NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 3, 2017 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

ENVIRONMENTAL PROTECTION

AIR QUALITY, ENERGY, AND SUSTAINABILITY

DIVISION OF AIR QUALITY

Air Pollution Control

TBAC Emissions Reporting, Permitting, and Gasoline Transfer Operations

Proposed Amendments: N.J.A.C. 7:27-8.1, 8.2, 8.3, 16.1, 16.3, 22.1, 22.3, 22.5, 22.9, 22.11, 22.23, 22.24, and 22.33 and 7:27A-3.10

Proposed Repeals: N.J.A.C. 7:27-34

Authorized By: Bob Martin, Commissioner, Department of Environmental Protection.

Authority: N.J.S.A. 13:1B-3(e), 13:1D-9, 13:1D-134 et seq., and 26:2C-1 et seq., in particular 26:2C-9.22 and 9.4.

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

DEP Docket Number: 09-17-06.

Proposal Number: PRN 2017-118.

A **public hearing** concerning this notice of proposal and a proposed State Implementation Plan (SIP) revision represented by this notice of proposal, will be held on Thursday, August 24, 2017, at 10:00 A.M. at:

New Jersey Department of Environmental Protection

Public Hearing Room

401 East State Street

Trenton, New Jersey 08625

Directions to the hearing room may be found at the Department of Environmental Protection's (Department's) website address at www.nj.gov/dep/where.htm.

Submit comments by close of business on September 1, 2017, electronically at www.nj.gov/dep/rules/comments. Each comment should be identified by the applicable N.J.A.C. citation, with the commenter's name and affiliation following the comment.

The Department encourages electronic submittal of comments. In the alternative, comments may be submitted on paper to:

Alice A. Previte, Esq.

Attention: DEP Docket No. 09-17-06

Office of Legal Affairs

New Jersey Department of Environmental Protection

401 East State Street, 7th Floor

Mail Code 401-04L

PO Box 402

Trenton, NJ 08625-0402

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

The proposed amendments and repeals will become operative 60 days after their adoption (see N.J.S.A. 26:2C-8). The notice of proposal may be viewed or downloaded from the Department's website at www.nj.gov/dep/rules.

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Summary

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

The Department proposes to repeal the t-butyl acetate (TBAC) emissions reporting requirements, and to amend the air permitting and gasoline transfer operations rules, and related penalty provisions. The Department is also submitting these rule amendments and repeals to the United States Environmental Protection Agency (EPA) as a proposed revision to New Jersey's State Implementation Plan (SIP) for the attainment and maintenance of the ozone national ambient air quality standards (NAAQS).

The Summary is organized by topic; consequently, proposed amendments to a section, such as to the definitions at N.J.A.C. 7:27-16.1, may be discussed in several places in the Summary.

TBAC Emissions Reporting Repeal

The Department proposes to repeal N.J.A.C. 7:27-34, TBAC Emissions Reporting, and related penalty provisions at N.J.A.C. 7:27A-3.10(m)34. TBAC is a volatile organic compound (VOC) that is used as a solvent in coating operations, and may be found in products, such as paints, inks, and adhesives. Until 2004, the EPA regulated TBAC as a VOC that contributes to the formation of ozone. Section 302(s) of the Clean Air Act (CAA) authorizes the EPA to define the meaning of VOC and accordingly, what is treated as a VOC for regulatory purposes. It has been the EPA's policy that organic compounds with a negligible level of photochemical

reactivity need not be regulated to reduce ozone, since they are not significant contributors to ozone formation; therefore, at 40 CFR 51.100(s)1, the EPA excludes these compounds from the definition of VOC.

On November 29, 2004, the EPA promulgated a final rule (69 Fed. Reg. 69298) identifying TBAC as "negligibly reactive" and excluding it from the definition of VOC for purposes of VOC emissions limitations or VOC content requirements. The EPA, however, continued to define TBAC as a VOC for purposes of recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory requirements that apply to VOCs. According to the EPA, even negligibly reactive compounds may contribute significantly to ozone formation if present in sufficient quantities; therefore, emissions of negligibly reactive compounds must be represented accurately in photochemical modeling analyses. Modeling and reporting of TBAC also would further the EPA's efforts to assess long-term health risks from the compound. TBAC was the only compound that was excluded from the VOC definition for purposes of emission control, but was still considered a VOC for purposes of recordkeeping and reporting requirements.

In response to the EPA's rulemaking, in 2008, the Department promulgated N.J.A.C. 7:27-34, TBAC Emissions Reporting, which requires any person within the State who manufactures TBAC or a product containing TBAC, and any person who manufactures a product containing TBAC for sale in the State to report in-State emissions of TBAC to the Department, and to maintain records related to such reports. The reporting and recordkeeping requirements are part of New Jersey's SIP under the CAA.

On February 25, 2016, the EPA promulgated a final rule (81 Fed. Reg. 9339) removing the recordkeeping, emissions reporting, photochemical dispersion modeling, and inventory

requirements for TBAC because the requirements were not achieving their primary objective, which was to inform more accurate photochemical modeling. Further, given the completion of studies regarding the long-term health risks of TBAC, the EPA determined that the continuation of the requirements did not appear relevant to any likely future determination about the health risks of TBAC. The EPA's 2016 rule allows state air pollution control agencies to no longer require entities to report emissions of TBAC. Accordingly, the Department proposes to repeal N.J.A.C. 7:27-34, and the related penalty provisions at N.J.A.C. 7:27A-3.10(m)34.

Permitting

Periodically the EPA audits a state's air quality permitting program to evaluate whether the state's rules meet the Federal requirements and conform to the state's approved SIP. The Department proposes to amend its air permitting rules for minor facilities at N.J.A.C. 7:27-8, Permits and Certificates for Minor Facilities (and Major Facilities without an Operating Permit), and for major facilities at N.J.A.C. 7:27-22, Operating Permits, in response to an audit of the Department's major facilities program that EPA conducted in 2016.

The Department regulates significant sources of pollution by establishing the terms and conditions for the operation of these sources either in a preconstruction permit issued in conjunction with an operating certificate for a source at a minor facility, or in an operating permit issued for a source at a major facility. A new major facility can also request that a preconstruction permit be issued prior to the approval of the operating permit, in order that the facility can begin construction before the operating permit is issued. Generally speaking, a major facility is one with the potential to emit one or more air contaminants in an amount equal to or exceeding the applicable major facility threshold levels set forth at N.J.A.C. 7:27-22.2(a). Major

facilities include, for example, refineries, pharmaceutical companies, manufacturing operations, and power plants. These facilities are subject to Title V of the CAA, 42 U.S.C. §§ 7661-7661f (Title V). Through its regulation of major facilities at N.J.A.C. 7:27-22, the Department implements the Federally mandated Title V operating permits program for major sources. The Department regulates more than 23,000 significant source operations (primarily pieces of equipment) at approximately 260 major facilities in New Jersey. As part of its administration of this program, the Department processes initial applications for operating permits, applications to modify the permits, and permit renewals that are required every five years.

A minor facility is one that does not meet the major facility applicability criteria at N.J.A.C. 7:27-22.2(a), including the applicable major facility potential to emit threshold for one or more air contaminants or hazardous air pollutants. Minor facilities include, for example, small manufacturing operations, dry cleaners, and gas stations. New Jersey's permitting program for minor facilities (also known as the minor facilities program, or the preconstruction permitting program) regulates significant sources of air contaminants at minor facilities, as well as those at major facilities that do not yet have, or that the rules do not require to obtain, an operating permit.

Preconstruction permit consolidated with operating permit

If a minor facility that has a significant source expands or adds new source operations or processes that result in increased emissions of air pollution, the facility may become subject to the operating permit rules for major facilities at N.J.A.C. 7:27-22. Until the facility obtains an operating permit, the facility must continue to comply with the preconstruction permit and operating certificate, as stated in existing N.J.A.C. 7:26-8.2(b)1 and 2. When the Department

issues an operating permit to the facility under N.J.A.C. 7:27-22, the Department incorporates the terms and conditions of the existing preconstruction permit and operating certificate into that operating permit, as reflected at N.J.A.C. 7:27-22.16(e). In this way, New Jersey has integrated its preconstruction permit program with the Title V operating permit program, by issuing Title V operating permits under N.J.A.C. 7:27-22 that incorporate preconstruction approvals issued under N.J.A.C. 7:27-8.

The EPA conducted an audit of New Jersey's program and determined that the Department's major source permitting rules were potentially ambiguous with regard to whether preconstruction permitting requirements of N.J.A.C. 7:27-8 apply to major sources whose permits are issued under N.J.A.C. 7:27-22. Specifically, N.J.A.C. 7:27-22.33(b) provides that all preconstruction permits and operating certificates required pursuant to N.J.A.C. 7:27-8 are "superseded" by the subsequently issued operating permit, which could be interpreted to mean that the terms of the preconstruction permit and operating permit no longer apply. Accordingly, the Department proposes to address the EPA's concerns through proposed amendments to clarify that applicable preconstruction requirements are incorporated in a Title V operating permit. The Department proposes to amend N.J.A.C. 7:27-8.2(b)1 and 2 to make it explicit that the terms and conditions in the preconstruction permit and certificate will be consolidated into the operating permit. Therefore, a facility must comply with a preconstruction permit or certificate before the Department issues the operating permit and, since the terms of the preconstruction permit or certificate are consolidated into the operating permit, the facility must continue to comply with the same terms after the operating permit is issued. Proposed amendments to N.J.A.C. 7:27-22 provide additional clarification regarding the consolidation of preconstruction permits and operating certificates, as discussed below.

Existing N.J.A.C. 7:27-8.2(b)3 addresses the situation where a portion of a major facility (such as a research and development operation) is subject to the minor facility rules at N.J.A.C. 7:27-8, but is not subject to operating permit requirements of N.J.A.C. 7:27-22 (although the facility otherwise is). In such a case the owner or operator of the facility must obtain and maintain a separate preconstruction permit and operating certificate under N.J.A.C. 7:27-8 for that portion of the facility and, unlike the cases addressed by N.J.A.C. 7:27-8.2(b)1 and 2, the terms and conditions of this separate preconstruction permit will not be consolidated into the facility's operating permit. (See proposed amended N.J.A.C. 7:27-8.2(b)3.)

The Department proposes further amendments to N.J.A.C. 7:27-22, to clarify that the terms and conditions of the preconstruction permits are consolidated into, not superseded by, the operating permit. Proposed amended N.J.A.C. 7:27-22.5(g) states that a new facility subject to N.J.A.C. 7:27-22 can obtain both a preconstruction permit and an operating permit simultaneously by submitting an application for a consolidated preconstruction and operating permit. The facility will submit a single application, and the Department will issue a single consolidated permit, containing the requirements of both a preconstruction permit under N.J.A.C. 7:27-8, and an operating permit under N.J.A.C. 7:27-22.

Similarly, as set forth in proposed amended N.J.A.C. 7:27-22.33(e), the Department will simultaneously conduct the preconstruction permit review under N.J.A.C. 7:27-8 and operating permit review under N.J.A.C. 7:27-22 for an application for a minor modification or significant modification. Although the Department ordinarily will issue the preconstruction approval as part of the operating permit approval, as made clear in the proposed amended rule, the applicant can request that the Department issue the preconstruction approval when it issues the proposed operating permit. The existing rule refers to a "draft permit," but the correct term is "proposed

operating permit," as stated in the proposed rule. The term "draft permit" is properly used at N.J.A.C. 7:27-22.11, Public comment, to refer to draft operating permits and draft general operating permits for which the Department obtains comment from the public. After the comment period has closed, the Department prepares a "proposed operating permit" or "proposed general operating permit," as provided at existing N.J.A.C. 7:27-22.12. The proposed operating permit (or proposed general operating permit) is not final; rather, the Department submits the proposed operating permit to the EPA for review. The substance of the proposed amended rules remains the same as the existing rules; however, the Department intends by the proposed language and the inclusion of citations to both the preconstruction permit subchapter and the operating permit subchapter that the rules more clearly indicate that the preconstruction permit to which the rules refer is the same preconstruction permit that is issued under N.J.A.C. 7:27-8. Also, the proposed rule identifies the sections of N.J.A.C. 7:27-22 that govern minor and significant modifications.

The Department proposes to replace the existing heading of N.J.A.C. 7:27-22.33, Preconstruction review, with "Consolidated preconstruction and operating permit review" to better reflect the process. Proposed amended N.J.A.C. 7:27-22.33(b) and (c) no longer refer to superseded preconstruction permits and operating certificates, but state that the terms of the preconstruction permit and operating certificate are consolidated into the operating permit, as discussed above.

The proposed amended definitions of "operating permit" at both N.J.A.C. 7:27-8.1 and 22.1 include the term "consolidated preconstruction and operating permit," in order to make it clear that where the rules use the term "operating permit," they refer to not only the Title V permit for major sources issued under N.J.A.C. 7:27-22, but also the preconstruction permit

issued under N.J.A.C. 7:27-8. Similarly, proposed amended N.J.A.C. 7:27-22.23(a) and 22.24(a) state that the application for a minor modification or a significant modification constitutes an application for the consolidated preconstruction and operating permit. The Department also proposes to rephrase the restriction at N.J.A.C. 7:27-22.24(a) on operating a modified facility until the Department has approved the application for a significant modification, to make the language consistent with N.J.A.C. 7:27-22.33(e), which discusses the Department's preconstruction review of an application for a permit modification, and similarly restricts operation of a significantly modified facility until the Department approves the significant modification.

In some cases, a preconstruction permit or an operating permit will include requirements derived from a consent decree between the permittee and the EPA. Even if the consent decree has been terminated, the conditions may remain in a permit because the term of the permit extends beyond the term of the consent decree. The Department would remove the expired conditions from the permit upon the next modification or renewal of the permit. Proposed new N.J.A.C. 7:27-8.3(k) and 22.3(uu) provide that the Department will make it clear in the permit that the requirements are derived from a consent decree, and that the Department will not change the requirements without first notifying the EPA.

Under existing N.J.A.C. 7:27-22.9(c)5ii, if a permittee is not in compliance with an applicable requirement at the time that it applies for an operating permit, permit renewal, or modification to a permit, the permittee must include with its permit application a compliance plan that includes a schedule of remedial measures that the facility will take, and a schedule of milestones leading to compliance. If the facility is subject to an order or consent decree, then the schedule must incorporate and be at least as stringent as the order or consent decree. The

existing rule does not specifically refer to an administrative consent order, although an administrative consent order is an "order" to which the existing rule applies. In order to prevent confusion, the Department proposes to expressly include an administrative consent order as a type of order under the rule.

Public notice of draft operating permits

The Department proposes amendments to N.J.A.C. 7:27-22.11 regarding public comment on a draft operating permit. These changes are in response to recent amendments to the EPA's rules governing the public notice requirements for the Title V operating permit program (81 Fed. Reg. 71613, October 18, 2016) (final rule). The EPA's final rule removes the requirement to provide public notice of a draft permit through publication in a newspaper and instead provides for electronic publication of notice (which the EPA calls "e-notice") of these actions. Permitting authorities, such as the Department, that implement e-notice are also required to post the draft permit on its website for the duration of the public comment period (which the EPA calls "e-access"). The EPA determined that e-notice, which is already being practiced by the EPA, the Department, and many other permitting agencies, enables agencies to provide notice of draft permits and other affected actions more quickly and efficiently. According to the EPA, "e-notice represents the best current practice for noticing major source air permit actions" (81 Fed. Reg. at 71624). Many permitting authorities have been posting draft permit notices on their agency websites. Electronic posting of such notices has been demonstrated to be an effective and efficient way to provide public notice of permitting-related information to the majority of the public. In fact, the New Jersey Legislature has already recognized the effectiveness of electronic means of notice. The Administrative Procedure Act at N.J.S.A. 52:14B-4, as amended

effective January 17. 2014, requires State agencies to give notice of administrative rulemaking by posting on the agency's website, and distributing notice through an electronic mailing list; publication of notice in a newspaper of general circulation remains available, but is not required.

Under the EPA's final rule, using e-notice as the primary method to provide public notice of draft permits is optional for a permitting authority implementing the EPA-approved permitting rules, such as the Department, and mandatory for the EPA and other air agencies that implement the Federal permitting rules, beginning November 17, 2016. The EPA's rule does not preclude permitting authorities from supplementing e-notice with newspaper notice and/or other additional means of notification to the public.

The Department proposes to amend N.J.A.C. 7:27-22.11(e) to replace newspaper publication of a notice of a draft operating permit with posting on the Department's website. The Department's continued use of a mailing list of interested parties to supplement the e-notice is consistent with the requirements of the EPA's final rule. (81 Fed. Reg. at 71617). The Department's website currently provides an opportunity to sign up for e-mail notices regarding air quality regulation activities, including draft operating permits. The Department will update the list, as people request to be included on or removed from the mailing list. The Department will continue to publish the notice for each draft general operating permit in the New Jersey Register, as required under existing N.J.A.C. 7:27-22.11(e) and 22.14(a), and may also provide additional notice by using any other means the Department finds appropriate for assuring adequate notice to the public of the opportunity for public comment.

The Department proposes to amend N.J.A.C. 7:27-22.11(c)4 to provide that the contact information in the notice of a draft permit will include the e-mail address of the appropriate Department staff.

Gasoline Transfer Operations

N.J.A.C. 7:27-16 contains the Department's rules governing the control and prohibition of air pollution by VOCs. The Department is proposing amendments to the vapor recovery provisions at N.J.A.C. 7:27-16.3, Gasoline transfer operations, to allow new gasoline dispensing facilities to be constructed without Phase II (which the EPA refers to as Stage II) vapor recovery systems, which capture gasoline vapor during vehicle refueling. Existing facilities with vacuum assist Phase II vapor recovery systems that are incompatible with onboard refueling vapor recovery (ORVR) systems, which are installed directly on the motor vehicle, must decommission the systems within three years. Existing facilities with ORVR-compatible Phase II vapor recovery systems (such as balance systems or vacuum assist systems with qualified equipment) may decommission the systems, but are not required to do so; however, if the system is left in place, the facility must continue to maintain the system.

The Department proposes amendments to the rules governing Phase I (which the EPA refers to as Stage I) vapor recovery systems, which prevent emissions when gasoline is delivered to a storage tank, and to the rules governing gasoline refueling system nozzles and hoses, to minimize drips and spills and associated emissions. (Hereafter in this document, the Department will refer to Phase I and Phase II, rather than Stage I and Stage II, except when Stage I or Stage II is in the title of a document, such as the EPA 2012 Stage II Guidance, discussed below)

Background

Vapor recovery systems are installed at gasoline dispensing facilities to control hydrocarbon emissions (VOCs, benzene, and other toxics) from gasoline vapors during the

delivery and dispensing of gasoline. These systems are comprised of two phases or stages, Phase I and Phase II. Phase I vapor recovery systems control the emissions of gasoline vapors during the transfer of gasoline from the tanker truck to the gasoline dispensing facility storage tank, by returning the vapors to the truck. Phase II vapor recovery systems control the emissions of gasoline vapors during the transfer of gasoline from the gasoline dispensing facility storage tank to the motor vehicle fuel tank, by returning the vapors to the dispensing facility storage tank. If the vapors were not captured and returned, they would escape into the atmosphere and pollute the air.

New Jersey adopted its first Statewide Phase II vapor recovery rules in 1988, based on the California program that was then in operation. Later, 1990 amendments to the CAA required Phase II gasoline vapor recovery systems as an emissions control measure in areas that were classified as “moderate,” “serious,” “severe,” and “extreme” nonattainment with the ozone National Ambient Air Quality Standards (NAAQS). The majority of New Jersey was classified as “severe” at the time of the 1990 CAA amendments, meaning that Phase II became mandatory for New Jersey. After 1994, when the EPA promulgated its ORVR regulation, Phase II systems were no longer required for moderate nonattainment areas, per section 202(a) of the CAA.

The 1990 CAA amendments required two types of controls for capturing gasoline vapor during vehicle refueling: Phase II vapor recovery systems and onboard refueling vapor recovery (ORVR) systems. ORVR systems are carbon canisters installed directly on motor vehicles to capture the fuel vapors evacuated from the gasoline tank before they reach the nozzle of a gas pump. The fuel vapors captured in the carbon canisters are then combusted in the engine when the vehicle is in operation. Installation of ORVR systems was phased in over the 1998 to 2006 vehicle model years.

Over time, as older vehicles are taken out of service, a larger percentage of the vehicle fleet is equipped with ORVR controls. As ORVR became more prevalent, Phase II vapor recovery systems continued to provide VOC (and toxic) reductions; however, as more vehicles have ORVR controls, Phase II vapor recovery systems become less necessary. Congress recognized that ORVR and Phase II vapor recovery systems would eventually become largely redundant technologies, and authorized the EPA to allow states to remove Phase II from their SIPs, at a time that is appropriate for each state, after the EPA finds that ORVR is in widespread use. Effective May 16, 2012, the date the final rule was published in the Federal Register (77 Fed. Reg. 28772), the EPA determined that ORVR is in widespread nationwide use for control of gasoline emissions during refueling of vehicles at gasoline dispensing facilities. The EPA estimated that more than 75 percent of gasoline refueling nationwide occurs with ORVR-equipped vehicles, making Phase II vapor recovery systems largely redundant, with an ever-declining emissions benefit. The EPA has also determined that at some point after the widespread use date the benefits from the Phase II vapor recovery system become zero if there is an incompatibility with ORVR systems, as discussed below. See EPA, Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures, EPA-457/B-12-001, August 7, 2012 (EPA 2012 Stage II Guidance). The Department estimates that approximately 90 percent of the New Jersey motor vehicle fleet will have ORVR in 2017. The Department also estimates, based on the EPA's 2012 Stage II Guidance, that the Statewide benefits from Phase II vapor recovery systems become zero sometime between mid-2017 and mid-2021; the reduction in emissions from Phase II vapor recovery systems that are compatible with ORVR will be equal to the increased emissions that result from the use of Phase II vapor recovery systems that are incompatible with ORVR.

There are two primary types of Phase II systems: balance systems and vacuum assist systems. Balance systems return vapors to the gasoline dispensing facility storage tank based on displacement in a sealed system, while vapor assist systems use a vacuum pump to transfer the vapors back to the facility storage tank. ORVR systems are not compatible with some vacuum assist Phase II systems. In fact, as both the EPA and the California Air Resources Board (CARB) have determined, there may be an environmental "disbenefit" from using the two systems together, if compatible vacuum assist equipment is not used. The EPA has stated that differences in operational design characteristics between ORVR and vacuum assist Stage II systems may in some cases cause a reduction in the overall control system efficiency of vehicle fuel tank emissions compared to what could be achieved by either individually.

In the May 16, 2012 final rule, the EPA determined that states that are implementing mandatory Phase II programs under section 182(b)(3) of the CAA, including New Jersey, may submit revisions to their SIPs to remove such programs. This SIP revision must provide, as appropriate, a demonstration that the SIP revision is consistent with CAA sections 193, 184(b)(2), and 110(*l*), as discussed in the May 16, 2012 final rule and the EPA 2012 Stage II Guidance. Section 193 is meant to ensure air quality in nonattainment areas does not degrade after the revocation of a NAAQS (anti-backsliding). Section 184(b)(2) requires states in the Ozone Transport Region (such as New Jersey) to either implement Phase II vapor recovery systems or "comparable measures." Section 110(*l*) prohibits the EPA approval of a SIP revision that interferes with attainment of the NAAQS or other CAA applicable requirements.

The Department is providing this notice of proposal to the EPA, along with a report (The State of New Jersey Department of Environmental Protection Plan Revision for the Attainment and Maintenance of the Ozone National Ambient Air Quality Standards for Amendments to

N.J.A.C. 7:27-16.3, Gasoline Transfer Operations, Vapor Recovery Systems, 2017) in support of a proposed revision to the State's SIP. The report provides the technical details demonstrating that the SIP revision is consistent with CAA sections 193, 184(b)(2), and 110(*l*), as the May 16, 2012 final rule requires. The Department will make the report available on its website, http://www.nj.gov/dep/baqp/sip/siprevs.htm.

Proposed Amendments to N.J.A.C. 7:27-16

Existing N.J.A.C. 7:27-16.3 does not use the terms "Stage I" or "Stage II" or "Phase I" or "Phase II" to refer to the gasoline vapor recovery systems that the rules require, but instead describes the control requirements for deliveries of gasoline to storage tanks, and transfer of gasoline from the storage tank to a motor vehicle. With regard to equipment that controls the emissions of gasoline vapors during the transfer of gasoline from the service station tank to the motor vehicle fuel tank (Phase II), existing N.J.A.C. 7:27-16.3 refers to equipment that is CARB-certified or CARB-approved. Proposed amended N.J.A.C. 7:27-16.3 continues to require equipment that is CARB-certified or CARB-approved, but also uses the CARB terms "Phase I" and "Phase II." To make it clear that Phase I and Phase II vapor recovery systems are the same as what the EPA calls Stage I and Stage II vapor recovery systems, the proposed definitions of Phase I and Phase II vapor recovery systems at N.J.A.C. 7:27-16.1 refer to the EPA's terminology, which is familiar to the regulated community. The Department proposes to replace "vapor control system" with "vapor recovery system" throughout N.J.A.C. 7:27-16.3, since "vapor recovery system" is the more commonly used term. The Department proposes to include "vapor control system" as an alternative term in the proposed new and amended definitions of "vapor recovery system," "Phase I vapor recovery system," and "Phase II vapor recovery

system." The proposed amendments to the definition of "gasoline dispensing facility" conform the definition more closely to the National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities; and Gasoline Dispensing Facilities; at 40 CFR Part 63 Subpart CCCCCC (NESHAP rule) definition of this term. The proposed amended definition of "vapor balance system" removes an unnecessary reference to tanks. The word "vessel" already includes "tanks," as set forth in the existing definition of "receiving vessel."

The Department proposes to amend the Phase I, Phase II, and testing requirements, and add decommissioning requirements. Proposed amendments also specify refueling requirements, including necessary equipment, that apply to facilities that do not have Phase II vapor recovery systems, either because the systems have been decommissioned, or because they were never installed. The Department proposes related amendments to the penalty provisions at N.J.A.C. 7:27A-3.10(m)16.

Phase II

In light of the EPA's May 16, 2012 final rule allowing states to remove Phase II requirements from their rules and SIPs, and the EPA 2012 Stage II Guidance, the Department proposes to delete the requirement that new gasoline dispensing facilities install systems that collect gasoline vapors during vehicle refueling. Accordingly, no new gasoline dispensing facility must install a Phase II vapor recovery system. As stated above, a Phase II system that is not compatible with ORVR may result in increased emissions. Therefore, proposed new N.J.A.C. 7:27-16.3(e) requires a gasoline dispensing facility owner or operator to decommission an existing Phase II vapor recovery system within three years of the operative date of the

subsection, if the system is not ORVR-compatible. An existing Phase II vapor recovery system that is ORVR-compatible may be either decommissioned or left in place; if it is left in place, it must be properly maintained.

The Department proposes to delete existing N.J.A.C. 7:27-16.3(e). Proposed N.J.A.C. 7:27-16.3(f) continues the requirements of existing N.J.A.C. 7:27-16.3(e)1i, 2, and 4 regarding the components of an existing Phase II vapor recovery system. Where existing N.J.A.C. 7:27-16.3(e) refers only to "system," proposed N.J.A.C. 7:27-16.3(f) refers to a "Phase II vapor recovery system," to avoid confusion. The requirements of existing N.J.A.C. 7:27-16.3(e)3, which apply to all gasoline dispensing facilities with gasoline storage tanks greater than 2,000 gallons, with or without a Phase II vapor recovery system, is relocated to proposed N.J.A.C. 7:27-16.3(g), discussed below.

Existing N.J.A.C. 7:27-16.3(f) provides exceptions to the Phase II vapor recovery system requirements at existing N.J.A.C. 7:27-16.3(e). As the proposed rules do not require a new gasoline dispensing facility to include a Phase II vapor recovery system, these exceptions are no longer relevant and the Department proposes to delete the subsection. One of the exceptions in the existing rule is based on average monthly gasoline throughput. With the deletion of the exception, existing N.J.A.C. 7:27-16.3(g) and (h) relating to throughput are no longer necessary; therefore, the Department proposes to delete the two subsections.

The Department proposes definitions at N.J.A.C. 7:27-16.1 to support the proposed amendments to the Phase II provisions of N.J.A.C. 7:27-16.3. "Onboard refueling vapor recovery system," or "ORVR system," or "ORVR," is a proposed new term, and is consistent with terminology used in section 202(a)(6) of the CAA directing the EPA to set standards for vapor recovery systems installed on motor vehicles nationwide. The proposed definition of

"ORVR-compatible Phase II vapor recovery system" identifies those Phase II vapor recovery systems to which proposed new N.J.A.C. 7:27-16.3(e)2 applies, making decommissioning optional, rather than required. The Department also proposes to define "CARB-certified Phase II Enhanced Vapor Recovery system," or "CARB-certified Phase II EVR system," which is used in the definition of "ORVR-compatible Phase II vapor recovery system."

Decommissioning a Phase II vapor recovery system

Proposed new N.J.A.C. 7:27-16.3(h) governs decommissioning of existing Phase II vapor recovery systems. Decommissioning must be in accordance with the Petroleum Equipment Institute (PEI) document PEI/RP300-09 "Recommended Practices for Installation and Testing of Vapor-Recovery Systems at Vehicle-Fueling Sites" (incorporated into the proposed rule by reference, as amended or supplemented), as recommended by the EPA in its August 07, 2012 Stage II Guidance (EPA-457/B12-001). Information about this PEI-recommended practices document is available at PEI's website at http://www.pei.org.

The proposed rule establishes requirements in addition to those of PEI/RP300-09. To ensure that the decommissioning is done properly, decommissioning work must be conducted or supervised by a Department-certified individual who also works for a certified firm. The only exception is for decommissioning testing, for which a Department certification is not required. The testing requirements are established at proposed new N.J.A.C. 7:27-16.3(j), which includes proposed new Table 3A (replacing existing N.J.A.C. 7:27-16.3(i) and Table 3A).

Although there is no PEI recommendation to remove piping as part of decommissioning, retaining the piping can be problematic if the piping is not leak free. Gasoline vapors can collect in underground piping, turn to liquid through condensation, and escape into the ground if there

are leaks in the underground piping. Rather than requiring the removal of this piping at the time the system is decommissioned, the proposed amendments allow the piping to be removed when the pipes are exposed at a later date (such as during a modification to the facility), or if the system fails a required pressure test due to a leak in the underground piping.

The proposed rule requires the owner or operator of the facility to notify the Department by e-mail, at least 14 days in advance of decommissioning activities and again within 14 days after decommissioning is complete. All notifications to the Department regarding decommissioning must be made electronically by e-mail, to an e-mail address that will be provided on the Department's website. The website address will be inserted into the rule on adoption. The decommissioning can be conducted only on Monday through Friday, except State holidays, between 8:00 A.M. and 5:00 P.M., in order that the Department may inspect the decommissioning.

Phase I

The Department is proposing amendments to N.J.A.C. 7:27-16.3(d), which applies to Phase I vapor recovery systems in New Jersey. Under the amended rule, both new and existing gasoline dispensing facilities must upgrade their Phase I equipment, in accordance with the proposed compliance deadlines. These proposed amendments reflect advances in technology, which are reflected in CARB's requirements, Federal requirements, and those of other states.

Proposed amended N.J.A.C. 7:27-16.3(d)1 continues the existing requirement that a vapor recovery system obtain a 98 percent VOC reduction and include pressure/vacuum valves. The Department adopted the requirement for 98 percent efficiency in 2003, based on CARB's 2001 Enhanced Vapor Recovery (EVR) requirements. In 2001, CARB promulgated regulations

establishing EVR requirements for Phase I systems to further reduce emissions caused by the transfer of gasoline from a tanker truck to a fuel storage tank at a gasoline dispensing facility. CARB certifies that Phase I components manufactured and sold by various vendors meet CARB EVR performance specifications. CARB-certified EVR components meet more stringent performance standards than pre-EVR components, and are better designed and more durable than pre-EVR Phase I components. EVR components address common causes of leaks in dispensing systems, such as adaptors (the connection points between the tank truck and the service station storage tank), drop tubes, and drain valves. CARB-certified Phase I EVR systems have been tested to ensure that they are 98 percent efficient at collecting vapors during the filling of storage tanks over a range of operating conditions and have been field-tested for a minimum of six months at multiple sites. Pre-EVR systems are only 95 percent efficient. The CARB-certified Phase I EVR components and systems also decrease overall leaks that take place under all operating scenarios, not just tank-filling and, therefore, reduce breathing losses (losses that can occur due to changes in ambient temperature and barometric pressure changes) from underground storage tanks.

When it promulgated the 98 percent VOC reduction requirement in 2003, the Department anticipated that the regulated community would install CARB-certified Phase I EVR systems or components, although the existing rule did not expressly require that the systems or components be CARB-certified. The Department has determined that not all of the Phase I systems or equipment installed at gasoline dispensing facilities in the State have CARB-certified EVR components. Proposed amended N.J.A.C. 7:27-16.3(d) makes it clear that all Phase I vapor recovery systems must include the CARB-certified Phase I EVR components, with a few exceptions discussed in more detail below. Proposed new N.J.A.C. 7:27-16.3(d)3 allows

existing gasoline dispensing facilities one year from the operative date of the subsection to comply with the requirement to install a CARB-certified Phase I EVR pressure/vacuum relief vent valve and proposed N.J.A.C. 7:27-16.3(d)4 allows existing gasoline dispensing facilities seven years from the operative date of the subsection to comply with the remaining equipment requirements.

CARB-certified Phase I EVR system pressure/vacuum relief vent valves are part of the CARB-certified Phase I EVR system. Pressure/vacuum relief valves are one of the most important components of the vapor recovery systems. The CARB-certified Phase I EVR system pressure/vacuum relief vent valves are certified to a more stringent leak rate than pre-EVR valves. Both existing N.J.A.C. 7:27-16.3(d)1i and new (d)2 require a gasoline storage tank greater than 2,000 gallons with a Phase I vapor recovery system to use a pressure/vacuum relief vent valve on each atmospheric vent. Proposed new N.J.A.C. 7:27-16.3(d)3 requires a CARB-certified Phase I EVR system pressure/vacuum relief vent valve on all new installations and gives owners and operators of existing gasoline dispensing facilities up to one year from the operative date of the subsection to install the valves. The Department proposes to delete the requirement at existing N.J.A.C. 7:27-16.3(d)1i(2) that the pressure/vacuum relief valve remain closed during a gasoline transfer. The existing requirement was intended to ensure that the efficiency of the vapor recovery system was not compromised by an open pressure/vacuum relief valve. The requirement that the system obtain no less than 98 percent VOC emission reduction makes the requirement unnecessary, since a vapor recovery system cannot achieve 98 percent VOC emission reduction if the pressure/vacuum relief valve is open.

The proposed rules are not identical to CARB requirements. Instead, the Department is providing compliance flexibility for owners and operators. Proposed N.J.A.C. 7:27-16.3(d)4

requires that all components of the system must be approved in a CARB-certified Phase I EVR System Executive Order in effect at the time of installation. A CARB Executive Order identifies a component or system, and certifies that the component or system meets a specific CARB standard. Unlike the CARB regulations, the proposed rule does not require all the components to be approved in the same Executive Order. CARB-certified Phase I EVR components are individually certified to meet engineering and performance standards prior to their in-use certification as part of a CARB-certified EVR Phase I system. Thus, the design and durability of CARB-certified Phase I EVR components will result in tighter Phase I controls, whether or not the EVR components were all included in the same CARB Executive Order.

The second variation from CARB requirements for CARB-certified Phase I EVR systems is an exception to the requirement for single-point vapor balance systems and rotatable adapters for existing systems. The Department proposes a dual-point vapor balance system as one of the required elements of a new installed Phase I system at proposed N.J.A.C. 7:27-16.3(d)4. The proposed definition of "dual-point vapor balance system" at N.J.A.C. 7:27-16.1 is identical to the definition of this term in the EPA's rules at 40 CFR 63.11132. (See National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities; and Gasoline Dispensing Facilities; at 40 CFR Part 63 Subpart CCCCCC (NESHAP rule).) However, proposed N.J.A.C. 7:27-16.3(d)4i departs from CARB's requirements by providing that an existing facility that has already installed a single-point vapor balance system does not need to replace it with a dual-point system or install rotatable adapters to satisfy the proposed CARB-certified Phase I EVR system requirements, otherwise required by CARB. In order to replace a single-point vapor balance system with a dual-point system, a facility would need to replace piping that is ordinarily located beneath

concrete. Requiring dual-point systems only for new facilities is cost-effective, and consistent with the NESHAP rule. The proposed definition of "single-point vapor balance system" at N.J.A.C. 7:27-16.1 distinguishes this system from a dual-point system.

The Department proposes to add new exemptions to N.J.A.C. 7:27-16.3(i), related to the proposed new Phase I and refueling requirements. Under the proposed amendments, an existing vapor recovery system and refueling equipment that exclusively refuels marine vehicles and aircraft are exempt from the existing unihose requirement for Phase II-equipped gasoline dispensing facilities, the new requirements for a CARB-certified Phase I pressure/vacuum valve and system, and the proposed new refueling requirements for CARB-certified nozzles and low permeation hoses, unless the associated parts are being replaced. These exemptions are consistent with the exemptions in the existing rules for marine vehicles and aircraft. Fuel throughput anticipated at these facilities is anticipated to be small; therefore, allowing the facilities to upgrade hoses and nozzles only when the existing components need to be replaced, rather than within a specific timeframe, is not anticipated to contribute significantly to emissions.

At N.J.A.C. 7:27-16.1, the Department based the proposed definitions of the new terms "CARB-certified Phase I Enhanced Vapor Recovery system" or "CARB-certified Phase I EVR system," and "Phase I vapor recovery system" on CARB definitions and terminology. The proposed term "CARB-certified Phase I Enhanced Vapor Recovery system" provides a shorthand reference to a Phase I vapor recovery system that CARB has certified by issuing an executive order indicating compliance with its enhanced vapor recovery program. The Department proposes limiting this term to those executive orders issued after February 1, 2001, that have not been superseded or disapproved, to ensure that the system components meet the most up-to-date requirements at the time of installation. The proposed new term "Phase I vapor

recovery system" provides a generic term for all Phase I vapor recovery systems, whether or not they are CARB-certified. The proposed amendments to N.J.A.C. 7:27-16.1 and 16.3 substitute the term "Phase I vapor recovery system" for the existing reference to a "vapor control system" to make clear that the storage tank requirements at N.J.A.C. 7:27-16.3(d) are Phase I requirements, and to avoid confusion with Phase II requirements.

The Department proposes to amend the definition of "submerged fill pipe" at N.J.A.C. 7:27-16.1. The existing definition of "submerged fill pipe" applies at N.J.A.C. 7:27-16.3(c) to all facilities with a gasoline storage tank greater than 2,000 gallons including, but not limited to, gasoline dispensing facilities, and makes no distinction between fill pipes at gasoline dispensing facilities and those at other facilities. The Department is amending the definition to indicate that a portion of the definition applies only to facilities other than gasoline dispensing facilities. At a gasoline dispensing facility, a top- or side-entering fill pipe whose point of discharge into the receiving vessel is totally submerged when the liquid level is no more than three times the inside radius of the fill pipe plus five inches (12.7 centimeters), but no more than 42 inches (106.7 centimeters), above the vessel bottom is inconsistent with NESHAP requirements for gasoline dispensing facilities and CARB Phase I certification requirements. The NESHAP rule and CARB require the fill pipe of a storage tank that is loaded from the top, located at a gasoline dispensing facility, to be no more than six inches from the bottom of storage tank. The proposed amendment rectifies this inconsistency.

Refueling

Proposed new N.J.A.C. 7:27-16.3(g) consolidates the refueling requirements applicable to gasoline dispensing facilities that are not specific to Phase II vapor recovery systems, and that

still apply after Phase II vapor recovery systems are decommissioned. The overfill prevention and unihose installation requirements of existing N.J.A.C. 7:27-16.3(e)1ii and 3 are proposed at new N.J.A.C. 7:27-16.3(g)1 and 2. Whereas the existing rule requires that the vapor recovery system prevent overfilling and spillage during transfer, the proposed new rule prohibits the continued transfer of gasoline after the nozzle automatic shut-off point. A gasoline dispensing nozzle is designed to automatically stop pumping gasoline when the tank is full, in order that the gasoline does not spill from the tank onto the ground or interfere with the operation of existing Phase II vapor recovery systems.

Proposed new N.J.A.C. 7:27-16.3(g)3 and 4 are new equipment requirements for gasoline dispensing facilities. Each gasoline dispensing facility with a storage tank greater than 2,000 gallons, after decommissioning, must be equipped with CARB-certified enhanced conventional (ECO) nozzles and CARB-certified low permeation hoses. An existing facility is not required to immediately replace nozzles and hoses, but may make the replacements as part of the decommissioning of a Phase II vapor recovery system, and when nozzles or hoses are replaced. Decommissioning of Phase II systems includes the removal and replacement of all hanging hardware at the dispenser, providing a convenient opportunity for a facility to upgrade its hanging hardware.

The low permeation hoses must meet more stringent permeation requirements than conventional hoses. The ECO nozzles utilize the same technology as the CARB Phase II EVR nozzles. These nozzles meet more stringent performance standards for liquid retention, spitting, drips, and spillage than pre-EVR nozzles, and are better designed and more durable than conventional nozzles. Vapor emissions occur when gasoline retained in the nozzle and other hanging hardware evaporates between vehicle fuelings. Nozzle spitting occurs when the nozzle

latch is squeezed before activating the dispenser. CARB's spitting standards minimize accidental liquid gasoline releases that can occur while moving the nozzle from the dispenser to the vehicle before fueling. The standards for dripping address drips after vehicle refueling. If there are no CARB-certified nozzles at the time of the new installation, decommissioning, or nozzle replacement, the owner or operator can install conventional nozzles. As of the date of this notice of proposal, July 3, 2017, no nozzles have been CARB-certified; however, CARB has adopted a certification procedure for the nozzles (CP-207, Enhanced Conventional (ECO) Nozzles and Low Permeation Conventional Hoses for Use at Gasoline Dispensing Facilities, April 23, 2015), and is in the process of certifying nozzles.

Testing

Existing N.J.A.C. 7:27-16.3(i) sets forth the testing requirements for gasoline dispensing facilities. The Department proposes to relocate the testing requirements to new N.J.A.C. 7:27-16.3(j), and amend them to reflect the proposed changes to the Phase II vapor recovery system program and the proposed new decommissioning requirements and options. Proposed N.J.A.C. 7:27-16.3(j)3 and 4 contain the requirement to notify the Department, and restrictions on work hours, for the same reasons as discussed above with regard to decommissioning.

Proposed amendments to Table 3A establish which tests are required for decommissioning and clarify when each test is required. These include adding the tie-tank test as a part of decommissioning, using the testing protocol established by CARB TP-201.3C. The proposed addition of the torque test, CARB TP-201.1B, for rotatable adapters, complements the new requirement for rotatable adapters as part of a CARB-certified Phase I EVR system. Additionally, the Department proposes to supplement the existing static pressure performance

test method TP-201.3 in Table 3A with CARB test method TP-201.3B. TP-201.3 is the appropriate static pressure performance test method for underground storage tanks, and TP-201.3B is the appropriate static pressure performance test method for aboveground storage tanks. Copies of the test methods are available from CARB at the web address in the rule, updated from the existing rule.

The Department proposes to use the term "vacuum assist system" in Table 3A to describe with greater clarity those facilities that are required to do an air-to-liquid volume ratio test. The Department based the proposed definition of "vacuum assist system" on CARB's definition of this term. Proposed amendments to Table 3A also clarify that the dynamic backpressure performance and the air-to-liquid volume ratio tests are only required of a gasoline dispensing facility that has a Phase II vacuum assist vapor recovery system, which also means they are no longer required once a Phase II system is decommissioned.

In order to ensure an accurate assessment of site operating conditions, proposed new N.J.A.C. 7:27-16.3(j)5 provides that no corrective action is to take place on the day of the test, either before or during the test. Corrective action may be taken on the day of the test, after the test results have been recorded. This would address, for example, the situation in which a vapor recovery system that has been leaking for some time is corrected immediately prior to the test. Such a correction would keep the Department from determining how well the system is really working. Also new, is the requirement at proposed new N.J.A.C. 7:27-16.3(j)7i that the owner or operator notify the Department after every test failure, including the first. The existing rule requires notification only if a system fails a recheck after repairs. Notification of all test failures will provide the Department critical information concerning the functionality of the system. Proposed N.J.A.C. 7:27-16.3(j)3, 7i, and 8i require all notifications to the Department regarding

testing and testing failures to be made electronically by e-mail, to an e-mail address that will be provided on the Department's website. The website address will be inserted into the rule on adoption.

To clarify that some of the tests are for equipment, and not entire vapor recovery systems, the proposed amendments at N.J.A.C. 7:27-16.3(j) add a reference to the equipment wherever a vapor recovery system is mentioned in the rules. Proposed new N.J.A.C. 7:27-16.3(j)9 is a recodification of the existing recordkeeping requirement from existing N.J.A.C. 7:27-16.3(i)3, and proposed N.J.A.C. 7:27-16.3(j)11 is a recodification of the existing recordkeeping requirement from existing N.J.A.C. 7:27-16.3(i)2.

The requirement at proposed N.J.A.C. 7:27-16.3(j)10 that the testing documentation be provided to the Department upon request is consistent with the existing recordkeeping requirements at N.J.A.C. 7:27-16.3(s) and the existing recordkeeping and reporting provisions at N.J.A.C. 7:27-16.3(i)2 and 3.

Penalties

At N.J.A.C. 7:27A-3.10(m)16, the Department is proposing penalties for violations of N.J.A.C. 7:27-16.3(f), (g), and (h) that are consistent with the existing penalties for violations of existing N.J.A.C. 7:27-16.3(c), (d), and (e). The new provisions, like the existing provisions, establish requirements for Phase I and Phase II vapor recovery systems and vehicle refueling. In addition, the proposed designation of the violations associated with the new penalties as non-minor (indicated as "NM") is the same as the designation for the violations associated with the existing penalties. Because the existing penalties for violations of existing N.J.A.C. 7:27-16.3(e) are also appropriate for violations of the newly proposed decommissioning options, the

Department proposes the same penalties for violations of the decommissioning provisions at proposed new N.J.A.C. 7:27-16.3(e).

The proposed penalties for violations of new N.J.A.C. 7:27-16.3 (j)9, 10, and 11 differ from the existing penalties for the comparable requirements of existing N.J.A.C. 7:27-16.3(i)2 and 3. The proposed new penalties are consistent with existing penalties for violations of recordkeeping requirements at existing N.J.A.C. 7:27-16.3(s), proposed for recodification at N.J.A.C. 7:27-16.3(t). Consistent with the first and second offense of a violation of the recordkeeping provision of proposed N.J.A.C. 7:27-16.3(t), the first and second offenses of a violation of proposed N.J.A.C. 7:27-16.3 (j)9, 10, and 11 do not carry with them the possibility of revocation of the facility's certificate to operate.

The proposed amendments to N.J.A.C. 7:27A-3.10(m)16 add a reference to footnote 3 to some penalties from which it was inadvertently omitted, and to other penalties where the footnote was inconsistently applied. Footnote 3 adds to the listed penalty the revocation of a certificate to operate issued under N.J.A.C. 7:27-8, if applicable. Existing N.J.A.C. 7:27A-3.10(m)16 includes footnote 3 in the penalties for violations of N.J.A.C. 7:27-16.3(c) and (d), but only for the first, third, and fourth offense categories, inadvertently omitting footnote 3 from the second offense category. The proposed amendments also include footnote 3 in all four offense categories as part of the penalties for violations of the proposed new provisions that the Department is designating as non-minor, consistent with existing penalties for gasoline dispensing facilities.

In addition, throughout the penalty table for N.J.A.C. 7:27-16.3 at 7:27A-3.10(m)16, the Department proposes to amend and provide a better description of the underlying requirements in the column headed "Class." The proposed new "class" description for N.J.A.C. 7:27-16.3(e)

reflects the new decommissioning options proposed to replace the provisions at existing N.J.A.C. 7:27-16.3(e).

Social Impact

The Department anticipates that the proposed amendments and repeals will, overall, have a positive social impact.

TBAC Emissions Reporting Repeal

The proposed repeal of the TBAC emissions reporting rules will have no social impact. The repealed recordkeeping and reporting requirements do not increase or reduce the amount of TBAC to which New Jersey residents are exposed. The EPA had anticipated that the TBAC recordkeeping and reporting requirements would assist efforts to characterize long-term health risks associated with TBAC, but concluded, when it repealed these requirements, that they are unlikely to be relevant to any likely future determinations about the health risks associated with TBAC. The repeal of the State's TBAC recordkeeping and reporting requirements are also unlikely to provide useful information regarding health risks from TBAC exposure.

Permitting

The proposed amendments to the air permitting rules at N.J.A.C. 7:27-8 and 22 are anticipated to have no social impact, as they contain no substantive changes. The proposed amended rules clarify the consolidation of the terms and conditions of preconstruction permits with operating permits. The proposed amendments also clarify what other terms and conditions are included in an operating permit. For example, the proposed amendments expressly state that

the Department will not change a permit requirement based on a consent decree with the EPA without first notifying the EPA.

The proposed amendments to N.J.A.C. 7:27-22.11 regarding public notice on a draft operating permit should have no social impact, as they substitute a means of posting notice already employed by the Department and one that the EPA recognizes as a superior and appropriate replacement for newspaper legal ads, no longer required by the EPA. As the Department has already been providing extensive and robust notice of these draft operating permits there should not be any change in the level or quality of outreach that will be obtained when the use of legal ads is discontinued.

Gasoline Transfer Operations

The proposed amendments to N.J.A.C. 7:27-16, Control and Prohibition of Air Pollution by Volatile Organic Compounds, are designed to address attainment and maintenance of the Federal national ambient air quality standards (NAAQS) for ozone and are incorporated into the Department's SIP. The proposed gasoline transfer operation provisions at N.J.A.C. 7:27-16.3 will reduce emissions of gasoline vapors. This will result in a reduction of VOCs, which contribute to the formation of ozone.

Ground-level ozone is a health concern in New Jersey. Ozone exposure can cause irritation of the lungs, which can make the lungs more vulnerable to diseases, such as pneumonia and bronchitis, increase incidents of asthma and susceptibility to respiratory infections, reduce lung function, reduce an individual's ability to exercise and aggravate chronic lung diseases. Increased ozone concentrations severely affect the quality of life for susceptible populations – small children, the elderly, and asthmatics – and present health risks for the public in general.

Exposure to ozone for several hours at relatively low concentrations significantly reduces lung function and induces respiratory inflammation in normal, healthy people during exercise. This decrease in lung function is generally accompanied by symptoms, such as chest pain, coughing, sneezing, and pulmonary congestion. Research strongly suggests that, in addition to exacerbating existing asthma, ozone also causes asthma in children. Long-term exposure may lead to scarring of lung tissue and lowered lung efficiency. Repeated exposure may cause permanent lung damage. When ozone reaches unhealthy levels, children, people who are active outdoors, and people with respiratory disease are most at risk.

The Department estimates that attaining the 2015 eight-hour (70 ppb) ozone NAAQS in New Jersey by 2025 would eliminate about 6,840 asthma attacks in children each year and would reduce hospital admissions and emergency room visits, absences from school and work and restricted activity days among children and adults with asthma and other respiratory diseases (based on the EPA's national estimates adjusted by population, see the EPA's "Regulatory Impact Analysis of the Final Revisions to the National Ambient Air Quality Standards for Ground-Level Ozone," EPA-452/R-15-007, September 2015). The Department also estimates that attaining the standard would reduce premature deaths in New Jersey. As such, implementing these proposed amendments will not only yield greater air quality benefits, but also will contribute to the goal of saving lives and money and provide better living conditions for the people of New Jersey, especially susceptible and "at-risk" populations.

Reducing long-term exposure to low concentrations of VOCs will also have beneficial health effects. The adverse health effects of VOCs may include elevation of serum enzyme levels, mild cellular changes, and changes in lipid metabolism. Acute effects include eye irritation and watering, nose irritation, throat irritation, headaches, nausea/vomiting, dizziness,

and asthma exacerbation. Chronic effects include cancer and damages to the liver, kidney, and central nervous system.

In addition to contributing to the formation of ozone, VOCs can also contribute to the formation of fine particles ($PM_{2.5}$), either through condensation or complex reactions with other compounds in the atmosphere. $PM_{2.5}$ includes all particulate matter having an aerodynamic diameter less than or equal to a nominal 2.5 microns, including condensable particulate matter. The health effects associated with exposure to $PM_{2.5}$ are significant, mainly because particles of this size can easily reach into the deepest regions of the lungs. Significant health effects associated with exposure to $PM_{2.5}$ include premature mortality; aggravation of respiratory and cardiovascular disease; decreased lung function and difficulty breathing; asthma attacks; and serious cardiovascular problems, such as heart attacks and cardiac arrhythmia. In addition, scientists are evaluating new studies that suggest that exposure to high particle levels may also be associated with low birth weight in infants, pre-term deliveries, and possibly fetal and infant deaths.

The proposed amendments will also be protective of public health by reducing exposure to hazardous air pollutants (HAP) (substances listed in section 112(b) of the CAA) and toxic substances (TXS), which are also HAPs and which are listed at N.J.A.C. 7:27-17.3 Table 1. HAPs are substances that cause serious health and environmental effects. These health effects can include damage to the immune system, as well as neurological, reproductive (for example, reduced fertility), developmental, respiratory, and other health problems. People exposed to TXS at sufficient concentrations and durations may have an increased chance of getting cancer. HAPs in gasoline, which are also VOCs, include benzene, toluene, xylenes, ethylbenzene, hexane, and ethanol. Benzene is also classified as a TXS in New Jersey and a

human carcinogen. See https://www.epa.gov/haps/health-and-environmental-effects-hazardous-air-pollutants for more detailed information on HAPs and their health and environmental effects.

Economic Impact

The Department anticipates that the proposed amendments and repeals will have an overall positive economic impact, primarily from the repeal of the TBAC emissions reporting provision and the amendments to the rules governing gasoline transfer operations.

TBAC Emissions Reporting Repeal

The repeal of the TBAC emissions reporting and recordkeeping requirements will provide economic relief to manufacturers within and outside of New Jersey to whom these requirements apply. Historically, 18 manufacturers have submitted the required information to the Department since the inception of the TBAC rules in 2009. Neither the EPA nor any stakeholders have quantified the cost involved in the recordkeeping and reporting but removing the burden of the associated information collection, emission calculations, and reporting should result in cost savings for regulated parties. Additionally, the Department will also likely see a savings in resources due to removal of the need to collect and manage the reported TBAC data.

Permitting

The Department anticipates that the proposed amendments to the air permitting rules at N.J.A.C. 7:27-8 and 22 will have only a small economic impact. To the extent that the proposed amendments clarify the existing rules, as discussed in the Summary above, there will be no economic impact. However, the proposed amendment to N.J.A.C. 7:27-22.11 that allows the

Department to post notice of draft operating permits on its website, rather than publishing notice in the newspaper, will result in a savings of $15.00 to $100.00 per notice, representing the cost of publishing the notice in the newspaper.

Gasoline Transfer Operations

The Department anticipates that the proposed amendments to N.J.A.C. 7:27-16 will have an overall positive economic impact. Some of the amendments will result in costs to gasoline dispensing facilities, while other amendments will result in savings. The Department anticipates an overall cost savings that increases with time.

The proposed amendments to the N.J.A.C. 7:27-16.3, Gasoline transfer operations, primarily impact the owners or operators of gasoline dispensing facilities. These include retail and non-retail facilities, such as gasoline service stations, public works departments, marinas, airports, and rental car agencies. The proposed amendments also impact gasoline dispensing facility installation companies, tank and vapor recovery system testing companies, and manufacturers of gasoline dispensing facility equipment and vapor recovery equipment. There are approximately 3,100 gasoline dispensing facilities in New Jersey with both Phase I and Phase II vapor recovery systems, and approximately 500 additional facilities with only Phase I systems. The proposed Phase II decommissioning requirements apply to the approximately 3,100 gasoline dispensing facilities with Phase II vapor recovery systems, not all of which will be required to decommission their vapor recovery systems. The proposed amendments requiring facilities to upgrade equipment apply to gasoline dispensing facilities with Phase I vapor recovery systems, with the exception of the 37 existing facilities that refuel marine vehicles and aircraft.

In developing this rulemaking, the Department attempted, where feasible and appropriate, to minimize the economic impact on the affected businesses in several ways. Although the

Department has relied on CARB's vapor recovery program as the basis for the proposed Phase I equipment upgrade requirements, the Department has utilized CARB's approach selectively and is not proposing to require the costlier elements of CARB's program, such as those that would entail digging up concrete and modifying underground structures. Rather, the proposed rules provide flexibility with lower cost, cost-effective measures. For example, a dual-point vapor balance system is required only at a new installation. An existing facility with a co-axial vapor balance system is not required to install a dual-point vapor balance system; it can continue to use its existing single-point system. In addition, co-axial vapor balance systems are exempt from the rotatable adapter requirement for a CARB-certified Phase I EVR system. An existing facility has seven years from the operative to install a CARB-certified Phase I EVR system, which would allow for the replacement of parts as required in the course of maintenance cycles. In addition, all of the components of the Phase I system can, but do not have to be, from the same CARB EVR executive order. This is a departure from CARB's requirements, which only consider a Phase I system to be CARB-certified if all components are certified under the same executive order. The proposed rule provides gasoline dispensing facilities with additional flexibility, allowing them to choose from a greater number of products and manufacturers. Also, a gasoline dispensing facility that previously installed some components of a CARB-certified Phase I EVR system will not have to replace them in order to comply. The Department anticipates that some facilities may already be in compliance with portions of the proposed requirements. It further anticipates that the CARB-certified enhanced conventional nozzles (ECO nozzles) and the CARB-certified low permeation hoses will last longer than conventional non-Phase II nozzles and hoses, thus offsetting the increased cost.

The Department estimates that for construction of a new gasoline dispensing facility the proposed rules will lower the average cost of installation by more than $14,000, and will lower operation and maintenance costs by approximately $5,700 per year thereafter. These estimates include a cost avoidance benefit from no longer having to install the Phase II system (estimated to range from $14,000 to $20,000, based on information provided in Maryland and Massachusetts Phase II rulemakings and the EPA 2012 Stage II Guidance) and costs associated with the proposed equipment upgrades.

The Department estimates that for an existing gasoline dispensing facility the proposed rules will result in an average overall net cost of $4,500 in the year it decommissions its Phase II vapor recovery system. Decommissioning costs are estimated by the Department to be in the range of $5,800 to $14,300, depending on the type of vapor recovery system, balance or vacuum assist, and the size of the gasoline dispensing facility, based on information provided by a decommissioning industry contractor. Decommissioning labor costs are estimated by the Department to be approximately $5,000 for a balance vapor recovery system and $10,000 for a vacuum assist vapor recovery system, with the remainder of the costs for new nozzles and hoses. These estimated net costs also include an estimated maintenance cost savings ranging from $1,000 to $10,000 per year (based on information from New Jersey gasoline dispensing facility owners and operators), the cost of upgrading pressure/vacuum valves, and savings from recovering gasoline that would otherwise be lost through volatile emissions. The value of this recovered gasoline is often referred to as a gasoline recovery credit.

In addition to decommissioning costs, the Department estimates that for an existing gasoline dispensing facility the proposed rules will provide an average net savings of approximately $3,800 per year after seven years. These estimates include an estimated

maintenance savings ranging from $1,000 to $10,000 per year, the cost of decommissioning averaged over seven years, an assumption that enhanced nozzles and hoses will last longer than conventional equipment, costs for upgrading to a CARB-certified Phase I EVR system, and a gasoline recovery credit.

The Department has also performed a cost-effectiveness analysis for the proposed amendments. Cost-effectiveness is the ratio of costs of a control measure to the expected outcome, in this case the amount of pollutant reduced. The cost-effectiveness of eliminating the requirements for new facilities to install Phase II vapor recovery systems and allowing/requiring existing facilities to decommission Phase II vapor recovery systems is zero, because, as detailed in the Environmental Impact statement below, the net VOC emission reductions from these actions are estimated to be zero. The Department estimates the average overall cost-effectiveness of the remaining amendments to be approximately $700.00 per ton of VOC reduced. The dollar values shown in this Economic Impact statement are estimates. Rather than give the impression that the Department has a level of confidence in the numbers that extends to two decimal places, the Department is not showing cents in its estimates.

The main assumptions and sources used to derive these cost estimates are as follows:

1. Department estimated costs assume there are no existing CARB-certified Phase I EVR parts at existing facilities, which is conservative. Some facilities may have already installed some of the CARB Phase I EVR parts. The cost for upgrading an existing Phase I system to a CARB-certified Phase I EVR mix and match system over seven years with maintenance was estimated by the Department to be $8,000. The cost of a new CARB-certified Phase I EVR PV valve was estimated by the

Department to be $325.00, two valves per facility, which is conservative because some facilities have the vent piping manifolded together.

2. Department estimated costs include rotatable adapters for all facilities, which is conservative, as facilities with a coaxial Phase I system will not be required to install rotatable adapters. These costs are estimated by the Department to be $300.00 per tank, two tanks per site, for the retrofit of an existing system, and a $200.00 per tank cost difference for a new facility.
3. The cost difference from conventional nozzles and hoses to updated nozzles and hoses was estimated by the Department to be approximately $70.00 per nozzle and $60.00 per hose (whip and primary). The cost difference from conventional Phase I equipment to a CARB-certified Phase I EVR system, new equipment only, not a retrofit, was estimated by the Department to be $2,600 per facility. The cost difference from a conventional PV valve to a CARB-certified Phase I EVR PV valve was estimated to be $225.00 per valve.
4. Department-estimated costs assume a conventional nozzle life of one year, an enhanced nozzle life of three years, a conventional hose life (whip and primary) of two and one-half years and an enhanced hose life of four years.
5. Costs estimates were provided by manufacturers, contractors, New Jersey facility owners and operators, and from the following documents:
    a. Air Program Support for Stage I and Stage II Programs in Massachusetts, Final Report, prepared for: Massachusetts Department of Environmental Protection, prepared by: Eastern Research Group, Inc., de la Torre-Klausmeier Consulting, December 12, 2012;

b. MassDEP, Background Information and Technical Support for Proposed Amendments to 310 CMR 7.00 7.24, et seq. Authority: M.G.L. Chapter 111, §§ 142A through 142O, February 2014; and

c. Stakeholder Comments on Proposed Changes to MassDEP Stage I & Stage II Programs, Comments on ERG Final Report, prepared by: Independent Oil Marketers Association (IOMA), January 23, 2013.

6. For the purpose of estimating Statewide economic impact, the Department has estimated that nine nozzles are representative of an average facility in New Jersey.

7. The Department annualized the cost of the proposed new equipment over seven years.

8. The Department used a gasoline recovery credit of $2.00 per gallon, based on the average gasoline price at the time of the publication of this notice of proposal.

9. According to the Department of Energy, Energy Information Administration (EIA), average annual motor gasoline consumption in New Jersey from 2010 through 2014, was approximately 4.1 billion gallons, or approximately 35,000 tons per day (tpd).

10. The Department estimated the combined emission reductions from the installation of ECO nozzles, low permeation hoses and a CARB-certified Phase I system to be approximately 8.5 tpd (3,100 tons per year (tpy)) (see Gasoline Transfer Operations SIP Revision.) This equates to an annual Statewide gasoline recovery savings of about 985,000 gallons. At a current average pricing of $2.00 per gallon, the Department estimated that gasoline dispensing facilities in New Jersey will realize a

combined annual savings (that is, gasoline recovery credit) of approximately $2 million.

11. The annualized cost to upgrade the nozzles, hoses, and Phase I system at all applicable gasoline dispensing facilities Statewide over the next seven years is estimated by the Department to be $4.1 million. Subtracting the gasoline recovery credit from the annual estimated costs and dividing by the 3,100 tpy of expected VOC emission reductions yields a cost-effectiveness of approximately $700.00 per ton of VOC.

The Department estimates the cost-effectiveness of the proposed CARB-certified Phase I EVR system to be approximately $1,700 per ton of VOC and the proposed new nozzle/hose combination was estimated to result in an overall cost savings in the future.

Emission reductions from the proposed equipment upgrade requirements will assist the State in its goal of attaining the eight-hour ozone NAAQS. Recovery of gasoline vapors is a financial benefit to the owner of the gasoline dispensing facility, as the recovered gasoline vapors are then available to be sold to customers. In addition to the environmental and health benefits and the gasoline recovery benefits of the proposed amendments, economic health benefits, cost savings associated with reduced health impacts, will also be realized. The Department estimates that these proposed amendments will yield health benefits valued at $6 to $29 million annually in 2030 in New Jersey (based on the EPA's national estimates for the Tier 3 Motor Vehicle Emission and Fuel Standards Final Rule, adjusted by estimated emission reductions, see the EPA's Regulatory Impact Analysis "Control of Air Pollution from Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards Final Rule, Regulatory Impact Analysis," EPA-420-R-14-005, March 2014, and the EPA's "Emissions Modeling Technical

Support Document: Tier 3 Motor Vehicle Emission and Fuel Standards," EPA-454/R-14-003, February 2014). These annual benefits include the value of avoiding a range of harmful health effects, which were discussed in more detail in the Social Impact above. Owners and employees of businesses will enjoy the environmental, health, and other social benefits of the amendments, such as reduced absences from work and restricted activity days. Economic benefits for individuals and health insurance companies will be realized through reduced hospital admissions and emergency room visits and doctor visits.

Environmental Impact

The Department anticipates that the proposed amendments and repeals will have a positive environmental impact primarily from the amendments to the rule governing gasoline transfer operations.

TBAC Emissions Reporting Repeal

The Department anticipates that the proposed repeal of the TBAC emissions reporting rules will have no environmental impact. As discussed above, the repealed reporting and recordkeeping requirements do not affect the amount of TBAC released into the environment in New Jersey.

Permitting

The proposed amendments to the air permitting rules at N.J.A.C. 7:27-8 and 22 should have no impact, as they contain no substantive changes. The proposed amendments to these rules clarify existing rules, as stated in the Summary above. Accordingly, these proposed amendments

will have no environmental impact in New Jersey. There should be no environmental impact from the proposed amendments to the draft permit public notice requirements at N.J.A.C. 7:27-22.11 as overall the level and quality of outreach is unchanged, as discussed in the Social Impact above.

Gasoline Transfer Operations

The primary environmental benefit will be a reduction in the emissions of VOCs, which are precursor emissions that lead to the formation of ground level ozone. A reduction in VOCs will also lead to a reduction in $PM_{2.5,}$ HAPs, TXS, and carcinogens. Additional background on the health effects of these pollutants is discussed in Social Impact above.

In addition to impacting health, ozone interferes with the ability of plants to produce and store food, which makes them more susceptible to disease, insects, other pollutants, and harsh weather. Ozone damages the leaves of trees and other plants, ruining the appearance of cities, national parks, and recreation areas. Ozone reduces crop and forest yields, which impacts annual crop production throughout the United States, resulting in significant losses, and injures native vegetation and ecosystems. Ground-level ozone also damages certain man-made materials, such as textile, fibers, dyes, and paints, requiring more frequent upkeep and repair.

Fine particles in the air reduce the amount of sunlight reaching the ground, decrease visibility, and increase haze. At elevated $PM_{2.5}$ concentrations, visual ranges are degraded and images of scenic views (for example, mountains, urban skylines, and other scenic views) are significantly obscured from view. In addition to visibility impairment, ambient particulate matter also affects vegetation, ecosystems, soiling, materials and structure damage, and the radiative properties of clouds. The nutrient or acidifying characteristics of deposited particulate

matter on both terrestrial and aquatic ecosystems contribute to adverse impacts on essential ecological attributes such as species shifts, loss of diversity, impacts to threatened and endangered species and alteration of native fire cycles.

The proposed amendments will also have beneficial impacts on soil and groundwater, insofar as the amendments prevent gasoline spills and leakage, thereby decreasing soil and groundwater contamination by constituents of gasoline, such as benzene, toluene, xylenes, ethylbenzene, and ethanol.

It is anticipated that the proposed amendments to no longer require Phase II vapor recovery at new installations and to allow or require the decommissioning of Phase II vapor recovery at existing gasoline dispensing facilities will not have a negative environmental impact and will in the future have a positive environmental impact by eliminating the emission reduction disbenefit from ORVR-incompatible vacuum assist vapor recovery system and preventing possible excess emissions.

The Department has estimated, based on the EPA's 2012 Stage II Guidance, that the Statewide overall crossover from benefit to disbenefit for Phase II in New Jersey will occur sometime between mid-2017 and mid-2021. In order to minimize the environmental disbenefit from some existing Phase II vapor recovery systems, the Department has proposed the timing of the implementation of the Phase II decommissioning requirements to match the timing of the projected disbenefit cross-over resulting from the incompatibility of vacuum assist vapor recovery system with ORVR-equipped vehicles. Therefore, the emission benefit/disbenefit of the Phase II amendments is estimated to be zero.

The Department anticipates that the proposed equipment upgrade requirements for Phase I, tank breathing, and refueling systems will result in a positive environmental benefit. The

Department estimates that the requirements for a CARB-certified Phase I EVR system, including the CARB-certified PV valve and a dual-point vapor balance system for new gasoline dispensing facilities, will result in an emission reduction of approximately five tons per day (tpd) of VOCs. The Department estimates that the requirements for ECO nozzles and low permeation hoses will result in approximately three and one half tpd of VOCs. Additional details regarding these estimates can be found in the Gasoline Transfer Operations SIP Revision (The State of New Jersey Department of Environmental Protection Plan Revision for the Attainment and Maintenance of the Ozone National Ambient Air Quality Standards for Amendments to N.J.A.C. 7:27-16.3, Gasoline Transfer Operations, Vapor Recovery Systems, 2017).

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 that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis.

TBAC Emissions Reporting Repeal

The TBAC repeal removes reporting and recordkeeping requirements. The repeal is based on and consistent with the amended Federal definition of VOC and does not include requirements more stringent than the Federal requirements. Accordingly, no further analysis is required.

Permitting

The proposed amendments to the permitting rules do not impose requirements more stringent than Federal requirements. Rather, EPA's approval of New Jersey's SIP revision to incorporate adopted amendments at N.J.A.C. 7:27-8, and subsequent administrative changes submitted to the EPA on February 24, 2014, is contingent on the proposed permitting amendments. As discussed in the Summary above, the proposed amendments are the result of an EPA audit of the Department's rules. The proposed amendments to the draft permit public notice requirements at N.J.A.C. 7:27-22.11 are consistent with Federal regulations allowing permitting authorities to substitute e-notice and e-access for newspaper legal ads. No further analysis is required.

Gasoline Transfer Operations

The proposed Phase II-related amendments are consistent with Federal requirements. As discussed in the Summary above, the EPA has exercised its authority under the CAA to allow states, such as New Jersey, to permit the construction of new gasoline dispensing facilities that are not equipped with Phase II vapor recovery systems and to allow the decommissioning of existing Phase II vapor recovery systems once ORVR is in widespread use, to prevent duplicate technology.

The Department's existing and proposed rules governing gasoline transfer operations at N.J.A.C. 7:27-16.3 are designed to address attainment and maintenance of the Federal NAAQS for ozone and are incorporated into the Department's SIP. The Department's requirement for a Phase I system to be 98 percent efficiency was adopted in 2003. These proposed amendments for Phase I vapor recovery systems reinforce the existing New Jersey requirement and make it clear that, consistent with the existing requirement for 98 percent efficiency, all Phase I vapor

recovery systems must include the CARB-certified Phase I EVR components that are necessary to obtain 98 percent efficiency. This is consistent with the Department's existing rules and the EPA approved SIP for the attainment of the ozone NAAQS. If the Department were to weaken the standard, the Department would be out of compliance with the State's ozone NAAQS SIP and the Federal ozone NAAQS requirements.

Other Federal requirements applicable to Phase I vapor recovery operations at gasoline dispensing facilities are the EPA's National Emission Standards for Hazardous Air Pollutants (NESHAP rule) at 40 CFR Part 63 Subpart CCCCCC for Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities; and Gasoline Dispensing Facilities. The NESHAP rule was established to address hazardous air pollutants, not ozone nonattainment. The Department's existing Phase I rules for the transfer of gasoline from a delivery truck to a stationary storage tank were promulgated several years prior to the NESHAP rule, and are more stringent than the NESHAP rule, as are the proposed amendments. However, as the existing and proposed rules are necessary in order that the State remains in compliance with the ozone NAAQS SIP and Federal ozone NAAQS requirements, and are part of the State's EPA-approved SIP, no further analysis is required.

There are no applicable Federal standards for gasoline dispensing facilities that address refueling components at a facility without a Phase II system. The Department's proposed amendments regarding ECO nozzles and low permeation hoses reflect the latest technology, are not inconsistent with Federal standards, and further the Department's efforts for attainment of the ozone NAAQS, a Federal requirement.

Jobs Impact

The Department anticipates that the proposed amendments and repeals may have a small positive impact on job creation and retention in the State.

TBAC Emissions Reporting Repeal

The Department does not anticipate that the repeal of the TBAC recordkeeping and reporting requirements will result in reductions in staff for those manufacturers who have been complying with these requirements.

Permitting

The proposed amendments to the air permitting rules at N.J.A.C. 7:27-8 and 22 contain no substantive changes, but clarify existing requirements concerning the consolidation of the terms and conditions of preconstruction permits with operating permits. As discussed in the Social Impact above, the proposed changes to the draft permit public notice requirements at N.J.A.C. 7:27-22.11 do not change the level and quality of outreach and do not affect employment in New Jersey. Accordingly, these proposed amendments will have no impact on job creation or retention in New Jersey.

Gasoline Transfer Operations

The decommissioning of Phase II vapor recovery systems required by the proposed amendments will be conducted by certified contractors. Some companies may expand their staff to meet the resulting demand for contractors. Decommissioning also requires testing, which could result in increased demand for testing companies.

Dispensing nozzles and hoses must be replaced as a part of decommissioning. The owners and operators of some gasoline dispensing facilities will have to upgrade their vapor recovery system equipment; therefore, manufacturers of equipment that meets the specified standards could experience increased demand, while manufacturers of equipment that does not meet the specified standards are likely to experience decreased demand. The effect on demand for equipment as a result of the proposed amendments is not expected overall to have a significant impact on employment.

Agriculture Industry Impact

Pursuant to the requirements of P.L. 1998, c. 48, adopted on July 2, 1998, the Department has evaluated the proposed amendments and repeals to determine the nature and extent of their impact on the agriculture industry. The proposed amendments to the permitting rules and the proposed repeal of the TBAC emissions reporting rules would not impact the agriculture industry. However, as discussed in Environmental Impact above, it is anticipated that the proposed amendments for gasoline dispensing facilities will result in a reduction in VOCs. To the extent that the proposed amendments reduce formation of ground-level ozone, the amendments would benefit the agricultural industry. High concentrations of ground-level ozone can damage crops by interfering with plants' ability to produce and store nutrients, causing the plants to be more susceptible to disease, insects, and harsh weather.

Regulatory Flexibility Analysis

As required by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Department has evaluated the reporting, recordkeeping, and other compliance requirements

that the proposed repeals and amendments would impose upon small businesses. The Regulatory Flexibility Act defines the term "small business" as "any business which is a resident in this State, independently owned and operated and not dominant in its field, and which employs fewer than 100 fulltime employees." Based upon this definition, the Department expects that some small businesses will be subjected to additional requirements.

TBAC Emissions Reporting Repeal

The proposed repeal of the TBAC emissions reporting rules will have a positive impact on small business. The Department does not have information as to how many of the manufacturers to which the TBAC emissions reporting rule applies are small businesses. Only one of the 18 New Jersey companies complying with these requirements appears to be a small business, although it is likely that there are other New Jersey small businesses that may not be aware that these requirements apply to them. For those manufacturers that meet the definition of small business, the proposed repeal of N.J.A.C. 7:27-34 would remove, rather than impose, reporting, recordkeeping, and other compliance requirements.

Permitting

The proposed amendments to the air permitting rules at N.J.A.C. 7:27-8 and 22 should have no impact on small business, as the proposed amendments make no substantive changes to the existing rules. As discussed in the Social Impact above, the proposed amendments provide clarification, on the EPA's direction. The proposed amendments to the draft permit public notice requirements at N.J.A.C. 7:27-22.11 do not impose any requirements on small businesses.

Accordingly, these proposed amendments will not impose any reporting, recordkeeping, or other compliance requirements on small businesses in this State.

Gasoline Transfer Operations

The proposed amendments to N.J.A.C. 7:27-16.3 apply to approximately 3,600 gasoline dispensing facilities. The Department estimates that approximately 75 percent of those facilities may qualify as small businesses, having fewer than 100 full-time employees. There has been a significant shift in the petroleum industry; formerly, the majority of gasoline dispensing facilities were owned by large companies, but the majority of gasoline dispensing facilities are now owned by smaller companies, making it difficult to estimate the percentage that qualify as small businesses.

The proposed amendments offer a cost savings to gasoline dispensing facilities owned by small businesses by eliminating the requirement to install and maintain Phase II vapor recovery systems. Owners and operators of existing gasoline dispensing facilities will need to hire a professional certified contractor to perform the decommissioning procedures for Phase II vapor recovery system. Decommissioning costs could range from $8,000 to $13,000 as a one-time capital cost, but decommissioning costs will be offset by an annual cost savings due to the elimination of the cost of maintaining a Phase II system. The cost to these small businesses is discussed in more detail in the Economic Impact above.

In developing this rulemaking, the Department added flexibility and minimized the economic impact on the affected businesses wherever feasible and appropriate. Although the Department has relied on CARB's vapor recovery program as the basis for the proposed gasoline dispensing facility equipment upgrade requirements, the Department has utilized CARB's

approach selectively and is not proposing to require the costlier elements of CARB's program, such as those that would entail digging up concrete and modifying underground structures. Rather, this proposal incorporates lower cost, cost-effective measures with flexibility, as discussed in Economic Impact above.

Housing Affordability Impact Analysis

In accordance with N.J.S.A. 52:14B-4.1b, the Department has evaluated the proposed amendments and repeals to determine their impact, if any, on the affordability of housing. The proposed amendments and repeal are not expected to impact the residential sector. The proposed amendments and repeal relate to requirements for gasoline dispensing facilities; compliance with preconstruction permits after an operating permit is issued to a major facility; public notice requirements for draft operating permits; and the reporting and recordkeeping requirements for persons within the State who manufacture TBAC or a product containing TBAC, and persons who manufacture a product containing TBAC for sale in the State. Accordingly, the proposed rulemaking is extremely unlikely to evoke a change in the average costs associated with housing in the State.

Smart Growth Development Impact Analysis

In accordance with N.J.S.A. 52:14B-4.1b, the Department has evaluated the proposed amendments and repeals to determine their impact, if any, on housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The proposed amendments and repeal are not expected to impact the residential sector. The proposed amendments and repeal relate to requirements for gasoline

dispensing facilities; compliance with preconstruction permits after an operating permit is issued to a major facility; public notice requirements for draft operating permits; and the reporting and recordkeeping requirements for persons within the State who manufacture TBAC or a product containing TBAC, and persons who manufacture a product containing TBAC for sale in the State. Accordingly, the proposed rulemaking is extremely unlikely to evoke a change in housing production in Planning Areas 1 or 2, or within designated centers.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 7:27-34.

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

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

7:27-8.1 Definitions

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

...

"Operating permit" means the **consolidated preconstruction and operating** permit [described in] **issued pursuant to** Title V of the Federal Clean Air Act, 42 U.S.C. §§ 7661 et seq., **this subchapter, Title I of the Federal Clean Air Act, 42 U.S.C. § 7401 et seq.,** and [in] N.J.A.C. 7:27-22. This term [shall] include**s** a general operating permit [which] **that** is applicable facility wide, but does not include a general operating permit [which] **that** applies

only to a part of a facility. Where a general operating permit applies only to a part of a facility, the general operating permit shall be incorporated into the operating permit. This term also includes an operating permit issued for a temporary facility; for a facility subject to a MACT or GACT standard pursuant to N.J.A.C. 7:27-22.26; or for a component of a facility pursuant to N.J.A.C. 7:27-22.5(j).

…

7:27-8.2 Applicability

(a) (No change.)

(b) [A significant source located at a facility covered by an operating permit issued by the Department under N.J.A.C. 7:27-22 is not subject to this subchapter. However, the] **The** following requirements apply to [sources at] **a significant source subject to this subchapter at a facility that becomes subject to** operating permit [facilities] **requirements under N.J.A.C. 7:27-22**:

1. [Until an operating permit is issued for a source subject to operating permit requirements, the source remains subject to this subchapter, and any] **All** permits [or] **and** certificates required by this subchapter must be obtained and maintained[.] **until an operating permit, as defined at N.J.A.C. 7:27-8.1 and 22.1, is issued. Upon issuance of an operating permit, the terms and conditions of the preconstruction permit and operating certificates shall be consolidated in the operating permit.**

2. If a new source [which] **that** is subject to operating permit requirements elects under N.J.A.C. 7:27-22.5(g) to obtain a preconstruction permit and certificate under this subchapter prior to obtaining an operating permit, the source shall **continue to** comply

with [this subchapter and with any Federal preconstruction requirements that apply] **the terms and conditions of the preconstruction permit and operating certificate, which shall be consolidated in the operating permit, as defined at N.J.A.C. 7:27-8.1 and 22.1**; and

3. In some cases, a portion of an operating permit facility (such as a research and development operation) is not subject to operating permit requirements. In such a case, the [portion of the facility that is not subject to operating] **owner or operator of the facility shall obtain and maintain a separate preconstruction** permit [requirements would remain subject to this subchapter.] **and operating certificate for the portion of the facility that is not subject to an operating permit. The terms and conditions of the preconstruction permit and operating certificate shall remain separate from and shall not be consolidated into the facility's operating permit.**

(c) – (j) (No change.)

7:27-8.3 General provisions

(a) – (j) (No change.)

(k) [(Reserved)] **The Department will note in the preconstruction permit any requirements derived from an existing or terminated consent decree between the permittee and the EPA, and will not change such requirements or remove them from the preconstruction permit without first notifying the EPA.**

(*l*) – (n) (No change.)

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SUBCHAPTER 16. CONTROL AND PROHIBITION OF AIR POLLUTION BY VOLATILE ORGANIC COMPOUNDS

7:27-16.1 Definitions

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

…

"CARB-certified Phase I Enhanced Vapor Recovery system" or "CARB-certified Phase I EVR system" means a Phase I vapor recovery system that has been certified by CARB in an Executive Order after February 1, 2001, which Executive Order has not been superseded or disapproved at the time of installation.

"CARB-certified Phase II Enhanced Vapor Recovery system" or "CARB-certified Phase II EVR system" means a Phase II vapor recovery system that has been certified by CARB in an Executive Order after February 1, 2001, which Executive Order has not been superseded or disapproved at the time of installation.

…

"Dual-point vapor balance system" means a vapor balance system in which the storage tank is equipped with an entry port for a gasoline fill pipe and a separate exit port for a vapor connection.

…

"Gasoline dispensing facility" means a [facility consisting of one or more] stationary **facility that dispenses** gasoline [storage tanks together with dispensing devices used to fill vehicle] **into the** fuel tank[s] **of a motor vehicle**.

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…

"Onboard refueling vapor recovery system," "ORVR system," or "ORVR" means a vehicle emission control system that captures vapors from the vehicle gasoline tank during refueling. The gasoline tank and fill pipe are designed so that during the vehicle refueling, vapors in the tank travel to an activated carbon packed canister, which adsorbs the vapor. When the engine is in operation, it draws the gasoline vapors into the engine intake manifold to be used as fuel.

…

"ORVR-compatible Phase II vapor recovery system" means a Phase II vapor recovery system that is one of the following:

1. A vapor balance system;

2. A vapor recovery system with tank pressure management emission control equipment installed on the atmospheric vent of the system and operated in conjunction with the Phase I and Phase II vapor recovery systems with the purpose of reducing emissions and recovering gasoline vapors during fuel deliveries and refueling vehicles at a gasoline dispensing facility at greater than or equal to 95 percent recovery efficiency for the Phase II system and 98 percent recovery efficiency for the Phase I system. A system with only a pressure/vacuum relief vent valve on the atmospheric vent is not considered an ORVR-compatible Phase II system;

3. A vacuum assist system that has ORVR-compatible nozzles, which are nozzles that are approved in a CARB-certified Phase II EVR system Executive Order; or

4. A vapor recovery system used exclusively for the refueling of marine vehicles or aircraft.

…

"Phase I vapor recovery system" means a system that controls vapors during the transfer of gasoline from a delivery vessel to a gasoline dispensing facility vessel. This system is also known as a Stage I vapor recovery system or a Stage I vapor control system.

"Phase II vapor recovery system" means a system that controls vapors during the transfer of gasoline from a gasoline dispensing facility vessel to a motor vehicle. This system is also known as a Stage II vapor recovery system or a Stage II vapor control system.

...

"Single-point vapor balance system" means a type of vapor balance system in which the storage tank is equipped with one entry port for a gasoline fill pipe and the same port is used as an exit port for vapor recovery. A single-point vapor balance system utilizes a coaxial drop tube that consists of a pipe within a pipe.

…

"Submerged fill pipe" means a fill pipe whose point of discharge into the receiving vessel is entirely submerged when [the]**:**

1. The liquid level is no more than [6] **six** inches (15.2 centimeters) above the vessel bottom**;** or[,]

2. At a facility other than a gasoline dispensing facility, in the case of a top or side-entering fill pipe, when**,** the liquid level is no more than three times the inside radius of the fill pipe plus [5] **five** inches (12.7 centimeters), but no more than 42 inches (106.7 centimeters), above the vessel bottom.

…

"Vacuum assist system" means a vapor recovery system that employs a pump, blower, or other vacuum-inducing device, to collect and/or process vapors at a subject facility.

…

"Vapor balance system" means a system for controlling vapor losses during the transfer of a VOC liquid from one vessel to another vessel [or tank] by means of the simultaneous counter-transfer of displaced vapors from the receiving vessel to the vessel supplying the liquid.

…

["Vapor control system" means a system for preventing the emission of organic vapors into the outdoor atmosphere.]

...

"Vapor recovery system" or "vapor control system" means a system for preventing the emission of organic vapors into the outdoor atmosphere.

…

7:27-16.3 Gasoline transfer operations

(a) – (c) (No change.)

(d) [No] **Except as provided in (i) below, no** person shall cause, suffer, allow, or permit the transfer of gasoline from a delivery vessel into any stationary storage tank having a maximum capacity of 2,000 gallons (7,570 liters) or greater unless[:

1. The storage tank is equipped and operating with one of the following emission controls:

i. A vapor control system that:

(1) Reduces the total applicable VOC emissions into the outdoor atmosphere by no less than 98 percent of the concentration of applicable VOC by volume in the air-vapor mixture displaced during the transfer of gasoline; and

(2) Includes a pressure/vacuum relief valve on each atmospheric vent which remains closed during the gasoline transfer; or

ii. A floating roof; and

2. The] **the** storage tank meets the requirements of N.J.A.C. 7:27-16.2. **The storage tank shall either have a floating roof or shall be equipped and operating with all of the following Phase I vapor recovery system emission controls:**

1. A Phase I vapor recovery system that reduces the total applicable VOC emissions into the outdoor atmosphere by no less than 98 percent of the concentration of applicable VOC by volume in the air-vapor mixture displaced during the transfer of gasoline;

2. A pressure/vacuum relief vent valve on each atmospheric vent;

3. A CARB-certified Phase I EVR system pressure/vacuum relief vent valve. A Phase I vapor recovery system installed before (the operative date of this amendment), shall comply with this paragraph on or before (one year after the operative date of this amendment);

4. A CARB-certified Phase I EVR system, including a dual point vapor balance system, the components of which shall be approved in one or more CARB-certified Phase I EVR System executive orders that are in effect at the time of installation, but the components need not all be approved in the same executive order. A Phase I vapor recovery system installed before (the operative date of this amendment), shall comply

with this paragraph on or before (seven years after the operative date of this amendment), except:

i. A Phase I vapor recovery system that is using a single-point vapor balance system installed before (the operative date of this amendment), is not required to replace the single-point vapor balance system with a dual-point vapor balance system. The CARB-certified Phase I EVR System Executive Order requirements for rotatable adapters shall not apply to a gasoline dispensing facility using a single-point vapor balance system.

[(e) Except as provided in (f) and (h) below, no person shall cause, suffer, allow, or permit the transfer of gasoline into any gasoline laden vehicular fuel tank, unless the following requirements are met:

1. The transfer is made using a vapor control system that is approved by the Department and that:

i. Reduces the total applicable VOC emissions into the outdoor atmosphere by no less than 95 percent of the concentration of applicable VOC by volume in the air-vapor mixture displaced during the transfer of gasoline; and

ii. Prevents overfilling and spillage;

2. If the transfer is made at a gasoline dispensing facility, the vapor recovery system shall be one of the following:

i. A system that was certified by CARB prior to July 25, 2001;

ii. A system that has been certified by CARB on or after July 25, 2001;

iii. A system that was certified by CARB prior to July 25, 2001; and any replacement parts/equipment/components and any subsequent construction modifications:

(1) Are approved in an Executive Order or approval letter issued by CARB on or after July 25, 2001; and

(2) Do not decrease the VOC emission control efficiency of the system; or

iv. A system that is equivalent for the purpose of VOC emission control to a CARB-certified system and that is approved by the Department and EPA;

3. At a gasoline dispensing facility which was constructed on or after June 29, 2003, and for which a construction permit was issued by the Department after June 29, 2003, each dispensing device at a gasoline dispensing facility which dispenses more than one grade of gasoline shall utilize a unihose system for dispensing gasoline; and

4. Each dispensing device at a gasoline dispensing facility shall meet the following requirements:

i. Each nozzle shall have a check valve located in the nozzle;

ii. At a facility with a vacuum assist vapor control system, each nozzle shall be equipped with a splash-guard that prevents spillage during refueling; and

iii. Each dispensing device and its nozzle(s) shall be designed to be compatible, such that:

(1) The nozzle together with its vapor boot fits into the housing in which it is hung on the dispensing device; and

(2) The nozzle's vapor check valve remains in the closed position when the nozzle is properly hung on the dispensing device.

(f) Notwithstanding (e) above, the provisions of (e) above shall not apply as follows:

1. The provisions of (e) above shall not apply to the transfer of gasoline into a vehicular fuel tank at a gasoline dispensing facility if:

i. The facility is located at a marina and used exclusively for the refueling of marine vehicles;

ii. The maximum capacity of each gasoline stationary storage tank at the facility is less than 2,000 gallons (7,570 liters);

iii. The vehicle being refueled is an aircraft; or

iv. The facility meets the following:

(1) The facility does not have, and has never had, for any 12-month period subsequent to February 6, 1989, an average monthly throughput of greater than 10,000 gallons (37,850 liters), determined in accordance with (g) below; and

(2) If the gasoline dispensing facility commenced operation after June 29, 2003, the facility does not have any stationary storage tanks which are subject to the requirements of (d) above; and

2. The provisions of (e)4 above shall not apply to dispensing devices at a gasoline dispensing facility until June 29, 2005, if construction of the dispensing device commenced prior to June 29, 2003; or a permit for the construction of the dispensing device was issued by the Department prior to June 29, 2003.

(g) For the purposes of (f)1iv above or (h) below, the average monthly throughput of a gasoline dispensing facility shall be an average of the facility's monthly throughputs between September 1, 1986, and August 31, 1987, or during any subsequent period of 12 consecutive months.

(h) If a gasoline dispensing facility, which has been exempt from the provisions of (e) above pursuant to (f)1ii, but which on or after March 28, 1992, becomes subject to (e) above because the facility's average monthly throughput increases such that it exceeds 10,000 gallons (37,850 liters) during at least one 12-month period, the owner or operator shall ensure that no gasoline is dispensed at the facility unless the requirements of (e) above are met in accordance with the following schedule:

1. Within three months of the facility's having an average monthly throughput of more than 10,000 gallons of gasoline, the owner or operator shall submit to the Department a completed application for a permit and certificate, pursuant to N.J.A.C. 7:27-8, for the construction, installation, and operation of a vapor control system and any other modifications needed for the facility to meet the requirements of (e) above;

2. Within nine months of the facility's having an average monthly throughput of more than 10,000 gallons of gasoline, the owner or operator shall commence construction to comply with (e) above, in accordance with the permit issued by the Department pursuant to N.J.A.C. 7:27-8; and

3. Within 18 months of the facility's having an average monthly throughput of more than 10,000 gallons of gasoline, the owner or operator shall achieve compliance with (e) above.

(i) The owner or operator of a gasoline dispensing facility shall perform the following tests:

1. The owner or operator shall demonstrate the facility's vapor control system is performing properly, as follows:

i. Each of the tests set forth in Table 3A below, that are applicable to the facility, shall be conducted in accordance with the schedule for testing given in the table.

ii. The tests required to be performed pursuant to (i)1i above shall be conducted utilizing the applicable CARB test method cited in Table 3A (except that the Static Pressure Performance Test shall be modified as indicated in Table 3A) which are incorporated herein by reference or utilizing some other method approved by the Department and USEPA. A copy of any CARB procedure cited in Table 3A may be downloaded from CARB's website at http://www.arb.ca.gov/vapor or obtained from the Department at the following address:

Department of Environmental Protection

Division of Air Quality

Bureau of Technical Services

Emission Measurement Section

Mail Code: 380-01A

PO Box 420

Trenton, NJ 08625-0420

iii. A vapor control system shall be deemed to have passed a test conducted pursuant to (i)1i above if it meets the performance standards and specifications which are set forth in CARB's Vapor Recovery Certification Procedure (CP - 201), as amended, and which are applicable to the test. A copy of CARB's Vapor Recovery Certification Procedure may be downloaded from CARB's website at http://www.arb.ca.gov/vapor or obtained from the Department at the following address:

Department of Environmental Protection

Division of Air Quality

Bureau of Technical Services

Emission Measurement Section

Mail Code: 380-01A

PO Box 420

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iv. If the vapor control system at a facility fails any test required to be performed pursuant to (i)1i above, the owner or operator shall have the system repaired and retested within 14 days of failure of the test.

v. If the vapor control system fails any retesting required to be performed pursuant to (i)1iv above, the following procedures shall be followed:

(1) The owner or operator shall notify the Department in writing within 72 hours of the failure. Such notification shall be submitted to the applicable regional office of the Department at the following address:

Department of Environmental Protection

Division of Air and Hazardous Materials Enforcement

Bureau of Hazardous Waste & UST Compliance and Enforcement

9 Ewing Street

Mail Code 09-03

PO Box 420

Trenton, NJ 08625-0420

(2) The owner or operator shall have the system repaired and retested in accordance with a compliance plan approved by the Department;

2. Upon the request of the Department, the owner or operator shall demonstrate the efficiency of the facility's vapor control system in reducing the total applicable VOC emissions released from the facility into the outdoor atmosphere, as required pursuant to (d)1i(1) and/or (e)1i above, in accordance with test procedures approved by the Department; and

3. A record of the performance of each of the tests, and of the results obtained, shall be maintained in accordance with (s) below.

Table 3A
Methods for Testing Performance of Gasoline Dispensing Facilities

Test	Applicability	Required Testing Schedule	Test Method (CARB Citation)
Static Pressure Performance Test	Applies to any facility required to have a vapor control system under (e) above	Within 90 days from the date of installation of the system and at last once in every 12 month period thereafter	CARB TP-201.3, including all subsequent revisions thereto, which are incorporated herein by reference except that the vapor control system shall be tested at two inches of water column

Pressure Vacuum Valve Test	Applies to any facility required to have a vapor control system under (e) above	Within 90 days from the date of installation of the system and at last once in every 12 month period thereafter	CARB TP-201.2B, including all subsequent revisions thereto, which are incorporated herein by reference
Dynamic Backpressure Performance Test	Applies to any facility required to have a vapor control system under (e) above	Within 90 days from the date of installation of the system and at last once in every 36 month period thereafter	CARB TP-201.4, including all subsequent revisions thereto, which are incorporated herein by reference
Air to Liquid Volume Ratio Test	Applies to any facility with a vacuum assist vapor control system under (e) above	Within 90 days from the date of installation of the system and at last once in every 12 month period thereafter	CARB TP-201.5, including all subsequent revisions thereto, which are incorporated herein by reference]

(e) The owner or operator of a gasoline dispensing facility with an existing Phase II vapor recovery system for the transfer of gasoline into any gasoline-laden vehicular fuel tank shall either:

1. Decommission the system on or before (three years after the operative date of this amendment) in accordance with (h) below and maintain the system in accordance with the requirements of this section until the decommissioning is completed; or

2. For a Phase II vapor recovery system that is ORVR-compatible, either:

i. Decommission the system at any time in accordance with (h) below; or

ii. Maintain the system in accordance with the requirements of this section.

(f) Except as provided in (e) above, the owner or operator of an existing gasoline dispensing facility with an existing Phase II vapor recovery system shall ensure that:

1. The transfer of gasoline into any gasoline-laden vehicular fuel tank shall be made using a vapor recovery system that is approved by the Department and that reduces the total applicable VOC emissions into the outdoor atmosphere by no less than 95 percent of the concentration of applicable VOC by volume in the air-vapor mixture displaced during the transfer of gasoline;

2. The vapor recovery system shall be one of the following:

i. A Phase II vapor recovery system that is CARB-certified;

ii. A Phase II vapor recovery system that was certified by CARB prior to July 25, 2001, for which all replacement parts/equipment/components and all subsequent construction modifications:

(1) Are approved in an Executive Order or approval letter issued by CARB on or after July 25, 2001; and

(2) Do not decrease the VOC emission control efficiency of the system; or

iii. A Phase II vapor recovery system that is equivalent for the purpose of VOC emission control to a CARB-certified Phase II vapor recovery system and that is approved by the Department and the EPA;

3. Each dispensing device at a gasoline dispensing facility shall meet the following requirements:

i. Each nozzle shall have a check valve located in the nozzle;

ii. At a facility with a vacuum assist vapor control system, each nozzle shall be equipped with a splash-guard that prevents spillage during refueling; and

iii. Each dispensing device and its nozzle(s) shall be designed to be compatible, such that:

(1) The nozzle together with its vapor boot fits into the housing in which it is hung on the dispensing device; and

(2) The nozzle's vapor check valve remains in the closed position when the nozzle is properly hung on the dispensing device.

(g) Except as provided in (i) below, the owner or operator of a gasoline dispensing facility with a stationary storage tank greater than or equal to 2,000 gallons (7,570 liters) shall ensure that:

1. During the transfer of gasoline into any gasoline-laden vehicular fuel tank, any person refueling a vehicle shall prevent overfilling and spillage and shall not allow the transfer of gasoline to continue after the nozzle automatic shut-off point;

2. At a gasoline dispensing facility that was constructed on or after June 29, 2003, and for which a construction permit was issued by the Department after June 29, 2003, each dispensing device that dispenses more than one grade of gasoline shall utilize a unihose system for dispensing gasoline;

3. At a gasoline dispensing facility without a Phase II vapor recovery system, each nozzle shall be a CARB-certified enhanced conventional (ECO) nozzle in accordance with CARB certification procedure CP-207, as amended or supplemented. If no nozzle is CARB-certified at the time of the installation, decommissioning, or nozzle replacement, a conventional nozzle may be installed.

i. A gasoline dispensing facility installed before (the operative date of this amendment), shall comply with this paragraph as a part of the decommissioning of a Phase II system, and each time a nozzle is replaced thereafter; and

4. At a gasoline dispensing facility without a Phase II vapor recovery system, each dispenser hose shall be a CARB-certified low permeation hose in accordance with CARB certification procedures CP-201 and CP-207, as amended or supplemented.

i. A gasoline dispensing facility installed before (the operative date of this amendment), shall comply with this paragraph as a part of the decommissioning of a Phase II system, and each time a dispenser hose is replaced thereafter.

(h) The decommissioning of a Phase II vapor recovery system shall be conducted in accordance with the following:

1. Petroleum Equipment Institute document PEI/RP300-09 "Recommended Practices for Installation and Testing of Vapor-Recovery Systems at Vehicle-Fueling Sites" (available at www.pei.org), incorporated herein by reference, as amended or

supplemented, which includes the testing set forth at Table 3A below, and (j) below, as applicable;

2. Decommissioning of a Phase II vapor recovery system shall be conducted or supervised by an individual that is certified by the Department in underground storage tank installation or closure and who also works for a certified firm in accordance with N.J.A.C. 7:14B-13, except neither a certified individual nor a certified firm is required for decommissioning testing in accordance with PEI requirements and Table 3A below;

3. All underground piping and/or condensate traps associated with the decommissioned vapor recovery system that are not removed at the time of decommissioning shall be removed at such time in the future that they become exposed as a part of a modification to the gasoline dispensing facility, or if the system fails a static pressure performance test as required in (j) below and the leak is associated with the vapor recovery system underground piping system;

4. At least 14 days prior to commencing work to decommission, the owner or operator of the gasoline dispensing facility shall notify the Department by e-mail and include the address and registration number of the facility, contact information for the owner and operator, the name and contact information of the certified individual and business conducting the decommissioning, and the date the decommissioning is scheduled to begin. Guidance for notifying the Department is available at (to be added upon adoption), and includes the e-mail address to which the notice shall be provided;

5. Decommissioning shall be performed only on Monday through Friday, except State holidays, between 8:00 A.M. and 5:00 P.M.; and

6. Within 14 days after decommissioning is complete, the owner or operator of the gasoline dispensing facility shall notify the Department by e-mail and include the address and registration number of the facility, contact information for the owner and operator, the name and contact information of the certified individual and business conducting the decommissioning, the date the decommissioning was conducted and a decommissioning checklist in accordance with PEI/RP300-09, or a checklist that may be amended by the Department as applicable and posted on the Department's website. Guidance for notifying the Department is available at (to be added upon adoption), and includes the e-mail address to which the notice shall be provided.

(i) The provisions of (d)3 and 4 and (g)2, 3, and 4 above shall not apply to a gasoline dispensing facility installed after (the operative date of this amendment), if:

1. The vapor recovery system and refueling equipment subject to (d) and (g) above is used exclusively for the refueling of marine vehicles, unless the equipment identified in (d)3 or 4 or (g)2, 3, or 4 above is being replaced; or

2. The vapor recovery system and refueling equipment subject to (d) and (g) above is used exclusively for the refueling of aircraft, unless the equipment identified in (d)3 or 4 or (g)2, 3, or 4 above is being replaced.

(j) The owner or operator of a gasoline dispensing facility shall perform tests to demonstrate that the facility's vapor recovery systems or equipment are performing properly, as follows:

1. Each test set forth in Table 3A below that is applicable to the facility shall be conducted in accordance with the schedule for testing given in the Table;

2. Each test required to be performed pursuant to (j)1 above shall be conducted utilizing the applicable CARB test method cited in Table 3A below, which are incorporated herein by reference, as amended or supplemented, or utilizing some other method approved by the Department and the EPA. A copy of the test methods cited in Table 3A above is available at www.arb.ca.gov/vapor/vapor.htm;

3. At least 14 days prior to performing any tests, the owner or operator of the gasoline dispensing facility shall notify the Department by e-mail and include the address and registration number of the facility, contact information for the owner and operator, the name and contact information of the business conducting the testing, and the date the testing is scheduled to begin. Guidance for notifying the Department is available at (to be added upon adoption), and includes the e-mail address to which the notice shall be provided;

4. Testing shall be performed only on Monday through Friday, except State holidays, between 8:00 A.M. and 5:00 P.M.;

5. On the day of the test, no corrective action shall be taken before or during the test, but may be taken after the test results have been recorded;

6. A vapor recovery system or equipment shall be deemed to have passed a test conducted pursuant to (j)1 above, if it meets the applicable performance standards and specifications that are set forth in CARB's Vapor Recovery Certification Procedures and/or Test Procedures, including all subsequent revisions thereto, which are incorporated herein by reference. A copy of CARB's Vapor Recovery Certification and

Testing Procedures may be downloaded from CARB's website at https://www.arb.ca.gov/vapor/vapor.htm. If corrective action is needed on the day of the test, the vapor recovery system or equipment shall not be deemed to have passed the test;

7. If the vapor recovery system or equipment at a gasoline dispensing facility fails any test required to be performed pursuant to (j)1 above, the owner or operator of the facility shall:

i. Notify the Department in writing within 72 hours of the failure. Such notification shall be submitted to the Department by e-mail and include the address and registration number of the facility, contact information for the owner and operator, the name and contact information of the business conducting the testing, the date the testing was conducted, and the results of the testing using the forms in the applicable CARB method. Guidance for notifying the Department is available at (to be added upon adoption), and includes the e-mail address to which the notice shall be provided; and

ii. Have the system repaired and retested within 14 days of failure of the test;

8. If the vapor recovery system or equipment at a gasoline dispensing facility fails any retesting required to be performed pursuant to (j)1 above, the owner or operator of the facility shall:

i. Notify the Department in writing within 72 hours of the failure. Such notification shall be submitted to the Department by e-mail and include the address and registration number of the facility, contact information for the owner and operator, the name and contact information of the business conducting the testing, the date

the testing was conducted, and the results of the testing using the forms in the applicable CARB method. Guidance for notifying the Department is available at (to be added upon adoption), and includes the e-mail address to which the notice shall be provided; and

ii. Have the system repaired and retested in accordance with a compliance plan approved by the Department;

9. The owner or operator of the gasoline dispensing facility shall maintain a record of the performance of each of the tests, and of the results obtained, in accordance with (t) below;

10. Upon the request of the Department, the owner or operator of a gasoline dispensing facility shall provide the testing documentation and results required pursuant to (j)9 above and (t) below to the Department, either at the facility or to the Department's offices, as specified by the Department; and

11. Upon the request of the Department, the owner or operator of a gasoline dispensing facility shall demonstrate the efficiency of the facility's vapor recovery system in reducing the total applicable VOC emissions released from the facility into the outdoor atmosphere, as required pursuant to (d)1 and/or (f)1 above, in accordance with test procedures or documentation approved by the Department.

Table 3A

Testing for Gasoline Dispensing Facilities

Test	Applicability	Testing Schedule	Test Method
Static Pressure Performance Test	**Applies to any facility required to have a vapor recovery system under (d) above or that decommissions a vapor recovery system under (h) above**	**Within 90 days from the date of installation of the system, at least once in every 12-month period thereafter, and as part of decommissioning**	**CARB TP-201.3* for underground storage tanks and CARB TP-206.3B for aboveground storage tanks, as applicable, including all subsequent revisions thereto, which are incorporated herein by reference**
Pressure Vacuum Vent Valve Test	**Applies to any facility required to have a vapor recovery system under (d) above or that decommissions a vapor recovery system under (h) above**	**Within 90 days from the date of installation of the system, at least once in every 12-month period thereafter, and as part of decommissioning**	**CARB TP-201.1E, including all subsequent revisions thereto, which are incorporated herein by reference**

Dynamic Backpressure Performance Test	**Applies to any facility that has a Phase II vapor recovery system under (f) above**	**Within 90 days from the date of installation of the system and at least once in every 36-month period thereafter**	**CARB TP-201.4, including all subsequent revisions thereto, which are incorporated herein by reference**
Air to Liquid Volume Ratio Test	**Applies to any facility that has a Phase II vacuum assist vapor recovery system under (f) above**	**Within 90 days from the date of installation of the system and at least once in every 36-month period thereafter**	**CARB TP-201.5, including all subsequent revisions thereto, which are incorporated herein by reference**
Torque Test	**Applies to any facility that has rotatable adapters under (d) above**	**Within 90 days from the date of installation of the system and at least once in every 12-month period thereafter**	**CARB TP-201.1B, including all subsequent revisions thereto, which are incorporated herein by reference**
Tie-Tank	**Applies to any facility**	**As part of**	**CARB TP-201.3C,**

Test	**that decommissions a Phase II vapor recovery system under (h) above**	**decommissioning**	**including all subsequent revisions thereto, which are incorporated herein by reference**

***In CARB TP-201.3, the compliance equation for a Phase II vacuum assist system with one to six nozzles shall be used for a gasoline dispensing facility with a Phase I vapor recovery system and no Phase II vapor recovery system. This compliance equation for a Phase I vapor recovery system is also included in CARB's Vapor Recovery Certification Procedure CP-201.**

[(j)] **(k)** No person shall cause, suffer, allow, or permit a delivery vessel having a maximum capacity of 2,000 gallons (7,570 liters) or greater, except if it is a railroad tank car or marine tank vessel, to contain gasoline unless:

1. (No change.)

2. Pressure and vacuum tests are performed on the delivery vessel at least once in every 12-month period, in accordance with test procedures specified by the Department, to determine whether or not the requirements of [(j)1] **(k)1** above are met;

3. – 4. (No change.)

[(k)] ***(l)*** No person shall cause, suffer, allow, or permit a transfer of gasoline, to or from a delivery vessel, if the transfer is subject to the provisions of (d) above, and [(*l*)] **(m)** or [(m)] **(n)** below, and if the delivery vessel being loaded is under a pressure in excess of 18 inches of water (34 millimeters of mercury) gauge or the delivery vessel being unloaded is under a vacuum in excess of six inches of water (11 millimeters of mercury) gauge.

[(*l*)] **(m)** Except as provided in [(p)] **(q)** below, no person shall cause, suffer, allow, or permit the transport or transfer of gasoline in a delivery vessel having a maximum capacity of 2,000 gallons (7,570 liters) or greater unless such vessel is vapor-tight at all times while containing any VOC except during:

1. – 3. (No change.)

[(m)] **(n)** No person shall cause, suffer, allow, or permit the transfer of gasoline or any other substance into a gasoline vapor laden delivery vessel having a maximum capacity of 2,000 gallons (7,570 liters) or greater, unless:

1. The transfer operation is conducted at a gasoline loading facility equipped with a vapor control system which meets the requirement of [(n)] **(*o*)** below, the vapor control system is properly connected to the delivery vessel, and the vapor control system is properly operated throughout the duration of the transfer operation; or

2. (No change.)

[(n)] **(*o*)** No person shall cause, suffer, allow, or permit the transfer or loading of gasoline or any other substance into any gasoline vapor laden delivery vessel except at a gasoline loading facility that is equipped and operating with a vapor control system in accordance with the following provisions:

1. At a facility where the daily loading rate does not exceed 15,000 gallons (56,775 liters) of gasoline per day, as determined in accordance with [(n)3] **(o)3** below, the facility shall be equipped and operating with a vapor balance system or some other vapor control system of

equal or higher efficiency. Such vapor balance system shall not have a vent that is open to the atmosphere during transfer and shall not return the vapors to a tank equipped with a floating roof;

2. At a facility where the daily loading rate exceeds, or may exceed, 15,000 gallons (56,775 liters) of gasoline per day, as determined in accordance with [(n)3] **(o)3** below, the facility shall be equipped and operating with a vapor control system which:

i. – ii. (No change.)

3. For the purposes of [(n)1] **(o)1** and 2 above, a gasoline loading facility's daily loading rate shall be its average daily rate during the month in which the facility had its highest monthly throughput in the last 12 months of operation.

TABLE 3B

(No change.)

[(*o*)] **(p)** Except as provided in [(p)] **(q)** below, no person shall cause, suffer, allow, or permit any transfer of gasoline, subject to the provisions of (d), [(e)] **(f)**, [(m)] **(n)**, or [(n)] **(o)** above, if:

1. – 3. (No change.)

[(p)] **(q)** A delivery vessel subject to the provisions of [(j)] **(k)** above that is found to be in violation of [(*l*)] **(m)** or [(*o*)] **(p)** above shall be:

1. Repaired and a new certification, in accordance with [(j)3] **(k)3** and 4 above, shall be affixed to the delivery vessel within 15 days; or

2. Removed from service until [(*l*)] **(m)** and [(*o*)] **(p)** above are met in full.

[(q)] **(r)** No person shall cause, suffer, allow, or permit the transfer of gasoline at a gasoline loading facility, into or from a delivery vessel, or at a gasoline dispensing facility[, which] **that** is required to have a vapor control system pursuant to [(d)1i] **(d)**, [(e)1i] **(f)1**, [(m)] **(n)**, or [(n)] **(o)** above unless:

1. The vapor control system is designed to meet the applicable requirements in (d), [(e)] **(f)**, [(m)] **(n)**, or [(n)] **(o)** above;

2. – 5. (No change.)

[(r)] **(s)** (No change in text.)

[(s)] **(t)** The owner or operator of a gasoline dispensing facility shall maintain the following records at the facility:

1. (No change.)

2. If the facility is required to test a vapor control system pursuant to [(i)] **(j)** above:

i. Documentation of the performance of each test required pursuant to [(i)] **(j)** above, including the date, name of the testing company**,** and the test method used; and

ii. A record of the results of each test performed pursuant to [(i)] **(j)** above.

[(t)] **(u)** The owner or operator of a gasoline loading facility with a vapor control system pursuant to [(n)] ***(o)*** above shall maintain the following records at the facility:

1. – 3. (No change.)

SUBCHAPTER 22. OPERATING PERMITS

7:27-22.1 Definitions

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

...

"Operating permit" means the **consolidated preconstruction and operating** permit [described in] **issued pursuant to** Title V of the [federal] **Federal** Clean Air Act, 42 U.S.C. § 7661 et seq., [and in] this subchapter**, Title I of the Federal Clean Air Act, 42 U.S.C. § 7401 et seq., and N.J.A.C. 7:27-8**. This term [shall] include**s** a general operating permit [which] **that** is applicable facility wide, but does not include a general operating permit [which] **that** applies only to a part of a facility. Where a general operating permit applies only to a part of a facility, the general operating permit shall be incorporated into the operating permit. This term also includes an operating permit issued for a temporary facility; for a facility subject to a MACT or GACT standard pursuant to N.J.A.C. 7:27-22.26; or for a component of a facility pursuant to N.J.A.C. 7:27-22.5(j).

…

7:27-22.3 General provisions

(a) – (tt) (No change.)

(uu) [(Reserved)] **The Department will note in the operating permit any requirements derived from an existing or terminated consent decree between the permittee and the EPA and will not change such requirements or remove them from the operating permit without first notifying the EPA.**

(vv) (No change.)

7:27-22.5 Application procedures for initial operating permits

(a) – (f) (No change.)

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

(h) – (j) (No change.)

7:27-22.9 Compliance plans

(a) – (b) (No change.)

(c) A proposed compliance plan shall include the following:

1. – 4. (No change.)

5. For each applicable requirement for which the facility is not in compliance at the time the application for an operating permit is submitted to the Department:

i. (No change.)

ii. A proposed compliance schedule setting forth the remedial measures to be taken, including an enforceable sequence of actions with milestones leading to compliance. If the facility is subject to any order**, including an administrative consent order,** or consent decree, the proposed schedule of remedial measures shall incorporate the order or consent decree, and shall be at least as stringent as the order or consent decree; and

iii. (No change.)

6. – 7. (No change.)

(d)-(e) (No change.)

7:27-22.11 Public comment

(a) – (b) (No change.)

(c) The Department will provide public notice of the opportunity for public comment on each draft operating permit. The notice will:

1. – 3. (No change.)

4. Give the name and address of the Department, including the name**,** [and] telephone number**, and e-mail address** of a person at the Department from whom interested persons may obtain additional information;

5. – 7. (No change.)

(d) (No change.)

(e) The Department will [publish] **post** the **public** notice [for] **and** each draft operating permit [in a newspaper of general circulation in the area where the facility which is the subject of the application is located and will mail the notice] **on the Department's air permitting website**

(www.nj.gov/dep/aqpp) for the duration of the public comment period. The Department will also provide notice of the draft operating permit using e-mail, postal service, or other means to persons on a mailing list developed by the Department, including to persons who request in writing to be on the mailing list[.] **or who subscribe to the Department's Air Quality Regulation Listserv. The Department may occasionally update the mailing list and may delete from the list the name of any person who does not respond to the Department's request for a written indication of continued interest in being on the list, or for whom a notice returns to the Department as undeliverable.** The Department will publish the notice for each draft general operating permit in the New Jersey Register [to ensure that the notice is published Statewide]. The Department may also provide additional notice by using any other means the Department finds appropriate for [assuring] **ensuring** adequate notice to the public of the opportunity for public comment.

(f) – (n) (No change.)

7:27-22.23 Minor modifications

(a) A permittee may make any change listed at (c) below through the minor modification procedures set forth in this section. Minor modifications are set forth in (c) below, and include changes [which] **that** may increase actual emissions by insignificant amounts, and other changes [which] **that** do not increase emissions, but may increase ambient concentrations of air contaminants. The Department [shall] **will**, upon approval of an application for a minor modification of the operating permit, incorporate the changes into the **operating** permit. [A separate application for a preconstruction permit is not required.] **The application for a minor modification constitutes an application for a consolidated preconstruction and operating**

permit under this subchapter and N.J.A.C. 7:27-8. The permittee shall not make any change proposed in a minor modification of the operating permit until the Department has approved the minor modification, except as specified in (a)1, 2, and 3 below.

1. – 3. (No change.)

(b) – (n) (No change.)

7:27-22.24 Significant modifications

(a) Notwithstanding any other provision of this subchapter, a permittee is required to make any of the changes listed at (b) **below** through the significant modification procedures set forth in this section. The Department [shall] **will**, upon its approval of an application for a significant modification of the operating permit, incorporate the change(s) into the **operating** permit. [A separate application for a preconstruction permit is not required. Approval of the significant modification shall also constitute preconstruction approval. The permittee shall not make the change proposed in a significant modification of the operating permit until the Department has approved the significant modification.] **The application for a significant modification constitutes the consolidated preconstruction and operating permit application under this subchapter and N.J.A.C. 7:27-8. For a significant modification of the operating permit, the permittee may begin construction of the significant modification, but may not operate the modified facility until the Department has approved the significant modification.**

(b) – (g) (No change.)

7:27-22.33 [Preconstruction review] **Consolidated preconstruction and operating permit review**

(a) (No change.)

(b) The owner or operator of a facility subject to this subchapter[, which] **that** is in operation prior to the applicable application deadline at N.J.A.C. 7:27-22.5(c), shall obtain and maintain all preconstruction permits and operating certificates required pursuant to N.J.A.C. 7:27-8 until **the Department issues** an operating permit [is issued] for the facility. [These approvals will be superseded by the operating permit when it is issued.] **When the Department issues the operating permit to the facility, the operating permit shall include the terms and conditions of the preconstruction permit.**

(c) The owner or operator of a facility subject to this subchapter[, which] **that** commences operation after the applicable application deadline at N.J.A.C. 7:27-22.5(c), shall submit an application for an initial operating permit by the deadline established at N.J.A.C. 7:27-22.5(f). Until the issuance of an operating permit for the facility, the owner or operator of the facility shall obtain and maintain all preconstruction permits and operating certificates required pursuant to N.J.A.C. 7:27-8. [These approvals will be superseded by the operating permit when it is issued.] **When the Department issues the operating permit to the facility, the operating permit shall include the terms and conditions of the preconstruction permit.**

(d) (No change.)

(e) [The Department will perform the preconstruction and operating permit reviews of an application for a minor or significant modification simultaneously. Ordinarily, the Department will issue an operating permit modification which includes preconstruction approval.] **For an application for a minor or significant modification, the Department will simultaneously conduct the preconstruction permit review pursuant to N.J.A.C. 7:27-8 and the operating permit review pursuant to this subchapter. Ordinarily, the Department will issue the**

preconstruction approval as part of the final operating permit modification approval.

However, if requested by an applicant for a modification, the Department will issue the preconstruction approval simultaneously with the [draft permit which] **proposed operating permit that** is forwarded to **the** EPA pursuant to N.J.A.C. 7:27-22.12. [This] **For a minor modification pursuant to N.J.A.C. 7:27-22.23,** preconstruction approval will authorize the permittee to begin construction and operation of a minor modification, at the permittee's own risk[, in accordance with N.J.A.C. 7:27-22.23]. For a significant modification of the operating permit **pursuant to N.J.A.C. 7:27-22.24**, the permittee may begin construction of a significant modification, but may not operate the modified facility until [final issuance of] **the Department has approved** the significant modification.

(f) (No change.)

CHAPTER 27A

AIR ADMINISTRATIVE PROCEDURES AND PENALTIES

SUBCHAPTER 3. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

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, whether the violation is minor or non-minor in accordance with (q) through (t) below, 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. - 15. (No change.)

16. The violations of N.J.A.C. 7:27-16, Control and Prohibition of Air Pollution by Volatile Organic Compounds (VOC), and the civil administrative penalty amounts for each violation, per source, are as set forth in the following table:

Citation	Class	Type of Violation	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
...						
N.J.A.C. 7:27-16.3(c)	**Phase I Gasoline Unloading,** Submerged Fill [(Gasoline)]	NM	$600[3]	$1,200[3]	$3,000[3]	$9,000[3]
N.J.A.C. 7:27-16.3(d)	[Transfer of Gasoline] **Phase I Gasoline Unloading to Tank,**	NM	$600[3]	$1,200[3]	$3,000[3]	$9,000[3]

	Efficiency, Vapor Recovery System					
N.J.A.C. 7:27-16.3(e)	[Transfer of Gasoline (Delivery)] **Decommissioning Options**	NM	$600**[3]**	$1,200**[3]**	$3,000[3]	$9,000[3]
N.J.A.C. 7:27-16.3(f)	**Phase II Gasoline Vehicle Refueling, Vapor Recovery System**	**NM**	**$600[3]**	**$1,200[3]**	**$3,000[3]**	**$9,000[3]**
N.J.A.C. 7:27-16.3(g)	**Gasoline Vehicle Refueling Requirements**	**NM**	**$600[3]**	**$1,200[3]**	**$3,000[3]**	**$9,000[3]**
N.J.A.C. 7:27-16.3(h)	**Decommissioning Specifications**	**NM**	**$600[3]**	**$1,200[3]**	**$3,000[3]**	**$9,000[3]**
N.J.A.C. 7:27-16.3[(i)1]**(j)1**	Testing	NM	$500[3]	$1,000[3]	$2,500[3]	$7,500[3]

N.J.A.C. 7:27-16.3[(i)2 or (i)3]**(j)9, 10, or 11**	Records**: Periodic Testing and System Efficiency**	M	[$100[3]] **$500**	[$200[3]] **$1,000**	[$500[3]] **$2,500[3]**	[$1,500[3]] **$7,500[3]**
N.J.A.C. 7:27-16.3[(j)]**(k)**	Transfer Pressure	NM	$600[3]	$1,200[3]	$3,000[3]	$9,000[3]
N.J.A.C. 7:27-16.3[(l)]**(m)**	Vapor-Tight Delivery Vessel (Gasoline)	NM	$600[3]	$1,200[3]	$3,000[3]	$9,000[3]
N.J.A.C. 7:27-16.3[(m)]**(n)**	Transfer of Gasoline [(Delivery)] **to Delivery Vessel**	NM	$600	$1,200	$3,000[3]	$9,000[3]
N.J.A.C. 7:27-16.3[(n)1]**(o)1**	[Loading] **Transfer of Gasoline to Delivery Vessel** 15,000 gallons **per day** or less [per day]**, Vapor Recovery System**	NM	$1,000	$2,000	$5,000[3]	$15,000[3]

N.J.A.C. 7:27-16.3[(n)2]**(o)2**	[Loading] **Transfer of Gasoline to Delivery Vessel** more than 15,000 gallons per day**, Vapor Recovery System**	NM	$5,000	$10,000	$25,000[3]	$50,000[3]
N.J.A.C. 7:27-16.3[(o)1]**(p)1**	**Delivery Vessel Vapor** Leak **Specs**	NM	$600	$1,200	$3,000[3]	$9,000[3]
N.J.A.C. 7:27-16.3[(o)2]**(p)2**	**Delivery Vessel Vapor** Component **Malfunction**	NM	$800	$1,600	$4,000[3]	$12,000[3]
N.J.A.C. 7:27-16.3[(o)3]**(p)3**	**Delivery Vessel Liquid** Spill	NM	$2,000	$4,000	$10,000[3]	$30,000[3]
N.J.A.C. 7:27-16.3[(p)]**(q)**	[Recertify] **Delivery Vessel Recertification**	M	$200	$400	$1,000[3]	$3,000[3]

N.J.A.C. 7:27-16.3[(q)]**(r)**	Gasoline [Loading] Facility **Transfers, Vapor-Tight and Liquid Leak Free**	NM	$600	$1,200	$3,000 [3]	$9,000 [3]
N.J.A.C. 7:27-16.3[(s)]**(t)**	Records	M	$500	$1,000	$2,500[3]	$7,500[3]

…

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE JULY 3, 2017 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

[34. The violations of N.J.A.C. 7:27-34 TBAC Emissions Reporting, and the civil administrative penalty amounts for each violation, per source, are as set forth in the following table:

Citation	Rule Summary	Type of Violation	First Offense	Second Offense	Third Offense	Fourth and Each Subsequent Offense
N.J.A.C. 7:27-34.3(b)	Submit Report	NM	$ 2,000	$ 4,000	$ 10,000	$ 30,000
N.J.A.C. 7:27-34.3(b)2	Failure to Certify	M	$2,000	$4,000	$10,000	$30,000
N.J.A.C. 7:27-34.4(c)	Emission Calculation	M	$500	$1,000	$2,500	$7,500
N.J.A.C. 7:27-34.5	Recordkeeping Requirements	M	$500	$1,000	$2,500	$7,500]

(n) – (t) (No change.)