



TITLE V OPERATING PERMIT RENEWAL GUIDANCE

Air Resources Division/Permitting and Environmental Health Bureau



The NHDES, Air Resources Division has developed this guidance document to offer information and assistance to owners and operators of facilities with expiring Title V Operating Permits. Specifically, this guidance addresses the procedural requirements for Title V Operating Permit renewal applications and the requirements associated with Compliance Assurance Monitoring Plans.

When do I need to file my renewal Title V Operating Permit Application?

In order to be covered by the application shield provisions in the New Hampshire Code of Administrative Rules Env-A 609.08, *Application Shield*, the renewal application package must be received by the NHDES and the EPA at least **six** months prior to the expiration date of the Title V Operating Permit. Per Env-A 609.17, *Notification of Need for Permit Renewal*, NHDES will notify the responsible official of the expiring Title V Operating Permit at least 12 months prior to its expiration date.

What happens if I don't submit my renewal application on time?

An application received by NHDES at least six months prior to the expiration date of the Title V Operating Permit is considered a "timely" application. As stated above, the application shield provision will apply provided that the application package is "timely" and "complete" in accordance with Env-A 609.11, *Completeness Determination*. Failure to submit a timely and complete renewal application package ceases the application shield provision and the facility will be operating without a valid Title V Operating Permit if the existing Title V Operating Permit expires prior to issuance of a new permit. NHDES processes applications in the order in which they are received and does not expedite the process for those sources that fail to submit a timely renewal application.

What do I need to file for my renewal application to be considered complete?

In accordance with Env-A 609.06, *Application Procedures for Title V Operating Permits*, a complete renewal application shall include the following information:

- 1) Complete application forms provided by NHDES as described in Env-A 1700, *Permit Application Forms*¹.
- 2) All information specified in Env-A 1709, *Information Required for Title V Sources*, updated for current operations.
- 3) The fee(s) specified in Env-A 700, *Permit Fee System*, as applicable.
- 4) Where air dispersion modeling is required for a source or device pursuant to Env-A 606.02, *Applicability*, the information required pursuant to Env-A 606.04, *Responsibility for Conducting Air Pollution Dispersion Modeling Impact Analysis*.
- 5) For a source with air pollution control equipment, an air pollution control equipment monitoring plan or catalyst management plan pursuant to Env-A 810.01, *Monitoring Plans for Air Pollution Control Equipment*.
- 6) If a plan is not required pursuant to Env-A 810.01, a description of the monitoring the source intends to conduct to demonstrate compliance with all applicable state and federal statutes, rules and permits, as specified in Env-A 810.02, *Information Regarding Additional Monitoring*.
- 7) If applicable, a compliance assurance monitoring (CAM) Plan, which shall satisfy item (5) above for that control equipment.

All the information required for the renewal application package must be presented in sufficient detail for NHDES to evaluate and determine all applicable state and federal requirements.

In an effort to provide more detailed information on the above list of items required as part of a renewal permit application package, each item is described in more detail on subsequent pages.

¹ The ARD-1 form contains two certification statements: Certification of Accuracy Statement and Certification of Right, Title and Interest. The ARD -1 form must be signed by the Responsible Official.

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1) Application Forms:

Newly completed application forms are necessary as part of the Title V Operating Permit renewal package. These forms should be completed with the most recent operating data, or if a facility is proposing modifications, the projected operational data based on the proposed modification. The forms can be accessed on the NHDES website or by calling the NHDES, Air Resources Division.

The following supporting data is required to be submitted along with the ARD-1 application form:

- a) A copy of all calculations used in determining emissions.
- b) A copy of the USGS map, properly identified, which shows the facility's location.
- c) A site plan to scale of the facility showing:
 - i. The locations of all emission points;
 - ii. The dimensions of all buildings, including roof heights; and
 - iii. The facility's property boundary.

2) Env-A 1709 Requirements:

In addition to the information contained on the application forms, each applicant for a Title V Operating Permit must submit to NHDES and EPA the information required in accordance with Env-A 1709, *Information Required for Title V Sources*. This includes the following information:

- a) Identification and details of limitations on source operation, or any work practice standards affecting emissions.
- b) Information required by any other applicable requirement of the Clean Air Act.
- c) A citation and description of state and federal air pollution control regulations and requirements applicable to each emission unit.
- d) A narrative description or reference to test methods used or required for initial compliance demonstration with each applicable regulation.
- e) Any additional information required to be provided pursuant to the Clean Air Act or to determine applicability of any other requirements of the Clean Air Act.
- f) A written explanation of proposed exemptions.
- g) Any information required to be provided in order to evaluate alternative operating scenarios, or to define permit terms and conditions.
- h) Compliance plan information containing:
 - i. A narrative description of the compliance status of the source with respect to all applicable requirements;
 - ii. A narrative statement of methods used to determine continued compliance, including a description of monitoring, recordkeeping and reporting requirements and test methods;
 - iii. A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements specified in Env-A 800;
 - iv. A statement that the source shall continue to comply with all applicable requirements;
 - v. A statement that the source shall meet all applicable requirements that will become effective during the permit term on a timely basis;
 - vi. A compliance schedule stating all applicable requirements with which the source is not in compliance;
 - vii. For sources deemed in compliance with all applicable requirements, a certified statement signed by a responsible official stating:

"The undersigned certifies that, based on information and belief formed after a reasonable inquiry, the source is in compliance with all applicable regulations";
 - viii. A schedule for submission of compliance certifications during the permit term, to be submitted annually or more frequently if specified by the underlying applicable requirement;
- i) For sources subject to acid rain provisions, the compliance plan requirements shall apply to and be included in the acid rain portion of a compliance plan;

- j) Sources subject to acid rain provisions shall use the nationally standardized forms for the acid rain portions of the application; and
- k) A list of all equipment and devices located at the source classified as insignificant activities pursuant to Env-A 609.04, including appropriate sizing data.

If any of the information requested in Env-A 1709.01(a) through (g) and (k), as listed above, was submitted in a previous Title V Operating Permit application and has **not** changed, the applicant can submit a copy of the information contained in a previous application package in the renewal application package. This previous information must be clearly identified in the renewal application package and must accurately reflect current operations at the facility. If any changes have occurred at the facility or if changes are proposed in the renewal application package, new information must be provided.

The information requested in Env-A 1709.01(h), (i) and (j) must be completed based on current operations at the facility. Due to the nature of this required information, updated information must be submitted in the renewal application package.

The application package must identify any new applicable requirements that became effective during the permit term and must include any off-permit changes allowed during the permit term.

3) Payment of Emission Based Fees:

Env-A 700 requires a permitted source to pay annual emissions-based fees. These fees are due by April 15 of the current year for emissions from the previous calendar year. Since there are no direct fees associated with the renewal of a Title V Operating Permit application, a statement that your facility is current with the annual emissions-based fees is sufficient. If your facility is not in compliance with the emissions-based fee requirements, the renewal application must explain why the fees have not been paid timely and contain a compliance plan with a schedule for when the fees will be paid in full.

4) Air Dispersion Modeling Analysis:

An air dispersion modeling analysis is only required if modifications have been made at your facility or are being proposed in the application package. If an air dispersion modeling analysis is required, a facility can either request in writing for NHDES to perform the modeling or the facility can complete and submit a protocol describing the proposed modeling methods, along with the results and files necessary to verify the results. For more information about what is required as part of an air dispersion modeling analysis, please contact Ms. Lisa Landry, Modeling Supervisor by calling (603) 271-6803 or by e-mail at lisa.landry@des.nh.gov.

5) Monitoring Plan:

A written monitoring plan is required for any source that operates air pollution control equipment in order to comply with an emission limit or rule. The plan shall describe the device and how it operates in the process, and document the maintenance procedures, control equipment parameter monitoring, and any sampling or testing specified by the manufacturer of the device, in order to demonstrate continued effectiveness of the control equipment to comply with the applicable emission standard. The plan should contain all the information required in Env-A 810.01(c) and (d), *Monitoring Plans for Air Pollution Control Equipment*.

If an air pollution control equipment monitoring plan was submitted in a previous application and there has been no change to the control equipment, the operation of that equipment, or any associated monitoring since the initial submission, the owner or operator may state in writing that there has been no such change in lieu of the requirement to submit a plan with a subsequent permit application. The previous monitoring plan must be clearly referenced in the renewal application package (i.e. date of most recent submittal) and must accurately reflect current operations at the facility. If **any** changes have occurred at the facility or if changes are proposed in the renewal application package, new information must be provided.

6) Additional Monitoring:

For monitoring not covered under the air pollution control plan required above, the source shall include a description of any other monitoring the source intends to follow in order to demonstrate compliance with any applicable federal or state regulation. The plan shall contain all information required in Env-A 810.02(b), *Information Regarding Additional Monitoring*.

If a description of additional monitoring was submitted in a previous application and there has been no change to the additional monitoring since the initial submission, the owner or operator may state in writing that there has been no such change in lieu of the requirement to submit a description of additional monitoring with a subsequent permit application. The previous monitoring plan must be clearly referenced in the renewal application package (i.e. date of most recent submittal) and must accurately reflect current operations at the facility. If **any** changes have occurred at the facility or if changes are proposed in the renewal application package, new information must be provided.

7) Compliance Assurance Monitoring (CAM) Plan:

Unless subject to an earlier deadline specified in the regulation, facilities with emissions units subject to the Compliance Assurance Monitoring (CAM) requirements specified in 40 CFR Part 64 will need to submit a CAM Plan as part of the Title V Operating Permit renewal application package.

What is the Compliance Assurance Monitoring (CAM) Rule?

CAM requirements generally apply to a pollutant-specific emissions unit at a Title V source if the unit satisfies all of the following criteria:

- a) The unit is subject to an emission limitation or standard for the applicable regulated air pollutant, other than an emission limitation or standard that is exempt under 40 CFR 64.2(b)(1).
- b) The unit uses a control device to achieve compliance with any such limitation or standard.
- c) The unit has potential pre-control device emissions of the regulated air pollutant that are equal to or greater than the major source threshold for that pollutant.

The CAM rule aims to have owners and operators maintain their control devices at levels that assure compliance. The rule allows owners and operators to design CAM plans on current requirements and operating practices, to select representative parameters upon which compliance can be assured, to establish indicator ranges (or procedures for setting the indicator ranges) for the parameters, to use performance testing and other information to verify the parameters and ranges, and to correct control device performance problems as expeditiously as practicable. More detailed information on the CAM rule can be obtained online at:

<http://cfpub.epa.gov/oarweb/mkb/cam.cfm>.

Who Qualifies as the Responsible Official?

Pursuant to Env-A 605.04, the applicant, owner or operator shall notify the department of the identity of the responsible official(s) by completing and filing an ARD-1 form signed by each appointed responsible official. Each subsequent application form, report, or compliance certification filed with the department shall be signed by one of the responsible officials. Within 30 days of any change in the identity of a responsible official, the owner or operator shall file with the department an updated ARD-1 form with the new responsible official(s) and updated signature of any new responsible official(s). The person designated by the facility as the Responsible Official, can be any one or more of the following:

For a corporation:

A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

- a) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
- b) The delegation of authority to such representatives is approved in advance by the permitting authority.

For a partnership or sole proprietorship:

A general partner or the proprietor, respectively.

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For a municipality, state, federal, or other public agency:

Either a principal executive officer or ranking elected official. For the purposes of this definition, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA).

For affected sources:

The designated representative in so far as actions, standards, requirements, or prohibitions under title IV of the Act or the regulations promulgated thereunder are concerned, and the designated representative for any other purposes under 40 CFR part 70.

What is a Certification of Accuracy Statement?

40 CFR 70.5(d) states that “Any application form, report, or compliance certification submitted pursuant to these regulations shall contain certification by a responsible official of truth, accuracy, and completeness”. This certification statement is found on the last page of the ARD-1 form and reads as follows:

"I am authorized to make this submission on behalf of the affected source or affected units for which this submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the information submitted in this document and all of its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

What is a Certification of Right, Title and Interest Statement?

Env-A 605.02 states that “The department shall consider an application only when the applicant has right, title and interest”. This certification statement is found on the last page of the ARD-1 form and reads as follows:

"I certify that the applicant, or the owner or operator the applicant represents, has right, title, or interest in all of the property that is proposed for development or use because the owner or operator owns, leases, or has binding options to purchase all of the property proposed for development or use."

Both the Certification of Accuracy and the Certification of Right, Title and Interest Statements must be checked off and the ARD-1 form must be signed at the time of submittal by the Responsible Official for the facility.

Where should I send my application package?

Two copies of the Title V Operating Permit renewal application package should be submitted to the Director of the NHDES, Air Resources Division and one copy to the EPA at the following addresses:

NHDES, Air Resources Division
Permitting and Environmental Health Bureau
PO Box 95
Concord, NH 03302-0095

Ms. Ida E. McDonnell, Manager, Air Permits
United States Environmental Protection Agency
5 Post Office Square, Suite 100
Mail Code OES04-2
Boston, MA 02109-3912

Pursuant to Env-A 622.06, *Public Access to Information*, two copies of the Title V Permit application must be submitted to NHDES. NHDES will forward one copy to the appropriate city and/or town for public access once the application has been deemed complete.

What happens after I file my renewal application package?

There are typically four phases in the Title V permitting process:

- a) First, the permit application undergoes an initial review by NHDES to ensure that the information submitted is complete and addresses all appropriate regulatory requirements. If so, a “completeness determination” is issued by NHDES. If in its initial review NHDES determines that additional information is necessary, NHDES will issue a letter of incompleteness requesting that the additional information be submitted within a specified timeframe. If the requested information is submitted within the specified timeframe, the application will be deemed administratively complete. NHDES has 60 days to issue the completeness determination. If a completeness determination has not been finalized within that timeframe, the application becomes complete by default.
- b) After the application has been deemed complete, NHDES undertakes an extensive review of the application. In addition, the review may include a facility site visit and an analysis of historical information. Once NHDES has completed this review and is confident that the application accurately reflects the facility’s operations, NHDES develops a “draft Title V Operating Permit”. The draft Title V Operating Permit contains all applicable regulatory requirements (both state and federal) that apply to the facility. In an effort to streamline the process and to ensure that your facility is aware of all the permit terms and conditions, NHDES will share the draft permit with the facility to address any questions or comments prior to issuing a public notice.

Take an active part in the permitting process so that your permit reflects current operations at your facility. Your facility will be evaluated for compliance based on the terms and conditions in your Title V Permit.

- c) Once the draft Title V Operating Permit is prepared, a notice is published as required by Env-A 622, *Permit Notice and Hearing Procedures: Title V Operating Permits*. The public, the EPA, and any other interested parties are invited to submit comments on the draft Title V Operating Permit. An opportunity for a public hearing is also provided.
- d) After all public comments have been received and evaluated by NHDES, a final determination regarding the permit is made by the Director of the Air Resources Division. If the determination is favorable, the draft Title V Operating Permit is designated as “proposed” and sent to EPA for further review. A draft Title V Operating Permit may be modified in response to comments received during the public comment period before it is sent to EPA as a proposed permit. The proposed permit is reviewed by EPA for up to forty-five days. If EPA has no objections within this timeframe, the final permit is issued.

What happens if my permit expires before the new permit is issued?

Provided that a timely (6 months prior to the expiration of the permit) and complete application was filed for the renewal of the Title V Operating Permit, the application shield provision pursuant to Env-A 609.08, *Application Shield*, will be in effect until NHDES takes final action on the renewal application. This provision provides protection to the facility for operating without a valid Title V Operating Permit. If your facility does not file a timely and complete renewal application, this protection does not apply.

If you have filed a timely and complete renewal application and your current Title V Operating Permit expires prior to the issuance of a new permit, your facility is obligated to continue to comply with all of the terms and conditions of the expired Title V Operating Permit.

Who can I contact at NHDES and/or EPA?

If you have any questions or concerns regarding this guidance document or the renewal procedures associated with New Hampshire Title V Operating Permits please contact:

Barbara Dorfschmidt, Operating Permits Program Manager

Phone Number: (603) 271-6796

E-mail Address: barbara.dorfschmidt@des.nh.gov

If you have any questions or concerns regarding the federal Title V Permit program please contact:

Ida E. McDonnell, Manager, Air Permits

Phone Number: (617) 918-1653

E-mail Address: McDonnell.Ida@epa.gov