

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

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

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

Public Notice: Consumer Price Index Percentage Increase and Air Contaminant Emission Fee.  
 See: 38 N.J.R. 4760(b).  
 Public Notice: Consumer Price Index Percentage Increase and Air Contaminant Emission Fee.  
 See: 39 N.J.R. 4961(b).  
 Public Notice: Consumer Price Index Percentage Increase and Air Contaminant Emission Fee.  
 See: 40 N.J.R. 6487(a).  
 Administrative change.  
 See: 41 N.J.R. 4207(a).  
 Public Notice: Consumer Price Index Percentage Increase and Air Contaminant Emission Fee.  
 See: 43 N.J.R. 319(a).  
 Public Notice: Consumer Price Index Percentage Increase and Air Contaminant Emission Fees.  
 See: 44 N.J.R. 599(a).

New Rule, R.1995 d.492, effective September 5, 1995 (operative October 8, 1995).  
 See: 27 N.J.R. 22(b), 27 N.J.R. 3472(a).  
 Amended by R.1995 d.493, effective September 5, 1995 (operative October 8, 1995).  
 See: 27 N.J.R. 1040(a), 27 N.J.R. 3421(a).  
 Public Notice: Supplemental surcharge fee amount for operating permit facilities.  
 See: 28 N.J.R. 1562(b).  
 Public Notice: Air Contaminant Emission Fee and Reconstruction Determination.  
 See: 30 N.J.R. 4079(a).  
 Public Notice: Air Contaminant Emission Fee and Reconstruction Determination.  
 See: 32 N.J.R. 116(a).  
 Public Notice: Air Contaminant Emission Fee and Reconstruction Determination.  
 See: 32 N.J.R. 4478(a).  
 Public Notice: Air Contaminant Emission Fee and Reconstruction Determination.  
 See: 34 N.J.R. 782(c).  
 Public Notice: Air Contaminant Emission Fee and Reconstruction Determination.  
 See: 34 N.J.R. 4474(b).  
 Amended by R.2003 d.86, effective February 18, 2003 (operative March 24, 2003).  
 See: 34 N.J.R. 695(a), 35 N.J.R. 1059(a).  
 In (b), substituted "reporting" for "emission statement" following "during the" in the introductory paragraph and inserted a third sentence.  
 Public Notice: Consumer Price Index Percentage Increase and Air Contaminant Emission Fee.  
 See: 35 N.J.R. 5444(b).  
 Public Notice: Consumer Price Index Percentage Increase and Air Contaminant Emission Fee.  
 See: 36 N.J.R. 5171(b).  
 Public Notice: Consumer Price Index Percentage Increase and Air Contaminant Emission Fee.  
 See: 37 N.J.R. 4475(a).  
 Amended by R.2006 d.212, effective June 19, 2006 (operative June 30, 2006).  
 See: 37 N.J.R. 4728(a), 38 N.J.R. 2691(b).  
 Rewrote section.

**7:27-22.32 Hearings and appeals**

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

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

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

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

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

Amended by R.1998 d.231, effective May 4, 1998 (operative June 12, 1998).  
 See: 29 N.J.R. 3521(a), 30 N.J.R. 1563(b).  
 In (a) through (c), changed N.J.A.C. references.

**7:27-22.33 Preconstruction review**

(a) This section sets forth the procedures by which the Department will implement the preconstruction review re-

quirements of N.J.S.A. 26:2C-1 et seq., as they apply to facilities subject to this subchapter.

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

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

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

(e) The Department will perform the preconstruction and operating permit reviews of an application for a minor or significant modification simultaneously. Ordinarily, the Department will issue an operating permit modification which includes preconstruction approval. However, if requested by an applicant for a modification, the Department will issue the preconstruction approval simultaneously with the draft permit which is forwarded to EPA pursuant to N.J.A.C. 7:27-22.12. This preconstruction approval will authorize the permittee to begin construction and operation of a minor modification, at the permittee's own risk, in accordance with N.J.A.C. 7:27-22.23. For a significant modification of the operating permit, the permittee may begin construction of a significant modification, but may not operate the modified facility until final issuance of the significant modification.

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

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

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

#### 7:27-22.34 Early reduction of HAP emissions

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

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

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

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

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