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**ENVIRONMENTAL PROTECTION  
ENVIRONMENTAL REGULATION  
AIR QUALITY PERMITTING ELEMENT  
Air Pollution Control**

**Permits and Certificates for Minor Facilities (and Major Facilities without an Operating Permit); Operating Permits**

**Proposed Amendments:** N.J.A.C. 7:27-8.1, 8.2, 8.4, 8.6 through 8.9, 8.17, 8.20 through 8.22, 8.26, Appendix 1, 20.1, 20.3, 22.1, 22.3, 22.4, 22.6, 22.10, 22.31 and Appendix

Authorized By: Bradley M. Campbell, Commissioner, Department of Environmental Protection

Authority: N.J.S.A. 13:1B-3(e), 13:1D-9 and 26:2C-1 et seq., in particular 26:2C-9(b)7(b) and 9.5

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

DEP Docket Number: 41-05-11/385

Proposal Number: PRN 2005-466

A **public hearing** concerning this proposal will be held on Monday, January 23, 2006 at 1:00 P.M. at:

New Jersey Department of Environmental Protection  
Hearing Room, 1st Floor  
401 East State Street  
Trenton, New Jersey 08625

Directions to the hearing room may be found at the Department's website address at <http://www.state.nj.us/dep/where.htm>.

Submit written comments by February 17, 2006, to:

Alice A. Previte, Esq.  
Attention: DEP Docket No. 41-05-11/385  
New Jersey Department of Environmental Protection  
Office of Legal Affairs  
PO Box 402  
Trenton, NJ 08625-0402

Written comments may also be submitted at the public hearing. It is requested (but not required) that anyone submitting oral testimony at the public hearing provide a copy of any prepared text to the stenographer at the hearing.

The Department of Environmental Protection (Department) requests that commenters submit comments on diskette or CD, as well as on paper. Submittal of a diskette or CD is not a requirement. The Department prefers Microsoft Word 6.0 or above. Macintosh formats should not be used. Each comment should be identified by the applicable N.J.A.C. citation, with the commenter's name and affiliation following the comment.

The proposed amendments will become operative 60 days after their adoption (see N.J.S.A. 26:2C-8).

An interested person can view or download this rule proposal from the Department's Office of Air Quality Management's web site at <http://www.state.nj.us/dep/aqm>.

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The agency proposal follows:

### Summary

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements pursuant to N.J.A.C. 1:30-3.3(a)5.

The most recent fee increase to non-major facilities for preconstruction permitting fees was in 1991. (See 23 N.J.R. 729(a).) Since then, the costs of the preconstruction permitting program have increased, while the preconstruction permitting program's revenue from fees has remained the same or declined. This has created an increasing shortfall between costs and revenue and is expected to cause a shortfall of approximately \$9,350,000 in fiscal year 2006 (FY2006).

The Department is proposing several categories of amendments. First, the Department is proposing to amend its base fee tables and supplementary fee schedule at N.J.A.C. 7:27-8.6 to raise its application processing fees to cover the preconstruction program's operating costs for non-major facilities. Second, the Department is proposing to amend its base and supplementary fee schedules for significant modification applications at N.J.A.C. 7:27-22.31(r) and (s), respectively, to cover the cost of reviewing those applications for major facilities. Third, the Department is proposing to amend N.J.A.C. 7:27-22.31 to conform the fee provisions to the mandated fees in the Omnibus Fee Legislation of 2002 (P.L. 2002, c.34). As required by the Omnibus Fee Legislation, the Department has already implemented these mandated fee increases starting with Fiscal Year 2003. These mandated fees affect mainly major facilities. Fourth, the Department is proposing to require persons to submit electronically all permit applications (except renewals), registrations, and notices starting on January 1, 2008. Fifth, the Department is proposing to exempt from the permitting requirements at N.J.A.C. 7:27-8 and 22 dry cleaning equipment that uses liquid carbon dioxide as the cleaning agent. Sixth, the Department is proposing additional amendments to N.J.A.C. 7:27-8 and 22, to make technical corrections, delete outdated provisions, change payment and filing methods, update the Department's contact information, reduce from 60 to 30 days the time for payment of Department invoices, and provide for adjustment of fees based on the Consumer Price Index. Last, the Department is proposing typographical and grammatical corrections to N.J.A.C. 7:27-8, 20 and 22.

### **Subchapter 8. Permits and Certificates for Minor Facilities (and Major Facilities without an Operating Permit)**

The most recent fee increase to non-major facilities for preconstruction permitting fees was in 1991. (See 23 N.J.R. 729(a).) Since then, the costs of the preconstruction permitting program (projected to be approximately \$12,850,000 in FY2006) have increased, while the preconstruction permitting program's revenue from fees (approximately \$3,500,000 in FY2003) has remained the same or declined. The Department chose FY2003 data because, at the time the Department began analyzing the shortfall, the fiscal year for which the most complete budget and fiscal data was available was FY2003. The Department anticipates that the fee revenue in FY2006 would, under the existing rules, approximately equal the FY2003 revenue, in which case there would be a projected shortfall between costs and revenue of approximately \$9,350,000 in FY2006. The shortfall has resulted from an under-funded program at the time of the 1991 fee revision, inflationary increases in the Department's operating costs, increased hardware and software needs, and more complex application reviews and enforcement procedures required by

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the Federal Clean Air Act (CAA), 42 U.S.C. §§7401 et seq. Decreased revenue from fees has resulted from streamlining the permitting process, including the creation of general permits and the permitting of multiple pieces of equipment on one application, rather than one application per piece of equipment.

The proposed amendments would increase base fees and supplementary fees for facilities permitted under, applying for a permit under, or registering under N.J.A.C. 7:27-8. The proposed fee amounts are intended to make up the revenue shortfall and more equitably spread the cost of the program across the regulated community by basing the fee amounts on the Department's average cost to perform each activity for which a fee is charged. Since there are approximately 16,000 non-major facilities with air permits, the average proposed fee increase is less than \$600.00 per non-major facility per year.

The Department's Bureau of Preconstruction Permits and the Air Compliance and Enforcement program are the primary organizational units responsible to prevent and control the emission of air contaminants from non-major facilities, in accordance with the New Jersey Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq. A non-major facility is any facility that does not meet the United States Environmental Protection Agency's (EPA's) definition of a major source. (See 40 CFR §70.2.) A non-major facility has the potential to emit any of the air contaminants listed below in amounts that are less than the applicable major facility threshold levels. The major facility threshold levels are as follows:

<u>Air Contaminant</u>	<u>Threshold Level (tons per year)</u>
Carbon monoxide	100
PM-10	100
TSP	100
Sulfur dioxide	100
Oxides of nitrogen	25
VOC	25
Lead	10
Any hazardous air pollutant (HAP)	10
All HAPs, collectively	25
Any other air contaminant	100

To regulate emissions from non-major facilities, the Bureau of Preconstruction Permits evaluates and issues air pollution control preconstruction permits and issues operating certificates to operate equipment and air pollution control devices. The Air Compliance and Enforcement program enforces approved permits and operating certificates by conducting inspections, assisting permittees to comply, and engaging in enforcement activities. There are other programs within and outside the Department that support the development and evaluation of preconstruction permits and operating certificates.

The Department has statutory authority to charge administrative fees, in accordance with an adopted fee schedule, for any of the services the Department performs or provides in connection with administering the Air Pollution Control Act. (See N.J.S.A. 26:2C-9(b)7.) The Department recovers some of these expenses by collecting fees in accordance with the base and supplementary fee schedules at existing N.J.A.C. 7:27-8.6. These schedules set application,

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operating certificate, and supplementary fees for various permitting services the Department provides to non-major facilities.

Periodically the Department reviews and adjusts these fees to ensure they reflect the appropriate costs to the Department. The Department has determined that the fees collected are much less than the cost of the permitting services the Department performs; therefore, the Department is proposing to amend these fees so that the fees collected are more reflective of the cost to run the permitting program. The proposed fees are designed so that the more review and inspection time an activity takes, the higher the fee for that activity.

Program costs for the processing and oversight of preconstruction permits and operating certificates for non-major facilities is composed of salary cost, measured as full-time equivalent (FTE) costs, and operating costs.

#### Full-time equivalent (FTE) costs

The Department employed 88 FTEs to regulate emissions from non-major facilities in the Fall of 2004. One FTE represents one Department funded full time position, and is the equivalent of one work year of effort. The distribution of the 88 FTEs is below.

<u>Unit</u>	<u>FTEs</u>
Bureau of Preconstruction Permits	30
Bureau of Technical Services	5
Bureau of Air Quality Evaluation	4
Bureau of Air Quality Planning	1
Bureau of Air Quality Monitoring	1
Division of Air Quality Management and Administrative Staff	8
Air Compliance and Enforcement	37
Office of Information Resource Management	2

Based on figures for FY2003, the salary of a mid-level Senior Environmental Engineer (the employee level the Department's personnel and budget offices use for fiscal purposes) was approximately \$56,500. In addition to the salary costs, there is an additional approximately 29 percent for fringe benefits, such as pensions, health benefits, workers' compensation, disability benefits, and the employer's share of the Federal Income Compensation Act, and approximately 26 percent for indirect costs, such as management salaries, operating expenses, divisional indirect salaries and related expenses, building rent, and the Department allocation of indirect costs listed in the Statewide Allocation Plan prepared annually by the State Department of the Treasury. This leads to an approximate cost of \$87,575 per FTE, for a total of \$7,700,000 in FTE costs. The Department expects the number of FTEs to remain approximately 88 in future fiscal years.

#### Operating Costs

Operating costs are those costs not associated with salary and benefits. Examples are general office supplies, training, vehicle costs, computer and other equipment purchases and maintenance, computer system enhancements, contracted consultant fees, science and research costs, and funds for County Environmental Health Act (CEHA) agencies, which are the 20

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county health departments and one regional health agency that the Department has certified to provide environmental health services in all 21 New Jersey counties. (See N.J.S.A. 26:3A2-21 through 35 and N.J.A.C. 7:1H.)

In FY2003, budgeted operating costs were approximately \$2,650,000. For FY2006, the Department projects a budgeted operating cost increase of \$2,500,000, for total budgeted operating costs of \$5,150,000. The increase from FY2003 to FY2006 is attributable to \$600,000 to continue the funding of contractors to conduct permit evaluations; \$300,000 to fund additional enforcement operating expenses; \$1,000,000 for CEHA agencies to inspect non-major sources; \$250,000 for the Division of Science, Research and Technology for consulting work related to non-major facilities; and \$350,000 for New Jersey Environmental Management System (NJEMS) enhancements required to maintain the Department's Remote AIMS Data Input User System (RADIUS) and e-NJEMS, the Department's internet-based NJEMS, and to develop general permits.

The projected budget for FY2006 for the non-major facility portion of the air program is \$12,850,000, which is the sum of the above FTE costs and operating costs.

### Shortfall

Since the 1991 increase in non-major facility fees, the Department has experienced a greater and greater shortfall in the air program. The shortfalls have been funded either through general fund appropriations or reallocation of funds from other programs within the Department. The Department's proposal to increase fees is expected to fully fund the non-major facility regulation program by ensuring that permitted facilities pay the cost of the Department's services they use and prevent those costs from falling on the general public.

The Department collected \$3,500,000 in fees from non-major facilities in FY2003, as reported by the Department of Treasury. The Department estimates a similar amount will be collected in FY2006 under the existing fee schedule. The non-major facility air program cost in FY2006 is projected to be approximately \$12,850,000, which will result in an approximate shortfall of \$9,350,000 for FY2006.

The shortfall is a consequence of four circumstances. First, in 1991, there was a legislative fee cap of \$500.00 per activity. Therefore, the base fees adopted in 1991 were capped at \$500.00 per activity, even though the Department's cost to perform some activities far exceeded the \$500.00 cap. Consequently, the estimated revenue generated in 1991 was less than 70 percent of the actual cost of the program. That gap has increased over time. Amendments to the New Jersey Air Pollution Control Act in 1995 removed the \$500.00 fee cap, allowing the Department to increase fees; however, the Department did not increase fees at that time.

Second, the Department's operating costs, such as hardware and software expenses, general office expenditures and consulting service contracts, increased 35 percent from 1991 to 2003; however, the Department has not increased its fees for non-major facilities.

Third, the Federal Clean Air Act, and new and amended State and Federal regulations, including Maximum Achievable Control Technology (MACT) standards, increased emphasis on controlling and reducing emissions of HAPs, additional New Source Performance Standards (NSPS), the Department's Reasonably Available Control Technology (RACT) rules at N.J.A.C. 7:27-16 for volatile organic compounds and at N.J.A.C. 7:27-19 for oxides of nitrogen, have resulted in significant increases in workload for both the permitting and enforcement programs.

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The increased workload has led to an increase in the Department's expenditures in both FTE and operating costs.

Fourth, the air permitting program sacrificed some fee revenue in its attempt to make the permitting process more convenient for permit applicants. The Department has allowed applicants to obtain permits for multiple pieces of equipment in one source operation, instead of requiring them to submit a separate application for each piece of equipment. Also, this convenience was incorporated into many general permits. This has resulted in a decrease in fees, which are charged per application or per registration, rather than per piece of equipment. For example, prior to the creation of the general permit for gasoline dispensing stations, most gas stations were required to submit two preconstruction permit applications to obtain separate permits for stage I and stage II equipment. The Department combined stage I and II equipment into the gasoline dispensing station general permit. Now a gas station is required to submit only one general permit registration form to register the stage I and II equipment under one general permit.

The following two examples demonstrate the savings to the applicant, and the simultaneous reduction in fees to the Department, when an applicant submits a permit application using RADIUS and when a registrant submits a general permit registration.

#### Example 1 - Submitting a RADIUS application:

Prior to 1998 an applicant who applied for preconstruction permits and operating certificates for 10 plastic extruders was required to complete 10 separate preconstruction permit applications each costing \$1,000, for a total initial cost of \$10,000. At the five year renewal, the permittee was assessed a \$500.00 operating certificate renewal fee for each of the 10 preconstruction permits/operating certificates, for a total cost of \$5,000. The 10-year cost to the permittee was \$15,000.

After 1998 an applicant who applied for preconstruction permits/operating certificates for the same equipment using RADIUS would complete one preconstruction permit application with a base fee of \$1,000 for one plastic extruder and \$350.00 for each of the nine remaining plastic extruders, for a total base fee of \$4,150. At the five-year renewal, the permittee would be assessed a \$500.00 operating certificate renewal fee for the single preconstruction permit. The reduction in fees at renewal was an unintentional consequence of combining similar sources into a single permit. The 10-year cost to the permittee would be \$4,650. Over the 10-year period, the permittee saved, and the Department did not collect, \$10,350.

#### Example 2 - Submitting a General Permit Registration:

Prior to 1998, a gasoline dispensing station with Stage I and II equipment was required to submit two preconstruction permit applications each costing \$250.00, for a total initial fee of \$500.00. At the five year renewal, the permittee would be assessed a \$250.00 renewal fee for each preconstruction permit/operating certificate for a total of \$500.00. The 10-year cost of the preconstruction permits to the permittee was \$1,000. After the implementation of the gasoline dispensing general permit in 1998, the applicant submits a single air permit general permit registration at a cost of \$250.00. At the five-

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year renewal only one renewal fee of \$250.00 is required. The 10-year cost of the general permit to the registrant is \$500.00. The cost difference in this example is a \$500.00 reduction in air permitting fees over the 10-year period.

In FY2003 the Department processed 1,400 general permit registrations. The majority of these registrations had a fee of \$250.00. The revenue collected was approximately \$350,000. Had these general permit registrations been submitted as individual preconstruction permit applications, the Department would have collected approximately \$1,890,000. Using the general permit registration format saved permit applicants \$1,540,000, but reduced the fees collected by the Department by the same amount. Also, the Department's costs for enforcement and general permit development have continued to increase.

Under the authority of N.J.S.A. 26:2C-9(b)7, the Department proposes to amend the existing base and supplementary fee schedules at N.J.A.C. 7:27-8.6 by increasing fees to cover its shortfall. The proposed rules would distribute the fees equitably to permit applicants, permittees and registrants by basing fees on the Department's level of effort to evaluate permit applications, process registrations and notices, develop general permits and enforce approved permits. The proposed fee increases would allow the Department to continue its commitment to CEHA agencies and to develop and enhance NJEMS, RADIUS, general permits and State of the Art (SOTA) technical manuals.

#### Proposed Base Fees

The Department's basic review of a preconstruction permit application includes, but is not limited to, application completeness determination, fee determination, State and Federal rule applicability determination, emissions verification review and calculation review. In Table 1 below, these activities are identified similarly to their identification in the base fee tables at existing N.J.A.C. 7:27-8.6: Category II Preconstruction Permit and Operating Certificate Base Fee - Initial Permit, Category II Preconstruction Permit and Operating Certificate Additional Fee - Initial Permit, Category II Preconstruction Permit and Operating Certificate Base Fee - Revision, and Category II Preconstruction Permit and Operating Certificate Additional Fee - Revision. The Department is proposing the same base fee for all applications identified as Category II preconstruction permit applications in the existing rules, since each application costs the Department approximately the same amount to review. The Department proposes to add fees for non-technical amendment activities, such as changes in identifying information or changes in stack designation, for which there is no fee in the existing rules, and to amend each fee associated with the activities at Tables 1 through 10 at existing N.J.A.C. 7:27-8.6. Table 1 below shows these proposed changes, along with the projected revenue from the Department's proposed base fee increases.

TABLE 1

<u>Activity (as Identified in the Existing Rule)</u>	<u>Proposed Basis</u>	<u>Existing Fee</u>	<u>Proposed Fee</u>	<u>Projected Annual Number Received</u>	<u>Projected Annual Revenue</u>
General Permit Registrations	Per Registration	\$250.00	\$350.00	1,200	\$420,000

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		\$500.00	\$500.00	70	\$35,000
	Per Renewal	\$250.00	\$350.00	1850	\$647,500
		\$500.00	\$500.00	100	\$50,000
Used Oil Space Heater Registrations	Per Registration	\$250.00	\$250.00	12	\$3,000
	Per Renewal	\$250.00	\$250.00	10	\$2,500
Category II Preconstruction Permit and Operating Certificate Base Fee - Initial Permit	Per First Piece of Equipment per Initial Permit Application	\$1,000	\$1,500	750	\$1,125,000
Category II Preconstruction Permit and Operating Certificate Additional Fee - Initial Permit	Per Each Additional Piece of Equipment per Initial Permit Application	\$350.00	\$350.00	3,750 <sup>1</sup>	\$1,312,500
Environmental Improvement Pilot Test	Per Application	\$250.00	\$500.00	70	\$35,000
Category II Preconstruction Permit and Operating Certificate Base Fee - Revision	Per First New or Changed Piece of Equipment per Permit Revision Application	\$1,000	\$1,500	450	\$675,000
Category II Preconstruction Permit and Operating Certificate Additional Fee - Revision	Per Each Additional New or Changed Piece of Equipment per Permit Revision Application	\$350.00	\$350.00	2,250 <sup>2</sup>	\$787,500
Category II Compliance Plan Change	Per Application	\$250.00	\$500.00	90	\$45,000
Category II 7-Day Notice Change	Per Notice	\$250.00	\$500.00	70	\$35,000
N.J.A.C. 7:27-8.21(b)1 (Non Technical Amendment)	Per Facility	\$0	\$100.00	200	\$20,000
N.J.A.C. 7:27-8.21(b)2 (Non Technical Amendment)	Per Facility	\$50.00	\$100.00	150	\$15,000



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N.J.A.C. 7:27-8.21(b)3 (Non Technical Amendment)	Per Preconstruction Permit and Operating Certificate	\$0	\$100.00	50	\$5,000
N.J.A.C. 7:27- 8.21(b)4,5,6,8 (Technical Amendment)	Per Preconstruction Permit and Operating Certificate	\$200.00	\$500.00	70	\$35,000
N.J.A.C. 7:27-8.21(b)7 (Non Technical Amendment)	Per Preconstruction Permit and Operating Certificate	\$0	\$100.00	100	\$10,000
N.J.A.C. 7:27-8.21(d)1 (Change in Identification Information on a Registration)	Per Facility	\$0	\$100.00	50	\$5,000
N.J.A.C. 7:27-8.21(d)2 (Transfer of Ownership of a Registered Facility)	Per Facility	\$50.00	\$100.00	50	\$5,000
Category II Operating Certificate Renewal	Per First Piece of Equipment per Operating Certificate	\$500.00	\$750.00	4,500	\$3,375,000
Category II Operating Certificate Renewal Additional Fee	Per Each Additional Piece of Equipment per Operating Certificate	\$0	\$200.00	13,500 <sup>3</sup>	\$2,700,000
Total					\$11,343,000

Notes:

Activity - the activities the Department performs as listed in Tables 1 through 10 at existing N.J.A.C. 7:27-8.6.

Proposed Basis - the activity unit the proposed fee is based on, such as per registration or per application.

Existing Fee - the fee in one of the Base Fee Tables at existing N.J.A.C. 7:27-8.6.

Proposed Fee - the Department's proposed fee.

Projected Annual Number Received- the number of activity units, e.g., applications, registrations, notices or pieces of equipment, that the Department estimates it will receive annually starting in FY2006 for a proposed activity.

Projected Annual Revenue - the revenue the Department estimates to receive in FY2006 as a result of the proposed fees and basis. For example, the Department's projected annual revenue from general permit registrations would be \$350 per registration multiplied by 1,200 projected registrations which equals \$420,000.

<sup>1</sup> Based on 750 Category II applications, each having an average of six pieces of equipment on the same application.

<sup>2</sup> Based on 450 Category II applications, each having an average of six pieces of equipment on the same application.

<sup>3</sup> Based on 4,500 Category II renewals, each having an average of four pieces of equipment.

### Proposed Supplementary Fees

Under the existing rules, the Department assesses a supplementary fee when its review of a preconstruction permit application requires an activity in addition to the basic activities.

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Additional activities are generally associated with preconstruction permit applications for large and/or complex facilities and equipment that are subject to a more complicated review process, which may include an evaluation for prevention of significant deterioration (PSD), best available control technology (BACT), applicability to N.J.A.C. 7:27-18, lowest achievable emission rate (LAER), alternative emission limit (AEL), maximum achievable control technology (MACT), new source performance standards (NSPS), or SOTA technology. Also, additional activities may include performing risk assessment, modeling, or stack testing, or holding public hearings. The supplementary activities for which the Department assesses a fee are listed at existing N.J.A.C. 7:27-8.6, B. Supplementary Fee Schedule.

The legislative cap of \$500.00 per activity, discussed above, prevented the Department from charging more than \$500.00 per activity in the Department's 1991 fee rule adoption, even though the Department was aware that its cost to perform many of these activities exceeded \$500.00. The Department proposes to add seven new activities to the Supplementary Fee Schedule at N.J.A.C. 7:27-8.6, and amend six existing activities. The Department proposes to amend some fee bases and nearly all the fee amounts.

Table 2 below shows the total projected annual revenue the Department estimates from the proposed supplementary fee increases. To determine the total, the Department projected the annual revenue for each activity. The proposed fee for each activity is based on the Department's estimated average hours to perform each activity at an average salary of \$60.00 per hour (including fringe and indirect costs). The projected annual number of applications is based on FY2003 data. Multiplying the projected annual number of applications by the proposed fee equals the projected annual revenue. For example, for performing BACT evaluations (activity 1c below), multiplying five applications by \$5,000 per application gives \$25,000 projected annual revenue.

TABLE 2

<u>Activity</u>	<u>Hours</u>	<u>Projected Annual Number of Applications</u>	<u>Proposed Fee per Application</u>	<u>Projected Annual Revenue</u>
1. Prevention of Significant Deterioration				
a. Screen for PSD Applicability	-	-	-	See Footnote 1
b. Determine PSD Applicability	-	-	-	See Footnote 1
c. Perform BACT Evaluation	80	5	\$5,000	\$25,000
2. Sub 18 Emission Offsets				
a. Determine Sub 18 Applicability	80	24	\$5,000	\$120,000
b. Perform LAER Evaluation	80	25	\$5,000	\$125,000
3. RACT - AEL				
a. Review Technology	80	6	\$5,000	\$30,000
b. Prepare SIP Revision	40	5	\$2,500	\$12,500
4. Perform MACT Evaluation	25	164	\$1,500	\$246,000
5. Perform NSPS Evaluation	25	132	\$1,500	\$198,000
6. Perform SOTA Case by Case Evaluation	80	20	\$5,000	\$100,000
7. Public Comment				
a. Post Public Notices	10	20	\$500	\$10,000
b. Conduct Public Hearing	70	3	\$5,000	\$15,000
c. Prepare Response to Comments Document	40	3	\$5,000	\$15,000

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8. Ambient Air Monitoring				
a. Review Protocol				
i. for criteria pollutants, or for other pollutants or parameters for which EPA has provided guidance	20	10	\$1,500	\$15,000
ii. for other pollutants or parameters for which EPA has not provided guidance	20	10	\$2,500	\$25,000
b. Inspect Monitoring Locations and Equipment Installation	20	10	\$500	\$5,000
c. Review Quality Assurance Plan				
i. for criteria pollutants, or for other pollutants or parameters for which EPA has provided guidance	20	10	\$1,500	\$15,000
ii. for other pollutants or parameters for which EPA has not provided guidance	20	10	\$2,500	\$25,000
d. Review Data	20	10	\$500	\$5,000
e. Audit equipment	20	10	\$500	\$5,000
9. Air Quality Impact Analysis - PSD				
a. Evaluate Protocol	25	10	\$2,000	\$20,000
b. Review Screening Modeling	30	10	\$1,000	\$10,000
c. Review Refined Modeling	30	10	\$3,500	\$35,000
10. Air Quality Impact Analysis - Non PSD				
a. Evaluate Protocol	20	11	\$1,000	\$11,000
b. Review Screening Modeling	20	11	\$1,000	\$11,000
c. Review Refined Modeling	20	10	\$1,500	\$15,000
11. Risk Assessment				
a. Evaluate Protocol	40	30	\$1,500	\$45,000
b. Review Risk Assessment	40	30	\$1,500	\$45,000
12. Testing				
a. Stack Test				
i. Evaluate Protocol (up to three probes)	20	16	\$750	\$12,000
ii. Evaluate Protocol (more than three probes)	20	16	\$1,000	\$16,000
iii. Review Testing Report (up to three probes)	20	16	\$750	\$12,000
iv. Review Testing Report (more than three probes)	20	16	\$1,000	\$16,000
b. Continuous Emission Monitors				
i. Evaluate Equipment Protocol	20	16	\$500	\$8,000
ii. Evaluate Performance Specification Test Protocol	20	16	\$500	\$8,000
iii. Review Testing Report	20	16	\$500	\$8,000
c. On-site Monitoring of Sample Collection Pursuant to an Approved Source-Specific Testing Protocol	20	16	\$750	\$12,000

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d. Periodic Monitoring Equipment Protocol	20	16	\$250	\$4,000
13. Periodic Compliance Inspection	7	500	\$400	\$200,000
TOTAL				\$1,507,000

Note:

<sup>1</sup> If the Department charges a fee for these two activities in the future, the Department projects \$27,500 revenue, which the Department included in the Table 2 total.

**Preconstruction Permit Program Total Projected Revenue**

The Department expects to raise \$12,850,000 from the proposed preconstruction permit program fees, which would be the sum of the projected revenue (\$11,343,000) from the proposed base fees, plus the projected revenue (\$1,507,000) from the proposed supplementary fees.

**Amendments**

**N.J.A.C. 7:27-8.1 Definitions**

The Department proposes to delete the definitions of "Category I" and "Category II," because they are outdated. The Department no longer considers the types of equipment listed in paragraphs 1 through 5 as Category I. Existing N.J.A.C. 7:27-8.2(c)19ii(4), 8.2(c)20, 8.2(d)6 and 8.2(e)1ii exempt from preconstruction permit requirements innocuous metalworking equipment in paragraph 1 of Category I. For the remaining types of metalworking equipment, some of which create metal dust that can include toxic metals or that create mists containing hazardous air pollutants, the Department performs the usual, not abbreviated, permit application review. Therefore, metalworking equipment no longer needs to be defined under Category I. Paragraph 2 of Category I pertains to certain enclosed stationary solid material handling equipment that has been regulated since May 1998 by General Permit-001 "Bulk Solid Materials Receiving and Storage Systems." The Department already exempts some types of plastics machining or extruding equipment, in paragraph 3 of Category I from preconstruction permit requirements. (See N.J.A.C. 7:27-8.2(c)19ii(4).) The remaining types of plastics machining or extruding equipment listed under paragraph 3 undergo the usual preconstruction permit application review. The combination of the two general permits for Degreasing Operations using Non-HAP Volatile Organic Compounds (VOCs), and Degreasing Operations using only Methylene Chloride or 1,1,1 Trichloroethane Solvents addresses open top surface cleaners equipped with a cover and free-board chiller listed in existing paragraph 4. Thus, paragraphs 1 through 4 of Category I are no longer necessary. The Department proposes to relocate paragraph 5, used oil spaced heater registrations, to the proposed new definition of "registration."

The definition of Category II is no longer necessary, since the Department proposes to no longer group applications as Category I or Category II.

The Department proposes new definitions of "application form," "probe," "registrant," "registration," "registration form," "renewal," and "renewal application stub," which are terms used in the proposed amendments to N.J.A.C. 7:27-8. The term "probe" is used in proposed amended Table B, Supplementary Fee Schedule at N.J.A.C. 7:27-8.6. The proposed definition lists the analyzer and sampling methods that qualify as a single probe.

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A person who wishes to obtain authorization under a general permit is a registrant. Registration is the process of registering equipment under a general permit, by submitting a registration form to the Department. Before the Department implemented RADIUS and NJEMS, a permittee or registrant would renew a permit or renew a registration by submitting a renewal application. The Department streamlined the process to allow electronic renewal, through which the permittee or registrant receives an invoice from the Department of Treasury. The payment stub attached to the invoice is the renewal application stub.

The Department proposes to define “on-specification used oil,” “space heater,” and “used oil” by referring to the definitions of the terms at N.J.A.C. 7:27-20.1. The terms are used in the proposed amended definition of registration. Space heater is a term used throughout Subchapter 8, but not previously defined in the subchapter.

### **N.J.A.C. 7:27-8.2 Applicability**

The Department proposes new N.J.A.C. 7:27-8.2(d)14 to exempt from preconstruction permitting a piece of dry cleaning equipment that uses only liquid carbon dioxide (CO<sub>2</sub>) as the cleaning agent. The most common cleaning agent used in dry cleaners is perchloroethylene, a known carcinogen and toxic substance. The Department would like to encourage dry cleaners to use liquid CO<sub>2</sub> instead of perchloroethylene, and believes this exemption will foster that goal. However, dry cleaners will still need to obtain permits for other significant sources at the facility.

### **N.J.A.C. 7:27-8.4 How to apply, register, submit a notice, or renew**

The Department proposes to change the heading of this section to more correctly identify the activities this section discusses.

The Department proposes to relocate from N.J.A.C. 7:27-8.4(a) to 8.4(b) the requirement that applications, registrations and notices be submitted on forms obtained from the Department. Existing N.J.A.C. 7:27-8.4(a) lists activities to which Subchapter 8 applies. The Department proposes to clarify and expand this list. In addition to the seven activities in the existing text, the Department proposes to add a used oil space heater registration, three notices of an amendment (see N.J.A.C. 7:27-8.21) and renewal of a registration. The proposed amendment would make N.J.A.C. 7:27-8.4(a) consistent with existing N.J.A.C. 7:27-8.6, A. Base Fee Tables, which identifies a used oil space heater registration as a document a person could submit to the Department, and also with existing N.J.A.C. 7:27-8.17(c), which identifies a notice of amendment as a document a person could submit to the Department. The amended rule would state whether a person applies, registers, submits a notice or renews each document. For example, a person applies for a preconstruction permit and operating certificate, environmental improvement pilot test, permit revision, and compliance plan change. A person registers a used oil space heater and equipment under a general permit. A person submits a notice of a seven-day-notice change or notice of amendment. And a person renews an operating certificate or registration.

The Department proposes to amend existing N.J.A.C. 7:27-8.4(b) with the text identified above that was relocated from N.J.A.C. 7:27-8.4(a) and to update contact information.

The Department proposes amendments to existing N.J.A.C. 7:27-8.4(c) pertaining to the process of submitting documents. Currently, the Department processes most air program applications, registrations and notices electronically without manual data input. By electronic submission, the Department means those electronic submission methods listed at

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<http://www.state.nj.us/dep/aqpp>. These methods include e-NJEMS, for registering under a general permit and for renewing an operating certificate, and removable media (for example, a diskette, compact disc), or email-attached file produced by RADIUS for submitting an application or notice. E-NJEMS is programmed to accept registrations and operating certificate renewals, but not applications or notices. When the Department receives an application, registration or notice on paper or by fax, a staff person manually enters the data into the air program's NJEMS data management system. The Department proposes to streamline this process by eliminating two manual data input steps. First, if all registrants submit general permit registrations electronically through e-NJEMS, the internet-based part of NJEMS, the Department would eliminate the manual input of general permit registrations into NJEMS. Second, if all applicants and permittees would submit applications and notices on removable electronic media, the Department could electronically upload this information into NJEMS, eliminating manually inputting it. Eliminating these two steps would enable the Department to process applications, registrations and notices faster. Also, this would reduce data input errors and more efficiently use staff time.

The Department intends to further streamline the air permitting process by proposing to require electronic submission of any application, registration or notice on or after January 1, 2008. The Department chose January 1, 2008 to give those applicants, registrants and permittees, who currently do not submit documents electronically, sufficient time to convert their paper submittal process to an electronic submittal process. Until January 1, 2008, a person would have a choice of submitting a document on paper or electronically. Currently the Department receives more general permit registrations on paper than electronically. The Department intends to encourage electronic submittals of general permit registrations by proposing to charge registrants more for paper submittals than for electronic submittals until January 1, 2008. On and after January 1, 2008 persons would be required to submit all applications (except renewals), registrations and notices electronically. Requiring electronic submission is consistent with the air program's goal to make more use of computer technology.

NJEMS already has the capability to allow electronic submission of most of the above documents. NJEMS does not have the capability to allow electronic submission of notices of non-technical amendments, used oil space heater registrations and registrations under some general permits. The Department plans to change NJEMS by January 1, 2008 to allow these documents to be submitted electronically. Until January 1, 2008, they may be submitted on paper, but at additional cost if registering under a general permit. If, however, the Department's technology does not allow electronic submission, thereby requiring paper submission, then the person will not be charged the higher paper registration fee.

The Department proposes to amend existing N.J.A.C. 7:27-8.4(c) with the above changes. The Department proposes to amend N.J.A.C. 7:27-8.4(c) to state that completed documents may be submitted to the Department either electronically or on paper. The proposed amendments also would correct the location to which each type of document should be sent, and would correctly refer to an application and registration as an application form and a registration form.

The Department proposes to relocate the existing text at N.J.A.C. 7:27-8.4(c)1 to proposed (c)4. The Department proposes new text at paragraph (c)1 that would allow, between the operative date of these amendments and January 1, 2008, a completed application form, registration form or notice be submitted to the Department either on paper or electronically.

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The Department proposes to relocate the existing text at N.J.A.C. 7:27-8.4(c)2 to proposed (c)5. The Department proposes new text at paragraph (c)2 that would require on and after January 1, 2008 a completed application form, registration form or notice be submitted to the Department only electronically.

The Department proposes at new paragraph (c)3 to allow a person at all times to have the option of submitting either on paper or electronically, a completed renewal application stub and payment. Currently, to renew an operating certificate or a general permit registration, the permittee or registrant receives an invoice prepared by the Department and sent through the Department of Treasury. The invoice itemizes the charges to the permittee or registrant, who then submits the renewal fee payment to the Department of Treasury electronically via e-NJEMS, or by mailing the payment with the renewal application stub. Attached to the bottom of the invoice by a perforated line is the renewal application stub. The permittee or registrant must detach the stub from the invoice and submit the stub with the renewal fee payment to the address stated on the stub, which is a Department of Treasury address. The Department proposes that both methods be available for renewals on and after January 1, 2008. The method by which the regulated facility submits payment does not affect the Department's workload, and there is, at this time, no benefit to the Department or the permittee from one method over the other. Some permittees may prefer not to pay online. Also, the Department prefers not to penalize a permittee for submitting a renewal payment with the paper invoice.

The Department proposes to relocate the text at existing N.J.A.C. 7:27-8.4(c)1 to proposed N.J.A.C. 7:27-8.4(c)4 and amend it. Proposed N.J.A.C. 7:27-8.4(c)4 would include requirements for submitting paper documents and non-internet-based electronic media, such as a diskette or CD, through the postal service or otherwise delivered to the Department. Existing N.J.A.C. 7:27-8.4(c)2 identifies only RADIUS and e-NJEMS as available electronic submittal methods. The Department proposes to identify on its website, <http://www.state.nj.us/dep/aqpp>, the non-internet-based electronic media that it will accept. Identifying the media on the website would give the Department the flexibility to change the allowed electronic submission methods in the future as computer technology changes, while making sure that the submission is in a format that is compatible with the Department's computerized systems. As of this proposal, the Department's allowed non-internet based electronic methods are a diskette or CD produced in RADIUS and mailed to the Department.

Also, the Department proposes to relocate part of existing N.J.A.C. 7:27-8.17(c) to proposed N.J.A.C. 7:27-8.4(c)4. The relocated text would instruct a person who submits a completed application form, registration form, notice or renewal application stub and renewal fee payment how he or she may document the submittal date. The Department has replaced "permittee" with "person," to clarify that the provision applies not only to permits, but also to all of the referenced documents.

Also, the Department proposes at N.J.A.C. 7:27-8.4(c)4 to continue the existing practice of providing the regulated community with the address to which a person must submit a paper document or a removable electronic medium by printing it on the application form, registration form, renewal invoice, or in the non-internet-based electronic method (See existing N.J.A.C. 7:27-8.4(c)4) rather than in the rules. This would allow the Department to quickly notify persons if the Department changes this address. The Department proposes to delete existing N.J.A.C. 7:27-8.17(c), which contains similar information as proposed amended N.J.A.C. 7:27-8.4(c)4.

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The Department proposes to relocate existing N.J.A.C. 7:27-8.4(c)2 and part of existing N.J.A.C. 7:27-8.17(c) to proposed N.J.A.C. 7:27-8.4(c)5, and to amend the language to parallel proposed N.J.A.C. 7:27-8.4(c)4, but only as it would apply to internet-based electronic submissions. The proposed amendment lists the Department's website, <http://www.state.nj.us/dep/aqpp>, at which the Department would identify allowed internet-based electronic submission methods. As of this proposal, the Department's allowed internet-based electronic submission methods are e-NJEMS and a RADIUS-produced data file attached to an email that is submitted to the Department. The proposed language would allow a person who makes an internet-based electronic submission to document the submittal date by printing off the appropriate website screen. For example, a printed copy of the e-NJEMS website screen that confirms payment and provides a payment confirmation number would serve to document the date of an e-NJEMS submission of the renewal application stub and renewal fee payment.

Table 3 below lists the submittals affected by proposed amended N.J.A.C. 7:27-8.4(c), and the date, where applicable, on and after which electronic submission would be required.

TABLE 3

<u>N.J.A.C. 7:27-8 Submittal</u>	<u>Electronic submittal would be required on and after</u>
Application for a preconstruction permit and operating certificate	January 1, 2008
Application for a permit revision	January 1, 2008
Application for a compliance plan change	January 1, 2008
Application for a preconstruction permit and operating certificate for an environmental improvement pilot test	January 1, 2008
Registration under a general permit	January 1, 2008
Registration of a used oil space heater	January 1, 2008
Notice of an amendment (technical)	January 1, 2008
Notice of an amendment (non-technical)	January 1, 2008
Notice of a seven-day-notice change	January 1, 2008
Renewal of an operating certificate	electronic submittal would not be required

The Department recognizes that electronic submission of a general permit may be burdensome to some small businesses, such as dry cleaners, gas stations, or auto body shops. A small business may not have access to a computer, may not know how to use a computer and/or may not understand how to use the e-NJEMS software. A small business could receive assistance in electronically submitting a general permit registration by going to the Department's Small Business Assistance Program office at 401 East State Street, Trenton, NJ which would provide free computer access and staff assistance. The Small Business Assistance Program phone numbers are 609-292-3600 and toll free 877-753-1151, and contact information is at the Department's website, <http://www.nj.gov/dep/opppc/figdoc.htm>. Also, a small business may use a public computer with internet access, such as a computer at a public library, to access the Department's website, <http://www.state.nj.us/dep/aqpp/>. This website would contain instructions on how to log into e-NJEMS and a phone number for answers to questions. Finally, information may be available through trade associations. Although the Department does not endorse any



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particular trade association or the information that trade associations may provide, the Department will list trade associations at its website <http://www.nj.gov/dep/opppc/small.html>.

Existing N.J.A.C. 7:27-8.4(n) addresses renewal of an operating certificate, and requires an applicant to submit the renewal application at least 90 days prior to the expiration of the operating certificate. The Department proposes to amend this subsection to make it apply also to a registration under a general permit and to a used oil space heater registration to standardize the renewal process. Also, the Department proposes to amend this subsection to require the applicant or registrant to submit a renewal application stub and the renewal fee payment in accordance with proposed N.J.A.C. 7:27-8.4(c). The renewal application stub and renewal fee payment would be submitted to the address listed on the stub, which is the Department of Treasury, rather than directly to the Department. The Department proposes to delete redundant requirements.

The Department proposes to amend existing N.J.A.C. 7:27-8.4(s) by adding technical manual 1211, "Laboratory Operations," to the list of permitting procedure manuals. Technical manual 1211 gives chemical and pharmaceutical companies compliance flexibility for research, development and production activities in circumstances where a company needs quick Department approval. The Department has made this manual available since 1998 and is currently revising it.

#### **N.J.A.C. 7:27-8.6 Service fees**

The Department proposes to amend existing N.J.A.C. 7:27-8.6(a) to require a registrant to submit a registration fee payment to the Department along with the registration form, electronically or on paper, to the Department. The Department proposes this for three reasons: e-NJEMS already requires a registrant to submit a registration fee payment electronically with the electronic registration form; most registrants who submit a paper registration form already submit the fee payment with that form; and although the Division of Air Quality is moving away from processing checks, the Department would process checks only until January 1, 2008, the date the Department is proposing that all registrations be submitted online. The Department's practice for submitting application forms and notices is different. The Department's practice, as set forth in proposed amended N.J.A.C. 7:27-8.6(b), is to send an invoice after it receives a completed application form or notice and to allow a person to submit the fee after submission of the completed application form or notice. However, the Department would continue to accept a fee payment for an application or notice submitted with the application or notice.

The Department proposes to amend N.J.A.C. 7:27-8.6(b) to refer to the newly-defined term "application form," and to make it clear that it is a completed form that is to be submitted. The Department proposes to replace the word "applicant" with the word "person," so that the public is aware that the fee applies to those who submit an application form, as well as those who submit a general permit registration form or a notice. The proposed amendment also indicates that payment should be made to the address on the invoice, currently a Department of Treasury address, rather than directly to the Department. The Department proposes to decrease from 60 days to 30 days the number of days a person has to submit the fee to the Department of Treasury. The Department believes that 30 days is sufficient time to submit a fee. For example, the proposal would allow a person to submit the fee to pay for a Department-performed stack test, after the person submits a completed preconstruction permit application form and after the Department sends the person an invoice via the Department of Treasury. At the discretion of the

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Department, the Department may send the stack test invoice after the stack test is completed. Also, the Department proposes two minor clarifications.

The Department proposes to delete existing N.J.A.C. 7:27-8.6(c), because proposed new N.J.A.C. 7:27-8.6(l)8 describes the operative fees.

Existing N.J.A.C. 7:27-8.6(e) cites the Department's rules at N.J.A.C. 7:1L that make certain fees in excess of \$1,000 payable in installments, if the person paying the fee desires. It is not mandatory that the fee be paid in installments. In order to avoid confusion that the use of the word "shall" might cause, the Department proposes to amend the rule so that it does not imply that the installment payments are mandatory.

Existing N.J.A.C. 7:27-8.6(f) states that, with one exception, a complete fee for applying for a preconstruction permit and operating certificate is made up of a fee for applying for a preconstruction permit and a fee for applying for an operating certificate as stated in the Base Fee Tables. Actually, the complete fee is composed of all applicable activities in the Supplementary Fee Schedule, as well as the Base Fee Tables, which the proposed amendments reflect. Since the Department proposes to combine applying for a preconstruction permit and applying for an operating certificate into one activity, the Department proposes to amend N.J.A.C. 7:27-8.6(f) by deleting the reference to separate preconstruction permit and operating certificate fees.

Existing N.J.A.C. 7:27-8.6(h) allows a fee to be paid by personal check, corporate check or money order. The Department proposes to remove the money order option because the Department has had some difficulty tracing money orders back to the submitter, and because few payments are submitted by money order. The Department proposes to add fee payment options by credit card and internet electronic checking. Some persons already submit fees to the Department using internet electronic checking.

The Department proposes to delete existing N.J.A.C. 7:27-8.6(i) and reserve the subsection, because of the proposed deletion of the terms Category I and Category II from N.J.A.C. 7:27-8.1.

Existing N.J.A.C. 7:27-8.6(j) does not require a fee for an additional source under a Category II initial preconstruction permit, or a preconstruction permit revision, if the additional source is identical to the first source for which a fee is paid. Since the Department must spend resources to determine whether an additional source claimed on an application is actually identical to the first source, and in order to spread out the fee amounts charged as equitably as possible, the Department proposes to eliminate this exemption. Existing N.J.A.C. 7:27-8.6(j) also does not require a fee for an additional control apparatus under a Category II initial preconstruction permit, or preconstruction permit revision, if the additional apparatus is identical to the first control apparatus for which a fee is to be paid. The Department proposes to eliminate the fee for control apparatus at N.J.A.C. 7:27-8.6 A. Base Fee Tables, Table 2, in order to encourage polluting facilities to upgrade emission controls. Therefore, the Department proposes to delete N.J.A.C. 7:27-8.6(j) and reserve the subsection.

At proposed new N.J.A.C. 7:27-8.6(l), the Department proposes to increase the base and supplementary fees every fifth year beginning in January 2010 to compensate for anticipated increases in the program's operating costs. The Department proposes to base this fee increase on an inflation factor calculated from 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>. This website contains

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information and data on the Consumer Price Index. The website link at which this CPI-U information is available is currently “Table Containing History of CPI-U U.S. All Items Indexes and Annual Percent Changes From 1913 to Present” and its website address is currently <ftp://ftp.bls.gov/pub/special.requests/cpi/cpiiai.txt>. The base and supplementary fee increases would be relative to the average CPI-U of the previous five-year period. The Department proposes to compute the percent increase in CPI-U over the previous period that precedes the start of a five-year fiscal period, and to increase each Base and Supplementary fee in these proposed amendments by the percent increase for the new five-year fiscal period. The applicable Base Fee Table would be based on the date the Department receives an administratively complete application or notice. For example, if the Department receives a preconstruction permit application before January 1, 2010 (the first day of a five-year period) and determines after January 1, 2010 that the application is administratively complete, the fees in the Base Fee Tables in effect prior to January 1, 2010 would apply. The applicable Supplementary Fee Schedule would be based on the date the supplementary activity is performed. For example, for an NSPS determination performed on January 1, 2010, the fee in the Supplementary Fee Schedule in effect on January 1, 2010 would apply, even if the Department received an administratively complete application before January 1, 2010.

At existing N.J.A.C. 7:27-8.6, A. Base Fee Tables, Tables 1 through 10 list fees that persons are required to pay for permit-related activities. The Department proposes to increase most of these fees and add new activities for which a fee will be charged. Also, the Department proposes to condense the existing 10 tables into Table 1 for registrations, Table 2 for preconstruction permits and operating certificates, and Table 3 for amendments.

The Department proposes to delete existing Table 1 “Category I permit fees.” If the Department’s proposed deletion of the term Category I is adopted, the activities listed at existing Table 1 would no longer be relevant. The Department proposes new Table 1 “Registration Fees” that would include fees for registering under a general permit and used oil space heater registrations. The Department proposes to relocate to proposed Table 1, from existing Table 4 Part 4a, the existing general permit activities and their associated fees. Also, the Department proposes to clarify that a fee to initially register under a general permit also applies to renewing the registration. The Department proposes the same fee to initially register and renew the registration because the cost to the Department, which includes administrative processing and enforcement, is largely the same. A renewal general permit registration is required every five years. The Department also proposes to relocate the two separately listed activities at existing Table 4 Part 4b for used oil space heater registration fees to proposed Table 1 and to combine the two separately listed activities.

As discussed below, there are 16 general permits available. The Department proposes to divide the single general permit activity listed at existing Table 4 Part 4a into two activities. One activity would include the general permit listed at N.J.A.C. 7:27-8.8(c)12, known as “GP-012,” and the other activity would include the remaining general permits. GP-012 is in its own category because in the course of its development the Department merged two types of equipment which resulted in a higher registration fee. Generally the Department was charging \$250.00 to register under a general permit. For perchloroethylene dry cleaning facilities, the subject of GP-012, the Department included the operation of two types of equipment - dry-to-dry machines and boilers or heaters that are significant sources. After discussions with the dry cleaning community, the Department assigned a registration fee of \$500.00 to GP-012. The

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Department proposes to update the Base Fee Table fee to reflect the \$500.00 fee for an electronic registration, and to indicate a fee of \$750.00 for a paper registration.

The Department proposes to add to the “Basis” column two fees for each activity - one fee for registering under a general permit electronically and a second fee for registering under a general permit on paper. The Department proposes to require, from the date these amendments are operative until January 1, 2008, that a registrant pay a higher fee for a completed general permit registration form submitted on paper to encourage electronic registrations. On and after January 1, 2008, the Department would not allow completed registration forms to be submitted on paper. The Department proposes to state this deadline under the “Paper Registration” column heading. In the event that, from the operative date of these amendments to January 1, 2008, and even after January 1, 2008, the Department does not change e-NJEMS to accept an electronic registration form, the Department proposes to allow a registrant to pay the lower electronic registration fee because the registrant would be forced to submit the registration form on paper. This would be explained in proposed footnote 1. Table 4 below lists the existing and proposed fees for registering under a general permit.

TABLE 4  
Existing and Proposed General Permit Registration Fees

General Permit Number	N.J.A.C.	General Permit Name	Existing Fee	Proposed Fee (Electronic) <sup>1</sup>	Proposed Fee (Paper) <sup>1</sup>
GP-001	7:27-8.8(c)5	Bulk Solid Materials Receiving and Storage Systems	\$250.00	\$350.00	\$500.00
GP-002	7:27-8.8(c)6	Confined Abrasive Blasting Equipment	\$250.00	\$350.00	\$500.00
GP-003	7:27-8.8(c)2	Woodworking Equipment	\$250.00	\$350.00	\$500.00
GP-004	7:27-8.8(c)1	Storage and Transfer of Service Station Fuels at Gasoline Dispensing Facilities	\$250.00	\$350.00	\$500.00
GP-005	7:27-8.8(c)4	Emergency Generator	\$250.00	\$350.00	\$500.00
GP-006	7:27-8.8(c)3	Boilers Less Than 10 Million BTU/Hr Combusting Natural Gas, Propane, No. 2 Fuel Oil, Diesel, Kerosene, or a Combination of These Fuels	\$250.00	\$350.00	\$500.00
GP-006A	7:27-8.8(c)9	Boilers and Heaters Individually Less Than 10 Million BTU/Hr	\$250.00	\$350.00	\$500.00
GP-007	7:27-8.8(c)7	Stationary Non-Floating Roof Storage Tank(s) Storing Volatile Organic Compounds (VOCs)	\$250.00	\$350.00	\$500.00
GP-008	7:27-8.8(c)8	Site Remediation Activities for Gasoline Contamination at Vehicle Fueling Stations	\$250.00	\$350.00	\$500.00
GP-009	7:27-8.8(c)11	Boiler(s) and Other Indirect External Combustion Equipment Greater Than or Equal To 10 Million BTU/Hr and Less Than 50 Million BTU/Hr	\$250.00	\$350.00	\$500.00
GP-010	7:27-8.8(c)10	Degreasing Operations Using Non-HAP Volatile Organic Compounds (VOCs)	\$250.00	\$350.00	\$500.00
GP-011	7:27-8.8(c)13	Degreasing Operations Using Only Methylene Chloride or 1,1,1 Trichloroethane Solvents	\$250.00	\$350.00	\$500.00
GP-012	7:27-8.8(c)12	Perchloroethylene Drycleaning Facilities	\$250.00	\$500.00	\$750.00
GP-013	7:27-8.8(c)14	Non-HAP Drycleaning Equipment	\$250.00	\$350.00	\$500.00
GP-014	7:27-8.8(c)15	Storage and Transfer of Service Station Fuels Using Only Stage 1 Vapor Recovery	\$250.00	\$350.00	\$500.00
GP-015	7:27-8.8(c)16	Non-MACT Plating Operations	\$250.00	\$350.00	\$500.00

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<sup>1</sup> General permit registrations that are submitted on paper will be charged a higher fee through December 31, 2007. Beginning January 1, 2008 all registrations will be required to be submitted electronically.

As discussed below, the Department proposes to delete existing Tables 2, 3, 6 through 8, and 10, and replace them with new Table 2. Proposed new Table 2 relates to permit fees for the activities relating to preconstruction permits and operating certificates, except amendments, which the Department proposes to relocate from existing Table 9 to proposed new Table 3 and amend. From existing Table 2, the Department proposes to combine the fee of an application for a preconstruction permit with the fee of an application for an operating certificate, and increase the fee for the reasons previously discussed. The Department also proposes to change the fee basis from a significant source to a piece of equipment, because a piece of equipment can be more easily identified than a significant source. The Department also proposes to clarify that the fee basis is per initial permit application (not a permit revision application).

To be consistent with the proposed deletion of N.J.A.C. 7:27-8.6(j), the Department proposes to charge a fee of \$350.00 for each additional piece of equipment, rather than the existing fee of \$350.00 for each additional non-identical significant source or control apparatus. This amended fee reflects the proposed removal of the fee exemption for an identical source. The proposed removal of the fee for control apparatus is intended to encourage the regulated community to upgrade emission controls.

Existing Table 3 requires a fee for renewal of a preconstruction permit and operating certificate for an environmental improvement pilot test. The Department does not include renewals in proposed new Table 2. A permittee must submit a new application, rather than renew an existing permit, in order to obtain Department approval for another environmental improvement pilot test period. The Department also proposes to raise the fee for an application from \$250.00 to \$500.00. (See proposed N.J.A.C. 7:27-8.9(e).)

The activities in existing Table 4 are included in proposed amended Table 1; accordingly, the Department proposes to delete Table 4. Existing Table 5 relates to Category I activities. Because the Department proposes to delete the definition of Category I, the table is no longer necessary and is proposed for deletion.

Existing Table 6 addresses Category II permit revision fees. In light of the proposed deletion of the defined term Category II, the table is no longer necessary; however, some of the activities and fees in the existing table remain relevant. The Department proposes to relocate the fee for a preconstruction permit revision to amended Table 2. As relocated and amended, the activity would be an application for a preconstruction permit and operating certificate revision. As discussed above with regard to existing Table 2, the Department proposes to combine the operating certificate revision activity with the preconstruction permit revision activity and not list the operating certificate fee as a separate line item as it currently is listed at existing Table 6. The combined activity would apply to the first and each additional new or changed piece of equipment per permit revision application. As relocated, to make the fee basis consistent with existing N.J.A.C. 7:27-8.18(a)7, which allows a permittee to add a new piece of equipment as a permit revision, the Department proposes to amend the relocated fee basis to apply to each new piece of equipment, as well as to each changed piece of equipment. As above, the proposed fee basis would apply to a piece of equipment, because a piece of equipment can be more easily identified than a significant source. The Department proposes to increase the fee from \$1,000 to \$1,500 for the first new or changed piece of equipment to reflect more accurately the cost to the

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Department to review an application form to revise a preconstruction permit and operating certificate. To be consistent with the proposed deletion of existing N.J.A.C. 7:27-8.6(j), the Department proposes to delete the fee exemption for identical significant sources. In order to encourage permittees to upgrade emission controls, the Department proposes to delete the existing fee for changes to control apparatus.

Existing Table 7 lists the fees for changing a preconstruction permit and operating certificate compliance plan. The Department proposes to incorporate the fees into proposed new Table 2. The first activity listed in existing Table 7 refers to a Category I permit. Because the Department proposes to delete Category I from the definitions section, as explained above, the first activity listed in existing Table 7 is no longer relevant. The Department proposes to relocate the second listed activity to proposed new Table 2 and amend the activity by deleting the term Category II, and by adding the term “application” to clarify that the activity is the process of applying. The Department proposes to increase the fee for this activity from \$250.00 to \$500.00 to more appropriately reflect the cost to the Department to review and process an application form for a compliance plan change.

Existing Table 8 lists the fees for submitting a notice of a seven-day-notice change. For the same reasons in the previous paragraph, the Department proposes to delete the first listed activity, relocate the second listed activity to proposed new Table 2, and increase this activity’s fee to \$500.00.

Existing Table 10 applies to fees for renewals. The Department proposes to relocate the activities in existing Table 10 to proposed new Table 2, with certain modifications. Since activity “Category II” in existing Table 10 means renewing an operating certificate and since the Department proposes to delete Category II from the definitions section, the Department proposes to identify the activity as “renewal of an operating certificate,” instead of the existing phrase “Category II.” The Department proposes to change the renewal fee basis to per first piece of equipment per operating certificate, so the renewal fee basis is similar to the fee basis of the initial application for a preconstruction permit and operating certificate. The Department also proposes to increase the renewal fee from \$500.00 to \$750.00, to more accurately reflect the cost to the Department to process operating certificate renewals. Processing operating certificate renewals primarily involves performing compliance evaluations. Also, the Department proposes to add new activity, “renewal of an operating certificate-additional fee,” and proposes a fee of \$200.00 to operate each additional piece of equipment that is being renewed. The proposed \$200.00 fee per piece of equipment more accurately reflects the Department’s cost to perform compliance evaluations. The Department proposes a fee basis of “per each additional piece of equipment per operating certificate” so the renewal fee basis is similar to the fee basis of an initial application for a preconstruction permit and operating certificate.

Existing Table 9, Amendment fees, lists the fees the Department charges a permittee for amending a preconstruction permit and operating certificate. The Department proposes to relocate existing Table 9 into proposed new Table 3, Notice of amendment fees, and amend it. Under the first activity of existing Table 9, the Department listed a fee of \$0.00 per preconstruction permit for a change in identifying information under N.J.A.C. 7:27-8.21(b)1. The Department proposes to charge \$100.00 per facility for such a change. For example, if a company has two preconstruction permits for a specific facility and wishes to change its company name on both permits, the company would submit one, not two, “Non Technical Amendment Application Form” on which the company would indicate the change in company

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name. The Department would make one change to the Department's master database of permitted facilities, for which it would charge a single fee of \$100.00.

The Department proposes to more accurately state that the fee basis of the third listed activity in existing Table 9, relocated to new Table 3, is per preconstruction permit and operating certificate amended, and not per preconstruction permit.

When relocating the fourth and fifth listed activities of existing Table 9 into proposed new Table 3, the Department proposes to correct two errors. The fourth activity incorrectly refers to N.J.A.C. 7:27-8.21(b)7, rather than (b)8. The fifth activity incorrectly refers to N.J.A.C. 7:27-8.21(b)8, rather than (b)7.

The fourth activity in existing Table 9 refers to technical amendments to a preconstruction permit and operating certificate. The Department proposes to amend the basis for charging a fee from "per submitted amendment" to "per preconstruction permit and operating certificate amended." The Department's current practice is not to charge a fee for each technical amendment submitted, but instead to charge a fee for each preconstruction permit and operating certificate that is amended. For example, if a permittee reduces the diameter of two stacks listed on the same preconstruction permit and operating certificate, the permittee would notify the Department by submitting one notice of an amendment on which the permittee would indicate the two amendments. In order to process these two amendments, the Department would access only one preconstruction permit and operating certificate in NJEMS. The Department would charge a single fee of \$500.00, because it would have to access a single preconstruction permit and operating certificate in its database. If, however, a permittee reduces the diameter of two stacks, one listed on one preconstruction permit and operating certificate, and the other on a second preconstruction permit and operating certificate, the permittee would still notify the Department by submitting two notices of an amendment, one amendment being indicated on each notice. However, the Department would charge two fees, because it would access and amend two preconstruction permit and operating certificates in its database. The Department proposes to increase this fee from \$200.00 per submitted amendment to \$500.00 per preconstruction permit and operating certificate amended.

The Department proposes two new activities in new Table 3. It proposes a \$100.00 fee per registration for an amendment that only changes the identifying information described at proposed new N.J.A.C. 7:27-8.21(d)1, which is the facility contact information. The Department also proposes a new fee of \$100.00 to transfer ownership or operational control of a facility listed in a general permit registration or a used oil space heater registration, in accordance with proposed new N.J.A.C. 7:27-8.21(d)2.

In new Table 3, the Department proposes to increase each existing fee and to add fees where there currently are none, in order to reflect more accurately the cost to the Department to perform the activities.

At existing N.J.A.C. 7:27-8.6, B. Supplementary Fee Schedule lists additional fees that persons must pay for activities the Department may require in order to evaluate a preconstruction permit application. The Department proposes to add new activities, make non-substantial and clarifying amendments, and to increase most of these fees, in light of the Legislature's removal of the \$500.00 fee cap, discussed above. The Department does not now charge preconstruction permit applicants a fee for a considerable number of activities. For other activities, the Department charges only \$500.00. As discussed below, the Department proposes to increase existing fees and impose fees for additional activities.

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Existing activity 1a, “Engineering Review,” is a single category that encompasses more than one activity. Nevertheless, the Department charges a single fee of \$500.00 for an engineering review. The Department proposes to identify each activity individually, and, in most cases, impose a fee for each. The activities are identified as proposed activities one through six.

The Department proposes to separate existing activity 1 into two new sub-activities: “PSD Applicability” and “Perform BACT Evaluation.” Both are part of the Department’s Prevention of Significant Deterioration (PSD) engineering review. The Department proposes to further subdivide PSD Applicability into two sub-activities, “Screen for PSD Applicability,” and “Determine PSD Applicability.” To construct a new source or modify an existing source, an applicant submits a PSD application, as of the publication date of this proposal, to both the EPA and the Department. Either the EPA or the Department reviews the application. See 40 CFR Part 124. Section 110(c)(1) of the Federal Clean Air Act and 40 CFR Part 52 requires the EPA to review the application unless this responsibility is delegated to the State. As of the date of publication of this proposal, the Department has not accepted the responsibility from EPA to determine PSD applicability. However, since the Department may accept this responsibility in the future, the Department has listed this sub-activity “Determine PSD Applicability” in the proposed amended Supplementary Fee Schedule. At the time the Department accepts this responsibility, the Department will undertake rulemaking to establish the fees for this activity. If the Department accepts responsibility from the EPA to determine PSD applicability, the Department would review the application to determine whether the Clean Air Act’s PSD provisions and corresponding regulations (40 CFR Part 52) apply to the sources identified in the PSD application. “Screen for PSD Applicability” refers to a simplified applicability determination which can be used to determine non-applicability in many cases, but is not conclusive for determining applicability.

The proposed third activity at 1b, “Perform BACT Evaluation,” is a Department evaluation to determine the Best Available Control Technology (BACT) for each applicable air contaminant listed in the preconstruction permit application. The proposed basis is “Per Applicable Air Contaminant” because a separate evaluation is likely to be needed for each pollutant for which a BACT analysis is required.

The Department proposes to relocate existing activity 2, “Ambient Air Monitoring,” to proposed activity 8. The Department proposes new activity 2, “Sub 18 Emission Offsets,” another activity the Department performs for which facilities are currently not charged. Proposed activity 2 consists of two subactivities. The first proposed subactivity, “Determine Sub 18 Applicability,” is a complete Department review to determine whether N.J.A.C. 7:27-18 applies to any applicable air contaminants in the preconstruction permit application. Since, the cost to the Department to perform this review does not vary with the number of applicable air contaminants in the application, the Department proposes a flat fee of \$5,000 per review. The second proposed subactivity, “Perform LAER Evaluation” (LAER means Lowest Achievable Emission Rate), is a Department evaluation to determine which LAER technology applies to control emissions of each applicable air contaminant listed in the preconstruction permit application. The Department proposes a basis of “Per Applicable Air Contaminant,” because the evaluation could vary considerably based on the air contaminant.

The Department proposes to relocate existing activity 3, “Air Quality Impact Analysis,” to proposed activity 9. The Department proposes new activity 3 “RACT-AEL” (Reasonably Available Control Technology-Alternative Emission Limit), another activity the Department



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performs for which facilities are not currently charged. RACT-AEL consists of two subactivities. The first proposed subactivity, "Review Technology," is the Department's review to determine what RACT would apply to control emissions of the applicable air contaminants in the preconstruction permit application. The Department proposes a \$5,000 fee per applicable air contaminant. The Department proposes a basis of "Per Applicable Air Contaminant" because the cost to the Department increases with each additional air contaminant. The second proposed subactivity, "Prepare SIP Revision," is the Department's preparation of documents to submit to EPA to revise New Jersey's State Implementation Plan (SIP). Since the cost to the Department to prepare the SIP revision does not increase significantly with the inclusion of multiple applicable air contaminants in the application, the Department proposes a flat fee of \$2,500 per SIP revision.

The Department proposes to relocate existing activity 4, "Risk Assessment," to proposed activity 11. The Department proposes new activity 4, "Perform MACT Evaluation" (MACT means maximum achievable control technology), another activity the Department performs for which facilities are currently not charged. Proposed activity 4, "Perform MACT Evaluation," is the Department's evaluation to determine whether a piece of equipment is subject to a MACT standard and, if so, whether that piece of equipment is in compliance with the MACT standard. The Department then incorporates the MACT standard into the preconstruction permit compliance plan. The Department's proposed fee of \$1,500 is per MACT standard because within the same preconstruction permit, one MACT standard may be required for one piece of equipment while a different MACT standard may be required for another piece of equipment.

The Department proposes to relocate existing activity 5, "Testing," to proposed activity 12. The Department proposes new activity 5, "Perform NSPS Evaluation" (NSPS means new source performance standard), another activity the Department performs for which facilities are not charged. NSPS are Federal regulations with technology and emission standards for numerous industries. Proposed activity 5, "Perform NSPS Evaluation," is an extensive technical resource-intensive Department evaluation to determine whether a piece of equipment is subject to an NSPS, and if so, to determine whether that piece of equipment is in compliance with the NSPS. The Department then incorporates the NSPS into the preconstruction permit compliance plan. The Department's proposed fee of \$1,500 is per NSPS because within the same preconstruction permit one NSPS may be required for one piece of equipment while a different NSPS may be required for another piece of equipment.

The Department proposes to relocate existing activity 6, "Audit Performance of Continuous Emission Monitors," to proposed activity 12b. The Department proposes new activity 6, "Perform SOTA Case-by-Case Evaluation," which is another activity the Department performs for which facilities are not currently charged. The Department evaluates the proposed air contaminant emission limits of the control devices and equipment listed in a preconstruction permit application against the air contaminant emission limits in the SOTA manuals. If a control device or piece of equipment does not meet the emission limits in one of the SOTA manuals, the Department needs to perform a case by case evaluation of that control device or piece of equipment to determine if the alternative technology proposed in the preconstruction permit application is SOTA, technically feasible and cost effective. The Department proposes a basis of "Per Applicable Air Contaminant" because the cost to the Department increases with each additional air contaminant. For example, if one piece of equipment processed two air contaminants, a different SOTA analysis would be performed for each air contaminant.

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The Department proposes new activity 7, "Public Comment," subdivided into three subactivities the Department performs to address public comments. The activities are posting public notices in newspapers, conducting public hearings, and preparing documents containing the Department's responses to public comments. The proposed basis and fees more closely reflect the Department's cost to perform these activities. These fees apply whether the activity is required by law, or is requested by the public. The Department will waive the fee to prepare the response to comments document if there are no public comments.

The Department proposes new activity 8, "Ambient Air Monitoring," relocated from existing activity 2. The existing Ambient Air Monitoring activity is subdivided into four subactivities: "Review Protocol," "Inspect Monitoring Locations and Equipment Installation," "Review Quality Assurance Plan" and "Review Data." The Department proposes to add under the first subactivity, "Review Protocol," two activities based on the cost to the Department to review a protocol. The Department spends less time reviewing a protocol for the criteria pollutants, or for other pollutants or parameters for which EPA has provided guidance. The Department spends more time reviewing a protocol for a pollutant or parameter for which EPA has not provided guidance. The Department proposes to increase the fees to more closely reflect the cost to the Department to perform these two activities. Also, the Department proposes to add under subactivity "Review Quality Assurance Plan" two activities based on the Department's cost to review a plan. For the same reasons as "Review Protocol," above, the Department proposes different fees per plan. Also, at subactivity 8e the Department proposes to add new activity, "Audit Equipment," which the Department performs annually for each facility. The proposed fee of \$500.00 reflects the Department's cost to perform this activity, which usually takes one day for each facility.

Proposed activities 9 and 10 are existing activity 3, "Air Quality Impact Analysis," with amendments. The air quality impact analysis for PSD cases would be relocated to proposed activity 9, and the analysis for non-PSD cases would be relocated to proposed activity 10. The Department proposes to increase each fee to more closely reflect the Department's cost to perform each activity. The activities and bases for an analysis in a non-PSD case is the same as for an analysis in a PSD case. Since the cost to the Department to perform a PSD analysis is more than to perform a non-PDS analysis, the proposed fee for a PSD analysis is higher.

The Department proposes new activity 11, "Risk Assessment," relocated from existing activity 4. This relocated activity consists of two subactivities. The Department proposes to increase the fee of each subactivity to more closely reflect the cost to the Department to perform each subactivity.

The Department proposes new activity 12, "Testing," part of which is proposed to be relocated from existing activity 6. Proposed new activity 12 is subdivided into four subactivities, in order to describe the Department's testing activities. The four new proposed testing subactivities are "Stack Test," "Continuous Emission Monitors," "On-site Monitoring of Sample Collection Pursuant to an Approved Source-Specific Testing Protocol," and "Periodic Monitoring Equipment Protocol."

Proposed activity 12a, "Stack Test," is subdivided into four categories grouped by protocol or report and by number of probes. For the proposed activities that evaluate a protocol, the Department proposes a "per protocol per stack" fee basis. For the proposed activities that evaluate a report, the Department proposes a "per report per stack" fee basis. The proposed fees more closely reflect the Department's cost to perform these activities.

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Proposed activity 12b, “Continuous Emission Monitors,” is relocated from existing activity 6, “Audit Performance of Continuous Emission Monitors,” and renamed. Additionally, the Department is amending the basis of the activity from per permit, to per stack, and increasing the fee from zero to \$500.00 per stack, in order to reflect the Department's cost to perform these activities.

The Department proposes to add two new testing activities, “On-site Monitoring of Sample Collection Pursuant to an Approved Source-Specific Testing Protocol” and “Periodic Monitoring Equipment Protocol,” at proposed 12c and 12d, respectively. The former includes observations of stack tests and continuous emission monitor tests. The latter is a review of a small soil vapor extraction system protocol that takes less time to review than a regular protocol. The proposed fees reflect the differing amounts of time to review.

The Department proposes new activity 13, “Periodic Compliance Inspection,” relocated from existing activity 7. The proposed amended fee more closely reflects the Department’s cost to perform a compliance inspection.

#### **N.J.A.C. 7:27-8.7 Operating certificates**

Existing N.J.A.C. 7:27-8.7(e) requires a permittee to submit its application to renew an operating certificate at least 90 days prior to the expiration of the certificate. Existing N.J.A.C. 7:27-8.4(n) includes the same requirement. Accordingly, the Department proposes to amend existing N.J.A.C. 7:27-8.7(e) to direct a permittee to renew an operating certificate in accordance with N.J.A.C. 7:27-8.4(n) and delete the repetitive language. The last sentence of existing N.J.A.C. 7:27-8.7(e) allows a permittee to renew a permit electronically only if the original preconstruction permit application had been submitted electronically via e-NJEMS. The Department proposes to delete this sentence because e-NJEMS does not accept original preconstruction permit applications, the Department wants to encourage permittees to renew their operating certificates via e-NJEMS even if the permittee had submitted a preconstruction permit application on paper, and the Department proposes to phase out paper submissions (see proposed N.J.A.C. 7:27-8.4(c)).

#### **N.J.A.C. 7:27-8.9 Environmental improvement pilot tests**

At existing N.J.A.C. 7:27-8.9(e), the Department proposes to clarify the process for approving continuing authority to conduct an environmental improvement pilot test beyond its original test period. By referring to this re-approval as a renewal, as the existing rule does, the second and third sentences at existing N.J.A.C. 7:27-8.9(e) could be mistaken to mean that the process for obtaining this Department approval is the same as the process for renewing a non-environmental improvement pilot operating certificate. Elsewhere in N.J.A.C. 7:27-8, such as at existing N.J.A.C. 7:27-8.7(e), renewal of a non-environmental improvement pilot operating certificate does not require the application review that existing N.J.A.C. 7:27-8.9(e) requires. The Department’s intent at existing N.J.A.C. 7:27-8.9(e) is a Department review of a preconstruction permit application to determine whether or not the environmental improvement pilot test is still eligible for Department approval. The Department proposes to make it clear at N.J.A.C. 7:27-8.9(e) that the Department must review a new preconstruction permit application for an additional environmental improvement pilot test in order for the Department to re-approve the test.

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### **N.J.A.C. 7:27-8.17 Changes to existing permits and certificates**

At N.J.A.C. 7:27-8.17(c), the Department proposes to state that it is a permittee who submits a form in this section, to identify properly the type of form that the permittee submits, and to require payment of the appropriate fee. The Department proposes to delete the third sentence, which discusses documenting the date of filing. The Department has included similar language at N.J.A.C. 7:27-8.4(c)1. The remainder of N.J.A.C. 7:27-8.17(c) recites the submittal process that is set forth at proposed N.J.A.C. 7:27-8.4(b) and (c). Accordingly, the Department proposes to delete the remainder of the subsection. Finally, the Department proposes to add that a permittee submit the applicable fee in accordance with N.J.A.C. 7:27-8.6(b).

Existing N.J.A.C. 7:27-8.17(d) allows a permittee to submit a change to an existing permit electronically if one of two conditions is met. The Department proposes to amend the subsection to identify properly the document that a permittee submits. Paragraph (d)2 addresses the situation in which a permittee wishes to submit a permit change electronically, but the application for the permit was submitted on paper. The Department proposes to delete “for the permitted source” from the paragraph, because the Department requires the permittee to submit electronically all of the initial application information prior to, or simultaneously with, the electronic permit change, not just the information regarding the permitted source.

Proposed new N.J.A.C. 7:27-8.17(e) prohibits a permit revision, compliance plan change, seven-day-notice change, or amendment from changing the renewal date of the preconstruction permit’s operating certificate. For example, if an initial preconstruction permit and operating certificate’s effective date is January 1, 2005, the renewal date of its operating certificate would be January 1, 2010. If the permit were to be changed through a permit revision effective January 1, 2008, the operating certificate renewal date would remain January 1, 2010.

### **N.J.A.C. 7:27-8.20 Seven-day-notice changes**

The Department proposes to amend N.J.A.C. 7:27-8.20 to refer to a seven-day-notice change by its complete name. Existing N.J.A.C. 7:27-8.20(f) requires the Department to send an acknowledgment when it receives a notice of a seven-day-notice change and the notice fee. The Department proposes to send an acknowledgment only when it receives the notice since, according to the Department’s proposed fee payment process, the permittee would submit the notice fee after it receives an invoice from the Department. The Department would send an invoice after it receives a complete notice. See proposed N.J.A.C. 7:27-8.6(b).

### **N.J.A.C. 7:27-8.21 Amendments**

In 1998 the Department began accepting general permit registration forms, and in 2000 it began accepting used oil space heater registration forms to streamline the permitting process for smaller sources. The Department proposes to amend existing N.J.A.C. 7:27-8.21(a) to make it clear that information submitted on a registration form can be amended. Also, the Department proposes to add a sentence to existing N.J.A.C. 7:27-8.21(a) to clarify that this subchapter refers to a form that gives notice of an amendment as a notice of amendment. Also, the Department proposes new N.J.A.C. 7:27-8.21(d) to allow a notice of amendment to change certain information previously submitted on a registration form, such as facility identification, and the identity of the owner or person with operational control of the facility.

At proposed new N.J.A.C. 7:27-8.21(e), the Department proposes to allow a permittee to submit a single notice of amendment to change certain facility identification information in both

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a preconstruction permit and registration for the same facility. Under the existing rules, such a change would require more than one notice. Likewise, if a permittee wishes to notify the Department of a change in ownership or operational control of the facility in both the permit and the registration, proposed new N.J.A.C. 7:27-8.21(e) would allow the permittee to submit a single notice of amendment instead of two. If the permittee or registrant wishes to make other changes to the permit or registration, the permittee or registrant would have to submit a new permit application or registration.

#### **N.J.A.C. 7:27-8.22 Changes to sources permitted under batch plant, pilot plant, dual plant, or laboratory operations permitting procedures**

The Department proposes to add laboratory operations to the heading of N.J.A.C. 7:27-8.22, and add Technical Manual 1211, “NJDEP Laboratory Operations Permit Procedure,” on laboratory operations to the list of available technical manuals. The proposed amendment would allow laboratory operators to follow Technical Manual 1211 to make a change to a permit that was issued using the NJDEP Laboratory Operations Permit Procedure. The Department proposes to recodify existing N.J.A.C. 7:27-8.22(d) as (e), and within recodified subsection (e) to change a reference from subsection (c) to (d).

#### **N.J.A.C. 7:27-8.26 Civil or criminal penalties for failure to comply**

Existing N.J.A.C. 7:27-8.26 states that a person who fails to comply with N.J.A.C. 7:27 may be subject to criminal penalties at N.J.S.A. 26:2C-28.3. However, N.J.S.A. 26:2C-28.3 does not exist. The Department proposes to replace this erroneous citation with the correct citation, N.J.S.A. 26:2C-19(f).

#### **N.J.A.C. 7:27-8 Appendix 1**

Existing N.J.A.C. 7:27-8 Appendix 1, Table B lists the reporting and SOTA thresholds for hazardous air pollutants (HAPs) as well as each HAP’s chemical abstracts service (CAS) number. Listed under “Chemical Compound Classes” is the air contaminant 2-Methoxy ethanol with CAS number 108864. This CAS number is incorrect. The Department proposes to replace the incorrect CAS number with the correct CAS number 109864.

### **Subchapter 20. Used Oil Combustion**

#### **N.J.A.C. 7:27-20.1 Definitions**

The definition of “registration” references N.J.A.C. 7:27-20.3(b) as the location of information that may be required on the registration form. However, N.J.A.C. 7:27-20.3(b) lists the requirements that the registered space heater must meet, not information that must be included on the registration form. It is N.J.A.C. 7:27-20.3(a)3 that lists information that must be included on the registration form. Therefore, the Department proposes to replace the reference to N.J.A.C. 7:27-20.3(b) with a reference to N.J.A.C. 7:27-20.3(a)3.

#### **N.J.A.C. 7:27-20.3 Burning of on-specification used oil in space heaters covered by a registration**

The Department proposes to amend existing N.J.A.C. 7:27-20.3(b)16 to refer to the proposed relocation of used oil space heater registration fees from N.J.A.C. 7:27-8.6, A. Base Fee Tables, Table 4, Part 4b to proposed amended Table 1. Also, the Department proposes to

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amend the process to renew a used oil space heater registration so that it is the same as the process to renew an operating certificate or to renew a registration under a general permit. The proposed amendments would do this by removing the existing requirement for a certified signature and by requiring a registrant to follow the renewal process at N.J.A.C. 7:27-8.4(n).

## **Subchapter 22. Operating Permits**

### **Significant modifications**

N.J.A.C. 7:27-22 applies only to major facilities. Annual emission fees from those facilities fund the Department's costs of regulating major facilities.

In 1995 the Legislature passed an amendment to the New Jersey Air Pollution Control Act (see N.J.S.A 26:2C-9.5d(1)(c)) that required major facilities to pay fees for significant modifications. Under the law, significantly modified major facilities pay an administrative fee to cover the cost of the Department's review of those applications, since the applications tend to require a significant amount of time for the Department to review. The 1995 amendment also gave the Department the authority to set fees for significant modifications by adopting a fee schedule, in addition to the administrative fees that the Department may charge under N.J.S.A 26:2C-9(b)7 for other services that the Department performs or provides in connection with administering the Air Pollution Control Act. The existing base and supplementary fee schedules for significant modification applications are at N.J.A.C. 7:27-22.31(r) and (s).

The Department proposes to amend the base fee and the supplementary fee schedules for modifications at N.J.A.C. 7:27-22.31(r) and (s) by making both schedules apply to significant modifications, but not minor modifications, consistent with N.J.S.A 26:2C-9.5(d)1(c), and by significantly increasing the fees in the fee schedules. The fees would be increased to approximate the Department's cost to complete the significant modification activities listed in both schedules, and to process and evaluate significant modification applications.

By basing the proposed fees on the Department's approximate cost, the Department's proposed base and supplementary fees more equitably spread the cost to permit applicants. Since the Department's cost to perform base and supplementary activities for preconstruction permit applications is approximately the same as the Department's cost to perform base and supplementary activities for significant modification applications, the Department proposes the same fees for significant modification activities and for preconstruction permit application activities.

The proposed supplementary activities and fee amounts for significant modifications to major facilities are the same as the proposed supplementary activities and fee amounts for non-major facilities, with one exception. Currently, the Department charges non-major facilities for periodic compliance inspections, while the cost of periodic compliance inspections of major facilities is paid for by emission fees. The proposed amended supplementary fee schedules would not change this. Table 2 above, which shows the differences between the existing and proposed supplementary activities and fee amounts for non-major facilities, can also be used to show the differences between existing and proposed supplementary activities and fee amounts for significant modifications to major facilities, with the exception that the periodic compliance inspections (activity 13) does not apply to major facilities. These activities, basis, and fee amounts are at proposed N.J.A.C. 7:27-22.31(s).

The Department estimates additional revenue would be raised by the proposed fee increases to major facilities for significant modifications. In FY2004, the Department approved

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seven significant modification applications for the 233 major facilities with operating permits approved by the end of FY2004. Because the Department initiated one of these applications, the Department did not charge the permittee. Therefore, the Department approved significant modifications for six facilities that resulted in additional revenue. Six facilities is approximately three percent of the total number of major facilities with an operating permit.

The additional revenue projected under the proposed fee increases for these six facilities would have been \$64,500. See Table 5 below. All figures are projections.

TABLE 5

Proposed base fee revenue:	\$ 5,700
<u>- Existing base fee revenue:</u>	<u>\$ 1,700</u>
Additional base fee revenue:	\$ 4,000
Proposed supplementary fee revenue:	\$ 63,500
<u>- Existing supplementary fee revenue:</u>	<u>\$ 3,000</u>
Additional supplementary fee revenue:	\$ 60,500
Total additional base and supplementary fee revenue:	\$ 64,500

The Department expects approximately 335 major facilities to have Department-approved operating permits by January 1, 2006. It also anticipates that the number of operating permits will remain relatively stable in future fiscal years. Assuming the Department approves the same percent of significant modification applications in future fiscal years, as it did in FY2004, three percent, the Department expects to approve approximately 10 significant modification applications in FY2006 and approximately 10 in each subsequent fiscal year. Ten significant modifications would result in approximately \$107,000 of additional revenue for the Department. Therefore, the Department expects to raise an additional \$107,000 annually, starting in FY2006.

In determining the projected additional revenue, the Department assumed that all fees were paid in the fiscal year in which the operating permit was approved. In actuality, depending on the complexity of the significant modification and the date the facility submits a significant modification application, a fee could be paid in the fiscal year before, during, or after the fiscal year in which the application is approved. Since the Department expects the number of annual significant modification applications and approvals to remain relatively constant, any variation among fiscal years in fees paid should even out.

#### Mandated Fee Increases

As discussed above, in 1999, the EPA audited the Department's operating permit program. Section 502(b)(3) of the Clean Air Act (42 USC §7661a) mandates that the State's operating permit program be funded through sufficient permit fees dedicated to pay for all the needs of the program. EPA found that New Jersey's Operating Permit Program was not totally self-supporting. The Department submitted a corrected program to EPA on May 31, 2001, which addressed this and three other deficiencies. EPA's finding, in part, led to the Omnibus Fee Legislation. The proposed amendments to Subchapter 22 conform the regulations to the statutory fees.

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The proposed amendments to the fees for major facilities delete the carbon monoxide (CO) exemption, thereby subjecting CO emissions to annual emission fees; increase from \$25.00 to \$60.00 the per-ton annual emission fee in 1989 dollars, adjusted by the consumer price index, for regulated air contaminants; increase the minimum annual emission fee per facility from \$1,000 to \$3,000; increase the cap on the initial operating permit application fee from \$25,000 to \$50,000; increase the cap on the application fee for a significant modification to an operating permit from \$25,000 to \$50,000 per significant modification; and subject renewal operating permit applications to fees and caps the renewal fee at \$50,000 per facility, all consistent with amendments to N.J.S.A. 26:2C-9.5d.

### Additional Amendment

Throughout Subchapter 22, the Department proposes to replace the phrase “emission fee” with “annual emission fee,” to make it clear that the fee is to be paid annually.

### N.J.A.C. 7:27-22.1 Definitions

The Department proposes to delete the term “Category I” because it is no longer needed. Some of the significant source operations within the existing definition are, in practice, no longer treated as Category I, and the Department is proposing to charge fees for reviewing significant modification applications to other significant source operations within the existing definition. The significant source operations identified at paragraph 1, gasoline vapor recovery systems, are generally located in State facilities and are part of an operating permit; therefore, the source operations are subject to Category II fees and not treated as Category I. In the past, the Department classified the significant source operations identified at paragraph 2, certain woodworking equipment, as Category I because the Department presumed this equipment met SOTA requirements. Therefore the Department did not need to do a SOTA evaluation as part of its review of an application to modify an operating permit. This enabled the Department to charge the lower Category I fee for reviewing the application. The Department proposes to no longer presume that certain woodworking equipment meets SOTA requirements and to charge the proposed increased base and supplementary fees for reviewing an application for a significant modification, including, on a case-by-case basis, performing a SOTA evaluation.

Other significant source operations included within the existing definition of Category I, which the Department proposes to no longer presume meet SOTA requirements, but instead charge the proposed increased base and supplementary fees for reviewing an application for a significant modification, are those under existing paragraphs 3 (metal working equipment), 7 (certain containers used to store solid particles), 8 (certain solid material handling equipment) and 10 (certain sandblasting equipment). The existing rules classify the significant source operations listed in paragraph 4 (certain fossil fuel burning equipment with heat input rate of less than 100 million BTU per hour) as Category I because they are too small to be subject to SOTA; therefore, the Department did not need to do a SOTA evaluation and could charge the lower Category I fee. The Department proposes to charge the proposed increased base and supplementary fees for a significant modification application review of these sources.

The existing rules classify the significant source operations listed in existing paragraph 5 (certain stationary storage tanks less than 20,000 gallons in capacity) and existing paragraph 9 (certain surface coating operations) as Category I because they had general permits that met



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SOTA requirements. The Department now considers most of these to be insignificant sources for which the Department's current practice is to charge no fee to modify. The Department proposes to charge the increased base and supplementary fees for those source operations that are currently listed under paragraphs 5 and 9 that are significant source operations. The Department previously classified the significant source operations listed in existing paragraph 6 (certain emergency generators with less than 10 megawatts of electrical output) as Category I because they do not require a SOTA evaluation and, therefore, could be charged a lower fee. The Department proposes to charge the proposed increased base and supplementary fees for these significant source operations. The existing rules include the significant source operations listed at paragraph 11 (plastics grinding equipment) as Category I because they met SOTA requirements. The existing rules include the significant source operations at paragraph 12 (open top surface cleaners equipped with a cover and free-board chiller) as Category I. Although N.J.A.C. 7:27-8 allows a general permit for registering these open top surface cleaners, N.J.A.C. 7:27-22 does not yet have a general operating permit for registering them. Under the proposed amended rules, a facility regulated under N.J.A.C. 7:27-8 could submit a general permit registration, but a facility regulated under N.J.A.C. 7:27-22 would be required to obtain Department approval of a significant modification at a fee, or a minor modification at no fee, until the Department develops a general operating permit for open top surface cleaners equipped with a cover and free-board chiller.

The Department proposes to delete the existing definition of the term "Category II" because it is no longer needed. Under the proposed amended rules, the Department would no longer group applications as Category I or Category II.

The Department proposes to add a definition of the term "probe" because the term is used in the "Supplementary Fee Schedule" at proposed N.J.A.C. 7:27-22.31(s). As discussed above with regard to proposed amended N.J.A.C. 7:27-8.1, the proposed definition lists the analyzer and sampling methods that would qualify to be a single probe.

The Department proposes to add definitions of "registration," "registration form," and "registrant" for the same reasons discussed above regarding proposed amended N.J.A.C. 7:27-8.1.

The Department proposes to define "on-specification used oil," "space heater," and "used oil" by referring to the definitions of the terms at N.J.A.C. 7:27-20.1. The terms are used in the proposed amended definition of registration. Space heater is a term used throughout Subchapter 22, but not previously defined in the subchapter.

### **N.J.A.C. 7:27-22.3 General provisions**

The Department proposes three amendments to existing N.J.A.C. 7:27-22.3(rr). First, the Department proposes to clarify that it is upon receipt of an administratively complete application that the Department will take final action on that application. Second, the Department proposes to require a person desiring to continue an environmental improvement pilot test to obtain Department approval, which includes submitting a new application for preconstruction approval. Third, the Department proposes to add a sentence to clarify that a person should not submit the application fee payment with the application for preconstruction approval; rather, that person shall comply with N.J.A.C. 7:27-22.31(g).

### **N.J.A.C. 7:27-22.4 General application procedures**

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Existing N.J.A.C. 7:27-22.4(a) refers a person to various sections of the rules for specific procedures for obtaining an initial operating permit, administrative amendment and other applications and notices. Missing from subsection (a) is a reference to N.J.A.C. 7:27-22.14, the procedure for submitting a general operating permit. The Department proposes to amend existing N.J.A.C. 7:27-22.4(a) to include a reference to N.J.A.C. 7:27-22.14.

At N.J.A.C. 7:27-22.4(b), the Department proposes to add a general operating permit to the list of documents to which the proposed new schedule applies. The new schedule at proposed amended N.J.A.C. 7:27-22.4(b) requires that, from the operative date of this rule until January 1, 2008 (that is, the phase-in period), the Department would allow an applicant to make any submittal on paper or electronically via RADIUS. The Department proposes new N.J.A.C. 7:27-22.4(b)2, which would require that on and after January 1, 2008 a person must submit any application (except a renewal), general operating permit or notice of a seven-day-notice electronically and that a renewal shall continue to be submitted on paper. The Department is proposing these amendments for the same reasons discussed above with regard to N.J.A.C. 7:27-8.4(c).

Table 6 below lists the submittals affected by this proposal and the date, where applicable, on and after which electronic submission would be required.

TABLE 6

<u>N.J.A.C. 7:27-22 Operating Permits Submittal</u>	<u>Date that electronic submittal would be required</u>
Application for an initial operating permit	January 1, 2008
Application for a minor modification	January 1, 2008
Application for a significant modification	January 1, 2008
Application for an administrative amendment	January 1, 2008
Notice of a seven-day-notice change	January 1, 2008
Registration under a general operating permit	January 1, 2008
Registration of a used oil space heater	January 1, 2008
Application for renewal of an operating permit	electronic submittal would not be required

The Department proposes to amend existing N.J.A.C. 7:27-22.4(c) to require a person who submits an application or notice electronically to use the appropriate electronic method listed on the Department's website, <http://www.state.nj.us/dep/aqpp>. Proposed amended N.J.A.C. 7:27-22.4(c) would ensure consistency in electronic submissions required by proposed N.J.A.C. 7:27-22.4(b) by ensuring that all applications and notices are submitted using the same software, that is, RADIUS.

The Department proposes to amend N.J.A.C. 7:27-22.4(d) to state that the copy of an application or notice that subsection (d) requires to be submitted to EPA may be either a paper copy or an electronic copy. In practice, the electronic copy is almost always submitted to EPA via the postal service on a CD or diskette with a hard copy cover letter.

The Department proposes new N.J.A.C. 7:27-22.4(g), which would require a person to submit a general operating permit using the appropriate software listed at the Department's website, <http://www.state.nj.us/dep/aqpp>. Currently the appropriate software is e-NJEMS, which is accessible at this website.

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### **N.J.A.C. 7:27-22.6 Operating permit application contents**

The Department proposes to amend existing N.J.A.C. 7:27-22.6(a) to no longer require an application fee to be submitted with an application to make that application administratively complete. Under the existing practice for payment of a fee for an initial operating permit application and other applications, the Department receives an administratively complete application (which includes the application fee payment) from the applicant, and determines if the fee payment is the correct amount. The Department advises the Department of Treasury of any shortfall, and the Department of Treasury sends an invoice to the applicant for additional fee amount owed. The applicant then submits the remaining application fee payment to the Department of Treasury. Under the existing practice for payment of a renewal application fee, the Department receives an administratively complete application (without the renewal fee payment) from the applicant, and the Department of Treasury sends an invoice to the applicant. The applicant submits the application fee payment to the Department of Treasury.

The Department proposes to amend N.J.A.C. 7:27-22.6(a) to remove the requirement that the applicant submit payment along with the initial operating permit application. Instead, the proposed amended rule would allow the applicant to submit the application fee payment after the applicant receives an invoice from the Department of Treasury (see proposed amended N.J.A.C. 7:27-22.31(k)), which would occur after the Department receives an administratively complete application.

### **N.J.A.C. 7:27-22.10 Completeness review**

The Department proposes to amend N.J.A.C. 7:27-22.10(f) by replacing the word “the” before “fee requirement” with the term “any.” The word “the” implies that there always is a fee requirement when an applicant must submit a new application to the Department. In the case, for example, of a minor modification or a notice of a seven-day-notice change no fee would be required. The word “any” is intended to indicate that there may or may not be a fee requirement.

### **N.J.A.C. 7:27-22.31 Fees**

Existing N.J.A.C. 7:27-22.31(a) lists the types of fees an owner or operator of a facility is required to submit. The Department proposes to delete the sentence that references Table 2 at existing N.J.A.C. 7:27-22.31(j), because the Department is proposing to delete Table 2, and to delete existing N.J.A.C. 7:27-22.31(a)2, because these supplemental surcharge fees were only charged for fiscal years 1995 and 1996. The Department proposes to recodify existing N.J.A.C. 7:27-22.31(a)3 and 4.

At proposed N.J.A.C. 7:27-31(a)3, the Department would change the name of the fee type from “modification fees” to “significant modification fees,” because the Department no longer requires fees for minor modifications. The Department also proposes to change the basis for the fee from significant source operations to pieces of equipment per significant modification application because it is easier to determine what a piece of equipment is than it is to determine what a significant source operation is. This proposed amendment would make the fee basis consistent with the proposed fee basis for preconstruction permit revisions.

The Department proposes to add a renewal operating permit application fee at proposed new N.J.A.C. 7:27-22.31(a)4 and to base this fee on the number of pieces of equipment. The Department currently charges this fee as required by the Omnibus Fee Legislation of 2002.

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Proposed new N.J.A.C. 7:27-22.31(a)5 would add to the list of types of fees the fee at existing N.J.A.C. 7:27-22.31(p) for a request for approval of an environmental improvement pilot test. Similarly, at proposed new N.J.A.C. 7:27-22.31(a)6 the Department would add to the list of fees the fee for registering under a general operating permit and the fee for registering a used oil space heater.

The Department proposes to amend existing N.J.A.C. 7:27-22.31(b) to replace the phrase “emission fee” with the phrase “annual emission fee” to clarify that this an annual fee. A facility’s annual emission fee is based upon its actual emissions reported on its Emissions Statement, on its allowable emissions if the actual emissions information is not available to the Department, or on its potential to emit if the actual emissions information is not available and the facility does not hold a permit issued by the Department’s Air Quality Permitting Element. If a facility reports pollutant “A” on its Emissions Statement, but not pollutant “B,” the proposed amendment states that the facility’s annual emissions fee will be based on the actual emissions reported in the Emissions Statement for pollutant A, and either the allowable emissions or the potential to emit for pollutant B as determined in the prior sentence.

The Department proposes to delete existing N.J.A.C. 7:27-22.31(b)1 and 2, because they pertain to expired fiscal years 1995, 1996 and 1997, and recodify the remaining paragraphs. Existing N.J.A.C. 7:27-22.31(b)3 applies to all State fiscal years starting with FY1998. As proposed, paragraph (b)3 (recodified as (b)1) would apply only to FY1998 through FY2002. Although fiscal years 1998 through 2002 have passed, the Department proposes to retain N.J.A.C. 7:27-22.31(b)3 because it remains applicable to late payments. Also, the proposed amendments would clarify that “FY98 through and including FY02” at existing N.J.A.C. 7:27-22.31(b)3 refers to the fiscal years in which annual emission fee payments are due and not the fiscal years in which the emissions resulting in such fees are generated.

The Department proposes new N.J.A.C. 7:27-22.31(b)2, which would require that, in FY2003 and thereafter, major facilities pay the mandated annual emission fee of \$60.00 (in 1989 dollars adjusted by the CPI) per ton of emissions with a minimum annual emission fee of \$3,000. This conforms to the requirements of the Omnibus Fee Legislation. The Department proposes to except CO<sub>2</sub> emissions from the annual emission fee as the Department has adopted amendments to Chapter 27 that classify CO<sub>2</sub> as an air contaminant. (See 36 N.J.R. 4607(a), 37 N.J.R. 4415(a).) The Department’s intent at the current time is to not charge annual emission fees for CO<sub>2</sub> emissions. Finally, also to conform to the requirements of the Omnibus Fee Legislation, at proposed new N.J.A.C. 7:27-22.31(b)2 the Department does not exclude CO emissions from the calculation of annual emission fees due in FY2003 and later.

The Department proposes to delete existing N.J.A.C. 7:27-22.31(c) and reserve the subsection, because it applies to expired fiscal years 1995 and 1996 and is no longer relevant.

At N.J.A.C. 7:27-22.31(d), the Department proposes to delete the requirement that a facility pay its initial operating permit application fee with or before submitting the initial operating permit application. As discussed above, the Department is streamlining and making uniform its application fee payment process in order to use the Department’s resources more efficiently to assess fees. Under the uniform process, which is the current practice for renewals, applicants would submit all applications for initial operating permits and significant modifications to the Bureau of Operating Permits. The Bureau of Operating Permits would determine the correct application fees and send these assessments to the Department of Treasury, which would send invoices indicating the correct fee to the applicants. Then the applicants

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would send their fee payments to the Department of Treasury. The Bureau of Operating Permits would not receive any application fee payment. Because an applicant would receive an invoice after submitting its application, an applicant would no longer be required to submit any application fee payment by the application's due date. Also, the Department proposes to delete the exception "for applications due on August 15, 1995, for which application fees are due October 8, 1995," since those dates have passed.

At existing N.J.A.C. 7:27-22.31(d), the method for calculating the operating permit application fee is the same for all fiscal years. The Department proposes that the method for calculating the renewal application fee also be the same for all fiscal years.

In order to meet the requirements of the Omnibus Fee Legislation, the Department proposes that the fee for a renewal be \$125.00 per piece of equipment. Also in accordance with the legislation, the proposed maximum fee for an initial operating permit application would be increased from \$25,000 to \$50,000 per facility, with a cap on the renewal operating permit application fee at \$50,000 per facility. Finally, the Department proposes to explain the process for submitting applications and application fee payments described above.

Existing N.J.A.C. 7:27-22.31(e) requires modification fees to be paid in accordance with subsections (k) through (s) of N.J.A.C. 7:27-31. The Department proposes to amend the subsection in order to reflect the Department's practice of not requiring payment until the Department of Treasury sends an invoice, and delete the requirement to pay a modification operating permit application fee for a minor modification, because the Department required this fee only through FY1997. The Department also proposes to update the references to the fee payment process and the fee tables.

The Department proposes to delete existing N.J.A.C. 7:27-22.31(f) and reserve the subsection, since the requirements are no longer applicable. The Department has not used, and applicants have not needed, fee forms for several years. The Department no longer provides estimated emission fee calculations for individual facilities because the Department calculates the annual emission fees. The Department no longer provides estimated supplemental surcharge fee calculations for individual facilities because these fees have not been charged after FY1996.

At existing N.J.A.C. 7:27-22.31(g), the Department proposes to amend the procedure for paying fees. Rather than refer to "all fee payments," as in the existing subsection, proposed amended N.J.A.C. 7:27-22.31(g) would list the types of fee payments to which the payment applies. The proposed amendments would also reflect the method of payment of fees, discussed above. The Department also proposes to delete the requirement to submit a completed fee form along with the fee payment, since the Department no longer uses fee forms. Existing N.J.A.C. 7:27-22.31(g) allows a fee to be paid by check or money order. The Department proposes to remove the money order option because the Department has had some difficulty tracing money orders back to the submitter, and because few payments are submitted by money order. The Department proposes to clarify that the check may be a personal or corporate check, and to add fee payment options by credit card and internet electronic checking. Some persons already submit fees to the Department using internet electronic checking. Payment would be due within 30 days after receipt of the invoice, which the Department believes allows persons sufficient time to submit fee payments.

The Department proposes to amend the reference to the Air Pollution Control Act at N.J.A.C. 7:27-22.31(h) to more specifically identify that citation.

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The Department proposes to amend N.J.A.C. 7:27-22.31(i) to prevent a decrease in annual emission fees if the Consumer Price Index, upon which annual emission fee increases are based, decreases in a year. If the Consumer Price Index does not increase, or decreases, the fee would not change.

The Department proposes to amend N.J.A.C. 7:27-22.31(j) to remove the reference to Fiscal Year 1995 emission fees, since Fiscal Year 1995 emission fees are no longer applicable. Similarly, the Department proposes to delete Table 2 because the requirements in columns labeled "FY95," "FY96" and "FY97" are outdated; and, to the extent that the requirements in the column headed "FY98 and on" have not been superceded by the Omnibus Fee Legislation, they are included in other provisions of these proposed rules, specifically N.J.A.C. 7:27-22.31(a) and (b) for emission fees, N.J.A.C. 7:27-22.31(d) for initial application fees and N.J.A.C. 7:27-22.31(e) for modification fees.

At N.J.A.C. 7:27-22.31(k), the Department proposes to remove the requirement to pay an operating permit application fee for a minor modification because the Department required a fee for a minor modification only through FY1997. To make this subsection consistent with the Department's streamlined fee payment process as explained above, the Department proposes to remove the requirement to submit, as part of each application, the operating permit application fee for a significant modification and to clarify that the Department will determine the fee after it receives the significant modification operating permit application. In order to meet the requirements of the Omnibus Fee Legislation, and as described above regarding N.J.A.C. 7:27-22.31(d), the proposed amended cap on a significant modification operating permit application fee will no longer be \$25,000 per modification, but \$50,000 per facility. Also, the Department proposes to state that it is the Department, not the permittee, that determines the fee.

The Department proposes to amend N.J.A.C. 7:27-22.31(l) to clarify that supplementary fees pertain to significant modifications, not to all modifications. The Department does not charge a fee for minor modifications. The proposed amendment also reflects the Department's streamlined payment process, and the shortened payment period, discussed above with regard to proposed amended N.J.A.C. 7:27-8.6(b).

The Department proposes to delete and reserve existing N.J.A.C. 7:27-22.31(m). Because paragraphs (m)1 and 2 pertain only to fiscal years 1995 through 1998, part of paragraph (m)3 is no longer applicable, and the requirements of the applicable part of paragraph (m)3 are addressed by proposed amended N.J.A.C. 7:27-22.31(k).

Existing N.J.A.C. 7:27-22.31(p) requires a person submitting a request for approval of an environmental improvement pilot test or a general permit registration to submit the appropriate fee along with that request if that request is related to an existing application for a minor or significant modification. The Department proposes at N.J.A.C. 7:27-22.31(p) to clarify that the request for approval of an environmental improvement pilot test is an application for approval of an environmental improvement pilot test. Also, the Department proposes to correctly refer to a general permit for a facility with an operating permit as a general operating permit. A general permit developed to modify a facility with an operating permit is called a general operating permit. A registration submitted under a general operating permit would become part of that facility's operating permit. There was one general operating permit developed that is no longer in use. A second general operating permit is under development.

Because a used oil space heater registration could be related to an existing significant modification application, the Department proposes to add registrations for used oil space heaters.

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The Department proposes to delete the reference to a minor modification, since the Department no longer charges for minor modifications, and to conform the language of the paragraph to the Department's payment procedure, discussed above.

For both a registration of a general operating permit and a registration of a used oil space heater, the Department proposes that the registration fee be submitted with the registration form, whether the registration is online or on paper.

At proposed N.J.A.C. 7:27-22.31(r), the Department proposes to clarify that the Base Fee Schedule at proposed amended N.J.A.C. 7:27-22.31(r) applies only to significant modifications, not all modifications. Category I and Category II, having been deleted from the definitions, are no longer relevant to the Base Fee Table. Accordingly, the Department proposes to delete the Category I activity, and the accompanying footnote. However, since some of the equipment formerly identified as Category II is still relevant, the Department proposes to amend the entry for Category II to refer to an application for a significant modification for which the change meets the definition of modification at N.J.A.C. 7:27-22.1. Also, the Department proposes to change the fee basis from a significant source basis to a piece of equipment basis, because a piece of equipment can be more easily identified than a significant source, as discussed above with regard to proposed amended N.J.A.C. 7:27-8.18(a).

Also, the Department proposes to increase the existing \$500.00 fee to \$1,500 for the application and first changed piece of equipment. This increase would more closely approximate the Department's cost to review a significant modification application. Also, the Department proposes to remove the fee exemption for identical pieces of equipment or significant sources, for the reasons discussed above with regard to N.J.A.C. 7:27-8.6(j).

Also, the Department proposes to add to the Base Fee Schedule a fee of \$500.00 to review a significant modification application for a change that does not fall within the definition of modification at N.J.A.C. 7:27-22.1. Such a change would almost always be a stand-alone compliance plan change. The proposed new activity would make the N.J.A.C. 7:27-22.31 Base Fee Schedule resemble the compliance plan change activity in the proposed N.J.A.C. 7:27-8.6 Base Fee Schedule. Both fee schedules should be the same because the activities are nearly identical for reviewing a preconstruction permit application and an operating permit application. Also, the Department proposes to increase the fee amount for reviewing an application for approval of an environmental improvement pilot test from \$250.00 to \$500.00, and to delete existing activity 4, "General Permit Registration," which is included in proposed new N.J.A.C. 7:27-22.31(t).

At N.J.A.C. 7:27-22.31(s), the Department proposes to clarify that the Supplementary Fee Schedule is for significant modifications, not for all modifications. The Supplementary Fee Schedule lists additional fees that persons must pay for activities the Department may require in order to evaluate an application for a significant modification. As discussed above, the Department proposes to add new activities and to increase most of these fees, since the \$500.00 fee cap was removed in 1995, as explained above. For many of these activities provided by the Department, applicants are not charged or are charged the minimal amount of \$500.00. The proposed amendments will make this schedule nearly identical to the Supplementary Fee Schedule at N.J.A.C. 7:27-8.6, with the exception that the amended Supplementary Fee Schedule at proposed N.J.A.C. 7:27-8.6 contains proposed activity 13, "Periodic Compliance Inspection," but the Supplementary Fee Schedule at proposed N.J.A.C. 7:27-22.31(s) does not. A facility with a preconstruction permit and operating certificate is separately charged for an enforcement

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periodic compliance inspection while a facility permitted with an operating permit is not separately charged for the inspection, because the cost is paid by the operating permitted facility's annual emission fees. For a discussion of the proposed amendments to the fee schedule, see the discussion of amendments to N.J.A.C. 7:27-8.6 above.

The Department proposes new subsection N.J.A.C. 7:27-22.31(t), which would include a schedule of fees for processing a general operating permit registration or a used oil space heater registration that is part of a significant modification application. The fee basis would be per registration. The Department proposes a fee of \$500.00 for a registration submitted on a paper, and \$350.00 for a registration submitted electronically, in order to encourage electronic submissions between the date these amendments become operative and January 1, 2008. The Department proposes a fee of \$250.00 for a registration to operate a used oil space heater.

At proposed new N.J.A.C. 7:27-22.31(u), the Department proposes to increase the base, supplementary and registration fees every fifth year beginning in January 2010 to compensate for anticipated increases in the program's operating costs to review significant modification applications. The calculations and requirements at proposed N.J.A.C. 7:27-22.31(u) are the same as discussed above with regard to proposed N.J.A.C. 7:27-8.6(l).

### **N.J.A.C. 7:27-22 Appendix**

Existing N.J.A.C. 7:27-22 Appendix, Table B lists the thresholds for reporting hazardous air pollutants (HAPs). Table B also lists the CAS Number for each air contaminant. Listed under "Chemical Compound Classes" is the air contaminant 2-Methoxy ethanol with CAS number 108864. This CAS number is incorrect. The Department proposes to replace incorrect CAS number 108864 with correct CAS number 109864.

### **Social Impact**

The Department expects the proposed amendments to have an overall positive social impact.

The proposed amendments to N.J.A.C. 7:27-8 and 22 that amend the fee schedules to impose administrative fees for services that the Department performs or provides to administer the Air Pollution Control Act will shift to the regulated community the cost of operating the preconstruction permit program and reviewing significant modification applications. Under the existing rules, New Jersey taxpayers bear much of that cost. Additionally, the proposed base fee amounts and supplementary fee amounts distribute the fees among permitted facilities in a way that is more closely linked to the Department's cost to review an application, notice, amendment or registration. The more Department time that is needed to review one of these submittals, the higher the fee. To the extent that the increased fees provide an incentive for industry to decrease emission of regulated compounds, as discussed in the Environmental Impact below, there may be a reduction in air pollution in the State.

To the extent that the proposed amended fees are mandated under the Omnibus Fee Legislation's amendments to N.J.A.C. 26:2C-9.5, the amendments will have no social impact, other than to conform the rules to the statutes. The Department already charges the mandated fees to major facilities, as the law requires.

The proposed amendments that are not fee increases, but that relate to electronic submittal of applications, registrations and notices will also result in a positive social impact. The Department spends fewer resources on electronic submittals, because it does not require



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personnel to input manually the information from a paper submittal. Accordingly, more resources are available for substantive activities. Moreover, because the electronic system requires that the applicant or registrant complete all fields, and performs a check of the data as it is entered, the applications and registrations that the Department receives are complete and have fewer input errors, and require less follow up after submittal. The Department and the public are assured of more accurate and complete applications, registrations and notices.

The proposed amendments that exempt from the air permitting requirements those dry cleaners that use CO<sub>2</sub> as a cleaning agent will have a positive social impact. The most common cleaning agent used in dry cleaners is perchloroethylene, a known carcinogen and toxic substance. The Department anticipates that encouraging the use of liquid CO<sub>2</sub> as a cleaning agent would reduce perchloroethylene emissions from dry cleaners. The amount of perchloroethylene used by each piece of dry cleaning equipment can be 1,000 pounds per year. Approximately 1,800 dry cleaning facilities in New Jersey use perchloroethylene as the cleaning agent. Therefore, the annual perchloroethylene usage from all dry cleaning facilities in the State is approximately 1,800,000 pounds per year. The Department anticipates that approximately 12 dry cleaners would convert to liquid CO<sub>2</sub> equipment per year, which is expected to reduce perchloroethylene usage and potential emissions to the environment by approximately 12,000 pounds per year.

Encouraging CO<sub>2</sub> use in dry cleaners will also prevent some perchloroethylene and other by-products from entering the hazardous waste stream, as discussed in the Environmental Impact, below. Moreover, after installation of new equipment that uses liquid CO<sub>2</sub>, a dry cleaner can expect lower operating costs than equipment that uses perchloroethylene, as discussed in the Economic Impact, below. According to Consumer Reports (February 2003), consumers can expect better dry cleaning results from CO<sub>2</sub> based systems for about the same price as perchloroethylene systems. After comparing three alternative dry cleaning methods to the standard solvent, perchloroethylene, Consumer Reports determined that liquid CO<sub>2</sub> “gave the best results, even better than conventional dry cleaning.”

The CO<sub>2</sub> dry cleaner exemption from the air permitting requirements could encourage liquid CO<sub>2</sub> dry cleaners to operate in those situations where local political pressure or policies might prevent or discourage the use of an odorous or hazardous substance, such as perchloroethylene, in certain locations, such as a strip mall. Instead of going out of business, relocating, or not starting operations, a dry cleaning establishment could install liquid CO<sub>2</sub> equipment. The community would benefit from the convenience of having a dry cleaning establishment that is local.

The Department recognizes that using liquid CO<sub>2</sub> may increase CO<sub>2</sub> emissions. The Department also acknowledges that, effective November 21, 2005, it adopted amendments to reclassify CO<sub>2</sub> as an air contaminant. See 36 N.J.R. 4607(a) and 37 N.J.R. 4415(a). However, the Department anticipates that the total amount of CO<sub>2</sub> emissions from dry cleaners that convert to liquid CO<sub>2</sub> would be insignificant, and that any environmental harm would be far outweighed by the environmental benefit of reducing perchloroethylene emissions, as discussed in the Environmental Impact below.

The proposed amendments to N.J.A.C. 7:27-20 are grammatical and administrative, rather than substantive; accordingly, the Department anticipates that these proposed amendments would have no social impact.

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### Economic Impact

The Department anticipates that the proposed amendments would have an economic impact on the regulated community.

#### Fee increases for minor facilities and major facilities without an operating permit

The Department regulates approximately 16,000 facilities through N.J.A.C. 7:27-8. The Department estimates the proposed amendments to the fees it charges these facilities would result in an increased cost of \$9,500,000, or approximately \$600.00 per facility. Because the Department does not propose to increase the fee to register a used oil space heater, the proposed amendments would not have an economic impact on those facilities.

The Department expects the proposed fee increases to affect non-major private and government facilities, as well as small businesses. Small businesses, which mainly use the general permit registration process, can expect to see an increase in general permit fees of approximately \$100.00 per registration, and \$100.00 per renewal. Non-major facilities that submit permit applications requiring extensive reviews, which trigger supplementary fees, would see a fee increase to reflect the additional time associated with processing complex applications. Non-major facilities that make a compliance plan change, submit a seven-day notice or make an amendment would also experience a fee increase. Examples of the expected fee increases are below.

#### REGISTRATION FEES:

The Department proposes to raise general permit registration fees. The existing registration fee for all general permits (GP-001 through GP-015) is \$250.00. The Department proposes to raise this fee to \$350.00 for an electronic submission and \$500.00 for a paper submission for all general permit registrations except GP-012 (Perchloroethylene Drycleaning Facilities). The Department proposes to raise the fee for a GP-012 registration to \$500.00 for an electronic submission and \$750.00 for a paper submission. Beginning on January 1, 2008, all registrations would be required to be submitted electronically; therefore, only the electronic registration fees at proposed N.J.A.C. 7:27-8.6, A. Base Fee Tables, Table 1, Part 1a, "General Permit Registration Fees," would apply on and after that date. The fee for each general permit registration would continue to be posted on the general permit registration form. The effect the proposed fee increases would have on persons who submit general permit registrations is shown in Table 7 below, which lists the general permits that are available and their existing and proposed fees.

TABLE 7  
Existing and Proposed General Permit Registration Fees

<u>General Permit Number</u>	<u>Applicable N.J.A.C. Code</u>	<u>General Permit Name</u>	<u>Existing Fee</u>	<u>Proposed Fee (Electronic)<sup>1</sup></u>	<u>Proposed Fee (Paper)<sup>1</sup></u>
GP-001	7:27-8.8(c)5	Bulk Solid Materials Receiving and Storage Systems	\$250	\$350	\$500

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GP-002	7:27-8.8(c)6	Confined Abrasive Blasting Equipment	\$250	\$350	\$500
GP-003	7:27-8.8(c)2	Woodworking Equipment	\$250	\$350	\$500
GP-004	7:27-8.8(c)1	Storage and Transfer of Service Station Fuels at Gasoline Dispensing Facilities	\$250	\$350	\$500
GP-005	7:27-8.8(c)4	Emergency Generator	\$250	\$350	\$500
GP-006	7:27-8.8(c)3	Boilers Less Than 10 Million BTU/Hr Combusting Natural Gas, Propane, No. 2 Fuel Oil, Diesel, Kerosene, or a Combination of These Fuels	\$250	\$350	\$500
GP-006A	7:27-8.8(c)9	Boilers and Heaters Individually Less Than 10 Million BTU/Hr	\$250	\$350	\$500
GP-007	7:27-8.8(c)7	Stationary Non-Floating Roof Storage Tank(s) Storing Volatile Organic Compounds (VOCs)	\$250	\$350	\$500
GP-008	7:27-8.8(c)8	Site Remediation Activities for Gasoline Contamination at Vehicle Fueling Stations	\$250	\$350	\$500
GP-009	7:27-8.8(c)11	Boiler(s) and Other Indirect External Combustion Equipment Greater Than or Equal To 10 Million BTU/Hr and Less Than 50 Million BTU/Hr	\$250	\$350	\$500
GP-010	7:27-8.8(c)10	Degreasing Operations Using Non-HAP Volatile Organic Compounds (VOCs)	\$250	\$350	\$500
GP-011	7:27-8.8(c)13	Degreasing Operations Using Only Methylene Chloride or 1,1,1 Trichloroethane Solvents	\$250	\$350	\$500
GP-012	7:27-8.8(c)12	Perchloroethylene Drycleaning Facilities	\$250	\$500	\$750
GP-013	7:27-8.8(c)14	Non-HAP Drycleaning Equipment	\$250	\$350	\$500
GP-014	7:27-8.8(c)15	Storage and Transfer of Service Station Fuels Using Only Stage 1 Vapor Recovery	\$250	\$350	\$500

<sup>1</sup> General permit registrations that are submitted on paper would be charged a higher fee through December 31, 2007. Beginning January 1, 2008 all registrations would be required to be submitted electronically.

The following example shows the effect the proposed fee increases would have on a facility that submits a general permit registration electronically. This example applies to any private or government facility that applies for or renews any of the general permits listed above, except GP-012. A gasoline dispensing station, commonly called a gas station, is required to submit registration GP-004 in order to store and transfer gasoline. Under the existing fees, a new gas station would pay \$250.00 for the initial GP-004 and \$250.00 to renew it after five years for a total cost of \$500.00 for a 10-year operating period. Under the proposed fees, a new gas station would pay \$350.00 for the initial GP-004 and \$350.00 to renew it after five years for a total cost of \$700.00 for the 10 year operating period. The cost of a new gas station to operate for 10 years would increase by \$200.00 or \$20.00 per year.

An existing gas station that has a registration GP-004 (Gasoline Dispensing Facility) and that is not adding or modifying equipment would experience a fee increase only for the renewal at the end of the five-year term of the initial registration. The increase in the renewal fee would be from \$250.00 to \$350.00, or \$20.00 per year, for the five-year term of the renewal. A typical facility that submits only a general permit registration does not submit permit revision changes, compliance plan changes, seven-day-notice changes, or amendments over the five-year life of the registration. Therefore, the Department does not expect any other fee increases would affect gas stations. The following table summarizes this example:

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TABLE 8

<u>Fee Type</u>	<u>Existing Fee</u>	<u>Proposed Fee</u>	<u>Increase</u>
Initial GP Registration Fee	\$250.00	\$350.00	\$100.00
Renewal Fee	\$250.00	\$350.00	\$100.00
10-year-cost (Initial + Renewal)	\$500.00	\$700.00	\$200.00
Annual cost (10-year-cost / 10 years)	\$50.00	\$70.00	\$20.00

**PRECONSTRUCTION PERMIT FEES:**

The existing and proposed base and supplementary fee increases for preconstruction permits are listed in Tables 1 and 2 of the Summary above. Examples of how the Department expects these increases to affect facilities are below.

Example - Expected fees for a new manufacturing facility

This example shows the fee increases proposed to an applicant that submits a preconstruction permit application for a new manufacturing facility, which requires extensive review, including some supplementary activities. Equipment at a typical manufacturing facility includes storage tanks, boilers, and processing equipment such as blending vessels, mixing vessels, and filling and packaging equipment. In this example, an applicant proposes to construct a new manufacturing facility with three 50,000 gallon non-identical storage tanks, two non-identical boilers, and seven non-identical pieces of processing equipment. The applicant is required to obtain three initial preconstruction permits and operating certificates because there are three distinct and separate source operations, each requiring a separate review. The first preconstruction permit and operating certificate is for the three storage tanks, the second is for the two boilers, and the third is for the seven pieces of processing equipment.

Under the existing fee schedule, the total fee for the three initial preconstruction permits and operating certificates would be \$6,150: the fee for the three 50,000 gallon storage tanks would be \$1,700 (\$1,000 for the first tank and \$350.00 for each of the two additional storage tanks); the fee for the two boilers would be \$1,350 (\$1,000 for the first boiler and \$350.00 for the additional boiler); and the fee for the seven pieces of processing equipment would be \$3,100 (\$1,000 for the first piece of process equipment and \$350.00 for each of the six additional pieces of process equipment).

Under the proposed fee schedule the total fee for the three initial preconstruction permits and operating certificates would be \$10,650, which consists of a \$3,700 fee for the three 50,000 gallon storage tanks (\$1,500 base fee, \$1,500 NSPS review, and \$350.00 for each of the two additional storage tanks), \$3,350 for the two boilers (\$1,500 base fee, \$1,500 NSPS review, and \$350.00 for the additional boiler), and \$3,600 for the seven pieces of processing equipment (\$1,500 base fee and \$350.00 for each of the six additional pieces of processing equipment). The proposed fee structure would increase the fees for the first five years of operation by \$4,500 or \$75.00 per year per piece of equipment.

An initial operating certificate is valid for five years. After five years, the permittee must renew the operating certificate for another five years. Under the existing fee schedule, the permittee in this example would pay an operating certificate renewal fee of \$1,500 (\$500.00 to

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renew each of three operating certificates). Under the proposed fee schedule, the permittee would pay an operating certificate renewal fee of \$4,050 (\$750.00 base fee for each operating certificate and \$200.00 for each additional piece of equipment renewed in each of three operating certificates). The proposed fees would increase the renewal fees by \$2,550 or \$42.00 per year per piece of equipment.

If the applicant in this example does not add or modify equipment during the five-year term of the initial preconstruction permit and operating certificate, the applicant would only have to pay a fee increase for the renewal of the operating certificate at the end of the five-year term. Tables 9 and 10 below summarize this example.

**TABLE 9**  
Application Fee for Initial Preconstruction Permits and Operating Certificates

<u>Activity</u>	<u>Existing Fee</u>	<u>Proposed Fee</u>	<u>Increase</u>
<b><u>Storage Tanks</u></b>			
Preconstruction permit	\$500.00	\$1,500	\$500.00
Operating certificate	\$500.00		
Additional fee (two tanks)	\$350.00 x 2 = \$700.00	\$350.00 x 2 = \$700.00	\$0.00
NSPS review	\$0.00	\$1,500	\$1,500
Subtotal	\$1,700	\$3,700	\$2,000
<b><u>Boilers</u></b>			
Preconstruction permit	\$500.00	\$1,500	\$500.00
Operating certificate	\$500.00		
Additional fee (one boiler)	\$350.00 x 1 = \$350.00	\$350.00 x 1 = \$350.00	\$0.00
NSPS review	\$0.00	\$1,500	\$1,500
Subtotal	\$1,350	\$3,350	\$2,000
<b><u>Processing Equipment</u></b>			
Preconstruction permit	\$500.00	\$1,500	\$500.00
Operating certificate	\$500.00		
Additional fee (six pieces equipment)	\$350.00 x 6 = \$2,100	\$350.00 x 6 = \$2,100	\$0.00
Subtotal	\$3,100	\$3,600	\$500.00
<b><u>Total Initial Fee</u></b>	<b>\$6,150</b>	<b>\$10,650</b>	<b>\$4,500</b>

**TABLE 10**  
Fee for Renewal of Operating Certificates

<u>Activity</u>	<u>Current Fee</u>	<u>Proposed Fee</u>	<u>Increase</u>
<b><u>Storage tanks</u></b>			
Operating certificate	\$500.00	\$750.00	\$250.00
Additional fee (two pieces equipment)	\$0.00	\$200.00 x 2 = \$400.00	\$400.00
Subtotal	\$500.00	\$1,150	\$650.00
<b><u>Boilers</u></b>			

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Operating certificate	\$500.00	\$750.00	\$250.00
Additional fee (one piece of equipment)	\$0.00	\$200.00 x 1 = \$200.00	\$200.00
Subtotal	\$500.00	\$950.00	\$450.00
<b><u>Processing equipment</u></b>			
Operating certificate	\$500.00	\$750.00	\$250.00
Additional fee (six pieces equipment)	\$0.00	\$200.00 x 6 = \$1,200	\$1,200
Subtotal	\$500.00	\$1,950	\$1,450
<b><u>Total Renewal Fee</u></b>	\$1,500	\$4,050	\$2,550

#### EXPECTED COSTS TO GOVERNMENT FACILITIES

There were 2,504 government facilities in New Jersey with a preconstruction permit or general permit as of October 4, 2004. The four most numerous facility types were elementary and secondary schools, publicly owned sewerage treatment systems, publicly owned solid waste management facilities, and colleges, universities and professional schools. A typical elementary or high school generally requires only a general permit registration for a boiler used to heat the school. The cost to register a general permit would be identical to the previous example of a gasoline dispensing station in Registration Fees above.

##### Example - Expected fees for a publicly owned water sewage treatment facility

The following example shows the expected costs to a publicly owned water sewage treatment facility. In this example the facility submits a preconstruction permit application requiring extensive review, including supplementary activities.

Equipment at a typical sewage treatment facility would include a sewage sludge incinerator, storage vessels, and tanks. In this example, a new sewage treatment facility has nine non-identical pieces of processing equipment and one sewage sludge incinerator. The facility is required to obtain two initial preconstruction permits and operating certificates because there are two distinct and separate source operations, each requiring a separate review. The first preconstruction permit and operating certificate is for the sewage sludge incinerator and the second is for the nine storage vessels and filter presses.

Under the existing fee schedule, the total fee for the two initial preconstruction permits and operating certificates would be \$4,800: the fee for the sewage sludge incinerator would be \$1,000; and the fee for the storage vessels and filter presses would be \$3,800 (\$1,000 for the first piece of equipment and \$350.00 for each of the eight additional pieces of equipment).

Under the proposed fee schedule, the total fee for the two initial preconstruction permits and operating certificates would be \$7,300: the fee for the sewage sludge incinerator would be \$3,000 (\$1,500 base fee and \$1,500 for the NSPS review) and the fee for the storage vessels and filter presses would be \$4,300 (\$1,500 for the first piece of equipment and \$350.00 for each of the eight additional pieces of equipment). The proposed structure would increase the fees for the first five years of operation for the 10 pieces of equipment by \$2,500 or \$50.00 per year per piece of equipment.

An initial operating certificate is valid for five years. After five years, an operating certificate must be renewed for another five years. Under the existing fee schedule, the facility in this example would pay an operating certificate renewal fee of \$1,000 (\$500.00 to renew each of the operating certificates). Under the proposed fee schedule, this facility would pay an

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operating certificate renewal fee of \$3,100 (\$750.00 base fee and \$200.00 for each piece of additional equipment renewed in each of the operating certificates). The proposed fees would increase the renewal fees for this facility by \$2,100 or \$42.00 per year per piece of equipment.

If the facility in this example were not adding or modifying equipment, it would experience a fee increase only for the renewal at the end of the five-year term of the initial operating certificate. Tables 11 and 12 summarize this example.

TABLE 11  
Application Fee for Initial Preconstruction Permits and Operating Certificates

<u>Activity</u>	<u>Existing Fee</u>	<u>Proposed Fee</u>	<u>Increase</u>
Sewage Sludge Incinerator:			
Preconstruction permit	\$500.00	\$1,500	\$500.00
Operating certificate	\$500.00		
NSPS review	\$0.00	\$1,500	\$1,500
Subtotal	\$1,000	\$3,000	\$2,000
Storage Vessels and Filter Presses:			
Preconstruction permit	\$500.00	\$1,500	\$500.00
Operating certificate	\$500.00		
Additional fee (eight pieces equipment)	\$350.00 x 8 = \$2,800	\$350.00 x 8 = \$2,800	\$0.00
Subtotal	\$3,800	\$4,300	\$500.00
Total Initial Fee	\$4,800	\$7,300	\$2,500

TABLE 12  
Total Fee for Renewal of Operating Certificates

<u>Activity</u>	<u>Existing Fee</u>	<u>Proposed Fee</u>	<u>Increase</u>
Sewage Sludge Incinerator:			
Operating certificate	\$500.00	\$750.00	\$250.00
Subtotal	\$500.00	\$750.00	\$250.00
Storage Vessels and Filter Presses:			
Operating certificate	\$500.00	\$750.00	\$250.00
Additional fee (eight pieces equipment)	\$0.00	\$200.00 x 8 = \$1,600	\$1,600
Subtotal	\$500.00	\$2,350	\$1,850
Total Renewal Fee	\$1,000	\$3,100	\$2,100

**REQUIRED ELECTRONIC SUBMISSIONS:**

To make electronic submissions required under the proposed amendments, an applicant, permittee or registrant needs access to and the ability to use computers, software, and access to the Internet. Given the ubiquity of computers in modern business, the Department expects that most applicants, permittees and registrants already have and know how to use a computer. A

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small business may be able to reduce costs by obtaining assistance from the Department’s Small Business Assistance Program.

If an applicant, permittee or registrant decides to hire a consultant to perform a submittal, the Department estimates the cost to be approximately \$500.00 to \$2,000, depending on the submittal and the consultant. If an applicant, permittee or registrant already uses a consultant to complete and submit its applications, registrations and notices, the Department expects no fee increase to the applicant, permittee or registrant if the consultant continues submitting electronically, or possibly a decreased fee if the consultant passes on the savings realized from submitting electronically, rather than on paper.

For further explanation of the potential cost to small businesses and how the Department will try to alleviate the additional burden on small businesses, see the Regulatory Flexibility Analysis below.

Fee increases for major facilities

Significant modifications

In FY2004 the Department approved seven significant modification applications. The Department initiated one of these modifications, for which the Department did not charge the permittee. The current per application fee for the other six applications ranged from zero to \$2,500. The application fees under the proposed fee increases for these six applications would have ranged from \$6,000 to \$20,000. As stated earlier in this proposal, the Department anticipates approximately 335 major facilities to have Department-approved operating permits by January 1, 2006, that the number of operating permits will remain relatively stable in future fiscal years, and approximately 10 significant modifications per year in the future. Ten significant modifications per year would result in annual revenue of approximately \$107,000 as a result of the proposed amendments to the rules.

Example - Expected significant modification fees to a small business:

One significant modification application the Department approved was for a small business. This modification allowed the permittee to monitor emissions by hours of operation of a make-up air heater and boiler in lieu of monitoring fuel consumption when firing natural gas. Under the existing base and supplementary fee schedules, the permittee’s total fee was zero because no equipment was changed. The Department absorbed the cost to post a public notice and to prepare the response to comments document. Under the proposed fees, the base fee would be \$500.00 for the application and the supplementary fee would be \$5,500 (\$500.00 to post the public notices and \$5,000 to prepare the response to comments document). The total fee to the permittee would be \$6,000. This comparison is shown in Table 13.

TABLE 13  
Application Fee for a Significant Modification

<u>Activity</u>	<u>Existing Fee</u>	<u>Proposed Fee</u>	<u>Increase</u>
Base Fee:			
Non-modification change	\$0.00	\$500.00	\$500.00



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Supplementary Fee:			
Post public notices	\$0.00	\$500.00	\$500.00
Prepare Response to Comments Document	\$0.00	\$5,000	\$5,000
Total Fee	\$0.00	\$6,000	\$6,000

### Mandated Fees

The proposed amendments to N.J.A.C. 7:27-22 that the Department proposes in response to the Omnibus Fee Legislation would have no economic impact, because they merely conform the fee provisions in N.J.A.C. 7:27-22 with the fee increases mandated by and already being implemented under, the Omnibus Fee Legislation. Any economic impact therefrom resulted from the Omnibus Fee Legislation, rather than the proposed amendments to N.J.A.C. 7:27-22.

Under the Omnibus Fee Legislation, the State began charging annual emission fee increases in FY2003 (July 1, 2002 through June 30, 2003) to pay annual emission fees for emissions in calendar year 2001 (January 1, 2001 through December 31, 2001), the “reporting” year. Annual emission fees apply only to major facilities. In FY2003, the increased fees impacted approximately 320 major facilities, including approximately 38 that are owned or operated by a State, county, or municipal government entity. A slightly higher number will be impacted in FY2004 and at least 339 major facilities will be impacted in FY2005.

As discussed in more detail in the Summary above, the Omnibus Fee Legislation affected annual emission fees by increasing the annual emission fee, removing the CO exclusion and increasing the minimum annual emission fee.

The economic impact of the annual emission fee increase in the Omnibus Fee Legislation, which is being codified under these proposed rules, on all (government and non-government) affected facilities for FY2003 (which includes 320 facilities reporting emissions in 2001) was an increase from approximately \$5,123,000 (based on the old base fee of \$25.00 adjusted by the CPI and not including CO emissions) to approximately \$13,323,000 (based on the new base fee of \$60.00 adjusted by the CPI and including CO emissions) or an increase of approximately \$8,200,000. The increase to the approximately 38 affected municipal, county and State government facilities was approximately \$283,000 (approximately \$430,000, up from approximately \$147,000). The additional fees charged for CO emissions alone was approximately \$1,028,000.

For FY2003, adjusting \$60.00 per ton by the CPI resulted in an annual emission fee of \$87.84 per ton. The range of FY2003 annual emissions fees billed was from \$3,000 (the minimum fee) to 88 facilities, to just under \$2,740,000 for the PSE&G Hudson coal-fired power plant. The fees for the seven highest emitters (in total) increased from about \$3.4 million to \$8.5 million per year for FY2003. These seven facilities are coal-fired power plants and refineries. Both the cost of electricity and the cost of fuel were not significantly impacted by the increased annual emission fees, which would be less than one percent of the product costs. If these permitted facilities add pollution controls, as will be the case for many of the coal-fired facilities, their emissions and, consequently, their annual emission fees will decrease.

The Omnibus Fee Legislation also increased the maximum initial and significant modification operating permit application fees per facility from \$25,000 to \$50,000 for each application. If a facility without a permit or a new facility applies for an operating permit, it must pay the appropriate initial operating permit application fee capped at the new amount of

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\$50,000. If a facility with an existing operating permit significantly modifies its facility, the facility must pay the appropriate significant modification operating permit application fee capped at the new amount of \$50,000. In FY2003 and FY2004, no facility submitted an operating permit application that was affected by the new caps. Under the proposed significant modification application fee increases elsewhere in this proposal, the highest fee for an application processed in FY2004 would have been \$26,750. Hence, any future significant modification fee will probably not reach the new fee cap.

The Omnibus Fee Legislation required, for the first time, renewal operating permit application fees to be charged effective July 1, 2002 and set the maximum renewal fee at \$50,000. When a facility submits a renewal operating permit application, the facility must pay the appropriate new renewal operating permit application fee capped at \$50,000. For FY2003, the first fiscal year in which this fee was charged, six facilities paid a total of \$14,375 in renewal fees. The Department estimates that the renewal operating permit application fee totals in future fiscal years will be approximately the following: FY2004 - \$36,000; FY2005 - \$170,000; FY2006 - \$415,000; and FY2007 - \$270,000.

The Omnibus Fee Legislation resulted in a small additional cost to the Department from an increased workload to process renewal operating permit fees.

#### Required electronic submissions

The proposed amendments requiring electronic submission would have the same impact on small businesses with operating permits as the similar amendments would have on small businesses with a preconstruction permit and operating certificate. Refer to “Required electronic submissions” above under “Fee increases for minor facilities and major facilities without an operating permit” for further discussion.

#### Dry cleaner exemption

The Department expects that the dry cleaner exemption would reduce operating expenses for a dry cleaner in several ways. A dry cleaner with liquid CO<sub>2</sub> equipment already installed (less than one percent of dry cleaners in New Jersey) would not be required to renew its operating certificate. This would eliminate the \$350.00 renewal fee and possibly a consultant fee. Also, this dry cleaner would have no recordkeeping and reporting requirement, and therefore no recordkeeping and reporting expenses.

A new dry cleaner that chooses to install or convert to liquid CO<sub>2</sub> equipment, would have reduced operating costs since it would no longer be required to obtain an initial air preconstruction permit and operating certificate (approximately \$350.00) or to renew its operating certificate (approximately \$350.00). This might also eliminate a consultant fee. Also, this dry cleaner would have no recordkeeping and reporting requirement, and therefore no recordkeeping and reporting expenses. However, the Department estimates that the initial cost to purchase and install liquid CO<sub>2</sub> equipment is likely to be more than double the cost of purchasing and installing perchloroethylene equipment. The Department expects that the most economical time for a dry cleaner to switch to liquid CO<sub>2</sub> equipment would be when the life of the perchloroethylene equipment ends. The useful life of perchloroethylene equipment is approximately 10 years. Also, this dry cleaner would not have the hazardous waste disposal costs associated with using perchloroethylene equipment, approximately \$400.00 per year (one 15-gallon drum every three months at a disposal cost of \$100.00/drum).

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Also, this exemption would encourage an alternative compliance method in those situations where local regulations prevent or discourage the use of an odorous or hazardous substance in certain locations, for example a strip mall. Therefore, instead of going out of business, relocating, or not opening up a dry cleaning establishment that uses perchloroethylene, the dry cleaning establishment could install liquid CO<sub>2</sub> equipment.

### **Environmental Impact**

#### Minor Facilities and Major Facilities without an Operating Certificate

##### Fee Increases

The Department expects that the removal of the fee at N.J.A.C. 7:27-8.6, A. Base Fee Tables, Table 2 for installation of an identical control apparatus would encourage those facilities that intend to install control apparatus, to actually install those control apparatus. Air pollution control apparatus reduce emission of air pollutants and improves air quality.

##### Required Electronic Submissions

The Department does not anticipate that the proposed amendments requiring electronic submissions would have a direct impact on the environment; however, to the extent that amount of paper submitted to the Department is reduced, there may be indirect environmental benefit from less depletion of resources and less solid waste generated.

#### Major Facilities

##### Significant Modification Fee Increases

The proposed amendments to the fees for significant modifications to major facilities are expected to have no impact on environmental quality. The additional revenue collected as a result of the proposed amendments is not anticipated to result in the allocation of additional full time equivalents (FTEs) to the air quality program. The fees have been set to cover the Department's costs rather than to expand services or programs. The additional funds would be collected by the Department of Treasury and, based upon historic practice, would be returned to the Department. The Department would allocate these funds to its various programs according to priorities it sets during its budget process.

##### Mandated Fees

The proposed amendments conform the fee provisions in N.J.A.C. 7:27-22 to the fees mandated by the Omnibus Fee Legislation. As required by the Omnibus Fee Legislation, these mandated fees were already implemented starting with FY2003. As a result, the proposed amendments are not expected to have a significant environmental impact. Any environmental impact is the result of the Omnibus Fee Legislation, not the result of the proposed amendments to N.J.A.C. 7:27-22.

The legislated increases in annual emission fees may have had some environmental impact by encouraging facilities with high levels of emissions to install controls to reduce these emissions. Increased emission fees can provide an incentive to decrease air pollution, provided the fees are significant compared to the cost to install air pollution control systems. The one-

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time cost to install air pollution control systems to reduce air contaminant emissions generally ranges between \$200.00 and \$20,000 per ton of air pollutants in stacks. The annual emission fees of approximately \$36.00 per ton (in 2002 dollars) are insignificant compared to the one-time cost of installation of control. At the new mandated fee of approximately \$88.00 per ton (in 2002 dollars), the annual emission fees are still low compared to the installation cost of most air pollution control systems, but the mandated fee increases provide more of an incentive to reduce emissions from large emitters, for which air pollution control costs are lowest per ton of emissions. Also, tax deductions for installing air pollution control systems might be an additional incentive to make such installations.

Another potential economic incentive to reduce emissions, thereby reducing annual emission fees, may be the use of pollution prevention measures that not only emit less, but also have less waste to dispose of and require less costly raw materials.

#### Required electronic submissions

The Department does not anticipate that the proposed amendments requiring electronic submissions would have a direct impact on the environment; however, to the extent that amount of paper submitted to the Department is reduced, there may be indirect environmental benefit from less depletion of resources and less solid waste generated.

#### Dry cleaner exemption

The Department anticipates that the potential increase of CO<sub>2</sub> emissions caused by dry cleaners switching to equipment that use liquid CO<sub>2</sub> as the cleaning agent would be insignificant and, therefore any affect that increased CO<sub>2</sub> emissions would have on contributing to global warming and to the formation of ozone precursors in the development of smog would also be insignificant. The Department has reclassified CO<sub>2</sub> as an air contaminant. See 36 N.J.R. 4607(a), 37 N.J.R. 4415(a). However, the benefits to human health of reducing perchloroethylene emissions and finding ways to decrease perchloroethylene emissions outweigh the minimal impact the CO<sub>2</sub> may have on the environment. The Department has classified perchloroethylene as a toxic substance at N.J.A.C. 7:27-17.3, Table 1. Perchloroethylene is also a known carcinogen. See the Social Impact section above for the protection to human health by reducing perchloroethylene emissions.

To demonstrate that the anticipated amount of CO<sub>2</sub> emissions would be insignificant, the Department prepared the following calculations. The Department estimates that the amount of CO<sub>2</sub> one piece of dry cleaning equipment emits in one year is less than the amount of CO<sub>2</sub> the smallest home heating unit would emit in one year. For example, the Department estimates that the annual maximum CO<sub>2</sub> emissions of one dry cleaning facility under the hypothetical worst case scenario in which all CO<sub>2</sub> used is emitted is approximately 18.9 tons per year. If the dry cleaning facility has more than one piece of dry cleaning equipment, the CO<sub>2</sub> emissions per piece of equipment would be less. The Department bases this estimate on a dry cleaning facility using 15 to 35 pounds of CO<sub>2</sub> per load of clothing and 60 to 90 loads of clothing per month. The annual maximum CO<sub>2</sub> emissions, or the worst-case scenario in which the total amount of CO<sub>2</sub> used is emitted, equals (35 pounds CO<sub>2</sub> used per load)(90 loads per year)(12 months per year) / (2,000 pounds per ton) or 18.9 tons per year. In reality, the equipment recycles and reuses a portion of that CO<sub>2</sub>. The actual total amount of CO<sub>2</sub> emissions would be less than 18.9 tons per year. In comparison, the Department estimates that the smallest home heating unit (home

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heating units range in size from two to 50 horsepower (HP)) of two HP emits 36 tons of CO<sub>2</sub> per year, or approximately twice as much as the dry cleaning equipment operating under the worst case scenario. In another comparison, based on data from the California Air Resources Board, the Department estimates that the annual CO<sub>2</sub> emissions from a mobile source ranges from 4.5 tons per year from a small car to seven tons per year from a small truck. In this comparison, the dry cleaner under the worst-case scenario would annually emit approximately two and one-half to four times as much CO<sub>2</sub> as a car or truck. With fewer than 10 dry cleaners currently using liquid CO<sub>2</sub> dry cleaning equipment, the current CO<sub>2</sub> emissions is very small.

Under the hypothetical scenario in which all 1,700 New Jersey dry cleaners convert to liquid CO<sub>2</sub> equipment and all operate under the worst case scenario in which all CO<sub>2</sub> is emitted to the environment, the total additional CO<sub>2</sub> emissions would be (18.9 tons per year per dry cleaner X 1,700 dry cleaners) or approximately 32,000 tons per year. 32,000 tons per year is approximately 0.02 percent of the current State-wide CO<sub>2</sub> equivalent emissions of over 150 million tons per year. 32,000 tons is insignificant compared to 150 million tons of Statewide equivalent emissions. Since the potential emissions from dry cleaners under the hypothetical worst case scenario is insignificant compared to the current Statewide CO<sub>2</sub> equivalent emissions, the actual additional CO<sub>2</sub> emissions expected from new dry cleaners that use liquid CO<sub>2</sub> equipment and from existing dry cleaners that convert to liquid CO<sub>2</sub> equipment would also be insignificant.

Another of the Department's concerns is whether dry cleaners' increased use of liquid CO<sub>2</sub> as the cleaning agent would increase the demand for CO<sub>2</sub>, which in turn would increase industrial production of CO<sub>2</sub> to satisfy the increased demand. Currently in New Jersey there are fewer than 10 dry cleaning facilities that use liquid CO<sub>2</sub> dry cleaning equipment. In the hypothetical example above, the additional 32,000 tons of CO<sub>2</sub> emissions would not create a demand for industrial CO<sub>2</sub> production.

### **Federal Standards Statement**

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c. 65) require State agencies that adopt, readopt, or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis.

#### N.J.A.C. 7:27-8

The proposed amendments to N.J.A.C. 7:27-8 are not promulgated under the authority of, or in order to implement, comply with or participate in, any program established under Federal law, or under a State statute that incorporates or refers to a Federal law, Federal standards or Federal requirements. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. do not require a Federal standards analysis for the proposed amendments to subchapter 8.

#### N.J.A.C. 7:27-22

##### Signification Modification Fee Increases

Annual emission fees cover the normal costs of regulating existing major facilities. Section 502 of the Clean Air Act (42 U.S.C. §7661a(b)(3)(A)) requires New Jersey to enact legislation that would require permitted sources to pay a fee "...sufficient to cover all reasonable

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(direct and indirect) costs required to develop and administer the permit program...." As a matter of fairness to those major facilities that do not submit significant modification applications, the New Jersey Legislature required fees for the Department's review of applications for significant modifications. The Air Pollution Control Act at N.J.S.A 26:2C-9.5d(1)(c) requires each major facility to pay a fee for any significant modification in accordance with a fee schedule. Also, N.J.S.A 26:2C-9b(7) gives the Department the authority to charge administrative fees, in accordance with a fee schedule, for any of the services the Department performs or provides in connection with administering the Air Pollution Control Act. The Department initially adopted the Supplementary Fee Schedule for significant modifications in August 1995. The existing fee schedule for significant modification applications is at N.J.A.C. 7:27-22.31(s).

Because the proposed amendments to the fees for significant modifications have been established to cover all reasonable costs required to administer the program, the proposed amendments are consistent with, and do not exceed, Federal law. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. do not require a Federal standards analysis for the proposed amendments to the fees for significant modifications.

#### Mandated Fees

The proposed amendments conform the provisions of N.J.A.C. 7:27-22 to the mandatory fee increases legislated by New Jersey's Omnibus Fee Legislation of 2002 and are consistent with the fee collection provisions of the Federal Clean Air Act, Title V at section 502(b)(3)(B). This Federal provision requires the operating permit program collect fees equal to the reasonable costs of the operating permit program. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. do not require a Federal standards analysis.

#### Required electronic submissions and dry cleaner exemption

The proposed amendments to N.J.A.C. 7:27-8 and 22 that require electronic submission of applications, registrations, notices, and renewal application stubs and renewal fee payments, and that exempt from the air permitting regulations those dry cleaners that use liquid CO<sub>2</sub>, are not promulgated under the authority of or in order to implement, comply with or participate in any program established under Federal law, or under a State statute that incorporates or refers to a Federal law, Federal standards or Federal requirements. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. do not require a Federal standards analysis.

#### Jobs Impact

Representatives of business and industry have sometimes contended that fees create a disincentive to maintain or expand businesses in New Jersey. Representatives of those same interests have also contended that backlogs in permitting have made affected businesses in New Jersey less competitive, and less likely to maintain or expand here.

Over the past several years, the Department has succeeded in drastically reducing backlogs in air preconstruction permits. As of December 31, 2001, 489 permit applications were backlogged. By August 31, 2005, the Department had reduced the backlog to 37 applications - a decrease of more than 90 percent.

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The Department cut the backlog without increasing the staffing of the preconstruction permitting program. As of December 31, 2001, the preconstruction permit program employed 57 persons. As of August 31, 2005, the preconstruction permit staffing stands at 50.

Similarly, the Department has cut the initial operating permit backlog from about 212 on December 31, 2001, to 22 on August 31, 2005, about a 90 percent backlog reduction. Over this period staffing was reduced from 35 to 31.

Although the Department believes that there has been a positive impact on jobs as a result of these increases in the efficiency and productivity of the preconstruction permit program, these impacts are difficult, if not impossible, to ascertain and quantify. Determining whether the proposed fee increases will have an impact on jobs, or the extent of any such impact, is similarly challenging. However, for the reasons discussed below, the Department does not expect the fee increases to have a measurable impact on jobs, but that the overall impact will be positive.

In 2004, the New Jersey Business and Industry Association surveyed 438 manufacturers in an attempt to identify the biggest State-level obstacles to the success of their manufacturing operations in New Jersey. Respondents did cite the costs of environmental compliance, including compliance with standards stricter than their federal counterparts, fees, and penalties. However, environmental compliance was not a major obstacle. Rather, the respondents listed health insurance costs as the single biggest obstacle to the retention or expansion of manufacturing businesses in New Jersey. The survey respondents also cited corporate and business taxes, property taxes, energy costs, workers' compensation insurance costs, and the availability of skilled labor.

As discussed in the Economic Impact above, the proposed preconstruction permitting fee increases would increase annual permitting costs by an average of \$600.00 per regulated facility. The Department does not expect that that an increase of this magnitude, especially compared with the other concerns cited by the survey respondents, will materially affect employment in New Jersey.

On the other hand, charging fees sufficient to review permits expeditiously will prevent the loss of progress that the Department has made in reducing the backlog. The reduced backlog, and faster processing of permits, makes it possible for permittees to construct, reconstruct or modify equipment more quickly and speed the economic benefit of those changes. Applicants have frequently expressed the willingness to pay higher fees for faster permits, citing much higher costs of project delay than permit fee costs. Hence, the Department believes that the more expeditious permit review service that these higher fees will enable will be more than offset by reduced costs of delay, encouraging more projects and resulting in higher employment.

Adoption of the Department's proposed amendments that conform the N.J.A.C. 7:27-22 fee provisions to the Omnibus Fee Legislation of 2002 will not have an impact on employment in New Jersey. Those statutory fee increases have already been implemented, and are simply being codified into the rules.

Regarding electronic submissions, some persons may need to hire a consultant to provide assistance in submitting general permits online. Other persons who have in the past hired consultants to provide assistance in submitting preconstruction permit applications would be able to hire consultants to provide assistance in submitting general permits online, which is quicker and therefore less costly. Therefore, the increased need for consultants to assist persons in submitting general permits online will be offset by a decreased need for consultants for persons

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who switch from submitting preconstruction permit applications to submitting a general permits online.

The dry cleaner exemption is not expected to impact employment, since it takes the same number of employees to operate liquid CO<sub>2</sub> dry cleaning equipment as it does perchloroethylene dry cleaning equipment.

### **Agriculture Industry Impact**

The Department expects the proposed N.J.A.C. 7:27-8 amendments increasing application review fees and the proposed N.J.A.C. 7:27-22 amendments increasing significant modification supplementary fees to have no effect on the agriculture industry, since these amendments merely increase the fee amounts. Also, most agricultural sources of air pollution are exempt from permits issued under N.J.A.C. 7:27-8.

The Department expects the proposed amendments to N.J.A.C. 7:27-22 that increase emission fees to have no effect on the agriculture industry, since these amendments merely conform these regulations to the mandated fee increases of the Omnibus Fee Legislation. However, if the increased annual emission fees result in decreased emissions, the Department expects this to have a positive impact on the agriculture industry as it could reduce damage to crops from air pollution.

The Department expects the proposed amendments requiring electronic submissions and exempting dry cleaners to have no effect on the agriculture industry.

### **Regulatory Flexibility Analysis**

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Department has determined that some small businesses may be affected by the proposed amendments.

#### **N.J.A.C. 7:27-8**

##### **Fee Increases**

The Department estimates that as of October 2004 approximately 15,000 small businesses have, or are applying for, preconstruction permits. These include approximately 3,500 retail gas stations, 750 non-retail gas stations (including local and State government and small business gas stations), 1,000 autobody shops, 1,700 dry cleaners, 2,000 other facilities that do not meet the definition of a “major” facility at N.J.A.C. 7:27-8.1, 100 synthetic minor facilities (that is, major facilities that have altered their processes to reduce their potential-to-emit below that which defines a “major” facility) and 6,000 other Minor Source Compliance Investigation (MSCI) facilities - mainly boilers and heaters. All the proposed fee increases would apply to small businesses. Whether a small business would be charged one of the proposed fees would not be due to the fee increase itself, but would depend on whether or not N.J.A.C. 7:27-8 requires the small business to submit a registration, application or notice.

Retail gas stations, non-retail gas stations, dry cleaners, most of the 2,000 other facilities and most of the MSCI facilities register under general permits at \$250.00 per general permit registration. Except for dry cleaning facilities that use perchloroethylene, under the



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Department's proposal the general permit registration fee would increase \$100.00 (from \$250.00 to \$350.00) for an electronically submitted registration and \$250.00 (from \$250.00 to \$500.00) for a paper submitted registration. The general permit registration fee for a dry cleaning facility that uses perchloroethylene would increase \$250.00 (from \$250.00 to \$500.00) for an electronically submitted registration and \$500.00 (from \$250.00 to \$750.00) for a paper submitted registration. The proposed amendments would require general permit registrations to be submitted electronically starting January 1, 2008. For an example of the proposed fee increases to these facilities, see the gasoline dispensing operation example in the Economic Impact above.

The autobody shops, some of the 2,000 other facilities, some of the MSCI facilities, and the synthetic minor facilities are permitted via a preconstruction permit and operating certificate or some combination of a preconstruction permit/operating certificate and general permits. Under the Department's proposal, the initial preconstruction permit/operating certificate fee for an autobody shop would increase \$500.00 (from \$1,000 to \$1,500) and the renewal fee would increase \$250.00 (from \$500.00 to \$750.00). An example of the fee increase for a synthetic minor facility would be the new manufacturing facility in example 1 in the Economic Impact above. In that example, the fee for an initial preconstruction permit/operating certificate would increase \$4,500 (from \$6,150 to \$10,650) and the fee for renewing the operating certificate would increase \$2,550 (from \$1,500 to \$4,050).

Therefore the approximate range of fee increases would be from \$100.00 for submitting a general permit electronically to approximately \$4,500 for an initial preconstruction permit and operating certificate for a typical manufacturing facility.

The proposed amendments may allow the Department to use more of its resources to minimize the adverse impact of higher fees on small businesses in three ways. First, the Department expects to develop and issue more general permits. This is expected to help offset higher preconstruction permit and operating certificate fees to some small businesses, due to the lower fees to obtain general permits for other small businesses. Second, the Department expects to further streamline the RADIUS and NJEMS electronic permit submission and tracking systems. This streamlining would make it easier and faster for small businesses to submit permit-related registrations, applications and notices to the Department. Third, the Department may increase outreach efforts to facilitate small businesses in submitting registrations, applications and notices.

#### N.J.A.C. 7:27-22

##### Significant Modification Fee Increases

In FY2003, there were approximately 16 small businesses with operating permits. As of April 2005, only one of these small businesses had a significant modification approved and issued. This modification allowed the permittee to monitor emissions by hours of operation of a make-up air heater and boiler in lieu of monitoring fuel consumption when firing natural gas. See Example 3 in the Economic Impact for the expected impact of the proposed fee increases.

The proposed amendments would allow the Department to use more of its resources to minimize the adverse impact of higher fees on small businesses. For small emission generators, the Department is developing a general operating permit called Small Emitter Generator Air Permit. This would help offset some higher operating permit fees. In the future, the Department

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expects to further streamline the RADIUS and NJEMS electronic permit submission and tracking systems, and the Department may increase outreach efforts to facilitate small businesses in submitting registrations.

### Mandated Fees

To the extent that the proposed fee increases are a result of the Omnibus Fee Legislation, the Department has no discretion to change them to mitigate any negative impacts on small businesses. Major facilities tend to be larger employers because they tend to be the larger facilities with the most sources. Therefore, few of the major facilities in the State are small businesses. For annual emission fees billed in FY2003, the Department estimates that of approximately 275 non-governmental facilities, there were approximately 16 small businesses affected by the increased annual emission fees. The annual emission fee for 11 of these facilities was increased from approximately \$1,200 (the fee that would have been charged if there was no legislated fee increase) to \$3,000, the legislated new minimum fee. The largest annual emission fee increase was from approximately \$5,800 (the fee that would have been charged if there was no legislated fee increase) to approximately \$14,400 (the fee billed under the legislated fee increase).

Another effect on small businesses will be the legislated fees for operating permit renewal applications, which were not charged prior to the Omnibus Fee Legislation of 2002. The legislation requires the Department to charge applicants \$125.00 per piece of equipment capped at \$50,000 per facility. Of the 16 small businesses subject to fees in FY2003, one small business has since shut down, and three withdrew their applications for an initial operating permit. The Department estimates that the remaining 12 small businesses will be subject to renewal operating permit application fees ranging from \$1,125 to \$18,250, the mean being \$5,300 per small business.

Since the economic impact is from increased fees, rather than rules affecting operating processes, small businesses will not need to hire professional services to comply with the Omnibus Fee Legislation, unless a small business decides to install emission control devices in order to decrease its emission fees. These proposed amendments do not increase recordkeeping or reporting requirements for small businesses.

Although the emission and application fees have impacted or will impact a small number of small businesses, the Department does not expect that these legislated fee increases have had or will have a significant impact on these small businesses or on the wider small business community.

### Required electronic submissions

The proposed requirements for electronic submissions would apply to all businesses, both large and small. If a small business currently submits registrations, applications or notices electronically the small business would simply continue making electronic submittals; the small business would not need to hire professional services, such as a consultant. Most small businesses currently submit electronically. If a small business does not currently submit electronically, the small business has several options to meet the required electronic submissions. The small business could use a computer in a public library, for which there would be no charge. The small business could hire a consultant, which the Department estimates would cost

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approximately \$250.00 to \$1,000 (not including the registration, application or notice fee) depending on the consultant and the document submitted. The small business could purchase a computer and attend classes to learn how to use the computer and/or software. Or a small business seeking to electronically register a general permit could obtain assistance on how to do an electronic submission from the Department's Small Business Assistance Program office (609-292-3600; toll free 877-753-1151; <http://www.nj.gov/dep/opppc/figdoc.htm>) in Trenton, at no cost, or from a trade association listed at <http://www.nj.gov/dep/opppc/small.html>.

### Dry cleaner exemption

All dry cleaning facilities in the State are small businesses; therefore, the proposed exemption could potentially impact all dry cleaning facilities. The proposed exemption would apply to any piece of dry cleaning equipment that uses only liquid CO<sub>2</sub> as the cleaning agent, whether it is an existing or newly installed piece of equipment. The proposed exemption would not apply to a piece of dry cleaning equipment if it uses another cleaning agent in addition to liquid CO<sub>2</sub>. If a piece of dry cleaning equipment uses only liquid CO<sub>2</sub>, the proposed amendment would exempt the dry cleaning facility from needing a preconstruction permit and certificate to operate under N.J.A.C. 7:27-8 for that piece of equipment, but not from any other regulations that may apply. The dry cleaning facility simply would not apply for a preconstruction permit and certificate to operate for that piece of equipment. Since this is an exemption from compliance, there would be no cost to the dry cleaning facility to comply.

It is a dry cleaner's choice whether or not to use cleaning equipment that uses liquid CO<sub>2</sub>. If a dry cleaner chooses to replace a perchloroethylene-based piece of equipment with a liquid CO<sub>2</sub>-based piece of equipment in order to not have to pay a permit fee, the dry cleaner will not experience a cost savings, since the cost of purchasing and maintaining liquid CO<sub>2</sub>-based equipment would be higher than paying a permit fee and maintaining the existing perchloroethylene-based equipment. If a dry cleaner chooses to replace a perchloroethylene-based piece of equipment at the end of its life with a liquid CO<sub>2</sub>-based piece of equipment in order to save the permit cost, the dry cleaner would not experience a cost savings due to the higher cost of purchasing and maintaining liquid CO<sub>2</sub>-based equipment.

### **Smart Growth Impact**

Executive Order No. 4 (2002) requires State agencies that adopt, amend or repeal any rule to include in the rulemaking document a Smart Growth Impact statement that describes the impact of the proposed rule on the achievement of smart growth and implementation of the State Development and Redevelopment Plan (State Plan). The Department has evaluated this rulemaking to determine the nature and extent of the impacts that the proposed amendments would have on smart growth and the implementation of the State Plan. The proposed amendments do not relate to the State's land use and development policies in a way that would either encourage or discourage any development or redevelopment in this State contrary to the guiding principles of the State Plan. As a result, the Department does not expect this rulemaking to have an impact on the State's achievement of smart growth or implementation of the State Plan. To the extent that the proposed amendments would further the Department's efforts to

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protect air quality, the proposed amendments support the conservation and environmental protection goals and policies underlying the State Plan.

**Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

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

### 7:27-8.1 Definitions

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

...

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

...

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

1. Metalworking equipment including, but not limited to, welders, grinders, and drill presses;
2. Enclosed stationary solid material handling equipment using pneumatic, bucket or belt conveying systems that have particulate control apparatus that achieves a minimum removal efficiency of 99 percent and the particulate control apparatus serving the equipment;
3. Plastics machining or extruding equipment;
4. An open top surface cleaner which is equipped with a cover and free-board chiller. This does not include any surface cleaner which uses a HAP; and
5. Used oil space heaters which burn on-specification used oil and have a capacity of 500,000 British Thermal Units per hour or less for which a registration has not been filed pursuant to N.J.A.C. 7:27-20.3. The terms space heater, on-specification used oil, and registration are as defined in N.J.A.C. 7:27-20.1.

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

...

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

...

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

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

...

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

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

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

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

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

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

...

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

...

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

...

7:27-8.2 Applicability

(a)-(c) (No change.)

(d) Even if a source is listed in (c) above, any of the following is not a significant source (and therefore does not need a permit and certificate) if it is:

1.-11. (No change.)

12. Electric, plasma, or gaseous-fuel cutting equipment used to cut metal or metal products, provided the metal or metal product does not contain stainless steel, alloys of lead, alloys of arsenic, or alloys of beryllium; [and]

13. Equipment at a commercial or non-commercial greenhouse or nursery operation which is used to blend or mix potting soil (including, but not limited to, soil, compost, artificial media or soil-less media, and/or peat moss) that is used on site for plant propagation and that is not offered for sale or sold commercially[.]; **and**

**14. Dry cleaning equipment that uses only liquid carbon dioxide (CO<sub>2</sub>) as the cleaning agent.**

(e)-(i) (No change.)

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

[(a) An application for a preconstruction permit and certificate, permit revision, compliance plan change, environmental improvement pilot test approval, or for a renewal thereof, as well as a general permit registration, or a seven-day-notice, shall be submitted to the Department on forms obtained from the Department, in accordance with this section.]

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**(a) This subchapter applies to:**

- 1. Application for a preconstruction permit and operating certificate;**
- 2. Application for a preconstruction permit and operating certificate for an environmental improvement pilot test;**
- 3. Application for a preconstruction permit and operating certificate revision;**
- 4. Application for a compliance plan change;**
- 5. Registration of one or more sources under a general permit;**
- 6. Registration of one or more used oil space heaters;**
- 7. Notice of a seven-day-notice change;**
- 8. Notice of an amendment to a preconstruction permit and operating certificate;**
- 9. Notice of an amendment to a preconstruction permit and operating certificate for an environmental improvement pilot test;**
- 10. Notice of an amendment to a registration;**
- 11. Renewal of an operating certificate; and**
- 12. Renewal of a registration.**

**(b) [Application]The actions listed at (a)1 through 12 above shall be submitted in accordance with (c) below on forms obtained from the Department. These forms, and information about these actions, may be obtained in the following ways:**

1. In paper form, by contacting the Department at:

Bureau of [New Source Review]**Preconstruction Permits**  
Air Quality Permitting [Program]**Element**  
**Division of Air Quality**  
Department of Environmental Protection  
401 East State Street, Second Floor  
PO Box 027  
Trenton, New Jersey 08625-0027  
Telephone: (609) 292-6716 or 1-800-441-0065  
Website: <http://www.state.nj.us/dep/aqpp>

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[E-mail: [AIRFORMS@dep.state.nj.us](mailto:AIRFORMS@dep.state.nj.us)]; or

2. (No change.)
- (c) [An] **A completed electronic or paper application form, registration form, [or] notice or renewal application stub and renewal fee payment** shall be submitted [to the Department in one of the following ways] **as follows**:
1. **Prior to January 1, 2008, a completed application form, registration form or notice shall be submitted to the Department on paper in accordance with (c)4 below, electronically other than via the Internet in accordance with (c)4 below, or electronically via the Internet, if available, in accordance with (c)5 below.**
  2. **On or after January 1, 2008, a completed application form, registration form or notice shall be submitted to the Department electronically other than via the Internet in accordance with (c)4 below, or electronically via the Internet, if available, in accordance with (c)5 below.**
  3. **A completed renewal application stub and renewal fee payment shall be submitted on paper in accordance with (c)4 below, electronically other than via the Internet in accordance with (c)4 below, or electronically via the Internet in accordance with (c)5 below, and in accordance with all other rules in this subchapter regarding renewals including, but not limited to, N.J.A.C. 7:27-8.4(a), (f) and (n); 8.7(e) and (f); 8.13(b)1 and 2; 8.14(d); and 8.16(a)5.**
- [1. On]4. **A submission on paper, or on a removable electronic medium using one of the non-Internet-based electronic methods listed at <http://www.state.nj.us/dep/aqpp>, shall be sent via the postal service, a delivery service, or otherwise delivered, to the address listed on the application form[; or], registration form, renewal application stub or listed in the non-internet-based electronic method. If a person wishes to document the date upon which a completed application form, registration form, notice or renewal application stub and renewal fee payment is submitted, the person may submit the application form, registration form, notice or renewal application stub and renewal fee payment in a way that will provide documentation of the submittal date, such as by certified mail.**
- [2.]5. [Electronically,]**An internet-based electronic submission shall be through [RADIUS or e-NJEMS.] an Internet-based electronic method listed at <http://www.state.nj.us/dep/aqpp>. If a person wishes to document the date of the Internet-based electronic submission, the person may print the appropriate website confirmation screen.**



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(d)-(m) (No change.)

(n) In order to ensure timely renewal of an operating certificate, **a used oil space heater registration, or a registration under a general permit,** [an application for] **the permittee shall submit the renewal application stub and the** renewal [of an operating certificate shall be made to the Department on forms obtained from the Department] **fee payment in accordance with (c) above** not less than 90 days prior to the expiration date of the operating certificate, **general permit registration or used oil space heater registration.**

(o)-(r) (No change.)

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

1. (No change.)
2. Pilot plants (see technical manual 1302); [and]
3. Dual plants (see technical manual 1302)[.]; **and**
4. **Laboratory operations (see technical manual 1211).**

7:27-8.6 Service fees

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

**(a) A registrant shall submit the applicable registration fee listed in the Base Fee Tables below with the completed registration form as follows:**

- 1. If a registrant submits a paper registration form, the registrant shall submit the fee and form to the mailing address listed on the form.**
- 2. If a registrant registers online, the registrant shall submit the fee as directed by the internet-based registration software.**

(b) After [an] **a person submits a completed** application **form**[,] **or** notice [or registration is submitted], the Department will **assess and** invoice [each applicant] **the person** for **the base fee and** any [additional] **supplementary** fee[s] due to the Department, assessed in

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accordance with the Base Fee Schedule and the Supplementary Fee Schedule below. The [applicant] **person** shall submit any fees so assessed to [the Department] **the mailing address or website address listed on the invoice** within [60] **30** days of receipt of the invoice.

- (c) [The Base Fee Schedule and the Supplementary Fee Schedule apply to all applications, notices or registrations which are deemed administratively complete on or after the date on which this section is operative.] **(Reserved)**
- (d) (No change.)
- (e) Any fee under this section that is subject to N.J.A.C. 7:1L [shall be payable] **may be paid** in installments in accordance with N.J.A.C. 7:1L.
- (f) Except for applications for sources at facilities subject to (g) below, a complete application fee for a preconstruction permit and certificate shall include [both a preconstruction permit application fee and an operating certificate fee,] **all applicable fees** as set forth below in the Base Fee Tables **and the Supplementary Fee Schedule**.
- (g) (No change.)
- (h) Fees due to the Department may be paid by **credit card, Internet electronic checking,** personal check, **or** corporate check, [or money order,] made payable to “Treasurer, State of New Jersey.”
- [(i) If both Category I and Category II sources are included in a single application, the Category I source(s) shall be subject to the Category I preconstruction permit fee, and the Category II source(s) shall be subject to the Category II preconstruction permit fee. All sources shall be subject to the Category II certificate fee.
- (j) If one application for a Category II initial permit or permit revision includes multiple sources or control apparatus, there may in some cases be a fee for the additional sources or control apparatus. This subsection applies only to Category II initial permit applications under Table 2 below, and to Category II permit revisions under Table 6 below. Under those tables, the first significant source on the application is subject to a fee of \$500.00. If more than one source or control apparatus is included in the application, there is no additional fee for the additional sources or control apparatus if they are identical (as defined at N.J.A.C. 7:27-8.1) to the first one, for which a fee is already being paid. If an additional significant source or control apparatus does not meet the definition of identical at N.J.A.C. 7:27-8.1, the fee for the source or control apparatus is \$350.00. The following examples illustrate how to calculate these additional Category II fees under Tables 2 and 6:
  - 1. An application which includes four identical boilers would require a fee of \$1,000: \$500.00 for the first boiler, no fee for the second, third and fourth identical boilers, and \$500.00 for the certificate fee;

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2. An application which includes four different non-identical boilers would require a fee of \$2,050: \$500.00 for the first boiler, \$350.00 each for the second, third and fourth boilers, and \$500.00 for the certificate fee; and
3. An application which includes four identical reactors, served by four non-identical control apparatus, would require a fee of \$2,400: \$500.00 for the first boiler, no fee for the other three identical boilers, \$350.00 for the first control apparatus, \$350.00 each for the second, third, and fourth control apparatus, and \$500.00 for the certificate fee.]

**(i) and (j) (Reserved)**

(k) (No change.)

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

- 1. The Department shall consider a fee increase operative for the five-year periods in Table 1.**
- 2. An increase shall be calculated using an inflation factor based on the Consumer Price Index, All Urban Consumers, United States city average, all items (CPI-U) published by the United States Department of Labor, Bureau of Labor Statistics, available at <http://www.bls.gov/cpi>. The inflation factor used shall be the percent change over the preceding five-year period for the CPI-U, except the preceding six-year period shall be used to calculate the January 1, 2010 through January 30, 2015 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.**

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**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**

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

- 4. If the inflation factor is a negative number, the fees set forth in the subchapter shall remain unchanged.**
- 5. If the inflation factor is a positive number, the percent increase shall be rounded to one decimal place. Each of the fees set forth in this subchapter 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**

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**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 above and operative on the following January 1. The Department shall provide public notice by publication of the notice and a notice of administrative change, setting forth the adjusted fees, in the New Jersey Register according to the schedule in Table 1 above. For example, the adjusted fees operative January 1, 2010 shall be published in November 2009.**

**7. The adjusted fees shall be operative starting the first day of each five-year period stated in Table 1.**

**8. The applicable fee shall be determined as follows:**

**i. The Base Fee shall be the Base Fee operative on the date the Department receives an administratively complete application or notice.**

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

A. BASE FEE TABLES

Table 1  
[Category I permit fees

<u>Activity</u>	<u>Basis</u>	<u>Amount</u>
Preconstruction permit	Per application	\$100.00
Operating certificate	Per application	\$150.00
Total Category I initial permit fee		\$250.00]

**Registration fees**

**Activity**

**Basis**

**Electronic Registration<sup>1</sup>**

**Paper Registration<sup>1</sup>**

**Note: The Department will not accept paper registrations on or after January 1, 2008**

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**Registration for initial authorization, or renewal of authorization, to act under a General Permit:**

<b><u>Listed at N.J.A.C. 7:27-8.8(c), other than (c)12</u></b>	<b><u>\$350.00</u></b>	<b><u>\$500.00</u></b>
<b><u>Listed at N.J.A.C. 7:27-8.8(c)12</u></b>	<b><u>\$500.00</u></b>	<b><u>\$750.00</u></b>
<b><u>Registration for initial authorization, or renewal of authorization, to operate a used oil space heater under N.J.A.C. 7:27-20.3</u></b>	<b><u>\$250.00</u></b>	<b><u>\$250.00</u></b>

**<sup>1</sup> If the Department has not configured e-NJEMS to accept an electronic registration, thereby forcing the registrant to submit a paper registration, the registrant shall pay the electronic registration fee.**

Table 2  
[Category II permit fees  
Basis

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

<sup>1</sup>See (j) above.]

<u>Activity</u>	<u>Permit fees Basis</u>	<u>Amount</u>
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<b><u>Application for a preconstruction permit and operating certificate</u></b>	<b><u>Per first piece of equipment per initial permit application</u></b>	<b><u>\$1,500</u></b>
	<b><u>Per each additional piece of equipment per initial permit application</u></b>	<b><u>\$350.00</u></b>
<b><u>Application for environmental improvement pilot test</u></b>	<b><u>Per application</u></b>	<b><u>\$500.00</u></b>
<b><u>Renewal of an operating certificate</u></b>	<b><u>Per first piece of equipment per operating certificate</u></b>	<b><u>\$750.00</u></b>
	<b><u>Per each additional piece of equipment per operating certificate</u></b>	<b><u>\$200.00</u></b>
<b><u>Application for a preconstruction permit and operating certificate revision</u></b>	<b><u>Per first new or changed piece of equipment per permit revision application</u></b>	<b><u>\$1,500</u></b>
	<b><u>Per each additional new or changed piece of equipment per permit revision application</u></b>	<b><u>\$350.00</u></b>
<b><u>Application for a compliance plan change</u></b>	<b><u>Per application</u></b>	<b><u>\$500.00</u></b>
<b><u>Notice of a seven-day-notice change</u></b>	<b><u>Per notice</u></b>	<b><u>\$500.00</u></b>

[Table 3

Environmental improvement pilot test fees

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

Table 4 Registration fees

Part 4a

General permit registration fees

<u>Activity</u>	<u>Basis</u>	<u>Amount</u>
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Registration for authorization to act under a general permit under N.J.A.C. 7:27-8.8(c)	Per Registration	\$250.00
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Part 4b

Used oil space heater registration fees

<u>Activity</u>	<u>Basis</u>	<u>Amount</u>
Registration for authorization to operate a used oil space heater under N.J.A.C. 7:27-20.3	Per Registration	\$250.00
Five year renewal for a used oil space heater under N.J.A.C. 7:27-20.3	Per Registration	\$250.00

Table 5

Category I permit revision fees

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

Table 6

Category II permit revision fees

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

<sup>2</sup>See (j) above.



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Table 7  
Compliance plan change fees

<u>Activity</u>	<u>Basis</u>	<u>Amount</u>
Category I compliance plan change	Per application	\$ 50.00
Category II compliance plan change	Per application	\$250.00

Table 8  
Seven-day-notice change fees

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

Table 9  
Amendment fees

<u>Activity</u>	<u>Basis</u>	<u>Amount</u>
Change in identifying information under N.J.A.C. 7:27-8.21(b)1	Per Preconstruction Permit	\$ 00.00
Transfer of ownership under N.J.A.C. 7:27-8.21(b)2	Per Facility	\$ 50.00
Change in equipment or stack designation under N.J.A.C. 7:27-8.21(b)3	Per Preconstruction Permit	\$ 00.00
A change listed in N.J.A.C. 7:27-8.21(b)4, 5, 6, or 7	Per submitted amendment	\$200.00
Correction of a typographical error under N.J.A.C. 7:27-8.21(b)8	Per Preconstruction Permit	\$ 00.00

Table 10  
Certificate Renewal fees

<u>Activity</u>	<u>Basis</u>	<u>Amount</u>
Category I	Per Operating Certificate	\$250.00
Category II	Per Operating Certificate	\$500.00]

**Table 3**  
**Notice of amendment fees**

<u>Activity</u>	<u>Basis</u>	<u>Amount</u>
<b><u>Change in identifying information under N.J.A.C. 7:27-8.21(b)1</u></b>	<b><u>Per facility</u></b>	<b><u>\$100.00</u></b>
<b><u>Transfer of ownership under N.J.A.C.</u></b>	<b><u>Per facility</u></b>	<b><u>\$100.00</u></b>

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**7:27-8.21(b)2**

<b><u>Change in equipment or stack designation under N.J.A.C. 7:27-8.21(b)3</u></b>	<b><u>Per preconstruction permit and operating certificate amended</u></b>	<b><u>\$100.00</u></b>
<b><u>A change listed in N.J.A.C. 7:27-8.21(b)4, 5, 6, or 8</u></b>	<b><u>Per preconstruction permit and operating certificate amended</u></b>	<b><u>\$500.00</u></b>
<b><u>Correction of a typographical error under N.J.A.C. 7:27-8.21(b)7</u></b>	<b><u>Per preconstruction permit and operating certificate amended</u></b>	<b><u>\$100.00</u></b>
<b><u>Change in identifying information on a registration form as specified under N.J.A.C. 7:27-8.21(d)1</u></b>	<b><u>Per facility</u></b>	<b><u>\$100.00</u></b>
<b><u>Transfer of ownership of a registered facility under N.J.A.C. 7:27-8.21(d)2</u></b>	<b><u>Per facility</u></b>	<b><u>\$100.00</u></b>

B. SUPPLEMENTARY FEE SCHEDULE

<u>Activity</u>	<u>Basis</u>	<u>Amount</u>
1. Prevention of Significant Deterioration		
a. [Engineering Review] <b><u>PSD Applicability</u></b>	[Per Applicable Air Contaminant]	[\$500.00]
i. <b><u>Screen for PSD Applicability</u></b>	<b><u>Per Applicable Air Contaminant</u></b>	<b><u>(Reserved)</u></b>
ii. <b><u>Determine PSD Applicability</u></b>	<b><u>Per Review</u></b>	<b><u>(Reserved)</u></b>
b. [Implement Public Comment Requirement] <b><u>Perform BACT Evaluation</u></b>	Per [Comment Period] <b><u>Applicable Air Contaminant</u></b>	[\$500.00] <b><u>\$5,000</u></b>
2. <b><u>Sub 18 Emission Offsets</u></b>		
a. <b><u>Determine Sub 18 Applicability</u></b>	<b><u>Per Review</u></b>	<b><u>\$5,000</u></b>
b. <b><u>Perform LAER Evaluation</u></b>	<b><u>Per Applicable Air Contaminant</u></b>	<b><u>\$5,000</u></b>
3. <b><u>RACT - AEL</u></b>		
a. <b><u>Review Technology</u></b>	<b><u>Per Applicable Air Contaminant</u></b>	<b><u>\$5,000</u></b>
b. <b><u>Prepare SIP Revision</u></b>	<b><u>Per SIP Revision</u></b>	<b><u>\$2,500</u></b>
4. <b><u>Perform MACT Evaluation</u></b>	<b><u>Per MACT Standard</u></b>	<b><u>\$1,500</u></b>
5. <b><u>Perform NSPS Evaluation</u></b>	<b><u>Per NSPS</u></b>	<b><u>\$1,500</u></b>
6. <b><u>Perform SOTA Case-by-Case Evaluation</u></b>	<b><u>Per Applicable Air Contaminant</u></b>	<b><u>\$5,000</u></b>
7. <b><u>Public Comment</u></b>		
a. <b><u>Post Public Notices</u></b>	<b><u>Per Public Comment Period</u></b>	<b><u>\$500.00</u></b>
b. <b><u>Conduct Public Hearing</u></b>	<b><u>Per Hearing</u></b>	<b><u>\$5,000</u></b>
c. <b><u>Prepare Response to Comments Document</u></b>	<b><u>Per Response Document</u></b>	<b><u>\$5,000<sup>1</sup></u></b>
[2.] <b><u>8. Ambient Air Monitoring</u></b>		
a. Review Protocol	[Per Protocol]	[500.00]
i. <b><u>For criteria pollutants, or for other pollutants or parameters for which EPA has provided guidance</u></b>	<b><u>Per Protocol</u></b>	<b><u>\$1,500</u></b>
ii. <b><u>For other pollutants or parameters for</u></b>	<b><u>Per Protocol</u></b>	<b><u>\$2,500</u></b>

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	<b><u>which EPA has not provided guidance</u></b>		
b.	Inspect Monitoring Locations and Equipment Installation	Per Inspection	\$500.00
c.	Review Quality Assurance Plan	[Per Plan]	[500.00]
	<b><u>i. For criteria pollutants, or for other pollutants or parameters for which EPA has provided guidance</u></b>	<b><u>Per Plan</u></b>	<b><u>\$1,500</u></b>
	<b><u>ii. For other pollutants or parameters for which EPA has not provided guidance</u></b>	<b><u>Per Plan</u></b>	<b><u>\$2,500</u></b>
d.	Review Data	Per Required Report	\$500.00
e.	<b><u>Audit equipment</u></b>	<b><u>Per Audit</u></b>	<b><u>\$500.00</u></b>
[3.]	<b><u>9. Air Quality Impact Analysis - PSD</u></b>		
a.	Evaluate Protocol	Per Protocol	[\$500.00] <b><u>\$2,000</u></b>
b.	Review Screening Modeling	Per Review	[\$500.00] <b><u>\$1,000</u></b>
c.	Review Refined Modeling	Per Review	[\$500.00] <b><u>\$3,500</u></b>
<b>10.</b>	<b><u>Air Quality Impact Analysis - non PSD</u></b>		
a.	<b><u>Evaluate Protocol</u></b>	<b><u>Per Protocol</u></b>	<b><u>\$1,000</u></b>
b.	<b><u>Review Screening Modeling</u></b>	<b><u>Per Review</u></b>	<b><u>\$1,000</u></b>
c.	<b><u>Review Refined Modeling</u></b>	<b><u>Per Review</u></b>	<b><u>\$1,500</u></b>
[4.]	<b><u>11. Risk Assessment</u></b>		
a.	Evaluate Protocol	Per Protocol	[\$500.00] <b><u>\$1,500</u></b>
b.	Review Risk Assessment	Per Review	[\$500.00] <b><u>\$1,500</u></b>
[5.]	<b><u>12. Testing</u></b>		
[a.]	Evaluate Source-Specific Testing Protocol		
	i. Process Materials Testing	Per Protocol	\$450.00
	ii. Source Emission Testing	Per Protocol	\$500.00
b.	On-site Monitoring of Sample Collection Pursuant to an Approved Source-Specific Testing Protocol		
	i. Process Materials Testing	Per Collection Event	\$200.00
	ii. Source Emissions Testing	Per Performance Test	\$500.00
c.	Review Testing Report		
	i. Process Materials Testing	Per Report	\$200.00
	ii. Source Emissions Testing	Per Report	\$500.00]
a.	<b><u>Stack Test</u></b>		
	<b><u>i. Evaluate Protocol (up to three probes)</u></b>	<b><u>Per Protocol Per Stack</u></b>	<b><u>\$750.00</u></b>
	<b><u>ii. Evaluate Protocol (more than three probes)</u></b>	<b><u>Per Protocol Per Stack</u></b>	<b><u>\$1,000</u></b>
	<b><u>iii. Review Testing Report (up to three probes)</u></b>	<b><u>Per Report Per Stack</u></b>	<b><u>\$750.00</u></b>
	<b><u>iv. Review Testing Report (more than three probes)</u></b>	<b><u>Per Report Per Stack</u></b>	<b><u>\$1,000</u></b>
[6.]	<b><u>b. [Audit Performance of] Continuous Emission Monitors</u></b>		
[a.]	<b><u>i. Evaluate Equipment Protocol</u></b>	Per Protocol Per [Permit] Stack	\$500.00

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[b.]ii. [Observe Testing] <b><u>Evaluate Performance Specification Test Protocol</u></b>	Per Protocol Per [Permit] <b><u>Stack</u></b>	\$500.00
[c.]iii. Review Testing Report	Per Report <b><u>Per Stack</u></b>	\$500.00
c. <b><u>On-site Monitoring of Sample Collection Pursuant to an Approved Source-Specific Testing Protocol</u></b>	<b><u>Per Day Per Person</u></b>	<b><u>\$750.00</u></b>
d. <b><u>Periodic Monitoring Equipment Protocol</u></b>	<b><u>Per Protocol</u></b>	<b><u>\$250.00</u></b>
[7.]13. Periodic Compliance Inspection	Per Inspection Per Certificate	[\$200.00]
		<b><u>\$400.00</u></b>

**<sup>1</sup>The Department will waive this fee if the public does not submit any comments to the Department.**

7:27-8.7 Operating certificates

(a)-(d) (No change.)

(e) The operating certificate shall be renewed prior to its expiration if the source is to continue to operate. In order to ensure timely renewal of an operating certificate, [an application for renewal of an operating certificate shall be made to the Department at least 90 days prior to the expiration date of the operating certificate.] **the permittee shall renew the operating certificate in accordance with N.J.A.C. 7:27-8.4(n).** [An application for renewal may be submitted electronically only if the entire permit application is, or has been, submitted to the Department through e-NJEMS prior to the submittal of the renewal application.]

(f) (No change.)

7:27-8.8 General permits

(a)-(f) (No change.)

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

(h)-(o) (No change.)

7:27-8.9 Environmental improvement pilot tests

(a)-(d) (No change.)

(e) The Department shall determine the term of a permit and certificate for an environmental improvement pilot test approval on a case-by-case basis, but in no case shall the approval last longer than 90 days from the start of the actions covered by the environmental improvement pilot test approval. [The approval may be renewed by application] **If the**

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**permittee wishes to extend the pilot test for 90 or fewer days, the permittee shall submit a new application for a preconstruction permit and operating certificate for an environmental improvement pilot test** to the Department. The Department shall [renew the environmental improvement pilot test approval] **approve this application** only if the applicant demonstrates that continued testing of the equipment or process is needed, and that the proposed activities remain within the definition of an environmental improvement pilot test at N.J.A.C. 7:27-8.1.

(f)-(h) (No change.)

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

(a)-(b) (No change.)

(c) [To] **A permittee shall** submit an application for a permit revision, **an application for a** [or] compliance plan change, [or to submit] a **notice of a** seven-day-notice **change** or a **notice of** amendment **in accordance with N.J.A.C. 7:27-8.4(b) and (c). The permittee shall submit the applicable fee in accordance with N.J.A.C. 7:27-8.6(b).** [, a form shall be obtained from the Department at the address in N.J.A.C. 7:27-8.4(b). The completed form shall be submitted to the Department in accordance with the application requirements in N.J.A.C. 7:27-8.4, with the fee, if any, required under N.J.A.C. 7:27-8.6. If a permittee wishes to document the date upon which a completed form is submitted, the permittee may choose to submit the form in a way that will provide documentation of the submittal date, such as by certified mail. The completed form may be submitted to the Department by mail, hand delivery, or electronic submittal, as follows:

1. If on paper, submit to:

Bureau of New Source Review  
Air Quality Permitting Program  
Department of Environmental Protection  
401 East State Street, Second Floor  
PO Box 027  
Trenton, New Jersey 08625-0027; or

2. If in electronic form, submit through the Department's Remote AIMS Data Input User System (RADIUS), which can be accessed at the following website: <http://www.state.nj.us/dep/aqpp>.]

(d) If a permittee wishes to submit **an application for, or a notice of,** a change to an existing permit electronically, the permittee may do so only if:

1. (No change.)

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2. [Complete] **The complete** application information [for the permitted source] is submitted electronically, through RADIUS, prior to, or simultaneously with, the submittal of the permit change.

**(e) None of the changes listed at (b)1 through 4 above shall change the renewal date of the preconstruction permit's operating certificate.**

7:27-8.20 Seven-day-notice changes

- (a) A seven-day-notice change allows a permittee to proceed with a change seven days after the notice of the **seven-day-notice** change is submitted to the Department. A person acting under the authority of a seven-day-notice **change** does so at risk. Should the Department determine that an action was incorrectly processed as a seven-day-notice change, and should have been processed as a compliance plan change or permit revision, the permittee may be subject to penalties for noncompliance with this subchapter.

(b)-(e) (No change.)

- (f) The Department shall send an acknowledgment when [a] **it receives a notice of a** seven-day-notice **change**[, including the appropriate fee, is received]. However, the acknowledgment only indicates the date upon which the Department received the notice. It does not mean that the Department has reviewed or approved the notice. Therefore, if the notice is incomplete or deficient, the Department's acknowledgment does not in any way relieve the owner or operator from liability for penalties for any unauthorized activities.

- (g) If all of the requirements of this section are met, the permittee may begin the actions proposed in the **notice of a** seven-day-notice **change** starting seven days after the notice has been submitted to the Department.

- (h) The permittee shall maintain a copy of each **notice of a** seven-day-notice **change** with the permit and certificate maintained at the facility.

7:27-8.21 Amendments

- (a) An amendment allows a permittee **or a registrant** to proceed with a change to a permitted source, or to its permit or certificate, **or to a registration**, provided that the permittee **or registrant** submits a notice of the change within 120 days after the start of the change. **This subchapter refers to such a notice as a notice of amendment.**

(b)-(c) (No change.)

**(d) A registrant who submitted a registration form to the Department shall submit a notice of amendment to the Department to notify the Department of:**

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**1. A change in the facility name, mailing address, facility contact, and name of the responsible official who signs the certification (as responsible official is defined at N.J.A.C. 7:27-1.4); and**

**2. Transfer of ownership or operational control of the facility.**

**(e) A permittee of a facility, who is also a registrant of equipment in the same facility, may effect a change in the facility identification information required under both N.J.A.C. 7:27-8.21(b)1 and (d)1 by submitting a single notice of amendment to the Department.**

**(f) A permittee of a facility, who is also a registrant of equipment in the same facility, may notify the Department of a transfer of ownership or operational control of the facility, in accordance with N.J.A.C. 7:27-8.21(b)2 and (d)2, by submitting a single notice of amendment to the Department.**

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

(a)-(c) (No change.)

**(d) To make a change to a permit issued using the NJDEP Laboratory Operations Permit Procedure, refer to the procedures in technical manual number 1211, which covers certain laboratory operations permits. Technical manual 1211 is available at the address listed at N.J.A.C. 7:27-8.4(b).**

[d]**(e)** If the applicable technical manual referenced in (a) through [(c)] **(d)** above does not provide a procedure for making the desired change, the change shall be processed through the applicable provisions of N.J.A.C. 7:27-8.17 through 8.21.

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

Any person who is subject to this chapter and who fails to conform to its requirements may be subject to civil penalties in accordance with N.J.A.C. 7:27A-3 or criminal penalties pursuant to N.J.S.A. 26:2C-[28.3]**19(f)** or both.

## APPENDIX 1

TABLE A  
(No change.)

TABLE B  
Reporting and SOTA thresholds for HAPs  
(Potential to emit)

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<u>CAS Number</u>	<u>Air contaminant</u>	Reporting Threshold (lbs/yr)	SOTA Threshold (lbs/yr)
...			
	CHEMICAL COMPOUND CLASSES		
...			
...			
[108864]	2-Methoxy ethanol	2,000	10,000
<b><u>109864</u></b>			
...			

SUBCHAPTER 20. USED OIL COMBUSTION

7:27-20.1 Definitions

- (a) The following words and terms, when used in this subchapter, have the meanings given below unless the context clearly indicates otherwise.

...  
 “Registration” means the registering of a space heater with the Department on forms provided by the Department and containing such information as may be required in accordance [to] **with** N.J.A.C. 7:27-20.3(a)2 and [(b)]**3**.  
 ...

- (b) (No change.)

7:27-20.3 Burning of on-specification used oil in space heaters covered by a registration

- (a) (No change.)

- (a) The space heater for which a registration has been filed with the Department shall conform to the following requirements:

1.-15. (No change.)

- 16. Consistent with Table [4b]**1** of the Base Fee Schedule at N.J.A.C. 7:27-8.6, a \$250.00 fee, which includes registration for operating a space heater, shall be submitted with each registration statement. The registration shall be renewed every five years on forms prescribed by and furnished by the Department [and shall be signed by the person engaging in the operation of a used oil space heater. In the registration renewal form, it shall be certified by the registrant that the information initially submitted and certified, pursuant to (a)3 above, is still valid for the space heater that had been registered. The certification shall meet the requirements of N.J.A.C. 7:27-1.39] **in**



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**accordance with N.J.A.C. 7:27-8.4(n)**. The Department shall send renewal notifications and forms six months prior to the expiration of the registration to the registrants. The renewal fee shall be \$250.00, consistent with Table [4b]1 of the Base Fee Schedule of N.J.A.C. 7:27-8.6; and

17. (No change.)

(c) (No change.)

## SUBCHAPTER 22. OPERATING PERMITS

### 7:27-22.1 Definitions

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

...

["Category I" means the class of modification application for the following types of significant source operations:

1. Any gasoline vapor recovery system constructed, installed, or operated at any gasoline dispensing facility; this does not include gasoline vapor recovery systems at bulk terminals;
2. Any woodworking equipment including, but not limited to, saws, planers, and sanders, that has particulate control apparatus which achieves a minimum collection efficiency of 99 percent, and the particulate control apparatus serving the equipment;
3. Any metal working equipment including, but not limited to, welders, grinders, and drill presses, that has particulate control apparatus that achieves a minimum collection efficiency of 99 percent, and the particulate control apparatus serving the equipment.
4. Fossil fuel burning equipment used only for the burning of liquid or gaseous commercial fuel and having a designed heat input rate of less than 10 million BTU per hour; this does not include any equipment used for the burning of coal or other solid fuel, non-commercial fuel, crude oil or process by-products in any form;
5. Stationary storage tanks which have a capacity of less than 20,000 gallons and which are used for the storage of liquid substances and any control apparatus serving such tanks; this does not include any tank used to store a substance which is a TXS;

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6. Emergency diesel generators with less than 10 megawatts of electrical output that operate less than 500 hours per year;
7. Any tank, reservoir, container or bin that is used for the storage of solid particles and has particulate control apparatus that achieves a minimum collection efficiency of 99 percent and the particulate control apparatus serving the equipment; this does not include any tank, reservoir, container or bin that is used for the storage of any TXS;
8. Enclosed stationary solid material handling equipment using pneumatic, bucket or belt conveying systems that have particulate control apparatus that achieves a minimum collection efficiency of 99 percent and the particulate control apparatus serving the equipment; this does not include any equipment used to handle any material which is a TXS;
9. Any paint spray operation or other surface coating operation that has particulate control and that uses less than one half gallon of paint per hour and the particulate control apparatus serving the spray booth; this does not include any paint spray operation or surface coating operation which emits any TXS;
10. Any enclosed sandblasting equipment that has a control apparatus that achieves a minimum particulate control efficiency of 99 percent;
11. Any plastics grinding equipment; and
12. Any open top surface cleaner which is equipped with a cover and free-board chiller. This does not include any surface cleaner which uses a HAP.

“Category II” means the class of modification application for any type of significant source operation except those types which are defined above as belonging to Category I.]

...

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

...

**“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(s), 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;**

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**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).**

...

**“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.**

...

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

...

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

...

7:27-22.3 General provisions

(a)-(qq) (No change.)

(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

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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[, and may be renewed by application]. **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)-(vv) (No change.)

#### 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 [any] 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 [may] **who** submits an application or notice to the Department electronically, [using] **shall use an electronic method listed at <http://www.state.nj.us/dep/aqpp>** [the Remote AIMS Data Input User System (RADIUS)]. 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: <http://www.state.nj.us/dep/aqpp>.

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- (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)-(f) (No change.)

- (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>.**

#### 7:27-22.6 Operating permit application contents

- (a) To be administratively complete, an application for an initial operating permit shall include all information required by this section [and all application fees required pursuant to N.J.A.C. 7:27-22.31]. 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)-(n) (No change.)

#### 7:27-22.10 Completeness review

(a)-(e) (No change.)

- (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 [the] **any** fee requirement.

#### 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. [Table 2 below summarizes which fees are due for each fiscal year.] The types of fees are:

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1. (No change.)
  - [2. Supplemental surcharge fees, based on emissions, set forth at (c) below;]
  - [3.] **2.** Initial operating permit application fees, based on the number of significant source operations at a facility, set forth at (d) below; [and]
  - [4. Modification] **3.** **Significant modification** fees, based on the number of [significant source operations] **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 (t) below.**
- (b) [Emission] **Annual emission** fees shall be paid, **according to (g) below**, by January 31 of each fiscal year[, except for the emission fee for fiscal year 1995, which is due October 8, 1995]. [Emission] **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 [unavailable] **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 [permitted] **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 fiscal year 1995, the emission fee shall be \$25.00 (in 1989 dollars, adjusted by the CPI) per ton of emissions. (For FY95, \$25.00 in 1989 dollars adjusted by the CPI is equal to \$30.07.) The emission fee for FY95 shall be payable only on the following emissions:
    - i. NO<sub>x</sub> emissions, up to 8,000 tons;
    - ii. VOC emissions, up to 8,000 tons;
    - iii. One half the total emissions of CO; and

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- iv. Emissions of all other regulated air contaminants, up to 4,000 tons;
  - 2. For fiscal years 1996 and 1997, the emission fee shall be \$25.00 (in 1989 dollars, adjusted by the CPI) per ton of emissions, payable on the same emissions as for FY95 in 1 above, except that each facility subject to this subchapters shall pay a minimum emission fee of \$1,000; and]
  - [3.] **1.** For **annual emission fees due in** FY98 [and thereafter] **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 CO<sub>2</sub>, and each facility subject to this subchapter shall pay a minimum annual emission fee of \$3,000.**
- (c) [Supplemental surcharge fees shall be paid for FY95 and FY96 by all facilities subject to this subchapters. No supplemental surcharge fee shall exceed \$20,000 per facility per fiscal year. The FY95 supplemental surcharge fee shall be paid by October 8, 1995. The FY96 supplemental surcharge fee (excluding the excess, if any, payable under (f) below) shall be paid by January 31, 1996, and shall be based on the facility's actual annual emissions as reported on the facility's emission statement. If actual emission information on a source operation is unavailable, or an emission statement has not been filed for a source operation, the supplemental surcharge fee shall be based on permitted emissions, or if no permit has been issued, on the facility's potential to emit. The supplemental surcharge fee shall be calculated according to the following formulas:

$$(Q \times Te_s + (\$20,000 \times L) = \$1,500,000$$

where:

Q is the per-ton supplemental surcharge, expressed in dollars per ton;

Te<sub>s</sub> is the total emissions, expressed in tons, from facilities with emissions below the size threshold;

L is the number of facilities above the size threshold; and

The size threshold is \$20,000 ) Q

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For FY95, the supplemental surcharge fee is \$20.00 per ton, payable on all emissions of any regulated air contaminant, except for CO. The Department shall publish a notice in the New Jersey Register, stating the supplemental surcharge fee for FY96 and describing how the fee was calculated.] **(Reserved)**

- (d) The initial operating permit application fee [shall be paid on or before the deadline for submittal on the facility's initial operating permit application, except for applications due on August 15, 1995, for which application fees are due October 8, 1995. The application fee calculation is] **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 [\$25,000] \$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 [upon] **after** submittal of an application for a [minor or] significant modification, in accordance with **(g) and** (k) through [(s)] **(t)** below.
- (f) [The Department will make forms available to use for submittal of fees. The Department may also provide estimated emission fee or supplemental surcharge fee calculations for individual facilities. If a person required to submit any fees pursuant to this section does not receive a fee form, the person shall obtain a fee form from the Department at the address set forth in N.J.A.C. 7:27-22.3(t), and shall submit the required fees by the deadlines set forth in this section. Any person submitting fees shall provide the information specified on the fee form. Backup information and calculations carried out pursuant to this section to determine the fee amount shall be maintained by the facility for at least five years after submittal of the fee, and shall be made available to the Department upon request.] **(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 [submitted to the Department] **paid** by **credit card, Internet electronic checking, personal** check or [money order] **corporate check** made payable to the "Treasurer, State of New Jersey," [shall be accompanied by a completed fee form,] and shall be submitted **within 30 days after the applicant receives an invoice** to[:  
Department of Environmental Protection  
Bureau of Revenue  
PO Box 417  
Trenton, New Jersey 08625-0417] **the address indicated on the invoice.**



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(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. (No change.)

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; [and]

3. The percentage increase in the current CPI relative to the 1989 CPI shall be calculated in accordance with the following formula:

$$i. \quad \text{Percentage Increase} = 100 \times \frac{\text{Current Year CPI} - 122.15}{122.15}$$

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. [For the FY95 emission fee, which is due October 8, 1995, the per-ton emission fee is \$30.07.]

[TABLE 2  
SUMMARY OF FEES BY FISCAL YEAR

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	FY95	FY96	FY97	FY98 and on
Emission fee	\$25 <sup>1</sup> /ton on: up to 8,000 tons of NO <sub>x</sub> , VOC; ½ of CO emissions, 4,000 tons of all other RACs <sup>2</sup>	Same as FY95, except that all facilities must pay at least \$1,000	Same as FY96	\$25 <sup>3</sup> /ton on all RACE except CO, all facilities must pay at least \$1,000. No emission caps
Initial application fee	\$125 per significant source operation, up to \$25,000	Same as FY95	Same as FY95	Same as FY95
Supplemental surcharge fee	\$20 per ton of emissions of any RAN except CO, up to \$20,000	Subject to adjustment pursuant to N.J.A.C. 7:27-22.31(c)	None	None
Modification fee	As set forth at N.J.A.C. 7:27-22.31(k), up to \$25,000 per application	Same as FY95, except that, for certain source operations, the fee is limited to \$500 per piece of equipment modified <sup>4</sup>	Same as FY96	Fees for significant modifications only, as set forth at N.J.A.C. 7:27-22.31(k) through (s), up to \$25,000 per application

<sup>1</sup>In 1989 dollars adjusted by the CPI.

<sup>2</sup>For purposes of this table, RAN means regulated air contaminant.

<sup>3</sup>In 1989 dollars adjusted by the CPI.

<sup>4</sup>The limit for \$500 per piece of equipment applies to all source operations EXCEPT solid or hazardous waste treatment and disposal equipment, reciprocating engines, and fuel combustion processes with heat input greater than 100 million BTU/hour or that burn solid fuel.]

(k) [A permittee shall submit, as part of each application for a minor or significant modification of an operating permit, a modification application fee, not to exceed \$25,000 per modification, consisting of :]**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 Base Fee [schedule]**Schedule** in (r) below; and
2. (No change.)

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- (l) [In some cases, the supplementary fees due pursuant to (k)2 above cannot be determined at the time of the submittal of the modification application.] 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 [to the Department] within [60] **30** days of receipt of the invoice.
- (m) [A modification application fee shall not exceed \$25,000 per minor or significant modification, and shall be assessed as follows:
1. For FY95, the application fee shall be that required pursuant to (k) above, and shall be charged for both minor and significant modifications;
  2. For FY96 and 97, the modification application fee shall be that required pursuant to (k) above, and shall be charged for both minor and significant modifications. However, for all but the following source operations, the modification fee shall be limited to \$500.00 per piece of equipment:
    - i. Solid or hazardous waste treatment and disposal equipment;
    - ii. Reciprocating engines; and
    - iii. Fuel combustion processes with heat input greater than 100 million BTU/hour or that burn solid fuel; and
  3. For FY98 and thereafter, the modification application fee shall be that required pursuant to (k) above, but shall only be charged for significant modifications.]  
**(Reserved)**
- (n)-(o) (No change.)
- (p) If [a request] **an application** for an approval of an environmental improvement pilot test [or a general permit registration] is related to an application for a [minor or] significant modification, [it shall be accompanied by] **the Department shall determine** the applicable [supplementary] fee from the **Base Fee Schedule at (r) below and the Supplementary Fee Schedule at (s) below**[, as well as the modification application fee set forth in the Base Fee Schedule below at (r)]. **After the Department receives the completed application form, the Department of 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 (t) below.**
- (q) (Reserved)

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- (f) [The] **Through December 31, 2009, the** Base Fee Schedule for **significant** modification applications [is as follows:] **shall be (r)1 through 3 below. On and after January 1, 2010, the Base Fee Schedule shall be as determined by (u) below.**

Activity	Basis	Amount
[1. Category I <sup>1</sup>	Per application	\$100.00]
[2. Category II]	Per first new or [modified significant source operation,] <b><u>changed piece of equipment per significant modification application</u></b>	[\$500.00] <b><u>\$1,500</u></b> [plus]
<b><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</u></b>	Per each additional new or [modified significant source operation, provided that identical equipment to be used in identical processes and using identical materials shall be treated as one piece of equipment (or significant source operation) for fee calculations.] <b><u>changed piece of equipment per significant modification application</u></b>	\$350.00
<b><u>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</u></b>	<b><u>Per significant modification application</u></b>	<b><u>\$500.00</u></b>
3. Application for environmental improvement pilot test	Per application	[250.00] <b><u>\$500.00</u></b>
[4. General Permit Registration	Per registration for each new or modified significant source operation	250.00]

<sup>1</sup> Should both Category I and Category II equipment and control apparatus be included in a single application, the new or modified Category I equipment and control apparatus will be subject to the Category I fee; and the new or modified Category II equipment and control apparatus will be subject to the Category II fee.]

- (s) [The] **Through December 31, 2009, the** Supplementary Fee Schedule for **significant** modification applications [is as follows:] **shall be (s)1 through 12 below. On and after January 1, 2010, the Supplementary Fee Schedule shall be as determined by (u) below.**

Activity	Basis	Amount
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<b>1. Prevention of [significant deterioration]<u>Significant Deterioration</u></b>		
[i. Engineering review] <b>a. <u>PSD Applicability</u></b>	[Per air contaminant]	[\$500.00]
[ii. Implement public comment procedures] <b>i. <u>Screen for PSD Applicability</u></b>	Per [comment period] <b><u>Applicable Air Contaminant</u></b>	[\$500.00] <b><u>(Reserved)</u></b>
<b>ii. <u>Determine PSD Applicability</u></b>	<b><u>Per Review</u></b>	<b><u>(Reserved)</u></b>
<b>b. <u>Perform BACT Evaluation</u></b>	<b><u>Per Applicable Air Contaminant</u></b>	<b><u>\$5,000</u></b>
<b>2. <u>Sub 18 Emission Offsets</u></b>		
<b>a. <u>Determine Sub 18 Applicability</u></b>	<b><u>Per Review</u></b>	<b><u>\$5,000</u></b>
<b>b. <u>Perform LAER Evaluation</u></b>	<b><u>Per Applicable Air Contaminant</u></b>	<b><u>\$5,000</u></b>
<b>3. <u>RACT - AEL</u></b>		
<b>a. <u>Review Technology</u></b>	<b><u>Per Applicable Air Contaminant</u></b>	<b><u>\$5,000</u></b>
<b>b. <u>Prepare SIP Revision</u></b>	<b><u>Per SIP Revision</u></b>	<b><u>\$2,500</u></b>
<b>4. <u>Perform MACT Evaluation</u></b>		
<b>5. <u>Perform NSPS Evaluation</u></b>		
<b>6. <u>Perform SOTA Case-by-Case Evaluation</u></b>		
<b>7. <u>Public Comment</u></b>		
<b>a. <u>Post Public Notices</u></b>	<b><u>Per Public Comment Period</u></b>	<b><u>\$500.00</u></b>
<b>b. <u>Conduct Public Hearing</u></b>	<b><u>Per Hearing</u></b>	<b><u>\$5,000</u></b>
<b>c. <u>Prepare Response to Comments Document</u></b>	<b><u>Per Response Document</u></b>	<b><u>\$5,000</u></b>
<b>8. Ambient [air monitoring]<u>Air Monitoring</u></b>		
[i.] <b>a. <u>Review [protocol]<u>Protocol</u></u></b>	[Per Protocol]	[500.00]
<b>i. <u>For (1) criteria pollutants or (2) other pollutants or parameters for which EPA has provided guidance</u></b>	<b><u>Per Protocol</u></b>	<b><u>\$1,500</u></b>
<b>ii. <u>For other pollutants or parameters for which EPA has not provided guidance</u></b>	<b><u>Per Protocol</u></b>	<b><u>\$2,500</u></b>
[ii.] <b>b. <u>Inspect [monitoring locations]<u>Monitoring Locations</u> and [e]<u>Equipment</u> [i]<u>Installation</u></u></b>	Per [inspection] <b><u>Inspection</u></b>	\$500.00
[iii.] <b>c. <u>Review [quality assurance plan] <u>Quality Assurance Plan</u></u></b>	[Per Plan]	[500.00]
<b>i. <u>For (1) criteria pollutants or (2) other pollutants or parameters for which EPA has provided guidance</u></b>	<b><u>Per Plan</u></b>	<b><u>\$1,500</u></b>
<b>ii. <u>For other pollutants or parameters for which EPA has not provided guidance</u></b>	<b><u>Per Plan</u></b>	<b><u>\$2,500</u></b>
[iv.] <b>d. <u>Review [data]<u>Data</u></u></b>	Per <b><u>Required</u></b> [report] <b><u>Report</u></b>	\$500.00
<b>e. <u>Audit Equipment</u></b>	<b><u>Per Audit</u></b>	<b><u>\$500.00</u></b>
<b>[3.]<u>9. Air [quality impact analysis]<u>Quality Impact Analysis - PSD</u></u></b>		
[i.] <b>a. <u>Evaluate [protocol]<u>Protocol</u></u></b>	Per [protocol] <b><u>Protocol</u></b>	[\$500.00] <b><u>\$2,000</u></b>
[ii.] <b>b. <u>Review [screening modeling]<u>Screening Modeling</u></u></b>	Per [review] <b><u>Review</u></b>	[\$500.00] <b><u>\$1,000</u></b>
[iii.] <b>c. <u>Review [refined modeling]<u>Refined Modeling</u></u></b>	Per [review] <b><u>Review</u></b>	[\$500.00] <b><u>\$3,500</u></b>
<b>10. <u>Air Quality Impact Analysis - non PSD</u></b>		
<b>a. <u>Evaluate Protocol</u></b>	<b><u>Per Protocol</u></b>	<b><u>\$1,000</u></b>
<b>b. <u>Review Screening Modeling</u></b>	<b><u>Per Review</u></b>	<b><u>\$1,000</u></b>
<b>c. <u>Review Refined Modeling</u></b>	<b><u>Per Review</u></b>	<b><u>\$1,500</u></b>

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[4.]	<b>11. Risk [assessment]</b>	<b>Assessment</b>		
	[i.]	<b>a. Evaluate [protocol]</b>	<b>Protocol</b>	Per [protocol] <b>Protocol</b> [\$500.00] <b>\$1,500</b>
		[ii.]	<b>b. Review [risk assessment]</b>	<b>Risk Assessment</b> Per [review] <b>Review</b> [\$500.00] <b>\$1,500</b>
[5.]	<b>12. Testing</b>			
	i.	Evaluate source-specific testing protocol		
		(1) Process materials testing	Per protocol	\$450.00
		(2) Source emission testing	Per protocol	\$500.00
	ii.	On-site monitoring of sample collection pursuant to an approved source-specific testing protocol		
		(1) Process materials testing	Per collection event	\$200.00
		(2) Source emissions testing	Per performance test	\$500.00
	iii.	Review testing report		
		(1) Process materials testing	Per report	\$200.00
		(2) Source emissions testing	Per report	\$500.00]
	<b>a. Stack Test</b>			
		<b>i. Evaluate Protocol (up to three probes)</b>	<b>Per Protocol Per Stack</b>	<b>\$750.00</b>
		<b>ii. Evaluate Protocol (more than three probes)</b>	<b>Per Protocol Per Stack</b>	<b>\$1,000</b>
		<b>iii. Review Testing Report (up to three probes)</b>	<b>Per Report Per Stack</b>	<b>\$750.00</b>
		<b>iv. Review Testing Report (more than three probes)</b>	<b>Per Report Per Stack</b>	<b>\$1,000</b>
[6.]	<b>b.</b>	[Audit performance of continuous monitoring system]	<b>Continuous Emission Monitors</b>	
		i. Evaluate <b>Equipment</b> [protocol]	<b>Protocol</b>	Per [protocol per permit] <b>Protocol</b> \$500.00
			<b>Per Stack</b>	
		ii. [Observe testing] <b>Evaluate Performance Specification Test Protocol</b>	<b>Protocol</b>	Per [protocol per permit] <b>Protocol</b> \$500.00
			<b>Per Stack</b>	
		iii. Review [testing report]	<b>Testing Report</b>	Per [report] <b>Report Per Stack</b> \$500.00
	<b>c.</b>	<b>On-site Monitoring of Sample Collection Pursuant to an Approved Source-Specific Testing Protocol</b>	<b>Per Day Per Person</b>	<b>\$750.00</b>
	<b>d.</b>	<b>Periodic Monitoring Equipment Protocol</b>	<b>Per Protocol</b>	<b>\$250.00</b>

**(t) Through December 31, 2009, the fee schedule for a registration that is part of a significant modification application shall be paragraphs 1 and 2 below. On and after January 1, 2010, the fee schedule shall be as determined by (u) below.**

**Activity**

**Basis**

**Per Electronic Registration**

**Per Paper Registration**

**Note: The Department will not accept paper registrations on or after January 1, 2008**

Please note: The Department has made every effort to ensure that this text is identical to the official, legally effective version of this proposal, set forth in the December 19, 2005 New Jersey Register. However, should there be any discrepancies between this text and the official version of the proposal, the official version will prevail.

**1. Registration for initial authorization, or renewal of authorization, to act under a General Operating Permit** **\$350.00** **\$500.00**

**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** **\$250.00** **\$250.00**

**(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.**

Please note: The Department has made every effort to ensure that this text is identical to the official, legally effective version of this proposal, set forth in the December 19, 2005 New Jersey Register. However, should there be any discrepancies between this text and the official version of the proposal, the official version will prevail.

**Table 1**

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

- 4. If the inflation factor is a negative number, the fees set forth in (r), (s) and (t) above 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 (r), (s) and (t) above 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**



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**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.**

**APPENDIX**

TABLE A  
(No Change.)

TABLE B

Thresholds for Reporting Emissions of Hazardous Air Pollutants (HAPs)

<u>CAS Number</u>	<u>Air Contaminant</u>	<u>Annual Emissions</u>	
		<u>(tons per year)</u>	<u>(pounds per year)</u>
...			
	CHEMICAL COMPOUND CLASSES		
...			
[108864] <b><u>109864</u></b>	2-Methoxy ethanol	1	2000
...			