit, flue, duct, vent or similar device connected or attached to, or serving the equipment.

“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.

“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.

“Farm” means any land which meets the eligibility requirements of the Farmland Assessment Act of 1964 (N.J.S.A. 54:4-23.1 et seq.) for land deemed in agricultural use.

“Federally enforceable” means any limitation or condition on operation, production, or emissions which can be enforced by the 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 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.

“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.

“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.

“General permit” means a type of standardized permit and certificate, issued by the Department under N.J.A.C. 7:27-8.8.

“Graphic arts operation” means the application of one or more surface coating formulations non-uniformly across a surface, using one or more printing units, together with any associated drying or curing areas. A single graphic arts operation ends after drying or curing and before other surface coating formulations are applied. For any web line, this term means an entire application system, including any associated drying ovens or areas between the supply roll and take-up roll or folder. This term does not include any surface coating operation.

“Greenhouse gas” or “GHG” means any of the following gases: carbon dioxide (CO₂); methane (CH₄); nitrous oxide (N₂O); certain hydrofluorocarbons (HFC-23, HFC-125, HFC-134a, HFC-143a, HFC-152a, HFC-227ea, HFC-236fa, HFC-4310mee); certain perfluorocarbons (CF₄, C₂F₆, C₄F₁₀, C₆F₁₄); and sulphur hexafluoride (SF₆).

“Group 1 TXS” means an air contaminant that is found on the list of Group 1 TXS at N.J.A.C. 7:27-17.3, which is incorporated by reference herein, together with all amendments and supplements. As of June 12, 1998, the following is the complete list of Group 1 TXS: Benzene (Benzol), Carbon tetrachloride (Tetrachloromethane), Chloroform (Trichloromethane), Dioxane (1,4-Diethylene dioxide; 1,4-Dioxane), Ethylenimine (Aziridine), Ethylene dibromide (1,2-Dibromoethane), Ethylene dichloride (1,2-Dichloroethane), 1,1,2,2-Tetrachloroethane (sym Tetrachloroethane), Tetrachloroethylene (Perchloroethylene), 1,1,2-Trichloroethane (Vinyl trichloride), and Trichloroethylene (Trichloroethene).

“Group 2 TXS” means an air contaminant that is found on the list of Group 2 TXS at N.J.A.C. 7:27-17.3, which is incorporated by reference herein, together with all amendments and supplements. As of June 12, 1998, the following is the complete list of Group 2 TXS: Methylene chloride (Dichloromethane), 1,1,1-Trichloroethane (Methyl chloroform).

“HAP” or “hazardous air pollutant” means any air pollutant listed in or pursuant to subsection (b) of section 112 of the Federal Clean Air Act (42 U.S.C. § 7412).

“Hazardous waste” means those materials defined as hazardous waste under N.J.A.C. 7:26-8.

“Hazardous waste landfill” means a solid waste facility or part of a facility where hazardous waste is placed in or on land and which is not a land treatment facility, a surface impoundment, an injection well, or a waste pile.

“Identical” means, in relation to the replacement of equipment or control apparatus, that the equipment or control apparatus is of the same type and size as the equipment or control apparatus being replaced, and is used in the same process, with the same materials.

“Incinerator” means any device, apparatus, equipment, or structure using combustion or pyrolysis for destroying, reducing or salvaging any material or substance, but does not include thermal or catalytic oxidizers used as control apparatus on manufacturing equipment.

“Indirect emissions” means a discharge of any air contaminant into the outdoor atmosphere through any opening that is not a stack or chimney directly connected to the equipment.

“Insignificant source” means, for the purposes of this subchapter, equipment or control apparatus that does not need a permit and certificate under N.J.A.C. 7:27-8.2.

“Install” or “installation” means to carry out final setup activities necessary to provide equipment or control apparatus with the capacity for use or service. This term includes, but is not limited to, connection of equipment or control apparatus, associated utilities, piping, ductwork or conveyor systems. This term does not include construction, as defined above, nor the reconfiguration of equipment or control apparatus to an alternate configuration specified in a permit application and approved by the Department. This term includes relocation of existing equipment or control apparatus.

“Intermediate product” means one or more desired result(s) 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.

“Laboratory operations” means any action, process, or treatment utilizing chemical, physical, or biological factors to conduct experimental research, tests, or demonstrations.

“Land treatment facility” means a facility, or part of a facility, at which waste is applied onto or incorporated into the soil surface so as to change the physical, chemical, or biological characteristics or composition of the waste.

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

“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 has the potential to emit any of the air contaminants listed below in an amount which is equal to or exceeds the applicable major facility threshold level given below. The major facility threshold levels are as follows:

| <u>Air Contaminant</u> | <u>Major Facility Threshold Level</u> |
|---------------------------|---------------------------------------|
| Carbon monoxide | 100 tons per year |
| PM-10 | 100 tons per year |
| TSP | 100 tons per year |
| Sulfur dioxides | 100 tons per year |
| NO _x | 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 |

“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.

“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. Also, for the purposes of this definition, “air contaminant” shall have the meaning of “category of air contaminants” in a case where the regulatory limit is placed on a grouping of contaminants (such as VOCs) rather than on a single species of contaminant.

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

“Nonattainment area” means any area identified by the Department as one in which the ambient air concentration of a criteria pollutant exceeds an ambient air quality standard.

“Non-commercial fuel” means solid, liquid or gaseous fuel not normally produced or manufactured, and sold for the purpose of creating useful heat.

“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. NPO 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.

“NO_x” means all oxides of nitrogen including, but not limited to, nitric oxide and nitrogen dioxide, except nitrous oxide.

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

“112(r) contaminant” means an air contaminant that is listed by EPA pursuant to 42 U.S.C. § 7412 as a substance which, in the case of an accidental release, is known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment.

“Operating certificate” or “certificate” means a certificate issued by the Department under this subchapter to authorize operation of equipment or control apparatus, pursuant to the Air Pollution Control Act of 1954, specifically N.J.S.A. 26:2C-9.2.

“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).

“Operational parameter” means a measurable characteristic of the operation of a piece of equipment or control apparatus.

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

“Particles” means any material, except uncombined water, which exists as liquid particles or solid particles at standard conditions.

“Performance test” means a series of test runs used for the purpose of determining emissions of air contaminants to the outdoor atmosphere.

“Periodic compliance inspection” means any compliance inspection carried out in accordance with a schedule included in the conditions of approval of a permit or certificate. This term does not include a compliance inspection which the Department may carry out as part of its consideration as to whether to approve or renew an operating certificate.

“Permit” means a preconstruction permit as defined in this section.

“Permit revision” means a change made to a permit and certificate under N.J.A.C. 7:27-8.18, Permit revisions.

“Permittee” means, for the purpose of this subchapter, any person to whom the Department has issued a permit or certificate pursuant to this subchapter.

“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.

“Plume rise” means the vertical distance from the point at which an effluent stream is discharged into the outdoor atmosphere to the highest point attained by the center line of the effluent stream.

“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.

“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.

"Pollution prevention process modification" means any physical or operational change to a process which reduces air contaminant emissions to the environment. This definition is solely for purposes of at risk construction or operation in accordance with N.J.S.A. 26:2C-9.4 and this subchapter and shall not be deemed to amend or otherwise affect the definition of "pollution prevention" set forth in the New Jersey Pollution Prevention Act at N.J.S.A. 13:1D-37.

"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, source-related 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" or "permit" means a legally valid permit, authorizing construction, installation, reconstruction, or modification of a significant source, issued by the Department under this subchapter pursuant to the New Jersey Air Pollution Control Act and in particular N.J.S.A. 26:2C-9.2.

"Private entity" means any private individual, corporation, company, partnership, firm, association, owner or operator but shall not include any municipal, county, or State agency or authority or any agency, authority or subdivision created by any municipal, county or State government.

"Process material testing" means the testing of any solid, liquid, or gaseous substance involved in a manufacturing process or other operation. This term includes, but is not limited to, fuel and other feed material, process intermediates, products, by-products, and wastes, but excludes any source emission testing.

"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 result(s) 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.

"Production process" means a process, line, method, activity or technique, or a series or combination of processes, lines, methods 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.

"PSD" or "prevention of significant deterioration" means the permitting process defined in 40 CFR Part 52, which applies to new or modified major sources located in areas which are in attainment of the national ambient air quality standards for at least one air contaminant.

"Publicly owned treatment works" (POTW) means any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a "State or municipality." This term includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

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

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

"Reconfiguration" means a change in the setup of equipment or control apparatus, or both, to an alternate configuration. This term also includes reorientation or reconnection into an alternate pattern of equipment or control apparatus, or both. This term does not include a change in the location of equipment or control apparatus from that specified in the preconstruction permit.

“Reconstruct” or “reconstruction” means the replacement of part(s) of equipment included in a 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).

“Repair or maintenance” means upkeep of existing equipment or control apparatus, including the replacement of parts, but does not include the reconstruction of equipment or control apparatus.

“Research” means investigations directed toward the discovery of facts, scientific principles, reactions, or substances.

“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.

“Sampling” means the selective collection of a quantity of raw materials, process intermediates, products, by-products or wastes.

“Sanitary landfill” means a solid waste facility, at which solid waste is deposited on or into the land as fill for the purpose of permanent disposal or storage for a period of time exceeding six months, except that it does not include any waste facility approved for disposal of hazardous waste.

“Seven-day-notice change” means a change made to a permit and certificate under N.J.A.C. 7:27-8.20, Seven-day-notice changes.

“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” or “significant source” means, for the purposes of this subchapter, equipment or control apparatus that requires a permit and certificate under N.J.A.C. 7:27-8.2.

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

“Solid waste facility” means any system, site, equipment, or building which is utilized for the storage, collection, processing, transfer, transportation, separation, recycling, recovery, or disposal of solid waste.

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

“Source operation” or “source” means any process or any identifiable part thereof that emits or can reasonably be anticipated to emit any air contaminant. 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 utilized for the purpose of emitting any air contaminant into the outdoor atmosphere.

“Standard conditions” means 70 degrees Fahrenheit (21.1 degrees centigrade) and one atmosphere pressure (14.7 pounds per square inch absolute or 760.0 millimeters of mercury).

“State implementation plan (SIP)” means a plan for the attainment of any NAAQS, prepared by a state and approved by the EPA pursuant to 42 U.S.C. § 7410.

“Stationary storage tank” means any immobile storage tank. This term also includes any delivery vessel, excluding a sealed vessel, such as a railroad tank car or similar container, used for storing VOC remaining on site at a facility for more than 30 days.

“Storage tank” means any tank, reservoir, or vessel which is a container for liquids or gases, wherein:

1. No manufacturing process, or part thereof, other than filling or emptying takes place; and
2. The only treatment carried out is that necessary to prevent change from occurring in the physical condition or the chemical properties of the liquids or gases deposited into the container. Such treatment may include recirculating, agitating, maintaining the temperature of the stored liquids or gases, or replacing air in the vapor space above the stored liquids or gases with an inert gas in order to inhibit the occurrence of chemical reaction.

“Stratospheric ozone depleting substance” means any Class I substance or any Class II substance.

“Surface cleaner” means a device to remove unwanted foreign matter from the surfaces of materials by using VOC or HAP solvents in liquid or vapor state.

“Surface coating operation” means the application of one or more surface coating formulations uniformly across a surface, using one or more coating applicators, together with any associated drying or curing areas. A single surface coating operation ends after drying or curing and before other surface coating formulations are applied. For any web coating line, this term means an entire coating application system, including any associated drying ovens or areas

between the supply roll and take-up roll, that is used to apply surface coating formulations onto a continuous strip or web. This term does not include any graphic arts operation.

“Surface impoundment” or “impoundment” means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

“Surface stripping” means the removal of paints and other coatings from the surface of materials.

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

“Temporary operating certificate” means an operating certificate with a term shorter than five years, issued under N.J.A.C. 7:27-8.7(d).

“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.

“Test run” or “run” means a single integrated measurement or procedure used for the purpose of collecting a sample of any air contaminant emitted during a specified time interval.

“Total fixed capital cost” means the total sum, in dollars, paid to purchase and install equipment or control apparatus, including any design costs incurred. This term does not include any costs of operation or startup. This term also does not include the costs of dismantling any equipment or control apparatus being replaced, site preparation, placement of any footings or foundation upon which the structural elements of the equipment or control apparatus rest. This term also does not include any charges for legal services, governmental taxes or fees, or any patent or licensing costs.

“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.

“Use” means to engage in any form or manner of operation of equipment or control apparatus subsequent to the installation of such equipment or control apparatus. 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, or 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 (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-1,1,2,2,3,3,4,4,4-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.

Amended by R.1985 d.96, effective March 4, 1985 (operative April 5, 1985).

See: 16 N.J.R. 167(a), 17 N.J.R. 587(a).

Substantially amended.

Amended by R.1991 d.109, effective March 4, 1991 (operative March 31, 1991).

See: 22 N.J.R. 292(a), 22 N.J.R. 593(a), 23 N.J.R. 723(a).

Definitions added and technical revisions made.

Amended by R.1992 d.102, effective March 2, 1992 (operative March 28, 1992).

See: 23 N.J.R. 1858(b), 24 N.J.R. 792(a).

Amended "source operation" and "surface cleaner"; added "volatile organic compound VOC" and deleted "mathematical combination" and "volatile organic substance".

Amended by R.1993 d.129, effective March 15, 1993 (operative April 20, 1993).

See: 24 N.J.R. 3459(a), 25 N.J.R. 1231(b).

Added definitions for "carbon monoxide", "federally enforceable", "lead or Pb", "major facility", "oxides of nitrogen or NO_x", "Ozone or O₃", "PM₁₀", "potential to emit", "significant net emission increase", "State implementation plan (SIP)", "sulfur dioxide or SO₂", and "total suspended particulate matter or TSP".

Amended by R.1993 d.428, effective September 7, 1993 (operative October 4, 1993).

See: 24 N.J.R. 4323(a), 25 N.J.R. 4075(b).

Amended by R.1994 d.313, effective June 20, 1994 (operative July 26, 1994).

See: 25 N.J.R. 3339(a), 26 N.J.R. 2600(a).

Amended by 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).

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 the section.

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).

Inserted "Fuel cell system".

Amended by R.1999 d.428, effective December 6, 1999 (operative January 8, 2000).

See: 30 N.J.R. 4003(a), 31 N.J.R. 4016(a).

In "Category I", added 5.

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).

Rewrote "Greenhouse gas" definition as "Greenhouse gas" or "GHG"; and in "Potential to emit", inserted a new fifth sentence, and rewrote the last sentence.

Case Notes

Temporary operating certificate was license entitling operator to hearing prior to nonrenewal. New Jersey Dept. of Environmental Protection v. Atlantic States Cast Iron Pipe Co., 241 N.J.Super. 591, 575 A.2d 895 (A.D.1990).

7:27-8.2 Applicability

(a) This subchapter applies to certain sources of air contaminant emissions. Some of the sources are pieces of equipment; others are source operations or processes. A source that is required to have a permit and certificate under this subchapter is called a "significant source." A source that is not required to have a permit and certificate under this subchapter is called an "insignificant source."

(b) A significant source located at a facility covered by an operating permit issued by the Department under N.J.A.C. 7:27-22 is not subject to this subchapter. However, the following requirements apply to sources at operating permit facilities:

1. Until an operating permit is issued for a source subject to operating permit requirements, the source remains subject to this subchapter, and any permits or certificates required by this subchapter must be obtained and maintained.

2. If a new source which is subject to operating permit requirements elects under N.J.A.C. 7:27-22.5(g) to obtain a preconstruction permit and certificate under this subchapter prior to obtaining an operating permit, the source shall comply with this subchapter and with any Federal preconstruction requirements that apply; and

3. In some cases, a portion of an operating permit facility (such as a research and development operation) is not subject to operating permit requirements. In such a case, the portion of the facility that is not subject to operating permit requirements would remain subject to this subchapter.

(c) The following equipment and control apparatus, if it emits air contaminants, requires a preconstruction permit and an operating certificate:

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

2. Equipment which 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);

3. Dry cleaning equipment;

4. A surface cleaner which 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 conveyORIZED 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;

5. Equipment used in a graphic arts operation which includes newspaper, lithographic, gravure, flexographic, letterpress and screen printing, in which the quantity of ink, fountain solution, or cleaning material used by a source in any one hour is equal to or greater than one half gallon;

6. Any tank or vessel which has a capacity of more than 100 gallons and which is used:

i. In etching, pickling, or plating; or

ii. In chromium electroplating or chromium anodizing;

7. 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;

8. 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;

9. 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 (1.0 millimeters of mercury) or greater at standard conditions;

10. 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;

11. Stationary material handling equipment using pneumatic, bucket or belt conveying systems from which emissions occur;

12. Equipment used in a surface coating operation including, but not limited to, spray and dip painting, roller coating, and electrostatic depositing, in which the quantity of coating or cleaning material used by a source in any one hour is equal to or greater than one half gallon of liquid;

13. Except where a registration has been filed pursuant to N.J.A.C. 7:27-20.3, any equipment used for the burning of non-commercial fuel, crude oil, or process by-products in any forms. 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;

14. An incinerator, except an incinerator exempted under (d)9 below;

15. Equipment which is used for treating groundwater, industrial waste water, or municipal wastewater with a solids content of less than two percent by weight as it enters the equipment (typical operations performed by this type of equipment include, but are not limited to, air stripping, aeration, digestion, thickening, flocculating, surface impounding, and dewatering), if the equipment does either of the following:

i. Treats or handles influent which has one or both of the following:

(1) A total concentration of VOCs and Group 2 TXS in the influent of 3,500 parts per billion by weight (ppbw) or more; or

(2) A total Group 1 TXS concentration in the influent of 100 ppbw or more; or

ii. Discharges more than 50 pounds per hour of sludge. For the purposes of this paragraph, wastewater with a solids content of two percent by weight or greater is considered sludge;

16. Equipment used for treating waste soils or sludges, including municipal solid wastes, industrial solid wastes, or recycled materials, if the influent to the equipment has a solids content of two percent by weight or greater. Typical operations performed by this type of equipment include, but are not limited to, soil cleaning, composting, pelletizing, grit classifying, drying, and transfer station operations. However this shall not include an area used as a temporary storage area, such as a concrete pad or a roll-off container, provided that the area is not also used for treatment;

17. 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;

18. Any control apparatus serving equipment for which a permit and certificate is required pursuant to this section; and

19. Equipment in which the combined weight of all raw materials used, excluding air and water, exceeds 50 pounds in any one hour, except for equipment excluded from permit requirements under (c)3 through 18 above.

(d) Even if a source is listed in (c) above, it does not need a permit and certificate if it is:

1. 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;

2. 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 exemption 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;

3. Equipment or control apparatus located at a facility with an operating permit issued under N.J.A.C. 7:27-22. Until the operating permit is issued, however, the equipment and control apparatus remain subject to this subchapter;

4. Aeration basins, lagoons and settling basins at publicly owned treatment works or domestic treatment works;

5. Equipment which is used for the sole purpose of wood working by sanding, drilling, cutting or planing, unpainted wood or wood products, and which vents solely into a room;

6. Hand held equipment for buffing, polishing, cutting, drilling, sawing, grinding, turning, or machining wood, metal or plastic. For the purposes of this subsection, "hand held" means "can reasonably be carried by one person";

7. Equipment at a battery charging station, except at a battery manufacturing plant;

8. A source used in any of the following, if the source is not part of a production process:

i. The activities of maintenance shops, such as welding, gluing, and soldering, performed indoors or outdoors;

ii. A laundry operation that does not use dry cleaning processes, and which services uniforms or other clothing which is used at the facility;

iii. Architectural maintenance activities conducted to take care of the buildings and structures at a facility, including repainting, reroofing, and sandblasting; and

iv. Food preparation to service facility cafeterias and dining rooms;

9. An incinerator which serves a one or two family dwelling; or which serves a multi-occupied dwelling containing six or fewer family units, one of which is occupied by the owner of the dwelling;

10. A source which:

i. Was in operation prior to the date that sources of its kind were subject to permit requirements under this subchapter;

ii. Has not been reconstructed or modified since that date; and

iii. Is still operable; or

11. 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.

(e) Although an insignificant source does not require a permit, emissions information from an insignificant source may be required on an application under N.J.A.C. 7:27-8.4 if the insignificant source vents to a control device, stack or chimney which also serves a significant source.

(f) A permit and certificate are not required for equipment, control apparatus, or a source operation at a facility which is covered by a facility-wide permit issued by the Department pursuant to N.J.S.A 13:1D-35 et seq. However, the holder of the facility-wide permit must comply with N.J.A.C. 7:27-8.27, Special facility-wide permit provisions.

(g) This subchapter shall not preclude the owner or operator of a facility from voluntarily obtaining a preconstruction permit and operating certificate for a source not otherwise required to obtain a permit.

Amended by R.1985 d.96, effective March 4, 1985 (operative April 5, 1985).

See: 16 N.J.R. 1671(a), 17 N.J.R. 587(a).

Substantially amended.

Amended by R.1991 d.109, effective March 4, 1991 (operative March 31, 1991).

See: 22 N.J.R. 292(a), 22 N.J.R. 593(a), 23 N.J.R. 723(a).

Heading changed from "Permits and certificates required" to "Applicability".

Clarification of types of equipment and control apparatus reported in permit and certificate process.

Added (a)17(b)1 and 2.

Amended by R.1992 d.102, effective March 2, 1992 (operative March 28, 1992).

See: 23 N.J.R. 1858(b), 24 N.J.R. 792(a).

VOC parameters added at (a)9 and (a)15i.

Amended by 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).

Administrative change in (a)15.

See: 26 N.J.R. 4184(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 the section.

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 (d), added 11.

Amended by R.1999 d.428, effective December 6, 1999 (operative January 8, 2000).

See: 30 N.J.R. 4003(a), 31 N.J.R. 4016(a).

Rewrote (c)13.

Case Notes

Orders to cease violation in failure to obtain a permit and certificate to install and operate furnace boosting equipment were upheld. *Midland Glass Co., Inc. v. Dept. of Environmental Protection*, 136 N.J.Super. 194, 345 A.2d 353 (App.Div.1975), certification dismissed 70 N.J. 152, 358 A.2d 199 (1976).

Both "smog hog"/electrostatic precipitator and "Binks" spray booth were control apparatus requiring permits and operating certificates. *Affiliated Manufacturers, Inc. v. State of New Jersey*, 92 N.J.A.R.2d (EPE) 186.

7:27-8.3 General provisions

(a) No person may construct, reconstruct, install, or modify a significant source that is not covered by a permit and certificate without first obtaining a preconstruction permit under this subchapter.

(b) No person shall operate (nor cause to be operated) a significant source without a valid operating certificate.

(c) No permittee may take any action which requires a permit revision, compliance plan change, seven-day-notice change, amendment, or change to a batch plant permit, under any applicable provision at N.J.A.C. 7:27-8.17 through 8.23, without complying with that applicable provision.

(d) Any person holding a permit or certificate shall make said permit or certificate, together with any amendments, seven-day-notices, or other documents related to the permit and certificate, readily available for Department inspection on the operating premises.

(e) No person shall use or cause to be used any equipment or control apparatus unless all components connected or attached to, or serving the equipment or control apparatus, are functioning properly and are in use in accordance with the preconstruction permit and certificate and all conditions and provisions thereto.

(f) A preconstruction permit or certificate shall not be transferable either from the location authorized in the preconstruction permit or certificate in effect to another location, or from any one piece of control apparatus or equipment to another piece of control apparatus or equipment.

(g) Once a permit and certificate is issued, the permittee is fully responsible for compliance with this subchapter and with the permit and certificate, including adequate design, construction, and operation of the source, even if employees, contractors, or others work on or operate the permitted source. If the Department issues any other requirement with the force of law, such as an order, which applies to the source, the permittee is also responsible for compliance with that requirement.

(h) Preconstruction permits and certificates issued under this subchapter do not in any way relieve the applicant from the obligation to obtain necessary permits from other governmental agencies and to comply with all other applicable Federal, State, and local rules and regulations.

(i) A person conducting only normal repair or maintenance of control apparatus or equipment, as defined at N.J.A.C. 7:27-8.1, need not comply with (a), (b) or (c) above.

(j) No person holding any preconstruction permit or certificate shall suffer, allow, or permit any air contaminant, including an air contaminant detectable by the sense of smell, to be present in the outdoor atmosphere in such quantity and duration which is, or tends to be, injurious to human health or welfare, animal or plant life or property, or would unreasonably interfere with the enjoyment of life or property. This shall not include an air contaminant which occurs only in areas over which the owner or operator has exclusive use or occupancy. In determining whether an odor unreasonably interferes with the enjoyment of life or property, the Department shall consider all of the relevant facts and circumstances, including, but not limited to, the character, severity, frequency, and duration of the odor, and the number of persons affected thereby. In considering these and other relevant facts and circumstances, no one factor shall be dispositive, but each shall be considered relevant in determining whether an odor interferes with the enjoyment of life or property, and, if so, whether such interference is unreasonable considering all of the circumstances.

(k) No approval by the Department of a change to a permit is required for a permittee to use DER credits for compliance in accordance with N.J.A.C. 7:27-30. However, if DER credits are to be used for compliance with emission offset requirements under N.J.A.C. 7:27-18 and 30.14(g), the permit must specifically allow such use.

(l) 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. 7:27-8.28 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.

(m) The Department and its representatives have the right to enter and inspect any facility or property in accordance with N.J.A.C. 7:27-1.31.

(n) There shall be an affirmative defense to liability for penalties for a violation of a preconstruction permit or certificate, occurring as a result of an equipment malfunction, an equipment startup, an equipment shutdown, or during the performance of necessary equipment maintenance. The affirmative defense shall be asserted and established as required by P.L. 1993, c.89 (adding N.J.S.A. 26:2C-19.1 through 2C-19.5) and any rules that the Department promulgates thereunder, and shall meet all of the requirements thereof. There shall also be an affirmative defense to liability for penalties or other sanctions for noncompliance with any technology based emission limitation in the preconstruction permit or certificate, if the noncompliance was due to an emergency as defined at N.J.A.C. 7:27-22.1, provided that the affirmative defense is asserted and established in compliance with 40 CFR 70.6(g) and meets all the requirements thereof.

(o) Notwithstanding (c) 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. 7:27-8.20;
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.

Amended by R.1985 d.96, effective March 4, 1985 (operative April 5, 1985).

See: 16 N.J.R. 1671(a), 17 N.J.R. 587(a).

Substantially amended.

Amended by R.1991 d.109, effective March 4, 1991 (operative March 31, 1991).

See: 22 N.J.R. 292(a), 22 N.J.R. 593(a), 23 N.J.R. 723(a).

Replaced (b) and (c). Added (j).

Clarification of procedural requirements for permit process.

Amended by R.1993 d.129, effective March 15, 1993 (operative April 20, 1993).

See: 24 N.J.R. 3459(a), 25 N.J.R. 1231(b).

New subsection (k) added.

Amended by R.1993 d.428, effective September 7, 1993 (operative October 4, 1993).

See: 24 N.J.R. 4323(a), 25 N.J.R. 4075(b).

Amended by 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).

Public Notice: Temporary enforcement response policy and permit amnesty program.

See: 26 N.J.R. 4225(b).

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 the section.

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 (k), inserted "approval by the Department of a" following "No" in the first sentence, and changed N.J.A.C. reference in the second sentence; rewrote (l); and added (o).

Law Review and Journal Commentaries

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

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).

Case Notes

Temporary operating certificate was license entitling operator to hearing prior to nonrenewal. New Jersey Dept. of Environmental Protection v. Atlantic States Cast Iron Pipe Co., 241 N.J.Super. 591, 575 A.2d 895 (A.D.1990).

Orders to cease violation of failure to obtain a permit and certificate to install and operate furnace boosting equipment were upheld. Midland Glass Co., Inc. v. Dept. of Environmental Protection, 136 N.J.Super. 194, 345 A.2d 353 (App.Div.1975), certification dismissed 70 N.J. 152, 358 A.2d 199 (1976).

Permit requirement for structural changes. D.E.P. v. Midland Glass Co., 145 N.J.Super. 108, 366 A.2d 1343 (App.Div.1976), certification denied 73 N.J. 65, 372 A.2d 330 (1977).

Failure to fulfill stack testing conditions set forth in permits for asphalt plants warranted imposition of civil penalties. Department of Environmental Protection v. Hamilton, 95 N.J.A.R.2d (EPE) 63

Violations of Solid Waste Management Act warranted imposition of civil penalties totaling \$204,400. Department of Environmental Protection v. Standard Tank Cleaning, 95 N.J.A.R.2d (EPE) 31.

Incineration company violated permit and certificate; penalties imposed based upon current regulations. New Jersey Department of Environmental Protection v. Trofe Incineration Inc. 93 N.J.A.R.2d (EPE) 177.

Storage of hazardous chemical and use of reactor without proper permit; penalty. Department of Environmental Protection, Div. of Environmental Quality v. Polymer Systems Corp., 93 N.J.A.R.2d (EPE) 133.

Perforation of gasoline pump nozzle "vapor boot"; air pollution penalty assessed. New Jersey Department of Environmental Protection v. Columbus Texaco, 92 N.J.A.R.2d (EPE) 235.

Both "smog hog"/electrostatic precipitator and "Binks" spray booth were control apparatus requiring permits and operating certificates. Affiliated Manufacturers, Inc. v. State of New Jersey, 92 N.J.A.R.2d (EPE) 186.

Use of temporary certificate application as emissions limitations under certificate was not improper; stack tests established violations. U.S. Intec., Inc. v. Department of Environmental Protection, 92 N.J.A.R.2d (EPE) 167.

Attaching control apparatus to ovens and kilns without appropriate permit constituted air pollution violation; penalty imposed. Certech, Inc. v. Division of Environmental Quality, 92 N.J.A.R.2d (EPE) 21.

7:27-8.4 Applications

(a) An application for a preconstruction permit and certificate, permit revision, compliance plan change, environmental improvement pilot test approval, or for a renewal thereof, as well as a general permit registration, or a seven-day-notice, shall be submitted to the Department on forms obtained from the Department, in accordance with this section.

(b) Application forms and information may be obtained in the following ways:

1. In paper form, by contacting the Department at:

Bureau of New Source Review
 Air Quality Permitting Program
 Department of Environmental Protection
 401 East State Street, Second Floor
 PO Box 027
 Trenton, New Jersey 08625-0027
 Telephone: (609) 292-6716 or 1-800 441-0065
 DEP Electronic Bulletin Board Service: (609) 292-2006
 E-mail: AIRFORMS@dep.state.nj.us; or

2. In electronic form, through the Department's Air Information Management System (AIMS), which can be accessed in accordance with the AIMS guidance manual, available from the Department at the address in (b)1 above.

(c) An application, registration, or notice shall be submitted to the Department in one of the following ways:

1. On paper, sent or delivered to the address listed on the application form; or
2. Electronically, through AIMS.

(d) An application, registration or notice shall contain such details regarding the equipment or control apparatus as necessary to determine that the equipment or control apparatus is designed to operate without causing a violation of any relevant State or Federal laws or regulations. In addition, if a source is required to document advances in the art of air pollution control (or SOTA) under N.J.A.C. 7:27-8.11, Standards for issuing a permit, the Department shall require information necessary to determine compliance with the SOTA requirement in accordance with N.J.A.C. 7:27-8.12, State of the art. Information required under this subsection may include description of processes, raw materials used, operating procedures, physical and chemical nature of any air contaminant, volume of gas discharged, and such other information as the Department considers necessary.

(e) All information submitted to the Department shall be public information except that which is designated confidential in accordance with N.J.S.A. 26:2C-9.2 and N.J.A.C. 7:27-1. To claim information submitted as part of an application, registration or notice as confidential information, the applicant shall clearly mark the information as required at N.J.A.C. 7:27-1.6. The Department shall handle the confidentiality claim in accordance with N.J.A.C. 7:27-1.6 through 1.30.

(f) Before an operating certificate, or any renewal thereof, is approved, the Department may require the applicant to conduct such testing as is necessary, at the discretion of the Department, to verify that the kind and amount of air contaminants emitted from the equipment or control apparatus are in compliance with the limits established in the preconstruction permit and certificate and that only the air contaminants approved in the preconstruction permit are being emitted. If such testing is required, the applicant shall:

1. Submit a source-specific testing protocol to the Department, if such a protocol is required in the conditions of approval of the preconstruction permit or certificate. The protocol shall be submitted at least 60 days prior to the anticipated date of the testing, except where the Department determines that a different submittal date is needed to allow for adequate testing;
2. Obtain approval of any required source-specific testing protocol from the Department in advance of conducting the testing;
3. Conduct the testing in accordance with a standard testing procedure acceptable to the Department or the approved source-specific testing protocol approved in advance by the Department;
4. Contact the Department to schedule mutually acceptable testing dates and startup times at least 30 days in advance of the planned testing date for any testing conducted pursuant to a source-specific testing protocol, except in cases where the Department has approved a different test notification requirement in the preconstruction permit or certificate;
5. Submit the test report to the Department within 30 days after the completion of the sampling, unless a longer period for submission is approved in writing by the Department; and
6. Have the test report from any source emission testing reviewed and certified by a licensed professional engineer, or by an industrial hygienist who has been certified by the American Board of Industrial Hygiene, prior to their submission to the Department.

(g) The application, registration or notice form shall require the applicant to provide information about significant sources. The applicant does not need to include information on any insignificant sources, except where emissions from the insignificant source are released through the same control device as emissions from a significant source. Where this occurs, the form shall require a list of the emissions from the insignificant source(s), as well as the emissions from the significant source. (Even if emissions from an insignificant source are listed, there is no fee for the insignificant source. This is stated at N.J.A.C. 7:27-8.6(k).)

(h) In some cases, an application, registration or notice (and the issued permit) may cover more than one source. Determination of the number of sources to be included shall depend on how each source is vented or, in the case of batch processing operations, how the product is made or it may be based on another basis for a logical grouping, provided that this basis is approved by the Department:

1. For a single source that exhausts through one or more stacks or vents, the applicant shall apply for one permit;
2. For multiple sources that exhaust through a common stack or vent, or through common stacks or vents, the applicant shall apply for one permit to cover all these sources;
3. For multiple sources that each exhaust through an individual stack or vent, the applicant shall either apply for a single permit for each source, so that the number of permits will be equal to the number of sources, or shall apply for permit(s) based on logical grouping(s) approved by the Department; and
4. For batch processing operations in which two or more sources make up a process unit, an applicant may choose to include these sources in one permit application.

(i) Any person who is applying for a preconstruction permit or permit revision shall submit as part of the application, an NSPS and NESHAP applicability and compliance demonstration, if the proposed equipment or the intended use of the proposed equipment is within any source category to which any NSPS or NESHAP is applicable.

(j) If required under N.J.A.C. 7:27-8.5, an application shall include a protocol for conducting an air quality impact analysis. The protocol shall include a risk assessment if one is required under N.J.A.C. 7:27-8.5.

(k) An application, registration or notice shall, if required by the applicable form, list each air contaminant which meets either of the following conditions:

1. The source operation's potential to emit the air contaminant is equal to or higher than the applicable reporting threshold set forth in Table A or B in Appendix 1; or
2. The source operation may, under normal operations, emit the air contaminant in an amount which may result in noncompliance with the air pollution odor provisions at N.J.A.C. 7:27-8.3(j) and N.J.A.C. 7:27-5.

(l) When listing raw materials on an application, registration or notice, the applicant shall list each HAP raw material separately. Each non-HAP raw material shall be:

1. Listed separately; or
2. Listed in a group of non-HAP raw materials with similar physical and/or chemical properties. If a group is listed, the group shall be sufficiently limited so as to allow

the Department to evaluate whether the source, using those raw materials, shall comply with specified maximum emission rates and applicable requirements. The grouping shall be approved by the Department.

(m) When listing the emissions for a contaminant for which emissions information is required under (k) above:

1. The applicant shall separately list emissions for each HAP;
2. Emissions for each non-HAP shall be:
 - i. Listed separately; or
 - ii. If the contaminant is a VOC or particulate, the emissions may be listed in a group of total VOCs or total particulates; and
3. If a source emits a contaminant that is both a HAP and is also a VOC or a particulate, emissions of that air contaminant shall be listed separately as a HAP, and shall also be included in any grouping of total VOCs or total particulates.

(n) In order to ensure timely renewal of an operating certificate, an application for renewal of an operating certificate shall be made to the Department on forms obtained from the Department not less than 90 days prior to the expiration date of the operating certificate.

(o) Any person submitting an application, registration or notice to the Department pursuant to this subchapter shall include, as an integral part of the application, certifications complying with N.J.A.C. 7:27-1.39.

(p) Any information an applicant wants the Department to take into consideration in making a decision on an application, registration or notice shall be submitted to the Department in writing prior to the Department's making a decision on the application, registration or notice.

(q) If the permit and certificate shall cover any of the sources listed below, the application, registration or notice shall also include a demonstration that appropriate odor prevention measures will ensure compliance with the odor provisions at N.J.A.C. 7:27-8.3(j) and 7:27-5:

1. Sewage sludge treatment and storage equipment;
2. Municipal wastewater treatment equipment;
3. A landfill;
4. A municipal solid waste transfer station;
5. A composting facility;
6. Coffee roasting equipment; or
7. Equipment used for slaughtering, meat or shellfish processing, meat byproduct processing, or rendering.

(r) If the applicant intends to use DER credits to fulfill emission offset requirements under N.J.A.C. 7:27-18, the

applicant shall indicate this in the permit application in accordance with N.J.A.C. 7:27-30.14(g).

(s) For a significant source included in any of the following categories, the Department has prepared permitting procedures manuals, which summarize certain alternative application and permitting procedures developed to take into consideration the specific characteristics of these sources. An applicant may elect, for sources in these categories, to use the alternative procedures, rather than the corresponding standard procedures set forth in this subchapter. The manuals are available from the Department at the address in (b) above:

1. Batch plants (see technical manual 1301);
2. Pilot plants (see technical manual 1302); and
3. Dual plants (see technical manual 1302).

Amended by R.1985 d.96, effective March 4, 1985 (operative April 5, 1985).

See: 16 N.J.R. 1671(a), 17 N.J.R. 587(a).

Substantially amended.

Amended by R.1991 d.109, effective March 4, 1991 (operative March 31, 1991).

See: 22 N.J.R. 292(a), 22 N.J.R. 593(a), 23 N.J.R. 723(a).

In (a), added application and information request address. In (b), stylistic change and reference to new subsections 8.14 through 8.23 added. Replaced (c) and (d). Added (e), (f), (g), (h), (i).

Amended by R.1993 d.129, effective March 15, 1993 (operative April 20, 1993).

See: 24 N.J.R. 3459(a), 25 N.J.R. 1231(b).

New subsections (j) and (k) added pertaining to air quality impact analysis protocol approval.

Amended by 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).

Public Notice: Processing delays for temporary Certificates and renewals of five year Certificates.

See: 29 N.J.R. 3087(b).

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 the section.

Petition for Rulemaking.

See: 31 N.J.R. 691(a).

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).

Deleted a former (r); recodified former (s) and (t) as (r) and (s); and in the new (r), changed N.J.A.C. reference.

Case Notes

Evidence supported air pollution control permit for resource recovery facility. Matter of Stream Encroachment Permit No. 12400, 231 N.J.Super. 443, 555 A.2d 1123 (A.D.1989).

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

Pollution control equipment. Campbell Foundry Co. v. Sullivan, 119 N.J.Super. 51, 289 A.2d 801 (App.Div.1972).

7:27-8.5 Air quality impact analysis

(a) An application shall include an air quality impact analysis, conducted in accordance with this section, if:

1. The application is subject to PSD air quality impact analysis requirements set forth at 40 CFR Part 52;

2. The proposed maximum allowable emissions of an air contaminant would result in a significant net emission increase, as calculated in accordance with N.J.A.C. 7:27-18.7, and:

- i. The facility for which the application is submitted is a major facility as defined at N.J.A.C. 7:27-8.1; or
- ii. The emission increase, proposed in the application for any air contaminant, by itself equals or exceeds the major facility threshold level which determines if a facility is a major facility for that air contaminant;

3. A State or Federal rule requires that an air quality impact analysis be performed; or

4. The Department determines that an air quality impact analysis is required for an accurate assessment of the environmental impact of the activities proposed.

(b) An air quality impact analysis shall include ambient air monitoring and risk assessment, if the Department determines that this is required for an accurate assessment of the impact of the activities proposed.

(c) An air quality impact analysis shall demonstrate whether the maximum controlled emissions stated on the preconstruction permit application may cause:

1. A violation of any State or Federal ambient air quality standard;

2. Any exceedance of a PSD increment as defined in 40 CFR Part 52;

3. An increase in 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. A contravention of any other criterion established by the Department to protect human health and welfare and the environment.

(d) An air quality impact analysis and/or a risk assessment shall be conducted in accordance with a protocol approved in advance by the Department. The Department shall not approve a protocol unless it takes all relevant site-specific and general factors into account. These factors include, but are not limited to, a land use analysis, proper consideration of topography, a good engineering practice stack height analysis, use of the most recent version of EPA-approved models, identification of the most appropriate meteorological data, and consideration of all relevant averaging times. The protocol shall document how the person proposes to conduct the air quality impact analysis and/or risk assessment, and how the results will be presented to the Department. Technical guidance on the preparation of a protocol can be found in the Air Quality Permitting Program's Technical Manual 1002 (Guidance on Preparing an Air Quality Modeling Protocol) and Technical Manual 1003 (Guidance on Preparing a Risk Assessment for Air Contaminant Emissions). Additional technical guidance on preparing a protocol may be requested from:

New Jersey Department of Environmental Protection
 Air Quality Permitting Program
 401 East State Street, 2nd Floor
 PO Box 027
 Trenton, New Jersey 08625-0027
 Attention: Bureau of Air Quality Evaluation

New Rule, 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).

Former N.J.A.C. 7:27-8.5, Public comment, recodified to N.J.A.C. 7:27-8.10.

7:27-8.6 Service fees

(a) Every application, notice, or registration submitted to the Department shall be accompanied by the fee, if any, set forth in the Base Fee Tables below.

(b) After an application, notice or registration is submitted, the Department will invoice each applicant for any additional fees due to the Department, assessed in accordance with the Base Fee Schedule and the Supplementary Fee Schedule below. The applicant shall submit any fees so assessed to the Department within 60 days of receipt of the invoice.

(c) The Base Fee Schedule and the Supplementary Fee Schedule apply to all applications, notices or registrations which are deemed administratively complete on or after the date on which this section is operative.

(d) If an application is denied or a permit is revoked, for any reason, and the applicant reapplies, the new application shall meet all application requirements, including the fee requirement.

(e) Any fee under this section that is subject to N.J.A.C. 7:1L shall be payable in installments in accordance with N.J.A.C. 7:1L.

(f) Except for applications for sources at facilities subject to (g) below, a complete application fee for a preconstruction permit and certificate shall include both a preconstruction permit application fee and an operating certificate fee, as set forth below in the Base Fee Tables.

(g) The owner or operator of a facility subject to N.J.A.C. 7:27-22 is not required to pay the operating certificate fees set forth in Tables 1, 2, 5, 6 and 10 below after June 30, 1995. However, the owner or operator of a facility subject to N.J.A.C. 7:27-22 is required to maintain operating certificates for sources at the facility under this subchapter until the issuance of an operating permit for the facility. In addition, after June 30, 1995 the owner or operator shall pay fees in accordance with N.J.A.C. 7:27-22.31 for any significant modification, as defined in the operating permit rules at N.J.A.C. 7:27-22.1, while the issuance of an operating permit for the facility is pending.

(h) Fees due to the Department may be paid by personal check, corporate check, or money order, made payable to "Treasurer, State of New Jersey."

(i) If both Category I and Category II sources are included in a single application, the Category I source(s) shall be subject to the Category I preconstruction permit fee, and the Category II source(s) shall be subject to the Category II preconstruction permit fee. All sources shall be subject to the Category II certificate fee.

(j) If one application for a Category II initial permit or permit revision includes multiple sources or control apparatus, there may in some cases be a fee for the additional sources or control apparatus. This subsection applies only to Category II initial permit applications under Table 2 below, and to Category II permit revisions under Table 6 below. Under those tables, the first significant source on the application is subject to a fee of \$500.00. If more than one source or control apparatus is included in the application, there is no additional fee for the additional sources or control apparatus if they are identical (as defined at N.J.A.C. 7:27-8.1) to the first one, for which a fee is already being paid. If an additional significant source or control apparatus does not meet the definition of identical at N.J.A.C. 7:27-8.1, the fee for the source or control apparatus is \$350.00. The following examples illustrate how to calculate these additional Category II fees under Tables 2 and 6:

1. An application which includes four identical boilers would require a fee of \$1,000: \$500.00 for the first boiler, no fee for the second, third and fourth identical boilers, and \$500.00 for the certificate fee;

2. An application which includes four different non-identical boilers would require a fee of \$2,050: \$500.00 for the first boiler, \$350.00 each for the second, third and fourth boilers, and \$500.00 for the certificate fee; and

3. An application which includes four identical reactors, served by four non-identical control apparatus, would require a fee of \$2,400: \$500.00 for the first boiler, no fee for the other three identical boilers, \$350.00 for the first control apparatus, \$350.00 each for the second, third, and fourth control apparatus, and \$500.00 for the certificate fee.

(k) There is no fee for an insignificant source, even if emissions from an insignificant source must be listed on an application under N.J.A.C. 7:27-8.4(g).

A. BASE FEE TABLES

Table 1
Category I permit fees

| Activity | Basis | Amount |
|-------------------------------------|-----------------|----------|
| Preconstruction permit | Per application | \$100.00 |
| Operating certificate | Per application | \$150.00 |
| Total Category I initial permit fee | | \$250.00 |

Table 2
Category II permit fees

| Activity | Basis | Amount |
|--------------------------------------|--|---|
| Preconstruction permit | Per first significant source per application | \$500.00 |
| Additional fee | Per each additional non-identical significant source or control apparatus on the same application ¹ | \$350.00 |
| Operating certificate | Per application | \$500.00 |
| Total Category II initial permit fee | | \$1,000 plus \$350 per additional non-identical significant source or control apparatus |

¹See (j) above.

Table 3
Environmental improvement pilot test fees

| Activity | Basis | Amount |
|--|--------------------------------|----------|
| Application for environmental improvement pilot test | Per Application or per renewal | \$250.00 |

Table 4
Registration fees

| Activity | Basis | Amount |
|--|------------------|----------|
| Registration for authorization to act under a general permit under N.J.A.C. 7:27-8.8(c)1 through 7 | Per Registration | \$250.00 |

Registration for authorization to act under a general permit under N.J.A.C. 7:27-8.8(c)7 Per Storage Tank \$250.00

Table 4a
General permit registration fees

| Activity | Basis Per | Amount |
|--|------------------|----------|
| Registration for authorization to act under a general permit under N.J.A.C. 7:27-8.8(c)1 through 7 | Registration | \$250.00 |
| Registration for authorization to act under a general permit under N.J.A.C. 7:27-8.8(c)7 | Per Storage Tank | \$250.00 |

Table 4b
Used oil space heater registration fees

| Activity | Basis Per | Amount |
|--|------------------|----------|
| Registration for authorization to operate a used oil space heater under N.J.A.C. 7:27-20.3 | Registration | \$250.00 |
| Five year renewal for a used oil space heater under N.J.A.C. 7:27-20.3 | Per Registration | \$250.00 |

Table 5
Category I permit revision fees

| Activity | Basis | Amount |
|--------------------------------------|--------------------------|----------|
| Preconstruction permit revision | Per revision application | \$100.00 |
| Operating certificate revision | Per revision application | \$150.00 |
| Total Category I permit revision fee | | \$250.00 |

Table 6
Category II permit revision fees

| Activity | Basis | Amount |
|---------------------------------------|--|---|
| Preconstruction permit revision | Per first changed significant source per permit revision application | \$500.00 |
| Additional fee | Per each additional non-identical significant source or control apparatus being changed on the same permit revision application ² | \$350.00 |
| Operating certificate revision | Per permit revision application | \$500.00 |
| Total Category II permit revision fee | | \$1,000 plus \$350 per additional non-identical significant source or control apparatus |

²See (j) above.

Table 7

| Compliance plan change fees | | |
|------------------------------------|-----------------|---------------|
| <u>Activity</u> | <u>Basis</u> | <u>Amount</u> |
| Category I compliance plan change | Per application | \$ 50.00 |
| Category II compliance plan change | Per application | \$250.00 |

Table 8
Seven-day-notice change fees

| <u>Activity</u> | <u>Basis</u> | <u>Amount</u> |
|-------------------------------------|--------------|---------------|
| Category I seven-day-notice change | Per notice | \$50.00 |
| Category II seven-day-notice change | Per notice | \$250.00 |

Table 9
Amendment fees

| <u>Activity</u> | <u>Basis</u> | <u>Amount</u> |
|-----------------|--------------|---------------|
| Category I | Per notice | \$50.00 |
| Category II | Per notice | \$250.00 |

| | | |
|---|----------------------------|----------|
| Change in identifying information under N.J.A.C. 7:27-8.21(b)1 | Per Preconstruction Permit | \$ 00.00 |
| Transfer of ownership under N.J.A.C. 7:27-8.21(b)2 | Per Facility | \$ 50.00 |
| Change in equipment or stack designation under N.J.A.C. 7:27-8.21(b)3 | Per Preconstruction Permit | \$ 00.00 |
| A change listed in N.J.A.C. 7:27-8.21(b)4, 5, 6, or 7 | Per submitted amendment | \$200.00 |
| Correction of a typographical error under N.J.A.C. 7:27-8.21(b)8 | Per Preconstruction Permit | \$ 00.00 |

Table 10
Certificate Renewal fees

| <u>Activity</u> | <u>Basis</u> | <u>Amount</u> |
|-----------------|---------------------------|---------------|
| Category I | Per Operating Certificate | \$250.00 |
| Category II | Per Operating Certificate | \$500.00 |

B. SUPPLEMENTARY FEE SCHEDULE

| <u>Activity</u> | <u>Basis</u> | <u>Amount</u> |
|---|--------------------------------|---------------|
| 1. Prevention of Significant Deterioration | | |
| a. Engineering Review | Per Applicable Air Contaminant | \$500.00 |
| b. Implement Public Comment Requirement | Per Comment Period | 500.00 |
| 2. Ambient Air Monitoring | | |
| a. Review Protocol | Per Protocol | 500.00 |
| b. Inspect Monitoring Locations and Equipment Installation | Per Inspection | 500.00 |
| c. Review Quality Assurance Plan | Per Plan | 500.00 |
| d. Review Data | Per Required Report | 500.00 |
| 3. Air Quality Impact Analysis | | |
| a. Evaluate Protocol | Per Protocol | 500.00 |
| b. Review Screening Modeling | Per Review | 500.00 |
| c. Review Refined Modeling | Per Review | 500.00 |
| 4. Risk Assessment | | |
| a. Evaluate Protocol | Per Protocol | 500.00 |
| b. Review Risk Assessment | Per Review | 500.00 |
| 5. Testing | | |
| a. Evaluate Source-Specific Testing Protocol | | |
| i. Process Materials Testing | Per Protocol | 450.00 |
| ii. Source Emission Testing | Per Protocol | 500.00 |
| b. On-site Monitoring of Sample Collection Pursuant to an Approved Source-Specific Testing Protocol | | |
| i. Process Materials Testing | Per Collection Event | 200.00 |
| ii. Source Emissions Testing | Per Performance Test | 500.00 |
| c. Review Testing Report | | |
| i. Process Materials Testing | Per Report | 200.00 |
| ii. Source Emissions Testing | Per Report | 500.00 |
| 6. Audit Performance of Continuous Emission Monitors | | |
| a. Evaluate Protocol | Per Protocol Per Permit | 500.00 |
| b. Observe Testing | Per Protocol Per Permit | 500.00 |
| c. Review Testing Report | Per Report | 500.00 |
| 7. Periodic Compliance Inspection | Per Inspection Per Certificate | 200.00 |

New Rule, R.1991 d.109, effective March 4, 1991 (operative March 31, 1991).
See: 22 N.J.R. 292(a), 23 N.J.R. 723(a).
Amended by R.1992 d.102, effective March 2, 1992 (operative March 28, 1992).

See: 23 N.J.R. 1858(b), 24 N.J.R. 792(a).
Deleted references and fee schedule regarding mathematical combinations.
Amended by 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).

Amended by R.1995 d.205, effective April 17, 1995.

See: 26 N.J.R. 3922(a), 27 N.J.R. 1576(b).

Recodified from N.J.A.C. 7:27-8.11 and 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 the section. Former N.J.A.C. 7:27-8.6, Denials, recodified to N.J.A.C. 7:27-8.14.

Amended by R.1999 d.428, effective December 6, 1999 (operative January 8, 2000).

See: 30 N.J.R. 4003(a), 31 N.J.R. 4016(a).

In the Base Fee Tables, changed Table 4 designation, inserted Table 4a designation and inserted Table 4b.

7:27-8.7 Operating certificates

(a) In order to operate a source covered by a preconstruction permit, the source shall also be covered by an operating certificate, which authorizes operation of the source. The preconstruction permit application form also serves as the application form for the operating certificate, and the Department shall issue the preconstruction permit and operating certificate simultaneously, combined in one document.

(b) To obtain an operating certificate or a temporary operating certificate (see (d) below), an applicant shall follow the procedures for applying for a permit and certificate under N.J.A.C. 7:27-8.4.

(c) An operating certificate (except for a temporary operating certificate issued under (d) below) expires five years after the date the preconstruction permit for the source was issued.

(d) In some cases, the Department needs information obtained while a source is operating, such as stack testing results, in order to issue a final operating certificate. In such a case, the Department shall issue one of the following two types of temporary operating certificates:

1. A 90 day temporary operating certificate, which is valid for 90 days and may be renewed by the Department one or more times; or
2. A continuing temporary operating certificate, which continues in effect until the earliest of the following triggering events:
 - i. The Department notifies the permittee that the operating certificate has been converted to a 90 day temporary operating certificate;
 - ii. The Department issues a conventional operating certificate for the source; or
 - iii. Five years has passed since the issuance of a preconstruction permit for the source.

(e) The operating certificate shall be renewed prior to its expiration if the source is to continue to operate. In order to ensure timely renewal of an operating certificate, an application for renewal of an operating certificate shall be made to the Department at least 90 days prior to the

expiration date of the operating certificate. An application for renewal may be submitted electronically only if the entire permit application is, or has been, submitted to the Department through AIMS prior to the submittal of the renewal application.

(f) Before renewing an operating certificate, the Department may require testing to ensure compliance with State and Federal air pollution control requirements.

New Rule, R.1991 d.109, effective March 4, 1991 (operative March 31, 1991).

See: 22 N.J.R. 292(a), 23 N.J.R. 723(a).

Amended by 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).

Repeal and New Rule, 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).

Former N.J.A.C. 7:27-8.7, Approvals, repealed.

7:27-8.8 General permits

(a) A general permit is a pre-approved permit and certificate which applies to a specific class of significant sources. By issuing a general permit pursuant to N.J.S.A. 26:2C-9.2(h), the Department indicates that it approves the activities authorized by the general permit, provided that the owner or operator of the source registers with the Department and meets the requirements of the general permit. If a source belongs to a class of sources which qualify for a general permit, and the owner or operator of the source registers for the general permit and complies with this section, the registration satisfies the requirements at N.J.A.C. 7:27-8.3 for a permit and certificate.

(b) A general permit may not be used to cover a source which is subject to PSD requirements under 40 CFR 52.21, or which is subject to emissions offsets requirements under N.J.A.C. 7:27-18.

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

1. One or more tanks and/or pumps used for storing and/or pumping gasoline, diesel fuel, or kerosene, located at a single service station (retail or non-retail), if the station:
 - i. Receives gasoline, diesel fuel, or kerosene from a delivery vessel and puts it into a stationary storage tank;
 - ii. Transfers gasoline from a storage tank into a gasoline vapor laden fuel tank;
 - iii. Has Stage 1 vapor recovery equipment which complies with N.J.A.C. 7:27-16.3 on all gasoline tanks at the station; and
 - iv. Has Stage 2 vapor recovery equipment which complies with N.J.A.C. 7:27-16 on all gasoline pumps at the station;

2. One or more pieces of woodworking equipment, located at the same facility, where all air contaminant emissions from the equipment are captured and vented to a particulate control apparatus with a minimum removal efficiency of 99 percent;

3. A single boiler with a maximum rated heat input of less than 10 million BTUs per hour, combusting natural gas, number 2 commercial fuel oil, or both fuels (and no other fuels);

4. A single emergency generator which operates no more than 500 hours per year, and which has a maximum rated heat input that is less than or equal to 15 million BTU per hour (generating approximately 1.5 megawatts of electricity) when the generator combusts diesel fuel, or 40 million BTU per hour (generating approximately 4.0 megawatts of electricity) when the generator combusts natural gas;

5. A bulk solid materials receiving and storage system, which uses pneumatic or mechanical conveying, where all particulate air contaminant emissions are captured and vented to a particulate control apparatus with a minimum removal efficiency of 99 percent;

6. One or more pieces of enclosed abrasive blasting equipment, located at the same facility, where all particulate air contaminant emissions from the equipment are captured and vented to a particulate control apparatus with a minimum removal efficiency of 99 percent;

7. A stationary storage tank which:

- i. Does not have a floating roof;
- ii. Has a maximum capacity of 300,000 gallons; and
- iii. Is used for storing VOCs with a vapor pressure within the applicable limit below:

(1) If the tank has a maximum capacity of 20,000 gallons or less, vapor pressure shall be less than 11.1 psia (pounds per square inch absolute) at 70 degrees Fahrenheit;

(2) If the tank has a maximum capacity of more than 20,000 gallons but less than or equal to 40,000 gallons, vapor pressure shall be less than 4.0 psia at 70 degrees Fahrenheit;

(3) If the tank has a maximum capacity of more than 40,000 gallons but less than or equal to 300,000 gallons, less than .75 psia at 70 degrees Fahrenheit;

8. A soil vapor extraction system or a groundwater air stripping system used for the remediation of a gasoline contaminated vehicle fueling station at one of the following type of locations:

- i. A current or former gasoline retail station;
- ii. A municipal, county or State garage;
- iii. A police or fire department;

iv. A commercial or industrial site; or

v. A property adjacent to an approved remediation site, provided the remediation activities are relevant to the adjacent property and are conducted concurrently with the remediation activities of the approved site;

9. A single or multiple external combustion unit with a maximum rated heat input of less than 10 million BTUs per hour, firing natural gas, propane, kerosene, diesel oil, or number 2 fuel oil (and no other fuels).

(d) For each general permit, the Department shall provide a registration form, the general permit itself, and a document entitled "General Procedures for General Permits."

(e) The registration form shall include instructions for completing the form. The registration form shall require information identifying the registrant, identifying the source(s) which shall be covered by the registration, showing that the source meets the criteria for the general permit, and showing that the source will be operated in accordance with the general permit. In many cases, the registration form shall require the registrant to choose from among different options tailored to the source's size, operating characteristics, fuel used, and other parameters. Once the source is described or an option selected on the registration form, the registrant shall continue to operate the source within the parameters of the description and/or the selected option. The registration form shall require the registrant to certify the truth and accuracy of the information on the form. The certification shall meet the requirements of N.J.A.C. 7:27-1.39.

(f) The general permit shall include all of the conditions and requirements which must be met in order to act under the authority of the general permit, including:

1. A description of the class of significant sources which qualify for the general permit, including an explanation of how many of each type of source may be covered by one general permit registration;

2. All requirements which apply to the source and which are satisfied by the general permit;

3. Any monitoring, recordkeeping or reporting requirements;

4. If applicable, standards the source must meet to comply with N.J.A.C. 7:27-8.12, State of the art; and

5. Citations to the laws or rules which form the basis for the requirements listed in (f)2 through 4 above.

(g) The "General Procedures for General Permits" shall apply to all general permits, and shall include instructions for the use general permits, a list of available general permits, and citations to regulatory provisions that apply to the use of general permits.

(h) Some general permits apply to only one source, while others may apply to a class of sources located at the same facility. Each general permit shall specify whether it applies to a group or to a single source. If a general permit applies to only one source, and if several sources at one facility qualify for that general permit, a separate registration, including a fee, shall be submitted for each source.

(i) The authority to act under a general permit begins upon the registrant's receipt of proof of the Department's receipt of the properly completed registration form (including the registration fee specified at N.J.A.C. 7:27-8.6). This proof can be a certified mail receipt, or a copy of the Department's written acknowledgment, issued under (k) below. A registrant may continue to act under the general permit for five years after the date of the proof of receipt, unless:

1. A shorter term is specified in the general permit or the General Procedures for General Permits; or
2. The Department amends the general permit based on a change to a law or regulation in accordance with (n) below.

(j) The registrant is fully responsible for ensuring that the requirements of the general permit, the General Procedures for General Permits, and this section are complied with. If an owner or operator has registered a source under a general permit and the registration is incorrect or deficient, the owner or operator may be liable for penalties for acting without a permit or certificate. Examples of ways a registration might be incorrect or deficient include: if the registered source does not qualify for the general permit; if the registration was improperly completed; or if the registration did not include a key element such as required information or the correct fee.

(k) The Department shall send an acknowledgment when a registration, including the appropriate fee, is received. However, the acknowledgment only indicates that the Department received the registration, and does not mean that the Department has reviewed or approved the registration. Therefore, if the registration is incorrect or deficient, the Department's acknowledgment does not in any way relieve the owner or operator from liability for penalties for any unauthorized activities.

(l) A registrant shall operate within the conditions of the general permit. If the registration form allows the registrant to choose a particular option tailored to the source, the registrant shall operate the source within the parameters set forth in that option. Failure to operate within the parameters of the chosen option and within the general permit conditions shall constitute violation of a permit. If a registrant wants to make a change to a source which has been registered under a general permit, a new general permit registration is required, unless the changed source would remain within the class of sources which qualify for the general permit, and the source would continue to be

operated in accordance with the parameters set forth in the option chosen in the registration.

(m) To issue a general permit, or to amend an existing one, the Department shall draft a new or amended registration form and general permit, and shall publish a notice in the New Jersey Register that these documents are available for review and comment. When the comment period closes, the Department shall incorporate any changes the Department deems appropriate. The Department shall then announce the final general permit, and add it to the list of sources in (c) above, through a notice of administrative change published in the New Jersey Register.

(n) If the Department changes an existing general permit, it shall notify each person who has registered under the general permit. The registrant shall comply with any applicable new requirements as follows:

1. If the change to the general permit is required by a statute or regulation, a registrant shall comply by the date required for compliance in the statute or regulation. If the registrant cannot comply by that date, the registrant must stop operating the source or obtain by that date a source-specific permit and certificate which authorizes continued operation; and
2. If the change to the general permit is not required by a statute or regulation, a registrant shall comply by the date which is 90 days after the date that the notice was received from the Department or the date when the registration, whichever is later. Thereafter, the registrant shall comply with the changed general permit.

(o) A person who wishes to register a source under a general permit may obtain the registration form, the general permit, and the General Procedures for General Permits, at the address in N.J.A.C. 7:27-8.4(b).

New Rule, 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).

Former N.J.A.C. 7:27-8.8, Conditions of approval, recodified to N.J.A.C. 7:27-8.13.

Public Notice: Draft General Permits comment opportunity.

See: 32 N.J.R. 605(a).

Administrative change.

See: 32 N.J.R. 2081(b).

Added (c)8.

Public Notice: Draft General Permits comment opportunity.

See: 33 N.J.R. 590(a).

Administrative change.

See: 33 N.J.R. 1377(a).

Public Notice: Air Quality Permit clarification of terminology.

See: 33 N.J.R. 3221(a).

7:27-8.9 Environmental improvement pilot tests

(a) A person may seek approval for a preconstruction permit and certificate for an environmental improvement pilot test, as defined at N.J.A.C. 7:27-8.1, of air pollution control equipment or other environmental clean-up equipment under this section.

(b) An applicant for an environmental improvement pilot test shall ensure that the equipment shall comply with all applicable requirements, and that the activities shall not cause impacts outside the property boundary.

(c) An applicant for an environmental improvement pilot test approval shall submit the application on a form obtained from the Department at the address in N.J.A.C. 7:27-8.4(b). The application shall meet the requirements of N.J.A.C. 7:27-8.4, and shall include information regarding the planned sampling, analysis, equipment or processes, potential environmental impacts, the length of time requested for the test, projected emission rates, and any other information necessary for the Department to ensure that the proposed activities fit within the definition of an environmental improvement pilot test at N.J.A.C. 7:27-8.1.

(d) The Department shall take final action on the application within 30 days of its receipt of a complete application.

(e) The Department shall determine the term of a permit and certificate for an environmental improvement pilot test approval on a case-by-case basis, but in no case shall the approval last longer than 90 days from the start of the actions covered by the environmental improvement pilot test approval. The approval may be renewed by application to the Department. The Department shall renew the environmental improvement pilot test approval only if the applicant demonstrates that continued testing of the equipment or process is needed, and that the proposed activities remain within the definition of an environmental improvement pilot test at N.J.A.C. 7:27-8.1.

(f) The fee for an environmental improvement pilot test is set forth at N.J.A.C. 7:27-8.6.

(g) The holder of an environmental improvement pilot test approval shall keep records of product run time, emission testing performed, and other data relevant to the emission of air contaminants. These records shall be kept for a minimum of five years, and any relevant data obtained must be submitted with any future application covering the source.

(h) Upon completion of the environmental improvement pilot test, the equipment involved shall cease operating, or shall return to operating under the conditions of the existing permit, if any. An environmental improvement pilot test approval does not constitute Departmental acceptance of equipment or a process for future production purposes.

New Rule, 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).

Former N.J.A.C. 7:27-8.9, Reporting requirements, recodified to N.J.A.C. 7:27-8.15.

7:27-8.10 Public comment

(a) The Department shall seek comments from the general public prior to making any final decision on those applications for which such comment is required by State or Federal statutes. Such applications include, but are not limited to, those applications which:

1. Are subject to the PSD requirements published at 40 CFR 52;
2. Must be submitted to the EPA for approval as revisions to any state implementation plan; or
3. Are subject to emissions offset requirements under N.J.A.C. 7:27-18.

(b) The Commissioner of the Department may seek comments from the public whenever the Commissioner finds a significant degree of public interest in an application, or whenever the Commissioner determines such comments might clarify one or more issues involved in the decision on the application. In determining whether to seek or accept public comment, the Commissioner shall consider factors relevant to the subject application and the applicable requirements. These factors may include, but are not limited to, the following:

1. The extent of any emissions increase;
2. The impact of any emissions increase on ambient air quality, human health and welfare, and the environment;
3. The applicant's record of compliance with air pollution control requirements;
4. Any other air pollution control aspects of the application or facility which might make the application of particular interest to the public.

(c) The Department shall notify those who submitted a written request for public comment of the Commissioner's decision regarding their request. The Commissioner's notification shall be in writing, and if the decision is a denial, the notification shall include a discussion of the factors in (b) above, as well as a description of all other factors which formed the basis for the decision.

New Rule, R.1991 d.109, effective March 4, 1991 (operative March 31, 1991).

See: 22 N.J.R. 292(a), 23 N.J.R. 723(a).

Old section recodified to 8.6.

Amended by 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).

Recodified from N.J.A.C. 7:27-8.5 and 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 the section. Former N.J.A.C. 7:27-8.10, Revocation, recodified to N.J.A.C. 7:27-8.16.

7:27-8.16 Revocation

(a) The Department may revoke a permit or certificate if the permittee:

1. Uses, or allows to be used, equipment or control apparatus not in compliance with the permit or certificate, or with any applicable Federal, or State law, regulation, or rule;
2. Takes any action which requires a permit revision, compliance plan change, seven-day-notice change, amendment, or change to a batch plant permit under any applicable provision at N.J.A.C. 7:27-8.17 through 22, without complying with the applicable provision;
3. Fails to allow lawful entry by authorized representatives of the Department, pursuant N.J.A.C. 7:27-1.31;
4. Fails to pay any penalty assessed pursuant to a final order issued by the Department;
5. Fails to pay any outstanding service fees, charged in accordance with the schedules contained in N.J.A.C. 7:27-8.6, within 60 days of receipt of a fee invoice or, in the case of a renewal of a certificate, by the date of expiration of the certificate being renewed;
6. Fails to reimburse the Department within 60 days after receipt of an invoice for any of the following charges incurred by the Department:

- i. The charges billed by any telephone company for the maintenance of a dedicated telephone line required by the conditions of approval of a preconstruction permit or certificate for the electronic transmission of data; or

- ii. The charges billed by any laboratory for performing the analysis of audit samples collected pursuant to monitoring any testing required by the conditions of approval of a preconstruction permit or certificate; or

7. Fails to dispose lawfully of all aqueous and solid wastes generated as a result of the operation of the equipment or control apparatus.

(b) The Department may withdraw its approval of a preconstruction permit or permit revision, if the permittee:

1. Does not begin the activities authorized by the permit or permit revision within one year from the date of its approval; or

2. Discontinues the activities authorized by the permit or permit revision for a period of more than one year.

(c) The Department may revoke its approval of an application, if it determines that the approval authorizes a contravention of Federal or State laws, regulations, rules, or procedural requirements.

(d) A notice of revocation issued by the Department shall be in writing.

New Rule, R.1991 d.109, effective March 4, 1991 (operative March 31, 1991).

See: 22 N.J.R. 292(a), 23 N.J.R. 723(a).

Amended by 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).

Recodified from N.J.A.C. 7:27-8.10 and 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 the section.

7:27-8.17 Changes to existing permits and certificates

(a) There are several ways to change a permit and certificate once it is issued. They are described in N.J.A.C. 7:27-8.18 through 8.23. Some require prior approval from the Department, while others merely require notice to the Department, before or after the change.

(b) If an action or change fits under more than one of the sections listed at (b)1 through 4 below, it shall be submitted and reviewed through the most comprehensive of the sections which apply. The list of permit change sections at (b)1 through 4 below has the most comprehensive section listed first, and the others arranged in descending order. For example, if a permittee plans a change which fits under both the compliance plan change section (paragraph (b)2 below) and the seven-day-notice change section (paragraph (b)3 below), the change shall be submitted as a compliance plan change, because that is listed first, as it is the more comprehensive of the two sections. The permit change sections are:

1. Permit revisions (N.J.A.C. 7:27-8.18);
2. Compliance plan change (N.J.A.C. 7:27-8.19);
3. Seven-day-notice change (N.J.A.C. 7:27-8.20);
4. Amendment (N.J.A.C. 7:27-8.21).

(c) To submit an application for a permit revision or compliance plan change, or to submit a seven-day-notice or amendment, a form shall be obtained from the Department at the address in N.J.A.C. 7:27-8.4(b). The completed form shall be submitted to the Department in accordance with the application requirements in N.J.A.C. 7:27-8.4, with the fee, if any, required under N.J.A.C. 7:27-8.6. If a permittee wishes to document the date upon which a completed form is submitted, the permittee may choose to submit the form in a way that will provide documentation of the submittal date, such as by certified mail. The completed form may be submitted to the Department by mail, hand delivery, or electronic submittal, as follows:

1. If on paper, submit to:

Bureau of New Source Review
Air Quality Permitting Program
Department of Environmental Protection
401 East State Street, Second Floor
PO Box 027
Trenton, New Jersey 08625-0027; or

2. If in electronic form, submit through the Department's Air Information Management System (AIMS), which can be accessed in accordance with the AIMS guidance, available at the address in (c)1 above.

(d) If a permittee wishes to submit a change to an existing permit electronically, the permittee may do so only if:

1. The permit was originally applied for electronically through AIMS; or
2. Complete application information for the permitted source is submitted electronically through AIMS, prior to, or simultaneously with, submittal of the permit change.

(e) No change to a permit is required for a permittee to use DER credits for compliance in accordance with N.J.A.C. 7:27-30. However, if DER credits are to be used for compliance with emission offset requirements under N.J.A.C. 7:27-18 and 7:27-30.14(g), the permit must specifically allow such use. If the permit does not allow such use, a permit revision under N.J.A.C. 7:27-8.18 is required.

New Rule, 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).

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 (e), changed N.J.A.C. reference.

7:27-8.18 Permit revisions

(a) The following actions require prior approval from the Department through a permit revision:

1. A request for an increase in a maximum allowable emission limit, including correction of a typographical error or inaccurate calculation, if the correction would result in a higher maximum allowable emission limit;

2. An action that shall:

i. Increase actual emissions, to a rate or concentration greater than a maximum allowable emission limit; or

ii. Cause the emission of a new air contaminant not specified in the permit and certificate. If the permit and certificate allows emission of a group of air contaminants, such as "total VOCs," or "total particulates," then any non-HAP air contaminant in that group is considered to be specified in the permit and certificate;

3. Use of a new raw material not specified in the permit, if the use would cause any of the following results (If the use would not cause any of these results, it shall be processed as a seven-day-notice under N.J.A.C. 7:27-8.20, or as an amendment under N.J.A.C. 7:27-8.21):

i. An increase in actual emissions, to a rate or concentration greater than a maximum allowable emission limit;

ii. Emission of a new air contaminant not specified in the permit and certificate, at a level that meets or exceeds the applicable reporting threshold in Appendix 1, Tables A and B, incorporated herein by reference; or

iii. The source to become subject to a requirement that did not previously apply;

4. A reconstruction, as described in N.J.A.C. 7:27-8.23;

5. Any of the following changes, if the change would cause the ground level concentration of an air contaminant to increase in that portion of the atmosphere, external to buildings, to which the general public has access;

i. The replacement of an existing stack or chimney with a shorter stack or chimney;

ii. A change in the number of stacks or chimneys serving a source, which results in any discharge height less than that of the tallest stack or chimney existing prior to the change;

iii. An increase in the diameter of a stack or chimney; or

iv. A decrease in the exit temperature or volume of gas emitted from a stack or chimney;

6. Except as allowed at N.J.A.C. 7:27-8.21(b)6, the replacement of an entire permitted significant source with a replacement source. For the purposes of this section, replacement means that the replacement source will take the place of the replaced source in the manufacturing process, and the replaced source will be permanently shut down; or

7. Construction or installation of a new significant source (including a control apparatus), if there are existing, permitted sources onsite, and the new source could, under N.J.A.C. 7:27-8.4(h), be combined on one permit application with the existing permitted sources. If the new source could not be combined under one permit with existing permitted sources under N.J.A.C. 7:27-8.4(h), installation of the new source would require a new permit of its own.

(b) To obtain Department approval of a permit revision, the applicant shall demonstrate that the source shall meet the requirements of N.J.A.C. 7:27-8.11, Standards for issuing permits.

New Rule, 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).

7:27-8.19 Compliance plan changes

(a) The following actions require prior Department approval of a compliance plan change:

1. A decrease in the frequency of testing, monitoring, recordkeeping or reporting, to below the frequency specified in the permit and certificate;

2. A change in monitoring method;

3. A change in a level, rate, or limit for an operational parameter if:

i. The change would cause the source to operate outside of the range set by the permit for that parameter;

ii. The parameter is required under the permit and certificate to be tested, monitored, recorded, or reported to the Department; and

iii. The level, rate, or limit is not an emission limit; and

4. A reduction in a source's potential to emit, through any of the actions listed at i through iii below. The permittee may take these actions without contacting the Department, but the reduction in potential to emit does not take effect until the Department approves the compliance plan change, making the emission decrease Federally enforceable. Until Department approval, the source's potential to emit remains unchanged. The following types of actions may be taken to reduce potential to emit under this paragraph:

i. A decrease in a maximum allowable emission rate;

ii. A decrease in maximum allowable hours of operation per time period (number of batches per time period for batch operations); or

iii. A decrease in maximum allowable production rate (production amount per batch for batch operations).

(b) The applicant may not proceed with a compliance plan change until the Department issues a written approval of the change, except for emission decreases that are not reflected in a change to a source's potential to emit made under (a)4 above.

New Rule, 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).

7:27-8.20 Seven-day-notice changes

(a) A seven-day-notice change allows a permittee to proceed with a change seven days after the notice of the change is submitted to the Department. A person acting under the authority of a seven-day-notice does so at risk. Should the Department determine that an action was incorrectly processed as a seven-day-notice change, and should have been processed as a compliance plan change or permit revision, the permittee may be subject to penalties for noncompliance with this subchapter.

(b) A seven-day-notice may be used for the following:

1. A change made to a permitted source which meets all three of the following requirements:

i. The action is a physical or operational change that is outside the scope of activities allowed by the permit;

ii. The action has the potential to result in an increase in actual emissions, but will not increase emissions over the allowable limits in the permit and certificate; and

iii. The action will not alter stack parameters or characteristics so as to cause the ground level concentration of an air contaminant to increase in that portion of the atmosphere, external to buildings, to which the general public has access;

2. Notice indicating that an applicant plans to act at risk under the authority of N.J.A.C. 7:27-8.24 or 8.25; or

3. Notice of a potential increase in the actual emissions of an air contaminant included in the permit due to compliance using DER credits under N.J.A.C. 7:27-30, such as for "permit insurance" pursuant to N.J.A.C. 7:27-30.14(d).

(c) A permittee shall submit a seven-day-notice for construction or installation of a new insignificant source (as defined at N.J.A.C. 7:27-8.1), if the emissions from the insignificant source shall be released through the same control device as emissions from an existing, permitted significant source.

(d) A permittee shall not under (b)1 above use a seven-day-notice for a change which shall:

1. Result in emissions exceeding permit limits; or

2. Result in emission of a new air contaminant at a level which would cause the source's potential to emit to exceed reporting thresholds in Table A or B in Appendix 1.

(e) The Department shall separately evaluate each change submitted under (b)1 above to determine its effect on actual emissions. If a change, evaluated alone, would cause an increase in actual emissions (but not to a level over permit allowables), it shall be processed through a seven-day-notice, regardless of whether other, simultaneous changes might reduce emissions to compensate for the increase. For example, if a permittee plans two changes, one increasing emissions (but not to a level over permit allowables), and one reducing emissions by the same amount, the change which increases emissions shall be processed through a seven-day-notice. Similarly, the Department shall separately evaluate each change submitted under (b)1 above to determine its effect on allowable emissions. If a change, evaluated alone, would cause a permit limit to be exceeded, it may not be processed through a seven-day-notice, regardless of whether other, simultaneous changes might reduce emissions to compensate for the increase. For example, if a permittee plans two changes, one increasing emissions over a permit limit, and one reducing emissions by the same

amount, the change which increases emissions may not be processed through a seven-day-notice. Instead, the change shall be submitted as a permit revision under N.J.A.C. 7:27-8.18.

(f) The Department shall send an acknowledgment when a seven-day-notice, including the appropriate fee, is received. However, the acknowledgment only indicates the date upon which the Department received the notice. It does not mean that the Department has reviewed or approved the notice. Therefore, if the notice is incomplete or deficient, the Department's acknowledgment does not in any way relieve the owner or operator from liability for penalties for any unauthorized activities.

(g) If all of the requirements of this section are met, the permittee may begin the actions proposed in the seven-day-notice starting seven days after the notice has been submitted to the Department.

(h) The permittee shall maintain a copy of each seven-day-notice with the permit and certificate maintained at the facility.

New Rule, 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).

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).

Rewrote (b); in (d) and (e), inserted references to (b)1; and deleted a former (i).

7:27-8.21 Amendments

(a) An amendment allows a permittee to proceed with a change to a permitted source, or to its permit or certificate, provided that the permittee submits a notice of the change within 120 days after the start of the change.

(b) A permittee shall notify the Department of the following changes as an amendment:

1. A change in the permit and certificate information which allows the Department to identify and contact the permittee, including company name or mailing address; division name; plant name or address; name or address of any owner's agent; or name or telephone number of the on-site facility manager, any additional plant contact, or of any responsible official (as defined at N.J.A.C. 7:27-1.4);

2. A transfer of ownership or operational control of the source or the facility;

3. A change to the name, number, or designation given to any equipment or stack in the permit or certificate;

4. Any of the following changes to a permitted source's stack or chimney or the use thereof, if the change complies with EPA stack height regulations at 40 CFR Part 51:

i. A change in the number of stacks or chimneys serving the source, if the change does not result in any discharge height less than that of the tallest stack or chimney existing prior to the change;

ii. A decrease in the diameter of a stack or chimney, if the exhaust is vented upward;

iii. The replacement of an existing stack or chimney with a taller stack or chimney, if this results in an effective stack height which is no less than that existing before the change; or

iv. An increase in the exit temperature or volume of gas emitted from a stack or chimney;

5. The use in a permitted source of a new raw material not specified in the permit (including a change in the contents of a storage tank or container), or a change in the source's use of a raw material outside the limits in the permit, if the change shall not cause any of the following:

i. An increase in actual emissions;

ii. Emission of a new air contaminant not specified in the permit and certificate, at a level that meets or exceeds the applicable reporting threshold in Appendix 1, Tables A and B; or

iii. The source to become subject to a requirement that did not previously apply;

6. Replacement of an entire permitted source with a replacement source which performs the same function as the replaced source and which, for each HAP that the replacement source may emit, has a potential to emit the HAP in an amount that is less than the applicable SOTA threshold levels in Appendix 1, Tables A and B; and

7. Correction of a typographical error, unless the correction would result in an increase in the actual or allowable emissions. If the correction would result in such an increase, the permittee shall:

i. File a permit revision under N.J.A.C. 7:27-8.18(a)1ii; or

ii. If the change does not meet the criteria for a permit revision at N.J.A.C. 7:27-8.18(a)1ii, the permittee shall submit a seven-day-notice under N.J.A.C. 7:27-8.20.

(c) The permittee shall maintain a copy of each amendment with the permit and certificate maintained at the facility.

New Rule, 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).

7:27-8.22 Changes to sources permitted under batch plant, pilot plant, and dual plant permitting procedures

(a) To make a change to a permit issued using the NJDEP Batch Production Plant Permit Procedure, refer to the procedures in technical manual number 1301, which covers certain batch plant permits. Technical manual 1301 is available at the address listed in N.J.A.C. 7:27-8.4(b).

(b) To make a change to a permit issued using the NJDEP Pilot Plant Permit Procedure, refer to the procedures in technical manual number 1302, which covers certain pilot plant permits. Technical manual 1302 is available at the address listed in N.J.A.C. 7:27-8.4(b).

(c) To make a change to a permit issued using the NJDEP Dual Plant Permit Procedure, refer to the procedures in technical manual number 1302, which covers certain dual plant permits. Technical manual 1302 is available at the address listed in N.J.A.C. 7:27-8.4(b).

(d) If the applicable technical manual referenced in (a) through (c) above does not provide a procedure for making the desired change, the change shall be processed through the applicable provisions of N.J.A.C. 7:27-8.17 through 8.21.

New Rule, 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).

7:27-8.23 Reconstruction

(a) A reconstruction is a replacement of part(s) of a significant source included in a process unit, or the replacement of part(s) of a 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. The Department shall publish this threshold dollar amount each November in the same New Jersey Register notice in which it publishes the current CPI and annual emission fee as required by N.J.A.C. 7:27-22.31(j);

(b) When evaluating whether a replacement of part(s) amounts to a reconstruction, the process unit and the control apparatus are considered separately. Thus, when determining the fixed capital cost of reconstructing a new process unit, the control apparatus serving the process unit is not included.

(c) The replacement of an entire significant source operation or control apparatus is not a reconstruction, regardless of its cost. Rather, it is construction, as defined at N.J.A.C. 7:27-8.1, and must be authorized through one of the following:

1. Department issuance of a new permit or
2. If allowed under N.J.A.C. 7:27-8.21(b)6, an amendment.

(d) A reconstruction of a permitted source shall be submitted and reviewed under the procedures for a permit revision at N.J.A.C. 7:27-8.18. If a replacement of part(s) of a permitted source does not constitute a reconstruction under (a) above, it may still require notice to the Department under the seven-day-notice or amendment provisions or Departmental approval of a permit revision, if the replacement meets one or more of the other criteria requiring either notice or a permit revision under N.J.A.C. 7:27-8.18 through 8.23.

(e) If a source is not covered by a permit and certificate, and a reconstruction is planned, the owner or operator of the source shall obtain a permit and certificate for the source pursuant to N.J.A.C. 7:27-8.3(a). If a replacement of part(s) of an unpermitted source does not constitute a reconstruction under (a) above, it would still require a permit if the replacement would result in an increase in actual emissions or would otherwise meet one or more of the other criteria set forth at N.J.A.C. 7:27-8.18 through 8.23 which determine when a permit revision is required. In that case, the replacement would constitute a modification and a permit shall be obtained for the source as required at N.J.A.C. 7:27-8.3(a).

New Rule, 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).

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).

7:27-8.24 Special provisions for construction but not operation

(a) As provided in N.J.S.A. 26:2C-9.2j, an applicant may construct, reconstruct, install, and/or put in place a source, including a control apparatus, while the Department reviews an application if:

1. The applicant has submitted a complete application to the Department, proposing the construction, reconstruction, installation, and/or placement of the source;
2. The applicant only constructs, reconstructs, installs, and/or places the source on footings or a foundation, and does not test or operate it;

3. The construction, reconstruction, installation, and/or placement is carried out as proposed in the application;

4. The construction, reconstruction, installation, and/or placement is not prohibited by any Federal law or requirement, including but not limited to PSD requirements, offsets requirements set forth at N.J.A.C. 7:27-18, MACT requirements, or acid rain requirements at 40 CFR Part 72; and

5. All other requirements of this section are met.

(b) To act under the authority of this section, the applicant shall notify the Department in writing seven days prior to beginning the activities listed in (a) above. This notice shall be submitted in accordance with the procedure for a seven-day-notice change at N.J.A.C. 7:27-8.20, and shall include the fee for a seven-day-notice set forth at N.J.A.C. 7:27-8.6.

(c) This section does not limit the Department in establishing construction, installation, maintenance, or operating standards, nor in reviewing any application.

(d) Costs incurred by the applicant in connection with actions taken under this section may not be used as grounds for an appeal of the Department's decision on the application.

(e) If the Department determines that the applicant has acted inconsistently with applicable law by any action taken under this section, the applicant shall be subject to penalties if the action has caused emissions of any air contaminant.

New Rule, 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).

7:27-8.25 Special provisions for pollution control equipment or pollution prevent process modifications

(a) As provided at N.J.S.A. 26:2C-9.3 and 9.4, a private entity, as defined at N.J.A.C. 7:27-8.1, may proceed with the following activities while an application covering those activities is being reviewed by the Department:

1. Construction, installation, reconstruction or operation of control apparatus serving an existing source; or

2. Implementation of a pollution prevention process modification, as defined at N.J.A.C. 7:27-8.1, involving one or more existing sources.

(b) This section does not authorize any activities which:

1. Are prohibited under the Federal Clean Air Act;
2. Shall result in increased emissions;
3. Shall result in emission of an air contaminant not previously emitted; or

4. If the source is covered by a permit or certificate, shall result in air contaminant emissions which are not authorized under that permit or certificate.

(c) To act under the authority of this section, the applicant shall:

1. Have submitted a complete application covering activities listed at (b) above; and

2. Notify the Department in writing seven days prior to beginning the activities listed in (b) above. This notice shall be submitted in accordance with the procedure for a seven-day-notice change at N.J.A.C. 7:27-8.20, and shall include the fee for a seven day notice set forth at N.J.A.C. 7:27-8.6.

(d) An applicant who acts under the authority of this section assumes all risks for the actions. If an applicant pursues activities under this section, and the Department does not approve the activities as proposed in the application, the applicant may be required to reverse the activities, and may be liable for penalties for the activities under (h) or (i) below. All emission reductions resulting from the disapproved activities shall not be eligible for DER credit generation.

(e) This section does not limit the Department in establishing standards, nor in reviewing any application.

(f) Costs incurred by the applicant in connection with actions taken under this section may not be used as grounds for an appeal of the Department's decision on the application.

(g) If the Department determines that actions taken at risk by the applicant under this section are inconsistent with applicable law, the Department and the applicant shall enter into an agreement. The agreement shall contain a date by which the applicant shall comply with the law. If the Department and the applicant fail to enter into an agreement, the Department may issue a schedule setting forth a date by which the applicant shall comply.

(h) If the applicant fails to comply with the schedule set under (g) above, the applicant shall be subject to penalties if the applicant's actions have caused:

1. Emission of an air contaminant not previously being emitted;
2. Emission of an air contaminant not authorized by an existing permit; or
3. An exceedance of an emission limit in an existing permit.

New Rule, 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).

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 (d), added the last sentence.

7:27-8.26 Civil or criminal penalties for failure to comply

Any person who is subject to 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-28.3 or both.

New Rule, R.1991 d.109, effective March 4, 1991 (operative March 31, 1991).

See: 22 N.J.R. 292(a), 23 N.J.R. 723(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).

Changed N.J.S.A. reference.

Case Notes

Failure of manufacturer to give notice of release of vinyl chloride monomer until 28 minutes after occurrence was not immediate enough to avoid penalty. Department of Environmental Protection and Energy v. Occidental Chemical, 95 N.J.A.R.2d (EPE) 119.

Failure to fulfill stack testing conditions set forth in permits for asphalt plants warranted imposition of civil penalties. Department of Environmental Protection v. Hamilton, 95 N.J.A.R.2d (EPE) 63.

Dispute over enforcement of penalties for exceedances of air contaminant allowables was not within agency jurisdiction. Department of Environmental Protection v. Trenton District Energy Company, 95 N.J.A.R.2d (EPE) 3.

Reduction of penalty; good compliance history and efforts at mitigation. Harrison Delivery Services v. DEPE, 94 N.J.A.R.2d (EPE) 30.

7:27-8.27 Special facility-wide permit provisions

(a) The holder of a facility-wide permit, as defined at N.J.A.C. 7:27-8.1, is not required to obtain a permit and certificate under this subchapter for a planned action or change if:

1. The production process affected by the action or change is identified in and subject to an approved facility-wide permit issued under N.J.S.A. 13:1D-35 et seq.;
2. The planned action or change is either:
 - i. Allowed under the facility-wide permit; or
 - ii. Documented in a modification to a Pollution Prevention Plan, which satisfies the requirements of N.J.A.C. 7:1K-3 and 4, or in a Pollution Prevention Assessment as defined in N.J.A.C. 7:1K-5; and
3. The planned action or change does not cause any of the following:
 - i. An increase in the generation of nonproduct output per unit of production manufactured by the equipment or production process;
 - ii. An exceedance of the maximum allowable concentration or rate of emission of any air contaminant for the production process or the entire facility, whichever is more stringent;

iii. An exceedance of the maximum allowable concentration or effluent limitation of any discharge to waters of the State; or

iv. The addition of a new production process.

(b) An action or change for which no permit is required under (a) above shall be reported to the Department within 120 days after the start of the action or change, as an amendment of the facility-wide permit. A copy of the Pollution Prevention Plan Modification or Pollution Prevention Assessment shall be submitted with the amendment to the facility-wide permit.

(c) If the holder of a facility-wide permit makes a change which does not meet the criteria at (a) above, the change would require a permit, or shall be processed through any applicable procedures for changes to existing permits at N.J.A.C. 7:27-8.17 through 8.22.

New Rule, R.1993 d.428, effective September 7, 1993 (operative October 4, 1993).

See: 24 N.J.R. 4323(a), 25 N.J.R. 4075(b).

New Rule, 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).

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 the section.

7:27-8.28 Delay of testing

(a) A permittee may seek the approval of the Department for a delay in testing required pursuant to N.J.A.C. 7:27-8.4(f), 8.7(f), or 8.13(d). In such case the following shall apply:

1. The permittee shall submit a request for such approval on paper to the address given at N.J.A.C. 7:27-8.4(b);

2. A request for a delay in testing shall include the following information, at a minimum:

i. Justification why the delay in testing is necessary;

ii. A proposed test date or a proposed set of conditions that would define a future test date; and

iii. Certification signed by the responsible party at the facility and in accordance with the certification procedures at N.J.A.C. 7:27-1.39.

3. The Department shall approve each initial request for a delay in testing of up to 90 days; the permittee may request this delay for any reason that the permittee has determined is valid. However, if the permittee again requests a subsequent delay in testing, the Department shall approve such further delay only if one of the following criteria is met:

i. The test was delayed due to a Department delay, such as if the protocol is still under review/negotiation, but only if the protocol was submitted in a timely fashion;

ii. The equipment which is to be tested had not been installed; or

iii. There is some other impediment to the testing, which, based on its review of documentation submitted by the permittee, the Department has determined is a valid reason for further delaying the testing. This determination shall be made by the appropriate regional enforcement office.

(b) In a request for a delay of testing, submitted pursuant to (a) above, a permittee may include a waiver of its right to assert that its emissions during the period of delay were any different than the emissions measured by the test when performed (or, if applicable, the emissions calculated based on the measurements taken).

(c) A permittee who delays testing (even if the delay is approved by the Department) is subject to N.J.A.C. 7:27-30.14(a)5, pursuant to which the permittee may be required to provide compensation through use of DER credits.

New Rule, 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).

APPENDIX 1

TABLE A
Reporting and SOTA thresholds
(Potential to emit)

| Air Contaminant | Reporting Threshold ¹ (in lbs/hour) | SOTA Threshold ² (in tons/yr) |
|--|---|---|
| Total VOC | 0.05 | 5.0 |
| TSP | 0.05 | 5.0 |
| PM-10 | 0.05 | 5.0 |
| NO _x | 0.05 | 5.0 |
| CO | 0.05 | 5.0 |
| SO ₂ | 0.05 | 5.0 |
| Each TXS | 0.01 | See Table B |
| Each HAP | See Table B | See Table B |
| Any air contaminant listed in footnote 3 | 0.05 | 5.0 |

¹If a source emits an air contaminant that both belongs to an air contaminant class that appears on Table A and is also a HAP found on Table B, emissions of the air contaminant must be taken into consideration in a permit application in determining if the Table A reporting threshold is met, as well as if the Table B reporting threshold is met. If both the Table A and the Table B reporting thresholds are met, emissions of that air contaminant must be included in the emissions reported in application forms for both Table 1 air contaminants and Table 2 HAPs.

²If a source emits an air contaminant that appears on Table A and is also a HAP found on Table B, the lower of the two SOTA thresholds applies.

³Any 112(r) contaminant; any stratospheric ozone depleting substance, or any greenhouse gas.

TABLE B
Reporting and SOTA thresholds for HAPs
(Potential to emit)

| CAS Number | Air Contaminant | Reporting Threshold (lbs/yr) | SOTA Threshold (lbs/yr) |
|------------|----------------------------|---------------------------------|----------------------------|
| 75070 | Acetaldehyde | 1,800 | 10,000 |
| 60355 | Acetamide | 200 | 2,000 |
| 75058 | Acetonitrile | 800 | 8,000 |
| 98862 | Acetophenone | 200 | 2,000 |
| 53963 | 2-Acetylaminofluorene | 1 | 10 |
| 107028 | Acrolein | 8 | 80 |
| 79061 | Acrylamide | 4 | 40 |
| 79107 | Acrylic acid | 120 | 1,200 |
| 107131 | Acrylonitrile | 60 | 600 |
| 107051 | Allyl chloride | 200 | 2,000 |
| 92671 | 4-Aminobiphenyl | 200 | 2,000 |
| 62533 | Aniline | 200 | 2,000 |
| 90040 | o-Anisidine | 200 | 2,000 |
| 71432 | Benzene | N/A ³ | 4,000 |
| 92875 | Benzidine | 0.06 | 0.6 |
| 98077 | Benzotrithloride | 1.2 | 12 |
| 100447 | Benzyl chloride | 20 | 200 |
| 92524 | Biphenyl | 2,000 | 10,000 |
| 117817 | Bis(2-ethylhexyl)phthalate | 1000 | 10,000 |
| 542881 | Bis(chloromethyl)ether | 0.06 | 0.6 |
| 75252 | Bromoform | 2,000 | 10,000 |
| 106990 | 1,3-Butadiene | 14 | 140 |
| 156627 | Calcium cyanamide | 2,000 | 10,000 |

| CAS Number | Air Contaminant | Reporting Threshold (lbs/yr) | SOTA Threshold (lbs/yr) |
|------------|--------------------------------|---------------------------------|----------------------------|
| 133062 | Captan | 2,000 | 10,000 |
| 63252 | Carbaryl | 2,000 | 10,000 |
| 75150 | Carbon disulfide | 200 | 2,000 |
| 56235 | Carbon tetrachloride | N/A ⁴ | 2,000 |
| 463581 | Carbonyl sulfide | 1,000 | 10,000 |
| 120809 | Catechol | 1,000 | 10,000 |
| 133904 | Chloramben | 200 | 10,000 |
| 57749 | Chlordane | 2 | 20 |
| 7782505 | Chlorine | 20 | 200 |
| 79118 | Chloroacetic acid | 20 | 200 |
| 532274 | 2-Chloroacetophenone | 12 | 120 |
| 108907 | Chlorobenzene | 2,000 | 10,000 |
| 510156 | Chlorobenzilate | 80 | 800 |
| 67663 | Chloroform | N/A ⁵ | 1,800 |
| 107302 | Chloromethyl ethyl ether | 20 | 200 |
| 126998 | Chloroprene | 200 | 2,000 |
| 1319773 | Cresols/Cresylic acid | 200 | 2,000 |
| 95487 | o-Cresol | 200 | 2,000 |
| 108394 | m-Cresol | 200 | 2,000 |
| 106445 | p-Cresol | 200 | 2,000 |
| 98828 | Cumene | 2,000 | 10,000 |
| 94757 | 2,4-D | 2,000 | 10,000 |
| 547044 | DDE | 2 | 20 |
| 334883 | Diazomethane | 200 | 2,000 |
| 132649 | Dibenzofurans | 1,000 | 10,000 |
| 96128 | 1,2-Dibromo-3-chloropropane | 2 | 200 |
| 84742 | Dibutylphthalate | 2,000 | 10,000 |
| 106467 | 1,4-Dichlorobenzene | 600 | 6,000 |
| 91941 | 3,3-Dichlorobenzidine | 40 | 400 |
| 111444 | Dichloroethyl ether | 12 | 120 |
| 542756 | 1,3-Dichloropropene | 200 | 2,000 |
| 62737 | Dichlorvos | 40 | 400 |
| 111422 | Diethanolamine | 1,000 | 10,000 |
| 121697 | N,N-Diethyl aniline | 200 | 2,000 |
| 64675 | Diethyl sulfate | 200 | 2,000 |
| 119904 | 3,3-Dimethoxybenzidine | 20 | 200 |
| 60117 | Dimethyl aminoazobenzene | 200 | 2,000 |
| 119937 | 3,3-Dimethyl benzidine | 1.6 | 16 |
| 79447 | Dimethyl carbamoyl chloride | 4 | 40 |
| 68122 | Dimethyl formamide | 200 | 2,000 |
| 57147 | 1,1-Dimethyl hydrazine | 1.6 | 16 |
| 131113 | Dimethyl phthalate | 2,000 | 10,000 |
| 77781 | Dimethyl sulfate | 20 | 200 |
| 534521 | 4,6-Dinitro-o-cresol | 20 | 200 |
| 51285 | 2,4-Dinitrophenol | 200 | 2,000 |
| 121142 | 2,4-Dinitrotoluene | 4 | 40 |
| 123911 | 1,4-Dioxane | N/A ⁶ | 10,000 |
| 122667 | 1,2-Diphenylhydrazine | 18 | 180 |
| 106898 | Epichlorohydrin | 400 | 4,000 |
| 106887 | 1,2-Epoxybutane | 200 | 2,000 |
| 140885 | Ethyl acrylate | 200 | 2,000 |
| 100414 | Ethyl benzene | 2,000 | 10,000 |
| 51796 | Ethyl carbamate | 160 | 1,600 |
| 75003 | Ethyl chloride | 2,000 | 10,000 |
| 106934 | Ethylene dibromide | 20 | 200 |
| 107062 | Ethylene dichloride | N/A ⁸ | 1,600 |
| 107211 | Ethylene glycol | 2,000 | 10,000 |
| 151564 | Ethylene imine | 0.6 | 6 |
| 75218 | Ethylene oxide | 20 | 200 |
| 96457 | Ethylene thiourea | 120 | 1,200 |
| 75343 | Ethylidene dichloride | 200 | 2,000 |
| 50000 | Formaldehyde | 400 | 4,000 |
| 76448 | Heptachlor | 4 | 40 |
| 118741 | Hexachlorobenzene | 2 | 20 |
| 87683 | Hexachlorobutadiene | 180 | 1,800 |
| 77474 | Hexachlorocyclopentadiene | 20 | 200 |
| 67721 | Hexachloroethane | 1,000 | 10,000 |
| 822060 | Hexamethylene-1,6-diisocyanate | 4 | 40 |
| 680319 | Hexamethylphosphoramide | 2 | 20 |
| 110543 | Hexane | 2,000 | 10,000 |
| 302012 | Hydrazine | 0.8 | 8 |

| CAS Number | Air Contaminant | Reporting Threshold (lbs/yr) | SOTA Threshold (lbs/yr) | CAS Number | Air Contaminant | Reporting Threshold (lbs/yr) | SOTA Threshold (lbs/yr) |
|------------|------------------------------------|------------------------------|-------------------------|------------|--|------------------------------|-------------------------|
| 7647010 | Hydrochloric acid | 2,000 | 10,000 | 75014 | Vinyl chloride | 40 | 400 |
| 7664393 | Hydrogen fluoride | 20 | 200 | 75354 | Vinylidene chloride | 80 | 800 |
| 123319 | Hydroquinone | 200 | 2,000 | 1330207 | Xylenes | 2,000 | 10,000 |
| 78591 | Isophorone | 2,000 | 10,000 | 95476 | o-Xylenes | 2,000 | 10,000 |
| 58899 | Lindane | 2 | 20 | 108380 | m-Xylenes | 2,000 | 10,000 |
| 108316 | Maleic anhydride | 200 | 2,000 | 106423 | p-Xylenes | 2,000 | 10,000 |
| 67561 | Methanol | 2,000 | 10,000 | | | | |
| 72435 | Methoxychlor | 2,000 | 10,000 | | | | |
| 74839 | Methyl bromide | 2,000 | 10,000 | | | | |
| 74873 | Methyl chloride | 2,000 | 10,000 | | | | |
| 71556 | Methyl chloroform | 2,000 | 10,000 | 7783702 | Antimony compounds ¹⁴ | 1000 | 10,000 |
| 78933 | Methyl ethyl ketone | 2,000 | 10,000 | 8300745 | Antimony pentafluoride | 20 | 200 |
| 60344 | Methyl hydrazine | 12 | 120 | 1309644 | Antimony potassium tartrate | 200 | 2,000 |
| 74884 | Methyl iodide | 200 | 2,000 | 1345046 | Antimony trioxide | 200 | 2,000 |
| 108101 | Methyl isobutyl ketone | 2,000 | 10,000 | | Antimony trisulfide | 20 | 2,000 |
| 624839 | Methyl isocyanate | 20 | 200 | | Arsenic and inorganic arsenic compounds | 1 | 10 |
| 80626 | Methyl methacrylate | 2,000 | 10,000 | 7784421 | Arsine | 1 | 10 |
| 1634044 | Methyl tert butyl ether | 2,000 | 10,000 | — | Beryllium compounds ¹⁵ | 1.6 | 16 |
| 101144 | 4,4-Methylene bis(2-chloroaniline) | 40 | 400 | — | Beryllium salts | 0.004 | 0.04 |
| 75092 | Methylene chloride | 2,000 | 10,000 | 130618 | Cadmium compounds | 2 | 20 |
| 101688 | Methylene diphenyl diisocyanate | 20 | 200 | — | Cadmium oxide | 2 | 20 |
| 101779 | 4,4'-Methylene dianiline | 200 | 2,000 | — | Chromium compounds ¹⁶ | 1000 | 10,000 |
| 91203 | Naphthalene | 2,000 | 10,000 | — | Hexavalent chromium compounds | 0.4 | 4 |
| 98953 | Nitrobenzene | 200 | 2,000 | | Trivalent chromium compounds | 1000 | 10,000 |
| 92933 | 4-Nitrobiphenyl | 200 | 2,000 | 10025737 | Chromic chloride | 2.0 | 20 |
| 100027 | 4-Nitrophenol | 1,000 | 10,000 | 744084 | Cobalt metal and compounds ¹⁷ | 20 | 200 |
| 79469 | 2-Nitropropane | 200 | 2,000 | 10210681 | Cobalt carbonyl | 20 | 200 |
| 684935 | N-Nitroso-N-methylurea | 0.04 | 0.4 | 62207765 | Fluomine | 20 | 200 |
| 62759 | N-Nitrosodimethylamine | 0.2 | 2 | — | Coke oven emissions | 6 | 60 |
| 59892 | N-Nitrosomorpholine | 200 | 2,000 | — | Cyanide compounds | 1,000 | 10,000 |
| 56382 | Parathion | 20 | 200 | 0151508 | Potassium cyanide | 20 | 200 |
| 82688 | Pentachloronitrobenzene | 60 | 600 | 143339 | Sodium cyanide | 20 | 200 |
| 87865 | Pentachlorophenol | 140 | 1,400 | — | Glycol ethers ¹⁹ | 1,000 | 10,000 |
| 108952 | Phenol | 20 | 200 | 110805 | 2-Ethoxy ethanol | 2,000 | 10,000 |
| 106503 | p-Phenylenediamine | 2,000 | 10,000 | 111762 | Ethylene glycol monobutyl ether | 2,000 | 10,000 |
| 75445 | Phosgene | 20 | 200 | 108864 | 2-Methoxy ethanol | 2,000 | 10,000 |
| 7803512 | Phosphine | 1,000 | 10,000 | — | Lead and compounds ²⁰ | 2 | 20 |
| 7723140 | Phosphorus | 20 | 200 | 78002 | Tetraethyl lead | 2 | 20 |
| 85449 | Phthalic anhydride | 1,000 | 10,000 | 75741 | Tetramethyl lead | 2 | 20 |
| 1336363 | Polychlorinated biphenyls | 1.8 | 18 | 7439965 | Manganese and compounds ²¹ | 160 | 1,600 |
| 1120714 | 1,3-Propane sultone | 6 | 60 | 12108133 | Methylcyclopentadienyl manganese | 20 | 200 |
| 57578 | beta-Propiolactone | 20 | 200 | — | Mercury compounds ²² | 2 | 20 |
| 123386 | Propionaldehyde | 1,000 | 10,000 | — | Elemental mercury | 2 | 20 |
| 114261 | Propoxur | 2,000 | 10,000 | 748794 | Mercuric chloride | 2 | 20 |
| 78875 | Propylene dichloride | 200 | 2,000 | 10045940 | Mercuric nitrate | 2 | 20 |
| 75569 | Propylene oxide | 1,000 | 10,000 | 62384 | Phenyl mercuric acetate | 2 | 20 |
| 75558 | 1,2-Propylenimine | 0.6 | 60 | — | Nickel compounds ²³ | 200 | 2,000 |
| 91225 | Quinoline | 1.2 | 120 | 13463393 | Nickel carbonyl | 20 | 200 |
| 106514 | Quinone | 1,000 | 10,000 | 12035722 | Nickel refinery dust | 16 | 160 |
| 100425 | Styrene | 200 | 2,000 | — | Nickel subsulfide | 8 | 80 |
| 96093 | Styrene oxide | 200 | 2,000 | — | Polycyclic organic matter ²⁴ | 2 | 20 |
| 1746016 | 2,3,7,8-TCDD | .00012 | .0012 | 56553 | Benz(a)anthracene | 2 | 20 |
| 79345 | 1,1,2,2-Tetrachloroethane | 60 ¹⁰ | 600 | 225514 | Benz(c)acridine | 2 | 20 |
| 127184 | Tetrachloroethylene | N/A ¹¹ | 10,000 | 50328 | Benzo(a)pyrene | 2 | 20 |
| 7550450 | Titanium tetrachloride | 20 | 200 | 205992 | Benzo(b)fluoranthene | 2 | 20 |
| 108883 | Toluene | 2,000 | 10,000 | 218019 | Chrysene | 2 | 20 |
| 95807 | 2,4-Toluene diamine | 4 | 40 | 53703 | Dibenz(a,h)anthracene | 2 | 20 |
| 584849 | 2,4-Toluene diisocyanate | 20 | 200 | 189559 | 1,2:7,8-Dibenzopyrene | 2 | 20 |
| 95534 | o-Toluidine | 200 | 2,000 | 57976 | 7,12-Dimethylbenz(a)anthracene | 2 | 20 |
| 8001352 | Toxaphene | 2 | 20 | 193395 | Indeno(1,2,3-c,d)pyrene | 2 | 20 |
| 120821 | 1,2,4-Trichlorobenzene | 2,000 | 10,000 | 7782492 | Selenium compounds ²⁵ | 20 | 200 |
| 79005 | 1,1,2-Trichloroethane | N/A ¹² | 2,000 | 7783075 | Hydrogen selenide | 20 | 200 |
| 79016 | Trichloroethylene | N/A ¹³ | 10,000 | 7488564 | Selenium sulfide (mono and di) | 20 | 200 |
| 95954 | 2,4,5-Trichlorophenol | 200 | 2,000 | 13410010 | Sodium selenate | 20 | 200 |
| 88062 | 2,4,6-Trichlorophenol | 1,200 | 10,000 | 10102188 | Sodium selenite | 20 | 200 |
| 121448 | Triethylamine | 2,000 | 10,000 | — | Total dioxin and furans ²⁶ | 0.00012 | 0.0012 |
| 1582098 | Trifluralin | 1,800 | 10,000 | | | | |
| 540841 | 2,2,4-Trimethylpentane | 1,000 | 10,000 | | | | |
| 108054 | Vinyl acetate | 200 | 2,000 | | | | |
| 593602 | Vinyl bromide | 120 | 1,200 | | | | |

³The reporting threshold for this air contaminant is based on hourly, rather than annual, emissions. Because this air contaminant is a TXS subject to the reporting threshold in Table A, the reporting threshold for this contaminant is 0.01 pounds per hour.

⁴See footnote 3.

⁵See footnote 3.

⁶See footnote 3.

⁷Emissions of this air contaminant must be reported if emissions exceed either the hourly emissions reporting threshold for a TXS in Table A (.01 pounds per hour), or the annual emissions threshold listed above in Table B.

⁸See footnote 3.

⁹See footnote 7.

¹⁰See footnote 7.

¹¹See footnote 3.

¹²See footnote 3.

¹³See footnote 3.

¹⁴Some compounds or subgroups included in this chemical group are also individually named in this table. If a compound or subgroup is individually listed, the threshold listed for the compound or subgroup takes precedence over the threshold listed for the chemical group as a whole. If a compound or subgroup is not individually listed, the threshold for the entire chemical group applies to each compound or subgroup included in the chemical group.

¹⁵See footnote 14.

¹⁶See footnote 14.

¹⁷See footnote 14.

¹⁸See footnote 14.

¹⁹See footnote 14.

²⁰See footnote 14.

²¹See footnote 14.

²²See footnote 14.

²³See footnote 14.

²⁴See footnote 14.

²⁵See footnote 14.

²⁶As defined in EPA/625/3-87/012, Interim Procedures for Estimating Risks Associated with Exposure to Mixtures of Chlorinated-p-Dioxins and Dibenzofurans.

New Rule, 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).

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 the appendix.

SUBCHAPTER 9. SULFUR IN FUELS

Subchapter Historical Note

Amendments to this subchapter which replaced the earlier numbering and text were adopted pursuant to authority of N.J.S.A. 13:1D-1 et seq. and were filed on August 10, 1978, as R.1978 d.276 to become effective on October 12, 1978. See: 10 N.J.R. 234(a), 10 N.J.R. 383(c). Amendments which changed the effective date of these rules to December 31, 1978, or such earlier date as formal federal approval is granted was filed on October 10, 1978 as R.1978 d.361. See: 10 N.J.R. 479(c). Further amendments which changed the effective date to July 12, 1979, were filed and became effective on January 10, 1979, as R.1979 d.10. See: 11 N.J.R. 63(c).

This subchapter was previously amended by R.1976 d.81, effective March 12, 1976 (See: 8 N.J.R. 181(a)) and R.1976 d.100, effective March 31, 1976 (See: 8 N.J.R. 222(a)). Formal federal approval for these amended rules was obtained on June 4, 1979.

7:27-9.1 Definitions

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

“Aerodynamic downwash” means the rapid descent of a plume to ground level with little dilution and dispersion as a result of alteration of background air flow characteristics caused by the presence of buildings or other obstacles in the vicinity of the emission point.

“Air quality simulation model” means a mathematical procedure for predicting the ambient air concentration of pollutants resulting from the dispersive properties of the atmosphere.

“Ambient air quality standard” means a limit on the concentration of a contaminant in the general outdoor atmosphere, which cannot be exceeded without causing or tending to cause injury to human health, welfare, animal or plant life, or property, or unreasonably interfering with the enjoyment of life and property, excluding all aspects of employer-employee relationship as to health and safety hazards.

“Carbon dioxide (CO₂)” means a colorless, odorless gas at standard conditions, having a molecular composition of one carbon atom and two oxygen atoms.

“Fuel” means gaseous, liquid, or liquefiable petroleum product (excluding coal) which is produced, manufactured, used or sold for the purpose of creating useful heat.

“Fuel oil” means a liquid or liquefiable petroleum product burned for lighting or for the generation of heat or power and derived directly or indirectly from crude oil.

“Mathematical combination” means the summation of the emissions from two or more stacks or chimneys and the regulation of those emissions as if they came from the same sources venting through a single stack.

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

“Municipal solid waste (MSW)” means residential, commercial, and institutional non-hazardous solid waste.

“Solid fuel” means solid material or any substance derived from solid material used or to be used for the purpose of creating useful heat and includes, but is not limited to, coal, gasified coal, liquified coal, solid solvent-refined coal, municipal solid waste, refuse-derived fuel, and wood.

“SSU viscosity” means the number of seconds it takes 60 cubic centimeters of an oil to flow through the standard orifice of a Saybolt Universal viscometer at 100 degrees Fahrenheit.

“Stack or chimney” means a flue, conduit or opening designed, constructed, and/or utilized for the purpose of emitting air contaminants into the outdoor air.

“Sulfur dioxide (SO₂)” means a colorless gas at standard conditions, having a molecular composition of one sulfur atom and two oxygen atoms.

“Viscosity” means the measure of a fluid’s resistance to flow.

“Zone 1” means Atlantic, Cape May, Cumberland, and Ocean Counties.

“Zone 2” means Hunterdon, Sussex, and Warren Counties.

“Zone 3” means Burlington, Camden, Gloucester, and Mercer Counties except those municipalities included in Zone 6.

“Zone 4” means Bergen, Essex, Hudson, Middlesex, Monmouth, Morris, Passaic, Somerset, and Union Counties.

“Zone 5” means Salem County.

“Zone 6” means in Burlington County, the municipalities of Bass River Township, Shamong Township, Southampton Township, Tabernacle Township, Washington Township, Woodland Township, and in Camden County, Waterford Township.

As amended, R.1982 d.456, effective December 6, 1982 (operative February 4, 1983).

See: 13 N.J.R. 870(a), 14 N.J.R. 1452(a).

“Air quality simulation model”, “Mathematical combination”, “Municipal solid waste”, and “solid fuel” defined.

Administrative correction to delete definition “Oxygen”.

See: 23 N.J.R. 1166(b).

7:27-9.2 Sulfur content standards

(a) No person shall store, offer for sale, sell, deliver or exchange in trade for use in New Jersey fuel which contains sulfur in excess of a percentage by weight set forth in Table 1 of this section, except as provided in (c), (d) and (e) below, and N.J.A.C. 7:27-9.5.

(b) No person shall use fuel which contains sulfur in excess of a percentage by weight set forth in Table 1 of this section, except as provided in (c), (d), and (e) below, and N.J.A.C. 7:27-9.5.

**TABLE 1
MAXIMUM ALLOWABLE SULFUR IN FUEL**

| Typical Grades of Fuel Oil | Classification by SSU Viscosity at 100°F | Percent Sulfur by Weight | | | |
|----------------------------|---|--------------------------|-----------------|--------|-----------------|
| | | Zone 1 | Zone 2 & Zone 5 | Zone 3 | Zone 4 & Zone 6 |
| No. 2 & lighter | Less than or equal to 45, including gases | 0.3% | 0.3% | 0.2% | 0.2% |

| Typical Grades of Fuel Oil | Classification by SSU Viscosity at 100°F | Percent Sulfur by Weight | | | |
|----------------------------|--|--------------------------|-----------------|--------|-----------------|
| | | Zone 1 | Zone 2 & Zone 5 | Zone 3 | Zone 4 & Zone 6 |
| No. 4 | Greater than 45 but less than 145 | 2.0% | 0.7% | 0.3% | 0.3% |
| No. 5, No. 6 & heavier | Equal to or greater than 145 | 2.0% | 1.0% | 0.5% | 0.3% |

(c) The provisions of (a) and (b) above shall not apply to fuels whose combustion causes sulfur dioxide emissions from any stack or chimney into the outdoor atmosphere which are demonstrated to the Department as not exceeding, at any time, those quantities of sulfur dioxide expressed in pounds per 1,000,000 British Thermal Units (BTU) gross heat input, set forth in Table 2 of this section.

**TABLE 2
MAXIMUM ALLOWABLE SULFUR DIOXIDE EMISSIONS**

| Typical Grades of Fuel Oil | Classification by SSU Viscosity at 100°F | SO ₂ Emissions (lbs./10 ⁶ BTU) | | | |
|----------------------------|--|--|-----------------|--------|-----------------|
| | | Zone 1 | Zone 2 & Zone 5 | Zone 3 | Zone 4 & Zone 6 |
| No. 2 | Less than or equal to 45 | 0.32 | 0.32 | 0.21 | 0.21 |
| No. 4 | Greater than 45 but less than 145 | 2.10 | 0.74 | 0.32 | 0.32 |
| No. 5, No. 6 & heavier | Equal to or greater than 145 | 2.10 | 1.05 | 0.53 | 0.32 |

(d) The provisions of (a) and (b) above shall not apply to fuels included in an alternative emission control plan based on a mathematical combination approved by the Department. Application for such approval shall be made to the Department in writing and must include:

1. Certification that all source operations to be included in the mathematical combination are under the control of, or operated by, one person; and
2. Certification that the total sulfur dioxide emissions from the mathematical combination during each 24-hour period will not exceed the quantity of sulfur dioxide expressed in pounds per million BTU gross heat input set forth in Table 2 of this section; and
3. Certification that the total sulfur dioxide emissions from the mathematical combination during each 24-hour period will not exceed the maximum total weight of sulfur dioxide that all the sources in the mathematical combination were allowed to emit at the time of applying; and
4. Identification of each fuel burning unit and stack to be included in the mathematical combination; and
5. Identification of the grades of fuel to be burned in each unit, the maximum sulfur content of each fuel to be burned in each unit, the maximum gross heat input rate for each unit, the higher heating value of each fuel, and the annual fuel use and operating hours per year for each unit; and

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 un-

available, 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 (i) and Table 2 below); and

2. For CO, VOC and NO

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† |

| Method | Code |
|---|------|
| 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 |

| Control Apparatus | Code |
|--|------|
| 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 |
| High efficiency particulate air filter | 101 |

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
CN 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
CN 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 and other relevant factors, to predict the concentration of an air contaminant in the ambient air.

“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, careless 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. Copying and duplication activities for internal use and for support of office activities at the facility;

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;

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 which is used for the sole purpose of woodworking by sanding, drilling, cutting or planing, un-

painted wood or wood products, and which vents into a room; or

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.

“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 pre-construction 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, or prior to the subsequent applicable revisions to rules and regulations codified at N.J.A.C. 7:27-8 that occurred March 5, 1973, June 1, 1976, April 5, 1985, and October 31, 1994, and no construction, reconstruction or modification of the equipment or control apparatus has occurred since.

“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 a source operation which is one of the types of source operations set forth in paragraphs 1, 2, 5, 6, 7, 8, 9, 11, 14, 16, 17, or 18, in the definition of “significant source operation,” and which is smaller than, or has a lower production rate than, specified in the applicability levels for significant source operations.

“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:

| <u>Air Contaminant</u> | <u>Major Facility Threshold Level</u> |
|---------------------------|---------------------------------------|
| 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 63 and 61.

“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 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 permitting process, set forth at 40 CFR 52.21, which applies to new or modified major emitting facilities located in attainment areas. The EPA has delegated the administration of the PSD program in New Jersey to the Department.

“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:

1. Equipment used in a manufacturing process involving a surface coating operation or graphic arts operation including, but not limited to, spray and dip painting, roller coating, electrostatic depositing, surface stripping or spray cleaning, from which direct or indirect emissions of air contaminants occur and in which the quantity of coating or cleaning material used in any source operation is equal to or greater than one half gallon in any one hour;
2. All unheated open top surface cleaners having a top opening of greater than six square feet (0.56 square meters);
3. All heated open top surface cleaners;
4. All conveyORIZED surface cleaners;
5. Equipment, in addition to that set forth in paragraph 2, 3, and 4 above, used in a process involving surface cleaning or preparation including, but not limited to, degreasing, etching, pickling, or plating, from which direct or indirect emissions of any air contaminant occur from a tank or vessel, the capacity of which is in excess of 100 gallons;
6. Equipment, used in a process, other than as set forth in paragraphs 1, 2, 3, 4, and 5 above, from which direct or indirect emissions of any air contaminant occur and in which the combined weight of all raw materials, excluding air and water introduced into any one source operation is in excess of 50 pounds in any one hour;

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 VOC 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 having a heat input rate of 1,000,000 BTU per hour or greater to the burning chamber;

12. Any equipment used for the burning of noncommercial fuel, crude oil or process by-products in any form;

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 which has the potential to emit any TXS at a rate greater than 0.1 pounds per hour (45.4 grams per hour);

17. Any equipment required to have air pollution control apparatus pursuant to any applicable provision of N.J.A.C. 7:27-16;

18. Newspaper printing equipment from which direct or indirect emissions of air contaminants occur and in which the quantity of coating material used in any source operation is equal to or greater than one half gallon in any one hour.

“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 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)
1,1,2,2-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-1,1,2,2,3,3,4,4,4-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 saturations
cyclic, branched, or linear, completely fluorinated tertiary amines with no saturations
sulfur containing perfluorocarbons with no saturations 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.

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.

3. The applicable requirements of the acid deposition control program, consistent with 42 U.S.C. § 7651g(a);

4. The ability of EPA to obtain information from a facility pursuant to the requirements for recordkeeping, monitoring, inspections and entry at 42 U.S.C. § 7414; or

5. The Department's authority to enter and inspect a facility subject to this subchapter, pursuant to N.J.A.C. 7:27-1.

(g) A permit shield does not relieve the permittee of any liability for noncompliance with the operating permit.

7:27-22.18 Source emissions testing and monitoring

(a) This section sets forth the procedures by which the Department will implement the source emissions testing and monitoring requirements contained in an approved operating permit. Any deadline in this section may be extended through written approval by the Department, unless prohibited by Federal regulations. Such procedures shall be consistent with the federal rules for enhanced monitoring of stationary sources, set forth at 40 CFR Part 64.

(b) Within 90 days after approval of the operating permit, or within the time frame specified in the operating permit, a permittee shall submit, pursuant to this section, a request for approval of a protocol prepared in accordance with the Department's published technical manual on Air Contaminant Testing and Monitoring. The protocol shall describe how the permittee proposes to carry out any source emissions testing or monitoring, including any type of CMS monitoring, required by the operating permit. Any revisions of the technical manual will be subject to public input prior to finalization.

(c) The protocol shall, in accordance with the Department's technical manual on Air Contaminant Testing and Monitoring, include details of the implementation of the source emissions testing and monitoring practices required by the operating permit and shall specify sampling and analytical procedures, equipment specifications, example calculations, and the form in which data will be submitted.

(d) The Department will inform the permittee in writing of any deficiencies in the proposed protocol, and will provide a reasonable deadline for correction of the deficiencies. The permittee shall correct the deficiencies and resubmit the protocol to the Department within the deadline.

(e) If the operating permit requires source emissions testing, the permittee shall carry out the following initial source emissions testing procedures:

1. Contact the Department within 30 days after approval of the protocol and schedule a testing date;
2. Perform the source emissions testing within 180 days after the Department's approval of the operating permit; and

3. Submit the source emissions test report to the Department, within 45 days after completion of the source emissions testing. The test report shall include all raw field and laboratory data, as well as the operating and production parameters required by the approved protocol, so that the Department may reproduce the calculations and verify the findings of the test report. The test report shall be reviewed and certified pursuant to (h) before it is submitted to the Department.

(f) After completion of the initial source emissions testing required pursuant to (e) above, the permittee shall perform periodic source emissions testing in accordance with any applicable schedule in the operating permit, the approved protocol, and this section.

(g) If the operating permit requires monitoring using a CMS, the permittee shall perform the following initial procedures in accordance with the approved monitoring protocol:

1. Install the CMS by the date specified in the operating permit;
2. Calibrate, operate and maintain all components of the CMS to measure continuously and record continuously the parameters specified in the operating permit;
3. For facilities required to install CEMs, contact the Department within 30 days after approval of the monitoring protocol and schedule a date for a performance specification test to verify that the CEM is operating according to the requirements of the operating permit;
4. Perform the performance specification test prior to any required source emissions testing and within 90 days after the latter of the following events:
 - i. Installation of the CMS;
 - ii. The commencement of operation of the equipment being monitored; or
 - iii. Department approval of the testing protocol; and
5. Submit to the Department the performance specification report within 30 days after the completion of the performance specification test. The performance specification report shall include all raw field and laboratory data necessary for the Department to reproduce the test results as specified by the approved protocol and shall be reviewed and certified pursuant to (h) before it is submitted to the Department.

(h) Each source emissions test report or performance specification test report shall be reviewed and certified, pursuant to N.J.A.C. 7:27-1.39, by a licensed professional engineer or by an industrial hygienist certified by the American Board of Industrial Hygiene.

(i) The owner or operator of a facility subject to this subchapter shall, upon request of the Department, provide

testing facilities, exclusive of instrumentation and sensing devices, as may be necessary for the Department to determine the kind and amount of air contaminants emitted from any significant source operation at the facility. During testing by the Department, the significant source operation shall be operated, within their capacities, under conditions requested by the Department. The testing facilities may be either permanent or temporary, at the discretion of the owner or operator of the facility, and shall conform to all applicable laws, regulations, and rules concerning safe construction and safe practice.

(j) Each permittee shall meet all requirements of the approved protocol during the term of the operating permit.

(k) A permittee may seek the approval of the Department for a delay in testing required pursuant to a permit and/or this section. In such case the following shall apply:

1. The permittee shall submit a request for such approval on paper to the address given at N.J.A.C. 7:27-22.3(t) and to the appropriate regional enforcement office indicated in (k)1 i through iv below;

i. If the permitted source is located in Mercer, Middlesex, Monmouth, Ocean, or Union County:

Department of Environmental Protection
Central Regional Office
Air and Environmental Quality Compliance & Enforcement
Horizon Center, PO Box 407
Robbinsville, NJ 08625-0407.

ii. If the permitted source is located in Bergen, Essex, or Hudson County:

Department of Environmental Protection
Metropolitan Regional Office
Air and Environmental Quality Compliance & Enforcement
2 Babcock Place
West Orange, NJ 07052-5504.

iii. If the permitted source is located in Hunterdon, Morris, Passaic, Somerset, Sussex, or Warren County:

Department of Environmental Protection
Northern Regional Office
Air and Environmental Quality Compliance & Enforcement
1259 Route 46 East, Building 2
Parsippany-Troy Hills, NJ 07054-4191.

iv. If the permitted source is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, or Salem County:

Department of Environmental Protection
Southern Regional Office
Air and Environmental Quality Compliance & Enforcement
One Port Center
2 Riverside Drive, Suite 201
Camden, NJ 08103.

2. A request for a delay in testing shall include the following information, at a minimum:

i. Justification why the delay in testing is necessary;

ii. A proposed test date or a proposed set of conditions that would define a future test date; and

iii. Certification signed by the responsible party at the facility and in accordance with the certification procedures at N.J.A.C. 7:27-1.39.

3. The Department shall approve each initial request for a delay in testing of up to 90 days; the permittee may request this initial delay for any reason that the permittee has determined is valid. However, if the permittee again requests a subsequent delay in testing, the Department shall approve such further delay only if one of the following criteria is met:

i. The test was delayed due to a Departmental delay, such as if the protocol is still under review/negotiation, but only if the protocol was submitted in a timely fashion;

ii. The equipment which is to be tested had not been installed; or

iii. There is some other impediment to the testing, which, based on its review of documentation submitted by the permittee, the Department has determined is a valid reason for further delaying the testing.

(l) In a request for a delay of testing, submitted pursuant to (k) above, a permittee may include a waiver of its right to assert that its emissions during the period of delay were any different than the emissions measured by the test when performed (or, if applicable, the emissions calculated based on the measurements taken).

(m) A permittee who delays testing (even if the delay is approved by the Department) is subject to N.J.A.C. 7:27-30.14(a)5, pursuant to which the permittee may be required to provide compensation through use of DER credits.

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

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

Added (k) through (m).

7:27-22.19 Recordkeeping, reporting and compliance certification

(a) Each permittee shall maintain records of all source emissions testing or monitoring performed at the facility and required by the operating permit in accordance with this section. Records shall be maintained, for at least five years from the date of each sample, measurement, or report. Each permittee shall maintain all other records required by the operating permit for a period of five years from the date each record is made.

(b) Source emissions testing or monitoring records shall contain, at a minimum, the following information, unless alternative types of records or recordkeeping are expressly approved in the operating permit:

1. The date, source operation, and time of sampling or measurements;
2. The date(s) analyses were performed;
3. The company and the name of the person representing that company who was responsible for performing the sampling, measurements or analyses;
4. The analytical techniques or methods used;
5. The results of such analyses;
6. The operating conditions, as specified in the operating permit, existing at the time of sampling or measurement. If the record indicates a deviation from applicable requirements at a facility equipped with a CMS, the permittee shall include all CMS data recorded beginning one hour before the recorded deviation and continuing through one hour after the recorded deviation.
7. All calibration and maintenance records, and all original strip-chart recordings, or the equivalent for continuous monitoring instrumentation;
8. Copies of all reports required by the operating permit; and
9. Any other information required by the Department to interpret the monitoring data.

(c) A permittee shall submit reports of all source emissions testing and monitoring required by the operating permit, and supporting information, to the Department in accordance with (d) and (e) below. The reports shall conform to a format acceptable to the Department. The reports shall be certified pursuant to N.J.A.C. 7:27-1.39 by a responsible official.

(d) A report submitted pursuant to (c) above shall be submitted:

1. For a source emissions test report, within 45 days after the completion of the sampling, unless a longer period for submittal is approved in advance in writing by the Department; and
2. For a CMS report, within 30 days of completion of each calendar quarter for the calendar quarter; and
3. For any other report or supporting information relating to testing or monitoring required by the operating permit to be performed from January 1 through June 30, by July 30 of the same calendar year; or from July 1 through December 31, by January 30 of the following calendar year.

(e) Any report submitted pursuant to (c) above shall clearly identify all deviations from operating permit requirements, including those attributable to emergencies, startup, shutdown and maintenance, the probable cause of such deviations, and any corrective actions or preventive measures taken.

(f) Each permittee shall submit to the Department, at the address given in N.J.A.C. 7:27-22.9(d), and to EPA at the address given in N.J.A.C. 7:27-22.4(d), a periodic compliance certification, in accordance with the schedule for compliance certifications set forth in the compliance plan in the operating permit. This periodic compliance certification shall include the following:

1. For each applicable requirement, a statement that the facility is:
 - i. In compliance with the applicable requirement and, if so, whether the compliance is continuous or intermittent, as defined in the Federal rules for the enhanced monitoring of stationary sources set forth at 40 CFR Part 64;
 - ii. In compliance with a compliance schedule, included in the operating permit pursuant to N.J.A.C. 7:27-22.9(c)7ii, which includes a sequence of actions with milestones leading to compliance with the applicable requirement;
 - iii. In compliance with an order or consent decree not incorporated into a compliance schedule; or
 - iv. Not in compliance;

(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 submission 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 plus \$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).

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.

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

(d) An application for a minor modification pursuant to N.J.A.C. 7:27-22.23, or a significant modification pursuant to N.J.A.C. 7:27-22.24, shall be subject to preconstruction review, which will include a demonstration that any equip-

ment or control apparatus which is constructed, reconstructed, or modified incorporates advances in the art of air pollution control for the kind and amount of air contaminant emitted pursuant to N.J.A.C. 7:27-22.35.

(e) The Department will perform the preconstruction and operating permit reviews of an application for a minor or significant modification simultaneously. Ordinarily, the Department will issue an operating permit modification which includes preconstruction approval. However, if requested by an applicant for a modification, the Department will issue the preconstruction approval simultaneously with the draft permit which is forwarded to EPA pursuant to N.J.A.C. 7:27-22.12. This preconstruction approval will authorize the permittee to begin construction and operation of a minor modification, at the permittee's own risk, in accordance with N.J.A.C. 7:27-22.23. For a significant modification of the operating permit, the permittee may begin construction of a significant modification, but may not operate the modified facility until final issuance of the significant modification.

(f) If a facility or source operation becomes subject to a case-by-case MACT standard pursuant to N.J.A.C. 7:27-22.26(c) prior to issuance of an operating permit for the facility, the owner or operator of the facility shall establish a case-by-case MACT standard pursuant to N.J.A.C. 7:27-22.26(e). The owner or operator of the facility shall obtain and maintain a preconstruction permit and operating certificate pursuant to N.J.A.C. 7:27-8, which applies the case-by-case MACT standard to the appropriate source operation(s), until an operating permit covering the facility is issued which incorporates the case-by-case MACT standard.

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).

7:27-22.34 Early reduction of HAP emissions

(a) This section shall take effect upon EPA's interim approval of the Department's operating permit program.

(b) The Department may allow a six year extension of time for complying with a MACT or GACT standard promulgated by EPA for one or more source operations at a facility, if the source operation achieves sufficient early reductions of HAP emissions. To be eligible for such a compliance extension, an applicant shall demonstrate that, between the end of a representative year and the date upon which EPA proposed the MACT or GACT standard, the relevant source operation(s) at the facility achieved at least the following emission reductions:

1. Ninety percent of all non-particulate HAP emissions; and
2. Ninety-five percent of all particulate HAP emissions.

(c) An applicant seeking an extension pursuant to (b) above shall, in accordance with the procedures at 40 CFR 63 Subpart D, provide to the Department:

1. The quantity of verifiable actual emissions released from the facility during a representative year no earlier than 1987. No year may be used as the representative year for which there is any evidence that emissions during that year are artificially or substantially greater than emissions in other years prior to implementation of emissions reduction measures; and

2. A demonstration that the emissions in (c)1 above were reduced by at least the amounts required in (b) above, between the end of the representative year and the date upon which EPA proposed the MACT or GACT standard.

(d) If the Department approves the compliance extension, the Department will incorporate the compliance extension into the operating permit for the facility. The owner or operator of a source operation for which a compliance extension is approved, and incorporated by the Department into the operating permit, may delay compliance with the MACT or GACT standard otherwise applicable to the source operation for six years after the original compliance date, provided that all conditions of the operating permit are met, and the emission reductions demonstrated to have been achieved pursuant to (c) above are maintained throughout that time.

(e) A compliance extension pursuant to this section shall not be available with respect to any standard or requirement promulgated by EPA to protect health and the environment pursuant to 42 USC 7412(f). If EPA promulgates such a health-based standard, any facility subject to the health-based standard shall comply with such standard according to the schedule set by EPA.

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).

7:27-22.35 Advances in the art of air pollution control

(a) Newly constructed, reconstructed, or modified equipment and control apparatus which constitutes a significant source operation shall incorporate advances in the art of air pollution control as developed for the kind and amount of air contaminant emitted by the applicant's equipment and control apparatus as provided in this section.

(b) For equipment and control apparatus with a potential to emit hazardous air pollutants at less than the de minimis levels specified by the EPA pursuant to 42 U.S.C. 7412(g) and with a potential to emit less than five tons per year of any other air contaminant, the applicant need not document advances in the art of air pollution control, but instead shall document compliance with:

1. Reasonably available control technology (RACT) for the air contaminants emitted as set forth in this chapter;

2. Standards of Performance for New Sources of Air Pollution (NSPS), where applicable, as set forth at 40 CFR 60;

3. Any National Emission Standards for Hazardous Air Pollutants (NESHAP), where applicable, as set forth at 40 CFR 61, 63 or promulgated under 42 USC 7412; and

4. Any other applicable State or Federal standard or regulation, including any general operating permit issued pursuant to N.J.A.C. 7:27-22.14 which applies to that source operation.

(c) For equipment and control apparatus with a potential to emit any hazardous air pollutant equal to or greater than the de minimis levels specified by the EPA pursuant to 42 U.S.C. 7412(g) or with a potential to emit five tons per year or more of any other air contaminant, the applicant shall document advances in the art of air pollution control, in accordance with the following criteria, as applicable:

1. Best Available Control Technology (BACT) where applicable, as set forth at 50 CFR 52.21 for air contaminant emission increases subject to standards for prevention of significant deterioration (PSD) pursuant to 40 CFR 51;

2. Lowest Achievable Emission Rate (LAER) where applicable, as set forth at 40 CFR 51.165(a)(xiii) and N.J.A.C. 7:27-18 for air contaminants which cause a significant net emissions increase of a nonattainment air contaminant in an area which is nonattainment for that contaminant;

3. Maximum Achievable Control Technology (MACT) or Generally Achievable Control Technology (GACT), where applicable, for air contaminants subject to 40 CFR Subpart 63, governing HAPs;

4. A general operating permit issued pursuant to N.J.A.C. 7:27-22.14 which applies to that source operation; and

5. For any other air contaminant not covered under (c)1, 2, 3, or 4 above, emitted by a source operation with the potential to emit five or more tons per year of that air contaminant, the use of up-to-date technology and methods, reflected in equipment, control apparatus, and procedures, that when applied to an emission source will reasonably minimize emissions of that contaminant.

i. The Department will periodically publish technical manuals containing technology, methods, and performance levels which can be used by applicants for demonstrating advances in the art of air pollution control, after public input and comment. Such technology, methods and performance levels shall have been demonstrated to be reliable for similar air contaminant discharge parameters, and shall be available at reasonable cost commensurate with the reduction in air pollution.

ii. Once the Department has published a technical manual for advances in the art of air pollution control pursuant to (c)5i above, any application submitted which shows compliance with the technical manual shall be considered to incorporate advances in the art of air pollution control for the source operations covered by the technical manual. The Department will periodically review and update the technical manuals, with public notice and input. If the Department amends a technical manual, only applications submitted after the final publication of the amended technical manual shall be subject to it.

iii. Instead of relying on a technical manual for advances in the art of air pollution control, the applicant may propose case by case advances in the art of air pollution control, applicable to a specific source operation. If the Department confirms that the proposal includes up-to-date technology and methods reflected in equipment and procedures, that when applied to an emission source will reasonably minimize emissions, this shall constitute advances in the art of air pollution control for that specific source operation.

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).

APPENDIX

TABLE A

Thresholds for Reporting Emissions of Air Contaminants Other than Hazardous Air Pollutants (HAPs)

| Air Contaminant | Hourly Emissions (pounds per hour) |
|--|---------------------------------------|
| VOC | 0.05 |
| TSP | 0.05 |
| PM-10 | 0.05 |
| NO _x | 0.05 |
| CO | 0.05 |
| SO ₂ | 0.05 |
| Any other air contaminant ⁽¹⁾ | 0.05 |

(1) This air contaminant category shall apply to any other air contaminant, other than hazardous air pollutants (HAPs) that the facility has the potential to emit in a quantity greater than or equal to 100 tons per year.

TABLE B

Thresholds for Reporting Emissions of Hazardous Air Pollutants (HAPs)

| CAS Number | Air Contaminant | Annual Emissions (tons per year) (pounds per year) | |
|------------|-----------------------|---|------|
| 75070 | Acetaldehyde | 0.9 | 1800 |
| 60355 | Acetamide | 0.1 | 200 |
| 75058 | Acetonitrile | 0.4 | 800 |
| 98862 | Acetophenone | 0.1 | 200 |
| 53963 | 2-Acetylaminofluorene | 0.0005 | 1 |
| 107028 | Acrolein | 0.004 | 8 |
| 79061 | Acrylamide | 0.002 | 4 |
| 79107 | Acrylic acid | 0.06 | 120 |

| CAS | | Annual Emissions | | CAS | | Annual Emissions | |
|---------|-----------------------------|------------------|-------------------|---------|-----------------------------------|------------------|-------------------|
| Number | Air Contaminant | (tons per year) | (pounds per year) | Number | Air Contaminant | (tons per year) | (pounds per year) |
| 107131 | Acrylonitrile | 0.03 | 60 | 107062 | Ethylene dichloride | 0.08 | 160 |
| 107051 | Allyl chloride | 0.1 | 200 | 107211 | Ethylene glycol | 1 | 2000 |
| 92671 | 4-Aminobiphenyl | 0.1 | 200 | 151564 | Ethylene imine | 0.0003 | 0.6 |
| 62533 | Aniline | 0.1 | 200 | 75218 | Ethylene oxide | 0.01 | 20 |
| 90040 | o-Anisidine | 0.1 | 200 | 96457 | Ethylene thiourea | 0.06 | 120 |
| 71432 | Benzene | 0.2 | 400 | 75343 | Ethylidene dichloride | 0.1 | 200 |
| 92875 | Benzidine | 0.00003 | 0.06 | 50000 | Formaldehyde | 0.2 | 400 |
| 98077 | Benzotrichloride | 0.0006 | 1.2 | 76448 | Heptachlor | 0.002 | 4 |
| 100447 | Benzyl chloride | 0.01 | 20 | 118741 | Hexachlorobenzene | 0.001 | 2 |
| 92524 | Biphenyl | 1 | 2000 | 87683 | Hexachlorobutadiene | 0.09 | 180 |
| 117817 | Bis(2-ethylhexyl)phthalate | 0.5 | 1000 | 77474 | Hexachlorocyclopentadiene | 0.01 | 20 |
| 542881 | Bis(chloromethyl)ether | 0.00003 | 0.06 | 67721 | Hexachloroethane | 0.5 | 1000 |
| 75252 | Bromoform | 1 | 2000 | 822060 | Hexamethylene-1,6-diisocyanate | 0.002 | 4 |
| 106990 | 1,3-Butadiene | 0.007 | 14 | 680319 | Hexamethylphosphoramide | 0.001 | 2 |
| 156627 | Calcium cyanamide | 1 | 2000 | 110543 | Hexane | 1 | 2000 |
| 105602 | Caprolactam | 1 | 2000 | 302012 | Hydrazine | 0.0004 | 0.8 |
| 133062 | Captan | 1 | 2000 | 7647010 | Hydrochloric acid | 1 | 2000 |
| 63252 | Carbaryl | 1 | 2000 | 7664393 | Hydrogen fluoride | 0.01 | 20 |
| 75150 | Carbon disulfide | 0.1 | 200 | 123319 | Hydroquinone | 0.1 | 200 |
| 56235 | Carbon tetrachloride | 0.1 | 200 | 78591 | Isophorone | 1 | 2000 |
| 463581 | Carbonyl sulfide | 0.5 | 1000 | 58899 | Lindane | 0.001 | 2 |
| 120809 | Catechol | 0.5 | 1000 | 108316 | Maleic anhydride | 0.1 | 200 |
| 133904 | Chloramben | 0.1 | 200 | 67561 | Methanol | 1 | 2000 |
| 57749 | Chlordane | 0.001 | 2 | 72435 | Methoxychlor | 1 | 2000 |
| 7782505 | Chlorine | 0.01 | 20 | 74839 | Methyl bromide | 1 | 2000 |
| 79118 | Chloroacetic acid | 0.01 | 20 | 74873 | Methyl chloride | 1 | 2000 |
| 532274 | 2-Chloroacetophenone | 0.006 | 12 | 71556 | Methyl chloroform | 1 | 2000 |
| 108907 | Chlorobenzene | 1 | 2000 | 78933 | Methyl ethyl ketone | 1 | 2000 |
| 510156 | Chlorobenzilate | 0.04 | 80 | 60344 | Methyl hydrazine | 0.006 | 12 |
| 67663 | Chloroform | 0.09 | 180 | 74884 | Methyl iodide | 0.1 | 200 |
| 107302 | Chloromethyl ethyl ether | 0.01 | 20 | 108101 | Methyl isobutyl ketone | 1 | 2000 |
| 126998 | Chloroprene | 0.1 | 200 | 624839 | Methyl isocyanate | 0.01 | 20 |
| 1319773 | Cresols/Cresylic acid | 0.1 | 200 | 80626 | Methyl methacrylate | 1 | 2000 |
| 95487 | o-Cresol | 0.1 | 200 | 1634044 | Methyl tert butyl ether | 1 | 2000 |
| 108394 | m-Cresol | 0.1 | 200 | 101144 | 4,4-Methylene bis(2-chloraniline) | 0.02 | 40 |
| 106445 | p-Cresol | 0.1 | 200 | 75092 | Methylene chloride | 1 | 2000 |
| 98828 | Cumene | 1 | 2000 | 101688 | Methylene diphenyl diisocyanate | 0.01 | 20 |
| 94757 | 2,4-D | 1 | 2000 | 101779 | 4,4'-Methylenedianiline | 0.1 | 200 |
| 547044 | DDE | 0.001 | 2 | 91203 | Naphthalene | 1 | 2000 |
| 334883 | Diazomethane | 0.1 | 200 | 98953 | Nitrobenzene | 0.1 | 200 |
| 132649 | Dibenzofurans | 0.5 | 1000 | 92933 | 4-Nitrobiphenyl | 0.1 | 200 |
| 96128 | 1,2-Dibromo-3-chloropropane | 0.001 | 2 | 100027 | 4-Nitrophenol | 0.5 | 1000 |
| 84742 | Dibutylphthalate | 1 | 2000 | 79469 | 2-Nitropropane | 0.1 | 200 |
| 106467 | 1,4-Dichlorobenzene | 0.3 | 600 | 684935 | N-Nitroso-N-methylurea | 0.00002 | 0.04 |
| 91941 | 3,3-Dichlorobenzidine | 0.02 | 40 | 62759 | N-Nitrosodimethylamine | 0.0001 | 0.2 |
| 111444 | Dichloroethyl ether | 0.006 | 12 | 59892 | N-Nitrosomorpholine | 0.1 | 200 |
| 542756 | 1,3-Dichloropropene | 0.1 | 200 | 56382 | Parathion | 0.01 | 20 |
| 62737 | Dichlorvos | 0.02 | 40 | 82688 | Pentachloronitrobenzene | 0.03 | 60 |
| 111422 | Diethanolamine | 0.5 | 1000 | 87865 | Pentachlorophenol | 0.07 | 140 |
| 121697 | N,N-Diethyl aniline | 0.1 | 200 | 108952 | Phenol | 0.01 | 20 |
| 64675 | Diethyl sulfate | 0.1 | 200 | 106503 | p-Phenylenediamine | 1 | 2000 |
| 119904 | 3,3-Dimethoxybenzidine | 0.01 | 20 | 75445 | Phosgene | 0.01 | 20 |
| 60117 | Dimethyl aminoazobenzene | 0.1 | 200 | 7803512 | Phosphine | 0.5 | 1000 |
| 119937 | 3,3-Dimethyl benzidine | 0.0008 | 1.6 | 7723140 | Phosphorus | 0.01 | 20 |
| 79447 | Dimethyl carbamoyl chloride | 0.002 | 4 | 85449 | Phthalic anhydride | 0.5 | 1000 |
| 68122 | Dimethyl formamide | 0.1 | 200 | 1336363 | Polychlorinated biphenyls | 0.0009 | 1.8 |
| 57147 | 1,1-Dimethyl hydrazine | 0.0008 | 1.6 | 1120714 | 1,3-Propane sultone | 0.003 | 6 |
| 131113 | Dimethyl phthalate | 1 | 2000 | 57578 | beta-Propiolactone | 0.01 | 20 |
| 77781 | Dimethyl sulfate | 0.01 | 20 | 123386 | Propionaldehyde | 0.5 | 1000 |
| 534521 | 4,6-Dinitro-o-cresol | 0.01 | 20 | 114261 | Propoxur | 1 | 2000 |
| 51285 | 2,4-Dinitrophenol | 0.1 | 200 | 78875 | Propylene dichloride | 0.1 | 200 |
| 121142 | 2,4-Dinitrotoluene | 0.002 | 4 | 75569 | Propylene oxide | 0.5 | 1000 |
| 123911 | 1,4-Dioxane | 0.6 | 1200 | 75558 | 1,2-Propylenimine | 0.0003 | 0.6 |
| 122667 | 1,2-Diphenylhydrazine | 0.009 | 18 | 91225 | Quinoline | 0.0006 | 1.2 |
| 106898 | Epichlorohydrin | 0.2 | 400 | 106514 | Quinone | 0.5 | 1000 |
| 106887 | 1,2-Epoxybutane | 0.1 | 200 | 100425 | Styrene | 0.1 | 200 |
| 140885 | Ethyl acrylate | 0.1 | 200 | 96093 | Styrene oxide | 0.1 | 200 |
| 100414 | Ethyl benzene | 1 | 2000 | 1746016 | 2,3,7,8-TCDD | 0.00000006 | 0.00012 |
| 51796 | Ethyl carbamate | 0.08 | 160 | 79345 | 1,1,2,2-Tetrachloroethane | 0.03 | 60 |
| 75003 | Ethyl chloride | 1 | 2000 | 127184 | Tetrachloroethylene | 1 | 2000 |
| 106934 | Ethylene dibromide | 0.01 | 20 | 7550450 | Titanium tetrachloride | 0.01 | 20 |

| CAS Number | Air Contaminant | Annual Emissions (tons per year) | Annual Emissions (pounds per year) | CAS Number | Air Contaminant | Annual Emissions (tons per year) | Annual Emissions (pounds per year) |
|----------------------------------|--|----------------------------------|------------------------------------|------------|--|----------------------------------|------------------------------------|
| 108883 | Toluene | 1 | 2000 | | (except those listed*) | 0.1 | 200 |
| 95807 | 2,4-Toluene diamine | 0.002 | 4 | 13463393 | Nickel carbonyl | 0.01 | 20 |
| 584849 | 2,4-Toluene diisocyanate | 0.01 | 20 | 12035722 | Nickel refinery dust | 0.008 | 16 |
| 95534 | o-Toluidine | 0.1 | 200 | | Nickel subsulfide | 0.004 | 8 |
| 8001352 | Toxaphene | 0.001 | 2 | | Polycyclic organic matter (except those listed*) | 0.001 | 2 |
| 120821 | 1,2,4-Trichlorobenzene | 1 | 2000 | 56553 | Benz(a)anthracene | 0.001 | 2 |
| 79005 | 1,1,2-Trichloroethane | 0.1 | 200 | 225514 | Benz(c)acridine | 0.001 | 2 |
| 79016 | Trichloroethylene | 1 | 2000 | 50328 | Benzo(a)pyrene | 0.001 | 2 |
| 95954 | 2,4,5-Trichlorophenol | 0.1 | 200 | 205992 | Benzo(b)fluoranthene | 0.001 | 2 |
| 88062 | 2,4,6-Trichlorophenol | 0.86 | 1200 | 218019 | Chrysene | 0.001 | 2 |
| 121448 | Triethylamine | 1 | 2000 | 53703 | Dibenz(a,h)anthracene | 0.001 | 2 |
| 1582098 | Trifluralin | 0.9 | 1800 | 189559 | 1,2:7,8-Dibenzopyrene | 0.001 | 2 |
| 540841 | 2,2,4-Trimethylpentane | 0.5 | 1000 | 57976 | 7,12-Dimethylbenz(a)anthracene | 0.001 | 2 |
| 108054 | Vinyl acetate | 1 | 200 | 193395 | Indeno(1,2,3-c,d)pyrene | 0.001 | 2 |
| 593602 | Vinyl bromide | 0.06 | 120 | 7782492 | Selenium compounds (except those listed*) | 0.01 | 20 |
| 75014 | Vinyl chloride | 0.02 | 40 | 7783075 | Hydrogen selenide | 0.01 | 20 |
| 75354 | Vinylidene chloride | 0.04 | 80 | 7488564 | Selenium sulfide (mono and di) | 0.01 | 20 |
| 1330207 | Xylenes | 1 | 2000 | 13410010 | Sodium selenate | 0.01 | 20 |
| 95476 | o-Xylenes | 1 | 2000 | 10102188 | Sodium selenite | 0.01 | 20 |
| 108380 | m-Xylenes | 1 | 2000 | | | | |
| 106423 | p-Xylenes | 1 | 2000 | | | | |
| CHEMICAL COMPOUND CLASSES | | | | | | | |
| | Antimony compounds (except those listed*) | 0.5 | 1000 | | | | |
| 7783702 | Antimony pentafluoride | 0.01 | 20 | | | | |
| 8300745 | Antimony potassium tartrate | 0.1 | 200 | | | | |
| 1309644 | Antimony trioxide | 0.1 | 200 | | | | |
| 1345046 | Antimony trisulfide | 0.01 | 20 | | | | |
| | Arsenic & inorganic arsenic compounds | 0.0005 | 1 | | | | |
| 7784421 | Arsine | 0.0005 | 1 | | | | |
| | Beryllium compounds (except Be salts*) | 0.0008 | 1.6 | | | | |
| | Beryllium salts | 0.000002 | 0.004 | | | | |
| | Cadmium compounds | 0.001 | 2 | | | | |
| 130618 | Cadmium oxide | 0.001 | 2 | | | | |
| | Chromium compounds (except hexavalent & trivalent) | 0.5 | 1000 | | | | |
| | Hexavalent Chromium compounds | 0.0002 | 0.4 | | | | |
| | Trivalent Chromium compounds | 0.5 | 1000 | | | | |
| 10025737 | Chromic chloride | 0.001 | 2 | | | | |
| 744084 | Cobalt metal and compounds (except those listed*) | 0.01 | 20 | | | | |
| 10210681 | Cobalt carbonyl | 0.01 | 20 | | | | |
| 62207765 | Fluomine | 0.01 | 20 | | | | |
| | Coke oven emissions | 0.003 | 6 | | | | |
| | Cyanide compounds (except those listed*) | 0.5 | 1000 | | | | |
| 151508 | Potassium cyanide | 0.01 | 20 | | | | |
| 143339 | Sodium cyanide | 0.01 | 20 | | | | |
| | Glycol ethers (except those listed*) | 0.5 | 1000 | | | | |
| 110805 | 2-Ethoxy ethanol | 1 | 2000 | | | | |
| 111762 | Ethylene glycol monobutyl ether | 1 | 2000 | | | | |
| 108864 | 2-Methoxy ethanol | 1 | 2000 | | | | |
| | Lead and compounds (except those listed*) | 0.001 | 2 | | | | |
| 78002 | Tetraethyl lead | 0.001 | 2 | | | | |
| 75741 | Tetramethyl lead | 0.001 | 2 | | | | |
| 7439965 | Manganese and compounds (except those listed*) | 0.08 | 160 | | | | |
| 12108133 | Methylcyclopentadienyl manganese | 0.01 | 20 | | | | |
| | Mercury compounds (except those listed*) | 0.001 | 2 | | | | |
| | Elemental mercury | 0.001 | 2 | | | | |
| 748794 | Mercuric chloride | 0.001 | 2 | | | | |
| 10045940 | Mercuric nitrate | 0.001 | 2 | | | | |
| 62384 | Phenyl mercuric acetate | 0.001 | 2 | | | | |
| | Nickel compounds | | | | | | |

* For this chemical group, specific compounds or subgroups are named specifically in this table. For the remainder of the chemicals of the chemical group, a single de minimis value is listed; this value applies to compounds which are not named specifically.

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).

SUBCHAPTER 23. PREVENTION OF AIR POLLUTION FROM ARCHITECTURAL COATINGS AND CONSUMER PRODUCTS

Authority

N.J.S.A. 13:1B-3 and 26:2C-1 et seq., specifically N.J.S.A. 26:2C-8.

Source and Effective Date

R.1989 d.119, effective February 21, 1989 (operative March 26, 1989). See: 20 N.J.R. 2002(a), 21 N.J.R. 462(a).

Subchapter Historical Note

Notice of Rule Invalidation: Provisions of N.J.A.C. 7:27-23 held to require repromulgation and remanded to Commissioner, Department of Environmental Protection, for action consonant with the Administrative Procedure Act. In the Matter of the Adoption of Regulations Governing Volatile Organic Substances in Consumer Products, N.J.A.C. 7:27-23, *N.J. Super. —, Dkt. No. A-1226-89T1 (App. Div. February 26, 1990)*. See: 22 N.J.R. 1134(b).

7:27-23.1 Applicability

(a) This subchapter prescribes the rules of the Department for limiting the VOC content of architectural coatings and consumer products. The following sections shall govern the content of architectural coatings and consumer products used and provided for use in the State and the method to be followed by manufacturers, distributors, and retailers to assure these standards are met.