



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

OFFICE OF THE COMMISSIONER

401 East State Street

P.O. Box 402, Mail Code 401-07

Trenton, New Jersey 08625-0402

Tel. (609) 292-2885 • Fax (609) 292-7695

www.nj.gov/dep

PHILIP D. MURPHY

Governor

TAHESHA L. WAY

Lt. Governor

SHAWN M. LATOURETTE

Commissioner

Response to Public Comments

FOR

Passaic Valley Sewerage Commission

600 Wilson Avenue

Newark, Essex County, New Jersey 07105

Permit Activity Number: BOP230003 Program Interest (PI) Number: 07349

AIR POLLUTION CONTROL OPERATING PERMIT MODIFICATION (TITLE V)

Danny Wong

Chief

Bureau of Stationary Sources

11/28/2023

Date

All Comments were submitted by Bill Wolfe.

COMMENT 1

The commenter requested that the Department conduct a public hearing in Newark on the draft permit based on the following concerns:

- 1) public health risk assessment from HAP and VOC emissions
- 2) failure to conduct an environmental justice review
- 3) failure to conduct a climate review or regulate greenhouse gas emissions
- 4) failure to impose “State of the Art” emissions controls pursuant to NJ’s Air Pollution Control Act
- 5) failure to fully mandate air pollution emissions fees, including for greenhouse gas emissions
- 6) failure to comply with NJ law that governs the 20-year time horizon for conversion of methane to CO2 equivalents.

RESPONSE TO COMMENT 1

The regulation that deals with public hearings is N.J.A.C. 7:27-22.11(f), which states that a request for a public hearing include a statement of issues to be raised at the public hearing and that the issues raised shall be relevant to the draft permit under review by the Department.

The Department will not be holding a public hearing since the issues raised are not relevant to the draft permit under review, as outlined below:

- 1) The proposed modification in the draft permit reduces potential VOC emissions to the atmosphere, and all emissions of hazardous air pollutants (HAP) from the equipment impact by the draft permit are below reporting thresholds set forth at N.J.A.C. 7:27-17;
- 2) The draft permit is being issued pursuant N.J.A.C. 7:27 “Air Pollution Control,” and not N.J.A.C. 7:1C, “Environmental Justice.” Additionally, it should be noted that the draft permit does not increase any environmental stressor to the community, and therefore, does not trigger the requirement at N.J.A.C. 7:1C;
- 3) The draft permit does not increase greenhouse gas emissions, and, therefore, does not require a climate review;
- 4) The draft permit reduces potential VOC emissions to the atmosphere and the allowable VOC emissions from the proposed gasoline storage tanks will be below 5 tons per year. Therefore, the proposed modification does not require a state of the art review, pursuant to N.J.A.C. 7:27-22.31 “Advances in the Art of air pollution control;”
- 5) All air pollution emission fees will be charged consistent with N.J.A.C. 7:27-22.31 “Fees;” and
- 6) The draft permit is for the proposed gasoline storage tanks that do not emit methane to the atmosphere.



The Department expects to hold a public hearing on a draft permit BOP210002 for this facility in the near future. The commenter will be notified of any future public hearing that is scheduled.

COMMENT 2

The draft permit is issued pursuant to federal and NJ State clean air laws and regulations. The facility is located in Newark NJ. The facility conducts regulated activity because it emits regulated pollutants that impact and impose public health, environment and welfare risks on the residents of Newark, an overburdened statutorily designated EJ community.

Newark is an environmental justice community designated pursuant to the NJ Environmental Justice Act and DEP implementing regulations. The facility is located in and impacts and EJ community. The facility conducts regulated activity pursuant to the EJ Act.

Please explain to the public, in detail, why this draft permit and the activities it authorizes were not regulated pursuant to the EJ Act and DEP implementing regulations, NJAC 7:1C: <https://dep.nj.gov/wp-content/uploads/rules/adoptions/adopt-20230417a.pdf>.

RESPONSE TO COMMENT 2

The draft permit is being issued pursuant N.J.A.C. 7:27 “Air Pollution Control,” and not N.J.A.C. 7:1C, “Environmental Justice.” Additionally, it should be noted that the draft permit does not increase any environmental stressor to the community, and therefore, does not trigger the requirement at N.J.A.C. 7:1C.

COMMENT 3

The draft permit authorizes, and the facility emits 287,000 tons/year of CO₂ equivalents (greenhouse gases). The specific greenhouses gases and the methodology for converting their warming potential to CO₂ equivalents was not identified in the draft permit.

Regardless, the GHG emitted by the facility are "regulated pollutants" pursuant to the NJ Clean Air Act and DEP regulations.

Please explain to the public why the draft permit does not regulate or impose emissions controls on significant GHG emissions of 287,000 tons/year.

RESPONSE TO COMMENT 3

The Department has been delegated the authority by the USEPA to issue Operating Permits, which must comply with all Federal Regulations. The calculation of CO₂ equivalent emissions for the Operating Permit Modification is done to determine applicability to 40 CFR Part 52.21, and not to assess the global warming impact of a greenhouse gas. Passaic Valley Sewerage Commission is not a major PSD stationary source as it is defined at 40 CFR 52.21(b)(1)(i). Therefore, the draft permit does not regulate or impose emission controls on GHG emissions. In addition, the draft



permit is for the proposed gasoline storage tanks that do not emit methane, or any other greenhouse gas, to the atmosphere.

COMMENT 4

The facility emits VOC and HAP's, some of which are known or suspected human carcinogens. The facility emits NOx, an ozone precursor, and fine particulates, both of which are known to cause and exacerbate chronic and acute health effects, from asthma, respiratory diseases and heart attacks.

Emissions of HAPs and carcinogens by major sources trigger mandatory risk assessment.

Please explain to the public why the draft permit failed to include a risk assessment of chronic and acute cancer and non-cancer health effects known to result from pollutants emitted.

RESPONSE TO COMMENT 4

The proposed gasoline storage tanks in the draft permit do not emit any hazardous air pollutants (HAP) at or above reporting thresholds set forth at N.J.A.C. 7:27-17. Therefore, the proposed significant modification does not include a risk assessment of chronic and acute cancer and non-cancer health effects.

COMMENT 5

See prior point on failure to conduct EJ review.

RESPONSE TO COMMENT 5

The draft permit is being issued pursuant N.J.A.C. 7:27 "Air Pollution Control," and not N.J.A.C. 7:1C, "Environmental Justice." Additionally, it should be noted that the draft permit does not increase any environmental stressor to the community, and therefore, does not trigger the requirement at N.J.A.C. 7:1C.

COMMENT 6

The draft permit does not include an identification and analysis of SOTA for pollutants emitted or why SOTA was not applicable.

RESPONSE TO COMMENT 6

The proposed modification reduces allowable VOC emissions to the atmosphere. The potential VOC emissions from the proposed gasoline storage tanks will be below 5 tons per year. Therefore, the proposed modification does not require a state of the art review, pursuant to N.J.A.C. 7:27-22.31 "Advances in the Art of air pollution control."



COMMENT 7

The facility emits 287,000 tons/year of greenhouse gas. These emissions were not subject to the DEP's air permit pollution emissions fees.

Please explain to the public why the DEP does not impose emissions fees on GHG emissions like most other regulated pollutants subject to DEP emissions fees, particularly in light of the social costs of carbon, which EPA estimated range from \$120/ton to up to \$87,000/ton, depending on gas and assumptions, EPA Report Table is attached, see:

https://www.epa.gov/system/files/documents/2022-11/epa_scghg_report_draft_0.pdf

For context, a limited universe of RGGI regulated power sector facilities pay only \$13.85 per ton for allowance, see: <https://www.rggi.org/auctions/auction-results/prices-volumes>.

RESPONSE TO COMMENT 7

Pursuant to N.J.A.C. 7:27-22.31, there are no annual emission fees applicable to methane and CO₂ equivalent emissions.

COMMENT 8

NJ mandates that DEP apply a 20-year timeframe when calculating warming potential of methane emissions.

Yet the draft permit does not comply with this law.

Please explain to the public why the DEP refuses to comply with this law.

RESPONSE TO COMMENT 8

Table A-1 to Subpart A of 40 CFR Part 98 bases Global Warming Potential on a 100-year time horizon. Consequently, for the Operating Permit Modification application, CO₂ equivalent emissions must be calculated using a 100-year time horizon and not a 20-year time horizon.

The Department has been delegated the authority by the USEPA to issue Operating Permits, which must comply with all Federal Regulations. The calculation of CO₂ equivalent emissions for the draft permit is done to determine applicability to 40 CFR Part 52.21, and not to assess the global warming impact of a greenhouse gas.

