



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION

SHAWN M. LATOURETTE
Commissioner

TAHESHA L. WAY
Lt. Governor

AIR, ENERGY AND MATERIALS SUSTAINABILITY
Division of Air Quality and Radiation Protection
Bureau of Stationary Sources
401 E. State Street, 2nd floor, P.O. Box 420, Mail Code 401-02
Trenton, NJ 08625-0420

RESPONSE TO COMMENTS DOCUMENT

**General Permit (GP-021A)
for
Indoors Fumigation Operations of Cocoa Bean Products**

On August 07, 2023, the Department's Notice of Opportunity for Public Comment on GP-021A Indoors Fumigation Operations of Cocoa Bean Products was published in the New Jersey Register 55 N.J.R. 1746(b). The comment period was open until September 6, 2023. Written comments on the General Permit (GP) 021A (GP-021A) were received from the following:

1. Carol F. McCabe, Managing Partner, Manko, Gold, Katcher, and Fox LLP.
2. Shannon Sked, Director, Western Fumigation.

Comments received and the Department's responses are summarized below.

PTE Definition

1. Comment: The inclusion of the definition of "Potential to Emit" or "PTE" creates confusion within GP-021A, because it would suggest that physical or operational limitations, or limitations resulting from applicable requirements imposed through the general permit, are not considered part of the design of equipment that would limit potential to emit. However, GP-021A otherwise expressly limits the potential to emit of fumigation operations covered under the permit by virtue of Section VI and Compliance Plan Reference #15, which prohibit the permittee from exceeding 4.5 tons per year (9,000 lbs. per year) of sulfuryl fluoride usage. These conditions expressly and effectively limit the usage and emissions of sulfuryl fluoride as contemplated in the determination of general permit applicability for this type of operation. Thus, in order to ensure clarity in GP-021A, and to avoid inconsistent language within the permit, CMAA requests that the Department remove the definition of "Potential to Emit" or "PTE" from draft GP-021A. (1)
2. Comment: When read together, the revised definition of PTE and the Proposed General Permit's prohibition against coverage under the Proposed General Permit for sources with a PTE greater than 4.5 tons per year (9,000 lbs per year) could be read so as to make it virtually impossible for any source to qualify for the Proposed General Permit. The Proposed General Permit, in and of itself, serves as an "operational limitation" on the "capacity" of the fumigation equipment and must be considered as part of the equipment's "design" for purposes of calculating PTE. We believe that it was not the intent of the Department to create this conflict in the language used in these two provisions of the Proposed General Permit, and we recommend that the Department revise the proposed definition of PTE to be consistent with the definition established in 7:27-8.1. (2)

Response to Comments 1 through 2: The Department agrees that the proposed definition of PTE could be confusing, and the definition of PTE will be removed from this general permit. This action would not change the applicability or scope of this GP to fumigation operations or change the conditions of the general permit as proposed. GP-021A limits Sulfuryl Fluoride usage to 9,000 pounds per year (4.5 tons per year), and 300 pounds per day as specified in Ref. #15 and Ref. #16 of the Compliance Plan. Any facility that chooses to use a

control device to reduce PTE or requires to use more Sulfuryl Fluoride than allowed by this permit shall be considered on a case-by-case basis by submitting a Pre-Construction Permit Application in accordance with N.J.A.C. 7:27-8.

General

1. Comment: Western Fumigation suggests the following edits as shown in tracked changes below: addition of Fumigant Management Plan to the definition of Fumigation Management Plan, clarification of “FIFRA” label in the definition of Fumigant Management Plan, simplification of the US EPA definition, and a minor grammar clarification in the “Exclusions” section. (2)

Response: The department changed the definition of Fumigation Management Plan to include both “Fumigation Management Plan” or “Fumigant Management Plan”. The definition was updated to clarify the “FIFRA” label. The EPA definition will be changed to be identical with that in N.J.A.C. 7:27-8.1. The minor grammar clarification in the Exclusions section was corrected.