

CHAPTER 27

AIR POLLUTION CONTROL

Authority

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

Executive Order No. 66(1978) Expiration Date

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

Chapter Historical Note

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

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CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 7:27-1.1 Scope
- 7:27-1.2 Construction
- 7:27-1.3 Practice where rules do not govern
- 7:27-1.4 Definitions
- 7:27-1.5 Municipal ordinances or regulations
- 7:27-1.6 Procedure for making a confidentiality claim
- 7:27-1.7 Designation by claimant of an addressee for notices and inquiries
- 7:27-1.8 Correspondence, inquiries and notices
- 7:27-1.9 Time for making confidentiality determinations
- 7:27-1.10 Notice of initial confidentiality determination, and of requirement to submit substantiation of claim
- 7:27-1.11 Substantiation of confidentiality claims
- 7:27-1.12 Time for submission of substantiation
- 7:27-1.13 Final confidentiality determination
- 7:27-1.14 Treatment of information pending confidentiality determination
- 7:27-1.15 Availability of information to the public after determination that information is not confidential
- 7:27-1.16 Preparation of final public copy
- 7:27-1.17 Class confidentiality determinations
- 7:27-1.18 Classes of information which are not confidential information
- 7:27-1.19 Disclosure of confidential information to other public agencies
- 7:27-1.20 Disclosure of confidential information to contractors
- 7:27-1.21 Disclosure to alleviate an imminent and substantial danger
- 7:27-1.22 Notice to claimants of disclosure of confidential information
- 7:27-1.23 Disclosure by consent
- 7:27-1.24 Incorporation of confidential information into cumulations of data
- 7:27-1.25 Disclosure of confidential information in rulemaking, permitting, and enforcement proceedings

- 7:27-1.26 Hearing before disclosure of information for which a confidentiality claim has been made
- 7:27-1.27 Nondisclosure of confidential information
- 7:27-1.28 Safeguarding of confidential information
- 7:27-1.29 Confidentiality agreements
- 7:27-1.30 Wrongful access or disclosure; penalties
- 7:27-1.31 Right to enter
- 7:27-1.32 Request for an adjudicatory hearing
- 7:27-1.33 Request for a stay of the effective date of a departmental decision
- 7:27-1.34 through 7:27-1.35 (Reserved)
- 7:27-1.36 Applicability
- 7:27-1.37 Severability
- 7:27-1.38 Liberal construction
- 7:27-1.39 Certification of information

SUBCHAPTER 2. CONTROL AND PROHIBITION OF OPEN BURNING

- 7:27-2.1 Definitions
- 7:27-2.2 Open burning for salvage operations
- 7:27-2.3 Open burning of refuse
- 7:27-2.4 General provisions
- 7:27-2.5 Infested plant life
- 7:27-2.6 Prescribed burning
- 7:27-2.7 Emergencies
- 7:27-2.8 Dangerous material
- 7:27-2.9 Herbaceous plant life and hedgerows
- 7:27-2.10 Orchard prunings and cullings
- 7:27-2.11 Land clearing
- 7:27-2.12 Special permit
- 7:27-2.13 Fees

SUBCHAPTER 3. CONTROL AND PROHIBITION OF SMOKE FROM COMBUSTION OF FUEL

- 7:27-3.1 Definitions
- 7:27-3.2 Smoke emissions from stationary indirect heat exchangers
- 7:27-3.3 Smoke emissions from marine installations
- 7:27-3.4 Smoke emissions from the combustion of fuel in mobile sources
- 7:27-3.5 Smoke emissions from stationary internal combustion engines and stationary turbine engines
- 7:27-3.6 Stack test
- 7:27-3.7 Exceptions

SUBCHAPTER 4. CONTROL AND PROHIBITION OF PARTICLES FROM COMBUSTION OF FUEL

- 7:27-4.1 Definitions
- 7:27-4.2 Standards for the emission of particles
- 7:27-4.3 Performance test principle
- 7:27-4.4 Emission tests
- 7:27-4.5 (Reserved)
- 7:27-4.6 Exceptions

SUBCHAPTER 5. PROHIBITION OF AIR POLLUTION

- 7:27-5.1 Definitions
- 7:27-5.2 General provisions

SUBCHAPTER 6. CONTROL AND PROHIBITION OF PARTICLES FROM MANUFACTURING PROCESSES

- 7:27-6.1 Definitions
- 7:27-6.2 Standards for the emission of particles
- 7:27-6.3 Performance test principles
- 7:27-6.4 Emission tests
- 7:27-6.5 Variances
- 7:27-6.6 (Reserved)
- 7:27-6.7 Exceptions

SUBCHAPTER 7. SULFUR

- 7:27-7.1 Definitions
- 7:27-7.2 Control and prohibition of air pollution from sulfur compounds

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

- 7:27-8.1 Definitions
- 7:27-8.2 Applicability
- 7:27-8.3 General provisions
- 7:27-8.4 Applications
- 7:27-8.5 Air quality impact analysis
- 7:27-8.6 Service fees
- 7:27-8.7 Operating certificates
- 7:27-8.8 General permits
- 7:27-8.9 Environmental improvement pilot tests
- 7:27-8.10 Public comment
- 7:27-8.11 Standards for issuing a permit
- 7:27-8.12 State of the art
- 7:27-8.13 Conditions of approval
- 7:27-8.14 Denials
- 7:27-8.15 Reporting requirements
- 7:27-8.16 Revocation
- 7:27-8.17 Changes to existing permits and certificates
- 7:27-8.18 Permit revisions
- 7:27-8.19 Compliance plan changes
- 7:27-8.20 Seven-day-notice changes
- 7:27-8.21 Amendments
- 7:27-8.22 Changes to sources permitted under batch plant, pilot plant, and dual plant permitting procedures
- 7:27-8.23 Reconstruction
- 7:27-8.24 Special provisions for construction but not operation
- 7:27-8.25 Special provisions for pollution control equipment or pollution prevention process modifications
- 7:27-8.26 Civil or criminal penalties for failure to comply
- 7:27-8.27 Special facility-wide permit provisions

APPENDIX 1

SUBCHAPTER 9. SULFUR IN FUELS

- 7:27-9.1 Definitions
- 7:27-9.2 Sulfur content standards
- 7:27-9.3 Exemptions
- 7:27-9.4 Waiver of air quality modeling
- 7:27-9.5 Incentive for conversion to coal or other solid fuel

SUBCHAPTER 10. SULFUR IN SOLID FUELS

- 7:27-10.1 Definitions
- 7:27-10.2 Sulfur contents standards
- 7:27-10.3 Expansion, reconstruction or construction of solid fuel burning units
- 7:27-10.4 Exemptions

SUBCHAPTER 11. INCINERATORS

- 7:27-11.1 Definitions
- 7:27-11.2 Construction standards
- 7:27-11.3 Emission standards
- 7:27-11.4 Permit to construct; certificate to operate
- 7:27-11.5 Operation
- 7:27-11.6 Exceptions

SUBCHAPTER 12. PREVENTION AND CONTROL OF AIR POLLUTION EMERGENCIES

- 7:27-12.1 Definitions
- 7:27-12.2 Emergency criteria
- 7:27-12.3 Criteria for emergency termination
- 7:27-12.4 Standby plans
- 7:27-12.5 Standby orders
- 7:27-12.6 (Reserved)

SUBCHAPTER 13. AMBIENT AIR QUALITY STANDARDS

- 7:27-13.1 Definitions
- 7:27-13.2 General ambient air quality standards
- 7:27-13.3 Ambient air quality standards for suspended particulate matter
- 7:27-13.4 Ambient air quality standards for sulfur dioxide
- 7:27-13.5 Ambient air quality standards for carbon monoxide
- 7:27-13.6 Ambient air quality standards for ozone
- 7:27-13.7 Ambient air quality standards for lead
- 7:27-13.8 Ambient air quality standards for nitrogen dioxide

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

- 7:27-14.1 Definitions
- 7:27-14.2 Applicability
- 7:27-14.3 General prohibitions
- 7:27-14.4 General public highway standards
- 7:27-14.5 Test requirements
- 7:27-14.6 Inspection standards
- 7:27-14.7 Non-interference with the motor vehicle codes

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

- 7:27-15.1 Definitions
- 7:27-15.2 Applicability
- 7:27-15.3 General public highway standards
- 7:27-15.4 New motor vehicle dealer inspections
- 7:27-15.5 Motor vehicle inspections
- 7:27-15.6 Motor vehicle inspection standards
- 7:27-15.7 Prohibition of tampering with emission control apparatus
- 7:27-15.8 Idle standard
- 7:27-15.9 Non-interference with the motor vehicle codes

SUBCHAPTER 16. CONTROL AND PROHIBITION OF AIR POLLUTION BY VOLATILE ORGANIC COMPOUNDS

- 7:27-16.1 Definitions
- 7:27-16.1A Purpose, scope, applicability, and severability
- 7:27-16.2 Storage of volatile organic compounds
- 7:27-16.3 Gasoline transfer operations
- 7:27-16.4 VOC transfer operations, other than gasoline
- 7:27-16.5 Marine tank vessel loading and ballasting operations
- 7:27-16.6 Open top tanks and surface cleaners
- 7:27-16.7 Surface coating and graphic arts operations
- 7:27-16.8 Boilers
- 7:27-16.9 Stationary gas turbines
- 7:27-16.10 Stationary internal combustion engines
- 7:27-16.11 Asphalt plants
- 7:27-16.12 (Reserved)
- 7:27-16.13 Flares
- 7:27-16.14 and 7:27-16.15 (Reserved)
- 7:27-16.16 Other source operations
- 7:27-16.17 Facility-specific VOC control requirements
- 7:27-16.18 Leak detection and repair
- 7:27-16.19 Application of cutback and emulsified asphalts
- 7:27-16.20 Petroleum solvent dry cleaning operations
- 7:27-16.21 Natural gas pipelines
- 7:27-16.22 Emission information, record keeping and testing
- 7:27-16.23 Procedures for demonstrating compliance
- 7:27-16.24 Adjusting combustion processes
- 7:27-16.25 (Reserved)
- 7:27-16.26 Variances
- 7:27-16.27 Exceptions

SUBCHAPTER 17. CONTROL AND PROHIBITION OF AIR POLLUTION BY TOXIC SUBSTANCES

- 7:27-17.1 Definitions

AIR POLLUTION CONTROL

- 7:27-17.2 Asbestos surface coating
- 7:27-17.3 Storage, transfer, and use of toxic substances
- 7:27-17.4 Discharge of toxic substances
- 7:27-17.5 Operating instructions
- 7:27-17.6 Emission information and tests
- 7:27-17.7 Permit to construct and certificate to operate
- 7:27-17.8 Applicability
- 7:27-17.9 Exceptions

SUBCHAPTER 18. CONTROL AND PROHIBITION OF AIR POLLUTION FROM NEW OR ALTERED SOURCES AFFECTING AMBIENT AIR QUALITY (EMISSION OFFSET RULES)

- 7:27-18.1 Definitions
- 7:27-18.2 Facilities subject to this subchapter
- 7:27-18.2A Use of DERs
- 7:27-18.3 Standards for issuance of permits
- 7:27-18.4 Air quality impact analysis
- 7:27-18.5 Standards for use of emission reductions as emission offsets
- 7:27-18.6 Emission offset postponement
- 7:27-18.7 Determination of a net emission increase or a significant net emission increase
- 7:27-18.8 Banking of emission reductions
- 7:27-18.9 Secondary emissions
- 7:27-18.10 Exemptions
- 7:27-18.11 Procedures for interstate and intrastate trading (Reserved)
- 7:27-18.12 Civil or criminal penalties for failure to comply

SUBCHAPTER 19. CONTROL AND PROHIBITION OF AIR POLLUTION FROM OXIDES OF NITROGEN

- 7:27-19.1 Definitions
- 7:27-19.2 Purpose, scope and applicability
- 7:27-19.3 General provisions
- 7:27-19.4 Utility boilers
- 7:27-19.5 Stationary gas turbines
- 7:27-19.6 Emissions averaging
- 7:27-19.7 Non-utility boilers and other indirect heat exchangers
- 7:27-19.8 Stationary internal combustion engines
- 7:27-19.9 Asphalt plants
- 7:27-19.10 Glass manufacturing furnaces
- 7:27-19.11 and 7:27-19.12 (Reserved)
- 7:27-19.13 Facility-specific NO_x emissions limits
- 7:27-19.14 Procedures for obtaining approvals under this subchapter
- 7:27-19.15 Procedures and deadlines for demonstrating compliance
- 7:27-19.16 Adjusting combustion processes
- 7:27-19.17 Source emissions testing
- 7:27-19.18 Continuous emissions monitoring
- 7:27-19.19 Recordkeeping and reporting
- 7:27-19.20 Fuel switching
- 7:27-19.21 Phased compliance—repowering
- 7:27-19.22 Phased compliance—impracticability of full compliance by May 31, 1995
- 7:27-19.23 Phased compliance—use of innovative control technology
- 7:27-19.24 MEG alerts
- 7:27-19.25 Exemption for emergency use of fuel oil
- 7:27-19.26 Penalties

SUBCHAPTER 20. (RESERVED)

SUBCHAPTER 21. EMISSION STATEMENTS

- 7:27-21.1 Definitions
- 7:27-21.2 Applicability
- 7:27-21.3 General provisions
- 7:27-21.4 Procedure for submitting an emission statement
- 7:27-21.5 Required contents of an emission statement
- 7:27-21.6 Recordkeeping requirements
- 7:27-21.7 Certification of information
- 7:27-21.8 Request for extensions
- 7:27-21.9 Notification of non-applicability
- 7:27-21.10 Severability

SUBCHAPTER 22. OPERATING PERMITS

- 7:27-22.1 Definitions
- 7:27-22.2 Applicability
- 7:27-22.3 General provisions
- 7:27-22.4 General application procedures
- 7:27-22.5 Application procedures for initial operating permits
- 7:27-22.6 Operating permit application contents
- 7:27-22.7 Application shield
- 7:27-22.8 Air quality simulation modeling and risk assessment
- 7:27-22.9 Compliance plans
- 7:27-22.10 Completeness review
- 7:27-22.11 Public comment
- 7:27-22.12 EPA comment
- 7:27-22.13 Final action on an application
- 7:27-22.14 General operating permits
- 7:27-22.15 Temporary facility operating permits
- 7:27-22.16 Operating permit contents
- 7:27-22.17 Permit shield
- 7:27-22.18 Source emissions testing and monitoring
- 7:27-22.19 Recordkeeping, reporting and compliance certification
- 7:27-22.20 Administrative amendments
- 7:27-22.21 Changes to insignificant source operations
- 7:27-22.22 Seven-day-notice changes
- 7:27-22.23 Minor modifications
- 7:27-22.24 Significant modifications
- 7:27-22.24A Reconstruction
- 7:27-22.25 Department initiated operating permit modifications
- 7:27-22.26 MACT and GACT standards
- 7:27-22.27 Operating scenarios (Reserved)
- 7:27-22.28 Emissions trading
- 7:27-22.28A Facility-specific emissions averaging programs
- 7:27-22.29 Facilities subject to acid deposition control
- 7:27-22.30 Renewals
- 7:27-22.31 Fees
- 7:27-22.32 Hearings and appeals
- 7:27-22.33 Preconstruction review
- 7:27-22.34 Early reduction of HAP emissions
- 7:27-22.35 Advances in the art of air pollution control

APPENDIX. THRESHOLDS FOR REPORTING EMISSIONS OF AIR CONTAMINANTS OTHER THAN HAZARDOUS AIR POLLUTANTS (HAPS)

SUBCHAPTER 23. PREVENTION OF AIR POLLUTION FROM ARCHITECTURAL COATINGS AND CONSUMER PRODUCTS

- 7:27-23.1 Applicability
- 7:27-23.2 Definitions
- 7:27-23.3 Architectural coatings
- 7:27-23.4 (Reserved)
- 7:27-23.5 Labeling requirements
- 7:27-23.6 Administrative requirements
- 7:27-23.7 Inspections

SUBCHAPTER 24. CONTROL AND PROHIBITION OF VOLATILE ORGANIC COMPOUNDS FROM CONSUMER AND COMMERCIAL PRODUCTS

- 7:27-24.1 Definitions
- 7:27-24.2 Applicability, exemptions, and exclusions
- 7:27-24.3 VOC content standards
- 7:27-24.4 Administrative requirements
- 7:27-24.5 Test methods
- 7:27-24.6 Federal supersession
- 7:27-24.7 Civil or criminal penalties for failure to comply

SUBCHAPTER 25. CONTROL AND PROHIBITION OF AIR POLLUTION BY VEHICULAR FUELS

- 7:27-25.1 Definitions
- 7:27-25.2 Scope and applicability
- 7:27-25.3 General provisions

- 7:27-25.4 Recordkeeping and compliance determinations
- 7:27-25.5 Inspections
- 7:27-25.6 Petition for rulemaking in the case of imminent supply shortage
- 7:27-25.7 Exemptions
- 7:27-25.8 Owner and operator responsibility
- 7:27-25.9 Service fees
- 7:27-25.10 through 7:27-25.11 (Reserved)

**SUBCHAPTER 26. OZONE TRANSPORT
COMMISSION—LOW EMISSION VEHICLES
PROGRAM**

- 7:27-26.1 Definitions
- 7:27-26.2 Applicability
- 7:27-26.3 Prohibitions
- 7:27-26.4 Emission certification standards
- 7:27-26.5 Fleet average
- 7:27-26.6 Enforcement
- 7:27-26.7 Additional requirements
- 7:27-26.8 through 7:27-26.14 (Reserved)
- 7:27-26.15 Incorporation by reference
- 7:27-26.16 Severability

APPENDIX

**SUBCHAPTER 27. CONTROL AND PROHIBITION OF
MERCURY EMISSIONS**

- 7:27-27.1 Definitions
- 7:27-27.2 Applicability
- 7:27-27.3 General provisions
- 7:27-27.4 Municipal solid waste (MSW) incinerators
- 7:27-27.5 through 7:27-27.8 (Reserved)
- 7:27-27.9 Reporting and recordkeeping
- 7:27-27.10 Penalties

SUBCHAPTERS 28 THROUGH 29. (RESERVED)

**SUBCHAPTER 30. OPEN MARKET EMISSIONS
TRADING**

- 7:27-30.1 Purpose and scope
- 7:27-30.2 Definitions
- 7:27-30.3 General provisions
- 7:27-30.4 DER generation: general requirements
- 7:27-30.5 DER generation: computation of DERs
- 7:27-30.6 DER generation: limitations on generation
- 7:27-30.7 DER generation: Notice and Certification of DER Generation
- 7:27-30.8 DER registry
- 7:27-30.9 DER transfer
- 7:27-30.10 DER verification
- 7:27-30.11 DER use: general requirements
- 7:27-30.12 DER use: computation of DERs
- 7:27-30.13 DER use: required, authorized and prohibited uses
- 7:27-30.14 DER use: Notice of Intent to Use DERs
- 7:27-30.15 DER use: Notice and Certification of DER Use
- 7:27-30.16 General notice requirements
- 7:27-30.17 Geographic scope of trading
- 7:27-30.18 Recordkeeping
- 7:27-30.19 Public availability
- 7:27-30.20 Emission quantification protocols
- 7:27-30.21 Compliance responsibilities
- 7:27-30.22 Penalties

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

**APPENDIX B. CHEMICALS DEFINING SYNTHETIC
ORGANIC CHEMICAL AND POLYMER
MANUFACTURING**

SUBCHAPTER 31. NO_x BUDGET PROGRAM

- 7:27-31.1 Purpose and scope
- 7:27-31.2 Definitions

- 7:27-31.3 Applicability and general provisions
- 7:27-31.4 Opt-in provisions
- 7:27-31.5 Interface with the emission offset program
- 7:27-31.6 Interface with the open market emissions trading program
- 7:27-31.7 Annual allowance allocation
- 7:27-31.8 Claims for Incentive allowances
- 7:27-31.9 Permits
- 7:27-31.10 Allowance use, transfer and retirement
- 7:27-31.11 Allowance banking
- 7:27-31.12 Early reductions
- 7:27-31.13 No_x Allowance Tracking System (NATS)
- 7:27-31.14 Emissions monitoring
- 7:27-31.15 Recordkeeping
- 7:27-31.16 Reporting
- 7:27-31.17 End-of-season reconciliation
- 7:27-31.18 Compliance certification
- 7:27-31.19 Excess emissions deduction
- 7:27-31.20 Program audit
- 7:27-31.21 Guidance documents and sources incorporated by reference

SUBCHAPTER 1. GENERAL PROVISIONS

7:27-1.1 Scope

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

7:27-1.2 Construction

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

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

7:27-1.3 Practice where rules do not govern

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

7:27-1.4 Definitions

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

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

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

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

“British thermal unit” or “BTU” means the quantity of heat required to raise the temperature of one avoirdupois pound of water one degree Fahrenheit at 39.1 degrees Fahrenheit.

“Carbon monoxide” or “CO” means a gas comprised of molecules consisting of one carbon atom and one oxygen atom.

“CFR” means the Code of Federal Regulations.

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

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

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

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.

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 manual, published by the EPA, entitled “Compilation of Air Pollutant Emission Factors”, which is incorporated herein by reference, as amended and supplemented. 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 downloaded electronically from the EPA’s Technology Transfer Network Bulletin Board Service by dialing (919) 541-5742.

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

“Category I” means a class of applications which require less review and are therefore subject to a lower fee than Category II applications. A Category I application is an application which covers a significant source which includes the following types of equipment:

1. Metalworking equipment including, but not limited to, welders, grinders, and drill presses;
2. Enclosed stationary solid material handling equipment using pneumatic, bucket or belt conveying systems that have particulate control apparatus that achieves a minimum removal efficiency of 99 percent and the particulate control apparatus serving the equipment;
3. Plastics machining or extruding equipment; and
4. An open top surface cleaner which is equipped with a cover and free-board chiller. This does not include any surface cleaner which uses a HAP.

“Category II” means a class of applications for a preconstruction permit or certificate for certain types of significant sources. Category II applications are subject to different fees than Category I applications. Applications which are not defined above as belonging to Category I are Category II applications.

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

“CFR” means the 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 all 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 emissions.

"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 (N₂), oxygen (O₂), neon (Ne), argon (Ar), krypton (Kr), xenon (Xe), and carbon dioxide (CO₂).

"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 non-compliance 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.

"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 operations, and other operations that are located on a single site or on contiguous or adjacent sites and that are under common control of the same person or persons.

“Facility-wide permit” means a single permit issued by the Department to the owner or operator of a priority industrial facility incorporating the permits, certificates, registrations, or any other relevant Department approvals previously issued to the owner or operator of the priority industrial facility pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., and the appropriate provisions of the Pollution Prevention Plan prepared by the owner or operator of the priority industrial facility pursuant to N.J.S.A. 13:1D-41 and 42. This term shall have the same meaning as defined for the term “facility-wide permit” at N.J.A.C. 7:1K-1.5.

“Farm” means any land which meets the eligibility requirements of the Farmland Assessment Act of 1964 (N.J.S.A. 54:4-23.1 et seq.) for land deemed in agricultural use.

“Federally enforceable” means any limitation or condition on operation, production, or emissions which can be enforced by the EPA. These limitations and conditions that can be enforced by EPA include, but are not limited to, those established pursuant to:

1. Any standard of performance for new stationary sources (NSPS) promulgated at 40 CFR Part 60 or promulgated under 42 U.S.C. § 7411;
2. Any national emission standard for hazardous air pollutants (NESHAP) promulgated at 40 CFR Part 61, 40 CFR Part 63, or promulgated under 42 U.S.C. § 7412;
3. Any standard or other requirement provided for in a SIP that has been approved by EPA, or promulgated through rulemaking by EPA; or
4. Any permit or order issued pursuant to requirements established at 40 CFR 51, Subpart I (including any pre-construction permit and certificate issued pursuant to N.J.A.C. 7:27-8 or any operating permit issued pursuant to N.J.A.C. 7:27-22); 40 CFR 52.21; 40 CFR Part 70; 40 CFR Part 71; or 40 CFR Part 72.

“Fuel cell system” means an electrochemical device that converts the chemical energy in its fuel directly into electric-

ity and heat. This term also includes any associated fuel processor, such as a reformer, that produces the fuel.

“Gasoline dispensing facility” means a facility consisting of one or more stationary gasoline storage tanks together with dispensing devices used to fill vehicle fuel tanks.

“General permit” means a type of standardized permit and certificate, issued by the Department under N.J.A.C. 7:27-8.8.

“Graphic arts operation” means the application of one or more surface coating formulations non-uniformly across a surface, using one or more printing units, together with any associated drying or curing areas. A single graphic arts operation ends after drying or curing and before other surface coating formulations are applied. For any web line, this term means an entire application system, including any associated drying ovens or areas between the supply roll and take-up roll or folder. This term does not include any surface coating operation.

“Greenhouse gas” means any of the following: carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), any hydrofluorocarbon (HFC), and sulphur hexafluoride (SF₆).

“Group 1 TXS” means an air contaminant that is found on the list of Group 1 TXS at N.J.A.C. 7:27-17.3, which is incorporated by reference herein, together with all amendments and supplements. As of June 12, 1998, the following is the complete list of Group 1 TXS: Benzene (Benzol), Carbon tetrachloride (Tetrachloromethane), Chloroform (Trichloromethane), Dioxane (1,4-Diethylene dioxide; 1,4-Dioxane), Ethylenimine (Aziridine), Ethylene dibromide (1,2-Dibromoethane), Ethylene dichloride (1,2-Dichloroethane), 1,1,2,2-Tetrachloroethane (sym Tetrachloroethane), Tetrachloroethylene (Perchloroethylene), 1,1,2-Trichloroethane (Vinyl trichloride), and Trichloroethylene (Trichlorethene).

“Group 2 TXS” means an air contaminant that is found on the list of Group 2 TXS at N.J.A.C. 7:27-17.3, which is incorporated by reference herein, together with all amendments and supplements. As of June 12, 1998, the following is the complete list of Group 2 TXS: Methylene chloride (Dichloromethane), 1,1,1-Trichloroethane (Methyl chloroform).

“HAP” or “hazardous air pollutant” means any air pollutant listed in or pursuant to subsection (b) of section 112 of the Federal Clean Air Act (42 U.S.C. § 7412).

“Hazardous waste” means those materials defined as hazardous waste under N.J.A.C. 7:26-8.

“Hazardous waste landfill” means a solid waste facility or part of a facility where hazardous waste is placed in or on land and which is not a land treatment facility, a surface impoundment, an injection well, or a waste pile.

"Identical" means, in relation to the replacement of equipment or control apparatus, that the equipment or control apparatus is of the same type and size as the equipment or control apparatus being replaced, and is used in the same process, with the same materials.

"Incinerator" means any device, apparatus, equipment, or structure using combustion or pyrolysis for destroying, reducing or salvaging any material or substance, but does not include thermal or catalytic oxidizers used as control apparatus on manufacturing equipment.

"Indirect emissions" means a discharge of any air contaminant into the outdoor atmosphere through any opening that is not a stack or chimney directly connected to the equipment.

"Insignificant source" means, for the purposes of this subchapter, equipment or control apparatus that does not need a permit and certificate under N.J.A.C. 7:27-8.2.

"Install" or "installation" means to carry out final setup activities necessary to provide equipment or control apparatus with the capacity for use or service. This term includes, but is not limited to, connection of equipment or control apparatus, associated utilities, piping, ductwork or conveyor systems. This term does not include construction, as defined above, nor the reconfiguration of equipment or control apparatus to an alternate configuration specified in a permit application and approved by the Department. This term includes relocation of existing equipment or control apparatus.

"Intermediate product" means one or more desired result(s) of a production process that is made into a product in a subsequent production process at the same industrial facility, without the need for pollution treatment prior to its being made into a product. An intermediate product is not considered nonproduct output. Increases in quantities of intermediate products do not count towards use reduction or nonproduct output reduction goals. This term shall have the same meaning as defined for the term "intermediate product" at N.J.A.C. 7:1K-1.5.

"Laboratory operations" means any action, process, or treatment utilizing chemical, physical, or biological factors to conduct experimental research, tests, or demonstrations.

"Land treatment facility" means a facility, or part of a facility, at which waste is applied onto or incorporated into the soil surface so as to change the physical, chemical, or biological characteristics or composition of the waste.

"Liquid particles" means particles which have volume but are not of rigid shape.

"MACT standard" or "Maximum Achievable Control Technology standard" means a National Emission Standard for a Hazardous Air Pollutant (NESHAP) establishing an emission limitation for a specific category or subcategory of facilities which emit one or more hazardous air pollutants (HAPs), which NESHAP is:

1. Promulgated by EPA pursuant to 42 U.S.C. § 7412; or
2. Determined by the Department on a case-by-case basis pursuant to 42 U.S.C. § 7412(g) or (j).

"Major facility" means a facility which has the potential to emit any of the air contaminants listed below in an amount which is equal to or exceeds the applicable major facility threshold level given below. The major facility threshold levels are as follows:

<u>Air Contaminant</u>	<u>Major Facility Threshold Level</u>
Carbon monoxide	100 tons per year
PM-10	100 tons per year
TSP	100 tons per year
Sulfur dioxides	100 tons per year
NO _x	25 tons per year
VOC	25 tons per year
Lead	10 tons per year
Any HAP	10 tons per year
All HAPs, collectively	25 tons per year
Any other air contaminant	100 tons per year

"Manufacturing process" means any action, operation or treatment embracing chemical, industrial, manufacturing, or processing factors, methods or forms including, but not limited to, furnaces, kettles, ovens, converters, cupolas, kilns, crucibles, stills, dryers, roasters, crushers, grinders, mixers, reactors, regenerators, separators, filters, reboilers, columns, classifiers, screens, quenchers, cookers, digesters, towers, washers, scrubbers, mills, condensers or absorbers.

"Modify" or "modification" means any physical change in, or change in the method of operation of, existing equipment or control apparatus that increases the amount of actual emissions of any air contaminant emitted by that equipment or control apparatus or that results in the emission of any air contaminant not previously emitted. This term shall not include normal repair and maintenance. Also, for the purposes of this definition, "air contaminant" shall have the meaning of "category of air contaminants" in a case where the regulatory limit is placed on a grouping of contaminants (such as VOCs) rather than on a single species of contaminant.

"NESHAP" means a National Emission Standard for a Hazardous Air Pollutant as promulgated under 40 CFR Part 61 or 40 CFR Part 63.

“Nonattainment area” means any area identified by the Department as one in which the ambient air concentration of a criteria pollutant exceeds an ambient air quality standard.

“Non-commercial fuel” means solid, liquid or gaseous fuel not normally produced or manufactured, and sold for the purpose of creating useful heat.

“Nonproduct output” or “NPO” means all hazardous substances or hazardous wastes that are generated prior to storage, out-of-process recycling, treatment, control or disposal, and that are not intended for use as a product. NPO includes fugitive releases. This term shall have the same meaning as defined for the term “nonproduct output” at N.J.A.C. 7:1K-1.5.

“NO_x” means all oxides of nitrogen including, but not limited to, nitric oxide and nitrogen dioxide, except nitrous oxide.

“NSPS” means Standards of Performance for New Stationary Sources as promulgated under 40 CFR 60, commonly referred to as New Source Performance Standards.

“112(r) contaminant” means an air contaminant that is listed by EPA pursuant to 42 U.S.C. § 7412 as a substance which, in the case of an accidental release, is known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment.

“Operating certificate” or “certificate” means a certificate issued by the Department under this subchapter to authorize operation of equipment or control apparatus, pursuant to the Air Pollution Control Act of 1954, specifically N.J.S.A. 26:2C-9.2.

“Operating permit” means the permit described in Title V of the Federal Clean Air Act, 42 U.S.C. §§ 7661 et seq., and in N.J.A.C. 7:27-22. 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).

“Operational parameter” means a measurable characteristic of the operation of a piece of equipment or control apparatus.

“Order” means any and all orders issued by the Department including, but not limited to, Administrative Orders, and Administrative Consent Orders.

“Particles” means any material, except uncombined water, which exists as liquid particles or solid particles at standard conditions.

“Performance test” means a series of test runs used for the purpose of determining emissions of air contaminants to the outdoor atmosphere.

“Periodic compliance inspection” means any compliance inspection carried out in accordance with a schedule included in the conditions of approval of a permit or certificate. This term does not include a compliance inspection which the Department may carry out as part of its consideration as to whether to approve or renew an operating certificate.

“Permit” means a preconstruction permit as defined in this section.

“Permit revision” means a change made to a permit and certificate under N.J.A.C. 7:27-8.18, Permit revisions.

“Permittee” means, for the purpose of this subchapter, any person to whom the Department has issued a permit or certificate pursuant to this subchapter.

“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.

“Plume rise” means the vertical distance from the point at which an effluent stream is discharged into the outdoor atmosphere to the highest point attained by the center line of the effluent stream.

“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.

“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.

“Pollution prevention process modification” means any physical or operational change to a process which reduces air contaminant emissions to the environment. This definition is solely for purposes of at risk construction or operation in accordance with N.J.S.A. 26:2C-9.4 and this subchapter and shall not be deemed to amend or otherwise affect the definition of “pollution prevention” set forth in the New Jersey Pollution Prevention Act at N.J.S.A. 13:1D-37.

“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, source-related fugitive emissions shall be included in the determination of potential to emit. However, the determination shall not include any banked emission reductions that are held by the owner or operator.

“Preconstruction permit” or “permit” means a legally valid permit, authorizing construction, installation, reconstruction, or modification of a significant source, issued by the Department under this subchapter pursuant to the New Jersey Air Pollution Control Act and in particular N.J.S.A. 26:2C-9.2.

“Private entity” means any private individual, corporation, company, partnership, firm, association, owner or operator but shall not include any municipal, county, or State agency or authority or any agency, authority or subdivision created by any municipal, county or State government.

“Process material testing” means the testing of any solid, liquid, or gaseous substance involved in a manufacturing process or other operation. This term includes, but is not limited to, fuel and other feed material, process intermediates, products, by-products, and wastes, but excludes any source emission testing.

“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 result(s) 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.

“Production process” means a process, line, method, activity or technique, or a series or combination of processes, lines, methods 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.

“PSD” or “prevention of significant deterioration” means the permitting process defined in 40 CFR Part 52, which applies to new or modified major sources located in areas which are in attainment of the national ambient air quality standards for at least one air contaminant.

“Publicly owned treatment works” (POTW) means any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a “State or municipality.” This term includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

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

“Raw material” means any input to equipment, control apparatus, or a process, including fuels, but excluding heat and other forms of energy. Such inputs may include mixtures, composites, compounds and elemental substances.

“Reconfiguration” means a change in the setup of equipment or control apparatus, or both, to an alternate configuration. This term also includes reorientation or reconnection into an alternate pattern of equipment or control apparatus, or both. This term does not include a change in the location of equipment or control apparatus from that specified in the preconstruction permit.

“Reconstruct” or “reconstruction” means the replacement of part(s) of equipment included in a 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).

“Repair or maintenance” means upkeep of existing equipment or control apparatus, including the replacement of parts, but does not include the reconstruction of equipment or control apparatus.

“Research” means investigations directed toward the discovery of facts, scientific principles, reactions, or substances.

“Risk assessment” means a procedure for characterizing the probability that potential exposure to air contaminants will result in adverse effects on human health, or welfare or the environment.

“Sampling” means the selective collection of a quantity of raw materials, process intermediates, products, by-products or wastes.

“Sanitary landfill” means a solid waste facility, at which solid waste is deposited on or into the land as fill for the purpose of permanent disposal or storage for a period of time exceeding six months, except that it does not include any waste facility approved for disposal of hazardous waste.

“Seven-day-notice change” means a change made to a permit and certificate under N.J.A.C. 7:27-8.20, Seven-day-notice changes.

“Significant net emission increase” means an emission increase of any air contaminant determined pursuant to the procedures set forth in N.J.A.C. 7:27-18.7 to be a significant net emission increase.

“Significant source operation” or “significant source” means, for the purposes of this subchapter, equipment or control apparatus that requires a permit and certificate under N.J.A.C. 7:27-8.2.

“Solid particles” means particles of rigid shape and definite volume.

“Solid waste facility” means any system, site, equipment, or building which is utilized for the storage, collection, processing, transfer, transportation, separation, recycling, recovery, or disposal of solid waste.

“Source emission testing” means the testing of a discharge of any air contaminant from equipment, control apparatus or source operation through any stack or chimney.

“Source operation” or “source” means any process or any identifiable part thereof that emits or can reasonably be anticipated to emit any air contaminant. A source operation may include one or more pieces of equipment or control apparatus.

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

“Standard conditions” means 70 degrees Fahrenheit (21.1 degrees centigrade) and one atmosphere pressure (14.7 pounds per square inch absolute or 760.0 millimeters of mercury).

“State implementation plan (SIP)” means a plan for the attainment of any NAAQS, prepared by a state and approved by the EPA pursuant to 42 U.S.C. § 7410.

“Stationary storage tank” means any immobile storage tank. This term also includes any delivery vessel, excluding a sealed vessel, such as a railroad tank car or similar container, used for storing VOC remaining on site at a facility for more than 30 days.

“Storage tank” means any tank, reservoir, or vessel which is a container for liquids or gases, wherein:

1. No manufacturing process, or part thereof, other than filling or emptying takes place; and
2. The only treatment carried out is that necessary to prevent change from occurring in the physical condition or the chemical properties of the liquids or gases deposited into the container. Such treatment may include recirculating, agitating, maintaining the temperature of the stored liquids or gases, or replacing air in the vapor space above the stored liquids or gases with an inert gas in order to inhibit the occurrence of chemical reaction.

“Stratospheric ozone depleting substance” means any Class I substance or any Class II substance.

“Surface cleaner” means a device to remove unwanted foreign matter from the surfaces of materials by using VOC or HAP solvents in liquid or vapor state.

“Surface coating operation” means the application of one or more surface coating formulations uniformly across a surface, using one or more coating applicators, together with any associated drying or curing areas. A single surface coating operation ends after drying or curing and before other surface coating formulations are applied. For any web coating line, this term means an entire coating application system, including any associated drying ovens or areas between the supply roll and take-up roll, that is used to apply surface coating formulations onto a continuous strip or web. This term does not include any graphic arts operation.

“Surface impoundment” or “impoundment” means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

“Surface stripping” means the removal of paints and other coatings from the surface of materials.

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

“Temporary operating certificate” means an operating certificate with a term shorter than five years, issued under N.J.A.C. 7:27-8.7(d).

“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.

“Test run” or “run” means a single integrated measurement or procedure used for the purpose of collecting a sample of any air contaminant emitted during a specified time interval.

“Total fixed capital cost” means the total sum, in dollars, paid to purchase and install equipment or control apparatus, including any design costs incurred. This term does not include any costs of operation or startup. This term also does not include the costs of dismantling any equipment or control apparatus being replaced, site preparation, placement of any footings or foundation upon which the structural elements of the equipment or control apparatus rest. This term also does not include any charges for legal services, governmental taxes or fees, or any patent or licensing costs.

“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.

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

“Volatile organic compound” or “VOC” means any compound of carbon (other than carbon monoxide, carbon dioxide, carbonic acid, metallic carbonates, metallic carbides, and ammonium carbonate) which participates in atmospheric photochemical reactions. For the purpose of determining compliance with emission limits or content standards, VOC shall be measured by test methods, or which have been approved in writing by the Department. This term excludes those compounds which EPA has excluded from its definition of VOC in the list set forth at 40 CFR 51.100(s)(1), which is incorporated by reference herein, together with all amendments and supplements. As of April 9, 1998, the compounds and classes of perfluorocarbons excluded from EPA’s definition of VOC at 40 CFR 51.100(s) are set forth below:

methane

ethane

methylene chloride (dichloromethane)

1,1,1-trichloroethane (methyl chloroform)

1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113)

trichlorofluoromethane (CFC-11)

dichlorodifluoromethane (CFC-12)

chlorodifluoromethane (HCFC-22)

trifluoromethane (HFC-23)

1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114)

chloropentafluoroethane (CFC-115)

2,2-dichloro-1,1,1-trifluoroethane (HCFC-123)

1,1,1,2-tetrafluoroethane (HFC-134a)

1,1-dichloro-1-fluoroethane (HCFC-141b)

1-chloro-1,1-difluoroethane (HCFC-142b)

2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124)

pentafluoroethane (HFC-125)

1,1,2,2-tetrafluoroethane (HFC-134)

1,1,1-trifluoroethane (HFC-143a)

1,1-difluoroethane (HFC-152a)

parachlorobenzotrifluoride (PCBTF)

cyclic, branched, or linear completely methylated siloxanes

acetone

perchloroethylene (tetrachloroethylene)

3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca)

1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb)

1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee)

difluoromethane (HFC-32)

ethylfluoride (HFC-161)

1,1,1,3,3,3-hexafluoropropane (HFC-236fa)

1,1,2,2,3-pentafluoropropane (HFC-245ca)

1,1,2,3,3-pentafluoropropane (HFC-245ea)

1,1,1,2,3-pentafluoropropane (HFC-245eb)

1,1,1,3,3-pentafluoropropane (HFC-245fa)

1,1,1,2,3,3-hexafluoropropane (HFC-236ea)

1,1,1,3,3-pentafluorobutane (HFC-365mfc)

chlorofluoromethane (HCFC-31)

1-chloro-1-fluoroethane (HCFC-151a)

1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a)

1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane; (C₄F₉OCH₃)

2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OCH₃)

1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅)

2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OC₂H₅)

methyl acetate

perfluorocarbon compounds which fall into these classes:

cyclic, branched, or linear, completely fluorinated alkanes

cyclic, branched, or linear, completely fluorinated ethers with no unsaturations

cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations

sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine

If there is any conflict between the list at 40 CFR 51.100(s)(1) and the list set forth above, the list at 40 CFR 51.100(s)(1) shall control.

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

See: 16 N.J.R. 167(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).

Definitions added and technical revisions made.

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).

Amended "source operation" and "surface cleaner"; added "volatile organic compound VOC" and deleted "mathematical combination" and "volatile organic substance".

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).

Added definitions for "carbon monoxide", "federally enforceable", "lead or Pb", "major facility", "oxides of nitrogen or NO_x", "Ozone or O₃", "PM-10", "potential to emit", "significant net emission increase", "State implementation plan (SIP)", "sulfur dioxide or SO₂", and "total suspended particulate matter or TSP".

Amended by R.1993 d.428, effective September 7, 1993 (operative October 4, 1993).

See: 24 N.J.R. 4323(a), 25 N.J.R. 4075(b).

Amended by R.1994 d.313, effective June 20, 1994 (operative July 26, 1994).

See: 25 N.J.R. 3339(a), 26 N.J.R. 2600(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).

Administrative Correction.

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

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

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

Rewrote the section.

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).

Inserted "Fuel cell system".

Case Notes

Temporary operating certificate was license entitling operator to hearing prior to nonrenewal. New Jersey Dept. of Environmental Protection v. Atlantic States Cast Iron Pipe Co., 241 N.J.Super. 591, 575 A.2d 895 (A.D.1990).

7:27-8.2 Applicability

(a) This subchapter applies to certain sources of air contaminant emissions. Some of the sources are pieces of equipment; others are source operations or processes. A source that is required to have a permit and certificate under this subchapter is called a "significant source." A source that is not required to have a permit and certificate under this subchapter is called an "insignificant source."

(b) A significant source located at a facility covered by an operating permit issued by the Department under N.J.A.C. 7:27-22 is not subject to this subchapter. However, the following requirements apply to sources at operating permit facilities:

1. Until an operating permit is issued for a source subject to operating permit requirements, the source remains subject to this subchapter, and any permits or certificates required by this subchapter must be obtained and maintained.

2. If a new source which is subject to operating permit requirements elects under N.J.A.C. 7:27-22.5(g) to obtain a preconstruction permit and certificate under this subchapter prior to obtaining an operating permit, the source shall comply with this subchapter and with any Federal preconstruction requirements that apply; and

3. In some cases, a portion of an operating permit facility (such as a research and development operation) is not subject to operating permit requirements. In such a case, the portion of the facility that is not subject to operating permit requirements would remain subject to this subchapter.

(c) The following equipment and control apparatus, if it emits air contaminants, requires a preconstruction permit and an operating certificate:

1. Commercial fuel burning equipment with a maximum rated heat input of 1,000,000 BTU per hour or greater to the burning chamber;

2. Equipment which has the potential to emit any Group 1 or Group 2 TXS (or a combination thereof) at a

rate greater than 0.1 pounds per hour (45.4 grams per hour);

3. Dry cleaning equipment;

4. A surface cleaner which uses a cleaning solution containing five percent or more VOCs, HAPs, or VOC and HAP combined and which is:

i. An unheated open top surface cleaner with a top opening of greater than six square feet (0.56 square meters) or a capacity greater than 100 gallons;

ii. A heated open top surface cleaner;

iii. A conveyORIZED surface cleaner; or

iv. A stationary spray cleaning or surface stripping operation using one half gallon or more of cleaning solution in any one hour;

5. Equipment used in a graphic arts operation which includes newspaper, lithographic, gravure, flexographic, letterpress and screen printing, in which the quantity of ink, fountain solution, or cleaning material used by a source in any one hour is equal to or greater than one half gallon;

6. Any tank or vessel which has a capacity of more than 100 gallons and which is used:

i. In etching, pickling, or plating; or

ii. In chromium electroplating or chromium anodizing;

7. A transfer operation involving gasoline or other VOCs regulated under N.J.A.C. 7:27-16.3 or 16.4, or a marine tank vessel loading or ballasting operation regulated under N.J.A.C. 7:27-16.5, if the operation is required to have a control device other than bottom fill or submerged fill;

8. Stationary storage tanks which have a capacity in excess of 10,000 gallons and which are used for the storage of liquids, except water or distillates of air;

9. Stationary storage tanks which have a capacity of 2,000 gallons or greater and which are used for the storage of a VOC or mixture of VOCs having a vapor pressure or sum of partial pressures of 0.02 pounds per square inch absolute (1.0 millimeters of mercury) or greater at standard conditions;

10. Tanks, reservoirs, containers and bins which have a capacity in excess of 2,000 cubic feet and which are used for the storage of solid particles;

11. Stationary material handling equipment using pneumatic, bucket or belt conveying systems from which emissions occur;

12. Equipment used in a surface coating operation including, but not limited to, spray and dip painting, roller coating, and electrostatic depositing, in which the quantity of coating or cleaning material used by a source in any one hour is equal to or greater than one half gallon of liquid;

13. Any equipment used for the burning of noncommercial fuel, crude oil or process by-products in any form;

14. An incinerator, except an incinerator exempted under (d)9 below;

15. Equipment which is used for treating groundwater, industrial waste water, or municipal wastewater with a solids content of less than two percent by weight as it enters the equipment (typical operations performed by this type of equipment include, but are not limited to, air stripping, aeration, digestion, thickening, flocculating, surface impounding, and dewatering), if the equipment does either of the following:

i. Treats or handles influent which has one or both of the following:

(1) A total concentration of VOCs and Group 2 TXS in the influent of 3,500 parts per billion by weight (ppbw) or more; or

(2) A total Group 1 TXS concentration in the influent of 100 ppbw or more; or

ii. Discharges more than 50 pounds per hour of sludge. For the purposes of this paragraph, wastewater with a solids content of two percent by weight or greater is considered sludge;

16. Equipment used for treating waste soils or sludges, including municipal solid wastes, industrial solid wastes, or recycled materials, if the influent to the equipment has a solids content of two percent by weight or greater. Typical operations performed by this type of equipment include, but are not limited to, soil cleaning, composting, pelletizing, grit classifying, drying, and transfer station operations. However this shall not include an area used as a temporary storage area, such as a concrete pad or a roll-off container, provided that the area is not also used for treatment;

17. Equipment used for the purpose of venting a closed or operating dump, sanitary landfill, hazardous waste landfill, or other solid waste facility, directly or indirectly into the outdoor atmosphere including, but not limited to, any transfer station, recycling facility, or municipal solid waste composting facility;

18. Any control apparatus serving equipment for which a permit and certificate is required pursuant to this section; and

19. Equipment in which the combined weight of all raw materials used, excluding air and water, exceeds 50 pounds in any one hour, except for equipment excluded from permit requirements under (c)3 through 18 above.

(d) Even if a source is listed in (c) above, it does not need a permit and certificate if it is:

1. A storage tank maintained under a pressure greater than one atmosphere provided that any vent serving such storage tank has the sole function of relieving pressure under emergency conditions;

2. Storage tanks, reservoirs, containers, or bins used on any farm for the storage of agricultural commodities produced by or consumed in the farm's own operations. This exemption does not include storage tanks, reservoirs, containers or bins used by distributors of agricultural commodities or by research facilities which develop products for use in agricultural production;

3. Equipment or control apparatus located at a facility with an operating permit issued under N.J.A.C. 7:27-22. Until the operating permit is issued, however, the equipment and control apparatus remain subject to this subchapter;

4. Aeration basins, lagoons and settling basins at publicly owned treatment works or domestic treatment works;

5. Equipment which is used for the sole purpose of wood working by sanding, drilling, cutting or planing, unpainted wood or wood products, and which vents solely into a room;

6. Hand held equipment for buffing, polishing, cutting, drilling, sawing, grinding, turning, or machining wood, metal or plastic. For the purposes of this subsection, "hand held" means "can reasonably be carried by one person";

7. Equipment at a battery charging station, except at a battery manufacturing plant;

8. A source used in any of the following, if the source is not part of a production process:

i. The activities of maintenance shops, such as welding, gluing, and soldering, performed indoors or outdoors;

ii. A laundry operation that does not use dry cleaning processes, and which services uniforms or other clothing which is used at the facility;

iii. Architectural maintenance activities conducted to take care of the buildings and structures at a facility, including repainting, reroofing, and sandblasting; and

iv. Food preparation to service facility cafeterias and dining rooms;

9. An incinerator which serves a one or two family dwelling; or which serves a multi-occupied dwelling con-

taining six or fewer family units, one of which is occupied by the owner of the dwelling;

10. A source which:

i. Was in operation prior to the date that sources of its kind were subject to permit requirements under this subchapter;

ii. Has not been reconstructed or modified since that date; and

iii. Is still operable; or

11. A fuel cell system that uses hydrogen without a fuel processor, or a fuel cell system that uses a natural gas fuel processor and that has a power output no greater than 500 kilowatts.

(e) Although an insignificant source does not require a permit, emissions information from an insignificant source may be required on an application under N.J.A.C. 7:27-8.4 if the insignificant source vents to a control device, stack or chimney which also serves a significant source.

(f) A permit and certificate are not required for equipment, control apparatus, or a source operation at a facility which is covered by a facility-wide permit issued by the Department pursuant to N.J.S.A 13:1D-35 et seq. However, the holder of the facility-wide permit must comply with N.J.A.C. 7:27-8.27, Special facility-wide permit provisions.

(g) This subchapter shall not preclude the owner or operator of a facility from voluntarily obtaining a preconstruction permit and operating certificate for a source not otherwise required to obtain a permit.

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).

Heading changed from "Permits and certificates required" to "Applicability".

Clarification of types of equipment and control apparatus reported in permit and certificate process.

Added (a)17(b)1 and 2.

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).

VOC parameters added at (a)9 and (a)15i.

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).

Administrative change in (a)15.

See: 26 N.J.R. 4184(a).

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

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

Rewrote the section.

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 (d), added 11.

Case Notes

Orders to cease violation in failure to obtain a permit and certificate to install and operate furnace boosting equipment were upheld. *Midland Glass Co., Inc. v. Dept. of Environmental Protection*, 136 N.J.Super. 194, 345 A.2d 353 (App.Div.1975), certification dismissed 70 N.J. 152, 358 A.2d 199 (1976).

Both "smog hog"/electrostatic precipitator and "Binks" spray booth were control apparatus requiring permits and operating certificates. *Affiliated Manufacturers, Inc. v. State of New Jersey*, 92 N.J.A.R.2d (EPE) 186.

7:27-8.3 General provisions

(a) No person may construct, reconstruct, install, or modify a significant source that is not covered by a permit and certificate without first obtaining a preconstruction permit under this subchapter.

(b) No person shall operate (nor cause to be operated) a significant source without a valid operating certificate.

(c) No permittee may take any action which requires a permit revision, compliance plan change, seven-day-notice change, amendment, or change to a batch plant permit, under any applicable provision at N.J.A.C. 7:27-8.17 through 8.23, without complying with that applicable provision.

(d) Any person holding a permit or certificate shall make said permit or certificate, together with any amendments, seven-day-notices, or other documents related to the permit and certificate, readily available for Department inspection on the operating premises.

(e) No person shall use or cause to be used any equipment or control apparatus unless all components connected or attached to, or serving the equipment or control apparatus, are functioning properly and are in use in accordance with the preconstruction permit and certificate and all conditions and provisions thereto.

(f) A preconstruction permit or certificate shall not be transferable either from the location authorized in the preconstruction permit or certificate in effect to another location, or from any one piece of control apparatus or equipment to another piece of control apparatus or equipment.

(g) Once a permit and certificate is issued, the permittee is fully responsible for compliance with this subchapter and with the permit and certificate, including adequate design, construction, and operation of the source, even if employees, contractors, or others work on or operate the permitted source. If the Department issues any other requirement with the force of law, such as an order, which applies to the source, the permittee is also responsible for compliance with that requirement.

(h) Preconstruction permits and certificates issued under this subchapter do not in any way relieve the applicant from the obligation to obtain necessary permits from other governmental agencies and to comply with all other applicable Federal, State, and local rules and regulations.

(i) A person conducting only normal repair or maintenance of control apparatus or equipment, as defined at N.J.A.C. 7:27-8.1, need not comply with (a), (b) or (c) above.

(j) No person holding any preconstruction permit or certificate shall suffer, allow, or permit any air contaminant, including an air contaminant detectable by the sense of smell, to be present in the outdoor atmosphere in such quantity and duration which is, or tends to be, injurious to human health or welfare, animal or plant life or property, or would unreasonably interfere with the enjoyment of life or property. This shall not include an air contaminant which occurs only in areas over which the owner or operator has exclusive use or occupancy. In determining whether an odor unreasonably interferes with the enjoyment of life or property, the Department shall consider all of the relevant facts and circumstances, including, but not limited to, the character, severity, frequency, and duration of the odor, and the number of persons affected thereby. In considering these and other relevant facts and circumstances, no one factor shall be dispositive, but each shall be considered relevant in determining whether an odor interferes with the enjoyment of life or property, and, if so, whether such interference is unreasonable considering all of the circumstances.

(k) No change to a permit is required for a permittee to use DER credits for compliance in accordance with N.J.A.C. 7:27-30. However, if DER credits are to be used for compliance with emission offset requirements under N.J.A.C. 7:27-18 and 30.13(c), the permit must specifically allow such use.

(l) (Reserved)

(m) The Department and its representatives have the right to enter and inspect any facility or property in accordance with N.J.A.C. 7:27-1.31.

(n) There shall be an affirmative defense to liability for penalties for a violation of a preconstruction permit or certificate, occurring as a result of an equipment malfunction, an equipment startup, an equipment shutdown, or during the performance of necessary equipment maintenance. The affirmative defense shall be asserted and established as required by P.L. 1993, c.89 (adding N.J.S.A. 26:2C-19.1 through 2C-19.5) and any rules that the Department promulgates thereunder, and shall meet all of the requirements thereof. There shall also be an affirmative defense to liability for penalties or other sanctions for noncompliance with any technology based emission limitation in the preconstruction permit or certificate, if the noncompliance was due to an emergency as defined at N.J.A.C. 7:27-22.1, provided that the affirmative defense is asserted and established in compliance with 40 CFR 70.6(g) and meets all the requirements thereof.

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).

Replaced (b) and (c). Added (j).

Clarification of procedural requirements for permit process.

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 subsection (k) added.

Amended by R.1993 d.428, effective September 7, 1993 (operative October 4, 1993).

See: 24 N.J.R. 4323(a), 25 N.J.R. 4075(b).

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: Temporary enforcement response policy and permit amnesty program.

See: 26 N.J.R. 4225(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.

Law Review and Journal Commentaries

New Rules Establish Clean Air Act Standards, 132 N.J.L.J. No. 8, S10 (1992).

State Operating Permits Bring Major changes to New Jersey's Air Pollution Control Program. Paul H. Schneider, Peter L. Benza, 160 N.J.Law. 20 (Mag.) (April 1994).

Case Notes

Temporary operating certificate was license entitling operator to hearing prior to nonrenewal. New Jersey Dept. of Environmental

Protection v. Atlantic States Cast Iron Pipe Co., 241 N.J.Super. 591, 575 A.2d 895 (A.D.1990).

Orders to cease violation of failure to obtain a permit and certificate to install and operate furnace boosting equipment were upheld. Midland Glass Co., Inc. v. Dept. of Environmental Protection, 136 N.J.Super. 194, 345 A.2d 353 (App.Div.1975), certification dismissed 70 N.J. 152, 358 A.2d 199 (1976).

Permit requirement for structural changes. D.E.P. v. Midland Glass Co., 145 N.J.Super. 108, 366 A.2d 1343 (App.Div.1976), certification denied 73 N.J. 65, 372 A.2d 330 (1977).

Failure to fulfill stack testing conditions set forth in permits for asphalt plants warranted imposition of civil penalties. Department of Environmental Protection v. Hamilton, 95 N.J.A.R.2d (EPE) 63

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

Incineration company violated permit and certificate; penalties imposed based upon current regulations. New Jersey Department of Environmental Protection v. Trofe Incineration Inc. 93 N.J.A.R.2d (EPE) 177.

Storage of hazardous chemical and use of reactor without proper permit; penalty. Department of Environmental Protection, Div. of Environmental Quality v. Polymer Systems Corp., 93 N.J.A.R.2d (EPE) 133.

Perforation of gasoline pump nozzle "vapor boot"; air pollution penalty assessed. New Jersey Department of Environmental Protection v. Columbus Texaco, 92 N.J.A.R.2d (EPE) 235.

Both "smog hog"/electrostatic precipitator and "Binks" spray booth were control apparatus requiring permits and operating certificates. Affiliated Manufacturers, Inc. v. State of New Jersey, 92 N.J.A.R.2d (EPE) 186.

Use of temporary certificate application as emissions limitations under certificate was not improper; stack tests established violations. U.S. Intec., Inc. v. Department of Environmental Protection, 92 N.J.A.R.2d (EPE) 167.

5. A composting facility;
6. Coffee roasting equipment; or
7. Equipment used for slaughtering, meat or shellfish processing, meat byproduct processing, or rendering.

(r) If an application, registration or notice includes a voluntary pollution prevention measure(s) or voluntary air pollution control measure(s) not otherwise required, the applicant may request that the permit authorize use of the emission reductions resulting from the measure(s) as a basis for generating discrete emission reduction (DER) credits under N.J.A.C. 7:27-30.

(s) If the applicant intends to use DER credits to fulfill emission offset requirements under N.J.A.C. 7:27-18, the applicant shall indicate this in the permit application in accordance with N.J.A.C. 7:27-30.13(c).

(t) 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); and
3. Dual plants (see technical manual 1302).

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).

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. 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). Additional technical guidance on preparing a protocol may be requested from:

New Jersey Department of Environmental Protection
Air Quality Permitting Program
401 East State Street, 2nd Floor
PO Box 027
Trenton, New Jersey 08625-0027
Attention: Bureau of Air Quality Evaluation

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.

7:27-8.6 Service fees

(a) Every application, notice, or registration submitted to the Department shall be accompanied by the fee, if any, set forth in the Base Fee Tables below.

(b) After an application, notice or registration is submitted, the Department will invoice each applicant for any additional fees due to the Department, assessed in accordance with the Base Fee Schedule and the Supplementary Fee Schedule below. The applicant shall submit any fees so assessed to the Department within 60 days of receipt of the invoice.

(c) The Base Fee Schedule and the Supplementary Fee Schedule apply to all applications, notices or registrations which are deemed administratively complete on or after the date on which this section is operative.

(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 shall be payable 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 both a preconstruction permit application fee and an operating certificate fee, as set forth below in the Base Fee Tables.

(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 personal check, corporate check, or money order, made payable to "Treasurer, State of New Jersey."

(i) If both Category I and Category II sources are included in a single application, the Category I source(s) shall be subject to the Category I preconstruction permit fee, and the Category II source(s) shall be subject to the Category II preconstruction permit fee. All sources shall be subject to the Category II certificate fee.

(j) If one application for a Category II initial permit or permit revision includes multiple sources or control apparatus, there may in some cases be a fee for the additional sources or control apparatus. This subsection applies only to Category II initial permit applications under Table 2 below, and to Category II permit revisions under Table 6 below. Under those tables, the first significant source on the application is subject to a fee of \$500.00. If more than one source or control apparatus is included in the application, there is no additional fee for the additional sources or control apparatus if they are identical (as defined at N.J.A.C. 7:27-8.1) to the first one, for which a fee is already being paid. If an additional significant source or control apparatus does not meet the definition of identical at N.J.A.C. 7:27-8.1, the fee for the source or control apparatus is \$350.00. The following examples illustrate how to calculate these additional Category II fees under Tables 2 and 6:

1. An application which includes four identical boilers would require a fee of \$1,000: \$500.00 for the first boiler, no fee for the second, third and fourth identical boilers, and \$500.00 for the certificate fee;

2. An application which includes four different non-identical boilers would require a fee of \$2,050: \$500.00 for the first boiler, \$350.00 each for the second, third and fourth boilers, and \$500.00 for the certificate fee; and

3. An application which includes four identical reactors, served by four non-identical control apparatus, would require a fee of \$2,400: \$500.00 for the first boiler, no fee for the other three identical boilers, \$350.00 for the first control apparatus, \$350.00 each for the second, third, and fourth control apparatus, and \$500.00 for the certificate fee.

(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).

A. BASE FEE TABLES

Table 1
Category I permit fees

Activity	Basis	Amount
Preconstruction permit	Per application	\$100.00
Operating certificate	Per application	\$150.00
Total Category I initial permit fee		\$250.00

Table 2
Category II permit fees

Activity	Basis	Amount
Preconstruction permit	Per first significant source per application	\$500.00
Additional fee	Per each additional non-identical significant source or control apparatus on the same application ¹	\$350.00
Operating certificate	Per application	\$500.00
Total Category II initial permit fee		\$1,000 plus \$350 per additional non-identical significant source or control apparatus

¹See (j) above.

Table 3
Environmental improvement pilot test fees

Activity	Basis	Amount
Application for environmental improvement pilot test	Per Application or per renewal	\$250.00

Table 4
General permit registration fees

Activity	Basis	Amount
Registration for authorization to act under a general permit under N.J.A.C. 7:27-8.8(c)1 through 7	Per Registration	\$250.00
Registration for authorization to act under a general permit under N.J.A.C. 7:27-8.8(c)7	Per Storage Tank	\$250.00

Table 5
Category I permit revision fees

Activity	Basis	Amount
Preconstruction permit revision	Per revision application	\$100.00
Operating certificate revision	Per revision application	\$150.00
Total Category I permit revision fee		\$250.00

Table 6
Category II permit revision fees

Activity	Basis	Amount
Preconstruction permit revision	Per first changed significant source per permit revision application	\$500.00
Additional fee	Per each additional non-identical significant source or control apparatus being changed on the same permit revision application ²	\$350.00
Operating certificate revision	Per permit revision application	\$500.00
Total Category II permit revision fee		\$1,000 plus \$350 per additional non-identical significant source or control apparatus

²See (j) above.

Table 7
Compliance plan change fees

Activity	Basis	Amount
Category I compliance plan change	Per application	\$ 50.00
Category II compliance plan change	Per application	\$250.00

Table 8
Seven-day-notice change fees

Activity	Basis	Amount
Category I seven-day-notice change	Per notice	\$50.00
Category II seven-day-notice change	Per notice	\$250.00

Table 9
Amendment fees

Activity	Basis	Amount
Change in identifying information under N.J.A.C. 7:27-8.21(b)1	Per Preconstruction Permit	\$ 00.00
Transfer of ownership under N.J.A.C. 7:27-8.21(b)2	Per Facility	\$ 50.00
Change in equipment or stack designation under N.J.A.C. 7:27-8.21(b)3	Per Preconstruction Permit	\$ 00.00
A change listed in N.J.A.C. 7:27-8.21(b) 4, 5, 6, or 7	Per submitted amendment	\$200.00

Correction of a typographical error under N.J.A.C. 7:27-8.21(b)8

Per Preconstruction Permit

\$ 00.00

Certificate Renewal fees

Table 10

Activity	Basis	Amount
Category I	Per Operating Certificate	\$250.00
Category II	Per Operating Certificate	\$500.00

B. SUPPLEMENTARY FEE SCHEDULE

Activity	Basis	Amount
1. Prevention of Significant Deterioration		
a. Engineering Review	Per Applicable Air Contaminant	\$500.00
b. Implement Public Comment Requirement	Per Comment Period	500.00
2. Ambient Air Monitoring		
a. Review Protocol	Per Protocol	500.00
b. Inspect Monitoring Locations and Equipment Installation	Per Inspection	500.00
c. Review Quality Assurance Plan	Per Plan	500.00
d. Review Data	Per Required Report	500.00
3. Air Quality Impact Analysis		
a. Evaluate Protocol	Per Protocol	500.00
b. Review Screening Modeling	Per Review	500.00
c. Review Refined Modeling	Per Review	500.00
4. Risk Assessment		
a. Evaluate Protocol	Per Protocol	500.00
b. Review Risk Assessment	Per Review	500.00
5. Testing		
a. Evaluate Source-Specific Testing Protocol		
i. Process Materials Testing	Per Protocol	450.00
ii. Source Emission Testing	Per Protocol	500.00
b. On-site Monitoring of Sample Collection Pursuant to an Approved Source-Specific Testing Protocol		
i. Process Materials Testing	Per Collection Event	200.00
ii. Source Emissions Testing	Per Performance Test	500.00
c. Review Testing Report		
i. Process Materials Testing	Per Report	200.00
ii. Source Emissions Testing	Per Report	500.00
6. Audit Performance of Continuous Emission Monitors		
a. Evaluate Protocol	Per Protocol Per Permit	500.00
b. Observe Testing	Per Protocol Per Permit	500.00
c. Review Testing Report	Per Report	500.00
7. Periodic Compliance Inspection	Per Inspection Per Certificate	200.00

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.

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.

(b) Within two working days after the end of the MEG alert, the electric generating utility shall notify the Department by way of a report confirming the occurrence of the MEG alert. The electric generating utility shall certify the report in accordance with N.J.A.C. 7:27-1.39. In the report, the electric generating utility shall include the following information:

1. Information sufficient to identify each electric generating unit that operated at emergency capacity, including a brief description (for example, "dry-bottom coal-fired utility boiler"), its location, its permit number, any other identifying numbers, and any other information necessary to distinguish it from other equipment owned or operated by the utility;

2. The date and time at which the electric generating utility received notice from the load dispatcher, directing the utility to operate one or more electric generating units at emergency capacity;

3. For each electric generating unit listed in (b)1 above, the date and time at which the electric generating utility began to operate the electric generating unit at emergency capacity;

4. The date and time at which the electric generating utility received notice from the load dispatcher, advising the utility that it could cease operating its electric generating units at emergency capacity;

5. For each electric generating unit listed in (b)1 above, the date and time at which the electric generating utility ceased operating the electric generating unit at emergency capacity;

6. For each electric generating unit listed in 1 above, the amount by which the unit's NO_x emissions (expressed in pounds) during the MEG alert exceeded the maximum quantity of NO_x emissions allowed under this chapter. The excess NO_x emissions shall be calculated as follows for each day that the MEG alert continued:

$$E = (ER-M) \times H$$

where:

i. E is the excess NO_x emissions from the electric generating unit;

ii. ER is the average rate at which the electric generating unit emitted NO_x during the day of the MEG alert, determined in accordance with N.J.A.C. 7:27-19.15(a) and expressed in lb/MMBTU;

iii. M is the most stringent applicable NO_x emissions limit established under this chapter; and

iv. H the actual daily heat input to the electric generating unit during the MEG alert, expressed in MMBTU;

7. A copy of the calculations performed under (b)6 above; and

8. A description of the method by which the electric generating utility has provided or will provide compensatory reductions in NO_x emissions as required under (c) below.

(c) The electric generating utility shall use NO_x discrete emission reductions (DERs) in accordance with N.J.A.C. 7:27-30 to compensate for the excess NO_x emissions during the MEG alert. The ratio of the amount of the NO_x DERs required to the amount of the excess NO_x emissions calculated under (b)6 above shall be 1.3:1.

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

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

Amended (c).

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 (b), changed N.J.A.C. reference.

7:27-19.25 Exemption for emergency use of fuel oil

(a) If a combustion source temporarily combusts fuel oil or other liquid fuel in place of natural gas in accordance with this section, the owner or operator is not required to have the combustion source comply with the applicable NO_x emission limits in N.J.A.C. 7:27-19.4, 19.5, 19.7, 19.8, 19.9 or 19.10, or an applicable NO_x emission limit established under N.J.A.C. 7:27-19.13, 19.20, 19.21, 19.22 or 19.23, while the fuel oil or other liquid fuel is burned. On each day that this exemption applies, for purposes of calculating daily or annual NO_x emissions the combustion source will be deemed to have emitted no NO_x and to have derived a heat input of 0.0 BTU.

(b) The exemption under (a) above is available only for a combustion source that uses natural gas as its primary fuel, or is seasonally combusting natural gas pursuant to a plan approved under N.J.A.C. 7:27-19.14 and 19.20. For a combustion source that uses natural gas as its primary fuel, the exemption under (a) above is available at any time during the year. For a combustion source that is seasonally combusting natural gas, the exemption under (a) above is available only from May 1 through September 15. This exemption is also available for those combustion sources which combust refinery gas as a primary fuel.

(c) The owner or operator of the combustion source is eligible for the exemption under (a) above only if the following requirements are met:

1. The owner or operator is not practicably able to obtain a sufficient supply of natural gas;

2. The owner or operator's inability to obtain natural gas is due to circumstances beyond the control of the owner or operator, such as a natural gas curtailment;

3. The combustion source ceases using fuel oil or other liquid fuel in place of natural gas and resumes using natural gas as soon as a sufficient supply of natural gas becomes practicably available;

4. The use of fuel oil or liquid fuel does not exceed 500 hours during any consecutive 12-month period; and

5. The owner or operator satisfies the recordkeeping requirements of N.J.A.C. 7:27-19.19(d) and (e), and the reporting requirements of (d) below.

(d) The owner or operator shall keep records of curtailment periods and incorporate such records into the required quarterly reports submitted to the Department. Such records shall include the following information:

1. Information sufficient to identify each combustion source for which the owner or operator claims an exemption under this section, including a brief description of the source (for example, "dry-bottom coal-fired utility boiler"), its location, its permit number, any other identifying numbers, and any other information necessary to distinguish it from other equipment owned or operated by the utility;

2. A statement that the owner or operator is not practicably able to obtain a sufficient supply of natural gas;

3. The date and time at which the owner or operator first became practicably unable to obtain natural gas; and

4. A description of the circumstances causing the owner or operator's inability to obtain natural gas.

New Rule, 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).

7:27-19.26 Penalties

Failure to comply with any provision of this subchapter shall subject the owner or operator to civil penalties in accordance with N.J.A.C. 7:27A-3 and applicable criminal penalties including, but not limited to, those set forth at N.J.S.A. 26:2C-28.3 and N.J.S.A. 26:2C-19(f)1 and 2.

Recodified from 7:27-19.20 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).

SUBCHAPTER 20. (RESERVED)

SUBCHAPTER 21. EMISSION STATEMENTS

Source and Effective Date

R.1993 d.128, effective March 15, 1993 (operative April 20, 1993).

See: 24 N.J.R. 2979(a), 25 N.J.R. 1254(a).

Law Review and Journal Commentaries

Air Pollution Law Changes Target Nitrogen Oxides. Neale R. Bedrock, 136 N.J.L.J. No. 8, S17 (1994).

New Rules Establish Clean Air Act Standards. Richard M. Hluchan and Terrie-Anne Duda, 132 N.J.L.J. No. 8, S10 (1992).

7:27-21.1 Definitions

The following words and terms, when used in this subchapter, 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 in this subchapter.

"Aerodynamic diameter" means the theoretical diameter of a nonspherical particle having the same terminal settling velocity as an equally dense, spherical particle of such diameter.

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

"AP-42" means the most recently published edition and any subsequent edition of the manual entitled "Compilation of Air Pollutant Emission Factors" published by the EPA. This document may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, (703) 487-4650 or the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, (202) 783-3228.

"Capture efficiency" means the amount of an air contaminant collected by a control apparatus serving the source operation, expressed as a percentage of the total amount of the air contaminant emitted by the source operation.

"Carbon monoxide" or "CO" means an air contaminant which is a colorless, odorless gas at standard conditions, having a molecular composition of one carbon atom and one oxygen atom.

"Certificate" means either an operating certificate or a temporary operating certificate.

"CFR" means the United States Code of Federal Regulations. This document may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, (202) 783-3228.

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