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CHAPTER 27

AIR POLLUTION CONTROL

Executive Order No. 66(1978) Expiration Date

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

Chapter Historical Note

Chapter 27, Air Pollution Control, was adopted by the Department of Environmental Protection pursuant to authority delegated at N.J.S.A. 26:2C-1 et seq. and N.J.S.A. 26:2D-1 et seq. and was filed and became effective prior to September 1, 1969.

Law Review and Journal Commentaries

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APPENDIX A EMISSIONS INCLUDED IN EMISSIONS INVENTORY AS OF AUGUST 2, 1996

APPENDIX B CHEMICALS DEFINING SYNTHETIC ORGANIC CHEMICAL AND POLYMER MANUFACTURING

SUBCHAPTER 1. GENERAL PROVISIONS

7:27-1.1 Scope

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

7:27-1.2 Construction

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

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

7:27-1.3 Practice where rules do not govern

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

7:27-1.4 Definitions

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

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

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

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

“CFR” means the Code of Federal Regulations.

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

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

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

“Confidential copy” means a record (or copy thereof) submitted to or obtained by the Department, containing information which the claimant asserts is confidential information.

“Confidential information” means information which the Department determines, in accordance to the procedures at N.J.A.C. 7:27-1.6 et seq., to have satisfied all of the following substantive criteria:

1. The claimant has asserted a confidentiality claim with respect to the information, in compliance with the procedures required by N.J.A.C. 7:27-1.6 through 1.8, and such confidentiality claim has not expired by its terms, been waived or withdrawn;

2. The claimant has shown that disclosure of the information would be likely to cause substantial damage

either to the claimant's competitive position or to national security;

3. The claimant has taken reasonable measures to protect the confidentiality of the information, and intends to continue to take such measures;

1. During any 12 consecutive months, the geometric mean value of all 24-hour averages of suspended particulate matter concentrations in ambient air shall not exceed 60 micrograms per cubic meter; and

2. During any 12 consecutive months, 24-hour average concentrations may exceed 150 micrograms per cubic meter no more than once.

7:27-13.4 Ambient air quality standards for sulfur dioxide

(a) The primary air quality standards are:

1. During any 12 consecutive months, the arithmetic mean concentration of sulfur dioxide in ambient air shall not exceed 80 micrograms per cubic meter (0.03 ppm); and

2. During any 12 consecutive months, 24-hour average concentrations may exceed 365 micrograms per cubic meter (0.14 ppm) no more than once.

(b) The secondary air quality standards are:

1. During any 12 consecutive months, the arithmetic mean concentration of sulfur dioxide in ambient air shall not exceed 60 micrograms per cubic meter (0.02 ppm);

2. During any 12 consecutive months, 24-hour average concentrations may exceed 260 micrograms per cubic meter (0.1 ppm) no more than once; and

3. During any 12 consecutive months, three-hour average concentrations may exceed 1,300 micrograms per cubic meter (0.5 ppm) no more than once.

7:27-13.5 Ambient air quality standards for carbon monoxide

(a) The primary and secondary air quality standards are:

1. During any 12 consecutive months, eight-hour average concentrations of carbon monoxide in ambient air may exceed ten milligrams per cubic meter (9 ppm) no more than once; and

2. During any 12 consecutive months, one-hour average concentrations may exceed 40 milligrams per cubic meter (35 ppm) no more than once.

Amended by R.1985 d.252, effective May 20, 1985 (operative June 6, 1985).
See: 16 N.J.R. 1676(a), 17 N.J.R. 1292(a).

7:27-13.6 Ambient air quality standards for ozone

(a) The primary air quality standard is:

1. During any 12 consecutive months, daily maximum one-hour average concentrations of ozone in ambient air may exceed 0.12 ppm (235 micrograms per cubic meter) no more than once.

(b) The secondary air quality standard is:

1. During any 12 consecutive months, one-hour average concentrations of ozone in ambient air may exceed 0.08 ppm (160 micrograms per cubic meter) no more than once.

Amended by R.1985 d.252, effective May 20, 1985 (operative June 6, 1985).
See: 16 N.J.R. 1676(a), 17 N.J.R. 1292(a).
(a) added; original section is now (b)1.

7:27-13.7 Ambient air quality standards for lead

(a) The primary and secondary air quality standards are:

1. During any three consecutive months, the arithmetic mean of 24-hour averages of lead concentrations in ambient air shall not exceed 1.5 micrograms per cubic meter.

Amended by R.1985 d.252, effective May 20, 1985 (operative June 6, 1985).
See: 16 N.J.R. 1676(a), 17 N.J.R. 1292(a).
Deleted old text and substituted new.

7:27-13.8 Ambient air quality standards for nitrogen dioxide

(a) The primary and secondary air quality standards are:

1. During any 12 consecutive months, the arithmetic mean concentration of nitrogen dioxide in ambient air shall not exceed 100 micrograms per cubic meter (0.05 ppm).

Amended by R.1985 d.252, effective May 20, 1985 (operative June 6, 1985).
See: 16 N.J.R. 1676(a), 17 N.J.R. 1292(a).
Added "(a) The primary . . . standards are:".

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

7:27-14.1 Definitions

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

"Autobus" includes all motor vehicles used for the transportation of passengers for hire.

"Department" means the Department of Environmental Protection.

"Diesel-powered engine" means a mechanism for converting energy into mechanical force and motion by using a compression ignition type of internal combustion engine.

"Diesel-powered motor vehicle" means a vehicle which is self-propelled by a compression ignition type of internal

combustion engine and which is designed primarily for transporting persons or property on a public street or highway; for purposes of this subchapter, passenger automobiles and motorcycles are excluded.

“Exhaust emissions” means substances emitted into the atmosphere from any opening downstream from the exhaust ports of a motor vehicle engine.

“Idle” means the motor vehicle operating mode consisting of a nonloaded, throttled engine speed at the revolutions per minute specified by the manufacturer.

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

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

“Person” means corporations, companies, associations, societies, firms, partnerships and joint stock companies, as well as individuals, and shall also include all political subdivisions of this State or any agencies or instrumentalities thereof.

“Smoke” means small gasborne or airborne particles, exclusive of water vapor, arising from a process of combustion in sufficient number to be observable.

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).

7:27-14.2 Inspection standard

(a) Any motor vehicle propelled by a diesel-powered engine which is subject to inspection by the owner or lessee at the premises or places of business of the owner or lessee as required by the Division of Motor Vehicles as a condition of compliance with said inspection shall not emit smoke in the exhaust emissions in excess of the 20 percent smoke opacity standard as determined according to the inspection procedure established at N.J.A.C. 7:27B-4.3.

(b) Any diesel-powered autobus which is subject to the inspection rules and regulations of the New Jersey Department of Transportation (reference N.J.S.A. 48:4, and N.J.A.C. 16:53) as a condition of compliance with said inspection shall not emit smoke in the exhaust emissions in excess of the 12 percent smoke opacity standard as determined according to the inspection procedure established at N.J.A.C. 7:27B-4.4.

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

See: 2 N.J.R. 54(c), 3 N.J.R. 41(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).

This section was originally codified at 14.3 and was recodified with substantial changes. The old section 14.2 Public highway standard has been repealed.

Case Notes

Inconsistency noted between inspection standard of 20 percent opacity (citing former N.J.A.C. 7:27-14.3) and former regulation setting highway standard of no exhaust smoke emission for diesel vehicles. *Schwerman Trucking Co. v. Dept. of Environmental Protection*, 125 N.J.Super. 14, 308 A.2d 353 (App.Div.1973).

Former N.J.A.C. 7:27-14.2 prohibiting highway operation of diesel vehicle emitting visible exhaust smoke held void as inconsistent with statutory authority. *Schwerman Trucking Co. v. Dept. of Environmental Protection*, 125 N.J.Super. 14, 308 A.2d 353 (App.Div.1973).

7:27-14.3 Idle standard

(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 at the vehicle operator's place of business where the motor vehicle is permanently assigned may idle for 30 consecutive minutes; or
2. A motor vehicle may idle for 15 consecutive minutes when the vehicle engine has been stopped for three or more hours.

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

1. Autobuses while discharging or picking up passengers;
2. Motor vehicles stopped in a line of traffic;
3. Motor vehicles whose primary and/or secondary power source is utilized in whole or in part for necessary and definitively prescribed mechanical operation other than propulsion, passenger compartment heating or air conditioning;
4. Motor vehicles being or waiting to be examined by State or Federal motor vehicle inspectors;
5. Emergency motor vehicles in an emergency situation;
6. Motor vehicles while being repaired;
7. Motor vehicles while engaged in the process of connection, detachment or exchange of trailers; or
8. Motor vehicles manufactured with a sleeper berth while being used, in a non-residentially zoned area, by the vehicle's operator for sleeping or resting.

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).

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

Authority

N.J.S.A. 13:D-1 et seq. and 26:2C-1 et seq.

Subchapter Historical Note

Adopted as R.1972 d.1, effective July 5, 1972. See: 3 N.J.R. 103(a), 4 N.J.R. 21(c). Amended by R.1974 d.169, eff. July 1, 1974. See: 76 N.J.R. 173(a), 6 N.J.R. 305(b).

On September 2, 1983 the standards referenced at N.J.A.C. 7:27-15.1 were adopted by the Department of Environmental Protection on an emergency basis as R.1983 d.407. On November 2, 1983 they were readopted without change as R.1983 d.536, and are exempt from the expiration provisions of Executive Order 66(1978) since the application of this order would be in violation of the Clean Air Act, as amended August 1977 (42 USC 7401 et seq.). See: 15 N.J.R. 1607(a), 15 N.J.R. 1943(b).

7:27-15.1 Definitions

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

“California Air Resources Board” or “CARB” means the agency of the State of California established and empowered to regulate sources of air contaminant emissions, including motor vehicles, pursuant to California Health & Safety Code, Sections 39500 et seq.

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

“Certified configuration” means a vehicle-engine-chassis design for LDGVs and LDGTs or an engine design for HDGVs certified by either of the following agencies as meeting the applicable emission standards for motor vehicles manufactured in a given model year:

1. EPA for model year 1968 or for a more recent model year; or
2. CARB for model year 1966 or for a more recent model year.

“Clean Air Act” or “CAA” means the Federal Clean Air Act (42 U.S.C. 7401 et seq.) which consists of Public Law 159 (July 14, 1955; Stat. 322) and all subsequent amendments thereto.

“Commissioner” means the Commissioner of the Department of Environmental Protection.

“Crankcase emissions” means substances emitted into the atmosphere from any portion of the engine crankcase ventilation or lubrication system.

“Department” means the Department of Environmental Protection.

“Division of Motor Vehicles” or “DMV” means the Division of Motor Vehicles within the New Jersey Department of Transportation.

“Element of design” means any automotive part or system on a motor vehicle that is subject to the Federal emission standards at 40 CFR Part 86 or California emission standards at California Code of Regulations Title 13 which:

1. Is included in the motor vehicle’s certified configuration; and
2. Could affect the emission of any regulated air contaminant from the motor vehicle.

“Emission control apparatus” means any device employed by the vehicle manufacturer which prevents or controls the emission of any air contaminant, including associated components which monitor the function and maintenance of these devices.

“EPA” means the United States Environmental Protection Agency.

“EPA Memorandum 1A” means the memorandum dated June 25, 1974, and issued by the EPA’s Office of Enforcement and General Counsel, which sets forth the EPA’s interim tampering enforcement policy. This term also includes any revisions to the policy set forth in the June 25, 1974 memorandum that are subsequently issued by the EPA. A copy of this EPA memorandum has been filed with the Office of Administrative Law and may be obtained from the Bureau of Transportation Control in the Department of Environmental Protection.

“Exhaust emissions” means substances emitted into the atmosphere from any opening downstream from the exhaust ports of a motor vehicle engine.

“G/mi” means grams per mile.

“Gasoline-fueled” means powered by a hydrocarbon fuel other than diesel fuel, including, but not limited to, gasoline, natural gas, liquified petroleum gas, or propane or powered by alcohol fuels, hydrocarbon-alcohol fuel blends or hydrogen.

“Gross vehicle weight rating” or “GVWR” means the value specified by the manufacturer as the maximum loaded weight of a single or combination vehicle.

“Heavy-duty gasoline-fueled vehicle” or “HDGV” means a gasoline-fueled motor vehicle that has a GVWR exceeding

8,500 pounds and is designed primarily for transporting persons or property.

“Hydrocarbons (HC)” means any compound or mixture of compounds whose molecules consist of atoms of hydrogen and carbon only.

“Idle” means an operating mode where 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.

“Light-duty gasoline-fueled vehicle” or “LDGV” means a gasoline-fueled motor vehicle that has a GVWR of 8,500 pounds or less, is designed primarily for use as a passenger car or is a passenger car derivative and is capable of seating no more than 12 passengers.

“Light-duty gasoline-fueled truck” or “LDGT” means a gasoline-fueled motor vehicle that has a GVWR of 8,500 pounds or less, a vehicle curb weight of 6,000 pounds or less, and a basic frontal area of 45 square feet or less, and that:

1. Is designed primarily for the transportation of property or more than 12 passengers; or
2. Is available with special features enabling off-street or off-highway operation and use.

“Light-duty gasoline-fueled truck 1” or “LDGT1” means a light-duty gasoline-fueled truck with a GVWR of 6,000 pounds or less.

“Light-duty gasoline-fueled truck 2” or “LDGT2” means a light-duty gasoline-fueled truck with a GVWR of more than 6,000 pounds.

“Loaded vehicle weight” or “LVW” means the vehicle curb weight plus 300 pounds.

“Low mileage vehicle” means a motor vehicle that is driven less than 10,000 miles during a biennial inspection period.

“Model year” means the manufacturer’s annual production period (as determined under 40 CFR section 85.2304 (60 Fed. Reg. 4738, Jan. 24, 1995), as the same is amended or supplemented) which includes January 1 of such calendar year, provided, that if the manufacturer has no annual production period, this term shall mean the calendar year. A specific model year shall include 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 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.

“Motor vehicle emission testing equipment” means equipment used to conduct a test of a gasoline-fueled motor vehicle set forth at N.J.A.C. 7:27B, and which satisfies all applicable specifications set forth at N.J.A.C. 7:27B-4.14, Specifications for motor vehicle emission testing equipment for use in the New Jersey Enhanced Inspection and Maintenance Program. For motor vehicle inspections conducted pursuant to N.J.A.C. 7:27B-4 and this subchapter, this term shall include all devices used for performing a motor vehicle inspection, including, but not limited to, exhaust gas analyzers, evaporative pressure testing apparatus, evaporative purge testing apparatus, dynamometers, computers and related software.

“Motorized bicycle” means a pedal bicycle which is capable of a maximum speed of no more than 25 miles per hour on a flat surface and which has a helper motor which;

1. Has a maximum piston displacement that is less than 50 cubic centimeters; or
2. Is rated at no more than 1.5 brake horsepower.

“New motor vehicle” means a newly-manufactured motor vehicle, prior to its delivery to the ultimate purchaser.

“New motor vehicle dealer” means any person licensed pursuant to N.J.S.A. 39:10-19 to sell new motor vehicles.

“Official inspection facility” means a test-only inspection facility operated by, licensed by, or under contract with the DMV whose exclusive function is conducting emissions inspections.

“Oxides of nitrogen” or “NO_x” means all the oxides of nitrogen including, but not limited to, nitric oxide (NO) and nitrogen dioxide (NO₂), except nitrous oxide (N₂O).

“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.

“Predelivery checklist” means a schedule of items and procedures which a new motor vehicle dealer is required or requested by a manufacturer to check or follow prior to delivery of a new motor vehicle to the ultimate purchaser.

“Private inspection facility” or “PIF” means a facility licensed by the DMV to perform emissions inspections that may also offer motor vehicle parts and repair services.

“Quasi-public property” means any property 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, shopping mall roadways and parking lots, private business roadways and nonresidential parking lots.