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ENVIRONMENTAL REGULATION OFFICE OF AIR QUALITY MANAGEMENT

Air Pollution Control Emission Statements

Adopted Amendments: N.J.A.C. 7:27-21, 22.1, 22.6, and 22.31; and 7:27A-3.2 and 3.10

Proposed: February 4, 2002 at 34 N.J.R. 695(a).

Adopted: January 23, 2003 by Bradley M. Campbell, Commissioner, Department of Environmental Protection.

Filed: January 23, 2003 as R. 2002 d. , **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 26:2C, particularly 26:2C-8 and 26:2C-9.8; 13:1B-3; and 13:1D-9.

DEP Docket Number: 03-02-01/149.

Effective Date: February 18, 2003

Operative Date: March 24, 2003

Expiration Date: N.J.A.C. 7:27A, November 9, 2004.
N.J.A.C. 7:27, Exempt.

The New Jersey Department of Environmental Protection (Department) is adopting herein amendments to N.J.A.C. 7:27-21, Emission Statements, N.J.A.C. 7:27-22, Operating Permits, and N.J.A.C. 7:27A-3, Civil Administrative Penalties and Requests for Adjudication Hearings. These amendments enhance New Jersey's stationary source emission inventory by requiring the reporting of emissions of additional air contaminants and by improving the quality of emission data that is submitted. The amendments would also improve the implementation of the Emission Statement Program.

As amended, the Emission Statement rules require the reporting of additional air contaminants as follows:

1. Higher and Lesser Potential to Emit (PTE) Facilities: The Emission Statements rules now classify the facilities subject to emission reporting requirements into two categories: (1) higher

potential to emit (PTE) facilities; and (2) lesser PTE facilities. A higher PTE facility is a facility with a potential to emit volatile organic compounds (VOCs) at a rate that is greater than or equal to 25 tons per year or with a potential to emit any other air contaminants listed in N.J.A.C. 7:27-21.2(a), Table 1 at a rate greater than or equal to the applicable reporting threshold. A lesser PTE facility is a facility with a potential to emit VOCs at a rate that is greater than or equal to 10 tons per year and less than 25 tons per year and which does not have a potential to emit any other air contaminant listed at N.J.A.C. 7:27-21.2, Table 1 at a rate that is greater than or equal to the applicable reporting threshold. Some, but not all, of the adopted changes to the Emission Statement reporting requirements and reporting schedules are the same for higher and lesser PTE facilities. Specifically, both higher PTE facilities and lesser PTE facilities are required to report facility emissions of 36 toxic air pollutants (TAPs) if they emit or have the potential to emit any of these contaminants at a rate that is greater than or equal to the applicable reporting threshold. Higher PTE facilities have the additional requirements of reporting emissions of carbon dioxide (CO₂) and methane (CH₄).

2. Fine Particulate Matter (PM_{2.5}) and Ammonia (NH₃): Beginning with the Emission Statements for reporting year 2003 (to be submitted in 2004), higher PTE facilities are required to report their facility-wide emissions of particulate matter less than 2.5 microns in diameter (PM_{2.5}), and one of its precursors, ammonia (NH₃). This is a change from the rule proposal, which had provided that emission reporting of these pollutants would begin with reporting year 2002.

3. Carbon Dioxide (CO₂) and Methane (CH₄): Beginning with the Emission Statements for reporting year 2003 (to be submitted in 2004), higher PTE facilities are required to report emissions of two greenhouse gases (GHGs), carbon dioxide (CO₂) and methane (CH₄). This is a change from the rule proposal, which had provided that emission reporting of these pollutants would begin with reporting year 2002.

4. Toxic Air Pollutants (TAPs): Facilities that emit or have the potential to emit any of the 36 TAPs listed in N.J.A.C. 7:27-21, Appendix 1, Table 1, at a rate that is greater than or equal to the applicable reporting threshold, are now required to report their facility-wide emissions of reportable TAPs according to the following schedule: higher PTE facilities will now begin to report emissions of TAPs beginning with reporting year 2003 (to be submitted in 2004); lesser PTE facilities will now begin to report emissions of TAPs beginning with reporting year 2005 (to be submitted in 2006). This is a change from the rule proposal. As originally proposed, higher PTE facilities would have begun reporting emissions of TAPs with reporting year 2002 and lesser PTE facilities with reporting year 2004.

5. Voluntary Pilot Reporting Program: In response to commenters' concerns that the proposed emission reporting schedule for carbon dioxide (CO), methane (CH₄), fine particulates (PM_{2.5}), ammonia (NH₃), and the 36 TAPs is too difficult to meet, the Department is amending on adoption the compliance deadlines to defer by one year the implementation of these new emission

reporting requirements. In response to the offer of several commenters to begin to report these emissions one year early on a voluntary basis, the Department has established a voluntary pilot reporting program for reporting year 2002. In addition to submitting the required emissions information, participants will also voluntarily report emissions of fine particulates, ammonia, carbon dioxide, methane, and the 36 TAPs. The Department is currently forming a workgroup, which would include industry participation, that will use the emissions data from this pilot reporting program to resolve implementation issues associated with the new reporting requirements and to make necessary revisions to RADIUS.

6. Electronic Submission of Emission Statements: The amendments to the Emission Statement Program include the new requirement that, beginning with reporting year 2002 (submittal by May 2003), facilities submit their Emission Statements electronically (unless they are granted an exemption by the Department). A more detailed explanation of these changes is provided in the proposal of these amendments at 34 N.J.R. 695(a). With respect to the certification of electronically submitted Emission Statements, the Department, in response to commenters' concerns, is clarifying on adoption that electronically submitted Emission Statements can still be certified with a paper certification form.

The Department held a public hearing on March 8, 2002, at its headquarters at 401 East State Street, Trenton, New Jersey to provide interested parties the opportunity to present comments on the Department's proposed rulemaking. The comment period was originally scheduled to close on March 9, 2002, but because this was a Saturday, the Department accepted comments through the close of business Monday, March 11, 2002. No comments were received following the close of comment period. The comments the Department received on the proposed amendments are summarized and responded to below in the section entitled, "Summary of Public Comments and Agency Responses."

Summary of Hearing Officer's Recommendations and Agency Response:

Chris Salmi, in his capacity as then-Manager of the Bureau of Air Quality Planning, served as the Hearing Officer at the public hearing. After reviewing the written comments received by the Department and the comments that were presented at the hearing, the Hearing Officer recommended that the Department adopt the proposed rule amendments with certain technical changes. The Hearing Officer also recommended a number of substantive changes on adoption, in response to suggestions made by commenters. These changes do not require reproposal, as they are not so substantial that they would effectively destroy the value of the original notice of this rulemaking. The Department has accepted the Hearing Officer's recommendations and adopts herein the amendments, as proposed, with the technical and substantive changes discussed in the Summary of Public Comments and Agency Response and in the Summary of Agency-initiated Changes.

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The Hearing Officer's recommendation are set forth in the hearing officer's report. A copy of the record of the public hearing (including the hearing officer's report) is available for inspection by contacting:

Department of Environmental Protection
Office of Legal Affairs
ATTN: Docket No. 03-02-01/149
401 East State Street
PO Box 402
Trenton, New Jersey 08625-0402

Copies of the adoption document are available from the Department's website at <http://www.nj.gov/dep/aqm>, where Air Quality Management rules, proposals, adoptions and State Implementation Plan (SIP) revisions are posted.

Summary of Public Comments and Agency Responses:

The Department received oral and/or written comments on its proposed amendments from the following persons:

1. Alan Bogard, Infineum U.S.A. L.P.
2. Dale Bryk, Natural Resources Defense Council (NRDC)
3. J. Russell Cerchiaro, Schering Corporation
4. Richard Craig, Roy F. Weston Incorporated
5. Lisa A. Fleming, Vineland Municipal Electric Utility
6. William M. Hanna III, P.E., Environmental Resources Management
7. James Hough, PSE&G Services Corporation
8. Russel Like, Gabel Associates for the Independent Energy Producers of New Jersey
9. Ronald Maggiaro, Graphic Arts Association
10. Bradley S. Martin, DuPont Chambers Works
11. P. Steve Oliver, PSS/Keyspan
12. Anthony Russo, Chemistry Council of New Jersey
13. Christine M. Visnic, Merck & Co.

Comments are arranged by subchapter and section. The number(s) in parentheses after each comment corresponds to the numbers above and indicate the person(s) who submitted the comment. If a comment does not pertain to a specific provision of the rule, it has been placed under the General Comment category.

General Comments

1. **COMMENT:** One commenter stated that the printing and publishing industry in New Jersey is faced with several different reporting requirements whereby information is to be submitted to local authorities, the Department, and the USEPA, with different deadlines, formats and redundant data elements. The commenter described this type of reporting as excessive, inefficient, and uneconomical for the source owner or operator of the facility and for the State. The commenter emphasized that the Department's goal should be to devise a simplified reporting system that reduces the complexity of reporting and makes it easier for industry to report. The commenter stated that streamlining reporting would encourage rather than discourage industry to comply. (9)

RESPONSE: The Department appreciates the concerns raised by the commenter. The Department is continuing its efforts to streamline and simplify reporting requirements in order to facilitate compliance. An example of this effort is the implementation of the New Jersey Environmental Management System (NJEMS), a centralized computer database for the Department's environmental data developed in response to industry's request and the ongoing expansion of the online General Air Permit capability. The Department is also aware that facilities are sometimes required to report similar information to different regulatory agencies in varying formats. To the extent that it can, the Department is working to minimize the submittal of redundant data which is neither efficient nor economical by coordinating reporting requirements with other regulatory agencies. Since the Department must still fulfill existing regulatory and statutory reporting requirements, however, a certain amount of redundancy is unavoidable.

2. **COMMENT:** One commenter suggested the Department should tailor the specific reporting requirements to the industry being regulated and use reports having a structure and format designed for a typical business operator rather than a professional engineer. The commenter also suggested that the Department consider integrating and consolidating its reporting requirements into one standard form from which the different program offices could extract their information needs. (9)

RESPONSE: The Department appreciates the commenter's suggestions and tries to minimize the complexity of reporting requirements while ensuring that the required data goals can be met. The Department believes that the technical knowledge required to complete the emission statement is generally comparable to that required to operate and monitor the equipment or process. The Department provides annual training seminars at Rutgers University, hands-on help for small businesses, and a telephone helpline to assist emission statement filers. As part of the DEP Re-engineering Project conducted with industry in 1994, the Department was requested to develop the RADIUS electronic data entry program to streamline and simplify data transfer with and within the Department. To provide compatibility with various programs (for example, permitting and emission

statements), the format and content of RADIUS forms or data screens must be consistent. Therefore, the creation of individual forms targeted at specific industries are not feasible. However, as indicated in the response to the prior comment, the Department will continue its ongoing efforts to eliminate redundant and inefficient reporting requirements.

3. **COMMENT:** One commenter stated that because the Department did not provide a copy of the new emission statement reporting forms and format they could not be compared to the existing forms and format, making it difficult to judge the significance of the proposed amendments. (9)

RESPONSE: The Department anticipates making only minor changes to the existing electronic reporting format in order to minimize both the impact to reporting facilities and the Department's costs associated with programming and troubleshooting the reporting software.

4. **COMMENT:** One commenter stated that the Department has not provided any detail regarding how it derived its incremental cost estimates and has grossly underestimated the costs to comply with the expanded reporting requirements. The commenter stated further that facilities would bear additional financial costs to develop emission data and support documentation for the new pollutants, and that these costs are not included in the Department's incremental cost estimate. The commenter asked if the Department surveyed facilities currently reporting to obtain real costs of the current obligations and estimates for the new requirements or whether some other method was employed, noting that the Department did not provide any such current cost estimates. (9)

RESPONSE: The Department does not expect this rulemaking to require regulated entities to undertake significant revisions to their existing data collection and reporting systems or to require new technology and technological systems to collect and submit the additional emission information, as suggested by the commenter. The Department expects the emission reporting of PM_{2.5} and NH₃ to be based on emission factors or methods similar to those currently used by facilities to estimate and report total suspended particulates (TSP) and particulate matter with a diameter of less than 10 microns (PM₁₀). Greenhouse gas emission estimates are logically anticipated to be based on fuel consumption, which is also currently reported on the Emission Statement. Because TAPs are a subset of either volatile organic compounds (VOCs) or particulate matter, their emissions can typically be estimated based on readily available information (for example, the Material Safety Data Sheet) or a knowledge of the composition of the materials processed. All major facilities subject to the Department's operating permit requirements at N.J.A.C. 7:27-22 already include an estimate of the potential to emit reportable TAPs on their permit applications and can expect to use the same methodology to estimate actual TAP emissions. It should also be noted that the Department requires reporting of

GHG and TAP emissions on a facility-wide basis rather than for each individual source. The reporting of the methodology used for estimating emissions is a current requirement. Supporting documentation of emission estimating methods is only needed when a facility opts to use an alternative to the readily available best method.

As for estimating incremental costs, the Department identified factors that would affect the incremental cost of expanded reporting for a facility, such as the number of sources and the extent of emission record-keeping currently at a facility, rather than surveying the regulated facilities for cost estimates. The Department estimated the additional time required for an “average” facility to report the expanded parameters based on its past experience in entering the information for Emission Statements submitted on paper and testing purposes. In order to generate a conservative cost estimate (erring, if at all, on the high side) the Department assumed a facility would use a consultant, at a typical rate of \$100 per hour, rather than its less costly onsite staff. The Department did not survey reporting facilities nor project costs associated with compliance with the current requirements because the rulemaking merely expands reporting current reporting requirements. Accordingly, an estimate of the current cost of compliance is not relevant.

5. **COMMENT:** One commenter questioned the Department’s estimates of the number of facilities that would be subject to the expanded reporting requirements under the amended rule. The commenter suggested that, given the low reporting threshold for the lesser PTE facilities and the population of industrial facilities in the State, it would appear that many more facilities than the current 850 should be reporting as “higher PTE facilities.” The commenter stated that the Department did not specify the number of lesser PTE facilities that are currently reporting, but that it must number in the thousands. (9)

RESPONSE: As the Department indicated in the Economic Impact Analysis of the proposal, 850 facilities are subject to the Emission Statement reporting requirements. Of these, 450 would, under the Department’s new rules, be classified as lesser PTE facilities. The Department gave this conservative estimate based upon the number of Emission Statements actually received. In 2001, the Department received a total of 730 Emission Statements. Of these, 375 (51 percent) were submitted by facilities that would now be classified as higher PTE facilities and 355 (49 percent) were submitted by facilities that would now be classified as lesser PTE facilities. Since this rulemaking does not change the reporting thresholds for the required reporting of emissions (which remains a potential to emit 10 tons per year of VOCs), no additional facilities should be subject to these reporting requirements. While there may be some facilities currently not complying with the subchapter 21 reporting requirements, the Department does not believe that inclusion of these non-reporting facilities would swell the ranks of lesser PTE facilities to the thousands suggested by the commenter.

6. **COMMENT:** One commenter indicated that given the requirement for reporting greenhouse gases such as carbon dioxide, out-of-state electric generating facilities that sell their inputs into the New Jersey market, either through bilateral contracts or as part of the PJM (The PJM Interconnection, L.L.C.) spot market, should be subject to the same reporting requirements as New Jersey facilities. The commenter suggested that the Generator Attribute Tracking System (GATS) User Group would be the appropriate tracking vehicle. The commenter noted that the GATS User Group is seeking to establish a market tracking system for attributes of electricity and recommended that the Department work with the PJM GATS User group to facilitate inclusion of carbon dioxide emissions into any emissions tracking regime. (8)

RESPONSE: The Department recognizes that significant quantities of electricity used in New Jersey may be generated from out-of-state facilities. The emissions statement program, however, is focused on assembling emission data and establishing an emission inventory for sources located in New Jersey. While the tracking of environmentally-related attributes of electricity is a laudable goal, the emission statement program is not the appropriate vehicle for this endeavor.

7. **COMMENT:** One commenter stated that public disclosure of carbon dioxide emissions should be on a pounds per megawatt hour basis as well as on an absolute basis, so that consumers may compare the fuel efficiency of New Jersey facilities to that of out-of-state generators. The commenter recommended that when the Department collects emissions data from in-state and out-of-state facilities, it should collect corresponding electric generation data in megawatt hours. The commenter recommended further that consideration should be given to collect the “net” carbon dioxide or greenhouse gas equivalents on the emission statement, based on a calculation method approved by the Department. The commenter stated that such a “net” calculation would demonstrate the offsetting benefits from renewable technologies such as landfill gas-to-energy and waste-to-energy. (8)

RESPONSE: As indicated in the previous response, the emission statement program is focused solely on New Jersey facilities and emissions. While it would be useful to compare the fuel efficiency of in-state and out-of-state energy providers, the commenter’s suggestions for changes to the Emission Statements Program are outside the scope and purpose of this program. The Department will, however, consider providing for such efficiency disclosure in the appropriate program.

N.J.A.C. 27:7-21.1 Definitions

8. **COMMENT:** One commenter expressed strong support for the Department’s proposal to revise the definition of “distillate of air” to remove “carbon dioxide.” (2)

RESPONSE: The Department acknowledges the commenter's strong support for the Department's amended definition of "distillate of air" at N.J.A.C. 7:27-21.1.

9. **COMMENT:** Several commenters expressed concern regarding the Department's proposal to remove "carbon dioxide" from the definition of "distillate of air." These commenters expressed concern that such a change would affect the definition of this term in other subchapters of N.J.A.C. 7:27 that may be tied indirectly to subchapter 21, such as the Department's air permitting rules. One commenter recommended that, rather than modifying the existing definition of "air contaminant," the Department replace the phrases "air contaminants" or "air contaminant emissions" with "air contaminants and GHG emissions" or "emissions of air contaminants and carbon dioxide." Another commenter recommended that the Department delete the proposed change to the definition of distillates of air and continue to use the existing definition. The commenter stated that this change will still allow the Department to continue to operate the State's greenhouse gas initiative on a voluntary basis. Another commenter preferred mandatory, rather than voluntary, emission reporting of greenhouse gases. The commenter stated that while voluntary programs can advance the desired goals to some extent, a mandatory program would be substantially more effective in a number of areas. The commenter indicated these areas would include tracking progress towards goals, encouraging emission reductions, and enabling development of the necessary infrastructure needed to support a future cap-and-trade system. (2, 5, 13)
10. **COMMENT:** Two commenters challenged the Department's authority to revise the definition of "distillate of air" at N.J.A.C. 7:27-21.1 on the grounds that the definition of this term is dictated by the New Jersey Air Pollution Control Act. The commenters stated that changing the definition of "distillate of air" improperly expands the legislative definition of "air contaminant," which can only be done by legislative action. The commenters thus challenged the Department's authority to so expand the definition of the term "air contaminant." (10, 13)

RESPONSE to 9 and 10: Amending N.J.A.C. 7:27-21.1 to exclude "carbon dioxide" from the term "distillate of air" for the purposes of subchapter 21 emission reporting only, was, in the Department's opinion, the most efficient way to reflect the expansion of the Emission Statement Program to require the reporting of carbon dioxide emissions. Because the term "air contaminant" is defined at N.J.S.A. 26:2C-2 to exclude distillates of air, and because the Department had previously defined the term "distillate of air" to include carbon dioxide, it was necessary for the Department to redefine the term "distillate of air" for the purposes of this subchapter only, to exclude carbon dioxide. (It should be noted that the term "distillate of air" is not defined at N.J.S.A. 26:2C-2.) Then, as now, the Department had the authority to define "distillates of air" since it is not statutorily defined and the term must be defined in order to define "air contaminant." The

Department believes that a reasonable interpretation of the Legislature's intent in referencing "distillate of air" in the definition of "air contaminant" was to exclude those elements of air not normally regarded as contaminants and not generally addressed by air pollution control measures. In addition, the fact that the revised definition of the term "distillate of air" only applies to subchapter 21 is noted at N.J.A.C. 7:27-21.1, which states: "The following words and terms, *when used in this subchapter* have the following meanings, unless the context clearly indicates otherwise." (*Emphasis added*). As a result, the commenters' concern that modification of the definition of the term "distillate of air" in subchapter 21 will affect the definition of this term elsewhere in Chapter 27 is unfounded.

11. **COMMENT:** One commenter noted that the 1997 edition of the CRC Handbook of Chemistry and Physics includes both CO₂ and hydrogen as components of air. The commenter suggested, therefore, that this supports inclusion of CO₂ in the Department's definition of "distillate of air." The commenter suggested further that the Department should modify its definition of "distillate of air" to include hydrogen. (13)

RESPONSE: The Department agrees that both hydrogen and CO₂ are components of air. However, since the purpose of defining the term "distillate of air" in subchapter 21 was to capture those components of air that are not considered, for the purpose of reporting emissions in emission statements, to be "air contaminants," the Department will not retain CO₂ in its definition of "distillate of air" in its emission statement rules. It is not necessary, for the purposes of this rulemaking, to revise the definition of the term "distillate of air" to include hydrogen.

12. **COMMENT:** One commenter suggested that the definition of "Emission Statement Guidance Document" should refer to the "2001" rather than the "1999" version of this document. The commenter pointed out that the Department worked diligently to update this guidance document to include terminology and descriptions more applicable to the Remote Access Data Information User System (RADIUS) software and that any references to the 1999 document are outdated and perhaps inaccurate. (4)

RESPONSE: The definition of "Emission Statement Guidance Document" that the Department proposed and which it is now adopting indicates that this document is an evolving one. As a result, the definition refers not only to the 1999 Emission Guidance Document, but includes "any addendum or subsequent revisions published at the Department's website at <http://www.state.nj.us/dep/aqm/es/emission.htm>." It also clarifies that the Emission Statement Guidance Document "is updated annually to incorporate the Department's latest guidance regarding Emission Statement policies, reporting procedures and format." The definition as drafted, therefore, addresses the commenter's concerns.

- 13. COMMENT:** Two commenters stated that the definition of the term “significant source operation” is confusing or abstruse and that it should not differ from but rather be consistent with the definitions of that term at N.J.A.C. 7:27-8 and N.J.A.C. 7:27-22. One commenter stated that it is confusing to list two meanings of the term “significant source operation” in N.J.A.C. 7:27-21.1. The commenter suggested that, since the Department intended to define the criteria of a significant source operation consistently in both N.J.A.C. 7:27-22 and N.J.A.C. 7:27-8, it would be less complicated to simply list the criteria here also. As an alternative, the commenter suggested the following definition:
- “Significant source operation” means any source (permitted or grandfathered) meeting the criteria of a “significant source operation” as defined in N.J.A.C. 7:27-22.1 and N.J.A.C. 7:27-8.1.

Another commenter suggested an alternative definition of “significant source operation” as follows:

“Significant source operation,” for the purposes of this subchapter, has the meaning defined for the same term at N.J.A.C. 7:27-22.21, regardless of whether a source is located at a facility subject to the operating permit rule, and regardless of whether the source is currently covered under a preconstruction permit or operating permit. (4, 5)

RESPONSE: The Department intended to define the term “significant source operation” at N.J.A.C. 7:27-21.1 in such a way as to make clear that the term includes both sources located at major facilities (that is, regulated by the provisions of N.J.A.C. 7:27-22) and those sources located at minor facilities (that is, regulated by the provisions of N.J.A.C. 7:27-8). The term is defined differently in connection with each of these subchapters, and the Department intended to preserve these differences for the emission reporting purposes of subchapter 21, as well. In order to keep the definition simple and straightforward, and to avoid encumbering the definition section of subchapter 21 with pages of source operation lists, explanations, and exclusions, the Department has defined the term, as it applies to major facilities, at paragraph 1 of the definition by directing the reader to the definition of the term at N.J.A.C. 7:27-22.1. It has separately defined the term, as it applies to minor facilities, at paragraph 2 of the definition, by directing the reader to the definition of the term at N.J.A.C. 7:27-8.1, with the difference that, as explained by the definition, no source operation shall be excluded from being classified as a significant source operation solely because it is a grandfathered source. Without these separate definitions it would have been difficult and confusing to the reader to maintain the differences in how the term is applied in each subchapter in a single definition. In addition, it would have been stylistically awkward to craft a single definition that would include the three circumstances under which a source operation would be subject to the provisions of subchapter 21 even though it would be excluded from the definition of “significant source

operation” at N.J.A.C. 7:27-8 as a “grandfathered” source. (These circumstances are set forth at 2i, ii, and iii of the definition of “significant source operation” at N.J.A.C. 7:27-21.1.)

N.J.A.C. 7:27-21.2 Applicability

14. **COMMENT:** One commenter requested that the Department revise the proposed rule amendments on adoption to clarify that a facility’s potential to emit CO₂, CH₄, and the 36 listed TAPs will not be used to determine the applicability of N.J.A.C. 7:27-21. (4)

RESPONSE: The Department appreciates the commenter’s concerns, but does not believe the rule requires modification. On its face the rule provides that the potential to emit carbon dioxide, methane, or any of the 36 TAPs does not determine whether a facility is subject to the emission reporting requirements of N.J.A.C. 7:27-21. That is, N.J.A.C. 7:27-21.2 and 21.3 currently state that the applicability of subchapter 21 is based solely on a facility’s potential to emit pollutants at a level that exceeds the reporting thresholds for the pollutants contained in N.J.A.C. 7:27-21.2(a), Table 1 (Table 1). These are as follows:

TABLE 1
AIR CONTAMINANT REPORTING THRESHOLDS

<u>Air Contaminant</u>	<u>Reporting Threshold (Tons per Year)</u>
VOC	10
NO_x	25
CO	100
SO₂	100
TSP	100
PM_{2.5}	100
PM₁₀	100
NH₃	100
Pb	5

A facility is required to report its emissions to the Department on an Emission Statement if it has the potential to emit a criteria air pollutant in an amount that is equal to or greater than the above established reporting threshold. Carbon dioxide, methane, and the 36 TAPs are not criteria air pollutants.

N.J.A.C.7:27-21.3 General Provisions

- 15. COMMENT:** One commenter questioned why the Department is requiring the reporting of emissions of fine particulates ($PM_{2.5}$) and/or ammonia (NH_3), since only a limited number of emission factors are available in AP-42, testing data, vendor data, or other literature to estimate such emissions. The commenter suggested that, because of this, the data submitted to the Department may be of little real value and may lead the Department to extract erroneous conclusions with respect to the actual emissions of these pollutants. The commenter stated that for $PM_{2.5}$ there are only certain source types (that is, boiler and other fuel combustion, solids materials handling operations, and others) for which there are AP-42 emission factors. For many other processes, such as pharmaceutical and chemical processes, there are no readily available procedures for estimating $PM_{2.5}$ emissions. The commenter stated that many facilities will rely on taking an approximation of the percentage of total particulate or PM_{10} and assume it to represent the level of actual emissions of $PM_{2.5}$. (3)

RESPONSE: The Department is requiring facilities to begin to report emissions of $PM_{2.5}$ and NH_3 as part of their Emission Statements because the State is now required by the USEPA to include this information in its Emission Inventory Report pursuant to 40 C.F.R. §51.15. This requirement was added by the USEPA's Consolidated Emission Reporting Rule that took effect on August 9, 2002. (See 67 Fed. Reg 39602 (June 10, 2002)). Additional information concerning the Consolidated Emission Reporting Rule, including the proposal and final rule, is available from the USEPA's website at <http://www.epa.gov/ttn/chief/cerr/>.

The Department understands the commenter's concern about the availability of emission estimation methods for calculating actual emissions of $PM_{2.5}$ and NH_4 , in particular in the case of pharmaceutical and chemical processes. Before proposing these reporting requirements, however, the Department had surveyed the emission estimation methods published by the USEPA at its $PM_{2.5}$ Inventory website at: <http://www.epa.gov/ttn/chief/eiip/pm25inventory/index.html>). The Department concluded that ample emission estimation methods are available for most common source types. In addition, the Department expects that more and better estimation methods will be forthcoming. It is true, however, that for some processes it may be necessary for the facility to estimate fine particulate matter and ammonia point source emissions. In these cases, the owners and operators of these facilities would be in the best position to estimate

these emissions, due to their knowledge of the specific process and the materials used, mass balance information, and engineering judgment. Accordingly, the Department is confident that the data produced will be of real value and will not, as the commenter suggests, lead to erroneous conclusions.

16. **COMMENT:** One commenter stated that, at the time of the comment, the federal Consolidated Emissions Reporting rule, which was the basis for the Department's required reporting of PM_{2.5} and NH₃ emissions had not yet been finalized and that there were no other current federal or state regulations that require the reporting of these emissions. In addition, the commenter pointed out that there are no approved test methods available from either the USEPA or the Department for these emissions. The commenter noted that the USEPA Technology Transfer Network (TTN) web site lists a NH₃ test method as a conditional method, while the PM_{2.5} method is classified as a preliminary method. The commenter stated that, although the USEPA allows the use of preliminary test methods for some source categories, preliminary methods are subject to change based on validation studies or public comment received as a part of adoption as a Federal test method. The commenter noted further that preliminary test methods are not as well defined as conditional methods, thus presenting the opportunity for a wider range of interpretation of any data generated using these methods, including the PM_{2.5} methods. The commenter stated that the USEPA itself indicates on its TTN web site that preliminary methods "may be useful in limited applications until more supporting information is available." The commenter interpreted this statement as a statement by the USEPA that the use of preliminary test methods can generate data that may not be representative of a source's actual emissions.

The commenter also pointed out that the USEPA has indicated that both preliminary and conditional test methods should only be used by state and local programs in conjunction with Federally enforceable programs (for example, Title V permits and SIPs) provided they are subject to a USEPA Regional SIP approval process or permit veto opportunity and public notice and opportunity for comment.

The commenter noted that, because preliminary and conditional test methods are more likely to change based on additional validation studies or on public comment, testing done today using a preliminary PM_{2.5} or conditional NH₃ method may yield different results than testing done in the future under an approved method. The commenter stated that this would be problematic for industry because if the preliminary method testing results indicate a compliance problem, the source would likely face an enforcement action, even if later testing using an approved method yields results indicating compliance. The commenter stated that subchapter 21 rulemaking does not speak to the use of either preliminary or conditional test methods as a means for fulfilling the reporting requirements for these substances and recommended that the Department should revise the PM_{2.5} and

NH₃ portions of subchapter 21 to include references to the preliminary and conditional test methods for these substances and repropose these changes. (13)

RESPONSE: As discussed in the response to comment 15, New Jersey must now include PM_{2.5} and NH₃ emissions information in its Emission Inventory Report pursuant to 40 C.F.R. §51.15. The Department is aware that there may not be a USEPA-approved test method for every type of source or every pollutant and, therefore, does not require any facility to conduct testing or use any specific methods. The rule requires only that the best “reasonably available” estimation method be used in reporting emissions. Since the Emission Statement rule does not mandate testing or specify methods, there is no need or purpose for including specific references to the preliminary PM_{2.5} or conditional NH₃ test methods in the rule.

17. **COMMENT:** One commenter suggested that the Department itself should calculate facility emissions of fine particulate matter and ammonia since only limited information is available to estimate these emissions. The commenter suggested that the Department could make its own assumptions using the total suspended particulate (TSP) and PM₁₀ emissions data provided on a facility’s Emission Statement in order to obtain emissions data that is more consistent and uniformly distributed than otherwise would be the case. (3)

RESPONSE: The Department appreciates the commenter’s suggestion, but remains confident that the emission estimation methods currently available from the USEPA’s Emission Inventory Improvement Program and other reference sources specifically developed for this purpose will provide adequate consistency and uniformity in the data reported by facilities on their Emission Statements for PM_{2.5} and/or ammonia emissions, and will provide facilities with adequate means to estimate these emissions. The Department acknowledges that if, as the commenter suggested, it were to calculate all facility emissions using a single source of emission factors for PM_{2.5} and ammonia emissions, consistent and uniform emission estimates would result. The PM_{2.5} and ammonia emissions reported on the Emission Statement, should, however, be the most accurate estimates based on the facility’s insights and familiarity with the particular source operation.

18. **COMMENT:** One commenter asked that the Department identify which sources should be included in the emission calculation for carbon dioxide (CO₂) and methane (CH₄), which, by virtue of their "natural" qualities and biogenic sources, are very different from currently regulated air contaminants. The commenter suggested limiting emission reporting of CO₂ and CH₄ to significant sources in order to reduce the reporting burden for industry and the overwhelming requests for guidance that would be received by the Department (whether trees, for example, could be used to net emissions). (5)

RESPONSE: The adopted rules require facilities to report facility-wide emissions of carbon dioxide and methane; that is, the sum of emissions of these pollutants from all sources included in the Emission Statement. The Emission Statement reporting program gathers emission data from stationary emission sources and thus does not include natural or biogenic sources. Emissions from natural or biogenic sources are calculated by the Department and included as a separate category in the New Jersey Emissions Inventory. The Department believes that the reporting burden, even without limiting reporting requirements to significant sources, will not be unreasonable. The Department will, as it has in the past, continue to offer guidance to facilities on how to keep this burden to a minimum without compromising the integrity of the data collected. The Department has updated its Emission Statement Guidance Document to incorporate new guidance for the regulated community on how to minimize the burden of reporting carbon dioxide and methane emissions.

19. **COMMENT:** One commenter commended the Department for its efforts to improve the accuracy and clarity of emission data reported by facilities in New Jersey and for taking a leadership role in accounting for greenhouse gas emissions in the State. The commenter stated that comprehensive and accurate emission inventories are the foundation for rulemaking and measuring progress in achieving emission reduction goals. (7)
20. **COMMENT:** One commenter applauded the Department for requiring the reporting of toxic air pollutant emissions by facilities on Emission Statements because data reflecting actual emissions, rather than emissions data based on a facility's potential to emit (PTE), provide more accurate emissions information upon which the Department can develop regulatory initiatives. Another commenter expressed strong support for New Jersey's facility-level reporting approach which targets all facilities with emissions over a specified amount, as this approach provides a more complete representation of the overall emissions performance of relevant companies and industries. The commenter stated further that this approach eliminates the concern that an entity could be reporting an emission reduction at one site when its overall emissions are increasing. (2, 4)

RESPONSE to Comments 19 and 20: The Department acknowledges and appreciates the support expressed by the commenters.

21. **COMMENT:** One commenter noted that since emissions from some "exempt activities," as defined in N.J.A.C. 7:27-22, Operating Permits, may have been previously covered under the fugitive emission category of the Emission Statement, their inclusion in the new rule could lead to difficulty considering the specific requirements of N.J.A.C. 7:27-21.5. The commenter stated that only a few of these "exempt activities" have the potential of emitting Table 1 air contaminants. The commenter suggested that, with the expansion of reporting to include listed TAPs, CO₂, and methane, a potential can of worms is opened,

and asked if we really need to be accounting for emissions from offices, kitchens, and bathrooms. The commenter stated that many of these activities occur at many locations throughout the State that do not report emissions and are or should be dealt with as area sources.

The commenter conjectured that the Department may be considering providing clarification in its Emission Statement Guidance Document as to those sources that need not be included in the emissions accounting, but at this time that document is not in place. The commenter suggested that since the list of "exempt activities" are already defined elsewhere in Chapter 27, the Department should make the determination as to which of these activities should be included for the purposes of Emission Statements. The commenter recommended that the "exempt activities" listed in the air permitting rules be exempt from the Emission Statement reporting requirements, or, if included, should be expressly listed in the rule as sources to identify and quantify. (5)

RESPONSE: The Department addresses the process for determining which emissions to report in an Emission Statement at N.J.A.C. 7:27-21.3(h). Sources of emissions that the Department otherwise accounts for in its Emission Inventory, such as emissions from painting of structures at a facility and from light-duty motor vehicles driven at the facility, are examples of excluded emissions from source operations. Additional examples are provided in the Emission Statement Guidance Document. If a reporting facility continues to have questions about whether or not to include the emissions from a particular operation when estimating facility-wide emissions, the Department's Emission Statement unit will answer any questions that may arise.

The commenter is correct in pointing out that "exempt activities," as defined in the Operating Permit rules at N.J.A.C. 7:27-22.1, are not excluded from the emission reporting requirements pursuant to N.J.A.C. 7:27-21.5, either under the prior or amended rule. The objective of the Emission Statement program is to gather estimates of point-source emissions from regulated facilities unless the emissions are estimated in another portion of the Emission Inventory. The commenter is correct in noting that some of the "exempt activities" defined at N.J.A.C. 7:27-22.1 are typical of area sources and should not be reported in the Emission Statement. However, not all activities defined as "exempt activities" at N.J.A.C. 7:27-22.1 are excluded from Emission Statement reporting requirements; for example, laboratory hood emissions must be included.

22. **COMMENT:** Several commenters expressed concern that the Department's reporting schedule for the additional reportable air contaminants is overly aggressive and provides insufficient time for facilities to make the transition from the existing emission reporting requirements to the new reporting requirements. These commenters recommended that the Department consider dedicating reporting year 2002 as a "pilot" run, during which

time facilities would voluntarily report. The commenters also suggested that the Department establish a working group with industry in order to implement the expanded emission reporting requirements. (1, 6, 7, 12)

RESPONSE: The Department agrees with the commenters' suggestions that the Department delay full implementation of the expanded emission reporting program using the Remote Access Data Information User System (RADIUS) until reporting year 2003 and initiate a voluntary "pilot" reporting program for reporting year 2002. Therefore, upon adoption, the Department is deferring for one year the implementation of the reporting schedule to allow sufficient time for regulated entities to comply with the additional reporting requirements. As amended, N.J.A.C. 7:27-21.3(b)1 and 2 provide that higher PTE facilities will commence reporting emissions of carbon dioxide, methane and TAPs beginning with reporting year 2003 (to be submitted in 2004). Lesser PTE facilities will commence reporting emissions of TAPs beginning with reporting year 2005 (for emissions that occur in calendar year 2005 to be submitted in 2006). In addition, the Department has established a working group to streamline the transition to the new reporting format and to solicit comments regarding enhancements to the RADIUS program. The initial meeting of the working group was held on November 20, 2002. The Department intends to hold additional meetings in the future and to work closely with industry to identify and resolve issues related to reporting format, availability of emission factors, the provision of needed guidance, and to establish consistent procedures and policies for reporting emissions.

23. **COMMENT:** One commenter suggested that requiring the inclusion of TAP emissions from all sources in facility totals, including exempt activities, and insignificant and fugitive sources will be burdensome. The commenter suggested that such minor sources of emissions would not, by their nature, play a relevant role in aggregate TAPs emissions. The commenter suggested further that the resources spent on the analysis of insignificant sources may be excessive compared to the value of this emission data, given the minute level of detail that could be required for such analysis. The commenter asked the Department to consider placing some limitation on which sources need to be quantified. The commenter suggested limiting emission quantification to significant sources only, or significant sources plus all other sources expected to exceed specified actual emission levels, in order to streamline the process without sacrificing the quality of data. (5)

RESPONSE: The objective of the Emission Statement program is to obtain actual emissions from all point sources at a facility for inclusion in the point source emissions inventory, provided that they are not already accounted for in the area source or mobile source emission inventories. The Department is aware that emission reporting of TAPs presents a unique case in that many of the TAPs emissions co-occur with particulate matter (PM) and volatile organic compounds (VOCs). However, these TAPs are not

‘counted’ separately as toxics, only as part of a larger group of PM or VOCs. The inclusion of TAPs from insignificant (that is, unpermitted) and fugitive sources, is consistent with the Department’s interest in assessing public health and the risk from TAPs and is also consistent with the Department’s practices in implementing its subchapter 8 and 22 permitting rules. In this regard it should be noted that emissions from these types of sources, although insignificant (that is, unpermitted) or not venting through a stack (that is, fugitive), are not necessarily small in magnitude. Accordingly, it is important that this emission data be captured. The Department intends to minimize the burden on reporting facilities by providing them with clear guidance and direction on how to calculate TAPs emissions from small sources while expending no more effort than is necessary and appropriate for the accurate reporting of total facility-wide toxic air pollutant emissions.

- 24. COMMENT:** One commenter questioned the reasonableness of using the source-based thresholds for hazardous air pollutants (HAPs) set forth at N.J.A.C. 7:27-8, Appendix 1, Table B to establish facility-wide reporting requirements under N.J.A.C. 7:27-21.3(b)2.iii. The commenter suggested that it would be more appropriate to limit the reporting of TAPs to major sources of HAPs as defined in the Clean Air Act. The commenter noted that all other criteria pollutant emission statement reporting thresholds are at or above major facility thresholds (except for facilities that emit between 10 and 25 tons per year of VOCs). The commenter suggested, therefore, that establishing the TAP reporting thresholds at the HAP thresholds (that is, 10 tons per year per pollutant) would be consistent with the current reporting thresholds for criteria pollutants. In the commenter’s opinion, limiting the number of facilities that are required to report TAPs would greatly reduce the burden on the regulated community. (3)

RESPONSE: The Department has chosen to limit the reporting of TAP emissions to only those facilities that are already subject to the Emission Statement rule. The applicability of emission statement reporting requirements is based on a facility’s potential to emit the criteria pollutants listed in N.J.A.C. 7:27-21.2, Table 1. The commenter’s assertion is incorrect that the rule establishes a reporting threshold for all other criteria pollutants so that a reporting facility with emissions below that threshold would not be required to report those emissions. Once a facility is required to submit an Emission Statement, it must report all emissions of all criteria pollutants, regardless of the level of the emissions produced. In the case of TAPs, the reporting thresholds set forth at N.J.A.C. 7:27-8, Appendix 1, Table B are used to determine if emissions information for a particular TAP is to be included. The Department did not use the Federal thresholds for this purpose because those thresholds were established by the Clean Air Act to determine when a facility is considered to be ‘major’ and, therefore, subject to the 40 C.F.R. Part 70 Title V operating permit requirements. These Federal HAP thresholds are not, therefore, relevant to establishing reporting thresholds. For one, the Federal Clean Air Act uses the

same definition of “major source” for each of the hazardous air pollutants (that is, 10 tons per year for an individual HAP or 25 tons per year of all HAPs combined), regardless of toxicity. This threshold is unreasonably high for pollutants such as dioxin which have significantly higher cancer potency. Thus the definition of “major source” for HAPs is not adequately protective of public health. While the use of Federal “major source” thresholds for HAPs would reduce the number of facilities required to report TAP emissions, it would not serve the public health concerns of this rule. As a better measure of public health impacts and to better protect public health, the Department has chosen instead to use the Subchapter 8, Appendix 1, Table B reporting thresholds for HAPs because they are based on unit risk factors and reference concentrations that are more tailored to the individual pollutant. The Department believes that it has used appropriate criteria to establish reporting threshold for TAPs.

- 25. COMMENT:** One commenter suggested that, for simplicity and ease of use, the Department should set forth in N.J.A.C. 7:27-21 the reporting thresholds for the TAPs, consistent with listing of thresholds in N.J.A.C. 7:27-22 and N.J.A.C. 7:27-8. (4)

RESPONSE: The commenter’s suggestion is reasonable and, while there would be some advantage to promulgating these reporting thresholds in N.J.A.C. 7:27-21, the Department has determined instead to reference at N.J.A.C. 7:27-21.3(b) the reporting thresholds set forth at N.J.A.C. 7:27-8, Appendix 1, Table B. This would obviate the need to amend N.J.A.C. 7:27-21 each and every time the Department makes a change or addition to any of the HAP reporting thresholds at N.J.A.C. 7:27-8. By promulgating multiple copies of these thresholds the Department would run the risk of inadvertently failing to make changes to N.J.A.C. 7:27-21 if and when the thresholds are modified at N.J.A.C. 7:27-8. Therefore, to ensure that consistency is maintained, the Department has determined not to promulgate a duplicate copy of these reporting thresholds in subchapter 21.

- 26. COMMENT:** Four commenters questioned the use of the source-based emission permit reporting threshold table found at N.J.A.C. 7:27-8, Appendix 1, Table B, as the basis for requiring the reporting of facility-wide emissions of TAPs. The commenters asserted that to use a source-based threshold to establish facility-wide reporting requirements would appear to be inequitable. One commenter noted that if the emission thresholds for reporting TAPs on a source basis are considered to be de minimis, then the facility-wide emissions of these pollutants should also be considered to be de minimis. The commenters stated that this would limit the number of facilities that are required to report emissions of TAPs and would greatly reduce the reporting burden on the regulated community. (1, 3, 6, 12)

RESPONSE: Because the thresholds established at N.J.A.C. 7:27-8, Appendix 1, Table B (Table B thresholds) serve different purposes in subchapter 8 and 21 (permitting and emission statement reporting, respectively), it is not unreasonable to use them differently in each application. That is, just as it makes sense to apply these thresholds on a source-by-source basis for permitting (where the Department has established an emission threshold level below which the source operation is not required to include these emissions on a permit application) it is not unreasonable to apply these thresholds on a facility-wide basis for Emission Statement reporting. Different considerations are at work in applying these thresholds in the Emission Statement reporting requirements. Specifically, the accuracy of the Emission Inventory will be greatly enhanced if the Department captures this comprehensive emissions information for any facility which exceeds the threshold, even if some of the sources contributing to the facility-wide emissions do not exceed the threshold individually. While applying these thresholds on a facility-wide basis will mean that more facilities will have to report these emissions than if they were applied on a source-by-source basis, any additional recordkeeping burden will be invaluable in enhancing New Jersey's stationary source emissions inventory, which was the purpose of adding these reporting requirements.

27. **COMMENT:** One commenter questioned the reasonableness of establishing the subchapter 8 reporting thresholds for the emission statement program. The commenter suggested that the requirement to report TAPs should be limited to those facilities that are major sources of HAP emissions as defined in the Clean Air Act, since those facilities are, or will be, regulated by the USEPA's Maximum Achievable Control Technology (MACT) regulations, which require the monitoring and reporting of TAPs and HAP emissions. (3)

RESPONSE: As is discussed in the response to comment 24, the Department needs to capture information beyond that which would be provided by the facilities that are major sources for HAPs, both in order to satisfy federal requirements and to develop a more accurate emissions inventory for the State. In addition, the new reporting requirements will provide the Department with more comprehensive information than that provided by the MACT requirements, alone. Only in limited instances will the MACT standards require that a facility report its HAP emissions for the entire facility since MACT standards tend to focus on specific source operations. In addition, the number of facilities subject to the MACT standards is very small in New Jersey, since so many are synthetic minors, that is, sources that have exercised an option to be exempt from the operating permit program by limiting their potential to emit air pollutants below applicability thresholds by means of a federally enforceable order, rule or permit condition. Accordingly, the Department determined that it was necessary to implement these reporting requirements to capture emissions information that will not be generated by the MACT requirements.

N.J.A.C. 7:27-21.5 Required contents of an Emission Statement

- 28. COMMENT:** Several commenters objected to the proposed new requirements at N.J.A.C. 7:27- 21.5(d)2 for detailed reporting of emission point parameters beyond what is currently required, including a description of terrain, frequency and duration of release, the concentration of air contaminants in an emission stream, and density of an emission stream. The commenters noted that such information is not readily available for many source operations, and gathering and reporting such information would be a significant new burden. Additionally, in those cases where emission factors are unavailable, the emission information would be based on a number of complicated variables and assumptions that would result in reporting inaccurate emission information of questionable usefulness. (1, 3, 5, 6, 7)

RESPONSE: The Department agrees that some of the information it proposed requiring to be reported is indeed not necessary on an Emission Statement. The additional reporting burden was an unintended consequence of relocating the description of what constitutes “emission information” from the definition section at N.J.A.C. 7:27-21.1 to N.J.A.C. 7:27-21.5. Therefore, the Department is adopting only N.J.A.C. 7:27-21.5(d) i, and iii, and renumbering these provisions, on adoption, as N.J.A.C. 7:27-21.5(d) i, and ii, respectively.

- 29. COMMENT:** One commenter agreed with the requirement at N.J.A.C. 7:27-21.5(c)4.ii, that Standard Classification Codes (SCC) be provided at the operating scenario level for sources regulated by batch production plant permits. The commenter suggested that the Department explicitly expand this same treatment to sources regulated by pilot plant permits. The commenter suggested that requiring pilot plants to enter SCC codes at the equipment-specific level will not provide the Department with meaningful data, since equipment in pilot plants is often used for different purposes, just as it is in batch production plants. The commenter pointed out, for example, that in a non-dedicated batch pharmaceutical manufacturing operation a piece of equipment could be used as a reactor in one operating scenario, as an evaporator in another and as a distillation column in yet a third operating scenario. The commenter stated that the level of effort associated with specifying the SCC information at the equipment level is not warranted, given that batch production and pilot plant permits are written around operating scenarios. (13)

RESPONSE: The Department agrees that it may be appropriate in some cases for the SCC and emissions information from sources permitted as pilot plants that utilize batch production processes to be reported as is provided for sources permitted as batch production plants. Since this treatment may not be appropriate for all pilot plants, the Department has not explicitly included all pilot plants. To reduce the recordkeeping and reporting effort, the Department suggests that a facility follow the same organization of equipment, emission units, and operating scenarios as described in the facility’s permits in

reporting its air emissions in an Emission Statement. The objective of the Department is to obtain the required information by the most efficient means within the constraints of the standardized reporting format.

30. **COMMENT:** One commenter asked why at N.J.A.C. 7:27- 21.5(d)1, the Department is requiring that the control efficiency of a control device be expressed as its "actual control efficiency." This change would remove the option of using "design efficiency" to express the efficiency of a control device if the "actual control efficiency" information is unavailable. The commenter provided the example of a source that does not require emission testing or monitoring, and for which, therefore, there would be no actual control efficiency data to report. The commenter noted that even if actual emission data is available from stack testing or continuous emission monitors, the uncontrolled emissions may be unknown if the unit never operates without controls. The commenter noted further that certain control devices are inherent to the design of the unit and do not have control efficiencies associated with them. The commenter asked the Department to explain how it intends to address this issue. (7)

RESPONSE: The Department did not intend to change the scope of the information requested for a control device from the existing rule, so as to require a facility to conduct any testing or monitoring. The Department inadvertently omitted the existing option of reporting the "design efficiency" where actual capture efficiency or actual removal efficiency is not available. Therefore, to address the concerns expressed by the commenter, the Department has amended N.J.A.C. 7:27-21.5(d)1v. on adoption as follows:

- v. ***[Actual]**Overall control efficiency, actual* capture *efficiency* and *actual* removal efficiency *[and overall control 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*;**

Furthermore, if a control device is integral to the design of a piece of equipment or process (for example, a condenser on a distillation column) then it should not be listed as a control device, in which case efficiency information would not be required.

31. **COMMENT:** One commenter stated that the proposed requirement that emission information be reported for both the "ozone season" and the "peak ozone season" would add a layer of complexity to the reporting process and is confusing. In addition, the commenter stated that the term "peak ozone season" is not defined in the rule. The commenter questioned whether the Department actually intended to seek emissions

information for two separate ozone seasons and, if so, whether the Department could accomplish its objective by requiring information for just one of these ozone seasons. (7)

RESPONSE: The commenter is correct in noting that the Department is now asking for two different sets of data to be included in the Emission Statement. N.J.A.C. 7:27-21.5(f) now requires the reporting of the actual emissions of VOC and NO_x in tons during the “ozone season” (May 1 through September 30) and in pounds per day during the “peak ozone season” (June 1 through August 31), as well as the average actual emission rates of VOC and NO_x (in pounds per day) during the “peak ozone season.” The Department added the new “ozone season” reporting requirements to satisfy the requirement for this information established by the USEPA in its NO_x SIP call (40 C.F.R. 50.121). The NO_x SIP call established NO_x budgets for the entire “ozone season” and, therefore, the Department needs to capture this emissions information. The NO_x SIP call calls on the 22 affected States (including New Jersey) and the District of Columbia to submit State Implementation Plan (SIP) revisions providing for NO_x reductions in order to reduce the amount of ozone and ozone precursors transported among states. As part of the SIP call, the USEPA established emission reporting requirements that had to be included in the required SIP revisions. The NO_x SIP call reporting requirements are specified in 40 C.F.R. 51.122, and referenced in the USEPA’s recently-adopted "Consolidated Emission Reporting Rule," 67 Fed. Reg. 39602 (Monday, June 10, 2002), 40 C.F.R.51, Subpart A at 40 C.F.R. §51.10. The “ozone season” reporting requirements do not, however, replace the daily rate in the “peak ozone season” reporting requirements currently contained within the Department’s Emission Statement rules. The USEPA’s new Consolidated Emission Reporting Rule recodifies and reflects the longstanding requirement from the federal Clean Air Act and the USEPA that states prepare daily emission inventories for this “peak ozone season.” These peak ozone season requirements continue to provide information that forms the basis of the Department’s emission inventories for ozone precursors. This information would not be provided by data provided for the “ozone season.”

As to the commenter’s perception that the term “peak ozone season,” is not defined in the proposal, the Department notes that only those provisions of the existing rule that were subject to change appeared in the proposal. Since the Department did not propose to change the existing definition of the term “peak ozone season” that is codified at N.J.A.C. 7:27-21.1, the definition of this term is not reflected in the proposal.

32. **COMMENT:** One commenter raised the concern that with many more small businesses subject to emission reporting, the new requirement for electronic submittal of an Emission Statement provides insufficient relief to small businesses. (9)

RESPONSE: A facility is subject to the emission reporting requirements only if the facility emits one or more of the listed criteria pollutants in excess of the reporting threshold set forth in Table 1, N.J.A.C. 7:27-21.2. Except for adding PM_{2.5} and ammonia, this rulemaking does not change any of the applicability thresholds. It is the Department's expectation, therefore, that the revisions made to subchapter 21 by this rule adoption will not result in any significant increase in the number of small facilities that will be required to report facility emissions.

33. **COMMENT:** One commenter stated that the requirements at N.J.A.C. 7:27-21.5(d) for control devices and emission points is confusing and contradicts the current field required to be completed in RADIUS. The commenter also indicated that this section appears to require facilities to reiterate all of the detailed emissions information for control devices and for emission points. The commenter suggested the Department restructure and edit N.J.A.C. 7:27-21.5(d) in order to clarify where the appropriate data screens are located in RADIUS for reporting control device and emission point emission data and to clarify that the relationship between sources, control devices, and emission points is defined under the Emission Unit/Batch Process Inventory screen. (4)

RESPONSE: The Department agrees with the commenter that N.J.A.C. 7:27-21.5(d) should be amended upon adoption to remove unnecessary and redundant emission reporting requirements. The intent of the Emission Statement proposal was to update the emission information required to be submitted to reflect the data currently required on the electronic screens and data fields of RADIUS. One of the unintended consequences of re-locating the description of what constitutes "emissions information" from the definition section at N.J.A.C. 7:27-21.1 to N.J.A.C. 7:27-21.5, however, would have been a requirement that facilities routinely report information that is required only in specific circumstances and an increase in the complexity of information to be reported. In response to the concerns expressed by commenters and in order to correct this unintended consequence, upon adoption the Department is deleting the phrase "whether it is served by control apparatus and, if so, a description of the control apparatus" from N.J.A.C. 7:27-21.5(d)2 and has determined not to adopt the provisions at N.J.A.C. 7:27-21.5(d)2ii, iv, v, and vi. Accordingly, the Department has recodified the provisions at N.J.A.C. 7:27-21.5(d)2iii as 21.5(d)2ii.

34. **COMMENT:** One commenter expressed concern that the emission factors essential for complying with the new emission reporting requirements have yet to be developed and are not included in the USEPA's catalog of emissions factors referred to as AP-42 Emission Factors. As a result, to comply with the new reporting requirement, facilities would need to develop and document unique emission estimation methods for source operations not included in the AP-42. (9)

RESPONSE: It will not be necessary for facilities to develop and document unique emission estimation methods for source operations not included in the AP-42. A source continues to be free to use any reasonably available emission estimation method. The rule only requires documentation for cases where the highest-ranked readily available emission estimation method is not used. The Department is aware that new emission estimation methods have been and continue to be developed, including methods for estimating emissions of fine particulates, ammonia, and air toxics. The Federally-based Emission Inventory Improvement Program (EIIP), a cooperative participatory effort by government air quality officials and industry, has been developing appropriate emission estimation methods, which are now readily available and useable, that can be applied on a pollutant or source operation basis (see <http://www.epa.gov/ttn/chief/index.html>.) To assist reporting facilities, the Department is assembling a list of emission estimation method resources, including the AP-42 emission factors, to be available as a reference guide. In addition, the Department has formed a work group with industry participation to resolve implementation and emission estimation issues related to the new reporting requirements. The first meeting was held on November 20, 2002. In view of the above, the Department believes that facilities that are subject to the new emission reporting requirements will be able to access the emission estimation methods necessary to comply with the revised rule. Again, where such methods are not available, the facility can still use any reasonably available emission estimation method, including, for example, good engineering judgment. In this way, the Department believes most facilities, even where reporting what might be considered de minimis levels of pollutants, will not experience a significant increase in compliance costs.

35. **COMMENT:** One commenter stated that since the proposal did not contain de minimis levels for reporting the new pollutants, the facilities would have to report any quantity of new pollutants. (9)

RESPONSE: It is not true that all reporting facilities will have to report any quantity of the pollutants now required to be reported. For one, this is not true for emissions of TAPs. N.J.A.C. 7:27-21.3(b) provides that if a facility is required to report emissions of any of the listed TAPs, it need do so only to the extent that these emissions exceed the applicable reporting threshold in N.J.A.C. 7:27-8, Appendix 1, Table B. Furthermore, while the rule does not provide a reporting threshold for PM_{2.5}, NH₃ or the greenhouse gases, per se, these emissions need only be reported by higher emitting facilities.

36. **COMMENT:** One commenter objected to the new requirement for detailed emissions information on the grounds that the emission factors essential for complying with the new emission reporting requirements have been established for only a limited number of source operations. The commenter stated further that the factors contained in the AP-42 and

especially the USEPA's Standard Classification Code (SCC) system may not be accurate.
(9)

RESPONSE: The Department understands the limitations on the availability and use of emission factors for TAPs. The Department, however, believes that the reporting facilities are in the best position to provide a reasonable estimate of these emissions because of their knowledge of their processes and materials. Furthermore, facilities may use alternative emission methods rather than AP-42 or other "higher-ranked" methods when they believe these alternative emission estimation methods are more accurate.

37. **COMMENT:** One commenter expressed concern that the new requirement for the electronic filing of the Emission Statement could require the purchase of new computer software and hardware and training for employees to run the software. The commenter speculated that these costs could add hundreds to thousands of dollars to the total cost of the regulatory change. The commenter also speculated that the costs for medium and larger facilities may be even higher if additional employees must be trained or if existing computer systems need to be modified. (9)

RESPONSE: The Department does not foresee the requirement for facilities to submit Emission Statements electronically as posing a financial hardship. The Department has historically provided the RADIUS data entry software package to reporting facilities at no cost. The current version of RADIUS, along with supporting documents and guidance material, can be downloaded from the Emission Statement website at <http://www.nj.gov/dep/aqm/es/emission.htm>. Training in the use of the RADIUS software is available for a nominal cost at an annual Emission Statement training seminar presented in conjunction with Rutgers University. The Department also maintains a telephone helpline to answer questions on downloading and installing RADIUS and on completing an electronic Emission Statement submittal. The Department did not include any costs associated with computer hardware or personnel training in its cost analysis because it assumed that most facilities already have access to suitable computer equipment and currently utilize RADIUS, based, in part, on the fact that 651 Emission Statements, representing more than 97 percent of Emission Statements, are currently submitted electronically. It should be noted that the concept for the electronic submittal of environmental documents originated from a joint Department and industry "Re-Engineering Workgroup" several years ago.

N.J.A.C. 7:27-21.6 Methods to be used for quantifying actual emissions

38. **COMMENT:** One commenter expressed opposition to the Department's requirement at N.J.A.C. 7:27-21.6(a)1 that a facility use the emission quantification method specified in its permit for quantifying its actual emissions, rather than the best available quantification

method listed in Table 3, on the grounds that the method specified in the permit may no longer be the best method for calculating actual emissions. The commenter recommended the Department approve the best available quantification method listed in N.J.A.C. 7:27-21.6(a), Table 3, except where an operating permit defines circumstances such as those described in N.J.A.C. 7:27-21.6(b) and (c), or contains a quantification method specifically defined for purposes of emission statements in the permit. (5)

RESPONSE: It is true that the quantification method specified in a permit may no longer be the best available quantification method, based on Table 3 - Ranking of Methods for Quantifying Actual Emissions. The Department believes, however, that the method specified in the permit would still be the most appropriate quantification method. For one, the method had been determined for that specific source operation at the time of the permit review. Secondly, the method would provide consistency between the method specified in the facility's permit to be used to report emissions data for compliance purposes and the data reported on the facility's annual Emission Statement. Using this method would also reduce the record keeping and reporting burden on the facility. The Department, therefore, is adopting the requirement that a permitted facility use the emission estimation method specified in its permit for compliance demonstration purposes for quantifying emissions for its Emission Statement.

39. **COMMENT:** One commenter strongly recommended that the Department should rely upon the source owner's certification of the Emission Statement and the source owner's knowledge of the process when evaluating the emission estimation method used for calculating actual emissions on an Emission Statement. Specifically, the commenter indicated that the Department should accept the submitted emission statement if it is certified, the justification utilizes one of the quantification methods listed in Table 3, and the calculated emissions are not demonstrably incorrect based upon information readily available at the time of the submission of the Emission Statement. The commenter noted that N.J.A.C. 7:27-21.6 does not authorize the Department to require the use of a higher-ranked quantification method if such use would conflict with the justification provided under paragraph 21.6(c). (4)

RESPONSE: The Department is not mandating the use of specific higher-ranked emission quantification methods in N.J.A.C. 7:27-21.6, Table 3, but rather is providing a hierarchy of preferred methods. Should a facility determine that a lower-ranked estimation method is more accurate, the facility is permitted to use that lower-ranked method under the provisions described in N.J.A.C. 7:27-21.6(b) and (c). If a facility opts to use an emission estimation method that is lower-ranked than the preferred method, the facility is required to document and maintain a record of why the lower-ranked method was selected. This documentation must be kept on file at the facility and made available to the Department upon its request and is essential for preparing future Emission Statements.

- 40. COMMENT:** One commenter suggested that the Department change the relative ranking of the methods listed at N.J.A.C. 7:27-21.6, Table 3, because Method 7, “Manufacturer’s Estimate,” provides a more accurate emission rate than does Method 6, the USEPA’s AP-42. The commenter pointed out that the AP-42 Emission Factors are generally based on an average of tests on different equipment by different manufacturers and are not as source-specific as the “Manufacturer’s Estimate.” (11)

RESPONSE: The Department agrees with the commenter that, in certain circumstances, a manufacturer’s estimate can be a better estimation method than using the USEPA’s AP-42 emission factors. This occurs when a manufacturer’s estimate is based on source-specific information, such as performance stack tests on similar or identical units. On these occasions, the facility may correctly choose a lower-ranking estimation method (“Manufacturer’s Estimate”) and document the rationale for using it. However, the manufacturer’s estimates can also be based on generic emission information for different types of equipment or dissimilar installations and for a limited number of sources. In these cases, the USEPA’s AP-42 methodology may be more reliable due to the greater number of sources included in formulating the estimate. The Department has decided to retain the current rankings in Table 3 and continue to provide facilities the flexibility to use a lower-ranked estimation method in appropriate, documented circumstances.

- 41. COMMENT:** Two commenters recommended that the Department add certain other USEPA-approved emission estimation methodologies, such as computer models or programs (for example, TANKS, WATER9, etc.) or other emission factors developed by the USEPA for pharmaceutical production and batch processes, such as the Control Technology Guidelines (CTG) and Alternative Control Techniques (ACT) documents, to N.J.A.C. 7:27-21.6, Table 3- Ranking of Methods for Quantifying Actual Emissions. Both commenters suggested the Department consider these calculation methods to be of equal ranking to AP-42 emission factors. (11, 13)

RESPONSE: The Department agrees that the USEPA-approved emission estimation methodologies mentioned are suitable for estimating actual emissions. These methods, as well as other USEPA-approved methods, may be considered of equal ranking to AP-42. Table 3 in N.J.A.C. 7:27-21.6 has been revised accordingly on adoption. It should be noted that a facility should always evaluate available emission estimation tools to determine the best methodology for that particular facility and that the rules permit the use of that method, regardless of its ranking on Table 3, as long as the rationale for choosing the method is documented.

N.J.A.C. 7:27-21.8

Certification of information

- 42. COMMENT:** Several commenters stated that N.J.A.C. 7:27-21.8(b)1 should be modified to also allow paper certification of electronic (RADIUS) Emission Statement submittals. One commenter noted that electronic certification cannot be used when software problems with RADIUS result in error messages so that paper certifications are still necessary and should be allowed by the Department. (1, 5, 6, 11, 12)

RESPONSE: The Department currently accepts paper certification of electronically submitted Emission Statements and did not intend to eliminate this option. The new certification provisions at N.J.A.C. 7:27-21.8(b) were intended only to clarify that insertion of a PIN in the signature area of the certification portion of an electronic Emission Statement would serve the same function as a signature on a paper Emission Statement. In drafting these new provisions, the Department inadvertently failed to provide for paper certification of electronically submitted Emission Statements. The Department is correcting this inadvertent omission by amending N.J.A.C. 7:27-21.8(b)1 upon adoption.

N.J.A.C. 7:27-21.9 Request for extension

- 43. COMMENT:** Four commenters suggested that the Department amend N.J.A.C. 7:27-21.9 to permit the Department to extend the Emission Statement due date by publishing a notice of such extension in the New Jersey Register. The commenters suggested such authority as a practical way of dealing with instances when rules or reporting systems undergo significant changes, as was the case in 1999 when it was necessary to synchronize electronic Emission Statement reporting with the implementation of RADIUS. The commenters suggested that the extensive changes to RADIUS resulting from the amendments to subchapter 21 may again require the Department to extend the Emission Statement due date on a program-wide basis, from beginning with reporting year 2002 (submitted by May 15, 2003) to beginning with reporting year 2003 (submitted in May 2004) or thereafter. (1, 7, 12)

RESPONSE: The Department acknowledges the merit of the commenters' suggestion, but has determined not to include at this time such a provision for extension of program-wide submittal deadlines. Should unforeseen circumstances require it to do so, such as the events that led to the extension of the due date in 1999, the Department would modify the due date, as necessary.

- 44. COMMENT:** One commenter suggested that the Department amend N.J.A.C. 7:27-21.10 to specify the time by which the Department has to respond to a facility's claim of non-applicability after which time the Department would be precluded from assessing a penalty against the facility under N.J.A.C. 7:27A- 3.10(m)21. The commenter further suggested that if the Department takes longer than six months to respond to a request for

a determination of nonapplicability, it should not assess any penalty under N.J.A.C. 7:27A-3.10(m)21. (4)

RESPONSE: The deadline for the Department to reply to claims of non-applicability is addressed in the rule at N.J.A.C. 7:27-21.10(e), which provides that the Department will respond to all claims received between February 2 of the preceding calendar year and February 1 of the current year by April 1 of the current year. The Department's failure to meet this deadline for response does not preclude an enforcement action, but a facility's pending claim of non-applicability would certainly be considered in the Department's decision to pursue an enforcement action on a case-by-case basis.

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

- 45. COMMENT:** Three commenters inquired whether the Department intends to assess emission fees for emissions of the new pollutants added to the Emission Statement reporting requirements. One commenter pointed out that N.J.A.C. 7:27-22.31(b)3 provides for the collection of fees "payable on all emissions of any regulated air contaminant except CO" but fails to provide a list of the specific air contaminants for which fees may be charged, allowing for a possible interpretation of N.J.A.C. 7:27-22.31 to include the contaminants now covered by the reporting requirements of subchapter 21. Another commenter recommended that the Department seek input from the affected industries prior to changing the emission fee structure to incorporate new emission fees. This commenter expressed concern that raising emission fees could have negative economic implications for businesses in New Jersey. The commenter recommended that the Department list the individual pollutants for which fees will be charged. (7, 10, 12)

RESPONSE: The Department's emission fee schedule is governed by both N.J.A.C. 7:27-22.31(b)3 in the Operating Permit rule, and the New Jersey Air Pollution Control Act (APCA), in particular, N.J.S.A. 26:2C-9. This rule adoption has no effect on the emission fee provisions of either N.J.A.C. 7:27-22.31 or the APCA, and thus does not affect the universe of air contaminants for which emission fees are assessed. Should the Department at some future date consider expanding this universe of assessable air contaminants it will do so by providing adequate notice.

Summary of Agency-Initiated Changes Upon Adoption:

The Department has made a number of changes on adoption, as follows:

At N.J.A.C. 7:27-21.1, the Department is correcting "SIC" to "SIP";
At N.J.A.C. 7:27-21.3(h), in response to a comment regarding the role of the Guidance Document in determining which emissions need not be reported, the Department has

modified the text at N.J.A.C. 7:27-21.3(h)2 and 3 to clarify that the Guidance Document will continue to provide guidance in the form of examples of those emissions that are otherwise accounted for in the emissions inventory that the State submits to the USEPA for inclusion in the SIP. Consistent with the Department's current practice, facilities can contact the Department's Emission Statement unit if they require additional guidance and a determination as to whether specific emissions are otherwise accounted for in the State's emissions inventory.

At N.J.A.C. 7:27-21.5(d)2i, the Department is adding an "and" between the provisions of N.J.A.C. 7:27-21.5(d)2i and 2ii;

At N.J.A.C. 7:27-21.5(e)1, the Department is adding an inadvertently-omitted "the";

At N.J.A.C. 7:27-21.5(f)2iii, the Department has deleted a misplaced end parenthesis that occurs following the word "fuel";

At N.J.A.C. 7:27-21.5(h), the Department is deleting an extraneous "and";

At N.J.A.C. 7:27-21.6(a)1, the Department is deleting an extraneous "," (comma);

At N.J.A.C. 7:27-21.6(a)2, (b), (b)1, (b)2, (c), (c)1, and N.J.A.C. 7:27-21.7(a)3, the Department is hyphenating the terms "higher-ranked" and "lower-ranked," wherever these terms appear in these provisions;

At N.J.A.C. 7:27-21.10(a), the Department is making a grammatical correction to change "are" to "is" and is replacing "the table" with "Table 1" for greater clarity;

At N.J.A.C. 7:27-21.10(b), the Department is deleting the extraneous "official and the"; and

At N.J.A.C. 7:27-22.6(f)(4), the Department is deleting a superfluous "(on and after operative date of these amendments)."

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 rules which exceed any Federal standards or requirements to include in the rulemaking document a Federal standard analysis.

The Department has compared the adopted amendments to N.J.A.C. 7:27-21, Emission Statements, to analogous Federal regulatory requirements. It has determined that the portions of the adopted amendments to N.J.A.C. 7:27-21 that pertain to the reporting of $PM_{2.5}$ and ammonia (NH_3), a precursor to the formation of $PM_{2.5}$, are needed in order to comply with the Federal regional haze and visibility requirements set forth at 42 U.S.C. §§7491 and 7492 and the Federal regional haze regulations, adopted on July 1, 1999, at 40 C.F.R. Part 51. Under the Federal regulations, states are required to work together regionally to develop regional $PM_{2.5}$ and NH_3 emission inventories. The Department is adopting provisions pertaining to the reporting of $PM_{2.5}$ and NH_3 in order to comply with the State's emission reporting obligations under the USEPA's recently-adopted Consolidated Emission Reporting Rule (67 Fed. Reg. 39602 (Monday, June 10, 2002)(40 C.F.R.51, Subpart A). Finally, the Department is adopting provisions pertaining to the

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reporting of PM_{2.5} and NH₃ in order to comply with the obligation under Section 110 of the Federal Clean Air Act (42 U.S.C. §7410) to prepare a State Implementation Plan for PM_{2.5} should any area of the State be found in non-attainment with the National Ambient Air Quality Standard for PM_{2.5}.

The portions of the adopted amendments to N.J.A.C. 7:27-21 that pertain to reporting of emissions of greenhouse gases and TAPs are not being promulgated under the authority of or in order to implement or comply with any program under Federal law, or under a State statute that incorporates or refers to Federal law, Federal standards or Federal requirements. The Department has determined that at present there are no analogous Federal regulatory requirements. No Federal laws or regulations require that a State mandate that its facilities report their actual emissions of greenhouse gases or hazardous air pollutants. The Department is proposing these amendments based on its determination that the reporting of actual emissions of certain greenhouse gases and air toxics is necessary to provide the Department with sufficient information to determine if the health, safety and welfare of New Jersey citizens is sufficiently protected; to develop well-targeted and cost-effective regulatory programs, if and as needed; and/or to track progress toward meeting the State's environmental goals. The Social, Environmental, and Economic Impact statements of the proposal of this rulemaking provide a more detailed discussion of the policy reasons for adopting these additional reporting requirements and the costs and benefits of the rulemaking, respectively.

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

SUBCHAPTER 21. EMISSION STATEMENTS

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.

...

“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>.

...

“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.

...

“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 C.F.R. 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.

...

“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.

...

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

...

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

...

“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.

...

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

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

...
“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 [micrometers] microns.

...
“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.

“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.

“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.

...

“State implementation plan *[(SIC)]****(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.

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

“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.

...

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“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 C.F.R. 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.

...

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 to 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) - (d) (No change.)

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 *[2004]* ***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 *[2002]* ***2003***;
 - ii. Beginning with the Emission Statement for reporting year *[2002]* ***2003*** and for each year thereafter, the greenhouse gases CO₂ and CH₄; and
 - iii. Beginning with the Emission Statement for reporting year *[2002]* ***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.
- (c) - (e) recodified as (e) - (g) (No change in text.)
- (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
 - ii. 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. Emission from source operations *[which are area sources or mobile sources, and whose emissions are accounted for by the Department and are included in the area source and mobile source components of the air emission inventory.
 - 3. Notwithstanding (h)1 above, the following types of emissions shall be excluded from the emissions reported in an Emission Statement:
 - i. Emissions from "otherwise accounted-for sources." "Otherwise accounted for sources" are:

- (1) Sources of emissions]* 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 *[of such sources of emissions]* include ***emissions from* the painting of structures at the facility *[and]* *emissions from* light-duty motor vehicles driven at the facility*[*] and ***emissions from delivery vessels such as locomotives and tugboats.** **Further examples are provided**
 - *(2) Listed and identified as not to be reported]* in the Department's Emission Statement Guidance Document*[*]; and
 - ii. Except for the types of emissions listed in (h)1ii and iii above, emissions associated with delivery vessels (for example, motor vehicle tailpipe emissions, locomotives, and tugboats)]*.**

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
P.O. 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;

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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.

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. (No change.)
 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); actual capture and removal efficiency and actual overall control efficiency;
 - v. ***[Actual]**Overall control efficiency, actual* capture *efficiency* and *actual* removal efficiency *[and overall control 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; *[whether it is served by a control apparatus and, if so, a description of the control apparatus;]* 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. *[Description of terrain, surrounding structures, and other features (for example, the distance to the property line, specification of adjacent structures, and terrain descriptions such as mountainous, urban, or rural);
 - iii.]* Stack or vent diameter at point of emissions (the inside diameter of vent at the point of emission to the atmosphere);
 - *[iv. Frequency and/or duration of release;
 - v. Concentration of an air contaminant in an emission stream (for example, the amount of an emission stream constituent relative to other stream constituents, expressed in appropriate units (parts per million (ppm), volume percent, or weight percent)); and
 - vi. Density of the emissions stream or its average molecular weight (for example, density expressed as a fraction or multiple of the density of air; or molecular weight);]*
 - 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 ***[at N.J.A.C. 7:27-21.2]*** is less than the applicable reporting threshold set forth ***[at N.J.A.C. 7:27-21.2]*** in Table 1, source operation level emission information shall be given only for NO_x, VOC, and CO.

- (f) Emissions 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; *[and]* these cumulative total fugitive emissions shall be added to the facility's other emissions to determine the facility's total emissions.
- (i) (No change in text.)

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]* ***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

Rank	Method
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]* ***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]* ***lower-ranked*** method results in more accurate quantification of emissions than what would have been achieved using any *[higher ranked]* ***higher-ranked*** method that is reasonably available; or
 2. Use of the *[lower ranked]* ***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]* ***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]*

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-ranking]*** ***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.

7:27-21.7 Record keeping 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]*** ***lower-ranked*** method for quantifying emissions.
- (b) (No change.)
- (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.

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 judgement, 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. (No change.)

- (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.

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
P.O. 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.

7:27-21.10 Determination of non-applicability

- (a) If the construction and/or operation of a facility **[are] *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 **[the table] *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 official]** 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:

This adoption was filed with the Office of Administrative Law which may have edited it before publishing it in the New Jersey Register. Please refer to the February 18, 2003 New Jersey Register for the official text of the adoption.

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
P.O. 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.

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.

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

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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

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

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

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.

...

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

...

"NSPS" means Standards of Performance for new stationary sources as promulgated under 40 C.F.R. 60, commonly referred to as New Source Performance Standards.

...

"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.

...

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

...

7:27-22.6 Operating permit application contents

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

(f) An application for an initial operating permit shall include all information required by the application form, the instructions accompanying the application form, and the applicable completeness checklist(s) for the application. This shall include, but is not limited to, the following:

1. - 3. (No change.)

4. A general description of each of the facility's production processes and products in sufficient detail to determine which applicable requirements apply to the facility, including but not limited to, for each production process ***[(on and after operative date of these amendments)]*** its NAICS code. The description shall set forth for each production process:

i. - iii. (No change.)

5. - 12. (No change.)

(g) - (n) (No change.)

7:27-22.31 Fees

(a) (No change.)

- (b) Emission fees shall be paid by January 31 of each fiscal year, except for the emission fee for fiscal year 1995, which is due October 8, 1995. 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, 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, or an Emission Statement has not been filed for a source operation, the emission fee shall be based on permitted emissions, 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 emission fee shall be calculated as follows:
1. - 3. (No change.)

- (c) - (s) (No change.)

CHAPTER 27A
AIR ADMINISTRATIVE PROCEDURES AND PENALTIES
SUBCHAPTER 3. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR
ADJUDICATORY HEARINGS

7:27A-3.2 Definitions

The following words and terms, when used in this subchapter, have the following meanings unless the context clearly indicates otherwise. Unless otherwise specified below, all words and terms are as defined in N.J.A.C. 26:2C-2 and in N.J.A.C. 7:27.

"AAQS" means Ambient Air Quality Standards, as defined in N.J.A.C. 7:27-13.

...

"Continuous opacity monitor" or "COM" means a device which continuously measures opacity of flue gases.

...

"HAP (Table B)" means a hazardous air pollutant listed in N.J.A.C. 7:27-8, Appendix 1, Table B.

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

"NESHAP" means a National Emission Standard for a Hazardous Air Pollutant as promulgated under 40 C.F.R. Part 61 or Part 63.

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

...

"PSD" or "prevention of significant deterioration" means the requirements pursuant to 40 C.F.R. 51.166, administered through the Department's permitting process, which apply to a new or

modified major facility located in an attainment area. The Department accepted delegation of the administration of the PSD program from EPA on February 22, 1983.

...

“TXS” means a substance listed in Table 1 of N.J.A.C. 7:27-17.3.

“Vapor pressure” means the pressure of the vapor phase of a substance, or the sum of the partial pressures of the vapor phases of individual substances in a mixture of substances, when in equilibrium with the non-vapor phase of the substance or substances.

...

7:27A-3.10 Civil administrative penalties for violation of rules adopted pursuant to the Act

(a) - (l) (No change.)

(m) The violations of N.J.A.C. 7:27 and the civil administrative penalty amounts for each violation are as set forth in the following Civil Administrative Penalty Schedule. The numbers of the following subsections correspond to the numbers of the corresponding subchapter in N.J.A.C. 7:27. The rule summaries for the requirements set forth in the Civil Administrative Penalty Schedule in this subsection are provided for informational purposes only and have no legal effect.

CIVIL ADMINISTRATIVE PENALTY SCHEDULE

1. - 4. (No change.)

5. The violations of N.J.A.C. 7:27-5, Prohibition of Air Pollution, and the civil administrative penalty amounts for each violation, per source, are as set forth in the following tables:

Citation	Fourth and Each			
	First Offense	Second Offense	Third Offense	Subsequent Offense
N.J.A.C. 7:27-5.2(a), the emission of air contaminants in such quantities and duration as are, or tend to be, injurious to human health or welfare, animal or plant life or property				
Maximum Penalty Per Violation	\$10,000 ⁷	\$25,000 ⁷	\$50,000 ⁷	\$50,000 ⁷
The maximum penalty may be reduced by applying the following factors:				
(1) (No change.)				
(2) Magnitude of Problem				
(A) (No change.)				

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Citation

		First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
(B)	Nature of Air Contaminant ⁹				
	Particulates & other air contaminants:	15% Reduction from the maximum penalty			
	VOC, NO _x or other criteria pollutant:	5% Reduction from the maximum penalty			
	EHS, TXS or NESHAP:	0% Reduction from the maximum penalty			
(C) - (E)	(No change.)				

⁷ For instance, for the first offense, if the violator takes remedial measures to mitigate the effects of the violation, the Department may reduce \$1,500 (15%) from the maximum penalty. Further, if the violator takes measures that can reasonably be expected to prevent a recurrence of the same type of violation, the Department may reduce an additional \$2,000 (20%) from the maximum penalty. Further, if there are less than three complainants related to the violation the Department may reduce an additional \$2,000 (20%) from the maximum penalty. Further, if an air contaminant emitted is not a VOC, NO_x, criteria pollutant, EHS, TXS, or NESHAP the Department may reduce an additional \$1,500 (15%) from the maximum penalty. Further, if the air contaminant emitted is less than 22.8 pounds in any one hour to the atmosphere the Department may reduce an additional \$1,500 (15%) from the maximum penalty. Further, if the air contaminant emitted into the atmosphere covers an area of less than ½ square mile, the Department may reduce an additional \$1,500 (15%) from the maximum penalty. Further, if there is no off-site property damage from the air contaminant the Department may reduce an additional \$1,500 (15%) from the maximum penalty. Summing the total penalty reduction percentages results in a total reduction of 115%. However, an assessed penalty may not be reduced by more than 95% of the maximum penalty; therefore, the maximum reduction for the first offense penalty of \$10,000 would be \$9,500 resulting in an assessed penalty of \$500.00.

⁹ VOC (N.J.A.C. 7:27-16)
EHS (N.J.A.C. 7:31-1)
NO_x (N.J.A.C. 7:27-19)
Criteria pollutant (N.J.A.C. 7:27-13)
TXS (N.J.A.C. 7:27-17)
NESHAP (40 C.F.R. 61)

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Citation	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.A.C. 7:27-5.2(a), the emission of air contaminants in such quantities and duration as would unreasonably interfere with the enjoyment of life or property and which are not, or do not tend to be, injurious to health or welfare, animal or plant life or property				
Base Penalty per Violation	\$1,000 ¹	\$2,000 ¹	\$5,000 ¹	\$15,000 ¹
i. The base penalty may be reduced or increased by applying the following factors, as applicable. The civil administrative penalty for each violation is calculated by summing the base penalty and the increase or decrease from the base penalty for each of the applicable factors in i(1) through (4) below.				
(1) - (2) (No change.)				
(3) Nature of Air Contaminant ²				
(A) VOC, NO _x or other criteria pollutant:	15% increase to the base penalty			
(B) EHS, TXS or NESHAP:	20% increase to the base penalty			
(4) (No change.)				

¹ For instance, for the first offense, if the violator takes immediate remedial measures to mitigate the violation, the Department may reduce \$150.00 (15%) from the base penalty. Further, if the violator takes measures that can reasonably be expected to prevent a recurrence of the same type of violation, the Department may reduce an additional \$200.00 (20%) from the base penalty. Further, if there are less than three complainants related to the violation there is no increase to or reduction from the base penalty. Further, if an air contaminant emitted is not a VOC, AAQS, EHS, TXS, or NESHAP there is no increase to or reduction from the base penalty. Further, if this is the first violation of N.J.A.C. 7:27-5.2(a) for the facility within five years immediately preceding the date of the pending violation and the violator can demonstrate that it was in full compliance with the terms and conditions in all Department permits and certificates related to the pending violation and with all air pollution control permits and certificates, the Department may reduce an additional \$500.00 (50%) from the base penalty. Therefore, the minimum assessed penalty for the first offense under this section would be \$150.00. In this example, all of the reductions were taken to the fullest extent to result in the minimum penalty.

² VOC (N.J.A.C. 7:27-16)
EHS (N.J.A.C. 7:31-1)
NO_x (N.J.A.C. 7:27-19)
Criteria pollutant (N.J.A.C. 7:27-13)
TXS (N.J.A.C. 7:27-17)
NESHAP (40 C.F.R. 61)

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6. - 7. (No change.)

8. The violations of N.J.A.C. 7:27-8, Permits and Certificates, and the civil administrative penalty amounts for each violation, per source, are as set forth in the following table:

Citation	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.A.C. 7:27-8.3(a) Obtain Preconstruction Permit				
Class: Estimated Potential Emission Rate of Source Operation				
1. - 4. (No change.)				
5. Regulated pursuant to NSPS, NESHAP, PSD, EOR, TXS and HAP (Table B) ⁶	\$2,000	\$4,000	\$10,000	\$30,000

Citation	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.A.C. 7:27-8.3(b) Obtain Certificate				
Class: Estimated Potential Emission Rate of Source Operation				
1. - 4. (No change.)				
5. Regulated pursuant to NSPS, NESHAP, PSD, EOR, TXS and HAP (Table B) ⁶	\$2,000	\$4,000	\$10,000	\$30,000

...

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Citation	Rule Summary	Fourth and Each			
		First Offense	Second Offense	Third Offense	Subsequent Offense
N.J.A.C. 7:27-8.3(e)	Emissions Detected by Stack Tests from Source Operation Class: Maximum Allowable Emissions				
...					
For greater than 22.8 pounds per hour, or greater than 5.7 pounds per hour for VOC and NO _x or air contaminants regulated pursuant to HAP (Table B) ⁶ :					
1. - 3. (No change.)					

Citation	Rule Summary	Fourth and Each			
		First Offense	Second Offense	Third Offense	Subsequent Offense
N.J.A.C. 7:27-8.3(e)	Preconstruction Permit and Certificate Conditions and Provisions Class: Emissions from Source Operation				
1. - 4. (No change.)					
5.	Regulated pursuant to NSPS, NESHAP, PSD, EOR, TXS and HAP (Table B) ⁶	\$3,000	\$6,000	\$15,000	\$45,000

_____...

⁴⁻⁵ (No change.)

⁶ NSPS (40 C.F.R. 60)
NESHAP (40 C.F.R. 61)
PSD (40 C.F.R. 51)
EOR (N.J.A.C. 7:27-18)
TXS (N.J.A.C. 7:27-17)
HAP (N.J.A.C. 7:27-8, Appendix1, Table B)

9. - 20. (No change.)

21. The violations of N.J.A.C. 7:27-21, Emission Statements, and the civil administrative penalty amounts for each violation are as set forth in the following table:

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Citation	Class	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.A.C. 7:27- 21.3(a)	Failure to Submit	\$2,000	\$4,000	\$10,000	\$30,000
N.J.A.C. 7:27-21.5(a)	Failure to Certify	\$2,000	\$4,000	\$10,000	\$30,000
N.J.A.C. 7:27-21.5(a)- (i)	Omission of Required Information	\$500	\$1,000	\$2,500	\$7,500
N.J.A.C. 7:27-21.7(a)	Failure to Keep Records	\$500	\$1,000	\$2,500	\$7,500
N.J.A.C. 7:27-21.7(b)	Failure to Make Records Readily Available	\$500	\$1,000	\$2,500	\$7,500
N.J.A.C. 7:27-21.7(c)	Failure to Timely Submit Copy of Records	\$500	\$1,000	\$2,500	\$7,500
N.J.A.C. 7:27-21.3(c) and 21.10(f)	Failure to Obtain Department Approval of Claim of Non-applicability Prior to Discontinuing Submittal	\$100	\$200	\$500	\$1,500

22. The violations of N.J.A.C. 7:27-22, Operating Permits, and the civil administrative penalty amounts for each violation, per source operation, are set forth in the following tables:

Citation	Rule Summary	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.A.C. 7:27-22.3(a)	Obtain and Maintain Operating Permit				
Class: Estimated Potential Emission of Source Operation					
1. - 4. (No change.)					
5.	Regulated pursuant to NSPS, NESHAP, PSD, EOR, TXS and HAP (Table B) ⁶ NES	\$2,000	\$4,000	\$10,000	\$30,000

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Citation	Rule Summary	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.A.C. 7:27-22.3(b)	Obtain Operating Permit Before Operation				
Class: Estimated Potential Emission of Source Operation					
1. - 4. (No change.)					
5.	Regulated pursuant to NSPS, NESHAP, PSD, EOR, TXS and HAP (Table B) ⁶	\$2,000	\$4,000	\$10,000	\$30,000

Citation	Rule Summary	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.A.C. 7:27-22.3(c)	Emissions Not Detected by Continuous Monitoring System or Stack Test				
N.J.A.C. 7:27-22.3(d)	Proper Operation				
N.J.A.C. 7:27-22.3(e)	Other Conditions				
Class: Emission of Source Operation					
1. - 4. (No change.)					
5.	Regulated pursuant to NSPS, NESHAP, PSD, EOR, TXS and HAP (Table B) ⁶	\$3,000	\$6,000	\$15,000	\$45,000

Citation	Rule Summary	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.A.C. 7:27-22.3(e)	Emissions Detected by Stack Test				
Class: Maximum Allowable Emission of Source Operation					

...

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Citation	Rule Summary	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.A.C. 7:27-22.3(e)	Emissions Detected by Stack Test				
Class: Maximum Allowable Emission of Source Operation					
Greater than 22.8 pounds per hour, or greater than 5.7 pounds per hour for VOC and NO _x , or air contaminants regulated pursuant to HAP (Table B): 1.- 3. (No change.)					
...					

Citation	Rule Summary	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.A.C. 7:27- 22.14(d)	General Operating Permit Terms and Conditions				
Class: Estimated Potential Emission Rate of Source Operation					
1. - 4. (No change.)					
5. Regulated pursuant to NSPS, NESHAP, PSD, EOR, TXS and HAP (Table B)		\$3,000	\$6,000	\$15,000	\$45,000

Citation	Rule Summary	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.A.C. 7:27- 22.15(b)1	Temporary Facility Operating Permit Requirements				
Class: Emission of Source Operation					
1. - 4. (No change.)					
5. Regulated pursuant to NSPS, NESHAP, PSD, EOR, TXS and HAP (Table B) ⁶		\$3,000	\$6,000	\$15,000	\$45,000
...					

-
- 4 (No change.)
 5 (Reserved)
 6 NSPS (40 C.F.R. 60)
 NESHAP (40 C.F.R. 61)
 PSD (40 C.F.R. 51)
 EOR (N.J.A.C. 7:27-18)
 TXS (N.J.A.C. 7:27-17)
 HAP Table B (N.J.A.C. 7:27-22, Appendix 1, Table B)
 7 - 9 (Reserved)
 10 (No change.)

23. - 31. (No change.)
- (n) The Department shall determine the amount of civil administrative penalty for violations of N.J.A.C. 7:27-8 and 7:27-22 as follows: for violations detected by continuous monitoring systems in accordance with (n)1 below; for continuous monitoring systems not installed, out of service or out of control in accordance with (n)2 below; and for violations of continuous monitoring systems recordkeeping and reporting requirements in accordance with (n)3 below. The rule summaries for the requirements set forth in the Civil Administrative Penalty Schedule in this subsection are provided for informational purposes only and have no legal effect.
1. (No change.)

CONTINUOUS MONITORING SYSTEMS ⁷
 TABLE 1
 (No change.)

CONTINUOUS MONITORING SYSTEMS
 TABLE 2A
 MAJOR SOURCE OPERATION ³

Level		Base Penalty
(No change.)		

TABLE 2B
 MINOR SOURCE OPERATION ⁴

Level		Base Penalty
(No change.)		

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TABLE 3

Averaging Time or Duration		Multiplier			
(No change.)					
³ Any source operation with estimated potential emissions without control of greater than 22.8 pounds per hour, or greater than 5.7 pounds per hour for VOC and NO _x or air contaminants regulated pursuant to NSPS, NESHAP, PSD, EOR, TXS and HAP (Table B) based on Preconstruction Permit or Certificate issued pursuant to N.J.A.C. 7:27-8 or Operating Permit issued pursuant to N.J.A.C. 7:27-22.					
⁴ (No change.)					
2. (No change.)					
3. The violations of N.J.A.C. 7:27-8.3(e) and N.J.A.C. 7:27-22.3(e) for continuous monitoring systems recordkeeping and reporting requirements and the civil administrative penalty amounts for each violation are set forth in the following Table:					
Citation	Rule Summary	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
(No change.)					
³ Any source operation with estimated potential emissions without controls of greater than 22.8 pounds per hour, or greater than 5.7 pounds per hour for VOC and NO _x , or air contaminants regulated pursuant to NSPS, NESHAP, PSD, EOR, TXS and HAP (Table B) based on Preconstruction Permit or Certificate issued pursuant to N.J.A.C. 7:27-8 or Operating Permit issued pursuant to N.J.A.C. 7:22.					
^{4 - 7} (No change.)					
(o) - (p)	(No change.)				