

STATE OF NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES

AIR RESOURCES DIVISION

CHAPTER Env-A 600 STATEWIDE PERMIT SYSTEM

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Statutory Authority: RSA 125-C:6, VII, XIV, XV, RSA 125-C:8, RSA 125-C:11, I, II, III, IV, RSA 125-C:12, I, II, RSA 125-C:13, RSA 125-C:15.

PART Env-A 601 PURPOSE

Env-A 601.01 Purpose. This chapter is adopted for the purpose of regulating new and existing stationary sources of air pollution and the modification of existing sources such that the New Hampshire ambient air quality standards shall be achieved and maintained.

PART Env-A 602 PERMIT TYPES AND DESCRIPTIONS

Env-A 602.01 Temporary Permits.

- (a) A temporary permit, which contains conditions, shall be required prior to commencement of construction or installation of any new or modified device.
- (b) The temporary permit shall be in effect until a designated expiration date, or until a permit to operate is issued, unless sooner revoked by the director pursuant to Env-A 614. The expiration date for a temporary permit may be extended by the director if:
 - (1) The applicant has entered into binding agreements or contractual obligations which cannot be canceled or modified without substantial loss to the owner or operator; or
 - (2) The applicant has commenced but not yet completed construction by the original expiration date;
 - (3) Required testing is not complete by the designated expiration date;
 - (4) Actual construction has been completed by the designated expiration date but compliance testing has not been finalized;

- (5) A request for an extension is received by the division prior to the expiration date and the division does not have time to administratively process the request;
 - (6) The applicant is in the process of obtaining a permit or permits from another division; or
 - (7) The company is involved in litigation where the permit from another governmental agency has been issued and appealed.
- (c) A temporary permit shall become invalid if construction is not started within 18 months of issuance. If construction is not completed within 18 months of the issuance of the temporary permit, the director may extend the 18 month period upon a showing of the situations listed in Env-A 602.01(b)(1-7).

Env-A 602.02 Permits to Operate.

- (a) A permit to operate, which contains conditions, shall be issued with respect to a device for which a temporary permit is in effect.
- (b) This permit shall be issued by the director and remain in effect until the designated expiration date or until sooner revoked by the director.
- (c) "Permits to operate" shall be "final permits" as required by RSA 125-C:11, III.

PART Env-A 603 PERMITS REQUIRED

Env-A 603.01 Permits Required. No person shall cause or allow the commencement of construction or installation of a new or modified device or the operation of an existing device without having applied for and been issued a temporary permit or a permit to operate for each device specified in Env-A 603.02 and Env-A 603.03. Devices not specified in Env-A 603.02 and 603.03 shall be subject to all other rules contained in chapters Env-A 100 through Env-A 1300.

Env-A 603.02 Specified Devices Requiring Permits. Permits shall be required for the following:

- (a) A device using natural gas, liquified petroleum gas, or #2 fuel oil or any combination thereof, with a designed rating greater than or equal to 10 million BTUs per hour of gross heat input;
- (b) A device using #4 fuel oil with a designed rating greater than or equal to 4 million BTUs per hour of gross heat input;

- (c) A device using coal, wood, #6 fuel oil, waste oil or any combination thereof, with a designed rating greater than or equal to 2 million BTUs per hour of gross heat input;
- (d) An internal combustion turbine or engine with a designed rating greater than or equal to 200 horse-power output;
- (e) An incinerator using any combination of type 0, 1, 2, or 3 waste with a designed rating greater than or equal to 1000 pounds per hour;
- (f) An incinerator using any combination of type 4, 5, 6, and 7 waste with a designed rating greater than or equal to 200 pounds per hour;
- (g) A coating, metal cleaning, or printing device with a total VOC usage or VOC replacement rate greater than or equal to 1500 gallons per year;
- (h) An above-ground, vertical, VOC storage tank with a capacity greater than or equal to 40,000 gallons and containing VOCs with a true vapor pressure greater than or equal to 1.52 psia at 60° F;
- (i) A device for loading tank trucks with gasoline at a gasoline terminal with a throughput greater than or equal to 20,000 gallons per day;
- (j) A woodworking device employing a pneumatic transfer system, using a cyclone but no baghouse, for collecting any amount of sander dust at a total wood waste collection rate greater than or equal to 20 tons per year;
- (k) Pneumatic dust transfer equipment used to convey materials, other than wood waste, into bins or silos, and not using a baghouse or filter for controlling dust;
- (l) Gravel crushing and screening equipment with a throughput greater than or equal to 100,000 tons per year;
- (m) A rock, coal, or stone crusher with a throughput greater than or equal to 10,000 tons per year;
- (n) A source choosing to limit its potential to emit by accepting enforceable permit conditions which restrict its hours of operation, type or amount of material combusted, stored or processed or level of production.
- (o) A situation where documented and repeated violations occur of any of the applicable opacity or emission limits found in Chapters Env-A 100-1300;

(p) * * *

Env-A 603.03 Other Devices Requiring Permits. Notwithstanding Env-A 603.02, permits shall be required for a device if:

- (a) It is subject to the New Source Performance Standards contained in 40 CFR 60;
- (b) It is subject to the National Emission Standards for Hazardous Air Pollutants contained in 40 CFR 61;
- (c) It is subject to rules governing Prevention of Significant Deterioration contained in 40 CFR 51;
- (d) It is subject to rules governing Non-Attainment Areas as contained in Env-A 610;
- (e) It is subject to New Hampshire Hazardous Waste Rules promulgated under RSA 147-A;

(f) * * *

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PART Env-A 604 DEMONSTRATING CONFORMANCE

Env-A 604.01 Demonstrating Conformance. The director shall require owners or operators of devices for which no permit is required to demonstrate that the devices conform to the applicable rules in Chapters Env-A 100 through 1300.

PART Env-A 605 PERMIT APPLICATION PROCEDURES

Env-A 605.01 Applicability. This part shall apply to applications for new, renewed, amended or transferred permits.

Env-A 605.02 Temporary permits.

- (a) Application for a temporary permit shall be made to the director by completing and submitting forms provided by the division as described in Env-A 103.
- (b) Applicants for temporary permits shall adhere to the following requirements:

- (1) A separate permit application shall be submitted for each device; and
- (2) All applications shall be accompanied by supplemental information including, but not limited to, a description of the stationary source, engineering plans, specifications and measurement data.

Env-A 605.03 Permits to operate. Application for permits to operate shall be made to the director by:

- (a) Notifying the director in writing within 7 calendar days of the completion of construction of those devices for which temporary permits were issued. Said written notification shall serve as confirmation that construction is complete for purposes of this section.
- (b) Completing and submitting forms, as described in Env-A 103, for those devices that required temporary permits but for which application for such permits was not made.
- (c) Providing additional information as the director may deem necessary to make a final determination as to the issuance or denial of a permit to operate.

Env-A 605.04 Proof of Source Ownership. The director shall consider an application only when the applicant has demonstrated that it has title, right and interest in all of the property which is proposed for development or use, because it owns, leases or has binding options to purchase all of the property proposed for development or use. The applicant shall submit the following to demonstrate title, right and interest:

- (a) Where the property is owned, book and page number references to the applicant's deed to the property; or
- (b) Where the property is under option, copies of the option agreements, which agreements shall contain terms which establish future title; or
- (c) Where the applicant's title, right, and interest is based on a lease, such lease shall be of sufficient duration, as determined by the director, to permit construction and reasonable use of the development.

Env-A 605.05 Proof of Legal Authority. The application shall include evidence that the individual preparing and submitting the application has the requisite authority to so act on behalf of the applicant, if the individual is not the person to whom the permit is proposed to be issued or in whose name the permit would be issued.

Env-A 605.06 Service. All applications shall contain a designation of an individual on whom all orders and notices may be served and to whom all other correspondence regarding the application should be sent. All orders and decisions issued by the director pursuant to this chapter shall be sent by certified or registered mail, postage prepaid, return receipt requested.

Env-A 605.07 Acknowledgement and Completeness of Applications.

- (a) The director shall notify the applicant as to the completeness of a permit application within 30 days of receipt of the application.
- (b) An application shall not be deemed to be complete until all required information and documents specified by these rules have been submitted in proper form.

Env-A 605.08 Public Notice, Comment Procedures and Access to Information. The public notice, comment procedure and right to information, as well as other legal procedures concerning permits, shall be as specified in Env-A 205.

Env-A 605.09 Enforcement Action. Any owner or operator who constructs a new stationary source or modifies a stationary source not in accordance with the application requirements, without applying for and receiving approval from the director, shall be subject to appropriate enforcement action.

PART Env-A 606 DIVISION REVIEW OF PERMIT APPLICATIONS

Env-A 606.01 General Criteria Reviewed.

- (a) All permit applications shall be reviewed to insure compliance with all applicable elements of the New Hampshire State Implementation Plan and these rules.
- (b) All permit applications shall be subject to review under the provisions of the federal regulations for New Source Performance Standards, 40 CFR 60, NSPS, and National Emissions Standards for Hazardous Air Pollutants, NESHAP, 40 CFR 61.
- (c) The division shall require an analysis of "Good Engineering Practice for Stack Height" for all devices having stacks for which permit applications are filed. The analysis shall follow federal standards for the minimum and maximum stack height criteria. An analysis for exhaust gas velocity shall also be required.

**PART Env-A 607 ADDITIONAL DIVISION REVIEW OF PERMIT
APPLICATIONS UNDER THE BUBBLE CONCEPT**

Env-A 607.01 Description of the Bubble Concept. The "bubble" concept is an alternative reduction option which allows a plant or industrial site to reduce individual emission controls when costs are high in exchange for an equal increase in controls where abatement is less expensive, in order to achieve the same amount of emission reduction required by the State Implementation Plan for less cost.

Env-A 607.02 Purpose of the Bubble Concept. The "bubble" concept provides for multiple process-related emission devices such as stacks, vents and ports which are individually subject to specific emission requirements under the New Hampshire State Implementation Plan, SIP, to be combined in a different mix of emission controls that shall still meet the total emission control requirements in the SIP.

Env-A 607.03 Owner or Operator Responsible for Preparing and Submitting Application. The owner or operator of the plant or industrial site shall be responsible for preparing and submitting an application for the alternative control approach. The application shall demonstrate that the proposal is equivalent in pollution reduction, enforceability, and environmental impact to existing individual process standards.

Env-A 607.04 Requirements for the Bubble Concept. All proposals for the alternative "bubble" concept shall meet the following criteria:

- (a) The application shall include an explicit demonstration, following standards and procedures established by the EPA, that total actual emissions shall not interfere with the attainment and maintenance of air quality.
- (b) Actual emissions shall be quantifiable and trade-offs shall be even. This criterion shall also apply to fugitive emissions.
- (c) Only trade-offs for the same specific pollutant shall be acceptable. For example, carbon monoxide shall not be traded for sulfur dioxide.
- (d) Different health or ambient air impacts shall not be traded against each other. For example:
 - (1) Certain hydrocarbon emissions such as benzene, which has been determined to be hazardous, shall not be traded against other hydrocarbon emissions.
 - (2) Emissions from open dust sources like roads or storage piles shall not be traded against emissions from stacks.

- (e) Specific limitations on each device shall be identified. A separate permit shall be issued for each device and that permit shall specify the absolute emission limit as a condition for issuing the permit.
- (f) For each specific emission limitation test set for each device, an enforceable EPA test method shall be required.
- (g) The proposal shall be restricted to devices which are either in compliance or not in compliance but meeting an approved compliance schedule.
- (h) The proposal shall not be used to delay or defer compliance deadlines but may be adopted to establish earlier compliance dates.
- (i) The proposal shall not cause a delay in existing enforcement actions.

Env-A 607.05 Review Procedure. For those devices for which no emission control is presently available, it is recognized that the "bubble" concept shall be a viable alternative. The use of the "bubble" concept to simply circumvent the application of any control method is not acceptable. The division shall review all applications for this alternative separately and on a case-by-case basis.

Env-A 607.06 EPA Approval Required. Division acceptance of each proposed alternative approach shall require final approval by the EPA.

PART Env-A 608 MINIMUM REQUIREMENTS FOR PERMITS

Env-A 608.01 Requirements. Prior to the issuance of a temporary permit or a permit to operate, the owner or operator shall meet the following minimum requirements:

- (a) The owner or operator shall supply the information necessary to demonstrate that the device shall be in compliance with these rules;
- (b) The owner or operator shall conduct or have conducted a valid test for air pollutants, if one exists;
- (c) The owner or operator shall install and properly maintain a continuous emission monitoring system on any device, if so required by Env-A 800;
- (d) The device shall operate without endangering maintenance or attainment of any applicable air quality standard;

- (e) The device shall operate in accordance with all federal regulations to include New Source Performance Standards and National Emissions Standards for Hazardous Air Pollutants
- (f) The owner or operator of the stationary source shall pay to the division, for each device, a fee as specified in Env-A 700.

**PART Env-A 609 PREVENTION OF SIGNIFICANT DETERIORATION (PSD)
OF AIR QUALITY PERMIT REQUIREMENTS**

Env-A 609.01 Requirement Repealed. The former air resources commission revoked the PSD requirement on June 19, 1980.

On March 1982 the EPA delegated to the New Hampshire air resources agency (NHARA), as requested, the authority to assume responsibility for the administrative and technical portions of the federal regulations for PSD. NHARA will receive, conduct technical review, and process applications; however, issuance of final permits, as well as enforcement of these permits, will continue to be performed by EPA. All inquiries regarding the applicability of PSD regulations to facilities in New Hampshire should be made to NHARA.

PART Env-A 610 * * *¹

**PART Env-A 611 ASSIGNMENT, TRANSFER, OR AMENDMENT OF
PERMITS**

Env-a 611.01 Definition. For the purposes of this chapter, "transfer" means the sale or lease of the property which is the subject of the permit, or the sale of 50 percent or more of the stock of or interest in a corporation or partnership which owns the property which is the subject of the permit, during the time the conditions of the permit are in operation and the owner of the property is subject to enforcement for violation of the permit.

Env-A 611.02 Assignment or Transfer of Permits.

- (a) Any permit shall become void upon the transfer or assignment of the property covered by the permit unless written consent to transfer the permit is applied for and obtained from the director.

¹ Env-A 610 was withdrawn from the SIP effective October 26, 2015. See Federal Register; September 25, 2015, (80 FR 57722).

- (b) Such written consent shall be applied for within 2 weeks prior to any transfer or assignment of property which is subject to a permit.
- (c) Pending the director's determination on the application for approval of a transfer or assignment of ownership of any permit, the person to whom such property is transferred or assigned shall abide by all of the conditions of such permit, or such permit shall be rendered null and void. Applications for such transfer or assignment and the processing thereof shall be governed by these rules.
- (d) Any proposed transferee or assignee shall demonstrate the technical capacity to comply with all the conditions of the applicable permit and satisfy all applicable statutory criteria; and
- (e) Said transferee or assignee shall certify to the director financial capability to meet the above 2 requirements.

Env-A 611.03 Amendment of Permits.

- (a) The holder of any temporary permit or permit to operate shall notify the director 30 days prior to any proposed change to the physical structure or operation of the device covered by the permit which increases or decreases the amount of a specific air pollutant emitted by such device or which results in the emission of any additional air pollutant. The director shall require the owner or operator to submit a new permit application in accordance with Env-A 605. The change in the physical structure or operation of the device covered by the temporary permit or permit to operate shall not take place until the permit application is acted upon by the director pursuant to the requirements of Env-A 600.
- (b) in the event of a failure to provide such notification, the director shall either suspend or revoke the permit pursuant to Env-A 209 or require the owner or operator of the device to submit a new application pursuant to Env-A 605.

PART Env-A 612 RENEWAL OF PERMITS

Env-A 612.01 Permit Renewal Date Established.

- (a) The permit renewal date and frequency of renewal for each device shall be as specified in Env-A 612.02 through Env-A 612.04 for new or modified devices.
- (b) All devices shall have an expiration date which shall be determined by the division. Devices currently operating under permits with a designated

expiration date, may have that date revised by the division. Devices currently operating under permits with no designated expiration date shall have an expiration date established by the division.

(c) The division may extend the permit renewal date for a device if:

- (1) Required testing is not complete by the designated expiration date;
- (2) Actual construction has been completed by the designated expiration date but compliance testing has not been finalized;
- (3) Actual construction has commenced but not been completed by the original expiration date;
- (4) Actual construction has not commenced but the facility can provide written evidence that it has entered into binding agreements or contractual obligations which cannot be canceled or modified without substantial loss to the owner or operator;
- (5) A request for an extension is received by the division prior to the expiration date and the division does not have time to administratively process the request;
- (6) The applicant is in the process of obtaining a permit or permits from another division; or
- (7) The company is involved in litigation where the permit from another governmental agency has been issued and appealed.

Env-A 612.02 Annual Permit Renewal for Devices of 1000 T/Yr. or More. Owners or operators of devices with actual emissions greater than or equal to 1000 tons, 907 metric tons, per year of the predominant air pollutant shall be subject to permit renewal every year on or before the expiration date designated in their permit.

Env-A 612.03 Two-Year Permit Renewal for Devices of 100 T/Yr. or More. Owners or operators of devices with actual emissions greater than or equal to 100 tons, 90.7 metric tons, but less than 1000 tons, 907 metric tons, per year of the predominant air pollutant shall be subject to permit renewal every 2 years on or before the expiration date designated in their permit.

Env-A 612.04 Three-Year Permit Renewal for Devices Less Than 100 T/Yr. Owners or operators of devices with actual emissions less than 100 tons, 90.7 metric tons, per year

of the predominant air pollutant shall be subject to permit renewal every 3 years on or before the expiration date designated in their permit.

Env-A 612.05 Determination of Actual Emissions. The division shall determine the actual annual emissions from devices in this part by the use of EPA's Compilation of Air Pollutant Emission Factors, AP-42, as revised, incorporated herein by reference, in conjunction with the operating conditions specified on each permit, or by other test methods approved by the director or the EPA. As an alternative, the owner or operator of a device may determine its actual emissions through another method approved by the director or the EPA.

Env-A 612.06 Permit Renewal Fees. In addition to the permit renewal, owners or operators of devices shall pay to the division the appropriate fees as established in Env-A 705.

PART Env-A 613 INSPECTION AND COMPLIANCE

Env-A 613.01 Inspection and Compliance. Authorized representatives of the division shall be granted access to the premises of the applicant or permittee at any reasonable time for the purpose of inspecting the proposed site and assuring compliance by the permittee with conditions of any permit issued pursuant to this chapter.

PART Env-A 614 CRITERIA FOR DENIAL, SUSPENSION AND REVOCATION OF PERMITS

Env-A 614.01 Procedures. The procedures concerning denial, suspension, and revocation of permits shall be as established in Env-A 209.

Env-A 614.02 Application Denial. The director shall deny an application for a permit if, on the basis of available evidence, s/he determines:

- (a) That the device for which the permit is sought shall result in a violation of any provision of these rules including Env-A 609 and Env-A 610; or
- (b) That the device shall contribute disproportionately to pollution of the air in comparison with other currently available devices able to perform the same function.

Env-A 614.03 Permit Suspension or Revocation. The director shall suspend or revoke any permit issued by the division if, following a hearing, s/he determines:

- (a) That the permit holder has committed a violation of any rule, order, or permit conditions in force and applicable to it; or
- (b) That emissions from the device to which the permit applies, alone or in conjunction with other sources of the same pollutant or pollutants, presents an immediate danger to the public health.

Env-A 614.04 False Statements. Any permit granted in whole or in part based upon any information which is false or misleading shall, upon notice, be null and void.

PART Env-A 615 PUBLIC HEARING, REQUIREMENT

Env-A 615.01 Public Hearing. In the event a public hearing is required to meet the requirements of this chapter, such a hearing shall be conducted by the division in the general geographic area for the stationary source in question after a 30 day public notification period.

PART Env-A 616 INTERSTATE AIR QUALITY IMPACTS

Env-A 616.01 Special Emission Limitations. The division shall apply special emission limits to stationary sources on a case-by-case basis to insure that their air quality impacts on adjacent states shall not interfere with the measures taken in those states to prevent significant deterioration of air quality and shall not prevent the attainment or maintenance of National Ambient Air Quality Standards in those states.

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PART Env-A 618 NONATTAINMENT NEW SOURCE REVIEW

Env-A 618.01 Purpose. The purpose of this part is to implement the nonattainment new source review (NSR) program as set forth in 171 through 193 of the Clean Air Act (Act) and the July 1, 2016 edition of 40 CFR §51.165 Env-A 618.02 Applicability.

- (a) This part shall apply to each new major stationary source or major modification that is major for the following:
 - (1) The pollutant for which the area in which the source is or would be located is designated nonattainment under 40 CFR §81.330; or
 - (2) NO_x or VOC if the source is or would be located in the Northeast Ozone Transport Region (OTR), as defined in Env-A 618.03(b)(3).

- (b) Classification of a project relative to whether or not it is a major modification and therefore subject to this part pursuant to (a) above, shall be performed as described in 40 CFR §51.165(a)(2)(ii)(A) through (F) and by taking the sum of the emissions increase from each emissions unit affected by the project.
- (c) In accordance with 40 CFR 51.165(a)(6), except as otherwise provided in 40 CFR 51.165(a)(6)(vi), the specific provisions of 40 CFR 51.165(a)(6)(i) through (v) shall apply with respect to any regulated NSR pollutant emitted from projects at existing emissions units at a major stationary source (other than projects at a source with a plant-wide applicability limit (PAL) as per Env-A 618.09) in circumstances where:
 - (1) There is a reasonable possibility, within the meaning of 40 CFR 51.165(a)(6)(vi), that a project that is not a part of a major modification may result in a significant emissions increase of such pollutant; and
 - (2) The owner or operator elects to use the method specified in paragraphs 40 CFR 51.165(a)(1)(xxviii)(B)(1) through (3) for calculating projected actual emissions.
- (d) If a source or modification is determined to be a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction of hours of operation, then the provisions of this part shall apply to the source or modification as though construction had not yet commenced on the source or modification.

Env-A 618.03 Definitions.

- (a) For the purposes of this part, the definitions contained in 40 CFR §51.165(a)(1) and (f)(2), shall apply with the following clarifications and revisions:
 - (1) “Baseline actual emissions” means the definition as specified in 40 CFR §51.165(a)(1)(xxxv) with the following revisions:
 - a. The same consecutive 24-month period shall be used for all pollutants;

b. The 24-month period shall be selected from the 5-year period immediately preceding the date when the owner or operator begins actual construction of the project; and

c. The department shall allow the use of a time period up to 10 years immediately preceding the date when the owner or operator begins actual construction of the project or allow the use of a different consecutive 24-month period for different pollutants upon determining that the alternative time period is more representative of normal source operations, upon adequate demonstration by the applicant;

(2) “Reasonable period” as used in the definition of “net emissions increase” in 40 CFR §51.165(a)(1)(vi)(C)(1) means the period from 5 years prior to the date that a complete permit application for the subject project is received by the department to the expiration date of the air permit issued for the project; and

(b) For the purpose of this part, the following additional definitions shall apply:

(1) “Emissions offset” means a reduction in pollutant emissions achieved at an existing source meeting the criteria specified in 40 CFR §51.165(a)(3).

(2) “Emissions offset ratio” means the ratio of the total actual emissions reduction obtained to the total allowable emissions increase of the subject pollutant from a new source or source modification;

(3) “Northeast Ozone Transport Region” means, pursuant to Part D, Subpart 2, Section 184(a) of the Act, the geographical area comprising of the states of:

a. Connecticut;

b. Delaware;

c. Maine;

d. Maryland;

e. Massachusetts;

f. New Hampshire;

- g. New Jersey;
- h. New York;
- i. Pennsylvania;
- j. Rhode Island;
- k. Vermont; and

l. The Consolidated Metropolitan Statistical Area that includes the District of Columbia;

- (4) "Offset source" means a source, stationary or mobile, from which a new or modified source obtains or seeks to obtain an emission offset; and
- (5) "Ozone season" means the continuous period between April 1 and October 31, inclusive.

Env-A 618.04 Owner or Operator Obligations.

- (a) Except as provided in (b) below, the owner or operator of any new major stationary source or major modification subject to this part shall:
 - (1) Comply with the lowest achievable emission rate (LAER);
 - (2) Obtain offsets for the increase in emissions for the project in accordance with Env-A 618.07; and
 - (3) Obtain a nonattainment NSR permit prior to commencement of construction of the project.
- (b) Approval of an application to comply with NSR, as specified in Env-A 618.06, or establish a PAL, as specified in Env-A 618.09, shall not relieve the owner or operator of responsibility to otherwise comply with these rules or local, state, or federal law.
- (c) The owner or operator of an existing major source with a plantwide applicability limit (PAL) shall comply with the provisions of its PAL.

- (d) The owner or operator of a source shall make the information specified in 40 CFR 51.165(a)(6) available for review upon a request for inspection by the department or the general public as specified in 40 CFR 70.4(b)(3)(viii).

Env-A 618.05 Implementation Plan Requirements. In accordance with section 173(a)(4) of the Act, the department shall not issue a permit or permits to a stationary source to which the requirements of this part apply if the administrator has determined that the applicable implementation plan is not being adequately implemented for the nonattainment area in which the proposed source is to be constructed or modified.

Env-A 618.06 Permit Application Requirements.

- (a) Nonattainment NSR and plantwide applicability limit (PAL) permit applications required under this part shall be filed in accordance with the procedures set forth in Env-A 607.03.
- (b) An application for a nonattainment NSR permit shall contain the following items:
 - (1) A control technology evaluation to demonstrate that any new major stationary source or major modification will meet the LAER for all new or modified emission units;
 - (2) A documented plan to obtain creditable emission reduction offsets in accordance with Env-A 618.07;
 - (3) A demonstration showing that all major stationary sources in New Hampshire, which are owned or operated by such person or any entity controlling, controlled by, or under common control with such person, are subject to emission limitations and are in compliance, or are on a schedule for compliance which is federally enforceable or contained in a court decree, with all applicable emission limitations and standards under the Act; and
 - (4) A demonstration showing that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification by providing an analysis of alternative sites, sizes, production processes, and environmental control techniques in accordance with section 173(a)(5) of the Act.
- (c) An application for a permit to establish a PAL shall contain the information required pursuant to 40 CFR §51.165(f)(3).

Env-A 618.07 Emissions Offset Requirements.

- (a) The baseline for an emission offset shall be the actual emissions of the source from which the offset credit is to be obtained.
- (b) Offset credit shall not include:
 - (1) Any reductions from compliance, or scheduled compliance, with applicable rules in effect prior to the permit application of the new or modified source;
 - (2) Reductions required to meet RACT or acid deposition provisions of the Act, as stipulated in the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, 57 FR 13553, III.G.2.e; or
 - (3) Reductions required to meet any other provisions of Env-A 100 et seq. and the Act.
- (c) Emissions offsets shall achieve, at a minimum, a ratio of total actual emissions reductions to emissions increases of at least 1:1, except as listed in Table 618-1, below, subject to the notes in (d), below:

Table 618-1
NSR Offset Ratio Requirements for 8-hour Ozone Nonattainment Designations

Nonattainment Classification	NOx Offset Ratio Requirement	VOC Offset Ratio Requirement
Transitional/Submarginal	1:1	1:1
Marginal	1.1:1	1.1:1
Moderate	1.15:1	1.15:1
Ozone Transport Region	1.15:1	1.15:1
Serious	1.2:1	1.2:1
Severe	1.3:1	1.3:1
Extreme	1.5:1	1.5:1

- (d) The following shall apply to table 618-1:
 - (1) In accordance with 40 CFR Part 51 Appendix S, Paragraph IV.G, in any severe nonattainment area for ozone, the NOx and VOC offset ratios shall be at least 1.3:1, except that the ratios may be at least 1.2:1 if the department also requires all existing major sources in such

nonattainment area to use best available control technology (BACT) for the control of NO_x and VOC; and

- (2) In accordance with 40 CFR Part 51 Appendix S, Paragraph IV.G, in any extreme nonattainment area for ozone, the NO_x and VOC offset ratios shall be at least 1.5:1, except that the ratios may be at least 1.2:1 if the department also requires all existing major sources in such nonattainment area to use BACT for the control of NO_x and VOC.

(e) Emissions offsets shall be obtained from offset sources that are located:

- (1) Within the OTR for NO_x and VOC; and

- (2) For all other pollutants, within the same nonattainment area or within another area of equal or higher nonattainment classification, subject to the provisions of (f), below.

(f) The owner or operator of a source seeking to obtain emissions offsets from offset sources located in the areas specified in (e)(2), above, shall demonstrate that the emissions from the nonattainment area in which the offset source is located contribute to a violation of the national ambient air quality standard in the nonattainment area in which the new or modified source is seeking to locate.

(g) Offsets obtained outside New Hampshire shall be subject to the approval of the state or governing jurisdiction in which the offset source is located, as ensured by a federally enforceable permit, or other federally enforceable document.

Env-A 618.08 Procedure for Acquiring and Implementing Emissions Offsets. Emissions offsets for a new major stationary source or major modification shall be acquired and implemented in accordance with the following procedure:

(a) The owner or operator shall submit documentation to the department identifying the following:

- (1) Offset pollutant(s);

- (2) Actual annual emissions estimates of each pollutant identified in (1), above, during normal operation of the new or modified source prior to the modification;

- (3) Potential annual emissions estimates of each pollutant identified in (1) above, of the new or modified source after the modification;
 - (4) Offset source(s) and location(s);
 - (5) Actual and allowable annual emissions estimates of each pollutant identified in (1), above, for the offset source(s) identified in (3), above, prior to the effective date of the offset(s);
 - (6) Potential annual emissions estimates of each pollutant identified in (1), above, for the offset source(s) identified in (3), above, during normal operation of the new or modified source, that would occur after the effective date of the offset(s); and
 - (7) For NO_x and VOC, the ozone season emissions in addition to the annual estimates required in (2), (4), and (5) above;
- (b) A new or modified source obtaining offset(s) from sources outside New Hampshire shall file with the department documentation verifying that the offset source(s) has obtained a federally enforceable permit, or other federally enforceable document, for the emissions reduction control measures pertaining to the offset(s) for which the new or modified source is seeking approval;
 - (c) The emissions reductions obtained from the offset source in accordance with (a) and (b), above, shall be:
 - (1) Ensured by a federally enforceable permit or other federally enforceable document; and
 - (2) In effect no later than the date on which the new or modified source commences operations;
 - (d) Stationary sources may use ERCs, in accordance with Env-A 3006.04, to satisfy any requirement under the Act or RSA 125-C for offsets; and
 - (e) All DERs used to meet offset requirements under this part shall comply with the requirements of Section 173 of the Act, 40 CFR §51.165(a), and Env-A 3108.02.

Env-A 618.09 Establishing a PAL. A PAL shall be established, re-opened, renewed, increased, monitored, recorded, and reported in accordance with 40 CFR §51.165(f)(1), (4), and (6)-(14), except that offsets shall be created and used in accordance with Env-A

618.07 and Env-A 618.08, and the public participation requirements shall be replaced by Env-A 618.10(b) and (c).

Env-A 618.10 Department Review and Public Notice.

- (a) A permit application to comply with NSR or establish a PAL filed with the department pursuant to this part shall be reviewed in accordance with the criteria set forth in Env-A 607.04.
- (b) A permit application to comply with NSR or establish a PAL pursuant to this part shall be subject to the public notice procedures specified in Env-A 621.04.
- (c) The department shall address all material comments received during the public comment period before taking final action on a PAL permit application.

PART Env-A 619 PREVENTION OF SIGNIFICANT DETERIORATION

Env-A 619.01 Purpose. The purpose of this part is to implement the prevention of significant deterioration (PSD) program, as set forth in Sections 160 through 169B of the Act and 40 CFR §52.21.

Env-A 619.02 Applicability.

- (a) This part shall apply to each new major stationary source or major modification for a source located in an area designated as attainment or unclassifiable under §107(d)(1)(B) of the Act for which the regulated NSR pollutant is subject to regulation.
- (b) This part shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment under §107 of the Act.

Env-A 619.03 PSD Program Requirements.

- (a) In furtherance of RSA 125-C:11 and except as provided in (b) and (d), below, the provisions of 40 CFR §52.21(a)(2), (b) through (e), (h) through (k)(1), (l) through (p), (r), (v), (w), (aa), and (bb), and 40 CFR 51.165(b), July 1, 2016 edition, shall apply for the purpose of implementing a PSD permit program that meets the requirements of Title I of the Act.

(b) For the purposes of this part, the word “department” shall replace the word “administrator” in the paragraphs of 40 CFR §52.21 referenced in (a), above, except in the following paragraphs:

- (1) Paragraph (b)(17);
- (2) Paragraph (b)(37)(i);
- (3) Paragraph (b)(43);
- (4) Paragraph (b)(48)(ii)(c);
- (5) Paragraph (b)(50)(i);
- (6) Paragraph (b)(51);
- (7) Paragraph (l)(2); and
- (8) Paragraph (v).

(c) For the purpose of this part, the definitions contained in 40 CFR §52.21(b), shall apply with the following revisions:

- (1) For the purposes of calculating baseline actual emissions pursuant to 40 CFR §52.21(b)(48):
 - a. The same consecutive 24-month period shall be used for all pollutants;
 - b. The 24-month period shall be selected from the 5-year period immediately preceding the date the owner or operator begins actual construction of the project; and
 - c. The department shall allow the use of a different time period up to 10 years immediately preceding the date the owner or operator begins actual construction of the project or allow use of a different consecutive 24-month period for different pollutants upon demonstration by the applicant that it is more representative of normal source operations;

* * *²

² Env-A 619.03(c)(2) and (c)(3) were withdrawn from the SIP effective July 24, 2017. See Federal Register; May 25, 2017, (82 FR 24057).

- (d) For the purposes of this part, the reference to Appendix W in 40 CFR 52.21(l) shall refer to the July 1, 2019 edition.

Env-A 619.04 Owner or Operator Obligations.

- (a) Except as provided in (b), below, the owner or operator of any new major stationary source or major modification subject to this part shall comply with BACT.
- (b) The owner or operator of an existing major source with a PAL shall comply with the provisions of its PAL.

Env-A 619.05 Permit Application Requirements.

- (a) PSD and PAL permit applications required under this part shall be filed in accordance with the procedures set forth in Env-A 607.03;
- (b) An application to comply with PSD shall contain additional information as follows:
 - (1) A control technology evaluation, in accordance with 40 CFR §52.21(j), to demonstrate that any new major stationary source or major modification will meet the BACT for all new or modified emissions units;
 - (2) A source impact analysis, in accordance with 40 CFR §52.21(k)(1);
 - (3) An air quality analysis in accordance with 40 CFR §52.21(m);
 - (4) Source information required in accordance with 40 CFR §52.21(n);
 - (5) Additional impact analyses required pursuant to 40 CFR §52.21(o);and
 - (6) For sources impacting federal class I areas, a class I area impact analysis required in accordance with 40 CFR §52.21(p);
- (c) An application for a permit to establish a PAL, shall contain the information required pursuant to 40 CFR §52.21(aa)(3); and

- (d) The department shall provide written notice of an application for a PSD permit to the federal land manager(s) in accordance with 40 CFR §52.21(p).

Env-A 619.06 Designation of Class I and Class II Areas.

- (a) Pursuant to 40 CFR §52.21(e)(1) and Section 162 of the Act, the following areas shall be designated as Class I areas in New Hampshire:
 - (1) The Great Gulf Wilderness, of approximately 6,000 acres, as specified in P.L. 88-577; and
 - (2) The Presidential Range - Dry River Wilderness, of approximately 20,000 acres, as specified in P.L. 93-622.
- (b) Pursuant to 40 CFR §52.21(g)(1) and Section 162 of the Act, all other areas in New Hampshire not listed in (a) above, shall be considered Class II areas.

Env-A 619.07 Department Review and Public Notice.

- (a) A permit application to comply with PSD or to establish a PAL filed with the department pursuant to this part shall be reviewed in accordance with the criteria set forth in Env-A 607.04 and 40 CFR §52.21(j) – (p).
- (b) In the event of a deficiency in a permit application to comply with PSD or to establish a PAL for which the department notifies the applicant in writing pursuant to Env-A 607.06(a), the date of filing of the application for purposes of (c), below, shall be the date on which the department receives all required information.
- (c) Within one year after the filing of a complete permit application to comply with PSD or to establish a PAL, the department shall make a final determination of whether construction should be approved, approved with conditions, or denied.
- (d) A permit application filed in accordance with this part shall be subject to the public notice procedures specified in Env-A 621.03.

Env-A 619.08 Increment Consumption.

- (a) The department shall periodically perform a review of increases in pollutant concentrations over the baseline concentration, as that term is defined in 40 CFR §52.21(b)(13), to determine whether the ambient air increments, as

established in 40 CFR §52.21(c), have been violated in any PSD area within the state.

- (b) Within 60 days of the discovery of a violation of an ambient air increment, as established in 40 CFR 52.21(c), the department shall submit to the administrator a plan for insuring that the violation shall be mitigated as soon as possible.

* * *

**PART Env-A 621 PERMIT NOTICE AND HEARING PROCEDURES:
TEMPORARY PERMITS AND PERMITS TO OPERATE**

Env-A 621.01 Applicability. The public notice and hearing procedures specified in this part shall apply to all applications for the issuance of, amendment to, or denial of temporary permits and permits to operate.

Env-A 621.02 Public Notice.

- (a) This section shall apply to all permit applications except those subject to the requirements of:
 - (1) Env-A 609, relating to title V permits;
 - (2) Env-A 610, relating to general permits;
 - (3) Env-A 611, relating to acid rain permits;
 - (4) Env-A 612, relating to:
 - a. Amendments, modifications, and revisions of title V permits; and
 - b. Minor permit amendments of temporary permits and state permits to operate;
 - (5) Env-A 618, relating to temporary permits subject to nonattainment requirements; and
 - (6) Env-A 619, relating to PSD permits.

- (b) Within 10 days after the completion of a draft temporary permit, draft permit to operate, or draft decision to deny the application with supporting findings of fact, the department shall prepare a public notice of the receipt of the permit application and the intent to issue, amend, or deny such permit.
- (c) Public notice of the intent to issue, amend, or deny a temporary permit to permit to operate shall contain the following information:
 - (1) The name and address of the applicant;
 - (2) The location of the source;
 - (3) A brief description of the stationary source, area source or device sought to be permitted;
 - (4) The location(s) where, and the hours during which, the completed application and other pertinent information may be examined; and
 - (5) The date by which, and the address where, written comments or requests for a public hearing shall be filed.
- (d) The deadline for written comments or public hearing requests shall not be sooner than 30 days after the publication of the notice.
- (e) The public notice shall be published by either the department or the applicant, at the applicant's option, once in a newspaper of general daily circulation and once in a newspaper of general circulation in the area in which the source is located.
- (f) The applicant shall provide to the department:
 - (1) Proof of each publication of the notice if the applicant publishes it; or
 - (2) Payment of the publication costs incurred by the department and an administrative fee of \$15.00 if the applicant requests the department to publish the notice.

Env-A 621.03 Applications Subject to PSD Requirements. For permit applications subject to the requirements of Env-A 619, the public notice procedures of Env-A 621.04, with the following changes, shall supersede the provisions specified in Env-A 621.02:

- (a) In place of the requirements of Env-A 621.04(c)(6), the public notice shall indicate the degree of increment consumption that is expected from the source or modification; and
- (b) In Env-A 621.04(c)(7), substitute “BACT” for “LAER”.

Env-A 621.04 Applications Subject to Nonattainment Requirements. For permit applications subject to the requirements of Env-A 618, the following public notice procedures shall supercede the provisions specified in Env-A 621.02:

- (a) Within 10 days after the completion of a draft temporary permit, or draft decision and findings of fact, the department shall issue a public notice of the receipt of the permit application and the preliminary determination to issue, amend, or deny such permit.
- (b) The public notice shall be published once in a newspaper of general daily statewide circulation and once in a newspaper circulated at least once per week in the immediate area of the proposed source.
- (c) Public notice of the preliminary determination to issue, amend, or deny a temporary permit shall contain the following information:
 - (1) The name and address of the applicant;
 - (2) The location of the source;
 - (3) A brief description of the stationary source, area source or device sought to be permitted;
 - (4) For new sources or devices, the emissions resulting from the installation;
 - (5) For modified sources or devices, the significant net emissions increase resulting from the modification, if any;
 - (6) For new or modified sources or devices, the quantity and geographical location(s), in terms of street address, if applicable, or longitude and latitude, of the offset source(s) and devices from which the offsets will be obtained;
 - (7) The determination of LAER, including the type of equipment, such as a carbon adsorption system, and, if applicable, the prescribed emission limit;

- (8) The location(s) where, and the hours during which, the completed application and other pertinent information may be examined; and
 - (9) The date by which, and the address where, written comments or requests for a public hearing shall be filed.
- (d) The deadline for written comments or public hearing requests shall not be sooner than 30 days after the publication of the notice.
- (e) The department shall distribute copies of the public notice to the following parties:
- (1) The applicant;
 - (2) The EPA;
 - (3) Any state or Indian governing body whose lands may be affected by emissions from the source or modification;
 - (4) The current official(s) of the city or town where the source is or would be located;
 - (5) The regional planning agency, if applicable, where the source is or would be located; and
 - (6) The Federal Land Manager.
- (f) The department shall make available for public inspection, at a location in the immediate area of the proposed source, copies of the following materials:
- (1) All information, to the extent required or permitted by RSA 91-A and RSA 125-C:6, VII, submitted by the applicant;
 - (2) The department's analysis of the effect of the proposed facility on air quality; and
 - (3) The preliminary determination to issue, amend, or deny the permit and all other materials, if any, considered in making such determination.

Env-A 621.05 Notification to EPA. The department shall submit to EPA:

- (a) Copies of the public notice and the draft temporary permit, draft permit to operate, or draft decision and findings of fact within 10 days of completion of the draft; and
- (b) Copies of the final temporary permit, final permit to operate, or final decision and findings of fact within 10 days of issuance.

Env-A 621.06 Requests for Public Hearing.

- (a) The department shall provide an opportunity for a public hearing on all applications for new or amended temporary permits or permits to operate.
- (b) Any person or group of persons who raises an issue of fact relevant to a term or condition in a draft permit may request that a public hearing be held by the department regarding the issuance of, amendment to, or denial of a temporary permit or permit to operate.
- (c) A request for a public hearing on a permit application shall:
 - (1) Indicate the basis on which the person(s) filing the request meets the requirements of (b), above;
 - (2) Be in writing; and
 - (3) Be delivered to the department office by 4:00 p.m. on or before the date stated in the public notice required under Env-A 621.02.
- (d) The department shall grant the request for a public hearing on a permit application upon finding that the person or group making the request:
 - (1) Is entitled under (b), above, to request a hearing; and
 - (2) Has met the requirements of (c), above.
- (e) Upon granting a request for a public hearing, the department shall:
 - (1) Schedule a public hearing to be conducted in accordance with the procedures specified in Env-A 203; and
 - (2) Notify the applicant and the requesting party in writing of the hearing date, location, and time.

- (f) The notice specified in (e)(2), above, shall be published by either the department or the applicant, at the applicant's option, at least 30 days prior to the public hearing in a newspaper of general daily circulation and in a newspaper of general circulation in the area in which the source is or is proposed to be located.
- (g) The applicant shall provide to the department:
 - (1) Proof of each publication of the notice if the applicant publishes it; or
 - (2) Payment of the publication costs incurred by the department and administrative fee of \$15.00 if the applicant asks the department to publish the notice.

Env-A 621.07 Public Access to Information.

- (a) If the applicant is not a municipality, the applicant shall file 2 copies of the permit application with the department.
- (b) If the applicant is a municipality, the applicant shall file one copy of the permit application with the department and shall make another copy available to the public for review.
- (c) If the applicant is not a municipality, the department shall deliver one copy of the permit application to the municipality in which the source is or will be located.
- (d) The extent permitted by RSA 125-C:6, VII, and Env-A 103, the department shall make the following information available to the public for inspection:
 - (1) All applications and other forms or information submitted by the applicant in support of a permit application;
 - (2) All correspondence with regard to an application and any attachments thereto;
 - (3) Written comments received during the comment period provided in Env-A 621.02(d)(5); and
 - (4) All temporary permits or permits to operate or other determinations of the department.

- (e) The department shall provide copies of the information listed above upon request.

Env-A 621.08 Opportunity for Response. The department shall provide a copy of all written comments and requests for a public hearing to the applicant upon request. Within 10 working days of the close of the comment period specified in Env-A 621.02(d)(5), Env-A 621.03, or Env-A 621.04(c)(9), the applicant may file with the department a written response to any of the written comments received during the comment period.

Env-A 621.09 Decisions.

- (a) Within 30 working days after the close of the comment period specified in Env-A 621.02(d)(5), Env-A 621.03, or Env-A 621.04(c)(9), in accordance with the requirements of RSA 125-C:11, the department shall:
 - (1) Approve the application, issue the permit(s) subject to conditions, and set forth in writing the findings with an explanation fo the basis of such approval;
 - (2) Deny the application and set forth in writing the findings with an explanation of the basis of such disapproval; or
 - (3) Schedule a hearing to be conducted in accordance with the provisions of Env-A 203, and notify the applicant and the person(s) who requested such hearing.
- (b) Within 30 working days after the close of the comment period following a public hearing, the department shall issue a decision pursuant to either (a)(1) or (a)(2), above.
- (c) In making the decision, the department shall consider the application, all written comments received during the public comment period specified in the public notice issued pursuant to Env-A 621.02(d)(5), Env-A 621.03, or Env-A 621.04(c)(9), as well as the applicants written response thereto, and any testimony presented at the public hearing, if one was held.

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PART Env-A 622 * * *³

³ Env-A 622 was withdrawn from the SIP effective October 26, 2015.

See Federal Register; September 25, 2015, (80 FR 57722).

⁴ Env-A 623 was withdrawn from the SIP effective October 26, 2015.
See Federal Register; September 25, 2015, (80 FR 57722).