

7:27-1.26 Hearing before disclosure of information for which a confidentiality claim has been made

(a) A claimant may request an adjudicatory hearing to contest disclosure of any information for which a confidentiality claim has been made, at any time before disclosure. The request shall be in accordance with the requirements of N.J.A.C. 7:27A-3.4(a), and shall be delivered to the Department at the following address:

Department of Environmental Protection
Office of Legal Affairs
ATTENTION: Adjudicatory Hearing Requests
401 East State Street
PO Box 402
Trenton, New Jersey 08625-0402

(b) The Department may deny a request for an adjudicatory hearing under (a) above if:

1. The claimant fails to provide all information required under N.J.A.C. 7:27A-3.4(a);
2. The Department receives the request after disclosure of the assertedly confidential information occurs;
3. The Department has been ordered to disclose the information by a court of competent jurisdiction, or by any other person or entity with the power and authority to compel disclosure; or
4. The Department determines that disclosure is necessary to alleviate an imminent danger to the environment or to public health or safety, as provided in N.J.A.C. 7:27-1.21.

(c) All adjudicatory hearings shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(d) At the adjudicatory hearing, the respondent shall have the burden of showing that the proposed disclosure is not in accordance with this N.J.A.C. 7:27.

(e) Pending the completion of the adjudicatory hearing, the Department will refrain from disclosing the assertedly confidential information, unless:

1. The Department has been ordered to disclose the information by a court of competent jurisdiction, or by any other person or entity with the power and authority to compel disclosure; or
2. The Department determines that disclosure is necessary to alleviate an imminent danger to the environment or to public health or safety.

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

7:27-1.27 Nondisclosure of confidential information

Unless specifically required by any Federal or State law, regulation or order, court order, or applicable court rule, the Department shall not disclose confidential information to any person other than as provided in N.J.A.C. 7:27-1.20 through 1.26.

New Rule, R.1993 d.128, effective March 15, 1993 (operative April 20, 1993).

See: 24 N.J.R. 2979(a), 25 N.J.R. 1254(a).

7:27-1.28 Safeguarding of confidential information

(a) Submissions to the Department required under this chapter will be opened only by persons authorized by the Department to be engaged in administering this chapter.

(b) Only those Department employees whose activities necessitate access to information for which a confidentiality claim has been made may open any envelope which is marked "CONFIDENTIAL."

(c) The Department shall store any records containing confidential information only in locked cabinets in secure rooms; provided, however, that if such records are in a form which is not amenable to such storage, the Department shall store such records in a manner which similarly restricts access by persons to whom disclosure of the confidential information in question is restricted.

(d) Any records made, possessed, or controlled by the Department or its contractors, and containing confidential information, shall contain indicators identifying the confidential information.

(e) Every Department employee, representative, and contractor who has custody or possession of confidential information shall take appropriate measures to safeguard such information and to protect against its improper disclosure.

New Rule, R.1993 d.128, effective March 15, 1993 (operative April 20, 1993).

See: 24 N.J.R. 2979(a), 25 N.J.R. 1254(a).

7:27-1.29 Confidentiality agreements

The provisions of this chapter shall supersede the provisions of any agreement imposing any duties of confidentiality or nondisclosure upon the Department or any employee, contractor or agent thereof. Such provisions imposing confidentiality or nondisclosure duties upon the Department or any employee, contractor or agent thereof shall be of no force or effect.

New Rule, R.1993 d.128, effective March 15, 1993 (operative April 20, 1993).

See: 24 N.J.R. 2979(a), 25 N.J.R. 1254(a).

7:27-1.30 Wrongful access or disclosure; penalties

(a) No person shall disclose, obtain or have possession of any confidential information, except as authorized by this chapter.

(b) Except in accordance with this chapter, no Department employee, representative, or contractor shall disclose any confidential information which came into his or her possession, or to which he or she gained access, by virtue of his or her official position of employment or contractual relationship with the Department. No such person shall use any such information for his or her private gain or advantage, except as permitted by a contract between such person and the Department. If a contractor discloses confidential information in violation of this chapter or of contractual provisions restricting disclosure, such disclosure shall constitute grounds for debarment or suspension as provided in N.J.A.C. 7:1D-2, Debarment, Suspension and Disqualification from Department Contracting.

(c) If the Department finds that any person has violated the provisions of this subchapter, it may:

1. Commence civil action in Superior Court for a restraining order and an injunction barring that person from further disclosing confidential information; and/or
2. Pursue any other remedy available at law or equity.

(d) In addition to any other penalty that may be sought by the Department, violation of this subchapter by a Department employee shall constitute grounds for dismissal, suspension, fine or other adverse personnel action.

(e) Use of any of the remedies specified under this section shall not preclude the use of any other remedy.

New Rule, R.1993 d.128, effective March 15, 1993 (operative April 20, 1993).

See: 24 N.J.R. 2979(a), 25 N.J.R. 1254(a).

Administrative change.

See: 32 N.J.R. 1796(a).

7:27-1.31 Right to enter

(a) The Department and its representatives shall have the right to enter and inspect at any time, any facility or building, or portion thereof, including all documents and equipment on the premises, in order to ascertain compliance or noncompliance with this chapter or with any preconstruction permit, certificate, operating permit, order, authorization or other legal document issued pursuant thereto, or to verify any information submitted to the Department. This right is absolute and shall not be conditioned upon any action by the Department, except the presentation of appropriate credentials as requested, and compliance with appropriate safety standards. This right includes, but is not limited to, the right to:

1. Enter upon the premises of the facility;
2. Sketch or photograph any portion of the facility;

3. Enter upon the premises of a facility where records are maintained under the conditions of the preconstruction permit, certificate or operating permit;

4. Review any records that must be kept under the conditions of the preconstruction permit, certificate or operating permit;

5. Copy or photograph any records that must be kept under the conditions of the preconstruction permit, certificate or operating permit;

6. Inspect any part of the facility, including any equipment (including any equipment used for monitoring and any air pollution control apparatus), practices, or operations, regulated or required under the preconstruction permit, certificate or operating permit;

7. Interview any employee or representative of the owner or operator; and

8. Test or sample any substance or material.

(b) No person shall obstruct, hinder or delay the Department or its representatives in its exercise of its rights under (a) above.

(c) An owner or operator of a facility, and any appropriate employee or representative of any owner or operator, shall, upon request, assist the Department and its representatives in the performance of any inspection. Such assistance shall include, but shall not be limited to, making available sampling equipment and facilities necessary to conduct sampling to determine the nature and quantity of any air contaminant emitted by the facility.

(d) During any sampling or testing conducted by the Department, any equipment, and all components connected to, attached to, or serving the equipment, shall be operated under normal operating conditions, or under conditions set forth in any preconstruction permit, certificate, operating permit, order or other State or Federal authorization covering the equipment.

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).

Formerly "Inspections", at 7:27-8.25.

7:27-1.32 Request for an adjudicatory hearing

(a) Any applicant, registrant, or permittee may request a contested case hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the New Jersey Uniform Administrative Procedure Rules, N.J.A.C. 1:1 regarding a decision made by the Department to:

1. Deny an application, or any part thereof, for a permit or certificate, for a modification or revision thereof, or for a renewal or a variance; or not accept a registration;

2. Impose any condition on its approval which the applicant, registrant, or permittee finds objectionable;

3. Revoke or withdraw a previously issued approval; or

4. Deny the request for a stay under N.J.A.C. 7:27-1.33.

(b) Requests for a contested case hearing shall be submitted to:

Office of Legal Affairs
ATTENTION: Adjudicatory Hearing Requests
Department of Environmental Protection
401 East State Street
PO Box 402
Trenton, New Jersey 08625-402

(c) All requests for a contested case hearing must be received by the Department within 20 days of the date upon which the notice of decision was received.

(d) All requests for a contested case hearing must be submitted by the applicant in writing to the Department in accordance with (b) above and shall contain:

1. The name, address and telephone number of the person making such request;
2. A statement of the legal authority and jurisdiction under which the request for a hearing is made;
3. A brief and clear statement of specific facts describing the Department decision being appealed, as well as the nature and scope of the interest of the requester in such decision; and
4. A statement of all facts alleged to be at issue and their relevance to the Department decision for which a hearing is requested. Any legal issues associated with the alleged facts at issue must also be included.

(e) The Department shall determine whether any request for a contested case hearing should be granted. In making such determination, the Department shall evaluate the request to determine whether a contested case exists and whether there are issues of fact which, if assumed to be true, might change the Department's decision. Where only issues of law are raised by a request for a hearing, the request will be denied. Denial by the Department of a request for a contested case hearing shall constitute the final decision of the Department for the purposes of judicial appeal.

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).
Administrative change in (b).
See: 23 N.J.R. 3325(b).
Recodified from N.J.A.C. 7:27-8.12 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 (a), deleted "regarding any preconstruction permit and certificate, amendment, certificate renewal, variance, or registration," preceding "may contest" in the introductory paragraph, and changed N.J.A.C. reference in 4.

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 (a).

Amended 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).

Rewrote (a).

7:27-1.33 Request for a stay of the effective date of a departmental decision

(a) The Department may grant a stay of the effective date of a decision to revoke any previous approval. The applicant for a stay shall submit documents which substantiate, by a preponderance of the evidence, that one of the following circumstances exist:

1. The granting of the stay is required as a constitutional or statutory right; or
2. The potential effect on human health and welfare or the environment which might result from a decision to grant a stay is greatly outweighed by immediate, irreparable injury to the specific party requesting such stay.

(b) The decision to grant a contested case hearing request shall not automatically result in a stay of the Department action appealed from, in the absence of an express decision by the Department to stay such action. The burden shall be upon the party requesting a hearing to explicitly request a stay of action within the same document, as well as to describe reasons why such stay should be granted.

(c) Department decisions are effective according to their terms, unless stayed by the Department in writing.

(d) Written requests for a stay of the effective date of the Department's decision shall be made to the Department within 20 days of the date upon which the notice of decision was received.

(e) Any stay granted by the Department shall be temporary and shall not extend beyond the date of the Department's final decision in respect to the contested case.

(f) Determinations made pursuant to this section shall be made in writing and mailed to the specific party making such request.

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).

Recodified from N.J.A.C. 7:27-8.13 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).

7:27-1.34 through 7:27-1.35 (Reserved)

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

7:27-1.36 Applicability

Compliance with any subchapter of this chapter shall not relieve any person of the obligation to comply with all other applicable provisions of this chapter.

New Rule, R.1993 d.129, effective March 15, 1993 (operative April 20, 1993).

7:27-1.37 Severability

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

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 January 1995, 5th edition version of the manual entitled “Compilation of Air Pollutant Emission Factors,” which is published by the EPA, and including supplements A, B, C, D, E, F and G and any subsequent revisions. 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 accessed electronically through the EPA technology transfer network chief site on the worldwide web at <http://www.epa.gov/ttn/chief/ap42.html>.

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

“Brake horsepower” or “bhp” means a measure of mechanical power generated by a reciprocating engine determined by a brake attached to the shaft coupling.

“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 United States 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 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 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 the emission of any air contaminant directly or indirectly into the outdoor atmosphere.

“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 noncompliance 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.

“Energy and Environmental Technology Verification Act” or “EETV Act” means N.J.S.A. 13:1D-134 et seq., that authorizes the Department to develop and implement an innovative energy and environmental technology verification and certification process.

“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; 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.

“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 preconstruction permit and certificate issued pursuant to N.J.A.C. 7:27-8 or any operating permit issued pursuant to N.J.A.C. 7:27-22); 40 CFR 52.21; 40 CFR Part 70; 40 CFR Part 71; or 40 CFR Part 72.

“Former DER credit user” means one who used Discrete Emission Reduction (DER) credits in the three years immediately preceding August 4, 2003 in compliance with the Open Market Emissions Trading Program rules then promulgated at N.J.A.C. 7:27-30 to satisfy the requirements of N.J.A.C. 7:27-16 or 19.

“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 (Trichlorethene).

“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).

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

“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, any equipment or source operation 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 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.

“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.

“Microturbine” means a combustion turbine with output of 25 kW to 500 kW.

“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.

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

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

“New 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 NJAAOS; 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.

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

“Non-reactive process” means a process in which no chemical reaction is occurring. The air contaminants emitted by the process are the same as those emitted by the raw materials involved in the process, and no reaction by-products are produced or emitted.

“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 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 this subchapter.

“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; 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.

"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. However, the determination shall not include the holding by the owner or operator of either emission reductions that are banked pursuant to N.J.A.C. 7:27-18.8 or NO_x budget allowances allocated pursuant to N.J.A.C. 7:27-31.7.

"Preconstruction permit" or "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 this subchapter.

"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 requirements pursuant to 40 CFR 51.166, administered through the Department's permitting process, which apply to a new or modified major facility located in an attainment

area. The Department accepted delegation of the administration of the PSD program from EPA on February 22, 1983.

“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.

“Rated power output” means the maximum electrical or equivalent mechanical power output stated on the nameplate affixed to an engine or the International Standard organization (ISO) rated electrical or equivalent mechanical power stated on the nameplate affixed to a turbine by the manufacturer.

“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 a source that is classified as a significant source pursuant to N.J.A.C. 7:27-8.2(c) and that is not exempted from being a significant source pursuant to N.J.A.C. 7:27-8.2(d) or (e).

“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 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 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” or “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.

“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.

“Technology Acceptance and Reciprocity Partnership” or “TARP” means a workgroup of the Environmental Council of States (ECOS). The workgroup was formed to promote the

reciprocal evaluation, acceptance, and approval of innovative environmental technologies.

“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	1,1,1,3,3-pentafluoropropane (HFC-245fa)
ethane	1,1,1,2,3,3-hexafluoropropane (HFC-236ea)
methylene chloride (dichloromethane)	1,1,1,3,3-pentafluorobutane (HFC-365mfc)
1,1,1-trichloroethane (methyl chloroform)	chlorofluoromethane (HCFC-31)
1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113)	1-chloro-1-fluoroethane (HCFC-151a)
trichlorofluoromethane (CFC-11)	1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a)
dichlorodifluoromethane (CFC-12)	1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxybutane; (C ₄ F ₉ OCH ₃)
chlorodifluoromethane (HCFC-22)	2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF ₃) ₂ CF ₂ OCH ₃)
trifluoromethane (HFC-23)	1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C ₄ F ₉ OC ₂ H ₅)
1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114)	2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF ₃) ₂ CF ₂ OC ₂ H ₅)
chloropentafluoroethane (CFC-115)	methyl acetate
2,2-dichloro-1,1,1-trifluoroethane (HCFC-123)	perfluorocarbon compounds which fall into these classes:
1,1,1,2-tetrafluoroethane (HFC-134a)	cyclic, branched, or linear, completely fluorinated alkanes
1,1-dichloro-1-fluoroethane (HCFC-141b)	cyclic, branched, or linear, completely fluorinated ethers with no unsaturations
1-chloro-1,1-difluoroethane (HCFC-142b)	cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations
2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)	sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine
pentafluoroethane (HFC-125)	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.
1,1,2,2-tetrafluoroethane (HFC-134)	Amended by R.1985 d.96, effective March 4, 1985 (operative April 5, 1985).
1,1,1-trifluoroethane (HFC-143a)	See: 16 N.J.R. 167(a), 17 N.J.R. 587(a).
1,1-difluoroethane (HFC-152a)	Substantially amended.
parachlorobenzotrifluoride (PCBTF)	Amended by R.1991 d.109, effective March 4, 1991 (operative March 31, 1991).
cyclic, branched, or linear completely methylated siloxanes	See: 22 N.J.R. 292(a), 22 N.J.R. 593(a), 23 N.J.R. 723(a).
acetone	Definitions added and technical revisions made.
perchloroethylene (tetrachloroethylene)	Amended by R.1992 d.102, effective March 2, 1992 (operative March 28, 1992).
3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca)	See: 23 N.J.R. 1858(b), 24 N.J.R. 792(a).
1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb)	Amended "source operation" and "surface cleaner"; added "volatile organic compound VOC" and deleted "mathematical combination" and "volatile organic substance".
1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee)	Amended by R.1993 d.129, effective March 15, 1993 (operative April 20, 1993).
difluoromethane (HFC-32)	See: 24 N.J.R. 3459(a), 25 N.J.R. 1231(b).
ethylfluoride (HFC-161)	Added definitions for "carbon monoxide", "federally enforceable", "lead or Pb", "major facility", "oxides of nitrogen or NO _x ", "Ozone or O ₃ ", "PM-10", "potential to emit", "significant net emission increase", "State implementation plan (SIP)", "sulfur dioxide or SO ₂ ", and "total suspended particulate matter or TSP".
1,1,1,3,3,3-hexafluoropropane (HFC-236fa)	Amended by R.1993 d.428, effective September 7, 1993 (operative October 4, 1993).
1,1,2,2,3-pentafluoropropane (HFC-245ca)	See: 24 N.J.R. 4323(a), 25 N.J.R. 4075(b).
1,1,2,3,3-pentafluoropropane (HFC-245ea)	
1,1,1,2,3-pentafluoropropane (HFC-245eb)	

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.

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

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

Rewrote the section.

Amended 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).

Added "Former DER credit user"; in "Potential to emit", deleted the fifth sentence and rewrote the last sentence.

Amended by R.2005 d.343, effective October 17, 2005 (operative November 7, 2005).

See: 36 N.J.R. 4228(a), 37 N.J.R. 3976(a).

Added definitions "Brake horsepower", "Energy and Environmental Technology Verification Act", "Microturbine", "Rated power output" and "Technology Acceptance and Reciprocity Partnership".

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) Any equipment or source operation that may emit one or more air contaminants directly or indirectly into the outdoor air and belongs to one of the categories listed below, is a significant source (and therefore requires a preconstruction permit and an operating certificate), unless it is exempted from being a significant source pursuant to (d), (e) or (f) below:

1. Commercial fuel burning equipment, except for a source listed in (c)21 below, that has a maximum rated heat input of 1,000,000 BTU per hour or greater to the burning chamber, including emergency generators;

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

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

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 that is regulated under N.J.A.C. 7:27-16.3 or 16.4, or a marine tank vessel loading or ballasting operation that is 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 that is used in a surface coating operation including, but not limited to, spray or dip painting, roller coating, and electrostatic depositing, in which the quantity of coating or cleaning material used 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 that is used for the burning of non-commercial fuel, crude oil, or process by-products in any form, including, but not limited to, 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;
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 that is 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 an area used as a temporary storage area, such as a concrete pad or a roll-off container, shall not be considered to be equipment used for treating waste soils or sludges, 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. Equipment that shreds wood, if the engine powering the equipment has a maximum rated gross heat input of 1,000,000 BTU per hour or greater;
19. Equipment in which the combined weight of all raw materials used exceeds 50 pounds in any one hour, provided:
- i. Such equipment shall not include equipment which is the same type as is included within a category described in (c)1, 2, 4, 5, 6, 7, 8, 9, 10, 12, 15 or 18 above; or in (c)20 below, but which is excluded from the category because it does not meet an applicability threshold set forth in the description of the category. That is, the equipment has a lower capacity, weight of materials processed, vapor pressure, or consumption of BTUs, or otherwise falls outside a parameter that is included in the description of the category;
 - ii. In determining the weight of the raw materials used, the weight of the following shall be excluded:
 - (1) Air;
 - (2) Water;
 - (3) Containers, provided that the container is not consumed as part of the operation of the equipment; and
 - (4) Paper, metal, or plastic that is twisted, bent, or folded, in the equipment, provided that the twisting, bending, or folding, does not cause visible emissions or air pollution;

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

21. Any stationary reciprocating engine with a maximum rated power output of 37 kW or greater, used for generating electricity, not including emergency generators.

(d) Even if a source is listed in (c) above, any of the following is not a significant source (and, therefore does not need a preconstruction permit and operating 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. A stationary storage tank, provided that (d)3i, ii and iii below are satisfied:

i. The tank is one of the following:

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

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

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

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

ii. The following criteria are met:

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

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

(3) The tank is not subject to any NESHAPS, MACT, or NSPS air pollution control standards, excluding the NSPS requirements to maintain a record

of the tank's contents, the period of storage of these contents, and the maximum true vapor pressure of the liquid stored;

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

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

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

(1) Specifies the contents of the tank;

(2) Affirms that the tank meets all of the criteria listed in (d)3i and ii above; and

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

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

5. Equipment used in copying and duplication activities, including any microfiche copier, photocopier, xerography machine, or other photographic processing equipment by which an image is reproduced upon material sensitized by radiant energy;

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 supports one or more production processes of the facility, and does not itself constitute a facility production process or part thereof:

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

ii. A laundry operation that services uniforms or other clothing used at the facility, not including:

(1) Any dry cleaning process; and

(2) Any dryer that is fuel burning equipment having a maximum rated heat input of 1,000,000 BTU per hour or greater;

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;

11. A fuel cell system of:

i. Any generating capacity size fueled by hydrogen without a fuel processor;

ii. Less than 5,000 kilowatts generating capacity fueled by methane; or

iii. Less than 500 kilowatts generating capacity fueled by fuels other than hydrogen or methane;

12. Electric, plasma, or gaseous-fuel cutting equipment used to cut metal or metal products, provided the metal or metal product does not contain stainless steel, alloys of lead, alloys of arsenic, or alloys of beryllium; and

13. Equipment at a commercial or non-commercial greenhouse or nursery operation which is used to blend or mix potting soil (including, but not limited to, soil, compost, artificial media or soil-less media, and/or peat moss) that is used on site for plant propagation and that is not offered for sale or sold commercially.

(e) Equipment or a source operation, which would be classified as a significant source solely because it meets the criteria in (c)19 above, is not a significant source (and therefore does not need a permit and certificate), provided that (e)1, 2 and 3 below are satisfied:

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

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

ii. Equipment that sands, drills, buffs, polishes, mills, carves, presses, or planes metal or metal products,

except metal products containing stainless steel, alloys of lead, alloys of arsenic, or alloys of beryllium;

iii. Equipment that sands, drills, cuts, or planes untreated and unpainted wood or wood products;

iv. Equipment that cuts, trims, perforates, folds, or molds paper or paper products;

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

(1) The operating temperature of the vessel is not greater than 350 degrees Fahrenheit; and

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

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

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

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

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

2. The following criteria are met:

i. The source has no visible emissions, exclusive of water vapor, to the outdoor atmosphere;

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

iii. The source meets one of the following criteria:

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

(2) The source is a mixing or blending vessel which meets the criteria set forth in (e)1v through vii above and is vented directly to the outdoor atmosphere;

iv. The source is not subject to any NSPS, NESHAPS, or MACT air pollution control standard;

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

vi. The percentage by weight of all HAPs collectively in the raw material is less than 1.0 percent; and

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

i. Specifies the contents of the source, if the source is a mixing or blending vessel;

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

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

(f) Equipment or a source operation that would be classified as a significant source solely because it meets the criteria in (c)1 above is not a significant source (and, therefore, does not need a preconstruction permit and operating certificate) provided that it meets the criteria at (f)1 through 4 below:

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

i. A microturbine with less than 500 kilowatts generating capacity that is fueled by natural gas and that has been verified according to the requirements in (f)2 below to emit less than:

(1) 0.40 pounds of NO_x per megawatt hour; and

(2) 0.25 pounds of CO per megawatt hour; or

ii. Any piece of electric generating equipment, other than a fuel cell system or a microturbine, with less than 500 kilowatts generating capacity and that has been verified according to the requirements in (f)2 below to emit less than:

(1) 0.40 pounds of NO_x per megawatt hour;

(2) 0.25 pounds of CO per megawatt hour;

(3) 0.10 pounds of PM per megawatt hour; and

(4) 0.01 pounds of SO₂ per megawatt hour;

2. A facility with a source identified in (f)1 above shall verify its emissions and demonstrate conformance with the emission levels in (f)1 above using (f)2i or ii below. If verification process is not available pursuant to (f)2i below, or manufacturer testing has not been conducted in accordance with (f)2ii below or has been conducted in accordance with (f)2ii below but has been determined to be not acceptable with (f)2iv below, then the facility shall demonstrate conformance using (f)2iii below:

i. An applicable verification process approved by the Department pursuant to the EETV Act, or through TARP, available from the Department's Bureau of Sustainable Communities and Innovative Technologies at (609) 292-9692 or www.state.nj.us/dep/dsr/bscit.htm;

ii. The manufacturer's test protocol, provided the facility maintains on-site for inspection by the Department a copy of the protocol, test data and the test report, and available for Department review or request, and producing documents from the equipment manufacturer that the manufacturer has:

(1) Performed representative source emission testing on a model of equipment;

(2) Had the source emission testing and the test report reviewed and certified by a licensed professional engineer;

(3) Conducted a minimum of three consecutive one-hour test runs, in which the average of the test runs shall not have exceeded the emission limits stated at (f)1i and ii above; and

(4) Converted each test run to pounds per megawatt hour before averaging; or

iii. Stack emission testing, provided the facility has:

(1) Developed and used, a stack emission testing protocol using the protocol templates in Technical Manual 1004, available at the Department's website www.state.nj.us/dep/bts.html;

(2) Conducted a minimum of three consecutive one-hour test runs, in which the average of the test runs shall not exceed the emission limits stated at (f)1i and ii above; and

(3) Converted the results of each test run to pounds per megawatt hour before averaging.

iv. The Department may determine that the manufacturer's testing of a model of the equipment, under (f)2ii above, is not acceptable. The Department's basis for rejecting the manufacturer testing may include, but need not be limited to, inappropriate test methods, invalid test data, or test data that indicate emissions above the specified limits;

3. The owner or operator of the source shall have available on site a statement, certified in accordance with N.J.A.C. 7:27-1.39, by the responsible official, that the equipment or source operation meets all the criteria in (f)1 and 2 above. This certification shall be provided to the Department upon request; and

4. If the Department has reason to believe, as a result of an inspection or otherwise, that the equipment or a source operation is emitting NO_x above the specified limits, the Department, at its discretion, may require the owner or operator of the equipment or a source operation to submit the certified test report and/or supporting test data to the Department. The Department, at its discretion, may also require the owner or operator of a source to perform source emission testing in accordance with N.J.A.C. 7:27-8.4(f).

(g) Control apparatus serving a significant source shall be included in the preconstruction permit and operating certificate for the significant source.

(h) 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.

(i) 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.

(j) 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.

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

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

Rewrote (c) and (d); added new (e) and (f); recodified existing (e) through (g) as (g) through (i).

Amended by R.2005 d.343, effective October 17, 2005 (operative November 7, 2005).

See: 36 N.J.R. 4228(a), 37 N.J.R. 3976(a).

In (c), deleted "or" preceding "(e)" and added "or (f)" following "(e)"; in (c)1, added "except for a source listed in (c)21 below," and "including emergency generators"; in (c)19ii(4), deleted "and"; substituted "and" for "." at the end of (c)20, and added (c)21; rewrote (d); added (f); recodified former (f)-(i) as (g)-(j).

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 or control apparatus serving the significant source without first obtaining a preconstruction permit under this subchapter.

(b) No person shall operate (nor cause to be operated) a significant source or control apparatus serving the 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.

Category I compliance plan change	Per application	\$ 50.00
Category II compliance plan change	Per application	\$250.00

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 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>
Change in identifying information under N.J.A.C. 7:27-8.21(b)1	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.

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

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

In A. Base Fee Tables, rewrote Table 4, substituted "Part 4a" for "Table 4a", and "Part 4b" for "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 e-NJEMS 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.

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

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

In (e), substituted "e-NJEMS" for "AIMS".

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, propane, diesel or kerosene (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, number 2 fuel oil or kerosene, or 40 million BTU per hour (generating approximately 4.0 megawatts of electricity) when the generator combusts natural gas or propane;
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:
- Does not have a floating roof;
 - Has a maximum capacity of 300,000 gallons; and
 - Is used for storing VOC's with a vapor pressure within the applicable limit below:
 - 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;
 - 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; or
 - 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 types of locations:
- A current or former gasoline retail station;
 - A municipal, county or State garage;
 - A police or fire department;
 - A commercial or industrial site; or
 - 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 (no other fuels); and
10. One or more of any combination of non-HAP VOCs solvent degreasers of the following types:
- Cold cleaning machines that use a VOC solvent with a vapor pressure of less than 0.02 Psi (1 mm Hg) at 20 degrees centigrade (68 degrees Fahrenheit);
 - Heated cleaning machines that use a VOC solvent with a vapor pressure of less than 0.02 Psi (1 mm Hg) at 20 degrees centigrade (68 degrees Fahrenheit);
 - Batch vapor cleaning machines;
 - In-line (conveyorized) vapor cleaning machines;
- or
11. A single or multiple boiler(s) and other indirect fired external combustion equipment with a maximum heat input capacity of greater than or equal to 10 million BTU per hour and less than 50 million BTU per hour, firing natural gas, propane, kerosene, diesel oil or no. 2 fuel oil exclusively, or firing natural gas or propane with limited back-up of kerosene, diesel oil, or no. 2 fuel oil;
12. Equipment located at a dry cleaning facility that uses 150 gallons or less of perchloroethylene (PERC) per 12-month period if the equipment is:
- A dry-to-dry machine(s) equipped with a refrigerated condenser as the primary control and also equipped with a carbon adsorber on the cylinder outlet designed to reduce the PERC concentration below 300 ppm;
 - A non-HAP VOC dry-to-dry machine(s) where the facility uses less than 1,000 gallons of non-HAP VOC solvent per 12-month period; or
 - One or more boilers or heaters that meets the definition of a significant source, with a combined maximum heat input of less than or equal to 3 million Btu/hour burning natural gas, propane, No. 2 fuel oil, diesel, kerosene, or any combination of these fuels;

13. Solvent degreasers using only Methylene Chloride or 1,1,1 Trichloroethane of the following types:
- i. Batch vapor cleaning machines; or
 - ii. In-line vapor cleaning machines;
14. Equipment located at a dry cleaning facility if the equipment is:
- i. Non-HAP VOC Dry-to-Dry Machines where the facility uses less than 1,000 gallons of Non-HAP VOC solvent per 12-month period; or
 - ii. Dry Cleaning Machines that use Carbon Dioxide (CO₂); or
15. One or more tanks and/or pumps used for storing and/or pumping gasoline, diesel fuel, or kerosene, located at a single gasoline dispensing facility (retail or non-retail), if the facility:
- 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. Is not required to under N.J.A.C. 7:27-16.3 to have Stage 2 vapor recovery equipment which complies with N.J.A.C. 7:27-16 on all gasoline pumps at the station.
- (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).

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

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

In (c), substituted "propane, diesel or kerosene" for "or both fuels" in 3, and inserted "number 2 fuel oil or kerosene," following "diesel fuel" and added "or propane" in 4.

Administrative change.

See: 34 N.J.R. 2804(a).

Public Notice: Draft General Permits comment opportunity.

See: 35 N.J.R. 3415(b).

Public Notice: General Permit (GP-010) for Degreasing Operations Using Non-HAP Volatile Organic Compounds (VOCs).

See: 35 N.J.R. 3966(b).

Public Notice: Draft General Permits comment opportunity.

See: 35 N.J.R. 5308(c).

Administrative change.

See: 36 N.J.R. 183(a), 184(a), 1790(d), 3076(a).

Public Notice: Draft General Permits comment opportunity.

See: 36 N.J.R. 3303(b), 3303(c), 3304(a).

Administrative change.

See: 36 N.J.R. 4511(a), 4512(a), 4513(a).

Public Notice: Small Emitter General Air Permit (SEGAP)(GP-016).

See: 36 N.J.R. 4544(a).

Public Notice: Draft General Permit (GP-015) for Non-MACT Plating Operations.

See: 37 N.J.R. 142(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.

7:27-8.11 Standards for issuing a permit

(a) To obtain approval of a permit and certificate, a permit revision, or a compliance plan change, an applicant shall document that:

1. Each significant source included on the application meets all of the following standards which apply:
 - i. RACT requirements under N.J.A.C. 7:27-16 or 19;
 - ii. NSPS requirements;
 - iii. PSD requirements under 40 CFR 52.21; and
 - iv. All other applicable State or Federal air pollution control standards, codes, rules, or regulations; and

2. Each significant source incorporates advances in the art of air pollution control (also called "state of the art" or "SOTA"), developed for the kind and amount of air contaminant emitted by the equipment and control apparatus, if:

i. The source meets the criteria at N.J.A.C. 7:27-8.12(a); and

ii. The applicant proposes to construct, install, reconstruct, or modify the source.

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. 7:27-8.11, Service fees, recodified to N.J.A.C. 7:27-8.6.

7:27-8.12 State of the art

(a) If an application proposes construction, installation, reconstruction, or modification of equipment and control apparatus which is a significant source meeting the following criteria, the applicant shall document state of the art (SOTA) for the source:

1. The equipment and control apparatus has a potential to emit any HAP at a rate equal to or greater than the SOTA Threshold in Appendix 1, Table B below; or

2. The equipment and control apparatus has a potential to emit any other air contaminant or category of air contaminant at a rate equal to or greater than the SOTA threshold in Appendix 1, Table A incorporated herein by reference.

(b) For equipment and control apparatus with the potential to emit an air contaminant that meets the SOTA criteria in (a) above, documentation of SOTA is only required for the air contaminant(s) that meets those criteria. Documentation of SOTA is not required for an air contaminant if the equipment's potential to emit that air contaminant does not meet the criteria in (a) above.

(c) Documentation of SOTA is not required for equipment and control apparatus that has, for every air contaminant, a potential to emit that is less than the levels indicated in (a) above.

(d) For purposes of determining whether a source meets the threshold levels in (a) above, the potential to emit an air contaminant shall be calculated separately for each piece of equipment. If the equipment is served by control apparatus, the equipment's potential to emit shall include fugitive emissions released from the equipment (but shall not include fugitive emissions released from the general infrastructure of the facility), and shall be calculated after controls, so that the effects of the control apparatus are included in the calculation of the equipment's potential to emit. This is consistent with the definition of "potential to emit" at N.J.A.C. 7:27-8.1. For example:

1. If two or more separate pieces of equipment are to be vented through the same control apparatus, the relative contribution made by each piece of equipment to the emissions from the control apparatus shall be calculated. Using these relative contributions, the applicant shall calculate each piece of equipment's potential to emit; and

2. If one piece of equipment is to be vented through two or more control apparatus, the applicant shall calculate the piece of equipment's potential to emit using the emissions from all of the control apparatus.

(e) An applicant shall document SOTA by complying with all of the following that apply:

1. For an air contaminant subject to LAER (Lowest Achievable Emission Rate) requirements pursuant to N.J.A.C. 7:27-18, compliance with LAER requirements for that air contaminant represents SOTA. LAER is a case by case determination;

2. For an air contaminant subject to BACT (Best Available Control Technology) requirements pursuant to 40 CFR 52.21, compliance with BACT requirements represents SOTA. BACT is a case-by-case determination;

3. For an air contaminant that is a HAP, emitted by equipment for which MACT (Maximum Achievable Control Technology) requirements have been promulgated in 40 CFR Part 63, compliance with MACT requirements represents SOTA;

4. For an air contaminant emitted by equipment for which New Source Performance Standards (NSPS) have been promulgated on or after August 2, 1995, compliance with the NSPS represents SOTA;

5. For an air contaminant not subject to (e)1 through 4 above, SOTA shall be documented through one of the following options. The applicant may choose which option to pursue:

i. An applicant shall document compliance with a SOTA Manual (available from the Department at the address in N.J.A.C. 7:27-8.4(b)) that applies to the source;

ii. If the source is eligible for a general permit under N.J.A.C. 7:27-8.8, an applicant shall register for the general permit in accordance with N.J.A.C. 7:27-8.8; or

iii. An applicant shall document compliance with a case by case SOTA standard determined through the process detailed in (f) below.

(f) A case by case SOTA standard shall be determined by the Department based on a demonstration by the applicant, using a "top down" approach. To perform a "top down" SOTA demonstration, the applicant shall:

1. Identify and evaluate a list of air pollution control technologies or measures that may be applied to the source. This list shall not be limited to measures that have been applied to other existing sources in this same source category. The list shall include measures applied to sources in similar source categories, as well as innovative control technologies, modification of the process or process equipment, other pollution prevention measures, and combinations of the above measures; and

2. Arrange the measures on the list in descending order of air pollution control effectiveness. The first-listed or "top" measure shall constitute SOTA for the source unless the applicant provides one of the following:

i. A demonstration that the top measure should be eliminated from consideration because it is technically

infeasible, based on physical, chemical, or engineering principles, and/or technical difficulties that would prevent the successful application of the measure;

ii. A demonstration that the top measure should be eliminated from consideration based on its environmental impacts. The justification shall show that the adverse environmental effects of the top measure (for example, effects on water or land, HAP emissions, or increased environmental hazards), when compared with its air contaminant emission reduction benefits, would make use of the top measure unreasonable;

iii. A demonstration that the top measure should be eliminated from consideration based on its economic impacts. The justification shall show that the total and incremental costs of the top measure are greater than the total and incremental costs of the proposed measure(s); and that the extra costs, when compared with the air contaminant emission reduction benefits resulting from the top measure, would make use of the top measure unreasonable. All costs shall be calculated using the techniques in the latest edition of EPA's control cost manual; or

iv. A demonstration that the top measure should be eliminated from consideration based on its energy impacts. The justification shall show that the top measure uses fuels that are not reliably available; or that the energy consumed by the top measure is greater than the proposed measure(s), and that the extra energy used, when compared with the air contaminant emission reduction benefits resulting from the top measure, would make use of the top measure unreasonable; and

3. If the top measure is eliminated from consideration under any of the provisions at (f)2i through iv above, the applicant shall evaluate each successive measure on the list, using the procedures described in (f)2 above, until a measure is reached that is not eliminated. Upon the Department's approval of the SOTA demonstration, this measure shall constitute the case by case SOTA for the source.

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. 7:27-8.12, Request for an adjudicatory hearing, recodified to N.J.A.C. 7:27-1.32.

Public Notice: Revised SOTA technical manual 13.

See: 35 N.J.R. 1961(b).

Public Notice: Opportunity to Comment on Draft SOTA Technical Manual for Boilers and Process Heaters.

See: 35 N.J.R. 4789(b).

Public Notice: Opportunity to Comment on Draft State-of-the-Art (SOTA) Manual for Stationary Combustion Turbines.

See: 36 N.J.R. 584(b).

Public Notice: Revised State-of-the-Art (SOTA) Technical Manual for Boilers and Process Heaters.

See: 36 N.J.R. 1833(a).

7:27-8.13 Conditions of approval

(a) The Department may establish conditions of approval of any preconstruction permit or certificate application.

(b) The Department may change the conditions of approval of a certificate:

1. At the time of renewal of a temporary operating certificate;
2. At the time of approval or renewal of a five-year operating certificate; or
3. At any time during the period a certificate is in effect, if the Department determines that such change is necessary to protect human health or welfare or the environment.

(c) Upon request of the Department, a permittee shall submit to the Department information relevant to the operation of equipment and control apparatus including, but not limited to:

1. A diagram of the facility indicating the location of any equipment and control apparatus, its applicable preconstruction permit and certificate number, any stack designation assigned by the Department, and any stack designation assigned by the person;
2. Records documenting any use of any equipment, control apparatus, or other source operation including, but not limited to, rate of production and hours of operation; and
3. Records documenting any construction or installation of any equipment or control apparatus, including the dates of such construction or installation.

(d) The Department may include, as a condition of approval, a compliance plan. The compliance plan shall include monitoring, recordkeeping, and reporting requirements. Such requirements may include:

(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.

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

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

Rewrote (d).

Amended 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).

In (d), deleted 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) and to the appropriate regional enforcement office indicated in (a)1i 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, and any subsequent request for a delay in testing, 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;
- iii. The requirement for testing is a Federal requirement, and the EPA has given its approval in writing of the delay in testing; or
- iv. The permittee has described in writing an 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.

(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).

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).

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

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

In (a), rewrote 1 and 3.

Amended 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).

Deleted (c).

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	Benzotrichloride	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
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

CAS Number	Air Contaminant	Reporting Threshold (lbs/yr)	SOTA Threshold (lbs/yr)
107302	Chloromethyl methyl 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, salts and esters	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-Dimethylaniline	200	2,000
64675	Diethyl sulfate	200	2,000
119904	3,3-Dimethoxybenzidine	20	200
60117	4-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
7647010	Hydrochloric acid	2,000	10,000
7664393	Hydrogen fluoride	20	200
123319	Hydroquinone	200	2,000
78591	Isophorone	2,000	10,000
58899	Lindane	2	20
108316	Maleic anhydride	200	2,000
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
78933	Methyl ethyl ketone	2,000	10,000
60344	Methyl hydrazine	12	120
74884	Methyl iodide	200	2,000

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

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.

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

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

Updated Table B.

“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.

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.

"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%
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

"Calendar day" means the 24 hour period from 12 o'clock midnight to 12 o'clock midnight the following day.

"Can coating" means exterior and interior spray coating in two-piece can lines; interior and exterior coating in sheet coating lines for three-piece cans; side seam spray coating and interior spray coating in can fabricating lines for three-piece cans; and sealing compound application and sheet coating in end coating lines.

"Capture efficiency" means the amount of VOC entering a capture system and delivered to a control device expressed as a ratio of the total VOC generated by a source of VOC.

"CARB" means the California Air Resources Board.

"Carbon adsorber" means a bed of activated carbon into which an air/solvent, gas/vapor or liquid stream is routed and which adsorbs certain compound(s) found in the stream onto the carbon.

"Carbon monoxide" or "CO" means a colorless, odorless, tasteless gas at standard conditions, having a molecular composition of one carbon atom and one oxygen atom.

"Cartridge filtration system" means a system in which perforated canisters containing filtration paper and/or activated carbon are used in a pressurized system to remove solid particles and fugitive dyes from soil-laden solvent.

"Catalytic oxidizer" means a type of control apparatus which reduces the emission of air contaminants by causing the air contaminant molecules to decompose by oxidation, accomplished by preheating the gases being emitted to a predetermined temperature, which is less than required for thermal oxidation, and contacting the preheated gases with catalysts to promote decomposition.

"Certificate" means either an operating certificate or a temporary operating certificate.

"CFR" means the Code of Federal Regulations.

"Chemical plant" means any facility, or any part thereof, classified within the Standard Industrial Code (SIC) Major Group 28, "Chemical and Allied Products."

"Clear coating" means a coating which lacks color and opacity or is transparent and uses the undercoat as a reflectant base or undertone color and any coating used as an interior protective lining on any cylindrical metal shipping container of greater than one gallon capacity.

"Clear topcoat" means the final coating, which contains binders by not opaque pigments and which is specifically formulated to form a transparent or translucent solid protective film on wood furniture.

"CO" means carbon monoxide.

"Coating of flat wood paneling" means the coating of hardwood, plywood, particle board, and hardboard paneling, excluding the coating of exterior siding, tile board, or particle board used in furniture manufacturing.

"Coating of miscellaneous metal parts and products" means the application of any coating, excluding an adhesive, to any metal part or product including, but not limited to, large and small farm machinery, small appliances, office machinery, vending machines, industrial machinery, metal-covered doors, door frames, and electrical machinery.

"Coating of wood furniture" means the application of any surface coating formulation to any furnishing made of wood or a composite of wood including, but not limited to, kitchen cabinets, equipment cabinets, household furniture and office furniture.

"Coil coating" means the coating of any flat metal sheet or strip available in rolls or coils.

"Cold cleaning machine" means a solvent cleaning machine, containing and/or using an unheated liquid which contains greater than five percent VOC or five percent HAP by weight, into which parts are placed for the purpose of removing dirt, grease, oil or other contaminants and coatings from the surfaces of the parts. This term includes both immersion cold cleaning machines and remote reservoir cold cleaning machines. The term does not include vapor cleaning machines and machines which do not have a solvent/air interface, such as airless and air-tight cleaning systems.

"Combined cycle combustion turbine" means a combustion turbine that recovers heat from the turbine exhaust gases to heat water or generate steam.

"Combustion source" means a source operation or item of equipment which combusts fuel.

"Combustion turbine" means an internal combustion engine fueled by liquid or gaseous fuel, in which blades are driven by combustion gases to generate mechanical energy in the form of a rotating shaft that drives an electric generator or other industrial equipment.

"Complete" means, in reference to an application for a permit, that the application contains all of the information necessary, as determined by the Department, for commencing technical review of the application. Designating an application complete for purposes of commencing technical review does not preclude the Department from requesting or accepting any additional information.

"Component" means, with respect to leak detection and repair, any part of a source operation, including any equipment and control apparatus, from which emissions of air contaminants may be released into the ambient air. This term includes, but is not limited to, any agitator, valve, flange, fitting, gasket, seal, joint, pump, compressor, pressure relief device, diaphragm, manhole, hatch, sight-glass, instrument

connection or other connection, meter, or associate equipment. This term does not include a designed emission point of a stack or chimney.

“Compressor” means a device used to compress gases or vapors by the addition of energy, and includes all associated components used to make connections or seals.

“Conductive ink” means an ink used in screen printing which contains material that permits electric current to flow through printed lines or patterns.

“Conservation vent” means any valve designed and used to reduce evaporation losses of any VOC by limiting the amount of air admitted to, or vapors released from, the vapor space of a closed storage vessel.

“Construction ballast” means the filling of an underground storage tank with any VOC, including gasoline, to provide stability during construction.

“Construction engine” means a mobile engine used for construction at a site for a limited time period. Construction engine includes a mobile electric generator that is used until regular electric power lines are available to replace the function of the electric generator at the construction site. Construction engine does not include:

1. An engine attached to a foundation;
2. An engine (including any replacement engines) at the same location for more than 12 months;
3. An engine (including any replacement engines) at a seasonal source for at least 90 days per year for at least two years; or
4. An engine that is moved from one location to another in an attempt to circumvent the residence time criteria in 2 or 3 above.

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

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

“Custom topcoating” means, with respect to automobiles and light duty trucks, the application of surface coating formulations, except during original equipment manufacturing, to the main body or other exterior areas of any passenger car or any motor vehicle capable of seating 15 or fewer passengers or any motor vehicle rated at 8,500 pounds (3,856 kilograms) gross weight or less which is designed for purposes of transportation of property, or a derivative of such vehicle including, but not limited to, pick-ups, vans, and window vans, to achieve a finish that meets individual specifications, including, but not limited to, custom color, design, or gloss. It shall not include the use of adhesion promoters, zinc phosphate pretreatments, uniforming finishes

or blenders, specialty primers for plastics, or low reflective accessory coatings.

“Cutback asphalt” means any paving asphalt which has been liquefied by blending with petroleum solvents, or produced directly from the distillation of petroleum having vaporization properties similar to the blended and liquefied asphalt.

“Day” means calendar day.

“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.

“Destruction efficiency” means the amount of VOC destroyed or removed by a control device expressed as a ratio of the total VOC entering the device.

“Development” means investigations in a laboratory or pilot plant directed toward the structuring or establishment of methods of manufacture or of specific designs of salable substances, devices or procedures, based upon previously discovered facts, scientific principles or substances. Development shall not include production for sale of established products through established processes; nor shall it include production in plant, works or semi-works equipment for distribution through market-testing channels.

“Difficult to monitor component” means any component located over 15 feet above ground when access is required from the ground, or any component located 9.6 feet away from a platform when access is required from a platform.

“Dilution gas” means air or gas from any source whatsoever added to the source gas emitted from a source operation.

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

“DOT” means the United States Department of Transportation.

“Double seal floating roof” means a floating roof with two complete and separate seal-envelope combinations, one above the other, containing an enclosed space between them. At least one of the seals must be supported by a mechanism which maintains constant seal contact with the inner surface of the vessel walls, despite surface and altitude irregularities.

“Down time” means, with respect to a solvent cleaning machine, the period when a solvent cleaning machine is not cleaning parts and the sump heating coils, if present, are turned off.

maximum VOC batch cycle emission rate for a batch operation, considering any enforceable limitations on the operation including those set forth in any applicable rule or regulation, permit, or operating certificate.

Amended by R.1986 d.379, effective September 22, 1986 (operative October 18, 1986).

See: 17 N.J.R. 1969(a), 18 N.J.R. 1936(a).
Substantially amended.

Amended by R.1988 d.44, effective January 19, 1988 (operative February 21, 1988).

See: 19 N.J.R. 1938(a), 20 N.J.R. 186(b).

Added definition "Gasoline dispensing facility".

Amended by R.1989 d.62, effective February 6, 1989.

See: 20 N.J.R. 1866(a), 21 N.J.R. 321(a).

Added "barges as tankers" to "Delivery vessel" and added definition "marine delivery vessel".

Amended by R.1989 d.331, effective June 19, 1989 (operative July 24, 1989).

See: 20 N.J.R. 3052(a), 21 N.J.R. 1669(b).

Added definition for "custom topcoating of automobiles and light duty trucks", amended "refinishing of automobiles and light duty trucks" by referencing those coatings and finishes to be excluded and change number of passenger seating from 12 to 15 in "surface coating of automobiles and light-duty trucks".

Public Notice: Petition for rulemaking concerning a Volatile Organic Substance.

See: 22 N.J.R. 1632(c).

Public Notice: Action on Petition for rulemaking concerning a Volatile Organic Substance.

See: 22 N.J.R. 2041(a).

Public Notice: Amend definition of volatile organic compounds to exclude four halogenated chlorofluorocarbons.

See: 22 N.J.R. 3165(c).

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 definitions for "air contaminant", "conservation vent", "control apparatus", "conveyorized surface cleaner", "department", "equipment", "facility", "freeboard chiller", "freeboard height", "gasoline", "liquid particles", "particles", "person", "petroleum distillate", "receiving vessel", " Reid vapor pressure", "seal-envelope combination", "source operation", "stack or chimney", "standard conditions", "storage tanks", "surface coating of automobiles and light-duty trucks", "surface cleaners", "surface coating formulation" and "surface coating operation"; added new definitions for "capture efficiency", "certificate", "destruction efficiency", "distillates of air", "EPA", "exempt organic substance", "indirect emissions", "operating certificate", "partial pressure", "permit", "surface coating formulation as applied", "temporary operating certificate", "vapor pressure", "volatile organic compound (VOC)", and "worst case operating conditions"; deleted definitions for "high performance architectural coating" and "volatile organic substances".

Administrative corrections to "cutback asphalt", "Department", "fabric printing operation", "graphic arts", "storage tank" and "vapor balance system".

See: 24 N.J.R. 1889(a).

Amended by R.1993 d.666, effective December 20, 1993 (operative July 26, 1994).

See: 25 N.J.R. 3339(a), 25 N.J.R. 4551(a), 25 N.J.R. 6002(a).

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).

Administrative Correction.

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

Amended by R.1995 d.255, effective May 15, 1995 (operative June 19, 1995).

See: 26 N.J.R. 4478(a), 27 N.J.R. 1979(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).

Inserted "Facility-wide permit", "Operating permit", and "Preconstruction permit"; and rewrote "Permit".
Administrative change.

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

Amended by R.2003 d.224, effective June 2, 2003 (operative June 29, 2003).

See: 34 N.J.R. 2489(a), 35 N.J.R. 2509(a).

Rewrote the section.

Amended 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).

In the introductory paragraph, substituted "when used in this subchapter, have the same meanings" for "when used in this subchapter, shall have the meanings"; added "Former DER credit user".

Amended by R.2005 d.343, effective October 17, 2005 (operative date of November 7, 2005).

See: 36 N.J.R. 4228(a), 37 N.J.R. 3976(a).

Added definitions "Brake horsepower", "Boiler serving an electric generating unit", "Combustion turbine", "Construction engine", "Electric distribution company", "Electric distribution system", "Electric generating unit", "Emergency", "Emergency generator", "Industrial/commercial/institutional boiler", "Internal combustion engine", "KW", "MW", "PJM", "Power outage", "Rated power output", "Reciprocating engine" and "Voltage reduction"; rewrote definitions "Combined cycle gas combustion turbine", "Regenerative cycle gas combustion turbine", "Simple cycle gas combustion turbine", "Stationary gas combustion turbine" and "Stationary internal combustion reciprocating engine"; deleted definitions "Gas turbine", "Non-utility boiler", and "Utility boiler".

Law Review and Journal Commentaries

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

Explaining the facts of BACT, RACT and GACT. Neale R. Bedrock, 138 N.J.L.J. No. 8, S4 (1994).

Case Notes

Regulations prescribing implementation schedule for stage II vapor recovery system were valid. *American Petroleum Institute v. New Jersey Dept. of Environmental Protection*, 230 N.J. Super. 563, 554 A.2d 3 (A.D.1989).

7:27-16.1A Purpose, scope, applicability, and severability

(a) This subchapter establishes requirements and procedures concerning the control and prohibition of air pollution by volatile organic compounds (VOC). The general purposes of this subchapter are as follows:

(e) Any person responsible for the emission of VOC shall, upon request of the Department, provide sampling facilities and testing facilities exclusive of instrumentation and sensing devices as may be necessary for the Department to determine the nature and quantity of the VOC being emitted into the outdoor atmosphere. During such testing by the Department, the equipment and all components connected, or attached to, or serving the equipment shall be used and operated under normal routine operating conditions or under such other conditions as may be requested by the Department. The facilities may be either permanent or temporary, at the discretion of the person responsible for their provision, and shall conform to all applicable laws and regulations concerning safe construction and safe practice.

(f) All testing and monitoring pursuant to the provisions of this subchapter shall be conducted using N.J.A.C. 7:27B-3 or other method approved in advance by the Department and acceptable to EPA.

(g) Hourly emissions limits apply to any consecutive 60 minute period, and testing performed to verify compliance shall be based on a 60 minute period during which the equipment or control apparatus is used and operated under conditions acceptable to the Department and consistent with the operational parameters and limits set forth in any permit or certificate in effect. If circumstances require that test periods be less than, or more than 60 minutes (such as when an operational duration is less than 60 minutes or when detectability limits are approached for low concentration gas streams), the Department may require different test periods in its review and approval of test protocols.

(h) Any record keeping requirement set forth at N.J.A.C. 7:27-16.2(k), 16.3(s), 16.7(m), 16.7(n), 16.16(g), or 16.20(g), shall become effective on October 1, 1992, except for record keeping based on continuous emission monitoring. Any record keeping requirement based on continuous emission monitoring shall become effective on April 1, 1993.

(i) Any person who reports information to the Department pursuant to the requirements set forth at N.J.A.C. 7:27-16.2(k), 16.3(s), 16.7(m) and (n), 16.16(g), or 16.20(g) may assert a confidentiality claim for that information in accordance with the procedures set forth at N.J.A.C. 7:27-1.6 through 1.30.

Recodification: Recodified from 16.8.
See: 17 N.J.R. 1969(a), 18 N.J.R. 1936(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).
Require EPA approval of variances and access to records.
Amended by R.1993 d.128, effective March 15, 1993 (operative April 20, 1993).
See: 24 N.J.R. 2979(a), 25 N.J.R. 1254(a).
Corrected internal cite.
Recodified from 7:27-16.9 and 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).
Administrative Correction.
See: 27 N.J.R. 2740(a).

7:27-16.23 Procedures for demonstrating compliance

(a) The owner or operator of equipment or a source operation subject to N.J.A.C. 7:27-16.8, 16.9, 16.10, 16.11 or 16.13 that is subject to an emission limit under this subchapter shall demonstrate compliance with the emission limit pursuant to (a)1 below if a continuous emissions monitoring system has been installed on the equipment or source operation for the air contaminant in question, or pursuant to (a)2 below if no such system has been installed for the air contaminant.

1. With respect to an emission limit for any air contaminant monitored by a continuous emissions monitoring system installed on the equipment or source operation, compliance with the limit is based upon the average of emissions over one calendar day, not including periods of equipment downtime.

2. With respect to an emission limit for any air contaminant that is not monitored by a continuous emissions monitoring system installed on the equipment or source operation, compliance with the limit is based upon the average of three one-hour tests, each performed over a consecutive 60-minute period specified by the Department and performed in compliance with N.J.A.C. 7:27-16.22.

(b) For any equipment or source operation subject to (a) above which was in operation before January 1, 1995, the owner or operator shall demonstrate compliance with this subchapter in accordance with (a)1 or 2 above by May 31, 1996, and thereafter at the frequency set forth in the permit or certificate for such equipment or source operation.

(c) For any equipment or source operation subject to (a) above which commences operations or is altered after January 1, 1995, the owner or operator shall demonstrate compliance with this subchapter in accordance with (a) or (b) above within 180 days from the date on which the source operation commences operation, and thereafter at the frequency set forth in the permit or certificate for such equipment or source operation.

(d) An exceedance of any applicable VOC or CO emission limit set forth in this subchapter, determined through testing or monitoring performed pursuant to (a) or (b) above or otherwise, is a violation of this subchapter.

New Rule, 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).

7:27-16.24 (Reserved)

New Rule, 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).
Repealed by R.2005 d.343, effective October 17, 2005 (operative date of November 7, 2005).
See: 36 N.J.R. 4228(a), 37 N.J.R. 3976(a).
Section was "Adjusting combustion processes".

7:27-16.25 (Reserved)**7:27-16.26 Variances**

(a) Whenever a person responsible for the emission of any VOC believes that advances in the art of control for the kind and amount of VOC emitted have not developed to a degree which would enable the requirements of this subchapter to be attained, such person may apply to the Department in writing for a variance, setting forth any reason and justification therefor.

(b) Any person submitting an application for a variance to the Department is subject to the certification requirements set forth at N.J.A.C. 7:27-1.39.

(c) The Department may issue a variance which shall be valid for a period not to exceed three consecutive years from the date of issuance and may be renewed upon application to the Department setting forth reasons and justifications for its continuation.

(d) Variances issued under the provisions of this section shall be conditional upon:

1. Compliance with any requirements which the Department sets forth as conditions of approval; and
2. Approval by the EPA as a revision to the State Implementation Plan.

(e) Variances may be revoked at any time at the discretion of the Department.

(f) Any applicant aggrieved by the denial or revocation by the Department of a variance allowed under the provisions of this section may request an adjudicatory hearing pursuant to N.J.A.C. 7:27-1.32.

Recodification: From 16.9.
See: 17 N.J.R. 1969(a), 18 N.J.R. 1936(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).
Addressed EPA-identified deficiencies.
Recodified from 7:27-16.10 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).
Administrative Correction.
See: 27 N.J.R. 2740(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 (f), changed N.J.A.C. reference.

7:27-16.27 Exceptions

(a) The provisions of this subchapter shall not apply to any stationary vessel or delivery vessel maintained under a pressure greater than one atmosphere provided that any vent serving such vessel has the sole function of relieving pressure under abnormal emergency conditions.

(b) The provisions of this subchapter shall not apply to the emissions of VOC from the following source operations:

1. Offset lithography printing operations until November 15, 1994;
2. Surface coating of plastic parts until November 15, 1994;
3. Natural gas pipelines that are not major VOC facilities, with the exception of blowdown events as set forth in N.J.A.C. 7:27-16.21;
4. Industrial wastewater treatment systems until November 15, 1994;
5. All other wastewater treatment facilities until November 15, 1994; and
6. Open burning.

Recodification: From 16.12.
See: 17 N.J.R. 1969(a), 18 N.J.R. 1936(a).
Recodified from 16.13 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).
Recodified from 7:27-16.12 and 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).

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

Subchapter Historical Note

Unless otherwise expressly noted, all provisions of this subchapter were adopted pursuant to authority of N.J.S.A. 13:1D-1 et seq. and 26:2C-1 et seq. and were filed and became effective on June 14, 1977, as R.1977 d.207. See: 9 N.J.R. 69(a), 9 N.J.R. 321(b). Amendments were filed on October 17, 1979, as R.1979 d.414 to become effective on December 17, 1979. See: 10 N.J.R. 477(b), 11 N.J.R. 544(b).

7:27-17.1 Definitions

The following words and terms, when used in this subchapter, 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 due to alteration of background air flow characteristics caused by the presence of buildings or other obstacles in the vicinity of the emission point.

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

“Asbestos” means actinolite, amosite, anthophyllite, chrysotile, crocidolite, tremolite.

“CFR” means the Code of Federal Regulations.

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

"Department" means the New Jersey Department of Environmental Protection.

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

"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. It shall be calculated by one of the following equations:

1. If the lowest possible temperature of the gas leaving the stack is 68 degrees Fahrenheit (20 degrees Celsius) or less:

$$\text{Effective stack height} = H_s + 2.76(D)(B^{1/3})$$

where:

- H_s = the physical stack height above grade in meters
- D = the stack outlet in diameter in meters
- B = (V²)/T
- V = the stack gas exit velocity in meters per second
- T = the stack gas temperature at the stack outlet in degrees Kelvin

2. If the lowest possible temperature of the gas leaving the stack is greater than 68 degrees Fahrenheit (20 degrees Celsius):

$$\text{Effective stack height} = H_s + 8.28(F^{0.75})$$

where:

- H_s = the physical stack height above grade in meters
- F = (V)(D⁵)(T-293)/T
- V = the stack gas exit velocity in meters per second
- D = the stack outlet diameter in meters
- T = the stack gas temperature at the stack outlet in degrees Kelvin

"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.

"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.

"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.

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

"Manufacturing process" means any action, operation or treatment embracing chemical, industrial, manufacturing, or processing factors, methods or forms including, but not

limited to, furnaces, kettles, ovens, converters, cupolas, kilns, crucibles, stills, dryers, roasters, crushers, grinders, mixers, reactors, regenerators, separators, filters, reboilers, columns, classifiers, screens, quenchers, cookers, digesters, towers, washers, scrubbers, mills, condensers or absorbers.

"Open top tank" means any vessel in which a manufacturing process, or any part thereof, takes place during which there is an opening to the atmosphere greater than 25 percent of the surface area of any liquid substance contained therein.

"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.

"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.

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

"Solid particles" means particles of rigid shape and definite volume.

"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.

"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 (♦F) (21.1 degrees Celsius (♦C)) and one atmosphere pressure (14.7 pounds per square inch absolute or 760.0 millimeters of mercury).

"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.

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

“Surface coating formulation” means the material used to form a protective, functional, or decorative film including, but not limited to, any architectural coating, paint, varnish, ink or adhesive applied to or impregnated into a substrate.

“Surface coating operation” means the application of one or more surface coating formulations, 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.

“Tank” means any container whose walls are constructed of material which is rigid and self-supporting.

“Toxic substance” or “TXS” means a substance listed in Table 1 of this subchapter.

“Transfer operation” means the moving of any substance from any storage tank, manufacturing process vessel, or delivery vessel into any receiving vessel.

“Vapor” means the gaseous form of substances which, under standard conditions, are 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)
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)
1,1,1,2,3,3,4,4,5,5,5-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.

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).

Definitions amended for consistency with N.J.A.C. 7:27-16.1; definition of "volatile organic compound (VOC)" replaces "volatile organic substance (VOS)".

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).

Administrative correction.

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

Administrative change.

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

7:27-17.2 Asbestos surface coating

No person shall cause, suffer, allow or permit surface coating by spraying on any building, structure, facility, installation or internal or external portion thereof, asbestos or friable material containing in excess of 0.25 per cent by weight of asbestos.

7:27-18.10 Exemptions

(a) If a person demonstrates that a proposed significant net emission increase of an air contaminant which results from the use of alternative fuels in existing fuel burning equipment will not cause an exceedance of the significance level for the respective criteria pollutant in a nonattainment area for that pollutant, and will not prevent reasonable further progress toward attaining any NAAQS, the Department may, in its discretion, exempt the person from compliance with the provisions of this subchapter. No exemption shall be granted unless the person demonstrates, at a minimum, that:

1. The equipment was capable of burning the alternative fuel before December 21, 1976; or

2. The equipment must use such fuel by reason of an order in effect under Section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 792 et seq.) or under any superseding legislation, or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act of 1978 (16 U.S.C. 791a et seq.); or

3. The alternative fuel is derived from municipal solid waste; or

4. The alternative fuel is to be used by reason of an order or rule issued under Section 125 of the Clean Air Act.

(b) N.J.A.C. 7:27-18.3(c)1 does not apply to any person submitting an application for:

1. Portable facilities which will be relocated outside of a nonattainment area within six months of initiation of operation; or

2. Temporary source operations which produce an experimental product, and which cease operation within six months of initiation of operation.

(c) The exemption in (b) above may not be applied to the same portable facility or temporary source operation more than once within the lifetime of the portable facility or temporary source operation.

Recodified from 18.9 and 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).

Changes made pursuant to 1990 Clean Air Act amendments.

Amended by R.1996 d.511, effective November 4, 1996 (operative November 23, 1996).

See: 28 N.J.R. 748(a), 28 N.J.R. 4784(b).

7:27-18.11 (Reserved)

New Rule, 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 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).

Administrative change.

See: 32 N.J.R. 3117(a).

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).

Section was "Procedures for interstate and intrastate trading".

7:27-18.12 Civil or criminal penalties for failure to comply

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

New Rule, 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).

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

N.J.S.A. 13:1B-3, 13:1D-9, and 26:2C-1 et seq., in particular 26:2C-9(c) and 19.

Source and Effective Date

R.1993 d.682, effective December 20, 1993 (operative January 23, 1994).

See: 25 N.J.R. 631(a), 25 N.J.R. 5957(a).

Law Review and Journal Commentaries

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

Explaining the Facts of BACT, RACT and GACT. Neale R. Bedrock, 138 N.J.L.J. No. 8, 54 (1994).

7:27-19.1 Definitions

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

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

"Ambient air quality standard" means a limit on the concentration of an air contaminant in the general outdoor atmosphere as set forth in N.J.A.C. 7:27-13 or 40 CFR 50.

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

"Alteration" means one of the following changes to equipment or control apparatus, or to a source operation, for which a permit has been issued:

1. If the equipment, control apparatus, or source operation is subject to preconstruction permit requirements, a change which requires a permit revision under N.J.A.C. 7:27-8.18; or

2. If the equipment, control apparatus, or source operation is at a facility for which an operating permit has been issued, a change which requires a minor modification or a significant modification of the permit under N.J.A.C. 7:27-22.23 or 24.

"Alternative maximum allowable emission rate" means a maximum allowable emission rate, set by the Department on a site-specific basis pursuant to N.J.A.C. 7:27-19.13.

"Anthracite coal" means coal that is classified as anthracite according to the ASTM Standard Specification for Classification of Coals by Rank, ASTM D 388-77, incorporated herein by reference, as amended or supplemented. This specification can be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959.

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

"ASTM" means the American Society for Testing and Materials.

"Averaging" means complying with the requirements of this subchapter pursuant to N.J.A.C. 7:27-19.6, Emissions averaging.

"Averaging unit" means an individual source operation or item of equipment which is included in a designated set for the purpose of averaging pursuant to N.J.A.C. 7:27-19.6.

"Base year" means calendar year 1990 or other calendar year determined pursuant to N.J.A.C. 7:27-19.20(d)1, in connection with a plan for seasonal fuel switching.

"Batch type asphalt plant" means an asphalt plant where the aggregate and asphalt cement or other binder are mixed in equipment other than a rotary dryer.

"Bituminous coal" means coal that is classified as bituminous according to the ASTM Standard Specification for Classification of Coals by Rank, ASTM D 388-77, incorporated herein by reference, as amended or supplemented. This specification can be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959.

"Borosilicate recipe" means a formula for making glass using 60 to 80 percent silicon dioxide, five to 35 percent boric oxides, and four to 23 percent other oxides.

"Boiler serving an electric generating unit" means a steam generating unit used for generating electricity including a unit serving a cogeneration facility.

"Brake horsepower" or "bhp" means a measure of mechanical power generated by a reciprocating engine determined by a brake attached to the shaft coupling.

"Brake horsepower-hour" or "bhp-hr" means a unit of energy or work, equal to the work done by a mechanism with a power output of one brake horsepower over a period of one hour.

"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.

"Budget source" means those sources regulated in N.J.A.C. 7:27-31.

"Calendar day" means the 24 hour period from 12:00 o'clock midnight to 12:00 o'clock midnight the following day.

"Carbon monoxide (CO)" means a colorless, odorless, tasteless gas at standard conditions, having a molecular composition of one carbon atom and one oxygen atom.

"Certificate" means either an operating certificate or a temporary operating certificate.

"Cleaner fuel" means a fuel other than a combustion source's primary fuel, the combustion of which results in a rate of NO_x emissions that is less than the rate of NO_x emissions when the primary fuel is combusted, all other circumstances being equal.

"CFR" means the United States Code of Federal Regulations.

"Clean Air Act" or "CAA" means the Federal Clean Air Act, 42 U.S.C. §§ 7401 et seq., as amended and supplemented.

"Coal" means anthracite coal, bituminous coal, coke, lignite, nonbanded coal, and/or subbituminous coal.

"Coke" means a fused, cellular, porous substance that remains after free moisture and the major portion of the volatile materials have been distilled from bituminous coal and other carbonaceous material by heating it in the absence of air or with a limited supply of air.

"Combined cycle combustion turbine" means a combustion turbine that recovers heat from the turbine exhaust gases to heat water or generate steam.

“Combustion source” means a source operation or item of equipment which combusts fuel.

“Combustion turbine” means an internal combustion engine fueled by liquid or gaseous fuel, in which blades are driven by combustion gases to generate mechanical energy in the form of a rotating shaft that drives an electric generator or other industrial equipment.

“Construction engine” means a mobile engine used for construction at a site for a limited time period. Construction engine includes a mobile electric generator that is used until regular electric power lines are available to replace the function of the electric generator at the construction site. Construction engine does not include:

1. An engine attached to a foundation;
2. An engine (including any replacement engines) at the same location for more than 12 months;
3. An engine (including any replacement engines) at a seasonal source for at least 90 days per year for at least two years; or
4. An engine that is moved from one location to another in an attempt to circumvent the residence time criteria in 2 or 3 above.

“Commercial container glass” means clear or colored glass made of soda-lime recipe, which is formed into bottles, jars, ampoules or other containers, but does not include specialty container glass.

“Commercial fuel” means solid, liquid, or gaseous fuel which is ordinarily produced, manufactured, or sold for the purpose of creating heat.

“Comparable demand day” means, for any day in which an averaging unit is not operating, a day on which demand for electric power was within 10 percent of the demand on the day in question.

“Continuous emissions monitor” or “CEM” means a device that 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 parameters 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.

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

“Criteria pollutant” means any air contaminant for which a NAAQS has been promulgated under 40 CFR 50 or for which a New Jersey Ambient Air Quality Standard has been promulgated in N.J.A.C. 7:27-13.

“Cyclone-fired boiler” means a boiler which combusts fuel in a horizontal water-cooled cylinder before releasing the combustion gases into the boiler.

“Delivery vessel” means any mobile storage tank including, but not limited to, tank trucks or railroad tank cars. This term does not include marine tank vessels.

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

“Designated set” means the averaging units which an owner or operator is authorized by the Department to include in an averaging plan pursuant to N.J.A.C. 7:27-19.6.

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

“Dry bottom boiler serving an electric generating unit” means a boiler serving an electric generating unit in which ash is removed from the boiler in a solid state.

“Drum mix asphalt plant” means an asphalt plant where the asphalt cement or other binder is added to the aggregate while the aggregate is still in the rotary dryer.

“Dual fuel engine” means compression ignited stationary internal combustion engine that is capable of burning liquid fuel and gaseous fuel.

“Duct burner” means an item of equipment used with a combustion turbine or a stationary reciprocating engine to increase the steam generating capacity of heat recovery steam generators. A duct burner consists of pipes and small burners that are placed in the exhaust duct upstream of the heat recovery steam generator; the duct burner allows firing of fuel to supplement or replace the exhaust heat energy of the turbine or engine. A duct burner is a type of indirect heat exchanger.

“Electric distribution company” means a public utility, as the term is defined in N.J.S.A. 48:2-13, that transmits or distributes electricity to end users within this State.

“Electric distribution system” means that portion of an electric system, which delivers electricity from transformation points on the transmission system to points of connection at a customer’s premises. An electric distribution system generally carries less than 69 kilovolts of electricity.

“Electric generating unit” means a combustion or steam generating source used for generating electricity that delivers all or part of its power to the electric power distribution grid for commercial sale.

“Emergency” means any situation that arises from sudden and reasonably unforeseeable events beyond the control of an owner or operator of a facility, such as an unforeseen system capacity shortage caused by an act of God, that requires immediate corrective action to prevent system collapse or to restore normal operations at the facility.

“Emergency capacity” means the generation of electricity by an electric generating unit at a rate in excess of the unit’s maximum normal power output rating. This maximum normal power output rating shall be that agreed upon by PJM and the owner or operator of the unit, and published by the owner or operator.

“Emergency generator” means a combustion source that:

1. Is located at a facility and produces mechanical or thermal energy, or electrical power exclusively for use at the facility;
2. Is the source of mechanical or thermal energy, or electrical power during an emergency when the primary source of energy is unavailable; and
3. Is operated only:
 - i. During the performance of normal testing and maintenance procedures, as recommended in writing by the manufacturer and/or as required in writing by a Federal or State law or regulation;
 - ii. When there is power outage or the primary source of mechanical or thermal energy fails because of an emergency; or
 - iii. When there is a voltage reduction issued by PJM and posted on the PJM internet website (www.pjm.com) under the “emergency procedures” menu.

“EPA” means the United States Environmental Protection Agency.

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

“Face-fired boiler” means a furnace firing design in which the burners are mounted on one or more walls of the furnace.

“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. This term does not include delivery vessels.

“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 all limitations and conditions on operation, production, or emissions which can be enforced by EPA pursuant to authorities which include, but are not limited to, those established in:

1. Any standards of performance for new stationary sources (NSPS) promulgated at 40 CFR 60;
2. Any national emission standard for hazardous air pollutants (NESHAP) promulgated at 40 CFR 61;
3. Any provision of an applicable SIP;
4. Any permit issued pursuant to requirements established at 40 CFR 51, Subpart I; 40 CFR 52.21; 40 CFR 70; or 40 CFR 71; or
5. Any permit issued pursuant to requirements established under the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., and this chapter.

“Fixed capital cost” means the capital needed to provide all the depreciable components of a facility, item of equipment or source operation.

“Former DER credit user” means one who used Discrete Emission Reduction (DER) credits in the three years immediately preceding August 4, 2003 in compliance with the Open Market Emissions Trading Program rules then promulgated at N.J.A.C. 7:27-30 to satisfy the requirements of N.J.A.C. 7:27-16 or 19.

“Fuel” means combustible material burned in boilers, furnaces or other machinery to generate heat or other forms of energy. This term includes commercial fuel and non-commercial fuel.

“Fuel-bound nitrogen” means the nitrogen content, in weight fraction, of a fuel.

“Steam generating unit” means any furnace, boiler, or other device which combusts commercial fuel for the purpose of producing steam.

“Subbituminous coal” means coal that is classified as subbituminous according to the ASTM Standard Specification for Classification of Coals by Rank, ASTM D 388-77, incorporated herein by reference, as amended or supplemented. This document may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959.

“Tangential-fired boiler” means a furnace firing design where the burners are mounted at the corners of the furnace chamber.

“Testing” means a procedure for determining 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.

“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 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.

“Voltage reduction” means a reduction in customer supply voltage of at least five percent by an electric distribution company in order to reduce load on an electric distribution system.

“Wet bottom boiler” means a boiler serving an electric generating unit in which the ash is removed from the boiler in a molten state.

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).

Inserted “Facility-wide permit”, “Operating permit” and “Preconstruction permit”; and rewrote “Alteration” and “Permit”.

Administrative change.

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

Amended 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).

Added “Former DER credit user”.

Amended by R.2005 d.343, effective October 17, 2005 (operative date of November 7, 2005).

See: 36 N.J.R. 4228(a), 37 N.J.R. 3976(a).

Rewrote the section.

7:27-19.2 Purpose, scope and applicability

(a) This subchapter establishes requirements and procedures concerning the control and prohibition of air pollution by oxides of nitrogen. The general purpose of this subchapter is to require the owner or operator of certain stationary source operations to use reasonably available control technology (RACT) to prevent or control NO_x emissions. EPA defines RACT to mean the lowest emission limitation that a particular source is capable of meeting by the application of air pollution control technology which is

reasonably available considering technological and economic feasibility.

(b) The following types of equipment and source operations are subject to the provisions of this subchapter:

1. Any boiler serving an electric generating unit, located at a major NO_x facility;

2. Until March 7, 2007, any industrial/commercial/institutional boiler or other indirect heat exchanger that has a maximum gross heat input rate of at least 20 million BTUs per hour, located at a major NO_x facility. On and after March 7, 2007, the applicability of this subchapter to an industrial/commercial/institutional boiler or other indirect heat exchanger shall be determined by (c)1 below;

3. Until March 7, 2007, any stationary combustion turbine that has a maximum gross heat input rate of at least 30 million BTUs per hour, located at a major NO_x facility. On and after March 7, 2007, the applicability of this subchapter to a stationary combustion turbine shall be determined by (c)2 below:

4. Any stationary reciprocating engine capable of producing an output of 500 brake horsepower or more and located at a major NO_x facility. In addition, on and after March 7, 2007, the applicability of this subchapter to a stationary reciprocating engine or group of stationary reciprocating engines, used for generating electricity, shall be determined by (c)3 and 4 below;

5. Any rotary dryer located at an asphalt plant;

6. Any glass manufacturing furnace producing commercial container glass, and having a maximum potential production rate of at least 14 tons of glass removed from the furnace per day and having the potential to emit more than 10 tons of NO_x per year;

7. Any glass manufacturing furnace producing specialty container glass, and having a maximum potential production rate of at least seven tons of glass removed from the furnace per day and having the potential to emit more than 10 tons of NO_x per year;

8. Any glass manufacturing furnace producing borosilicate recipe glass, and having a maximum potential production rate of at least five tons of glass removed from the furnace per day, and having the potential to emit more than 10 tons of NO_x per year; and

9. Any other equipment or source operation not specifically listed at (b)1 through 8 above or (c) below that has the potential to emit more than 10 tons of NO_x per year.

(c) On and after March 7, 2007, in addition to the types of equipment and source operations listed at (b) above, the following types of equipment or source operations shall be subject to the provisions of this subchapter:

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, shall have the following meanings, unless the context clearly indicates otherwise:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

concerning accident prevention under 42 U.S.C. § 7412(r)(7);

5. Any standard or other requirement of the acid deposition control program under Title IV of the CAA or the regulations promulgated thereunder;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Brake horsepower” or “bhp” means a measure of mechanical power generated by a reciprocating engine determined by a brake attached to the shaft coupling.

“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.

“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.

“Energy and Environmental Technology Verification Act” or “EETV Act” means N.J.S.A. 13:1P-134 et seq., that authorizes the Department to develop and implement an innovative energy and environmental technology verification and certification process.

“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:

demonstrate conformance using subparagraph 4ii(3) below:

(1) An applicable verification process approved by the Department pursuant to the EETV Act, or through TARP, available from the Department's Bureau of Sustainable Communities and Innovative Technologies at (609) 292-9692 or www.state.nj.us/dep/dsr/bscit.htm;

(2) The manufacturer's test protocol, provided the facility maintains on-site for inspection by the Department a copy of the protocol, test data and the test report, and available for Department review or request, and producing documents from the equipment manufacturer that the manufacturer has:

(A) Performed representative source emission testing on a model of equipment;

(B) Had the source emission testing and the test report reviewed and certified by a licensed professional engineer;

(C) Conducted a minimum of three consecutive one-hour test runs, in which the average of the test runs shall not have exceeded the emission limits stated at subparagraphs 4i (A) and (B) above; and

(D) Converted each test run to pounds per megawatt hour before averaging; or

(3) Stack emission testing provided the facility has:

(A) Developed and used, a stack emission testing protocol using the protocol templates in Technical Manual 1004, available at the Department's website www.state.nj.us/dep/bts.html;

(B) Conducted a minimum of three consecutive one-hour test runs, in which the average of the test runs shall not exceed the emission limits stated at 4i(A) and (B) above; and

(C) Converted the results of each test run to pounds per megawatt hour before averaging.

(4) The Department may determine that the manufacturer's testing of a model of the equipment, under subparagraph 4ii(2) above, is not acceptable. The Department's basis for rejecting the manufacturer testing may include, but need not be limited to inappropriate test methods, invalid test data, or test data that indicate emissions above the specified limits;

iii. The owner or operator of the source shall have available on site a statement, certified in accordance with N.J.A.C. 7:27-1.39, by the responsible official, that the source meets all the criteria in subparagraph 4i and ii above. This certification shall be provided to the Department upon request; and

iv. If the Department has reason to believe, as a result of an inspection or otherwise, that equipment or a source operation is emitting NO_x above the specified limits, the Department, at its discretion, may require the owner or operator of a source to submit the certified test report and/or supporting test data to the Department. The Department, at its discretion, may also require the owner or operator of a source to perform source emission testing in accordance with N.J.A.C. 7:27-22.18(e).

"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.

“Microturbine” means a combustion turbine with output of 25 kW to 500 kW.

“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.

“NAICS code” means the North American Industrial Classification System 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 NAICS manual is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

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

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

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

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

“Nonattainment area” means any area of the State:

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

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

“NSPS” means Standards 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

“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 ((CF₂)₂CF₂ OCH₃)
1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅)
2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂ OC₂H₅)
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.

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

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

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

Amended by R.2003 d.86, effective February 18, 2003 (operative March 24, 2003).

See: 34 N.J.R. 695(a), 35 N.J.R. 1059(a).

Deleted "Emission statement year"; added "NAICS code"; added "Reporting year".

Amended 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).

Added "Former DER credit user"; in "Potential to emit", deleted the fifth sentence and rewrote the last sentence.

Amended by R.2005 d.343, effective October 17, 2005 (operative date of November 7, 2005).

See: 36 N.J.R. 4228(a), 37 N.J.R. 3976(a).

Added "Brake horsepower", "Energy and Environmental Technology Verification Act", "microturbine", "Rated power output" and "Technology Acceptance and Reciprocity Partnership". Rewrote "Exempt activity", "Insignificant source operation" and "Significant source operation".

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

<u>Air Contaminant</u>	<u>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 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 com-

mercial 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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(q) (Reserved)

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

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

Public Notice: Air Contaminant Emission Fee and Reconstruction Determination.

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

Public Notice: Air Contaminant Emission Fee and Reconstruction Determination.

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

Amended by R.2003 d.86, effective February 18, 2003 (operative March 24, 2003).

See: 34 N.J.R. 695(a), 35 N.J.R. 1059(a).

In (b), substituted "reporting" for "emission statement" following "during the" in the introductory paragraph and inserted a third sentence.

Public Notice: Consumer Price Index Percentage Increase and Air Contaminant Emission Fee.

See: 35 N.J.R. 5444(b).

Public Notice: Consumer Price Index Percentage Increase and Air Contaminant Emission Fee.

See: 36 N.J.R. 5171(b).

7:27-22.32 Hearings and appeals

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

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

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

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

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

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

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

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

7:27-22.33 Preconstruction review

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

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

(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 equipment 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 52.21;
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).

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 (c)1, changed CFR reference.

Public Notice: Revised State-of-the-Art (SOTA) Technical Manual for Boilers and Process Heaters.

See: 36 N.J.R. 1833(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)	Annual Emissions (pounds per year)	CAS Number	Air Contaminant	Annual Emissions (tons per year)	Annual Emissions (pounds per year)
75070	Acetaldehyde	0.9	1800	106445	p-Cresol	0.1	200
60355	Acetamide	0.1	200	98828	Cumene	1	2000
75058	Acetonitrile	0.4	800	94757	2,4-D	1	2000
98862	Acetophenone	0.1	200	547044	DDE	0.001	2
53963	2-Acetylaminofluorene	0.0005	1	334883	Diazomethane	0.1	200
107028	Acrolein	0.004	8	132649	Dibenzofurans	0.5	1000
79061	Acrylamide	0.002	4	96128	1,2-Dibromo-3-chloropropane	0.001	2
79107	Acrylic acid	0.06	120	84742	Dibutylphthalate	1	2000
107131	Acrylonitrile	0.03	60	106467	1,4-Dichlorobenzene	0.3	600
107051	Allyl chloride	0.1	200	91941	3,3-Dichlorobenzidine	0.02	40
92671	4-Aminobiphenyl	0.1	200	111444	Dichloroethyl ether	0.006	12
62533	Aniline	0.1	200	542756	1,3-Dichloropropene	0.1	200
90040	o-Anisidine	0.1	200	62737	Dichlorvos	0.02	40
71432	Benzene	0.2	400	111422	Diethanolamine	0.5	1000
92875	Benzidine	0.00003	0.06	121697	N,N-Dimethylaniline	0.1	200
98077	Benzotrachloride	0.0006	1.2	64675	Diethyl sulfate	0.1	200
100447	Benzyl chloride	0.01	20	119904	3,3-Dimethoxybenzidine	0.01	20
92524	Biphenyl	1	2000	60117	4-Dimethyl aminoazobenzene	0.1	200
117817	Bis(2-ethylhexyl)phthalate	0.5	1000	119937	3,3-Dimethyl benzidine	0.0008	1.6
542881	Bis(chloromethyl)ether	0.00003	0.06	79447	Dimethyl carbamoyl chloride	0.002	4
75252	Bromoform	1	2000	68122	Dimethyl formamide	0.1	200
106990	1,3-Butadiene	0.007	14	57147	1,1-Dimethyl hydrazine	0.0008	1.6
156627	Calcium cyanamide	1	2000	131113	Dimethyl phthalate	1	2000
105602	Caprolactam	1	2000	77781	Dimethyl sulfate	0.01	20
133062	Captan	1	2000	534521	4,6-Dinitro-o-cresol	0.01	20
63252	Carbaryl	1	2000	51285	2,4-Dinitrophenol	0.1	200
75150	Carbon disulfide	0.1	200	121142	2,4-Dinitrotoluene	0.002	4
56235	Carbon tetrachloride	0.1	200	123911	1,4-Dioxane	0.6	1200
463581	Carbonyl sulfide	0.5	1000	122667	1,2-Diphenylhydrazine	0.009	18
120809	Catechol	0.5	1000	106898	Epichlorohydrin	0.2	400
133904	Chloramben	0.1	200	106887	1,2-Epoxybutane	0.1	200
57749	Chlordane	0.001	2	140885	Ethyl acrylate	0.1	200
7782505	Chlorine	0.01	20	100414	Ethyl benzene	1	2000
79118	Chloroacetic acid	0.11	20	51796	Ethyl carbamate	0.08	160
532274	2-Chloroacetophenone	0.006	12	75003	Ethyl chloride	1	2000
108907	Chlorobenzene	1	2000	106934	Ethylene dibromide	0.01	20
510156	Chlorobenzilate	0.04	80	107062	Ethylene dichloride	0.08	160
67663	Chloroform	0.09	180	107211	Ethylene glycol	1	2000
107302	Chloromethyl methyl ether	0.01	20	151564	Ethyleneimine	0.0003	0.6
126998	Chloroprene	0.1	200	75218	Ethylene oxide	0.01	20
1319773	Cresols/Cresylic acid	0.1	200	96457	Ethylene thiourea	0.06	120
95487	o-Cresol	0.1	200	75343	Ethylidene dichloride	0.1	200
108394	m-Cresol	0.1	200	50000	Formaldehyde	0.2	400
				76448	Heptachlor	0.002	4
				118741	Hexachlorobenzene	0.001	2
				87683	Hexachlorobutadiene	0.09	180
				77474	Hexachlorocyclopentadiene	0.01	20
				67721	Hexachloroethane	0.5	1000
				822060	Hexamethylene-1,6-diisocyanate	0.002	4
				680319	Hexamethylphosphoramide	0.001	2
				110543	Hexane	1	2000
				302012	Hydrazine	0.0004	0.8
				7647010	Hydrochloric acid	1	2000
				7664393	Hydrogen fluoride	0.01	20
				123319	Hydroquinone	0.1	200
				78591	Isophorone	1	2000
				58899	Lindane	0.001	2
				108316	Maleic anhydride	0.1	200
				67561	Methanol	1	2000
				72435	Methoxychlor	1	2000
				74839	Methyl bromide	1	2000
				74873	Methyl chloride	1	2000
				71556	Methyl chloroform	1	2000
				78933	Methyl ethyl ketone	1	2000
				60344	Methyl hydrazine	0.006	12
				74884	Methyl iodide	0.1	200
				108101	Methyl isobutyl ketone	1	2000
				624839	Methyl isocyanate	0.01	20
				80626	Methyl methacrylate	1	2000
				1634044	Methyl tert butyl ether	1	2000
				101144	4,4-Methylene bis(2-chloroaniline)	0.02	40

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)
75092	Methylene chloride	1	2000		Cadmium compounds	0.001	2
101688	4,4'-Methylene diphenyl diisocyanate	0.1	20	130618	Cadmium oxide	0.001	2
101779	4,4'-Methylenedianiline	0.1	200		Chromium compounds (except hexavalent & trivalent)	0.5	1000
91203	Naphthalene	1	2000		Hexavalent Chromium compounds	0.0002	0.4
98953	Nitrobenzene	0.1	200		Trivalent Chromium compounds	0.5	1000
92933	4-Nitrobiphenyl	0.1	200	10025737	Chromic chloride	0.001	2
100027	4-Nitrophenol	0.5	1000	744084	Cobalt metal and compounds (except those listed*)	0.01	20
79469	2-Nitropropane	0.1	200		Cobalt carbonyl	0.01	20
684935	N-Nitroso-N-methylurea	0.00002	0.04	62207765	Fluomine	0.01	20
62759	N-Nitrosodimethylamine	0.0001	0.2		Coke oven emissions	0.003	6
59892	N-Nitrosomorpholine	0.1	200		Cyanide compounds (except those listed*)	0.5	1000
56382	Parathion	0.01	20	151508	Potassium cyanide	0.01	20
82688	Pentachloronitrobenzene	0.03	60	143339	Sodium cyanide	0.01	20
87865	Pentachlorophenol	0.07	140		Glycol ethers (except those listed*)	0.5	1000
108952	Phenol	0.01	20	110805	2-Ethoxy ethanol	1	2000
106503	p-Phenylenediamine	1	2000	111762	Ethylene glycol monobutyl ether	1	2000
75445	Phosgene	0.01	20	108864	2-Methoxy ethanol	1	2000
7803512	Phosphine	0.5	1000		Lead and compounds (except those listed*)	0.001	2
7723140	Phosphorus	0.01	20	78002	Tetraethyl lead	0.001	2
85449	Phthalic anhydride	0.5	1000	75741	Tetramethyl lead	0.001	2
1336363	Polychlorinated biphenyls	0.0009	1.8	7439965	Manganese and compounds (except those listed*)	0.08	160
1120714	1,3-Propane sultone	0.003	6	12108133	Methylcyclopentadienyl manganese	0.01	20
57578	beta-Propiolactone	0.01	20		Mercury compounds (except those listed*)	0.001	2
123386	Propionaldehyde	0.5	1000	748794	Elemental mercury	0.001	2
114261	Propoxur	1	2000	10045940	Mercuric chloride	0.001	2
78875	Propylene dichloride	0.1	200	62384	Mercuric nitrate	0.001	2
75569	Propylene oxide	0.5	1000		Phenyl mercuric acetate	0.001	2
75558	1,2-Propylenimine	0.0003	0.6		Nickel compounds (except those listed*)	0.1	200
91225	Quinoline	0.0006	1.2	13463393	Nickel carbonyl	0.01	20
106514	Quinone	0.5	1000	12035722	Nickel refinery dust	0.008	16
100425	Styrene	0.1	200		Nickel subsulfide	0.004	8
96093	Styrene oxide	0.1	200		Polycyclic organic matter (except those listed*)	0.001	2
1746016	2,3,7,8-TCDD	0.00000006	0.00012	56553	Benz(a)anthracene	0.001	2
79345	1,1,2,2-Tetrachloroethane	0.03	60	225514	Benz(c)acridine	0.001	2
127184	Tetrachloroethylene	1	2000	50328	Benzo(a)pyrene	0.001	2
7550450	Titanium tetrachloride	0.01	20	205992	Benzo(b)fluoranthene	0.001	2
108883	Toluene	1	2000	218019	Chrysene	0.001	2
95807	2,4-Toluene diamine	0.002	4	53703	Dibenz(a,h)anthracene	0.001	2
584849	2,4-Toluene diisocyanate	0.01	20	189559	1,2:7,8-Dibenzopyrene	0.001	2
95534	o-Toluidine	0.1	200	57976	7,12-Dimethylbenz(a)anthracene	0.001	2
8001352	Toxaphene	0.001	2	193395	Indeno(1,2,3-c,d)pyrene	0.001	2
120821	1,2,4-Trichlorobenzene	1	2000	7782492	Selenium compounds (except those listed*)	0.01	20
79005	1,1,2-Trichloroethane	0.1	200	7783075	Hydrogen selenide	0.01	20
79016	Trichloroethylene	1	2000	7488564	Selenium sulfide (mono and di)	0.01	20
95954	2,4,5-Trichlorophenol	0.1	200	13410010	Sodium selenate	0.01	20
88062	2,4,6-Trichlorophenol	0.6	1200	10102188	Sodium selenite	0.01	20
121448	Triethylamine	1	2000				
1582098	Trifluralin	0.9	1800				
540841	2,2,4-Trimethylpentane	0.5	1000				
108054	Vinyl acetate	0.1	200				
593602	Vinyl bromide	0.06	120				
75014	Vinyl chloride	0.02	40				
75354	Vinylidene chloride	0.04	80				
1330207	Xylenes	1	2000				
95476	o-Xylenes	1	2000				
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				

* 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).
Amended by R.2002 d.53, effective February 4, 2002 (operative March 12, 2002).
See: 33 N.J.R. 3290(a), 34 N.J.R. 756(a).