

# **NJDEP AIR COMPLIANCE & ENFORCEMENT INSPECTION 101**



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Hudson, Morris, Passaic, Union  
Somerset, Sussex, & Warren counties)

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**Cedar Knolls, NJ 07927**

### **Central Regional Office**

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# MINOR SOURCE COMPLIANCE INVESTIGATIONS OFFICE

As of March 2011

**Phone: 609-292-3187**

**Fax: 609-292-6450**

NJDEP

Minor Source Compliance Investigations  
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PO Box 420  
Trenton, NJ 08625-0407  
(standard US mail & UPS)

NJDEP

Minor Source Compliance Investigations  
Mail Code 22-03A  
401 East State Street  
Trenton, NJ 08625  
(courier mail, FedEx etc.)

Facilities meeting the following criteria have been delegated to CEHA (County Environmental Health Act) for compliance and enforcement activities:

1. **Dry Cleaning Facilities**
2. **Auto Body Shops**
3. **Non-industrial facilities such as schools, office buildings, apartment houses, government buildings, that have a facility class size of minor, or MCSI-Synthetic Minor. In addition, their significant sources must be limited to natural gas, fuel oil, or propane fired boilers/heaters with a maximum rated heat input  $\leq 20,000,000$  BTU's per hour, and emergency generators.**

# STATE AIR POLLUTION REGULATIONS

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

There are currently thirty-three different subchapters under N.J.A.C. 7:27 that are in effect, which can be found at:

Website: <http://www.state.nj.us/dep/aqm/rules.html>

# FEDERAL AIR POLLUTION REGULATIONS

These regulations include, if authority has been delegated to the NJDEP :

40 CFR Part 60 = NSPS

40 CFR Part 61 = NESHAPS

40 CFR Part 63 = MACT

Website: <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=%2Findex.tpl>

Then click on “Electronic Code of Federal Regulations”.

# Examples of reasons why a NJDEP Air C&E inspection may occur:

- A routine inspection of a new or existing facility that has Air Permits. The Department attempts to inspect Minor, Synthetic Minor, and SM-80 facilities at least every 5 years, while Major Facilities are usually inspected every other year.
- A report of 1 or more incidents made to the NJDEP. Types of incidents include complaints pertaining to odors, smoke, dust, and idling vehicles, and reports of air releases and violations of permit conditions.
- A referral received from another government agency.
- In response to the results of a stack testing event.
- A public disclosure of possible violations of Air Pollution Regulations.
- A request for compliance assistance under the Green Start Program.
- Enforcement sweeps.
- Follow-up to a previously issued enforcement document.

## **A comprehensive compliance assessment of a facility includes determination of the following:**

- What equipment is required to be covered by an Air Permit? This is based on N.J.A.C. 7:27-8 & N.J.A.C. 7:27-22 applicability criteria.
- Does the facility have any unnecessary Air Permits that should be terminated?
- Is the facility following the conditions in the approved Air Permits?
- Does the facility's equipment match what's in their Air Permit applications?
- Does the facility have any expired Air Permits?
- Do any federal air pollution regulations apply to the facility?
- If applicable, is the facility complying with federal air pollution regulations?
- Do any other state air pollution regulations such as N.J.A.C. 7:27-16 & N.J.A.C. 7:27-19 apply?
- Are there any concerns that need referral to another agency?
- What is the facility's potential to emit air contaminants, and does it exceed Major facility thresholds?
- Have all old violations been resolved?
- NEW! Are there any positive, environmental stewardship activities ongoing?

# What Equipment Requires an Air Permit?

Significant source operations that are required to have an Air Permit/Certificate, according to N.J.A.C. 7:27-8, includes:

- Commercial fuel burning equipment  $\geq$  1,000,000 BTU's/hr
- Drycleaning equipment
- Source operations with the potential to emit any Group 1 or Group 2 TXS
- Surface cleaners
- Equipment used in graphic arts operations
- Etching, pickling, plating, chromium electroplating, & chromium anodizing tanks/vessels
- VOC transfer operations
- Stationary material handling equipment
- Surface coating operations
- Equipment used for the burning of non-commercial fuels
- Incinerators

# What Equipment Requires an Air Permit?

N.J.A.C. 7:27-8 Significant Sources continued...

- Equipment used for treatment of groundwater, industrial waste water, or municipal waste water
- Equipment used for treating waste soils or sludges
- Equipment used for venting a closed or operating dump, landfill, or other solid waste facility
- Wood shredding equipment
- Equipment in which the combined weight of all raw materials used exceeds fifty pounds in any 1 hour
- Welding equipment
- Liquid storage tanks and solid particle storage containers
- Stationary reciprocating engines

Note: The significant source applicability criteria for major facilities can be found under N.J.A.C. 7:27-22, available at: <http://www.state.nj.us/dep/aqm/Sub22.pdf>



# Read Your Permit:

- **AVOID VIOLATIONS!**

Potential violations of permit requirements can be avoided by reading and understanding your approved permit upon receipt. At that time, any ambiguities or questions concerning the permit or its enforcement can be dealt with by contacting the Department.

- Each permit has an identification no. (PCP, GEN, or BOP #).
- Each permit contains a compliance plan (facility specific requirements). Each “Applicable Requirement” is numbered (Ref.#), and there are three additional requirement categories for each applicable requirement.
  - Monitoring Requirements
  - Record keeping Requirements
  - Submittal/Action Requirements
- Each page has a “Subject Item”, and a description of the equipment. Multiple pieces of equipment may have several Subject Items, which may include multiple Operating Scenarios (OS), if equipment is used in more than one scenario (ie, a dual fuel boiler).

Facility Name  
Air Permit Facility ID

SAMPLE FACILITY (12345)

Date: 11/26/2001

PCP010001  
Activity Number

New Jersey Department of Environmental Protection  
Facility Specific Requirements

NJID Subject Item

Subject Item: U101 25 MMBTU/Hour Dual Fuel Boiler

Subject Item Description

Method of Monitoring  
\_\_\_\_\_

Frequency of Monitoring  
\_\_\_\_\_

Method of Recordkeeping  
\_\_\_\_\_

Operating Scenario: OS Summary  
Operating Scenario

Ref.#	Applicable Requirement	Monitoring Requirement	Recordkeeping Requirement	Submittal/Action Requirement
2	Natural Gas Usage <= 100 MMft <sup>3</sup> /yr. [N.J.A.C. 7:27-8.13(h)]	Natural Gas Usage: Monitored by fuel flow/firing rate instrument continuously, based on no averaging period. The permittee shall install, calibrate and maintain an in-line fuel flow meter in accordance with the manufacturer's specifications. [N.J.A.C. 7:27-8.13(d)2]	Natural Gas Usage: Recordkeeping by manual logging of parameter each month during operation. The permittee shall record the amount of fuel combusted for each calendar month and sum that amount with the previous eleven (11) calendar months to determine the amount of fuel combusted for the consecutive 12 month period. Records shall be maintained on-site for five years and made available to the Department upon request. [N.J.A.C. 7:27-8.13(d)3]	None.

Citation of Requirement  
\_\_\_\_\_

Limit or Requirement  
\_\_\_\_\_

Frequency of Recordkeeping  
\_\_\_\_\_

Submittal Requirement

Reference Number for that Subject Item

# Preparation for Inspections:

- **Permits:** Having a copy your permit(s); then reading and following your permit(s), is critical to complying with regulations and avoiding violations.
- **How do I get a copy of my permit(s)?**
  - Go to the Air Quality Permitting Program website to access an online copy.

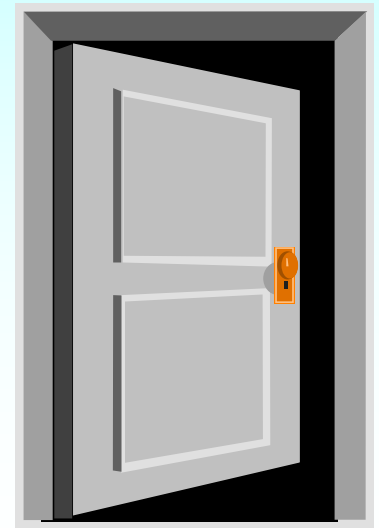
Website: <http://www.nj.gov/dep/aqpp/>

Both Operating permits, and Preconstruction permits (PCP), are usually available online at the AQPP website. Under the Reports area on the AQPP website there are two buttons: Approved Operating Permits and Approved PCP Permits. Select the button based on the type of permit you have. Also, Permit Application Forms are available at [www.state.nj.us/dep/aqpp/applying.html](http://www.state.nj.us/dep/aqpp/applying.html).

- Contact the Air Quality Permitting Program Bureau of Air Permits:
  - Preconstruction Permits Section - Phone #: 609-292-0834
  - Operating Permits Section - Phone #: 609-292-0834
- Contact the Air Regional Enforcement Office: See Slide 2.

# Inspections: Entering Your Facility

- Inspectors are authorized by the state of NJ to immediately enter a facility for the purpose of conducting an inspection or enforcing environmental laws & regulations. { NJSA 13:1D9 }
- Denial of entry = issuance of enforcement document & assessment of penalty:
  - (\$8,000 per day, 1st offense)
  - (\$16,000 per day, 2nd offense)
  - (\$40,000 per day, 3rd offense)
- Denial of entry includes: outright refusal, inhibit, & prohibit.
- Enforcement conducts unannounced inspections (no scheduled appointments). Critical for us to witness normal operating conditions.
- Inspector identification may include: official badge w/ photo, neck lanyard w/ photo, business cards, clothing. OK to photocopy ID or call for verification.



# Examples of Violations:

- Installation and/or operation of significant sources without having an approved Air Permit/Certificate for those significant sources.
- Failure to renew Air Permits, resulting in the expiration of those permits.
- Failure to transfer ownership of Air Permits within 120 days, which results in termination of those permits.
- Replacement of permitted equipment with different equipment.
- Filing incorrect information in the original Air Permit application. Examples include providing an incorrect BTU/hr rating for a boiler or emergency generator, including under general permits, or providing an inaccurate storage tank size.

# Examples of Violations Continued:

- Submission of a General Permit for equipment that does not meet the applicability criteria and/or requirements of that General Permit. An example would include a facility filing a Stage 1 General Permit for a gasoline dispensing system that is required to have a Stage 2 vapor control system.
- Selection of a compliance option in a General permit, such as an annual fuel cap limit for a boiler, that a facility cannot actually comply with.
- Emission of air contaminants above major facility thresholds, without having a Title V Operating Permit.
- Failure to keep required records (typically required to be retained onsite for at least 5 years). Examples of required records include control device operating parameters and documentation of the sulfur content of fuels.

# Examples of Violations Continued:

- Failure to conduct required monitoring events, such as weekly monitoring for VOC “breakthrough” of carbon adsorption control devices.
- Failure to submit required reports, including emission statements.
- Late submittal of reports beyond the required deadline for submittal.
- Failure to certify reports submitted to the NJDEP in accordance with N.J.A.C. 7:27-1.39. See [www.state.nj.us/dep/aqm/Sub1.htm](http://www.state.nj.us/dep/aqm/Sub1.htm)
- Redirecting emissions from equipment to emission points or control devices that are different from what is specified in the Air Permit.
- Stack discharge heights below the permit required stack height.

# Examples of Violations Continued:

- Bypass of control devices, or failure to operate control devices in compliance with the requirements of the Air Permits. This includes failure to monitor the control device operating parameters in accordance with the approved Air Permit, or operating the control device outside of the required limits. Operational parameters regulated under Air Permits may include pressure drop, visual opacity readings, temperature, scrubbing medium pH, scrubbing medium flow rate, etc..
- Exceeding emission limits contained in the approved Air Permit. This often occurs as a result of a facility exceeding a permit limit for raw material throughput or annual hours of operation, through a change in raw materials, or inadequate operation and/or bypass of control devices.
- Use of new raw materials that are not permitted under the approved Air Permit.



## **Examples of Violations Continued:**

- Results of emissions monitoring from Continuous Emissions Monitors (CEMS) and Continuous Opacity Monitors (COMS) that are in violation of the permitted emission limits.
- Exceedance of allowable downtime for CEMS and COMS.
- Emission of an air contaminant above an N.J.A.C. 7:27-8 or N.J.A.C. 7:27-22 Reporting Threshold, that is not permitted under the approved Air Permit. See Table A & Table B in Appendix 1.
- Failure to conduct a stack test and/or submit a stack test protocol, or failure to stack test in accordance with the protocol, which could include failure to stack test at the maximum permitted processing rate.
- Stack test results in violation of the permit's emission limits and/or requirements.

## Examples of Violations Continued:

- Conducting a stack test or an audit of a CEMS with expired audit gases.
- Failure to comply with newly applicable regulations, including N.J.A.C. 7:27-16 and N.J.A.C. 7:27-19. See the below bullet for an example.
- Failure to conduct annual combustion adjustments for boilers/heaters. See N.J.A.C. 7:27-19.8. Note that boilers with a maximum rated heat input  $\geq 5.0$  MMBTU/hr to  $< 10.0$  MMBTU/hr are required to begin performing annual combustion adjustments in 2010. In addition, note that beginning in 2009 boilers/heaters rated  $> 20.0$  MMBTU/hr must report the results of the annual combustion adjustments, beginning in 2010 boilers/heaters rated  $\geq 10.0$  MMBTU/hr to  $\leq 20.0$  MMBTU/hr become subject to the reporting requirement, and beginning in 2012 boilers/heaters rated at  $\geq 5.0$  MMBTU/hr to  $< 10.0$  MMBTU/hr become subject to the requirement. These reports must be submitted electronically via NJDEP Online.

# Examples of Violations Continued:

- Failure to keep records of operation for emergency generators. See N.J.A.C. 7:27-19.11.
- Operating emergency generators for peak shaving/non-emergency use.
- Operating emergency generators for normal testing and maintenance on days when the Department forecasts air quality anywhere in New Jersey to be unhealthy. See N.J.A.C. 7:27-19.2 and [www.state.nj.us/dep/aqpp/aqforecast](http://www.state.nj.us/dep/aqpp/aqforecast)
- Open burning, including the disposal of rubbish and fallen leaves by burning, without a permit. See <http://www.state.nj.us/dep/aqm/Sub2.pdf>
- Denying a NJDEP Inspector entry into a facility. See slide 12.
- Failure to comply with the NJDEP idling regulations contained under N.J.A.C. 7:27-14, which is available at [http://www.state.nj.us/dep/aqm/Sub14\\_Rule.pdf](http://www.state.nj.us/dep/aqm/Sub14_Rule.pdf)

## Examples of Violations Continued:

- Emission of air contaminants in quantities and durations which are, or tend to be, injurious to human health or welfare, animal or plant life or property, or would unreasonably interfere with the enjoyment of life or property. Air contaminants include odors and particulate dusts. See <http://www.state.nj.us/dep/aqm/Sub05.pdf>
- Failure to immediately notify the Department of a release of air contaminants in a quantity or concentration which poses a potential threat to public health, welfare or the environment or which might reasonably result in citizen complaints. See N.J.S.A. 26:2C-19.e of the NJ Air Pollution Control Act at <http://www.state.nj.us/dep/aqm/>
- Failure to comply with the requirements/provisions of a federal air pollution regulation, such as MACT, NESHAPS, and NSPS.

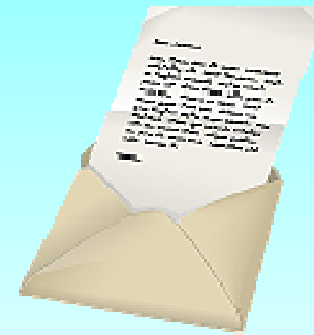
# Federal Area Source Standards

- These standards apply to area sources of HAP Emissions, which are defined as any stationary sources or group of stationary sources within a contiguous area under common control that do not have the potential to emit any single HAP at a rate of 10 tons per year or more, and that do not have the potential to emit any combination of HAP at rate of 25 tons per year or more. In some cases, major facilities are also applicable to the same standards.
- Many of these standards were adopted recently.
- Many of these standards contain monitoring, recordkeeping, periodic reporting, initial notification, operational, best management, testing, and control requirements.
- Discovery by the Department of a facility's failure to comply with federal standards which are not contained in the conditions of the facility's current air permits usually results in delegation of the violations to the EPA, which could result in an inspection of the facility by the EPA, and/or the issuance of enforcement documents and penalties to the facility by the EPA.
- The federal area source standards can be found at the website listed on slide 4 of this presentation.
- Questions regarding the federal area source standards, including applicability questions, should usually be directed to the EPA. EPA contacts for area source standards, as well as a compilation of the area source standards, are listed at

<http://www.epa.gov/ttn/atw/area/compilation.html>

# Enforcement Action Documents:

- A determination of non-compliance will result in the issuance of an enforcement action. Typical enforcement action documents include :
  - Notice of Violation (NOV)
  - Administrative Order (AO)
  - Administrative Order and Notice Of Civil Administrative Penalty Assessment (AONOCAPA)
  - Negotiated Enforcement Action (NEA)



# NOV

- Written warning: NOV is issued to informally notify a facility of a violation(s), with instructions on how to comply with statutory and regulatory requirements.
- NOV has no penalty assessment AS LONG AS the facility corrects the violations within the period of time allotted to achieve compliance.
- BUT! If the facility does not achieve compliance by the compliance deadline, penalties may be issued.
- Deadlines in NOV's vary: ex, 30 days to submit a permit application, 90 days to get that application approved.

## **Administrative Order (AO)**

- An AO is issued to mandate compliance with statutory and regulatory requirements without the assessment of a civil administrative penalty.
- If the facility does not achieve compliance with the provisions of an AO, a penalty may be assessed.

## **Administrative Order and Notice of Civil Administrative Penalty Assessment (AONOCAPA)**

- An AONOCAPA is issued to mandate compliance with statutory and regulatory requirements and the assessment of a civil administrative penalty.
- Penalty assessments are calculated based on the Civil Administrative Penalty Schedule found in N.J.A.C. 7:27A-3 et seq.

Website: <http://www.state.nj.us/dep/aqm/rules.html#27A>



# Examples of Penalty Assessment Ranges in N.J.A.C. 7:27A-3 Per Offense:

- Failure to obtain a Preconstruction Permit, Operating Certificate, or Operating Permit: = \$100 to \$30,000 per offense.
- Failure to operate a source operation in compliance with the conditions and provisions of the Air Permit/Certificate: = \$400 to \$45,000 per offense.
- Violations of Air Permit emission limits detected by a stack test of a source operation: \$500 to \$50,000 per offense.
- Continuous Monitoring Systems not installed, out of service, or out of control: = \$100 to \$7,500 per offense, per day.
- Emission of air contaminants in such quantities and duration as are, or tend to be, injurious to human health or welfare, animal or plant life, or property: = \$10,000 to \$50,000 per offense.
- Failure to comply with the requirements/provisions of N.J.A.C. 7:27-16: = \$100 to \$50,000 per offense.
- Failure to comply with the requirements/provisions of N.J.A.C. 7:27-19: = \$500 to \$50,000 per offense.

# Violations: Hearing Requests & Extensions

- An AO and AONOCAPA are formal documents that can be appealed. These documents will include a request form for an Adjudicatory Hearing.
- Firm Deadline! This formal hearing request must be submitted to the Department's Office of Legal Affairs (OLA) within 20 days of receiving the document.
- A copy of the hearing request should be submitted to the Regional Office.
- If additional time is necessary to achieve compliance with an enforcement action, a written extension request must be sent to your Regional Office.
- Ex) Extensions are common when waiting for an air permit to be approved, or for approval of stack test or monitoring protocols.

# Violations: Settlement

- In some cases, Enforcement and facilities may work together to settle a violation at a reduced penalty amount.
- Ex: Pre-PEA Settlement Agreements and ACO.
- An Administrative Consent Order (ACO) is created to mandate compliance with statutory and regulatory requirements wherein a long term compliance schedule has been agreed upon by the Department and the violator. This document may or may not include the assessment of civil administrative and/or stipulated penalties.
- To discuss possible settlement options for your violations, contact the issuing inspector.
- Settlement may occur before or after a violation is actually issued.