

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

CHAPTER Env-A 3700 NO_x EMISSIONS REDUCTION FUND FOR NO_x-EMITTING GENERATION SOURCES

Statutory Authority: RSA 125-J:14

PART Env-A 3701 PURPOSE AND APPLICABILITY

Env-A 3701.01 Purpose. The purpose of this chapter is to implement RSA 125-J:13, which requires NO_x-emitting generation sources to report power generation and NO_x emissions information, and to either acquire emissions reduction mechanisms or make direct payment of fees to the NO_x emissions reduction fund.

Source. #7615, eff 12-20-01; ss by #9599, eff 11-21-09

Env-A 3701.02 Applicability. This chapter shall apply to NO_x-emitting generation sources as defined in RSA 125-J:1, XIX-c.

Source. #7615, eff 12-20-01; ss by #9599, eff 11-21-09

PART Env-A 3702 DEFINITIONS

Env-A 3702.01 “NO_x budget source” means “NO_x budget source” as defined in RSA 125-J:1, XIX-b, namely “a fossil fuel fired boiler or indirect heat exchanger with a maximum rated heat input capacity of 250 MMBtu/Hour, or more; and all electric generating facilities with a rated output of 15 MW, or more. Any person who applies to opt into the NO_x budget program shall be considered a NO_x budget source upon acceptance of the application for opt-in.”

Source. #7615, eff 12-20-01; ss by #9599, eff 11-21-09

Env-A 3702.02 “NO_x-emitting generation source” means “NO_x-emitting generation source” as defined in RSA 125-J:1, XIX-c, namely “any internal combustion engine or combustion turbine which generates electricity for use or sale, except for sources which meet the definition of a NO_x budget source. NO_x-emitting generation source shall not include any generators which:

- (a) Serve as an electrical or mechanical power source when the primary power source is unavailable;
- (b) Are used as a start-up or a temporary supply of power to a facility which generates electricity for use or sale;
- (c) Are used as a portable generator;
- (d) Emit, in total from the facility, 5 tons of NO_x or less per calendar year; or
- (e) Are located in an area where electrical power is not reasonably or, considering the type of power needed by the user, reliably available.”

Source. #7615, eff 12-20-01; ss by #9599, eff 11-21-09 (from Env-A 3702.01)

Env-A 3702.03 “Portable generator” means a transportable mechanical apparatus used for the specific purpose of generating electricity to power the following:

- (a) Construction equipment such as, but not limited to, portable plants, compressors, signage, lighting, welding equipment, water pumping equipment, storage silos, and tools; and
- (b) Non-construction uses such as, but not limited to, carnival games and rides and movie sets.

Source. #7615, eff 12-20-01; ss by #9599, eff 11-21-09 (from Env-A 3702.02)

Env-A 3702.04 “Portable plant” means any nonmetallic mineral processing plant or asphalt plant that is mounted on chassis or skids, such that it can be moved by the application of a lifting or pulling force, which has no cable, chain, turnbuckle, bolt or other means, except electrical connections, by which any piece of equipment is attached or clamped to any anchor, slab, or structure, including bedrock, that must be removed prior to transporting the unit.

Source. #9599, eff 11-21-09 (from Env-A 3702.03)

PART Env-A 3703 EXCLUSION CLAIMS

Env-A 3703.01 Claims of Exclusion from the Definition of NOx Emitting Generation Source.

(a) The owner or operator of a NOx-emitting generation source seeking to claim an exclusion from the definition of a NOx-emitting generation source pursuant to Env-A 3702.02(e) shall submit the following information in writing to the department:

- (1) The full legal name, mailing address, and contact information, including daytime telephone number and, if available, e-mail address, of the source seeking the exclusion;
- (2) The location of the source for which the exclusion is sought;
- (3) The information specified in (b) or (c), below, as applicable;
- (4) Any additional information that demonstrates that the NOx-emitting generation source is located in an area where electrical power is not reasonably, or considering the type of power needed by the user, reliably available;
- (5) For a new source, all of the information required pursuant to Env-A 1703.01 and Env-A 1704.01; and
- (6) For an existing source, the most recent permit number for either:
 - a. A state permit to operate in accordance with Env-A 608; or
 - b. A Title V operating permit in accordance with Env-A 609.

(b) If the exclusion is claimed based on an unreliable power source, the request filed pursuant to (a), above, shall include the following information:

- (1) The frequency of power outages during the previous 3 years;
- (2) The duration of power outages during the previous 3 years; and
- (3) If applicable, the business circumstances that cause the loss of power to pose exceptional problems such that an exemption could be warranted;

(c) If the exclusion is claimed based on the unavailability of a suitable power source, the request filed pursuant to (a), above, shall include the following information:

- (1) If applicable, the power needs that cause the unavailability of power to pose exceptional problems such that an exemption could be warranted;
- (2) The location of the nearest available power supply;
- (3) The distance to the nearest connection to the available power supply; and

(4) A cost estimate from the local utility provider of the cost to provide power to the source, including, if applicable, the capital costs of installing transmission lines.

(d) Within 30 days of receipt of a complete request as specified in (a), above, the department shall issue a written decision on the request.

(e) The department shall grant the request and issue a finding that no permit is required for purposes of Env-A 3700 if the department determines that power is not reasonably, or considering the type of power needed by the user, reliably available.

(f) If the department is unable to make the finding necessary to grant the request, the department shall deny the request and require the owner or operator to submit an application for a new or amended permit, as applicable. If the request is denied, the decision shall specify the reason(s) for the denial.

Source. #7615, eff 12-20-01; ss by #9599, eff 11-21-09

Env-A 3703.02 Claims of Exclusion from NOx Reduction or Fee Requirements For Other Non-Electric Services.

(a) The owner or operator of a NOx-emitting generation source seeking to exclude NOx emissions from the requirements of Env-A 3707 pursuant to RSA 125-J:13, I, shall provide the following information in writing to the department:

(1) A monitoring plan for measuring and recording steam or other heat transfer media, in addition to power output;

(2) A proposed technology-specific conversion factor for converting output attributable to the provision of other, non-electric services to megawatt-hours;

(3) A technical analysis, including an energy balance, demonstrating qualification for the exemption;

(4) For a new source, an application for a temporary permit in accordance with Env-A 607; or

(5) For an existing source, an application for either a state permit to operate in accordance with Env-A 608 or a Title V operating permit in accordance with Env-A 609, as applicable.

(b) If the information provided pursuant to (a), above, is insufficient to allow the department to determine that the NOx emissions exceeding 7 pounds for each megawatt-hour of electricity produced are attributable to the provision of other, non-electric services provided by the NOx-emitting generation source, the department shall request such additional information as is needed to make the determination.

(c) Within 30 days of receipt of a complete request as specified in (a), above, the department shall issue a written decision on the request.

(d) The department shall grant the request and issue a final action on the permit application if the request demonstrates that the criteria for granting the request have been met.

(e) If the department is unable to make the finding necessary to grant the request, the department shall deny the request and issue a final action on the permit application. If the request is denied, the decision shall specify the reason(s) for the denial.

Source. #7615, eff 12-20-01; ss by #9599, eff 11-21-09

PART Env-A 3704 NO_x EMISSIONS CALCULATIONS

Env-A 3704.01 Calculation of NO_x Emissions for One or More NO_x-Emitting Generation Sources Located at a Single Stationary Source.

(a) The owner or operator of one or more NO_x-emitting generation sources located at the same stationary source shall combine the NO_x emissions from all NO_x-emitting generation sources whenever at least one NO_x-emitting generation source is subject to this chapter.

(b) Pursuant to RSA 125-J:13, I, a NO_x-emitting generation source shall not be required to pay NO_x emissions reduction fund fees for the first 7 pounds of NO_x emitted for each megawatt-hour of electricity produced.

(c) Average monthly emissions for all NO_x-emitting generation sources subject to (a), above, shall be calculated as follows:

- (1) “E” means the total emissions subject to fees, in tons per month;
- (2) “A1, A2, ..., An” means the actual NO_x emissions as determined in accordance with Env-A 616 for each unit, in pounds per month;
- (3) B1, B2, ..., Bn” means the actual power generation of each unit, in megawatt-hours of electricity produced per month;
- (4) “C” means the NO_x emissions rate in pounds of NO_x emitted for each megawatt-hour of electricity produced per month that are attributable to the provision of other, non-electric services and that are exempted from the fee calculation in accordance with Env-A 3703.02; and
- (5) E shall be equal to the sum of A1 through An, minus the product of the sum of 7 plus C multiplied by the sum of B1 through Bn, divided by 2000 to convert from pounds to tons, as shown in the following formula:

$$E = \frac{(A1 + A2 + \dots + An) - [(7 + C) \times (B1 + B2 + \dots + Bn)]}{2000}$$

Source. #7615, eff 12-20-01; ss by #9599, eff 11-21-09

PART Env-A 3705 POWER GENERATION MONITORING AND POWER GENERATION CALCULATIONS FOR NO_x-EMITTING GENERATION SOURCES

Env-A 3705.01 Power Generation Monitoring and Calculations.

(a) The owner or operator of a NO_x-emitting generation source shall determine electrical or steam power generation by calculations, as specified in (b), below, or by monitoring, as specified in (c), below.

(b) Actual electrical or steam power generation in megawatt hours (MWhr) shall be calculated by multiplying the heat input in million British thermal units (MMBTU_{fuel use}), obtained from fuel use records, by 0.10 megawatt hours/million British thermal units, as shown in the following formula:

$$MWhr = MMBTU_{fuel use} \times 0.10 \text{ MWhr/MMBTU}$$

(c) Electrical or steam power generation shall be monitored in accordance with the following:

- (1) One of the following monitors shall be used for monitoring electrical power generation in kilowatt-hours:

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- a. Solid-state kilowatt meters calibrated to within $\pm 10\%$ of reference readings in accordance with:
 1. American National Standard for Code for Electric Meters; Code for Electricity Metering, American National Standards Institute (ANSI) standard ANSI C12.1-2008, published by National Electrical Manufacturers Association (NEMA), published August 8, 2008; and
 2. American National Standard for Electricity Meter—0.2 and 0.5 Accuracy Classes, standard ANSI C12.20-2002, published by NEMA, approved January 10, 2003;
 - b. Rotating kilowatt meters calibrated to within $\pm 10\%$ of reference readings in accordance with American National Standard for Physical Aspects of Watthour Meters—Safety Standard, standard ANSI 12.10-2004, published by NEMA, approved July 1, 2004;
 - c. Electromechanical kilowatt meters calibrated to within $\pm 10\%$ of reference readings in accordance with American National Standard for Physical Aspects of Watthour Meters—Safety Standard, standard ANSI 12.10-2004, published by NEMA, approved July 1, 2004;
 - d. Current transformers or potential transformers calibrated to within $\pm 10\%$ of reference readings in accordance with:
 1. Power-line carrier coupling capacitors and coupling capacitor voltage transformers (ccvt), standard NEMA ANSI C93.1:1999; or
 2. Institute of Electrical and Electronic Engineers (IEEE) standard IEEE 57.C13.3-2005, IEEE Guide for Grounding of Instrument Transformer Secondary Circuits and Cases; or
 - e. Any alternative monitor as approved by the department in accordance with Env-A 3705.02;
- (2) The following monitors, accurate to within $\pm 10\%$, shall be acceptable for monitoring steam power generation in millions of British thermal units output:
- a. Pressure taps installed and maintained in accordance with manufacturer's specifications;
 - b. Orifice plates installed and maintained in accordance with American Society for Mechanical Engineering (ASME) standard ASME MFC-3M-2004, Measurement of Fluid Flow in Pipes Using Orifice, Nozzle, and Venturi;
 - c. Turbine meters installed and maintained in accordance with standard ASNI/ASME MFC-4M-1986 (R2003), Measurement of Gas Flow by Turbine Meters;
 - d. Vortex meters installed and maintained in accordance with standard ASNI/ASME MFC-6M-1998 (R2005), Measurement of Fluid Flow in Pipes Using Vortex Flow Meters; or
 - e. Any alternative monitor as approved by the department in accordance with Env-A 3705.02; and
- (3) All power generation monitors shall be operated and maintained in accordance with the operating and maintenance procedures specified by the manufacturer.

Source. #7615, eff 12-20-01; ss by #9599, eff 11-21-09

Env-A 3705.02 Approval of Alternative Monitors.

(a) The person seeking approval of an alternative monitor shall submit written information to the department to demonstrate that:

- (1) The alternative will result in records that are sufficient to demonstrate compliance with all applicable requirements; and
- (2) The monitors are accurate to within $\pm 10\%$.

(b) The department shall review the information submitted pursuant to (a), above, within 30 days of receipt, and inform the person seeking the approval of its decision in writing. The department shall approve the request if the information submitted by the person seeking the approval demonstrates that the alternative monitor meets the criteria specified in (a), above.

(c) If the department denies the request, the written notice shall specify the reason(s) for the denial.

Source. #7615, eff 12-20-01; ss by #9599, eff 11-21-09

PART Env-A 3706 RECORDKEEPING AND REPORTING REQUIREMENTS

Env-A 3706.01 Recordkeeping Requirements for NO_x-Emitting Generation Sources.

(a) The owner or operator of a NO_x-emitting generation source shall maintain records on a calendar month basis of actual NO_x emissions in accordance with the methods set forth in Env-A 616.

(b) The owner or operator of a NO_x-emitting generation source also shall maintain records on a calendar month basis of power generation, in accordance with the following:

- (1) The measurements of power generation as output on an instrument recorder, if applicable, or as manually recorded on log sheets as part of a data collection procedure;
- (2) The number of hours of operation of the NO_x-emitting generation source;
- (3) The number of hours of downtime of the power generation monitoring system, if applicable, during the time period when the NO_x-emitting generation source is in operation;
- (4) Fuel usage; and
- (5) The frequency and results of calibrations performed, as applicable.

Source. #7615, eff 12-20-01; ss by #9599, eff 11-21-09

Env-A 3706.02 Frequency of Reporting. The owner or operator of a NO_x-emitting generation source shall submit annually to the department all information required by Env-A 3706.01 by April 15 of the following calendar year.

Source. #7615, eff 12-20-01; ss by #9599, eff 11-21-09

PART Env-A 3707 NO_x EMISSIONS REDUCTION FUND FEES, PROCEDURES, AND USE

Env-A 3707.01 NO_x Emissions Reduction Fund Fees.

(a) In addition to the fees specified in Env-A 700, each NO_x-emitting generation source shall pay to the department, each year, a NO_x emissions reduction fund fee as calculated pursuant to Env-A 3707.03.

(b) In lieu of the fee specified in (a), above, for each ton of NO_x that otherwise would require payment

of fees, the owner or operator of a NOx-emitting generation source may acquire and use the following emissions reduction mechanisms for compliance with this chapter:

- (1) Emissions reduction credits in accordance with Env-A 3000;
- (2) Discrete emissions reductions in accordance with Env-A 3100; or
- (3) NOx budget allowances in accordance with Env-A 3200.

Source. #7615, eff 12-20-01; ss by #9599, eff 11-21-09

Env-A 3707.02 Methods Used to Calculate NOx Emissions Reduction Fund Fees. The owner or operator of a NOx-emitting generation source shall submit a description of the method used to calculate actual emissions to the department with each emission reduction fund fee payment.

Source. #7615, eff 12-20-01; ss by #9599, eff 11-21-09

Env-A 3707.03 Calculation of NOx Emissions Reduction Fund Fees.

- (a) The NOx emissions reduction fund fee shall be calculated in accordance with RSA 125-J:13, II(b).
- (b) As specified in RSA 125-J:13, II(b)(6), the NOx emissions reduction fund fee in dollars per ton shall be \$1,000 per ton during the period May 1 to September 30 and \$500 per ton during the remainder of the calendar year.

Source. #7615, eff 12-20-01; ss by #9599, eff 11-21-09

Env-A 3707.04 Payment of NOx Emissions Reduction Fund Fee. Each NOx-emitting generation source shall pay to the department the NOx emissions reduction fund fee annually, in accordance with the schedule specified in Env-A 705.04 for emission-based fees.

Source. #7615, eff 12-20-01; ss by #8314, eff 3-26-05; ss by #9599, eff 11-21-09

Env-A 3707.05 Notification for NOx Emissions Reduction Fund Fees. The department shall notify each NOx-emitting generation source in writing of any under payments or over payments of the NOx emissions reduction fund fee by that source.

Source. #7615, eff 12-20-01; ss by #9599, eff 11-21-09

Env-A 3707.06 Procedures for Use of NOx Emissions Reduction Fund Fees.

(a) Subject to (b), below, each year in which the balance in the fund equals or exceeds \$150,000 on July 1, the department shall:

- (1) Develop a proposal to use the fund as contemplated by RSA 125-J:13, II(c); and
- (2) Proceed in accordance with (c) through (g), below.

(b) The department shall develop a proposal and proceed in accordance with (c) through (g), below, even if the balance does not equal or exceed \$150,00 on July 1, if the department determines that:

- (1) An opportunity has arisen to use the fund as contemplated by RSA 125-J:13, II(c);
- (2) The fund balance is sufficient to cover the cost of the use;
- (3) If the opportunity is not pursued, it might not exist when the fund balance equals or exceeds

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\$150,000; and

(4) Waiting until the fund balance increases is not in the best interests of the public or the environment.

(c) Within 3 months after determining that the criteria in (a) or (b), above, have been met, the department shall issue a proposal for the use of fund moneys as contemplated by RSA 125-J:13, II(c).

(d) The department shall publish a public notice of the proposal specified in (c), above, once in a newspaper of daily statewide circulation.

(e) The notice published pursuant to (d), above, shall:

(1) Briefly describe the proposal;

(2) Offer the opportunity for a hearing;

(3) State where the full proposal is available for inspection, including whether the proposal can be accessed electronically; and

(4) Identify the name and contact information for the individual at the department to whom a request for a hearing should be directed.

(f) If a public hearing on the proposal is requested, the department shall:

(1) Publish a notice in a newspaper of daily statewide circulation stating the place, date, and time of the hearing at least 30 days prior to conducting the hearing; and

(2) Conduct the hearing in accordance with the non-adjudicative hearing procedures specified in Env-C 200.

(g) The department shall issue a final determination:

(1) If no public hearing is requested, within 30 days of the publication of the public notice on the proposal; or

(2) If a public hearing is requested, within 60 days of the public hearing on the proposal.

Source. #7615, eff 12-20-01; ss by #8314, eff 3-26-05; ss by #9599, eff 11-21-09

APPENDIX

Rule	Specific State Statute the Rule Implements
Part Env-A 3701	RSA 125-J:13
Part Env-A 3702	RSA 125-J:1; RSA 125-J:13
Part Env-A 3703	RSA 125-J:1; RSA 125-J:13, I
Part Env-A 3704	RSA 125-J:13, I & II
Part Env-A 3705	RSA 125-J:13, I & II
Part Env-A 3706	RSA 125-J:13, I & II
Part Env-A 3707	RSA 125-J:13, I & II