

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
NEW JERSEY ADMINISTRATIVE CODE
TITLE 7
CHAPTER 27
SUBCHAPTER 22

Operating Permits

TABLE OF CONTENTS

Section	Page
REGULATORY HISTORY	3
7:27-22.1 Definitions	7
7:27-22.2 Applicability	38
7:27-22.3 General provisions	42
7:27-22.4 General application procedures	48
7:27-22.5 Application procedures for initial operating permits	50
7:27-22.6 Operating permit application contents	53
7:27-22.7 Application shield	58
7:27-22.8 Air quality simulation modeling and risk assessment	59
7:27-22.9 Compliance plans	61
7:27-22.10 Completeness review	64
7:27-22.11 Public comment	65
7:27-22.12 EPA comment	68
7:27-22.13 Final action on an application	69
7:27-22.14 General operating permits	70
7:27-22.15 Temporary facility operating permits	73
7:27-22.16 Operating permit contents	74
7:27-22.17 Permit shield	79
7:27-22.18 Source emissions testing and monitoring	80
7:27-22.19 Recordkeeping, reporting and compliance certification	84
7:27-22.20 Administrative amendments	88
7:27-22.21 Changes to insignificant source operations	91
7:27-22.22 Seven-day-notice changes	92
7:27-22.23 Minor modifications	95
7:27-22.24 Significant modifications	101
7:27-22.24A Reconstruction	103
7:27-22.25 Department initiated operating permit modifications	104
7:27-22.26 MACT and GACT standards	106
7:27-22.27 Operating scenarios	109
7:27-22.28 Incorporation of CO ₂ Budget Trading Program requirements	110
7:27-22.28A Emissions trading	110
7:27-22.28B Facility-specific emissions averaging programs	112
7:27-22.29 Facilities subject to acid deposition control	115
7:27-22.30 Renewals	116
7:27-22.31 Fees	119

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7:27-22.32 Hearings and appeals	126
7:27-22.33 Preconstruction review	127
7:27-22.34 Early reduction of HAP emissions	128
7:27-22.35 Advances in the art of air pollution control	129
APPENDIX.....	132

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

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26 N.J.R. 793(a), 26 N.J.R. 3943(b)

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

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Revision Operative: August 2, 1996
See: 28 N.J.R. 1147(b), 28 N.J.R. 3414(a)

Revision Adopted: September 26, 1997
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See: 29 N.J.R. 2509(a), 29 N.J.R. 4567(a)

Revisions Adopted: April 13, 1998
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Revision Operative: June 12, 1998
See: 29 N.J.R. 3521(a), 30 N.J.R. 1563(b)

Revisions Adopted: July 2, 1999
Revision Effective: August 2, 1999
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See: 30 N.J.R. 2396(a), 31 N.J.R. 2200(a)

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

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Revision Operative: March 12, 2002
See: 33 N.J.R. 3290(a), 34 N.J.R. 756 (a)

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Revision Operative: March 24, 2003
See: 34 N.J.R. 695(a), 35 N.J.R. 1059(a)

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

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

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

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See: 40 N.J.R. 6769 (a)

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

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

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See: 43 N.J.R. 9(2)

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See: 47 N.J.R. 467(a)

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See: 46 N.J.R. 1510(a), 47 N.J.R. 1937(a)

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Revisions Effective: November 6, 2017
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See: 49 N.J.R. 515(a), 49 N.J.R. 3511(a)

Revisions Adopted: October 24, 2017
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See: 49 N.J.R. 1762(a), 49 N.J.R. 3590(a)

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See: 49 N.J.R. 2373(a), 50 N.J.R. 454(a)

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See: 50 N.J.R. 2482(a), 51 N.J.R. 6(2)

Administrative Change: April 6, 2020
See: 52 N.J.R. 4 (1)

7:27-22.1 Definitions

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

“Accountable” means, in respect to compliance with an emissions limit, verifiable through the keeping, maintenance, and accessibility of clear, appropriately comprehensive, and reliable records.

“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.

“Administrative amendment” means the type of change made at a facility, and incorporated into an operating permit, through the procedures for administrative amendments at N.J.A.C. 7:27-22.20.

“Administratively complete application” means an application which includes sufficient information for the Department to commence review of the application. This information shall include all of the information required by this subchapter for the type of application being submitted, submitted on or with forms obtained from the Department and in accordance with the instructions accompanying the application forms. To be complete, an application shall include all preconstruction permits issued for the facility as of the date of the operating permit application. An application which is administratively complete may require supplementary information in order for the Department to take final action on the application.

“Affected state” means, in respect to an application for an operating permit, operating permit renewal, minor modification, or significant modification, any state in the United States that:

1. Is contiguous to New Jersey; or
2. Is located within 50 miles of the facility which is the subject of the application.

“Affected Title IV facility” means a facility that includes one or more “affected units,” as that term is defined in the acid deposition control provisions (commonly known as “acid rain” provisions) of Title IV of the CAA, 42 U.S.C. § 7651 et seq. This term has the same meaning as the term “affected source” as defined in 40 CFR 70.

“Affected Title IV unit” has the same meaning as the term “affected unit” in the regulations promulgated by EPA under the acid deposition control program, set forth at Title IV of the CAA.

“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.

“Allowance” means an authorization granted to an affected Title IV unit by the EPA under acid deposition control requirements at Title IV of the CAA. The authorization allows the unit to emit one ton of SO₂ during or after a specified calendar year.

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

“Applicable Federal requirement” means any of the following standards, provisions or requirements as they apply to any source operation in a facility which is subject to this subchapter. Applicable requirements include requirements that have been promulgated or approved by EPA through rulemaking but have future-effective compliance dates:

1. Any standard or other requirement provided for in New Jersey's approved SIP (or FIP, if applicable), including any approved revisions;
2. Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I of the CAA, including Parts C or D;
3. Any NSPS or other standard or requirement under 42 U.S.C. § 7411 including 42 U.S.C. § 7411(d);
4. Any standard or other requirement concerning HAPs under 42 U.S.C. § 7412, including any requirement concerning accident prevention under 42 U.S.C. § 7412(r)(7);
5. Any standard or other requirement of the acid deposition control program under Title IV of the CAA or the regulations promulgated thereunder;
6. Any requirement established pursuant to the provisions for monitoring in Title V of the CAA at 42 U.S.C. § 7661c(b) or pursuant to the monitoring requirements at 42 U.S.C. § 7414(a)(3);
7. Any standard or other requirement governing solid waste incineration under 42 U.S.C. § 7429;

8. Any standard or other requirement for consumer and commercial products under 42 U.S.C. § 7511b(e);
9. Any standard or other requirement for marine tank vessels under 42 U.S.C. § 7511b(f);
10. Any standard or other requirement of the program to prevent or control the emission of air contaminants from outer continental shelf sources under 42 U.S.C. § 7627;
11. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the CAA, unless EPA has determined that such a requirement need not be contained in an operating permit;
12. Any of the following, but only as it would apply to temporary facilities permitted pursuant to the provisions for temporary facilities at 42 U.S.C. § 7661c(e):
 - i. A NAAQS; or
 - ii. An increment under the PSD provisions at 42 U.S.C. § 7473; or
 - iii. A visibility requirement under 42 U.S.C. § 7491 or 7492.

“Applicable requirement” means any requirement which is an applicable State requirement or an applicable Federal requirement or both.

“Applicable State requirement” means any provision, standard or requirement in any statute or rule, as it applies to air contaminant emissions from a facility or source operation which is subject to this subchapter, except an applicable Federal requirement. This term includes requirements that have been promulgated by the Department and submitted to EPA as SIP revisions but have not yet been approved by EPA.

“Applicable VOC” means any VOC which has a vapor pressure or sum of partial pressures of organic substances of 0.02 pounds per square inch (1.0 millimeters of mercury) absolute or greater at standard conditions.

“Application shield” means the protection from enforcement action set forth at N.J.A.C. 7:27-22.7.

“Area source” means, in respect to MACT and GACT standards, any stationary source of hazardous air pollutant that is not a major HAP facility.

“Attainment area” means any area of the State which is not a nonattainment area.

“BACT” or **“best available control technology”** has the meaning set forth for this term in the PSD regulations at 40 CFR 52.21.

“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.

“Carbon monoxide” or **“CO”** means a gas having a molecular composition of one carbon atom and one oxygen atom.

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

“Chemical Abstract Service number” or **“CAS number”** means a number assigned to a chemical by the American Chemical Society's Chemical Abstract Service Registry.

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

“CO₂ budget source” means a facility that includes one or more CO₂ budget units.

“CO₂ budget unit” means a fossil fuel-fired unit that, at any time on or after January 1, 2005, served or serves an electricity generator with a nameplate capacity equal to or greater than 25 MWe, as defined and regulated pursuant to N.J.A.C. 7:27C.

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

“Compliance plan” means a plan meeting the requirements of N.J.A.C. 7:27-22.9, which is developed and submitted as part of an application for an operating permit, renewal, or significant modification.

“Compliance schedule” means the portion of a compliance plan which fulfills the requirements of N.J.A.C. 7:27-22.9(c)5ii.

“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 at least two years; or
4. An engine that is moved from one facility to another in an attempt to circumvent the residence time criteria in 2 or 3 above.

“Construction of a major HAP facility” means, when used at N.J.A.C. 7:27-22.26, the fabrication (on site), erection, or installation of a new major HAP facility, or the fabrication (on site), erection, or installation of a new source operation at an existing facility if the new construction in and of itself constitutes a major HAP facility.

“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.

“Continuous data recorder” means a mechanism which continuously records the information gathered by a CEM, CPM, COM, or other continuous measurement device.

“Continuous emissions monitor” or **“CEM”** means a device which continuously measures the emissions from one or more source operations.

“Continuous monitoring system” or **“CMS”** means a system designed to continuously measure various parameters at a facility which may affect or relate to a facility's emissions. Components of a CMS include, but are not limited to, any continuous emissions monitor (CEM), continuous opacity monitor (COM), continuous process monitor (CPM), or any other constantly operating measuring device and recording device approved by the Department to perform one or more of the functions of a CMS. Ambient monitors, which measure the impact or concentration of air contaminants emitted by the source operation or facility in nearby areas, are not considered part of a facility's CMS.

“Continuous opacity monitor” or **“COM”** means a device which continuously measures opacity of flue gases.

“Continuous process monitor” or **“CPM”** means an instrument or system which continuously measures an operational parameter at a facility, such as temperature or air flow rate.

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

“Co-product” means one or more incidental results of a production process that is not a primary product of the production process and that is sold in trade in the channels of commerce to the general public in the same form as it is produced, for any purpose except the purpose of energy recovery. A co-product is not considered nonproduct output. Increases in quantities of co-products do not count towards use reduction or nonproduct output reduction goals. This term shall have the same meaning as defined for the term "co-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-5 shall control.

“Criteria pollutant” means any air contaminant for which a NAAQS has been promulgated under 40 CFR 50 or for which a NJAAQS has been promulgated at N.J.A.C. 7:27-13.

“Designated Title IV representative” means a responsible natural person authorized by the owners and operators of an affected Title IV facility and of all affected units at the Title IV facility, as evidenced by a certificate of representation submitted to EPA in accordance with Subpart B of 40 CFR Part 72, and to the Department, to represent and legally bind each owner and operator, as a matter of federal law, in all matters pertaining to the Federal Acid Rain Program. Whenever the term “responsible official” is used in this subchapter with regard to any matter under the federal Acid Rain Program, it shall be deemed to refer to the “designated Title IV representative.”

“Distillates of air” means helium (He), nitrogen (N₂), oxygen (O₂), neon (Ne), argon (Ar), krypton (Kr), and xenon (Xe).

“DOT” means the New Jersey Department of Transportation.

“Draft general operating permit” means the version of a general operating permit which is developed by the Department and released for public input and an opportunity for a public hearing pursuant to N.J.A.C. 7:27-22.11. After receiving and considering the comments on the draft general operating permit, the Department will develop a proposed general operating permit for submittal to EPA for approval prior to issuing a final general operating permit.

“Draft operating permit” means the version of an operating permit which is developed by the Department after the Department's receipt of an administratively complete application, and released for public comment and an opportunity for a public hearing pursuant to N.J.A.C. 7:27-22.11. After receiving and considering the comments on the draft operating permit, the Department will develop a proposed operating permit for submittal to EPA for approval prior to issuing a final operating permit.

“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.

“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 management activity” means an activity necessary to build, sustain, and improve the capability to mitigate against, prepare for, respond to, and recover from threatened or actual natural disasters, acts of terrorism, or other man-made disasters.

“Emission fee” means an annual fee that is based on the emissions of any regulated air contaminant.

“Emission statement” means an annual reporting of actual emissions of air contaminants as prescribed by the Department at N.J.A.C. 7:27-21.

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

“Emissions cap” means an emissions limit, or limits, established in a permit for a group of source operations, which establishes the maximum quantity of emissions which may be released, in the aggregate, from a specified group of source operations.

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

“Enforceable” means, in respect to an emissions limit, based on sufficient statutory and regulatory authority to be recognized in a court of law.

“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.

“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. This term includes, but is not limited to, a device in which the preponderance of the air contaminants emitted is caused by a manufacturing process.

“Exempt activity” means one of the following:

1. Source operations which have no potential for emitting any air contaminant, including but not limited to:
 - i. Stationary storage tanks which are used for the storage of water or distillates of air; and
 - ii. Enclosed stationary material handling equipment using pneumatic, bucket or belt conveying systems from which no emissions of air contaminants occur;
2. Any of the following activities, if the activity supports the one or more production processes of the facility, and does not itself constitute a facility production process or a part thereof:
 - i. Office activities and the equipment and implements used therein, such as typewriters, printers, and pens;
 - ii. Interior maintenance activities and the equipment and supplies used therein, such as janitorial cleaning products and air fresheners; this does not include any cleaning of production equipment;
 - iii. Bathroom and locker room ventilation and maintenance;
 - iv. (Reserved);
 - v. The activities of maintenance shops, such as welding, gluing, and soldering, performed indoors or outdoors;
 - vi. First aid or emergency medical care provided at the facility, including related activities such as sterilization and medicine preparation;
 - vii. Laundry operations that service 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;
 - viii. Architectural maintenance activities conducted to take care of the buildings and structures at the facility, including repainting, reroofing, and sandblasting;
 - ix. Exterior maintenance activities conducted to take care of the grounds of the facility, including lawn maintenance;

- x. Food preparation to service facility cafeterias and dining rooms;
 - xi. The use of portable space heaters which reasonably can be carried and relocated by an employee; and
 - xii. Any laboratory hood used for research and development, quality assurance and quality control testing and sampling activities;
- 3. The engine of any vehicle, including but not limited to any marine vessel, aircraft, any vehicle running upon rails or tracks, any motor vehicle, any forklift, any tractor, or any mobile construction equipment;
 - 4. 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 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;
 - 5. Potable water treatment equipment, not including air stripping equipment;
 - 6. 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;
 - 7. 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;
 - 8. 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;
 - 9. Hand held equipment for buffing, polishing, cutting, drilling, sawing, grinding, turning, or machining wood, metal or plastic. For the purposes of this paragraph, "hand held" means "can reasonably be carried and used by one person for the purpose for which the equipment was designed";
 - 10. Equipment at a battery charging station, except at a battery manufacturing plant;

11. 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;
12. Equipment that blends or mixes potting soil (including, but not limited to, soil, compost, artificial media or soil-less media, and/or peat moss) which is used on site in a commercial or non-commercial greenhouse or nursery operation for plant propagation and which is not for commercial sale;
13. Equipment or a source operation being used in a site remediation process that is being carried out under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) 42 U.S.C. §§ 9601 et seq.;
14. Equipment or a source operation, that satisfies subparagraphs 14i, ii, and iii below:
 - i. The equipment or source operation is one of the following:
 - (1) A mixer, cutter, molder, conveyor, blender, filler, or cooking kettle which processes material intended as food for direct human consumption, provided that the temperature of the food does not exceed 225 degrees Fahrenheit;
 - (2) 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;
 - (3) Equipment that sands, drills, cuts, or planes untreated and unpainted wood or wood products; or
 - (4) Equipment that cuts, trims, perforates, folds, or molds paper or paper products;
 - ii. The following criteria are met:
 - (1) The source has no visible emissions, exclusive of water vapor, to the outdoor atmosphere;
 - (2) The source does not emit any air contaminant which may cause an odor detectable outside the property boundaries of the facility;
 - (3) 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

- the work area meets an OSHA indoor air quality standard for occupancy even though the emissions are being released into the work area;
- (4) The source is not subject to any NSPS, NESHAPS, or MACT air pollution control standard;
 - (5) The source's potential to emit each TXS and each HAP does not exceed the reporting thresholds at N.J.A.C. 7:27-17.9(a); and
 - (6) The percentage by weight of all HAPs collectively in the raw material is less than 1.0 percent; and
- iii. The owner or operator of the source 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 vessel, if the source is a mixing or blending vessel;
 - (2) Affirms that the source meets all the criteria listed in 14ii above; and
 - (3) Attests that the source is in compliance with all other applicable State or Federal air pollution requirements;
15. Equipment used to conduct construction, repair, or maintenance (CRM) activities, provided that equipment is portable and is located on site 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 source operation:
- 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 (SOTA) thresholds in N.J.A.C. 7:27-17.9(b) and N.J.A.C. 7:27-22.35;
 - 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 Regional Air Enforcement Office, where that notification:
 - (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 in N.J.A.C. 7:27-17.9(b) and N.J.A.C. 7:27-22.35;
 - (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 16(v)(1) through (6) above; and

- vi. The Regional Air Enforcement Office is notified within 30 days after ceasing operation of temporary replacement equipment or source operations, through the submittal of an electronic notification 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 meets all of the criteria listed in sub-subparagraphs 16vi(1) through (4) above.
17. Portable 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, and operated at the rental facility only for testing, maintenance, or demonstration purposes;
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 into a transport vehicle for removal from the site, without intermediate staging; and
21. Equipment used in the baling and conveying of glass, plastic, cans, cardboard, and paper.

“Existing facility” means a facility which is in operation as of the applicable date of the provision for which this term is being used.

“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. Research and development facilities that are located with other facilities shall be considered separate and independent entities for the purposes of complying with the operating permit requirements of N.J.S.A. 26:2C-1 et seq., or any codes, rules, or regulations adopted pursuant thereto.

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

“Federally enforceable” means any limitation or condition on operation, production, or emissions that can be enforced by 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.

“Federal Implementation Plan (FIP)” means a plan, or portion thereof, promulgated by EPA pursuant to the CAA to address or otherwise correct all or a portion of an inadequacy in a SIP.

“Final general operating permit” means the version of the general operating permit issued by the Department after completion of the procedures required by this subchapter for a draft general operating permit and a proposed general operating permit.

“Final operating permit” means the version of an operating permit issued by the Department after completion of the procedures required by this subchapter for a draft operating permit and a proposed operating permit.

“Fiscal year” or **“FY”** means the period from July 1 through June 30. Each fiscal year is designated according to the calendar year in which the end of the period falls. For example, the period from July 1, 1998 through June 30, 1999 is fiscal year 1999, or FY99.

“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.

“Fugitive emissions” means any air contaminant emissions released directly or indirectly into the outdoor atmosphere which can not reasonably pass through a stack or chimney.

“GACT standard” or **“Generally Available 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 area sources that emit hazardous air pollutants (HAPs), which NESHAP has been promulgated by EPA pursuant to 42 U.S.C. § 7412.

“General operating permit” means a standardized operating permit, which may be used to provide authorization to operate numerous similar source operations, groups of source operations, or facilities, each of which meets the applicability criteria set forth in the general operating permit, and is issued pursuant to the procedures in N.J.A.C. 7:27-22.14.

“Grandfathered” means, in reference to equipment or control apparatus, that construction, reconstruction, or modification occurred prior to the enactment of N.J.S.A. 26:2C-9.2 on June 15, 1967, the initial promulgation of the rules codified at N.J.A.C. 7:27-8, or any subsequent applicable revisions to the rules; and there has been no construction, reconstruction or modification of the equipment or control apparatus.

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

“Initial operating permit” means the first operating permit issued pursuant to this subchapter which applies to a particular facility, or a portion thereof.

“Insignificant source operation” means equipment or a source operation that is one of the following:

1. Equipment or a source operation which is the same type as is included within a category described in paragraphs 1, 3, 4, 5, 7, 8, 9, 11, 14, 16, 17, 18, or 19 in the definition of “significant source operation,” 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 or source operation 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;
2. A stationary storage tank or mixing or blending vessel, provided that subparagraph 2i, ii and iii below are satisfied:
 - i. The tank or vessel is one of the following:
 - (1) A tank used solely to store a food-grade liquid, which 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;
 - (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; or
- (3) Any of the following vessels used to mix and blend liquids, if the vessel would otherwise be classified as a significant source solely because it meets the criteria in paragraph 6 of the definition of "significant source":
 - (A) 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:
 - I. The operating temperature of the vessel is not greater than 350 degrees Fahrenheit; and
 - II. 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;
 - (B) 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
 - (C) 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:
 - I. The vapor pressure of any liquid, excluding the vapor pressure of water, is less than 1.5 pounds per square inch; and
 - II. 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;
- ii. The following criteria are met:

- (1) The tank or vessel has no visible emissions, exclusive of water vapor, to the outdoor atmosphere;
 - (2) The tank or vessel does not emit any air contaminant which may cause an odor detectable outside the property boundaries of the facility;
 - (3) The tank or vessel is not subject to any NESHAPS, MACT, or NSPS air pollution control standards, excluding the NSPS requirements to maintain a record of the contents of the tank or vessel, the period of storage of these contents, and the maximum true vapor pressure of the liquid stored;
 - (4) The tank's or vessel's potential to emit each TXS and each HAP does not exceed the reporting thresholds at N.J.A.C. 7:27-17.9(a);
 - (5) The percentage by weight of all HAPs collectively in the raw material stored in the tank, or mixed or blended in the vessel, is less than 1.0 percent; and
- iii. The owner or operator of the tank or vessel 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 or vessel;
 - (2) Affirms that the tank or vessel meets all of the criteria listed in 1 and 2 above; and
 - (3) Attests that the tank or vessel is in compliance with all other applicable State or Federal air pollution requirements;
3. Any equipment or a source operation which may emit air contaminant(s) directly or indirectly into the outdoor air and which is not defined either as a significant source operation or an exempt activity; or
4. Equipment or a source operation that would be classified as a significant source solely because it meets the criteria in paragraph 11 in the definition of "significant source," is not a significant source provided that it meets the criteria at subparagraph 4i through iv below:
- i. The equipment or source operation is one of the following:

- (1) A microturbine with less than 500 kilowatts generating capacity that is fueled by natural gas and that has been verified according to the requirements in subparagraph 4ii below to emit less than:
 - (A) 0.40 pounds of NO_x per megawatt hour; and
 - (B) 0.25 pounds of CO per megawatt hour; or
 - (2) 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 subparagraph 4 ii below to emit less than:
 - (A) 0.40 pounds of NO_x per megawatt hour;
 - (B) 0.25 pounds of CO per megawatt hour;
 - (C) 0.10 pounds of PM per megawatt hour; and
 - (D) 0.01 pounds of SO₂, per megawatt hour
- ii. A facility with a source identified in subparagraph 4i above shall verify its emissions and demonstrate conformance with emission levels in subparagraph 4i above using one of the options listed in subparagraph 4ii(1) or (2) below. If verification process is not available pursuant to subparagraph 4ii(1) below, or manufacturer testing has not been conducted in accordance with subparagraph 4ii(2) below or has been conducted in accordance with subparagraph 4ii(2) below but has been determined to be not acceptable under subparagraph 4ii(4) below, then the facility shall demonstrate conformance using subparagraph 4ii(3) below:
- (1) 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.htm;
 - (2) 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:
 - (A) Performed representative source emission testing on a model of equipment;

- (B) Had the source emission testing and the test report reviewed and certified by a licensed professional engineer;
 - (C) 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 subparagraphs 4i (A) and (B) above; and
 - (D) Converted each test run to pounds per megawatt hour before averaging; or
- (3) Stack emission testing provided the facility has:
- (A) 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.html;
 - (B) 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 4i(A) and (B) above; and
 - (C) Converted the results of each test run to pounds per megawatt hour before averaging.
- (4) The Department may determine that the manufacturer's testing of a model of the equipment, under subparagraph 4ii(2) 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;
- iii. 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 source meets all the criteria in subparagraph 4i and ii above. This certification shall be provided to the Department upon request; and
- iv. If the Department has reason to believe, as a result of an inspection or otherwise, that equipment or a source operation is emitting NO_x above the specified limits, the Department, at its discretion, may require the owner or operator of a source 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. 7:27-22.18(e).

“Install” or **“installation”** means to carry out final setup activities necessary to provide the equipment or control apparatus with the capacity for use or service. This term includes, but is not limited to, the connection of the equipment and control apparatus, associated utilities, piping, duct work or conveyor systems. This term does not include the construction or reconfiguration of equipment or control apparatus to an alternate configuration specified in the permit application and approved by the Department.

“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.

“Lead” or **“Pb”** means elemental lead or any compound containing lead measured as elemental lead.

“Lowest achievable emission rate” or **“LAER”** has the meaning assigned to this term at N.J.A.C. 7:27-18.1.

“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 constitutes a major source, as defined by EPA at 40 CFR 70.2 or any subsequent amendments thereto, and 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. The major facility threshold levels are as follows:

	<u>Major Facility Threshold Level</u>
CO	100 tons per year
PM ₁₀	100 tons per year
PM _{2.5}	100 tons per year
TSP	100 tons per year
SO ₂	100 tons per year
SO ₂ (as a PM _{2.5} precursor)	100 tons per year

NO _x	25 tons per year
NO _x (as a PM _{2.5} 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 ₂	100 tons per year

“Major Hazardous Air Pollutant (HAP) facility” means a major facility, or part thereof, which emits or has the potential to emit:

1. Ten tons or more per year of any HAP;
2. Twenty five tons or more per year of any combination of HAPs; or
3. Such lesser quantity, or different criterion, as the EPA may establish by rule.

“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, and absorbers.

“Maximum allowable emissions” means, for the purpose of this subchapter, the maximum amount of an air contaminant allowed to be emitted, as specified in the final operating permit issued by the Department.

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

“Minor modification” means a change made at a permitted facility in accordance with N.J.A.C. 7:27-22.23.

“Modification of a major HAP facility” means, when used at N.J.A.C. 7:27-22.26, any physical change in, or change in the method of operation of, a major HAP facility, which:

1. Increases the facility's actual emissions of any HAP by more than an amount established by EPA as de minimis for that HAP at 40 CFR 63; or
2. Results in the emission of any HAP not previously emitted, in more than the amount established by EPA as de minimis for that HAP at 40 CFR 63.

“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. A modification may be incorporated into an operating permit through a significant modification, a minor modification, or a seven-day-notice change.

“Monitoring” means to evaluate a facility's processes, operations, emissions or other aspects over a period of time. Monitoring can be accomplished using CEMs, COMs, CMS, CPMs, or other measurement or evaluation mechanisms.

“NAICS code” means the North American Industrial Classification System code, assigned by the United States Office of Management and Budget, which classifies establishments according to the type of economic activity in which they are engaged. An NAICS manual is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

“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 facility” means a facility which has not commenced operation as of the applicable date of the provision for which this term is being used.

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

“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 NJAAQS; 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.

“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. Nonproduct output 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; 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.

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

“NSPS” means Standards of Performance for new stationary sources as promulgated

under 40 CFR 60, commonly referred to as New Source Performance Standards.

“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 implementing rules at N.J.A.C. 7:27-8. An operating certificate is generally issued for new or altered equipment at non major facilities for which operating permits are not required and for new or altered equipment at major facilities which are not yet required to have a final operating permit.

“Operating permit” means the 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. 7:27-8. 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).

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

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

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

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

“Phase I” means a time period designated pursuant to the Title IV acid deposition

control program as commencing January 1, 1995, and ending December 31, 1999.

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

“PM₁₀” 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_{2.5}” 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 Assessment” means an assessment of potential pollution prevention opportunities for the use, generation and release of non-hazardous substances, prepared by an owner or operator of a priority industrial facility that is covered by an effective facility-wide permit issued by the Department, containing the same elements as those required for hazardous substances by N.J.A.C. 7:1K-4.3 and 4.5. This term shall have the same meaning as defined for the term “Pollution Prevention Assessment” at N.J.A.C. 7:1K-1.5; if there is any conflict between the definition at N.J.A.C. 7:1K-1.5 and this one, the definition at N.J.A.C. 7:1K-1.5 shall control.

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

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

“Prevention of significant deterioration” or “PSD” means the requirements pursuant to

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

“Probe” means an air contaminant sampling method used to determine compliance with one or more emission allowables. For the purpose of assessing supplementary fees at N.J.A.C. 7:27-22.31(z), any of the following shall be considered a single probe:

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

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

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

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

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

“Proposed operating permit” means the version of an operating permit which is developed by the Department pursuant to N.J.A.C. 7:27-22.12, after receipt and consideration of

public comments on the draft operating permit. The Department forwards the proposed operating permit to EPA for review, pursuant to the procedures at N.J.A.C. 7:27-22.12 prior to the issuance by the Department of the final operating permit.

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

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

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

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

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

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

“Reconstruction of a major HAP facility” means, when used at N.J.A.C. 7:27-22.26, the replacement of components at a facility to such an extent that the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to replace the facility at which the components are being replaced.

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

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

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

“Registration form” means the online or paper form the Department requires a registrant to submit to the Department to register the following:

1. A general operating permit; or
2. One or more used oil space heaters in accordance with N.J.A.C. 7:27-20.3.

“Regulated air contaminant” means the same as the term “regulated air pollutant” as defined by EPA at 40 CFR § 70.2 or any subsequent amendments thereto.

“Renewal” means the procedure set forth at N.J.A.C. 7:27-22.30 by which an applicant may seek reissuance of an operating permit prior to its expiration date.

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

“Replace” means, in respect to equipment or control apparatus, to remove equipment or control apparatus and place or install a different piece of equipment or control apparatus at the same location and at the same point in the manufacturing process, provided that the newly placed equipment or control apparatus serves the same function, in the same manner.

“Replicable procedure” means a procedure, including any sampling, source emissions testing, or other monitoring procedure, which gives the same result when administered on a different occasion or by a different person.

“Reporting year” means the calendar year during which emissions reported in an Emission Statement were emitted, except that carbon monoxide emissions emitted in December of the preceding calendar year shall also be reported as part of the peak carbon monoxide season emissions in a given year.

“Research and development facility” means any facility the primary purpose of which is to conduct research and development into new processes and products, including academic and technological research and development, provided that such a facility is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for commercial sale, except in a de minimis manner.

“Responsible official” has the meaning defined for this term at N.J.A.C. 7:27-1.4.

“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.

“Seven-day notice change” means, for the purpose of this subchapter, a change made at a facility covered by an operating permit in accordance with N.J.A.C. 7:27-22.22.

“Shutdown” means to discontinue use of a process, piece of equipment, control apparatus, or a source operation.

“SIC code” means the Standard Industrial Classification code, assigned by the United States Office of Management and Budget, which classifies establishments according to the type of economic activity in which they are engaged. An SIC manual is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

“Significant modification” means a change made at a facility covered by an operating permit and incorporated into the operating permit in accordance with N.J.A.C. 7:27-22.24.

“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” means any source operation that is one of the following unless the source operation is explicitly specified, in the definition of “exempt activity,” as an exempt activity, and unless the source operation is explicitly specified, in paragraphs 1, 2 or 4 of the definition of “insignificant source,” as an insignificant source:

1. Equipment that is used in a surface coating operation including, but not limited to, spray or dip painting, roller coating, electrostatic depositing, surface stripping or spray cleaning in which the quantity of coating or cleaning material used in any one hour is equal to or greater than one half gallon;
2. Dry cleaning equipment;
3. A surface cleaner that uses a cleaning solution containing five percent or more VOCs, HAPs, or VOC and HAP combined, and which is:
 - i. An unheated open top surface cleaner with a top opening of greater than six square feet (0.56 square meters) or a capacity greater than 100 gallons;
 - ii. A heated open top surface cleaner;
 - iii. A conveyORIZED surface cleaner; or
 - iv. A stationary spray cleaning or surface stripping operation using one half gallon or more of cleaning solution in any one hour;
4. 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; or
5. Equipment, in addition to a surface cleaner as set forth in paragraph 3 above that has a capacity of more than 100 gallons and that is used in a process involving

surface cleaning or preparation including, but not limited to, degreasing, etching, pickling, plating, chromium electroplating, or chromium anodizing;

6. 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 which is the same type as is included within a category described in paragraphs 1, 3, 4 or 5 above, or in paragraphs 7, 8, 9, 11, 14, 16, 17, 18 or 19 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;
7. 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, not including 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;
8. 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 (one millimeter of mercury) or greater at standard conditions, not including 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;
9. 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;

10. Stationary material handling equipment using pneumatic, bucket or belt conveying systems from which direct or indirect emissions of air contaminants occur;
11. Commercial fuel burning equipment, except for a source listed in paragraph 20 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;
12. 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 noncommercial fuel, crude oil or process by-products in any form. This includes off-specification used oil, processed used oil fuel, or on specification used oil as defined in N.J.A.C. 7:27-20.1;
13. Any incinerator, except incinerators constructed, installed or used in one or two-family dwellings or in multi-occupied dwellings containing six or less family units, one of which is owner occupied;
14. Any waste or water treatment equipment which may emit air contaminants including, but not limited to, air stripping equipment, aeration basins, surface impoundments, lagoons, sludge tanks, dewatering equipment, soil cleaning equipment, conveying equipment, digesters, thickeners, flocculators, driers, fixation equipment, composting equipment, pelletizing equipment and grit classifying equipment. For water treatment equipment, the concentration in the water of any TXS must equal or exceed 100 parts per billion by weight or the total concentration in the water of VOC must equal or exceed 3,500 parts per billion by weight;
15. 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;
16. Any source operation or equipment that has the potential to emit any Group 1 or Group 2 TXS (or a combination thereof) at a rate greater than 0.1 pounds per hour (45.4 grams per hour);
17. A transfer operation involving gasoline or other VOCs regulated under N.J.A.C. 7:27-16.3 or 16.4, or a marine tank vessel loading or ballasting operation regulated under N.J.A.C. 7:27-16.5, if the operation is required to have a control device other than bottom fill or submerged fill;
18. 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;

19. 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;
20. Any stationary reciprocating engine with a maximum rated power output of 37 kW or greater, used for generating electricity, not including emergency generators.

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

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

“Source operation” 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 used for emitting any air contaminant into the outdoor atmosphere.

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

“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.

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

“Technology Acceptance and Reciprocity Partnership” or **“TARP”** means a workgroup of the Environmental Council of States (ECOS). The workgroup was formed to

promote the reciprocal evaluation, acceptance, and approval of innovative environmental technologies.

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

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

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

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

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

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

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

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

7:27-22.2 Applicability

- (a) This subchapter applies to any facility that is one of the following:
1. A facility which emits or has the potential to emit a Hazardous Air Pollutant (HAP) in an amount which equals or exceeds the amounts listed in (a)1i through iv below. For the purposes of this paragraph, the calculation of potential to emit shall include fugitive emissions, as defined at N.J.A.C. 7:27-22.1.
 - i. Ten tons per year of any HAP;
 - ii. Twenty-five tons per year of any combination of HAPs;
 - iii. Such lesser quantity of any HAP as the EPA may establish by rule, pursuant to 42 USC 7412(a)(1), as the threshold amount for a major HAP facility.

- iv. Such quantity of any radionuclides as the EPA may establish by rule.
2. A facility that emits or has the potential to emit any of the air contaminants listed below in Table 1, in an amount that equals or exceeds the threshold amount for that contaminant. Emissions of carbon dioxide (CO₂) are not to be used in determining applicability under this section.

Table 1

<u>Air Contaminant</u>	<u>Threshold Level</u>
CO	100 tons per year
PM ₁₀	100 tons per year
PM _{2.5}	100 tons per year
TSP	100 tons per year
SO ₂	100 tons per year
SO ₂ (as a PM _{2.5} precursor)	100 tons per year
NO _x	25 tons per year
NO _x (as a PM _{2.5} precursor)	100 tons per year
VOC	25 tons per year
Lead	10 tons per year
Any other air contaminant, except CO ₂	100 tons per year

For the purpose of this paragraph, the calculation of potential to emit shall include fugitive emissions only if the facility falls into one or more of the following categories:

- i. Coal cleaning plants (with thermal dryers);
- ii. Kraft pulp mills;
- iii. Portland cement plants;
- iv. Primary zinc smelters;
- v. Iron and steel mills;
- vi. Primary aluminum ore reduction plants;
- vii. Primary copper smelters;
- viii. Municipal incinerators capable of charging more than 250 tons of refuse per day;
- ix. Hydrofluoric, sulfuric, or nitric acid plants;
- x. Petroleum refineries;

- xi. Lime plants;
 - xii. Phosphate rock processing plants;
 - xiii. Coke oven batteries;
 - xiv. Sulfur recovery plants;
 - xv. Carbon black plants (furnace process);
 - xvi. Primary lead smelters;
 - xvii. Fuel conversion plant;
 - xviii. Sintering plants;
 - xix. Secondary metal production plants;
 - xx. Chemical process plants;
 - xxi. Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
 - xxii. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
 - xxiii. Taconite ore processing plants;
 - xxiv. Glass fiber processing plants;
 - xxv. Charcoal production plants;
 - xxvi. Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
 - xxvii. All other stationary source categories regulated by a standard promulgated under 42 U.S.C. 7411, Standards of Performance for New Stationary Sources. However, for a facility in this category, fugitive emissions need only be included when calculating the potential to emit those air contaminants which EPA has regulated for that stationary source category.
3. An affected Title IV facility, as defined at N.J.A.C. 7:27-22.1;

4. A facility with any source operation in a source category designated by EPA. EPA is authorized to designate source categories as subject to operating permit requirements pursuant to 40 CFR 70.3(a)(5);
 5. A facility with a solid waste incineration unit which combusts municipal waste and which has a combustion capacity greater than 250 tons of municipal waste per day; or
 6. A facility for which an owner or operator elects to obtain an operating permit pursuant to (e) below.
- (b) A non-major facility not included in (a) above shall become subject to this subchapter if EPA promulgates rules requiring an operating permit for that category of non-major facilities pursuant to 40 CFR 70.3(b)1 or 2.
- (c) Notwithstanding (a) above, a facility is not subject to this subchapter if the only applicable requirement which applies to the facility is:
1. A requirement pursuant to 40 CFR 60, Subpart AAA, Standards of Performance for New Residential Wood Heaters;
 2. A requirement pursuant to 40 CFR 61, Subpart M--National Emission Standard for HAPs for Asbestos, Section 61.145, Standard for Demolition and Renovation; or
 3. A regulation or requirement under 42 U.S.C. 7412(r), Prevention of Accidental Releases.
- (d) For the purposes of determining applicability pursuant to (a) above, an owner or operator may elect to treat a research and development operation as a separate facility. For source operations whose primary function changes on an ongoing basis between manufacturing products for commercial use and research and development operations, the source operations may be considered part of a separate research and development facility only during the period of time when those source operations are being used for research and development purposes. Appropriate documentation shall be maintained at the facility to delineate when source operations are used for research and development purposes. If any research and development operation is treated separately for applicability purposes, the emissions or the potential to emit of the operation may be considered separately from the emissions or potential to emit of the remainder of the facility. If any research and development equipment is also used for other operations, the emissions from the equipment shall be calculated separately for each use of the equipment, such that only the emissions generated during research and development are included in the calculation of research and development emissions.
- (e) If a facility is not subject to this subchapter, but has equipment or control apparatus subject to the operating certificate requirements at N.J.A.C. 7:27-8, the owner or operator

may voluntarily elect to obtain an operating permit for the facility in lieu of obtaining operating certificate(s) for the equipment or control apparatus.

7:27-22.3 General provisions

- (a) The owner or operator of a facility subject to this subchapter shall obtain and maintain an operating permit for the facility pursuant to this subchapter.
- (b) The owner or operator of a facility subject to this subchapter shall ensure that no person shall use or operate any significant source operation at the facility without a valid operating permit for the facility, which covers the source operation.
- (c) The owner or operator of a facility subject to this subchapter shall ensure that no air contaminant is emitted from any significant source operation at a rate, calculated as the potential to emit, that exceeds the applicable threshold for reporting emissions set forth in N.J.A.C. 7:27-22 Appendix, Table A or N.J.A.C. 7:27-17.9(a), unless emission of the air contaminant is authorized by the operating permit.
- (d) A permittee shall ensure that any source operation and any other activity covered by the operating permit, and all components connected to, attached to, or serving the source operation are operated and maintained properly and according to the requirements of the operating permit.
- (e) A permittee shall ensure that all requirements of the operating permit are met.
- (f) Each owner and each operator of any facility, source operation, or activity to which this subchapter applies is responsible for ensuring compliance with all requirements of this subchapter. If the owner and operator are separate persons, or if there is more than one owner or operator, each owner and each operator is jointly and severally liable for any fees due under this subchapter, and for any penalties for violation of this subchapter.
- (g) Any provision of any other rule, statute or other document, incorporated into this subchapter, includes all future supplements and amendments to the incorporated document, unless the context of this subchapter clearly indicates otherwise.
- (h) The provisions of (b), (c), (d), and (e) above shall not apply at a facility:
 - 1. Prior to the applicable deadline for applying for an initial operating permit, set forth at N.J.A.C. 7:27-22.5; or
 - 2. If a timely and administratively complete application has been filed and an application shield is in effect for the facility pursuant to N.J.A.C. 7:27-22.7.
- (i) The term of an operating permit will be established in the operating permit. The Department will not issue an operating permit with a term of greater than five years.

- (j) The expiration of an operating permit terminates the facility's right to operate any significant source operation at the facility, unless an application shield is in effect pursuant to N.J.A.C. 7:27-22.7.
- (k) The Department may, pursuant to N.J.A.C. 7:27-22.15, issue a single operating permit to an owner or operator of a temporary facility which will be operated in more than one location during the term of the operating permit. This single operating permit may authorize operation of the temporary facility at each of the locations approved by the Department in the operating permit.
- (l) The Department may issue an operating permit which allows a facility to operate under one or more operating scenarios, pursuant to N.J.A.C. 7:27-22.27. No change to an operating permit is required for any change in operation that is specifically authorized by the operating permit through an approved operating scenario or emissions trading program incorporated into the operating permit.
- (m) If the SIP allows a determination of an alternative emission limit to be made to a significant source operation subject to this subchapter, the Department may issue an operating permit that includes an alternative emission limit, determined by the Department to be equivalent to, or more stringent than, that contained in an applicable requirement, provided that the alternative emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures. An example of such an alternative emission limit would be an alternative nitrogen oxides emission limit developed in accordance with the emission averaging provisions of N.J.A.C. 7:27-19.6.
- (n) An operating permit does not convey any property right, or any exclusive privilege.
- (o) Any transfer of ownership or operational control of a facility covered by an operating permit, which would change the name or identity of the permittee for the facility, requires the transfer of the operating permit. An administrative amendment for such a transfer shall be submitted to the Department by the permittee prior to the transfer being made, in accordance with N.J.A.C. 7:27-22.20. No person to whom ownership or operational control is transferred shall commence operation at the facility until the application for the administrative amendment for the transfer has been received by the Department.
- (p) Any approval for a change made at a facility subject to this subchapter, which constitutes a minor modification pursuant to N.J.A.C. 7:27-22.23 or a significant modification pursuant to N.J.A.C. 7:27-22.24, shall incorporate all applicable preconstruction requirements.
- (q) Any person submitting an application, notice or report to the Department pursuant to this subchapter, or any permit, approval, authorization, order or other legal document issued pursuant thereto, shall include, as an integral part of the application or report, certification in accordance with N.J.A.C. 7:27-1.39.

- (r) All information submitted to the Department pursuant to this subchapter shall be public information, unless the person submitting the information claims it as confidential in accordance with N.J.A.C. 7:27-1.6 through 1.30, and the Department determines that the information is entitled to confidential treatment in accordance with N.J.A.C. 7:27-1.8 through 1.30. All information submitted to EPA pursuant to this subchapter shall be public information, unless the person submitting the information claims it as confidential in accordance with 40 CFR Part 2, and EPA determines that the information is entitled to confidential treatment in accordance with 40 CFR Part 2.
- (s) Except as otherwise provided in this subchapter, the submittal of any information or application by a permittee including, but not limited to, an application or notice for any change to the operating permit, including any administrative amendment, any minor or significant modification, renewal, a notice of a seven-day notice change, a notice of past or anticipated noncompliance, does not stay any operating permit condition, nor relieve a permittee from the obligation to obtain other necessary permits and to comply with all applicable Federal, State, and local requirements.
- (t) Application forms for operating permits, modifications to operating permits, and information pertaining to operating permits and the requirements of this subchapter are available on the Department's website at <http://www.nj.gov/dep/aqpp/applying.html> and at the following address:

Department of Environmental Protection
Division of Air Quality
Air Quality Permitting Program
Bureau of Air Permits
Operating Permits Section
401 East State Street
Mail Code 401-02
PO Box 420
Trenton, New Jersey 08625-0420
Telephone: (609) 633-8248

- (u) If an additional applicable requirement becomes applicable to the facility, or an applicable requirement which was previously applicable to the facility changes, the permittee shall act to have the new applicable requirement or the change incorporated into the operating permit, in accordance with the procedures set forth in N.J.A.C. 7:27-22.25.
- (v) The Department may terminate an operating permit upon request of the permittee if the Department determines that the facility is no longer subject to operating permit requirements pursuant to N.J.A.C. 7:27-22.2.
- (w) Except as provided in the permit shield provisions at N.J.A.C. 7:27-22.17, an operating permit does not relieve any person from the obligation to comply with all applicable provisions of this chapter, including preconstruction requirements under this subchapter,

- to obtain any other necessary authorizations from other governmental agencies, or to comply with all other applicable Federal, State, and local laws, rules or regulations.
- (x) Notwithstanding the other provisions of this section, if any of the acid deposition control provisions of N.J.A.C. 7:27-22.29 conflicts with any other provision of the subchapter, the requirements of N.J.A.C. 7:27-22.29 shall prevail for an affected Title IV facility.
 - (y) The owner or operator of any facility which contains equipment or control apparatus that is subject to preconstruction permit and operating certificate requirements under N.J.A.C. 7:27-8 shall continue to obtain, maintain, and renew all preconstruction permits and operating certificates required pursuant to N.J.A.C. 7:27-8 until an operating permit is issued for the facility.
 - (z) For a facility with an approved facility-wide permit issued under N.J.S.A. 13:1D-35 et seq., the facility-wide permit shall constitute the operating permit under N.J.A.C. 7:27-22 if:
 - 1. The air pollution control portion of the facility-wide permit meets the requirements of N.J.A.C. 7:27-22 and EPA approves the Department's request to allow a facility-wide permit to constitute a facility's operating permit; and
 - 2. The facility-wide permit was issued after the date of such EPA approval.
 - (aa) The provisions of N.J.A.C. 7:27-22.20, 22.22, 22.23, and 22.24, concerning modifications to operating permits, shall not apply to repair or maintenance of a significant source operation.
 - (bb) This subchapter shall not preclude the owner or operator of a facility from voluntarily treating an insignificant source operation as a significant source operation for the purposes of obtaining or modifying an operating permit. Treating an insignificant source operation in such a manner shall subject it to all of the requirements in this subchapter which apply to a significant source operation.
 - (cc) The Department shall deny an application for an initial operating permit, minor modification, significant modification, or renewal, if approval of the application would authorize a violation of any applicable requirement, or a contravention of other criteria established by the Department by rule or pursuant to technical manuals published with public input, to protect human health and welfare and the environment, unless the Department simultaneously approves a compliance schedule to achieve compliance.
 - (dd) The Department will deny an application for a minor modification or significant modification of an operating permit that constitutes construction, reconstruction, or modification unless the applicant shows, to the satisfaction of the Department, that the significant source operation covered by the proposed permit provisions incorporates advances in the art of air pollution control pursuant to N.J.A.C. 7:27-22.35, Advances in the art of air pollution control.

- (ee) No person shall carry out, or allow to be carried out, any change designated in this subchapter as a minor modification or significant modification to any source operation unless the changed source operation meets the requirements of N.J.A.C. 7:27-22.35, *Advances in the Art of Air Pollution Control*.
- (ff) The Department may deny an application for an initial operating permit, minor modification, significant modification, or renewal, 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.
- (gg) The Department may deny an application for an initial operating permit, minor modification, significant modification, or renewal, if the applicant fails to pay any monies due and owing to the Department, and those monies are related to the fees specified in N.J.A.C. 7:27-22.31.
- (hh) The Department will deny an operating permit application, or modification to an operating permit, that includes a paint spray operation that is a significant source operation, unless at a minimum the operation is served by particulate control apparatus.
- (ii) No person may construct, install, or change any source operation for which a minor modification or significant modification of the operating permit is required pursuant to this subchapter other than as described in N.J.A.C. 7:27-22.23 and 22.24, respectively. Full responsibility for adequate design and construction shall be with the person to whom the Department has issued the permit.
- (jj) The Department may establish conditions of approval of any operating permit, administrative amendment, minor modification, or significant modification. In the event that a discrepancy exists between the information in an application and the conditions of its approval, the conditions of approval shall prevail.
- (kk) The Department may withdraw its approval of an operating permit, minor modification, or significant modification if the person to whom the Department has issued the permit or modification:
 - 1. Does not begin construction or installation within one year from the date of approval of the permit or modification; or
 - 2. Discontinues construction or installation for a period of more than one year.
- (ll) Any person who is subject to the provisions of 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 or both.
- (mm) Any information which the Department needs to take into consideration in making a decision on an application shall be submitted to the Department for incorporation into the

application prior to the Department making a decision on the application. If the Department needs any information beyond what is submitted in the application, the Department shall request such additional information from the applicant.

- (nn) An affirmative defense to liability shall be available pursuant to the conditions of this section for penalties or other sanctions for violating certain provisions or conditions of an operating permit. The affirmative defense shall be available for a violation of a provision or condition of the operating permit only if:
 - 1. The violation occurred as a result of an equipment malfunction, an equipment start-up or shutdown, or during the performance of necessary equipment maintenance; and
 - 2. The affirmative defense is asserted and established as required by N.J.S.A. 26:2C-19.1 through 19.5 and any implementing rules.
- (oo) Any person who has submitted to the Department an administratively complete application for an initial operating permit or for a modification to an operating permit may, during the Department's review of the application, place the equipment or control apparatus covered by the application on the footings or foundation where it is intended to be used, provided that:
 - 1. The person notifies the Department, via certified mail, of the intent to so place the equipment or control apparatus, at least seven days prior to commencing the placement; and
 - 2. Such placement is not prohibited by Federal law.
- (pp) If a person constructs or places equipment or control apparatus in accordance with (oo) above, and the Department determines that the equipment or control apparatus or its placement is inconsistent with applicable State law or rules, the person shall be subject to civil or criminal penalties for the inconsistent action only if the construction or placement results in air contaminant emissions. Any costs incurred by the person in connection with the construction or placement may not be used as grounds for an appeal of the Department's decision on the permit application.
- (qq) No permittee shall test or operate air pollution control apparatus or process equipment that has been installed at risk, pursuant to (oo) above, until a minor modification or significant modification of the operating permit has been submitted and a preconstruction approval has been issued by the Department.
- (rr) For a person seeking approval of an environmental improvement pilot test, as defined at N.J.A.C. 7:27-22.1, of air pollution control equipment or other environmental clean-up equipment, the Department will take final action on the application for preconstruction approval within 30 days of receiving an administratively complete application. An administratively complete application shall meet all application contents requirements for

a minor modification of the operating permit set forth at N.J.A.C. 7:27-22.23(f) and (g). The approval will be effective for 90 days. If a person wishes to extend the pilot test for 90 or fewer days, the person shall submit a new application for preconstruction approval for an environmental improvement pilot test to the Department for each additional 90-day period. The fee for an environmental improvement pilot test is set forth at N.J.A.C. 7:27-22.31, and shall be paid in accordance with N.J.A.C. 7:27-22.31(g).

- (ss) For the purposes of this subchapter, any VOCs which are neither HAPs, nor are specified by the Department as air contaminants regulated by New Jersey pursuant to N.J.S.A. 26:2C-9.2i (P.L. 1995, c.188, § 4(i)), shall be considered as a single air contaminant, and may be used interchangeably. Such use shall not be considered installation or modification.
- (tt) On and after April 25, 2004, no permittee may use DER credits to comply with a VOC or NOx permit limit established pursuant to this subchapter.
- (uu) The Department will note in the operating 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 operating permit without first notifying the EPA.
- (vv) The following information is available from the Department:
 1. A list of air contaminants currently listed by EPA as HAPs pursuant to 42 U.S.C. § 7412(b) may be requested from the Department at the address set forth at N.J.A.C. 7:27-22.3(t). A list of regulated air contaminants may also be requested from the Department at that address; and
 2. Technical manuals are available on the Department's website at <http://www.nj.gov/dep/aqpp/techman.html> and may be requested from the Department at the following address:

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

7:27-22.4 General application procedures

- (a) The procedures in this section apply to all applications and notices submitted to the Department pursuant to this subchapter. Specific procedures for initial operating permits,

general operating permits, administrative amendments, seven-day notice changes, minor modifications, significant modifications, and renewals can be found at N.J.A.C. 7:27-22.5, 22.14, 22.20, 22.22, 22.23, 22.24, and 22.30, respectively.

- (b) Any application, general operating permit or notice of a seven-day-notice change shall be submitted to the Department according to the following schedule:
1. Prior to January 1, 2008, on forms obtained from the Department at the address at N.J.A.C. 7:27-22.3(t), or in accordance with electronic data interchange (EDI) procedures established by the Department; and
 2. On or after January 1, 2008, in accordance with EDI procedures established by the Department, except for renewals. Renewals shall continue to be submitted on paper forms obtained from the Department at the address at N.J.A.C. 7:27-22.3(t).
- (c) An applicant who submits an application or notice to the Department electronically, shall use an electronic method listed at <http://www.state.nj.us/dep/aqpp>. However, if the applicant is asserting a confidentiality claim for any element of information in the application pursuant to N.J.A.C. 7:27-1.6(a), the applicant shall omit the confidential information from the electronically submitted application, as the electronic copy of the application shall be a public copy which the Department may disclose to any person, without restriction or limitation. In such case, the applicant shall also make a paper submission of the application in accordance with N.J.A.C. 7:27-1.6 which included the confidential information. Information about RADIUS is available at the following website: www.state.nj.us/dep/aqpp.
- (d) A paper or electronic copy of any application or notice submitted to the Department shall also be submitted to EPA at the following address, unless EPA waives the requirement for notice at 40 CFR 70.8, or determines that an application summary, with any relevant portion of the permit application, may be submitted in lieu of the complete application.
- United States Environmental Protection Agency, Region II
Air Compliance Branch
290 Broadway
New York, New York 10007-1866
- (e) An applicant for an initial operating permit or operating permit renewal is encouraged to submit an application to the Department no less than 90 days prior to the applicable application deadline set forth at N.J.A.C. 7:27-22.5 or 22.30, respectively.
- (f) Within 30 days of receipt of an application, the Department will issue a letter detailing any deficiencies in respect to administrative completeness in the application, thereby providing the applicant the opportunity to correct the deficiencies prior to the application deadline.

- (g) An applicant who electronically registers one or more sources under a general operating permit shall submit the completed registration form in accordance with N.J.A.C. 7:27-22.3(b) using the appropriate electronic method listed at <http://www.state.nj.us/dep/aqpp>.

7:27-22.5 Application procedures for initial operating permits

- (a) The application procedures in this section apply to all applications submitted to the Department for initial operating permits.
- (b) The owner or operator of a facility subject to this subchapter shall submit a timely and administratively complete application for an initial operating permit. To be considered timely, an administratively complete application for an initial operating permit shall be submitted to the Department no later than the applicable deadline established in this section. An applicant for an initial operating permit is encouraged to submit the application to the Department no less than 90 days prior to the applicable application deadline set forth in this section. Within 30 days of receipt of an application, the Department will issue a letter detailing any deficiencies in respect to administrative completeness in the application, thereby providing the applicant the opportunity to correct the deficiencies prior to the complete application deadline listed at (c) below. An application shall be deemed administratively complete if the Department does not notify the applicant, within 60 days of its receipt of the application, that additional information is required.
- (c) For an existing facility subject to this subchapter, the applicable deadline for submitting an administratively complete application for an initial operating permit is the earliest deadline below which applies to the facility:
 1. For affected Title IV facilities with source operations subject to the acid deposition control program Phase II requirements for initial operating permits, the applicable deadline specified at N.J.A.C. 7:27-22.29(b);
 2. For facilities with any source operation designated by EPA pursuant to 40 CFR 70.3(a)(5) as requiring an operating permit, within 12 months after the effective date of EPA's designation, or by a later deadline specified by EPA in its designation; and
 3. For all other facilities, by the deadline the table below as determined by the facility's primary SIC code, as reported to the New Jersey Secretary of State:

<u>SIC Code</u>	<u>Complete Application Deadline</u>	<u>Early Submittal</u>
2000 through 2086	8/15/95	5/15/95
2088 through 2199	8/15/95	5/15/95
4900 through 4910	8/15/95	5/15/95

4911 ⁽¹⁾	8/15/95	5/15/95
4912 through 4939	8/15/95	5/15/95
6400 through 6999	8/15/95	5/15/95
8300 through 9999	8/15/95	5/15/95
4911 ⁽²⁾	11/15/95	8/15/95
4200 through 4399	11/15/95	8/15/95
5900 through 6399	11/15/95	8/15/95
7000 through 7199	11/15/95	8/15/95
7500 through 8299	11/15/95	8/15/95
0000 through 1299	5/15/96	2/15/96
1400 through 1999	5/15/96	2/15/96
3200 through 3599	5/15/96	2/15/96
4000 through 4199	5/15/96	2/15/96
4400 through 4499	5/15/96	2/15/96
4800 through 4899	5/15/96	2/15/96
5300 through 5499	5/15/96	2/15/96
1300 through 1399	11/15/96	8/15/96
2700 through 2799	11/15/96	8/15/96
2900 through 2999	11/15/96	8/15/96
3600 through 3999	11/15/96	8/15/96
4500 through 4799	11/15/96	8/15/96
7300 through 7499	11/15/96	8/15/96
2200 through 2599	5/15/97	2/15/97
3000 through 3199	5/15/97	2/15/97
5000 through 5299	5/15/97	2/15/97
5500 through 5899	5/15/97	2/15/97
7200 through 7299	5/15/97	2/15/97
2087	11/15/97+	8/15/97+
2600 through 2699	11/15/97+	8/15/97+
2835 through 2899	11/15/97+	8/15/97+
2800 through 2834	5/15/98++	2/15/98++
4940 through 4999	5/15/98++	2/15/98++

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- ¹ If the facility is located in Atlantic, Burlington, Gloucester, Hudson, Hunterdon, Salem, Union, Camden, Monmouth, Sussex, or Warren County.
- ² If the facility is located in Bergen, Cape May, Cumberland, Essex, Mercer, Middlesex, Ocean, Morris, Passaic, or Somerset County.
- ⁺ If submitted electronically, applications may be submitted by February 4, 1999. The recommended early submittal date for an electronic submittal is November 4, 1998. If the application includes information for which a claim of confidentiality is being asserted, this

extended deadline shall apply to both the electronic submittal and the accompanying paper submittal which includes the information being claimed confidential. See N.J.A.C. 7:27-22.4(c).

⁺⁺ If submitted electronically, applications may be submitted by May 4, 1999. The recommended early submittal date for an electronic submittal is February 4, 1999. If the application includes information for which a claim of confidentiality is being asserted, this extended deadline shall apply to both the electronic submittal and the accompanying paper submittal which includes the information being claimed confidential. See N.J.A.C. 7:27-22.4(c).

(d)-(e) (Reserved)

(f) For a new facility subject to this subchapter, the deadline for submitting an initial operating permit application is the later of the following:

1. The applicable deadline set forth at (c) above; or
2. Twelve months after the new facility commences operation.

(g) A new facility subject to this subchapter may either obtain preconstruction permit and operating certificate approval pursuant to N.J.A.C. 7:27-8 or such facility may elect to obtain both preconstruction and operating permit approval simultaneously by the submittal and approval of a consolidated preconstruction and operating permit application pursuant to this subchapter and N.J.A.C. 7:27-8 prior to construction of the facility. In either situation, the facility shall comply with the application deadline in (f) above.

(h) For an existing facility that becomes subject to this subchapter through a change to the facility or to any source operation, or to the use thereof, the applicable deadline for submitting the application for an initial operating permit is the later of the following:

1. The applicable deadline set forth at (c) above; or
2. Twelve months after the new or changed facility commences operation.

(i) For a facility that becomes subject to this subchapter through a change to any applicable requirement, or creation of a new applicable requirement, the applicable deadline for submitting the application for an initial operating permit, if no deadline is specified in the new requirement, is the later of the following:

1. The applicable deadline set forth at (c) above; or
2. Twelve months after the effective date of the new applicable requirement.

(j) If a facility has over 100 source operations, the owner or operator may elect to divide the facility into two or more components, and submit a separate application for an initial operating permit for each component. Such applications shall be submitted on a schedule proposed by the owner or operator and approved by the Department, except that the application for the final component shall be submitted no later than the application deadline established for the facility pursuant to (c) above.

7:27-22.6 Operating permit application contents

- (a) To be administratively complete, an application for an initial operating permit shall include all information required by this section. The required information shall be provided on and with forms obtained from the Department, which will direct the applicant to set the information forth in a format such that the Department can incorporate the information readily into the draft operating permit.
- (b) The required contents of an application for authorization to operate under a general operating permit, an administrative amendment, a minor modification, a significant modification, or a renewal of an operating permit are not set forth in this section, but rather are set forth at N.J.A.C. 7:27-22.14, 22.20, 22.23, 22.24, and 22.30, respectively. Requirements for submitting a notice of a seven-day-notice change are set forth at N.J.A.C. 7:27-22.22.
- (c) Any source operation at a facility subject to this subchapter shall be included in the facility's application for an operating permit, except for exempt activities as defined at N.J.A.C. 7:27-22.1.
- (d) All source operations which are not exempt as defined at N.J.A.C. 7:27-22.1 and are significant or insignificant source operations shall be included in a facility's application for an operating permit. Source operations shall be classified as either significant or insignificant, as defined at N.J.A.C. 7:27-22.1. Different types and amounts of information are required for significant and insignificant source operations in the application for an operating permit.
- (e) In an application, an owner or operator may claim a source operation to be an insignificant source operation as defined at N.J.A.C. 7:27-22.1.
- (f) An application for an initial operating permit shall include all information required by the application form, the instructions accompanying the application form, and the applicable completeness checklist(s) for the application. This shall include, but is not limited to, the following:
 - 1. Information pertaining to the identification of the applicant, including:
 - i. The company name and mailing address, division name and the plant name and address (if different);
 - ii. The name and address of each owner, each owner's agent (if any), and each operator of the facility;
 - iii. The name and telephone number of the on-site facility manager and of any additional on-site contact person; and

- iv. The name and address of any responsible official, as defined at N.J.A.C. 7:27-1.4;
 2. For the source operations proposed to be classified as insignificant source operations pursuant to (d) or (e) above, the following information:
 - i. A list of the types of insignificant source operations found at the facility; and
 - ii. An estimate of the total emissions from all insignificant source operations, listed separately for each criteria pollutant; and
 - iii. A listing of applicable requirements which generally apply to insignificant source operations at the facility;
 3. For each significant source operation at the facility which will be subject to the operating permit, information including but not limited to the following:
 - i. A brief description of the source operation;
 - ii. The identification number of any preconstruction permit issued by the Department for the source operation;
 - iii. Identification of any stack or chimney which serves the source operation and specification of:
 - (1) Any stack designation assigned by the Department for the stack or chimney; and
 - (2) Any stack designation assigned by the facility for the stack or chimney; and
 - iv. Identification of the production process in which the source operation is used;
 4. A general description of each of the facility's production processes and products in sufficient detail to determine which applicable requirements apply to the facility, including, but not limited to, for each production process its NAICS code. The description shall set forth for each production process:
 - i. The significant source operations associated with the production process pursuant to (f)3iv above;
 - ii. The product(s) or intermediate product(s), together with any associated co-products, produced by the production process; and

- iii. A general description of the operating scenario used to produce the product(s) or intermediate product(s), and a description of any operating scenarios which may be used to produce the same product(s) or intermediate product(s). Such description of an operating scenario shall be prepared pursuant to N.J.A.C. 7:27-22.27;
5. The following information pertaining to emissions at the facility:
- i. For each significant source operation, each air contaminant that it may emit and its potential to emit that air contaminant, including any non-captured emissions, in tons per year, and any other units, for example pounds per hour, required to verify compliance with any applicable requirement. If the source operation's potential to emit a given air contaminant does not exceed the applicable threshold for reporting emissions set forth in N.J.A.C. 7:27-22 Appendix, Table A or at N.J.A.C. 7:27-17.9(a), the air contaminant need not be included;
 - ii. For the facility, each air contaminant, if any, emitted as fugitive emissions and not associated with any source operation; the cause of that air contaminant being emitted as fugitive emissions; and a reasonable estimate of the facility's fugitive emissions of that air contaminant, in tons per year, and any other units required to verify compliance with any applicable requirement. However, if the facility's potential to emit a given air contaminant as fugitive emissions does not exceed the applicable threshold for reporting emissions set forth in N.J.A.C. 7:27-22 Appendix, Table A or at N.J.A.C. 7:27-17.9(a), the information required by this paragraph need not be given in respect to that air contaminant;
 - iii. For the facility as a whole, the facility's aggregate potential to emit, in tons per year, each air contaminant that may be emitted within the facility, including the emissions determined pursuant to (f)5i and ii above;
 - iv. Identification of each stack or chimney at the facility and, for each stack or chimney, designation of which significant source operations are vented through the stack and chimney;
 - v. For each source operation, a listing of any fuels used and the maximum quantity of each commercial fuel or non-commercial fuel to be used annually;
 - vi. For each production process, the raw materials to be used, and either the maximum rate of production and the maximum annual hours of operation, or the maximum batch size and the maximum number of batches per year;
 - vii. For each source operation, a description of the control apparatus, if any, serving the source operation; if the control apparatus is not used for all

- operating scenarios, a description of the circumstances under which it is not used;
- viii. For the facility, identification and description of all monitoring devices or activities proposed to verify compliance with applicable requirements;
 - ix. Any additional emissions information or emissions-related information needed to verify whether any potentially applicable requirement applies to the facility or to any source operation at the facility;
 - x. Any other information required by an applicable requirement;
 - xi. Any calculations upon which information in (f)5i through x is based; and
 - xii. For each criteria pollutant, any emission reductions which have been banked, pursuant to N.J.A.C. 7:27-18.8, and an indication as to whether they are held by the owner or operator of the facility or by another person;
6. For each significant source operation at the facility or, if applicable, for each group of source operations or for the facility as a whole, information pertaining to air pollution control requirements as follows:
- i. Description of each applicable requirement;
 - ii. Citation to the State or Federal rule, regulation, permit or other authority, which establishes each applicable requirement upon which the proposed permit conditions are based;
 - iii. For each applicable requirement, each provision of the applicable requirement which sets forth a maximum allowable emissions limitation, a limitation on operation affecting emissions, or a work practice standard affecting emissions applicable to the facility;
 - iv. The proposed permit conditions which incorporate and reflect each provision provided pursuant to (f)6ii above;
 - v. Identification of any difference in form between a proposed permit condition and the applicable requirement upon which the proposed permit condition is based; and
 - vi. If the owner or operator seeks to have, pursuant to N.J.A.C. 7:27-22.3(m), the operating permit include an alternative emission limit for any significant source operation or any group of significant source operations, a demonstration that:
 - (1) The proposed alternative emissions limit is allowed in the SIP;

- (2) The proposed alternative emissions limit is equivalent to, or more stringent than, that contained in an applicable requirement; and
 - (3) The proposed alternative emissions limit is quantifiable, accountable, enforceable, and based on replicable procedures;
 7. An explanation of any proposed exemption from an otherwise applicable provision of an applicable requirement, including a citation of the legal authority authorizing the exemption;
 8. A proposed compliance plan meeting the requirements of N.J.A.C. 7:27-22.9;
 9. A listing of any preconstruction permits issued by the Department pursuant to N.J.A.C. 7:27-8 prior to the date of application and any applications for preconstruction permits not yet finally acted upon;
 10. A statement that a copy of the application, or a summary of the application with any relevant portion of the permit application as determined by EPA under 40 CFR 70.8, has been sent to EPA; and
 11. Certification of the application pursuant to N.J.A.C. 7:27-1.39; and
 12. Any other information that is reasonably necessary to enable the Department to determine whether the applicant has satisfied the requirements of this subchapter for the issuance of a permit.
- (g) Any applicant who seeks an operating permit authorizing the operation of a production process in one or more alternative modes shall propose these modes as operating scenarios, in the application for an operating permit or significant modification, pursuant to N.J.A.C. 7:27-22.27. If the Department approves one or more operating scenarios as part of an operating permit, the production process may be operated in any of the modes specified in the approved operating permit, and may be changed between those modes, without modification of the operating permit or notification to the Department.
- (h) Any applicant who seeks an operating permit authorizing implementation of an emissions trading program requiring prior Department approval pursuant to N.J.A.C. 7:27-22.28A(b) shall propose the emissions trading in an application for an initial operating permit, minor modification, significant modification, or in a seven-day-notice, as appropriate. An applicant may propose emissions trading for more than one group of source operations at the facility.
- (i) Any applicant who seeks an operating permit including different emissions limits that apply to a source operation during startup, shutdown, or necessary equipment maintenance, shall propose such emissions limits in the application for the operating permit or significant modification. An applicant may propose such startup, shutdown, or

maintenance emissions limits for more than one source operation in the application provided that these limits do not conflict with the SIP or any state or Federal regulation.

- (j) An applicant may elect to propose, in the application for an initial operating permit, the methods to be used to determine the actual emissions of each significant source operation at the facility, for the purpose of preparing emission statements required for the facility pursuant to N.J.A.C. 7:27-21.
- (k) (Reserved)
- (l) Any applicant who, pursuant to N.J.A.C. 7:27-22.14, seeks to include as a component of the operating permit for the facility, one or more general operating permits shall specify the general operating permit(s) proposed to be included, identify each source operation to which the general operating permit would apply, and meet all other general operating permit application requirements set forth at N.J.A.C. 7:27-22.14. The conditions of such general operating permit, if applicable, will be incorporated into the operating permit for the facility.
- (m) If an applicant seeks acknowledgement in the operating permit that any specific provision of a potentially applicable requirement does not in fact apply to the facility, the applicant may cite such a specific provision, explain why it does not apply, and request that the provision be specifically identified in the operating permit as being inapplicable to the facility.
- (n) If an applicant for an initial operating permit seeks to have a compliance extension for a MACT or GACT standard incorporated into the operating permit, the applicant shall demonstrate in the application, pursuant to N.J.A.C. 7:27-22.34, that sufficient early reductions of HAP emissions have been achieved.

7:27-22.7 Application shield

- (a) An application shield provides that the owner or operator of a facility subject to this subchapter will not be subject to penalties for operating the facility without an operating permit during the time the application shield is in effect.
- (b) An application shield is in effect for a facility if:
 - 1. The owner or operator of the facility has submitted to the Department an application for an initial operating permit or for a renewal, in accordance with N.J.A.C. 7:27-22.5 or 22.30, whichever applies; and
 - 2. The application is administratively complete by the applicable deadline for submittal of the application, as set forth at N.J.A.C. 7:27-22.5 or 22.30, whichever applies.

- (c) The protection afforded by the application shield begins the date the application is due to the Department.
- (d) An application which is administratively incomplete at the time of the application deadline applicable to the facility, but which is later completed, is ineligible for coverage by an application shield. Similarly, an administratively complete application which is submitted after the applicable deadline for its submittal is ineligible for an application shield. As set forth at N.J.A.C. 7:27-22.4(e), applicants are advised to submit the application 90 days prior to the application deadline to ensure that any deficiencies may be corrected by the deadline.
- (e) An application shield does not relieve an applicant of the responsibility for compliance with all other requirements of this chapter, or any permit, order, or other legal document issued pursuant thereto.
- (f) An application shield terminates automatically upon either of the following:
 - 1. The Department's final action on the application for the initial operating permit or for the renewal; or
 - 2. Failure of the applicant to submit additional information requested by the Department within the deadline established by the Department pursuant to N.J.A.C. 7:27-22.10, Completeness review.

7:27-22.8 Air quality simulation modeling and risk assessment

- (a) An applicant for an initial operating permit for a new major facility, or for a minor modification or significant modification to an existing operating permit, shall conduct air quality simulation modeling in accordance with (c) below if:
 - 1. The application is subject to PSD air quality impact analysis requirements set forth at 40 CFR 52;
 - 2. The application is subject to the air quality impact analysis requirements set forth at N.J.A.C. 7:27-18.4;
 - 3. The application includes relocation of a temporary facility to a site not specifically authorized in the operating permit, and air quality simulation modeling or risk assessment was required for the location(s) authorized in the operating permit;
 - 4. The application includes source operations which, based on screening procedures published in technical manuals by the Department, have the potential to cause any of the adverse air quality effects listed in (b)1 through 4 below; or

5. The application is subject to the technical demonstration requirement set forth at N.J.A.C. 7:27-18.5(l)3.
- (b) The air quality simulation modeling shall be used to determine whether the potential to emit proposed in the permit application may cause:
1. A violation of any New Jersey Ambient Air Quality Standard (NJAAQS) or National Ambient Air Quality Standard (NAAQS);
 2. An exceedance of a Prevention of Significant Deterioration (PSD) increment as defined in 40 CFR 52;
 3. An increase in the 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. Air pollution as defined in P.L. 1954 c.212 (N.J.S.A. 26:2C-1 et seq.).
- (c) The air quality simulation modeling shall be conducted using procedures published in technical manuals by the Department and in accordance with a protocol approved in advance by the Department. The protocol shall document how the air quality simulation modeling is to be conducted and how the results of the analysis are to be presented to the Department. The protocol shall be prepared in accordance with the Department's technical manuals on Air Quality Modeling (technical manual 1002) and Risk Assessment (technical manual 1003), available on the Department's website at <http://www.nj.gov/dep/aqpp/techman.html> at the following address:
- Department of Environmental Protection
Division of Air Quality
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
- (d) An applicant not subject to (a) above may voluntarily perform air quality simulation modeling and risk assessment for existing source operations and submit these to the Department, to be made available as part of the public review process for applications for initial operating permits or renewals.
1. Performance of voluntary modeling and risk assessment should be considered by the applicant if the facility's potential to emit any hazardous air pollutant exceeds the thresholds contained in the Department's technical manual for Risk

Assessment for Operating Permits (technical manual 1004), available at the address in (c) above.

2. Guidance on conducting air quality simulation modeling and risk assessment is available in the Department's technical manual for Risk Assessment for Operating Permits (technical manual 1004), available at the address in (c) above.
3. An applicant for an initial operating permit or the renewal of an operating permit may voluntarily prepare a risk assessment based on ambient air quality monitoring of actual levels of hazardous air pollutants, in lieu of an assessment based on air quality simulation modeling. Guidance on conducting air monitoring is available at the following address:

Department of Environmental Protection
Office of Air Quality Management
Bureau of Air Monitoring
401 East State Street, 7th Floor
Mail Code 401-07H
PO Box 420
Trenton, New Jersey 08625-0420
Telephone: (609) 292-0138

- (e) Any new or revised technical manuals referenced in this section will be subject to public input prior to finalization.

7:27-22.9 Compliance plans

- (a) Pursuant to N.J.A.C. 7:27-22.6(f)8, an applicant for an initial operating permit shall submit a proposed compliance plan, drafted in accordance with this section and certified in accordance with N.J.A.C. 7:27-1.39, as part of an application for the initial operating permit.
- (b) An applicant for a renewal, significant modification, or minor modification shall draft proposed revisions to any portion of the facility's compliance plan affected by any change to the facility made since the operating permit was issued. The proposed revisions shall be drafted in accordance with this section and submitted as part of the application for the renewal, significant modification, or minor modification.
- (c) A proposed compliance plan shall include the following:
 1. A description of the current compliance status of the facility with respect to all applicable requirements;
 2. For each applicable requirement, a statement setting forth the methods used to determine the facility's compliance status, including a description of any monitoring, recordkeeping, reporting or test methods, and any other information

necessary to verify compliance with or enforce any proposed permit condition or any applicable requirement. This statement shall include, but is not limited to:

- i. All monitoring, analysis procedures, recordkeeping, reporting, or test methods required by any applicable requirement, including any applicable monitoring procedures or methods required under the Federal "enhanced monitoring program" set forth at 40 CFR Part 64;
 - ii. Where the applicable requirement does not require monitoring, recordkeeping, reporting, or test methods sufficient to demonstrate the facility's compliance with the operating permit, proposed monitoring, recordkeeping, reporting, or test methods which:
 - (1) Are sufficient to demonstrate compliance;
 - (2) Use terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement; and
 - (3) Can be used for enforcement of the applicable requirement;
 - iii. Proposed requirements concerning the use, maintenance, and installation of monitoring equipment and concerning monitoring, recordkeeping, reporting, or test methods. This shall include, but is not limited to, schedules for monitoring, recordkeeping, reporting, and source emissions testing; specification of parameters to be measured, recorded, and reported; and formats for recording and reporting; and
 - iv. Where the permittee proposes to use monitoring of operating parameters to demonstrate compliance (as opposed to direct emissions testing or monitoring), a proposed enforceable limit or range of operation for the parameter monitored, and how this parameter correlates to the emission limit.
3. For each applicable requirement with which the facility is in compliance at the time the application for an operating permit is submitted to the Department, a statement that the facility will continue to comply with the applicable requirement;
 4. For each promulgated applicable requirement which will become applicable to the facility after the application for an operating permit is submitted to the Department, but prior to the anticipated end of the term of the operating permit:
 - i. The date the provision will become applicable to the facility or to any part thereof;

- ii. A statement that the facility will comply with the applicable requirement on a timely basis; and
 - iii. A detailed compliance schedule, if such schedule is expressly required by the applicable requirement;
 5. For each applicable requirement for which the facility is not in compliance at the time the application for an operating permit is submitted to the Department:
 - i. A narrative description of how the facility will achieve compliance with the applicable provision(s) of the applicable requirement;
 - ii. A proposed compliance schedule setting forth the remedial measures to be taken, including an enforceable sequence of actions with milestones leading to compliance. If the facility is subject to any order, including an administrative consent order, or consent decree, the proposed schedule of remedial measures shall incorporate the order or consent decree, and shall be at least as stringent as the order or consent decree; and
 - iii. A schedule for submittal of progress reports, certified in accordance with N.J.A.C. 7:27-1.39, every six months, or more frequently if specified by the underlying applicable requirement, order, consent decree;
 6. The following statements:
 - i. The permittee will ensure the compliance of the facility with the accidental release provisions at 42 U.S.C. § 7412(r);
 - ii. The permittee will ensure the compliance of the facility with any employee trip reduction rules promulgated by NJDOT; and
 - iii. The permittee will ensure that any architectural coatings used at the facility conform with the standards set forth at N.J.A.C. 7:27-23; and
 7. A schedule for the periodic submittal of compliance certifications, prepared in accordance with N.J.A.C. 7:27-22.19(f). Submittal shall be annual, or more frequent if so specified by the underlying applicable requirement or by the Department in the operating permit.
- (d) If any source operation or any aspect of a facility's operation is in violation of any applicable requirement, and the facility is not subject to an order or consent decree for the violation, the owner or operator of the facility may request an administrative consent order from the Department to address the violation pursuant to N.J.A.C. 7:27A. A request to enter into an administrative consent order shall be submitted to:

Department of Environmental Protection
Division of Air and Hazardous Materials Enforcement
401 East State Street, 4th Floor East
Mail Code 401-04B
P.O. Box 420
Trenton, New Jersey 08625-0420

- (e) The Department's approval of a compliance plan or compliance schedule does not constitute any approval or sanction by the Department of any noncompliance with any applicable requirement, nor does it relieve any owner or operator from liability for penalties for any noncompliance. Applicants are encouraged to seek an administrative consent order from the Department to address the possibility of penalties for noncompliance, and other enforcement actions.

7:27-22.10 Completeness review

- (a) Within 30 days of receipt of an application for an initial operating permit, a renewal, a minor modification, or significant modification, the Department will:
 - 1. Determine that the application is administratively complete, and so notify the applicant; or
 - 2. Notify the applicant that the application is administratively incomplete, specify in writing the additional information required for the Department to commence review of the application, and provide a reasonable due date by which the applicant shall submit the information to the Department.
- (b) An application shall be deemed administratively complete upon the earliest of the following dates that is applicable:
 - 1. The date the application is submitted, if the Department does not notify the applicant, within 60 days of its receipt of the application, that additional information is required;
 - 2. The date upon which any additional information requested in writing by the Department is submitted, if the Department does not notify the applicant, within 60 days of its receipt of the information, the further information is required; or
 - 3. The date that the Department determines that the application is administratively complete.
- (c) The Department may request additional information from an applicant at any time after the submittal of an application, regardless of whether or not the application is administratively complete at the time of the Department's information request. A Department request for additional information in regard to an application which has been

determined to be complete pursuant to (b) above shall not alter the administrative completeness status of the application.

- (d) In a request for additional information, the Department shall establish a reasonable date by which the information is due to the Department. Upon receipt of a written request for additional time, the Department may extend the due date for the submittal of the additional information.
- (e) If an applicant fails to submit the information requested by the Department by its due date, the Department shall deny the application. In addition, the Department shall void any application shield in effect pursuant to N.J.A.C. 7:27-22.7(f) effective the day following the due date.
- (f) If an application is denied, the applicant may reapply at any time. The new application shall meet all requirements for an operating permit application, including any fee requirement.

7:27-22.11 Public comment

- (a) This section sets forth the procedures by which the Department will obtain comment from the public and affected states on each of the following:
 - 1. A draft operating permit developed by the Department following the receipt of an administratively complete application for an initial operating permit;
 - 2. A draft operating permit developed by the Department following the receipt of an administratively complete application for a significant modification of an operating permit;
 - 3. A draft operating permit developed by the Department following the receipt of an administratively complete application for renewal of an operating permit; and
 - 4. A draft general operating permit developed by the Department pursuant to N.J.A.C. 7:27-22.14(a).
- (b) The Department will provide a public comment period on each draft operating permit and each draft general operating permit, during which the Department will accept written comments on the draft permit. The public comment period will be specified in the notice published pursuant to (c) and (d) below, and shall be at least 30 days.
- (c) The Department will provide public notice of the opportunity for public comment on each draft operating permit. The notice will:
 - 1. Identify the facility that will be subject to the operating permit, and provide the name and address of the owner or operator;

2. Indicate whether the draft operating permit is an initial operating permit, a significant modification, a renewal or a general operating permit;
 3. Indicate the type of production processes involved in the draft operating permit and, for a significant modification, the emissions change that will result from the modification;
 4. Give the name and address of the Department, including the name, telephone number, and e-mail address of a person at the Department from whom interested persons may obtain additional information;
 5. Announce the opportunity for public comment, and provide a description of the public comment procedures set forth in this section;
 6. Specify the length of the public comment period; and
 7. Include the time and location of any public hearing to be held on the draft operating permit. If no public hearing is scheduled, the notice shall include procedures for requesting a public hearing.
- (d) The Department will provide public notice of the opportunity for public input on each draft general operating permit. The notice will include:
1. Proposed criteria for the types and sizes of source operations that may be covered by the general operating permit;
 2. Proposed conditions of construction or operation, including monitoring, recordkeeping, and reporting requirements, for persons who obtain this general operating permit; and
 3. The public comment information listed in (c)4 through 7 above.
- (e) The Department will post the public notice and each draft operating permit on the Department's air permitting website (www.nj.gov/dep/aqpp) for the duration of the public comment period. The Department will also provide notice of the draft operating permit using e-mail, postal service, or other means to persons on a mailing list developed by the Department, including to persons who request in writing to be on the mailing list or who subscribe to the Department's Air Quality Regulation Listserv. The Department may occasionally update the mailing list and may delete from the list the name of any person who does not respond to the Department's request for a written indication of continued interest in being on the list, or for whom a notice returns to the Department as undeliverable. The Department will publish the notice for each draft general operating permit in the New Jersey Register. The Department may also provide additional notice by using any other means the Department finds appropriate for ensuring adequate notice to the public of the opportunity for public comment.

- (f) Whenever there is a significant degree of public interest, the Department will hold a public hearing on the draft operating permit or draft general operating permit. The Department may schedule a public hearing and include it in the notice of opportunity for public comment pursuant to (c) or (d) above or, if the Department does not schedule a hearing, any person may request that the Department hold a public hearing on the draft permit. A request for a public hearing shall be submitted in writing to the Department no later than the published date of the close of the comment period, and shall include a statement of issues to be raised at the public hearing. The issues raised shall be relevant to the draft permit under review by the Department.
- (g) If a public hearing is held, the Department shall provide public notice of the public hearing at least 30 days in advance of the date the public hearing is scheduled.
- (h) If in response to a request for a public hearing, the Department schedules a public hearing on a draft operating permit or draft general operating permit, the close of the public comment period shall be at 5:00 P.M. on the second State business day following the date of the public hearing unless a later date is specified in the notice provided pursuant to (g) above. The Department may further extend the comment period by announcing the extension and its duration at the public hearing.
- (i) At any public hearing on a draft operating permit or draft general operating permit, the Department may, at its discretion:
 - 1. Limit the time allowed for oral statements; and
 - 2. Request a person offering oral testimony to submit the statement also in writing.
- (j) The Department shall maintain for five years a record of all persons who provided oral or written comment during the public comment period for an operating permit or general operating permit and of the issues raised. Such records will be available to the public.
- (k) The Department, on or before publishing notice of a draft operating permit or draft general operating permit pursuant to (b) or (c) above, shall also give notice to the head of the designated air pollution control agency of any affected state, and will accept and consider any comments which are received from the affected state prior to the close of the public comment period. If the Department does not accept any recommendation provided in writing by an affected state during the public comment period, the Department will so inform the affected state and EPA in writing, setting forth the Department's reasons for not accepting the recommendation.
- (l) Notwithstanding (a) above, the Commissioner of the Department may also seek or accept public comment whenever it finds a significant degree of public interest in any application, including, but not limited to, applications for minor modifications, or whenever the Department determines such comment might clarify one or more issues involved in the decision on the permit application. In determining whether to seek or accept public comment, the Department shall consider factors germane 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 applicant's record of compliance with air pollution control requirements; and
 3. Any other air pollution control aspects of the application or facility which might make the application of particular interest to the public.
- (m) The Department shall notify those who submitted a written request of the Department's decision regarding their request. The Department's notification shall be in writing, and if the decision is a denial, the notification shall include a discussion of the factors in (l) above, as well as a description of all other factors which formed the basis for the Department's decision.
- (n) The Department shall grant a facility's request to operate under a general operating permit without repeating the public comment procedures specified in this section if the general operating permit includes applicable requirements for all relevant source operations at the facility.

7:27-22.12 EPA comment

- (a) After the close of the public comment period and consideration of the comments on a draft operating permit or draft general operating permit, the Department will prepare a proposed operating permit or proposed general operating permit for EPA review. The Department will provide a copy of the proposed operating permit or proposed general operating permit to EPA and, upon request, to any other interested person. The Department will also provide a copy of the proposed operating permit to the applicant.
- (b) The Department will transmit the proposed operating permit or proposed general operating permit to EPA, together with a copy of any comments received from the public and from any affected state during the public comment period, and the Department's response to these comments.
- (c) In addition to the information transmitted to EPA pursuant to (b) above, the Department will transmit the following with any proposed operating permit:
1. Any information provided by the applicant to the Department subsequent to the application being deemed administratively complete; and
 2. Any other supporting information necessary for EPA to review the application.
- (d) If EPA objects to the proposed operating permit or proposed general operating permit pursuant to the requirements of 40 CFR 70.8 during the 45 days following EPA's receipt of the proposed permit, the Department will revise the proposed permit to address EPA

objection(s), and will submit the revised proposed permit to EPA, the applicant (if applicable), and, upon request, to any other interested person.

- (e) If the Department does not, within 90 days after its receipt of an objection from EPA, submit to EPA a proposed operating permit or proposed general operating permit, revised to the satisfaction of EPA, the EPA may take final action on the permit.
- (f) If EPA does not object to the proposed operating permit or proposed general operating permit within the 45 days following EPA's receipt of the proposed permit pursuant to (d) above or within 45 days following EPA's receipt of the revised proposed permit pursuant to (e) above, the Department will take final action on the application related to the proposed operating permit pursuant to N.J.A.C. 7:27-22.13 or on the proposed general operating permit, except as provided in (h) below.
- (g) If EPA does not object to the proposed operating permit or general operating permit within the 45 day period as set forth at (f) above, any person may petition the EPA during the 60 days after the expiration of EPA's 45-day comment period, and may request that EPA object to the proposed operating permit or proposed general operating permit. Any petition to EPA shall be based only on an objection that was raised by the petitioner with reasonable specificity during the public comment period unless:
 - 1. The petitioner demonstrates that it was impracticable for the petitioner to raise the objection during the public comment period; or
 - 2. The grounds for the objection arose after the public comment period closed.
- (h) If EPA, in response to a petition made pursuant to (g) above, objects to the proposed operating permit or proposed general operating permit before the Department has issued the permit, the Department will not issue a final operating permit or final general operating permit until the EPA's objection is addressed to EPA's satisfaction.
- (i) If EPA, in response to a petition made pursuant to (g) above, objects to the proposed operating permit or proposed general operating permit after the Department has issued a final operating permit or final general operating permit, the EPA may modify, terminate, or revoke the operating permit or general operating permit.
- (j) A final general operating permit, including applicability criteria, application procedures, and conditions, will be published by the Department in the New Jersey Register.
- (k) The Department shall grant a facility's request to operate under a general operating permit without repeating the EPA comment procedures specified in this section if all significant source operations at the facility are covered by the general operating permit.

7:27-22.13 Final action on an application

- (a) The Department will take final action on an application:

1. For an initial operating permit, within 18 months after the Department's receipt of an administratively complete application for an initial operating permit;
 2. For an application for an operating permit renewal, within 12 months after the Department's receipt of an administratively complete renewal application;
 3. For an application for a minor modification, within 90 days after the Department's receipt of an administratively complete application;
 4. For an application for group processing of minor modifications, within 180 days after the Department's receipt of an administratively complete application;
 5. For an application for a significant modification, within 12 months after the Department's receipt of an administratively complete application; or
 6. For an application for an administrative amendment, within 60 days after the Department's receipt of an administratively complete application.
- (b) Except pursuant to (c) below, final action by the Department on an application for an initial operating permit, renewal, significant modification, or minor modification shall be:
1. Issuance of the final operating permit, modification, or amendment;
 2. Written determination that the improper procedure was followed for requesting a modification or Departmental action, and identification of the proper procedure for processing the modification or obtaining the Departmental action; or
 3. Denial of the application. If an application is denied, the Department shall state the reason(s) for the denial.
- (c) If the Department does not take final action on an application within the deadlines provided for each type of application, the applicant, and any person who commented on the draft operating permit during the public comment period, shall be entitled to bring an action, in accordance with N.J.A.C. 7:27-22.32, Hearings and appeals, to compel the Department to take final action on the application.
- (d) After the Department has issued an initial operating permit, or a minor modification, significant modification, or operating permit renewal, the Department will provide a copy of the permit, as issued, to EPA.

7:27-22.14 General operating permits

- (a) The Department may promulgate a rule to issue one or more general operating permits, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-2 et seq. The Department may also publish a technical manual for each general permit, pursuant to N.J.S.A. 13:1D-

111. The technical manual shall contain the information required under N.J.S.A. 13:1D-111, including, but not limited to, information that details and clarifies the Department's interpretation of standards or other requirements that are not defined by regulation. However, if the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., establishes an alternative procedure for issuing general permits without rulemaking under the Administrative Procedure Act, the Department will issue general permits in accordance with that procedure. Otherwise, in issuing a general permit, the Department shall comply with:

1. The Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.;
 2. The public comment procedures set forth at N.J.A.C. 7:27-22.11;
 3. EPA comment procedures set forth at N.J.A.C. 7:27-22.12;
 4. Any other procedural requirements related to the issuance of an operating permit; and
 5. N.J.S.A. 13:1D-111.
- (b) In accordance with the procedures set forth in this section, an owner or operator may apply to the Department for authorization under a general operating permit to operate any source operation, group of source operations, or facility which meets the applicability criteria set forth in a general operating permit issued by the Department. A separate application for a preconstruction permit is not required. Approval of the general operating permit shall also constitute preconstruction permit approval. If the general operating permit applies to the entire facility, the general operating permit may serve as the operating permit for the facility. If the general operating permit applies to a part of the facility, the general operating permit may serve as a component of the operating permit for the facility.
- (c) A general operating permit is available for the following sources:
1. Manufacturing and Materials Handling Equipment (GOP-002A);
 2. A single emergency generator, 2007 model year or later, having a maximum heat input rate less than or equal to 30 million BTU per hour (MMBTU/hr) based on the higher heating value (HHV) of the fuel, and complying with the New Source Performance Standard for Stationary Compression Ignition Internal Combustion Engines, 40 CFR 60 (NSPS Subpart III). The general operating permit is titled, Emergency Generator (GOP-003);
 3. Emergency generator burning gaseous fuels (GOP-004);
 4. Boiler or heater, greater than or equal to one MMBTU/hr and less than five MMBTU/hr (GOP-007); and

5. Boiler or heater, greater than or equal to five MMBTU/hr and less than 10 MMBTU/hr (GOP-008).
- (d) In an application for authorization to operate under a general operating permit, the owner or operator shall demonstrate how the facility or portion thereof:
1. Meets the applicability criteria set forth in the general operating permit; and
 2. Will comply with all of the conditions of the general operating permit.
- (e) The Department shall grant a facility's request to operate under a general operating permit without repeating the public and EPA comment procedures specified in (a) above if the general operating permit includes applicable requirements for all relevant source operations at the facility.
- (f) A permittee shall operate a facility, or any portion thereof, for which authorization to operate under a general operating permit has been obtained from the Department, according to the terms and conditions of the general operating permit.

7:27-22.15 Temporary facility operating permits

- (a) The Department may issue an operating permit to an owner or operator of a temporary facility which authorizes operation in more than one location during the term of the operating permit, provided that all locations at which the facility may be operated are listed in the operating permit.
- (b) An operating permit issued for a temporary facility shall require the permittee to:
1. Comply with all applicable requirements at all locations at which the temporary facility is operated;
 2. Comply with all other applicable provisions of this chapter; and
 3. Provide written notice, received at least 10 days in advance of each change in location, to:
 - i. The mayor of the municipality, or if there is no mayor, the governing body of the municipality to which the facility will be moved;
 - ii. The board of chosen freeholders or other governing body of the county to which the facility will be moved;
 - iii. The local health agency, certified pursuant to the County Environmental Health Act, N.J.S.A. 26:3A2-21 et seq. (CEHA), and its implementing

regulations, N.J.A.C. 7:1H, in the county to which the facility will be moved; and

- iv. The Department at the address given at N.J.A.C. 7:27-22.3(t) and the address given below:

Department of Environmental Protection
Division of Air and Hazardous Materials Enforcement
401 East State Street, 4th Floor East
Mail Code 401-04B
P.O. Box 420
Trenton, NJ 08625-0420.

- (c) The notice required pursuant to (b)3 above shall include:
 - 1. The location being vacated;
 - 2. The location to which the facility will be moved;
 - 3. The name, address, and telephone number of the permittee;
 - 4. The Department assigned permit number, which identifies the operating permit; and
 - 5. As to the local officials identified in (b) above, a copy of the operating permit.
- (d) An operating permit issued for a temporary facility shall not relieve any person from the obligation to comply with any provision of this chapter, to obtain any other necessary authorization from other governmental agencies, or to comply with all other applicable Federal, State, and local laws, rules or regulations.
- (e) In accordance with N.J.A.C. 7:27-22.29(g), a facility subject to EPA's acid deposition control program pursuant to Title IV of the CAA, 42 U.S.C. § 7651 et seq., shall not be eligible for a temporary facility operating permit.

7:27-22.16 Operating permit contents

- (a) The Department will include in each operating permit, drafted for, or issued to, a facility, emission limitations and standards, including any operational requirement necessary to assure compliance with all applicable requirements which apply to a source operation or a group of source operations or to the facility as a whole at the time of permit issuance.
- (b) For each significant source operation at the facility, or, if applicable, for each group of source operations or for the entire facility, the operating permit shall:

1. Specify each applicable requirement and each associated permit condition, including any emission limitations and standards and any operational requirements;
 2. Cite to the specific legal authority, including any State or Federal rule or regulation or any permit, which establishes the applicable requirement and any associated permit conditions;
 3. Identify any difference in form between the permit condition and the applicable requirement upon which the permit condition is based;
 4. Specify the compliance assurance method (including a reference, if applicable, to where the method is published) required to be used to determine compliance with the permit condition; and
 5. Specifically designate as not being Federally enforceable any permit condition based on an applicable state requirement.
- (c) If any other applicable Federal requirement is more stringent than an applicable requirement of EPA's acid deposition control regulations, both requirements shall be set forth in the operating permit pursuant to (b) above and both shall be enforceable by the Department and EPA.
- (d) An operating permit may contain an alternative emission limit pursuant to N.J.A.C. 7:27-22.3(m), if:
1. The applicant has proposed the alternative emission limit in the application for the operating permit;
 2. The applicant has proposed procedures that ensure that the alternative emissions limit is quantifiable, accountable, enforceable, and based on replicable procedures;
 3. The Department has determined, based on an equivalency demonstration provided by the applicant, that the alternative emissions limit proposed by the applicant is equivalent to, or more stringent than, that contained in an applicable requirement; and
 4. The Department determines that the alternative emission limit is consistent with the SIP.
- (e) The Department shall incorporate into each operating permit the provisions of any effective preconstruction permit and operating certificate issued for the facility, or any part thereof, if the preconstruction permit or operating certificate was:
1. Issued prior to the date the applicant submitted the application for the operating

- permit to the Department, and included by the applicant in the application; or
2. Issued subsequent to the date the application was submitted to the Department and prior to the date the Department issues the draft operating permit.
- (f) Each operating permit shall contain a severability clause which ensures the continued validity of all other permit conditions in the event of a challenge to any part of the operating permit.
- (g) Each operating permit shall include, but not be limited to, the following statements:
1. The permittee shall comply with all conditions of the operating permit including the approved compliance plan. Any noncompliance with a permit condition constitutes a violation of the New Jersey Air Pollution Control Act N.J.S.A. 26:2C-1 et seq., or the CAA, 42 U.S.C. § 7401 et seq., or both, and is grounds for enforcement action; for termination, revocation and reissuance, or for modification of the operating permit; or for denial of an application for a renewal of the operating permit;
 2. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of its operating permit;
 3. This operating permit may be modified, terminated, or revoked for cause by EPA pursuant to 40 CFR 70.7(g) and revoked or reopened and modified for cause by the Department pursuant to N.J.A.C. 7:27-22.25;
 4. The permittee shall furnish to the Department, within a reasonable time, any information that the Department may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating this operating permit; or to determine compliance with the operating permit;
 5. The filing of an application for a modification of an operating permit, or of a notice of planned changes or anticipated noncompliance, does not stay any operating permit condition;
 6. The operating permit does not convey any property rights of any sort, or any exclusive privilege;
 7. Upon request, the permittee shall furnish to the Department copies of records required by the operating permit to be kept;
 8. No permittee shall allow any air contaminant, including an air contaminant detectable by the sense of smell, to be present in the outdoor atmosphere in a quantity and duration which is, or tends to be, injurious to human health or welfare, animal or plant life or property, or which 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 permittee has exclusive use or occupancy. Conditions relative only to nuisance situations, including odors, are not considered Federally enforceable;

9. The Department and its authorized representatives shall have the right to enter and inspect any facility subject to this subchapter, or portion thereof, pursuant to N.J.A.C. 7:27-1.31; and
 10. The permittee shall pay fees to the Department pursuant to this chapter.
- (h) An operating permit may contain operating scenario(s) pursuant to N.J.A.C. 7:27-22.27, provided that:
1. The applicant has proposed the operating scenarios in the application for the operating permit; and
 2. The Department is satisfied, based on the information provided by the applicant, that each source operation included in the operating scenario:
 - i. Will not exceed the maximum allowable emission limit established in the operating permit for each air contaminant; and
 - ii. Will comply with all applicable requirements.
- (i) For any operating scenario included, the operating permit shall contain permit conditions, including, but not limited to, the following:
1. The permittee shall maintain contemporaneous records at the facility of any changes from one operating scenario to another; and
 2. The permittee shall ensure that operation under each such operating scenario complies with all permit conditions, applicable requirements, and the requirements of this chapter.
- (j) An operating permit may contain provisions for emissions trading program(s) pursuant to N.J.A.C. 7:27-22.28A, such as a facility-specific emissions averaging program within one or more groups of source operations, pursuant to N.J.A.C. 7:27-22.28B.
- (k) For any authorization of emissions trading included, the operating permit shall contain permit conditions sufficient to ensure that operation, notwithstanding the emissions trading, meets all permit conditions, applicable requirements, and the requirements of this chapter.
- (l) The operating permit shall contain provisions for the assertion of an affirmative defense to liability for penalties or other sanctions for violating certain provisions or conditions of

the operating permit. The affirmative defense shall be available for a violation of a provision or condition of the operating permit only if:

1. The violation occurred as a result of an equipment malfunction, an equipment start-up or shutdown, or during the performance of necessary equipment maintenance; and
 2. The affirmative defense is asserted and established as required by N.J.S.A. 26:2C-19.1 through 19.5 and any implementing rules.
- (m) The operating permit shall contain all applicable requirements of the CO₂ Budget Trading Program at N.J.A.C. 7:27-22.28 and 7:27C. The operating permit shall contain sufficient monitoring, recordkeeping, and reporting requirements necessary to ensure compliance with applicable requirements of the CO₂ Budget Trading Program at N.J.A.C. 7:27-22.28 and 7:27C.
- (n) Each operating permit shall include a compliance plan that includes all of the elements required for a proposed compliance plan pursuant to N.J.A.C. 7:27-22.9 and 7:27C.
- (o) Each operating permit shall contain the following provisions with respect to monitoring, recordkeeping and reporting:
1. Provisions to implement the testing and monitoring requirements of N.J.A.C. 7:27-22.18, the recordkeeping and reporting requirements of N.J.A.C. 7:27-22.19, the monitoring, recordkeeping, and reporting requirements of N.J.A.C. 7:27C-8, and all emissions monitoring and analysis procedures or compliance assurance methods required under the applicable requirements, including any procedures and methods promulgated pursuant to 40 CFR 64; and
 2. Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring, provisions for periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the facility's compliance with the permit. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement.
- (p) Each operating permit will include a permit shield pursuant to N.J.A.C. 7:27-22.17. If requested by the applicant in the application and approved by the Department, an operating permit shield shall acknowledge that specific provision(s) of potentially applicable requirement(s) do not apply to the facility, cite any such specific provision(s), and state that compliance with the provision(s) is not required.
- (q) (Reserved)
- (r) If proposed by the applicant, pursuant to N.J.A.C. 7:27-22.6(j), and approved by the Department, the operating permit shall include the methods to be used to determine the

actual emissions of any significant source operation at the facility.

- (s) Each operating permit shall specify an expiration date which shall be no later than five years from the date of issue.
- (t) For facilities subject to EPA's acid deposition control program pursuant to Title IV of the CAA, 42 U.S.C. § 7651 et seq., the operating permit shall include a permit condition prohibiting emissions from exceeding any allowances that the source lawfully holds under Title IV of the CAA or the regulations promulgated thereunder.

7:27-22.17 Permit shield

- (a) The Department will include a permit shield in each operating permit as set forth at N.J.A.C. 7:27-22.16(p). A permit shield provides that compliance with the relevant conditions of the operating permit shall be deemed compliance with the specific applicable requirements that are in effect on the date of issuance of the draft operating permit, and which form the basis for the conditions in the operating permit, provided that the requirements of this section are met.
- (b) A permit shield shall provide that:
 - 1. For any applicable provision of an applicable requirement, if the provision is specifically included and identified in the operating permit, compliance with the conditions of the operating permit shall be deemed compliance with that provision of the applicable requirement; and
 - 2. For any provision of a potentially applicable requirement, if the provision is specifically identified in the operating permit as not applicable to the facility, the permittee need not comply with the specifically identified provision.
- (c) A permit shield shall apply only to operating permit conditions incorporated into the operating permit through certain procedures.
 - 1. A permit shield shall apply to conditions incorporated into the operating permit through the following:
 - i. Issuance of an initial operating permit;
 - ii. Issuance of an operating permit, renewal; or
 - iii. Any change made pursuant to the procedures for significant modification at N.J.A.C. 7:27-22.24;
 - iv. Any change made pursuant to the procedures for administrative amendments, provided the administrative amendment incorporates the provisions of a preconstruction permit that was subject to the same review

procedures used for significant modification at N.J.A.C. 7:27-22.4, including an opportunity for public comment.

2. A permit shield shall not apply to provisions incorporated into the operating permit through procedures for:
 - i. Administrative amendment, except as noted at (c)1iv above;
 - ii. Changes to insignificant source operations;
 - iii. Seven-day-notice changes; or
 - iv. Minor modifications.
- (d) If an operating permit does not expressly include or exclude an applicable requirement, the applicable requirement is not covered by the permit shield and the permittee shall comply with its provisions to the extent they apply to the permittee.
- (e) If it is determined that an operating permit was issued based on inaccurate or incomplete information provided by the permittee, any permit shield provision in that operating permit shall be void as to the portions of the permit which are affected, directly or indirectly, by the inaccurate or incomplete information.
- (f) Neither a permit shield, nor any provision in an operating permit, shall alter or affect the following:
 1. The emergency orders provisions of 42 U.S.C. § 7603, including the authority of EPA under that section;
 2. The liability of an owner or operator of a facility for any violation of any applicable requirement prior to or at the time of permit issuance;
 3. The applicable requirements of the acid deposition control program, consistent with 42 U.S.C. § 7651g(a);
 4. The ability of EPA to obtain information from a facility pursuant to the requirements for recordkeeping, monitoring, inspections and entry at 42 U.S.C. § 7414; or
 5. The Department's authority to enter and inspect a facility subject to this subchapter, pursuant to N.J.A.C. 7:27-1.
- (g) A permit shield does not relieve the permittee of any liability for noncompliance with the operating permit.

7:27-22.18 Source emissions testing and monitoring

- (a) This section sets forth the procedures by which the Department will implement the source emissions testing and monitoring requirements contained in an approved operating permit. Any deadline in this section may be extended through written approval by the Department, unless prohibited by Federal regulations. Such procedures shall be consistent with the federal rules for enhanced monitoring of stationary sources, set forth at 40 CFR Part 64.
- (b) Within 90 days after approval of the operating permit, or within the time frame specified in the operating permit, a permittee shall submit, pursuant to this section, a request for approval of a protocol prepared in accordance with the Department's published technical manual on Air Contaminant Testing and Monitoring. The protocol shall describe how the permittee proposes to carry out any source emissions testing or monitoring, including any type of CMS monitoring, required by the operating permit. Any revisions of the technical manual will be subject to public input prior to finalization.
- (c) The protocol shall, in accordance with the Department's technical manual on Air Contaminant Testing and Monitoring, include details of the implementation of the source emissions testing and monitoring practices required by the operating permit and shall specify sampling and analytical procedures, equipment specifications, example calculations, and the form in which data will be submitted.
- (d) The Department will inform the permittee in writing of any deficiencies in the proposed protocol, and will provide a reasonable deadline for correction of the deficiencies. The permittee shall correct the deficiencies and resubmit the protocol to the Department within the deadline.
- (e) If the operating permit requires source emissions testing, the permittee shall carry out the following initial source emissions testing procedures:
 - 1. Contact the Department within 30 days after approval of the protocol and schedule a testing date;
 - 2. Perform the source emissions testing within 180 days after the Department's approval of the operating permit; and
 - 3. Submit the source emissions test report to the Department, within 45 days after completion of the source emissions testing. The test report shall include all raw field and laboratory data, as well as the operating and production parameters required by the approved protocol, so that the Department may reproduce the calculations and verify the findings of the test report. The test report shall be reviewed and certified pursuant to (h) before it is submitted to the Department.
- (f) After completion of the initial source emissions testing required pursuant to (e) above, the permittee shall perform periodic source emissions testing in accordance with any applicable schedule in the operating permit, the approved protocol, and this section.

- (g) If the operating permit requires monitoring using a CMS, the permittee shall perform the following initial procedures in accordance with the approved monitoring protocol:
1. Install the CMS by the date specified in the operating permit;
 2. Calibrate, operate and maintain all components of the CMS to measure continuously and record continuously the parameters specified in the operating permit;
 3. For facilities required to install CEMs, contact the Department within 30 days after approval of the monitoring protocol and schedule a date for a performance specification test to verify that the CEM is operating according to the requirements of the operating permit;
 4. Perform the performance specification test prior to any required source emissions testing and within 90 days after the latter of the following events:
 - i. Installation of the CMS;
 - ii. The commencement of operation of the equipment being monitored; or
 - iii. Department approval of the testing protocol; and
 5. Submit to the Department the performance specification report within 30 days after the completion of the performance specification test. The performance specification report shall include all raw field and laboratory data necessary for the Department to reproduce the test results as specified by the approved protocol and shall be reviewed and certified pursuant to (h) before it is submitted to the Department.
- (h) Each source emissions test report or performance specification test report shall be reviewed and certified, pursuant to N.J.A.C. 7:27-1.39, by a licensed professional engineer or by an industrial hygienist certified by the American Board of Industrial Hygiene.
- (i) The owner or operator of a facility subject to this subchapter shall, upon request of the Department, provide 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 any significant source operation at the facility. During testing by the Department, the significant source operation shall be operated, within their capacities, under conditions requested by the Department. The testing facilities may be either permanent or temporary, at the discretion of the owner or operator of the facility, and shall conform to all applicable laws, regulations, and rules concerning safe construction and safe practice.

- (j) Each permittee shall meet all requirements of the approved protocol during the term of the operating permit.
- (k) A permittee may seek the approval of the Department for a delay in testing required pursuant to a permit and/or this section. In such case, the following shall apply:
 - 1. The permittee shall submit a request for such approval on paper to the address given at N.J.A.C. 7:27-22.3(t) and to the appropriate regional enforcement office indicated in (k)1i through iv below:
 - 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
4 Station Plaza
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 08103-1013.
 - 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 Departmental 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.
- (l) In a request for a delay of testing, submitted pursuant to (k) 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).

7:27-22.19 Recordkeeping, reporting and compliance certification

- (a) Each permittee shall maintain records of all source emissions testing or monitoring performed at the facility and required by the operating permit in accordance with this section. Records shall be maintained, for at least five years from the date of each sample, measurement, or report. Each permittee shall maintain all other records required by the operating permit for a period of five years from the date each record is made.
- (b) Source emissions testing or monitoring records shall contain, at a minimum, the following information, unless alternative types of records or recordkeeping are expressly approved in the operating permit:
 1. The date, source operation, and time of sampling or measurements;
 2. The date(s) analyses were performed;
 3. The company and the name of the person representing that company who was responsible for performing the sampling, measurements or analyses;
 4. The analytical techniques or methods used;
 5. The results of such analyses;

6. The operating conditions, as specified in the operating permit, existing at the time of sampling or measurement. If the record indicates a deviation from applicable requirements at a facility equipped with a CMS, the permittee shall include all CMS data recorded beginning one hour before the recorded deviation and continuing through one hour after the recorded deviation.
 7. All calibration and maintenance records, and all original strip-chart recordings, or the equivalent for continuous monitoring instrumentation;
 8. Copies of all reports required by the operating permit; and
 9. Any other information required by the Department to interpret the monitoring data.
- (c) A permittee shall submit reports of all source emissions testing and monitoring required by the operating permit, and supporting information, to the Department in accordance with (d) and (e) below. The reports shall conform to a format acceptable to the Department. The reports shall be certified pursuant to N.J.A.C. 7:27-1.39 by a responsible official.
- (d) A report submitted pursuant to (c) above shall be submitted:
1. For a source emissions test report, within 45 days after the completion of the sampling, unless a longer period for submittal is approved in advance in writing by the Department; and
 2. For a CMS report, within 30 days of completion of each calendar quarter for the calendar quarter; and
 3. For any other report or supporting information relating to testing or monitoring required by the operating permit to be performed from January 1 through June 30, by July 30 of the same calendar year; or from July 1 through December 31, by January 30 of the following calendar year.
- (e) Any report submitted pursuant to (c) above shall clearly identify all deviations from operating permit requirements, including those attributable to emergencies, startup, shutdown and maintenance, the probable cause of such deviations, and any corrective actions or preventive measures taken.
- (f) Each permittee shall submit to the Department, at the address given in N.J.A.C. 7:27-22.9(d), and to EPA at the address given in N.J.A.C. 7:27-22.4(d), a periodic compliance certification, in accordance with the schedule for compliance certifications set forth in the compliance plan in the operating permit. This periodic compliance certification shall include the following:

1. For each applicable requirement, a statement that the facility is:
 - i. In compliance with the applicable requirement and, if so, whether the compliance is continuous or intermittent, as defined in the Federal rules for the enhanced monitoring of stationary sources set forth at 40 CFR Part 64;
 - ii. In compliance with a compliance schedule, included in the operating permit pursuant to N.J.A.C. 7:27-22.9(c)7ii, which includes a sequence of actions with milestones leading to compliance with the applicable requirement;
 - iii. In compliance with an order or consent decree not incorporated into a compliance schedule; or
 - iv. Not in compliance;
 2. For each applicable requirement, a statement of the methods used to determine the facility's compliance status, including a description of any monitoring, recordkeeping, and reporting requirements and test methods; and
 3. Certification in accordance with the certification procedures at N.J.A.C. 7:27-1.39.
- (g) Any deviation from operating permit requirements which results in a release of air contaminants shall be reported to the Department as follows:
1. If the air contaminants are released in a quantity or concentration which poses a potential threat to public health, welfare or the environment or which might reasonably result in citizen complaints, the permittee shall report the release to the Department:
 - i. Immediately on the Department hotline at (609) 292-7172, pursuant to N.J.S.A. 26:2C-19(e); and
 - ii. As part of the compliance certification required in (f) above. However, if the deviation is identified through source emissions testing, it shall be reported through the source emissions testing and monitoring procedures at N.J.A.C. 7:27-22.18(e)3; or
 2. If the air contaminants are released in a quantity or concentration which poses no potential threat to public health, welfare or the environment and which will not likely result in citizen complaints, the permittee shall report the release to the Department as part of the compliance certification required in (f) above, except for deviations identified by source emissions testing reports, which shall be reported through the procedures at N.J.A.C. 7:27-22.18(e)3; or

3. If the air contaminants are released in a quantity or concentration which poses no potential threat to public health, welfare or the environment and which will not likely result in citizen complaints, and the permittee intends to assert the affirmative defense afforded by N.J.A.C. 7:27-22.16(1), the violation shall be reported by 5:00 P.M. of the second full calendar day following the occurrence or of becoming aware of the occurrence, consistent with the N.J.A.C. 7:27-22.16(1).
- (h) A permittee shall, upon the Department's request, submit any record relevant to the operating permit or to the emission of any air contaminant from the facility. 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, and shall be transmitted on paper, on computer disk, or electronically, at the discretion of the Department.
- (i) A permittee shall make all information in (a) through (d) above, as well as following, readily available for inspection at the facility. If the facility is not regularly staffed, the information shall be available at the New Jersey office of the permittee which is closest to the permitted facility. The information shall be available at all times, pursuant to the Department's right to inspect the facility set forth at N.J.A.C. 7:27-1:
1. The operating permit together with any revisions thereto, including any administrative amendments, changes to insignificant source operations, seven-day-notice changes, minor modifications, and significant modifications;
 2. Up-to-date diagrams of the facility indicating:
 - i. The location of all source operations, including all equipment and control apparatus; and
 - ii. All stacks or chimneys, together with any stack designation included in the operating permit;
 3. Records required by the operating permit, and records relevant to the use of any source operation including, but not limited to, manufacturer's instructions for operation and maintenance, the kind and amount of air contaminants emitted, rates of production, and hours of operation;
 4. Records documenting any construction, installation, or alteration, including the dates thereof, of any equipment or control apparatus during the term of the operating permit;
 5. The date of commencement of operation of any equipment or control apparatus, if operation commenced during the term of the operating permit; and
 6. Any preconstruction permit issued for the equipment or control apparatus.

- (j) Requirements for recordkeeping and reporting shall be consistent with the Federal rules for enhanced monitoring of stationary sources set forth at 40 CFR Part 64.

7:27-22.20 Administrative amendments

- (a) A permittee may make any of the changes to an operating permit listed at (b) below through the procedures for an administrative amendment set forth in this section. If the requirements of this section are met, the permittee may, at its own risk, make the change at the facility upon submittal of the amendment, but no sooner. For those changes specified at (b)1 and (b)3 below, the change can be made up to 30 days prior to submittal of the amendment. The Department will act on an application for an administrative amendment within 60 days of receipt of an administratively complete application, pursuant to (g) below.
- (b) A change may be made as an administrative amendment if the proposed change does not increase actual emissions, does not cause the emission of a new air contaminant or class of air contaminants, does not violate an applicable requirement, does not result in the source being subject to an applicable requirement to which it was not previously subject, and does not constitute a seven-day-notice change, minor modification, or significant modification, and the change is:
 - 1. A change in company name or mailing address; division name; plant name or address; name or address of each 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. Correction of any typographical error, including a mistake in the spelling, punctuation, or formatting of text, but excluding a change to any word, term, number or usage which would allow an emission increase or would constitute a seven-day-notice change, minor modification, or significant modification;
 - 3. A transfer of ownership or operational control of the facility;
 - 4. A change in any company stack designation;
 - 5. Any of the following decreases, provided that the decrease is measurable and verifiable, and that a method by which the Department can verify and enforce the decrease is already included in the operating permit in effect, and a permittee requests such decrease to be incorporated into its operating permit:
 - i. A decrease in the maximum allowable rate of emission of any air contaminant or category of air contaminants;
 - ii. A decrease in maximum allowable hours of operation per time period; or

- iii. A decrease in maximum allowable rate of production;
6. An increase in the frequency of any monitoring, recordkeeping or reporting required by the operating permit in effect, and a permittee requests such increase to be incorporated into its operating permit;
 7. A change that incorporates into the operating permit provisions of a preconstruction permit, provided that the preconstruction permit:
 - i. Was issued through a process that meets the requirements set forth at N.J.A.C. 7:27-22.11, Public comment, and 22.12, EPA comment;
 - ii. Includes the compliance requirements set forth at N.J.A.C. 7:27-1.31, Right to enter, 22.18, Source emissions testing and monitoring, and 22.19, Recordkeeping, reporting, and compliance certification; and
 - iii. Includes a compliance plan that meets the requirements of N.J.A.C. 7:27-22.9, Compliance plans.
 8. A change in the contents of a storage tank, bin, silo, or other storage container, if such change in contents is not already covered by the operating permit in effect, provided such change does not:
 - i. Involve the use or storage of any new HAP; or
 - ii. Cause the storage tank to become, pursuant to N.J.A.C. 7:27-16.2(b), subject to any control requirement to which the storage tank was not previously subject;
 9. Any of the following changes to a stack or chimney, or the use thereof, provided the change complies with EPA's stack height regulations at 40 CFR 51 (governing stacks over 65 meters high):
 - i. A change in the number of stacks or chimneys serving the significant source operation, provided that the change does not result in any effective stack height lower than that of the tallest stack or chimney existing prior to the change;
 - ii. A decrease in the diameter of a stack or chimney, provided that the exhaust is vented upward;
 - iii. The replacement of an existing stack or chimney with a taller stack or chimney, provided that 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 if the temperature or volume is limited in the operating permit;

10. A change in the relative use of any raw material in a process outside of the range authorized in the operating permit, provided there is no increase in actual emissions from the process unit;
 11. The introduction of a raw material, not authorized in the operating permit in effect, provided there is no increase in actual emissions from the process unit, and provided such change does not involve the use of any new HAP;
 12. Reconstruction of a process unit or control apparatus if the date of installation of the reconstructed process unit or control apparatus is less than five years after the date of approval of the permit authorizing the installation of the original process unit or control apparatus, provided the reconstruction causes no increases in actual emissions from the process unit or control apparatus; or
 13. Notification that the facility is in compliance with a new applicable requirement which was not previously applicable to the facility, provided that:
 - i. The facility is operating in compliance with the applicable requirement as of the date it becomes applicable to the facility;
 - ii. No change to any source operation or to any production process is made at the facility to comply with the applicable requirement; and
 - iii. The new applicable requirement was not promulgated under Title III of the CAA, unless USEPA specifically indicates that the requirement may be incorporated into the operating permit with an administrative amendment.
- (c) A permittee shall, pursuant to (d) and (e) below, submit a timely and administratively complete application for any change being made pursuant to this section as an administrative amendment.
- (d) To be deemed timely, an application for an administrative amendment shall be submitted to the Department and EPA prior to the change being made, except for applications submitted pursuant to (b)1 or 3 above. For applications submitted pursuant to (b)1 or 3 above, that application shall be submitted to the Department and EPA within 30 days of the change being made.
- (e) To be deemed administratively complete, an administrative amendment shall include the Department assigned operating permit number, a copy of the portion of the operating permit which will be affected by the administrative amendment, a description of the change, and a copy of the revised portions of the operating permit reflecting the administrative amendment. For a transfer of ownership or operational control of the

facility, the administrative amendment shall also include the information required in (f) below.

- (f) To process a transfer in ownership or operational control pursuant to (b)2 above, a permittee shall attach to the application for an administrative amendment a written agreement between the current and new permittees, specifying the date for the transfer of ownership or operational control, permit responsibility, coverage and liability.
- (g) Within 60 days of the Department's receipt of an application for an administrative amendment, the Department shall:
 - 1. Approve the administrative amendment, thereby making the administrative amendment part of the operating permit; or
 - 2. Notify the permittee that the change was not eligible for processing as an administrative amendment. In this event, a permittee must submit the appropriate application to modify the operating permit. The permittee may be subject to penalties for noncompliance with the operating permit during the time the change was in effect, pursuant to N.J.A.C. 7:27A.
- (h) A change made through an administrative amendment shall not be covered by any permit shield contained in the operating permit, except for administrative amendments made pursuant to (b)7 above. The permit shield shall become effective upon approval of the administrative amendment by the Department.
- (i) A permittee may elect to make as a minor modification any change authorized to be made as an administrative amendment.

7:27-22.21 Changes to insignificant source operations

- (a) A permittee may, pursuant to this section, make certain changes to an insignificant source operation, or to the use thereof, without notifying the Department or EPA until the renewal of the operating permit. In the application for the renewal of the operating permit, the permittee shall identify any such changes which affect information in the operating permit. Such changes could include the addition or deletion of insignificant source operations that have occurred during the term of the operating permit.
- (b) Any change made to an insignificant source operation during the term of an operating permit, including the construction or installation of a new insignificant source operation, may be made pursuant to the procedures set forth in (a) above, provided that the change:
 - 1. Is not prohibited in the operating permit;
 - 2. Is not subject to any requirements under the acid deposition control provisions at Title IV of the CAA;

3. Is not a modification under any provision of Title I of the CAA;
 4. Does not cause the source operation to become subject to an applicable requirement, to which it was not previously subject and which is not already included as a requirement of the operating permit; and
 5. Meets all applicable requirements and does not violate any existing permit term or condition.
- (c) A change which is made pursuant to this section shall not be covered by any permit shield.
- (d) If the Department determines that the change was not eligible for processing as a change to an insignificant source operation, the permittee may be subject to penalties for noncompliance with the permit, pursuant to N.J.A.C. 7:27A-3.

7:27-22.22 Seven-day-notice changes

- (a) A permittee may make any of the changes listed at (c) or (d) below through the procedures for a seven-day-notice change set forth in this section. The Department shall attach the notice of the seven-day-notice change to the operating permit, but shall not revise the operating permit until the next application for a renewal. If the requirements of this section are met, a permittee may make a seven-day-notice change seven days after the Department's receipt of the notice of the change.
- (b) Any other provision of this section notwithstanding, no change listed in (c) below may be made pursuant to this section if the change would:
1. Require an increase in any allowable emissions limit established in the operating permit, including any maximum allowable emissions rate (whether expressed as pounds per hour, tons per year, total pounds, total tons, or other units expressed as a rate of emissions or total emissions) or concentration limit or any emissions cap;
 2. Cause the emission of a new air contaminant or class of air contaminants;
 3. Constitute a minor modification or significant modification, as defined at N.J.A.C. 7:27-22.23 or 22.24, respectively;
 4. Change a monitoring, recordkeeping, or reporting requirement set forth in the operating permit, if the changed requirement would be less stringent than, the existing requirement;
 5. Constitute a modification under any provision of Title I of the CAA; or
 6. Subject the facility to the requirements of the acid deposition control provisions in Title IV of the CAA, or would violate such requirements.

- (c) Except as provided at (b) above, any of the following changes may be made as seven-day-notice changes, pursuant to the procedures of this section:
1. Any reconfiguration to an operating scenario, including an alternative configuration or a change in the production process, not authorized in the operating permit in effect, provided that the notice to the Department of the change contains the information required at N.J.A.C. 7:27-22.27 (Operating scenarios) and that the operating scenario conforms with the requirements of that section;
 2. The attachment of an emissions trading program to an operating permit pursuant to N.J.A.C. 7:27-22.28A(d) (Emissions trading);
 3. A change in operation to an emissions trading program attached to an operating permit pursuant to N.J.A.C. 7:27-22.28A(g);
 4. Relocation of a temporary facility to a site not specifically authorized in the operating permit, unless air quality simulation modeling or risk assessment is required pursuant to N.J.A.C. 7:27-22.8(a)3; or
 5. Any change to a significant source operation that:
 - i. Is not already authorized by the operating permit;
 - ii. Does not cause actual emissions to exceed allowable emissions in the operating permit; and
 - iii. Does not cause the emission of a new air contaminant not specified in the operating permit.
- (d) In addition to the items listed at (c) above, a seven-day-notice change may be used for the following, pursuant to the procedures of this section:
1. A change to an existing significant source operation, or construction or installation of any new significant source operation, at a facility with an approved facility-wide permit, as defined at N.J.A.C. 7:27-22.1, provided that:
 - i. The production process containing the significant source operation is identified in and subject to an approved facility-wide permit issued under N.J.S.A. 13:1D-35 et seq.;
 - ii. The proposed change, construction, or installation is either:
 - (1) Allowed under the facility-wide permit; or

- (2) Documented in a modification to a Pollution Prevention Plan which satisfies the requirements of N.J.A.C. 7:1K-3 and 4, or in a Pollution Prevention Assessment as defined in N.J.A.C. 7:1K-1.5; and
 - iii. The proposed change, construction, or installation does not cause any of the following:
 - (1) An increase in the generation of nonproduct output per unit of production manufactured by the significant source operation or production process;
 - (2) An exceedance of the maximum allowable concentration or rate of emission of any air contaminant for the production process or the entire facility, whichever is more stringent;
 - (3) An exceedance of the maximum allowable concentration or effluent limitation of any discharge to waters of the State; or
 - (4) The addition of a new production process.
- (e) A permittee shall, pursuant to (f), (g), (h), or (i), (as applicable) below, submit a timely and administratively complete notice for any change being made, pursuant to this section as a seven-day-notice change.
- (f) To be deemed timely, a notice must be received by the Department and EPA at least seven days prior to the change being made at the facility.
- (g) Except pursuant to (i) below, to be deemed administratively complete, the notice shall include all information required by the form for a seven-day-notice obtained from the Department, including, but not limited to, the following information:
 1. A description of the planned change, and a statement of the reason the change is being made;
 2. The date(s) or schedule for when the change will be made, or a description of the types of circumstances under which the change would be made;
 3. The specific source operations that will be changed or will be affected by the change;
 4. For each source operation given in (g)3 above, the change in the quantity or rate of actual emissions as a result of the change;
 5. Specification of any permit requirement or applicable requirement that will be:

- i. Complied with through the change; or
 - ii. No longer applicable as a result of the change;
- 6. A statement affirming that, after implementation of the seven-day-notice the facility will continue to comply with all applicable requirements; and
- 7. Certification of the notice of the change in accordance with N.J.A.C. 7:27-1.39.
- (h) To be administratively complete, any notice submitted pursuant to (d)1 above for a modification of equipment or control apparatus, or installation of new equipment or control apparatus, at a facility with an approved facility-wide permit, shall include a Pollution Prevention Plan Modification or Pollution Prevention Assessment pursuant to N.J.A.C. 7:1K-3 and 4 in addition to the items required in (g) above.
- (i) (Reserved)
- (j) No permittee shall make a change at a facility pursuant to this section unless the written notice of the change is submitted to both the Department and EPA at least seven days before the change is made, and all other requirements of this Chapter are met.
- (k) The Department may review a seven-day-notice change at any time prior to the next renewal of the operating permit. If the Department finds that the change was inconsistent with the requirements for a seven-day-notice change, the Department will notify the facility and may take enforcement action.
- (l) Upon receipt of a notice of a seven-day-notice change, the Department will file the notice as an attachment to the operating permit. The permittee shall include all such changes in the application for the next renewal of the operating permit, in accordance with N.J.A.C. 7:27-22.30.
- (m) The permittee shall attach a copy of each notice submitted pursuant to this section to the copy of the operating permit the permittee maintains at the facility.
- (n) The permit shield described at N.J.A.C. 7:27-22.17 shall not apply to any change made pursuant to this section.
- (o) A permittee may elect to make any change authorized to be made as a seven-day-notice change as a minor modification or significant modification.

7:27-22.23 Minor modifications

- (a) A permittee may make any change listed at (c) below through the minor modification procedures set forth in this section. Minor modifications are set forth in (c) below, and include changes that may increase actual emissions by insignificant amounts, and other changes that do not increase emissions, but may increase ambient concentrations of air

contaminants. The Department will, upon approval of an application for a minor modification of the operating permit, incorporate the changes into the operating permit. The application for a minor modification constitutes an application for a consolidated preconstruction and operating permit under this subchapter and N.J.A.C. 7:27-8. The permittee shall not make any change proposed in a minor modification of the operating permit until the Department has approved the minor modification, except as specified in (a)1, 2, and 3 below.

1. Equipment and control apparatus may be installed at risk pursuant to the requirements of N.J.A.C. 7:27-22.3(oo).
 2. The proposed minor modification may, at the permittee's risk, be made at the facility after the administratively complete application is received by the Department, and a preconstruction approval has been issued by the Department.
 3. Any permittee who elects to implement the change proposed in an application prior to the Department's final decision on the minor modification (after the EPA review period) shall comply with both the applicable requirements governing the change and the conditions of preconstruction approval contained in the proposed minor modification. During this time, the facility need not comply with any outdated existing operating permit provisions it seeks to modify. However, if the permittee fails to comply with the proposed permit provisions during this time, or the minor modification is not approved, the existing permit provisions it seeks to modify shall be enforced.
- (b) (Reserved)
- (c) Except as provided at N.J.A.C. 7:27-22.22(d) above, construction or installation of any new significant source operation, reconstruction of a process unit or control apparatus made pursuant to N.J.A.C. 7:27-22.24A, or any of the following changes to existing significant source operations, shall be made as a minor modification unless the change violates an applicable requirement or constitutes a significant modification pursuant to N.J.A.C. 7:27-22.24:
1. A change in the location of the point of discharge of any air contaminant from a significant source operation into the outdoor atmosphere, unless the change is authorized in the permit in effect;
 2. Any of the following changes to a significant source operation, or to the use thereof, if the change may increase actual emissions over the allowable concentration or allowable rate of any air contaminant emission, or will increase allowable emissions, unless the change is authorized in the operating permit in effect:
 - i. Change in the relative use, expressed in percent by weight, of any raw material in the operation of a significant source operation, including the

- introduction of a new raw material not authorized in the operating permit in effect; or
- ii. Change in the production process in which the significant source operation is used;
3. An increase in any maximum allowable emission rate or concentration, or any emissions cap;
 4. Emission of any air contaminant or class of air contaminants not authorized by the operating permit in effect;
 5. Any change to a stack or chimney, or the use thereof, not authorized in the operating permit in effect, including any change to a stack dispersion parameter including, but not limited to, temperature, velocity, direction, or volumetric flow rate, if the change may result in an increase in the ambient concentration of any air contaminant;
 6. Any increase in the concentration of any air contaminant in the influent to existing control apparatus, if the influent is limited in the operating permit in effect;
 7. Any increase in the total hours of operation per time period or the rate of production above that authorized in the operating permit in effect;
 8. Reduction of the frequency of testing, monitoring, recordkeeping or reporting, provided the frequency is not less than that in any applicable requirement.
 9. Any of the following decreases, if a method by which the Department can verify and enforce the decrease is not already included in the operating permit in effect, and the permittee requests such decrease to be incorporated into its operating permit:
 - i. A decrease in the maximum allowable rate of emission of any air contaminant or category of air contaminants;
 - ii. A decrease in maximum allowable hours of operation per time period; or
 - iii. A decrease in maximum allowable rate of production;
 10. A change in the contents of a storage tank, bin, silo, or other storage container, if such change in contents is not already covered by the operating permit in effect, provided such change:
 - i. Involves the use or storage of any new HAP; or

- ii. Causes a storage tank to become, pursuant to N.J.A.C. 7:27-16.2(b), subject to a control requirement to which the storage tank was not previously subject;
 - 11. The introduction of a raw material, not authorized in the operating permit in effect if the change involves the use of any new HAP;
 - 12. At the option of the applicant, any change which is eligible to be processed as an administrative amendment, a change to an insignificant source operation or a seven-day-notice change pursuant to N.J.A.C. 7:27-22.20, 22.21, or 22.22, respectively.
- (d) Any change that is a minor modification and that constitutes construction, reconstruction or modification of a source operation, shall incorporate advances in the art of air pollution control pursuant to N.J.A.C. 7:27-22.35, Advances in the art of air pollution control.
- (e) A permittee shall, pursuant to (f), (g), (h) and (p) below, submit an administratively complete application for a minor modification of the operating permit for any change being made pursuant to this section as a minor modification.
- (f) In order to be considered administratively complete, an application for a minor modification of the operating permit shall meet all application contents requirements for an initial operating permit set forth at N.J.A.C. 7:27-22.6, except that an application for a minor modification of the operating permit shall include only such information as is relevant to the proposed modification. In addition, the application shall include, at a minimum:
- 1. A description of the proposed change, the allowable and estimated actual emissions before and after the change, and any new applicable requirements which will apply if the change occurs;
 - 2. The proposed sections of the draft operating permit reflecting the proposed change; and
 - 3. Certification by a responsible official, consistent with N.J.A.C. 7:27-1.39, that the proposed change is eligible to be processed as a minor modification pursuant to (c) above.
- (g) To be deemed administratively complete, any application proposing the incorporation into the operating permit of a new operating scenario or a new authorization for emissions trading, not authorized by the existing operating permit, shall also meet any requirements set forth at N.J.A.C. 7:27-22.27, 22.28A, or 22.28B which apply.
- (h) If the application for a minor modification of the operating permit is administratively incomplete, the Department may deny the application, or request additional information.

- (i) If the Department determines that an application for a minor modification of the operating permit is administratively complete, the Department will, within five working days, notify the EPA and any affected state that the application is administratively complete. EPA and affected states will have 45 days from their receipt of such notice to notify the Department of any objection to, or comment on, the application. Such objection or comment shall be sent to the Department at the address set forth at N.J.A.C. 7:27-22.3(t). When the Commissioner of the Department determines that there is a significant degree of public interest in an application for a minor modification, the Department may provide an opportunity for public comment consistent with N.J.A.C. 7:27-22.11.
- (j) Within 90 days after the application is administratively complete, or 15 days after the completion of EPA's 45 day review period, whichever is later, the Department will:
 - 1. Approve the modification;
 - 2. Deny the modification;
 - 3. Determine that the modification requires processing as a significant modification. In such a case, the Department will terminate the application and so notify the applicant; or
 - 4. In consultation with the applicant, revise the applicant's proposed operating permit modifications, submit a new proposed permit modification to EPA for review, approve the modification as revised, and transmit it to the applicant.
- (k) Once the Department approves a minor modification, the Department will send a copy of the revised portions of the operating permit to EPA.
- (l) The Department will not take final action on an application for a minor modification until EPA's 45-day review period has expired, or until EPA has notified the Department that it will not object to the approval of the modification, whichever comes first, or until any EPA objections have been resolved. As stated in (a)1 above, equipment or control apparatus may be installed at risk pursuant to the requirements of N.J.A.C. 7:27-22.3(oo).
- (m) If the Department does not, in its final action on the application, accept any recommendation on the proposed minor modification submitted by an affected state, the Department will notify EPA and the affected state of its reasons for not accepting the recommendation.
- (n) An applicant may request that the Department group-process two or more applications for minor modifications to operating permits if they meet the requirements of (n)1 below. Under group processing procedures, a permittee may request that all pending applications for minor modifications be group-processed. The Department will then process the applications together, using the procedures set forth in this section, including the

provisions at (n)1, 2, and 3 below, which apply specifically to group processing of minor modification applications.

1. Minor modifications may be submitted for group processing only if:
 - i. Each proposed permit modification meets the criteria in this section for minor permit modifications; and
 - ii. The allowable emissions increases which would be caused by the modifications would, in the aggregate, be less than the least of the following:
 - (1) Ten percent of the total allowable emissions allowed by the operating permit for the source operations for which the changes are requested. If the source operation emits more than one contaminant, the increase of each contaminant shall be calculated separately. For example, if a unit is permitted to emit 10 tons per year of SO₂ and one ton per year of lead, minor modifications could not be group processed unless the aggregate increase in allowable SO₂ emissions resulting from the modifications would be less than one ton per year, and the aggregate increase in allowable lead emissions resulting from the modifications would be less than 0.1 ton per year;
 - (2) Twenty percent of the threshold amount of the contaminant listed at N.J.A.C. 7:27-22.2(a)1, Applicability. For example, for a facility which emits VOCs, modifications could not be group processed unless the total allowable emission increases of VOCs resulting from the modifications would be less than five tons per year; or
 - (3) Five tons per year.
2. To obtain approval for group processing, the permittee shall submit an application for group processing which shall consist of a list of all of the facility's pending applications for minor modifications of the operating permit, and a determination of whether the aggregated modifications equals or exceeds the threshold set under (n)1ii above.
3. Within five business days of receipt of an application for group-processing, the Department will notify EPA and affected States of the requested minor modifications. The Department will also prepare a quarterly report for EPA and affected states listing the group-processed minor modification applications that have been received during the quarter.
4. The Department shall act on an application for a minor modification of the operating permit submitted for group processing within 180 days of receipt of the

request for group processing or within 15 days after the end of EPA's 45 day review period, whichever is later.

7:27-22.24 Significant modifications

- (a) Notwithstanding any other provision of this subchapter, a permittee is required to make any of the changes listed at (b) below through the significant modification procedures set forth in this section. The Department will, upon its approval of an application for a significant modification of the operating permit, incorporate the change(s) into the operating permit. The application for a significant modification constitutes the consolidated preconstruction and operating permit application under this subchapter and N.J.A.C. 7:27-8. For a significant modification of the operating permit, the permittee may begin construction of the significant modification, but may not operate the modified facility until the Department has approved the significant modification.
- (b) Construction or installation of any new significant source operation, reconstruction of a process unit or control apparatus made pursuant to N.J.A.C. 7:27-22.24A, or changes to existing significant source operations, shall be made as a significant modification if any of the following criteria apply:
 - 1. A change which causes the facility to be subject to, or which would constitute a modification pursuant to, any of the following:
 - i. Emission offset requirements at N.J.A.C. 7:27-18.2(a) and (b);
 - ii. NSPS regulations at 40 CFR 60;
 - iii. NESHAPS regulations at 40 CFR 61 or 63;
 - iv. PSD regulations at 40 CFR 52; or
 - v. Federal visibility regulations promulgated pursuant to 42 USC 7491 or 7492;
 - 2. Any significant change in existing Federally enforceable operating permit conditions related to changing the monitoring method from continuous emission monitoring to parametric monitoring or periodic stack testing;
 - 3. A change which relaxes any Federally enforceable recordkeeping or reporting required by the operating permit;
 - 4. A change which relaxes any Federally enforceable provision of the compliance plan, including any lengthening of the time that a source operation is in noncompliance beyond the schedule contained in the compliance plan;

5. A change which requires a case-by-case determination of an emission limitation or other specific standard contained in a State or Federal rule. This includes, for example, an application for a variance from a specific emission limit. This does not include determination of advances in the art of air pollution control;
 6. A relocation of a temporary facility to a site, other than is authorized in the operating permit, if air quality simulation modeling or risk assessment is required for the application pursuant to N.J.A.C. 7:27-22.8;
 7. A change which establishes or changes a permit condition for which there is no corresponding underlying applicable requirement, and which the facility has assumed to avoid an applicable requirement to which the facility would otherwise be subject. Such conditions include:
 - i. A Federally enforceable emissions cap assumed to avoid classification as a major facility or to avoid becoming subject to:
 - (1) Emission offset requirements pursuant to N.J.A.C. 7:27-18.2;
 - (2) NSPS regulations at 40 CFR 60;
 - (3) NESHAPS regulations at 40 CFR 61 or 63;
 - (4) PSD regulations at 40 CFR 52; or
 - (5) Federal visibility regulations promulgated pursuant to 42 USC 7491 or 7492; or
 - ii. An alternative emissions limit for early reductions of HAPs approved pursuant to N.J.A.C. 7:27-22.34 and the regulations promulgated under 42 USC 7412(i)(5);
 8. Any incorporation into the operating permit of a new operating scenario if such an incorporation does not qualify as a seven-day-notice change pursuant to N.J.A.C. 7:27-22.22, or a minor modification pursuant to N.J.A.C. 7:27-22.23; or
 9. Any incorporation into the operating permit of a new authorization of emissions trading, if such an incorporation does not qualify as a seven-day-notice change pursuant to N.J.A.C. 7:27-22, or a minor modification pursuant to N.J.A.C. 7:27-22.23.
- (c) Any change that is a significant modification and that constitutes construction, reconstruction or modification of a source operation, shall incorporate advances in the art of air pollution control pursuant to N.J.A.C. 7:27-22.35, Advances in the art of air pollution control.

- (d) Compliance with N.J.A.C. 7:27-18 shall be demonstrated for any significant modification that includes an emission increase.
- (e) A permittee shall, pursuant to (f) below, submit an administratively complete application for the significant modification of the operating permit for any change at a facility which, pursuant to (b) above, constitutes a significant modification.
- (f) To be deemed administratively complete, an application for a significant modification of the operating permit shall meet all application contents requirements for an initial operating permit set forth at N.J.A.C. 7:27-22.6, except that an application for a significant modification of the operating permit shall include only such information as is relevant to the proposed modification.
- (g) The permit shield described at N.J.A.C. 7:27-22.17 shall apply to any change approved under this section.

7:27-22.24A Reconstruction

- (a) Reconstruction of a process unit or control apparatus shall be made as an administrative amendment to the operating permit pursuant to N.J.A.C. 7:27-22.20 if:
 - 1. The date of installation of the reconstructed process unit or control apparatus is less than five years after the date of approval of the permit authorizing the installation of the original process unit or control apparatus;
 - 2. The reconstruction causes no increases in actual emissions from the process unit or control apparatus; and
 - 3. The reconstruction is not a significant modification.
- (b) Reconstruction of a process unit or control apparatus shall be made as a significant modification to the operating permit pursuant to N.J.A.C. 7:27-22.24 if the reconstruction would trigger any of the criteria for significant modifications listed at N.J.A.C. 7:27-22.24(b).
- (c) Reconstruction of a process unit or control apparatus shall be made as a minor modification to the operating permit pursuant to N.J.A.C. 7:27-22.23 if the reconstruction cannot be processed as an administrative amendment or significant modification, as set forth at (a) and (b) above.
- (d) In the case of an emergency, as defined at N.J.A.C. 7:27-22.1, the Department may authorize a permittee to reconstruct and to operate a process unit or control apparatus for 90 days at risk, in order to allow time for the permittee to apply for Department approval of a minor or significant modification authorizing the reconstruction. An example of such an emergency would be a fire which destroys a process unit which the person wishes to replace and operate immediately. The emergency approval shall not be granted if

prohibited by federal law or regulations, and shall be conditioned on the permittee submitting an application for the reconstruction pursuant to (a), (b), or (c) above within 30 days of the Department's emergency authorization, cooperating fully with the Department during the application and review process, and complying with all applicable requirements.

7:27-22.25 Department initiated operating permit modifications

- (a) An operating permit may be revoked, or reopened and modified, for cause by the Department pursuant to this section. Any Department initiated permit revocation or reopening and modification shall affect only those parts of the operating permit for which cause to reopen exists.
- (b) Upon a written request from the Department, a permittee shall furnish to the Department, within 30 days or within a longer time period established by the Department in the request, any information that the Department may request to determine whether cause exists for revoking, or reopening and modifying the permit.
- (c) At least 30 days prior to reopening an operating permit, the Department will notify the permittee that action is necessary to modify the operating permit and that the Department will revoke, or reopen and modify, the operating permit unless the permittee acts to apply for the necessary modification(s). A shorter time period may be provided if the Department determines that continued operation of the facility under its current operating permit may adversely affect human health or welfare, or the environment.
- (d) The notice of a reopening made pursuant to (c) above will contain a requirement that the permittee act to resolve the issue which caused the need for the reopening, and a reasonable deadline for action. Such action shall be processed as a significant modification if the permittee does not act to apply for the necessary modification(s).
- (e) The Department shall reopen and modify an operating permit if any of the following occur:
 - 1. The permittee fails to act within the time specified in the notice in (d) above to incorporate any of the following into the operating permit:
 - i. An additional applicable requirement which has become applicable to the facility and the remaining term of the existing permit is three years or more; or
 - ii. A change to an applicable requirement which was previously applicable to the facility and the remaining term of the existing permit is three years or more;
 - 2. The permittee fails to act within the time specified in the notice in (d) above to incorporate any of the following into the operating permit:

- i. An additional applicable requirement which has become applicable to an affected Title IV facility; or
 - ii. A change to an applicable requirement which was previously applicable to an affected Title IV facility;
 3. The Department or EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards, limitations or other provisions or conditions of the permit;
 4. EPA requires the reopening of an operating permit for cause pursuant to 40 CFR 70.7(g); or
 5. The Department or EPA determines that the operating permit must be revised to assure compliance with applicable requirements.
- (f) No reopening is required to incorporate an applicable requirement pursuant to (e) above, if the date the requirement will become applicable to the facility is later than the date on which the operating permit is due to expire, unless the original permit or any of its provisions and conditions has been extended pursuant to a permit shield in accordance with N.J.A.C. 7:27-22.17.
- (g) If a reopening is required pursuant to (e)1 or 2 above, the permittee shall submit an administratively complete application, within the time specified by the Department, for an operating permit modification pursuant to N.J.A.C. 7:27-22.24, significant modifications. The Department shall ensure that final action to incorporate the additional applicable requirement into the operating permit is completed within 18 months of the promulgation of the applicable requirement.
- (h) During the period that the reopening is pending, the permittee shall comply with:
1. The provisions of the current operating permit which are not affected by the new applicable requirement; and
 2. The provisions of the new applicable requirement, including the schedule for compliance.
- (i) The Department may revoke an operating permit, or a portion of the operating permit, if the Department determines that continued use of the facility, or a portion of the facility, pursuant to the current operating permit, poses a potential threat to public health, welfare, or the environment, or that emissions from the facility would unreasonably interfere with the enjoyment of life or property.
- (j) If EPA notifies the Department that cause exists to revoke or reopen and modify an operating permit, the Department shall, within 90 days of its receipt of the notice,

forward to the EPA a proposed determination of revocation, or of reopening and modification, as appropriate. EPA may extend the 90-day deadline (for the Department to provide a proposed determination) an additional 90 days, if the EPA determines that additional information from the permittee, is needed. The Department will transmit a copy of EPA's notification and DEP's determination to the permittee.

- (k) As required by 40 CFR Part 70.7(g), if EPA approves the determination proposed by the Department pursuant to (j) above, or fails to act on it within 90 days of EPA's receipt of the proposed determination, the Department shall proceed with a permit reopening. At least 30 days prior to reopening the operating permit, the Department will notify the permittee that action is necessary to modify the operating permit and that the Department will revoke, or reopen and modify, the operating permit unless the permittee acts to apply for the necessary modification(s). A shorter time period may be provided if the Department determines that continued operation of the facility under its current operating permit may adversely affect public health or welfare, or the environment.
- (l) As required by 40 CFR Part 70.7(g)(4), if EPA objects to the Department's proposed determination within 90 days, the Department has 90 days from receipt of an EPA objection to resolve any objection that EPA makes and to re-open, modify and reissue, or to revoke, the operating permit in accordance with the EPA's objection.
- (m) Notwithstanding (j), (k) and (l) above, if the permittee, at any time during the reopening process, submits an administratively complete application for the necessary modification which will, if issued, obviate the necessity for the reopening, the Department will process the modification application if this is the most expeditious procedure to resolve the issue. If the modification procedure does not resolve the issue which caused the reopening, the Department will then proceed with the reopening.
- (n) This section shall not be construed to allow the extension of the compliance deadline in any applicable requirement. Implementation of applicable requirements shall proceed in accordance with any deadlines established in the applicable requirement.
- (o) This section shall not limit the Department's authority to pursue any form of relief or remedy provided by law or regulation, including injunctive relief, pursuant to N.J.S.A. 26:2C-19(a), civil administrative penalties pursuant to N.J.S.A. 26:2C-19(b), civil penalties pursuant to N.J.S.A. 26:2C-19(d) and criminal sanctions pursuant to N.J.S.A. 26:2C-19(f).

7:27-22.26 MACT and GACT standards

- (a) This section shall take effect upon EPA's interim approval of the Department's operating permit program except for (f)1, 2 and 3 below, which shall take effect upon EPA's interim approval of the Department's operating permit program or EPA promulgation of rules implementing 42 U.S.C. 7412(g), whichever is later.

- (b) Except as provided at (c) and (d) below, an owner or operator of a facility subject to an EPA-promulgated MACT or GACT standard, or a case-by-case MACT standard, shall submit an application to the Department to have the MACT or GACT standard incorporated into the facility's operating permit pursuant to the relevant provisions of N.J.A.C. 7:27-22.5 for initial operating permits, N.J.A.C. 7:27-22.20 for administrative amendments, N.J.A.C. 7:27-22.23 for minor modifications, or N.J.A.C. 7:27-22.24 for significant modifications.
- (c) An owner or operator of an area source subject to an EPA-promulgated MACT or GACT standard is not required to obtain an operating permit if the MACT or GACT standard as promulgated by EPA explicitly states that state agencies are given the option of excluding affected area sources from the requirement to obtain operating permits, provided that the only reason for needing an operating permit is the MACT or GACT standard.
- (d) An owner or operator of an area source subject to an EPA-promulgated MACT or GACT standard may postpone applying for an operating permit for five years from the promulgation of the MACT or GACT standard, if the MACT or GACT standard as promulgated by EPA explicitly states that state agencies may defer the requirement to obtain operating permits for affected area sources, provided that the only reason for needing an operating permit is the MACT or GACT standard.
- (e) A facility or source operation shall be subject to a MACT or GACT standard promulgated by EPA if:
 - 1. The facility or source operation is in operation at the time the MACT or GACT standard is promulgated, and the facility or source operation meets the applicability criteria set forth in the MACT or GACT standard;
 - 2. The facility or source operation is subsequently modified such that the facility or source operation would meet the applicability criteria set forth in the MACT or GACT standard; or
 - 3. A new facility or source operation is constructed such that the new facility or source operation meets the applicability criteria set forth in the MACT or GACT standard.
- (f) A case-by-case MACT standard shall be established for a facility or any source operation(s) which constitutes a major HAP facility if any of the following occur:
 - 1. The construction of a major HAP facility, if EPA has not promulgated a specific MACT standard applicable to the new source operation(s);
 - 2. The reconstruction of a major HAP facility, if EPA has not promulgated a specific MACT standard applicable to the reconstructed source operation(s);

3. The modification of a major HAP facility, if EPA has not promulgated a specific MACT standard applicable to the new or modified source operation(s), provided that:
 - i. Any physical change in, or change in the method of operation of, the major HAP facility increases the facility's actual emissions of any HAP by an amount that exceeds the de minimis emission rates set forth in the EPA document "Documentation of De minimis Rates for Proposed 40 CFR 63 Subpart B" (EPA 453/R-93-035); or
 - ii. Any physical change in, or change in the method of operation of, the major HAP facility results in the emission of any HAP not previously emitted in an amount that exceeds the de minimis emission rates set forth in the EPA document "Documentation of De minimis Rates for Proposed 40 CFR 63 Subpart B" (EPA 453/R-93-035); or
 4. The failure of EPA to promulgate the specific MACT standard applicable to an existing major HAP facility by 18 months after the deadline set by EPA for such promulgation at 58 FR 63941.
- (g) Case-by-case MACT standards established for major HAP facilities, or source operations which constitute a major HAP facility, shall be established in accordance with the provisions of 40 C.F.R. 63.
- (h) The Department may allow a six year extension of time for complying with a MACT or GACT standard promulgated by EPA for one or more source operations at a facility, if the source operation achieves sufficient early reductions of HAP emissions as described in N.J.A.C. 7:27-22.34.
- (i) A source operation for which construction or reconstruction is commenced after EPA proposes an applicable MACT or GACT standard, but before the MACT or GACT standard is promulgated, shall not be required to comply with the standard as promulgated until three years after the date construction or reconstruction is commenced, provided that the source operation, as authorized in the preconstruction permit, complies with the MACT or GACT standard as proposed. However, the source operation will still be subject to the operating permit application requirements described in (b) above.
- (j) A facility which has installed BACT, pursuant to a permit required under 40 CFR 52.21, or LAER, pursuant to N.J.A.C. 7:27-18, prior to EPA's promulgation of a MACT or GACT standard applicable to that facility, shall not be required to comply with the MACT or GACT standard until five years after the date of that installation of BACT or LAER, if the BACT or LAER controls the same pollutant(s) as that identified in the MACT or GACT standard. However, the facility will still be subject to the operating permit application requirements described in (b) above.

7:27-22.27 Operating scenarios

- (a) The Department will include operating scenarios in an operating permit, if the operating scenarios meet all applicable requirements, including, but not limited to, all applicable emission standards.
 - 1. Operating scenarios may, as appropriate, be incorporated into a permit through an application for an initial operating permit, a significant modification, or a minor modification pursuant to N.J.A.C. 7:27-22.5, 22.24 or 22.23, respectively.
 - 2. New operating scenarios may be authorized through a notice of a seven-day-notice change pursuant to N.J.A.C. 7:27-22.22, provided the emission limit for a source operation included in operating scenarios which are being added by a seven-day-notice to an existing operating permit shall not exceed the maximum allowable emission limits in the existing operating permit for the source operation.
- (b) At a facility authorized to operate under one or more operating scenarios, the permittee shall maintain contemporaneous information on the change from one operating scenario to another. This can be any means of recording information associated with the scenario in question, either manually or electronically, including but not limited to: batch sheets, production sheets, fuel records, and process records.
- (c) The permittee shall ensure that operation under an operating scenario meets all permit conditions, applicable requirements, and the requirements of this chapter.
- (d) An applicant or permittee seeking authorization for operating scenarios shall provide to the Department, in the application for an initial operating permit, significant modification, or minor modification, or in a seven-day-notice, at least the following information:
 - 1. A description of each proposed operating scenarios, including, but not limited to, information on any emission changes from existing approved operating scenarios;
 - 2. The specific source operations that are to be included in the proposed operating scenarios;
 - 3. If the equipment combusts fuel, the fuels that will be used under the proposed operating scenarios, and the maximum quantity of fuel proposed to be used annually;
 - 4. The product(s) that will be produced under the proposed operating scenarios; and
 - 5. For any operating parameter addressed or limited in the existing operating permit that may be changed under the proposed operating scenario, proposed ranges or limits for that parameter relevant to air contaminant emissions. This shall include,

but not be limited to, parameters such as the quantity or type of raw material used. Operating parameters which do not affect emissions need not be included in the operating scenario. As long as the facility operates within the range or limit of each specified parameter in an approved operating scenario, such operation shall be considered consistent with that operating scenario.

- (e) In addition to the information required at (d) above, the following information shall be provided to the Department if the operating scenario is proposed to be added to an existing operating permit as a seven-day-notice:
1. For each source operation included in the operating scenario:
 - i. The maximum allowable emissions limits established in the operating permit for each air contaminant;
 - ii. A demonstration that each of the emissions limits listed pursuant to (e)i above will not be exceeded under the proposed operating scenario; and
 - iii. A demonstration that, under the proposed operating scenario, any new air contaminant not authorized by the existing operating permit would be emitted at a rate less than the applicable threshold for reporting emissions at N.J.A.C. 7:27-17.9(a) or in N.J.A.C. 7:27-22 Appendix, Table A.

7:27-22.28 Incorporation of CO₂ Budget Trading Program requirements

- (a) The owner or operator of a facility subject to N.J.A.C. 7:27C shall apply to incorporate the requirements of the CO₂ Budget Trading Program at N.J.A.C. 7:27C, as applicable, into the operating permit pursuant to N.J.A.C. 7:27-22.3(u), 22.5, and 22.9, by the following deadlines:
1. For a CO₂ budget source for which the Department had issued an operating permit prior to June 11, 2019 on or before January 1, 2020;
 2. For a CO₂ budget source for which, prior to June 11, 2019 the Department had issued a preconstruction permit but had not issued an operating permit, no later than 12 months after the facility commences operation; and
 3. For a CO₂ budget source for which the Department had not issued an operating permit or a preconstruction permit prior to June 11, 2019 and for which the owner or operator elects to obtain both preconstruction and operating permit approval, no later than 12 months before construction commences.
- (b) If the Department approves the incorporation of CO₂ Budget Trading Program requirements into an operating permit, the Department will establish permit conditions in the operating permit that will enable the Department to readily verify whether emissions from the source operations meet the requirements of N.J.A.C. 7:27C. Such permit

conditions will set forth replicable procedures, including monitoring, source emissions testing, recordkeeping, and reporting procedures, sufficient to ensure that emissions are quantified and recorded and that compliance with the emissions limitation under N.J.A.C. 7:27C is enforceable.

7:27-22.28A Emissions trading

- (a) Pursuant to this section a permittee may implement an emissions trading program at a facility subject to this subchapter.
- (b) A permittee may implement any of the following emissions trading programs, if the Department has approved the program and incorporated it into the operating permit:
 - 1. A facility-specific emissions averaging program with a federally enforceable emissions cap, pursuant to N.J.A.C. 7:27-22.28B;
 - 2. An emissions trading program approved by the Department and approved by EPA as a case-by-case revision to New Jersey's SIP; or
 - 3. An emissions trading program approved by the Department and not required to be approved by EPA as a case-by-case revision to New Jersey's SIP. For example, if emissions trading were performed pursuant to a rule which is approved as part of New Jersey's SIP, a case-by-case SIP revision would not be required (unless the rule specifically called for such a revision).
- (c) Except as provided in (d) below, the emissions trading program shall be:
 - 1. Incorporated in the initial operating permit approved by the Department; or
 - 2. Incorporated in the operating permit through a renewal or a significant modification of the operating permit.
- (d) In lieu of the procedures in (c) above, an emissions trading program may be attached to the operating permit through a seven-day-notice change pursuant to the seven-day-notice change procedures set forth in N.J.A.C. 7:27-22.22, provided that:
 - 1. The emissions trading program is one which:
 - i. Pursuant to (b)2 above is approved by the Department and approved by EPA as a case-by-case revision to New Jersey's SIP; or
 - ii. Pursuant to (b)3 or 4 above is promulgated in provisions of this Chapter and which has been approved by EPA as a revision to New Jersey's SIP; and

2. The attachment is eligible to be made by a seven-day-notice change pursuant to N.J.A.C. 7:27-22.22 and pursuant to the provisions and conditions of the SIP revision or the provisions of this chapter on which the emissions trading program is based.
- (e) The emissions trading program shall conform with the applicable provisions of:
1. The Federal emissions trading policy published on December 4, 1986, in the Federal Register, Volume 51, No. 233;
 2. The economic incentive program rules published on April 7, 1994, in the Federal Register, Volume 59, No. 67;
 3. Any other applicable emissions trading regulations or guidance issued by EPA; and
 4. Any applicable requirements in a rule, order, or permit issued by the Department.
- (f) An emissions trading program incorporated into the operating permit shall be implemented pursuant to the applicable provisions and conditions of the operating permit. An emissions trading program attached to the operating permit in accordance with (d) above shall be implemented:
1. If the program is one which is pursuant to (b)2 above approved in advance by the Department, in accordance with the provisions and conditions of the SIP revision; or
 2. If the program is one which is pursuant to (b)3 above promulgated in provisions of this chapter, in accordance with the applicable provisions of this chapter.
- (g) A permittee may seek authorization, through a significant modification or a renewal, to modify an emissions trading program which has been incorporated into an operating permit to accommodate a change to the emissions trading program. Also, if the emissions trading program is one allowed pursuant to (d) to be attached to an operating permit, a permittee may change the program through a seven-day-notice change, provided that the change is eligible to be made by a seven-day-notice change pursuant to N.J.A.C. 7:27-22.22 and pursuant to the provisions and conditions of the Department's approval or the provisions of this chapter on which the emissions trading program is based.
- (h) A permit shield pursuant to N.J.A.C. 7:27-17 shall apply to an emissions trading program only if the program is incorporated into the operating permit through an initial operating permit, an operating permit renewal, or a significant modification. A permit shield shall not apply to any emissions trading program, or any modification to a program, which is attached to an operating permit through a seven-day-notice.

7:27-22.28B Facility-specific emissions averaging programs

- (a) A permittee may obtain approval for and implement a facility-specific emissions averaging program at a facility subject to this subchapter pursuant to this section, provided that no averaging program set forth in a promulgated rule would apply. Such a program shall be on a case-by-case basis, developed and approved for implementation at a specific facility.
- (b) Such a facility-specific emissions averaging program shall be limited to the group of source operations and to the air contaminants authorized for the facility-specific emissions averaging program incorporated in the operating permit. The source operations included shall be a specific group of source operations proposed by the applicant and approved by the Department. The facility-specific emissions averaging program shall subject these source operations collectively to a federally enforceable emissions cap.
- (c) An application submitted to obtain authorization to implement a facility-specific emissions averaging program shall provide information to the Department including, but not limited to, the following:
 - 1. A description of the planned emissions averaging program;
 - 2. A statement of the purpose for seeking authorization for the emissions averaging program at the facility. Such a statement shall indicate, for example, if the purpose of the authorization is to establish an emissions cap so as to avoid being classified as a major facility or avoid becoming subject to requirements, such as:
 - i. Emission offset requirements pursuant to N.J.A.C. 7:27-18.2; or
 - ii. PSD regulations at 40 CFR 52;
 - 3. Specification of any permit condition or applicable requirement that would be:
 - i. Complied with through the emissions averaging program; or
 - ii. No longer applicable as a result of the emissions averaging program;
 - 4. The specific source operations that would be included in the emissions averaging program;
 - 5. For each source operation subject to the emissions averaging program, each air contaminant for which the quantity or rate of actual emissions may be increased or decreased as a result of the emissions averaging program;
 - 6. For each air contaminant identified pursuant to (c)5 above, the proposed federally enforceable emissions cap for the group of source operations that are to be included in the emissions averaging program;

7. A description of the types of circumstances under which decreases in emissions from one or more source operations will be used to offset increases in emissions from one or more other source operations;
 8. Proposed permit conditions which will enable the Department to readily verify whether emissions from the source operations have exceeded the emissions cap; such permit conditions shall set forth replicable procedures sufficient to ensure that emissions are quantified and recorded and that compliance with the emissions cap is enforceable. Such replicable procedures shall include monitoring or source emissions testing, or both, and recordkeeping and reporting procedures;
 9. A statement affirming that each included source operation shall operate in compliance with the applicable provisions of this chapter and with all other applicable requirements; and
 10. Certification in accordance with N.J.A.C. 7:27-1.39.
- (d) If the Department approves the incorporation of a facility-specific emissions averaging program in an operating permit, the Department shall establish in the operating permit:
1. A Federally enforceable cap on the aggregate emissions for the group of source operations included in the emissions averaging program authorized by the operating permit; and
 2. Permit conditions which will enable the Department to readily verify whether emissions from the source operations have exceeded the emissions cap. Such permit conditions shall set forth replicable procedures, including monitoring, source emissions testing, recordkeeping, and reporting procedures, sufficient to ensure that emissions are quantified and recorded and that compliance with the emissions cap is enforceable.
- (e) The Department shall not approve any facility-specific emissions averaging program proposed for an operating permit, or any proposed modification thereto, if:
1. Any State rule or Federal regulation, which is an applicable requirement, requires for any source operation included in the proposed emissions averaging program, or for the modification thereto, case-by-case approval of any increase in emissions from that source operation, unless such case-by-case approval has already been issued by the Department and EPA pursuant to the procedures in the applicable requirement; or
 2. The emissions averaging program, or the proposed modification thereto, could result in an increase in the aggregate maximum allowable emissions from the source operations included in the emissions averaging program.
- (f) A permittee authorized to implement one or more facility-specific emissions averaging

programs shall maintain an emissions log at the facility for all source operations subject to the averaging program(s). The permittee shall maintain this record on a daily basis. Specifically, the log shall reflect for each day:

1. Whether the facility complied with the operating permit by operating within one or more emissions caps established for one or more groups of source operations; and
 2. For each group of source operations and for each air contaminant subject to an emissions cap, the following information:
 - i. The actual emissions of each source operation per unit of time. The unit of time used for this record shall be the same as that in which the emissions cap is given, if the unit of time on which the cap is based is one day or less. For example, if the emissions cap is given in pounds per hour, the record shall contain for that day the pounds of actual emissions for each hour of the day for each source operation. If the unit of time on which the emissions cap is based is greater than one day (for example, tons per year), the actual emissions per day shall be recorded; and
 - ii. The total emissions, collectively, from all source operations in the group subject to the emissions cap. The unit of time used for this record shall be the same unit of time as is used for (f)2i above.
- (g) The permittee shall ensure that operation pursuant to the authorized facility-specific emissions averaging program meets all applicable permit conditions and applicable requirements, including the requirements of this chapter.

7:27-22.29 Facilities subject to acid deposition control

- (a) The Department hereby adopts and incorporates by reference the provisions of 40 CFR 72 and 76, and any subsequent amendments thereto, for purposes of implementing an acid rain program that meets the requirements of Title IV of the CAA. The term "permitting authority" shall mean the Department, and the term "Administrator" shall mean the administrator of the United States EPA. If provisions or requirements of 40 CFR 72 and 76 conflict with or are not included in this subchapter, the 40 CFR 72 and 76 provisions and requirements shall apply and take precedence.
- (b) An administratively complete application to incorporate Phase II Title IV requirements into the operating permit shall be submitted:
 1. By January 1, 1996, for facilities with source operations subject to the requirements for SO₂ pursuant to 42 U.S.C. § 7651d; and
 2. By January 1, 1998, for facilities with source operations subject to the requirements for NO_x pursuant to 42 U.S.C. § 7651f;

3. Facilities subject to both SO₂ and NO_x requirements must meet both deadlines. The 1996 application shall address all SO₂ applicable requirements, and any applicable requirements relating to NO_x applicable to each source operating at the time of application. The 1998 application shall include the NO_x applicable requirements at that time.
- (c) For any application for an operating permit, or for any portion of an application for an operating permit, being submitted pursuant to the acid deposition control provisions of 40 CFR 72, including those portions of the compliance plan pertaining to acid deposition control requirements, an applicant shall use nationally standardized application forms, which the Department will make available upon EPA's finalization of the forms.
 - (d) An administratively complete application for an initial operating permit for a facility, or for any portion thereof, subject to the acid deposition control requirements of Title IV of the CAA shall include all information required by the application form, including the name and address of any designated Title IV representative, as defined at N.J.A.C. 7:27-22.1.
 - (e) The compliance plan for an affected Title IV facility shall meet the requirements of N.J.A.C. 7:27-22.9, except to the extent that these requirements are superseded by the acid deposition control requirements set forth at 42 U.S.C. § 7651a through 7651o or by applicable provisions of 40 CFR 72 or 76.
 - (f) The Department will take final action on an application for an operating permit, operating permit renewal, permit revision as defined in 40 CFR 72.2, or reopening to implement Phase II Title IV requirements within the deadlines set forth in the acid deposition control requirements at 42 U.S.C. § 7651a through 7651o.
 - (g) Affected Title IV units subject to the acid deposition control requirements of the CAA are not eligible for authorization to operate under a general operating permit.
 - (h) The Department is not authorized to issue an operating permit to an owner or operator of a temporary facility which authorizes operation in more than one location during the term of the operating permit, if that temporary facility is an affected Title IV facility, as defined at N.J.A.C. 7:27-22.1.
 - (i) An operating permit for an affected Title IV facility shall contain a condition prohibiting emissions exceeding the allowances that the facility lawfully holds under Title IV of the CAA or the regulations promulgated thereunder.
 - (j) Neither a permit shield nor any provision in an operating permit shall, consistent with 42 U.S.C. § 7651g(a), alter or affect the applicable requirements of the acid deposition control program.
 - (k) The Department shall reopen and modify an operating permit for an affected Title IV

facility pursuant to the procedures at N.J.A.C. 7:27-22.25, if additional requirements (including excess emissions requirements) become applicable to the facility under the acid deposition control program at Title IV of the CAA. However, the Department shall not reopen an operating permit for the following:

1. Excess emissions offset plans which shall be deemed to be incorporated into the operating permit upon approval by the EPA; and
2. Increases in emissions that are authorized by allowances acquired pursuant to the acid deposition control program, provided that such increases do not require an operating permit revision under any other applicable requirement.

7:27-22.30 Renewals

- (a) A permittee shall renew the operating permit through the procedures set forth in this section. At the time of submittal of an application for renewal, an applicant who proposes to make change(s) at the facility may include the proposed change(s) with the renewal application, identifying which are administrative amendments, seven-day-notice changes, minor modifications, or significant modifications. The Department may, upon its renewal of the permit, incorporate the change(s) into the operating permit, rather than process each separately.
 1. The permittee shall not make any significant modification proposed in the application for renewal until the Department approves the renewal.
 2. Construction or operation of source operations pursuant to any administrative amendment, seven-day-notice change, or minor modification proposed in the application for renewal, shall be done consistent with the requirements of N.J.A.C. 7:27-22.20, 22.22, and 22.23, respectively.
- (b) The permittee shall submit, pursuant to (c) and (d) below, a timely and administratively complete application for the renewal of the operating permit.
- (c) To be considered timely, an application for renewal shall be received by the Department at least 12 months prior to expiration of the operating permit. However, consistent with N.J.A.C. 7:27-22.4(e), the applicant is encouraged to submit the renewal application at least 15 months prior to expiration of the operating permit, so that the Department can notify the applicant of any deficiencies in the application. This will allow the applicant to correct any deficiencies, and to better ensure that the application is administratively complete by the renewal deadline. Only applications which are administratively complete by the renewal deadline will be eligible for coverage by an application shield.
- (d) To be deemed administratively complete, an application for renewal of an operating permit shall include all information required by the application form for the renewal and the following:

1. A summary of all the changes that have been incorporated into the operating permit through administrative amendments, minor modifications, or significant modifications during the past five-year term of the initial operating permit or the most recent renewal thereof;
 2. Any additional changes to the operating permit which the permittee seeks to have included in the operating permit. For these changes the permittee shall submit all information required pursuant to the procedures for an administrative amendment, seven-day-notice change, minor modification, or significant modification, pursuant to N.J.A.C. 7:27-22.20, 22.22, 22.23 or 22.24, as applicable;
 3. Any changes which the permittee has submitted as a seven-day-notice change since the date of issuance of the most recent operating permit, and which the permittee seeks to have incorporated into the operating permit;
 4. Changes made to information required in the operating permit for insignificant source operations at the facility;
 5. A summary of the results of any source emissions testing or monitoring required by the operating permit that has been performed since the date of issuance of the most recent operating permit for the source operations included in the operating permit; and
 6. Proposed draft operating permit conditions that:
 - i. Reflect any change to the facility or its operations made through a seven-day-notice change since the last operating permit issuance; and
 - ii. Reflect any change to the facility or its operations proposed for inclusion in the renewed operating permit.
- (e) In addition to the information required at (d) above, an applicant may submit proposed methods to be used to determine the actual emissions of each significant source operation, for the purpose of preparing emission statements required for the facility pursuant to N.J.A.C. 7:27-21. This is useful where a different method is more accurate than the general methods provided for in the guidelines for emission statement preparation.
- (f) An application for the renewal of an operating permit may, at the applicant's option, include air quality simulation modeling and risk assessment for the facility or a portion thereof, pursuant to N.J.A.C. 7:27-22.8. Where a modification of the operating permit requires air quality simulation modeling, pursuant to N.J.A.C. 7:27-22.8, such modeling shall be submitted with the application.

- (g) If an administratively complete application for renewal is received by the Department at least 12 months prior to the date the operating permit expires, the facility will be covered by the application shield set forth at N.J.A.C. 7:27-22.7.
- (h) An application for renewal of an operating permit is subject to the requirements for public comment and EPA comment set forth at N.J.A.C. 7:27-22.11 and 22.12.
- (i) Unless a facility subject to this subchapter is covered by an application shield pursuant to N.J.A.C. 7:27-22.7, the right to operate the facility terminates upon the expiration of its operating permit.
- (j) If an operating permit has expired, the conditions of the operating permit remain enforceable until the operating permit is reissued, except as provided in acid deposition control regulations promulgated by EPA under Title IV of the CAA.
- (k) A permit shield provided pursuant to N.J.A.C. 7:27-22.17 shall apply to an operating permit renewal approved by the Department.
- (l) An operating permit with an expiration date of February 12, 2021 or later shall include in the application for renewal each HAP that may be emitted and its potential to emit, including any non-captured emissions, in tons per year, and any other units, for example, pounds per hour, required to verify compliance with any applicable requirement. If the source operation's potential to emit a given HAP does not exceed the applicable threshold for reporting emissions at N.J.A.C. 7:27-17.9(a), the application for renewal of the operating permit need not include the air contaminant.

7:27-22.31 Fees

- (a) The owner or operator of a facility subject to this subchapter shall submit fees to the Department in accordance with this section. The type of fee due, and the amount due, will vary depending on the fiscal year, the amount of regulated air contaminant emissions at the facility, and the number of significant source operations at the facility. The types of fees are:
 - 1. Annual emission fees, set forth at (b) below;
 - 2. Initial operating permit application fees, based on the number of significant source operations at a facility, set forth at (d) below;
 - 3. Significant modification fees, based on the number of pieces of equipment being modified per significant modification application, set forth at (e) below;
 - 4. Renewal operating permit application fees, based on the number of pieces of equipment at a facility, set forth at (d) below;

5. Requests for approval of environmental improvement pilot tests set forth at (p) below; and
 6. Fees to register sources under a general operating permit or to register used oil space heaters set forth at (p) and (aa) below.
- (b) Annual emission fees shall be paid, according to (g) below, by January 31 of each fiscal year. Annual emission fees shall be based on the facility's actual emissions during the reporting year which was two years prior to the fiscal year for which the fee is due. (For example, annual emission fees due on January 31, 2002, which falls in fiscal year 2002, shall be based on the facility's emissions in reporting year 2000.) If actual emission information on a source operation is not reported on the Emission Statement for a specific pollutant, or if an Emission Statement has not been filed for a source operation, the annual emission fee shall be based on the allowable emissions in the facility's permit, or if no permit has been issued, on the facility's potential to emit. Guidance on calculating actual emissions and potential to emit may be requested from the Department at the address in N.J.A.C. 7:27-22.3(t). Guidance on calculating the CPI for purposes of fee calculations can be found at (i) below. A facility's annual emission fee shall be calculated as follows:
1. For annual emission fees due in FY98 through and including FY02, the annual emission fee shall be \$ 25.00 (in 1989 dollars adjusted by the CPI) per ton of emissions, payable on all emissions of any regulated air contaminant except CO, and each facility subject to this subchapters shall pay a minimum emission fee of \$ 1,000; and
 2. For annual emission fees due in FY03 and thereafter, the annual emission fee shall be \$ 60.00 (in 1989 dollars adjusted by the CPI) per ton of emissions, payable on all emissions of any regulated air contaminant, except CO₂, and each facility subject to this subchapter shall pay a minimum annual emission fee of \$ 3,000.
- (c) (Reserved)
- (d) The initial operating permit application fee and the renewal operating permit application fee calculations are the same for all fiscal years. The application fee for an initial operating permit or a renewal of an operating permit shall be \$ 125.00 for each piece of equipment listed on the permit application which, considered singly, constitutes a significant source operation as defined at N.J.A.C. 7:27-22.1. However, no initial operating permit application fee or renewal operating permit application fee shall exceed \$ 50,000 per facility. Neither of these application fee payments should be submitted with an application. The applicant shall submit application fee payments in accordance with (g) below.
- (e) Operating permit modification fees shall be paid after submittal of an application for a significant modification, in accordance with (g) and (k) through (aa) below.

- (f) (Reserved)
- (g) All fee payments for annual emissions, initial operating permit applications, significant modification operating permit applications, renewal operating permit applications and requests for approval of environmental pilot tests required by this section shall be paid by credit card, Internet electronic checking, personal check or corporate check made payable to the "Treasurer, State of New Jersey," and shall be submitted within 30 days after the applicant receives an invoice to the address indicated on the invoice.
- (h) On or before March 1, 1996, and annually thereafter, the Department shall prepare and submit to the Governor and the Legislature the report required by P.L. 1995, c.188, § 7 (N.J.S.A. 26:2C-9.7), which will include information on whether there is a need for legislative action to adjust the annual emission fee to adequately fund the operating permit program.
- (i) The Consumer Price Index which is used to adjust the annual emission fee shall be calculated using the CPI-U data published monthly by the U.S. Department of Labor. The CPI-U data is re-published monthly in the Survey of Current Business, Bureau of Economic Analysis, U.S. Department of Commerce. The percentage increase in the CPI for the current year, relative to the CPI for 1989, shall be determined in accordance with the following procedure:
1. The CPI for 1989 is 122.15, representing the average of the monthly CPI-U for the 12 month period ending August 31, 1989;
 2. The CPI to be used in calculating the fee for the current fiscal year shall be the average of the monthly CPI-U for the 12 month period ending August 31 of the current fiscal year. For example, the CPI for the fee which is due on January 31, 1999, for fiscal year 1999 shall be the average of the monthly CPI-U for the 12 month period ending August 31, 1998;
 3. The percentage increase in the current CPI relative to the 1989 CPI shall be calculated in accordance with the following formula:
 - i.
$$\text{Percentage Increase} = 100 \times \frac{\text{Current Year CPI} - 122.15}{122.15}$$
 - ii. Where:
Current Year CPI is the CPI determined pursuant to (i)2 above; and
122.15 is the CPI for 1989, pursuant to (i)1 above; and
 4. If the percentage increase is a negative number, the annual emission fees shall not be decreased.
- (j) To assist in calculations of the annual emission fee required pursuant to this section, the

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

- (k) After the Department receives an application from a permittee for a significant modification of an operating permit, the Department will determine the significant modification application fee in accordance with the fee schedules referenced in (k)1 and 2 below. The significant modification application fee shall not exceed \$ 50,000 per significant modification.
 - 1. The base fee for application review, from the applicable Base Fee Schedule in (y) below; and
 - 2. Any applicable fees for additional services, assessed in accordance with the applicable Supplementary Fee Schedule in (z) below.
- (l) Prior to taking final action on any significant modification, the Department will invoice the applicant for any unpaid fee due pursuant to (k) above. The applicant shall submit all fees within 30 days of receipt of the invoice.
- (m) (Reserved)
- (n) Consistent with N.J.A.C. 7:27-22.10(e) and (f), if an applicant fails to submit additional information on the application, requested by the Department, by the due date provided in the request, the Department may deny the application. In such a case, a new fee shall be due for any subsequent application.
- (o) If the operating permit requires the Department to incur any of the following charges, the permittee shall reimburse the Department for the full amount of these charges:
 - 1. The charges billed by a telephone company for the maintenance of a dedicated telephone line for the electronic transmission of data; or
 - 2. The charges billed by a laboratory for analyzing audit samples.
- (p) If an application for an approval of an environmental improvement pilot test is related to an application for a significant modification, the Department shall determine the applicable fee from the Base Fee Schedule at (y) below and the Supplementary Fee Schedule at (z) below. After the Department receives the completed application form, the Department of the Treasury will send an invoice to the applicant. If a registration of a general operating permit or a used oil space heater is related to an application for a significant modification, the registrant shall submit the applicable registration fee from the Registration Fee Schedule at (aa) below.

(q)-(t) (Reserved)

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

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

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

Where:

100 = Multiplier to convert fraction into percent

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

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

Table 1

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

January 1, 2030 through August 2024 August 2029 November 2029
 December 31, 2034

4. If the inflation factor is a negative number, the fees set forth in (y), (z), and (aa) below 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 (y), (z), and (aa) below shall be multiplied by the rounded percent increase to preliminarily determine each fee's increase. Each fee's increase shall then be added to the fee to preliminarily determine the adjusted fee. The final adjusted fee shall then be determined by rounding up the preliminary adjusted fee to the next five dollars.
6. In November of the year preceding the year in which the adjusted fees are to be operative, the Department shall provide a public notice, which shall set forth the adjusted fees, if any, established under this subsection and operative on the following January 1. The Department shall provide public notice by publication of the notice and a notice of administrative change, setting forth the adjusted fees, in the New Jersey Register according to the schedule in Table 1 above. For example, the adjusted fees effective January 1, 2010 shall be published in November 2009.
7. The adjusted fees shall be operative starting the first day of each five-year period stated in Table 1.
8. The applicable fee schedule shall be determined as follows:
 - i. The Base Fee shall be the Base Fee operative on the date the Department receives an administratively complete application or notice.
 - ii. The Supplementary Fee shall be the Supplementary Fee operative on the date performance of the supplementary activity is completed.
9. From February 27, 2015, the adjusted fees are set forth at (y) through (aa) below.

(v)-(x) (Reserved)

(y) Effective January 1, 2020 through December 31, 2024, the adjusted Base Fee Schedule for significant modification applications shall be (y)1 through 4 below. Applications subject to the \$ 50,000 application fee in (y)4 below are not subject to (y)1 through 3 below and the supplementary fees at (z) below.

<u>Activity</u>	<u>Basis</u>	<u>Amount</u>
1. Application for a significant modification for which the change meets the definition of modification at N.J.A.C. 7:27-22.1, and for	Per first new or changed piece of equipment per significant modification application	\$ 2,730

which a PSD or N.J.A.C. 7:27-18 applicability determination is not required	Per each additional new or changed piece of equipment per significant modification application	\$ 640.00
2. Application for a significant modification in which the change does not meet the definition of modification at N.J.A.C. 7:27-22.1	Per significant modification application	\$ 910.00
3. Application for environmental improvement pilot test	Per application	\$ 910.00
4. Application for a significant modification for which the change meets the definition of modification at N.J.A.C. 7:27-22.1 and for which a PSD or N.J.A.C. 7:27-18 applicability determination is required	Per application	\$ 50,000

(z) Effective January 1, 2020 through December 31, 2024, the adjusted Supplementary Fee Schedule for significant modification applications shall be (z)1 through 12 below.

<u>Activity</u>	<u>Basis</u>	<u>Amount</u>
1. Prevention of Significant Deterioration		
a. Determine PSD Applicability		
i. Screen for PSD Applicability	Per Applicable Air Contaminant	Included in N.J.A.C. 7:27-22.31(y)4
ii. Determine PSD	Per Review	
b. Perform BACT Evaluation	Per Applicable Air Contaminant	
2. Sub 18 Emission Offsets		
a. Determine Sub 18 Applicability	Per Review	Included in N.J.A.C. 7:27-22.31(y)4
b. Perform LAER Evaluation	Per Applicable Air Contaminant	
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 Maximum	\$ 460.00
	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	Included in N.J.A.C. 7:27-22.31(y)4
b. Review Screening Modeling	Per Review	
c. Review Refined Modeling	Per Review	
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 |
- (aa) Effective January 1, 2020 through December 31, 2024, the adjusted fee schedule for a registration is set forth at (aa)1 and 2 below.

<u>Activity</u>	<u>Basis</u>	<u>Amount</u>
1. Registration for initial authorization, or renewal of authorization, to act under a General Operating Permit	Per Registration	\$ 885.00
2. Registration for, or five-year renewal of, authorization to operate a used oil space heater under N.J.A.C. 7:27-20.3	Per Registration	\$ 885.00

7:27-22.32 Hearings and appeals

- (a) An adjudicatory hearing regarding a determination made by the Department pursuant to this subchapter may be requested and granted in accordance with N.J.A.C. 7:27-1.32.
- (b) If a person does not have a right to request an adjudicatory hearing pursuant to N.J.A.C. 7:27-1.32, there is final agency action as to that person when the Department takes final action on the application.
- (c) If a person does have a right to request an adjudicatory hearing pursuant to N.J.A.C. 7:27-1.32, there is final agency action as to that person when the Department denies the request for an adjudicatory hearing, or when the Commissioner issues a final decision on the matter, whichever is later.
- (d) A person who wishes to appeal a penalty assessed for a violation of this subchapter may request an adjudicatory hearing pursuant to the procedures at N.J.A.C. 7:27A.
- (e) The Department's failure to take final action on an administratively complete application for an initial operating permit, renewal, minor modification or significant modification, within the deadlines provided by this subchapter, shall constitute grounds for the commencement of an action in lieu of the prerogative writ of mandamus, to compel Departmental action on the application.

7:27-22.33 Consolidated preconstruction and operating permit review

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

- (b) The owner or operator of a facility subject to this subchapter that is in operation prior to the applicable application deadline at N.J.A.C. 7:27-22.5(c) shall obtain and maintain all preconstruction permits and operating certificates required pursuant to N.J.A.C. 7:27-8 until the Department issues an operating permit for the facility. When the Department issues the operating permit to the facility, the operating permit shall include the terms and conditions of the preconstruction permit.
- (c) The owner or operator of a facility subject to this subchapter that commences operation after the applicable application deadline at N.J.A.C. 7:27-22.5(c) shall submit an application for an initial operating permit by the deadline established at N.J.A.C. 7:27-22.5(f). Until the issuance of an operating permit for the facility, the owner or operator of the facility shall obtain and maintain all preconstruction permits and operating certificates required pursuant to N.J.A.C. 7:27-8. When the Department issues the operating permit to the facility, the operating permit shall include the terms and conditions of the preconstruction permit.
- (d) An application for a minor modification pursuant to N.J.A.C. 7:27-22.23, or a significant modification pursuant to N.J.A.C. 7:27-22.24, shall be subject to preconstruction review, which will include a demonstration that any equipment or control apparatus which is constructed, reconstructed, or modified incorporates advances in the art of air pollution control for the kind and amount of air contaminant emitted pursuant to N.J.A.C. 7:27-22.35.
- (e) For an application for a minor or significant modification, the Department will simultaneously conduct the preconstruction permit review pursuant to N.J.A.C. 7:27-8 and the operating permit review pursuant to this subchapter. Ordinarily, the Department will issue the preconstruction approval as part of the final operating permit modification approval. However, if requested by an applicant for a modification, the Department will issue the preconstruction approval simultaneously with the proposed operating permit that is forwarded to the EPA pursuant to N.J.A.C. 7:27-22.12. For a minor modification pursuant to N.J.A.C. 7:27-22.23, preconstruction approval will authorize the permittee to begin construction and operation of a minor modification, at the permittee's own risk. For a significant modification of the operating permit pursuant to N.J.A.C. 7:27-22.24, the permittee may begin construction of a significant modification, but may not operate the modified facility until the Department has approved the significant modification.
- (f) If a facility or source operation becomes subject to a case-by-case MACT standard pursuant to N.J.A.C. 7:27-22.26(c) prior to issuance of an operating permit for the facility, the owner or operator of the facility shall establish a case-by-case MACT standard pursuant to N.J.A.C. 7:27-22.26(e). The owner or operator of the facility shall obtain and maintain a preconstruction permit and operating certificate pursuant to N.J.A.C. 7:27-8, which applies the case-by-case MACT standard to the appropriate source operation(s), until an operating permit covering the facility is issued which incorporates the case-by-case MACT standard.

7:27-22.34 Early reduction of HAP emissions

- (a) This section shall take effect upon EPA's interim approval of the Department's operating permit program.
- (b) The Department may allow a six year extension of time for complying with a MACT or GACT standard promulgated by EPA for one or more source operations at a facility, if the source operation achieves sufficient early reductions of HAP emissions. To be eligible for such a compliance extension, an applicant shall demonstrate that, between the end of a representative year and the date upon which EPA proposed the MACT or GACT standard, the relevant source operation(s) at the facility achieved at least the following emission reductions:
 - 1. Ninety percent of all non-particulate HAP emissions; and
 - 2. Ninety-five percent of all particulate HAP emissions.
- (c) An applicant seeking an extension pursuant to (b) above shall, in accordance with the procedures at 40 CFR 63 Subpart D, provide to the Department:
 - 1. The quantity of verifiable actual emissions released from the facility during a representative year no earlier than 1987. No year may be used as the representative year for which there is any evidence that emissions during that year are artificially or substantially greater than emissions in other years prior to implementation of emissions reduction measures; and
 - 2. A demonstration that the emissions in (c)1 above were reduced by at least the amounts required in (b) above, between the end of the representative year and the date upon which EPA proposed the MACT or GACT standard.
- (d) If the Department approves the compliance extension, the Department will incorporate the compliance extension into the operating permit for the facility. The owner or operator of a source operation for which a compliance extension is approved, and incorporated by the Department into the operating permit, may delay compliance with the MACT or GACT standard otherwise applicable to the source operation for six years after the original compliance date, provided that all conditions of the operating permit are met, and the emission reductions demonstrated to have been achieved pursuant to (c) above are maintained throughout that time.
- (e) A compliance extension pursuant to this section shall not be available with respect to any standard or requirement promulgated by EPA to protect health and the environment pursuant to 42 USC 7412(f). If EPA promulgates such a health-based standard, any facility subject to the health-based standard shall comply with such standard according to the schedule set by EPA.

7:27-22.35 Advances in the art of air pollution control

- (a) Newly constructed, reconstructed, or modified equipment and control apparatus which constitutes a significant source operation shall incorporate advances in the art of air pollution control as developed for the kind and amount of air contaminant emitted by the applicant's equipment and control apparatus as provided in this section.
- (b) For equipment and control apparatus with a potential to emit hazardous air pollutants at less than the state of the art thresholds at N.J.A.C. 7:27-17.9(b) and with a potential to emit less than five tons per year of any other air contaminant, except carbon dioxide (CO₂), the applicant need not document advances in the art of air pollution control, but instead shall document compliance with:
 - 1. Reasonably available control technology (RACT) for the air contaminants emitted as set forth in this chapter;
 - 2. Standards of Performance for New Sources of Air Pollution (NSPS), where applicable, as set forth at 40 CFR 60;
 - 3. Any National Emission Standards for Hazardous Air Pollutants (NESHAP), where applicable, as set forth at 40 CFR 61, 63 or promulgated under 42 USC 7412; and
 - 4. Any other applicable State or Federal standard or regulation, including any general operating permit issued pursuant to N.J.A.C. 7:27-22.14 which applies to that source operation.
- (c) For equipment and control apparatus with a potential to emit any hazardous air pollutant equal to or greater than the state of the art thresholds at N.J.A.C. 7:27-17.9(b) or with a potential to emit five tons per year or more of any other air contaminant, except carbon dioxide (CO₂), the applicant shall document advances in the art of air pollution control, except for CO₂, in accordance with the following criteria, as applicable:
 - 1. Best Available Control Technology (BACT) where applicable, as set forth at 50 CFR 52.21 for air contaminant emission increases subject to standards for prevention of significant deterioration (PSD) pursuant to 40 CFR 52.21;
 - 2. Lowest Achievable Emission Rate (LAER) where applicable, as set forth at 40 CFR 51.165(a)(xiii) and N.J.A.C. 7:27-18 for air contaminants which cause a significant net emissions increase of a nonattainment air contaminant in an area which is nonattainment for that contaminant;
 - 3. Maximum Achievable Control Technology (MACT) or Generally Achievable Control Technology (GACT), where applicable, for air contaminants subject to 40 CFR Subpart 63, governing HAPs;
 - 4. A general operating permit issued pursuant to N.J.A.C. 7:27-22.14 which applies to that source operation; and

5. For any other air contaminant not covered under (c)1, 2, 3, or 4 above, emitted by a source operation with the potential to emit five or more tons per year of that air contaminant, except carbon dioxide (CO₂), the use of up-to-date technology and methods, reflected in equipment, control apparatus, and procedures, that when applied to an emission source will reasonably minimize emissions of that contaminant.
 - i. The Department will periodically publish technical manuals containing technology, methods, and performance levels which can be used by applicants for demonstrating advances in the art of air pollution control, after public input and comment. Such technology, methods and performance levels shall have been demonstrated to be reliable for similar air contaminant discharge parameters, and shall be available at reasonable cost commensurate with the reduction in air pollution.
 - ii. Once the Department has published a technical manual for advances in the art of air pollution control pursuant to (c)5i above, any application submitted which shows compliance with the technical manual shall be considered to incorporate advances in the art of air pollution control for the source operations covered by the technical manual. The Department will periodically review and update the technical manuals, with public notice and input. If the Department amends a technical manual, only applications submitted after the final publication of the amended technical manual shall be subject to it.
 - iii. Instead of relying on a technical manual for advances in the art of air pollution control, the applicant may propose case by case advances in the art of air pollution control, applicable to a specific source operation. If the Department confirms that the proposal includes up-to-date technology and methods reflected in equipment and procedures, that when applied to an emission source will reasonably minimize emissions, this shall constitute advances in the art of air pollution control for that specific source operation.

APPENDIX

TABLE A

**Thresholds for Reporting Emissions of Air Contaminants
Other than Hazardous Air Pollutants (HAPs)**

Air Contaminant	Hourly Emissions (pounds per hour)
VOC	0.05
TSP	0.05
PM ₁₀	0.05
PM _{2.5}	0.05
NO _x	0.05
CO	0.05
SO ₂	0.05
Any other air contaminant ⁽¹⁾	0.05

⁽¹⁾ This air contaminant category shall apply to any other air contaminant (except CO₂), other than hazardous air pollutants (HAPs) that the facility has the potential to emit in a quantity greater than or equal to 100 tons per year.