

NEW JERSEY STATE LIBRARY

CHAPTER 27

AIR POLLUTION CONTROL

Authority

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

Executive Order No. 66(1978) Expiration Date

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

Chapter Historical Note

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

Subchapter 30, Open Market Emissions Trading, was adopted as R.1996 d.303, effective July 1, 1996 (operative August 2, 1996). See: 28 N.J.R. 1147(b), 28 N.J.R. 3414(a).

Subchapter 30, Open Market Emissions Trading, was repealed by R.2004 d.129, effective April 5, 2004 (operative April 25, 2004). See: 35 N.J.R. 3486(a), 36 N.J.R. 1791(a).

Law Review and Journal Commentaries

Air Pollution Regulations and Trends. I. Leo Motiuk, Joan E. Pearson, 133 N.J.Law. 34 (Mag.) (March/April 1990).

Overtaking Environmental Regulations: A Primer on Breaching The Regulatory Walls. John A. McKinney, Jr., J. Wylie Donald, 160 N.J.Law. 48 (Mag.) (April 1994).

Limitations on state agency authority to adopt environmental standards more stringent than federal standards: Policy considerations and interpretive problems. Jerome M. Organ, 54 Md.L.Rev. 1373 (1995). WESTLAW cite: 54 MDLR 1373.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 7:27-1.1 Scope
- 7:27-1.2 Construction
- 7:27-1.3 Practice where rules do not govern
- 7:27-1.4 Definitions
- 7:27-1.5 Municipal ordinances or regulations
- 7:27-1.6 Procedure for making a confidentiality claim
- 7:27-1.7 Designation by claimant of an addressee for notices and inquiries
- 7:27-1.8 Correspondence, inquiries and notices
- 7:27-1.9 Time for making confidentiality determinations
- 7:27-1.10 Notice of initial confidentiality determination, and of requirement to submit substantiation of claim
- 7:27-1.11 Substantiation of confidentiality claims
- 7:27-1.12 Time for submission of substantiation
- 7:27-1.13 Final confidentiality determination
- 7:27-1.14 Treatment of information pending confidentiality determination
- 7:27-1.15 Availability of information to the public after determination that information is not confidential
- 7:27-1.16 Preparation of final public copy
- 7:27-1.17 Class confidentiality determinations
- 7:27-1.18 Classes of information which are not confidential information
- 7:27-1.19 Disclosure of confidential information to other public agencies
- 7:27-1.20 Disclosure of confidential information to contractors
- 7:27-1.21 Disclosure to alleviate an imminent and substantial danger

- 7:27-1.22 Notice to claimants of disclosure of confidential information
- 7:27-1.23 Disclosure by consent
- 7:27-1.24 Incorporation of confidential information into cumulations of data
- 7:27-1.25 Disclosure of confidential information in rulemaking, permitting, and enforcement proceedings
- 7:27-1.26 Hearing before disclosure of information for which a confidentiality claim has been made
- 7:27-1.27 Nondisclosure of confidential information
- 7:27-1.28 Safeguarding of confidential information
- 7:27-1.29 Confidentiality agreements
- 7:27-1.30 Wrongful access or disclosure; penalties
- 7:27-1.31 Right to enter
- 7:27-1.32 Request for an adjudicatory hearing
- 7:27-1.33 Request for a stay of the effective date of a departmental decision
- 7:27-1.34 through 7:27-1.35 (Reserved)
- 7:27-1.36 Applicability
- 7:27-1.37 Severability
- 7:27-1.38 Liberal construction
- 7:27-1.39 Certification of information

SUBCHAPTER 2. CONTROL AND PROHIBITION OF OPEN BURNING

- 7:27-2.1 Definitions
- 7:27-2.2 Open burning for salvage operations
- 7:27-2.3 Open burning of refuse
- 7:27-2.4 General provisions
- 7:27-2.5 Infested plant life
- 7:27-2.6 Prescribed burning
- 7:27-2.7 Emergencies
- 7:27-2.8 Dangerous material
- 7:27-2.9 Herbaceous plant life and hedgerows
- 7:27-2.10 Orchard prunings and cullings
- 7:27-2.11 Land clearing
- 7:27-2.12 Special permit
- 7:27-2.13 Fees

SUBCHAPTER 3. CONTROL AND PROHIBITION OF SMOKE FROM COMBUSTION OF FUEL

- 7:27-3.1 Definitions
- 7:27-3.2 Smoke emissions from stationary indirect heat exchangers
- 7:27-3.3 Smoke emissions from marine installations
- 7:27-3.4 Smoke emissions from the combustion of fuel in mobile sources
- 7:27-3.5 Smoke emissions from stationary internal combustion engines and stationary turbine engines
- 7:27-3.6 Stack test
- 7:27-3.7 Exceptions

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

- 7:27-4.1 Definitions
- 7:27-4.2 Standards for the emission of particles
- 7:27-4.3 Performance test principle
- 7:27-4.4 Emission tests
- 7:27-4.5 (Reserved)
- 7:27-4.6 Exceptions

SUBCHAPTER 5. PROHIBITION OF AIR POLLUTION

- 7:27-5.1 Definitions
- 7:27-5.2 General provisions

SUBCHAPTER 6. CONTROL AND PROHIBITION OF PARTICLES FROM MANUFACTURING PROCESSES

- 7:27-6.1 Definitions

- 7:27-6.2 Standards for the emission of particles
- 7:27-6.3 Performance test principles
- 7:27-6.4 Emission tests
- 7:27-6.5 Variances
- 7:27-6.6 (Reserved)
- 7:27-6.7 Exceptions

SUBCHAPTER 7. SULFUR

- 7:27-7.1 Definitions
- 7:27-7.2 Control and prohibition of air pollution from sulfur compounds

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

- 7:27-8.1 Definitions
- 7:27-8.2 Applicability
- 7:27-8.3 General provisions
- 7:27-8.4 Applications
- 7:27-8.5 Air quality impact analysis
- 7:27-8.6 Service fees
- 7:27-8.7 Operating certificates
- 7:27-8.8 General permits
- 7:27-8.9 Environmental improvement pilot tests
- 7:27-8.10 Public comment
- 7:27-8.11 Standards for issuing a permit
- 7:27-8.12 State of the art
- 7:27-8.13 Conditions of approval
- 7:27-8.14 Denials
- 7:27-8.15 Reporting requirements
- 7:27-8.16 Revocation
- 7:27-8.17 Changes to existing permits and certificates
- 7:27-8.18 Permit revisions
- 7:27-8.19 Compliance plan changes
- 7:27-8.20 Seven-day-notice changes
- 7:27-8.21 Amendments
- 7:27-8.22 Changes to sources permitted under batch plant, pilot plant, and dual plant permitting procedures
- 7:27-8.23 Reconstruction
- 7:27-8.24 Special provisions for construction but not operation
- 7:27-8.25 Special provisions for pollution control equipment or pollution prevention process modifications
- 7:27-8.26 Civil or criminal penalties for failure to comply
- 7:27-8.27 Special facility-wide permit provisions
- 7:27-8.28 Delay of testing

APPENDIX 1

SUBCHAPTER 9. SULFUR IN FUELS

- 7:27-9.1 Definitions
- 7:27-9.2 Sulfur content standards
- 7:27-9.3 Exemptions
- 7:27-9.4 Waiver of air quality modeling
- 7:27-9.5 Incentive for conversion to coal or other solid fuel

SUBCHAPTER 10. SULFUR IN SOLID FUELS

- 7:27-10.1 Definitions
- 7:27-10.2 Sulfur contents standards
- 7:27-10.3 Expansion, reconstruction or construction of solid fuel burning units
- 7:27-10.4 Exemptions

SUBCHAPTER 11. INCINERATORS

- 7:27-11.1 Definitions
- 7:27-11.2 Construction standards
- 7:27-11.3 Emission standards
- 7:27-11.4 Permit to construct; certificate to operate
- 7:27-11.5 Operation
- 7:27-11.6 Exceptions

SUBCHAPTER 12. PREVENTION AND CONTROL OF AIR POLLUTION EMERGENCIES

- 7:27-12.1 Definitions
- 7:27-12.2 Emergency criteria
- 7:27-12.3 Criteria for emergency termination
- 7:27-12.4 Standby plans
- 7:27-12.5 Standby orders
- 7:27-12.6 (Reserved)

SUBCHAPTER 13. AMBIENT AIR QUALITY STANDARDS

- 7:27-13.1 Definitions
- 7:27-13.2 General ambient air quality standards
- 7:27-13.3 Ambient air quality standards for suspended particulate matter
- 7:27-13.4 Ambient air quality standards for sulfur dioxide
- 7:27-13.5 Ambient air quality standards for carbon monoxide
- 7:27-13.6 Ambient air quality standards for ozone
- 7:27-13.7 Ambient air quality standards for lead
- 7:27-13.8 Ambient air quality standards for nitrogen dioxide

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

- 7:27-14.1 Definitions
- 7:27-14.2 Applicability
- 7:27-14.3 General prohibitions
- 7:27-14.4 General public highway standards
- 7:27-14.5 Test requirements
- 7:27-14.6 Inspection standards
- 7:27-14.7 Non-interference with the motor vehicle codes

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

- 7:27-15.1 Definitions
- 7:27-15.2 Applicability
- 7:27-15.3 General public highway standards
- 7:27-15.4 New motor vehicle dealer inspections
- 7:27-15.5 Motor vehicle inspections
- 7:27-15.6 Motor vehicle inspection standards
- 7:27-15.7 Prohibition of tampering with emission control apparatus
- 7:27-15.8 Idle standard
- 7:27-15.9 Non-interference with the motor vehicle codes

APPENDIX

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

- 7:27-16.1 Definitions
- 7:27-16.1A Purpose, scope, applicability, and severability
- 7:27-16.2 Stationary storage tanks
- 7:27-16.3 Gasoline transfer operations
- 7:27-16.4 VOC transfer operations, other than gasoline
- 7:27-16.5 Marine tank vessel loading and ballasting operations
- 7:27-16.6 Open top tanks and solvent cleaning operations
- 7:27-16.7 Surface coating and graphic arts operations
- 7:27-16.8 Boilers
- 7:27-16.9 Stationary gas turbines
- 7:27-16.10 Stationary internal combustion engines
- 7:27-16.11 Asphalt plants
- 7:27-16.12 Surface coating operations at mobile equipment repair and refinishing facilities
- 7:27-16.13 Flares
- 7:27-16.14 and 7:27-16.15 (Reserved)
- 7:27-16.16 Other source operations
- 7:27-16.17 Facility-specific VOC control requirements
- 7:27-16.18 Leak detection and repair
- 7:27-16.19 Application of cutback and emulsified asphalts
- 7:27-16.20 Petroleum solvent dry cleaning operations

AIR POLLUTION CONTROL

- 7:27-16.21 Natural gas pipelines
- 7:27-16.22 Emission information, record keeping and testing
- 7:27-16.23 Procedures for demonstrating compliance
- 7:27-16.24 Adjusting combustion processes
- 7:27-16.25 (Reserved)
- 7:27-16.26 Variances
- 7:27-16.27 Exceptions

SUBCHAPTER 17. CONTROL AND PROHIBITION OF AIR POLLUTION BY TOXIC SUBSTANCES

- 7:27-17.1 Definitions
- 7:27-17.2 Asbestos surface coating
- 7:27-17.3 Storage, transfer, and use of toxic substances
- 7:27-17.4 Discharge of toxic substances
- 7:27-17.5 Operating instructions
- 7:27-17.6 Emission information and tests
- 7:27-17.7 Permit to construct and certificate to operate
- 7:27-17.8 Applicability
- 7:27-17.9 Exceptions

SUBCHAPTER 18. CONTROL AND PROHIBITION OF AIR POLLUTION FROM NEW OR ALTERED SOURCES AFFECTING AMBIENT AIR QUALITY (EMISSION OFFSET RULES)

- 7:27-18.1 Definitions
- 7:27-18.2 Facilities subject to this subchapter
- 7:27-18.2A (Reserved)
- 7:27-18.3 Standards for issuance of permits
- 7:27-18.4 Air quality impact analysis
- 7:27-18.5 Standards for use of emission reductions as emission offsets
- 7:27-18.6 Emission offset postponement
- 7:27-18.7 Determination of a net emission increase or a significant net emission increase
- 7:27-18.8 Banking of emission reductions
- 7:27-18.9 Secondary emissions
- 7:27-18.10 Exemptions
- 7:27-18.11 (Reserved)
- 7:27-18.12 Civil or criminal penalties for failure to comply

SUBCHAPTER 19. CONTROL AND PROHIBITION OF AIR POLLUTION FROM OXIDES OF NITROGEN

- 7:27-19.1 Definitions
- 7:27-19.2 Purpose, scope and applicability
- 7:27-19.3 General provisions
- 7:27-19.4 Utility boilers
- 7:27-19.5 Stationary gas turbines
- 7:27-19.6 Emissions averaging
- 7:27-19.7 Non-utility boilers and other indirect heat exchangers
- 7:27-19.8 Stationary internal combustion engines
- 7:27-19.9 Asphalt plants
- 7:27-19.10 Glass manufacturing furnaces
- 7:27-19.11 and 7:27-19.12 (Reserved)
- 7:27-19.13 Facility-specific NO_x emissions limits
- 7:27-19.14 Procedures for obtaining approvals under this subchapter
- 7:27-19.15 Procedures and deadlines for demonstrating compliance
- 7:27-19.16 Adjusting combustion processes
- 7:27-19.17 Source emissions testing
- 7:27-19.18 Continuous emissions monitoring
- 7:27-19.19 Recordkeeping and recording
- 7:27-19.20 Fuel switching
- 7:27-19.21 Phased compliance—repowering
- 7:27-19.22 Phased compliance—impracticability of full compliance by May 31, 1995
- 7:27-19.23 Phased compliance—use of innovative control technology
- 7:27-19.24 MEG alerts
- 7:27-19.25 Exemption for emergency use of fuel oil
- 7:27-19.26 Penalties
- 7:27-19.27 Use of NO_x budget allowances by a former DER credit user

APPENDIX

SUBCHAPTER 20. USED OIL COMBUSTION

- 7:27-20.1 Definitions
- 7:27-20.2 General provisions
- 7:27-20.3 Burning of on-specification used oil in space heaters covered by a registration
- 7:27-20.4 Burning of on-specification used oil in space heaters covered by a permit
- 7:27-20.5 Demonstration that used oil is on-specification
- 7:27-20.6 Burning of on-specification oil in other combustion units
- 7:27-20.7 Burning of off-specification used oil
- 7:27-20.8 Ash standard
- 7:27-20.9 Exception

SUBCHAPTER 21. EMISSION STATEMENTS

- 7:27-21.1 Definitions
- 7:27-21.2 Applicability
- 7:27-21.3 General provisions
- 7:27-21.4 Procedure for submitting an Emission Statement
- 7:27-21.5 Required contents of an Emission Statement
- 7:27-21.6 Methods to be used for quantifying actual emissions
- 7:27-21.7 Recordkeeping requirements
- 7:27-21.8 Certification of information
- 7:27-21.9 Request for extension
- 7:27-21.10 Determination of non-applicability

APPENDIX 1

SUBCHAPTER 22. OPERATING PERMITS

- 7:27-22.1 Definitions
- 7:27-22.2 Applicability
- 7:27-22.3 General provisions
- 7:27-22.4 General application procedures
- 7:27-22.5 Application procedures for initial operating permits
- 7:27-22.6 Operating permit application contents
- 7:27-22.7 Application shield
- 7:27-22.8 Air quality simulation modeling and risk assessment
- 7:27-22.9 Compliance plans
- 7:27-22.10 Completeness review
- 7:27-22.11 Public comment
- 7:27-22.12 EPA comment
- 7:27-22.13 Final action on an application
- 7:27-22.14 General operating permits
- 7:27-22.15 Temporary facility operating permits
- 7:27-22.16 Operating permit contents
- 7:27-22.17 Permit shield
- 7:27-22.18 Source emissions testing and monitoring
- 7:27-22.19 Recordkeeping, reporting and compliance certification
- 7:27-22.20 Administrative amendments
- 7:27-22.21 Changes to insignificant source operations
- 7:27-22.22 Seven-day-notice changes
- 7:27-22.23 Minor modifications
- 7:27-22.24 Significant modifications
- 7:27-22.24A Reconstruction
- 7:27-22.25 Department initiated operating permit modifications
- 7:27-22.26 MACT and GACT standards
- 7:27-22.27 Operating scenarios
- 7:27-22.28 (Reserved)
- 7:27-22.28A Emissions trading
- 7:27-22.28B Facility-specific emissions averaging programs
- 7:27-22.29 Facilities subject to acid deposition control
- 7:27-22.30 Renewals
- 7:27-22.31 Fees
- 7:27-22.32 Hearings and appeals
- 7:27-22.33 Preconstruction review
- 7:27-22.34 Early reduction of HAP emissions
- 7:27-22.35 Advances in the art of air pollution control

**APPENDIX. THRESHOLDS FOR REPORTING
EMISSIONS OF AIR CONTAMINANTS OTHER
THAN HAZARDOUS AIR POLLUTANTS (HAPS)**

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

- 7:27-23.1 Applicability
- 7:27-23.2 Definitions
- 7:27-23.3 Architectural coatings
- 7:27-23.4 (Reserved)
- 7:27-23.5 Labeling requirements
- 7:27-23.6 Administrative requirements
- 7:27-23.7 Inspections

**SUBCHAPTER 24. CONTROL AND PROHIBITION OF
VOLATILE ORGANIC COMPOUNDS FROM
CONSUMER AND COMMERCIAL PRODUCTS**

- 7:27-24.1 Definitions
- 7:27-24.2 Applicability, exemptions, and exclusions
- 7:27-24.3 VOC content standards
- 7:27-24.4 Administrative requirements
- 7:27-24.5 Test methods
- 7:27-24.6 Federal supersession
- 7:27-24.7 Civil or criminal penalties for failure to comply

**SUBCHAPTER 25. CONTROL AND PROHIBITION OF
AIR POLLUTION BY VEHICULAR FUELS**

- 7:27-25.1 Definitions
- 7:27-25.2 Scope and applicability
- 7:27-25.3 General provisions
- 7:27-25.4 Recordkeeping and compliance determinations
- 7:27-25.5 Inspections
- 7:27-25.6 Petition for rulemaking in the case of imminent supply shortage
- 7:27-25.7 Exemptions
- 7:27-25.8 Owner and operator responsibility
- 7:27-25.9 Service fees
- 7:27-25.10 through 7:27-25.11 (Reserved)

**SUBCHAPTER 26. NATIONAL LOW EMISSION
VEHICLE (NLEV) AND HEAVY-DUTY DIESEL
NEW ENGINE REQUIREMENTS PROGRAM**

- 7:27-26.1 Definitions
- 7:27-26.2 Applicability
- 7:27-26.3 Prohibitions (OTC-LEV Program)
- 7:27-26.4 Emission certification standards (OTC-LEV Program)
- 7:27-26.5 Fleet average (OTC-LEV Program)
- 7:27-26.6 Reporting and new motor vehicle dealer requirements (OTC-LEV Program)
- 7:26-26.7 Additional requirements (OTC-LEV Program)
- 7:27-26.8 Requirements for vehicle transactions (New HDDE Standards Program)
- 7:27-26.9 Exemptions and technology review (New HDDE Standards Program)
- 7:27-26.10 Manufacturer compliance with California orders and voluntary recalls (New HDDE Standards Program)
- 7:27-26.11 Enforcement
- 7:27-26.12 through 7:27-26.14 (Reserved)
- 7:27-26.15 Incorporation by reference
- 7:27-26.16 Severability

APPENDIX

**SUBCHAPTER 27. CONTROL AND PROHIBITION OF
MERCURY EMISSIONS**

- 7:27-27.1 Definitions
- 7:27-27.2 Applicability
- 7:27-27.3 General provisions
- 7:27-27.4 Municipal solid waste (MSW) incinerators
- 7:27-27.5 through 7:27-27.8 (Reserved)

- 7:27-27.9 Reporting and recordkeeping
- 7:27-27.10 Penalties

SUBCHAPTERS 28 THROUGH 30. (RESERVED)

SUBCHAPTER 31. NO_x BUDGET PROGRAM

- 7:27-31.1 Purpose and scope
- 7:27-31.2 Definitions
- 7:27-31.3 Applicability and general provisions
- 7:27-31.4 Opt-in provisions
- 7:27-31.5 Interface with the emission offset program
- 7:27-31.6 Use of allowances by former users of DER credits
- 7:27-31.7 Annual allowance allocation
- 7:27-31.8 Claims for incentive allowances
- 7:27-31.9 Permits
- 7:27-31.10 Allowance use, transfer and retirement
- 7:27-31.11 Allowance banking
- 7:27-31.12 Early reductions
- 7:27-31.13 No_x Allowance Tracking System (NATS)
- 7:27-31.14 Emissions monitoring
- 7:27-31.15 Recordkeeping
- 7:27-31.16 Reporting
- 7:27-31.17 End-of-season reconciliation
- 7:27-31.18 Compliance certification
- 7:27-31.19 Excess emissions deduction
- 7:27-31.20 Program audit
- 7:27-31.21 Guidance documents and sources incorporated by reference
- 7:27-31.22 Compliance supplement pool

**APPENDIX. CHEMICALS DEFINING SYNTHETIC
ORGANIC CHEMICAL AND POLYMER
MANUFACTURING**

SUBCHAPTER 1. GENERAL PROVISIONS

7:27-1.1 Scope

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

7:27-1.2 Construction

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

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

7:27-1.3 Practice where rules do not govern

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

7:27-1.4 Definitions

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

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

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

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

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

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

“CFR” means the Code of Federal Regulations.

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

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

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

(c) Owners or operators, and any employees or representatives thereof, of any distribution facility, retail outlet or indirect consumer shall assist and shall not hinder or delay the Department and its representatives in the performance of all aspects of any inspection. Such assistance shall include providing any equipment necessary for access to all stock to allow the obtaining of samples by the Department to determine the nature and quantity of architectural coating being provided, stored, transported, exchanged in trade, sold, or offered for sale by the indirect consumer or at the retail or distribution outlet. In cases in which sampling equipment necessary to conduct sampling at the facility or sampling facilities to determine the nature and quantity of architectural coating at the facility are available on site, these equipment or facilities shall be made available for Department use.

Amended by R.1990 d.342, effective July 16, 1990.
See: 21 N.J.R. 3360(a), 22 N.J.R. 2145(b).

Requirements for manufacturing facilities separated from those for distributors and retailers.

Case Notes

Amendment to scheduling order or delay in implementation of state standards not justified. *American Lung Ass'n v. Kean*, D.N.J.1994, 856 F.Supp. 903.

SUBCHAPTER 24. CONTROL AND PROHIBITION OF VOLATILE ORGANIC COMPOUNDS FROM CONSUMER AND COMMERCIAL PRODUCTS

Authority

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

Source and Effective Date

R.1995 d.567, effective November 6, 1995
(operative December 2, 1995).
See: 27 N.J.R. 1077(a), 27 N.J.R. 4291(a).

7:27-24.1 Definitions

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

“Aerosol product” means a consumer product that incorporates a pressurized spray system that dispenses product ingredients by means of a propellant or mechanically induced force. This term does not include pump sprays.

“Agricultural use” means the use of any pesticide or method or device for the control of pests in connection with the commercial production, storage or processing of animal or plant crops. This term does not include pesticides which are intended for and are labeled in packages or containers for:

1. Home use, that is use in a household or immediate environment;
2. Structural pest control;
3. Industrial use, that is use for or in a manufacturing, mining, or chemical process, or in use in the operation of factories, processing plants, and similar sites; or
4. Institutional use, that is within the confines of, or on property necessary for the operation of buildings such as hospitals, schools, libraries, auditoriums, and office complexes.

“Air freshener” means a consumer product including, but not limited to, sprays, wicks, powders and crystals, designed for the purpose of masking odors, or freshening, cleaning, scenting, or deodorizing the air. This term does not include products that are used on the human body, products that function primarily as cleaning products, disinfectant products claiming to deodorize by killing germs on surfaces, or institutional/industrial disinfectants offered for sale solely through institutional and industrial channels of distribution. In determining whether a product is an air freshener, all verbal and visual representations regarding product use on the label and packaging, and in the product’s literature and advertising may be considered. The presence of and representation about a product’s fragrance and ability to deodorize resulting from surface application shall not constitute a claim of air freshening.

“All other forms” means all consumer product forms for which no form-specific VOC standard is specified. Unless specified otherwise by the applicable VOC standard, this term includes, but is not limited to, solids, liquids, wicks, powders, crystals, and cloth or paper wipes (towelettes).

“Antiperspirant” means a consumer product including, but not limited to, aerosols, roll-ons, sticks, pumps, pads, creams, gels, and squeeze bottles, which is marketed for the purpose of reducing perspiration in the human axilla by at least 20 percent in at least 50 percent of a target population.

“ASTM” means the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

“Bait station insecticide” means an insecticide consisting of a container enclosing an insecticidal bait that is designed to be ingested by insects and is composed of solid material feeding stimulants with less than five percent active ingredients.

“Bathroom and tile cleaner” means a consumer product designed to clean tile or surfaces in bathrooms. This term does not include products specifically designed to clean toilet bowls or toilet tanks.

“CARB” means the California Air Resources Board.

“Carburetor-choke cleaner” means a consumer product designed to remove dirt and other contaminants from a

carburetor. This term does not include products designed to be introduced directly into the fuel lines or fuel storage tank prior to introduction into the carburetor.

“Construction and panel adhesive” means a one-component household adhesive which has gap filling capabilities and which distributes stress uniformly throughout the bonded area resulting in a reduction or elimination of the need for use of mechanical fasteners.

“Consumer” means a person who seeks, purchases, or acquires any consumer product for personal, family, household or institutional use. This term does not include a person acquiring a consumer product for resale.

“Consumer product” means a chemically formulated product sold at retail or wholesale and used by household, commercial or institutional consumers. This term does not include paint, or architectural coatings.

“Contact adhesive” means a household adhesive that meets all of the following four criteria:

1. Is nitrile based, or contains polychlorobutadiene (neoprene, chloroprene, bayprene), or latex;
2. Forms an instantaneous, non-repositionable bond when applied to two substrates;
3. Exhibits a minimum 30 minute bonding range when dry to the touch; and
4. Bonds only to itself without the need for reactivation by solvents or heat.

“Container” means the part or parts of the consumer product which serve only to contain, enclose, incorporate, deliver, dispense, wrap or store the chemically formulated substance or mixture of substances which is solely responsible for accomplishing the purposes for which the product was designed or intended. This term includes any article onto or into which the principal display panel is incorporated, etched, printed or attached.

“Cooking spray” means an aerosol product designed either to reduce sticking on cooking and baking surfaces or to be applied on food, or both.

“Crawling bug insecticide” means any insecticide that is designed for use against ants, cockroaches, or other crawling household arthropods, including, but not limited to, mites, silverfish, or spiders. This term does not include products designed to be used exclusively on humans or animals.

“Deodorant” means a consumer product including, but not limited to, aerosols, roll-ons, sticks, pumps, pads, creams and squeeze bottles, that is intended by the manufacturer to be used to minimize odor in the human axilla by retarding the growth of bacteria which cause the decomposition of perspiration.

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

“Device” means an instrument which is designed for trapping, destroying, repelling or mitigating any pest or any other form of plant or animal life, other than humans and other than bacteria, virus or other microorganism on or in living humans or other living animals. This term does not include equipment used for the application of pesticides if the equipment is sold separately from the pesticide. Additionally, the term does not include any instrument which is a firearm.

“Double phase aerosol air freshener” means an aerosol air freshener with liquid contents in two or more distinct phases that requires the product container to be shaken before use to mix the phases, producing an emulsion.

“Dusting aid” means a consumer product designed to assist removing dust and other soils from floors and other surfaces without leaving a wax or silicone-based coating. This term does not include products which consist entirely of compressed gases for use in electronic or other specialty areas.

“Engine degreaser” means a consumer product designed to remove grease, grime, oil and other contaminants from the external surfaces of engines and other mechanical parts.

“EPA” means the United States Environmental Protection Agency.

“Fabric protectant” means a consumer product designed to be applied to fabric substrates to protect the surface from soiling from dirt and other impurities or to reduce absorption of water into the fabric’s fibers. This term does not include silicone-based products whose function is to provide water repellency, or products designed for use solely on fabrics which are labeled for “dry clean only” and sold in containers of 10 fluid ounces or less.

“Flea and tick insecticide” means an insecticide that is designed for use against fleas, ticks, their larvae, or their eggs. This term does not include products that are designed to be used exclusively on humans or animals and their bedding.

“Flexible flooring material” means asphalt, cork, linoleum, no-wax, rubber, seamless vinyl, and vinyl composite flooring.

“Floor polish or wax” means a wax, polish or any other consumer product designed to polish, protect, or enhance floor surfaces by leaving a protective coating that is designed to be periodically replenished. This term does not include spray buff products, products designed solely for the purpose of cleaning floors, floor finish strippers, products designed for unfinished wood floors, and coatings subject to architectural coating rules at N.J.A.C. 7:27-23.

“Flying bug insecticide” means an insecticide that is designed for use against flying insects or other flying arthropods, including, but not limited to, flies, mosquitoes, moths or gnats. This term does not include wasp and hornet insecticides or products that are designed to be used exclusively on humans or animals.

“Fogger insecticide” means an insecticide designed to release all or most of its contents, as a fog or mist, into indoor areas during a single application.

“Fragrance” means a substance or complex mixture of aroma chemicals, natural essential oils, or other functional components with a combined vapor pressure not in excess of two millimeters of mercury at 20 degrees Celsius (♦C), the sole purpose of which is to impart an odor or scent, or to counteract a malodor.

“Furniture maintenance product” means a wax, polish, conditioner, or any other consumer product designed for the purpose of polishing, protecting or enhancing finished wood surfaces other than floors. This term does not include dusting aids, products designed solely for the purpose of cleaning, and products designed to leave a permanent finish such as stains, sanding sealers and lacquers.

“Gel” means a colloid in which the disperse and continuous phases combine to form a semisolid material such as jelly.

“General purpose adhesive” means a non-aerosol household adhesive designed for use on a variety of substrates. This term does not include contact adhesives, structural waterproof adhesives, or construction and panel adhesives.

“General purpose cleaner” means a consumer product designed for general all-purpose cleaning, in contrast to cleaning products designed to clean specific substrates in certain situations. This term includes products designed for general floor cleaning, kitchen or countertop cleaning, and cleaners designed to be used on a variety of hard surfaces, but does not include degreasers.

“Glass cleaner” means a consumer product designed primarily for the purpose of cleaning surfaces made of glass. This term does not include products designed solely for the purpose of cleaning optical materials used in eyeglasses, photographic equipment, scientific equipment and photocopying machines.

“Hair mousse” means a consumer product that is a hairstyling foam designed to facilitate styling of a coiffure and provide limited holding power.

“Hair spray” means a consumer product designed primarily for the purpose of dispensing droplets of a resin on and into hair coiffure which will impart sufficient rigidity to the coiffure to establish or retain the style for a period of time.

“Hair styling gel” means a high viscosity, often gelatinous, consumer product that contains a resin and is designed for the application to hair to aid in styling and sculpting of the hair coiffure.

“High volatility organic compound (HVOC)” means any volatile organic compound that exerts a vapor pressure greater than 80 millimeters of mercury (mm Hg) when measured at 20 degrees Celsius (♦C).

“Household adhesive” means any household product that is used to bond one surface to another by attachment. This term does not include products used on humans or animals, adhesive tape, contact paper, wallpaper, shelf liners, or any other product with an adhesive incorporated onto or in an inert substrate.

“Household product” means a consumer product that is primarily designed to be used inside or outside of living quarters or residences that are occupied or intended for occupation by individuals, including the immediate surroundings.

“HVOC” (see “high volatility organic compound”).

“Innovative product exemption” means a determination from the California Air Resources Board that a particular consumer product will result in less VOC emissions as compared to a representative compliant consumer product or as compared to the reformulation of the particular product in order to comply with a VOC content limit due to some characteristic of the product formulation, design, delivery system, or other factor pursuant to the CARB’s consumer products regulations (including all amendments and supplements) at Title 17, Subchapter 8.5, Article 1, Section 94503.5 or Article 2, Section 94511 of the California Code of Regulations.

“Insecticide” means a pesticide that is designed for use against insects or other arthropods. This term does not include any product that is:

1. Designed for agricultural use;
2. Designed for structural pest control; or
3. A restricted material that requires a permit for use and possession.

Additionally, for the purpose of this subchapter, this term does not include solid fertilizers that also have insecticidal properties.

“Label” means any written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon any consumer product or consumer product package, for purposes of branding, identifying, or giving information with respect to the product or to the contents of the package.

“Laundry prewash” means a consumer product that is designed for application to a fabric prior to laundering and that supplements and contributes to the effectiveness of laundry detergents or provides specialized performance.

“Laundry starch product” means a consumer product that is designed for application to a fabric, either during or after laundering, to impart and prolong a crisp, fresh look and that may also act to help ease ironing of the fabric. This term includes, but is not limited to, fabric finish, sizing, and starch.

“Lawn and garden insecticide” means an insecticide designed primarily to be used in household lawn and garden areas to protect plants from insects or other arthropods.

“Liquid” means a substance or mixture of substances which is capable of a visually detectable flow as determined pursuant to ASTM D-4359-90. This term does not include powders or other materials that are composed entirely of solid particles.

“Manufacturer” means any person who imports, manufactures, assembles, produces, packages, repackages, or relabels a consumer product. If the container or package of the consumer product lists two companies, firms or establishments, the manufacturer is the party which the product is “manufacturer for” or “distributed by,” as noted on the container or package of the consumer product.

“Maximum allowable VOC content (percent by weight)” means the total weight of VOC, except those VOCs exempted at N.J.A.C. 7:27-24.2(f), allowed to be in the consumer product. This term is expressed as a percentage of the total net weight of the product exclusive of the container or package and is calculated according to the following equation:

$$\text{Percent by weight} = \frac{B - C}{A} \times 100$$

where:

- A = net weight of unit (excluding container and packaging)
- B = weight of VOCs per unit
- C = weight of VOCs exempted under N.J.A.C. 7:27-24.2(f) per unit

“Nail polish” means a clear or colored coating designed for application to the fingernails or toenails including, but not limited to, lacquers, enamels, acrylics, base coats and top coats.

“Nail polish remover” means a consumer product designed to remove nail polish and coatings from fingernails or toenails.

“Nonresilient flooring” means flooring of a mineral material(s) which is not flexible. This term includes terrazzo, marble, slate, granite, brick, stone, ceramic tile and concrete.

“Oven cleaner” means any consumer product designed to clean and to remove dried food deposits from oven walls.

“Packaging” means the part or parts of the consumer product which serve only to contain, enclose, incorporate, deliver, dispense, wrap or store the chemically formulated substance or mixture of substances which is solely responsible for accomplishing the purposes for which the product was designed or intended. This term includes any article onto or into which the principal display panel is incorporated, etched, printed or attached.

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

“Pesticide” means a consumer product which includes any substance or mixture of substances labeled, designed, or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed or intended for use as a defoliant, desiccant, or plant regulator. This term does not include any substance, mixture of substances, or device which the EPA does not consider to be a pesticide.

“Principal display panel or panels” means that part, or those parts, of a label that are so designed as to most likely be displayed, presented, shown, or examined under normal and customary conditions of display or purchase.

“Product category” means the category which best applies to a given consumer product as defined in this section and listed at N.J.A.C. 7:27-24.3 Table 1.

“Product form” means the applicable form which most accurately describes the product’s dispensing form, including aerosols, gels, liquids, pump sprays, and solids.

“Propellant” means a liquefied or compressed gas that is used in whole or in part, such as a cosolvent, to expel a liquid or any other material from the same self-pressurized container or from a separate container.

“Pump spray” means a packaging system in which the product ingredients within the container are not under pressure and from which the product is expelled only while a pumping action is applied to a button, trigger, or other actuator.

“Restricted materials” means pesticides established for restricted use under section 3(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. §§ 136-136y).

“Shaving cream” means an aerosol product which dispenses a foam lather intended to be used with a blade or cartridge razor or other wet-shaving system in the removal of facial or other bodily hair.

“Single phase aerosol air freshener” means an aerosol air freshener which has the liquid contents in a single homogeneous phase and which does not require that the product container be shaken before use.

“Solid” means a substance or mixture of substances which is not capable of visually detectable flow as determined under ASTM D-4359-90. The substance or mixture of substances may be in a form either whole or subdivided (such as particles comprising a powder).

“Spray buff product” means a consumer product designed to restore a worn floor finish in conjunction with a floor buffing machine and special pad.

“Structural waterproof adhesive” means a household adhesive that:

1. Is designed for applications where the bond line must be resistant to condition of continuous immersion in fresh or salt water; and
2. Has passed Federal Specification MMM-A-181 (Type 1, Grade A), and MIL-A-46051 (Type 1, Grade A and Grade C).

“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 in the approved SIP (such as N.J.A.C. 7:27B-3) or 40 CFR Part 60, Appendix A, as applicable, or which have been approved in writing by the Department and are acceptable to EPA. 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)
- 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)₂CFCF₂OCH₃)

1-ethoxy-1,1,2,2,3,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅)

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

methyl acetate

perfluorocarbon compounds which fall into these classes:

cyclic, branched, or linear, completely fluorinated alkanes

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

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

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

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

“Wasp and hornet insecticide” means an insecticide that is designed for use against wasps, hornets, yellow jackets or bees by allowing the user to spray a high volume directed stream or burst from a safe distance at the intended pest or its hiding place.

“Wax” means a natural material or synthetic thermoplast substance generally of high molecular weight hydrocarbons or high molecular weight esters of fatty acids or alcohols, except glycerol and high polymers (plastics). This term includes, but is not limited to, substances derived from the secretions of plants and animals such as carnuba wax and beeswax, substances of a mineral origin such as ozocerite and paraffin, and synthetic polymers such as polyethylene.

“Wood floor wax” means a wax-based consumer product for use solely on wood floors.

Administrative Correction.

See: 28 N.J.R. 851(a).

Administrative change.

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

7:27-24.2 Applicability, exemptions, and exclusions

(a) This subchapter applies to any person who sells, offers for sale, holds for sale, distributes, supplies, or manufactures any consumer product for use in New Jersey as specified at N.J.A.C. 7:27-24.3.

(b) The provisions of N.J.A.C. 7:27-24.3, 24.4, and 24.5 below do not apply to the following:

1. Any consumer product that is sold, supplied, offered for sale, held for sale, or manufactured for sale in New Jersey for shipment and use exclusively outside of the State of New Jersey. For such products that do not comply with the VOC content limits at N.J.A.C. 7:27-24.3, the shipping documentation shall include a statement that the shipment is not for sale and use in New Jersey and shall include the immediate destination. Documentation of product shipments shall be made available to representatives of the Department upon request;

2. Any bait station insecticide that contains bait that is not more than 0.5 ounces by weight;

3. Any air freshener or any insecticide which contains at least 98 percent by weight para-dichlorobenzene;

4. Any air freshener consisting entirely of one or more of the following:

i. Fragrance;

ii. Inorganic compounds;

iii. Compounds excluded from the definition of VOC; and

iv. The compounds specified in (f) below; and

5. Any household adhesive sold in:

i. A container of one fluid ounce or less; or

ii. A container of more than one U.S. gallon (128 fluid ounces).

(c) The maximum allowable VOC content limits (percent by weight) in N.J.A.C. 7:27-24.3 below do not apply to any consumer product manufactured prior to April 30, 1996, provided that the product is labelled with the date of manufacture or a date code as specified at N.J.A.C. 7:27-24.4(b) below which shows that the product was manufactured prior to April 30, 1996.

(d) The maximum allowable VOC content limits in N.J.A.C. 7:27-24.3 below do not apply to any consumer product if CARB has granted to the manufacturer of that product an Innovative Product Exemption pursuant to the CARB's consumer products regulations at Title 17, Subchapter 8.5, Article 1, Section 94503.5 or Article 2, Section 94511 of the California Code of Regulations, provided that the manufacturer claiming this exclusion submits a copy of the CARB exemption decision and CARB's statement of the conditions of its approval of the exemption to the following address:

Attn: Innovative Consumer Product
Bureau of Air Quality Planning
Department of Environmental Protection—PO
Box 418
401 East State Street, 7th Floor
Trenton, New Jersey 08625-0418

(e) The maximum allowable VOC content limits in N.J.A.C. 7:27-24.3 below do not apply to any consumer product if an agency of another state which has an adopted consumer product variance provision in its rules as of December 2, 1995 has granted to the manufacturer of that product a variance (such as pursuant to the CARB consumer products regulations at Title 17, Subchapter 8.5, Article 1, Section 94514 or Article 2, Section 94505 of the California Code of Regulations or pursuant to Texas Natural Resources Conservation Commission's regulations at Title 30, Chapter 115, subchapter G, paragraph 613). This exclusion shall be effective in New Jersey until the other state agency's approved variance expires or is revoked, at which time the exclusion from the requirements of this subchapter shall automatically expire. This exclusion shall be effective in New Jersey provided that the manufacturer claiming this exclusion submits a copy of the state agency's exemption decision and statement of the conditions of its approval of the exemption to the following address:

Attn: Consumer Product Variance
 Bureau of Air Quality Planning
 Department of Environmental Protection—PO
 Box 418
 401 East State Street, 7th Floor
 Trenton, New Jersey 08625-0418

(f) The following compounds are excluded when determining compliance with the VOC limits specified at N.J.A.C. 7:27-24.3:

1. Any VOC which exerts a vapor pressure less than or equal to 0.1 millimeters of mercury at 20 degrees Celsius (♦ C);
2. Any VOC which consists of more than 12 atoms of carbon per molecule, if its vapor pressure is unknown;
3. Any VOC which has a melting point higher than 20 degrees Celsius and does not sublime, if its vapor pressure is not known; or
4. Any fragrances up to a combined level of two percent by weight contained in any consumer product.

(g) The requirements of N.J.A.C. 7:27-24.4(b) and (c) below do not apply to consumer products registered under Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. section 136-136y).

7:27-24.3 VOC content standards

(a) Except as provided at N.J.A.C. 7:27-24.2(b) through (e) and subsection (c) below, no person shall manufacture, distribute, or supply any consumer product for use in New Jersey which was manufactured after April 30, 1996, and contains VOC in excess of the limits specified in Table 1 below:

**TABLE 1
 VOC CONTENT LIMITS FOR
 CONSUMER PRODUCTS**

<u>Consumer Product Category</u>	<u>Maximum Allowable VOC Content (percent by weight)</u>
Air fresheners	
Single phase aerosol	70
Double-phase aerosol	30
Liquid/pump	18
Solid/gel	3
Antiperspirants	
Aerosol	HVOC 60
Non-aerosol	HVOC 0
Bathroom and tile cleaners	
Aerosols	7
All other forms	5
Carburetor choke cleaners	75
Cooking sprays, aerosol	18
Deodorants	
Aerosol	HVOC 20
Non-aerosol	HVOC 0
Dusting aids	
Aerosol	35
All other forms	7
Engine degreasers	75
Fabric protectants	75
Floor polishes/waxes	
Products for flexible flooring material	7
Products for nonresilient flooring	10
Wood floor wax	90
Furniture maintenance products, aerosol	25
General purpose cleaners	10
Glass cleaners	
Aerosols	12
All other forms	8
Hair mousses	16
Hair sprays	80
Hair styling gels	6
Household adhesives	
Aerosol	75
Contact	80
Construction and panel	40
General purpose	10
Structural waterproof	(Reserved)
Insecticides	
Crawling bug	40
Flea and tick	25
Flying bug	35
Foggers	45
Lawn and garden	20
Laundry prewash	
Aerosol/solids	22
All other forms	5
Laundry starch products	5
Nail polish removers	85
Oven cleaners	
Aerosol/pump sprays	8
Liquids	5
Shaving creams	5

(b) For consumer products for which the label, packaging, or accompanying literature specifically states that the product should be diluted prior to use, the limits specified in (a) above shall apply to the product only after the minimum recommended dilution has taken place. Such minimum recommended dilution does not include recommendations for incidental use of a concentrated product to deal with limited special applications such as hard-to-remove soils or stains.

(c) For those consumer products that are registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. Section 136-136y), the most effective date of the VOC standards specified in (a) above is April 30, 1997.

7:27-24.4 Administrative requirements

(a) Any manufacturer that manufactures a consumer product for sale in New Jersey that is required to meet a VOC content limit in N.J.A.C. 7:27-24.3 above shall submit a registration report to the Department by no later than October 1, 1996. Any manufacturer of a new consumer product for sale in New Jersey that is required to meet a VOC content limit in N.J.A.C. 7:27-24.3 above shall submit a registration report by no later than five months after the initial date of manufacture for sale in New Jersey.

1. The registration shall include the following information:

- i. The name of the manufacturer;
- ii. The full mailing address of the manufacturer;
- iii. The name and telephone number of contact person; and
- iv. A list of the categories of products manufactured that are subject to a VOC content limit at N.J.A.C. 7:27-24.3 (for example: lawn and garden insecticides, aerosol household adhesives, floor wax for non-resilient flooring).

2. The registration shall be sent to the Department at the following address:

Attn: Consumer Product Registration
Bureau of Air Quality Planning
Department of Environmental Protection—PO
Box 418
401 East State Street
Trenton, New Jersey 08625-0418

(b) Each manufacturer of a consumer product subject to N.J.A.C. 7:27-24.3 above shall clearly display on each consumer product container or packaging the month and year in which the product was manufactured (or a code indicating such date). This subsection does not apply to products which are offered to consumers free of charge for the purpose of sampling the product.

(c) If a manufacturer uses a code indicating the date of manufacture in order to comply with (b) above, the manufacturer shall provide to the Department or its representative within 30 days a description of such code upon request.

(d) Each manufacturer of a product subject to a VOC content limit in N.J.A.C. 7:27-24.3 shall keep records demonstrating compliance with the VOC content limits. Such records shall consist of the results of testing or the calculations based upon the constituents used to manufacture the product as required at N.J.A.C. 7:27-24.5(a) or (b). These records are required to be kept for a period of at least three years. Such records shall be made available within 30 days of receipt of request by the Department.

(e) Within 90 days of a request by the Department, each manufacturer shall submit the information required to be kept in (d) above in addition to estimates of the quantities of consumer products sold in New Jersey on forms provided by the Department.

(f) A person who holds for sale, offers for sale, or sells any consumer product to a consumer shall, upon request, identify the distributor or company from whom the consumer product was obtained to the Department or its representative upon request.

(g) Any person who submits information to the Department pursuant to this subchapter may assert a confidentiality claim for that information in accordance with N.J.A.C. 7:27-1.6. The Department will process and evaluate confidentiality claims in accordance with N.J.A.C. 7:27-1.6 through 1.30 inclusive.

7:27-24.5 Test methods

(a) Any person performing tests to determine compliance with the VOC content limits in N.J.A.C. 7:27-24.3 shall use methods which are shown to accurately determine the concentration of VOCs in a product. Such methods shall include any methods issued by EPA or CARB which have been established for the measurement of VOCs in consumer products.

(b) Compliance determinations may also be demonstrated through calculation of the VOC content of a consumer product from records of the amounts of constituents used to make the product.

(c) Testing to determine whether a product is a liquid or a solid shall be performed using ASTM D4359-90, which is incorporated by reference herein.

7:27-24.6 Federal supersession

(a) If EPA promulgates any consumer or commercial product regulation pursuant to 42 U.S.C. 7511b(e) which conflicts with the applicability standards or VOC content limits in this subchapter, the applicability standards or VOC content limits of the conflicting portion of the Federal regulation shall automatically supersede the applicability standards or the VOC content limits in this subchapter as follows:

1. If the Federal regulation establishes a VOC content standard for a category of consumer products that is also regulated in this subchapter, the VOC content standard shall be superseded where:

- i. The Federal VOC content standard is either more stringent or less stringent than the VOC content standard in this subchapter; or

ii. The Federal standard is expressed in units other than the units expressed in this subchapter (for example: percent by volume, weight by VOC per volume of product, or emissions per use);

2. If the Federal regulation establishes a scope of applicability for a category of consumer products that is also regulated in this subchapter, the scope of applicability in this subchapter shall be superseded where:

i. The scope of applicability of the category in the Federal rule is defined differently; or

ii. The scope of applicability in the Federal rule provides a different exclusion or exemption as to which products within the category are required to meet the VOC standard; or

3. If the Federal regulation excludes specific compounds or substances from the allowable VOC content for any specific category of consumer products or all categories of consumer products, the same compounds or substances shall be excluded from the allowable VOC content for the same categories in this subchapter.

(b) If the Federal regulation does not establish a VOC content standard (or does not otherwise limit the emissions of VOC) for a category of consumer products that is regulated in this subchapter, the provisions of this subchapter that regulate such a category shall remain in full force and effect.

Administrative Correction.
See: 28 N.J.R. 851(a).

7:27-24.7 Civil or criminal penalties for failure to comply

Any person subject to this subchapter shall be responsible for ensuring compliance with all requirements of this subchapter. Failure to comply with any provision of this subchapter may subject the person to civil penalties in accordance with N.J.A.C. 7:27A-3 and applicable criminal penalties, including, but not limited to, those set forth at N.J.S.A. 26:2C-19(f)1 and 2.

SUBCHAPTER 25. CONTROL AND PROHIBITION OF AIR POLLUTION BY VEHICULAR FUELS

Authority

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

Source and Effective Date

R.1989 d.123, effective February 21, 1989.
See: 20 N.J.R. 1631(a), 21 N.J.R. 483(a).

Subchapter Historical Note

Public Notice: Pre-publication meeting on proposal. See: 24 N.J.R. 2128(a).

Law Review and Journal Commentaries

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

7:27-25.1 Definitions

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

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

“Blender” means any person who carries out a blending process.

“Blending process” means the combination of physical and chemical operations in which components including, but not limited to, gasoline, gasoline blendstocks, and other chemical components are combined to create a finished gasoline or gasoline blendstock.

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

“Control area” means a geographic area within which gasoline to be used, sold, or dispensed as vehicular fuel in New Jersey is subject to the applicable standards set forth at N.J.A.C. 7:27-25.3 during the specified control period.

“Control period” means the applicable period each year during which gasoline within a control area is subject to the RVP standards set forth at N.J.A.C. 7:27-25.3.

“Crude oil” means a petroleum liquid removed from the earth and not previously used including, but not limited to, partially refined oil.

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

“Distributor” means any person who transports or stores or causes the transportation or storage of gasoline at any point between any gasoline refinery or importer’s facility and any retail outlet or wholesale purchaser-consumer’s facility.

“EPA” means the United States Environmental Protection Agency.

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

“Gasoline” means any petroleum distillate or petroleum distillate/oxygenate blend having a Reid vapor pressure of

four pounds per square inch (207 millimeters of mercury) absolute or greater, and commonly or commercially known or sold as gasoline.

“Importer” means a person who imports gasoline from a foreign country into the United States.

“Motor vehicle” means all vehicles propelled by an internal combustion engine, excepting motorized bicycles and such vehicles as run only upon rails or tracks.

“Nonconforming gasoline” means any gasoline with an RVP content that does not satisfy the standards set forth in N.J.A.C. 7:27-25.3 during the applicable control period.

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

“Petroleum distillate” means any mixture of volatile organic compounds produced by a refining process including, but not limited to, naphthas, aviation gasoline, motor vehicle gasoline, kerosene, diesel oil, domestic fuel oil, and petroleum products.

“Product development” means investigations directed toward the establishment of methods of manufacture or of specific designs of salable substances, devices, or procedures, based on previously discovered facts, scientific principles or substances.

“Refiner” means any person who owns, leases, operates, controls, or supervises a refinery.

“Refinery” means a facility which carries out refining processes.

“Refining process” means the combination of physical and chemical operations including, but not limited to, distillation, cracking, and reformulation, performed on crude oil in order to produce petroleum products, including gasoline.

“Reid vapor pressure” (RVP) means the absolute vapor pressure of a petroleum product in pounds per square inch (or kilopascals) at 100 degrees Fahrenheit (37.8 degrees Celsius).

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

“Retail outlet” means any establishment at which gasoline is provided, sold, or offered for sale directly for use in motor vehicles.

“Retailer” means any person who owns, leases, operates, controls, or supervises a retail outlet.

“RVP control area” means the entire geographic area within the State of New Jersey.

“RVP control period” means the period from May 1 through and including September 15 of each year during which the RVP standard set forth at N.J.A.C. 7:27-25.3 is applicable to gasoline to be used in New Jersey as vehicular fuel.

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

“State” means the State of New Jersey.

“Trial use” means use of a product in an experiment or series of experiments by the manufacturer or importer of that product.

“Vapor” means the gaseous form of substances which, under standard conditions, is in the solid or liquid state and which can be changed to these states by either increasing the pressure or decreasing the temperature.

“Vapor pressure” means the pressure of the vapor phase of a substance, or the sum of the partial pressures of the vapor phases of individual substances in a mixture of substances, when in equilibrium with the non-vapor phase of the substance or substances.

“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 in the approved SIP (such as N.J.A.C. 7:27B-3) or 40 CFR Part 60, Appendix A, as applicable, or which have been approved in writing by the Department and are acceptable to EPA. 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)