

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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REVISION NOTE:

Document #5033, eff 12-27-90. readopted with amendments Chapters Env-A 100 through Env-A 1200. Part Env-A 703 entitled "Devices Subject to This Chapter" was repealed by Document #5033, which also renumbered the remaining parts in Chapter 700. The history of prior filings for former Part Env-A 703, which contained only rule Env-A 703.01, is as follows: #1865, eff 1-25-82; ss by #2232, eff 4-29-83; ss by #2938, eff 12-27-84. Former Part Env-A 704 is now Part Env-A 703. Former Sections Env-A 704.01a and Env-A 704.02 are now Env-A 703.02 and their source notes have been combined. Sections Env-A 703.03 and Env-A 703.06 are new with Document #5033. Former Part Env-A 705 is now Part Env-A 704. Former Part Env-A 706 is now Part Env-A 705.

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CHAPTER Env-A 700 PERMIT FEE SYSTEM

Statutory Authority: RSA 125-C:4

PART Env-A 701 PURPOSE, SCOPE, AND REFERENCES

Env-A 701.01 Purpose. The purpose of this chapter is to establish a fee system requiring the payment of fees to cover the reasonable direct and indirect costs of the following:

- (a) Reviewing and acting upon the applications for the issuance of, amendment to, modification to, renewal of, or any combination of the foregoing actions to, a temporary permit, state permit to operate, or title V operating permit;
- (b) Implementing and enforcing the terms and conditions of any temporary permit, state permit to operate, or title V operating permit;
- (c) Administering the state permit program; and
- (d) Developing, implementing and administering the title V operating permit program.

Source. #1865, eff 1-25-82; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03; ss by #9911, eff 4-26-11; ss by #12649, eff 10-24-18

Env-A 701.02 Scope. Any applicant, owner, or operator of a source or stationary source, area source, or device which requires a temporary permit, state permit to operate, title V operating permit, or any combination of the foregoing permits pursuant to Env-A 600, shall pay all fees as specified in this chapter.

Source. #5033, eff 12-27-90; ss by #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03; ss by #9911, eff 4-26-11; ss by #12649, eff 10-24-18

Env-A 701.03 References. For the purpose of this chapter, unless otherwise specified, the July 1, 2017 edition of title 40 of the Code of Federal Regulations (CFR) shall control all references to 40 CFR 70.

Source. #8111, eff 6-26-04; ss by #9911, eff 4-26-11; ss by #12649, eff 10-24-18

PART Env-A 702 APPLICATION REVIEW, REGISTRATION, AND MODELING FEES

Env-A 702.01 Application Review Fee for Temporary Permits.

(a) The applicant for a temporary permit for a new stationary source, area source, or device pursuant to Env-A 607.01, except as specified in (b), below, shall submit to the department with such application an application review fee of \$2,000.

(b) The applicant for a temporary permit pursuant to Env-A 607.01(t) shall pay a fee of \$1,000 as specified in Env-A 702.02(a) and Env-A 702.02(b).

(c) If the applicant is subject to fees pursuant to Env-A 703, the applicant shall pay the permit review fee pursuant to Env-A 703.03 instead of the fee specified in (a), above.

Source. #8111, eff 6-26-04; ss by #9911, eff 4-26-11; ss by #12649, eff 10-24-18

Env-A 702.02 Application Fee for Air Toxics Reviews.

(a) The applicant for a compliance determination for a new stationary source, area source, or device pursuant to Env-A 1400 shall submit to the department with such application an initial application review fee of \$500.

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(b) If the department determines that a permit is required solely under Env-A 607.01(t) and the source is not otherwise required to obtain a permit under Env-A 607.01, then the applicant shall submit a subsequent application review fee of \$500.

(c) The department shall bill the applicant for the application review fee pursuant to (b), above.

(d) The applicant shall pay the application review fee pursuant to (b), above, prior to the issuance of the permit.

(e) The department shall not issue the permit until payment of the fee pursuant to (b), above, is received by the department.

Source. #8111, eff 6-26-04; ss by #9911, eff 4-26-11; ss by #12649, eff 10-24-18

Env-A 702.03 Modeling Fees.

(a) The applicant for a temporary permit for a new stationary source, area source, or device shall submit to the department with such application the following modeling fee, except as provided in (b), below:

(1) For an applicant requesting that the department conduct modeling as specified in Env-A 1406.02, \$1,500; or

(2) For a non-major source subject to Env-A 607.01, \$2,500.

(b) If the applicant submits modeling to the department for review, the applicant shall submit to the department with the modeling the following modeling fee, rather than the fee specified in (a), above:

(1) For an applicant requesting that the department review modeling as specified in Env-A 1406.02, \$1,125; or

(2) For a non-major source subject to Env-A 607.01, \$1,875.

Source. #8111, eff 6-26-04; ss by #9911, eff 4-26-11; ss by #12649, eff 10-24-18

Env-A 702.04 Permit-by-Notification Fee. The owner or operator of a statutory source, area source, or device that applies for a permit-by-notification pursuant to Env-A 603.02 shall submit to the department a fee of \$1,000 with the permit application.

Source. #9792, eff 10-1-10; ss by #9911, eff 4-26-11; ss by #12649, eff 10-24-18

Env-A 702.05 General State Permit (GSP) Registration Fee for Emergency Generators.

(a) For a general state permit (GSP) for the source category of emergency generators/emergency engines described in Env-A 610.04(b)(1), the owner or operator seeking to operate under the GSP shall submit a registration fee calculated in accordance with (b) or (c), below, together with the registration package required by Env-A 610.08(b).

(b) The registration fee, for a GSP reestablished before January 1, 2020, shall be calculated by multiplying \$255.84 by the number of years, or portion thereof, remaining until the GSP EXP, inclusive of the year of registration and expiration.

(c) For a GSP reestablished after January 1, 2020 for the source category of emergency generators/emergency engines described in Env-A 610.04(b)(1), the owner or operator seeking to operate under the GSP shall submit a registration fee calculated by multiplying \$300 by the number of years, or portion thereof, remaining until the GSP EXP, inclusive of the year of registration and expiration.

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(d) The department shall not charge any additional registration fee to add a source or device to the list of sources or devices previously registered at a stationary source during the GSP term.

(e) The department shall not refund any registration fee if a source or device is removed from the list of sources or devices previously registered at a stationary source during the GSP term.

Source. #10747, eff 12-19-14; ss by #12649, eff 10-24-18

PART Env-A 703 PERMIT REVIEW FEES

Env-A 703.01 Definitions. For the purposes of this section, the following definitions shall apply:

(a) “Hourly rate” means the annual salary and benefit costs for each department employee who reviews a permit, divided by 1,950;

(b) “Individual personnel review fee” means, for each department employee who reviews the permit, the sum of travel costs, public notification costs, and the product of the number of hours or portion thereof which that person spent working on the particular permit, multiplied by the hourly rate of that department employee; and

(c) “Working on the particular permit” means reviewing the permit to ensure compliance with the standards integrated in the reviews listed in Env-A 702.02 and processing or amending any permit, necessitated as a result of the review.

Source. #1865, eff 1-25-82; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03; ss by #9911, eff 4-26-11; ss by #12649, eff 10-24-18

Env-A 703.02 Types of Review. The department shall assess permit review fees to the applicant for the following types of permit reviews, where applicable:

(a) National Emission Standards for Hazardous Air Pollutants (NESHAP) review, in accordance with 40 CFR 61 and Env-A 504, or 40 CFR 63 and Env-A 505;

(b) Prevention of Significant Deterioration (PSD) review or PSD avoidance, in accordance with Env-A 619; and

(c) Non-Attainment (NA) review or NA avoidance, in accordance with Env-A 618.

Source. #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03; and by #8111, eff 6-26-04; ss by #9911, eff 4-26-11; ss by #12649, eff 10-24-18

Env-A 703.03 Determination of Permit Review Fees.

(a) For each permit review as specified in Env-A 703.02 that department personnel undertakes, the department shall assess an individual personnel review fee to the applicant.

(b) Where more than one department employee is allocated to the particular permit review, or where one department employee has differing hourly rates for differing costs and duties accomplished in the reviewing of a particular permit review, the department shall total together every individual personnel review fee in determining the total review fee due to the department.

Source. #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03; ss by #9911, eff 4-26-11; ss by #12649, eff 10-24-18

Env-A 703.04 Billing for Permit Review Fees. The department shall bill the permit applicant for the permit review fees prior to the issuance of a permit in accordance with the following:

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(a) For temporary permits, the department shall bill the applicant prior to issuance of that temporary permit; and

(b) For permits to operate, the department shall bill the applicant at least 60 days prior to the established expiration date of the permit to operate as set forth in Env-A 607.08.

Source. #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03; ss by #9911, eff 4-26-11; ss by #12649, eff 10-24-18

Env-A 703.05 Payment of Permit Review Fees.

(a) The permit applicant shall pay the department the permit review fees prior to the issuance of a permit.

(b) In the case of a new or modified stationary source, area source, or device, a temporary permit shall not be issued until payment of the fee is received by the department.

(c) In the case of the renewal of a permit to operate, the permit shall expire if payment of the fee is not received by the department on or before the expiration date of the permit to operate as set forth in Env-A 608.08 or Env-A 609.14, as applicable.

Source. #7880, eff 4-26-03; ss by #9911, eff 4-26-11; ss by #12649, eff 10-24-18

PART Env-A 704 TESTING AND MONITORING FEES FOR TEMPORARY PERMITS

Env-A 704.01 Definitions. For the purposes of this section, the following definitions shall apply:

(a) “Hourly rate” means the annual salary and benefit costs for each department employee who tests, monitors, or both, divided by 1,950;

(b) “Individual personnel testing and monitoring fee” means, for each department employee who tests, monitors, or both, the sum of the costs of travel, lodging, meals, specialty equipment, and consumable supplies, where these costs were incurred specifically in order to carry out the required test or audit, and the product of the number of hours or portion thereof which that person spent testing and monitoring, multiplied by the hourly rate of that department employee; and

(c) “Testing and monitoring” means witnessing, conducting, or evaluating any required emission test, continuous emission monitor certification test, continuous emission monitor audit, or ambient air quality monitoring test pursuant to the procedures in Env-A 800.

Source. (See Revision Note (RN) at p. [i]) #4123, eff 8-25-86; ss by #5033, eff 12-27-90 (formerly Env-A 704.01); ss by #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03; ss by #9911, eff 4-26-11; ss by #12649, eff 10-24-18

Env-A 704.02 Determination of Testing and Monitoring Fees for Temporary Permits.

(a) For any testing and monitoring which department personnel undertake or audit as a condition of a temporary permit proposed to be issued or issued to a source, the department shall assess an individual personnel testing and monitoring fee to the applicant or permittee.

(b) Where more than one department employee is allocated to the testing and monitoring, or where one department employee has differing hourly rates for differing costs and duties accomplished in the testing and monitoring, the department shall total together every individual personnel testing and monitoring fee in determining the total testing and monitoring fee due to the department.

Source. (See RN at p. [i]) #1865, eff 1-25-82; ss by #2332, eff 4-29-83; ss by #2853, eff 9-24-84; ss by #4123, eff 8-25-86; ss by #5033, eff 12-27-90 (formerly Env-A 704.01a

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and Env-A 703.02); ss by #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03; amd by #8111, eff 6-26-04; ss by #9911, eff 4-26-11; ss by #12649, eff 10-24-18

Env-A 704.03 Billing for Testing and Monitoring Fees for Temporary Permits. The department shall bill the applicant, owner, or operator of a stationary source, area source, or device for the testing and monitoring fees after the completion of the required testing and monitoring.

Source. (See RN at p. [i]) #5033, eff 12-27-90; ss by #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03; amd by #8111, eff 6-26-04; ss by #9911, eff 4-26-11; ss by #12649, eff 10-24-18

Env-A 704.04 Payment for the Testing and Monitoring Fees. Payment for the testing and monitoring fees shall be submitted to the department within 60 days of the billing date.

Source. #7880, eff 4-26-03; ss by #9911, eff 4-26-1; ss by #12649, eff 10-24-181

PART Env-A 705 ANNUAL EMISSION FEE

Env-A 705.01 Definition. For the purposes of this part, “VOC or RTAP emissions unit” means an emission unit located at a stationary source, area source, or device that emits any volatile organic compound (VOC) or regulated toxic air pollutant (RTAP) from a non-combustion process.

Source. #12649, eff 10-24-181

Env-A 705.02 Annual Emission Fee.

(a) In addition to other fees specified in this chapter, pursuant to RSA 125-C:12, IV or V, the owner or operator of a stationary source, area source, or device that is required to have a temporary permit, state permit to operate, or title V operating permit shall pay to the department an annual emission fee that includes:

- (1) A baseline emission fee as specified in Env-A 705.06 through Env-A 705.10; and
- (2) An emission-based fee calculated each calendar year pursuant to Env-A 705.03 and Env-A 705.04.

(b) The owner or operator of a source or device that is operating pursuant to a general state permit for the source category of emergency generators/emergency engines described in Env-A 610.04(b)(1), a permit-by-notification, or a limitation on potential to emit pursuant to Env-A 625 shall not pay an annual emission-based fee or annual baseline emission fee with respect to that source or device.

(c) Pursuant to 42 U.S.C. §7661a(b)(3)(B)(ii)(III), carbon monoxide (CO) emissions shall not be considered a regulated pollutant for presumptive fee calculations for purposes of 40 CFR §70.9(b)(2), and any fees collected under this part resulting from CO emissions shall not be used to support the title V program in this state.

(d) Pursuant to 42 U.S.C. §7661a(b)(3)(B)(iii) and 40 CFR §70.9(b)(2)(ii)(B), any fees collected under this part resulting from emissions of any one regulated pollutant in excess of 4,000 tons per year shall not be used to support the title V program in this state.

Source. (See RN at p. [i]) #1865, eff 1-25-82; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90 (formerly Env-A 705.01); ss by #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03; ss by #8111, eff 6-26-04; ss by #9911, eff 4-26-11; ss by #10747, eff 12-19-1; ss by #12649, eff 10-24-18 (formerly Env-A 705.01)

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Env-A 705.03 Determination of Actual Emissions for Use in Calculating Emission-Based Fee.

(a) The owner or operator of a stationary source, area source, or device required to pay an emission-based fee shall determine actual annual emissions by using:

(1) Emissions data from a certified gaseous CEM system meeting the requirements of Env-A 808, which includes substitute data in accordance with Env-A 808.12 for each period for which the CEM system did not collect valid data;

(2) Emission factors based on emissions data from the most recently conducted compliance method stack test, as long as that compliance method stack test was conducted under normal operating conditions, and that it was observed and approved by the department pursuant to Env-A 802 or Env-A 809, or by EPA, in conjunction with the operating conditions specified in the permit for the device issued pursuant to Env-A 600;

(3) Emissions calculated from a mass balance of the process, in conjunction with the operating conditions specified in the permit for the device issued pursuant to Env-A 600;

(4) Emission factors based on alternate emissions data guaranteed by the manufacturer of the device, certified by EPA as accurate for the device, or collected during a stack test of an identical device that was not observed by the department, that meets all other acceptance criteria specified in (2), above, in conjunction with the operating conditions specified in the permit for the device issued pursuant to Env-A 600;

(5) AP-42, Fifth Edition, "Compilation of Air Pollutant Emission Factors, Volume I: Stationary Point and Area Sources", published in 1995 by the EPA, as supplemented from 1996 - 2000 and updated from 2001-2009, in conjunction with the operating conditions specified in the permit for the device issued pursuant to Env-A 600; or

(6) Engineering calculations that are representative of the actual emissions generated, in conjunction with the operating conditions specified in the permit for the device issued pursuant to Env-A 600.

(b) A description of the method used for calculating actual emissions shall be submitted to the department with each fee payment.

Source. (See RN at p. [i]) #1865, eff 1-25-82; amd by #2092, eff 7-20-82; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90 (formerly Env-A 705.02); ss by #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03; amd by #8111, eff 6-26-04; ss by #9792, eff 10-1-10; ss by #9911, eff 4-26-11; ss by #12649, eff 10-24-18 (formerly Env-A 705.02)

Env-A 705.04 Calculation of Emission-Based Fee.

(a) For purposes of this section, the following definitions shall apply:

(1) "Regulated air pollutant" means any air pollutant regulated under RSA 125-C or RSA 125-I;

(2) "Total adjusted annual actual emissions" means the total of all actual emissions of each regulated air pollutant emitted at a stationary source, area source, or device during the year for which the fees are being calculated, up to 6,000 tons per regulated air pollutant, excluding amounts of any hazardous air pollutant or regulated toxic air pollutant that has been included as particulate matter or as a volatile organic compound in the actual emissions, as adjusted per (c), below;

(3) "Consumer price index multiplier" means the percentage by which the average of the consumer price index for all-urban consumers published by the U.S. department of labor, as of the

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close of the 12-month period ending on June 30 of the year for which the fees are being calculated, exceeds the average of that consumer price index for calendar year 2017;

(4) “Annual cost of permit program operation” means a total cost of \$3,500,000 per year;

(5) “Annual emission-based fee” means the total adjusted annual actual emissions multiplied by the dollar per ton rate; and

(6) “Total administrative fees” means the sum of all annual baseline emission fees assessed statewide for the previous year.

(b) The “dollar per ton rate” for purposes of the emission-based fee shall be calculated by:

(1) Multiplying together the following:

a. The “annual cost of permit program operation” as calculated pursuant to (a)(4), above; and

b. The “consumer price index multiplier” as calculated pursuant to (a)(3), above; and

(2) Subtracting the total administrative fees; and

(3) Dividing the difference between (b)(1) and (b)(2), above, by the total statewide adjusted annual actual emissions from the previous year.

(4) Reducing the dollar per ton rate on a per-ton basis by the quotient, rounded to the nearest whole cent, of the dollar amount appropriated by the general court annually to the department's air emission-based fee program, if any, for the year for which the fees are being calculated divided by the statewide total adjusted annual actual emissions.

(c) If the total annual actual emissions are over 250 tons for a stationary source, area source, or device, the total emissions shall be adjusted by multiplying those emissions over 250 tons by a factor of 1.1.

(d) The department shall:

(1) Calculate the consumer price index multiplier; and

(2) Post the dollar per ton rate on the department's website at least 8 months prior to the due date of the emission-based fee.

Source. (See RN at p. [i]) #1865, eff 1-25-82; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90 (formerly Env-A 705.03); ss by #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03; amd by #8111, eff 6-26-04; ss by #9911, eff 4-26-11; amd by #12442, eff 1-1-18; ss by #12649, eff 10-24-18 (formerly Env-A 705.03)

Env-A 705.05 Payment of Emission-Based Fee.

(a) The owner or operator of a stationary source, area source, or device shall pay to the department the annual emission-based fee no later than May 15 for the previous calendar year's emissions.

(b) The permit holder shall not be entitled to a permit renewal or modification unless the department has received payment in full of all fees due under this chapter.

Source. (See RN at p. [i]) #1865, eff 1-25-82; amd by #2092, eff 7-20-82; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90 (formerly Env-A 705.04); ss by #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03; amd by #8111, eff 6-26-04; ss by #9911, eff 4-26-11; ss by #12649, eff 10-24-18 (formerly Env-A 705.04)

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Env-A 705.06 Payment of Annual Baseline Emission Fee, Generally.

(a) In addition to the annual emission-based fee, each stationary source, area source, or device that is required to have a temporary permit, state permit to operate, or title V operating permit shall pay an annual baseline emission fee to the department.

(b) Except as specified in Env-A 705.07, the annual baseline emission fee shall be \$500.

(c) Notwithstanding Env-A 705.07, any source that is not required to pay an emission-based fee for any calendar year because the source or device had zero emissions and zero hours of operation, shall pay an annual baseline emission fee of \$500, as specified in (b), above.

Source. #12649, eff 10-24-18

Env-A 705.07 Payment of Annual Baseline Emission Fees, Specific Sources.

(a) Each source that emits VOCs or RTAPs that are subject to Env-A 1400 from non-combustion processes shall pay a \$750 annual baseline emission fee for the first VOC or RTAP emissions unit, and a \$500 annual fee for each additional non-combustion VOC or RTAP emissions unit, up to a maximum of 10 non-combustion VOC or RTAP emissions units.

(b) Each Title V landfill that is subject to Env-A 607 or Env-A 609 shall pay a \$25,000 annual baseline emission fee.

(c) Each electric generating unit (EGU) that is capable of generating between 10 and 25 megawatts (MW) electrical power, including municipal waste combustors that are subject to Env-A 3300, but excluding stand-alone simple cycle gas turbines, shall pay a \$20,000 annual baseline emission fee.

(d) Each non-nuclear EGU that is capable of generating greater than or equal to 25 MW electrical output shall pay a \$75,000 annual baseline emission fee.

(e) Each Title V source not included in (a) through (d), above, shall pay an annual baseline emission fee of \$1,500.

Source. #12649, eff 10-24-18

Env-A 705.08 Notification for Emission-Based Fee and Annual Baseline Emission Fee. The department shall notify the owner or operator of any under payments or over payments of the annual emission-based fee and annual baseline emission fee.

Source. (See RN at p. [i]) #1865, eff 1-25-82; amd by #2092, eff 7-20-82; ss by #2332, eff 4-29-83; ss by #2853, eff 9-24-84; ss by #2938, eff 12-27-84; amd by #4123, eff 8-25-86; ss by #5033, eff 12-27-90 (formerly Env-A 706.01); ss by #6057-B, eff 6-30-95; ss by #7880, eff 4-26-03; ss by #9911, eff 4-26-11; ss by #12649, eff 10-24-18 (formerly Env-A 705.05)

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APPENDIX A: STATE STATUTES, FEDERAL STATUTES AND REGULATIONS IMPLEMENTED

Rule Section(s)	State Statute Implemented	Federal Statute/Regulation Implemented
Env-A 701.01-701.02	RSA 125-C:12, IV & V	42 U.S.C. §7661a; 40 CFR 70.9
Env-A 701.03	RSA 125-C:4, I(a)	40 CFR 70.9
Env-A 702.01-702.03	RSA 125-C:12, IV	
Env-A 702.04	RSA 125-C:4, I(a); RSA 125-C:12, IV	
Env-A 702.05	RSA 125-C:4, I(a); RSA 125-C:12, IV	
Env-A 703.01-703.05	RSA 125-C:12, IV	
Env-A 704.01-704.04	RSA 125-C:12, IV	
Env-A 705.01	RSA 125-C:12, IV & V	42 U.S.C. §7661a; 40 CFR §70.9
Env-A 705.02	RSA 125-C:12, IV & V	
Env-A 705.03	RSA 125-C:12, IV & V	42 U.S.C. §7661a; 40 CFR §70.9
Env-A 705.03(g)	RSA 125-C:12, IV-b	42 U.S.C. §7661a; 40 CFR §70.9
Env-A 705.04-705.05	RSA 125-C:12, IV & V	