

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, except carbon dioxide (CO₂), 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, re-codified 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).

Amended by R.2005 d.392, effective November 21, 2005.

See: 36 N.J.R. 4607(a), 37 N.J.R. 16(b), 4415(a).

Added " , except carbon dioxide (CO₂) , " to (a)2.

Public Notice: Opportunity for Public Comment on the Proposed Withdrawal of the State-of-the-Art (SOTA) manuals for Volatile Organic Storage Tanks, Asphalt Plants and the Glass Industry.

See: 40 N.J.R. 5852(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

clude January 1 of the calendar year for which it is designated and shall not include a January 1 of any other calendar year. Thus, the maximum duration of a model year is one calendar year plus 364 days (or 365 days if the model year includes February 29 in a leap year).

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

“MVC” means the New Jersey Motor Vehicle Commission.

“NJ DEIC Inspection Form” means the form issued by the MVC to document inspections performed in connection with the periodic inspection program established pursuant to N.J.A.C. 13:20-26.

“Opacity” means the property of a substance whereby it partially or wholly obstructs the transmission of visible light expressed as the percentage to which light is obstructed.

“Peak smoke opacity” means the highest numerical value of smoke opacity obtained through the testing procedures for the snap acceleration smoke opacity test at N.J.A.C. 7:27B-4.3(a), or the rolling acceleration smoke opacity test at N.J.A.C. 7:27B-4.3(b), or the stall smoke opacity test at N.J.A.C. 7:27B-4.3(c).

“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 any states, and any agencies or instrumentalities thereof.

“Quasi-public roadway” means any roadway that, although under private ownership or control, is accessible to the public. This term shall include, but shall not be limited to, the New Jersey Turnpike, the Garden State Parkway, and the Atlantic City Expressway, but shall not include shopping mall roadways and parking lots, private business roadways, residential and nonresidential parking lots, and private driveways.

“Regulated emission” means any solid, liquid or gaseous substance which is emitted from a motor vehicle or motor vehicle engine and which is regulated by the EPA pursuant to 40 C.F.R. Part 86.

“Retrofit device” means a best available retrofit technology for installation on an on-road diesel vehicle or on a piece of off-road diesel equipment.

“Retrofitted EPA urban diesel bus” means a diesel bus which is equipped with an engine which has been retrofitted or rebuilt to meet a particulate emission standard of 0.10 g/bhp-hr (grams per brake horsepower per hour) in conformance with the requirements set forth at 40 C.F.R. 85.1403(b) or (c).

“Smoke” means the emissions, including airborne solid and/or liquid particles, exclusive of water vapor, released into the atmosphere from a process of combustion.

R.1970 d.148, eff. June 19, 1971.

See: 2 N.J.R. 54(c), 3 N.J.R. 4(a).

Amended by R.1985 d.1, effective January 21, 1985 (operative July 1, 1985).

See: 16 N.J.R. 2888, 17 N.J.R. 189(b).

Section substantially amended.

Administrative Corrections.

See: 23 N.J.R. 1432(d).

Amended by R.1997 d.393, effective September 15, 1997 (operative October 7, 1997).

See: 29 N.J.R. 971(a), 29 N.J.R. 4108(a).

Added “Alternative smoke opacity standard”, “Black smoke”, “Blue smoke”, “California Air Resources Board”, “Certified configuration”, “Diesel bus”, “Division of Motor Vehicles”, “Element of design”, “Emission control apparatus”, “EPA”, “Gross vehicle weight rating”, “Heavy-duty diesel vehicle”, “Light-duty diesel vehicle”, “Low speed engine”, “Model year”, “Peak smoke opacity”, “Quasi-public roadway”, “Regulated emission”, “Retrofitted diesel bus” and “Smokemeter”; amended and changed the name of “Diesel-powered engine” to read “Diesel engine” and “Diesel-powered motor vehicle” to read “Diesel powered”; deleted “Autobus”; and amended “Department”, “Exhaust emissions”, “Idle”, “Opacity”, “Person” and “Smoke”.

Amended by R.1998 d.309, effective July 6, 1998 (operative July 21, 1998).

See: 30 N.J.R. 901(a), 30 N.J.R. 2476(b).

Deleted “Smokemeter” definition.

Amended by R.1999 d.210, effective July 6, 1999 (operative August 10, 1999).

See: 31 N.J.R. 828(a), 31 N.J.R. 1803(b).

Inserted “High speed diesel engine” and “Medium speed diesel engine”; and rewrote “Low speed engine” as “Low speed diesel engine”. Administrative change.

See: 33 N.J.R. 3550(a).

Amended by R.2007 d.201, effective July 2, 2007.

See: 38 N.J.R. 3728(b), 39 N.J.R. 2531(a).

Added definitions “Diesel particulate filter” and “Electrification technology”; and in definition “Idle”, substituted “the vehicle engine is in operation while the vehicle is stationary at any location” for “the vehicle engine is not engaged in gear and where the engine operates at a speed at the revolutions per minute specified by the engine or vehicle manufacturer”.

Amended 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).

Added definitions “Closed crankcase ventilation system”, “Diesel emission inspection center”, “MVC”, “NJ DEIC Inspection Form” and “Retrofit device”; deleted definition “Division of Motor Vehicles”; and substituted definition “Retrofitted EPA urban diesel bus” for definition “Retrofitted diesel bus”.

7:27-14.2 Applicability

(a) Except as provided in (b) and (c) below, this subchapter applies to all diesel-powered motor vehicles.

(b) This subchapter does not apply to a diesel-powered motor vehicle with a GVWR equal to or greater than 18,000 pounds that is designed or used for the transporting of property on any public road, street or highway, on any public property, or on any quasi-public roadway in this State, and is owned and operated by a county, municipality, fire district, or duly incorporated nonprofit organization for first aid, emergency, ambulance, rescue, or fire-fighting purposes.

(c) N.J.A.C. 7:27-14.5 and 14.6 do not apply to *light-duty* diesel vehicles.

Repeal and New Rule, R.1997 d.393, effective September 15, 1997 (operative October 7, 1997).

See: 29 N.J.R. 971(a), 29 N.J.R. 4108(a).

For inspection standards formerly codified at this section see N.J.A.C. 7:27-14.6.

7:27-14.3 General prohibitions

(a) No person shall cause, suffer, allow, or permit the engine of a diesel-powered motor vehicle to idle for more than three consecutive minutes if the vehicle is not in motion, except:

1. A motor vehicle that has been stopped for three or more hours may idle for up to 15 consecutive minutes when the ambient temperature is below 25 degrees Fahrenheit; and

2. A diesel bus while it is actively discharging or picking up passengers may idle for 15 consecutive minutes in a 60-minute period.

(b) The provisions of (a) above shall not apply to:

1. Any motor vehicle idling in traffic, or a motor vehicle other than a school bus idling in a queue of motor vehicles, that are intermittently motionless and moving because the progress of the motor vehicles in the traffic or the queue has been stopped or slowed by the congestion of traffic on the roadway or by other conditions over which the driver of the idling motor vehicle has no control;

2. A motor vehicle whose primary power source is utilized in whole or in part for necessary and definitively prescribed mechanical operation other than propulsion. This use includes, but is not limited to, operating lift gate pumps and controlling cargo temperature. This exemption does not apply to passenger compartment heating or passenger compartment air conditioning;

3. A motor vehicle being or waiting to be examined by a State or Federal motor vehicle inspector;

4. Vehicles that are actively performing emergency services. Examples include fire vehicles, police vehicles, public utility vehicles, military tactical vehicles and snow removal vehicles, during the time that such vehicles are actively performing emergency services;

5. A motor vehicle while it is being repaired or serviced, provided that operation of the engine is essential to the proper repair or service;

6. Subject to (b)7i below, on or before April 30, 2010, a motor vehicle, manufactured with a sleeper berth, while it is being used, in a non-residentially zoned area, by the vehicle's operator for sleeping or resting, unless the vehicle is equipped with a functional auxiliary power system designed in whole or in part to maintain cabin or sleeper berth comfort or to mitigate cold weather start-up difficulties;

7. Beginning May 1, 2010, a vehicle equipped with a sleeper berth, which vehicle is equipped with a model year 2007 or newer engine, or has been retrofitted with a diesel particulate filter that is connected and properly functioning.

i. If the Commissioner, after consulting with the New Jersey Department of Transportation and the State Police, determines that public safety would be adversely affected if the exemption in (b)7 above were to take effect on May 1, 2010, the Commissioner may, by notice published in the New Jersey Register on or before May 1, 2010, delay the operative date of the exemption in (b)7 above, and extend the exemption in (b)6 above, for up to one year, but in no case may the exemption of (b)6 above be extended beyond April 30, 2011; or

8. The operation of technology designed to reduce engine idling, such as auxiliary or alternate power units (APUs), generator sets, and bunk heaters, provided the vehicle's main engine is not operating.

(c) Beginning May 1, 2008, no person shall cause, suffer, allow, or permit the engine of a diesel-powered motor vehicle to idle for more than three consecutive minutes when that vehicle is parked in a parking space with available electrification technology.

(d) In no case shall the provisions of (a) and (b) above relieve any person from compliance with N.J.A.C. 7:27-5, Prohibition of Air Pollution, or any other applicable local, State or Federal law.

(e) No person shall cause, suffer, allow or permit any emission control apparatus or element of design installed on any diesel-powered motor vehicle or diesel engine to be disconnected, detached, deactivated, or in any other way rendered inoperable or less effective, in respect to limiting or controlling emissions than it was designed to be by the original equipment or vehicle manufacturer, except for the purposes of diagnostics, maintenance, repair or replacement and only for the duration of such operations.

(f) No person shall cause, suffer, allow or permit any retrofit device or any part thereof, or any closed crankcase ventilation system or any part thereof, installed on any diesel-powered motor vehicle pursuant to N.J.S.A. 26:2C-8.26 et seq. and N.J.A.C. 7:27-32 to be disconnected, detached, deactivated, or in any other way rendered inoperable or less effective, in respect to limiting or controlling emissions, than it was designed to be by the original retrofit device or closed crankcase ventilation system manufacturer, except for the purposes of diagnostics, maintenance, repair or replacement and only for the duration of such operations.

R.1970 d.148, eff. June 19, 1971.

See: 2 N.J.R. 54(c), 3 N.J.R. 4(a).

Amended by R.1985 d.1, effective January 21, 1985 (operative July 1, 1985).

See: 16 N.J.R. 2888, 17 N.J.R. 189(b).

Section recodified to 14.2 and this section repealed.

New Rule, R.1985 d.610, effective December 2, 1985 (operative May 5, 1986).

See: 16 N.J.R. 2886(a), 17 N.J.R. 2887(a).
 Amended by R.1997 d.393, effective September 15, 1997 (operative October 7, 1997).
 See: 29 N.J.R. 971(a), 29 N.J.R. 4108(a).
 In (b)1, substituted "diesel bus" for "autobus"; in (b)8, added " , unless the vehicle ... start-up difficulties"; and added (c) and (d).
 Amended by R.2007 d.201, effective July 2, 2007.
 See: 38 N.J.R. 3728(b), 39 N.J.R. 2531(a).
 Rewrote the section.
 Amended 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).
 Added new (f).

7:27-14.4 General public highway standards

(a) No person shall cause, suffer, allow or permit the operation of any diesel-powered motor vehicle upon the public roads, streets or highways of the State or upon any public property or upon any quasi-public roadway in the State, if the vehicle:

1. Emits smoke in the exhaust emissions, the opacity of which exceeds any applicable smoke opacity standards set forth at N.J.A.C. 7:27-14.6;
2. Emits visible blue smoke in the exhaust emissions for more than three consecutive seconds;
3. Does not have a properly functioning and properly maintained emission control apparatus, as determined according to the emissions control apparatus examination procedures established at N.J.A.C. 7:27B-4.4;
4. Has an emission control apparatus or an element of design installed on the vehicle or diesel engine which has been disconnected, detached, deactivated, or in any other way rendered inoperable or less effective than designed by the original equipment or vehicle or engine manufacturer; or
5. Has a retrofit device or any part thereof, or a closed crankcase ventilation system or any part thereof, that was installed pursuant to N.J.S.A. 26:2C-8.26 et seq. and N.J.A.C. 7:27-32 and that has been disconnected, detached, deactivated, or in any other way rendered inoperable or less effective, with respect to limiting or controlling emissions, than it was designed to be by the original retrofit device or closed crankcase ventilation system manufacturer.

New Rule, R.1997 d.393, effective September 15, 1997 (operative October 7, 1997).
 See: 29 N.J.R. 971(a), 29 N.J.R. 4108(a).
 Administrative change.
 See: 33 N.J.R. 3550(a).
 Amended 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).
 In (a)3, deleted "or" from the end; in (a)4, substituted " ; or" for a period at the end; and added (a)5.

7:27-14.5 Test requirements

(a) A person testing a diesel-powered motor vehicle as part of the roadside enforcement program established pursuant to N.J.S.A. 39:8-64 and N.J.A.C. 13:20-46 shall use one or more

of the following tests, as designated by the Chief Administrator of the MVC in consultation with the Department and the New Jersey Department of Transportation, and with the approval of the Attorney General:

1. The snap acceleration smoke opacity test, for a vehicle with a low or a medium speed diesel engine, only, as described at N.J.A.C. 7:27B-4.3(a);
2. The rolling acceleration smoke opacity test, as described at N.J.A.C. 7:27B-4.3(b);
3. The power brake smoke opacity test, for a vehicle with a medium or high speed diesel engine and an automatic transmission, only, as described at N.J.A.C. 7:27B-4.3(c); or
4. The visible black smoke screening test, as described at N.J.A.C. 7:27B-4.3(d).

(b) A person testing a heavy-duty diesel vehicle as part of the periodic inspection program established pursuant to N.J.S.A. 39:8-64 and N.J.A.C. 13:20-26.17 shall use one of the following tests:

1. The snap acceleration smoke opacity test, for a vehicle with a low or a medium speed diesel engine, only, as described at N.J.A.C. 7:27B-4.3(a);
2. The rolling acceleration smoke opacity test, as described at N.J.A.C. 7:27B-4.3(b);
3. The power brake smoke opacity test, for a vehicle with a medium or high speed diesel engine and an automatic transmission, only, as described at N.J.A.C. 7:27B-4.3(c); or
4. (Reserved)

(c) A person testing a diesel bus as part of the periodic inspection program pursuant to N.J.A.C. 13:20-30, or N.J.S.A. 48:4-1 et seq. and N.J.A.C. 16:53, shall use one of the following tests:

1. The snap acceleration smoke opacity test, for a vehicle with a low speed engine, only, as described at N.J.A.C. 7:27B-4.3(a); or
2. The power brake smoke opacity test, for a vehicle with an automatic transmission, only, as described at N.J.A.C. 7:27B-4.3(c).

(d) A person testing a diesel-powered motor vehicle as part of the self-inspection programs pursuant to N.J.A.C. 13:20-26 or at N.J.A.C. 16:53-3.27 shall use one of the following tests:

1. The snap acceleration smoke opacity test, for a vehicle with a low speed engine, only, as described at N.J.A.C. 7:27B-4.3(a);
2. The rolling acceleration smoke opacity test, as described at N.J.A.C. 7:27B-4.3(b); or

3. The power brake smoke opacity test, for a vehicle with an automatic transmission, only, as described at N.J.A.C. 7:27B-4.3(c).

(e) A person testing a diesel-powered motor vehicle, as part of either the roadside enforcement program established pursuant to N.J.S.A. 39:8-64 and N.J.A.C. 13:20-46 or the periodic inspection program established pursuant to N.J.S.A. 39:8-64 and N.J.A.C. 13:20-26.17, or the self-inspection program established pursuant to N.J.A.C. 13:20-26 and 16:53-3, shall conduct an examination of the emission control apparatus as described at N.J.A.C. 7:27B-4.4(a).

(f) A person inspecting a diesel-powered motor vehicle as part of the one-time compliance inspection for a retrofit device required at N.J.A.C. 7:27-32.21 shall conduct an examination as described at N.J.A.C. 7:27B-4.4(c).

(g) A person inspecting a diesel bus as part of the closed crankcase ventilation system compliance inspection required at N.J.A.C. 7:27-32.6 shall conduct an examination as described at N.J.A.C. 7:27B-4.4(d).

New Rule, R.1997 d.393, effective September 15, 1997 (operative October 7, 1997).

See: 29 N.J.R. 971(a), 29 N.J.R. 4108(a).

Amended by R.1998 d.309, effective July 6, 1998 (operative July 21, 1998).

See: 30 N.J.R. 901(a), 30 N.J.R. 2476(b).

Inserted new (b)4; deleted (c); and recodified former (d) through (f) as (c) through (e).

Amended by R.1999 d.210, effective July 6, 1999 (operative August 10, 1999).

See: 31 N.J.R. 828(a), 31 N.J.R. 1803(b).

In (a)1 and (b)1, substituted references to low and medium speed diesel engines for references to low speed engines; and in (a)3 and (b)3, inserted references to medium and high speed diesel engines.

Administrative change.

See: 33 N.J.R. 3550(a).

Amended 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).

In the introductory paragraph of (a), substituted "Chief Administrator of the MVC" for "Director of the Division of Motor Vehicles"; in (a)3, (b)3, (c)2 and (d)3, substituted "power brake" for "stall"; in the introductory paragraph of (d), deleted the comma preceding "shall use"; and added (f) and (g).

7:27-14.6 Inspection standards

(a) No diesel-powered motor vehicle shall be deemed to have passed an inspection unless it meets:

1. The general public highway standards set forth at N.J.A.C. 7:27-14.4; and

2. The applicable smoke opacity standards set forth in (b), (c), (d) and (e) below.

(b) A heavy-duty diesel vehicle tested using the snap acceleration smoke opacity test, the rolling acceleration smoke opacity test, or the power brake smoke opacity test set forth at N.J.A.C. 7:27B-4, shall not emit smoke in the exhaust emissions which exceeds the following opacity standards:

1. For model years 1973 and older, the level of peak smoke opacity shall not exceed 70 percent;

2. For model years 1974 through 1990, the level of peak smoke opacity shall not exceed 55 percent;

3. For model years 1991 and newer, the level of peak smoke opacity shall not exceed 40 percent; and

4. (Reserved)

(c) A diesel bus, tested using the snap acceleration smoke opacity test, or the power brake smoke opacity test, set forth at N.J.A.C. 7:27B-4, shall not emit smoke in the exhaust emissions which exceeds the following opacity standards:

1. For model years 1987 and older, the level of peak smoke opacity shall not exceed 40 percent;

2. For model years 1988 and newer, the level of peak smoke opacity shall not exceed 30 percent; and

3. (Reserved)

(d) A retrofitted EPA urban diesel bus, tested using the snap acceleration smoke opacity test, or the power brake smoke opacity test, set forth at N.J.A.C. 7:27B-4, shall not emit smoke in the exhaust emissions which exceeds a peak smoke opacity standard of 30 percent.

(e) A diesel-powered motor vehicle, tested using the snap acceleration smoke opacity test, the rolling acceleration smoke opacity test or the power brake smoke opacity test, set forth at N.J.A.C. 7:27B-4, and for which an alternative smoke opacity standard has been established in accordance with the procedures set forth at N.J.A.C. 7:27B-4.5, shall not emit smoke in the exhaust emissions which exceeds the smoke opacity standard established as the alternative smoke opacity standard for that vehicle.

(f) A diesel-powered motor vehicle required to have been retrofitted pursuant to N.J.A.C. 7:27-32 shall be deemed to have passed a one-time retrofit compliance inspection if a visual check confirms the installation and presence of the retrofit device.

(g) A diesel bus required to have been equipped with a closed crankcase ventilation system pursuant to N.J.A.C. 7:27-32 shall be deemed to have passed a one-time compliance inspection if a visual check confirms the installation and presence of the closed crankcase ventilation system.

New Rule, R.1997 d.393, effective September 15, 1997 (operative October 7, 1997).

See: 29 N.J.R. 971(a), 29 N.J.R. 4108(a).

Amended by R.1998 d.309, effective July 6, 1998 (operative July 21, 1998).

See: 30 N.J.R. 901(a), 30 N.J.R. 2476(b).

Inserted new (b)4 and (c)3.

Administrative change.

See: 33 N.J.R. 3550(a).

Amended 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).

In the introductory paragraphs of (b) and (c) and in (d) and (e), substituted "power brake" for "stall"; in (d), inserted "EPA urban" and substituted a period for a semicolon at the end; and added (f) and (g).

7:27-14.7 Diesel emissions inspectors

(a) On and after January 1, 2009, no person shall perform a diesel emission inspection under the periodic inspection program established pursuant to N.J.A.C. 13:20-26 unless the person is certified by the Department as a diesel emission inspector.

(b) No person shall perform a visual verification of compliance required by N.J.A.C. 7:27-32.6 or a one-time compliance inspection required by N.J.A.C. 7:27-32.21 unless the person is certified by the Department as a diesel emission inspector or has successfully completed Department-approved training to perform such inspections.

(c) In order to be certified by the Department, a diesel emission inspector shall complete a Department-approved course of instruction, as described at N.J.A.C. 7:27-14.9(c). The Department will accept three years of documented professional experience in the inspection of diesel engines and related systems as a substitute for successful completion of the Department-approved course of instruction.

(d) Upon completion of a Department-approved emission inspector course of instruction, the applicant shall submit an application for certification to the Department on a form supplied by the Department or in a format approved by the Department. The applicant shall provide the information required on the form, including personal contact information and information regarding the professional expertise and training of the applicant, and shall include with the application proof of training course completion, as described at N.J.A.C. 7:27-14.9(g) or documentation of substitute work experience, as provided at (c) above.

(e) The Department will review the application, and will issue a diesel emission inspector certificate and assign a unique non-sequential certificate number to an applicant who has satisfied (c) and (d) above.

(f) The diesel emission inspector certificate issued by the Department is valid for two years. The Department will recertify an inspector upon a showing of proof of completion of all required training updates, as described in (g) below. The recertification is valid for two years.

(g) A certified diesel emission inspector shall complete all training updates that the Department determines necessary as a result of advances in diesel engine and emissions control and testing technology. The Department will notify certified inspectors when training updates have been prepared and must be completed.

(h) A certified diesel emission inspector shall be responsible for the completion of a NJ DEIC Inspection Form for each vehicle for which the inspector conducted a periodic inspection or reinspection. The inspector shall provide the information required on the NJ DEIC Inspection Form, which includes, but is not limited to, owner's contact information, vehicle and engine identification requirements, ambient

weather conditions, engine test parameters, and emission inspection results, and shall maintain a copy of the NJ DEIC Inspection Form for a period of two years from the date of the periodic inspection or reinspection.

(i) On and after January 1, 2009, a certified diesel emission inspector shall electronically submit to the Department the NJ DEIC Inspection Form completed pursuant to (h) above, within five business days of the MVC audit of the DEIC that immediately follows the inspection of the vehicle for which the form was prepared.

(j) If it is a hardship for a certified diesel emission inspector to submit an NJ DEIC Inspection Form electronically, the inspector can request approval from the Department to submit the NJ DEIC Inspection Form in paper format to the MVC auditor for transmission to the Department. The approval is valid for six months. The Department will approve such a request provided that:

1. The inspector certifies the request in accordance with N.J.A.C. 7:27-1.39; and
2. The inspector states:
 - i. The basis for the claim that electronic submittal would impose a hardship;
 - ii. The effort(s) the inspector will make to ensure the inspector's ability to make electronic submittals in the future; and
 - iii. That the inspector agrees to make every effort to become able to submit the form electronically within a reasonable amount of time.

(k) A certified diesel emission inspector submitting a paper version of the NJ DEIC Inspection Form pursuant to (j) above shall submit the form to the MVC auditor at the time of the MVC audit of the DEIC that immediately follows the inspection of the vehicle for which the form was prepared.

New Rule, 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).

Former N.J.A.C. 7:27-14.7, Non-interference with the motor vehicle codes, recodified to N.J.A.C. 7:27-14.11.

7:27-14.8 Diesel emissions repair technicians

(a) On and after January 1, 2009, no person other than a certified diesel emission repair technician or a person performing repairs under the direct supervision of a certified diesel emission repair technician shall perform any emission-related repair upon a diesel-powered motor vehicle that has failed a periodic or roadside emission inspection or reinspection.

(b) Except as provided at (c) below, in order to be certified by the Department, a diesel emission repair technician shall complete a Department-approved course of instruction, as described at N.J.A.C. 7:27-14.9(c)2.

(c) The Department will accept professional certifications from the National Institute for Automotive Service Excellence (ASE) program, or original equipment manufacturer training programs approved by the Department, or five years of documented professional experience in the repair and maintenance of diesel engines and related systems for the portions of the Department-approved course of instruction required at (b) above that pertain to general engine operations and diagnosis.

(d) Upon completion of a Department-approved diesel emission repair technician course of instruction, the applicant shall submit an application for certification to the Department on a form supplied by the Department or in a format approved by the Department. The applicant shall provide the information required on the form, including personal contact information and information regarding the professional expertise and training of the applicant, and shall include with the application proof of training course completion as described at N.J.A.C. 7:27-14.9(h) or documentation of substitute work experience, as provided at (c) above.

(e) The Department will review the application, and will issue a diesel emission repair technician certificate and assign a unique non-sequential certificate number to an applicant who has satisfied the requirements at (b) through (d) above.

(f) The diesel emissions repair technician certificate issued by the Department is valid for five years. The Department will recertify a diesel emission repair technician upon a showing of proof of completion of all required training updates, as described at (g) below. The recertification is valid for five years.

(g) A certified diesel emission repair technician shall complete all training updates that the Department determines necessary as a result of advances in diesel engine and emission control and testing technology. The Department will notify certified diesel emission repair technicians when training updates have been prepared and must be completed.

(h) A certified diesel emission repair technician shall be responsible for preparing the NJ Diesel Emission Repair Report form, which is available from the Department, for each vehicle on which the technician performed emission-related repairs to correct the problems which caused the vehicle to fail a periodic or roadside inspection or reinspection. The technician shall provide the information required on the NJ Diesel Emission Repair Report form, including vehicle owner's contact information, technician identification information and place of employment, vehicle and engine identification requirements, and repairs performed on the vehicle. On and after January 1, 2009, the technician shall submit the NJ Diesel Emission Repair Report form electronically, within five business days after performing the repairs. The technician shall maintain a copy of each NJ Diesel Emission Repair Report form he or she prepared for a period of two years from the date the repairs were completed.

(i) If it is a hardship for a certified diesel emission repair technician to submit an NJ Diesel Emission Repair Report form electronically, the technician can request approval from the Department to submit the NJ Diesel Emission Repair Report form in a paper format. The approval is valid for six months. The Department will approve such a request provided that:

1. The technician certifies the request in accordance with N.J.A.C. 7:27-1.39; and
2. The technician states:
 - i. The basis for the claim that electronic submittal would impose a hardship;
 - ii. The effort(s) the technician will make to ensure his or her ability to make electronic submittals in the future; and
 - iii. That the technician agrees to make every effort to become able to submit the form electronically within a reasonable amount of time.

New Rule, 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).

7:27-14.9 Training providers for diesel emissions inspectors and diesel emissions repair technicians

(a) An applicant seeking approval as a provider of an emission inspector or repair technician training program shall have a minimum of two years' experience in diesel technology training or two years' experience in either the development of a diesel emissions inspector or diesel emission repair technician training program or the administration of an emission inspector or repair technician training program for either a basic or enhanced inspection and maintenance program for motor vehicles.

(b) A training provider seeking approval of a training program for diesel emission inspectors or diesel emission repair technicians shall file with the Department an application that includes:

1. Contact and ownership information for the provider;
2. The names of trainers employed by the training program provider and copies of their qualifications;
3. Copies of any accreditations held by the training provider;
4. Verification that the provider possesses or has available to it at least one type of approved emissions inspection equipment for hands-on training; and
5. A curriculum pursuant to (c) below.

(c) A training provider shall develop a curriculum in consultation with the Department. The training provider shall submit a curriculum to the Department for approval, and shall

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, except carbon dioxide (CO₂), 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, except carbon dioxide (CO₂), the applicant shall document advances in the art of air pollution control, except for CO₂, 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, except carbon dioxide (CO₂), 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 pub-

lication 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).
 Amended by R.2005 d.392, effective November 21, 2005.
 See: 36 N.J.R. 4607(a), 37 N.J.R. 16(b), 4415(a).
 Added “, except carbon dioxide (CO₂)” to the introductory paragraphs of (b) and (c) and (c)5.
 Public Notice: Opportunity for Public Comment on the Proposed Withdrawal of the State-of-the-Art (SOTA) manuals for Volatile Organic Storage Tanks, Asphalt Plants and the Glass Industry.
 See: 40 N.J.R. 5852(a).

CAS Number	Air Contaminant	Annual Emissions	
		(tons per year)	(pounds per year)
79107	Acrylic acid	0.06	120
107131	Acrylonitrile	0.03	60
107051	Allyl chloride	0.1	200
92671	4-Aminobiphenyl	0.1	200
62533	Aniline	0.1	200
90040	o-Anisidine	0.1	200
71432	Benzene	0.2	400
92875	Benzidine	0.00003	0.06
98077	Benzotrichloride	0.0006	1.2
100447	Benzyl chloride	0.01	20
92524	Biphenyl	1	2000
117817	Bis(2-ethylhexyl)phthalate	0.05	1000
542881	Bis(chloromethyl)ether	0.00003	0.06
75252	Bromoform	1	2000
106990	1,3-Butadiene	0.007	14
156627	Calcium cyanamide	1	2000
105602	Caprolactam	1	2000
133062	Captan	1	2000
63252	Carbaryl	1	2000
75150	Carbon disulfide	0.1	200
56235	Carbon tetrachloride	0.1	200
463581	Carbonyl sulfide	0.5	1000
120809	Catechol	0.5	1000
133904	Chloramben	0.1	200
57749	Chlordane	0.001	2
7782505	Chlorine	0.01	20
79118	Chloroacetic acid	0.01	20
532274	2-Chloroacetophenone	0.006	12
108907	Chlorobenzene	1	2000
510156	Chlorobenzilate	0.04	80
67663	Chloroform	0.09	180
107302	Chloromethyl methyl ether	0.01	20
126998	Chloroprene	0.1	200
1319773	Cresols/Cresylic acid	0.1	200
95487	o-Cresol	0.1	200
108394	m-Cresol	0.1	200
106445	p-Cresol	0.1	200
98828	Cumene	1	2000
94757	2,4-D	1	2000
547044	DDE	0.001	2
334883	Diazomethane	0.1	200
132649	Dibenzofurans	0.5	1000
96128	1,2-Dibromo-3-chloro-propane	0.001	2
84742	Dibutylphthalate	1	2000
106467	1,4-Dichlorobenzene	0.3	600
91941	3,3-Dichlorobenzidine	0.02	40
111444	Dichloroethyl ether	0.006	12
542756	1,3-Dichloropropene	0.1	200
62737	Dichlorvos	0.02	40
111422	Diethanolamine	0.5	1000
121697	N,N-Dimethylaniline	0.1	200
64675	Diethyl sulfate	0.1	200
119904	3,3-Dimethoxybenzidine	0.01	20
60117	4-Dimethyl aminoazobenzene	0.1	200
119937	3,3-Dimethyl benzidine	0.0008	1.6
79447	Dimethyl carbamoyl	0.002	4

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 (except CO₂), other than hazardous air pollutants (HAPs) that the facility has the potential to emit in a quantity greater than or equal to 100 tons per year.

TABLE B

Thresholds for Reporting Emissions of Hazardous Air Pollutants (HAPS)

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