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NEW JERSEY REGISTER

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VOLUME 47, ISSUE 4

ISSUE DATE: FEBRUARY 17, 2015

RULE ADOPTIONS

**ENVIRONMENTAL PROTECTION
ENVIRONMENTAL MANAGEMENT
DIVISION OF AIR QUALITY**

47 N.J.R. 467(a)

Adopted Amendments: *N.J.A.C. 7:27-8.6, 22.1, and 22.31*

Air Pollution Control

Fees for Permits and Certificates for Minor Facilities (and Major Facilities without an Operating Permit), and Operating Permits

Proposed: August 18, 2014, at *46 N.J.R. 1782(a)*.

Adopted: December 29, 2014, by Bob Martin, Commissioner, Department of Environmental Protection.

Filed: January 21, 2015, as R.2015 d.027, **with non-substantial changes** not requiring additional public notice (see *N.J.A.C. 1:30-6.3*).

Authority: *N.J.S.A. 13:1B-3.e, 13:1D-9, and 26:2C-1 et seq.*, in particular *26:2C-9.b(7)(b)* and *9.5*.

DEP Docket Number: 05-14-07.

Effective Date: February 17, 2015.

Operative Date: February 27, 2015.

Expiration Date: Exempt.

The Department of Environmental Protection (Department) is amending the fees that it charges for permitting

stationary sources of air pollution, since the revenue that the Department receives from the existing fees is less than the costs of the services the Department performs (permitting, enforcement, and planning). By addressing the air permitting program deficit, the Department will be better able to serve the regulated community and better protect the quality of air in the State. The Department is raising fees for permit applications for minor facilities, as regulated by *N.J.A.C. 7:27-8*, and fees for applications for significant modifications of major facilities, as regulated by *N.J.A.C. 7:27-22*. Additionally, the Department is increasing the general permit registration fees for minor facilities and general operating permit registration fees for major facilities. 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 Federal Clean Air Act (*42 U.S.C. §§ 7661-7661f*). A minor facility is one that does not meet the definition of a major source at *N.J.A.C. 7:27-22.2(a)* and that has the potential to emit one or more air contaminants in an amount less than the applicable major facility threshold levels. Minor facilities include, for example, small manufacturing operations, dry cleaners, and gas stations.

This rule adoption can also be viewed or downloaded from the Department's website at <http://www.nj.gov/dep/rules>.

Summary of Hearing Officer's Recommendations and Agency Responses:

A public hearing was held on this rulemaking and the revision to the New Jersey State Implementation Plan that it represents on Monday, September 22, 2014, at the Department's Public Hearing Room, 1st Floor, 401 East State Street, Trenton. Frank Steitz, Assistant Director of the Department's Office of Air Quality Permitting, served as the Hearing Officer. Ten persons provided comments on the proposal. Of these, six also commented at the public hearing. After reviewing the comments [page=468] received during the public comment period, the Hearing Officer has recommended that the proposal be adopted with the changes described below in the Summary of Public Comments and Agency Responses. The Department accepts the Hearing Officer's recommendation. A record of the public hearing is available for inspection in accordance with applicable law by contacting:

Department of Environmental Protection
Office of Legal Affairs
ATTN: DEP Docket No. 05-14-07
401 East State Street
Mail Code 401-04L
PO Box 402
Trenton, NJ 08625-0402

Summary of Public Comments and Agency Responses:

The Department accepted comments on the proposal through October 17, 2014. The following individuals provided written and/or oral comments:

1. Sara Bluhm, New Jersey Business and Industry Association
2. David Brogan, New Jersey Business and Industry Association
3. Steven Chranowski, Chemistry Council of New Jersey
4. Eric DeGesero, Fuel Merchants Association of New Jersey
5. Linda Doherty, New Jersey Food Council
6. Michael Egenton, New Jersey State Chamber of Commerce

7. Nicholas Kikis, New Jersey Apartment Association
8. Sal Risalvato, New Jersey Gasoline, C-Store, Automotive Association
9. Scott Ross, New Jersey Petroleum Council/API
10. Anthony Russo, Commerce and Industry Association of New Jersey

The comments received and the Department's responses are summarized below. The number(s) in parentheses after each comment identify the respective commenter(s) listed above.

Fee Increase

1. COMMENT: The Department states that if the cost of the regulatory oversight is not borne entirely by the regulated community, then part of it will fall on the general taxpayer. However, the regulated community is not the only beneficiary of a clean environment. Since small business cannot afford to carry the entire program, it is fair for the taxpayers who want a clean environment to continue to shoulder some of the weight. (8)

2. COMMENT: The Department makes the point that the deficit is funded by the "taxpayer" not the "regulated industry," but "regulated industry" is a very significant portion of the "taxpayer." (4)

3. COMMENT: The proposal is based on the flawed premise that all program costs should be funded through fee revenue. (1, 3)

4. COMMENT: The Department's Air Quality Program (permitting, enforcement, planning) should not be funded through fee revenue; instead, it should be funded by the historic mix of permit fees and general fund appropriations, which has been a 60:40 allocation. The adopted rules result in a 44 percent, or \$ 4.8 million, annual increase in air fees for minor sources. There is no legal requirement that this program be funded entirely by fees. (3, 7)

RESPONSE TO COMMENTS 1 THROUGH 4: For the major facilities program, EPA's regulations at 40 CFR Part 70 require states to fully fund their programs by collecting fees from Title V sources (major facilities). The legal imperative for funding through fees for the major facilities is the basis for the Department seeking to fully fund the major facilities program through fees. There are no comparable Federal requirements addressing the funding of a minor facilities program; however, the Department is applying the Federally-mandated major facilities funding model to the minor facilities program. There is no historical legislative or regulatory directive or intent to allocate funding of the minor and major facilities program in any fixed ratio between the fees and the State's general funds (such as the 60:40 ratio in the comment). Funding by the general fund has been provided only to the extent that there was a shortfall between fee revenues and program costs. The adopted rules are intended to minimize the amount that the State's general fund must contribute to the program.

The Air Quality program is not the only Department program that is supported primarily by fees charged to the regulated entities, rather than taxes paid by the general public. The appropriateness of moving the funding burden from the taxpayer to the regulated community is supported by the Department's funding mechanisms in other environmental regulation programs, such as the Water, Pesticides, Solid and Hazardous Waste, Radiation and Land Use programs. For example, the Toxic Catastrophe Prevention Act program is fully funded by fees from the program registrants; the Federally-delegated Radioactive Materials program is fully funded by fees from the radioactive material licensees; in the x-ray compliance program, the cost of technologist licensing and machine certification are fully funded by licensee fees; the discharge prevention program is fully funded through the New Jersey Spill Compensation and Control Act, (*N.J.S.A. 58:10-23.11*) by a petroleum surcharge on industry; and the Bureau of Nuclear Engineering is fully funded by fees paid by PSEG and Exelon, which are the owners of the only nuclear power plants in the State. The shift to fully fund the air programs through fees, to the extent possible, is consistent with the funding of these other Department programs.

5. COMMENT: The proposed fee increase is for a five-year period, but the Department amortized the cost to business over a 10-year period. Does this mean there will be no fee increase for the next 10 years? (4)

RESPONSE: In the proposal Summary, the Department chose to amortize costs over a 10-year period in order to capture both an initial permit or registration and one renewal of that permit or registration five years later, which is a typical scenario for most facilities. The Department will increase fees in five years, using an inflation factor based on the Consumer Price Index (CPI). (See *N.J.A.C. 7:27-8.6* and *22.31*.) Because the Department does not know what the inflation adjustment might be in five years, in order to keep the calculations simple in the proposal Summary, the Department used the adopted, unadjusted fee for the renewal to demonstrate the amortized costs.

6. COMMENT: General permits, to use the example that is most relevant to small gasoline, convenience, and automotive retailers, increased by \$ 60.00 in 2010. The proposed rules would have them increase by \$ 410.00 come January 2015, doubling their cost. The permit for renewing the authorization of a used oil space heater, owned by many auto repair shops, increased by \$ 45.00 in 2010, but would increase \$ 525.00 in 2015. Preconstruction permits increased by \$ 255.00 in 2010 but would go up \$ 772.00 in 2015 for the first new piece of equipment. For comparison, the transfer of ownership fee increased \$ 20.00 in 2010, and would increase \$ 53.00 in 2015, a much more reasonable amount. The 2010 increases were more reasonable. The Department should consider a more reasonable increase. (8)

RESPONSE: The fee increases in 2010 were lower because they represented only a five-year inflation adjustment based on the CPI. (See the prior *N.J.A.C. 7:27-8.6* and *22.31*.) This lower amount was not adequate to address the continuing shortfall between fees and program costs. The adopted fees will address this shortfall, at least in part, as discussed in the proposal Summary and Economic Impact. Adequate funding allows the Department to maintain sufficient staff (including permitting, monitoring, enforcement, and source testing staff) to support facility regulation programs that are critical to the improvement and maintenance of air quality in New Jersey. Under the circumstances, and as discussed in the proposal's Economic Impact, the Department believes that the adopted fees are reasonable.

7. COMMENT: Fees do increase over time, but this fee increase is overly burdensome to small businesses, such as those who operate gasoline service stations, auto repair shops, and auto body shops. These permit fees can add up for a small business with as many as three general permits, costing more than \$ 1,200. This increase, along with other factors, makes New Jersey one of the worst business climates in the country, pushing small businesses further to the point of breaking. (8)

RESPONSE: Although the increase in fees for minor facilities in 2015 is substantially larger than the increase in 2010, the Department anticipates that the financial impact of the adopted fees relative to other business costs of a regulated facility will be small. In establishing the fees, the Department considered the impact the increase would have on the regulated community. As discussed in the proposal Summary and Economic Impact, the Department has developed and continues to [page=469] develop general permits. Most small businesses apply for general permits. The fees for these general permits are considerably less than if a facility were required to obtain an individual permit for each source. Accordingly, the general permits represent a substantial savings to small businesses, as the Department illustrated in the proposal's Economic Impact.

8. COMMENT: To avoid excessive charges, the Department should consider a cap on renewal fees for minor facilities, such as small chemical manufacturers, that have a significant number of permits and sources. (3)

RESPONSE: Establishing a cap for a renewal with a significant number of permits and sources would make it harder for the Department to support program costs with fees. The permitting of some minor facilities, such as chemical facilities, is a more complicated and time-consuming process than permitting other types of facilities. The increased time it takes the Department to process a renewal for a facility with multiple permits and sources militates against the cap on renewal fees.

9. COMMENT: The Department should focus on emissions coming from other states and work with the industry to

address this issue. (1, 3, 10)

RESPONSE: The Department invites industry to join it in finding strategies to reduce the transport of emissions from other states into New Jersey. The Department continues to work with the EPA and other states to evaluate ozone transport strategies to reduce ozone transport from upwind states, and ensure that upwind states fulfill their legal obligations under the "good neighbor" provisions of the Clean Air Act at *42 U.S.C. § 110(a)(2)(D)(i)(I)*. In pursuing these goals, New Jersey is an active member in several multi-state organizations, such as the Ozone Transport Commission, Mid-Atlantic Regional Air Management (MARAMA), and the Mid-Atlantic/Northeast Visibility Union (MANE-VU).

10. COMMENT: The proposal announced millions of dollars in fee increases when the emissions have gone down significantly. This will have an impact on New Jersey businesses' ability to compete within the State, as well as regionally and globally. (2)

11. COMMENT: The Department's rationale for raising fees is antithetical to the goals of the program and will only hurt New Jersey businesses. If the Department continues to raise fees on the companies left operating in the State, it runs the risk of losing these companies to other states. (1, 3, 10)

12. COMMENT: These increases are significant and negatively impact food retailers, including supermarkets, independent grocers, and convenience stores, and their supplier partners, who operate on tight margins. Higher permit fees discourage development in the areas where it is most critically needed, such as developing food retail in areas where affordable and nutritious food is difficult to obtain. The fee increases, on top of the minimum wage hike and health insurance increases, send a negative message to the business community and put New Jersey at a competitive disadvantage. (5)

13. COMMENT: Doubling the fees for general permits for both minor and major facilities sends the wrong message to the business community. (1)

RESPONSE TO COMMENTS 10 THROUGH 13: As discussed in the proposal Summary and Economic Impact, the Department has reduced its costs by streamlining its air permitting program and implementing other cost-saving measures, including developing general permits for approximately 20 categories of emission sources, developing general operating permits for major facilities, instituting the online submittal of permit applications and payment of fees via NJDEP Online (the Department's online permit application portal), implementing recommendations from stakeholders to improve permitting, and improving review procedures. As a result, program costs have been consistently lower than they were in fiscal year (FY) 2008. In FY 2008, the program costs were \$ 25,029,447. The program costs for each of the five years from FY 2009 through FY 2013 (the most recent years for which fiscal information is available) have been, on average, 15 percent lower than in FY 2008. (See the proposal Summary, *46 N.J.R. 1782(a)*, 1783.) This equates to more than \$ 18 million in cost savings over the five-year period. Nevertheless, the Department's fees for major and minor facilities have not covered the Department's costs to provide services, resulting in a revenue shortfall. The adopted fees are intended to offset the shortfall in the minor facilities program, and reduce the shortfall in the major facilities program.

The streamlining has also reduced the backlog of applications and resulted in quicker permit reviews. Reducing the backlog has made it possible for permittees to construct or modify equipment more quickly, more rapidly realize the economic benefits of those capital improvements, and remain competitive. The adopted fees will allow the Department to maintain its progress in reducing and avoiding the permitting backlog, thereby preserving the benefits that the regulated community has realized. The air program has sent a very positive message to the business community by developing general permits and general operating permits, thereby providing businesses the option of quick, low-cost permits. The Department also sent a positive message by holding regular Industrial Stakeholders Group (ISG) meetings and providing other opportunities to the business community to work with the Department in continuous improvement of the air program. See the Response to Comment 14 for a further discussion of the ISG.

Stakeholder Process

14. COMMENT: The Air Quality Permitting Program's Industrial Stakeholder Group (ISG) should be used as a model by other programs in the Department. (10)

RESPONSE: The Department acknowledges the commenter's support for the ISG. This longstanding periodic meeting, typically once per quarter, allows Air Quality Managers and industrial stakeholders to obtain feedback, discuss concerns, and communicate program changes. Information regarding the ISG is available at www.nj.gov/dep/aqpp/isg.html. Similar to ISG, the Environmental Laboratory Advisory Committee (ELAC) in the Office of Quality Assurance meets monthly to discuss environmental and public health issues related to regulatory environmental monitoring, laboratory accreditation and informative presentations on relevant topics by the Department. Many other programs in the Department have workgroups for specific purposes. Also, the Department forms ad hoc stakeholder groups for specific projects, such as rule development, where such groups would be useful.

15. COMMENT: The Department should withdraw the proposal and use a stakeholder process, as it has done in the past. (1, 2, 3, 6, 7, 9)

16. COMMENT: The proposed rules are counter to recent Department efforts to engage in discussion with the regulated community prior to proposing a regulation. The Department's rulemaking process violates section 1a of Governor Christie's Executive Order Number 2 (EO 2), as there was no "advance notice of rules." (4)

RESPONSE TO COMMENTS 15 AND 16: Consistent with the direction of EO 2, the Department holds regular meetings with the ISG, through which it disseminates information, and solicits advice and comments from the regulated community. Participation in the ISG is open to anyone with an interest in air quality permitting.

The need to offset revenue shortfalls resulted in an expedited rulemaking process; unfortunately, the Department was not able to conduct the broad stakeholder process that it ordinarily pursues. However, the Department gave a presentation on the fee proposal at the September 5, 2014, ISG meeting, and also at the September 10, 2014, Clean Air Council meeting, both of which were during the public comment period of the adopted rules. The presentations were on the agendas of both of these organizations in advance of the meetings. The Department provided the opportunity for the public to submit written comments, and also to submit oral comments at a public hearing on the proposal. The regulated community was provided an opportunity to participate; therefore, the Department did not withdraw the proposal to conduct additional stakeholder outreach.

Program Cost

17. COMMENT: There should be no fee increase for the preconstruction permitting of minor and major sources. The new \$ 50,000 fee for Prevention of Significant Deterioration (PSD) analysis is a disincentive to manufacturing investment in New Jersey. (1, 3)

RESPONSE: As explained in the proposal (46 N.J.R. at 1787), the adopted preconstruction permitting fees more accurately reflect the cost to the Department of processing these complex applications. This is [page=470] particularly true of the fee to process an application that involves a determination of PSD or emission offset applicability. The adopted fee represents less than a 10 percent increase in the fee for the typical significant modification application requiring PSD analysis. The Department does not expect this increase to materially affect manufacturing investment in the State, since it represents only a small fraction of the overall cost of such investment.

Applications for significant modifications to a major facility may require the Department to review the application for the applicability of emission offset requirements, and perform evaluations for Reasonably Achievable Control Technology (RACT), Federal New Source Performance Standards (NSPS), and a State of the Art (SOTA) analysis. Under the prior rules at *N.J.A.C. 7:27-22.31(w)*, when the Department reviewed an application for significant

modification of a major facility, it imposed a base fee and a number of supplemental fees to cover various review activities needed for that application. The Department did not charge a fee for a PSD determination.

As described in the proposal Summary (46 N.J.R. at 1789), major facilities were paying, on average, between \$ 25,000 and \$ 35,000 in permit fees for each significant modification. As shown in the example in Table 13 of the proposal (46 N.J.R. at 1789), for a typical major facility applying for a significant modification, the \$ 50,000 fee would represent an increase of approximately 10 percent over what they had been paying under the former fee schedule. Each of the supplemental fees for the various review activities involved in a significant modification is increased in the adopted rules. However, a facility that is subject to the new flat fee of \$ 50,000 is not subject to the other supplemental fees. In the absence of the new flat fee, facilities would be charged each applicable supplemental fee, which could add up to more than the \$ 50,000 flat fee. The fees would nevertheless be capped by the \$ 50,000 cap for a significant modification imposed by the Air Pollution Control Act at N.J.S.A. 26:2C-9.5d(1)(c) and the rules at *N.J.A.C. 7:27-22.31(k)*.

18. COMMENT: The Department represents in the proposal that it processes as many as 94 Title V renewals per year. Since there are only 270 Title V facilities in the State, the correct number of renewals processed should be 54 per year. The 54 renewals are approximately half of the stated workload in the proposal and reflect a workload decrease of approximately 25 percent when compared to 2006. The Department is commended for reducing the backlog of renewal permits from over 200 to less than 50 over the past two years; however, the decrease should allow staff to manage a reduced workload of annual renewals. (1, 3)

RESPONSE: The proposal refers to the actual number of renewal applications processed in 2013, which is 93, to illustrate the backlog in permit renewals that could result if the revenues from fees and appropriations from the general fund are insufficient to cover the cost of operating the major facilities program. (See 46 N.J.R. at 1786.) The figure was not intended as a workload projection.

An average number of renewals over a five-year period, as the commenters present, is of limited usefulness. The actual number of renewals per year can vary greatly, depending on the number of permits that were issued five years earlier and are thus up for renewal. Even 54 renewals per year would not necessarily represent a reduction in overall workload for the Department. The permitting program workload depends on (among other things) the complexity of the applications processed in any year. The most accurate projection of the programs' shortfall is a comparison of actual program costs to actual program revenues. As demonstrated in the proposal Summary, the approximately \$ 0.9 million in additional revenue from the adopted fees for major facilities will not fully address the program's revenue shortfall.

19. COMMENT: The proposal indicates that the fee revenue will be allocated to continue funding the local government permitting, compliance, and enforcement activities through the County Environmental Health Act (CEHA) program, without any indication of how much revenue is or would be so allocated. The proposal does not analyze the appropriateness of funding these activities through State-level permit fees, including whether there is overlap or duplication in the fees assessed on the same sources by local entities. (1, 3)

RESPONSE: The proposal indicates that CEHA is an operating cost for the regulation of minor facilities. As further clarification, air program fees do not directly support CEHA funding. In FY 2014, the Department allocated \$ 2.7 million to CEHA programs in 21 counties to support air, solid waste, water, noise, and hazardous materials response programs. None of these funds came from air fees. Instead, air program fees fund part of the Department's oversight of the CEHA program by covering some portion of CEHA-related costs, such as Department staff salary and operating costs. These fees, and the functions they support, are not duplicated by any fees charged by local entities.

20. COMMENT: Compliance and enforcement activities should not be included in determining permitting costs, especially if the Department is charging fees for these activities, and penalties collected go back into the State's general fund instead of to support the program. (1, 3)

RESPONSE: Compliance and enforcement activities are integral to the implementation of the air program. Accordingly, the air permitting program supports, and funds through fees, the related activities of the compliance and enforcement elements of the air regulation program. Moreover, revenue from penalties varies greatly from year to year. Therefore, the Department cannot rely on penalty revenue as a funding source.

21. COMMENT: The proposal notes that new Federal regulations have resulted in significant increases in workload for the Department. However, the proposal does not quantify this workload increase or identify its cost. (1, 3)

RESPONSE: Permits for facilities must include new monitoring and recordkeeping requirements consistent with new Federal air pollution control requirements. The Federal rules provide a permit applicant a number of options to comply with the monitoring, recordkeeping, and reporting requirements. Department permitting staff must become familiar with these requirements so that they can advise and work with an applicant to select the monitoring, recordkeeping, and reporting options that are most suitable for the facility. This necessarily translates into additional work for Department staff. The Department cannot quantify the work attributable to the new requirements because staff timesheets do not separate the work performed by staff to ensure compliance with the new Federal requirements from the overall review of an air permit. See also the Response to Comment 22 for a discussion of additional work related to Federal requirements.

22. COMMENT: Is the increase in the workload due to the effort of adding new Federal rules in the permit conditions library in NJEMS only temporary? Permit writers rely heavily on the permit conditions library in NJEMS when preparing a compliance plan for a new source. Once permit conditions are included in the library, the level of effort needed for new rules is likely consistent with the older New Source Performance Standards (NSPS) or National Emission Standards for Hazardous Air Pollutants (NESHAP) regulation. Therefore, there is a brief increase in effort for new Federal rules, but it should not be a continued effort or increased workload. (1, 3)

RESPONSE: The increased workload from new Federal requirements is not temporary. There is an initial task of creating a template in the NJEMS permit conditions library to reflect new Federal requirements. There is also an on-going increased workload associated with drafting compliance plans for air permits and ensuring compliance with the new requirements, as described in the Response to Comment 21. The new template provides only a starting point for staff.

23. COMMENT: The Department should reduce its costs in response to reduced revenue. Have Department expenses been evaluated? (3, 4)

RESPONSE: The Department continually evaluates its expenses and pursues cost-cutting and cost-saving measures. As stated in the proposal, the Department has significantly reduced air program costs on a real dollar basis since 2008. If adjusted for inflation, the cost savings realized would be even larger. These reduced costs do not make up the funding shortfall resulting from the 70 percent decline in emission fee revenue since 2007, and from reduced fee revenues associated with the use of general permits and general operating permits.

24. COMMENT: Before raising fees, the Department should ask if it regulates too much by overextending the applicability of permit requirements to pieces of equipment. (10)

25. COMMENT: The Department should work collaboratively to evaluate the need to require permits of small sources that would not require permits in other states. (3)

[page=471] RESPONSE TO COMMENTS 24 AND 25: States vary in their approaches to the regulation of sources of air pollution. These differences may reflect factors such as air quality, population density, types of emissions sources, and level of commitment to meeting and maintaining compliance with ambient air quality standards. As the most densely populated state in the country, New Jersey has a greater need to regulate smaller stationary sources (that is, pieces of equipment), which have a correspondingly greater impact on the air quality in surrounding communities, and to have a more comprehensive air pollution control program than many other states.

The Department has committed to working with stakeholders in evaluating potential opportunities for enhancing the efficiency and effectiveness of the air permit program.

26. COMMENT: What does the Department's review of air permit applications entail and why does it take hours to review applications that are submitted electronically? The review should be faster. (10)

RESPONSE: Minor facilities do not generally apply for individual permits. Instead, more than 80 percent of the permitted sources at minor facilities are subject to authorization under general permits. The procedure for obtaining authorization under a general permit is entirely electronic, with no Department review. As soon as the facility submits its registration, it is authorized under the general permit.

The remaining 20 percent of sources at minor facilities are subject to individual permits. The Department must review the remaining permit applications individually. The Department ensures that the application is complete and that technical requirements are met, and develops a compliance plan for the facility. During this process the Department often works with the facility as the facility supplements material, makes corrections to its application, and chooses options for demonstrating compliance. The time required for these elements can vary widely from permit to permit and some timing aspects may be outside the Department's control. For example, the Department cannot control the time it takes for a facility to respond to a request for additional information or to otherwise correct a deficiency in the application. Additional staff could reduce some of the processing time, such as the time it takes for the Department to review the permits; however, additional staff would not eliminate the delays that are not attributable to the Department.

27. COMMENT: Has the Department's regulation of 18,000 facilities resulted in improved air quality? (10)

RESPONSE: The Department's promulgation and enforcement of the Air Pollution Control rules have resulted in improvement in air quality for the six commonly found air pollutants (which EPA refers to as "criteria pollutants") in the State. These criteria pollutants are ozone, particulate matter, carbon monoxide, nitrogen oxides, sulfur dioxide, and lead. New Jersey has attained the Federally-established primary National Ambient Air Quality Standard (NAAQS) for each criteria pollutant, other than ozone. The primary standard provides public health protection, including protecting the health of "sensitive" populations such as asthmatics, children, and the elderly. Data showing the State's levels of each criteria pollutant over time and in various locations throughout the State can be found in the Department's 2012 Air Quality Report, available under the "Publications" link at www.njairnow.net. The improvement in levels of criteria pollutants is attributable to a combination of measures taken by the State, the regulated community, and the public, including, but not limited to, those measures reflected in the Department's regulation of the approximately 18,000 facilities and supported by the adopted fees.

Notwithstanding the Statewide improvements in air quality with respect to the criteria pollutants, the Air Pollution Control Act, *N.J.S.A. 26:2C-1* et seq., requires the Department to address air emissions from facilities in the State that have local impacts on human health and the environment. In addition, there is a continuing need for permitting oversight to ensure that attainment of the clean air standards is maintained and that facilities do not exceed their permitted emission limits.

28. COMMENT: What is the breakdown of enforcement cost versus the total cost of the air program? (3, 10)

RESPONSE: The cost of the air program in fiscal year (FY) 2013 was \$ 20,844,072. Approximately 28 percent of that cost, or \$ 5,836,340, was related to enforcement.

29. COMMENT: The average cost per employee (referred to as full time employee or "FTE" in the proposal) for the air program appears to be about \$ 115,000 to \$ 120,000 a year, if the program costs other than fringe and indirect costs are divided across the 95 staff members. In contrast, the average FTE cost in the Department's water program (New Jersey Pollutant Discharge Elimination System, or NJPDES), is about \$ 84,000 per year, according to its annual report. (1, 3)

30. COMMENT: The salary expense is extremely high. The Department should further analyze staff, contractors, and the number of supervisors needed by budget year, as well as projected for future years. (1, 3)

31. COMMENT: The Department should show the full time employee (FTE) assignments, average cost per employee, and overall breakdown from a workload perspective similar to the revenue tables within the proposal. (1, 3)

RESPONSE TO COMMENTS 29 THROUGH 31: The Department used an annual total base salary of \$ 9,485,035 for FY 2013, as calculated below, for the salaries of the 50 FTEs working on minor source permits, including an additive rate of 23 percent, fringe benefits of 45.35 percent, and indirect costs of 20.04 percent. This yielded an "average" FTE cost for minor source staff of approximately \$ 88,000. The Department used an annual total base salary of \$ 8,999,551 for FY 2013, as calculated below, for the salaries of the 45 FTEs working on major source permits, and included the same values for the additive rate, fringe benefits, and indirect costs as it used in its calculations for the minor source program costs. This yielded an "average" FTE cost for major source staff of approximately \$ 93,000. This differs from the commenter's estimate of between \$ 115,000 and \$ 120,000 per FTE.

The salary calculations in the proposal are based on the actual timesheet coding of air activities. Air program staff prepare timesheets coded to reflect the amount of time they spend on program activities, including the regulation of minor and major air facilities. The Department multiplied the number of hours per year each employee coded to the minor and major programs by the employee's hourly salary rate to calculate that employee's base annual salary (exclusive of fringe benefits, indirect costs, and salary additives) for each of those programs. The sum of the individual annual salaries yielded the annual total base salary amount billed to each program, minor or major.

The Department applied a salary additive of 23 percent to the base annual salary, consistent with its practice of using this rate for salary additive costs since 2004. The salary additive represents the prorated percentage of charges attributable to compensation of an employee during periods of authorized absences from the job, including vacation time, sick leave, compensatory time, military allowance, and other authorized paid absences. The formula for the salary additive is the sum of the compensated authorized absences divided by the net regular salary for a given fiscal year. The net regular salary is calculated by subtracting employees' compensated authorized absences from the Department regular salary. As stated in the proposal (46 N.J.R. at 1785), the salary estimate included an additional 45.35 percent of salaries for fringe benefits, plus 20.04 percent of salaries plus fringe benefits for indirect costs, such as management salaries and building rent. The Department's allocation of indirect costs is listed in the Statewide Allocation Plan prepared annually by the State Department of the Treasury. The costs and revenues in the proposal represent the Department's best estimate of future costs and revenue needed to fund the program as currently structured and staffed.

32. COMMENT: The proposal states that the air program has reduced its FTEs by 27 since FY 2008, which should translate to an annual savings of \$ 5,121,900 (\$ 189,700 x 27), but this savings does not seem to be reflected in the proposal. (1, 3)

RESPONSE: The reduction in FTEs is reflected in the program cost, discussed in the proposal, for each fiscal year since FY 2008. See Table 3 in the proposal Summary (46 N.J.R. at 1784), which indicates that the program costs for minor facilities in FY 2013 were \$ 1,658,189 less than in FY 2008, and Table 6 (46 N.J.R. at 1786), which indicates that the program costs for major facilities in FY 2013 were \$ 2,527,187 less than [page=472] in FY 2008. Total program costs were, therefore, \$ 4,185,376 less in FY 2013 than in FY 2008. During that five-year period, salary and other related costs did not remain fixed; consequently, costs would necessarily not decrease in a direct proportion to the number of staff reduced.

33. COMMENT: The Department takes on more than is necessary to properly administer the Air Quality Program. The proposal fails to justify the continuation of this level of effort. (1, 3)

RESPONSE: The Department administers its air quality program consistent with the requirements of the New Jersey Air Pollution Control Act, *N.J.S.A. 26:2C-9* et seq., and the Federal Clean Air Act, *42 U.S.C. §§7401* et seq. The

program is responsible for regulating stationary sources of air pollution to ensure they do not adversely affect air quality in the State. As discussed in the Response to Comment 27, although the air quality program has been successful in achieving and maintaining the NAAQS for most criteria pollutants, the State is not in attainment of the ozone standard and must also continue to address air emissions in New Jersey that have local impacts on human health and the environment. The air quality program is the cornerstone of the State's efforts to succeed in this regard, and any reduction in the level of effort could seriously and negatively impact the program's effectiveness. In addition, the Department continues to explore opportunities to reduce ozone in the State by controlling emissions of ozone precursors from other sources, such as consumer products, architectural coatings, and mobile sources, such as cars and trucks. As discussed in the Response to Comment 9, the Department also works to reduce other states' emissions that affect the air quality in New Jersey.

General Permits

34. COMMENT: The Department should be commended for its streamlining efforts that include developing more general permits. (10)

35. COMMENT: The Department's move over the past few years to general permits and general operating permits has been a definite advantage to both industry and the regulators, saving significant time and effort. (3)

RESPONSE TO COMMENTS 34 AND 35: The Department acknowledges the commenters' support for the development of general permits and general operating permits.

36. COMMENT: The increased use of general permits should have resulted in major efficiency gains and workload reductions on the actual permit reviews by staff. (1, 7)

37. COMMENT: It was assumed 20 years ago that general permits would lessen the Department's workload and, by extension, would lower associated fees. It appears this has not happened. Why not? (4)

38. COMMENT: The Department should address the actual efficiencies gained from employing general permits and the corresponding workload reduction and cost savings for the Department. (1)

39. COMMENT: The Department should more fully document its staffing allocations so the regulated community can better respond to proposed fee increases. The increase in general permits should reduce staffing demands. (7)

40. COMMENT: The proposal does not address any workload or headcount reductions as a result of moving to general permits or the reduced number of Title V facilities. (1, 3)

RESPONSE TO COMMENTS 36 THROUGH 40: The use of general permits and general operating permits has provided a cost savings to the Department. That savings is reflected in the 18 percent decrease in FTEs supporting the minor facilities program and the 27 percent major decrease in FTEs supporting the major facilities program. (See 46 N.J.R. at 1784 and 1787.) This cost savings has not been sufficient to make up for the loss of emission fee revenues, which are the primary source of revenue for the major facilities program.

Authorization under a general permit or general operating permit is through an online application, effective on submittal. While a new general permit provides the applicant a quicker and less expensive mechanism to obtain an authorization, making a general permit or general operating permit available does not guarantee savings to the Department. Developing a general permit or general operating permit takes considerable time. Once the permit is in place, Department staff provide technical support to ensure that the facility has all the information it needs, appropriately presented, to register under the general permit or general operating permit. Staff also must ensure that the existing general permits and general operating permits remain effective for their intended purpose. The Department must also maintain sufficient staff to monitor facilities' compliance and enforce the permits.

Examples of general permits and general operating permits that have not resulted in reduced program costs are those for Combined Heat and Power (CHP) sources. The Department invested much time and effort to develop general permits and general operating permits CHP sources, primarily to encourage CHP projects consistent with New Jersey's Energy Master Plan. A valid air permit is a prerequisite for the clean energy grant and loan approval under the master plan. In the four years since these CHP general permits and general operating permits have been available, the Department has received only a few applications, the fees from which have been insufficient to offset the cost of developing and administering the permits.

Although the air program may not realize cost savings in developing general permits and general operating permits, the regulated community receives unquantifiable value through time savings and certainty associated with a general permit or general operating permit.

41. COMMENT: The Department should not use the decreased revenue from the use of general permits to justify increased fees. This is not the first time the Department has used this justification in increasing fees. (4)

42. COMMENT: The use of more general permits and the significant reduction of emissions from facilities have reduced revenue. The Department should not double fees for general permits to make up the resulting air permitting shortfall. (3)

43. COMMENT: The Department should not use the lost revenue of \$ 2.3 million per year resulting from the switch to general permits to justify increasing the general permit fee from \$ 410.00 to \$ 820.00. (1, 7)

RESPONSE TO COMMENTS 41 THROUGH 43: The Department acknowledges that there are benefits associated with the use of general permits and general operating permits, and the reduction in emissions. Nevertheless, the reduced revenues from general permits and emission fees have caused an underfunding of the permitting programs. These permitting programs are necessary in order to maintain the gains that the State has made in its air quality.

The Department's has only a few options when faced with declining revenue: it can reduce its costs, which it has done and continues to do; it can increase fees to the regulated community; or it can rely more and more heavily on appropriations from the State's general fund, which represents support from taxpayers generally. As discussed in the proposal Summary, the Department's goal in promulgating the adopted rules is to reduce the Air Permitting Program's reliance on the State's general fund. It has reduced its costs through development of general permits and general operating permits and reductions in staff, and continues to examine ways to further reduce its costs. That leaves the Department with the one remaining option, which is to seek revenue from the regulated community. Because emission fees, the largest source of revenue for the major facilities program, are fixed by statute, the only revenue source is service fees. See also the Response to Comments 36 through 40 for a discussion of Department expenses associated with general permits and general operating permits.

44. COMMENT: Fees are only part of the cost of complying with a regulation. The permit application process should be streamlined to reduce costs to the regulated community. The general permit application process is complicated, confusing, and time-consuming. (7)

RESPONSE: General permits offer a simplified registration-type of approval that allows a facility with a qualifying source to register and operate without any delay. To further assist the regulated facilities, the Department has dedicated customer service staff to provide assistance to applicants for general permits. The General Permits Help Desk can be reached at (609) 633-2829. This service helps small businesses obtain general permits without incurring the expense of hiring consultants. More information is available from the Department's website at <http://www.state.nj.us/dep/aqpp/gp.html>.

[page=473] **Right Sizing**

45. COMMENT: The air permitting program is comprised of three distinct groups: Permitting, Enforcement, and

the Bureau of Technical Services (BTS). This level of bureaucracy creates confusion, inefficiencies, and increased cost for both the Department and the regulated community. These three distinct groups manage permits that are extensive and complex, which creates delays in testing, modifications, renewals, and interpretations for enforcement. In addition, each group has its own management structure and supervisory personnel. (3)

RESPONSE: The air permitting program is organized according to distinct tasks necessary for achieving its mission; that is, evaluating permits, modeling and health risk analysis, and testing sources of air pollution to ensure they do not adversely affect air quality in the State. The permitting staff review air permit applications, the modeling staff evaluate air quality impact and health risks, and the stack test staff ensure the proper measurement of stack emissions. The modeling and stack test staff are within BTS. The enforcement program is not directly part of the permitting program, but is responsible for the inspection of permitted facilities. The Department coordinates the efforts of all these groups throughout the process, ensuring efficiency, cost effectiveness, and the proper regulation of air pollution sources in the State. In this way, staff can focus on and develop expertise in one of these tasks, acting as experts, rather than generalists. This has allowed the program to work most efficiently and be of most benefit to the regulated community and the general public.

Under the air program's long-standing "facility manager" approach, a permit evaluator is assigned responsibility for permits of a particular industry type based on the employee's specific experience. The permit evaluator works with a facility to develop a compliance plan, which the permit evaluator then shares with testing and enforcement staff for their input prior to approval. Although each section of the air program has its own expertise, the sections interact pursuant to established procedures and protocols, allowing for the development of comprehensive, unambiguous permits useful to all affected parties, including industry, the public, and staff engaged in field inspections.

46. COMMENT: The proposal does not discuss or review the number of contractors employed by the air permitting group and the cost associated with contractor staffing. (3, 10)

RESPONSE: As indicated in the proposal, the operating costs for the major and minor facilities programs include the cost of consultants (contractor staff). (See 46 N.J.R. at 1784.) The air permitting program currently has a contractor staff of nine FTEs, reduced from 12 FTEs in FY 2014 due to funding constraints. This use of contractor staff is a cost effective solution for the Department to augment its resources during times of budget constraints and cost cutting. On average, the cost of a contractor FTE is about 17 percent less than a full-time State employee, taking into account indirect costs, fringe benefits, and salary additives.

47. COMMENT: New Jersey requires permits for numerous air emission sources that other states exempt. There are efficiencies to be gained through the additional use of air permit exemptions, permits by rule, and additional general permits. This would reduce overall permit complexity and should reduce costs for both the Department and the regulated community. (3)

RESPONSE: General permits and general operating permits are essentially the air permitting program's equivalent to permits by rule; unlike other permits by rule, the general permits and general operating permits include facility inventory inspection and compliance determination, important elements in regulating these facilities. The Department continues to develop general permits and general operating permits.

Sources exempt from permitting requirements are listed in the air permitting rules for minor and major facilities at *N.J.A.C. 7:27-8.2* and *22.1*, respectively. The Department has exempted sources that have achieved air pollution control standards through technology advances, provided the sources do not negatively impact the air pollution control goals of the State. As the Department determines the need for additional exemptions for sources, either as suggested by the regulated community or its own evaluations, it will consider expanding the list of exempt sources. The Department must take into account, in exempting additional sources, the impact this would have on air quality, and the State's ability to attain and maintain attainment of health standards and comply with the State Implementation Plan. See the Responses to Comments 24, 25, and 55 through 58 for discussions of New Jersey's rules as compared to those of other states.

48. COMMENT: The Department should not fund the program cost before addressing the Department's workload expenses. The program succeeded in lowering industrial emissions and the Department should downsize the program accordingly. The proposal does not address any workload or headcount reductions as a result of moving to general permits or the reduction in Title V facilities. (1, 3)

49. COMMENT: The Department should find another way to close the gap between program costs and revenues including reducing program costs. (4)

50. COMMENT: The Department should reconsider its budgetary requirements for the program. (8)

51. COMMENT: The Department should not increase fees when businesses in New Jersey have generated over 90 percent reductions in emissions over the past 25 years through investments of millions of dollars in control technology and working with the Department to meet the State's current air standards. The Department states that program deficits continue to increase each year because the program is supported, in part, from emission fees. When companies continue to reduce emissions each year because they install state of the art equipment, relocate or shut operations, then the Department's deficit grows, compelling the Department to raise fees on those entities remaining in New Jersey. (1, 3, 10)

RESPONSE TO COMMENTS 48 THROUGH 51: The total emissions from sources of air pollution in New Jersey have been declining, primarily as a result of facilities installing air pollution control devices. Although emissions at a given facility may have gone down, Department staff must still review and process the facility's application for a permit, regardless of the extent to which the facility has reduced the level of regulated air pollutants it emits. The need to inspect the facility is also unaffected by reduced emissions. A regulated facility's use of control technology to reduce emissions can result in more work for the Department, rather than less. The advanced pollution control equipment that is largely responsible for the reduced emissions is subject to a number of Federal requirements, which the Department enforces based on its delegation from the EPA. As the number of permits that include this advanced pollution control equipment increases, so does the time spent by the Department to review and administer these permits, including additional tests and inspections.

The Department has been working with the business community and other stakeholders to improve the air program. Efforts include eliciting customer feedback and working with industry and its representatives to address their concerns. Over the last several years, the air program has held a series of stakeholder meetings to streamline its process and explore options to improve procedures. The air program has reduced the processing time for permit approvals and has worked with applicants to expedite permit processing, keeping in mind business deadlines and other commercial demands. As discussed below, staffing for facility regulation has been significantly reduced since FY 2008. Despite these improvements and staff reductions, the revenue the Department receives is insufficient to meet the costs of the smaller program. The need to fund the program is immediate, and cannot be delayed.

As stated in the proposal, the program costs for each of the five years from FY 2009 through FY 2013 have been, on average, 15 percent lower than in FY 2008. (See 46 N.J.R. at 1783 and 1786.) This equates to more than \$ 18 million in cost savings over the five-year period. Since FY 2008, the number of FTEs supporting the air program has decreased from 122 to 95, a 22 percent decrease. In addition to this reduction, the program has implemented measures to optimize its operations and improve procedures, and has worked with stakeholders to explore other possible efficiencies. The Department plans to continue its efforts to make the air program as efficient and effective as possible.

52. COMMENT: The Department attributes decreased fee revenue to several causes, including reduced emissions, but fails to note plant closures and other economic causes. Since 2006, there has been a reduction in Title V facilities from 350 to 270. How much fee revenue [page=474] has been lost since 2006 due to plant closures and has there been a proportional decrease in staffing and expenses? (1, 3)

RESPONSE: Since 2006, the number of major facilities has been reduced from 304 to 260 (39 facilities, or

approximately 13 percent, were closed, and the remaining five, or approximately two percent, were reclassified as minor facilities). During the same period, emission fee revenues declined by 70 percent. The majority of the revenue loss is due to the emission-reducing measures adopted by larger facilities, and not to closure of smaller facilities. These measures by the larger facilities increase the complexity of the permits and inspections, which increases, rather than decreases, the demand on staff and the Department's costs.

53. COMMENT: Department staff witness stack tests and other compliance testing, which is not required in other states. This complicates the scheduling of required tests. The stack test reports and other reports required by the Bureau of Technical Services (BTS) are certified by a Professional Engineer or a Certified Industrial Hygienist, and by a responsible company official; accordingly, witnessing by the Department's staff is redundant, complicates the procedure and often delays testing scheduling. This results in unnecessary costs to New Jersey's businesses. How many staff-hours does the Department spend observing stack tests each year, and how many stack test defects are identified? (3)

RESPONSE: Employees of the Emission Measurement Section of BTS observe stack testing. This personal observation by Department staff is integral to the protection of air quality in that it ensures the integrity of the testing and eliminates errors. Incorrect test results could lead to incorrect permit limits, and possible violation of air quality standards. The Department is not considering its elimination or reduction.

Guidance from the EPA Office of Enforcement and Compliance Assurance recommends personal observation of stack testing. The Department and the EPA's Office of the Inspector General have found that New Jersey's practice of having BTS employees observe stack tests has been successful in ensuring the integrity of the data (quality assurance/quality control). The EPA Emissions Factors Workgroup reviewed stack testing practices in more than 30 states and concluded that New Jersey's practice of sending its employees to observe tests significantly improves the quality of stack test reports, thereby distinguishing reports from facilities in New Jersey from those in other states. By ensuring the collection of better data, stack test observations supplement and enhance compliance with permit requirements, thereby furthering the Department's clean air objectives. Reliance on only a certified stack test report does not substitute for staff observation.

Department staff spend a total of approximately 20 to 25 field days per month observing stack tests. This does not include pre-test preparation or post-test reporting. The Emission Measurement Section staff has been reduced from 12 FTEs in FY 2004 to seven FTEs in FY 2015 (a staff reduction of more than 40 percent). While the Department does not track or otherwise record the number of stack test deficiencies observed and rectified, the benefits of the field observations is clear from the feedback from EPA and regulated facilities, which also generally support these observations as assisting them in compliance.

54. COMMENT: How many modelers are needed in the Bureau of Technical Services? (3)

RESPONSE: The Air Quality Evaluation Section (AQES) in the Bureau of Technical Services, which conducts air quality modeling analyses, has four FTEs, although the workload requires five FTEs. The AQES is responsible for air quality modeling risk assessments for hazardous air pollutants and air quality modeling assessments to predict the impact of ambient criteria pollutants. In addition to supporting the air permitting program, AQES is responsible for issuing daily air quality forecasts during ozone season, generating updated meteorological data, participating in multi-state initiatives, and conducting studies of sources in other states to determine their impact on New Jersey's ambient air.

Comparison with Other States

55. COMMENT: The Department should compare New Jersey's air program with other states, in order to redesign and function in the most cost effective and efficient manner. (6)

56. COMMENT: The Department should provide a comparison of New Jersey permit fees with neighboring states.

(10)

57. COMMENT: The Department should compare New Jersey to other states within the region in terms of the number of air program employees (state and contract) per capita, per number of Title V sources, and per total number of permitted sources; the percentage of supervisors and managers within the air program; the expenses and revenue associated with the Title V program, as compared to the minor source program; emission fees; and total air program budget. This would help ensure that our regulatory scheme remains competitive and streamlined and that we do not provide continued disincentive to operate or expand in New Jersey. (3, 9)

58. COMMENT: The Department should provide benchmarking data to compare New Jersey with other states, to ensure that the State's regulatory scheme remains competitive with neighboring states. (1)

RESPONSE TO COMMENTS 55 THROUGH 58: The Department is familiar with the operation of air programs in some neighboring states, and intends to review the air quality regulation programs in more states, with a particular focus on their major facility regulation programs which, like New Jersey's, are mandated by Federal law. The Department believes that a detailed comparison of the programs in other states to the Department's Air Quality Program, in terms of cost and personnel, would not be instructive. As discussed below and in the Responses to Comments 24, 26, and 60, New Jersey's program is based on the unique characteristics of the State.

Based on New Jersey's population density, types and number of stationary sources, number of mobile sources, the types and variety of air pollutants from sources within the State, transport of pollution from upwind states into New Jersey, the State's dense road network, and the proximity of New Jersey residents to sources of air pollution, New Jersey's air quality program is well-designed to address the State's air pollution issues. The Department continually evaluates its program in order to identify further efficiencies in the air pollution control program, while continuing to protect air quality.

For the major facilities program, EPA's regulations at 40 CFR Part 70 provide flexibility in the types of fees that permitting authorities collect from Title V sources. A permitting authority's fee schedule may include emissions fees, application fees, service-based fees, other types of fees or any combination thereof. While some states may charge a lower emission fee, they may have higher service fees or impose different service fees to cover the program cost. There are no Federal requirements addressing the funding of a minor source program, so states are able to design funding appropriate to their unique circumstances.

Calculations such as air program staff per capita or per source, and a detailed comparison of Department staff as compared to the staff in other states do not change the basis for the adopted rules, which is that there are significant revenue shortfalls that the Department must address. Nevertheless, some of the data that would make such calculations possible, at least with regard to New Jersey, are in the proposal, such as number of facilities in New Jersey, revenue from major facilities, and costs of the major facilities program. The Department provided in the proposal information on program staffing, and program costs and expenses, including the air program budget. Contract staff are discussed in the Response to Comment 46. Additional information, such as state population, is readily available from other public sources. See, for example, United States Census Bureau data at www.census.gov.

59. COMMENT: The Department should utilize cost savings measures employed by other states. The Department should evaluate additional cost-cutting measures such as shortening permit review times, creating more general permits, and removing redundant or ineffective permit requirements. It should also evaluate ways in which to further reduce operating costs, including direct and indirect costs. (10)

RESPONSE: The Department continuously evaluates the air program to identify potential efficiencies, which continuing to protect air quality. This process includes working with stakeholders to improve permitting procedures, and reviewing the efforts of other states.

60. COMMENT: A facility in New Jersey may require 10 preconstruction air permits whereas a similar facility in

Pennsylvania requires none. (10)

RESPONSE: Without specific details about the type and size of the facility, the Department is unable to provide a specific reason why New Jersey may require air permits for a facility while Pennsylvania does not. [page=475] As discussed above, the criteria for regulating sources of air pollution vary from state to state depending upon air quality, population density, and the state's commitment to meet ambient air quality standards. As the most densely populated state in the country, New Jersey needs to regulate smaller stationary sources than less dense states, and must have a more comprehensive air pollution control program than the average state.

Gas Stations

61. COMMENT: The Department should not require a Stage 2 vapor recovery permit as part of the gasoline dispensing facility permit. The permit both increases fees to a facility, and is of questionable use as a control strategy under the State Implementation Plan. (4, 8)

RESPONSE: The State's vapor recovery requirement is beyond the scope of the proposal, which is limited to fees for major and minor facilities. The Department does not issue a separate permit, nor does it impose a separate fee for a Stage 2 vapor recovery system. Most gasoline dispensing facilities qualify for registration under general permit GP-004A, and do not require an individual permit. The presence or absence of a Stage 2 vapor recovery system does not affect the fee for the general permit. If a gasoline dispensing facility applies for an individual permit, the presence or absence of a Stage 2 vapor recovery system would not affect the applicable fee.

62. COMMENT: A gas station may need to install an emergency generator. The increased fee for the required permit would be an additional financial burden, on top of the cost of installing an emergency generator, estimated at \$ 20,000 to \$ 80,000. This discourages gas stations from installing these high-cost backup generators. (8)

RESPONSE: An air permit is required for an emergency generator only if the generator is rated over one million BTU per hour. The Department has a general permit for this type of generator. The fee for a general permit authorization is \$ 820.00 for a five-year period, which is considerably less than the fee for an individual permit. Although the \$ 820.00 fee represents an increase from \$ 410.00 under the previous rules, it is a relatively small cost when compared to the commenter's estimated capital cost of the generator.

Housing Impact

63. COMMENT: The Department is required to measure housing affordability impact consistent with *N.J.S.A. 52:14B-4.1b*. Over one million New Jersey residents live in multifamily rental apartments that may be required to obtain permits, and thus pay increased fees, as minor facilities. The increased fees may increase costs for these apartment communities and drive up the cost of housing. The Department should, consistent with the statute, provide its best assessment as to what that impact would be, even if the Department's assessment concludes the impact to be small. (7)

RESPONSE: The adopted rules impose no new permit requirements on apartment communities. The Department anticipates that the adopted fees should not significantly impact housing affordability in New Jersey. The equipment at an apartment community that is most likely to require an air permit is the boiler or heater. The adopted fee applies to a space heating boiler with a rating of more than one million BTU per hour. Typically, a one million BTU per hour boiler can support 10 to 15 living units. A larger capacity boiler could support even more living units, but would pay the same permit fee.

A housing rental complex has the option of obtaining a general permit (as opposed to the more expensive regular permit) for the boiler. The fee for the general permit is \$ 820.00 for five years. Depending upon how many living units are served by each boiler, the incremental cost per unit could be quite low. For example, in a small apartment complex

with 10 units, the cost of the permit per unit would be \$ 16.40 per year, an increase of \$ 8.20 per unit per year (or less than \$ 0.69 per month) over the fee in the previous rules. For a larger apartment complex, the per unit cost would be even less. The Department is not able to provide precise information regarding the number of housing units served by each permitted boiler in the State; the information is neither requested nor provided as part of the general permit registration.

Correction

64. COMMENT: There is an error in the rule text at *N.J.A.C. 7:27-8.6*, Service fees, at Table B, Supplementary Fee Schedule. The proposal indicates an increase in the fee for New Source Performance Standards (NSPS) Evaluations from \$ 1,755 to \$ 8,417. (3)

RESPONSE: The Department stated in the proposal that the proposed increase to the service fees for both major and minor sources was approximately 44 percent (46 N.J.R. at 1784). The proposed increase of the fee for NSPS Evaluations to \$ 8,417 is incorrect. The adopted fee is \$ 2,527. The fee, as modified on adoption, is consistent with the adopted fees for other service fees that were \$ 1,755 under the previous rule, such as the fee to perform a MACT evaluation (item 4 of the Supplementary Fee Schedule), and the fee to conduct ambient air monitoring (item 8ai of the Supplementary Fee Schedule). The service fees on the Supplementary Fee Schedule that increased to \$ 8,417 are those that were \$ 5,845 under the previous rule.

Miscellaneous Comments

65. COMMENT: Air permits should be required for mobile repair operations in the same way permits are required for spray booths in auto body shops. Also, there should not be multiple permitting requirements from county and municipal governments in addition to the air permit requirement by the Department. (8)

66. COMMENT: Any further emission reductions need to come from mobile sources, not stationary sources. (6)

RESPONSE TO COMMENTS 65 AND 66: These comments are beyond the scope of the proposal, which is limited to fees for air permits.

Summary of Agency-Initiated Changes:

In addition to the modification on adoption discussed above in response to comments, the Department is modifying fee tables at *N.J.A.C. 7:27-8.6* and *22.31*. The format of Table A-1 at *N.J.A.C. 7:27-8.6* does not match the format of the other Base Fee Tables (Tables A-2 and A-3) in that the Basis and Amount are combined in one column. On adoption, the Department added a separate column for "Basis" and renamed the "Basis" column as "Amount." The Department moved the basis (Per Electronic Registration) to the new basis column and deleted "electronic." Since all registrations must now be submitted electronically, there is no need to retain this distinction. The Department is making these same modifications to the adjusted fee schedule at *N.J.A.C. 7:27-22.31(aa)*.

At B. Supplementary Fee Schedule at *N.J.A.C. 7:27-8.6*, the Department is adding "Per Review" in the Basis column for Determine PSD Applicability, which it inadvertently removed from the table when it proposed changes to the Prevention of Significant Deterioration activity in the Supplementary Fee Schedule.

At adjusted Supplementary Fee Schedule at *N.J.A.C. 7:27-22.31(z)*, the Department is making three non-substantial changes to match parallel language in the Supplementary Fee Schedule at *N.J.A.C. 7:27-8.6*. The Department is adding "Determine" to "PSD Applicability" in the Activity Column, under item 1, Prevention of Significant Deterioration. The Department is also deleting the numbers (1) and (2) under "Review Protocol" and "Review Quality Assurance Plan" at item 8, Ambient Air Monitoring.

In addition, rules promulgated under the Air Pollution Control Act are not operative until 60 days after signature by

the Commissioner, or the date they are published in the New Jersey Register, whichever occurs later. (See *N.J.S.A. 26:2C-8*.) Accordingly, adopted rules were not operative on January 1, 2015, as indicated in the tables. The Department is modifying the tables on adoption to replace January 1, 2015, with the operative date of the amendments. To further simplify the Tables A-1, A-2, A-3, and B at *N.J.A.C. 7:27-8.6*, the Department is also modifying the tables on adoption to remove the columns setting forth the fees for the period January 1, 2010 through December 31, 2014. The Department is also deleting the outdated fees at *N.J.A.C. 7:27-22.31(r)* through (t) and (v) through (x) and reserving the subsections, and removing references to these sections at *N.J.A.C. 7:27-22.1* and *22.31(a)*, (k) (p), and (u).

In order to avoid any confusion regarding the applicability of the adopted fees after December 31, 2019 (the end of the first five year period to which the adopted fees apply) in the event that the Department determines not to adjust fees at that time, the Department is removing the end date for the various fees from column headings and rule text. As modified, the column headings and rule text will refer only to the [page=476] operative date of the fee, which is February 27, 2015. This change is to clarify that the base and supplementary fees remain operative until either they are amended pursuant to the Administrative Procedure Act, or are adjusted by the CPI, as provided in *N.J.A.C. 7:27-8.6(l)* and *22.31(u)*. These changes are at *N.J.A.C. 7:27-8.6* Tables A-1, A-2, A-3, and B, and *N.J.A.C. 7:27-22.31(u)*10, (y), (z) and (aa).

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

The adopted amendments to *N.J.A.C. 7:27-8* regarding funding of the minor facilities program are not promulgated under the authority of, or in order to implement, comply with or participate in, any program established under Federal law, or under a State statute that incorporates or refers to a Federal law, Federal standards or Federal requirements. Accordingly, no further analysis is required.

The adopted amendments to the fees in *N.J.A.C. 7:27-22* do have a Federal connection. Section 502 of the Clean Air Act (42 U.S.C. § 7661a(b)(3)(A)) requires New Jersey to enact legislation that would require permitted sources to pay a fee "sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the permit program" Annual emission fees cover the Department's costs of regulating existing major facilities. The annual emission fees do not, however, cover the Department's costs to regulate the major facilities that apply for significant modifications. The additional costs associated with regulating these facilities are paid by revenue from permitting fees. The Air Pollution Control Act at *N.J.S.A. 26:2C-9.5.d(1)(c)* requires each major facility to pay a fee for any significant modification in accordance with a fee schedule. Also, *N.J.S.A. 26:2C-9.b(7)* gives the Department the authority to charge administrative fees, in accordance with a fee schedule, for any of the services the Department performs or provides in connection with administering the Air Pollution Control Act. The fee schedule for significant modification applications is at *N.J.A.C. 7:27-22.31(y)*.

The adopted amendments to *N.J.A.C. 7:27-22* do not impose fees in excess of what the Department reasonably requires to develop and administer the program; accordingly, the amendments do not exceed Federal law and no further analysis is required.

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

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

7:27-8.6 Service fees

(a) A registrant shall submit the applicable registration fee listed in the Base Fee Tables below with the completed registration, using NJDEP Online (the Department's online permit application portal).

(b) After a person submits a completed application form or notice, the Department will assess and invoice the person for the base fee and any supplementary fee due to the Department, assessed in accordance with the Base Fee Tables and the Supplementary Fee Schedule below. The person shall submit any fees so assessed, either using NJDEP Online or to the mailing address listed on the invoice, within 30 days of receipt of the invoice.

(c)-(f) (No change.)

(g) The owner or operator of a facility subject to *N.J.A.C. 7:27-22* is not required to pay the operating certificate fees set forth in the Tables below after June 30, 1995. However, the owner or operator of a facility subject to *N.J.A.C. 7:27-22* is required to maintain operating certificates for sources at the facility under this subchapter until the issuance of an operating permit for the facility. In addition, after June 30, 1995, the owner or operator shall pay fees in accordance with *N.J.A.C. 7:27-22.31* for any significant modification, as defined in the operating permits rules at *N.J.A.C. 7:27-22.1*, while the issuance of an operating permit for the facility is pending.

(h)-(k) (No change.)

(l) An increase of the fees in the Base Fee Tables and Supplementary Fee Schedule shall be determined in accordance with this subsection.

1. (No change.)

2. An increase shall be calculated using an inflation factor based on the Consumer Price Index, All Urban Consumers, United States city average, all items (CPI-U) published by the United States Department of Labor, Bureau of Labor Statistics, available at <http://www.bls.gov/cpi>. The inflation factor used shall be the percent change over the preceding five-year period for the CPI-U, except the preceding six-year period shall be used to calculate the January 1, 2010, through December 31, 2014, five-year period.

3.-4. (No change.)

5. If the inflation factor is a positive number, the percent increase shall be rounded to one decimal place. Each of the fees set forth in this section shall be multiplied by the rounded percent increase to preliminarily determine each fee's increase. Each fee's increase shall then be added to the fee to preliminarily determine the adjusted fee. The final adjusted fee shall then be determined by rounding up the preliminary adjusted fee to the next five dollars.

6.-7. (No change.)

8. The applicable fee shall be determined as follows:

i. The Base Fee shall be the Base Fee operative on the date the Department receives an administratively complete application or notice.

ii. The Supplementary Fee shall be the Supplementary Fee operative on the date performance of the supplementary activity is completed.

A. BASE FEE TABLES

Table A-1

Registration fees

Activity

Basis

[Basis]

***[Electronic
Registration]***

Amount

[Registration for initial authorization, or renewal of authorization, to act under a General Permit:]

***[Janu-
ary 1,
2010,
through
December
31,
2014]***

***[Janu-
ary 1,
2015,
through
December
31,
2019]***
***Begin-
ning
Febru-
ary 27,
2015***

Registration for initial authorization or, renewal of authorization, to act under a General Permit:

***-* Listed at N.J.A.C. 7:27-8.8(c), other than (c)12**

***Per
registration***

[\$ 410.00]

\$ 820.00

***-* Listed at N.J.A.C. 7:27-8.8(c)12**

***Per
registration***

[\$ 585.00]

\$ 820.00

Registration for initial authorization, or renewal of authorization, to operate a used oil space heater under

***Per
registration***

[\$ 295.00]

\$ 820.00

N.J.A.C. 7:27-20.3

Table A-2

Permit fees

Activity	Basis	Amount	
		[January 1, 2010, through December 31, 2014]	*[January 1, 2015, through December 31, 2019]*
			Beginning February 27, 2015
Application for a preconstruction permit and operating certificate	Per first piece of equipment per initial permit application	*[\$ 1,755]*	\$ 2,527
	Per each additional piece of equipment per initial permit application	*[\$ 410.00]*	\$ 590.00
Application for environmental improvement pilot test	Per application	*[\$ 585.00]*	\$ 842.00
Renewal of an operating certificate	Per first piece of equipment per operating certificate	*[\$ 880.00]*	\$ 1,267

	Per each additional piece of equipment per operating certificate	*[\$ 235.00]*	\$ 338.00
Application for a preconstruction permit and operating certificate revision	Per first new or changed piece of equipment per permit revision application	*[\$ 1,755]*	\$ 2,527
	Per each additional new or changed piece of equipment per permit revision application	*[\$ 410.00]*	\$ 590.00
Application for a compliance plan change	Per application	*[\$ 585.00]*	\$ 842.00
Notice of a seven-day-notice change	Per notice	*[\$ 585.00]*	\$ 842.00

Table A-3

Notice of amendment fees

Activity	Basis	Amount	
		[January 1, 2010, through December 31, 2014]	*[January 1, 2015, through December 31, 2019]*
			Beginning February 27, 2015

Change in identifying information under N.J.A.C. 7:27-8.21(b)1	Per facility	*[\$ 120.00]*	\$ 173.00
Transfer of ownership under N.J.A.C. 7:27-8.21(b)2	Per facility	*[\$ 120.00]*	\$ 173.00
Change in equipment or stack designation under N.J.A.C. 7:27-8.21(b)3	Per preconstruction permit and operating certificate amended	*[\$ 120.00]*	\$ 173.00
A change listed in N.J.A.C. 7:27-8.21(b)4, 5, 6, or 8	Per preconstruction permit and operating certificate amended	*[\$ 585.00]*	\$ 842.00
Correction of a typographical error under N.J.A.C. 7:27-8.21(b)7	Per preconstruction permit and operating certificate amended	*[\$ 120.00]*	\$ 173.00
Change in identifying information on a registration form as specified under N.J.A.C. 7:27-8.21(d)1	Per facility	*[\$ 120.00]*	\$ 173.00
Transfer of ownership of a registered facility under N.J.A.C. 7:27-8.21(d)2	Per facility	*[\$ 120.00]*	\$ 173.00

[page=478] B. SUPPLEMENTARY FEE SCHEDULE

Activity	Basis	Amount	
		*[January 1, 2010,	*[January 1,

		through December 31, 2014]*	2015, through December 31, 2019]* *Beginning February 27, 2015*
1. Prevention of Significant Deterioration			
a. Determine PSD Applicability	*Per Review*		\$ 8,417
b. Perform BACT Evaluation	Per Applicable Air Contaminant	*[\$ 5,845]*	\$ 8,417
2. Sub 18 Emission Offsets			
a. Determine Sub 18 Applicability	Per Review	*[\$ 5,845]*	\$ 8,417
b. Perform LAER Evaluation	Per Applicable Air Contaminant	*[\$ 5,845]*	\$ 8,417
3. RACT - AEL			
a. Review Technology	Per Applicable Air Contaminant	*[\$ 5,845]*	\$ 8,417
b. Prepare SIP Revision	Per SIP Revision	*[\$ 2,925]*	\$ 4,212

4. Perform MACT Evaluation	Per MACT Standard	*[\$ 1,755]*	\$ 2,527
5. Perform NSPS Evaluation	Per NSPS	*[\$ 1,755]*	*[\$ 8,417]* *\$ 2,527*
6. Perform SOTA Case-by-Case Evaluation	Per Applicable Air Contaminant	*[\$ 5,845]*	\$ 8,417
7. Public Comment			
a. Post Public Notices	Per Public Comment Period	*[\$ 585.00]*	\$ 842.00
b. Conduct Public Hearing	Per Hearing	*[\$ 5,845]*	\$ 8,417
c. Prepare Response to Comments Document	Per Response	*[\$ 295.00]*	\$ 425.00
	Maximum Per Document	*[\$ 5,845]*	\$ 8,417
8. Ambient Air Monitoring			
a. Review Protocol			
i. For criteria pollutants, or for other pollutants or parameters for which EPA has provided guidance	Per Protocol	*[\$ 1,755]*	\$ 2,527
ii. For other pollutants or parameters for which EPA has not provided guidance	Per Protocol	*[\$ 2,925]*	\$ 4,212
b. Inspect Monitoring Locations and Equipment Installation	Per Inspection	*[\$ 585.00]*	\$ 842.00

c. Review Quality

Assurance Plan

i. For criteria pollutants, or for other pollutants or parameters for which EPA has provided guidance	Per Plan	*[\$ 1,755]*	\$ 2,527
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ii. For other pollutants or parameters for which EPA has not provided guidance	Per Plan	*[\$ 2,925]*	\$ 4,212
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d. Review Data	Per Required Report	*[\$ 585.00]*	\$ 842.00
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e. Audit Equipment	Per Audit	*[\$ 585.00]*	\$ 842.00
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9. Air Quality Impact
Analysis - PSD

a. Evaluate Protocol	Per Protocol	*[\$ 2,340]*	\$ 3,370
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b. Review Screening Modeling	Per Review	*[\$ 1,170]*	\$ 1,685
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c. Review Refined Modeling	Per Review	*[\$ 4,095]*	\$ 5,897
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10. Air Quality Impact
Analysis - non PSD

a. Evaluate Protocol	Per Protocol	*[\$ 1,170]*	\$ 1,685
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b. Review Screening Modeling	Per Review	*[\$ 1,170]*	\$ 1,685
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c. Review Refined Modeling	Per Review	*[\$ 1,755]*	\$ 2,527
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11. Risk Assessment

a. Evaluate Protocol	Per Protocol	*[\$ 1,755]*	\$ 2,527
b. Review Risk Assessment	Per Review	*[\$ 1,755]*	\$ 2,527

12. Testing

a. Stack Test

i. Evaluate Protocol (up to three probes)	Per Protocol Per Stack	*[\$ 880.00]*	\$ 1,267
ii. Evaluate Protocol (more than three probes)	Per Protocol Per Stack	*[\$ 1,170]*	\$ 1,685
iii. Review Testing Report (up to three probes)	Per Report Per Stack	*[\$ 880.00]*	\$ 1,267
iv. Review Testing Report (more than three probes)	Per Report Per Stack	*[\$ 1,170]*	\$ 1,685

b. Continuous Emission Monitors

i. Evaluate Equipment Protocol	Per Protocol Per Stack	*[\$ 585.00]*	\$ 842.00
ii. Evaluate Performance Specification Test Protocol	Per Protocol Per Stack	*[\$ 585.00]*	\$ 842.00
iii. Review Testing Report	Per Report Per Stack	*[\$ 585.00]*	\$ 842.00
c. On-site Monitoring of Sample Collection Pursuant	Per Day Per Person	*[\$ 880.00]*	\$ 1,267

to an Approved
Source-Specific Testing
Protocol

d. Periodic Monitoring Equipment Protocol	Per Protocol	*[\$ 295.00]*	\$ 425.00
13. Periodic Compliance Inspection	Per Inspection Per Certificate	*[\$ 470.00]*	\$ 677.00

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.

...

"Probe" means an air contaminant sampling method used to determine compliance with one or more emission allowables. For the purpose of assessing supplementary fees at *N.J.A.C. 7:27-22.31*[(s) and (w)]**(z)*, any of the following shall be considered a single probe:

1.-4. (No change.)

...

7:27-22.31 Fees

(a) The owner or operator of a facility subject to this subchapter shall submit fees to the Department in accordance with this section. The type of fee due, and the amount due, will vary depending on the fiscal year, the amount of regulated air contaminant emissions at the facility, and the number of significant source operations at the facility. The types of fees are:

1.-5. (No change.)

6. Fees to register sources under a general operating permit or to register used oil space heaters set forth at (p)*[, (t), (x),]* and (aa) below.

(b)-(d) (No change.)

(e) Operating permit modification fees shall be paid after submittal of an application for a significant modification, in accordance with (g) and (k) through (aa) below.

(f)-(j) (No change.)

(k) After the Department receives an application from a permittee for a significant modification of an operating permit, the Department will determine the significant modification application fee in accordance with the fee schedules referenced in (k)1 and 2 below. The significant modification application fee shall not exceed \$ 50,000 per significant modification.

1. The base fee for application review, from the applicable Base Fee Schedule*[s]* in *(r), (v), and]* (y) below; and

2. Any applicable fees for additional services, assessed in accordance with the applicable Supplementary Fee Schedule*[s]* in *(s), (w), and]* (z) below.

(l)-(o) (No change.)

(p) If an application for an approval of an environmental improvement pilot test is related to an application for a significant modification, the Department shall determine the applicable fee from the Base Fee Schedule*[s]* at *(r), (v), and]* (y) below and the Supplementary Fee Schedule*[s]* at *(s), (w), and]* (z) below. After the Department receives the completed application form, the Department of the Treasury will send an invoice to the applicant. If a registration of a general operating permit or a used oil space heater is related to an application for a significant modification, the registrant shall submit the applicable registration fee from the Registration Fee Schedule*[s]* at *(t), (x), and]* (aa) below.

*[(q) (Reserved)

(r) Through December 31, 2009, the Base Fee Schedule for significant modification applications shall be (r)1 through 3 below. On and after January 1, 2010, the Base Fee Schedule shall be as determined by (u) below.

Activity	Basis	Amount
1. Application for a significant modification for which the change meets the definition of modification at N.J.A.C. 7:27-22.1	Per first new or changed piece of equipment per significant modification application	\$ 1,500
	Per each additional new or changed piece of equipment per significant modification application	\$ 350.00
2. Application for a significant modification in which the change does not meet the definition of modification at N.J.A.C. 7:27-22.1	Per significant modification application	\$ 500.00

3. Application for environmental improvement pilot test	Per application	\$ 500.00
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(s) Through December 31, 2009, the Supplementary Fee Schedule for significant modification applications shall be (s)1 through 12 below. On and after January 1, 2010, the Supplementary Fee Schedule shall be as determined by (u) below.

Activity	Basis	Amount
1. Prevention of Significant Deterioration		
a. PSD Applicability		
i. Screen for PSD Applicability	Per Applicable Air Contaminant	(Reserved)
ii. Determine PSD Applicability	Per Review	(Reserved)
b. Perform BACT Evaluation	Per Applicable Air Contaminant	\$ 5,000
2. Sub 18 Emission Offsets		
a. Determine Sub 18 Applicability	Per Review	\$ 5,000
b. Perform LAER Evaluation	Per Applicable Air Contaminant	\$ 5,000
3. RACT - AEL		
a. Review Technology	Per Applicable Air Contaminant	\$ 5,000
b. Prepare SIP Revision	Per SIP Revision	\$ 2,500
4. Perform MACT Evaluation	Per MACT Standard	\$ 1,500
5. Perform NSPS Evaluation	Per NSPS	\$ 1,500

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6. Perform SOTA Case-by-Case Evaluation	Per Applicable Air Contaminant	\$ 5,000
7. Public Comment		
a. Post Public Notices	Per Public Comment Period	\$ 500.00
b. Conduct Public Hearing	Per Hearing	\$ 5,000
c. Prepare Response to Comments Document	Per Response	\$ 250.00
	Maximum Per Document	\$ 5,000
8. Ambient Air Monitoring		
a Review Protocol		
i. For (1) criteria pollutants or (2) other pollutants or parameters for which EPA has provided guidance	Per Protocol	\$ 1,500
ii. For other pollutants or parameters for which EPA has not provided guidance	Per Protocol	\$ 2,500
b. Inspect Monitoring Locations and Equipment Installation	Per Inspection	\$ 500.00
c. Review Quality Assurance Plan		
i. For (1) criteria pollutants or (2) other pollutants or parameters for which EPA has provided guidance	Per Plan	\$ 1,500

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ii. For other pollutants or parameters for which EPA has not provided guidance	Per Plan	\$ 2,500
d. Review Data	Per Required Report	\$ 500.00
e. Audit Equipment	Per Audit	\$ 500.00
9. Air Quality Impact Analysis - PSD		
a. Evaluate Protocol	Per Protocol	\$ 2,000
b. Review Screening Modeling	Per Review	\$ 1,000
c. Review Refined Modeling	Per Review	\$ 3,500
10. Air Quality Impact Analysis - non PSD		
a. Evaluate Protocol	Per Protocol	\$ 1,000
b. Review Screening Modeling	Per Review	\$ 1,000
c. Review Refined Modeling	Per Review	\$ 1,500
11. Risk Assessment		
a. Evaluate Protocol	Per Protocol	\$ 1,500
b. Review Risk Assessment	Per Review	\$ 1,500
12. Testing		

a. Stack Test

i. Evaluate Protocol (up to three probes)	Per Protocol Per Stack	\$ 750.00
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ii. Evaluate Protocol (more than three probes)	Per Protocol Per Stack	\$ 1,000
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iii. Review Testing Report (up to three probes)	Per Report Per Stack	\$ 750.00
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iv. Review Testing Report (more than three probes)	Per Report Per Stack	\$ 1,000
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b. Continuous Emission Monitors

i. Evaluate Equipment Protocol	Per Protocol Per Stack	\$ 500.00
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ii. Evaluate Performance Specification

Test Protocol	Per Protocol Per Stack	\$ 500.00
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iii. Review Testing Report	Per Report Per Stack	\$ 500.00
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c. On-site Monitoring of Sample Collection Pursuant to an Approved Source-Specific Testing Protocol	Per Day Per Person	\$ 750.00
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d. Periodic Monitoring Equipment Protocol	Per Protocol	\$ 250.00
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(t) Through December 31, 2009, the fee schedule for a registration that is part of a significant modification application shall be paragraphs 1 and 2 below. On and after January 1, 2010, the fee schedule shall be as determined by (u) below.

Activity	Basis	
	Per Electronic Registration	Per Paper Registration
		Note: The Department will not accept paper registrations on or after January 1, 2008
1. Registration for initial authorization, or renewal of authorization, to act under a General Operating Permit	\$ 350.00	\$ 500.00
2. Registration for, or five year renewal of, authorization to operate a used oil space heater under N.J.A.C. 7:27-20.3	\$ 250.00	\$ 250.00]*

(q)-(t) (Reserved)

(u) An increase of the fees in the Base Fee Schedule and Supplementary Fee Schedule shall be determined in accordance with this subsection.

1.-3. (No change.)

4. If the inflation factor is a negative number, the fees set forth in (y), (z), and (aa) below shall remain unchanged.

5. If the inflation factor is a positive number, the percent increase shall be rounded to one decimal place. Each of the fees set forth in (y), (z), and (aa) below shall be multiplied by the rounded percent increase to preliminarily determine each fee's increase. Each fee's increase shall then be added to the fee to preliminarily determine the adjusted fee. The final adjusted fee shall then be determined by rounding up the preliminary adjusted fee to the next five dollars.

6. (No change.)

7. The adjusted fees shall be operative starting the first day of each five-year period stated in Table 1.

8. (No change.)

[9. From January 1, 2010, through December 31, 2014, the adjusted fees are set forth at (v) through (x) below.]

[10.] ***9,*** From *[January 1, 2015, through December 31, 2019]* ***February 27, 2015***, the adjusted fees are set forth at (y) through (aa) below.

*[(v) Effective January 1, 2010 through December 31, 2014, the adjusted Base Fee Schedule for significant modification applications shall be (v)1 through 3 below.

Activity	Basis	Amount
1. Application for a significant modification for which the change meets the definition of modification at N.J.A.C. 7:27-22.1	Per first new or changed piece of equipment per significant modification application	\$ 1,755
	Per each additional new or changed piece of equipment per significant modification application	\$ 410.00
2. Application for a significant modification in which the change does not meet the definition of modification at N.J.A.C. 7:27-22.1	Per significant modification application	\$ 585.00
3. Application for environmental improvement pilot test	Per application	\$ 585.00

(w) Effective January 1, 2010 through December 31, 2014, the adjusted Supplementary Fee Schedule for significant modification applications shall be (w)1 through 12 below.

Activity	Basis	Amount
1. Prevention of Significant Deterioration		
a. PSD Applicability		

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i. Screen for PSD Applicability	Per Applicable Air Contaminant	(Reserved)
ii. Determine PSD Applicability	Per Review	(Reserved)
b. Perform BACT Evaluation	Per Applicable Air Contaminant	\$ 5,845
2. Sub 18 Emission Offsets		
a. Determine Sub 18 Applicability	Per Review	\$ 5,845
b. Perform LAER Evaluation	Per Applicable Air Contaminant	\$ 5,845
3. RACT - AEL		
a. Review Technology	Per Applicable Air Contaminant	\$ 5,845
b. Prepare SIP Revision	Per SIP Revision	\$ 2,925
4. Perform MACT Evaluation		
	Per MACT Standard	\$ 1,755
5. Perform NSPS Evaluation		
	Per NSPS	\$ 1,755
6. Perform SOTA Case-by-Case Evaluation		
	Per Applicable Air Contaminant	\$ 5,845
7. Public Comment		
a. Post Public Notices	Per Public Comment Period	\$ 585.00
b. Conduct Public Hearing	Per Hearing	\$ 5,845
c. Prepare Response to Comments Document	Per Response	\$ 295.00
	Maximum Per Document	\$ 5,845

8. Ambient Air Monitoring

a. Review Protocol

i. For (1) criteria pollutants or (2) other pollutants or parameters for which EPA has provided guidance	Per Protocol	\$ 1,755
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ii. For other pollutants or parameters for which EPA has not provided guidance	Per Protocol	\$ 2,925
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b. Inspect Monitoring Locations and Equipment Installation	Per Inspection	\$ 585.00
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c. Review Quality Assurance Plan

i. For (1) criteria pollutants or (2) other pollutants or parameters for which EPA has provided guidance	Per Plan	\$ 1,755
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ii. For other pollutants or parameters for which EPA has not provided guidance	Per Plan	\$ 2,925
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d. Review Data	Per Required Report	\$ 585.00
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e. Audit Equipment	Per Audit	\$ 585.00
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9. Air Quality Impact Analysis -
PSD

a. Evaluate Protocol	Per Protocol	\$ 2,340
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b. Review Screening Modeling	Per Review	\$ 1,170
c. Review Refined Modeling	Per Review	\$ 4,095
10. Air Quality Impact Analysis - non PSD		
a. Evaluate Protocol	Per Protocol	\$ 1,170
b. Review Screening Modeling	Per Review	\$ 1,170
c. Review Refined Modeling	Per Review	\$ 1,755
11. Risk Assessment		
a. Evaluate Protocol	Per Protocol	\$ 1,755
b. Review Risk Assessment	Per Review	\$ 1,755
12. Testing		
a. Stack Test		
i. Evaluate Protocol (up to three probes)	Per Protocol Per Stack	\$ 880.00
ii. Evaluate Protocol (more than three probes)	Per Protocol Per Stack	\$ 1,170
iii. Review Testing Report (up to three probes)	Per Report Per Stack	\$ 880.00
iv. Review Testing Report (more than three probes)	Per Report Per Stack	\$ 1,170
b. Continuous Emission Monitors		

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i. Evaluate Equipment Protocol	Per Protocol Per Stack	\$ 585.00
ii. Evaluate Performance Specification Test Protocol	Per Protocol Per Stack	\$ 585.00
iii. Review Testing Report	Per Report Per Stack	\$ 585.00
c. On-site Monitoring of Sample Collection Pursuant to an Approved Source-Specific Testing Protocol	Per Day Per Person	\$ 880.00
d. Periodic Monitoring Equipment Protocol	Per Protocol	\$ 295.00

(x) Effective January 1, 2010 through December 31, 2014, the adjusted fee schedule for a registration that is part of a significant modification application shall be (x)1 and 2 below.

Activity	Basis Per Electronic Registration
1. Registration for initial authorization, or renewal of authorization, to act under a General Operating Permit	\$ 410.00
2. Registration for, or five-year renewal of, authorization to operate a used oil space heater under N.J.A.C. 7:27-20.3	\$ 295.00]*

(v)-(x) (Reserved)

(y) Effective *[January 1, 2015, through December 31, 2019]* ***February 27, 2015***, the adjusted Base Fee Schedule for significant modification applications shall be (y)1 through 4 below. Applications subject to the \$ 50,000 application fee in (y)4 below are not subject to (y)1 through 3 below and the supplementary fees at (z) below.

Activity	Basis	Amount
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1. Application for a significant modification for which the change meets the definition of modification at N.J.A.C. 7:27-22.1, and for which a PSD or N.J.A.C. 7:27-18 applicability determination is not required	Per first new or changed piece of equipment per significant modification application	\$ 2,527
	Per each additional new or changed piece of equipment per significant modification application	\$ 590.00
2. Application for a significant modification in which the change does not meet the definition of modification at N.J.A.C. 7:27-22.1	Per significant modification application	\$ 842.00
3. Application for environmental improvement pilot test	Per application	\$ 842.00
4. Application for a significant modification for which the change meets the definition of modification at N.J.A.C. 7:27-22.1 and for which a PSD or N.J.A.C. 7:27-18 applicability determination is required	Per application	\$ 50,000

(z) Effective *[January 1, 2015, through December 31, 2019]* ***February 27, 2015***, the adjusted Supplementary Fee Schedule for significant modification applications shall be (z)1 through 12 below.

Activity	Basis	Amount
1. Prevention of Significant Deterioration		
a. *Determine* PSD Applicability		Included in N.J.A.C. 7:27-22. 31(y)4
i. Screen for PSD Applicability	Per Applicable Air Contaminant	
ii. Determine PSD Applicability	Per Review	
b. Perform BACT Evaluation	Per Applicable Air Contaminant	
2. Sub 18 Emission Offsets		
a. Determine Sub 18 Applicability	Per Review	Included in N.J.A.C. 7:27-22. 31(y)4
b. Perform LAER Evaluation	Per Applicable Air Contaminant	
3. RACT - AEL		
a. Review Technology	Per Applicable Air Contaminant	\$ 8,417
b. Prepare SIP Revision	Per SIP Revision	\$ 4,212
4. Perform MACT Evaluation	Per MACT Standard	\$ 2,527

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5. Perform NSPS Evaluation	Per NSPS	\$ 2,527
6. Perform SOTA Case-by-Case Evaluation	Per Applicable Air Contaminant	\$ 8,417
7. Public Comment		
a. Post Public Notices	Per Public Comment Period	\$ 842.00
b. Conduct Public Hearing	Per Hearing	\$ 8,417
c. Prepare Response to Comments Document	Per Response	\$ 425.00
	Maximum Per Document	\$ 8,417
8. Ambient Air Monitoring		
a. Review Protocol		
i. For *[(1)]* criteria pollutants or *[(2)]* *for* other pollutants or parameters for which EPA has provided guidance	Per Protocol	\$ 2,527
ii. For other pollutants or parameters for which EPA has not provided guidance	Per Protocol	\$ 4,212
b. Inspect Monitoring Locations and Equipment Installation	Per Inspection	\$ 842.00
c. Review Quality Assurance Plan		
i. For *[(1)]* criteria	Per Plan	\$ 2,527

pollutants or *[(2)]*

for other pollutants

or parameters for which EPA
has provided guidance

ii. For other pollutants or
parameters for which EPA has
not provided guidance

Per Plan

\$ 4,212

d. Review Data

Per Required Report

\$ 842.00

e. Audit Equipment

Per Audit

\$ 842.00

9. Air Quality Impact
Analysis - PSD

a. Evaluate Protocol

Per Protocol

Included in
N.J.A.C.
7:27-22.
31(y)4

b. Review Screening Modeling

Per Review

c. Review Refined Modeling

Per Review

10. Air Quality Impact
Analysis - non PSD

a. Evaluate Protocol

Per Protocol

\$ 1,685

b. Review Screening Modeling

Per Review

\$ 1,685

c. Review Refined Modeling

Per Review

\$ 2,527

11. Risk Assessment

a. Evaluate Protocol

Per Protocol

\$ 2,527

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b. Review Risk Assessment	Per Review	\$ 2,527
12. Testing		
a. Stack Test		
i. Evaluate Protocol (up to three probes)	Per Protocol Per Stack	\$ 1,267
ii. Evaluate Protocol (more than three probes)	Per Protocol Per Stack	\$ 1,685
iii. Review Testing Report (up to three probes)	Per Report Per Stack	\$ 1,267
iv. Review Testing Report (more than three probes)	Per Report Per Stack	\$ 1,685
b. Continuous Emission Monitors		
i. Evaluate Equipment Protocol	Per Protocol Per Stack	\$ 842.00
ii. Evaluate Performance Specification Test Protocol	Per Protocol Per Stack	\$ 842.00
iii. Review Testing Report	Per Report Per Stack	\$ 842.00
c. On-site Monitoring of Sample Collection Pursuant to an Approved Source-Specific Testing Protocol	Per Day Per Person	\$ 1,267
d. Periodic Monitoring Equipment Protocol	Per Protocol	\$ 425.00

(aa) Effective *[January 1, 2015, through December 31, 2019]* ***February 27, 2015***, the adjusted fee schedule for a registration is set forth at (aa)1 and 2 below.

Activity	*Basis*	*[Basis Per Electronic Registration]* *Amount*
1. Registration for initial authorization, or renewal of authorization, to act under a General Operating Permit	*Per Registration*	\$ 820.00
2. Registration for, or five-year renewal of, authorization to operate a used oil space heater under N.J.A.C. 7:27-20.3	*Per Registration*	\$ 820.00