

SUBCHAPTER 8. PERMITS AND CERTIFICATES FOR  
MINOR FACILITIES (AND MAJOR FACILITIES  
WITHOUT AN OPERATING PERMIT)

**Subchapter Historical Note**

Unless otherwise expressly noted, all provisions of this Subchapter were adopted pursuant to authority of N.J.S.A. 26:2C-8 and 26:2C-9 and were filed and became effective prior to September 1, 1969. Subsequent revisions were filed January 4, 1973, as R.1973 d.10 to become effective on March 5, 1973. See: 4 N.J.R. 184(b), 5 N.J.R. 38(a). Additional revisions were filed March 29, 1976, as R.1976 d.96 to become effective on June 1, 1976. See: 7 N.J.R. 308(a), 8 N.J.R. 221(c). See section annotations for subsequent rulemakings.

**Law Review and Journal Commentaries**

Transition Game: NJDEP's Air Pollution Control Program. James Sherman, 162 N.J.L.J. 301 (2000).

**7:27-8.1 Definitions**

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

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

"Agricultural commodity" means any vegetable matter or animal matter.

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

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

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

"Air stripping equipment" means equipment used to transfer any air contaminant from water or other liquids directly or indirectly into the outdoor atmosphere including, but not limited to, packed columns and water spray equipment.

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

"Amendment" means a change made to a permit and certificate under N.J.A.C. 7:27-8.21, Amendments.

"AP-42" means the January 1995, 5th edition version of the manual entitled "Compilation of Air Pollutant Emission Factors," which is published by the EPA, and including supplements A, B, C, D, E, F and G and any subsequent revisions. This document may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, (703) 487-4650; or from the Superintendent of Documents, Government Printing Office, Washington, DC 20402, (202) 783-3228. In addition, this document can be accessed electronically through the EPA technology transfer network chief site on the worldwide web at <http://www.epa.gov/ttn/chief/ap42.html>.

"Application form" means the form the Department requires an applicant to submit to apply for a preconstruction permit and operating certificate, a preconstruction permit and operating certificate for an environmental improvement pilot test, a preconstruction permit and operating certificate revision, or a compliance plan change. Also, a renewal application stub is an application form.

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

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

"Certificate" means either an operating certificate or a temporary operating certificate, which is legally valid.

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

"Class I substance" means an air contaminant that is listed in 42 U.S.C. § 7671a(a), or promulgated by EPA in a Federal rule, as a substance that has been found to cause or contribute significantly to harmful effects on the stratospheric ozone layer.

"Class II substance" means an air contaminant that is listed in 42 U.S.C. § 7671a(b), or promulgated by EPA in a Federal rule, as a substance that is known or may reasonably be anticipated to cause or contribute to harmful effects on the stratospheric ozone layer.

"Clean Air Act" or "CAA" means the Federal Clean Air Act, 42 U.S.C. §§ 7401 et seq.; and any subsequent amendments or supplements to that act.

"Commercial fuel" means solid, liquid, or gaseous fuel normally produced or manufactured, and sold for the purpose of creating useful heat.

"Compliance inspection" means the on-site examination by representatives of the Department of equipment or control apparatus to determine if the requirements of this subchapter and other applicable laws have been and are being complied with.

"Compliance plan change" means a change made to a permit and certificate under N.J.A.C. 7:27-8.19, Compliance plan changes.

"Construct" or "construction" means to fabricate or erect equipment or control apparatus at a facility where it is intended to be used, but shall not include the dismantling of existing equipment or control apparatus, site preparation, or the ordering, receiving, temporary storage, or installation of equipment or control apparatus. Unless otherwise prohibited by Federal law, this term shall also not include the pouring of footings or placement of a foundation where equipment or control apparatus is intended to be used.

"Consumer Price Index" or "CPI" means the annual Consumer Price Index for a calendar year as determined year to year using the decimal increase in the September through August, 12-month average for the previous year of the Consumer Price Index for All Urban Consumers (CPI-U), as published by the United States Department of Labor.

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

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

"Criteria pollutant" means any air contaminant for which a national ambient air quality standard has been promulgated under 40 CFR 50 or for which a State ambient air quality standard has been promulgated in N.J.A.C. 7:27-13.

"Delivery vessel" means any vehicle designed and constructed or converted to be capable of transporting liquid VOC cargo such as gasoline or fuel oil. This term includes, but is not limited to, tank trucks, tank trailers, railroad tank cars, and marine tank vessels.

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

"Distillates of air" means helium (He), nitrogen (N<sub>2</sub>), oxygen (O<sub>2</sub>), neon (Ne), argon (Ar), krypton (Kr), and xenon (Xe).

"Domestic treatment works" means a publicly or privately owned treatment works and includes a treatment works processing primarily domestic wastes together with any ground water, surface water, storm water, or industrial process wastewater that may be present.

"Domestic waste" means waste derived from humans, animals, households, restaurants, cafeterias, hotels, hospitals, markets, and similar installations.

"Dry cleaning equipment" means equipment, located at a commercial establishment, used for cleaning textiles or garments, in which the cleaning agent is a chemical or petroleum solvent.

"Dump" means a land site at which solid waste is disposed of in a manner which does not protect the environment, is susceptible to open burning, or is exposed to the elements, vectors and scavengers.

"Effective stack height" means the distance to the plume center line from the ground as determined by adding the plume rise to the physical height of the stack.

"Effluent limitation" means any restriction on quantities, quality, discharge rates, concentration of chemical, physical, thermal, biological, or other constituents of a pollutant. This term shall have the same meaning as defined for the term "effluent limitation" at N.J.A.C. 7:14A-1.9.

"Emergency" means any situation which arises from sudden and reasonably unforeseeable events beyond the control of a facility, such as an act of God, which requires immediate corrective action to restore normal operation and which causes the facility, due to unavoidable increases in emissions attributable to the emergency to exceed a technology-based emissions limitation set forth in its preconstruction permit and certificate in effect. This term shall not include noncompliance caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

"Emissions" means any air contaminant or category of air contaminants discharged directly or indirectly into the outdoor atmosphere.

"Emissions unit" means any part of activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under 42 U.S.C. § 7412(b).

"Emit" means to cause or release emissions.

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

"Environmental improvement pilot test" means a sampling and analytical program using prototype equipment or processes on a temporary basis for the purpose of collecting data necessary for the design of a full scale process to achieve an environmental improvement, or for the purpose of determining the feasibility of using the equipment or process for a particular environmental improvement.

"EPA" means the United States Environmental Protection Agency.

"Equipment" means any device capable of causing the emission of an air contaminant, and any stack or chimney, conduit, flue, duct, vent or similar device connected or attached to, or serving the equipment.

"Facility" means the combination of all structures, buildings, equipment, control apparatus, storage tanks, source

4. Contact the Department to schedule mutually acceptable testing dates and startup times at least 30 days in advance of the planned testing date for any testing conducted pursuant to a source-specific testing protocol, except in cases where the Department has approved a different test notification requirement in the preconstruction permit or certificate;

5. Submit the test report to the Department within 30 days after the completion of the sampling, unless a longer period for submission is approved in writing by the Department; and

6. Have the test report from any source emission testing reviewed and certified by a licensed professional engineer, or by an industrial hygienist who has been certified by the American Board of Industrial Hygiene, prior to their submission to the Department.

(g) The application, registration or notice form shall require the applicant to provide information about significant sources. The applicant does not need to include information on any insignificant sources, except where emissions from the insignificant source are released through the same control device as emissions from a significant source. Where this occurs, the form shall require a list of the emissions from the insignificant source(s), as well as the emissions from the significant source. (Even if emissions from an insignificant source are listed, there is no fee for the insignificant source. This is stated at N.J.A.C. 7:27-8.6(k).)

(h) In some cases, an application, registration or notice (and the issued permit) may cover more than one source. Determination of the number of sources to be included shall depend on how each source is vented or, in the case of batch processing operations, how the product is made or it may be based on another basis for a logical grouping, provided that this basis is approved by the Department:

1. For a single source that exhausts through one or more stacks or vents, the applicant shall apply for one permit;

2. For multiple sources that exhaust through a common stack or vent, or through common stacks or vents, the applicant shall apply for one permit to cover all these sources;

3. For multiple sources that each exhaust through an individual stack or vent, the applicant shall either apply for a single permit for each source, so that the number of permits will be equal to the number of sources, or shall apply for permit(s) based on logical grouping(s) approved by the Department; and

4. For batch processing operations in which two or more sources make up a process unit, an applicant may choose to include these sources in one permit application.

(i) Any person who is applying for a preconstruction permit or permit revision shall submit as part of the application, an NSPS and NESHAP applicability and

compliance demonstration, if the proposed equipment or the intended use of the proposed equipment is within any source category to which any NSPS or NESHAP is applicable.

(j) If required under N.J.A.C. 7:27-8.5, an application shall include a protocol for conducting an air quality impact analysis. The protocol shall include a risk assessment if one is required under N.J.A.C. 7:27-8.5.

(k) An application, registration or notice shall, if required by the applicable form, list each air contaminant which meets either of the following conditions:

1. The source operation's potential to emit the air contaminant is equal to or higher than the applicable reporting threshold set forth in Table A or B in Appendix 1; or

2. The source operation may, under normal operations, emit the air contaminant in an amount which may result in noncompliance with the air pollution odor provisions at N.J.A.C. 7:27-8.3(j) and N.J.A.C. 7:27-5.

(l) When listing raw materials on an application, registration or notice, the applicant shall list each HAP raw material separately. Each non-HAP raw material shall be:

1. Listed separately; or

2. Listed in a group of non-HAP raw materials with similar physical and/or chemical properties. If a group is listed, the group shall be sufficiently limited so as to allow the Department to evaluate whether the source, using those raw materials, shall comply with specified maximum emission rates and applicable requirements. The grouping shall be approved by the Department.

(m) When listing the emissions for a contaminant for which emissions information is required under (k) above:

1. The applicant shall separately list emissions for each HAP;

2. Emissions for each non-HAP shall be:

i. Listed separately; or

ii. If the contaminant is a VOC or particulate, the emissions may be listed in a group of total VOCs or total particulates; and

3. If a source emits a contaminant that is both a HAP and is also a VOC or a particulate, emissions of that air contaminant shall be listed separately as a HAP, and shall also be included in any grouping of total VOCs or total particulates.

(n) In order to ensure timely renewal of an operating certificate, a used oil space heater registration, or a registration under a general permit, the permittee shall submit the renewal application stub and the renewal fee payment in accordance with (c) above not less than 90 days prior to the

expiration date of the operating certificate, general permit registration or used oil space heater registration.

(o) Any person submitting an application, registration or notice to the Department pursuant to this subchapter shall include, as an integral part of the application, certifications complying with N.J.A.C. 7:27-1.39.

(p) Any information an applicant wants the Department to take into consideration in making a decision on an application, registration or notice shall be submitted to the Department in writing prior to the Department's making a decision on the application, registration or notice.

(q) If the permit and certificate shall cover any of the sources listed below, the application, registration or notice shall also include a demonstration that appropriate odor prevention measures will ensure compliance with the odor provisions at N.J.A.C. 7:27-8.3(j) and 7:27-5:

1. Sewage sludge treatment and storage equipment;
2. Municipal wastewater treatment equipment;
3. A landfill;
4. A municipal solid waste transfer station;
5. A composting facility;
6. Coffee roasting equipment; or
7. Equipment used for slaughtering, meat or shellfish processing, meat byproduct processing, or rendering.

(r) (Reserved)

(s) For a significant source included in any of the following categories, the Department has prepared permitting procedures manuals, which summarize certain alternative application and permitting procedures developed to take into consideration the specific characteristics of these sources. An applicant may elect, for sources in these categories, to use the alternative procedures, rather than the corresponding standard procedures set forth in this subchapter. The manuals are available from the Department at the address in (b) above:

1. Batch plants (see technical manual 1301);
2. Pilot plants (see technical manual 1302);
3. Dual plants (see technical manual 1302); and
4. Laboratory operations (see technical manual 1211).

Amended by R.1985 d.96, effective March 4, 1985 (operative April 5, 1985).

See: 16 N.J.R. 1671(a), 17 N.J.R. 587(a).

Substantially amended.

Amended by R.1991 d.109, effective March 4, 1991 (operative March 31, 1991).

See: 22 N.J.R. 292(a), 22 N.J.R. 593(a), 23 N.J.R. 723(a).

In (a), added application and information request address. In (b), stylistic change and reference to new subsections 8.14 through 8.23 added. Replaced (c) and (d). Added (e), (f), (g), (h), (i).

Amended by R.1993 d.129, effective March 15, 1993 (operative April 20, 1993).

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

New subsections (j) and (k) added pertaining to air quality impact analysis protocol approval.

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).

Public Notice: Processing delays for temporary Certificates and renewals of five year Certificates.

See: 29 N.J.R. 3087(b).

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

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

Rewrote the section.

Petition for Rulemaking.

See: 31 N.J.R. 691(a).

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).

Deleted a former (r); recodified former (s) and (t) as (r) and (s); and in the new (r), changed N.J.A.C. reference.

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 (b), rewrote 1 and 2; in (c), substituted "RADIUS or e-NJEMS" for "AIMS".

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).

Reserved (r).

Public Notice: Draft Revised Technical Manual 1302 for Pilot Plants.

See: 38 N.J.R. 342(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).

Section was "Applications"; rewrote (a), (b), (c) and (n); and deleted "and" from the end of (s)2, substituted "; and" for a period at the end of (s)3 and added (s)4.

#### Case Notes

Evidence supported air pollution control permit for resource recovery facility. Matter of Stream Encroachment Permit No. 12400, 231 N.J.Super. 443, 555 A.2d 1123 (A.D.1989).

DEP complied with all Federal and State statutory and regulatory provisions in issuance of Air Pollution Control Permit and Solid Waste Permit to applicant. In the Matter of NJPDES Permit No. N.J. 0055247, et al, 216 N.J.Super. 1, 522 A.2d 1002 (App.Div.1987) certification denied 108 N.J. 185, 527 A.2d 1390 (1987).

Pollution control equipment. Campbell Foundry Co. v. Sullivan, 119 N.J.Super. 51, 289 A.2d 801 (App.Div.1972).

#### 7:27-8.5 Air quality impact analysis

(a) An application shall include an air quality impact analysis, conducted in accordance with this section, if:

1. The application is subject to PSD air quality impact analysis requirements set forth at 40 CFR Part 52;

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. A dry-to-dry machine(s) equipped with a refrigerated condenser as the primary control and also equipped with a carbon adsorber on the cylinder outlet designed to reduce the PERC concentration below 300 ppm;
  - ii. A non-HAP VOC dry-to-dry machine(s) where the facility uses less than 1,000 gallons of non-HAP VOC solvent per 12-month period; or
  - iii. One or more boilers or heaters that meets the definition of a significant source, with a combined maximum heat input of less than or equal to 3 million Btu/hour burning natural gas, propane, No. 2 fuel oil, diesel, kerosene, or any combination of these fuels;
13. Solvent degreasers using only Methylene Chloride or 1,1,1 Trichloroethane of the following types:
- i. Batch vapor cleaning machines; or
  - ii. In-line vapor cleaning machines;
14. Equipment located at a dry cleaning facility if the equipment is:
- i. Non-HAP VOC Dry-to-Dry Machines where the facility uses less than 1,000 gallons of Non-HAP VOC solvent per 12-month period; or
  - ii. Dry Cleaning Machines that use Carbon Dioxide (CO<sub>2</sub>);
15. One or more tanks and/or pumps used for storing and/or pumping gasoline, diesel fuel, or kerosene, located at a single gasoline dispensing facility (retail or non-retail), if the facility:
- i. Receives gasoline, diesel fuel, or kerosene from a delivery vessel and puts it into a stationary storage tank;
  - ii. Transfers gasoline from a storage tank into a gasoline vapor laden fuel tank;
  - iii. Has Stage 1 vapor recovery equipment which complies with N.J.A.C. 7:27-16.3 on all gasoline tanks at the station; and
  - iv. Is not required to under N.J.A.C. 7:27-16.3 to have Stage 2 vapor recovery equipment which complies with N.J.A.C. 7:27-16 on all gasoline pumps at the station;
16. Equipment located at a plating or electroplating facility which is not subject to MACT; or
17. Equipment in which the combined weight of all raw materials used exceeds 50 pounds in any one hour, in accordance with N.J.A.C. 7:27-8.2(c)19, provided the emissions of all air contaminants are less than the reporting threshold specified in the General Operating Permit. In determining the weight of the raw materials used, the

weight of the following shall be excluded, in accordance with N.J.A.C. 7:27-8.2(c)19ii:

- i. Air;
- ii. Water;

iii. Containers, provided that the container is not consumed as part of the operation of the equipment; and

iv. Paper, metal, or plastic that is twisted, bent or folded, in the equipment, provided that the twisting, bending, or folding does not cause visible emissions or air pollution.

(d) For each general permit, the Department shall provide a registration form, the general permit itself, and a document entitled "General Procedures for General Permits."

(e) The registration form shall include instructions for completing the form. The registration form shall require information identifying the registrant, identifying the source(s) which shall be covered by the registration, showing that the source meets the criteria for the general permit, and showing that the source will be operated in accordance with the general permit. In many cases, the registration form shall require the registrant to choose from among different options tailored to the source's size, operating characteristics, fuel used, and other parameters. Once the source is described or an option selected on the registration form, the registrant shall continue to operate the source within the parameters of the description and/or the selected option. The registration form shall require the registrant to certify the truth and accuracy of the information on the form. The certification shall meet the requirements of N.J.A.C. 7:27-1.39.

(f) The general permit shall include all of the conditions and requirements which must be met in order to act under the authority of the general permit, including:

1. A description of the class of significant sources which qualify for the general permit, including an explanation of how many of each type of source may be covered by one general permit registration;
2. All requirements which apply to the source and which are satisfied by the general permit;
3. Any monitoring, recordkeeping or reporting requirements;
4. If applicable, standards the source must meet to comply with N.J.A.C. 7:27-8.12, State of the art; and
5. Citations to the laws or rules which form the basis for the requirements listed in (f)2 through 4 above.

(g) The "General Procedures for General Permits" shall apply to all general permits, and shall include instructions for the use of general permits, a list of available general permits, and citations to regulatory provisions that apply to the use of general permits.

(h) Some general permits apply to only one source, while others may apply to a class of sources located at the same facility. Each general permit shall specify whether it applies to a group or to a single source. If a general permit applies to only one source, and if several sources at one facility qualify for that general permit, a separate registration, including a fee, shall be submitted for each source.

(i) The authority to act under a general permit begins upon the registrant's receipt of proof of the Department's receipt of the properly completed registration form (including the registration fee specified at N.J.A.C. 7:27-8.6). This proof can be a certified mail receipt, or a copy of the Department's written acknowledgment, issued under (k) below. A registrant may continue to act under the general permit for five years after the date of the proof of receipt, unless:

1. A shorter term is specified in the general permit or the General Procedures for General Permits; or

2. The Department amends the general permit based on a change to a law or regulation in accordance with (n) below.

(j) The registrant is fully responsible for ensuring that the requirements of the general permit, the General Procedures for General Permits, and this section are complied with. If an owner or operator has registered a source under a general permit and the registration is incorrect or deficient, the owner or operator may be liable for penalties for acting without a permit or certificate. Examples of ways a registration might be incorrect or deficient include: if the registered source does not qualify for the general permit; if the registration was improperly completed; or if the registration did not include a key element such as required information or the correct fee.

(k) The Department shall send an acknowledgment when a registration, including the appropriate fee, is received. However, the acknowledgment only indicates that the Department received the registration, and does not mean that the Department has reviewed or approved the registration. Therefore, if the registration is incorrect or deficient, the Department's acknowledgment does not in any way relieve the owner or operator from liability for penalties for any unauthorized activities.

(l) A registrant shall operate within the conditions of the general permit. If the registration form allows the registrant to choose a particular option tailored to the source, the registrant shall operate the source within the parameters set forth in that option. Failure to operate within the parameters of the chosen option and within the general permit conditions shall constitute violation of a permit. If a registrant wants to make a change to a source which has been registered under a general permit, a new general permit registration is required, unless the changed source would remain within the class of sources which qualify for the general permit, and the source would continue to be operated in accordance with the parameters set forth in the option chosen in the registration.

(m) To issue a general permit, or to amend an existing one, the Department shall draft a new or amended registration

form and general permit, and shall publish a notice in the New Jersey Register that these documents are available for review and comment. When the comment period closes, the Department shall incorporate any changes the Department deems appropriate. The Department shall then announce the final general permit, and add it to the list of sources in (c) above, through a notice of administrative change published in the New Jersey Register.

(n) If the Department changes an existing general permit, it shall notify each person who has registered under the general permit. The registrant shall comply with any applicable new requirements as follows:

1. If the change to the general permit is required by a statute or regulation, a registrant shall comply by the date required for compliance in the statute or regulation. If the registrant cannot comply by that date, the registrant must stop operating the source or obtain by that date a source-specific permit and certificate which authorizes continued operation; and

2. If the change to the general permit is not required by a statute or regulation, a registrant shall comply by the date which is 90 days after the date that the notice was received from the Department or the date when the registration, whichever is later. Thereafter, the registrant shall comply with the changed general permit.

(o) A person who wishes to register a source under a general permit may obtain the registration form, the general permit, and the General Procedures for General Permits, at the address in N.J.A.C. 7:27-8.4(b).

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

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

Former N.J.A.C. 7:27-8.8, Conditions of approval, recodified to N.J.A.C. 7:27-8.13.

Public Notice: Draft General Permits comment opportunity.

See: 32 N.J.R. 605(a).

Administrative change.

See: 32 N.J.R. 2081(b).

Added (c)8.

Public Notice: Draft General Permits comment opportunity.

See: 33 N.J.R. 590(a).

Administrative change.

See: 33 N.J.R. 1377(a).

Public Notice: Air Quality Permit clarification of terminology.

See: 33 N.J.R. 3221(a).

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

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

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

Administrative change.

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

Public Notice: Draft General Permits comment opportunity.

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

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

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

Public Notice: Draft General Permits comment opportunity.

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

Administrative change.

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

Public Notice: Draft General Permits comment opportunity.

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

Administrative change.

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

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

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

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

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

Administrative change.

See: 37 N.J.R. 4436(a), 4911(a).

Public Notice: Draft General Permit (GP-020) for Research and Development.

See: 38 N.J.R. 343(a).

Public Notice: Air Quality Permitting: Opportunity for Public Comment on Revised General Permit (GP-005) for Emergency Generators.

See: 38 N.J.R. 1351(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).

Inserted "of" after "instructions for the use" in (g).

### 7:27-8.9 Environmental improvement pilot tests

(a) A person may seek approval for a preconstruction permit and certificate for an environmental improvement pilot test, as defined at N.J.A.C. 7:27-8.1, of air pollution control equipment or other environmental clean-up equipment under this section.

(b) An applicant for an environmental improvement pilot test shall ensure that the equipment shall comply with all applicable requirements, and that the activities shall not cause impacts outside the property boundary.

(c) An applicant for an environmental improvement pilot test approval shall submit the application on a form obtained from the Department at the address in N.J.A.C. 7:27-8.4(b). The application shall meet the requirements of N.J.A.C. 7:27-8.4, and shall include information regarding the planned sampling, analysis, equipment or processes, potential environmental impacts, the length of time requested for the test, projected emission rates, and any other information necessary for the Department to ensure that the proposed activities fit within the definition of an environmental improvement pilot test at N.J.A.C. 7:27-8.1.

(d) The Department shall take final action on the application within 30 days of its receipt of a complete application.

(e) The Department shall determine the term of a permit and certificate for an environmental improvement pilot test approval on a case-by-case basis, but in no case shall the approval last longer than 90 days from the start of the actions covered by the environmental improvement pilot test approval. If the permittee wishes to extend the pilot test for 90 or fewer days, the permittee shall submit a new application for a preconstruction permit and operating certificate for an environmental improvement pilot test to the Department. The Department shall approve this application only if the applicant demonstrates that continued testing of the equipment or process is needed, and that the proposed activities remain within the definition of an environmental improvement pilot test at N.J.A.C. 7:27-8.1.

(f) The fee for an environmental improvement pilot test is set forth at N.J.A.C. 7:27-8.6.

(g) The holder of an environmental improvement pilot test approval shall keep records of product run time, emission testing performed, and other data relevant to the emission of air contaminants. These records shall be kept for a minimum of five years, and any relevant data obtained must be submitted with any future application covering the source.

(h) Upon completion of the environmental improvement pilot test, the equipment involved shall cease operating, or shall return to operating under the conditions of the existing permit, if any. An environmental improvement pilot test approval does not constitute Departmental acceptance of equipment or a process for future production purposes.

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

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

Former N.J.A.C. 7:27-8.9, Reporting requirements, recodified to N.J.A.C. 7:27-8.15.

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).

In (e), deleted "The approval may be renewed by application", added "If the permittee ... pilot test" and substituted "approve this application" for "renew the environmental improvement pilot test approval".

### 7:27-8.10 Public comment

(a) The Department shall seek comments from the general public prior to making any final decision on those applications for which such comment is required by State or Federal statutes. Such applications include, but are not limited to, those applications which:

1. Are subject to the PSD requirements published at 40 CFR 52;
2. Must be submitted to the EPA for approval as revisions to any state implementation plan; or
3. Are subject to emissions offset requirements under N.J.A.C. 7:27-18.

(b) The Commissioner of the Department may seek comments from the public whenever the Commissioner finds a significant degree of public interest in an application, or whenever the Commissioner determines such comments might clarify one or more issues involved in the decision on the application. In determining whether to seek or accept public comment, the Commissioner shall consider factors relevant to the subject application and the applicable requirements. These factors may include, but are not limited to, the following:

1. The extent of any emissions increase;
2. The impact of any emissions increase on ambient air quality, human health and welfare, and the environment;
3. The applicant's record of compliance with air pollution control requirements;
4. Any other air pollution control aspects of the application or facility which might make the application of particular interest to the public.

(c) The Department shall notify those who submitted a written request for public comment of the Commissioner's

decision regarding their request. The Commissioner's notification shall be in writing, and if the decision is a denial, the notification shall include a discussion of the factors in (b) above, as well as a description of all other factors which formed the basis for the decision.

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

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

Old section recodified to 8.6.

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

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

Recodified from N.J.A.C. 7:27-8.5 and amended by R.1998 d.231, effective May 4, 1998 (operative June 12, 1998).

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

Rewrote the section. Former N.J.A.C. 7:27-8.10, Revocation, recodified to N.J.A.C. 7:27-8.16.

#### **7:27-8.11 Standards for issuing a permit**

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

(E) Established monitoring procedures utilized at the facility to meet other regulatory requirements; and

2. Under the plan, a continuous emissions monitoring system will be installed on each boiler serving an electric generating unit at the facility if required under 40 CFR 75 or 76.

(f) As a condition of an approval issued under this section, the Department may impose requirements upon the operation of any equipment or source operation subject to a monitoring plan necessary to minimize any adverse impact upon human health, welfare and the environment.

(g) The approval of a plan under this section is void upon the alteration of any item of equipment or source operation included in the plan (whether or not the item of equipment or source operation has a continuous emissions monitoring system installed) unless:

1. The owner or operator applies for and obtains the Department's approval of a revised plan pursuant to this section, reflecting the proposed alteration; and

2. Before altering the equipment or source operation subject to the plan, the owner or operator applies for and obtains such permits and certificates as are required under N.J.A.C. 7:27-8 or 22, N.J.A.C. 7:1K-1.5, and any other applicable law or regulation.

(h) The owner or operator shall comply with the approved plan, and with all conditions imposed by the Department under (f) above.

(i) The Department may revoke an approval issued under this section, by written notice to the owner or operator of the facility which is the subject of the plan, if:

1. Any material condition of the Department's approval of the plan is violated;

2. The Department determines that its decision to grant the approval was materially affected by a misstatement or omission of fact in the request for the approval or any supporting documentation; or

3. The Department determines that the alternative monitoring methodology is not equivalent to a continuous emissions monitor which satisfies the criteria of (a)1 above.

(j) In revoking an approval pursuant to (i) above, the Department shall specify an effective date for the revocation which provides the owner or operator with a reasonable amount of time to install a continuous emissions monitor on the item of equipment or source operation in question.

(k) A person may request an adjudicatory hearing in accordance with the procedure at N.J.A.C. 7:27-1.32, if:

1. The Department has denied the person's application for approval of a plan under this section;

2. The person seeks to contest conditions imposed by the Department under (f) above; or

3. The Department has revoked its approval of the person's plan pursuant to (i) and (j) above.

(l) The owner or operator of an item of equipment or source operation required to have a continuous monitoring system shall not operate the equipment or source operation without such a system, except in accordance with a plan approved under this section. If an item of equipment or a source operation required to have a continuous emissions monitoring system is operating without such a system, without first having received approval of a plan authorizing such operation, it shall not be a defense to an enforcement action that an application for approval of a plan is pending.

(m) A person seeking approval of an alternative monitoring plan shall send the application to the Department at the following address:

Chief, Bureau of Technical Services  
Air Quality Regulation Program  
Department of Environmental Protection  
PO Box 411  
Trenton, New Jersey 08625-0411

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 (g)2, inserted "or 22, N.J.A.C. 7:1K-1.5,;" and in (k), changed N.J.A.C. reference.

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).

In (e)2, deleted "utility" and added "serving an electric generating unit".

#### 7:27-19.19 Recordkeeping and recording

(a) Any person required to record or maintain information or records pursuant to this subchapter shall maintain the required information or records for a period of no less than five years after the record was made. Such person shall make the records available to the Department or to EPA upon request.

(b) Any person required to record or maintain information or records pursuant to this subchapter may submit a request to the Department, in writing, for approval to maintain alternate records. The Department may approve the request if the person demonstrates to the satisfaction of the Department that the alternate records or information are at least as effective as those required by this subchapter in documenting compliance with this subchapter.

(c) The recordkeeping requirements in (d) and (f) below apply to the owner or operator of any combustion source that is:

1. Included in a fuel switching plan approved under N.J.A.C. 7:27-19.14 and 19.20; or

2. Included in a plan for phased compliance approved under N.J.A.C. 7:27-19.14 and N.J.A.C. 7:27-19.21 or 19.23

(d) For each combustion source listed in (c) above, the owner or operator shall record the following information for each day from May 1 through September 30, for the 30-day period ending on October 1, and for each 30-day period ending on each subsequent day through April 30 of the following year:

1. Information sufficient to identify the combustion source, including a brief description (for example, "dry-bottom coal-fired boiler serving an electric generating unit"), its location, its permit number, the company stack designation, and any other identifying numbers, and any other information necessary to distinguish it from other equipment owned or operated by the owner or operator;

2. The day or 30-day period, as applicable, for which the record is being made;

3. The amount, type and higher heating value of each fuel consumed during each day from May 1 through September 15, during the 30-day period ending on September 16, and during each 30-day period ending on each subsequent day through April 30 of the following year;

3. The amount, type and higher heating value of each fuel consumed during each day from May 1 through September 30, during the 30-day period ending on October 1, and during each 30-day period ending on each subsequent day through April 30 of the following year;

4. The quantity of NO<sub>x</sub> emitted during the day or 30-day period, as applicable, determined in accordance with N.J.A.C. 7:27-19.15(a) and expressed in pounds or tons;

5. The allowable quantity of NO<sub>x</sub> emissions as expressed in pounds or tons for the day or 30-day period as determined according to N.J.A.C. 7:27-19.20, 19.21 or 19.23; and

6. Any other information required to be maintained as a condition of an approval granted under N.J.A.C. 7:27-19.14 and N.J.A.C. 7:27-19.20, 19.21 or 19.23.

(e) The owner or operator of any combustion source that is temporarily combusting fuel oil or other liquid fuel in place of natural gas pursuant to N.J.A.C. 7:27-19.25 shall keep on site a record of the number of hours such fuel has been combusted.

(f) The owner or operator of a combustion source listed in (c) or (e) above shall keep the records required under (d) and (e) above at the facility in a permanently bound log book or by an electronic method that is easily accessible on site and at the time of inspection, in a format that enables the Department to readily determine whether the combustion source is in compliance.

(g) The reporting requirements below apply to the owner or operator of any combustion source that is listed in (c) or (e) above as follows:

1. If a continuous emissions monitoring system has been installed on the equipment or source operation, an owner or operator shall submit to the Department a quarterly report in accordance with the requirement to report excess emissions contained in the Preconstruction Permit and Operating Certificate or an Operating Permit for the equipment or source operation. For an owner or operators subject to (c) above, the information pursuant to (d) above shall be submitted with the report for each day or 30-day period of a violation. If no violations occurred during the quarter, the owner or operator should provide certification that no violations occurred and that the records are maintained at the facility. Certification of the notification should be in accordance with N.J.A.C. 7:27-1.39; or

2. If no such continuous emissions monitoring system has been installed the owner or operator shall submit to the Department on March 1 of each year an annual report for the preceding calendar year. Such annual report shall include any violations which occurred during the previous year. If no violations occurred during the year, the owner or operator shall provide certification that no violations occurred and that the records are maintained at the facility. Certification of the notification shall be in accordance with N.J.A.C. 7:27-1.39.

Amended by R.1995 d.214, effective April 17, 1995 (operative May 23, 1995).

See: 26 N.J.R. 3298(a), 27 N.J.R. 1581(a).

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

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

In (d), substituted references to September 30 for references to September 15 throughout, and substituted references to October 1 for references to September 16 in the introductory paragraph and 3.

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).

In (d)1, deleted "utility" and added "serving an electric generating unit".

#### 7:27-19.20 Fuel switching

(a) The owner or operator of a combustion source included in a plan for fuel switching is authorized to comply with the plan if the Department approves the plan pursuant to this section and N.J.A.C. 7:27-19.14. The owner or operator's compliance with the plan is in lieu of causing the combustion source to comply with the emission limit under N.J.A.C. 7:27-19.4, 19.5, 19.7, 19.8, 19.9 or 19.10 that would otherwise apply to the combustion source.

(b) A combustion source may be included in a fuel switching plan only if it will be deriving from a cleaner fuel a greater percentage of its total heat input than it derived in the base year.