

CHAPTER 27
AIR POLLUTION CONTROL

Authority

N.J.S.A. 13:1B-3, 13:1B-3(e), 13:1D-9, 13:1D-13a et seq., 26:2C-1 et seq., in particular 26:2C-9b(7)(b), 9.2 and 9.5, 26:2C-8 et seq., specifically 26:2C-8, 8.1 through 8.5, 8.11, and 39:8-61.

Chapter Expiration Date

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

Chapter Historical Note

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

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

Subchapter 30, Open Market Emissions Trading, was repealed by R.2004 d.129, effective April 5, 2004 (operative April 25, 2004).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

Subchapter 31, NO_x Budget Program, was adopted as new rules by R.1998 d.379, effective July 20, 1998 (operative August 16, 1998). See: 29 N.J.R. 3924(b), 29 N.J.R. 4226(a), 30 N.J.R. 2660(a).

Subchapter 26, National Low Emission Vehicle (NLEV) Program, and Subchapter 26 Appendix were repealed and Subchapter 29, Low Emission Vehicle Program, was adopted as new rules by R.2006 d.34, effective January 17, 2006 (operative January 27, 2006). See: 37 N.J.R. 2762(a), 38 N.J.R. 497(b).

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

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

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

Law Review and Journal Commentaries

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

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

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

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“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

6. An application for a permit for any fuel burning unit which must be altered or for any fuel burning unit in which fuel is to be burned having a sulfur content in excess of the applicable limits specified in Table 1 of this section. The permit may be a preconstruction permit and certificate under N.J.A.C. 7:27-8, an operating permit under N.J.A.C. 7:27-22, or a facility-wide permit as defined at N.J.A.C. 7:1K-1.5; and

7. A demonstration by air quality simulation modelling acceptable to the Department, including aerodynamic downwash modelling, unless waived in accordance with the provisions of N.J.A.C. 7:27-9.4, that increases in air contaminants resulting from use of the alternative emission control plan will not cause any ambient air quality standard to be exceeded, or cause any allowable prevention of significant deterioration ambient air increment as established by the United States Environmental Protection Agency to be exceeded; and in areas where an ambient air quality standard is already exceeded, will not cause an increase in ambient air concentrations greater than the threshold increases set forth in Table 1 of N.J.A.C. 7:27-18.3; and

8. Sufficient information to evaluate aerodynamic downwash effects including a site plan, heights of all structures within 1,000 feet (305 meters) of the stacks in the mathematical combination, and the topography of the area within 1,000 feet (305 meters) of the stacks in the mathematical combination; and

9. A guarantee that fuel analyses will be submitted at intervals specified by the Department.

(e) The provisions of (a), (b), (c), and (d) above shall not apply whenever a person responsible for the sulfur dioxide emissions from a facility into the outdoor air resulting from the combustion of facility by-products alone, or from the combustion of facility by-products combined with fuels conforming with this section, can demonstrate to the Department that the facility's emissions are predictable and will in no case exceed 310 ppm by volume adjusted to 12 percent carbon dioxide by volume. In such cases, the Department may establish conditions as it deems appropriate including, but not limited to, requiring sampling and analysis of emissions of sulfur dioxide, periodic fuel analysis and the periodic submission of data.

(f) If the identified grade of fuel oil does not agree with the classification by viscosity set forth in Table 1 and Table 2, then the allowable percent sulfur by weight shall be determined by the viscosity classification.

Amended by 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).

"No. 2" fuel oil added under Table 2; new (d) added, old (d) and (e) redesignated as (e) and (f); old (f) deleted.

Administrative correction to (c) and (e).

See: 23 N.J.R. 1166(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 (d)6.

Case Notes

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

7:27-9.3 Exemptions

(a) The provisions of this subchapter shall not apply to fuel used by ocean-going vessels or in motor vehicles.

(b) The Department will set such standards for the sulfur contents of fuel as may be necessary to prevent violation of air quality standards where it is determined that an aerodynamic downwash problem exists as the result of emissions from a source or sources of air pollution.

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).

Old (b) deleted, (c) redesignated as (b).

Emergency amendment, R.2000 d.102, effective February 16, 2000 (to expire April 16, 2000).

See: 32 N.J.R. 836(a).

Added (c).

Emergency amendment, R.2000 d.102, expired April 16, 2000.

Deleted (c).

7:27-9.4 Waiver of air quality modelling

(a) The Department may waive the air quality simulation modelling requirements of N.J.A.C. 7:27-9.2(d) if the applicant demonstrates that:

1. The effective heights, as determined in accordance with the provisions of (b) below, of the stacks to be included in the mathematical combination are equal, or that the emissions from the fuel having the greatest sulfur content will be discharged to the atmosphere from the stack having the greatest effective height;

2. The total maximum SO₂ emission rate for all source gases to be included in the mathematical combination is no greater than 800 pounds per hour (363 Kg/hr);

3. No stack in the mathematical combination is separated from any other stack by a distance measured from the stack center lines, greater than three times the least effective stack height of any stack included in the mathematical combination; and

4. No stack in the mathematical combination is separated from any other stack by a distance greater than the allowable separation as determined from Figure 1 of this section.

(b) Procedure for using Figure 1.

1. Determine the effective stack heights in accordance with the provisions of (c) below.

2. Locate the least effective stack height on the left side of Figure 1 of this section.

3. Find the intersection of the least effective stack height and maximum total SO₂ emission rate. Interpolation is permitted.

4. Draw a vertical line from this point to the bottom of the chart to find the maximum allowable separation of the stacks.

(c) The effective stack height of a given stack for the purposes of this subchapter is the lesser of the following values:

1. 650 feet; or
2. The sum of the physical stack height and the plume rise. Plume rise is calculated from the formula:

$$h = \frac{9.5(Vd^2(T-68))^{0.75}}{u(T+460)}$$

where:

h is the plume rise in feet;

u is 12 if the physical stack height is less than 65 feet; u is 5 for physical stack heights of 65 feet or greater;

V is the actual exit velocity of the stack gas in feet per second;

d is the inside diameter of the stack exit in feet; and

T is the temperature of the stack gas at the stack exit, in degrees Fahrenheit.

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).
Administrative correction to (a)3 and to (c)2.
See: 23 N.J.R. 1166(b).

7:27-9.5 Incentive for conversion to coal or other solid fuel

(a) The Department may authorize a person to store, offer for sale, sell, deliver, exchange in trade or use fuel oils having a sulfur content in excess of the maximum allowable amounts set forth in Table 1 of N.J.A.C. 7:27-9.2 provided that:

1. The fuel burning unit in which the high-sulfur oil is used, or a unit of comparable capacity at the same facility, will burn coal or other solid fuel in accordance with a schedule approved by the Department; and

2. The high-sulfur oil will be burned for no longer than a period of two years if an existing fuel burning unit is converted from burning oil or gas, or three years if the conversion is accomplished by the installation of a new fuel burning unit; and

3. The applicant demonstrates by air quality simulation modelling or other methods acceptable to the Department that increases in the emissions of air contaminants resulting from the use of the high-sulfur oil will not cause any ambient air quality standard to be exceeded and in areas where an ambient air quality standard is already exceeded, will not cause an increase in ambient air concentrations greater than the threshold increases set forth in Table 1 of N.J.A.C. 7:27-18.3; and

4. The sulfur dioxide emissions from the burning of coal or other solid fuel will not exceed 0.3 pounds of sulfur dioxide per million BTU gross heat input; and

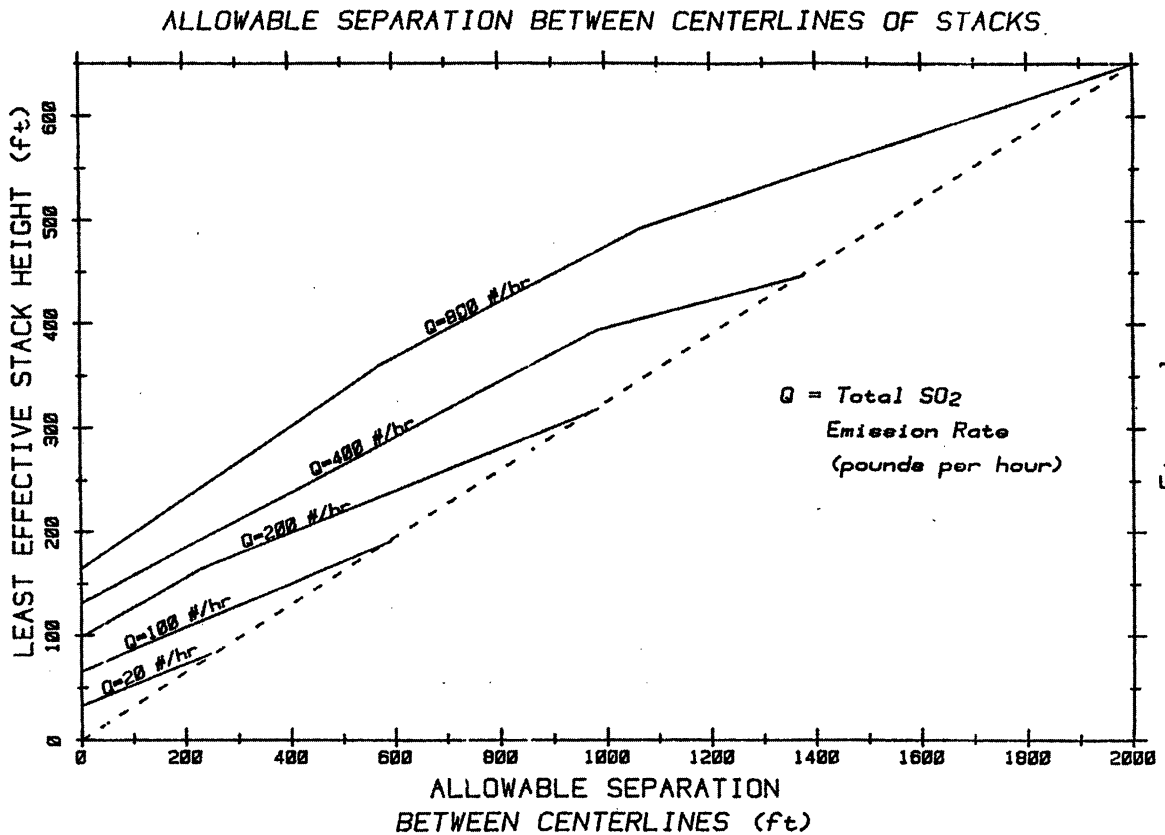
5. The applicant obtains a permit for the conversion to coal or other solid fuel. The permit may be a preconstruction permit and certificate under N.J.A.C. 7:27-8, an operating permit under N.J.A.C. 7:27-22, or a facility-wide permit as defined at N.J.A.C. 7:1K-1.5; and

6. The applicant agrees that if the conversion does not take place pursuant to (a)1 above, he will pay to the Department a sum of money no less than the difference between the cost of the high-sulfur oil used pursuant to the provisions of this section and the cost of the same grade oil which would otherwise be required under the provisions of N.J.A.C. 7:27-9.2. Such payment shall be in addition to, and not in lieu of, any penalty which may be required pursuant to the New Jersey Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq.; and

7. The applicant will furnish to the Department a written monthly report stating the quantity of high-sulfur oil used, the cost of such oil, and the cost of an equivalent quantity of the same grade oil which conforms to the provisions of N.J.A.C. 7:27-9.2; and

8. The applicant attests to his commitment to honor and comply with all of the provisions of this section and any other provisions the Department deems appropriate, by entering into a Consent Order, which shall so state, with the Department; and

9. Such Consent Order shall be subject to modification or revocation by the Department if the Department determines that the emissions from the burning of high-sulfur oil contribute to a contravention of any applicable ambient air quality standard, or significantly degrade ambient air quality, or that the applicant has failed to honor or comply with its provisions in part or in whole.



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).
 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 (a)5.

“Approved stack-gas cleaning process” means a process which removes sulfur dioxide from the products of combustion of solid fuel and which has been approved by the Department.

SUBCHAPTER 10. SULFUR IN SOLID FUELS

Authority
 N.J.S.A. 13:1D-1 et seq.

“Bituminous coal” means coal that is classified as bituminous according to the American Society for Testing and Materials Standard Specification for Classification of Coals by Rank, ASTM D 388-77.

Subchapter Historical Note

Rules concerning sulfur in coal were originally codified in this subchapter and were filed and became effective prior to September 1, 1969. Amendments to this subchapter were accepted on July 6, 1978 as R.1978 d.220, to become effective on September 15, 1978. See: 10 N.J.R. 98(a), 10 N.J.R. 328(b). Further amendments were adopted as R.1981 d.185, effective June 4, 1981. See: 12 N.J.R. 571(a), 13 N.J.R. 341(a).

“Calendar day” means the 24-hour period from 12:00 midnight to 12:00 midnight the following day.

7:27-10.1 Definitions

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

“Coal” means anthracite coal, bituminous coal, coke, lignite, nonbanded coal, and subbituminous coal.

“Anthracite coal” means coal that is classified as anthracite according to the American Society for Testing and Materials Standard Specification for Classification of Coals by Rank, ASTM D 388-77.

“Coke” means a fused, cellular, porous structure that remains after free moisture and the major portion of the volatile materials have been distilled from bituminous coal and other carbonaceous material by the application of heat in the absence of air or in the presence of a limited supply of air.

“Control apparatus” means any device which prevents or controls the emissions of any air contaminant.

“Lignite” means coal that is classified as lignite A or B according to the American Society for Testing and Materials Standard Specification for Classification of Coals by Rank, ASTM D 388-77.

“One-hour block” means a one-hour time period starting on any hour, for example 12:00 midnight to 1:00 A.M., or 1:00 A.M. to 2:00 A.M.

“Nonbanded coal” means coal that is classified as non-banded according to the American Society for Testing and Materials Standard Definition of Terms Relating to Megascopic Description of Coal and Coal Beds and Microscopical Description and Analysis of Coal, ASTM D 2796-77.

“Potential combustion emission rate” means the theoretical emission rate that would result from the combustion of a fuel in an uncleaned state without control apparatus.

“Reconstruction” means the replacement of components of an existing facility to such an extent that the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct an entirely new comparable facility.

“Resource recovery facility” means a facility that combusts more than 75 percent non-fossil fuel based on the moving average of heat input during 3-month periods.

“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.

“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.

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

“Subbituminous coal” means coal that is classified as subbituminous according to the American Society for Testing and Materials Standard Specification for Classification of Coals by Rank, ASTM D 388-77.

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

“30-calendar-day rolling average emission rate” means the average emission rate over 30 consecutive calendar days determined pursuant to N.J.A.C. 7:27-10.5.

“24-hour emission rate” means total emissions in a calendar day determined pursuant to N.J.A.C. 7:27-10.5.

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

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

“Zone Three” means Burlington, Camden, Gloucester, Mercer, and Salem Counties.

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

As amended, R.1981 d.185, eff. June 4, 1981.

See: 12 N.J.R. 571(a), 13 N.J.R. 341(a).

Substantially amended.

Amended by R.2009 d.137, effective April 20, 2009 (operative May 19, 2009).

See: 40 N.J.R. 4390(a), 41 N.J.R. 1752(a).

Added definitions “Calendar Day”, “One-hour block”, “30-calendar day rolling average emission rate” and “24-hour emission rate”.

7:27-10.2 Sulfur contents standards

(a) On and before December 14, 2012, no person shall store, offer for sale, sell, deliver or exchange in trade, for use in New Jersey, solid fuel which contains sulfur in excess of the percentages by weight set forth in Table 1, except as provided otherwise in this Subchapter.

(b) On and before December 14, 2012, no person shall use in New Jersey, solid fuel which contains sulfur in excess of the percentages by weight set forth in Table 1.

TABLE 1
EXISTING SOLID FUEL BURNING UNITS

Type Fuel	Maximum Allowable Percent Sulfur by Weight (Dry Basis)			
	Zone One	Zone Two	Zone Three	Zone Four
Anthracite Coal or Coke	0.8	0.8	0.8	0.8
All other solid Fuels	1.0	1.0	0.2	0.2

(c) On and before December 14, 2012, the provisions of (a) and (b) above shall not apply to solid fuel whose combustion causes sulfur dioxide (SO₂) 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.

TABLE 2
EXISTING SOLID FUEL BURNING UNITS

Type Fuel	Maximum Allowable SO ₂ Emissions (pounds/million BTU)			
	Zone One	Zone Two	Zone Three	Zone Four
Anthracite Coal and Coke	1.2	1.2	1.2	1.2
All other solid Fuels	1.5	1.5	0.3	0.3