Subchapter 18/93

SUBCHAPTER 18 CONTROL AND PROHIBITION OF AIR POLLUTION FROM NEW OR ALTERED SOURCES AFFECTING AMBIENT AIR QUALITY (EMISSION OFFSET RULES)

Authority

N.J.S.A. 26:2C-1 et seq., unless otherwise stated

Source and Effective Date

R.1979 d.237, filed June 14, 1979 to become effective June 30, 1979. See 11 N.J.R. 327(a). As amended R.1980 d.307, filed July 8, 1980 to become effective September 8, 1980. See 11 N.J.R. 327(a), 12 N.J.R. 462(c).

7:27-18.1 Definitions

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

"Actual emissions" means the actual rate of emissions of an air contaminant from a source operation, equipment, or control apparatus. The actual rate of emissions, as of a particular date, shall equal the average rate at which the air contaminant was actually emitted during the two calendar years that are immediately preceding the particular date provided these are representative of normal source operation. The Department may allow the use of a time period different from this two year period only upon a determination that the different time period is more representative of normal operation. Actual emissions shall be calculated using the actual operating hours, production rates, and types of materials used, processed, stored, or combusted during the selected time period. Generally, the particular date is the permit application date, but may be another date specified by the Department. For any equipment, source operation, or control apparatus which has not begun normal operations as of the particular date, the Department shall assume that its actual emissions equal its allowable emissions. Actual emissions shall, for the purposes of this subchapter, be expressed in tons per year.

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

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

"Air quality impact analysis" means a procedure, entailing the use of an air quality simulation model, for determining whether air contaminant emissions will result in an ambient air concentration that exceeds a stan-

dard established for the protection of human health and welfare and the environment.

"Air quality simulation model" means a procedure, taking into account the dispersive capacity of the atmosphere, meteorological data, topography, and other relevant factors, to predict the concentration of an air contaminant in the ambient air. Such procedure may entail use of a mathematical model or a physical model.

"Allowable emission" means the rate at which an air contaminant may be emitted into the outdoor atmosphere. This rate shall be based on the maximum rated capacity of the equipment, unless the equipment is subject to Federally enforceable limits which restrict the operating rate, hours of operations, or both. In such cases this rate is based on the most stringent of the following:

1. Applicable standards of performance for new stationary sources (NSPS) as set forth in 40 CFR 60;

2. Applicable national emission standards for hazardous air pollutants (NESHAP) as set forth in 40 CFR 61;

3. Applicable emission, equipment, and operating standards as set forth in this chapter, including those with a future compliance date;

4. Applicable emission limitations specified in a Federally enforceable permit, including limitations with a future compliance date; and

5. Any emission limitation in an applicable State Implementation Plan (SIP).

"Alter" means to effect an alteration of equipment or control apparatus.

"Alteration" has the meaning as defined for this term at N.J.A.C. 7:27-8.1.

"Alternative fuel" means, with respect to any source operation, any fuel whose use is not authorized by any permit or, for a source operation without a permit, this term means any fuel not used in the source operation since December 21, 1976.

"Ambient air quality standard" means a limit on the concentration of an air contaminant in the general outdoor atmosphere as set forth in N.J.A.C. 7:27-13 or in 40 CFR 50.

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

"Banking" means the reservation of creditable emission reductions, pursuant to N.J.A.C. 7:27-18.8, for future use as emission offsets.

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

"CAA" means the Clean Air Act as amended November 1990 (42 USC 7401 et seq., as amended by Pub. L. 101-549).

"Complete" means, in reference to an application for a permit, that the application contains all of the information necessary, as determined by the Department, for commencing technical review of the application. Designating an application complete for purposes of commencing technical review does not preclude the Department from requesting or accepting any additional information.

"Contemporaneous" means, in respect to the construction of new or altered equipment, occurring within a time period which includes:

1. The five years prior to the initiation of the construction; and

2. The period between the initiation of construction and the initiation of operation of that new or altered equipment.

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

"Creditable emission reduction" means a decrease in actual emissions which meets the conditions listed in 1 through 5 below. A decrease is a creditable emission reduction only to the extent that the pre-decrease level of actual emissions or the pre-decrease level of allowable emissions, whichever is lower, exceeds the new level of allowable emissions. Decreases in allowable emissions attributable to equipment or control apparatus that was permitted, but never operated, shall not be considered a creditable emission reduction. In order to be a creditable emission reduction, the decrease must be:

1. Quantifiable;

2. Federally enforceable;

3. Not required pursuant to any Federal or State law, rule, permit, order, or other legal document;

4. Not relied on by the Department in the SIP or any revision thereto, adopted by the Department, to demonstrate attainment or maintenance of a NAAQS or to demonstrate reasonable further progress toward attainment of a NAAQS; and

5. Verifiable, to the satisfaction of the Department, to have in fact occurred.

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

"Emission offset" means a creditable emission reduction approved by the Department for use to offset an increase in allowable emissions of an air contaminant from a facility.

"Equipment" means any device capable of causing the emission of an air contaminant either directly or indirectly into the outdoor at-

mosphere, and any stack or chimney, conduit, flue, duct, vent or similar device connected or attached to, or serving the equipment. This term includes, but is not limited to, equipment in which the preponderance of the air contaminants emitted is caused by a manufacturing process.

"Facility" means the combination of all structures, buildings, equipment, storage tanks, source operations, and other operations located on one or more contiguous or adjacent properties owned or operated by the same person.

"Federally enforceable" means all limitations and conditions on operation, production, or emissions which can be enforced by the EPA pursuant to authorities which include, but are not limited to, those established in:

1. Any standards of performance for new stationary sources (NSPS) promulgated at 40 CFR 60;

2. Any national emission standard for hazardous air pollutants (NESHAP) promulgated at 40 CFR 61;

3. Any provision of an applicable SIP; or

4. Any permit issued pursuant to requirements established at 40 CFR 51, Subpart I; 40 CFR 52.21; 40 CFR 70; 40 CFR 71; or this chapter.

"Fugitive emissions" means any emissions of an air contaminant released directly or indirectly into the outdoor atmosphere which do not pass through any stack or chimney.

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

"Lowest achievable emission rate" or "LAER" means a limitation on the rate of emission from any source operation, equipment, or control apparatus which is consistent with the most stringent of the following:

1. The most stringent emission limitation which is contained in the SIP of any state for such class or category of source operation, equipment, or control apparatus, unless the owner or operator of the proposed new or altered equipment or control apparatus demonstrates to the satisfaction of the Department that such a limitation is not achievable by that equipment or control apparatus;

2. The most stringent emission limitation which is achieved in practice by such class or category of source operation, equipment, or control apparatus; or

3. The most stringent emission limitation established in any NSPS or NESHAP applicable to such class or category of equipment or control apparatus.

"Major facility" means a facility which has the potential to emit any of the air contaminants listed below in an amount which is equal to or exceeds the applicable major facility threshold level given below. The major facility threshold levels are as follows:

Air Contaminant	Major Facility Threshold Level
Carbon monoxide	100 tons per year
PM-10	100 tons per year
TSP	100 tons per year
Sulfur dioxide	100 tons per year
Nitrogen oxides	25 tons per year
VOC	25 tons per year
Lead	10 tons per year

"Minimum offset ratio" means the minimum acceptable ratio of emission offsets to increases in the allowable emissions for a facility.

"Motor vehicle" means a vehicle propelled otherwise than by muscular power, excepting motorized bicycles and such vehicles as run only upon rails or tracks.

"National ambient air quality standard" or "NAAQS" means an ambient air quality standard promulgated at 40 CFR 50.

"NESHAP" means National Emission Standards for Hazardous Air Pollutants as promulgated under 40 CFR 61.

"Net air quality benefit" means, in the area affected by a proposed emission increase of an air contaminant, a net decrease in the ambient concentration of the respective criteria pollutant for the air contaminant.

"Net emission increase" means, in respect to any air contaminant emitted at a facility, an increase calculated in accordance with the procedures set forth at N.J.A.C. 7:27-18.7(a).

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

"Nitrogen dioxide" or "NO_2" means a gas that has a molecular composition of one nitrogen atom and two oxygen atoms.

"Nonattainment area" means any area of the State:

1. Identified by the Department as one in which the ambient air concentration of a criteria pollutant exceeds an ambient air quality standard; or

2. Designated by the EPA at 40 CFR 81.331 as an area in which the ambient air concentration of a criteria pollutant exceeds the applicable NAAQS.

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

"Operating certificate" means a "Certificate to Operate Control Apparatus or Equipment" issued by the Department pursuant to the Air Pollution Control Act of 1954, and in particular N.J.S.A. 26:2C-9.2, which

is valid for a period of five years from the date of issuance, unless sooner revoked by the Department.

"Oxides of nitrogen" or "NO_x" means all the oxides of nitrogen including, but not limited to, nitric oxide and nitrogen dioxide, except nitrous oxide.

"Ozone" or "O_3" means a gas having a molecular composition of three oxygen atoms.

"Permit" means a "Permit to Construct, Install, or Alter Control Apparatus or Equipment" issued by the Department pursuant to the Air Pollution Control Act (N.J.S.A. 26:2C-1 et seq.), and in particular N.J.S.A. 26:2C-9.2, and N.J.A.C. 7:27-8.

"Person" means any individual or entity and shall include corporations, companies, associations, societies, firms, partnerships and joint stock companies as well as individuals, and shall also include all political subdivisions of this State or any agencies or instrumentalities thereof.

"Plume rise" means the vertical distance from the point at which an effluent stream is discharged into the outdoor atmosphere to the highest point attained by the center line of the effluent stream.

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

"Potential to emit" means the capability of a source operation or of a facility to emit an air contaminant at maximum design capacity, except as constrained by any Federally enforceable condition. Such Federally enforceable conditions may include, but are not limited to, the effect of installed control apparatus, restrictions on the hours of operation, and restrictions on the type or amount of material combusted, stored, or processed. This term shall include fugitive emissions, but shall not include secondary emissions.

"Reasonable further progress" or "RFP" means such annual incremental reductions in emissions to the outdoor atmosphere of an air contaminant as are required by the CAA for the purpose of ensuring attainment of the NAAQS for the respective criteria pollutant by the applicable statutory deadline.

"Resource recovery source" means any equipment used for processing solid waste (including refuse derived fuel and sewage sludge) for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse. For the purpose of this subchapter energy conversion equipment must use solid waste to provide more than 50 percent of the heat input to be considered a resource recovery source.

"Respective criteria pollutant" means the corresponding criteria pollutant for each air contaminant listed in Table 3 of N.J.A.C. 7:27-18.7. The following are the air contaminants listed in Table 3, and their respective criteria pollutants:

Category of Air Contaminants	Respective Criteria Pollutant
TSP	TSP
PM-10	PM-10
SO_2	SO_2
CO	CO
NO_x	NO_2 and O_3
VOC	O_3
Pb	Pb

"Secondary emissions" means emissions to the outdoor atmosphere which occur as an indirect result of the construction or operation of new or altered source operations, equipment or control apparatus at a facility and which affect the air quality of the same general area as emissions occurring as a direct result of the new or altered source operation, equipment or control apparatus. This term includes, but is not limited to:

1. Emissions from marine vessels or from vehicles running upon rails or tracks where such vessels or vehicles are associated with the construction or operation of the new or altered source operation, equipment or control apparatus. The term does not, however, include emissions resulting from motor vehicle or aircraft traffic; and

2. Emissions from off-site support facilities which would be constructed or whose rate of emissions would otherwise increase as a result of the construction or operation of the new or altered source operation, equipment, or control apparatus.

"Significant air quality impact level" means an increase, greater than or equal to that specified in Table 1 at N.J.A.C. 7:27-18.4, in the ambient air concentration of a criteria pollutant.

"Significant net emission increase" means an emission increase of any air contaminant determined pursuant to the procedures set forth in N.J.A.C. 7:27-18.7 to be a significant net emission increase.

"Source operation" means any process or any identifiable part thereof that emits or can reasonably be anticipated to emit any air contaminant either directly or indirectly into the outdoor atmosphere.

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

"State Implementation Plan" or "SIP" means a plan for the attainment of NAAQS, prepared by a state and approved by the EPA pursuant to Section 110 of the Clean Air Act (42 USC 1857 et seq.).

"Sulfur dioxide" or "SO_2" means a gas that has a molecular composition of one sulfur atom and two oxygen atoms.

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

"Transportation control measure" or "TCM" means a measure directed toward reducing air contaminant emissions from motor vehicles. Such measures include those identified in Section 108(f)(1)(A), including the removal from use and the marketplace of pre-1980 model year light duty vehicles and pre-1980 model year light duty trucks.

"Volatile organic compound" or "VOC" shall have the meaning defined for this term at N.J.A.C. 7:27-16.1.

Amended by R.1985 d.25, effective February 4, 1985.
See: 16 N.J.R. 1679(a), 17 N.J.R. 277(a).
Definitions substantially amended.
Petition for Rulemaking: Petitioner's request granted to change definition of "significant emission increase".
See: 22 N.J.R. 66(c).
Amended by R.1993 d.129, effective March 15, 1993 (operative April 20, 1993)
See: 24 N.J.R. 3459(a), 25 N.J.R. 1231(b).
Added 29 new definitions, amended 19 definitions and deleted 4 definitions.

7:27-18.2 Facilities subject to this subchapter

(a) The requirements set forth in this subchapter pertain to certain applications, submitted to the Department pursuant to N.J.A.C. 7:27-8, for a permit to construct, install, or alter control apparatus or equipment at a facility. No person applying for a permit is subject to this subchapter unless either (b) or (c) below applies and:

1. The facility for which the application is submitted is a major facility; or

2. The emission increase of an air contaminant, proposed in the application for a permit, by itself equals or exceeds the major facility threshold level for that air contaminant set forth in the definition of the term "major facility" at N.J.A.C. 7:27-18.1.

(b) For a major facility or a facility for which an emission increase is proposed that exceeds the major facility threshold level, as provided in (a) above, a person applying for a permit is subject to this subchapter if any allowable emissions proposed in the application would result in a significant net emission increase of any air contaminant listed in Table 3 of N.J.A.C. 7:27-18.7, and if the facility for which the construction or alteration is proposed is located in an area which is any of the following:

1. Nonattainment for the respective criteria pollutant corresponding to that air contaminant. The respective criteria pollutant for each air contaminant is listed in the definition of the term "respective criteria pollutant" at N.J.A.C. 7:27-18.1;

2. Attainment for the respective criteria pollutant, and both (b)1i and ii below are true:

i. The proposed significant net emission increase would result in an increase in the ambient concentration of the respective criteria pollutant in an area that is nonattainment for the respective criteria pollutant, as determined by an air quality impact analysis required under N.J.A.C. 7:27-8.4(j); and

ii. The increase in the ambient concentration of the respective criteria pollutant equals or exceeds the significant air quality impact level specified in Table 1 in N.J.A.C. 7:27-18.4, in the nonattainment area for the respective criteria pollutant; or

3. Attainment for the respective criteria pollutant, and the proposed significant net emission increase would result in an increase in the ambient concentration of the respective criteria pollutant that would:

i. Equal or exceed the significant air quality impact level; and

ii. Result in a violation of an applicable NAAQS or NJAAQS, as determined by an air quality impact analysis required under N.J.A.C. 7:27-8.4(j).

(c) For a major facility, a person applying for a permit is subject to N.J.A.C. 7:27-18.3)(b)1 (LAER) and 2 (compliance certification), if:

1. Emission offsets for an air contaminant have been previously required at the facility for which the permit is sought;

2. The construction or alteration proposed in the application would, within the contemporaneous period, result in a net emission increase, which is not a significant net emission increase, of the same air contaminant for which offsets were required. A net emission increase shall be calculated pursuant to N.J.A.C. 7:27-18.7; and

3. The nonattainment area in which the facility is located (or, in the case of a facility located in an attainment area, the nonattainment area whose air quality would have been impacted by emissions from the facility

had emission offsets not been secured) has not been redesignated as being in attainment for the respective criteria pollutant as of the date the permit application is submitted to the Department.

(d) This subchapter shall not apply to any person applying for a permit, if the allowable emissions proposed in the application would result in no net emission increase, as calculated pursuant to N.J.A.C. 7:27-18.7(a).

Amended by R.1985 d.25, effective February 4, 1985.
See: 16 N.J.R. 1679(a), 17 N.J.R. 277(a).
(d): Deleted "a NAAQS" and substituted "an ambient air quality standard".
(e): Deleted "100 tons per year, 1,000 pounds per day, or 100 pounds per hour, whichever is most restrictive" and substituted "a significant emission increase".
Repeal and New Rule: R.1993 d.129, effective March 15, 1993 (operative April 20, 1993).
See: 24 N.J.R. 3459(a), 25 N.J.R. 1231(b).
Former rule entitled "General provisions".

7:27-18.3 Standards for issuance of permits

(a) The Department shall not issue a permit to any person subject to this subchapter unless such person has demonstrated that the facility will be in compliance with all of the applicable requirements of this subchapter at the time the new or altered equipment commences operation.

(b) Any person subject to this subchapter pursuant to N.J.A.C. 7:27-18.2(a) and 18.2(b)1, (b)2, or (c), shall:

1. Demonstrate that air contaminant emissions from the equipment proposed to be constructed or altered will be controlled to the degree which represents the lowest achievable emission rate (LAER); and

2. Certify, in accordance with N.J.A.C. 7:27-8.24, that all existing facilities in New Jersey, which are owned or operated by the person applying for the permit, or by any entity controlling, controlled by, or under common control with such person, are operating:

i. In compliance with the provisions of this chapter and with all applicable emission limitations and standards promulgated pursuant to the Federal Clean Air Act; or

ii. In conformance with an enforceable compliance schedule approved by the Department.

(c) Any person subject to this subchapter pursuant to N.J.A.C. 7:27-18.2(a) and 18.2(b)1 or 2 shall:

1. Secure emission offsets, in accordance with N.J.A.C. 7:27-18.5, for each air contaminant having a significant net emission increase at the facility; and

2. Submit to the Department an analysis of alternative sites within New Jersey, and of alternative sizes, production processes, including pollution prevention measures, and environmental control techniques, dem-

onstrating that the benefits of the new or altered equipment significantly outweigh the environmental and social costs imposed as a result of the location, construction or alteration, and operation of the new or altered equipment.

(d) Any person subject to this subchapter pursuant to N.J.A.C. 7:27-18.2(a) and 18.2(b)3 shall secure emission offsets, sufficient to eliminate the proposed significant net emission increase that has been predicted to result in a violation of the NAAQS or NJAAQS.

(e) Any person required to secure emission offsets pursuant to (c)1 or (d) above shall submit to the Department, as a part of the application for the permit, an emission offset demonstration that specifies:

1. The sources of the air contaminant emission reductions to be applied as emission offsets;

2. How the emission reductions shall be effected;

3. How the permanent reduction of the emissions on or before the commencement of the operation of new or altered equipment shall be made Federally enforceable; and

4. How the emission offsets to be secured will comply with N.J.A.C. 7:27-18.5.

(f) No person required to secure emission offsets pursuant to (c)1 or (d) above shall commence operation of any new or altered equipment or control apparatus, until such person secures the required emissions offsets and the emission reductions represented by the offsets have in fact occurred.

(g) A person who, prior to November 15, 1992, has submitted a complete application to the Department for a permit which is subject to this subchapter may elect, under the conditions given below, to have the provisions of this subchapter which were in effect prior to April 20, 1993, rather than the provisions of the subchapter which are in effect on or after April 20, 1993, apply to the application. The emission offset postponement provisions, set forth at N.J.A.C. 7:27-18.5 prior to April 20, 1993, are excluded from this election. The emission offset postponement provisions in effect on or after April 20, 1993, set forth at N.J.A.C. 7:27-18.6, shall apply to all permits issued on or after November 15, 1992, regardless of the date on which the permit application was submitted. To elect to have the provisions which were in effect prior to April 20, 1993 apply, a person shall:

1. Have received from the Department in writing, prior to November 15, 1992, a determination that the application is complete;

2. Commence the new construction or alteration as proposed in the application no later than 18 months from the date the permit is issued by the Department;

3. Not discontinue the new construction or alteration for a period of 18 months or more; and

4. Pursue the new construction or alteration with due diligence and complete the new construction or alteration within a reasonable time.

(h) Notwithstanding the provisions of (c) or (d) above, no person is required to secure emission offsets for temporary emission increases that occur during and result directly from the construction or installation of the new or altered equipment or control apparatus.

New Rule: R.1993 d.129, effective March 15, 1993 (operative April 20, 1993).
See: 24 N.J.R. 3459(a), 25 N.J.R. 1231(b).

7:27-18.4 Air quality impact analysis

(a) Any person, subject to this subchapter pursuant to N.J.A.C. 7:27-18.2(a) and (b), who proposes to cause a significant net emission increase of an air contaminant listed in Table 3 of N.J.A.C. 7:27-18.7, not including VOC, shall conduct an air quality impact analysis to determine whether the proposed net emission increase would result in an increase in the ambient concentration of the respective criteria pollutant, not including ozone, and shall determine whether the increase in ambient concentration would:

1. Equal or exceed the significant air quality impact level for the respective criteria polluant as set forth in Table 1; or

2. Taken together with the existing concentration of the criteria pollutant in the ambient air, cause a violation of a NAAQS or a NJAAQS.

TABLE 1
SIGNIFICANT AIR QUALITY IMPACT LEVELS FOR INCREASES IN AMBIENT AIR CONCENTRATIONS IN NONATTAINMENT AREAS

	Averaging Time				
Pollutant	Annual	24-Hour	8-Hour	3-Hour	1-Hour
SO_2	1.0 ug/m³*	5 ug/m³		25 ug/m³	
TSP	1.0 ug/m³	5 ug/m³			
NO_2	1.0 ug/m³				
CO			500 ug/m³		2000 ug/m³
Pb		0.1 ug/m³			
PM-10	1.0 ug/m³	5 ug/m³			

*ug/m³ = micrograms per cubic meter

(b) Any person conducting an air quality impact analysis pursuant to (a) above is subject to the air quality impact analysis service fees set forth in the Supplementary Fee Schedule at N.J.A.C. 7:27-8.11.

Amended by R.1985 d.25, effective February 4, 1985.
See: 16 N.J.R. 1679(a), 17 N.J.R. 277(a).
Inserted "a significant emission increase" throughout.
Recodified from 18.3 and amended by R.1993 d.129, effective March 15, 1993 (operative April 20, 1993).
See: 24 N.J.R. 3459(a), 25 N.J.R. 1231(b).
Repealed and replaced (a)1. and 2. and (b).

7:27-18.5 Standards for use of emission reductions as offsets

(a) Only a creditable emissions reduction, as defined at N.J.A.C. 7:27-18.1, may be used to offset an emission increase. Such emission reductions shall be:

i. Contemporaneous; or

ii. Banked in accordance with N.J.A.C. 7:27-18.8.

(b) Creditable emission reductions may result from:

1. Installing control apparatus to decrease the actual emissions from existing equipment or source operations;

2. Applying fugitive emissions control measures which reduce the rate of actual emissions to less than the allowable emissions;

3. Obtaining emission reductions banked pursuant to N.J.A.C. 7:27-18.8;

4. Permanently curtailing the actual production rate or operating hours of an existing source operation;

5. Implementing one or more transportation control measures (TCM);

6. Shutting down an existing source operation; or

7. Adopting any other measure approved by the Department, including, but not limited to, pollution prevention measures, that reduces the rate of actual emissions or allowable emissions, whichever is lesser.

(c) Any use of emission reductions to offset an emission increase shall result in a net air quality benefit. Except as provided in (e), (f) or (g) below, such net air quality benefit shall be demonstrated by showing that the ratio of emission offsets to the proposed net increase in allowable emissions equals or exceeds the minimum offset ratio, specified in Table 2 below, that is applicable based on the distance between the facility and the location of the emission reductions being proposed as emission offsets.

TABLE 2

MINIMUM OFFSET RATIO

Air Contaminant	Distance (miles)	Minimum Offset Ratio (Reductions: Increase)
VOC	0-100	1.3:1.0
	100-250	2.6:1.0
	250-500	5.2:1.0
NO_x	0-100	1.3:1.0
	100-250	2.6:1.0
	250-500	5.2:1.0
SO_2	0-0.5	1.0:1.0
	0.5-1.0	1.5:1.0
	1.0-2.0	2.0:1.0
TSP	0-0.5	1.0:1.0
	0.5-1.0	1.5:1.0
	1.0-2.0	2.0:1.0
PM-10	0-0.5	1.0:1.0
	0.5-1.0	1.5:1.0
	1.0-2.0	2.0:1.0
CO	0-0.5	1.0:1.0
	0.5-1.0	1.5:1.0
	1.0-2.0	2.0:1.0

(d) The minimum offset ratio for lead is 1.00:1.00.

(e) The Department may accept as showing a net air quality benefit a lower minimum offset ratio or a greater distance than that specified in Table 2 if:

1. The Department determines that reasonable further progress toward attainment of the NAAQS or NJAAQS allows a lower minimum offset ratio or greater distance; or

2. The applicant demonstrates to the Department, using an air quality simulation model, that the lower emission offset ratio or greater distance would result in a net air quality benefit.

(f) Notwithstanding (e) above, in no case shall the minimum offset ratio be less than:

1. For CO, 1.00:1.00; and
2. For VOC and NO_x, 1.30:1.00.

(g) Creditable emission reductions may be used as emission offsets only if they are emission reductions of the same category of air contaminant, and must be qualitatively equivalent in their effects on public health and welfare to the effects attributable to the proposed increase.

(h) Reductions in emissions of VOC or NO_x between November 1 and March 31 inclusive, may not be used to offset increased emissions of VOC or NO_x emitted between April 1 and October 31 inclusive.

(i) Emission reductions used previously as emission offsets, or used in calculating the proposed net emission increase, in accordance with N.J.A.C. 7:27-18.7(a)1, may not be used again as emission offsets.

(j) Except as provided in (k) below, the emission reductions used to offset emission increases shall, unless the facility for which the emissions increase is proposed is located in an attainment area, be secured from the applicant's facility or from another facility located in the same nonattainment area as the applicant's facility. In a case where the facility at which the emissions increase is to occur is located in an attainment area, the emission reductions shall be secured from a facility in the nonattainment area whose air quality could be adversely affected by the proposed construction or alteration. In both cases, if the area has been designated a nonattainment area by EPA pursuant to 40 CFR 81.331, the emission reductions shall be secured from the same Federally-designated nonattainment area.

(k) Any emission offsets for lead shall be obtained from:

1. The facility to which the application for a permit pertains; or

2. Another facility which significantly contributes to the same violation of the NAAQS or NJAAQS for lead in the same nonattainment area as the facility for which an application for a permit has been made.

Amended by R.1985 d.25, effective February 4, 1985.
See: 16 N.J.R. 1679(a), 17 N.J.R. 277(a).
Section substantially amended.
Recodified from 18.4 and amended by R.1993 d.129, effective March 15, 1993 (operative April 20, 1993).
See: 24 N.J.R. 3459(a), 25 N.J.R. 1231(b).
Changes made pursuant to 1990 Clean Air Act amendments

7:27-18.6 Emission offset postponement

(a) If the Department has authorized a postponement before April 20, 1993 of these amendments, for complying with N.J.A.C. 7:27-18.3(c)1 or (d), to any person, the postponement will continue in effect until one year after the emission offsets become available, provided that the person complies with (b) below.

(b) Until emission offsets become available, any person who has received a postponement described in (a) above shall demonstrate to the Department annually that emission offsets are unavailable and shall certify that demonstration in accordance with N.J.A.C. 7:27-8.24.

(c) Any person who has received a postponement described in (a) above shall obtain emission offsets within one year after they become available.

(d) A postponement shall terminate if a person fails to comply with (b) or (c) above.

Petition for Rulemaking: Petitioner's request to eliminate emission offset postponement provision denied.
See: 22 N.J.R. 66(c).
Recodified from 18.5 and amended by R.1993 d.129, effective March 15, 1993 (operative April 20, 1993).
See: 24 N.J.R. 3459(a), 25 N.J.R. 1231(b).
New (a)-(d) added.

7:27-18.7 Determination of a net emission increase or a significant net emission increase

(a) Any calculation to determine whether the maximum allowable emissions proposed in an application for a permit would result in a net emission increase or a significant net emission increase at the facility of any air contaminant listed in Table 3 below shall be conducted in accordance with the following:

1. Determine the net emission increase of each air contaminant listed in Table 3 using the following formula:

$$NI = IP + INP + IF + IA - DO - DC$$

Where:

NI = The net emission increase at the facility;

IP = Any increase(s) in the allowable emissions of the air contaminant which occurred during the contemporaneous period and which were authorized by permits issued by the Department;

INP = Any increase(s) in the allowable emissions of the air contaminant which occurred during the contemporaneous period and which came from any equipment or control apparatus for which no permit was in effect at the time of the increase;

IF = Any increase in fugitive emissions of the air contaminant from the facility during the contemporaneous period;

IA = Any proposed increase in allowable emissions of the air contaminant from the new or altered equipment or control apparatus which is the subject of the permit application;

DO = Any increase(s) in the allowable emissions of the air contaminant which occurred during the contemporaneous period, if emission offsets were secured for these increases from the facility or from another facility; and

DC = The sum of all creditable emission reductions at the facility during the contemporaneous period, not including any creditable emission reductions previously used as emission offsets at the facility or any other facility.

2. Compare the net emission increase of each air contaminant, derived pursuant to (a)1 above, to the significant net emission increase level for that air contaminant set forth in Table 3 below. If the net emission increase is equal to or greater than the applicable significant net emission increase level, it is a significant net emission increase.

TABLE 3
SIGNIFICANT NET EMISSION INCREASES

Air Contaminant	Significant Net Emission Increase Levels (tons per year)
SO_2	40
TSP	25
PM-10	15
NO_x	25
CO	100
Pb	0.6
VOC	25

New Rule: R.1993 d.129, effective March 15, 1993 (operative April 20, 1993)
See: 24 N.J.R. 3459(a), 25 N.J.R. 1231(b).

7:27-18.8 Banking of emission reductions

(a) Any person may apply to the Department for the banking of emission reductions to be applied in the future as emission offsets. The applicant shall make the application in writing, submitted on a form obtained from the Department, containing the following information: name and address of person making the application; chemical name of air contaminant; quantity of emission reductions with supporting calculations, and documentation; reason for the emission reduction; specification of the equipment or source operations related to the emission reductions; and any additional information reasonably necessary to enable the Department

to determine that a creditable emission reduction has been achieved. Such a form may be requested from:

New Jersey Department of Environmental Protection
and Energy
Air Quality Regulation Program
Bureau of New Source Review
CN 027
Trenton, New Jersey 08625-0027

(b) Any application for the banking of emission reductions shall be certified in accordance with N.J.A.C. 7:27-8.24.

(c) An application to bank emission reductions shall be made no later than 12 months after the emission reduction occurs. No emission reductions due to the shutdown of any equipment or source operation shall be eligible for banking, unless the applicant notifies the Department at least 60 days prior to removal of the equipment and provides the Department with the opportunity to inspect the equipment or source operation at least 30 days before it is dismantled.

(d) Any emission reductions submitted to the Department for banking shall, upon their approval by the Department for banking, be an enforceable operating restriction for the facility.

(e) If a State or Federal statute, rule, or regulation decreases an allowable emission limit for an air contaminant, the value of any banked emission reductions of that air contaminant shall be reduced, before discounting pursuant to (f) or (g) below, to equal the allowable emission limits in effect at the time the banked emission reductions are used to offset emission increases. The following example illustrates this reduction:

1. Assume that a CO reduction of 10 tons per year is approved for banking, and that seven years after that approval, the CO limit applicable to the equipment is reduced to four tons per year;

2. If the banked emission reduction is used five years after it was approved for banking, under (f) below its value is discounted by 50 percent, to five tons per year; and

3. If the banked emission reduction is used eight years after it was approved for banking (which is after the date of the change in the applicable CO limit), its value is reduced to two tons per year, as follows: first, from 10 tons per year to four tons per year, to reflect the reduction in the applicable CO limit; and second, from four tons per year to two tons per year, to reflect the 50 percent discount under (f) below.

(f) The value of banked emission reductions obtained from the shutdown or curtailment of operation of any equipment or source operation

which remain unused as emission offsets for more than five years after the date the emission reduction is submitted for banking shall be discounted by 50 percent. As of the date five years after the date of submittal for banking, the discounted portion of the banked emission reductions may no longer be used as an emission offset by the applicant or by any person to whom the banked emission reductions may have transferred by the applicant, but shall revert to the State.

(g) Any banked emission reductions obtained from the shutdown or curtailment of operation of any equipment or source operation which remain unused as emission offsets for 10 years after the date they have been submitted for banking, shall revert to the State. As of the date 10 years after the date of submittal for banking, these emission reductions may no longer be used as emission offsets by the applicant or by any person to whom the banked emission reductions may have transferred by the applicant.

(h) Any discount of or reduction in the value of banked emission reductions pursuant to (e), (f) or (g) above shall take effect without further action by the Department.

(i) For the purposes of the discounting provisions set forth in (f) and (g) above, the Department shall treat any emission reductions which have been submitted for banking prior to April 20, 1993, as if they were submitted for banking on April 20, 1993.

(j) Any person applying for banking of emission reductions pursuant to this section is subject to the service fees for banking set forth in the Base Fee Schedule at N.J.A.C. 7:27-8.11.

Amended by R.1985 d.25, effective February 4, 1985
See: 16 N.J.R. 1679(a), 17 N.J.R. 277(a).
Substantially amended subsection (a) and deleted subsection (b).
Recodified from 18.7 and amended by R.1993 d.129, effective March 15, 1993 (operative April 20, 1993).
See: 24 N.J.R. 3459(a), 25 N.J.R. 1231(b).
Changes made pursuant to 1990 Clean Air Act amendments.

7:27-18.9 Secondary emissions

(a) Any person subject to this subchapter pursuant to N.J.A.C. 7:27-18.2(a) and 18.2(b)1, (b)2, or (c) shall certify that any increases in secondary emissions under the person's control will meet all requirements of N.J.A.C. 7:27-18.3.

(b) Any person subject to this subchapter pursuant to N.J.A.C. 7:27-18.2(a) and 18.2(b)1, (b)2, or (c) shall certify that any increases in secondary emissions not under the person's control will meet the requirements of only N.J.A.C. 7:27-18.3(c)1.

(c) The certifications required under (a) and (b) above shall be submitted with the permit application and shall be made in accordance with N.J.A.C. 7:27-8.24.

Recodified from 18.8 and amended by R.1993 d.129, effective March 15, 1993 (operative April 20, 1993).
See: 24 N.J.R. 3459(a), 25 N.J.R. 1231(b).
Changes made pursuant to 1990 Clean Air Act amendments.

7:27-18.10 Exemptions

(a) If a person demonstrates that a proposed significant net emission increase of an air contaminant which results from the use of alternative fuels in existing fuel burning equipment will not cause an exceedance of the significance level for the respective criteria pollutant in a nonattainment area for that pollutant, and will not prevent reasonable further progress toward attaining any NAAQS, the Department may, in its discretion, exempt the person from compliance with the provisions of this subchapter. No exemption shall be granted unless the person demonstrates, at a minimum, that:

1. The equipment was capable of burning the alternative fuel before December 21, 1976; or

2. The equipment must use such fuel by reason of an order in effect under Section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 792 et seq.) or under any superseding legislation, or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act of 1978 (16 U.S.C. 791a et seq.); or

3. The alternative fuel is derived from municipal solid waste; or

4. The alternative fuel is to be used by reason of an order or rule issued under Section 125 of the Clean Air Act.

(b) N.J.A.C. 7:27-18.3(c)1 does not apply to any person submitting an application for:

1. Portable facilities which will be relocated outside of a nonattainment area within six months of commencement of operation; or

2. Temporary source operations which produce an experimental product, and which cease operation within six months of commencement of operation.

(c) The exemption in (b) above may not be applied to the same portable facility or temporary source operation more than once within the lifetime of the portable facility or temporary source operation.

Recodified from 18.9 and amended by R.1993 d.129, effective March 15, 1993 (operative April 20, 1993).
See: 24 N.J.R. 3459(a), 25 N.J.R. 1231(b).
Changes made pursuant to 1990 Clean Air Act amendments.

7:27-18.11 Procedures for interstate and intrastate trading (Reserved)

New Rule: R.1993 d.129, effective March 15, 1993 (operative April 20, 1993).
See: 24 N.J.R. 3459(a), 25 N.J.R. 1231(b).

7:27-18.12 Civil or criminal penalties for failure to comply

The owner or operator of any facility subject to this subchapter shall be responsible for ensuring compliance with all requirements of this subchapter. Failure to comply with any provision of this subchapter may subject the owner or operator to civil penalties in accordance with N.J.A.C. 7:27A-3 and applicable criminal penalties, including, but not limited to, those set forth at N.J.S.A. 26:2C-19(f)1 and 2. If there is more than one owner or operator of a facility, all owners and operators are jointly and severally liable for such civil penalties.

New Rule: R.1993 d.129, effective March 15, 1993 (operative April 20, 1993).
See: 24 N.J.R. 3459(a), 25 N.J.R. 1231(b).