

NEW JERSEY STATE DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NEW JERSEY ADMINISTRATIVE CODE  
TITLE 7  
CHAPTER 27  
SUBCHAPTER 8

**Permits and Certificates for Minor Facilities  
(And Major Facilities Without an Operating Permit)**

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*Please note: The Department has made every effort to ensure that this text is identical to the official, legally effective version of this rule, set forth in the New Jersey Register. However, should there be any discrepancies between this text and the official version of the rule, the official version will prevail.*

## REGULATORY HISTORY

| <b>Regulatory Action</b> | <b>Date Adopted or filed with OAL</b> | <b>Effective Date &amp; NJR Citation</b>        | <b>Operative Date</b> |
|--------------------------|---------------------------------------|---|-----------------------|
| New Rule                 | November 15, 1967                     | January 15, 1968                                |                       |
| First Amendment          | January 4, 1973                       | March 5, 1973<br>5 N.J.R. 38(a)                 |                       |
| Second Amendment         | March 29, 1976                        | June 1, 1976<br>8 N.J.R. 221(c)                 |                       |
| Third Amendment          | February 4, 1985                      | March 4, 1985<br>17 N.J.R. 587(a)               | April 5, 1985         |
| Fourth Amendment         | January 30, 1991                      | March 4, 1991<br>23 N.J.R. 723(a)               | March 31, 1991        |
| Correction               |                                       | November 4, 1991<br>23 N.J.R. 3325(b)           |                       |
| Fifth Amendment          | January 28, 1992                      | March 2, 1992<br>24 N.J.R. 792(a)               | March 28, 1992        |
| Sixth Amendment          | February 19, 1993                     | March 15, 1993<br>25 N.J.R. 1231(b),<br>1254(a) | April 20, 1993        |
| Seventh Amendment        | August 5, 1993                        | September 7, 1993<br>25 N.J.R. 4075(b)          | October 4, 1993       |
| Eighth Amendment         | May 27, 1994                          | June 20, 1994<br>26 N.J.R. 2600(a)              | July 26, 1994         |
| Ninth Amendment          | September 1, 1994                     | October 3, 1994<br>26 N.J.R. 3943(b)            | October 31, 1994      |
| Correction               |                                       | October 17, 1994<br>27 N.J.R. 4184(a)           |                       |
| Correction               |                                       | April 4, 1995<br>27 N.J.R. 1406(a)              |                       |
| Tenth Amendment          | March 16, 1995                        | April 17, 1995<br>27 N.J.R. 1576(b)             | May 15, 1995          |

|                       |                    |  |                   |
|-----------------------|--------------------|--|-------------------|
| Eleventh Amendment    | April 14, 1998     | May 4, 1998<br>30 N.J.R. 1563(b)                             | June 12, 1998     |
| Correction            |                    | March 1, 1999<br>31 N.J.R. 639                               |                   |
| Twelfth Amendment     | July 2, 1999       | August 2, 1999<br>31 N.J.R. 2200 (a)                         | August 31, 1999   |
| Thirteenth Amendment  | November 10, 1999  | December 6, 1999<br>31 N.J.R. 4016 (a)                       | January 8, 2000   |
| Fourteenth Amendment  | April 17, 2000     | May 15, 2000<br>32 N.J.R. 1808 (a)                           | June 6, 2000      |
| Administrative Change |                    | June 5, 2000<br>32 N.J.R. 2081(b)                            |                   |
| Administrative Change |                    | May 7, 2001<br>33 N.J.R. 1377(a)                             |                   |
| Fifteenth Amendment   | January 11, 2002   | February 4, 2002<br>34 N.J.R. 756 (a)                        | March 12, 2002    |
| Administrative Change |                    | January 5, 2004<br>36 N.J.R. 183(a)                          |                   |
| Administrative Change |                    | April 5, 2004<br>36 N.J.R. 1790(d)                           |                   |
| Administrative Change |                    | June 21, 2004<br>36 N.J.R. 3706(a)                           |                   |
| Administrative Change |                    | October 4, 2004<br>36 N.J.R. 4511(a),<br>4512(a), 4513(a)    |                   |
| Sixteenth Amendment   | September 8, 2005  | October 17, 2005<br>37 N.J.R. 3976(a)                        | November 7, 2005  |
| Seventeenth Amendment | September 13, 2005 | November 21, 2005<br>36 N.J.R. 4607(a),<br>37 N.J.R. 4451(a) | November 21, 2005 |
| Administrative        |                    | November 21, 2005  |                   |

|                         |                   |   |                   |
|-------------------------|-------------------|---|-------------------|
| Change                  |                   | 37 N.J.R. 4436(a)   |                   |
| Administrative Change   |                   | December 19, 2005<br>37 N.J.R. 4911(a)                      |                   |
| Eighteenth Amendment    | May 2, 2006       | June 19, 2006<br>37 N.J.R. 4728(a),<br>38 N.J.R. 2691(b)    | July 1, 2006      |
| Correction              |                   | December 4, 2006<br>38 N.J.R. 5155(b)                       |                   |
| Administrative Change   |                   | February 5, 2007<br>39 N.J.R. 383(a)                        |                   |
| Nineteenth Amendment    | October 30, 2008  | December 1, 2008<br>39 N.J.R. 4492(a),<br>40 N.J.R. 6769(a) | December 29, 2008 |
| Twentieth Amendment     | March 20, 2009    | April 20, 2009<br>40 N.J.R. 4390(a)<br>41 N.J.R. 1752(a)    | May 19, 2009      |
| Administrative Change   |                   | November 16, 2009<br>41 N.J.R. 11(2)                        |                   |
| Administrative Change   | August 12, 2011   | September 6, 2011<br>43 N.J.R. 2328(a)                      | August 12, 2011   |
| Administrative Change   |                   | September 19, 2011<br>43 N.J.R. 9(2)                        |                   |
| Twenty-first Amendment  | December 29, 2014 | February 17, 2015<br>47 N.J.R. 467(a)                       | February 27, 2015 |
| Twenty-second Amendment | October 10, 2017  | November 6, 2017<br>49 N.J.R. 3511(a)                       | December 9, 2017  |
| Twenty-third Amendment  | October 24, 2017  | November 20, 2017<br>49 N.J.R. 3590(a)                      | December 23, 2017 |
| Twenty-fourth Amendment | December 14, 2017 | January 16, 2018<br>50 N.J.R. 454(a)                        | February 12, 2018 |
| Twenty-fifth            | November 4, 2019  | November 4, 2019  |                   |

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|   |                  |                                    |                  |
|---|------------------|------------------------------------|------------------|
| Amendment   |                  | 51 N.J.R. 1605(b)                  |                  |
| Twenty-sixth Amendment  | January 14, 2020 | February 3, 2020<br>52 N.J.R. 2(1) |                  |
| Twenty-seventh Amendment  | March 19, 2020   | April 6, 2020<br>52 N.J.R. 4(1)    |                  |
| Twenty-eighth Amendment<br>(2 Administrative Notices regarding general permits) | March 19, 2020   | April 6, 2020<br>52 N.J.R. 4(1)    |                  |
| Twenty-ninth Amendment  | March 15, 2022   | April 4, 2022<br>54 N.J.R. 560(a)  | June 3, 2022     |
| Thirtieth Amendment   | December 5, 2022 | January 3, 2023<br>55 N.J.R. 14(a) | January 31, 2023 |

## **7:27-8.1 Definitions**

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

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

**“Agricultural commodity”** means any vegetable matter or animal matter.

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

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

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

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

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

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

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

**“Application form”** means the form the Department requires an applicant to submit to apply for a preconstruction permit and operating certificate, a preconstruction permit and operating certificate for an environmental improvement pilot test, a preconstruction permit and

operating certificate revision, or a compliance plan change. Also, a renewal application stub is an application form.

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

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

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

**“CFR”** means the United States Code of Federal Regulations.

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

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

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

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

**“Commodity”** means a mass-produced product that can be bought and sold, including agricultural products, produce, logs, vehicles, and clothing.

**“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.

**“Construction engine”** means a mobile engine used for construction at a facility for a

limited time period. Construction engine includes a mobile electric generator that is used until regular electric power lines are available to replace the function of the electric generator at the facility. Construction engine does not include:

1. An engine attached to a foundation;
2. An engine (including any replacement engines) at the same facility for more than 12 months;
3. An engine (including any replacement engines) at a seasonal source for at least 90 days per year for two years or longer; or
4. An engine that is moved from one facility to another in an attempt to circumvent the residence time criteria at paragraphs 2 or 3 above.

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

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

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

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

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

**“Department”** means the New Jersey Department of Environmental Protection.

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

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

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



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

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

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

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

**“Emergency”** means any situation that arises from sudden and reasonably unforeseeable events beyond the control of an owner or operator of a facility, such as an unforeseen system capacity shortage caused by an act of God, that requires immediate corrective action to prevent system collapse or to restore normal operations at the facility.

**“Emergency fumigation”** or **“emergency fumigation operation”** means the fumigation of a commodity or industrial structure that is required by a State or Federal authority, including the United States Department of Agriculture or the United States Food and Drug Administration, on an emergency basis.

**“Emergency management activity”** means an activity to mitigate against, prepare for, respond to, and recover from threatened or actual natural disasters, acts of terrorism, or other man-made disasters.

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

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

**“Emit”** means to cause or release emissions.

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

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

the purpose of determining the feasibility of using the equipment or process for a particular environmental improvement.

**“EPA”** means the United States Environmental Protection Agency.

**“Equipment”** means any device capable of causing the emission of an air contaminant, either directly or indirectly, to the outdoor atmosphere, 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.

**“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 preconstruction 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 electricity and heat. This term also includes any associated fuel processor, such as a reformer, that produces the fuel.

**“Fumigant”** means a pesticide registered with the EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) that is a vapor or gas, or forms a vapor or gas upon application, and whose pesticidal action is through the vapor or gaseous state.

**“Fumigation”** or **“fumigation operation”** means the use of a fumigant in a sealed, enclosed space to prevent, control, or eliminate pests in stored or in-transit commodities by treating the commodity or commodity storage or transport space.

**“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”** or **“GHG”** means any of the following gases: carbon dioxide (CO<sub>2</sub>); methane (CH<sub>4</sub>); nitrous oxide (N<sub>2</sub>O); certain hydrofluorocarbons (HFC-23, HFC-125, HFC-134a, HFC-143a, HFC-152a, HFC-227ea, HFC-236fa, HFC-4310mee); certain perfluorocarbons (CF<sub>4</sub>, C<sub>2</sub>F<sub>6</sub>, C<sub>4</sub>F<sub>10</sub>, C<sub>6</sub>F<sub>14</sub>); and sulphur hexafluoride (SF<sub>6</sub>).

**“Group I TXS”** means an air contaminant that is included in the list of Group I TXS at N.J.A.C. 7:27-17.3.

**“Group II TXS”** means an air contaminant that is included in the list of Group II TXS at N.J.A.C. 7:27-17.3.

**“Group III TXS”** means an air contaminant that is included in the list of Group III TXS at N.J.A.C. 7:27-17.3.

**“Hazardous air pollutant”** or **“HAP”** means an air contaminant listed in or pursuant to 42 U.S.C. § 7412(b).

**“Hazardous waste”** means those materials defined as hazardous waste under N.J.A.C. 7:26G-5.1.

**“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.

**“Industrial structure”** means an enclosed space, including a warehouse, container, bin, silo, trailer, storage facility, commodity pallet, any type of fumigation chamber, such as under a tarpaulin, or manufacturing or processing equipment, in which fumigation occurs as a significant source operation. “Industrial structure” does not include a private residence or commercial office or commercial building in which fumigation occurs.

**“Insignificant source”** means, for the purposes of this subchapter, any equipment or source operation 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 results 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; if there is any conflict between the definition at N.J.A.C. 7:1K-1.5 and this one, the definition at N.J.A.C. 7:1K-1.5 shall control.

**“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 that has the potential to emit any of the air contaminants listed below in an amount that 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> |
|--|---------------------------------------|
| CO   | 100 tons per year                     |
| PM <sub>10</sub>                                   | 100 tons per year                     |
| PM <sub>2.5</sub>                                  | 100 tons per year                     |
| TSP  | 100 tons per year                     |
| SO <sub>2</sub>                                    | 100 tons per year                     |
| SO <sub>2</sub> (as a PM <sub>2.5</sub> precursor) | 100 tons per year                     |
| NO <sub>x</sub>                                    | 25 tons per year                      |
| NO <sub>x</sub> (as a PM <sub>2.5</sub> precursor) | 100 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 except CO <sub>2</sub>   | 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.

**“Microturbine”** means a combustion turbine with output of 25 kW to 500 kW.

**“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.

**“National ambient air quality standard” or “NAAQS”** means an ambient air quality standard promulgated at 40 CFR 50.

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

**“New Jersey ambient air quality standard” or “NJAAQS”** means an ambient air quality standard promulgated at N.J.A.C. 7:27-13.

**“New Jersey Hazardous Air Pollutant” or “NJHAP”** means a substance listed at N.J.A.C. 7:27-17.3, Table 2.

**“Nonattainment area”** means any area of the State:

1. Identified by the Department as one in which the ambient air concentration of a criteria pollutant exceeds a NAAQS or NJAAOS; or
2. Designated by the EPA at 40 CFR 81.331 as an area in which the ambient air concentration of a criteria pollutant exceeds the applicable NAAQS.

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

**“Non-reactive process”** means a process in which no chemical reaction is occurring. The air contaminants emitted by the process are the same as those emitted by the raw materials involved in the process, and no reaction by-products are produced or emitted.

**“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<sub>x</sub>” or “oxides of nitrogen”** 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.

**“On-specification used oil”** is as defined at N.J.A.C. 7:27-20.1.

**“Open top surface cleaner”** means a surface cleaner, including, but not limited to, a surface cleaner equipped with a cover, in which there is at any time an opening to the atmosphere greater than 25 percent of the surface area of the VOC solvent contained therein or greater than 25 percent of the surface area of a sink-like work area where the surface cleaning occurs.

**“Operating certificate”** or **“certificate”** means a “Certificate to Operate Control Apparatus or Equipment” issued by the Department pursuant to N.J.S.A. 26:2C-1 et seq., and in particular N.J.S.A. 26:2C-9.2, and this subchapter.

**“Operating permit”** means the consolidated preconstruction and operating permit issued pursuant to Title V of the Federal Clean Air Act, 42 U.S.C. §§ 7661 et seq., this subchapter, Title I of the Federal Clean Air Act, 42 U.S.C. § 7401 et seq., and N.J.A.C. 7:27-22. This term includes a general operating permit that is applicable facility wide, but does not include a general operating permit that 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<sub>10</sub>”** means a class of air contaminants that includes all particulate matter having an aerodynamic diameter less than or equal to a nominal 10 microns.

**“PM<sub>2.5</sub>”** means a class of air contaminants that includes all particulate matter having an aerodynamic diameter less than or equal to a nominal 2.5 microns.

**“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.

**“Portable”** means not attached to a permanent foundation, and designed and capable of being carried or moved from one location to another by means of wheels, skids, carrying handles, dolly, trailer, platform, or similar device.

**“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 the holding by the owner or operator of emission reductions that are banked pursuant to N.J.A.C. 7:27-18.8.

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

**“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.

**“Probe”** means an air contaminant sampling method used to determine compliance with one or more emission allowables. For the purpose of assessing supplementary fees at N.J.A.C. 7:27-8.6, B. Supplementary Fee Schedule, any of the following shall be considered a single probe:

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

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

**“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.

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

**“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).

**“Registrant”** means a person who submits a registration form.

**“Registration”** means the process of registering with the Department on a registration form, the following:

1. One or more sources under a general permit, in accordance with N.J.A.C. 7:27-8.8; or
2. One or more used oil space heaters that burn on-specification used oil whose total combined gross heat input does not exceed 500,000 British Thermal Units per hour, in accordance with N.J.A.C. 7:27-20.3(a).

**“Registration form”** means the online or paper form the Department requires a registrant to submit for registration.

**“Renewal”** means the process of renewing an operating certificate or a registration.

**“Renewal application stub”** means the part of the renewal invoice that a permittee or registrant detaches and submits with the renewal fee payment to renew an operating certificate or a registration.

**“Rental facility”** means a business that owns and rents or leases portable equipment to another person.

**“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 a source that is classified as a significant source pursuant to N.J.A.C. 7:27-8.2(c) and that is not exempted from being a significant source pursuant to N.J.A.C. 7:27-8.2(d) or (e).

**“SO<sub>2</sub>”** or **“sulfur dioxide”** means a gas that has a molecular composition of one sulfur atom and two oxygen atoms.

**“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 either directly or indirectly into the outdoor atmosphere. A source operation may include one or more pieces of equipment or control apparatus.

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

**“Stack or chimney”** means a flue, conduit or opening designed, constructed, or 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”** or **“SIP”** means a plan or portion thereof, prepared by a state and approved by the EPA pursuant to 42 U.S.C. § 7410, which includes enforceable emission limitations or other control measures, means or techniques, and provides for implementation, maintenance, and enforcement of one or more NAAQS.

**“Stationary reciprocating engine”** means an internal combustion engine that is a reciprocating engine that remains for more than 30 days at a single site (for example, any building, structure, facility, or installation), but does not include a mobile electric generator being used by the military, a locomotive engine, or a construction engine. A stationary reciprocating engine:

1. Is not self-propelled, but may be mounted on a vehicle for portability; or
2. Is self-propelled on rails at a facility, but does not in the course of its normal operation leave the facility.

**“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.

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

**“Temporary facility”** means a 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.

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

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

## **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) The following requirements apply to a significant source subject to this subchapter at a facility that becomes subject to operating permit requirements under N.J.A.C. 7:27-22:
  - 1. All permits and certificates required by this subchapter must be obtained and maintained until an operating permit, as defined at N.J.A.C. 7:27-8.1 and 22.1, is issued. Upon issuance of an operating permit, the terms and conditions of the

preconstruction permit and operating certificates shall be consolidated in the operating permit.

2. If a new source that 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 continue to comply with the terms and conditions of the preconstruction permit and the operating certificate, which shall be consolidated in the operating permit, as defined at N.J.A.C. 7:27-8.1 and 22.1; 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 owner or operator of the facility shall obtain and maintain a separate preconstruction permit and operating certificate for the portion of the facility that is not subject to an operating permit. The terms and conditions of the preconstruction permit and the operating certificate shall remain separate from and shall not be consolidated into the facility's operating permit.
- (c) Any equipment or source operation that may emit one or more air contaminants, except carbon dioxide (CO<sub>2</sub>), directly or indirectly into the outdoor air and belongs to one of the categories listed below, is a significant source (and therefore requires a preconstruction permit and an operating certificate), unless it is exempted from being a significant source pursuant to (d), (e), (f), or (g) below:
1. Commercial fuel burning equipment, except for a source listed in (c)21 below, that has a maximum rated heat input of 1,000,000 BTU per hour or greater to the burning chamber, including emergency generators as defined at N.J.A.C. 7:27-19.1;
  2. Any source operation of equipment that has the potential to emit any Group I or II TXS (or any 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 that uses a cleaning solution containing five percent or more VOCs, HAPs, NJHAPs, or any combination thereof, and that 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 that is used in a graphic arts operation including, but not limited to, newspaper, lithographic, gravure, flexographic, letterpress and screen printing, in which the quantity of ink, fountain solution, or cleaning material used 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 that is regulated under N.J.A.C. 7:27-16.3 or 16.4, or a marine tank vessel loading or ballasting operation that is 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 that is used in a surface coating operation including, but not limited to, spray or dip painting, roller coating, and electrostatic depositing, in which the quantity of coating or cleaning material used in any one hour is equal to or greater than one half gallon of liquid;
13. Except where a registration has been filed pursuant to N.J.A.C. 7:27-20.3, any equipment that is used for the burning of non-commercial fuel, crude oil, or process by-products in any form, including, but not limited to, off-specification used oil, processed used oil fuel, or on specification used oil as defined in N.J.A.C. 7:27-20.1;
14. An incinerator;



15. Equipment that 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 II TXS in the influent of 3,500 parts per billion by weight (ppbw) or more; or
    - (2) A total Group I 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 that is 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 an area used as a temporary storage area, such as a concrete pad or a roll-off container, shall not be considered to be equipment used for treating waste soils or sludges, 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. Equipment that shreds wood, if the engine powering the equipment has a maximum rated gross heat input of 1,000,000 BTU per hour or greater;
19. Equipment in which the combined weight of all raw materials used exceeds 50 pounds in any one hour, provided:
  - i. Such equipment shall not include equipment that is the same type as is included within a category described at (c)1, 2, 4 through 10, 12, 15 or 18 above; or at (c)20, 21, or 22 below, but which is excluded from the category because it does not meet an applicability threshold set forth in the description of the category. That is, the equipment has a lower capacity, weight of materials processed, vapor pressure, or consumption of BTUs,

or otherwise falls outside a parameter that is included in the description of the category;

- ii. In determining the weight of the raw materials used, the weight of the following shall be excluded:
  - (1) Air;
  - (2) Water;
  - (3) Containers, provided that the container is not consumed as part of the operation of the equipment; and
  - (4) Paper, metal, or plastic that is twisted, bent, or folded, in the equipment, provided that the twisting, bending, or folding, does not cause visible emissions or air pollution;
- 20. Welding equipment, if the weight of the welding rod or welding wire used in the process is greater than 12 pounds in any calendar day;
- 21. Any stationary reciprocating engine with a maximum rated power output of 37 kW or greater, used for generating electricity, not including emergency generators; and
- 22. Any fumigation of a commodity or industrial structure that has the potential to emit any fumigant or combination of fumigants at a rate greater than 0.1 pounds per hour (45.4 grams per hour), except as provided at (g) below.
- (d) Even if a source is listed at (c) above, any of the following is not a significant source (and, therefore does not need a preconstruction permit and operating 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. A stationary storage tank, provided that (d)3i, ii and iii below are satisfied:
    - i. The tank is one of the following:
      - (1) A tank used solely to store a food-grade liquid that in its stored

form is intended as food for direct human consumption. For the purposes of this subparagraph, food-grade liquids do not include liquids stored in a concentrated form; vitamins and drugs; or food additives, preservatives, or other ingredients that in their stored or manufactured form are not intended for direct human consumption; or

- (2) A tank used to store liquids, provided that:
  - (A) The operating temperature of the tank is not greater than 350 degrees Fahrenheit; and
  - (B) The vapor pressure of the liquid, excluding the vapor pressure of water, is less than 0.02 pounds per square inch absolute at the liquid's actual temperature or at 70 degrees Fahrenheit, whichever temperature is higher;

ii. The following criteria are met:

- (1) The tank has no visible emissions, exclusive of water vapor, to the outdoor atmosphere;
- (2) The tank does not emit any air contaminant that may cause an odor detectable outside the property boundaries of the facility;
- (3) The tank is not subject to any NESHAPS, MACT, or NSPS air pollution control standards, excluding the NSPS requirements to maintain a record of the tank's contents, the period of storage of these contents, and the maximum true vapor pressure of the liquid stored;
- (4) The tank's potential to emit each TXS, each NJHAP, and each HAP does not exceed the reporting thresholds at N.J.A.C. 7:27-17.9, Tables 3A and 3B; and
- (5) The percentage by weight of all HAPs and NJHAPs collectively in the raw material stored in the tank is less than 1.0 percent; and

iii. The owner or operator of the tank has readily available upon Department request a statement certified in accordance with N.J.A.C. 7:27-1.39, signed by the responsible official, as defined at N.J.A.C. 7:27-1.4 that:

- (1) Specifies the contents of the tank;
- (2) Affirms that the tank meets all of the criteria listed in (d)3i and ii above; and

- (3) Attests that the tank is in compliance with all other applicable State or Federal air pollution requirements.
4. Aeration basins, lagoons and settling basins at publicly owned treatment works or domestic treatment works.
5. Equipment used in copying and duplication activities, including any microfiche copier, photocopier, xerography machine, or other photographic processing equipment by which an image is reproduced upon material sensitized by radiant energy;
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 supports one or more production processes of the facility, and does not itself constitute a facility production process or part thereof:
  - i. The activities of maintenance shops, such as welding, gluing, and soldering, performed indoors or outdoors;
  - ii. A laundry operation that services uniforms or other clothing used at the facility, not including:
    - (1) Any dry cleaning process; and
    - (2) Any dryer that is fuel burning equipment having a maximum rated heat input of 1,000,000 BTU per hour or greater;
  - 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 containing 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;
11. A fuel cell system of:
  - i. Any generating capacity size fueled by hydrogen without a fuel processor;
  - ii. Less than 5,000 kilowatts generating capacity fueled by methane; or
  - iii. Less than 500 kilowatts generating capacity fueled by fuels other than hydrogen or methane;
12. Electric, plasma, or gaseous-fuel cutting equipment used to cut metal or metal products, provided the metal or metal product does not contain stainless steel, alloys of lead, alloys of arsenic, or alloys of beryllium;
13. Equipment at a commercial or non-commercial greenhouse or nursery operation that is used to blend or mix potting soil (including, but not limited to, soil, compost, artificial media or soil-less media, and/or peat moss) that is used on site for plant propagation and that is not offered for sale or sold commercially;
14. Dry cleaning equipment that uses only liquid carbon dioxide (CO<sub>2</sub>) as the cleaning agent;
15. Equipment used to conduct construction, repair, or maintenance (CRM) activities, provided that the equipment is portable and is located on site for no longer than one year;
16. Equipment used to temporarily replace commercial fuel burning equipment that has a maximum rated heat input of 1,000,000 BTU per hour or greater to the burning chamber, and/or stationary reciprocating engines with a maximum rated power output of 37 kW or greater, used for generating electricity, that are shut down as part of CRM activities, provided the replacement equipment:
  - i. Is portable;
  - ii. Is located on site no longer than 90 days;
  - iii. Does not emit any air contaminant in excess of the state-of-the-art thresholds at N.J.A.C. 7:27-8 Appendix 1, Table A, incorporated herein by reference, and 17.9, Tables 3A and 3B;

- iv. Is not moved from one location to another in an attempt to circumvent the requirement to be located on site no longer than 90 days;
- v. Prior to operating, is listed in an electronic notification to the Department's Regional Air Enforcement Office, that:
  - (1) Describes the CRM activity, including the expected duration and start date;
  - (2) Lists the temporary replacement source operation;
  - (3) Lists the shutdown permitted significant source operation being replaced;
  - (4) States the replacement equipment will not emit any air contaminant in excess of the state-of-the-art thresholds at N.J.A.C. 7:27-8 Appendix 1, Table A, incorporated herein by reference, and 17.9, Tables 3A and 3B;
  - (5) Attests that the replacement equipment will remain in compliance with all other applicable State or Federal air pollution requirements;
  - (6) Affirms the replacement source will not exceed the 90-day residency limit and will not be moved from one location to another in an attempt to circumvent the residency requirement; and
  - (7) Provides a statement, certified in accordance with N.J.A.C. 7:27-1.39, and signed by the responsible official, as defined at N.J.A.C. 7:27-1.4, that affirms that the replacement equipment meets all of the criteria listed in (d)16v(1) through (6) above; and
- vi. Is listed in an electronic notification to the Department's Regional Air Enforcement Office submitted within 30 days after the operation of temporary replacement equipment or source operations has ceased, that:
  - (1) Describes the replacement equipment that was operated as part of the CRM activity, including total duration and the completion date of the CRM activity;
  - (2) Lists the total emissions for each piece of replacement equipment operated;
  - (3) Attests that the replacement equipment remained in compliance with all other applicable State or Federal air pollution requirements;

- (4) Affirms the source did not exceed the 90-day residency limit and was not moved from one location to another in an attempt to circumvent the residency requirement; and
        - (5) Provides a statement, certified in accordance with N.J.A.C. 7:27-1.39, and signed by the responsible official, as defined at N.J.A.C. 7:27-1.4, that affirms that the equipment met all of the criteria listed in (d)16vi(1) through (4) above;
  17. Portable equipment, including associated engines that power the equipment, that is being used for an emergency management activity, provided that the equipment is not used for incineration or open burning and is not located on site for more than 90 consecutive days from the start of operation;
  18. Equipment available for rent at a rental facility that is operated for testing, maintenance, or demonstration purposes only;
  19. Portable hard drive and paper shredders;
  20. Equipment used in the excavation and transfer of soil or sediment directly from the soil or sediment pile or excavation hole, without intermediate staging, into a transport vehicle for removal from the site; and
  21. Equipment used in the baling and conveying of glass, plastic, cans, cardboard, and paper.
- (e) Equipment or a source operation that would be classified as a significant source solely because it meets the criteria at (c)19 above is not a significant source (and therefore does not need a permit and certificate), provided that (e)1, 2 and 3 below are satisfied:
1. The equipment or source operation is one of the following:
    - i. A mixer, cutter, molder, conveyer, blender, filler, or cooking kettle that processes material intended as food for direct human consumption, provided that the temperature of the food does not exceed 225 degrees Fahrenheit;
    - ii. Equipment that sands, drills, buffs, polishes, mills, carves, presses, or planes metal or metal products, except metal products containing stainless steel, alloys of lead, alloys of arsenic, or alloys of beryllium;
    - iii. Equipment that sands, drills, cuts, or planes untreated and unpainted wood or wood products;

- iv. Equipment that cuts, trims, perforates, folds, or molds paper or paper products;
  - v. A vessel with a capacity of 1,000 gallons or greater in which the mixing or blending of liquids takes place in a non-reactive process, provided that:
    - (1) The operating temperature of the vessel is not greater than 350 degrees Fahrenheit; and
    - (2) The vapor pressure of the liquid, excluding the vapor pressure of water, is less than 0.02 pounds per square inch absolute at the liquid's actual temperature, or at 70 degrees Fahrenheit, whichever temperature is higher;
  - vi. A vessel with a capacity of less than 1,000 gallons in which the mixing or blending of liquids takes place in a non-reactive process, provided that the vapor pressure of the liquid, excluding the vapor pressure of water, is less than 1.5 pounds per square inch; or
  - vii. A vessel with a capacity of less than 1,000 gallons in which the mixing or blending of either solids and liquids or solids only takes place in a non-reactive process, provided that:
    - (1) The vapor pressure of any liquid, excluding the vapor pressure of water, is less than 1.5 pounds per square inch; and
    - (2) The vessel is equipped with a control apparatus designed to remove particulate emissions at a minimum efficiency of 99 percent or is located inside a room that is equipped with a control apparatus designed to remove particulate emissions at a minimum efficiency of 99 percent; and
2. The following criteria are met:
- i. The source has no visible emissions, exclusive of water vapor, to the outdoor atmosphere;
  - ii. The source does not emit any air contaminant that may cause an odor detectable outside the property boundaries of the facility;
  - iii. The source meets one of the following criteria:
    - (1) The source is located in an enclosed work area equipped with heating and ventilation; emissions from the source are vented directly into the work area where the equipment is located and are free from the influence of any local exhaust ventilation system; and





- ii. Any piece of electric generating equipment, other than a fuel cell system or a microturbine, with less than 500 kilowatts generating capacity and that has been verified according to the requirements in (f)2 below to emit less than:
  - (1) 0.40 pounds of NO<sub>x</sub> per megawatt hour;
  - (2) 0.25 pounds of CO per megawatt hour;
  - (3) 0.10 pounds of PM per megawatt hour; and
  - (4) 0.01 pounds of SO<sub>2</sub> per megawatt hour;
  
- 2. A facility with a source identified in (f)1 above shall verify its emissions and demonstrate conformance with the emission levels in (f)1 above using (f)2i or ii below. If verification process is not available pursuant to (f)2i below, or manufacturer testing has not been conducted in accordance with (f)2ii below or has been conducted in accordance with (f)2ii below but has been determined to be not acceptable with (f)2iv below, then the facility shall demonstrate conformance using (f)2iii below:
  - i. An applicable verification process approved by the Department pursuant to the EETV Act, or through TARP, available from the Department's Bureau of Sustainable Communities and Innovative Technologies at (609) 292-9692 or [www.state.nj.us/dep/dsr/bscit.html](http://www.state.nj.us/dep/dsr/bscit.html);
  
  - ii. The manufacturer's test protocol, provided the facility maintains on-site for inspection by the Department a copy of the protocol, test data and the test report, and available for Department review or request, and producing documents from the equipment manufacturer that the manufacturer has:
    - (1) Performed representative source emission testing on a model of equipment;
    - (2) Had the source emission testing and the test report reviewed and certified by a licensed professional engineer;
    - (3) Conducted a minimum of three consecutive one-hour test runs, in which the average of the test runs shall not have exceeded the emission limits stated at (f)1i and ii above; and
    - (4) Converted each test run to pounds per megawatt hour before averaging; or
  
  - iii. Stack emission testing, provided the facility has:

- (1) Developed and used, a stack emission testing protocol using the protocol templates in Technical Manual 1004, available at the Department's website [www.state.nj.us/dep/bts/consult.html](http://www.state.nj.us/dep/bts/consult.html);
  - (2) Conducted a minimum of three consecutive one-hour test runs, in which the average of the test runs shall not exceed the emission limits stated at (f)1i and ii above; and
  - (3) Converted the results of each test run to pounds per megawatt hour before averaging.
- iv. The Department may determine that the manufacturer's testing of a model of the equipment, under (f)2ii above, is not acceptable. The Department's basis for rejecting the manufacturer testing may include, but need not be limited to, inappropriate test methods, invalid test data, or test data that indicate emissions above the specified limits;
3. The owner or operator of the source shall have available on site a statement, certified in accordance with N.J.A.C. 7:27-1.39, by the responsible official, that the equipment or source operation meets all the criteria in (f)1 and 2 above. This certification shall be provided to the Department upon request; and
4. If the Department has reason to believe, as a result of an inspection or otherwise, that the equipment or a source operation is emitting NO<sub>x</sub> above the specified limits, the Department, at its discretion, may require the owner or operator of the equipment or a source operation to submit the certified test report and/or supporting test data to the Department. The Department, at its discretion, may also require the owner or operator of a source to perform source emission testing in accordance with N.J.A.C. 7:27-8.4(f).
- (g) A fumigation operation that would be classified as a significant source solely because it meets the criteria at (c)22 above is not a significant source (and, therefore, does not need a permit and certificate) if the operation is an emergency fumigation operation and there has been no other fumigation operation by the facility or source owner or operator within the preceding five years, including an emergency fumigation operation meeting the requirements of this section or N.J.A.C. 7:27-22.36. A fumigation operation that was performed before June 3, 2022, will not disqualify a subsequent emergency fumigation operation from the use of this section. The following requirements apply to emergency fumigation operations meeting the above criteria:
  1. The owner or operator shall provide advance notification to the Department of the emergency fumigation operation by first-class mail or electronic mail, as provided at (g)2 below, that includes the following:
    - i. Documentation that the operation is an emergency fumigation operation;

- ii. The exact physical location of the facility at which the emergency fumigation operation will be conducted and the distance to the nearest property line, building, structure, and public area;
  - iii. The industrial structure(s) to be fumigated, including the number of industrial structure(s);
  - iv. The commodity to be fumigated, including quantity;
  - v. The fumigant name and estimated quantity to be used; and
  - vi. The name and address of the company that will perform the emergency fumigation operation;
2. The owner or operator shall submit, to the Department, the pre-fumigation notice required at (g)1 above and the post-fumigation report required at (g)6 below through the appropriate regional Bureau of Air Compliance and Enforcement by first-class mail or by email, as follows:
  - i. If the emergency fumigation operation is located in Bergen, Essex, Hudson, Hunterdon, Morris, Passaic, Somerset, Sussex, Union, or Warren County:

Bureau of Air Compliance & Enforcement – Northern  
7 Ridgedale Ave  
Cedar Knolls, NJ 07927  
[AirCE-Northern@dep.nj.gov](mailto:AirCE-Northern@dep.nj.gov);
  - ii. If the emergency fumigation operation is located in Burlington, Mercer, Middlesex, Monmouth, or Ocean County:

Bureau of Air Compliance & Enforcement – Central  
401 E State St  
Mail Code 22-03A, PO Box 420  
Trenton, NJ 08625-0420  
[AirCE-Central@dep.nj.gov](mailto:AirCE-Central@dep.nj.gov); or
  - iii. If the emergency fumigation operation is located in Atlantic, Camden, Cape May, Cumberland, Gloucester, or Salem County:

Bureau of Air Compliance & Enforcement – Southern  
2 Riverside Dr, Suite 201  
Camden, NJ 08103  
[AirCE-Southern@dep.nj.gov](mailto:AirCE-Southern@dep.nj.gov);

3. Prior to the application of fumigant at the site, and until aeration is completed, the owner or operator shall post visible and legible signs on the property at any access point and at the facility fence or property line closest to any public right-of-way. The signs must include all wording/information for placards required by the Federally approved fumigant label to identify the operation as dangerous and provide other details, including:
  - i. The date the fumigation will begin;
  - ii. The name and the EPA registration number of the fumigant used;
  - iii. The name, address, and telephone number of the fumigation company and/or applicator; and
  - iv. A 24-hour emergency response telephone number;
4. The emergency fumigation operation must include a stack that extends above the highest point of the container/roofline and exhausts vertically to remove the fumigant;
5. The emergency fumigation operation must be discontinued, or the rate of aeration must be decreased, if the monitored concentration level limit established in the fumigant label is exceeded at the fence or property line; and
6. Within 30 calendar days following the completion of the emergency fumigation operation, the owner or operator shall submit to the Department, by first-class mail or electronic mail, as provided at (g)2 above, a written report that includes the following:
  - i. The exact physical location of the facility at which the emergency fumigation operation was conducted and the distance to the nearest property line, building, structure, and public area;
  - ii. The industrial structure(s) that were fumigated, including the number of industrial structure(s);
  - iii. The commodity fumigated, including quantity;
  - iv. The name and address of the company that performed the emergency fumigation operation;
  - v. The identity of the State or Federal authority that required the emergency fumigation operation;

- vi. The equipment used to perform the emergency fumigation operation, including the containment system employed (for example, tarp, sealed container, or fumigation chamber);
  - vii. The name and quantity of the fumigant used, including a copy of the fumigant label;
  - viii. The duration of the fumigation and aeration, including the start and end times for each;
  - ix. The method employed to release the fumigant to the atmosphere after completion of the emergency fumigation operation and aeration, including the rate of release and the distance above the ground at which the fumigant was released;
  - x. A brief description of the capture and control device used, if any; and
  - xi. A summary of the fumigation operations, if any, conducted by the facility or source owner or operator over the preceding five years, including any emergency fumigation operation conducted pursuant to this section or N.J.A.C. 7:27-22.36(a). The summary must include the date, amount of fumigant used, and the commodity or industrial structure fumigated for each fumigation operation.
- (h) Control apparatus serving a significant source shall be included in the preconstruction permit and operating certificate for the significant source.
- (i) Although an insignificant source does not require a permit, emissions information from an insignificant source may be required on an application pursuant to N.J.A.C. 7:27-8.4 if the insignificant source vents to a control device, stack or chimney that also serves a significant source.
- (j) 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.

### **7:27-8.3 General provisions**

- (a) No person may construct, reconstruct, install, or modify a significant source or control apparatus serving the significant source without first obtaining a preconstruction permit under this subchapter.
- (b) No person shall operate (nor cause to be operated) a significant source or control apparatus serving the 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) The Department will note in the preconstruction permit any requirements derived from an existing or terminated consent decree between the permittee and the EPA, and will not change such requirements or remove them from the preconstruction permit without first notifying the EPA.
- (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.

#### **7:27-8.4 How to apply, register, submit a notice, or renew**

- (a) This subchapter applies to:
  - 1. Application for a preconstruction permit and operating certificate;
  - 2. Application for a preconstruction permit and operating certificate for an environmental improvement pilot test;
  - 3. Application for a preconstruction permit and operating certificate revision;
  - 4. Application for a compliance plan change;
  - 5. Registration of one or more sources under a general permit;
  - 6. Registration of one or more used oil space heaters;
  - 7. Notice of a seven-day-notice change;
  - 8. Notice of an amendment to a preconstruction permit and operating certificate;



9. Notice of an amendment to a preconstruction permit and operating certificate for an environmental improvement pilot test;
  10. Notice of an amendment to a registration;
  11. Renewal of an operating certificate; and
  12. Renewal of a registration.
- (b) The actions listed at (a)1 through 12 above shall be submitted in accordance with (c) below on forms obtained from the Department. These forms, and information about these actions, may be obtained in the following ways:
1. In paper form, by contacting the Department at:  
  
Department of Environmental Protection  
Air Quality Regulation and Planning  
Bureau of Stationary Sources  
Preconstruction Permits Section  
401 East State Street  
Mail Code 401-02  
PO Box 420  
Trenton, New Jersey 08625-0420  
Telephone: (609) 292-6716 or 1-800-441-0065  
Website: <http://www.nj.gov/dep/aqpp>; or
  2. In electronic form, through the Department's Remote AIMS Data Input User System (RADIUS) or Electronic New Jersey Environmental Management System (e-NJEMS), which can be accessed through the Department's website at the address in (b)1 above.
- (c) A completed electronic or paper application form, registration form, notice or renewal application stub and renewal fee payment shall be submitted as follows:
1. Prior to January 1, 2008, a completed application form or notice shall be submitted to the Department on paper in accordance with (c)6 below, electronically other than via the Internet in accordance with (c)6 below, or electronically via the Internet, if available, in accordance with (c)7 below.
  2. On or after January 1, 2008, a completed application form or notice shall be submitted to the Department electronically other than via the Internet in accordance with (c)6 below, or electronically via the Internet, if available, in accordance with (c)7 below.
  3. Prior to January 1, 2010, a completed registration form shall be submitted to the Department on paper in accordance with (c)6 below, electronically other than via

the Internet in accordance with (c)6 below, or electronically via the Internet, if available, in accordance with (c)7 below.

4. On or after January 1, 2010, a completed registration form shall be submitted to the Department electronically via the Internet, if available, in accordance with (c)7 below.
  5. A completed renewal application stub and renewal fee payment shall be submitted on paper in accordance with (c)6 below, electronically other than via the Internet in accordance with (c)6 below, or electronically via the Internet in accordance with (c)7 below, and in accordance with all other rules in this subchapter regarding renewals including, but not limited to, N.J.A.C. 7:27-8.4(a), (f) and (n); 8.7(e) and (f); 8.13(b)1 and 2; 8.14(d); and 8.16(a)5.
  6. A submission on paper, or on a removable electronic medium using one of the non-Internet-based electronic methods listed at <http://www.state.nj.us/dep/aqpp>, shall be sent via the postal service, a delivery service, or otherwise delivered, to the address listed on the application form, registration form, renewal application stub or listed in the non-Internet-based electronic method. If a person wishes to document the date upon which a completed application form, registration form, notice or renewal application stub and renewal fee payment is submitted, the person may submit the application form, registration form, notice or renewal application stub and renewal fee payment in a way that will provide documentation of the submittal date, such as by certified mail.
  7. An Internet-based electronic submission shall be through an Internet-based electronic method listed at <http://www.state.nj.us/dep/aqpp>. If a person wishes to document the date of the Internet-based electronic submission, the person may print the appropriate website confirmation screen.
- (d) An application, registration or notice shall contain such details regarding the equipment or control apparatus as necessary to determine that the equipment or control apparatus is designed to operate without causing a violation of any relevant State or Federal laws or regulations. In addition, if a source is required to document advances in the art of air pollution control (or SOTA) under N.J.A.C. 7:27-8.11, Standards for issuing a permit, the Department shall require information necessary to determine compliance with the SOTA requirement in accordance with N.J.A.C. 7:27-8.12, State of the art. Information required under this subsection may include description of processes, raw materials used, operating procedures, physical and chemical nature of any air contaminant, volume of gas discharged, and such other information as the Department considers necessary.
- (e) All information submitted to the Department shall be public information except that which is designated confidential in accordance with N.J.S.A. 26:2C-9.2 and N.J.A.C. 7:27-1. To claim information submitted as part of an application, registration or notice as confidential information, the applicant shall clearly mark the information as required at

N.J.A.C. 7:27-1.6. The Department shall handle the confidentiality claim in accordance with N.J.A.C. 7:27-1.6 through 1.30.

- (f) Before an operating certificate, or any renewal thereof, is approved, the Department may require the applicant to conduct such testing as is necessary, at the discretion of the Department, to verify that the kind and amount of air contaminants emitted from the equipment or control apparatus are in compliance with the limits established in the preconstruction permit and certificate and that only the air contaminants approved in the preconstruction permit are being emitted. If such testing is required, the applicant shall:
1. Submit a source-specific testing protocol to the Department, if such a protocol is required in the conditions of approval of the preconstruction permit or certificate. The protocol shall be submitted at least 60 days prior to the anticipated date of the testing, except where the Department determines that a different submittal date is needed to allow for adequate testing;
  2. Obtain approval of any required source-specific testing protocol from the Department in advance of conducting the testing;
  3. Conduct the testing in accordance with a standard testing procedure acceptable to the Department or the approved source-specific testing protocol approved in advance by the Department;
  4. Contact the Department to schedule mutually acceptable testing dates and startup times at least 30 days in advance of the planned testing date for any testing conducted pursuant to a source-specific testing protocol, except in cases where the Department has approved a different test notification requirement in the preconstruction permit or certificate;
  5. Submit the test report to the Department within 30 days after the completion of the sampling, unless a longer period for submission is approved in writing by the Department; and
  6. Have the test report from any source emission testing reviewed and certified by a licensed professional engineer, or by an industrial hygienist who has been certified by the American Board of Industrial Hygiene, prior to their submission to the Department.
- (g) The application, registration or notice form shall require the applicant to provide information about significant sources. The applicant does not need to include information on any insignificant sources, except where emissions from the insignificant source are released through the same control device as emissions from a significant source. Where this occurs, the form shall require a list of the emissions from the insignificant source(s), as well as the emissions from the significant source. (Even if emissions from an insignificant source are listed, there is no fee for the insignificant source. This is stated at N.J.A.C. 7:27-8.6(k).)

- (h) In some cases, an application, registration or notice (and the issued permit) may cover more than one source. Determination of the number of sources to be included shall depend on how each source is vented or, in the case of batch processing operations, how the product is made or it may be based on another basis for a logical grouping, provided that this basis is approved by the Department:
  - 1. For a single source that exhausts through one or more stacks or vents, the applicant shall apply for one permit;
  - 2. For multiple sources that exhaust through a common stack or vent, or through common stacks or vents, the applicant shall apply for one permit to cover all these sources;
  - 3. For multiple sources that each exhaust through an individual stack or vent, the applicant shall either apply for a single permit for each source, so that the number of permits will be equal to the number of sources, or shall apply for permit(s) based on logical grouping(s) approved by the Department; and
  - 4. For batch processing operations in which two or more sources make up a process unit, an applicant may choose to include these sources in one permit application.
- (i) Any person who is applying for a preconstruction permit or permit revision shall submit as part of the application, an NSPS and NESHAP applicability and compliance demonstration, if the proposed equipment or the intended use of the proposed equipment is within any source category to which any NSPS or NESHAP is applicable.
- (j) If required under N.J.A.C. 7:27-8.5, an application shall include a protocol for conducting an air quality impact analysis. The protocol shall include a risk assessment if one is required under N.J.A.C. 7:27-8.5.
- (k) An application, registration or notice must, if required by the applicable form, list each air contaminant that meets either of the following conditions:
  - 1. The source operation's potential to emit the air contaminant is equal to or higher than the applicable reporting threshold in Table A at N.J.A.C. 7:27-8 Appendix 1, incorporated herein by reference, or 17.9, Tables 3A and 3B; or
  - 2. The source operation may, under normal operations, emit the air contaminant in an amount which may result in noncompliance with the air pollution odor provisions at N.J.A.C. 7:27-8.3(j) and N.J.A.C. 7:27-5.
- (l) When listing raw materials on an application, registration or notice, the applicant shall list each HAP and NJHAP raw material separately. Each non-HAP and non-NJHAP raw material shall be:

1. Listed separately; or
  2. Listed in a group of non-HAP and non-NJHAP raw materials with similar physical and/or chemical properties. If a group is listed, the group must be approved by the Department as sufficiently limited so as to allow the Department to evaluate whether the source, using those raw materials, complies with specified maximum emission rates and applicable requirements.
- (m) When listing the emissions for a contaminant for which emissions information is required pursuant to (k) above:
1. The applicant shall separately list emissions for each HAP and NJHAP;
  2. Emissions for each non-HAP and non-NJHAP shall be:
    - i. Listed separately; or
    - ii. If the contaminant is a VOC or particulate, the emissions may be listed in a group of total VOCs or total particulates; and
  3. If a source emits a contaminant that is both a HAP and is also a VOC or a particulate, emissions of that air contaminant shall be listed separately as a HAP, and shall also be included in any grouping of total VOCs or total particulates.
- (n) In order to ensure timely renewal of an operating certificate, a used oil space heater registration, or a registration under a general permit, the permittee shall submit the renewal application stub and the renewal fee payment in accordance with (c) above not less than 90 days prior to the expiration date of the operating certificate, general permit registration or used oil space heater registration.
- (o) Any person submitting an application, registration or notice to the Department pursuant to this subchapter shall include, as an integral part of the application, certifications complying with N.J.A.C. 7:27-1.39.
- (p) Any information an applicant wants the Department to take into consideration in making a decision on an application, registration or notice shall be submitted to the Department in writing prior to the Department's making a decision on the application, registration or notice.
- (q) If the permit and certificate shall cover any of the sources listed below, the application, registration or notice shall also include a demonstration that appropriate odor prevention measures will ensure compliance with the odor provisions at N.J.A.C. 7:27-8.3(j) and 7:27-5:
1. Sewage sludge treatment and storage equipment;

2. Municipal wastewater treatment equipment;
  3. A landfill;
  4. A municipal solid waste transfer station;
  5. A composting facility;
  6. Coffee roasting equipment; or
  7. Equipment used for slaughtering, meat or shellfish processing, meat byproduct processing, or rendering.
- (r) An owner or operator of a fumigation operation of a commodity or industrial structure that exceeds the permit applicability threshold at N.J.A.C. 7:27-8.2(c)22 as of June 3, 2022, shall submit an application for a preconstruction permit and operating certificate or a preconstruction permit and operating certificate revision no later than February 3, 2023.
- (s) For a significant source included in any of the following categories, the Department has prepared permitting procedures manuals, which summarize certain alternative application and permitting procedures developed to take into consideration the specific characteristics of these sources. An applicant may elect, for sources in these categories, to use the alternative procedures, rather than the corresponding standard procedures set forth in this subchapter. The manuals are available from the Department at the address in (b) above:
1. Batch plants (see technical manual 1301);
  2. Pilot plants (see technical manual 1302);
  3. Dual plants (see technical manual 1302); and
  4. Laboratory operations (see technical manual 1211).

**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 an air quality dispersion modeling protocol and/or risk screening worksheets approved in advance by the Department. The Department will not approve an air quality dispersion modeling protocol unless it takes into account all relevant site-specific and general factors. 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 air quality dispersion modeling 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 an air quality dispersion modeling protocol and the use of risk screening worksheets can be found in Technical Manual 1002 (Guidance on Preparing an Air Quality Modeling Protocol) and Technical Manual 1003 (Guidance on Preparing a Risk Assessment for Air Contaminant Emissions) available on the Department's website at <http://www.nj.gov/dep/aqpp/techman.html>. The

risk screening worksheets are available on the Department's website at <https://www.state.nj.us/dep/aqpp/risk.html>. Additional technical guidance on preparing a protocol may be requested from:

Department of Environmental Protection  
Air Quality Regulation and Planning  
Bureau of Evaluation and Planning  
Air Quality Evaluation Section  
401 East State Street, 2nd Floor  
Mail Code 401-02  
PO Box 420  
Trenton, New Jersey 08625-0420  
Telephone: 609-292-6722

**7:27-8.6 Service fees**

- (a) A registrant shall submit the applicable registration fee listed in the Base Fee Tables below with the completed registration, using NJDEP Online (the Department's online permit application portal).
- (b) After a person submits a completed application form or notice, the Department will assess and invoice the person for the base fee and any supplementary fee due to the Department, assessed in accordance with the Base Fee Tables and the Supplementary Fee Schedule below. The person shall submit any fees so assessed, either using NJDEP Online or to the mailing address listed on the invoice, within 30 days of receipt of the invoice.
- (c) (Reserved)
- (d) If an application is denied or a permit is revoked, for any reason, and the applicant reapplies, the new application shall meet all application requirements, including the fee requirement.
- (e) Any fee under this section that is subject to N.J.A.C. 7:1L may be paid in installments in accordance with N.J.A.C. 7:1L.
- (f) Except for applications for sources at facilities subject to (g) below, a complete application fee for a preconstruction permit and certificate shall include all applicable fees as set forth below in the Base Fee Tables and the Supplementary Fee Schedule.
- (g) The owner or operator of a facility subject to N.J.A.C. 7:27-22 is not required to pay the operating certificate fees set forth in the Tables 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 permits rules at N.J.A.C. 7:27-22.1, while the issuance of an operating permit for the facility is pending.

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

(i) and (j) (Reserved)

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

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

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

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

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

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

Where:

100 = Multiplier to convert fraction into percent

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

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

**Table 1**

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

4. If the inflation factor is a negative number, the fees set forth in the subchapter shall remain unchanged.
5. If the inflation factor is a positive number, the percent increase shall be rounded to one decimal place. Each of the fees set forth in this section shall be multiplied by the rounded percent increase to preliminarily determine each fee's increase. Each fee's increase shall then be added to the fee to preliminarily determine the adjusted fee. The final adjusted fee shall then be determined by rounding up the preliminary adjusted fee to the next five dollars.
6. In November of the year preceding the year in which the adjusted fees are to be operative, the Department shall provide a public notice, which shall set forth the adjusted fees, if any, established under this subsection and operative on the following January 1. The Department shall provide public notice by publication of the notice and a notice of administrative change, setting forth the adjusted fees, in the New Jersey Register according to the schedule in Table 1 above. For example, the adjusted fees operative January 1, 2010 shall be published in November 2009.
7. The adjusted fees, listed under A (Base Fee Tables) and B (Supplementary Fee Schedule) below, shall be operative starting the first day of each five-year period stated in Table 1.
8. The applicable fee shall be determined as follows:
  - i. The Base Fee shall be the Base Fee operative on the date the Department receives an administratively complete application or notice.

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

**A. BASE FEE TABLES**

Table A-1  
Registration fees

| <u>Activity</u>  | <u>Basis</u>     | <u>Amount</u>                                      |
|--|------------------|--|
|  |                  | January 1, 2020<br>through<br>December 31,<br>2024 |
| Registration for initial authorization, or renewal of authorization, to act under a General Permit:                              |                  |  |
| -Listed at N.J.A.C. 7:27-8.8(c), other than (c)12  | Per registration | \$ 885.00  |
| - Listed at N.J.A.C. 7:27-8.8(c)12   | Per registration | \$ 885.00  |
| Registration for initial authorization, or renewal of authorization, to operate a used oil space heater under N.J.A.C. 7:27-20.3 | Per registration | \$ 885.00  |

Table A-2  
Permit fees

| <u>Activity</u>   | <u>Basis</u>  | <u>Amount</u>                                      |
|---|---|--|
|   |   | January 1, 2020<br>through<br>December 31,<br>2024 |
| Application for a preconstruction permit and operating certificate          | Per first piece of equipment per initial permit application                 | \$ 2,730   |
|   | Per each additional piece of equipment per initial permit application       | \$ 640.00  |
| Application for environmental improvement pilot test                        | Per application   | \$ 910.00  |
| Renewal of an operating certificate   | Per first piece of equipment per operating certificate                      | \$ 1,370.00  |
|   | Per each additional piece of equipment per operating certificate            | \$ 365.00  |
| Application for a preconstruction permit and operating certificate revision | Per first new or changed piece of equipment per permit revision application | \$ 2,730   |

|  |   |           |
|--|---|-----------|
|  | Per each additional new or changed piece of equipment per permit revision application | \$ 640.00 |
| Application for a compliance plan change | Per application   | \$ 910.00 |
| Notice of a seven-day-notice change      | Per notice  | \$ 910.00 |

Table A-3  
Notice of amendment fees

| <u>Activity</u>  | <u>Basis</u>   | <u>Amount</u>                             |
|--|--|---|
|  |  | January 1, 2020 through December 31, 2024 |
| Change in identifying information under N.J.A.C. 7:27-8.21(b)1                                     | Per facility   | \$ 190.00                                 |
| Transfer of ownership under N.J.A.C. 7:27-8.21(b)2   | Per facility   | \$ 190.00                                 |
| Change in equipment or stack designation under N.J.A.C. 7:27-8.21(b)3                              | Per preconstruction permit and operating certificate amended | \$ 190.00                                 |
| A change listed in N.J.A.C. 7:27-8.21(b)4, 5, 6, or 8  | Per preconstruction permit and operating certificate amended | \$ 910.00                                 |
| Correction of a typographical error under N.J.A.C. 7:27-8.21(b)7                                   | Per preconstruction permit and operating certificate amended | \$ 190.00                                 |
| Change in identifying information on a registration form as specified under N.J.A.C. 7:27-8.21(d)1 | Per facility   | \$ 190.00                                 |
| Transfer of ownership of a registered facility under N.J.A.C. 7:27-8.21(d)2                        | Per facility   | \$ 190.00                                 |

**B. SUPPLEMENTARY FEE SCHEDULE**

| <u>Activity</u>                                   | <u>Basis</u>                   | <u>Amount</u>                             |
|---|--------------------------------|---|
|   |                                | January 1, 2020 through December 31, 2024 |
| <b>1. Prevention of Significant Deterioration</b> |                                |   |
| a. Determine PSD Applicability                    | Per Review                     | \$ 9,085                                  |
| b. Perform BACT Evaluation                        | Per Applicable Air Contaminant | \$ 9,085                                  |
| <b>2. Sub 18 Emission Offsets</b>                 |                                |   |
| a. Determine Sub 18 Applicability                 | Per Review                     | \$ 9,085                                  |

|   |                                |           |
|---|--------------------------------|-----------|
| b. Perform LAER Evaluation  | Per Applicable Air Contaminant | \$ 9,085  |
| 3. RACT – AEL   |                                |           |
| a. Review Technology  | Per Applicable Air Contaminant | \$ 9,085  |
| b. Prepare SIP Revision   | Per SIP Revision               | \$ 4,545  |
| 4. Perform MACT Evaluation  |                                |           |
|   | Per MACT Standard              | \$ 2,730  |
| 5. Perform NSPS Evaluation  |                                |           |
|   | Per NSPS                       | \$ 2,730  |
| 6. Perform SOTA Case-by-Case Evaluation   |                                |           |
|   | Per Applicable Air Contaminant | \$ 9,085  |
| 7. Public Comment   |                                |           |
| a. Post Public Notices  | Per Public Comment Period      | \$ 910.00 |
| b. Conduct Public Hearing   | Per Hearing                    | \$ 9,085  |
| c. Prepare Response to Comments Document  | Per Response                   | \$ 460.00 |
|   | Maximum Per Document           | \$ 9,085  |
| 8. Ambient Air Monitoring   |                                |           |
| a. Review Protocol  |                                |           |
| i. For criteria pollutants, or for other pollutants or parameters for which EPA has provided guidance | Per Protocol                   | \$ 2,730  |
| ii. For other pollutants or parameters for which EPA has not provided guidance                        | Per Protocol                   | \$ 4,545  |
| b. Inspect Monitoring Locations and Equipment Installation  | Per Inspection                 | \$ 910.00 |
| c. Review Quality Assurance Plan  |                                |           |
| i. For criteria pollutants, or for other pollutants or parameters for which EPA has provided guidance | Per Plan                       | \$ 2,730  |
| ii. For other pollutants or parameters for which EPA has not provided guidance                        | Per Plan                       | \$ 4,545  |
| d. Review Data  | Per Required Report            | \$ 910.00 |
| e. Audit Equipment  | Per Audit                      | \$ 910.00 |
| 9. Air Quality Impact Analysis – PSD  |                                |           |
| a. Evaluate Protocol  | Per Protocol                   | \$ 3,640  |

|   |                                |           |
|---|--------------------------------|-----------|
| b. Review Screening Modeling  | Per Review                     | \$ 1,820  |
| c. Review Refined Modeling  | Per Review                     | \$ 6,365  |
| 10. Air Quality Impact Analysis - non PSD   |                                |           |
| a. Evaluate Protocol  | Per Protocol                   | \$ 1,820  |
| b. Review Screening Modeling  | Per Review                     | \$ 1,820  |
| c. Review Refined Modeling  | Per Review                     | \$ 2,730  |
| 11. Risk Assessment   |                                |           |
| a. Evaluate Protocol  | Per Protocol                   | \$ 2,730  |
| b. Review Risk Assessment   | Per Review                     | \$ 2,730  |
| 12. Testing   |                                |           |
| a. Stack Test   |                                |           |
| i. Evaluate Protocol (up to three probes)   | Per Protocol Per Stack         | \$ 1,370  |
| ii. Evaluate Protocol (more than three probes)  | Per Protocol Per Stack         | \$ 1,820  |
| iii. Review Testing Report (up to three probes)   | Per Report Per Stack           | \$ 1,370  |
| iv. Review Testing Report (more than three probes)  | Per Report Per Stack           | \$ 1,820  |
| b. Continuous Emission Monitors   |                                |           |
| i. Evaluate Equipment Protocol  | Per Protocol Per Stack         | \$ 910.00 |
| ii. Evaluate Performance Specification Test Protocol  | Per Protocol Per Stack         | \$ 910.00 |
| iii. Review Testing Report  | Per Report Per Stack           | \$ 910.00 |
| c. On-site Monitoring of Sample Collection Pursuant to an Approved Source-Specific Testing Protocol | Per Day Per Person             | \$ 1,370  |
| d. Periodic Monitoring Equipment Protocol   | Per Protocol                   | \$ 460.00 |
| 13. Periodic Compliance Inspection  | Per Inspection Per Certificate | \$ 735.00 |

**7:27-8.7 Operating certificates**

- (a) In order to operate a source covered by a preconstruction permit, the source shall also be covered by an operating certificate, which authorizes operation of the source. The preconstruction permit application form also serves as the application form for the operating certificate, and the Department shall issue the preconstruction permit and operating certificate simultaneously, combined in one document.
- (b) To obtain an operating certificate or a temporary operating certificate (see (d) below), an applicant shall follow the procedures for applying for a permit and certificate under N.J.A.C. 7:27-8.4.

- (c) An operating certificate (except for a temporary operating certificate issued under (d) below) expires five years after the date the preconstruction permit for the source was issued.
- (d) In some cases, the Department needs information obtained while a source is operating, such as stack testing results, in order to issue a final operating certificate. In such a case, the Department shall issue one of the following two types of temporary operating certificates:
  - 1. A 90 day temporary operating certificate, which is valid for 90 days and may be renewed by the Department one or more times; or
  - 2. A continuing temporary operating certificate, which continues in effect until the earliest of the following triggering events:
    - i. The Department notifies the permittee that the operating certificate has been converted to a 90 day temporary operating certificate;
    - ii. The Department issues a conventional operating certificate for the source; or
    - iii. Five years has passed since the issuance of a preconstruction permit for the source.
- (e) The operating certificate shall be renewed prior to its expiration if the source is to continue to operate. In order to ensure timely renewal of an operating certificate, the permittee shall renew the operating certificate in accordance with N.J.A.C. 7:27-8.4(n).
- (f) Before renewing an operating certificate, the Department may require testing to ensure compliance with State and Federal air pollution control requirements.

#### **7:27-8.8 General permits**

- (a) A general permit is a pre-approved permit and certificate which applies to a specific class of significant sources. By issuing a general permit pursuant to N.J.S.A. 26:2C-9.2(h), the Department indicates that it approves the activities authorized by the general permit, provided that the owner or operator of the source registers with the Department and meets the requirements of the general permit. If a source belongs to a class of sources which qualify for a general permit, and the owner or operator of the source registers for the general permit and complies with this section, the registration satisfies the requirements at N.J.A.C. 7:27-8.3 for a permit and certificate.
- (b) A general permit may not be used to cover a source which is subject to PSD requirements under 40 CFR 52.21, or which is subject to emissions offsets requirements under N.J.A.C. 7:27-18.

- (c) A general permit is available for the following sources:
1. Fuel Dispensing Facilities (GP-004A);
  2. Fuel Dispensing Facility equipped with a Phase I vapor recovery control system (GP-004B)
  3. Boiler(s) and/or heater(s) each less than five MMBTU/hr (GP-017A);
  4. Emergency Generator(s) Burning Distillate Fuels (GP-005A);
  5. Solid Material Storage Equipment (GP-001A);
  6. (Reserved)
  7. A stationary storage tank which:
    - i. Does not have a floating roof;
    - ii. Has a maximum capacity of 300,000 gallons; and
    - iii. Is used for storing VOC's with a vapor pressure within the applicable limit below:
      - (1) If the tank has a maximum capacity of 20,000 gallons or less, vapor pressure shall be less than 11.1 psia (pounds per square inch absolute) at 70 degrees Fahrenheit;
      - (2) If the tank has a maximum capacity of more than 20,000 gallons but less than or equal to 40,00 gallons, vapor pressure shall be less than 4.0 psia at 70 degrees Fahrenheit; or
      - (3) If the tank has a maximum capacity of more than 40,000 gallons but less than or equal to 300,000 gallons, less than .75 psia at 70 degrees Fahrenheit;
  8. A soil vapor extraction system or a groundwater air stripping system used for the remediation of a gasoline-contaminated vehicle fueling station at one of the following types of locations:
    - i. A current or former gasoline retail station;
    - ii. A municipal, county or State garage;
    - iii. A police or fire department;



- iv. A commercial or industrial site; or
  - v. A property adjacent to an approved remediation site, provided the remediation activities are relevant to the adjacent property and are conducted concurrently with the remediation activities of the approved site;
9. Boiler(s) and/or heater(s) each greater than or equal to five MMBTU/hr and less than 10 MMBTU/hr (GP-018A);
10. One or more of any combination of non-HAP VOCs solvent degreasers of the following types:
- i. Cold cleaning machines that use a VOC solvent with a vapor pressure of less than 0.02 Psi (1 mm Hg) at 20 degrees centigrade (68 degrees Fahrenheit);
  - ii. Heated cleaning machines that use a VOC solvent with a vapor pressure of less than 0.02 Psi (1 mm Hg) at 20 degrees centigrade (68 degrees Fahrenheit);
  - iii. Batch vapor cleaning machines;
  - iv. In-line (conveyorized) vapor cleaning machines; or
11. Boiler(s) each greater than or equal to 10 MMBTU/hr and less than 50 MMBTU/hr (GP-009B);
12. Single or multiple dry to dry cleaning equipment that uses perchloroethylene as the cleaning agent and that is equipped with a refrigerated condenser as the primary control and a carbon adsorber as a secondary control on the cylinder outlet.
13. Solvent degreasers using only Methylene Chloride or 1,1,1 Trichloroethane of the following types:
- i. Batch vapor cleaning machines; or
  - ii. In-line vapor cleaning machines;
14. Non-HAP Dry-cleaning Equipment (GP-013A);
15. Emergency Generator(s) Burning Gaseous Fuels (GP-005B);

16. Plating, Etching, Pickling, and Electropolishing Operations (GP-015A);
  17. Manufacturing and Materials Handling Equipment (GP-016A);
  18. Temporary Equipment (GP-019A); and
  19. Equipment used for research and development meeting the applicability requirements specified in the General Permit.
- (d) For each general permit, the Department shall provide a registration form, the general permit itself, and a document entitled "General Procedures for General Permits."
- (e) The registration form shall include instructions for completing the form. The registration form shall require information identifying the registrant, identifying the source(s) which shall be covered by the registration, showing that the source meets the criteria for the general permit, and showing that the source will be operated in accordance with the general permit. In many cases, the registration form shall require the registrant to choose from among different options tailored to the source's size, operating characteristics, fuel used, and other parameters. Once the source is described or an option selected on the registration form, the registrant shall continue to operate the source within the parameters of the description and/or the selected option. The registration form shall require the registrant to certify the truth and accuracy of the information on the form. The certification shall meet the requirements of N.J.A.C. 7:27-1.39.
- (f) The general permit shall include all of the conditions and requirements which must be met in order to act under the authority of the general permit, including:
1. A description of the class of significant sources which qualify for the general permit, including an explanation of how many of each type of source may be covered by one general permit registration;
  2. All requirements which apply to the source and which are satisfied by the general permit;
  3. Any monitoring, recordkeeping or reporting requirements;
  4. If applicable, standards the source must meet to comply with N.J.A.C. 7:27-8.12, State of the art; and
  5. Citations to the laws or rules which form the basis for the requirements listed in (f)2 through 4 above.
- (g) The "General Procedures for General Permits" shall apply to all general permits, and shall include instructions for the use of general permits, a list of available general permits, and citations to regulatory provisions that apply to the use of general permits.

- (h) Some general permits apply to only one source, while others may apply to a class of sources located at the same facility. Each general permit shall specify whether it applies to a group or to a single source. If a general permit applies to only one source, and if several sources at one facility qualify for that general permit, a separate registration, including a fee, shall be submitted for each source.
- (i) The authority to act under a general permit begins upon the registrant's receipt of proof of the Department's receipt of the properly completed registration form (including the registration fee specified at N.J.A.C. 7:27-8.6). This proof can be a certified mail receipt, or a copy of the Department's written acknowledgment, issued under (k) below. A registrant may continue to act under the general permit for five years after the date of the proof of receipt, unless:
  - 1. A shorter term is specified in the general permit or the General Procedures for General Permits; or
  - 2. The Department amends the general permit based on a change to a law or regulation in accordance with (n) below.
- (j) The registrant is fully responsible for ensuring that the requirements of the general permit, the General Procedures for General Permits, and this section are complied with. If an owner or operator has registered a source under a general permit and the registration is incorrect or deficient, the owner or operator may be liable for penalties for acting without a permit or certificate. Examples of ways a registration might be incorrect or deficient include: if the registered source does not qualify for the general permit; if the registration was improperly completed; or if the registration did not include a key element such as required information or the correct fee.
- (k) The Department shall send an acknowledgment when a registration, including the appropriate fee, is received. However, the acknowledgment only indicates that the Department received the registration, and does not mean that the Department has reviewed or approved the registration. Therefore, if the registration is incorrect or deficient, the Department's acknowledgment does not in any way relieve the owner or operator from liability for penalties for any unauthorized activities.
- (l) A registrant shall operate within the conditions of the general permit. If the registration form allows the registrant to choose a particular option tailored to the source, the registrant shall operate the source within the parameters set forth in that option. Failure to operate within the parameters of the chosen option and within the general permit conditions shall constitute violation of a permit. If a registrant wants to make a change to a source which has been registered under a general permit, a new general permit registration is required, unless the changed source would remain within the class of sources which qualify for the general permit, and the source would continue to be operated in accordance with the parameters set forth in the option chosen in the registration.

- (m) To issue a general permit, or to amend an existing one, the Department shall draft a new or amended registration form and general permit, and shall publish a notice in the New Jersey Register that these documents are available for review and comment. When the comment period closes, the Department shall incorporate any changes the Department deems appropriate. The Department shall then announce the final general permit, and add it to the list of sources in (c) above, through a notice of administrative change published in the New Jersey Register.
- (n) If the Department changes an existing general permit, it shall notify each person who has registered under the general permit. The registrant shall comply with any applicable new requirements as follows:
  - 1. If the change to the general permit is required by a statute or regulation, a registrant shall comply by the date required for compliance in the statute or regulation. If the registrant cannot comply by that date, the registrant must stop operating the source or obtain by that date a source-specific permit and certificate which authorizes continued operation; and
  - 2. If the change to the general permit is not required by a statute or regulation, a registrant shall comply by the date which is 90 days after the date that the notice was received from the Department or the date when the registration, whichever is later. Thereafter, the registrant shall comply with the changed general permit.
- (o) A person who wishes to register a source under a general permit may obtain the registration form, the general permit, and the General Procedures for General Permits, at the address in N.J.A.C. 7:27-8.4(b).

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

- (a) A person may seek approval for a preconstruction permit and certificate for an environmental improvement pilot test, as defined at N.J.A.C. 7:27-8.1, of air pollution control equipment or other environmental clean-up equipment under this section.
- (b) An applicant for an environmental improvement pilot test shall ensure that the equipment shall comply with all applicable requirements, and that the activities shall not cause impacts outside the property boundary.
- (c) An applicant for an environmental improvement pilot test approval shall submit the application on a form obtained from the Department at the address in N.J.A.C. 7:27-8.4(b). The application shall meet the requirements of N.J.A.C. 7:27-8.4, and shall include information regarding the planned sampling, analysis, equipment or processes, potential environmental impacts, the length of time requested for the test, projected emission rates, and any other information necessary for the Department to ensure that the proposed activities fit within the definition of an environmental improvement pilot test at N.J.A.C. 7:27-8.1.

- (d) The Department shall take final action on the application within 30 days of its receipt of a complete application.
- (e) The Department shall determine the term of a permit and certificate for an environmental improvement pilot test approval on a case-by-case basis, but in no case shall the approval last longer than 90 days from the start of the actions covered by the environmental improvement pilot test approval. If the permittee wishes to extend the pilot test for 90 or fewer days, the permittee shall submit a new application for a preconstruction permit and operating certificate for an environmental improvement pilot test to the Department. The Department shall approve this application only if the applicant demonstrates that continued testing of the equipment or process is needed, and that the proposed activities remain within the definition of an environmental improvement pilot test at N.J.A.C. 7:27-8.1.
- (f) The fee for an environmental improvement pilot test is set forth at N.J.A.C. 7:27-8.6.
- (g) The holder of an environmental improvement pilot test approval shall keep records of product run time, emission testing performed, and other data relevant to the emission of air contaminants. These records shall be kept for a minimum of five years, and any relevant data obtained must be submitted with any future application covering the source.
- (h) Upon completion of the environmental improvement pilot test, the equipment involved shall cease operating, or shall return to operating under the conditions of the existing permit, if any. An environmental improvement pilot test approval does not constitute Departmental acceptance of equipment or a process for future production purposes.

**7:27-8.10 Public comment**

- (a) The Department shall seek comments from the general public prior to making any final decision on those applications for which such comment is required by State or Federal statutes. Such applications include, but are not limited to, those applications which:
  - 1. Are subject to the PSD requirements published at 40 CFR 52;
  - 2. Must be submitted to the EPA for approval as revisions to any state implementation plan; or
  - 3. Are subject to emissions offset requirements under N.J.A.C. 7:27-18.
- (b) The Commissioner of the Department may seek comments from the public whenever the Commissioner finds a significant degree of public interest in an application, or whenever the Commissioner determines such comments might clarify one or more issues involved in the decision on the application. In determining whether to seek or accept public comment, the Commissioner shall consider factors relevant to the subject application and the applicable requirements. These factors may include, but are not limited to, the following:

1. The extent of any emissions increase;
  2. The impact of any emissions increase on ambient air quality, human health and welfare, and the environment;
  3. The applicant's record of compliance with air pollution control requirements;
  4. Any other air pollution control aspects of the application or facility which might make the application of particular interest to the public.
- (c) The Department shall notify those who submitted a written request for public comment of the Commissioner's decision regarding their request. The Commissioner's notification shall be in writing, and if the decision is a denial, the notification shall include a discussion of the factors in (b) above, as well as a description of all other factors which formed the basis for the decision.

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

- (a) To obtain approval of a permit and certificate, a permit revision, or a compliance plan change, an applicant shall document that:
1. Each significant source included on the application meets all of the following standards which apply:
    - i. RACT requirements under N.J.A.C. 7:27-16 or 19;
    - ii. NSPS requirements;
    - iii. PSD requirements under 40 CFR 52.21; and
    - iv. All other applicable State or Federal air pollution control standards, codes, rules, or regulations; and
  2. Each significant source incorporates advances in the art of air pollution control (also called "state of the art" or "SOTA"), developed for the kind and amount of air contaminant emitted by the equipment and control apparatus, if:
    - i. The source meets the criteria at N.J.A.C. 7:27-8.12(a); and
    - ii. The applicant proposes to construct, install, reconstruct, or modify the source.

**7:27-8.12 State-of-the-art**

- (a) If an application proposes construction, installation, reconstruction, or modification of equipment and control apparatus that is a significant source meeting the following criteria, the applicant shall document state-of-the-art (SOTA) for the source:
  - 1. The equipment and control apparatus has a potential to emit any HAP or NJHAP at a rate equal to or greater than the SOTA Threshold at N.J.A.C. 7:27-17.9, Tables 3A and 3B; or
  - 2. The equipment and control apparatus has a potential to emit any other air contaminant or category of air contaminant, except carbon dioxide (CO<sub>2</sub>), at a rate equal to or greater than the SOTA threshold in Appendix 1, Table A incorporated herein by reference.
- (b) For equipment and control apparatus with the potential to emit an air contaminant that meets the SOTA criteria in (a) above, documentation of SOTA is only required for the air contaminant(s) that meets those criteria. Documentation of SOTA is not required for an air contaminant if the equipment's potential to emit that air contaminant does not meet the criteria in (a) above.
- (c) Documentation of SOTA is not required for equipment and control apparatus that has, for every air contaminant, a potential to emit that is less than the levels indicated in (a) above.
- (d) For purposes of determining whether a source meets the threshold levels in (a) above, the potential to emit an air contaminant shall be calculated separately for each piece of equipment. If the equipment is served by control apparatus, the equipment's potential to emit shall include fugitive emissions released from the equipment (but shall not include fugitive emissions released from the general infrastructure of the facility), and shall be calculated after controls, so that the effects of the control apparatus are included in the calculation of the equipment's potential to emit. This is consistent with the definition of "potential to emit" at N.J.A.C. 7:27-8.1. For example:
  - 1. If two or more separate pieces of equipment are to be vented through the same control apparatus, the relative contribution made by each piece of equipment to the emissions from the control apparatus shall be calculated. Using these relative contributions, the applicant shall calculate each piece of equipment's potential to emit; and
  - 2. If one piece of equipment is to be vented through two or more control apparatus, the applicant shall calculate the piece of equipment's potential to emit using the emissions from all of the control apparatus.
- (e) An applicant shall document SOTA by complying with all of the following that apply:

1. For an air contaminant subject to LAER (Lowest Achievable Emission Rate) requirements pursuant to N.J.A.C. 7:27-18, compliance with LAER requirements for that air contaminant represents SOTA. LAER is a case by case determination;
  2. For an air contaminant subject to BACT (Best Available Control Technology) requirements pursuant to 40 CFR 52.21, compliance with BACT requirements represents SOTA. BACT is a case-by-case determination;
  3. For an air contaminant that is a HAP, emitted by equipment for which MACT (Maximum Achievable Control Technology) requirements have been promulgated in 40 CFR Part 63, compliance with MACT requirements represents SOTA;
  4. For an air contaminant emitted by equipment for which New Source Performance Standards (NSPS) have been promulgated on or after August 2, 1995, compliance with the NSPS represents SOTA;
  5. For an air contaminant not subject to (e)1 through 4 above, SOTA shall be documented through one of the following options. The applicant may choose which option to pursue:
    - i. An applicant shall document compliance with a SOTA Manual (available from the Department at the address in N.J.A.C. 7:27-8.4(b)) that applies to the source;
    - ii. If the source is eligible for a general permit under N.J.A.C. 7:27-8.8, an applicant shall register for the general permit in accordance with N.J.A.C. 7:27-8.8; or
    - iii. An applicant shall document compliance with a case by case SOTA standard determined through the process detailed in (f) below.
- (f) A case-by-case SOTA standard shall be determined by the Department based on a demonstration by the applicant, using a "top down" approach. To perform a "top down" SOTA demonstration, the applicant shall:
1. Identify and evaluate a list of air pollution control technologies or measures that may be applied to the source. This list shall not be limited to measures that have been applied to other existing sources in this same source category. The list shall include measures applied to sources in similar source categories, as well as innovative control technologies, modification of the process or process equipment, other pollution prevention measures, and combinations of the above measures; and



2. Arrange the measures on the list in descending order of air pollution control effectiveness. The first-listed or "top" measure shall constitute SOTA for the source unless the applicant provides one of the following:
  - i. A demonstration that the top measure should be eliminated from consideration because it is technically infeasible, based on physical, chemical, or engineering principles, and/or technical difficulties that would prevent the successful application of the measure;
  - ii. A demonstration that the top measure should be eliminated from consideration based on its environmental impacts. The justification shall show that the adverse environmental effects of the top measure (for example, effects on water or land, HAP or NJHAP emissions, or increased environmental hazards), when compared with its air contaminant emission reduction benefits, would make use of the top measure unreasonable;
  - iii. A demonstration that the top measure should be eliminated from consideration based on its economic impacts. The justification shall show that the total and incremental costs of the top measure are greater than the total and incremental costs of the proposed measure(s); and that the extra costs, when compared with the air contaminant emission reduction benefits resulting from the top measure, would make use of the top measure unreasonable. All costs shall be calculated using the techniques in the latest edition of EPA's control cost manual; or
  - iv. A demonstration that the top measure should be eliminated from consideration based on its energy impacts. The justification shall show that the top measure uses fuels that are not reliably available; or that the energy consumed by the top measure is greater than the proposed measure(s), and that the extra energy used, when compared with the air contaminant emission reduction benefits resulting from the top measure, would make use of the top measure unreasonable; and
3. If the top measure is eliminated from consideration under any of the provisions at (f)2i through iv above, the applicant shall evaluate each successive measure on the list, using the procedures described in (f)2 above, until a measure is reached that is not eliminated. Upon the Department's approval of the SOTA demonstration, this measure shall constitute the case by case SOTA for the source.

**7:27-8.13 Conditions of approval**

- (a) The Department may establish conditions of approval of any preconstruction permit or certificate application.
- (b) The Department may change the conditions of approval of a certificate:

1. At the time of renewal of a temporary operating certificate;
  2. At the time of approval or renewal of a five-year operating certificate; or
  3. At any time during the period a certificate is in effect, if the Department determines that such change is necessary to protect human health or welfare or the environment.
- (c) Upon request of the Department, a permittee shall submit to the Department information relevant to the operation of equipment and control apparatus including, but not limited to:
1. A diagram of the facility indicating the location of any equipment and control apparatus, its applicable preconstruction permit and certificate number, any stack designation assigned by the Department, and any stack designation assigned by the person;
  2. Records documenting any use of any equipment, control apparatus, or other source operation including, but not limited to, rate of production and hours of operation; and
  3. Records documenting any construction or installation of any equipment or control apparatus, including the dates of such construction or installation.
- (d) The Department may include, as a condition of approval, a compliance plan. The compliance plan shall include monitoring, recordkeeping, and reporting requirements. Such requirements may include:
1. Periodic testing of any process materials or source emissions, or measurement of the ambient concentration of any air contaminant. The testing or measurement shall be conducted in accordance with a standard testing procedure acceptable to the Department or a source-specific testing protocol approved in advance by the Department, if such a protocol is required in the conditions of approval of the preconstruction permit or certificate;
  2. Installation, operation, and maintenance of instrumentation and sensing devices to measure, either at specified intervals or continuously:
    - i. The kind and amount of any air contaminant emitted;
    - ii. Operating parameters relevant to determination of potential for air contaminant emissions, such as opacity, pH, flow rate, pressure drop, and temperature at specified process points; and
    - iii. Ambient concentrations of air contaminants;

3. Recordkeeping including, but not limited to, information pertaining to air contaminant emissions, process operations, maintenance, raw material usage or concentrations, and operations of equipment and control apparatus. Such records shall be kept in a manner approved by the Department and be available on the operating premises for review by the Department or its representatives; and
  4. Reporting to the Department such information as analysis and monitoring results, data concerning air contaminant emissions and operating parameters, and other information needed to verify that the equipment and control apparatus complies with the permit and certificate. Such information shall, pursuant to the conditions of the preconstruction permit or certificate, be reported periodically, in conformance with a schedule, or within a specified number of days of the occurrence of a violation or other event.
- (e) The Department may establish, as a condition of approval of any certificate a schedule of periodic compliance inspections to which the equipment or control apparatus is subject.
- (f) The Department may include, as a condition of approval of a certificate, a condition providing that the Department may, by written notice to the permittee, convert the certificate to a temporary operating certificate.
- (g) If the conditions of a preconstruction permit or certificate require the Department to incur any of the following charges, the person to whom the Department has issued the preconstruction permit or certificate shall reimburse the Department for the full amount of these charges:
1. The charges billed by any telephone company for the maintenance of a dedicated telephone line required by the conditions of approval of a preconstruction permit or certificate for the electronic transmission of data; or
  2. The charges billed by any laboratory for performing the analysis of audit samples collected pursuant to testing or monitoring required by the conditions of approval of a permit or certificate.
- (h) Any information contained in an approved application and any condition of approval thereof, are subject to enforcement. This includes the following application information, which shall constitute maximum allowable limits, unless the Department establishes other limits in the conditions of approval:
1. Rates of emission of each air contaminant and each category of air contaminant listed;
  2. Total hours of operation per time period; and
  3. Any rate of production.

- (i) A permittee shall, when requested by the Department, provide such testing facilities exclusive of instrumentation and sensing devices as may be necessary for the Department to determine the kind and amount of air contaminants emitted from the equipment or control apparatus. The testing facilities shall include the utilities, the structure to hold testing equipment and/or personnel, and any ports in stacks needed to carry out testing required by the permit. During testing by the Department, the equipment and control apparatus shall be operated under such conditions within their capacities as may be requested by the Department. The testing facilities may be either permanent or temporary, at the discretion of the person responsible for their provision, and shall conform to all applicable laws, regulations, and rules concerning safe construction and safe practice. Testing facilities which contain platforms and other means of personnel access shall conform to OSHA standards.

#### **7:27-8.14 Denials**

- (a) The Department shall deny an application if anything proposed in the application would result in:
  - 1. A violation of a provision of N.J.A.C. 7:27;
  - 2. An exceedance of a State or Federal ambient air quality standard;
  - 3. An exceedance of an applicable PSD increment as defined in 40 CFR Part 52;
  - 4. A violation of an applicable NSPS;
  - 5. A violation of an applicable NESHAP, including a MACT standard;
  - 6. A violation of a Federal stack height or emission dispersion requirement as stated in 40 CFR Part 51;
  - 7. A contravention of other criteria established by the Department to protect human health and welfare and the environment;
  - 8. A violation of an administrative order; or
  - 9. A violation of a State or Federal standard or requirement.
  - 10. A violation of a provision at N.J.A.C. 7:27F, Control and Prohibition of Carbon Dioxide Emissions.
- (b) The Department shall deny an application for a preconstruction permit unless the applicant shows, to the satisfaction of the Department, that the equipment meets the requirements of N.J.A.C. 7:27-8.11, Standards for issuing permits.

- (c) The Department may deny an application for a preconstruction permit or certificate if the applicant fails to provide all information requested by the Department within 30 days after the request, or within a longer response period if approved in writing by the Department. If an application is denied, the applicant may reapply, and the new application shall meet all application requirements, including the fee requirement.
- (d) The Department may deny an application for a certificate, or a renewal thereof, if the applicant has failed to:
  - 1. Pay any outstanding service fees, charged in accordance with the schedules contained in N.J.A.C. 7:27-8.6, within 60 days of receipt of a fee invoice; or
  - 2. Reimburse the Department within 60 days of receipt of an invoice for any of the following charges incurred by the Department:
    - i. The charges billed by any telephone company for the maintenance of a dedicated telephone line required by the conditions of approval of a preconstruction permit or certificate for the electronic transmission of data; or
    - ii. The charges billed by any laboratory for performing the analysis of audit samples collected pursuant to testing or monitoring required by the conditions of approval of a preconstruction permit or certificate.

#### **7:27-8.15 Reporting requirements**

- (a) Upon the request of the Department, any person holding a preconstruction permit or certificate shall submit to the Department any record relevant to any permit or certificate. Such record shall be submitted to the Department within 30 days of the request by the Department or within a longer time period if approved in writing by the Department.
- (b) A permittee shall submit any required report in a format and on a schedule approved by the Department. Such report shall be transmitted on paper, by hand delivery, on computer disk, or electronically, at the discretion of the Department.
- (c) Any person submitting any report, notice or record to the Department shall include, as an integral part of the report, notice or record, certifications complying with N.J.A.C. 7:27-1.39.
- (d) Upon the request of the Department, any person to whom the Department has issued a certificate shall report on forms obtained from the Department the air contaminant actual emissions, and information relevant thereto, of any air contaminant or category of air contaminants emitted by the equipment, control apparatus, or source operation.
- (e) A preconstruction permit shall contain all applicable requirements at N.J.A.C. 7:27F, Control and Prohibition of Carbon Dioxide Emissions, including, but not limited to,

sufficient monitoring, recordkeeping, and reporting requirements necessary to ensure compliance with all applicable requirements.

**7:27-8.16 Revocation**

- (a) The Department may revoke a permit or certificate if the permittee:
1. Uses, or allows to be used, equipment or control apparatus not in compliance with the permit or certificate, or with any applicable Federal, or State law, regulation, or rule;
  2. Takes 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 22, without complying with the applicable provision;
  3. Fails to allow lawful entry by authorized representatives of the Department, pursuant N.J.A.C. 7:27-1.31;
  4. Fails to pay any penalty assessed pursuant to a final order issued by the Department;
  5. Fails to pay any outstanding service fees, charged in accordance with the schedules contained in N.J.A.C. 7:27-8.6, within 60 days of receipt of a fee invoice or, in the case of a renewal of a certificate, by the date of expiration of the certificate being renewed;
  6. Fails to reimburse the Department within 60 days after receipt of an invoice for any of the following charges incurred by the Department:
    - i. The charges billed by any telephone company for the maintenance of a dedicated telephone line required by the conditions of approval of a preconstruction permit or certificate for the electronic transmission of data; or
    - ii. The charges billed by any laboratory for performing the analysis of audit samples collected pursuant to monitoring any testing required by the conditions of approval of a preconstruction permit or certificate; or
  7. Fails to dispose lawfully of all aqueous and solid wastes generated as a result of the operation of the equipment or control apparatus.
- (b) The Department may withdraw its approval of a preconstruction permit or permit revision, if the permittee:

1. Does not begin the activities authorized by the permit or permit revision within one year from the date of its approval; or
  2. Discontinues the activities authorized by the permit or permit revision for a period of more than one year.
- (c) The Department may revoke its approval of an application, if it determines that the approval authorizes a contravention of Federal or State laws, regulations, rules, or procedural requirements.
- (d) A notice of revocation issued by the Department shall be in writing.

**7:27-8.17 Changes to existing permits and certificates**

- (a) There are several ways to change a permit and certificate once it is issued. They are described in N.J.A.C. 7:27-8.18 through 8.23. Some require prior approval from the Department, while others merely require notice to the Department, before or after the change.
- (b) If an action or change fits under more than one of the sections listed at (b)1 through 4 below, it shall be submitted and reviewed through the most comprehensive of the sections which apply. The list of permit change sections at (b)1 through 4 below has the most comprehensive section listed first, and the others arranged in descending order. For example, if a permittee plans a change which fits under both the compliance plan change section (paragraph (b)2 below) and the seven-day-notice change section (paragraph (b)3 below), the change shall be submitted as a compliance plan change, because that is listed first, as it is the more comprehensive of the two sections. The permit change sections are:
1. Permit revisions (N.J.A.C. 7:27-8.18);
  2. Compliance plan change (N.J.A.C. 7:27-8.19);
  3. Seven-day-notice change (N.J.A.C. 7:27-8.20);
  4. Amendment (N.J.A.C. 7:27-8.21).
- (c) A permittee shall submit an application for a permit revision, an application for a compliance plan change, a notice of a seven-day-notice change or a notice of amendment in accordance with N.J.A.C. 7:27-8.4(b) and (c). The permittee shall submit the applicable fee in accordance with N.J.A.C. 7:27-8.6(b).
- (d) If a permittee wishes to submit an application for, or a notice of, a change to an existing permit electronically, the permittee may do so only if:
1. The permit was originally applied for electronically through RADIUS; or

2. The complete application information is submitted electronically, through RADIUS, prior to, or simultaneously with, the submittal of the permit change.
- (e) None of the changes listed at (b)1 through 4 above shall change the renewal date of the preconstruction permit's operating certificate.

**7:27-8.18 Permit revisions**

- (a) The following actions require prior approval from the Department through a permit revision:
1. A request for an increase in a maximum allowable emission limit, including correction of a typographical error or inaccurate calculation, if the correction would result in a higher maximum allowable emission limit;
  2. An action that shall:
    - i. Increase actual emissions, to a rate or concentration greater than a maximum allowable emission limit; or
    - ii. Cause the emission of a new air contaminant not specified in the permit and certificate. If the permit and certificate allows emission of a group of air contaminants, such as "total VOCs," or "total particulates," then any non-HAP air contaminant in that group is considered to be specified in the permit and certificate;
  3. Use of a new raw material not specified in the permit, if the use would cause any of the following results (if the use would not cause any of these results, it shall be processed as a seven-day-notice pursuant to N.J.A.C. 7:27-8.20, or as an amendment pursuant to N.J.A.C. 7:27-8.21):
    - i. An increase in actual emissions, to a rate or concentration greater than a maximum allowable emission limit;
    - ii. Emission of a new air contaminant not specified in the permit and certificate, at a level that meets or exceeds the applicable reporting threshold at N.J.A.C. 7:27-8 Appendix 1, Table A, incorporated herein by reference, or at 17.9, Tables 3A and 3B; or
    - iii. The source to become subject to a requirement that did not previously apply;
  4. A reconstruction, as described at N.J.A.C. 7:27-8.23, unless the reconstructed source has the potential to emit each of the air contaminants listed at N.J.A.C. 7:27-8 Appendix 1, Table A, incorporated herein by reference, and at 17.9, Tables



3A and 3B, in amounts less than the applicable SOTA threshold level; in that case, the owner or operator of the source shall notify the Department of the reconstruction using the amendment procedures set forth at N.J.A.C. 7:27-8.21;

5. Any of the following changes, if the change would cause the ground level concentration of an air contaminant to increase in that portion of the atmosphere, external to buildings, to which the general public has access;
    - i. The replacement of an existing stack or chimney with a shorter stack or chimney;
    - ii. A change in the number of stacks or chimneys serving a source, which results in any discharge height less than that of the tallest stack or chimney existing prior to the change;
    - iii. An increase in the diameter of a stack or chimney; or
    - iv. A decrease in the exit temperature or volume of gas emitted from a stack or chimney;
  6. Except as allowed at N.J.A.C. 7:27-8.21(b)6, the replacement of an entire permitted significant source with a replacement source. For the purposes of this section, replacement means that the replacement source will take the place of the replaced source in the manufacturing process, and the replaced source will be permanently shut down; or
  7. Construction or installation of a new significant source (including a control apparatus), if there are existing, permitted sources onsite, and the new source could, under N.J.A.C. 7:27-8.4(h), be combined on one permit application with the existing permitted sources. If the new source could not be combined under one permit with existing permitted sources under N.J.A.C. 7:27-8.4(h), installation of the new source would require a new permit of its own.
- (b) To obtain Department approval of a permit revision, the applicant shall demonstrate that the source shall meet the requirements of N.J.A.C. 7:27-8.11, Standards for issuing permits.

#### **7:27-8.19 Compliance plan changes**

- (a) The following actions require prior Department approval of a compliance plan change:
  1. A decrease in the frequency of testing, monitoring, recordkeeping or reporting, to below the frequency specified in the permit and certificate;
  2. A change in monitoring method;

3. A change in a level, rate, or limit for an operational parameter if:
    - i. The change would cause the source to operate outside of the range set by the permit for that parameter;
    - ii. The parameter is required under the permit and certificate to be tested, monitored, recorded, or reported to the Department; and
    - iii. The level, rate, or limit is not an emission limit; and
  4. A reduction in a source's potential to emit, through any of the actions listed at i through iii below. The permittee may take these actions without contacting the Department, but the reduction in potential to emit does not take effect until the Department approves the compliance plan change, making the emission decrease Federally enforceable. Until Department approval, the source's potential to emit remains unchanged. The following types of actions may be taken to reduce potential to emit under this paragraph:
    - i. A decrease in a maximum allowable emission rate;
    - ii. A decrease in maximum allowable hours of operation per time period (number of batches per time period for batch operations); or
    - iii. A decrease in maximum allowable production rate (production amount per batch for batch operations).
- (b) The applicant may not proceed with a compliance plan change until the Department issues a written approval of the change, except for emission decreases that are not reflected in a change to a source's potential to emit made under (a)4 above.

**7:27-8.20 Seven-day-notice changes**

- (a) A seven-day-notice change allows a permittee to proceed with a change seven days after the notice of the seven-day-notice change is submitted to the Department. A person acting under the authority of a seven-day-notice change does so at risk. Should the Department determine that an action was incorrectly processed as a seven-day-notice change, and should have been processed as a compliance plan change or permit revision, the permittee may be subject to penalties for noncompliance with this subchapter.
- (b) A seven-day-notice may be used for the following:
1. A change made to a permitted source which meets all three of the following requirements:
    - i. The action is a physical or operational change that is outside the scope of activities allowed by the permit;

- ii. The action has the potential to result in an increase in actual emissions, but will not increase emissions over the allowable limits in the permit and certificate; and
    - iii. The action will not alter stack parameters or characteristics so as to cause the ground level concentration of an air contaminant to increase in that portion of the atmosphere, external to buildings, to which the general public has access; or
  2. Notice indicating that an applicant plans to act at risk under the authority of N.J.A.C. 7:27-8.24 or 8.25.
- (c) A permittee shall submit a seven-day-notice for construction or installation of a new insignificant source (as defined at N.J.A.C. 7:27-8.1), if the emissions from the insignificant source shall be released through the same control device as emissions from an existing, permitted significant source.
- (d) A permittee shall not, pursuant to (b)1 above, use a seven-day-notice for a change that would:
  1. Result in emissions exceeding permit limits; or
  2. Result in emission of a new air contaminant at a level that would cause the source's potential to emit to exceed reporting thresholds at N.J.A.C. 7:27-8 Appendix 1, Table A, incorporated herein by reference, or at 17.9, Tables 3A and 3B.
- (e) The Department shall separately evaluate each change submitted under (b)1 above to determine its effect on actual emissions. If a change, evaluated alone, would cause an increase in actual emissions (but not to a level over permit allowables), it shall be processed through a seven-day-notice, regardless of whether other, simultaneous changes might reduce emissions to compensate for the increase. For example, if a permittee plans two changes, one increasing emissions (but not to a level over permit allowables), and one reducing emissions by the same amount, the change which increases emissions shall be processed through a seven-day-notice. Similarly, the Department shall separately evaluate each change submitted under (b)1 above to determine its effect on allowable emissions. If a change, evaluated alone, would cause a permit limit to be exceeded, it may not be processed through a seven-day-notice, regardless of whether other, simultaneous changes might reduce emissions to compensate for the increase. For example, if a permittee plans two changes, one increasing emissions over a permit limit, and one reducing emissions by the same amount, the change which increases emissions may not be processed through a seven-day-notice. Instead, the change shall be submitted as a permit revision under N.J.A.C. 7:27-8.18.
- (f) The Department shall send an acknowledgment when it receives a notice of a seven-day-

notice change. However, the acknowledgment only indicates the date upon which the Department received the notice. It does not mean that the Department has reviewed or approved the notice. Therefore, if the notice is incomplete or deficient, the Department's acknowledgment does not in any way relieve the owner or operator from liability for penalties for any unauthorized activities.

- (g) If all of the requirements of this section are met, the permittee may begin the actions proposed in the notice of a seven-day-notice change starting seven days after the notice has been submitted to the Department.
- (h) The permittee shall maintain a copy of each notice of a seven-day-notice change with the permit and certificate maintained at the facility.

### **7:27-8.21 Amendments**

- (a) An amendment allows a permittee or a registrant to proceed with a change to a permitted source, or to its permit or certificate, or to a registration, provided that the permittee or registrant submits a notice of the change within 120 days after the start of the change. This subchapter refers to such a notice as a notice of amendment.
- (b) A permittee shall notify the Department of the following changes as an amendment:
  - 1. A change in the permit and certificate information which allows the Department to identify and contact the permittee, including company name or mailing address; division name; plant name or address; name or address of any owner's agent; or name or telephone number of the on-site facility manager, any additional plant contact, or of any responsible official (as defined at N.J.A.C. 7:27-1.4);
  - 2. A transfer of ownership or operational control of the source or the facility;
  - 3. A change to the name, number, or designation given to any equipment or stack in the permit or certificate;
  - 4. Any of the following changes to a permitted source's stack or chimney or the use thereof, if the change complies with EPA stack height regulations at 40 CFR Part 51:
    - i. A change in the number of stacks or chimneys serving the source, if the change does not result in any discharge height less than that of the tallest stack or chimney existing prior to the change;
    - ii. A decrease in the diameter of a stack or chimney, if the exhaust is vented upward;
    - iii. The replacement of an existing stack or chimney with a taller stack or chimney, if this results in an effective stack height which is no less than

- that existing before the change; or
- iv. An increase in the exit temperature or volume of gas emitted from a stack or chimney;
5. The use in a permitted source of a new raw material not specified in the permit (including a change in the contents of a storage tank or container), or a change in the source's use of a raw material outside the limits in the permit, if the change would not cause any of the following:
    - i. An increase in actual emissions;
    - ii. Emission of a new air contaminant not specified in the permit and certificate, at a level that meets or exceeds the applicable reporting threshold in N.J.A.C. 7:27-8 Appendix 1, Table A, incorporated herein by reference, or at 17.9, Tables 3A and 3B; or
    - iii. The source to become subject to a requirement that did not previously apply;
  6. Replacement of an entire permitted source with a replacement source that performs the same function as the replaced source and which, for each air contaminant listed in N.J.A.C. 7:27-8 Appendix 1, Table A, incorporated herein by reference, and 17.9, Tables 3A and 3B, that the replacement source may emit, has a potential to emit the air contaminant in an amount that is less than the applicable SOTA threshold level in N.J.A.C. 7:27-8 Appendix 1, Table A, incorporated herein by reference, and 17.9, Tables 3A and 3B;
  7. Correction of a typographical error, unless the correction would result in an increase in the actual or allowable emissions. If the correction would result in such an increase, the permittee shall:
    - i. File a permit revision under N.J.A.C. 7:27-8.18(a)1ii; or
    - ii. If the change does not meet the criteria for a permit revision at N.J.A.C. 7:27-8.18(a)1ii, the permittee shall submit a seven-day-notice under N.J.A.C. 7:27-8.20; and
  8. A reconstruction, as described at N.J.A.C. 7:27-8.23, provided that the reconstructed source has the potential to emit each air contaminant listed in N.J.A.C. 7:27-8 Appendix 1, Table A, incorporated herein by reference, and 17.9, Tables 3A and 3B, in amounts less than the applicable SOTA threshold level.
- (c) The permittee shall maintain a copy of each amendment with the permit and certificate maintained at the facility.

- (d) A registrant who submitted a registration form to the Department shall submit a notice of amendment to the Department to notify the Department of:
  - 1. A change in the facility name, mailing address, facility contact, and name of the responsible official who signs the certification (as responsible official is defined at N.J.A.C. 7:27-1.4); and
  - 2. Transfer of ownership or operational control of the facility.
- (e) A permittee of a facility, who is also a registrant of equipment in the same facility, may effect a change in the facility identification information required under both N.J.A.C. 7:27-8.21(b)1 and (d)1 by submitting a single notice of amendment to the Department.
- (f) A permittee of a facility, who is also a registrant of equipment in the same facility, may notify the Department of a transfer of ownership or operational control of the facility, in accordance with N.J.A.C. 7:27-8.21(b)2 and (d)2, by submitting a single notice of amendment to the Department.

**7:27-8.22 Changes to sources permitted under batch plant, pilot plant, dual plant, or laboratory operations permitting procedures**

- (a) To make a change to a permit issued using the NJDEP Batch Production Plant Permit Procedure, refer to the procedures in technical manual number 1301, which covers certain batch plant permits. Technical manual 1301 is available at the address listed in N.J.A.C. 7:27-8.4(b).
- (b) To make a change to a permit issued using the NJDEP Pilot Plant Permit Procedure, refer to the procedures in technical manual number 1302, which covers certain pilot plant permits. Technical manual 1302 is available at the address listed in N.J.A.C. 7:27-8.4(b).
- (c) To make a change to a permit issued using the NJDEP Dual Plant Permit Procedure, refer to the procedures in technical manual number 1302, which covers certain dual plant permits. Technical manual 1302 is available at the address listed in N.J.A.C. 7:27-8.4(b).
- (d) To make a change to a permit issued using the NJDEP Laboratory Operations Permit Procedure, refer to the procedures in technical manual number 1211, which covers certain laboratory operations permits. Technical manual 1211 is available at the address listed at N.J.A.C. 7:27-8.4(b).
- (e) If the applicable technical manual referenced in (a) through (d) above does not provide a procedure for making the desired change, the change shall be processed through the applicable provisions of N.J.A.C. 7:27-8.17 through 8.21.

**7:27-8.23 Reconstruction**

- (a) A reconstruction is a replacement of part(s) of a significant source included in a process

unit, or the replacement of part(s) of a 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. The Department shall publish this threshold dollar amount each November in the same New Jersey Register notice in which it publishes the current CPI and annual emission fee as required by N.J.A.C. 7:27-22.31(j);
- (b) When evaluating whether a replacement of part(s) amounts to a reconstruction, the process unit and the control apparatus are considered separately. Thus, when determining the fixed capital cost of reconstructing a new process unit, the control apparatus serving the process unit is not included.
- (c) The replacement of an entire significant source operation or control apparatus is not a reconstruction, regardless of its cost. Rather, it is construction, as defined at N.J.A.C. 7:27-8.1, and must be authorized through one of the following:
1. Department issuance of a new permit or
  2. If allowed under N.J.A.C. 7:27-8.21(b)6, an amendment.
- (d) A reconstruction of a permitted source shall be submitted and reviewed under the procedures for a permit revision at N.J.A.C. 7:27-8.18. If a replacement of part(s) of a permitted source does not constitute a reconstruction under (a) above, it may still require notice to the Department under the seven-day-notice or amendment provisions or Departmental approval of a permit revision, if the replacement meets one or more of the other criteria requiring either notice or a permit revision under N.J.A.C. 7:27-8.18 through 8.23.
- (e) If a source is not covered by a permit and certificate, and a reconstruction is planned, the owner or operator of the source shall obtain a permit and certificate for the source pursuant to N.J.A.C. 7:27-8.3(a). If a replacement of part(s) of an unpermitted source does not constitute a reconstruction under (a) above, it would still require a permit if the replacement would result in an increase in actual emissions or would otherwise meet one or more of the other criteria set forth at N.J.A.C. 7:27-8.18 through 8.23 which determine when a permit revision is required. In that case, the replacement would constitute a modification and a permit shall be obtained for the source as required at N.J.A.C. 7:27-8.3(a).

**7:27-8.24 Special provisions for construction but not operation**

- (a) As provided in N.J.S.A. 26:2C-9.2j, an applicant may construct, reconstruct, install, and/or put in place a source, including a control apparatus, while the Department reviews an application if:
1. The applicant has submitted a complete application to the Department, proposing the construction, reconstruction, installation, and/or placement of the source;
  2. The applicant only constructs, reconstructs, installs, and/or places the source on footings or a foundation, and does not test or operate it;
  3. The construction, reconstruction, installation, and/or placement is carried out as proposed in the application;
  4. The construction, reconstruction, installation, and/or placement is not prohibited by any Federal law or requirement, including but not limited to PSD requirements, offsets requirements set forth at N.J.A.C. 7:27-18, MACT requirements, or acid rain requirements at 40 CFR Part 72; and
  5. All other requirements of this section are met.
- (b) To act under the authority of this section, the applicant shall notify the Department in writing seven days prior to beginning the activities listed in (a) above. This notice shall be submitted in accordance with the procedure for a seven-day-notice change at N.J.A.C. 7:27-8.20, and shall include the fee for a seven-day-notice set forth at N.J.A.C. 7:27-8.6.
- (c) This section does not limit the Department in establishing construction, installation, maintenance, or operating standards, nor in reviewing any application.
- (d) Costs incurred by the applicant in connection with actions taken under this section may not be used as grounds for an appeal of the Department's decision on the application.
- (e) If the Department determines that the applicant has acted inconsistently with applicable law by any action taken under this section, the applicant shall be subject to penalties if the action has caused emissions of any air contaminant.

**7:27-8.25 Special provisions for pollution control equipment or pollution prevention process modifications**

- (a) As provided at N.J.S.A. 26:2C-9.3 and 9.4, a private entity, as defined at N.J.A.C. 7:27-8.1, may proceed with the following activities while an application covering those activities is being reviewed by the Department:
1. Construction, installation, reconstruction or operation of control apparatus serving an existing source; or
  2. Implementation of a pollution prevention process modification, as defined at



N.J.A.C. 7:27-8.1, involving one or more existing sources.

- (b) This section does not authorize any activities which:
  - 1. Are prohibited under the Federal Clean Air Act;
  - 2. Shall result in increased emissions;
  - 3. Shall result in emission of an air contaminant not previously emitted; or
  - 4. If the source is covered by a permit or certificate, shall result in air contaminant emissions which are not authorized under that permit or certificate.
- (c) To act under the authority of this section, the applicant shall:
  - 1. Have submitted a complete application covering activities listed at (b) above; and
  - 2. Notify the Department in writing seven days prior to beginning the activities listed in (b) above. This notice shall be submitted in accordance with the procedure for a seven-day-notice change at N.J.A.C. 7:27-8.20, and shall include the fee for a seven day notice set forth at N.J.A.C. 7:27-8.6.
- (d) An applicant who acts under the authority of this section assumes all risks for the actions. If an applicant pursues activities under this section, and the Department does not approve the activities as proposed in the application, the applicant may be required to reverse the activities, and may be liable for penalties for the activities under (h) below.
- (e) This section does not limit the Department in establishing standards, nor in reviewing any application.
- (f) Costs incurred by the applicant in connection with actions taken under this section may not be used as grounds for an appeal of the Department's decision on the application.
- (g) If the Department determines that actions taken at risk by the applicant under this section are inconsistent with applicable law, the Department and the applicant shall enter into an agreement. The agreement shall contain a date by which the applicant shall comply with the law. If the Department and the applicant fail to enter into an agreement, the Department may issue a schedule setting forth a date by which the applicant shall comply.
- (h) If the applicant fails to comply with the schedule set under (g) above, the applicant shall be subject to penalties if the applicant's actions have caused:
  - 1. Emission of an air contaminant not previously being emitted;
  - 2. Emission of an air contaminant not authorized by an existing permit; or

3. An exceedance of an emission limit in an existing permit.

**7:27-8.26 Civil or criminal penalties for failure to comply**

Any person who is subject to this chapter and who fails to conform to its requirements may be subject to civil penalties in accordance with N.J.A.C. 7:27A-3 or criminal penalties pursuant to N.J.S.A. 26:2C-19(f) or both.

**7:27-8.27 (Reserved)**

**7:27-8.28 Delay of testing**

(a) A permittee may seek the approval of the Department for a delay in testing required pursuant to N.J.A.C. 7:27-8.4(f), 8.7(f), or 8.13(d). In such case the following applies:

1. The permittee shall submit a request for such approval on paper to the address given at N.J.A.C. 7:27-8.4(b) and to the appropriate regional enforcement office indicated at (a)1i, ii, or iii below, or to the address specified on the Department's website at <http://www.nj.gov/dep/easyaccess/compenf.htm#Aircompenf>;

- i. If the permitted source is located in Burlington, Mercer, Middlesex, Monmouth or Ocean County:

Department of Environmental Protection  
Bureau of Air Compliance & Enforcement -Central  
401 E State St  
Mail Code 22-03A  
PO Box 420  
Trenton, NJ 08625-0420.

- ii. If the permitted source is located in Bergen, Essex, Hudson, Hunterdon, Morris, Passaic, Somerset, Sussex, Union, or Warren County:

Department of Environmental Protection  
Bureau of Air Compliance & Enforcement -Northern  
7 Ridgedale Avenue  
Cedar Knolls, NJ 07927.

- iii. If the permitted source is located in Atlantic, Camden, Cape May, Cumberland, Gloucester, or Salem County:

Department of Environmental Protection  
Bureau of Air Compliance & Enforcement - Southern  
2 Riverside Drive, Suite 201  
Camden, NJ 08103.

2. A request for a delay in testing shall include the following information, at a minimum:
    - i. Justification why the delay in testing is necessary;
    - ii. A proposed test date or a proposed set of conditions that would define a future test date; and
    - iii. Certification signed by the responsible party at the facility and in accordance with the certification procedures at N.J.A.C. 7:27-1.39.
  3. The Department shall approve each initial request for a delay in testing of up to 90 days, and any subsequent request for a delay in testing, only if one of the following criteria is met:
    - i. The test was delayed due to a Department delay, such as if the protocol is still under review/negotiation, but only if the protocol was submitted in a timely fashion;
    - ii. The equipment which is to be tested had not been installed;
    - iii. The requirement for testing is a Federal requirement, and the EPA has given its approval in writing of the delay in testing; or
    - iv. The permittee has described in writing an impediment to the testing, which, based on its review of documentation submitted by the permittee, the Department has determined is a valid reason for further delaying the testing.
- (b) In a request for a delay of testing, submitted pursuant to (a) above, a permittee may include a waiver of its right to assert that its emissions during the period of delay were any different than the emissions measured by the test when performed (or, if applicable, the emissions calculated based on the measurements taken).

## APPENDIX 1

**TABLE A**  
**Reporting and SOTA thresholds**  
**(Potential to emit)**

| <u>Air contaminant</u>  | <u>Reporting<br/>Threshold<br/>(in lbs/hour)</u> | <u>SOTA Threshold<br/>(in tons/yr)</u> |
|---|--|--|
| Total VOC   | 0.05   | 5.0                                    |
| TSP   | 0.05   | 5.0                                    |
| PM <sub>10</sub>  | 0.05   | 5.0                                    |
| PM <sub>2.5</sub>   | 0.05   | 5.0                                    |
| NO <sub>x</sub>   | 0.05   | 5.0                                    |
| CO  | 0.05   | 5.0                                    |
| SO <sub>2</sub>   | 0.05   | 5.0                                    |
| <u>Any air contaminant<br/>listed in footnote<sup>1</sup></u> | 0.05   | 5.0                                    |

<sup>1</sup> Any 112 (r) contaminant; any stratospheric ozone depleting substance, or any greenhouse gas except carbon dioxide (CO<sub>2</sub>).