

2. The proposed maximum allowable emissions of an air contaminant would result in a significant net emission increase, as calculated in accordance with N.J.A.C. 7:27-18.7, and:

i. The facility for which the application is submitted is a major facility as defined at N.J.A.C. 7:27-8.1; or

ii. The emission increase, proposed in the application for any air contaminant, by itself equals or exceeds the major facility threshold level which determines if a facility is a major facility for that air contaminant;

3. A State or Federal rule requires that an air quality impact analysis be performed; or

4. The Department determines that an air quality impact analysis is required for an accurate assessment of the environmental impact of the activities proposed.

(b) An air quality impact analysis shall include ambient air monitoring and risk assessment, if the Department determines that this is required for an accurate assessment of the impact of the activities proposed.

(c) An air quality impact analysis shall demonstrate whether the maximum controlled emissions stated on the preconstruction permit application may cause:

1. A violation of any State or Federal ambient air quality standard;

2. Any exceedance of a PSD increment as defined in 40 CFR Part 52;

3. An increase in ambient air concentration that equals or exceeds the significant air quality effect level, as set forth in Table 1 of N.J.A.C. 7:27-18.4(a), in a nonattainment area for any air contaminant; or

4. A contravention of any other criterion established by the Department to protect human health and welfare and the environment.

(d) An air quality impact analysis and/or a risk assessment shall be conducted in accordance with a protocol approved in advance by the Department. The Department shall not approve a protocol unless it takes all relevant site-specific and general factors into account. These factors include, but are not limited to, a land use analysis, proper consideration of topography, a good engineering practice stack height analysis, use of the most recent version of EPA-approved models, identification of the most appropriate meteorological data, and consideration of all relevant averaging times. The protocol shall document how the person proposes to conduct the air quality impact analysis and/or risk assessment, and how the results will be presented to the Department. Technical guidance on the preparation of a protocol can be found in the Air Quality Permitting Program's Technical Manual 1002 (Guidance on Preparing an Air Quality Modeling Protocol) and Technical Manual 1003 (Guidance on Preparing a Risk

Assessment for Air Contaminant Emissions) available on the Department's website at <http://www.nj.gov/dep/aqpp/techman.html>. Additional technical guidance on preparing a protocol may be requested from:

Department of Environmental Protection
Air Quality Permitting Program
Bureau of Technical Services
Air Quality Evaluation Section
401 East State Street, 2nd Floor
Mail Code 401-02
PO Box 420
Trenton, New Jersey 08625-0420
Telephone: 609-633-1110

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. 7:27-8.5, Public comment, recodified to N.J.A.C. 7:27-8.10.

Administrative change.

See: 43 N.J.R. 2328(a).

7:27-8.6 Service fees

(a) A registrant shall submit the applicable registration fee listed in the Base Fee Tables below with the completed registration form as follows:

1. If a registrant submits a paper registration form, the registrant shall submit the fee and form to the mailing address listed on the form.

2. If a registrant registers online, the registrant shall submit the fee as directed by the Internet-based registration software.

(b) After a person submits a completed application form or notice, the Department will assess and invoice the person for the base fee and any supplementary fee due to the Department, assessed in accordance with the Base Fee Schedule and the Supplementary Fee Schedule below. The person shall submit any fees so assessed to the mailing address or website address listed on the invoice within 30 days of receipt of the invoice.

(c) (Reserved)

(d) If an application is denied or a permit is revoked, for any reason, and the applicant reapplies, the new application shall meet all application requirements, including the fee requirement.

(e) Any fee under this section that is subject to N.J.A.C. 7:1L may be paid in installments in accordance with N.J.A.C. 7:1L.

(f) Except for applications for sources at facilities subject to (g) below, a complete application fee for a preconstruction permit and certificate shall include all applicable fees as set forth below in the Base Fee Tables and the Supplementary Fee Schedule.

(g) The owner or operator of a facility subject to N.J.A.C. 7:27-22 is not required to pay the operating certificate fees set forth in Tables 1, 2, 5, 6 and 10 below after June 30, 1995. However, the owner or operator of a facility subject to N.J.A.C. 7:27-22 is required to maintain operating certificates for sources at the facility under this subchapter until the issuance of an operating permit for the facility. In addition, after June 30, 1995 the owner or operator shall pay fees in accordance with N.J.A.C. 7:27-22.31 for any significant modification, as defined in the operating permit rules at N.J.A.C. 7:27-22.1, while the issuance of an operating permit for the facility is pending.

(h) Fees due to the Department may be paid by credit card, Internet electronic checking, personal check, or corporate check, made payable to "Treasurer, State of New Jersey."

(i) and (j) (Reserved)

(k) There is no fee for an insignificant source, even if emissions from an insignificant source must be listed on an application under N.J.A.C. 7:27-8.4(g).

(l) An increase of the fees in the Base Fee Tables and Supplementary Fee Schedule shall be determined in accordance with this subsection.

1. The Department shall consider a fee increase operative for the five-year periods in Table 1.

2. An increase shall be calculated using an inflation factor based on the Consumer Price Index, All Urban Consumers, United States city average, all items (CPI-U) published by the United States Department of Labor, Bureau of Labor Statistics, available at <http://www.bls.gov/cpi>. The inflation factor used shall be the percent change over the preceding five-year period for the CPI-U, except the preceding six-year period shall be used to calculate the January 1, 2010 through January 30, 2015 five-year period.

3. The inflation factor for each five-year period shall be calculated as follows:

$$\text{Inflation Factor} = 100 \times \frac{\text{Recent CPI-U} - \text{Base CPI-U}}{\text{Base CPI-U}}$$

Where:

100 = Multiplier to convert fraction into percent

Recent CPI-U = the CPI-U for the August before January 1 of the next five-year period in Table 1. For example, a five-year period in Table 1 starts on January 1, 2015. The August before January 1, 2015 is August 2014. Therefore, the Recent CPI-U would equal the CPI-U for August 2014. Use the year as directed in Table 1.

Base CPI-U = the CPI-U for the sixth August before January 1 of the next five year period in Table 1. An exception is that the Base CPI-U for the five year period, January 1, 2010 through December 31, 2014, shall be the CPI-U for August 2003. Use the year as directed in Table 1.

Table 1

<u>Five-Year Period</u>	<u>Base CPI-U</u>	<u>Recent CPI-U</u>	<u>New Jersey Register Publication</u>
January 1, 2010 through December 31, 2014	August 2003	August 2009	November 2009
January 1, 2015 through December 31, 2019	August 2009	August 2014	November 2014
January 1, 2020 through December 31, 2024	August 2014	August 2019	November 2019
January 1, 2025 through December 31, 2029	August 2019	August 2024	November 2024
January 1, 2030 through December 31, 2034	August 2024	August 2029	November 2029

4. If the inflation factor is a negative number, the fees set forth in the subchapter shall remain unchanged.

5. If the inflation factor is a positive number, the percent increase shall be rounded to one decimal place. Each of the fees set forth in this subchapter shall be multiplied by the rounded percent increase to preliminarily determine each fee's increase. Each fee's increase shall then be added to the fee to preliminarily determine the adjusted fee. The final adjusted fee shall then be determined by rounding up the preliminary adjusted fee to the next five dollars.

6. In November of the year preceding the year in which the adjusted fees are to be operative, the Department shall provide a public notice, which shall set forth the adjusted fees, if any, established under this subsection and operative on the following January 1. The Department shall provide public notice by publication of the notice and a notice of administrative change, setting forth the adjusted fees, in the New Jersey Register according to the schedule in Table 1 above. For example, the adjusted fees operative January 1, 2010 shall be published in November 2009.

7. The adjusted fees, listed under A (Base Fee Tables) and B (Supplementary Fee Schedule) below, shall be operative starting the first day of each five-year period stated in Table 1.

8. The applicable fee shall be determined as follows:

i. The Base Fee shall be the Base Fee operative on the date the Department receives an administratively complete application or notice.

ii. The Supplementary Fee shall be the Supplementary Fee operative on the date performance of the supplementary activity is completed.

A. BASE FEE TABLES

Table A-1

Registration fees

Activity	Basis			Activity	Basis	Amount	
	Electronic Registration ¹	Through December 31, 2009	January 1, 2010 through December 31, 2014			Through December 31, 2009	January 1, 2010 through December 31, 2014
Registration for initial authorization, or renewal of authorization, to act under a General Permit:					Per each additional piece of equipment per initial permit application	\$350.00	\$410.00
				Application for environmental improvement pilot test	Per application	\$500.00	\$585.00
Listed at N.J.A.C. 7:27-8.8(c), other than (c)12				Renewal of an operating certificate	Per first piece of equipment per operating certificate	\$750.00	\$880.00
					Per each additional piece of equipment per operating certificate	\$200.00	\$235.00
Listed at N.J.A.C. 7:27-8.8(c)12				Application for a preconstruction permit and operating certificate revision	Per first new or changed piece of equipment per permit revision application	\$1,500	\$1,755
					Per each additional new or changed piece of equipment per permit revision application	\$350.00	\$410.00
Registration for initial authorization, or renewal of authorization, to operate a used oil space heater under N.J.A.C. 7:27-20.3				Application for a compliance plan change	Per application	\$500.00	\$585.00
				Notice of a seven-day-notice change	Per notice	\$500.00	\$585.00

¹ If the Department has not configured e-NJEMS to accept an electronic registration, thereby forcing the registrant to submit a paper registration, the registrant shall pay the electronic registration fee.

Table A-2

Permit fees

Activity	Basis	Amount	
		Through December 31, 2009	January 1, 2010 through December 31, 2014
Application for a preconstruction permit and operating certificate	Per first piece of equipment per initial permit application	\$1,500	\$1,755

Table A-3

Notice of amendment fees

Activity	Basis	Amount	
		Through December 31, 2009	January 1, 2010 through December 31, 2014
Change in identifying information under N.J.A.C. 7:27-8.21(b)1	Per facility	\$100.00	\$120.00

Activity	Basis	Amount		Activity	Basis	Amount	
		Through December 31, 2009	January 1, 2010 through December 31, 2014			Through December 31, 2009	January 1, 2010 through December 31, 2014
Transfer of ownership under N.J.A.C. 7:27-8.21(b)2	Per facility	\$100.00	\$120.00	Correction of a typographical error under N.J.A.C. 7:27-8.21(b)7	Per preconstruction permit and operating certificate amended	\$100.00	\$120.00
Change in equipment or stack designation under N.J.A.C. 7:27-8.21(b)3	Per preconstruction permit and operating certificate amended	\$100.00	\$120.00	Change in identifying information on a registration form as specified under N.J.A.C. 7:27-8.21(d)1	Per facility	\$100.00	\$120.00
A change listed in N.J.A.C. 7:27-8.21(b)4, 5, 6 or 8	Per preconstruction permit and operating certificate amended	\$500.00	\$585.00	Transfer of ownership of a registered facility under N.J.A.C. 7:27-8.21(d)2	Per facility	\$100.00	\$120.00

B. SUPPLEMENTARY FEE SCHEDULE

Activity	Basis	Amount	
		Through December 31, 2009	January 1, 2010 through December 31, 2014
1. Prevention of Significant Deterioration			
a. PSD Applicability			
i. Screen for PSD Applicability	Per Applicable Air Contaminant	(Reserved)	(Reserved)
ii. Determine PSD Applicability	Per Review	(Reserved)	(Reserved)
b. Perform BACT Evaluation	Per Applicable Air Contaminant	\$5,000	\$5,845
2. Sub 18 Emission Offsets			
a. Determine Sub 18 Applicability	Per Review	\$5,000	\$5,845
b. Perform LAER Evaluation	Per Applicable Air Contaminant	\$5,000	\$5,845
3. RACT - AEL			
a. Review Technology	Per Applicable Air Contaminant	\$5,000	\$5,845
b. Prepare SIP Revision	Per SIP Revision	\$2,500	\$2,925
4. Perform MACT Evaluation	Per MACT Standard	\$1,500	\$1,755
5. Perform NSPS Evaluation	Per NSPS	\$1,500	\$1,755
6. Perform SOTA Case-by-Case Evaluation	Per Applicable Air Contaminant	\$5,000	\$5,845
7. Public Comment			
a. Post Public Notices	Per Public Comment Period	\$500.00	\$585.00
b. Conduct Public Hearing	Per Hearing	\$5,000	\$5,845
c. Prepare Response to Comments Document	Per Response	\$250.00	\$295.00
	Maximum Per Document	\$5,000	\$5,845
8. Ambient Air Monitoring			
a. Review Protocol			
i. For criteria pollutants, or for other pollutants or parameters for which EPA has provided guidance	Per Protocol	\$1,500	\$1,755
ii. For other pollutants or parameters for which EPA has not provided guidance	Per Protocol	\$2,500	\$2,925
b. Inspect Monitoring Locations and Equipment Installation	Per Inspection	\$500.00	\$585.00
c. Review Quality Assurance Plan			

Activity	Basis	Amount	
		Through December 31, 2009	January 1, 2010 through December 31, 2014
i. For criteria pollutants, or for other pollutants or parameters for which EPA has provided guidance	Per Plan	\$1,500	\$1,755
ii. For other pollutants or parameters for which EPA has not provided guidance	Per Plan	\$2,500	\$2,925
d. Review Data	Per Required Report	\$500.00	\$585.00
e. Audit equipment	Per Audit	\$500.00	\$585.00
9. Air Quality Impact Analysis - PSD			
a. Evaluate Protocol	Per Protocol	\$2,000	\$2,340
b. Review Screening Modeling	Per Review	\$1,000	\$1,170
c. Review Refined Modeling	Per Review	\$3,500	\$4,095
10. Air Quality Impact Analysis - non PSD			
a. Evaluate Protocol	Per Protocol	\$1,000	\$1,170
b. Review Screening Modeling	Per Review	\$1,000	\$1,170
c. Review Refined Modeling	Per Review	\$1,500	\$1,755
11. Risk Assessment			
a. Evaluate Protocol	Per Protocol	\$1,500	\$1,755
b. Review Risk Assessment	Per Review	\$1,500	\$1,755
12. Testing			
a. Stack Test			
i. Evaluate Protocol (up to three probes)	Per Protocol Per Stack	\$750.00	\$880.00
ii. Evaluate Protocol (more than three probes)	Per Protocol Per Stack	\$1,000	\$1,170
iii. Review Testing Report (up to three probes)	Per Report Per Stack	\$750.00	\$880.00
iv. Review Testing Report (more than three probes)	Per Report Per Stack	\$1,000	\$1,170
b. Continuous Emission Monitors			
i. Evaluate Equipment Protocol	Per Protocol Per Stack	\$500.00	\$585.00
ii. Evaluate Performance Specification Test Protocol	Per Protocol Per Stack	\$500.00	\$585.00
iii. Review Testing Report	Per Report Per Stack	\$500.00	\$585.00
c. On-site Monitoring of Sample Collection Pursuant to an Approved Source-Specific Testing Protocol	Per Day Per Person	\$750.00	\$880.00
d. Periodic Monitoring Equipment Protocol	Per Protocol	\$250.00	\$295.00
13. Periodic Compliance Inspection	Per Inspection Per Certificate	\$400.00	\$470.00

New Rule, R.1991 d.109, effective March 4, 1991 (operative March 31, 1991).
 See: 22 N.J.R. 292(a), 23 N.J.R. 723(a).
 Amended by R.1992 d.102, effective March 2, 1992 (operative March 28, 1992).
 See: 23 N.J.R. 1858(b), 24 N.J.R. 792(a).
 Deleted references and fee schedule regarding mathematical combinations.
 Amended by R.1994 d.502, effective October 3, 1994 (operative October 31, 1994).
 See: 25 N.J.R. 3963(a), 25 N.J.R. 4836(a), 26 N.J.R. 793(a), 26 N.J.R. 3943(b).
 Amended by R.1995 d.205, effective April 17, 1995.
 See: 26 N.J.R. 3922(a), 27 N.J.R. 1576(b).
 Recodified from N.J.A.C. 7:27-8.11 and amended by R.1998 d.231, effective May 4, 1998 (operative June 12, 1998).
 See: 29 N.J.R. 3521(a), 30 N.J.R. 1563(b).
 Rewrote the section. Former N.J.A.C. 7:27-8.6, Denials, recodified to N.J.A.C. 7:27-8.14.
 Amended by R.1999 d.428, effective December 6, 1999 (operative January 8, 2000).
 See: 30 N.J.R. 4003(a), 31 N.J.R. 4016(a).
 In the Base Fee Tables, changed Table 4 designation, inserted Table 4a designation and inserted Table 4b.
 Amended by R.2002 d.53, effective February 4, 2002 (operative March 12, 2002).
 See: 33 N.J.R. 3290(a), 34 N.J.R. 756(a).
 In A. Base Fee Tables, rewrote Table 4, substituted "Part 4a" for "Table 4a", and "Part 4b" for "Table 4b".
 Amended by R.2006 d.212, effective June 19, 2006 (operative June 30, 2006).

See: 37 N.J.R. 4728(a), 38 N.J.R. 2691(b).
 Rewrote (a) and (b); reserved (c), (i) and (j); substituted "may be paid" for "shall be payable" in (e); in (f), substituted "all applicable fees" for "both a preconstruction permit application fee and an operating certificate fee," and inserted "and the Supplementary Fee Schedule"; in (h), inserted "credit card, Internet electronic checking," and "or" and deleted "or money order,"; inserted (i); in "A. Base Fee Tables", rewrote Tables 1 through 3 and deleted Tables 4 through 10; and rewrote "B. Supplementary Fee Schedule".
 Administrative change.
 See: 41 N.J.R. 4207(a).

7:27-8.7 Operating certificates

(a) In order to operate a source covered by a preconstruction permit, the source shall also be covered by an operating certificate, which authorizes operation of the source. The preconstruction permit application form also serves as the application form for the operating certificate, and the Department shall issue the preconstruction permit and operating certificate simultaneously, combined in one document.

(b) To obtain an operating certificate or a temporary operating certificate (see (d) below), an applicant shall follow the procedures for applying for a permit and certificate under N.J.A.C. 7:27-8.4.

(c) An operating certificate (except for a temporary operating certificate issued under (d) below) expires five years after the date the preconstruction permit for the source was issued.

(d) In some cases, the Department needs information obtained while a source is operating, such as stack testing results, in order to issue a final operating certificate. In such a case, the Department shall issue one of the following two types of temporary operating certificates:

1. A 90 day temporary operating certificate, which is valid for 90 days and may be renewed by the Department one or more times; or

2. A continuing temporary operating certificate, which continues in effect until the earliest of the following triggering events:

i. The Department notifies the permittee that the operating certificate has been converted to a 90 day temporary operating certificate;

ii. The Department issues a conventional operating certificate for the source; or

iii. Five years has passed since the issuance of a preconstruction permit for the source.

(e) The operating certificate shall be renewed prior to its expiration if the source is to continue to operate. In order to ensure timely renewal of an operating certificate, the permittee shall renew the operating certificate in accordance with N.J.A.C. 7:27-8.4(n).

(f) Before renewing an operating certificate, the Department may require testing to ensure compliance with State and Federal air pollution control requirements.

New Rule, R.1991 d.109, effective March 4, 1991 (operative March 31, 1991).

See: 22 N.J.R. 292(a), 23 N.J.R. 723(a).

Amended by R.1994 d.502, effective October 3, 1994 (operative October 31, 1994).

See: 25 N.J.R. 3963(a), 25 N.J.R. 4836(a), 26 N.J.R. 793(a), 26 N.J.R. 3943(b).

Repeal and New Rule, R.1998 d.231, effective May 4, 1998 (operative June 12, 1998).

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

Former N.J.A.C. 7:27-8.7, Approvals, repealed.

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

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

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

Amended by R.2006 d.212, effective June 19, 2006 (operative June 30, 2006).

See: 37 N.J.R. 4728(a), 38 N.J.R. 2691(b).

Rewrote (e).

7:27-8.8 General permits

(a) A general permit is a pre-approved permit and certificate which applies to a specific class of significant sources. By issuing a general permit pursuant to N.J.S.A. 26:2C-9.2(h), the Department indicates that it approves the activities authorized by the general permit, provided that the owner or operator of the source registers with the Department and

meets the requirements of the general permit. If a source belongs to a class of sources which qualify for a general permit, and the owner or operator of the source registers for the general permit and complies with this section, the registration satisfies the requirements at N.J.A.C. 7:27-8.3 for a permit and certificate.

(b) A general permit may not be used to cover a source which is subject to PSD requirements under 40 CFR 52.21, or which is subject to emissions offsets requirements under N.J.A.C. 7:27-18.

(c) A general permit is available for the following sources:

1. Fuel Dispensing Facilities (GP-004A);

2. One or more pieces of woodworking equipment, located at the same facility, where all air contaminant emissions from the equipment are captured and vented to a particulate control apparatus with a minimum removal efficiency of 99 percent;

3. Boiler(s) and/or heater(s) each less than five MMBTU/hr;

4. Emergency Generator(s) Burning Distillate Fuels (GP-005A);

5. A bulk solid materials receiving and storage system, which uses pneumatic or mechanical conveying, where all particulate air contaminant emissions are captured and vented to a particulate control apparatus with a minimum removal efficiency of 99 percent;

6. One or more pieces of enclosed abrasive blasting equipment, located at the same facility, where all particulate air contaminant emissions from the equipment are captured and vented to a particulate control apparatus with a minimum removal efficiency of 99 percent;

7. A stationary storage tank which:

i. Does not have a floating roof;

ii. Has a maximum capacity of 300,000 gallons; and

iii. Is used for storing VOC's with a vapor pressure within the applicable limit below:

(1) If the tank has a maximum capacity of 20,000 gallons or less, vapor pressure shall be less than 11.1 psia (pounds per square inch absolute) at 70 degrees Fahrenheit;

(2) If the tank has a maximum capacity of more than 20,000 gallons but less than or equal to 40,000 gallons, vapor pressure shall be less than 4.0 psia at 70 degrees Fahrenheit; or

(3) If the tank has a maximum capacity of more than 40,000 gallons but less than or equal to 300,000 gallons, less than .75 psia at 70 degrees Fahrenheit;

8. A soil vapor extraction system or a groundwater air stripping system used for the remediation of a gasoline-

“Operating certificate” or “certificate” means a “Certificate to Operate Control Apparatus or Equipment” issued by the Department pursuant to N.J.S.A. 26:2C-1 et seq., and in particular N.J.S.A. 26:2C-9.2, and implementing rules at N.J.A.C. 7:27-8. An operating certificate is generally issued for new or altered equipment at non major facilities for which operating permits are not required and for new or altered equipment at major facilities which are not yet required to have a final operating permit.

“Operating permit” means the permit described in Title V of the federal Clean Air Act, 42 U.S.C. § 7661 et seq., and in this subchapter. This term shall include a general operating permit which is applicable facility wide, but does not include a general operating permit which applies only to a part of a facility. Where a general operating permit applies only to a part of a facility, the general operating permit shall be incorporated into the operating permit. This term also includes an operating permit issued for a temporary facility; for a facility subject to a MACT or GACT standard pursuant to N.J.A.C. 7:27-22.26; or for a component of a facility pursuant to N.J.A.C. 7:27-22.5(j).

“Operating scenario” means a plan for operating a facility or a portion thereof in a way, or according to a method, or using methods or processes, which are different from other methods or processes used at the facility, or portion thereof. An operating scenario may be incorporated into a permit through issuance of an initial operating permit, minor modification, significant modification, or authorized through a seven-day-notice.

“Order” means any and all orders issued by the Department including, but not limited to, administrative orders and administrative consent orders.

“Oxides of nitrogen” or “NO_x” means all oxides of nitrogen, except nitrous oxide, as measured by test methods approved by the Department and EPA, such as the test methods set forth at 40 CFR 60, Appendix A, Methods 7 through 7E.

“Permittee” means, for the purpose of this subchapter, any person to whom the Department has issued an operating permit.

“Person” means an individual, public or private corporation, company, partnership, firm, association, society, joint stock company, international entity, institution, county, municipality, state, interstate body, the United States of America, or any agency, board, commission, employee, agent, officer, or political subdivision of a state, an interstate body, or the United States of America.

“Phase I” means a time period designated pursuant to the Title IV acid deposition control program as commencing January 1, 1995, and ending December 31, 1999.

“Phase II” means a time period designated pursuant to the Title IV acid deposition control program as commencing January 1, 2000, and continuing indefinitely.

“PM-10” means a class of air contaminants which includes all particulate matter having an aerodynamic diameter less than or equal to a nominal 10 micrometers.

“Pollution Prevention Assessment” means an assessment of potential pollution prevention opportunities for the use, generation and release of non-hazardous substances, prepared by an owner or operator of a priority industrial facility that is covered by an effective facility-wide permit issued by the Department, containing the same elements as those required for hazardous substances by N.J.A.C. 7:1K-4.3 and 4.5. This term shall have the same meaning as defined for the term “Pollution Prevention Assessment” at N.J.A.C. 7:1K-1.5; if there is any conflict between the definition at N.J.A.C. 7:1K-1.5 and this one, the definition at N.J.A.C. 7:1K-1.5 shall control.

“Pollution Prevention Plan” means a plan required to be prepared by an industrial facility pursuant to N.J.S.A. 13:1D-41 and 42, N.J.A.C. 7:1K-3 and N.J.A.C. 7:1K-4. This term shall have the same meaning as defined for the term “Pollution Prevention Plan” at N.J.A.C. 7:1K-1.5.

“Potential to emit” means the same as that term is defined by the EPA at 40 CFR § 70.2 or any subsequent amendments thereto. In general, the potential to emit is the maximum aggregate capacity of a source operation or of a facility to emit an air contaminant under its physical and operational design. Any physical or operational limitation on the capacity of a source operation or a facility to emit an air contaminant, including any limitation on fugitive emissions as a result of any applicable requirement, control apparatus, and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design, if the limitation is Federally enforceable. Unless otherwise indicated, fugitive emissions shall be included in the determination of potential to emit. However, the determination shall not include the holding by the owner or operator of either emission reductions that are banked pursuant to N.J.A.C. 7:27-18.8 or NO_x budget allowances allocated pursuant to N.J.A.C. 7:27-31.7.

“Preconstruction permit” means a “Permit to Construct, Install, or Alter Control Apparatus or Equipment” issued by the Department pursuant to N.J.S.A. 26:2C-1 et seq., in particular N.J.S.A. 26:2C-9.2, and implementing rules at N.J.A.C. 7:27-8.

“Prevention of significant deterioration” or “PSD” means the requirements pursuant to 40 CFR 51.166, administered through the Department’s permitting process, which apply to a new or modified major facility located in an attainment area. The Department accepted delegation of the administration of the PSD program from EPA on February 22, 1983.

“Probe” means an air contaminant sampling method used to determine compliance with one or more emission allowances. For the purpose of assessing supplementary fees at

N.J.A.C. 7:27-22.31(s) and (w), any of the following shall be considered a single probe:

1. Multiple methods using real-time instrument analyzers, except for analyzers used in determining specific gaseous organic compounds;
2. Any multiple-sample method used for a single air contaminant;
3. Inlet and outlet sampling of a control apparatus for the same air contaminant; or
4. Any single-sample method used to determine multiple air contaminants within an air contaminant class (for example, metals).

"Process unit" means equipment assembled to produce intermediate or final products. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product. The storage and transfer of product or raw materials to and from the process unit shall be considered separate from the process unit for the purposes of making reconstruction determinations. Product recovery equipment shall be considered to be part of the process unit, not part of the control apparatus.

"Product" means one or more desired results of a production process that is used as a commodity in trade in the channels of commerce by the general public in the same form as it is produced. Products include intermediate products transferred to a separate industrial facility owned or operated by the same owner or operator. This term shall have the same meaning as defined for the term "product" at N.J.A.C. 7:1K-1.5; if there is any conflict between the definition at N.J.A.C. 7:1K-1.5 and this one, the definition at N.J.A.C. 7:1K-1.5 shall control.

"Production process" means a process, line, method, activity or technique, or a series or combination of processes, lines, method or techniques, used to produce a product or reach a planned result. This term shall have the same meaning as defined for the term "production process" at N.J.A.C. 7:1K-1.5.

"Proposed general operating permit" means the version of a general operating permit which is developed by the Department pursuant to N.J.A.C. 7:27-22.12, after receipt and consideration of public comments on the draft general operating permit. The Department forwards the proposed general operating permit to EPA for review, pursuant to the procedures at N.J.A.C. 7:27-22.12, prior to the issuance by the Department of the final general operating permit.

"Proposed operating permit" means the version of an operating permit which is developed by the Department pursuant to N.J.A.C. 7:27-22.12, after receipt and consideration of public comments on the draft operating permit. The Department forwards the proposed operating permit to EPA

for review, pursuant to the procedures at N.J.A.C. 7:27-22.12 prior to the issuance by the Department of the final operating permit.

"Quantifiable" means measurable with an acceptable degree of accuracy and reliability.

"Rate of production" means the quantity per unit of time of any process intermediate, product, by-product, or waste generated through the use of any significant source operation.

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

"Raw material" means any input to a significant source operation, including fuels, but excluding heat and other forms of energy. Such inputs may include mixtures, composites, compounds, and elemental substances.

"Reconstruct" or "reconstruction" means the replacement of part(s) of equipment included in the process unit, or the replacement of part(s) of control apparatus, if the fixed capital cost of replacing the part(s) exceeds both of the following amounts:

1. Fifty percent of the fixed capital cost that would be required to construct a comparable new process unit; or, if it is part(s) of control apparatus that is being replaced, 50 percent of the fixed capital cost that would be required to construct comparable new control apparatus; and
2. \$80,000, in 1995 dollars, adjusted by the Consumer Price Index (CPI).

"Reconstruction of a major HAP facility" means, when used at N.J.A.C. 7:27-22.26, the replacement of components at a 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 replace the facility at which the components are being replaced.

"Registrant" means a person who submits a registration form.

"Registration" means the process of registering with the Department on a registration form, the following:

1. One or more sources under a general operating permit, in accordance with N.J.A.C. 7:27-22.14; or
2. One or more used oil space heaters which burn on-specification used oil whose total combined gross heat input does not exceed 500,000 British Thermal Units per hour, in accordance with N.J.A.C. 7:27-20.3(a).

outdoor atmosphere. A source operation may include on or more pieces of equipment or control apparatus.

“Space heater” is as defined at N.J.A.C. 7:27-20.1.

“Stack or chimney” means a flue, conduit or opening designed, constructed, or used for emitting any air contaminant into the outdoor atmosphere.

“State Implementation Plan (SIP)” means a plan, or portion thereof, prepared by a State and approved by the EPA pursuant to 42 U.S.C. § 7410, which includes enforceable emission limitations or other control measures, means or techniques, and provides for implementation, maintenance, and enforcement of one or more NAAQS.

“Sulfur dioxide” or “SO₂” means a gas that has a molecular composition of one sulfur atom and two oxygen atoms.

“Technology Acceptance and Reciprocity Partnership” or “TARP” means a workgroup of the Environmental Council of States (ECOS). The workgroup was formed to promote the reciprocal evaluation, acceptance, and approval of innovative environmental technologies.

“Temporary facility” means a major facility which, by design, is intended to be operated at more than one location and which is relocated more than once in five years.

“Testing” means a procedure for the determination of the kind and amount of one or more air contaminants, potential air contaminants or air contaminant precursors present. This term includes, but is not limited to, sampling, sample custody, analysis, and reporting of findings.

“Total suspended particulate matter” or “TSP” means any air contaminant dispersed in the outdoor atmosphere which exists as solid particles or liquid particles at standard conditions and is measured in accordance with N.J.A.C. 7:27B-1; 40 CFR 60, Appendix A, Methods 5 through 5H; or another method approved by the Department and EPA.

“TXS” means a substance regulated by N.J.A.C. 7:27-17.

“U.S.C.” means the United States Code.

“Use” means, in respect to equipment, control apparatus, or a source operation, to engage in any form or manner of operation of equipment, control apparatus or the source operation subsequent to its installation. This term includes any trial operation.

“Used oil” is as defined at N.J.A.C. 7:27-20.1.

“Volatile organic compound” or “VOC” means a volatile organic compound as that term is defined by the EPA at 40 CFR 51.100(s), as supplemented or amended, which is incorporated by reference herein.

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

Amended by R.1995 d.492, effective September 5, 1995 (operative October 8, 1995).

See: 27 N.J.R. 22(b), 27 N.J.R. 3472(a).

Amended by R.1995 d.493, effective September 5, 1995 (operative October 8, 1995).

See: 27 N.J.R. 1040(a), 27 N.J.R. 3421(a).

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

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

In “Federally enforceable”, inserted a reference to certificates in 4; in “Modify” or “modification”, inserted “of actual emissions” following “amount” in the first sentence; and in “Reconstruct” or “reconstruction”, inserted “part(s) of” preceding “control” in the introductory paragraph, and rewrote 1.

Administrative change.

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

Amended by R.1999 d.242, effective August 2, 1999 (operative August 31, 1999).

See: 30 N.J.R. 2396(a), 31 N.J.R. 2200(a).

In “Exempt activity”, added 8; inserted “Fuel cell system”; and in “Insignificant source operation”, substituted “rate” for “rather” following “production”.

Amended by R.2000 d.204, effective May 15, 2000 (operative June 6, 2000).

See: 31 N.J.R. 1671(a), 32 N.J.R. 1808(a).

In “Potential to emit”, inserted a new fifth sentence, and rewrote the last sentence.

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

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

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

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

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

Deleted “Emission statement year”; added “NAICS code”; added “Reporting year”.

Amended by R.2004 d.129, effective April 5, 2004 (operative April 25, 2004).

See: 35 N.J.R. 3486(a), 36 N.J.R. 1791(a).

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

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

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

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

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 “Distillates of air” definition; added “, except CO₂” to “Major facility” definition.

Amended by R.2006 d.212, effective June 19, 2006 (operative June 30, 2006).

See: 37 N.J.R. 4728(a), 38 N.J.R. 2691(b).

Deleted definitions “Category I” and “Category II”, added definitions “On-specification used oil”, “Probe”, “Registrant”, “Registration”, “Registration form”, “Space heater” and “Used oil”.

Amended 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).

Rewrote definition “Volatile organic compound”.

Administrative change.

See: 41 N.J.R. 4207(a).

7:27-22.2 Applicability

(a) This subchapter applies to any facility which is one of the following:

1. A facility which emits or has the potential to emit a Hazardous Air Pollutant (HAP) in an amount which equals or exceeds the amounts listed in (a)1i through iv below. For the purposes of this paragraph, the calculation of potential to emit shall include fugitive emissions, as defined at N.J.A.C. 7:27-22.1.

i. Ten tons per year of any HAP;

ii. Twenty-five tons per year of any combination of HAPs;

iii. Such lesser quantity of any HAP as the EPA may establish by rule, pursuant to 42 USC 7412(a)(1), as the threshold amount for a major HAP facility.

iv. Such quantity of any radionuclides as the EPA may establish by rule.

(e) In addition to the information required at (d) above, an applicant may submit proposed methods to be used to determine the actual emissions of each significant source operation, for the purpose of preparing emission statements required for the facility pursuant to N.J.A.C. 7:27-21. This is useful where a different method is more accurate than the general methods provided for in the guidelines for emission statement preparation.

(f) An application for the renewal of an operating permit may, at the applicant's option, include air quality simulation modeling and risk assessment for the facility or a portion thereof, pursuant to N.J.A.C. 7:27-22.8. Where a modification of the operating permit requires air quality simulation modeling, pursuant to N.J.A.C. 7:27-22.8, such modeling shall be submitted with the application.

(g) If an administratively complete application for renewal is received by the Department at least 12 months prior to the date the operating permit expires, the facility will be covered by the application shield set forth at N.J.A.C. 7:27-22.7.

(h) An application for renewal of an operating permit is subject to the requirements for public comment and EPA comment set forth at N.J.A.C. 7:27-22.11 and 22.12.

(i) Unless a facility subject to this subchapter is covered by an application shield pursuant to N.J.A.C. 7:27-22.7, the right to operate the facility terminates upon the expiration of its operating permit.

(j) If an operating permit has expired, the conditions of the operating permit remain enforceable until the operating permit is reissued, except as provided in acid deposition control regulations promulgated by EPA under Title IV of the CAA.

(k) A permit shield provided pursuant to N.J.A.C. 7:27-22.17 shall apply to an operating permit renewal approved by the Department.

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.1996 d.303, effective July 1, 1996 (operative August 2, 1996).

See: 28 N.J.R. 1147(b), 28 N.J.R. 3414(a).

In (d) added reference to DER generation.

Amended by R.2004 d.129, effective April 5, 2004 (operative April 25, 2004).

See: 35 N.J.R. 3486(a), 36 N.J.R. 1791(a).

Deleted (d)7.

7:27-22.31 Fees

(a) The owner or operator of a facility subject to this subchapter shall submit fees to the Department in accordance with this section. The type of fee due, and the amount due, will vary depending on the fiscal year, the amount of regulated air contaminant emissions at the facility, and the number of significant source operations at the facility. The types of fees are:

1. Annual emission fees, set forth at (b) below;

2. Initial operating permit application fees, based on the number of significant source operations at a facility, set forth at (d) below;

3. Significant modification fees, based on the number of pieces of equipment being modified per significant modification application, set forth at (e) below;

4. Renewal operating permit application fees, based on the number of pieces of equipment at a facility, set forth at (d) below;

5. Requests for approval of environmental improvement pilot tests set forth at (p) below; and

6. Fees to register sources under a general operating permit or to register used oil space heaters set forth at (p), (t) and (x) below.

(b) Annual emission fees shall be paid, according to (g) below, by January 31 of each fiscal year. Annual emission fees shall be based on the facility's actual emissions during the reporting year which was two years prior to the fiscal year for which the fee is due. (For example, annual emission fees due on January 31, 2002, which falls in fiscal year 2002, shall be based on the facility's emissions in reporting year 2000.) If actual emission information on a source operation is not reported on the Emission Statement for a specific pollutant, or if an Emission Statement has not been filed for a source operation, the annual emission fee shall be based on the allowable emissions in the facility's permit, or if no permit has been issued, on the facility's potential to emit. Guidance on calculating actual emissions and potential to emit may be requested from the Department at the address in N.J.A.C. 7:27-22.3(t). Guidance on calculating the CPI for purposes of fee calculations can be found at (i) below. A facility's annual emission fee shall be calculated as follows:

1. For annual emission fees due in FY98 through and including FY02, the annual emission fee shall be \$25.00 (in 1989 dollars adjusted by the CPI) per ton of emissions, payable on all emissions of any regulated air contaminant except CO, and each facility subject to this subchapter shall pay a minimum emission fee of \$1,000; and

2. For annual emission fees due in FY03 and thereafter, the annual emission fee shall be \$60.00 (in 1989 dollars adjusted by the CPI) per ton of emissions, payable on all emissions of any regulated air contaminant, except CO₂, and each facility subject to this subchapter shall pay a minimum annual emission fee of \$3,000.

(c) (Reserved)

(d) The initial operating permit application fee and the renewal operating permit application fee calculations are the same for all fiscal years. The application fee for an initial operating permit or a renewal of an operating permit shall be \$125.00 for each piece of equipment listed on the permit application which, considered singly, constitutes a significant source operation as defined at N.J.A.C. 7:27-22.1. However,

no initial operating permit application fee or renewal operating permit application fee shall exceed \$50,000 per facility. Neither of these application fee payments should be submitted with an application. The applicant shall submit application fee payments in accordance with (g) below.

(e) Operating permit modification fees shall be paid after submittal of an application for a significant modification, in accordance with (g) and (k) through (x) below.

(f) (Reserved)

(g) All fee payments for annual emissions, initial operating permit applications, significant modification operating permit applications, renewal operating permit applications and requests for approval of environmental pilot tests required by this section shall be paid by credit card, Internet electronic checking, personal check or corporate check made payable to the "Treasurer, State of New Jersey," and shall be submitted within 30 days after the applicant receives an invoice to the address indicated on the invoice.

(h) On or before March 1, 1996, and annually thereafter, the Department shall prepare and submit to the Governor and the Legislature the report required by P.L. 1995, c.188, §7 (N.J.S.A. 26:2C-9.7), which will include information on whether there is a need for legislative action to adjust the annual emission fee to adequately fund the operating permit program.

(i) The Consumer Price Index which is used to adjust the annual emission fee shall be calculated using the CPI-U data published monthly by the U.S. Department of Labor. The CPI-U data is re-published monthly in the Survey of Current Business, Bureau of Economic Analysis, U.S. Department of Commerce. The percentage increase in the CPI for the current year, relative to the CPI for 1989, shall be determined in accordance with the following procedure:

1. The CPI for 1989 is 122.15, representing the average of the monthly CPI-U for the 12 month period ending August 31, 1989;

2. The CPI to be used in calculating the fee for the current fiscal year shall be the average of the monthly CPI-U for the 12 month period ending August 31 of the current fiscal year. For example, the CPI for the fee which is due on January 31, 1999, for fiscal year 1999 shall be the average of the monthly CPI-U for the 12 month period ending August 31, 1998;

3. The percentage increase in the current CPI relative to the 1989 CPI shall be calculated in accordance with the following formula:

$$i. \text{ Percentage Increase} = 100 \times \frac{\text{Current Year CPI} - 122.15}{122.15}$$

ii. Where:

Current Year CPI is the CPI determined pursuant to (i)2 above; and 122.15 is the CPI for 1989, pursuant to (i)1 above; and

4. If the percentage increase is a negative number, the annual emission fees shall not be decreased.

(j) To assist in calculations of the annual emission fee required pursuant to this section, the Department will annually publish a notice in the New Jersey Register in November of the fiscal year in which the fee is due, setting forth the percentage increase, for that year, of the current CPI relative to the 1989 CPI and the resultant per-ton emission fee for the year. The Department will calculate the percentage increase in accordance with the procedure set forth in (i) above.

(k) After the Department receives an application from a permittee for a significant modification of an operating permit, the Department will determine the significant modification application fee in accordance with the fee schedules referenced in (k)1 and 2 below. The significant modification application fee shall not exceed \$50,000 per significant modification.

1. The base fee for application review, from the applicable Base Fee Schedules in (r) and (v) below; and

2. Any applicable fees for additional services, assessed in accordance with the applicable Supplementary Fee Schedules in (s) and (w) below.

(l) Prior to taking final action on any significant modification, the Department will invoice the applicant for any unpaid fee due pursuant to (k) above. The applicant shall submit all fees within 30 days of receipt of the invoice.

(m) (Reserved)

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

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

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

2. The charges billed by a laboratory for analyzing audit samples.

(p) If an application for an approval of an environmental improvement pilot test is related to an application for a significant modification, the Department shall determine the applicable fee from the Base Fee Schedules at (r) and (v) below and the Supplementary Fee Schedules at (s) and (w)

below. After the Department receives the completed application form, the Department of the Treasury will send an invoice to the applicant. If a registration of a general operating permit or a used oil space heater is related to an application for a significant modification, the registrant shall submit the applicable registration fee from the Registration Fee Schedules at (t) and (x) below.

(q) (Reserved)

(r) Through December 31, 2009, the Base Fee Schedule for significant modification applications shall be (r)1 through 3 below. On and after January 1, 2010, the Base Fee Schedule shall be as determined by (u) below.

<u>Activity</u>	<u>Basis</u>	<u>Amount</u>
1. Application for a significant modification for which the change meets the definition of modification at N.J.A.C. 7:27-22.1	Per first new or changed piece of equipment per significant modification application	\$1,500
	Per each additional new or changed piece of equipment per significant modification application	\$350.00
2. Application for a significant modification in which the change does not meet the definition of modification at N.J.A.C. 7:27-22.1	Per significant modification application	\$500.00
3. Application for environmental improvement pilot test	Per application	\$500.00

(s) Through December 31, 2009, the Supplementary Fee Schedule for significant modification applications shall be (s)1 through 12 below. On and after January 1, 2010, the Supplementary Fee Schedule shall be as determined by (u) below.

<u>Activity</u>	<u>Basis</u>	<u>Amount</u>
1. Prevention of Significant Deterioration		
a. PSD Applicability		
i. Screen for PSD Applicability	Per Applicable Air Contaminant	(Reserved)
ii. Determine PSD Applicability	Per Review	(Reserved)

<u>Activity</u>	<u>Basis</u>	<u>Amount</u>
b. Perform BACT Evaluation	Per Applicable Air Contaminant	\$5,000
2. Sub 18 Emission Offsets		
a. Determine Sub 18 Applicability	Per Review	\$5,000
b. Perform LAER Evaluation	Per Applicable Air Contaminant	\$5,000
3. RACT - AEL		
a. Review Technology	Per Applicable Air Contaminant	\$5,000
b. Prepare SIP Revision	Per SIP Revision	\$2,500
4. Perform MACT Evaluation	Per MACT Standard	\$1,500
5. Perform NSPS Evaluation	Per NSPS	\$1,500
6. Perform SOTA Case-by-Case Evaluation	Per Applicable Air Contaminant	\$5,000
7. Public Comment		
a. Post Public Notices	Per Public Comment Period	\$500.00
b. Conduct Public Hearing	Per Hearing	\$5,000
c. Prepare Response to Comments Document	Per Response Maximum Per Document	\$250.00 \$5,000
8. Ambient Air Monitoring		
a. Review Protocol		
i. For (1) criteria pollutants or (2) other pollutants or parameters for which EPA has provided guidance	Per Protocol	\$1,500
ii. For other pollutants or parameters for which EPA has not provided guidance	Per Protocol	\$2,500
b. Inspect Monitoring Locations and Equipment Installation	Per Inspection	\$500.00
c. Review Quality Assurance Plan		
i. For (1) criteria pollutants or (2) other pollutants or parameters for which EPA has provided guidance	Per Plan	\$1,500

<u>Activity</u>	<u>Basis</u>	<u>Amount</u>
ii. For other pollutants or parameters for which EPA has not provided guidance	Per Plan	\$2,500
d. Review Data	Per Required Report	\$500.00
e. Audit Equipment	Per Audit	\$500.00
9. Air Quality Impact Analysis - PSD		
a. Evaluate Protocol	Per Protocol	\$2,000
b. Review Screening Modeling	Per Review	\$1,000
c. Review Refined Modeling	Per Review	\$3,500
10. Air Quality Impact Analysis - non PSD		
a. Evaluate Protocol	Per Protocol	\$1,000
b. Review Screening Modeling	Per Review	\$1,000
c. Review Refined Modeling	Per Review	\$1,500
11. Risk Assessment		
a. Evaluate Protocol	Per Protocol	\$1,500
b. Review Risk Assessment	Per Review	\$1,500
12. Testing		
a. Stack Test		
i. Evaluate Protocol (up to three probes)	Per Protocol Per Stack	\$750.00
ii. Evaluate Protocol (more than three probes)	Per Protocol Per Stack	\$1,000
iii. Review Testing Report (up to three probes)	Per Report Per Stack	\$750.00
iv. Review Testing Report (more than three probes)	Per Report Per Stack	\$1,000
b. Continuous Emission Monitors		
i. Evaluate Equipment Protocol	Per Protocol Per Stack	\$500.00
ii. Evaluate Performance Specification Test Protocol	Per Protocol Per Stack	\$500.00
iii. Review Testing Report	Per Report Per Stack	\$500.00

<u>Activity</u>	<u>Basis</u>	<u>Amount</u>
c. On-site Monitoring of Sample Collection Pursuant to an Approved Source-Specific Testing Protocol	Per Day Per Person	\$750.00
d. Periodic Monitoring Equipment Protocol	Per Protocol	\$250.00

(t) Through December 31, 2009, the fee schedule for a registration that is part of a significant modification application shall be paragraphs 1 and 2 below. On and after January 1, 2010, the fee schedule shall be as determined by (u) below.

<u>Activity</u>	<u>Basis</u>	
	<u>Per Electronic Registration</u>	<u>Per Paper Registration</u>
1. Registration for initial authorization, or renewal of authorization, to act under a General Operating Permit	\$350.00	\$500.00
2. Registration for, or five year renewal of, authorization to operate a used oil space heater under N.J.A.C. 7:27-20.3	\$250.00	\$250.00

Note: The Department will not accept paper registrations on or after January 1, 2008

(u) An increase of the fees in the Base Fee Schedule and Supplementary Fee Schedule shall be determined in accordance with this subsection.

1. The Department shall consider a fee increase operative for the five-year periods in Table 1.

2. An increase shall be an inflation factor based on the Consumer Price Index, All Urban Consumers, United States city average, all items (CPI-U) published by the United States Department of Labor, Bureau of Labor Statistics, available at <http://www.bls.gov/cpi>. The inflation factor used shall be the percent change over the preceding five-year period for the CPI-U, except the preceding six-year period shall be used to calculate the January 1, 2010 through December 31, 2014 five-year period.

3. The inflation factor for each five-year period shall be calculated as follows:

$$\text{Inflation Factor} = 100 \times \frac{\text{Recent CPI-U} - \text{Base CPI-U}}{\text{Base CPI-U}}$$

Where:

100 = Multiplier to convert fraction into percent

Recent CPI-U = the CPI-U for the August before January 1 of the next five-year period in Table 1. For example, a five-year period in Table 1 starts on January 1, 2015. The August before January 1, 2015 is August 2014. Therefore, the Recent CPI-U would equal the CPI-U for August 2014. Use the year as directed in Table 1.

Base CPI-U = the CPI-U for the sixth August before January 1 of the next five-year period in Table 1. An exception is that the Base CPI-U for the five-year period, January 1, 2010 through December 31, 2014, shall be the CPI-U for August 2003. Use the year as directed in Table 1.

Table 1

<u>Five-Year Period</u>	<u>Base CPI-U</u>	<u>Recent CPI-U</u>	<u>New Jersey Register Publication</u>
January 1, 2010 through December 31, 2014	August 2003	August 2009	November 2009
January 1, 2015 through December 31, 2019	August 2009	August 2014	November 2014
January 1, 2020 through December 31, 2024	August 2014	August 2019	November 2019
January 1, 2025 through December 31, 2029	August 2019	August 2024	November 2024
January 1, 2030 through December 31, 2034	August 2024	August 2029	November 2029

4. If the inflation factor is a negative number, the fees set forth in (r), (s) and (t) above shall remain unchanged.

5. If the inflation factor is a positive number, the percent increase shall be rounded to one decimal place. Each of the fees set forth in (r), (s) and (t) above shall be multiplied by the rounded percent increase to preliminarily determine each fee's increase. Each fee's increase shall then be added to the fee to preliminarily determine the adjusted fee. The final adjusted fee shall then be determined by rounding up the preliminary adjusted fee to the next five dollars.

6. In November of the year preceding the year in which the adjusted fees are to be operative, the Department shall provide a public notice, which shall set forth the adjusted fees, if any, established under this subsection and operative on the following January 1. The Department shall provide public notice by publication of the notice and a notice of administrative change, setting forth the adjusted fees, in the New Jersey Register according to the schedule in Table 1

above. For example, the adjusted fees effective January 1, 2010 shall be published in November 2009.

7. The adjusted fees shall be operative starting the first day of each five-year period stated in Table 1. From January 1, 2010 through December 31, 2014, the adjusted fees shall be set forth in (v) through (x) below.

8. The applicable fee schedule shall be determined as follows:

i. The Base Fee shall be the Base Fee operative on the date the Department receives an administratively complete application or notice.

ii. The Supplementary Fee shall be the Supplementary Fee operative on the date performance of the supplementary activity is completed.

(v) Effective January 1, 2010 through December 31, 2014, the adjusted Base Fee Schedule for significant modification applications shall be (v)1 through 3 below.

<u>Activity</u>	<u>Basis</u>	<u>Amount</u>
1. Application for a significant modification for which the change meets the definition of modification at N.J.A.C. 7:27-22.1	Per first new or changed piece of equipment per significant modification application	\$1,755
2. Application for a significant modification in which the change does not meet the definition of modification at N.J.A.C. 7:27-22.1	Per each additional new or changed piece of equipment per significant modification application	\$410.00
3. Application for environmental improvement pilot test	Per significant modification application	\$585.00
	Per application	\$585.00

(w) Effective January 1, 2010 through December 31, 2014, the adjusted Supplementary Fee Schedule for significant modification applications shall be (w)1 through 12 below.

<u>Activity</u>	<u>Basis</u>	<u>Amount</u>
1. Prevention of Significant Deterioration		
a. PSD Applicability		
i. Screen for PSD Applicability	Per Applicable Air Contaminant	(Reserved)
ii. Determine PSD Applicability	Per Review	(Reserved)
b. Perform BACT Evaluation	Per Applicable Air Contaminant	\$5,845
2. Sub 18 Emission Offsets		
a. Determine Sub 18 Applicability	Per Review	\$5,845
b. Perform LAER Evaluation	Per Applicable Air Contaminant	\$5,845
3. RACT - AEL		
a. Review Technology	Per Applicable Air Contaminant	\$5,845
b. Prepare SIP Revision	Per SIP Revision	\$2,925
4. Perform MACT Evaluation	Per MACT Standard	\$1,755
5. Perform NSPS Evaluation	Per NSPS	\$1,755
6. Perform SOTA Case-by-Case Evaluation	Per Applicable Air Contaminant	\$5,845
7. Public Comment		
a. Post Public Notices	Per Public Comment Period	\$585.00
b. Conduct Public Hearing	Per Hearing	\$5,845
c. Prepare Response to Comments Document	Per Response Maximum Per Document	\$295.00 \$5,845
8. Ambient Air Monitoring		
a. Review Protocol		
i. For (1) criteria pollutants or (2) other pollutants or parameters for which EPA has provided guidance	Per Protocol	\$1,755
ii. For other pollutants or parameters for which EPA has not provided guidance	Per Protocol	\$2,925
b. Inspect Monitoring Locations and Equipment Installation	Per Inspection	\$585.00
c. Review Quality Assurance Plan		
i. For (1) criteria pollutants or (2) other pollutants or parameters for which EPA has provided guidance	Per Plan	\$1,755
ii. For other pollutants or parameters for which EPA has not provided guidance	Per Plan	\$2,925
d. Review Data	Per Required Report	\$585.00
e. Audit Equipment	Per Audit	\$585.00
9. Air Quality Impact Analysis - PSD		
a. Evaluate Protocol	Per Protocol	\$2,340
b. Review Screening Modeling	Per Review	\$1,170
c. Review Refined Modeling	Per Review	\$4,095
10. Air Quality Impact Analysis - non PSD		
a. Evaluate Protocol	Per Protocol	\$1,170
b. Review Screening Modeling	Per Review	\$1,170
c. Review Refined Modeling	Per Review	\$1,755
11. Risk Assessment		
a. Evaluate Protocol	Per Protocol	\$1,755
b. Review Risk Assessment	Per Review	\$1,755
12. Testing		
a. Stack Test		
i. Evaluate Protocol (up to three probes)	Per Protocol Per Stack	\$880.00
ii. Evaluate Protocol (more than three probes)	Per Protocol Per Stack	\$1,170
iii. Review Testing Report (up to three probes)	Per Report Per Stack	\$880.00
iv. Review Testing Report (more than three probes)	Per Report Per Stack	\$1,170
b. Continuous Emission Monitors		

<u>Activity</u>	<u>Basis</u>	<u>Amount</u>
i. Evaluate Equipment Protocol	Per Protocol Per Stack	\$585.00
ii. Evaluate Performance Specification Test Protocol	Per Protocol Per Stack	\$585.00
iii. Review Testing Report	Per Report Per Stack	\$585.00
c. On-site Monitoring of Sample Collection Pursuant to an Approved Source-Specific Testing Protocol	Per Day Per Person	\$880.00
d. Periodic Monitoring Equipment Protocol	Per Protocol	\$295.00

(x) Effective January 1, 2010 through December 31, 2014, the adjusted fee schedule for a registration that is part of a significant modification application shall be (x)1 and 2 below.

<u>Activity</u>	<u>Basis Per Electronic Registration</u>
1. Registration for initial authorization, or renewal of authorization, to act under a General Operating Permit	\$410.00
2. Registration for, or five-year renewal of, authorization to operate a used oil space heater under N.J.A.C. 7:27-20.3	\$295.00

New Rule, R.1995 d.492, effective September 5, 1995 (operative October 8, 1995).

See: 27 N.J.R. 22(b), 27 N.J.R. 3472(a).

Amended by R.1995 d.493, effective September 5, 1995 (operative October 8, 1995).

See: 27 N.J.R. 1040(a), 27 N.J.R. 3421(a).

Public Notice: Supplemental surcharge fee amount for operating permit facilities.

See: 28 N.J.R. 1562(b).

Public Notice: Air Contaminant Emission Fee and Reconstruction Determination.

See: 30 N.J.R. 4079(a).

Public Notice: Air Contaminant Emission Fee and Reconstruction Determination.

See: 32 N.J.R. 116(a).

Public Notice: Air Contaminant Emission Fee and Reconstruction Determination.

See: 32 N.J.R. 4478(a).

Public Notice: Air Contaminant Emission Fee and Reconstruction Determination.

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

Public Notice: Air Contaminant Emission Fee and Reconstruction Determination.

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

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

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

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

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

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

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

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

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

See: 37 N.J.R. 4475(a).

Amended by R.2006 d.212, effective June 19, 2006 (operative June 30, 2006).

See: 37 N.J.R. 4728(a), 38 N.J.R. 2691(b).

Rewrote section.

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

See: 38 N.J.R. 4760(b).

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

See: 39 N.J.R. 4961(b).

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

See: 40 N.J.R. 6487(a).

Administrative change.

See: 41 N.J.R. 4207(a).

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

See: 43 N.J.R. 319(a).

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

See: 44 N.J.R. 599(a), 3083(b).

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

See: 46 N.J.R. 141(a).

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

See: 47 N.J.R. 231(a).

7:27-22.32 Hearings and appeals

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

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

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

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

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

of the prerogative writ of mandamus, to compel Departmental action on the application.

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

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

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

7:27-22.33 Preconstruction review

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

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

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

(d) An application for a minor modification pursuant to N.J.A.C. 7:27-22.23, or a significant modification pursuant to N.J.A.C. 7:27-22.24, shall be subject to preconstruction review, which will include a demonstration that any equipment or control apparatus which is constructed, reconstructed, or modified incorporates advances in the art of air pollution control for the kind and amount of air contaminant emitted pursuant to N.J.A.C. 7:27-22.35.

(e) The Department will perform the preconstruction and operating permit reviews of an application for a minor or significant modification simultaneously. Ordinarily, the Department will issue an operating permit modification which includes preconstruction approval. However, if requested by an applicant for a modification, the Department will issue the preconstruction approval simultaneously with the draft permit which is forwarded to EPA pursuant to N.J.A.C. 7:27-22.12. This preconstruction approval will authorize the permittee to

begin construction and operation of a minor modification, at the permittee's own risk, in accordance with N.J.A.C. 7:27-22.23. For a significant modification of the operating permit, the permittee may begin construction of a significant modification, but may not operate the modified facility until final issuance of the significant modification.

(f) If a facility or source operation becomes subject to a case-by-case MACT standard pursuant to N.J.A.C. 7:27-22.26(c) prior to issuance of an operating permit for the facility, the owner or operator of the facility shall establish a case-by-case MACT standard pursuant to N.J.A.C. 7:27-22.26(e). The owner or operator of the facility shall obtain and maintain a preconstruction permit and operating certificate pursuant to N.J.A.C. 7:27-8, which applies the case-by-case MACT standard to the appropriate source operation(s), until an operating permit covering the facility is issued which incorporates the case-by-case MACT standard.

New Rule, R.1995 d.493, effective September 5, 1995 (operative October 8, 1995).

See: 27 N.J.R. 1040(a), 27 N.J.R. 3421(a).

7:27-22.34 Early reduction of HAP emissions

(a) This section shall take effect upon EPA's interim approval of the Department's operating permit program.

(b) The Department may allow a six year extension of time for complying with a MACT or GACT standard promulgated by EPA for one or more source operations at a facility, if the source operation achieves sufficient early reductions of HAP emissions. To be eligible for such a compliance extension, an applicant shall demonstrate that, between the end of a representative year and the date upon which EPA proposed the MACT or GACT standard, the relevant source operation(s) at the facility achieved at least the following emission reductions:

1. Ninety percent of all non-particulate HAP emissions; and
2. Ninety-five percent of all particulate HAP emissions.

(c) An applicant seeking an extension pursuant to (b) above shall, in accordance with the procedures at 40 CFR 63 Subpart D, provide to the Department:

1. The quantity of verifiable actual emissions released from the facility during a representative year no earlier than 1987. No year may be used as the representative year for which there is any evidence that emissions during that year are artificially or substantially greater than emissions