



New  
Jersey  
Department of  
Environmental  
Protection

COMPLIANCE ADVISORY

# Enforcement Update

*Making You Aware of Anticipated Enforcement Activities*

Compliance and Enforcement

Issued: April 11, 2017

#2017-02

## Use of Fumigants on Agricultural Commodities Requires an Air Pollution Permit

### Who is affected by this initiative?

Pesticide applicators licensed through the Department of Environmental Protection's (DEP) Pesticide Control Program to use fumigants, which are considered air contaminants pursuant to N.J.A.C. 7:27-8 et seq. in New Jersey, are required to obtain an air permit for the use of fumigants on agricultural commodities, such as cocoa beans, coffee beans, fruit, lumber, etc.

### Why is DEP issuing this Enforcement Update?

DEP has been reviewing the use of fumigants on agricultural commodities at commercial properties such as warehouses. Our review indicates that some applicators are not complying with the New Jersey Air Pollution Control Act and New Jersey Administrative Codes (N.J.A.C. 7:27 et seq.). Specifically, N.J.A.C. 7:27-8.2(c)19 requires that pesticide applicators that are fumigating agricultural commodity products obtain an air pollution permit from DEP. In addition, emissions from the fumigation process may also require a state of the art (SOTA) air pollution control device. Furthermore, applicators may also be subject to the provision of N.J.A.C. 7:27-16, if the applicator triggered the maximum allowable emission rate of N.J.A.C. 7:27-16.16.

### What is DEP doing?

DEP is issuing this Compliance Advisory and will be conducting inspections to determine compliance and to provide compliance assistance where warranted in the near future. Companies and applicators that do not comply with the air regulations could be subject to enforcement actions, which can include penalties up to \$10,000.00 per day for the first offense.

***This Compliance Advisory supersedes all previously issued advisories, policies, guidance and correspondences related to this matter.***

### What should I do?

Applicators can obtain an air pollution control permit by contacting DEP's Division of Air Quality, Pre-construction Permit section at (609) 292-6716.

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Other fumigation projects on commercial premises, where commodities are not involved, should follow best management practices (BMPs) even if no permit is required. These BMPs include:

- 1) Use of an air pollution control when a significant quantity of toxic substances would otherwise be discharged into the outdoor air.
- 2) Notification of local authorities of a fumigation project at least 72 hours prior to the start of fumigation.

## Who should I contact with questions?

<b>NJDEP Air Quality Permitting</b>	<b>609-292-6716</b>
<b>Air Compliance and Enforcement - Northern Field Office</b> (Bergen, Essex, Hudson Hunterdon, Morris, Passaic, Somerset, Sussex, Union, and Warren Counties)	<b>973-656-4444</b>
<b>Air Compliance and Enforcement – Central Field Office</b> (Burlington, Mercer, Middlesex, Monmouth, and Ocean Counties)	<b>609-292-3187</b>
<b>Air Compliance and Enforcement – Southern Field Office</b> (Atlantic, Camden, Cape May, Cumberland, Gloucester, and Salem Counties)	<b>856-614-3601</b>

## Where can I get more information?

The following web sites provide additional information:

Air Quality Permitting Program <http://www.nj.gov/dep/aqpp/>

Air Compliance & Enforcement <http://www.nj.gov/dep/enforcement/air.html>

Air Regulations <http://www.nj.gov/dep/aqm/>

Pesticides Control Program <http://www.pcpnj.org>

Toxic Catastrophe Prevention Act Program <http://www.nj.gov/dep/enforcement/tcpa.html>

Please note this advisory is intended to be a summary explanation of a DEP initiative. It does not include all potentially applicable requirements. If you have any questions related to compliance with this initiative, please contact the Compliance and Enforcement numbers listed above.