



Compliance Advisory

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
Division of Air Enforcement #2022-10 Issued 9/21/2022

Permit Applicability Update for Fumigation Operations

WHO IS AFFECTED BY THIS ADVISORY?

Any industrial structure as defined at N.J.A.C. 7:27-8.1 in New Jersey that engages in a fumigation operation by either the owner or operator and has the potential to emit fumigant or combination of fumigants at a rate greater than 0.1 pounds per hour (45.4 grams per hour) is required to obtain an air pollution control permit per N.J.A.C. 7:27-8.2(c)22. Referenced regulations are available at <https://www.state.nj.us/dep/aqm/rules27.html>.

ARE THERE ANY EXEMPTIONS?

“Emergency Fumigation Operations” as defined in N.J.A.C. 7:27-8.1 can be conducted without having to obtain an air permit and operating certificate. Emergency fumigation operations can only be conducted if there have been no other fumigation operations by the source owner or operator within the preceding 5 years. Owners or operators conducting emergency fumigation operations must adhere to the criteria defined under N.J.A.C. 7:27-8.2(g). Further guidance for emergency fumigation operations can be found in the Fumigation Permitting Frequently Asked Questions located under “General Guidance” at <https://www.state.nj.us/dep/agpp/permitguide.html>.

WHY IS DEP ISSUING THIS ADVISORY?

DEP is providing guidance on recently adopted fumigation regulations. Facilities that exceed the permit applicability of 0.1 pounds per hour (45.4 grams per hour) as of June 3, 2022, have until February 3, 2023, to submit a permit application for a preconstruction and operating certificate, as per N.J.A.C. 7:27-8.4(r) but are advised to submit as soon as possible. Facilities that have not fumigated or do not have documentation of fumigation prior to June 3, 2022, must obtain a permit prior to fumigating.

WHAT ACTION IS DEP TAKING?

The Department will continue to perform inspections of known or suspected fumigation operations and will provide compliance assistance where warranted. Appropriate enforcement actions will be issued to any owner or operator who performs fumigation operations without a permit, or emergency fumigation operations without adhering to the criteria defined under N.J.A.C. 7:27-8.2(g). Enforcement actions may include penalty assessments in accordance with N.J.A.C. 7:27A – Air Administrative Procedures and Penalties.

WHO SHOULD I CONTACT WITH QUESTIONS?

Any questions regarding permit applicability for fumigation operations should be directed to the DEP's Bureau of Stationary Sources at (609) 292-6716. Request for permit application can be made through the submission of the Air Permit Applicability Determination Form, which is available online at <https://www.state.nj.us/dep/aqpp/permitguide.html>.

Other questions pertaining to compliance and enforcement matters outside the scope of this Advisory should be directed to the regional enforcement offices as follows:

Air Compliance and Enforcement - Northern Field Office

Covering Bergen, Essex, Hudson, Hunterdon, Morris, Passaic, Somerset, Sussex, Warren, and Union Counties

973-656-4444

AirCE-Northern@dep.nj.gov

Air Compliance and Enforcement – Central Field Office

Covering Burlington, Mercer, Middlesex, Monmouth, and Ocean Counties

609-292-3187

AirCE-Central@dep.nj.gov

Air Compliance and Enforcement – Southern Field Office

Covering Atlantic, Camden, Cape May, Cumberland, Gloucester, and Salem Counties

856-614-3601

AirCE-Southern@dep.nj.gov