

(1) An industrial boiler located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical process; or

(2) A utility boiler used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale; or

iii. A hazardous waste incinerator subject to regulation under 40 C.F.R. Parts 264 or 265, as incorporated by reference at N.J.A.C. 7:26G-8 or 9; and

3. The combustion device for which the permit is sought complies with all applicable air pollution control regulations at N.J.A.C. 7:27.

7:27-20.8 Ash standard

(a) Except as provided in (b) below, the ash content of on-specification used oil to be combusted or processed used oil fuel to be combusted shall not exceed 0.15 percent by weight. Any blends of on-specification used oil or processed used oil fuel with commercial fuel oil shall meet the 0.15 percent by weight maximum ash content standard, except as provided by (b) below.

(b) Any person may request a different ash content limit if the combustion device incorporates air pollution control for particulates. The Department shall approve such request if compliance with all applicable air pollution control regulations is demonstrated in a permit application pursuant to N.J.A.C. 7:27-8 or 7:27-22.

(c) The ash content limit in (a) and (b) above shall be measured with ASTM Standard Test Method for Ash from Petroleum Products by ASTM D 482-91, incorporated herein by reference. This specification can be obtained from the ASTM, 1916 Race Street, Philadelphia, Pennsylvania 19103.

(d) The vendor or permittee shall verify the ash content standard in (a) and (b) above for on-specification used oil or processed used oil fuel or blend of any on-specification used oil or processed used oil fuel with commercial fuel by sampling and analysis.

(e) Used oil space heaters with a capacity of not greater than 500,000 BTU/hr subject to N.J.A.C. 7:27-20.3 or 20.4 that comply with N.J.A.C. 7:27-20.3(b)2, 3, 6 and 13 are exempt from this section.

7:27-20.9 Exception

The provisions of this subchapter shall not apply to any used oil charged to a fluid catalytic cracking unit at a petroleum refinery.

SUBCHAPTER 21. EMISSION STATEMENTS

Source and Effective Date

R.1993 d.128, effective March 15, 1993 (operative April 20, 1993).
See: 24 N.J.R. 2979(a), 25 N.J.R. 1254(a).

Law Review and Journal Commentaries

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

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

7:27-21.1 Definitions

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

“Activity rate/throughput” means a measurable factor or parameter that relates directly or indirectly to the emissions of a source operation or a facility during a given time period (for example, hour, day, or year). Depending on the type of source operation(s) or facility being considered, this term may refer to the amount of fuel combusted, raw material processed, product manufactured, or material handled or processed during the time period. It is typically the value that is multiplied against an emission factor to generate an emissions estimate for the time period.

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

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

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

“Ammonia” or “NH₃,” means a colorless, pungent gas at standard conditions, having a molecular composition of one nitrogen atom and three hydrogen atoms.

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

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

“Carbon dioxide” or “CO₂” means a colorless, odorless, tasteless gas at standard conditions, having a molecular composition of one carbon atom and two oxygen atoms.

“Carbon monoxide” or “CO” means a colorless, odorless, tasteless gas at standard conditions, having a molecular composition of one carbon atom and one oxygen atom.

“Certificate” means either an operating certificate or a temporary operating certificate.

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

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

“Control efficiency” means the amount of an air contaminant prevented from being discharged into the outdoor atmosphere by a control apparatus, expressed as a percentage of the total amount of the air contaminant collected by the control apparatus.

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

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

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

“Emission Inventory Improvement Program” or “EIIP” is a program developed by local and State air pollution control officers and the EPA to improve the accuracy and quality of the emissions data reported by facilities to the states used for emission inventory development for submittal to the Federal government pursuant to 40 CFR Part 51. This plan includes a multi-volume reference of emission estimation methods that can be electronically accessed at the EPA Chief website at <http://www.epa.gov/ttn/chief> which provides the most current, accurate emission estimation calculation methods for determining actual emissions of all air contaminants from all types of source operations.

“Emission point” means a stack, chimney, door, window, vent, or any other opening where air contaminants are emitted to the atmosphere.

“Emission Statement Guidance Document” refers to the 1999 Emission Guidance Document and any addendum or

subsequent revision, published at the Department’s website at <http://www.state.nj.us/dep/aqm/es/emission.html>. This publication is updated annually to incorporate the Department’s latest guidance regarding Emission Statement policies, reporting procedures and format. This information is provided in order to assist the owner or operator of a facility subject to this subchapter with the process of completing, certifying and submitting an Emission Statement.

“EPA” means the United States Environmental Protection Agency.

“Equipment” means any device capable of causing the emission of an air contaminant either directly or indirectly to the outdoor atmosphere, and any stack or chimney, conduit, flue, duct, vent, or similar device connected or attached to, or serving the equipment. This term includes, but is not limited to, a device in which the preponderance of the air contaminants emitted is caused by a manufacturing process.

“Facility” means the combination of all structures, buildings, equipment, control apparatus, storage tanks, source operations, and other operations located on a single site or on contiguous or adjacent sites and that are under common control of the same person or persons.

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

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

1. Any standard of performance for new stationary sources (NSPS) promulgated at 40 CFR Part 60, or promulgated under 42 U.S.C. § 7411;
2. Any national emission standard for hazardous air pollutants (NESHAP) promulgated at 40 CFR Part 61, 40 CFR Part 63, or promulgated under 42 U.S.C. § 7412;
3. Any standard or other requirement provided for in a SIP that has been approved by EPA, or promulgated through rulemaking by EPA; or

4. Any permit or order issued pursuant to requirements established at 40 CFR 51, Subpart I (including any preconstruction permit issued pursuant to N.J.A.C. 7:27- 8 or any operating permit issued pursuant to N.J.A.C. 7:27-22); 40 CFR 52.21; 40 CFR Part 70; 40 CFR Part 71; or 40 CFR Part 72.

"Fugitive emissions" means any air contaminant emissions released directly or indirectly into the outdoor atmosphere which cannot reasonably pass through a stack or chimney.

"Gasoline" means any petroleum distillate or petroleum distillate/oxygenate blend having a Reid vapor pressure of four pounds per square inch (207 millimeters of mercury) absolute or greater, sold for use or used in a motor vehicle or motor vehicle engine, and commonly or commercially known or sold as gasoline.

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

"Insignificant source operation" means a source operation that is not a "significant source operation" as defined in this section.

"Lead" or "Pb" means elemental lead or any compound containing lead measured as elemental lead.

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

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

"Maximum design capacity" means, in reference to a source operation, its maximum capability, per period of time, to operate, to consume a process input or to generate a product. This term may be expressed in units such as the maximum number of kilowatt-hours of electricity that a combustion unit is capable of producing per hour or the maximum amount of a raw material that may be processed per day.

"Methane" or "CH₄" means a colorless, odorless, flammable gas at standard conditions, having a molecular composition of one carbon atom and four hydrogen atoms.

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

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

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

"Operating certificate" or "certificate" means a "Certificate to Operate Control Apparatus or Equipment" issued by the Department pursuant to N.J.S.A. 26:2C-1 et seq., and in particular N.J.S.A. 26:2C-9.2, and the implementing rules at N.J.A.C. 7:27-8.

"Operating permit" means the permit described in Title V of the Federal Clean Air Act, 42 U.S.C. §§ 7661 et seq., and in N.J.A.C. 7:27-22. This term shall include a general operating permit which is applicable facility wide, but does not include a general operating permit which applies only to a part of a facility. Where a general operating permit applies only to a part of a facility, the general operating permit shall be incorporated into the operating permit. This term also includes an operating permit issued for a temporary facility; for a facility subject to a MACT or GACT standard pursuant to N.J.A.C. 7:27-22.26; or for a component of a facility pursuant to N.J.A.C. 7:27-22.5(j).

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

"Operating time" means, for a control apparatus that serves a source operation, the amount of time that the control apparatus is in use.

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

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

"Ozone season" means the portion of each year beginning May 1 and ending September 30.

"Pb" see "lead."

"Peak carbon monoxide season" means December 1 through the last day of February, inclusive.

"Peak ozone season" means June 1 through August 31, inclusive.

"Permit" means preconstruction permit, operating permit, or facility-wide permit.

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

"PM_{2.5}" means a class of air contaminants which includes all particulate matter having an aerodynamic diameter less than or equal to a nominal 2.5 microns.

"PM₁₀" means a class of air contaminants which includes all particulate matter having an aerodynamic diameter less than or equal to a nominal 10 microns.

"Potential to emit" means the maximum aggregate capacity of a source operation or of a facility to emit an air contaminant under its physical and operational design. Any physical or operational limitation on the capacity of a source operation or a facility to emit an air contaminant, including control apparatus, and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation is Federally enforceable. Fugitive emissions shall be included in the determination of potential to emit. However, the determination shall not include any banked emission reductions that are held by the owner or operator.

"Preconstruction permit" means a legally valid permit, authorizing construction, installation, reconstruction, or modification of a significant source, issued by the Department under N.J.A.C. 7:27-8 pursuant to the New Jersey Air Pollution Control Act and in particular N.J.S.A. 26:2C-9.2.

"Process intermediate" means any material used in a process which is neither a raw material nor a product.

"Product" means the output from a source operation, equipment, or control apparatus. Such outputs may include mixtures, composites, compounds and elemental substances.

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

"Reasonably available" means, with respect to a method of quantification, utilizing data or information that is already in the possession of a person at the time of reporting or which can be obtained by such person through public sources. For example, a quantification method utilizing emission factors set forth in an AP-42 document is a reasonably available method.

"Reid vapor pressure" means the absolute vapor pressure of a petroleum product in pounds per square inch (kilopascals) at 100 degrees Fahrenheit (°F) (37.8 degrees Celsius (°C)) as measured by "Method 1—Dry RVP Measurement" or "Method 2—Herzog Semi-Automatic Method" promul-

gated at 40 CFR 80, Appendix E; or any other test method approved in advance in writing by the Department and the EPA.

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

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

"SCC code" means the eight digit Source Classification Code published by EPA that provides a detailed specification of a process. See EPA document "AIRS Facility Subsystem Source Classification Codes and Emission Factor Listing for Criteria Air Pollutants" EPA 450/4-90-003, which may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia, 22161, (703) 487-4650 or the Superintendent of Documents, Government Printing Office, Washington, D.C., 20402, (202) 783-3228.

"Seasonal throughput" means the activity rate/throughput for any specific season, such as the peak carbon monoxide season, the ozone season, or the peak ozone season.

"Significant source operation" has one of the following meanings:

1. In respect to a source operation at a facility which is subject to the operating permit requirements of N.J.A.C. 7:27-22, this term has the meaning defined for the same term at N.J.A.C. 7:27-22.1;
2. Otherwise, this term has the meaning defined for the same term at N.J.A.C. 7:27-8.1, except that, for the purposes of this subchapter, no source operation shall be excluded from being classified as a significant source operation solely because it is a grandfathered source. That is, even though for the purposes of N.J.A.C. 7:27-8, a source operation would be excluded from being classified as a significant source operation if it meets the following three criteria, it is not so excluded for the purposes of this subchapter:
 - i. The source operation was in operation prior to the date that source operations of its kind were subject to permit requirements under N.J.A.C. 7:27-8;
 - ii. The source operation has not been reconstructed or modified since that date referenced in 2i above; and
 - iii. The source operation is still operable.

"Solid particles" means particles of rigid shape and definite volume.

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

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

“Stack equivalent” means an aggregation of more than one stack or chimney approved by the Department for use in calculating or measuring air contaminant emissions from a single source operation or a group of source operations with a common exhaust ventilation system.

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

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

“State Plane Coordinates” means a geographic reference system in the horizontal plane, which has been developed and is maintained by the Department, describing the position of points or features with respect to other points in New Jersey. Information about this system may be obtained from the Department’s website at: <http://www.state.nj.us/dep/GIS>; from the Department’s Bureau of Geographical Information and Analysis by e-mail at: gisnet@gis.dep.state.nj.us.

“Subject to operating permit requirements” means, with respect to a facility, that the owner or operator of the facility:

1. Is required to obtain an operating permit for the facility pursuant to N.J.A.C. 7:27-22; or
2. Has voluntarily applied for an operating permit for the facility and an operating permit has been issued by the Department for the facility.

“Submittal year” means the calendar year in which an Emission Statement is required to be submitted. This term may be contrasted with the term “reporting year,” defined above, which is the temporal period during which the emissions that are reported in an Emission Statement are emitted.

“Sulfur dioxide” or “SO₂” means a colorless gas at standard conditions, having a molecular composition of one sulfur atom and two oxygen atoms.

“Ton” means a unit of weight equal to 2,000 pounds (0.907 metric tons or 907.20 kilograms).

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

“Toxic air pollutant” or “toxic” means any of the substances listed in N.J.A.C. 7:27-21, Appendix 1, Table 1, incorporated herein by reference.

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

“UTM coordinates” means Universal Transverse Mercator geographic coordinates, specified by the UTM zone, horizontal coordinate and vertical coordinate.

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

Amended by R.1994 d.500, effective October 3, 1994 (operative October 31, 1994).

See: 25 N.J.R. 4033(a), 26 N.J.R. 4026(a).

Administrative Correction.

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

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

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

Rewrote “Federally enforceable”, “Operating permit”, “Permit” and “Preconstruction permit”; and inserted “Facility-wide permit”.

Administrative change.

See: 31 N.J.R. 639(b).

Amended by R.2003 d.86, effective February 18, 2003 (operative March 24, 2003).

See: 34 N.J.R. 695(a), 35 N.J.R. 1059(a).

Rewrote the section.

Amended by R.2008 d.366, effective December 1, 2008 (operative December 29, 2008).

See: 39 N.J.R. 4492(a), 40 N.J.R. 6769(a).

Rewrote definition “Volatile organic compound”.

Amended by R.2009 d.137, effective April 20, 2009 (operative May 19, 2009).

See: 40 N.J.R. 4390(a), 41 N.J.R. 1752(a).

Added definition “Operating scenario”.

7:27-21.2 Applicability

(a) This subchapter applies to a facility if the facility emits or has the potential to emit, directly or indirectly into the outdoor atmosphere, any air contaminant listed in Table 1 below at a rate greater than or equal to the applicable reporting threshold given in Table 1.

TABLE 1

AIR CONTAMINANT REPORTING THRESHOLDS

Air Contaminant	Reporting Threshold (Tons per Year)
VOC	10
NO _x	25
CO	100
SO ₂	100
TSP	100
PM _{2.5}	100
PM ₁₀	100
NH ₃	100
Pb	5

(b) With respect to the provisions of (a) above, the following apply to the determination of either a facility's potential to emit or its actual emissions:

1. Emissions associated with any delivery vessel loading operation shall be included in the determination;
2. Emissions from any delivery vessel that is to be considered a stationary storage tank, which is subject to the requirements of N.J.A.C. 7:27-16.2 pursuant to N.J.A.C. 7:27-16.2(j) also shall be included in the determination; and
3. All other emissions associated with delivery vessels (for example, motor vehicle tailpipe emissions, locomotives, and tugboats) shall be excluded from the determination.

(c) Notwithstanding (a) above, no facility is required, pursuant to this subchapter, to submit an emission statement for SO₂, TSP, PM[10], or Pb with respect to emissions occurring in or before 1992.

(d) Any facility which is solely a retail gasoline dispensing facility is exempt from the requirements of this subchapter.

Amended by R.2003 d.86, effective February 18, 2003 (operative March 24, 2003).

See: 34 N.J.R. 695(a), 35 N.J.R. 1059(a).
Rewrote (a) and (b).

7:27-21.3 General provisions

(a) The owner or operator of a facility to which this subchapter applies, pursuant to N.J.A.C. 7:27-21.2 and (c) below, shall submit to the Department an Emission Statement for each reporting year in accordance with this subchapter. The Emission Statement shall report the actual air contaminant emissions released from the facility directly or indirectly into the outdoor atmosphere during the year.

(b) An Emission Statement shall include the information required under N.J.A.C. 7:27-21.5 and shall include emission information for the following air contaminants:

1. If the facility's potential to emit VOC is less than 25 tons per year and if the facility's potential to emit each of the other air contaminants listed in Table 1 at N.J.A.C. 7:27-21.2 is less than the applicable reporting threshold set forth in Table 1 such that the facility is subject to Emission Statement requirements only because its potential to emit VOC is equal to or greater than 10 tons per year, emission information shall be reported only for:
 - i. The following three Table 1 air contaminants: VOC, NO_x and CO; and
 - ii. Beginning with the Emission Statement for reporting year 2005 and for each year thereafter, each of the toxic air pollutants which are listed in N.J.A.C. 7:27-21, Appendix 1, Table 1 and for which the facility has a potential to emit that is equal to or greater than the

applicable reporting threshold given in N.J.A.C. 7:27-8, Appendix 1, Table B, Reporting and SOTA Thresholds for HAPs;

2. If the facility's potential to emit VOC is equal to or greater than 25 tons per year or if the facility's potential to emit any other air contaminants listed in Table 1 at N.J.A.C. 7:27-21.2 is equal to or greater than the reporting threshold, emission information shall be reported for the following:

i. Each of the air contaminants listed in Table 1 at N.J.A.C. 7:27-21.2, except that the reporting of emission information for PM[2.5] and NH₃ shall not begin until the Emission Statement for reporting year 2003;

ii. Beginning with the Emission Statement for reporting year 2003 and for each year thereafter, the greenhouse gases CO₂ and CH₄; and

iii. Beginning with the Emission Statement for reporting year 2003 and for each year thereafter, each of the toxic air pollutants which are listed in N.J.A.C. 7:27-21, Appendix 1, Table 1 and for which the facility has a potential to emit that is equal to or greater than the applicable reporting threshold listed in N.J.A.C. 7:27-8, Appendix 1, Table B, Reporting and SOTA Thresholds for HAPs.

(c) Once an Emission Statement has been submitted for a facility, the owner or operator shall submit an Emission Statement for such facility in each subsequent submittal year unless the following conditions are met:

1. By February 1 of the submittal year the owner or operator submits a claim of non-applicability to the Department pursuant to N.J.A.C. 7:27-21.10; and

2. By April 1 of the submittal year, the Department affirms that it concurs that the requirements of this subchapter no longer apply to the facility.

(d) The owner or operator of a facility subject to this subchapter is responsible for ensuring compliance with all requirements of this subchapter. An owner or operator who fails to submit an Emission Statement that is required under this subchapter, submits an Emission Statement with incomplete information, or otherwise fails to comply with any provision of this subchapter shall be subject to civil penalties in accordance with N.J.A.C. 7:27A-3 and applicable criminal penalties including, but not limited to, those set forth at N.J.A.C. 26:2C-19(f). If there is more than one person who is an owner or operator of a facility, each such person shall be jointly and severally liable for such civil and criminal penalties.

(e) Compliance with the emission statement requirements of this subchapter does not relieve any owner or operator of a facility from the responsibility to comply with any other applicable reporting requirements set forth in any Federal or

state law, rule, or regulation, or in the conditions of approval of any permit or certificate in effect.

(f) Submittal of an emission statement to the Department, or the Department's acceptance thereof, does not constitute approval by the Department of unauthorized releases of air contaminants into the outdoor atmosphere or of any exceedance of any applicable emission limit established in any Federal or state law, rule, or regulation, or in the conditions of approval of any permit or certificate in effect.

(g) Acceptance or receipt of an emission statement by the Department does not constitute the Department's acceptance of the truth, accuracy or completeness of the emission statement. The Department's failure to act on the information contained in the emission statement at the time of its receipt does not bar the Department from any future action based on that information.

(h) With respect to the provisions of N.J.A.C. 7:27-21.5, the following shall apply to any determination of which emissions to report in an Emission Statement:

1. All emissions at the facility (for facility-wide reporting) or associated with a source operation (for source operation level reporting) shall be included in a facility's Emission Statement, including, but not limited to, the following:

i. Emissions from source operations that are classified as "significant source operations," "insignificant sources," or "exempt activities" under the permitting rules at N.J.A.C. 7:27-8 or 22;

ii. Emissions associated with any delivery vessel loading operation; and

iii. Emissions from any delivery vessel that is to be considered a stationary storage tank pursuant to N.J.A.C. 7:27-16.2(j);

2. Notwithstanding (h)1 above, the following types of emissions shall be excluded from the emissions reported in an Emission Statement:

i. Emissions from source operations that the Department accounts for, in the emissions inventory submitted by the State to the EPA for inclusion in the State Implementation Plan, other than by reliance on information in Emission Statements. Examples include emissions from the painting of structures at the facility, emissions from light-duty motor vehicles driven at the facility and emissions from delivery vessels such as locomotives and tugboats. Further examples are provided in the Department's Emission Statement Guidance Document.

Amended by R.2003 d.86, effective February 18, 2003 (operative March 24, 2003).

See: 34 N.J.R. 695(a), 35 N.J.R. 1059(a).

Rewrote the section.

Case Notes

Failure to submit required emission statement within mandatory time frame warranted assessment of civil administrative penalty. Department of Environmental Protection and Energy v. Northgate, 95 N.J.A.R.2d (EPE) 190.

7:27-21.4 Procedure for submitting an Emission Statement

(a) For an Emission Statement submitted for reporting year 2001 or earlier, the following procedures apply:

1. The Emission Statement shall be submitted to the Department on or before:

i. May 31, 1993 for a facility subject to this subchapter due to the emissions of 1992; and

ii. For each following year, April 15 of each calendar year following any calendar year in which the facility is subject to this subchapter;

2. The Emission Statement shall be submitted on a form obtained from the Department at the address listed in (c) below; and

3. Any owner or operator submitting an Emission Statement shall transmit the Emission Statement to the Department on paper. With the written prior approval of the Department, an Emission Statement may be submitted on computer diskette or electronically, in a form approved by the Department, in lieu of a submission of an Emission Statement on paper.

(b) For an Emission Statement submitted for reporting year 2002 or later, the following procedures apply:

1. Unless the owner or operator obtains approval pursuant to (d) below to submit an Emission Statement on paper, each Emission Statement shall be submitted to the Department electronically using the Remote Access Data Information User System (RADIUS) software (or its successor software) available from the Department at the address given at (c) below;

2. If a claim of confidentiality is being asserted for any information in an Emission Statement, pursuant to (e) below, the following shall apply:

i. A version of the Emission Statement which is complete, except that it omits the information which is claimed to be confidential, shall be submitted to the Department. This document shall be submitted electronically unless the owner or operator obtains approval to submit it on paper pursuant to (d) below. Information included in any electronic submittal shall be information for which no claim of confidentiality is being made;

ii. In addition to the submittal made pursuant to (b)2i above, a complete version of the Emission Statement shall also be submitted on paper, and it shall include the information that is claimed to be confidential as well as all other information required; and

iii. The information given in both versions of the Emission Statement shall be identical, except that the information claimed to be confidential shall be omitted from the version submitted pursuant to (b)2i above; and

3. An Emission Statement shall be submitted to the Department by the following due date:

i. For submittals on paper pursuant to (d) below, by April 15 of the submittal year; and

ii. For electronic submittals (for example, those submitted by diskette or e-mail), by May 15 of the submittal year; this due date shall also apply to the paper copy of the Emission Statement submitted when certain information in the electronic version of the Emission Statement is claimed to be confidential.

(c) The Department's Bureau of Air Quality Planning shall be the Department's point of contact for the Emission Statement program. As such:

1. Emission Statements shall be submitted to the Bureau:

2. Documents useful to persons preparing Emission Statement submittals, such as the Department's Emission Statement Guidance Document, copies of forms, and instructions, may be viewed and downloaded from the Bureau's web page at <http://www.state.nj.us/dep/baqp/>; and

3. The Bureau may be contacted for instructions on how to download a copy of RADIUS, to obtain any documents referenced in this subchapter, or to seek answers to questions pertaining to the Emission Statement Program. The Bureau may be contacted by phone ((609) 292-6722) or e-mail at emis_statement@dep.state.nj.us. Correspondence shall be sent to the Bureau at the following address:

Bureau of Air Quality Planning
Department of Environmental Protection
PO Box 418
Trenton, N.J. 08625-0418
Attn: Emission Statements

(d) If it is a hardship for an owner or operator to submit an Emission Statement electronically, the owner or operator may request approval from the Department to submit the Emission Statement on a paper form. The Department shall approve such a request provided that:

1. The request is certified by the responsible official in accordance with N.J.A.C. 7:27-1.39 and submitted to the Department no later than March 1 of the submittal year;
2. The owner or operator explains:
 - i. The grounds of the hardship electronic submittal would impose; and
 - ii. The effort(s) the owner or operator will make to ensure the facility's ability to make electronic submittals in the future; and
3. The owner or operator agrees to make every effort to become able to submit the form electronically in future years.

(e) Any person who submits information to the Department may assert a confidentiality claim for that information in accordance with N.J.A.C. 7:27-1.6. Emissions information, as established at N.J.A.C. 7:27-1.18, is not confidential. The Department will process and evaluate confidentiality claims in accordance with N.J.A.C. 7:27-1.6 through 1.30 inclusive.

Amended by R.1998 d.231, effective May 4, 1998 (operative June 12, 1998).
See: 29 N.J.R. 3521(a), 30 N.J.R. 1563(b).

In (d), changed N.J.A.C. reference.
Amended by R.2003 d.86, effective February 18, 2003 (operative March 24, 2003).
See: 34 N.J.R. 695(a), 35 N.J.R. 1059(a).
Rewrote the section.

Case Notes

Failure to submit required emission statement within mandatory time frame warranted assessment of civil administrative penalty. Department of Environmental Protection and Energy v. Northgate, 95 N.J.A.R.2d (EPE) 190.

7:27-21.5 Required contents of an Emission Statement

(a) Any owner or operator who submits an Emission Statement to the Department shall include the following, as an integral part of the Emission Statement:

1. Identification of the reporting year for which the statement is being submitted;
2. A certification, in accordance with the requirements of N.J.A.C. 7:27-21.8; and
3. The date of the signature of certification, and the name, title, mailing address, and telephone number of the responsible official certifying the Emission Statement.

(b) An Emission Statement shall include the following facility identification information:

1. The full name of the facility;
2. Facility location description, including, but not limited to:
 - i. The facility's street address;
 - ii. The county in which the facility is located;
 - iii. The mailing address of the facility, including its zip code; and
 - iv. The facility's State Plane coordinates given as its New Jersey or Universal Transverse Mercator (UTM) coordinates; or its latitude and longitude;
3. The facility ID number, as assigned by the Department;
4. Classification by organization type (for example, corporation, partnership, municipality);
5. The NAICS code(s) which apply to the facility;
6. The facility type (that is, major or minor). For the purposes of this subchapter, a facility is a major facility if it is subject to operating permit rules under N.J.A.C. 7:27-22; otherwise it is a minor facility;
7. New Jersey Employer Identification Number;
8. Number of employees; and
9. The name(s) of the owner(s) or operator(s) of the facility and the Emission Statement contact person; and, for each, contact information such as title, mailing address, and telephone number.

(c) An Emission Statement shall include information identifying all source operations, located at the facility. This information shall include, but not be limited to, the following:

1. Information on each of the facility's significant source operations, including, but not limited to, the source ID number; its equipment type (for example, boiler, degreaser, surface coating equipment); a description of the source operation; its maximum design capacity; identification of any control apparatus associated with the source operation; (for combustion sources) the types of fuels burned; and any permit or operating certificate numbers assigned to the source. Additionally, other source characteristics and parameters may be required to be reported which allow the Department to calculate or verify the calculation of emissions;

2. Information on each of the facility's insignificant source operations, including, but not limited to, its source ID number, its equipment type, and a description of the source operation;

3. Information on sources of fugitive emissions at the facility that are not associated with any source operation, including, but not limited to, description of the activity that causes the fugitive emissions and a source ID number, if available; and

4. If a permit has been issued by the Department for a batch production plant at the facility, information on each operating scenario approved for the batch production plant. The information shall include a description of the batch production plant and other information including, but not limited to:
 - i. An ID number;

- ii. A description of approved operating scenarios including, but not limited to, the steps in the scenario and the SCC code of the scenario;

- iii. Identification of any source operations and control apparatus in the batch production plant;

- iv. The operation type (for example, steady-state); and

- v. Any permit or operating certificate numbers.

(d) With respect to each of the source operations identified pursuant to (c) above, the following information shall be provided:

1. For each significant source operation, information on each control apparatus serving the source operation, including, but not limited to:
 - i. Its control device ID number;

- ii. A description of the control apparatus;

- iii. Classification as a primary, secondary or tertiary control apparatus;

- iv. Identification of the control apparatus by type (for example, adsorber, condenser, flare);

- v. Overall control efficiency, actual capture efficiency and actual removal efficiency, or if the actual capture efficiency or the actual removal efficiency is unavailable, the design capture efficiency or the design removal efficiency may be substituted;

- vi. The operating time of the control apparatus; and

- vii. Identification of the source operation(s) served by the control apparatus;

2. Identification of each of the facility's emission points; and, for each of these emission points, information including, but not limited to, its ID number; a description of the emission point; whether it is a source operation or fugitive emissions; and information characterizing emissions from the emission point, including, but not limited to, the following:
 - i. Release height (for example, height above ground level where the air contaminant is emitted to the atmosphere), release volume and release temperature; and

- ii. Stack or vent diameter at point of emissions (the inside diameter of vent at the point of emission to the atmosphere);

3. The class(es) or specie(s) of air contaminant emissions (for example, VOC, SO₂) that the source operation, together with the associated control apparatus, has the potential to emit; and

4. The source(s) of fugitive emissions associated with each source operation.

(e) An Emission Statement shall include facility-wide emission information and emission information at the source operation level as follows:

1. Facility-wide emission information shall be given for all air contaminants required to be included in the facility's Emission Statement pursuant to N.J.A.C. 7:27-21.3(b); and

2. Emission information shall be given at the source operation level for all of the air contaminants listed in Table 1 at N.J.A.C. 7:27-21.2, except that:
 - i. Source operation level information shall not be reported for PM_{2.5} and NH₃; and

- ii. If the facility's potential to emit VOC is less than 25 tons per year and if the facility's potential to emit each of the other air contaminants listed in Table 1 is less than the applicable reporting threshold set forth in Table 1, source operation level emission information shall be given only for NO_x, VOC, and CO.

(f) Emission information included in an Emission Statement pursuant to (e) above shall be provided in format

acceptable to the Department and on an Emission Statement form obtained from the Department. This information shall include the following:

1. For each air contaminant, information pertaining to the amount of air contaminant emitted, given on a facility-wide basis or on the source operation level (as applicable pursuant to (e) above), including, but not limited to:

i. The actual emissions of the air contaminant during a specified time period, including the actual emissions of VOC and NO_x in tons during the ozone season and in pounds per day during the peak ozone season. Such emissions may be the total facility-wide emissions, emissions from a specific source operation, emissions from a specific emission point, and fugitive emissions associated with specific source operations or other fugitive sources; and

ii. The average actual emission rate for a specified time period, including the average actual rate of emissions of VOC or NO_x in pounds per day of operation during the peak ozone season; or the average actual emissions of CO in pounds per day of operation during the peak carbon monoxide season. Such emissions may be, for a specific time period or season, the total facility-wide emissions, emissions from a specific source operation, emissions from a specific emission point, and fugitive emissions associated with specific source operations or other fugitive sources;

(2) Parameters used in calculating emissions, including, but not limited to:

i. Specific dimensions of a source operation (for example, for a storage tank, tank type and tank diameter and height);

ii. Process inputs, intermediates, outputs, and wastes (for example, material stored in storage tanks);

iii. The type and amount of fuel burned in a combustion unit and the heat content of the fuel; or

iv. The design and firing method of a combustion unit;

3. The method used to quantify actual emissions selected pursuant to N.J.A.C. 7:27-21.6;

4. Any emission factor used to determine actual emissions;

5. The units in which the emissions are reported (for example, tons or pounds per hour);

6. Information pertaining to operation, including, but not limited to:

i. The activity rate/throughput during a specific time period, (per year, per quarter, or per season such as the peak ozone season);

ii. For each quarter, the quarterly activity rate/throughput, expressed as a percentage of actual annual activity rate/throughput;

iii. The types and amounts of fuel burned, process inputs consumed, or intermediate or final product produced;

iv. The total actual hours of operation (per day, per week, per season, per year, or other period); and

v. The average number of hours of operation per day or week or other period; and

7. For VOC, NO_x, and CO, a projection of the amount of increase or decrease in emissions expected in the future, given as a percentage of the reporting year's emissions.

(g) To simplify the reporting of emissions from a source operation with minimal emissions, an owner or operator may alternatively report the source operation's potential to emit a given air contaminant as its actual emissions of the air contaminant, provided that:

1. The Emission Statement reflects that simplified reporting is being used;

2. The air contaminant being reported is one that is listed in Table 2 below; and

3. The source operation has a potential to emit the air contaminant in an amount that is less than or equal to the criteria amount given in Table 2 below.

TABLE 2

APPLICABILITY CRITERIA FOR SIMPLIFIED REPORTING

Air Contaminant	Criteria Amount
VOC, NO _x , CO, SO ₂ , TSP, PM ₁₀ , PM _{2.5} , or NH ₃	1.00 ton per year
Pb	0.10 tons per year

(h) In reporting source operation level emissions information in an Emission Statement, fugitive emissions associated with a source operation shall be reported as part of the emissions of that source operation. In facility-wide reporting, a facility's cumulative total fugitive emissions shall be given as an aggregation of all fugitive emissions at the facility that are not associated with a specific source operation; these cumulative total fugitive emissions shall be added to the facility's other emissions to determine the facility's total emissions.

(i) Emission statements shall also include any other information required by any Federal regulation or emission statement guidance published by EPA. Any additional information required by this provision will be published in a New Jersey Register notice and will be clearly indicated on the emission statement forms for the applicable year.

(j) The owner or operator of any VOC stationary storage tank with a floating roof shall include the following roof landing emission information:

1. As part of the Emission Statement, submit each tank's annual roof landing emissions as follows:

i. If the tank's preconstruction permit or operating permit, as applicable, contains a separate operating scenario for roof landing emissions, submit the tank's annual roof landing emissions as a separate operating scenario; or

ii. If the tank's preconstruction permit or operating permit, as applicable, does not contain a separate operating scenario for roof landing emissions, add a separate operating scenario for roof landing emissions to the Emission Statement and submit the tank's annual roof landing emissions as a separate operating scenario; and

2. As supporting documentation, submit with the Emission Statement an annual electronic report titled "Floating Roof Landing Emission Summary Report" if the owner or operator of a floating roof tank has not implemented all control measures in the tank VOC control plan submitted pursuant to N.J.A.C. 7:27-16.2(p), or if a floating roof tank is exempt pursuant to N.J.A.C. 7:27-16.2(f)6. The report shall contain the following information for each tank:

- i. The tank NJID Number;
- ii. The total roof landing emissions;
- iii. The tank roof type (internal floating roof, external floating roof, or domed external floating roof);
- iv. The total number of roof landing events;
- v. A list of each VOC, including different grades and specifications of gasoline, stored in the tank for any part of the year;
- vi. The vapor pressure at standard conditions for the contents listed at v above;
- vii. The floating roof lander height setting, where lander height is the distance between the bottom of the roof deck and the top most point of the surface of the tank floor;
- viii. The diameter of the tank roof; and
- ix. The permit activity number if the tank is operating under a Preconstruction Permit and Operating Certificate.

Administrative correction.
 See: 34 N.J.R. 770(a).
 Amended by R.2003 d.86, effective February 18, 2003 (operative March 24, 2003).
 See: 34 N.J.R. 695(a), 35 N.J.R. 1059(a).
 Rewrote the section.
 Administrative correction.
 See: 35 N.J.R. 2529(a).
 Amended by R.2009 d.137, effective April 20, 2009 (operative May 19, 2009).
 See: 40 N.J.R. 4390(a), 41 N.J.R. 1752(a).
 Added (j).

7:27-21.6 Methods to be used for quantifying actual emissions

(a) The method used for quantifying actual emissions for use in preparing emission information required at N.J.A.C. 7:27-21.5(e) shall be determined as follows:

1. If a permit or certificate issued by the Department pursuant to N.J.A.C. 7:27-8 or 22 specifies a method for quantifying actual emissions of a given air contaminant, then that method shall be used; and

2. For all other cases, the method that shall be used is the best available quantification method selected from Table 3 below. The best available quantification method is a method listed in Table 3 that is reasonably available, as defined at N.J.A.C. 7:27-21.1, and provides the most accurate estimation of the actual emissions from the source operation. An owner or operator submitting an Emission Statement shall presume that the highest-ranked method in Table 3, which is also reasonably available, is the best available quantification method and use that method, unless a different method is selected pursuant to (b) below.

TABLE 3
 RANKING OF METHODS
 FOR QUANTIFYING ACTUAL EMISSIONS

<u>Rank</u>	<u>Method</u>
1	Continuous Emissions Monitoring
2	Predictive Emissions Monitoring
3	Department Approved and Supervised Source Emission Testing Performed during the Reporting Year
4	Department Approved and Supervised Source Emission Testing Performed in a Prior Year
5	Mass/Material Balance
6	AP-42 Emission Factor or Other EPA-Approved Emission Estimation Methodology (for example, TANKS4 and WATER9) or Selection of a Source Emission Test for a Similar Size Unit from the AP-42 Basis and Background Documents
7	Manufacturer's Estimate
8	Others (including): Industry Council or Organization Emission Factor —Source Emission Testing Not Approved or Supervised by the Department —Good Engineering Judgement/Factor

(b) A method listed in Table 3, which is ranked lower than the highest-ranked reasonably available method, may be used to quantify actual emissions for an Emission Statement if any of the following conditions are met:

1. The owner or operator can demonstrate that use of the lower-ranked method results in more accurate quantification of emissions than what would have been achieved using any higher-ranked method that is reasonably available; or

2. Use of the lower-ranked method is consistent with EPA's guidance, including its hierarchy for emission calculation methods and/or its identification of preferred methods for specific types of source operations, as set forth in the most current version of EPA's Emissions Inventory Improvement Program Guidance Document.

(c) For each emissions calculation method used in an Emission Statement which is a lower-ranked method being used pursuant to (b) above, a written justification shall be prepared documenting the basis for the use of the lower-ranked method. This justification shall be maintained on-site and be provided upon request to the Department. It shall include:

1. Identification of the quantification method that was the highest-ranked reasonably available method pursuant to the rankings in Table 3;
2. Identification of the method selected by the owner or operator pursuant to (b) above; and
3. An explanation of how selection of this method conforms with the applicable condition(s) in (b) above.

New Rule by R.2003 d.86, effective February 18, 2003 (operative March 24, 2003).

See: 34 N.J.R. 695(a), 35 N.J.R. 1059(a).

Rewrote the section. Recodified from 7:27-21.6(f).

7:27-21.7 Recordkeeping requirements

(a) For each Emission Statement submitted to the Department, the owner or operator of the facility subject to this subchapter shall maintain the following records at the facility for a period of five years from the date each submittal is due:

1. A copy of the Emission Statement submitted to the Department;
2. Records indicating how the information submitted in the Emission Statement was determined, including any calculations, data, measurements, and estimates used; and
3. Each written justification required pursuant to N.J.A.C. 7:27-21.6(c) documenting the basis for the selection of a lower-ranked method for quantifying emissions.

(b) Upon the request of the Department, the owner or operator of the facility shall make these records available at the facility for inspection by any representative of the Department during normal business hours.

(c) Upon receipt of a written request from the Department, the owner or operator of the facility shall timely submit a copy of the records specified in (a) above to the Department by mail or by other means as agreed to by the Department.

Recodified from N.J.A.C. 7:27-21.6 and amended by R.2003 d.86, effective February 18, 2003 (operative March 24, 2003).

See: 34 N.J.R. 695(a), 35 N.J.R. 1059(a).

In (a), rewrote the introductory paragraph and added 3; added (c). Former N.J.A.C. 7:27-21.7, Certification of information, recodified to N.J.A.C. 7:27-21.8.

7:27-21.8 Certification of information

(a) Any owner or operator who submits an Emission Statement to the Department shall include, as an integral part of the Emission Statement, the following two-part certification:

1. A certification signed by the individual or individuals (including any consultants) with direct knowledge of and responsibility for the information contained in the Emission Statement. The certification shall state:

"I certify under penalty of law that I believe the information provided in this emission statement is true, accurate and complete. For those portions of the above information based on estimates, those estimates are the result of good faith application of sound professional judgment, using techniques, factors, or calculations approved by the Department or EPA, or generally accepted in the trade. I am aware that there are significant civil and criminal penalties, including fines or imprisonment or both, for submitting false, inaccurate or incomplete information."

2. A certification signed by a responsible official, as defined at N.J.A.C. 7:27-21.1, which states:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this emission statement and all attached documents and, based on my inquiry of those officials immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I certify that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe any estimates are the result of good faith application of sound professional judgment, using techniques, factors, or standards approved by the Department or EPA, or generally accepted in the trade. I am aware that there are significant civil and criminal penalties, including fines or imprisonment or both, for submitting false, inaccurate or incomplete information."

(b) Certification of an Emission Statement, pursuant to (a) above, shall be performed in accordance with the following:

1. If the Emission Statement is being submitted electronically, the responsible official shall certify the submittal either by signing the certification on a paper form obtained from the Department or by inserting his or her personal identification number (PIN), as assigned by the Department, into the applicable signature area following the text of the certification language given on the electronic Emission Statement form; and this signature or insertion of a PIN shall constitute certification of the Emission Statement in accordance with (a) above; or

2. If the Emission Statement is being submitted on a paper form obtained from the Department, the responsible official shall sign the certification on the paper form; and this signature shall constitute certification of the Emission Statement in accordance with the certification language at (a) above.

(c) If a claim of confidentiality is being asserted pursuant to N.J.A.C. 7:27-1.6 for any part of an Emission Statement, both of the submittals shall be certified. That is, the submittal which omits the confidential information, and which includes only the information for which no claim of confidentiality is being made, shall be certified; and also the submittal which includes all the required Emission Statement information, including the information for which a claim of confidentiality is being made, shall be certified.

Recodified from N.J.A.C. 7:27-21.7 and amended by R.2003 d.86, effective February 18, 2003 (operative March 24, 2003).

See: 34 N.J.R. 695(a), 35 N.J.R. 1059(a).

In (a), substituted "owner of operator" for "person" in the introductory paragraph; added (b) and (c). Former N.J.A.C. 7:27-21.8, Request for extension, recodified to N.J.A.C. 7:27-21.9.

Administrative correction.

See: 35 N.J.R. 3618(a).

7:27-21.9 Request for extension

(a) If meeting the due date set forth at N.J.A.C. 7:27-21.4 for submittal of an Emission Statement would cause extreme hardship, an owner or operator may request an extension.

(b) A request for an extension shall include the following information:

1. The name of the facility; the mailing address of the facility, including its zip code; and its facility ID number, as assigned by the Department;

2. The name of the Emission Statement contact for the facility and the contact person's telephone number;

3. The name of the responsible official and the responsible official's telephone number;

4. The reasons and justifications for the inability to submit the Emission Statement by the due date and the extreme hardship that would be prevented if the Department allows an extension of the due date;

5. The revised date by which the owner or operator commits to submitting the Emission Statement. This revised date can be no later than one month from the due date; and

6. A certification, signed by the responsible official, in accordance with N.J.A.C. 7:27-1.39.

(c) A request for an extension shall be submitted, in writing, to the following address:

Chief, Bureau of Air Quality Planning
Department of Environmental Protection
PO Box 418
Trenton, N.J. 08625-0418
ATTN: Emission Statements—Extension Request

(d) A request to extend the due date must be received by the Department by April 1 of the submittal year for a paper submittal and by May 1 of the submittal year for an electronic submittal. The Department will not consider a request for an extension it receives after these dates.

(e) Within 10 working days after receipt of a request for extension, the Department will respond with its determination as to whether the request for extension is denied or granted and, if granted, the revised date by which the Emission Statement is due. The Department will grant an extension if the extension is necessary to prevent extreme hardship.

(f) Once an owner or operator has obtained an extension of the due date for the submission of an Emission Statement pursuant to (a) through (e) above, the Department will not grant any additional extension for that Emission Statement or any continuance of the initial extension.

New Rule, R.1994 d.500, effective October 3, 1994 (operative October 31, 1994).

See: 25 N.J.R. 4033(a), 26 N.J.R. 4026(a).

Recodified from N.J.A.C. 7:27-21.8 and amended by R.2003 d.86, effective February 18, 2003 (operative March 24, 2003).

See: 34 N.J.R. 695(a), 35 N.J.R. 1059(a).

Rewrote (a), (b) and (d); deleted (e); recodified (f) as (c); deleted (g). Former N.J.A.C. 7:27-21.9, Determination of non-applicability, recodified to N.J.A.C. 7:27-21.10.

7:27-21.10 Determination of non-applicability

(a) If the construction and/or operation of a facility is modified such that the facility's potential to emit each of the air contaminants listed in Table 1 at N.J.A.C. 7:27-21.2 is less than the applicable reporting threshold given in Table 1, the owner or operator may request approval from the Department to discontinue submission of annual Emission Statements by submitting, in accordance with this section, a claim of non-applicability.

(b) An owner or operator may not submit a claim of non-applicability until the facility's potential to emit each of the air contaminants listed in Table 1 at N.J.A.C. 7:27-21.2 has been less than the applicable reporting threshold for at least the immediately preceding full reporting year. However, an owner or operator is advised to submit a claim of non-applicability to the Department no later than February 1 of the submittal year in which the owner or operator wishes to discontinue submission of Emission Statements. For example, if throughout reporting year 2000, the facility's potential to emit each of the air contaminants listed in Table 1 at N.J.A.C. 7:27-21.2 is less than the applicable reporting threshold, and the owner or operator therefore would like approval not to submit an Emission Statement in submittal year 2001, the owner or operator should submit a claim of non-applicability no later than February 1, 2001. If a claim of non-applicability is received by the Department after February 1, the Department is under no obligation to respond to the claim until the following year.

(c) A claim of non-applicability must include the following information:

1. The name of the facility; the mailing address of the facility, including its zip code; and its facility ID number, as assigned by the Department;
2. The name of the Emission Statement contact for the facility and the contact person's telephone number;
3. The name of the responsible official and the responsible official's telephone number;
4. A demonstration that the facility no longer meets the applicability criteria set forth at N.J.A.C. 7:27-21.2. The demonstration shall show that the facility's potential

to emit each of the air contaminants listed in Table 1 at N.J.A.C. 7:27-21.2 is less than the applicable reporting threshold given in Table 1 and has been for the full preceding calendar year. Determination of the facility's potential to emit shall reflect all emissions from the facility including the following:

- i. The potential to emit for the significant source operations at the facility, including the fugitive emissions associated with the significant source operations;
- ii. The potential to emit for the insignificant source operations at the facility, including the fugitive emissions associated with these source operations; and
- iii. The facility's potential to emit any other fugitive emissions which are not accounted for pursuant to (c)4i or ii above;

5. The following statements:

- i. A statement as to whether the facility is subject to operating permit requirements under N.J.A.C. 7:27-22; and
- ii. A statement as to whether the owner or operator anticipates that conditions at the facility may change in such a manner so that the requirements of this subchapter may again become applicable to the facility in the future and therefore the facility may become obligated to recommence submission of Emission Statements; and

6. A certification, signed by the responsible official, in accordance with N.J.A.C. 7:27-1.39.

(d) A claim of non-applicability shall be submitted to the following address:

Chief, Bureau of Air Quality Planning
 Department of Environmental Protection
 PO Box 418
 Trenton, N.J. 08625-0418
 ATTN: Emission Statement—Notification of Non-applicability

(e) The Department shall respond by April 1 of each calendar year to the claims of non-applicability that it received between February 2 of the preceding calendar year and February 1 of the current calendar year. The Department's response will set forth the Department's determination as to whether the Department concurs that this subchapter no longer applies to the facility (and the owner or operator therefore need not submit an Emission Statement for the prior reporting year). The Department shall not approve any claim of non-applicability unless it is satisfied that:

1. The facility has been modified so that its potential to emit each of the air contaminants listed in Table 1 at N.J.A.C. 7:27-21.2 is less than the applicable reporting threshold given in Table 1 and has been less than the

reporting threshold for at least one full reporting year; and

2. The facility will not in the foreseeable future change in such a manner that the facility's potential to emit any air contaminant listed in Table 1 at N.J.A.C. 7:27-21.2 would again exceed the applicable reporting threshold in Table 1, and the facility would therefore be obligated to recommence submission of Emission Statements.

(f) An owner or operator who has submitted a claim of non-applicability shall nonetheless continue to submit an Emission Statement in each submittal year unless the owner or operator has received a response from the Department by April 1 of that year, or earlier, that states that the Department concurs with the claim of non-applicability and approves discontinuance of submission of Emission Statements for the facility. Failure of the Department to respond by April 1 to the submission of a claim of non-applicability does not relieve the owner or operator of the responsibility to submit an Emission Statement nor does it constitute the Department's concurrence with the claim of non-applicability.

(g) Nonetheless, even if the Department approves a claim of non-applicability for a facility, if in the current reporting year, or in any subsequent reporting year, the facility's potential to emit any air contaminant listed in Table 1 at N.J.A.C. 7:27-21.2 becomes equal to or greater than the applicable reporting threshold given in Table 1, the owner or operator shall submit an Emission Statement for that reporting year and recommence submitting Emission Statements annually thereafter in accordance with this subchapter.

Recodified from 7:27-21.8 by R.1994 d.500, effective October 3, 1994 (operative October 31, 1994).

See: 25 N.J.R. 4033(a), 26 N.J.R. 4026(a).

Recodified from N.J.A.C. 7:27-21.9 and amended by R.2003 d.86, effective February 18, 2003 (operative March 24, 2003).

See: 34 N.J.R. 695(a), 35 N.J.R. 1059(a).

Rewrote the section. Former N.J.A.C. 7:27-21.10, Severability, recodified to N.J.A.C. 7:27-21.11.

7:27-21.11 Severability

If any section, subsection, provision, clause or portion of this subchapter or the application thereof to any person or circumstance is adjudged invalid or unconstitutional by a court of competent jurisdiction, the remainder of this subchapter and the application thereof to other persons or circumstances shall not be affected thereby, and shall remain in full force and effect.

Recodified from N.J.A.C. 7:27-21.8 by R.1994 d.500, effective October 3, 1994 (operative October 31, 1994).

See: 25 N.J.R. 4033(a), 26 N.J.R. 4026(a).

Recodified from N.J.A.C. 7:27-21.10 by R.2003 d.86, effective February 18, 2003 (operative March 24, 2003).

See: 34 N.J.R. 695(a), 35 N.J.R. 1059(a).

APPENDIX 1

TABLE 1

Toxic Air Pollutants To Be Reported In Emission Statements

Air Contaminant	CAS Number ¹
Acetaldehyde	75-07-0
Acrolein	107-02-8
Acrylonitrile	107-13-1
Arsenic and compounds	
Benzene	71-43-2
Beryllium and compounds	
1,3-Butadiene	106-99-0
Cadmium and compounds	
Carbon tetrachloride	56-23-5
Chloroform	67-66-3
Chromium and compounds	
1,3-Dichloropropene	542-75-6
1,4-Dioxane	123-91-1
Dioxins	
Ethylene dibromide	106-93-4
Ethylene dichloride	107-06-2
Ethyleneimine	151-56-4
Ethylene oxide	75-21-8
Formaldehyde	50-00-0
Hexachlorobenzene	118-74-1
Hydrazine	302-01-2
Hydrochloric acid	7647-01-0
Manganese and compounds	
Mercury and compounds	
Methylene chloride	75-09-2
Nickel and compounds	
Polychlorinated biphenyls	
Polycyclic organic matter ²	
Propylene dichloride	78-87-5
Quinoline	91-22-5
1,1,2,2-Tetrachloroethane	79-34-5
Tetrachloroethylene	127-18-4
1,1,1-Trichloroethane	71-55-6
1,1,2-Trichloroethane	79-00-5
Trichloroethylene	79-01-6
Vinyl chloride	75-01-4

¹ Given here for individual contaminants only, not for classes of contaminants. A CAS number is a unique identifier which is assigned to each chemical species by the Chemical Abstract Service, a division of the American Chemical Society.

² A group of chemicals formed from the incomplete combustion of organic substances. Included in this group are benzo(a)pyrene, acenaphthene, anthracene, chrysene, and others.

New Rule. R.2003 d.86, effective February 18, 2003 (operative March 24, 2003).

See: 34 N.J.R. 695(a), 35 N.J.R. 1059(a).

SUBCHAPTER 22. OPERATING PERMITS

Authority

N.J.S.A. 13:1B-3, 13:1D-9, and 26:2C-1 et seq.