



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

May 16, 2011

H. Curtis Spalding, Regional Administrator
U.S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Re: Amendment to the State Implementation Plan Revision Submittal Adopting Added and Amended Greenhouse Gas (GHG) Definitions: Env-A 101.35, 101.96, 101.115; and Greenhouse Gas (GHG) Rule: Env-A 619.03

Dear Administrator Spalding:

On February 7, 2011, pursuant to section 110 of the federal Clean Air Act as amended, the state of New Hampshire (NH) submitted for approval the State Implementation Plan (SIP) revision to incorporate permitting requirements for GHGs. Since that time, it has come to my attention that our submittal is in need of an amendment. As Governor John Lynch's designee, I am withdrawing Env-A 619.03(a) from the submission.

NH concurs with EPA's interpretation that the new Env-A 619.03(b) interacts with the SIP-approved Env-A 623.03(a) (renumbered to Env-A 619.03(a) in 2003) in the same manner as Env-A 619.03(b) interacts with Env-A 619.03(a). The intent of the February 7, 2011 SIP revision submittal is only to add thresholds for permitting GHG emissions within the PSD permit program, which is accomplished through the new Env-A 619.03(b). Thus, it was unnecessary to include Env-A 619.03(a) in the February 7, 2011 submittal.

Should you have any questions regarding the February 7, 2011 submittal, as amended by this withdrawal of rule Env-A 619.03(a), please contact Gary D. Milbury, Jr., Air Permit Programs Manager at gary.milburyjr@des.nh.gov or (603) 271-2630, or Barbara L. Hoffman, Compliance and Enforcement Programs Manager at barbara.hoffman@des.nh.gov or (603) 271-7874.

Sincerely,

Robert R. Scott
Director
Air Resources Division

cc: Dave Conroy, EPA
Ida E. McDonnell, EPA
Donald Dahl, EPA



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

February 7, 2011

H. Curtis Spalding, Regional Administrator
U.S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3912

**Re: State Implementation Plan Revision Submittal Adopting Added and Amended
Greenhouse Gas (GHG) Definitions: Env-A 101.35, 101.96, 101.115; and
Greenhouse Gas (GHG) Rule: Env-A 619.03**

Dear Administrator Spalding:

Pursuant to section 110 of the federal Clean Air Act as amended, the state of New Hampshire (NH) hereby submits for approval two copies of the attached State Implementation Plan (SIP) revision and one electronic copy. As Governor John Lynch's designee, I am requesting EPA's prompt approval of this revision, which consists of the additions and amendments to the following rules:

- Env-A 101.35, *Carbon dioxide equivalent emissions*, and Env-A 101.96, *Greenhouse gases (added definitions)*
- Env-A 101.115, *Major source (amended definition)*
- Env-A 619.03, *PSD Permit requirements (amended rule)*

This submittal contains all documentation necessary to satisfy the SIP completeness requirements pursuant to 40 CFR Part 51, Appendix V. The following administrative materials are included for your review:

- a. Evidence of the rule's adoption
- b. Evidence of legal authority
- c. A copy of the rule
- d. Evidence that all the State's legal requirements were followed in adopting the rule and submitting the SIP revision
- e. Evidence that the public notice was given in accordance with EPA procedures
- f. Certification that, if requested, the public hearing was held in accordance with the public notice
- g. A compilation of public comments and the State's responses thereto

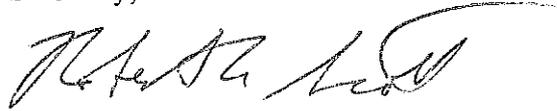
One of the requirements of Appendix V is that the documentation include the date of adoption, as well as the effective date, of the rule. In accordance with NH Revised Statutes Annotated (RSA) 541-A:14, an agency may adopt a rule after all procedures have been completed. The NH Department of Environmental Services (DES) adopts a rule on the day its

Commissioner signs a letter advising that he has adopted the rule and files the adopted rule with the Director of the Office of Legislative Services (OLS). The rule takes effect the day after it is filed. The attachments hereto contain a letter from the DES Commissioner to the Director of the OLS, documenting the adoption of the rule, as well as written documentation from the OLS as to the filing and effective dates of the rule.

Technical support materials are not included for any of the changes, as it is not anticipated that the enclosed rules will affect previous demonstrations regarding attainment of the national ambient air quality standards.

Should you have any questions regarding this submittal, please contact Gary D. Milbury, Jr., Air Permit Programs Manager at gary.milburyjr@des.nh.gov or (603) 271-2630, or Barbara L. Hoffman, Compliance and Enforcement Programs Manager at barbara.hoffman@des.nh.gov or (603) 271-7874. Thank you.

Sincerely,



Robert R. Scott
Director
Air Resources Division

Enclosures

ec: Dave Conroy, EPA
Ida E. McDonnell, EPA
Donald Dahl, EPA

EVIDENCE OF THE RULE'S ADOPTION

40 CFR Part 51, Appendix V, 2.1(b)



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

December 20, 2010

Carol J. Holahan, Director
c/o OLS, Division of Administrative Rules
State House Annex, Room 219
Concord, NH 03301

Re: Adoption of Final Rules, FP # 2010-111

Dear Director Holahan:

Please be advised that I, as Commissioner of the Department of Environmental Services, have adopted the following rules:

Env-A 101.35, Env-A 101.96, Env-A 101.113: Greenhouse Gas (GHG) Definitions

The Joint Legislative Committee on Administrative Rules approved these rules at its meeting on December 16, 2010.

A copy of the adopted rules is being filed electronically, concurrent with the e-filing of this adoption letter. The original, signed adoption letter is being sent separately by messenger mail for your records.

I, Thomas S. Burack, Commissioner of the Department of Environmental Services, hereby certify that the enclosed are true copies of the rules I have adopted.

Sincerely,

Thomas S. Burack
Commissioner

Enclosure

cc: Gretchen Hamel, DES Legal Unit
DES Public Information and Permitting Office

cc: K. Allen Brooks, Chief, AGO-Environmental Protection Bureau
Karla McManus, DES ARD



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

December 20, 2010

Carol J. Holahan, Director
c/o OLS, Division of Administrative Rules
State House Annex, Room 219
Concord, NH 03301

Re: Adoption of Final Rules, FP # 2010-112

Dear Director Holahan:

Please be advised that I, as Commissioner of the Department of Environmental Services, have adopted the following rules:

Env-A 619.03: Greenhouse Gas (GHG) Rule

The Joint Legislative Committee on Administrative Rules approved these rules at its meeting on December 16, 2010.

A copy of the adopted rules is being filed electronically, concurrent with the e-filing of this adoption letter. The original, signed adoption letter is being sent separately by messenger mail for your records.

I, Thomas S. Burack, Commissioner of the Department of Environmental Services, hereby certify that the enclosed are true copies of the rules I have adopted.

Sincerely,

Thomas S. Burack
Commissioner

Enclosure

cc: Gretchen Hamel, DES Legal Unit
DES Public Information and Permitting Office

cc: K. Allen Brooks, Chief, AGO-Environmental Protection Bureau
Karla McManus, DES ARD

EVIDENCE OF LEGAL AUTHORITY

40 CFR Part 51, Appendix V, 2.1(c)

Laws of New Hampshire, RSA 125-C:4
Rulemaking Authority; Subpoena Power

TITLE X
PUBLIC HEALTH
CHAPTER 125-C
AIR POLLUTION CONTROL

Section 125-C:4

125-C:4 Rulemaking Authority; Subpoena Power. –

I. The commissioner shall adopt rules under RSA 541-A, relative to:

- (a) The prevention, control, abatement, and limitation of air pollution, including, but not limited to, open air source pollution, mobile source pollution, and stationary source pollution.
- (b) Primary and secondary ambient air quality standards.
- (c) Procedures to meet air pollution emergencies, as authorized by RSA 125-C:9.
- (d) The establishment and operation of a statewide permit system, as authorized by RSA 125-C:6, XIV, RSA 125-C:11, I and RSA 125-C:11, I-a.
- (e) Devices, in addition to those devices defined under RSA 125-C:2, subject to the permit requirements of RSA 125-C:11, as authorized by RSA 125-C:11, II.
- (f) The exemption of certain devices and non-Title V sources from the permit requirements of RSA 125-C:11, I and the conformance of exempted devices to established standards, as authorized by RSA 125-C:11, I.
- (g) The forms and information required on applications for temporary and permanent permits required under RSA 125-C:11, as authorized by RSA 125-C:12, I.
- (h) Notification of and public hearing on permit applications, including exemptions from those requirements, as authorized by RSA 125-C:12, II.
- (i) Fees for permit application and review, as authorized by RSA 125-C:12, IV-d.
- (j) Procedures for permit application review, as authorized by RSA 125-C:11, IV, and criteria for permit denial, suspension or revocation, as authorized by RSA 125-C:13.
- (k) Procedures for air testing and monitoring and recordkeeping, as authorized by RSA 125-C:6, XI.
- (l) Procedures for receiving violation complaints and for rules enforcement, as authorized by RSA 125-C:15, I.
- (m) Procedures for granting variances, as authorized by RSA 125-C:16.
- (n) The manufacture, use, or sale of consumer products for purposes of implementing RSA 485:16-c.
- (o) Applicability thresholds for emissions of particulate matter, mercury, and dioxin as provided in RSA 125-C:10-b, VII(f).
- (p) The duration of time during which no additional best available control technology determination is required as provided in RSA 125-C:10-b, IV and VI.
- (q) Procedures for establishing standards for and certification of any material, that is not an exempt fuel, to be combusted in a device at an affected source subject to RSA 125-C:10-b.

(r) Standards and testing requirements for biomass and eligible biomass fuel as authorized by RSA 125-C:6, XIV-a.

I-a. In adopting rules under paragraph I, the department may incorporate by reference standards issued by the California air resources board relative to certification and testing of vapor recovery equipment.

I-b. In adopting rules under subparagraph I(n), the department may incorporate by reference other state test methods and procedures that are referenced in the model rules of the Ozone Transport Commission (OTC) concerning consumer products, as defined in RSA 125-C:2, V-c.

II. The commissioner is authorized to issue subpoenas requiring the attendance of such witnesses and the production of such evidence and to administer such oaths and to take such testimony as he may deem necessary.

Source. 1979, 359:2. 1986, 202:8. 1996, 228:19, 104; 278:2, 3. 2001, 293:5. 2003, 137:3. 2004, 175:2, eff. May 27, 2004. 2005, 173:3, eff. June 29, 2005. 2008, 113:3, eff. Aug. 2, 2008. 2010, 183:6, eff. June 21, 2010.

COPY OF THE ACTUAL RULE

40 CFR Part 51, Appendix V, 2.1(d)

Effective 12-21-2010, new Env-A 101.35 reads as follows:

Env-A 101.35 "Carbon dioxide equivalent emissions (CO₂e)" means a measurement of the global warming potential of GHGs emitted, determined by multiplying the mass amount of emissions in tons per year (tpy) of each gas in the pollutant group GHGs by the associated global warming potential for that gas published at Table A-1 to subpart A of 40 CFR part 98, Global Warming Potentials, and adding the resultant values to compute a tpy CO₂e for the GHGs.

Effective 12-21-2010, new Env-A 101.96 reads as follows:

Env-A 101.96 "Greenhouse gases (GHGs)" means the group of 6 gases that, when emitted to the ambient air, act as a shield to trap heat in the earth's atmosphere. The group is comprised of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

Effective 12-21-2010, Env-A 101.115 (previously Env-A 101.113) reads as follows:

Env-A 101.115 "Major source" means a stationary source that has been identified as meeting a specified threshold for producing pollutants of concern. The term includes:

- (a) "Acid rain affected source" as defined in this part;
- (b) "Major source" as defined in 40 CFR 70.2, July 1, 2009 edition, as amended at 75 FR 31607 by the addition of the phrase "subject to regulation" in paragraph (2) and the addition of a definition of that phrase;
- (c) "Major stationary source" as defined in paragraph (3) of the definition of major source in 40 CFR 70.2, including the following:
 - (1) Any source with the potential to emit nitrogen oxides in the following counties and specific quantities:
 - a. In Belknap, Carroll, Cheshire, Coos, Grafton, or Sullivan counties, 100 tpy or more; or
 - b. In Hillsborough, Merrimack, Rockingham or Strafford counties, 50 tpy or more; or
 - (2) Any source with the potential to emit volatile organic compounds in the quantity of 50 tpy or more; and
- (d) For purposes of Env-A 619, a major stationary source as defined in the federal definition cited in Env-A 619.03(a) or (b), as applicable.

APPENDIX A: STATE STATUTES AND FEDERAL STATUTES AND REGULATIONS IMPLEMENTED

Rule Section(s)	State Statute(s) Implemented	Federal Statute or Regulation Implemented
Env-A 101.35 [new]	RSA 125-C:4, I(a)	40 CFR § 52.21
Env-A 101.96 [new]	RSA 125-C:4, I(a); 125-L:1, IV	40 CFR § 52.21
Env-A 101.115	RSA 125-C:4, I(a)	42 U.S.C. § 7661(2) and 40 CFR 70.2

APPENDIX B: FEDERAL DEFINITIONS CITED IN ENV-A 101

40 CFR 52.21(b) Definitions:

(1)(i) Major stationary source means:

(a) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants (with thermal dryers), primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140), fossil-fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(b) Notwithstanding the stationary source size specified in paragraph (b)(1)(i) of this section, any stationary source which emits, or has the potential to emit, 250 tons per year or more of a regulated NSR pollutant; or

(c) Any physical change that would occur at a stationary source not otherwise qualifying under paragraph (b)(1) of this section, as a major stationary source, if the changes would constitute a major stationary source by itself.

(ii) A major source that is major for volatile organic compounds or NOx shall be considered major for ozone.

(iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this section whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

- (a) Coal cleaning plants (with thermal dryers);
- (b) Kraft pulp mills;
- (c) Portland cement plants;
- (d) Primary zinc smelters;
- (e) Iron and steel mills;
- (f) Primary aluminum ore reduction plants;
- (g) Primary copper smelters;

- (h) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (i) Hydrofluoric, sulfuric, or nitric acid plants;
- (j) Petroleum refineries;
- (k) Lime plants;
- (l) Phosphate rock processing plants;
- (m) Coke oven batteries;
- (n) Sulfur recovery plants;
- (o) Carbon black plants (furnace process);
- (p) Primary lead smelters;
- (q) Fuel conversion plants;
- (r) Sintering plants;
- (s) Secondary metal production plants;
- (t) Chemical process plants--The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
- (u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (w) Taconite ore processing plants;
- (x) Glass fiber processing plants;
- (y) Charcoal production plants;
- (z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, and
- (aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

(49) *Subject to regulation* means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of this chapter, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(i) *Greenhouse gases (GHGs)*, the air pollutant defined in § 86.1818–12(a) of this chapter as the aggregate group of six greenhouse gases: Carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation except as provided in paragraphs (b)(49)(iv) through (v) of this section.

(ii) For purposes of paragraphs (b)(49)(iii) through (v) of this section, the term *tpy CO₂ equivalent emissions (CO₂e)* shall represent an amount of GHGs emitted, and shall be computed as follows:

(a) Multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A–1 to subpart A of part 98 of this chapter— Global Warming Potentials.

(b) Sum the resultant value from paragraph (b)(49)(ii)(a) of this section for each gas to compute a tpy CO₂e.

(iii) The term *emissions increase* as used in paragraphs (b)(49)(iv) through (v) of this section shall mean that both a significant emissions increase (as calculated using the procedures in paragraph (a)(2)(iv) of this section) and a significant net emissions increase (as defined in paragraphs (b)(3) and (b)(23) of this section) occur. For the pollutant GHGs, an emissions increase shall be based on tpy CO₂e, and shall be calculated assuming the pollutant GHGs is a regulated NSR pollutant, and "significant" is defined as 75,000 tpy CO₂e instead of applying the value in paragraph (b)(23)(ii) of this section.

(50) *Regulated NSR pollutant*, for purposes of this section, means the following:

(i) Any pollutant for which a national ambient air quality standard has been promulgated and any pollutant identified under this paragraph (b)(50)(i) as a constituent or precursor for such pollutant. Precursors identified by the Administrator for purposes of NSR are the following:

(a) Volatile organic compounds and nitrogen oxides are precursors to ozone nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas.

(b) Sulfur dioxide is a precursor to PM_{2.5} in all attainment and unclassifiable areas.

(c) Nitrogen oxides are presumed to be precursors to PM_{2.5} in all attainment and unclassifiable areas, unless the State demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient PM_{2.5} concentrations.

(d) Volatile organic compounds are presumed not to be precursors to PM_{2.5} in any attainment or unclassifiable area, unless the State demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds from sources in a specific area are a significant contributor to that area's ambient PM_{2.5} concentrations.

(ii) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(iii) Any Class I or II substance subject to a standard promulgated under or established by title VI of the Act;

(iv) Beginning January 2, 2011, the pollutant GHGs is subject to regulation if:

(a) The stationary source is a new major stationary source for a regulated NSR pollutant that is not GHGs, and also will emit or will have the potential to emit 75,000 tpy CO₂e or more; or

(b) The stationary source is an existing major stationary source for a regulated NSR pollutant that is not GHGs, and also will have an emissions increase of a regulated NSR pollutant, and an emissions increase of 75,000 tpy CO₂e or more; and,

(v) Beginning July 1, 2011, in addition to the provisions in paragraph (b)(49)(iv) of this section, the pollutant GHGs shall also be subject to regulation

(a) At a new stationary source that will emit or have the potential to emit 100,000 tpy CO₂e; or

(b) At an existing stationary source that emits or has the potential to emit 100,000 tpy CO₂e, when such stationary source undertakes a physical change or change in the method of operation that will result in an emissions increase of 75,000 tpy CO₂e or more.

(vi) Particulate matter (PM) emissions, PM_{2.5} emissions and PM₁₀ emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011 (or any earlier date established in the upcoming rulemaking codifying test methods), such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM, PM_{2.5} and PM₁₀ in PSD permits. Compliance with emissions limitations for

PM, PM_{2.5} and PM₁₀ issued prior to this date shall not be based on condensable particular matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particular matter shall not be considered in violation of this section unless the applicable implementation plan required condensable particular matter to be included.

40 CFR 70.2 Definitions:

Major source means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are described in paragraph (1), (2), or (3) of this definition. For the purposes of defining “major source,” a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

(1) A major source under section 112 of the Act, which is defined as:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(ii) For radionuclides, “major source” shall have the meaning specified by the Administrator by rule.

(2) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant subject to regulation (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary source:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;

- (xi) Lime plants;
 - (xii) Phosphate rock processing plants;
 - (xiii) Coke oven batteries;
 - (xiv) Sulfur recovery plants;
 - (xv) Carbon black plants (furnace process);
 - (xvi) Primary lead smelters;
 - (xvii) Fuel conversion plants;
 - (xviii) Sintering plants;
 - (xix) Secondary metal production plants;
 - (xx) Chemical process plants--The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
 - (xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
 - (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
 - (xxiii) Taconite ore processing plants;
 - (xxiv) Glass fiber processing plants;
 - (xxv) Charcoal production plants;
 - (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
 - (xxvii) Any other stationary source category, which as of August 7, 1980 is being regulated under section 111 or 112 of the Act.
- (3) A major stationary source as defined in part D of title I of the Act, including:
- (i) For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25 and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f) (1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;
 - (ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of volatile organic compounds;
 - (iii) For carbon monoxide nonattainment areas:
 - (A) That are classified as "serious," and
 - (B) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and
 - (iv) For particulate matter (PM-10) nonattainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM-10.

Subject to regulation means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of this chapter, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(1) *Greenhouse gases (GHGs)*, the air pollutant defined in § 86.1818–12(a) of this chapter as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation unless, as of July 1, 2011, the GHG emissions are at a stationary source emitting or having the potential to emit 100,000 tpy CO₂ equivalent emissions.

(2) The term *tpy CO₂ equivalent emissions (CO₂e)* shall represent an amount of GHGs emitted, and shall be computed by multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A–1 to subpart A of part 98 of this chapter—Global Warming Potentials, and summing the resultant value for each to compute a tpy CO₂e.

Effective 12-21-2010, Env-A 619.03 reads as follows:

Env-A 619.03 PSD Permit Requirements.

(a) In furtherance of RSA 125-C:11 and except as provided in (b), below, the provisions of 40 CFR 52.21(b) through (p), (r), (t), (v), and (w), July 1, 2001 edition, shall apply for the purposes of implementing a PSD permit program that meets the requirements of Title I of the Act.

(b) For the purposes of regulating GHGs in accordance with this part, the definitions of “major stationary source” and “significant” contained in 40 CFR 52.21(b), July 1, 2009 edition, as amended at 75 FR 31606-31607 by the addition of a definition of “subject to regulation” as (b)(49) and revisions to the definition of “regulated NSR pollutant” in (b)(50), shall apply.

(c) 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) Paragraphs (g)(1) through (6);
- (3) Paragraph (l)(2); and
- (4) Paragraph (t).

(d) An owner or operator of a new or modified source subject to this part shall file a permit application in accordance with the procedures set forth in Env-A 607.

(e) A permit application subject to this part shall be subject to the public notice procedures set forth in Env-A 621.03.

APPENDIX A: STATE STATUTES AND FEDERAL STATUTES AND REGULATIONS IMPLEMENTED

<u>Rule Section(s)</u>	<u>State Statute(s) Implemented</u>	<u>Federal Statute or Regulation Implemented</u>
Env-A 619.03	RSA 125-C:4, I(d); RSA 125-C:6, XIV; RSA 125-C:11, IV	42 U.S.C. §7410(a)(2)(C); 40 CFR § 51.166

APPENDIX B: FEDERAL DEFINITIONS CITED IN ENV-A 619.03

40 CFR 52.21(b) Definitions:

(1) (i) Major stationary source means:

(a) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants (with thermal dryers), primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140), fossil-fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding

300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(b) Notwithstanding the stationary source size specified in paragraph (b)(1)(i) of this section, any stationary source which emits, or has the potential to emit, 250 tons per year or more of a *regulated NSR pollutant*; or

(c) Any physical change that would occur at a stationary source not otherwise qualifying under paragraph (b)(1) of this section, as a major stationary source, if the changes would constitute a major stationary source by itself.

(ii) A major source that is major for volatile organic compounds or NO_x shall be considered major for ozone.

(iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this section whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

- (a) Coal cleaning plants (with thermal dryers);
- (b) Kraft pulp mills;
- (c) Portland cement plants;
- (d) Primary zinc smelters;
- (e) Iron and steel mills;
- (f) Primary aluminum ore reduction plants;
- (g) Primary copper smelters;
- (h) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (i) Hydrofluoric, sulfuric, or nitric acid plants;
- (j) Petroleum refineries;
- (k) Lime plants;
- (l) Phosphate rock processing plants;
- (m) Coke oven batteries;
- (n) Sulfur recovery plants;
- (o) Carbon black plants (furnace process);
- (p) Primary lead smelters;
- (q) Fuel conversion plants;
- (r) Sintering plants;
- (s) Secondary metal production plants;
- (t) Chemical process plants--The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
- (u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (w) Taconite ore processing plants;

- (x) Glass fiber processing plants;
- (y) Charcoal production plants;
- (z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, and
- (aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

(23) (i) *Significant* means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate

Carbon monoxide: 100 tons per year (tpy)

Nitrogen oxides: 40 tpy

Sulfur dioxide: 40 tpy

Particulate matter: 25 tpy of particulate matter emissions

PM₁₀: 15 tpy

PM_{2.5}: 10 tpy of direct PM_{2.5} emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions unless demonstrated not to be a PM_{2.5} precursor under paragraph (b)(50) of this section

Ozone: 40 tpy of volatile organic compounds or nitrogen oxides

Lead: 0.6 tpy

Fluorides: 3 tpy

Sulfuric acid mist: 7 tpy

Hydrogen sulfide (H₂S): 10 tpy

Total reduced sulfur (including H₂S): 10 tpy

Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): 3.2×10^6 megagrams per year (3.5×10^6 tons per year)

Municipal waste combustor metals (measured as particulate matter): 14 megagrams per year (15 tons per year)

Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tons per year)

Municipal solid waste landfills emissions (measured as nonmethane organic compounds): 45 megagrams per year (50 tons per year)

(ii) *Significant* means, in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that paragraph (b)(23)(i) of this section, does not list, any emissions rate.

(iii) Notwithstanding paragraph (b)(23)(i) of this section, *significant* means any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would construct within 10 kilometers of a Class I area, and have an impact on such area equal to or greater than $1 \mu\text{g}/\text{m}^3$, (24-hour average).

(49) *Subject to regulation* means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of this chapter, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(i) *Greenhouse gases (GHGs)*, the air pollutant defined in § 86.1818–12(a) of this chapter as the aggregate group of six greenhouse gases: Carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation except as provided in paragraphs (b)(49)(iv) through (v) of this section.

(ii) For purposes of paragraphs (b)(49)(iii) through (v) of this section, the term *tpy CO₂ equivalent emissions (CO₂e)* shall represent an amount of GHGs emitted, and shall be computed as follows:

(a) Multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A–1 to subpart A of part 98 of this chapter— Global Warming Potentials.

(b) Sum the resultant value from paragraph (b)(49)(ii)(a) of this section for each gas to compute a tpy CO₂e.

(iii) The term *emissions increase* as used in paragraphs (b)(49)(iv) through (v) of this section shall mean that both a significant emissions increase (as calculated using the procedures in paragraph (a)(2)(iv) of this section) and a significant net emissions increase (as defined in paragraphs (b)(3) and (b)(23) of this section) occur. For the pollutant GHGs, an emissions increase shall be based on tpy CO₂e, and shall be calculated assuming the pollutant GHGs is a regulated NSR pollutant, and “significant” is defined as 75,000 tpy CO₂e instead of applying the value in paragraph (b)(23)(ii) of this section.

(iv) Beginning January 2, 2011, the pollutant GHGs is *subject to regulation* if:

(a) The stationary source is a new major stationary source for a regulated NSR pollutant that is not GHGs, and also will emit or will have the potential to emit 75,000 tpy CO₂e or more; or

(b) The stationary source is an existing major stationary source for a regulated NSR pollutant that is not GHGs, and also will have an emissions increase of a regulated NSR pollutant, and an emissions increase of 75,000 tpy CO₂e or more; and,

(v) Beginning July 1, 2011, in addition to the provisions in paragraph (b)(49)(iv) of this section, the pollutant GHGs shall also be subject to regulation

(a) At a new stationary source that will emit or have the potential to emit 100,000 tpy CO₂e; or

(b) At an existing stationary source that emits or has the potential to emit 100,000 tpy CO₂e, when such stationary source undertakes a physical change or change in the method of operation that will result in an emissions increase of 75,000 tpy CO₂e or more.

(50) *Regulated NSR pollutant*, for purposes of this section, means the following:

(i) Any pollutant for which a national ambient air quality standard has been promulgated and any pollutant identified under this paragraph (b)(50)(i) as a constituent or precursor for such pollutant. Precursors identified by the Administrator for purposes of NSR are the following:

(a) Volatile organic compounds and nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas.

(b) Sulfur dioxide is a precursor to PM_{2.5} in all attainment and unclassifiable areas.

(c) Nitrogen oxides are presumed to be precursors to PM_{2.5} in all attainment and unclassifiable areas, unless the State demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient PM_{2.5} concentrations.

(d) Volatile organic compounds are presumed not to be precursors to PM_{2.5} in any attainment or unclassifiable area, unless the State demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds from sources in a specific area are a significant contributor to that area's ambient PM_{2.5} concentrations.

(ii) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(iii) Any Class I or II substance subject to a standard promulgated under or established by title VI of the Act;

(iv) Any pollutant that otherwise is subject to regulation under the Act as defined in paragraph (b)(49) of this section.

(v) Notwithstanding paragraphs (b)(50)(i) through (iv) of this section, the term *regulated NSR pollutant* shall not include any or all hazardous air pollutants either listed in section 112 of the Act, or added to the list pursuant to section 112(b)(2) of the Act, and which have not been delisted pursuant to section 112(b)(3) of the Act, unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Act.

(vi) Particulate matter (PM) emissions, PM_{2.5} emissions and PM₁₀ emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011 (or any earlier date established in the upcoming rulemaking codifying test methods), such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM, PM_{2.5} and PM₁₀ in PSD permits. Compliance with emissions limitations for PM, PM_{2.5} and PM₁₀ issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this section unless the applicable implementation plan required condensable particulate matter to be included.

40 CFR 98, Table A-1:

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
Carbon dioxide	124-38-9	CO ₂	1
Methane	74-82-8	CH ₄	21
Nitrous oxide	10024-97-2	N ₂ O	310
HFC-23	75-46-7	CHF ₃	11,700
HFC-32	75-10-5	CH ₂ F ₂	650
HFC-41	593-53-3	CH ₃ F	150
HFC-125	354-33-6	C ₂ HF ₅	2,800
HFC-134	359-35-3	C ₂ H ₂ F ₄	1,000
HFC-134a	811-97-2	CH ₂ FCF ₃	1,300
HFC-143	430-66-0	C ₂ H ₃ F ₃	300
HFC-143a	420-46-2	C ₂ H ₃ F ₃	3,800
HFC-152	624-72-6	CH ₂ FCH ₂ F	53
HFC-152a	75-37-6	CH ₃ CHF ₂	140
HFC-161	353-36-6	CH ₃ CH ₂ F	12
HFC-227ea	431-89-0	C ₃ HF ₇	2,900
HFC-236cb	677-56-5	CH ₂ FCF ₂ CF ₃	1,340
HFC-236ea	431-63-0	CHF ₂ CHFCF ₃	1,370

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
HFC-236fa	690-39-1	C ₃ H ₂ F ₆	6,300
HFC-245ca	679-86-7	C ₃ H ₃ F ₅	560
HFC-245fa	460-73-1	CHF ₂ CH ₂ CF ₃	1,030
HFC-365mfc	406-58-6	CH ₃ CF ₂ CH ₂ CF ₃	794
HFC-43-10mee	138495-42-8	CF ₃ CFHCFHCF ₂ CF ₃	1,300
Sulfur hexafluoride	2551-62-4	SF ₆	23,900
Trifluoromethyl sulphur pentafluoride	373-80-8	SF ₅ CF ₃	17,700
Nitrogen trifluoride	7783-54-2	NF ₃	17,200
PFC-14 (Perfluoromethane)	75-73-0	CF ₄	6,500
PFC-116 (Perfluoroethane)	76-16-4	C ₂ F ₆	9,200
PFC-218 (Perfluoropropane)	76-19-7	C ₃ F ₈	7,000
Perfluorocyclopropane	931-91-9	C-C ₃ F ₆	17,340
PFC-3-1-10 (Perfluorobutane)	355-25-9	C ₄ F ₁₀	7,000
Perfluorocyclobutane	115-25-3	C-C ₄ F ₈	8,700
PFC-4-1-12 (Perfluoropentane)	678-26-2	C ₅ F ₁₂	7,500
PFC-5-1-14 (Perfluorohexane)	355-42-0	C ₆ F ₁₄	7,400
PFC-9-1-18	306-94-5	C ₁₀ F ₁₈	7,500
HCFE-235da2 (Isoflurane)	26675-46-7	CHF ₂ OCHClCF ₃	350
HFE-43-10pccc (H-Galden 1040x)	E1730133	CHF ₂ OCF ₂ OC ₂ F ₄ OCHF ₂	1,870
HFE-125	3822-68-2	CHF ₂ OCF ₃	14,900
HFE-134	1691-17-4	CHF ₂ OCHF ₂	6,320
HFE-143a	421-14-7	CH ₃ OCF ₃	756
HFE-227ea	2356-62-9	CF ₃ CHFOCF ₃	1,540
HFE-236ca12 (HG-10)	78522-47-1	CHF ₂ OCF ₂ OCHF ₂	2,800
HFE-236ea2 (Desflurane)	57041-67-5	CHF ₂ OCHF ₂ CF ₃	989
HFE-236fa	20193-67-3	CF ₃ CH ₂ OCF ₃	487
HFE-245cb2	22410-44-2	CH ₃ OCF ₂ CF ₃	708
HFE-245fa1	84011-15-4	CHF ₂ CH ₂ OCF ₃	286
HFE-245fa2	1885-48-9	CHF ₂ OCH ₂ CF ₃	659
HFE-254cb2	425-88-7	CH ₃ OCF ₂ CHF ₂	359
HFE-263fb2	460-43-5	CF ₃ CH ₂ OCH ₃	11
HFE-329mcc2	67490-36-2	CF ₃ CF ₂ OCF ₂ CHF ₂	919
HFE-338mcf2	156053-88-2	CF ₃ CF ₂ OCH ₂ CF ₃	552
HFE-338pcc13 (HG-01)	188690-78-0	CHF ₂ OCF ₂ CF ₂ OCHF ₂	1,500
HFE-347mcc3	28523-86-6	CH ₃ OCF ₂ CF ₂ CF ₃	575
HFE-347mcf2	E1730135	CF ₃ CF ₂ OCH ₂ CHF ₂	374

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
HFE-347pcf2	406-78-0	$\text{CHF}_2\text{CF}_2\text{OCH}_2\text{CF}_3$	580
HFE-356mec3	382-34-3	$\text{CH}_3\text{OCF}_2\text{CHF}_2\text{CF}_3$	101
HFE-356pcc3	160620-20-2	$\text{CH}_3\text{OCF}_2\text{CF}_2\text{CHF}_2$	110
HFE-356pcf2	E1730137	$\text{CHF}_2\text{CH}_2\text{OCF}_2\text{CHF}_2$	265
HFE-356pcf3	35042-99-0	$\text{CHF}_2\text{OCH}_2\text{CF}_2\text{CHF}_2$	502
HFE-365mcf3	378-16-5	$\text{CF}_3\text{CF}_2\text{CH}_2\text{OCH}_3$	11
HFE-374pc2	512-51-6	$\text{CH}_3\text{CH}_2\text{OCF}_2\text{CHF}_2$	557
HFE-449sl (HFE-7100) Chemical blend	163702-07-6 163702-08-7	$\text{C}_4\text{F}_9\text{OCH}_3$ $(\text{CF}_3)_2\text{CFCF}_2\text{OCH}_3$	297
HFE-569sf2 (HFE-7200) Chemical blend	163702-05-4 163702-06-5	$\text{C}_4\text{F}_9\text{OC}_2\text{H}_5$ $(\text{CF}_3)_2\text{CFCF}_2\text{OC}_2\text{H}_5$	59
Sevoflurane	28523-86-6	$\text{CH}_2\text{FOCH}(\text{CF}_3)_2$	345
HFE-356mm1	13171-18-1	$(\text{CF}_3)_2\text{CHOCH}_3$	27
HFE-338mmz1	26103-08-2	$\text{CHF}_2\text{OCH}(\text{CF}_3)_2$	380
(Octafluorotetramethylene)hydroxymethyl group	NA	$\text{X}-(\text{CF}_2)_4\text{CH}(\text{OH})-\text{X}$	73
HFE-347mmy1	22052-84-2	$\text{CH}_3\text{OCF}(\text{CF}_3)_2$	343
Bis(trifluoromethyl)-methanol	920-66-1	$(\text{CF}_3)_2\text{CHOH}$	195
2,2,3,3,3-pentafluoropropanol	422-05-9	$\text{CF}_3\text{CF}_2\text{CH}_2\text{OH}$	42
PFPME	NA	$\text{CF}_3\text{OCF}(\text{CF}_3)$ $\text{CF}_2\text{OCF}_2\text{OCF}_3$	10,300

NA = not available.

**EVIDENCE THAT NEW HAMPSHIRE FOLLOWED ALL
PROCEDURAL REQUIREMENTS**

40 CFR Part 51, Appendix V, 2.1(e)

REQUEST FOR FISCAL IMPACT STATEMENT

STATE OF NEW HAMPSHIRE

DATE September 20, 2010

FROM Thomas S. Burack *MSW*
Commissioner *fs* AT (OFFICE) DES
TSD

SUBJECT Request for Fiscal Impact Statement

TO Legislative Budget Assistant

In accordance with NH RSA 541-A:5, enclosed please find a Request for Fiscal Impact Statement and a copy of the corresponding administrative rules for each of the following 2 proposals:

Env-A 101.35 [new]; Env-A 101.96 [new]; Env-A 101.113: Greenhouse Gas (GHG) Definitions

Env-A 619.03: Greenhouse Gas (GHG) Rule

Please fax the Fiscal Impact Statement to Gretchen Hamel at 271-8805.

If you have any questions, please contact Gretchen Hamel at 271-3137.

cc: Gretchen Hamel, Administrator, DES Legal Unit
cc: Karla McManus, ARD Planning and Rules Manager

**OFFICE OF LEGISLATIVE BUDGET ASSISTANT
REQUEST FOR FISCAL IMPACT STATEMENT (FIS)**

FIS Number _____ Rule Number Env-A 101.35 [new]; Env-A 101.96 [new];
Env-A 101.113

<p>1. Agency Name & Address:</p> <p>Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</p>	<p>2. RSA Authority: <u>RSA 125-C:4, I(a)</u></p> <p>3. Federal Authority: <u>42 U.S.C. § 7661(2); 42 U.S.C. §7410(a)(2)(C); 40 CFR § 51.166; 40 CFR 70.2</u></p> <p>4. Type of Action:</p> <table style="width: 100%;"> <tr><td>Adoption</td><td align="right"><u> X </u></td></tr> <tr><td>Amendment</td><td align="right">_____</td></tr> <tr><td>Repeal</td><td align="right">_____</td></tr> <tr><td>Readoption</td><td align="right">_____</td></tr> <tr><td>Readoption w/amendment</td><td align="right"><u> X </u></td></tr> <tr><td>Interim rule</td><td align="right">_____</td></tr> </table> <p>5. Have the rules expired? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Date Expired: _____</p>	Adoption	<u> X </u>	Amendment	_____	Repeal	_____	Readoption	_____	Readoption w/amendment	<u> X </u>	Interim rule	_____
Adoption	<u> X </u>												
Amendment	_____												
Repeal	_____												
Readoption	_____												
Readoption w/amendment	<u> X </u>												
Interim rule	_____												

6. Short Title: Greenhouse Gas (GHG) Definitions

7. Contact Person:

Name:	Gretchen Hamel	Title:	Administrator, Legal Unit
Address:	Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	Phone #:	271-3137
		Fax #:	271-8805

(1) Summarize the rule.

Env-A 101 contains the definitions for terms used throughout subtitle Env-A. DES is proposing to add two new definitions and to amend one existing definition in order to support changes being made in a separate rulemaking relating to regulation of greenhouse gasses. The definitions proposed to be added are for the terms "greenhouse gases (GHGs)" and "carbon dioxide equivalent emissions (CO₂e)"; the definition proposed to be amended is "major source." The proposed definition of GHGs is consistent with both the state statutory definition (RSA 125-L:1, IV) and with the definition recently adopted by the U.S. EPA. The term "carbon dioxide equivalent emissions (CO₂e)" is being defined because GHGs are six different gases, each of which exhibits a different global warming potential (GWP). (For example, one ton of methane emissions has a substantially higher GWP than one ton of carbon dioxide emissions.) A standardized method of expressing GHG emissions thus is needed for comparison to the respective Prevention of Significant Deterioration (PSD) and Title V program applicability thresholds. The proposed definition is consistent with the federal definitions in 40 CFR 51.166 and 40 CFR 70.2. The definition of "major source" is proposed to be revised to clarify that, for purposes of GHG permitting, the major source threshold for PSD and Title V is 100,000 tons per year (tpy) CO₂e, and the major modification threshold under the PSD program is a net emissions increase of at least 75,000 tpy CO₂e. These thresholds are consistent with those recently promulgated by EPA.

(2) Is the cost associated with this rule mandated by the rule or by state statute? If the cost is mandated by statute, then the rule itself may not have a cost or benefit associated with it. Please state either the statute or chapter law that is instigating this rule.

There are no costs associated with the proposed rules, as they are definitions only.

REQUEST FOR FISCAL IMPACT STATEMENT (FIS) - Page 2

- (3) *Compare the cost of the proposed rule with the cost of the existing rule, if there is an existing rule.*

There is no difference in costs between the existing rules and the proposed rules.

- (4) *Describe the costs and benefits to the state general fund which would result from this rule.*

There will be no costs or benefits to the state general fund as a result of the proposed rules.

- (5) *Explain and cite the federal mandate for the proposed rule, if there is such a mandate. How would the mandate affect state funds?*

On June 3, 2010, EPA finalized rules to regulate GHG emissions under the PSD and Title V permitting programs (40 CFR 51.166; 40 CFR 70.2). EPA has approved DES's PSD and Title V permitting programs, so DES is responsible for issuing PSD permits and proposed Title V permits for major stationary sources in the state.

Currently, the PSD major source threshold is either 100 or 250 tons per year (tpy) of emissions, depending on the type of regulated source. For the Title V program, the major source threshold is 100 tpy. These thresholds are problematic as applied to GHGs because they are emitted in much higher quantities than other criteria pollutants. Furthermore, unless a "significant" net increase threshold is established for a regulated pollutant, an increase of more than one pound of that pollutant resulting from a proposed modification would trigger the major modification provisions under PSD. As EPA noted in the final rule for GHGs, if these statutory PSD and Title V applicability thresholds were applied without change to sources of GHG emissions, then tens of thousands of small sources and modifications (nationally) would be brought into the PSD program each year, and millions of small sources (nationally) would be brought into the Title V program. Applied locally, DES estimates that hundreds or even thousands of small sources in New Hampshire would become new major sources under the PSD and Title V programs.

EPA has addressed this at the federal level by establishing higher applicability thresholds for GHGs. Changes are required to the current state rules to make them consistent with the federal requirements. By adopting the proposed rule changes, DES anticipates that the existing universe of major sources in New Hampshire will not change significantly. Until the state rules are modified to establish separate, higher thresholds for GHGs, DES will not be able to effectively administer the PSD and Title V programs in New Hampshire, meaning that EPA would implement the programs until the state requirements are changed.

- (6) *Describe the cost and benefits to any state special fund which would result.*

These definitions by themselves will not result in any cost or benefit to any state general fund.

- (7) *Describe the costs and benefits to the political subdivisions of the state.*

Because the proposed rules are just definitions, there will be no costs or financial benefits to political subdivisions of the state as a result of the proposed rules.

- (8) *Describe the costs and benefits to the citizens of the state.*

Because the proposed rules are definitions, there will be no costs or financial benefits to citizens of the state.

- (9) *Describe the costs and benefits to any independently owned business, including a description of the specific reporting and recordkeeping requirements upon those employing fewer than 10 employees.*

Because the proposed rules are definitions, there will be no costs or financial benefits to independently owned businesses.

The rules do not contain any reporting or recordkeeping requirements.

**OFFICE OF LEGISLATIVE BUDGET ASSISTANT
REQUEST FOR FISCAL IMPACT STATEMENT (FIS)**

FIS Number _____ Rule Number Env-A 619.03

<p>1. Agency Name & Address:</p> <p>Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</p>	<p>2. RSA Authority: <u>RSA 125-C:4, I(a) & (d)</u></p> <p>3. Federal Authority: <u>42 U.S.C. §7661(2); 42 U.S.C. §7410(a)(2)(C); 40 CFR § 51.166; 40 CFR 70.2</u></p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Amendment _____</p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment <u> X </u></p> <p>Interim rule _____</p> <p>5. Have the rules expired? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Date Expired: _____</p>
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6. Short Title: Greenhouse Gas (GHG) Rule

7. Contact Person:

Name:	Gretchen Hamel	Title:	Administrator, Legal Unit
Address:	Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	Phone #:	271-3137
		Fax #:	271-8805

(1) *Summarize the rule.*

Env-A 619 currently incorporates the federal requirements relative to the Prevention of Significant Deterioration (“PSD”) program, by establishing preconstruction and pre-modification review procedures in order to determine whether the proposed construction or modification will cause or contribute to significant deterioration of air quality in the state. This is required for the State to comply with 40 CFR 51.166, 40 CFR 52.21 and RSA 125-C. The requirements apply to all new major stationary sources and major modifications to existing sources in any portion of the state where the existing air quality meets the NAAQS.

The proposed amendments reflect recent revisions to the federal requirements relative to greenhouse gases (“GHGs”) and will establish separate, higher thresholds for GHGs. Facilities that currently are minor sources but that will be major sources under the Title V Permitting program due to GHG emissions will need to either apply for a Title V permit or obtain a state permit that restricts their potential to emit below the major source threshold for GHGs (100,000 ton per year of CO₂e). For new major sources of GHG emissions under the PSD permitting program (or existing major sources making major modifications), sources will be subject to PSD permitting requirements for GHGs.

(2) *Is the cost associated with this rule mandated by the rule or by state statute? If the cost is mandated by statute, then the rule itself may not have a cost or benefit associated with it. Please state either the statute or chapter law that is instigating this rule.*

There are no costs associated with the proposed rules. RSA 125-C:6, XV authorizes the Commissioner to implement a PSD program that is not less stringent than the federal program. The proposed rules pass-through the federal requirements (*i.e.*, the same facilities would be subject to the requirements under federal law regardless of whether DES adopted these rules). The rules are being adopted under RSA 125-C:4, I(a) and (d) to implement RSA 125-C:1 and RSA 125-C:6, XIV & XV.

REQUEST FOR FISCAL IMPACT STATEMENT (FIS) - Page 2

- (3) *Compare the cost of the proposed rule with the cost of the existing rule, if there is an existing rule.*

There is no difference in costs between the existing rules and the proposed rules.

- (4) *Describe the costs and benefits to the state general fund which would result from this rule.*

There will be no costs or benefits to the state general fund as a result of these amendments.

- (5) *Explain and cite the federal mandate for the proposed rule, if there is such a mandate. How would the mandate affect state funds?*

On June 3, 2010, EPA finalized rules to regulate GHG emissions under the PSD and Title V permitting programs (40 CFR 51.166; 40 CFR 70.2). EPA has approved DES's PSD and Title V permitting programs, so DES is responsible for issuing PSD permits and proposed Title V permits for major stationary sources in the state.

Currently, the PSD major source threshold is either 100 or 250 tons per year (tpy) of emissions, depending on the type of regulated source. For the Title V program, the major source threshold is 100 tpy. These thresholds are problematic as applied to GHGs because they are emitted in much higher quantities than other criteria pollutants. Furthermore, unless a "significant" net increase threshold is established for a regulated pollutant, an increase of more than one pound of that pollutant resulting from a proposed modification would trigger the major modification provisions under PSD. As EPA noted in the final rule for GHGs, if these statutory PSD and Title V applicability thresholds were applied without change to sources of GHG emissions, then tens of thousands of small sources and modifications (nationally) would be brought into the PSD program each year, and millions of small sources (nationally) would be brought into the Title V program. Applied locally, DES estimates that hundreds or even thousands of small sources in New Hampshire would become new major sources under the PSD and Title V programs.

EPA has addressed this issue at the federal level by establishing higher applicability thresholds for GHGs. Changes are required to the current state rules to make them consistent with the federal requirements. By adopting the proposed rule changes, DES anticipates that the existing universe of major sources in New Hampshire will not change significantly. Until the state rules are modified to establish separate, higher thresholds for GHGs, DES will not be able to effectively administer the PSD and Title V programs in New Hampshire, meaning that EPA would implement the programs until the state requirements are changed.

- (6) *Describe the cost and benefits to any state special fund which would result.*

The proposed amendments may result in an increase in fees collected under RSA 125-C, which are deposited to the Air Resources Fund established in RSA 125-C:12, IV (state special fund 010-044-9103). Existing stationary sources will be subject to an additional emission-based fee and an application review fee if they (1) emit or have the potential to emit 100,000 tpy CO₂e and (2) undertake a physical change or change in the method of operation that will result in an emissions increase of 75,000 tpy CO₂e or more. Due to the number and variability of factors, DES is not able to estimate the amount of any increase in such fees.

- (7) *Describe the costs and benefits to the political subdivisions of the state.*

Because any costs are not attributable to these rules, there will be no costs or benefits to political subdivisions of the state as a result of the proposed rules.

- (8) *Describe the costs and benefits to the citizens of the state.*

Because any costs are not attributable to these rules, there will be no costs to citizens of the state as a result of the proposed rules. Citizens may benefit from improved air quality, which could result in a decrease in costs for health care for those citizens who suffer from conditions aggravated by air pollution.

- (9) *Describe the costs and benefits to any independently owned business, including a description of the specific reporting and recordkeeping requirements upon those employing fewer than 10 employees.*

Because any costs are not attributable to these rules, there will be no costs or benefits to independently owned businesses. The rules do not contain any reporting or recordkeeping requirements.

Adopt new Env-A 101.35, and renumber subsequent sections accordingly, so that Env-A 101.35 reads as follows:

Env-A 101.35 "Carbon dioxide equivalent emissions (CO₂e)" means a measurement of the global warming potential of GHGs emitted, determined by multiplying the mass amount of emissions in tons per year (tpy) of each gas in the pollutant group GHGs by the associated global warming potential for that gas published at Table A-1 to subpart A of 40 CFR part 98, Global Warming Potentials, and adding the resultant values to compute a tpy CO₂e for the GHGs.

Adopt new Env-A 101.96, and renumber subsequent sections accordingly, so that Env-A 101.96 reads as follows:

Env-A 101.96 "Greenhouse gases (GHGs)" means the group of 6 gases that, when emitted to the ambient air, act as a shield to trap heat in the earth's atmosphere. The group is comprised of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

Readopt with amendment Env-A 101.113, eff. 6-30-95 (doc. #6057-A); amd by #7845, eff. 3-8-03, renumbered by #8256 and #8304, and renumber as Env-A 101.115 based on the new definitions above, so that Env-A 101.115 reads as follows:

Env-A 101.115 "Major source" means a stationary source that has been identified as meeting a specified threshold for producing pollutants of concern. The term includes:

(a) ~~"Affected source" means "acid rain affected source" as defined in this part;~~

(b) ~~"Major source" as defined by in 40 CFR 70.2, except that in paragraph (2) of the federal definition, the emission rate for GHGs shall be 100,000 tons per year (tpy) CO₂e and 100 tpy on a mass basis; namely "any stationary source (or group of stationary sources which are located on one or more contiguous or adjacent properties, and are under the common control of the same person (or persons under common control) belonging to a single major industrial grouping and that are described in paragraph (1), (2), or (3) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.~~

~~(1) A major source under section 112 of the Act, which is defined as:~~

- ~~a. For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control to determine whether such units or stations are major sources; or~~
- ~~b. For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.~~

~~(2) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary source:~~

- ~~a. Coal cleaning plants (with thermal dryers);~~
- ~~b. Kraft pulp mills;~~
- ~~e. Portland cement plants;~~
- ~~d. Primary zinc smelters;~~
- ~~e. Iron and steel mills;~~
- ~~f. Primary aluminum ore reduction plants;~~
- ~~g. Primary copper smelters;~~
- ~~h. Municipal incinerators capable of charging more than 250 tons of refuse per day;~~
- ~~i. Hydrofluoric, sulfuric, or nitric acid plants;~~
- ~~j. Petroleum refineries;~~
- ~~k. Lime plants;~~
- ~~l. Phosphate rock processing plants;~~
- ~~m. Coke oven batteries;~~
- ~~n. Sulfur recovery plants;~~
- ~~o. Carbon black plants (furnace process);~~
- ~~p. Primary lead smelters;~~
- ~~q. Fuel conversion plants;~~
- ~~r. Sintering plants;~~
- ~~s. Secondary metal production;~~
- ~~t. Chemical process plants;~~
- ~~u. Fossil fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;~~
- ~~v. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;~~
- ~~w. Taconite ore processing plants;~~
- ~~x. Glass fiber processing plants;~~
- ~~y. Charcoal production plants;~~
- ~~z. Fossil fuel fired steam electric plants of more than 250 million British thermal units per hour heat input; or~~
- ~~aa. Any other stationary source category, which as of August 7, 1980 is being regulated under section 111 or 112 of the Act;~~

- (3) ~~A major stationary source as defined in part D of title I of the Act, including:~~
- ~~a. For ozone nonattainment areas, sources with the potential to emit 100 tpy or more volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate", 50 tpy or more in areas classified as "serious", and 25 tpy or more in areas classified as "severe", and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25 and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;~~
 - ~~b. For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of volatile organic compounds;~~
 - ~~c. For carbon monoxide nonattainment areas:~~
 - ~~1. That are classified as "serious," and~~
 - ~~2. in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and~~
 - ~~d. For particulate matter (PM-10) nonattainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM-10."~~

(c) For purposes of the ~~(b)(3)~~, above *Env-A 618*, a major stationary source as defined in paragraph (3) of the definition of major source in 40 CFR 70.2, including the following: ~~statement paraphrases the requirements of (b)~~, above:

- (1) Any source with the potential to emit nitrogen oxides in the following counties and specific quantities:
 - a. In Belknap, Carroll, Cheshire, Coos, Grafton, or Sullivan counties, 100 tpy or more; or
 - b. In Hillsborough, Merrimack, Rockingham or Strafford counties, 50 tpy or more; or
- (2) Any source with the potential to emit volatile organic compounds in the quantity of 50 tpy or more; *and*

(d) For purposes of Env-A 619, a major stationary source as defined in 40 CFR 52.21(b) , as revised on October 28, 2002, including any stationary source with the potential to emit 100,000 tpy or more CO₂e for GHGs, where potential GHG emissions also exceed the corresponding mass-based thresholds contained in 40 CFR 52.21(b)(1)(i).

APPENDIX A: STATE STATUTES AND FEDERAL STATUTES AND REGULATIONS IMPLEMENTED

Rule Section(s)	State Statute(s) Implemented	Federal Statute or Regulation Implemented
Env-A 101.35 [new]	RSA 125-C:4, I(a)	40 CFR § 52.21
Env-A 101.96 [new]	RSA 125-C:4, I(a); 125-L:1, IV	40 CFR § 52.21
Env-A 101.43115	RSA 125-C:4, I(a)	42 U.S.C. § 7661(2) and 40 CFR 70.2

APPENDIX B: FEDERAL DEFINITIONS CITED IN ENV-A 101

40 CFR 52.21(b) Definitions:

(1)(i) Major stationary source means:

(a) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants (with thermal dryers), primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140), fossil-fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(b) Notwithstanding the stationary source size specified in paragraph (b)(1)(i) of this section, any stationary source which emits, or has the potential to emit, 250 tons per year or more of a regulated NSR pollutant; or

(c) Any physical change that would occur at a stationary source not otherwise qualifying under paragraph (b)(1) of this section, as a major stationary source, if the changes would constitute a major stationary source by itself.

(ii) A major source that is major for volatile organic compounds or NOX shall be considered major for ozone.

(iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this section whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

- (a) Coal cleaning plants (with thermal dryers);
- (b) Kraft pulp mills;
- (c) Portland cement plants;
- (d) Primary zinc smelters;
- (e) Iron and steel mills;
- (f) Primary aluminum ore reduction plants;
- (g) Primary copper smelters;
- (h) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (i) Hydrofluoric, sulfuric, or nitric acid plants;
- (j) Petroleum refineries;
- (k) Lime plants;
- (l) Phosphate rock processing plants;
- (m) Coke oven batteries;
- (n) Sulfur recovery plants;
- (o) Carbon black plants (furnace process);
- (p) Primary lead smelters;
- (q) Fuel conversion plants;
- (r) Sintering plants;
- (s) Secondary metal production plants;
- (t) Chemical process plants--The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
- (u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (w) Taconite ore processing plants;
- (x) Glass fiber processing plants;
- (y) Charcoal production plants;
- (z) Fossil fuel-fired steam electric plants of more that 250 million British thermal units per hour heat input, and
- (aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

40 CFR 70.2 Definitions:

Major source means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are described in paragraph (1), (2), or (3) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

(1) A major source under section 112 of the Act, which is defined as:

- (i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or
- (ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(2) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary source:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;
- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;

- (xiv) Sulfur recovery plants;
 - (xv) Carbon black plants (furnace process);
 - (xvi) Primary lead smelters;
 - (xvii) Fuel conversion plants;
 - (xviii) Sintering plants;
 - (xix) Secondary metal production plants;
 - (xx) Chemical process plants--The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
 - (xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
 - (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
 - (xxiii) Taconite ore processing plants;
 - (xxiv) Glass fiber processing plants;
 - (xxv) Charcoal production plants;
 - (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
 - (xxvii) Any other stationary source category, which as of August 7, 1980 is being regulated under section 111 or 112 of the Act.
- (3) A major stationary source as defined in part D of title I of the Act, including:
- (i) For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25 and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f) (1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;
 - (ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of volatile organic compounds;
 - (iii) For carbon monoxide nonattainment areas:
 - (A) That are classified as "serious," and
 - (B) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and
 - (iv) For particulate matter (PM-10) nonattainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM-10.

Readopt with amendment Env-A 619.03, eff. 4-26-03 (doc. #7879), to read as follows:

Env-A 619.03 PSD Permit Requirements.

(a) In accordance with ~~with~~ *furthurance* of RSA 125-C:11, the provisions of 40 CFR 52.21(b) through (p), (r), (t), (v), and (w), *as revised on October 28, 2002*, shall apply for the purposes of implementing a PSD permit program that meets the requirements of Title I of the Act.

(b) *For the purposes of this part, the following definitions contained in 40 CFR 52.21(b), as revised on October 28, 2002, shall apply as follows:*

(1) *“Major stationary source” shall also mean any stationary source with the potential to emit 100,000 tpy or more CO₂e for GHGs, where potential GHG emissions also exceed the corresponding mass-based thresholds contained in 40 CFR 52.21(b)(1)(i); and*

(2) *“Significant” shall also mean, in reference to a net emissions increase or the potential of a source to emit GHGs, a rate of emissions that would equal or exceed 75,000 tpy CO₂e and also exceeds any corresponding mass-based thresholds contained in 40 CFR 52.21(b)(23).*

(bc) For the purposes of this part, the word “department” shall replace the word “administrator” in the paragraphs of 40 CFR 52.21, *as revised on October 28, 2002*, referenced in (a), above, except in the following paragraphs:

- (1) Paragraph (b)(17);
- (2) Paragraphs (g)(1) through (6);
- (3) Paragraph (l)(2); and
- (4) Paragraph (t).

(ed) An owner or operator of a new or modified source subject to this part shall file a permit application in accordance with the procedures set forth in Env-A 607.

(de) A permit application subject to this part shall be subject to the public notice procedures set forth in Env-A 621.03.

APPENDIX A: STATE STATUTES AND FEDERAL STATUTES AND REGULATIONS IMPLEMENTED

Rule Section(s)	State Statute(s) Implemented	Federal Statute or Regulation Implemented
Env-A 619.03	RSA 125-C:4, I(d); RSA 125-C:6, XIV; RSA 125-C:11, IV	42 U.S.C. §7410(a)(2)(C); 40 CFR § 51.166

APPENDIX B: FEDERAL DEFINITIONS CITED IN ENV-A 619.03

40 CFR 52.21(b) Definitions:

(1) (i) Major stationary source means:

(a) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants (with thermal dryers), primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140), fossil-fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(b) Notwithstanding the stationary source size specified in paragraph (b)(1)(i) of this section, any stationary source which emits, or has the potential to emit, 250 tons per year or more of a regulated NSR pollutant; or

(c) Any physical change that would occur at a stationary source not otherwise qualifying under paragraph (b)(1) of this section, as a major stationary source, if the changes would constitute a major stationary source by itself.

(ii) A major source that is major for volatile organic compounds or NOX shall be considered major for ozone.

(iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this section whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

- (a) Coal cleaning plants (with thermal dryers);
- (b) Kraft pulp mills;
- (c) Portland cement plants;
- (d) Primary zinc smelters;
- (e) Iron and steel mills;
- (f) Primary aluminum ore reduction plants;
- (g) Primary copper smelters;
- (h) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (i) Hydrofluoric, sulfuric, or nitric acid plants;
- (j) Petroleum refineries;
- (k) Lime plants;
- (l) Phosphate rock processing plants;

- (m) Coke oven batteries;
- (n) Sulfur recovery plants;
- (o) Carbon black plants (furnace process);
- (p) Primary lead smelters;
- (q) Fuel conversion plants;
- (r) Sintering plants;
- (s) Secondary metal production plants;
- (t) Chemical process plants--The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
- (u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (w) Taconite ore processing plants;
- (x) Glass fiber processing plants;
- (y) Charcoal production plants;
- (z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, and
- (aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

(23) (i) Significant means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate

Carbon monoxide: 100 tons per year (tpy)

Nitrogen oxides: 40 tpy

Sulfur dioxide: 40 tpy

Particulate matter: 25 tpy of particulate matter emissions

PM₁₀: 15 tpy

PM_{2.5}: 10 tpy of direct PM_{2.5} emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions unless demonstrated not to be a PM_{2.5} precursor under paragraph (b)(50) of this section

Ozone: 40 tpy of volatile organic compounds or nitrogen oxides

Lead: 0.6 tpy

Fluorides: 3 tpy

Sulfuric acid mist: 7 tpy

Hydrogen sulfide (H₂S): 10 tpy

Total reduced sulfur (including H₂S): 10 tpy

Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): 3.2×10^{-6} megagrams per year (3.5×10^{-6} tons per year)

Municipal waste combustor metals (measured as particulate matter): 14 megagrams per year (15 tons per year)

Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tons per year)

Municipal solid waste landfills emissions (measured as nonmethane organic compounds): 45 megagrams per year (50 tons per year)

(ii) *Significant* means, in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that paragraph (b)(23)(i) of this section, does not list, any emissions rate.

(iii) Notwithstanding paragraph (b)(23)(i) of this section, *significant* means any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would construct within 10 kilometers of a Class I area, and have an impact on such area equal to or greater than $1 \mu\text{g}/\text{m}^3$, (24-hour average).

40 CFR 98, Table A-1:

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
Carbon dioxide	124-38-9	CO ₂	1
Methane	74-82-8	CH ₄	21
Nitrous oxide	10024-97-2	N ₂ O	310
HFC-23	75-46-7	CHF ₃	11,700
HFC-32	75-10-5	CH ₂ F ₂	650
HFC-41	593-53-3	CH ₃ F	150
HFC-125	354-33-6	C ₂ HF ₅	2,800
HFC-134	359-35-3	C ₂ H ₂ F ₄	1,000
HFC-134a	811-97-2	CH ₂ FCF ₃	1,300
HFC-143	430-66-0	C ₂ H ₃ F ₃	300
HFC-143a	420-46-2	C ₂ H ₃ F ₃	3,800
HFC-152	624-72-6	CH ₂ FCH ₂ F	53
HFC-152a	75-37-6	CH ₃ CHF ₂	140
HFC-161	353-36-6	CH ₃ CH ₂ F	12
HFC-227ea	431-89-0	C ₃ HF ₇	2,900
HFC-236cb	677-56-5	CH ₂ FCF ₂ CF ₃	1,340
HFC-236ea	431-63-0	CHF ₂ CHFCF ₃	1,370
HFC-236fa	690-39-1	C ₃ H ₂ F ₆	6,300
HFC-245ca	679-86-7	C ₃ H ₃ F ₅	560
HFC-245fa	460-73-1	CHF ₂ CH ₂ CF ₃	1,030
HFC-365mfc	406-58-6	CH ₃ CF ₂ CH ₂ CF ₃	794
HFC-43-10mee	138495-42-8	CF ₃ CFHCFHCF ₂ CF ₃	1,300
Sulfur hexafluoride	2551-62-4	SF ₆	23,900

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
Trifluoromethyl sulphur pentafluoride	373-80-8	SF5CF3	17,700
Nitrogen trifluoride	7783-54-2	NF3	17,200
PFC-14 (Perfluoromethane)	75-73-0	CF4	6,500
PFC-116 (Perfluoroethane)	76-16-4	C2F6	9,200
PFC-218 (Perfluoropropane)	76-19-7	C3F8	7,000
Perfluorocyclopropane	931-91-9	C-C3F6	17,340
PFC-3-1-10 (Perfluorobutane)	355-25-9	C4F10	7,000
Perfluorocyclobutane	115-25-3	C-C4F8	8,700
PFC-4-1-12 (Perfluoropentane)	678-26-2	C5F12	7,500
PFC-5-1-14 (Perfluorohexane)	355-42-0	C6F14	7,400
PFC-9-1-18	306-94-5	C10F18	7,500
HCFE-235da2 (Isoflurane)	26675-46-7	CHF2OCHClCF3	350
HFE-43-10pccc (H-Galden 1040x)	E1730133	CHF2OCF2OC2F4OCHF2	1,870
HFE-125	3822-68-2	CHF2OCF3	14,900
HFE-134	1691-17-4	CHF2OCHF2	6,320
HFE-143a	421-14-7	CH3OCF3	756
HFE-227ea	2356-62-9	CF3CHFOCF3	1,540
HFE-236ca12 (HG-10)	78522-47-1	CHF2OCF2OCHF2	2,800
HFE-236ea2 (Desflurane)	57041-67-5	CHF2OCHF3	989
HFE-236fa	20193-67-3	CF3CH2OCF3	487
HFE-245cb2	22410-44-2	CH3OCF2CF3	708
HFE-245fa1	84011-15-4	CHF2CH2OCF3	286
HFE-245fa2	1885-48-9	CHF2OCH2CF3	659
HFE-254cb2	425-88-7	CH3OCF2CHF2	359
HFE-263fb2	460-43-5	CF3CH2OCH3	11
HFE-329mcc2	67490-36-2	CF3CF2OCF2CHF2	919
HFE-338mcf2	156053-88-2	CF3CF2OCH2CF3	552
HFE-338pcc13 (HG-01)	188690-78-0	CHF2OCF2CF2OCHF2	1,500
HFE-347mcc3	28523-86-6	CH3OCF2CF2CF3	575
HFE-347mcf2	E1730135	CF3CF2OCH2CHF2	374
HFE-347pcf2	406-78-0	CHF2CF2OCH2CF3	580
HFE-356mcc3	382-34-3	CH3OCF2CHF3	101
HFE-356pcc3	160620-20-2	CH3OCF2CF2CHF2	110
HFE-356pcf2	E1730137	CHF2CH2OCF2CHF2	265
HFE-356pcf3	35042-99-0	CHF2OCH2CF2CHF2	502

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
HFE-365mcf3	378-16-5	$\text{CF}_3\text{CF}_2\text{CH}_2\text{OCH}_3$	11
HFE-374pc2	512-51-6	$\text{CH}_3\text{CH}_2\text{OCF}_2\text{CHF}_2$	557
HFE-449sl (HFE-7100) Chemical blend	163702-07-6 163702-08-7	$\text{C}_4\text{F}_9\text{OCH}_3$ $(\text{CF}_3)_2\text{CFCF}_2\text{OCH}_3$	297
HFE-569sf2 (HFE-7200) Chemical blend	163702-05-4 163702-06-5	$\text{C}_4\text{F}_9\text{OC}_2\text{H}_5$ $(\text{CF}_3)_2\text{CFCF}_2\text{OC}_2\text{H}_5$	59
Sevoflurane	28523-86-6	$\text{CH}_2\text{FOCH}(\text{CF}_3)_2$	345
HFE-356mm1	13171-18-1	$(\text{CF}_3)_2\text{CHOCH}_3$	27
HFE-338mmz1	26103-08-2	$\text{CHF}_2\text{OCH}(\text{CF}_3)_2$	380
(Octafluorotetramethylene)hydroxymethyl group	NA	$\text{X}-(\text{CF}_2)_4\text{CH}(\text{OH})-\text{X}$	73
HFE-347mmy1	22052-84-2	$\text{CH}_3\text{OCF}(\text{CF}_3)_2$	343
Bis(trifluoromethyl)-methanol	920-66-1	$(\text{CF}_3)_2\text{CHOH}$	195
2,2,3,3,3-pentafluoropropanol	422-05-9	$\text{CF}_3\text{CF}_2\text{CH}_2\text{OH}$	42
PFPME	NA	$\text{CF}_3\text{OCF}(\text{CF}_3)$ $\text{CF}_2\text{OCF}_2\text{OCF}_3$	10,300

NA = not available.

FISCAL IMPACT STATEMENT

LBAO
FIS 10:124
09/22/10

Fiscal Impact Statement for Department of Environmental Services rules governing Greenhouse Gas (GHG) Definitions. [Env-A 101.35 [new]; Env-A 101.96 [new]; Env-A 101.113]

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

There is no difference in cost when comparing the proposed rules to the existing rules.

2. Cite the Federal mandate. Identify the impact on state funds:

The US Environmental Protection Agency (EPA) finalized rules in June 2010 to regulate greenhouse gas emissions under the prevention of significant deterioration (PSD) and title V permitting programs (40CFR 51.166; 40CFR 70.2). The EPA has approved the NH Department of Environmental Services PSD and title V permitting programs, however, changes are required to state rules to make them consistent with the federal requirements. Until the state rules are changed, the Department will not be able to effectively administer the programs, resulting in the EPA implementing the programs until the rules are changed. No impact on state funds.

3. Cost and benefits of the proposed rule(s):

There are no costs or benefits attributable to the proposed rules.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

None.

LBAO
FIS 10:125
09/22/10

Fiscal Impact Statement for Department of Environmental Services rules governing Greenhouse Gas (GHG) Rule. [Env-A 619.03]

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

There is no difference in cost when comparing the proposed rules to the existing rules.

2. Cite the Federal mandate. Identify the impact on state funds:

The US Environmental Protection Agency (EPA) finalized rules in June 2010 to regulate greenhouse gas emissions under the prevention of significant deterioration (PSD) and title V permitting programs (40CFR 51.166; 40CFR 70.2). The EPA has approved the NH Department of Environmental Services PSD and title V permitting programs for major stationary sources, however, changes are required to state rules to make them consistent with the federal requirements. The Department anticipates the existing universe of major sources in NH will not change significantly as a result of adopting the proposed rules. Until the state rules are changed, the Department will not be able to effectively administer the programs, resulting in the EPA implementing the programs until the rules are changed. No impact on state funds.

3. Cost and benefits of the proposed rule(s):

There are no costs or benefits attributable to the proposed rules.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

None.

RULEMAKING NOTICE FILING

STATE OF NEW HAMPSHIRE

DATE September 22, 2010

FROM Thomas S. Burack *MLW*
Commissioner *PN*
TSD AT (OFFICE) DES

SUBJECT Rulemaking Notice

TO Office of Legislative Services
Division of Administrative Rules

Please accept for filing the enclosed Rulemaking Notice for each of the following 2 proposals:

Env-A 101.35 [new]; Env-A 101.96 [new]; Env-A 101.113: Greenhouse Gas (GHG) Definitions

Env-A 619.03: Greenhouse Gas (GHG) Rule

Questions from OLS regarding the Rulemaking Notice should be directed to Gretchen Hamel at 271-3137.

Questions from the public regarding the proposed rules, public hearing, or public comment period should be directed to Karla McManus at 271-6854.

Enclosures

cc: Gretchen Hamel, DES Legal Unit Administrator

cc: K. Allen Brooks, Chief, AGO-Environmental Protection Bureau
Karla McManus, DES ARD Planning and Rules Manager
ARD Distribution list

RULEMAKING NOTICE FORM - Page 2

The rules also can be viewed in PDF at
<http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

TTY/TDD Access: Relay NH 1-
800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Monday, November 8, 2010 at 4:00 p.m.**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, October 28, 2010; 1 p.m. to 3 p.m.**

Place: **Rooms 112 - 113, DES Offices, 29 Hazen Drive, Concord**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 10:124, dated 09/22/10

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

There is no difference in cost when comparing the proposed rule to the existing rules

2. Cite the Federal mandate. Identify the impact on state funds:

The US Environmental Protection Agency (EPA) finalized rules in June 2010 to regulate greenhouse gas emissions under the prevention of significant deterioration (PSD) and title V permitting programs (40CFR 51.166; 40CFR 70.2). The EPA has approved the NH Department of Environmental Services PSD and title V permitting programs for major stationary sources, however, changes are required to state rules to make them consistent with the federal requirements. Until the state rules are changed, the Department will not be able to effectively administer the programs, resulting in the EPA implementing the programs until the rules are changed. No impact on state funds.

3. Cost and benefits of the proposed rule(s):

There are no costs or benefits attributable to the proposed rules.

A. To State general or State special funds:

None

B. To State citizens and political subdivisions:

None

C. To independently owned businesses:

None

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The rules do not create, modify, or expand any program in such a way as to require action by any political subdivisions and so do not require any expenditures by political subdivisions. The rules thus do not violate Part I, Article 28-a of the NH Constitution.

RULEMAKING NOTICE FORM

Notice Number _____ 1. Agency Name & Address: Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	Rule Number <u>Env-A 619.03</u> 2. RSA Authority: <u>RSA 125-C:4, I(a) & (d)</u> 3. Federal Authority: <u>42 U.S.C. § 7661(2); 42 U.S.C. §7410(a)(2)(C); 40 CFR § 51.166; 40 CFR 70.2</u> 4. Type of Action: Adoption _____ Amendment _____ Repeal _____ Readoption _____ Readoption w/amendment <u> X </u>
---	---

5. Short Title: Greenhouse Gas (GHG) Rule

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

Env-A 619 currently incorporates the federal requirements relative to the Prevention of Significant Deterioration (“PSD”) program, by establishing preconstruction and pre-modification review procedures in order to determine whether the proposed construction or modification will cause or contribute to significant deterioration of air quality in the state. This is required for the State to comply with 40 CFR 51.166, 40 CFR 52.21 and RSA 125-C. The requirements apply to all new major stationary sources and major modifications to existing sources in any portion of the state where the existing air quality meets the NAAQS.

The proposed amendments to Env-A 619.03 reflect recent revisions to the federal requirements relative to greenhouse gases (“GHGs”) and will establish separate, higher thresholds for GHGs. Facilities that currently are minor sources but that will be major sources under the Title V Permitting program due to GHG emissions will need to either apply for a Title V permit or obtain a state permit that restricts their potential to emit below the major source threshold for GHGs (100,000 ton per year of CO₂e). For new major sources of GHG emissions under the PSD permitting program (or existing major sources making major modifications), sources will be subject to PSD permitting requirements for GHGs.

6. (b) Brief description of the groups affected:

The rules affect owners and operators of major sources that generate GHG emissions at levels at or above the threshold limits.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule Section(s)	State Statute(s) Implemented	Federal Statute or Regulation Implemented
Env-A 619.03	RSA 125-C:4, I(d); RSA 125-C:6, XIV; RSA 125-C:11, IV	42 U.S.C. §7410(a)(2)(C); 40 CFR § 51.166

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: Karla McManus	Title: ARD Planning and Rules Manager
Address: Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	Phone #: 271-6854 Fax#: 271-1381 E-mail: Karla.McManus@des.nh.gov

The rules also can be viewed in PDF at <http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm> TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Monday, November 8, 2010 at 4:00 p.m.**

RULEMAKING NOTICE FORM - Page 2

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, October 28, 2010; 1 p.m. to 3 p.m.**

Place: **Rooms 112 - 113, DES Offices, 29 Hazen Drive, Concord**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 10:125, dated 09/22/10

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

There is no difference in cost when comparing the proposed rule to the existing rules

2. Cite the Federal mandate. Identify the impact on state funds:

The US Environmental Protection Agency (EPA) finalized rules in June 2010 to regulate greenhouse gas emissions under the prevention of significant deterioration (PSD) and title V permitting programs (40CFR 51.166; 40CFR 70.2). The EPA has approved the NH Department of Environmental Services PSD and title V permitting programs for major stationary sources, however, changes are required to state rules to make them consistent with the federal requirements. The Department anticipates the existing universe of major sources in NH will not change significantly as a result of adopting the proposed rules. Until the state rules are changed, the Department will not be able to effectively administer the programs, resulting in the EPA implementing the programs until the rules are changed. No impact on state funds.

3. Cost and benefits of the proposed rule(s):

There are no costs or benefits attributable to the proposed rules.

A. To State general or State special funds:

None

B. To State citizens and political subdivisions:

None

C. To independently owned businesses:

None

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The rules do not create, modify, or expand any program in such a way as to require action by any political subdivisions and so do not require any expenditures by political subdivisions. The rules thus do not violate Part I, Article 28-a of the NH Constitution.

RULEMAKING REGISTER



NEW HAMPSHIRE RULEMAKING REGISTER

OFFICE OF LEGISLATIVE SERVICES

ROOM 219, STATE HOUSE ANNEX
25 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6312
Tel. (603) 271-3680

Website: www.gencourt.state.nh.us/rules/index.html

TDD Access:
Relay NH 1-800-735-2964

Fax (603) 271-7871

VOLUME XXX, Number 39, October 1, 2010

TABLE OF CONTENTS

		<u>Page No.</u>
1.	<u>OFFICE OF LEGISLATIVE SERVICES</u>	
a.	List of Notices of Proposed Rules NN 2010-109 through NN 2010-115	-i-
b.	Notices of Proposed Rules	1
c.	Special Notice: Amendments to the <i>New Hampshire Drafting and Procedure Manual for Administrative Rules</i> and JLCAR Hearing Date	16
2.	<u>COMMITTEE (JLCAR)</u>	
	CONTINUED MEETING: Thursday, October 7, 2010 9:00 a.m. Rooms 306/308, Legislative Office Building	
	REGULAR MEETING: Thursday, October 21, 2010 9:00 a.m. Rooms 306/308, Legislative Office Building	

JLCAR MEETING DATES AND RELATED FILING DEADLINES OCTOBER-DECEMBER, 2010

The JLCAR has voted to hold its regularly scheduled monthly meetings for October through December, 2010 on the third Thursdays listed below. The minimum 14-day "deadline" prior to the regular JLCAR meeting is listed for agencies to file final proposals or proposed interim rules* for placement on the JLCAR agenda pursuant to RSA 541-A:12, I and RSA 541-A:19, V. The JLCAR has also scheduled continued meetings as listed below on select Thursdays to address any items postponed from the prior regular meetings.

*Note: *Register* publication, and notice filing deadlines, will still occur on Fridays, except as noted. RSA 541-A:19, V requires that an agency's interim rulemaking notice, whether in a newspaper or in the *Register*, must be published at least 7 days prior to the JLCAR meeting. Therefore, the deadline for filing a proposed interim rule with a *Register* notice will be earlier as listed below.

*Filing Deadline for Interim Rules w/ <i>Register</i> Notice	Regular Meeting Filing Deadline	Regular Meeting Date	Continued Meeting Date
--	--	September 16	October 7
October 1	October 7	October 21	November 4
October 29	November 4	November 18	December 2
November 24 (Wednesday)	December 2	December 16	None

NEW HAMPSHIRE RULEMAKING REGISTER

Notices of Proposed Rules

<u>Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Page No.</u>
2010-109	Phy 303.07, 304.04, 305.01, 403.05, & 403.08	Governing Board of Physical Therapists Jurisprudence Examination.	1
2010-110	Phy 500	Governing Board of Physical Therapists Ethical Standards.	3
2010-111	Env-A 101.35, 101.96, & 101.115	Department of Environmental Services Air Related Programs Greenhouse Gas (GHG) Definitions.	5
2010-112	Env-A 619.03	Department of Environmental Services Air Related Programs Greenhouse Gas (GHG) Rule.	7
2010-113	Env-A 2300	Department of Environmental Services Air Related Programs Mitigation of Regional Haze.	9
2010-114	Env-Wq 404 (currently Env-Ws 384)	Department of Environmental Services Water Quality and Quantity Programs Underground Injection Control Requirements.	11
2010-115	Rev 901, 902, 903 various sections	Department of Revenue Administration Interest and Dividends Tax.	13

Notice Number 2010-111 Rule Number Env-A 101.35 [new]; Env-A 101.96 [new]; Env-A 101.115

1. Agency Name & Address:

Department of Environmental Services
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

2. RSA Authority: RSA 125-C:4, I(a)
3. Federal Authority: 42 U.S.C. § 7661(2); 42 U.S.C. § 7410(a)(2)(C); 40 CFR § 51.166; 40 CFR 70.2
4. Type of Action:
Adoption X
Amendment _____
Repeal _____
Readoption _____
Readoption w/amendment X

5. Short Title: Greenhouse Gas (GHG) Definitions

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

Env-A 101 contains the definitions for terms used throughout subtitle Env-A. DES is proposing to add two new definitions and to amend one existing definition in order to support changes being made in a separate rulemaking relating to regulation of greenhouse gases (GHGs). The definitions proposed to be added are for the terms "greenhouse gases (GHGs)" and "carbon dioxide equivalent emissions (CO₂e)"; the definition proposed to be amended is "major source." The proposed definition of GHGs is consistent with both the state statutory definition (RSA 125-L:1, IV) and with the definition recently adopted by the U.S. EPA. The term "carbon dioxide equivalent emissions (CO₂e)" is being defined because GHGs are six different gases, each of which exhibits a different global warming potential (GWP). (For example, one ton of methane emissions has a substantially higher GWP than one ton of CO₂ emissions.) A standardized method of expressing GHG emissions thus is needed for comparison to the respective Prevention of Significant Deterioration (PSD) and Title V program applicability thresholds. The proposed definition is consistent with the federal definitions in 40 CFR 51.166 and 40 CFR 70.2. The definition of "major source" is proposed to be revised to clarify that, for purposes of GHG permitting, the major source threshold for PSD and Title V is 100,000 tons per year (tpy) CO₂e, and the major modification threshold under the PSD program is a net emissions increase of at least 75,000 tpy CO₂e. These thresholds are consistent with those recently promulgated by EPA.

6. (b) Brief description of the groups affected:

The rules affect owners and operators of major sources that generate GHG emissions at levels at or above the threshold limits.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule Section(s)	State Statute(s) Implemented	Federal Statute or Regulation Implemented
Env-A 101.35 [new]	RSA 125-C:4, I(a)	40 CFR § 52.21
Env-A 101.96 [new]	RSA 125-C:4, I(a); 125-L:1, IV	40 CFR § 52.21
Env-A 101.113/115	RSA 125-C:4, I(a)	42 U.S.C. § 7661(2) and 40 CFR 70.2

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: Karla McManus Title: ARD Planning and Rules Manager
Address: Department of Environmental Services Phone #: 271-6854
29 Hazen Drive Fax#: 271-1381
P.O. Box 95 E-mail: Karla.McManus@des.nh.gov
Concord, NH 03302-0095

NN 2010-111 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: Monday, November 8, 2010 at 4:00 p.m.

 Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: Thursday, October 28, 2010; 1 p.m. to 3 p.m.

Place: Rooms 112 - 113, DES Offices, 29 Hazen Drive, Concord

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 10:124, dated 09/22/10

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

There is no difference in cost when comparing the proposed rule to the existing rules

2. Cite the Federal mandate. Identify the impact on state funds:

The US Environmental Protection Agency (EPA) finalized rules in June 2010 to regulate greenhouse gas emissions under the prevention of significant deterioration (PSD) and title V permitting programs (40CFR 51.166; 40CFR 70.2). The EPA has approved the NH Department of Environmental Services PSD and title V permitting programs for major stationary sources, however, changes are required to state rules to make them consistent with the federal requirements. Until the state rules are changed, the Department will not be able to effectively administer the programs, resulting in the EPA implementing the programs until the rules are changed. No impact on state funds.

3. Cost and benefits of the proposed rule(s):

There are no costs or benefits attributable to the proposed rules.

A. To State general or State special funds:

None

B. To State citizens and political subdivisions:

None

C. To independently owned businesses:

None

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The rules do not create, modify, or expand any program in such a way as to require action by any political subdivisions and so do not require any expenditures by political subdivisions. The rules thus do not violate Part I, Article 28-a of the NH Constitution.

Notice Number 2010-112 Rule Number Env-A 619.03

<p>1. Agency Name & Address:</p> <p>Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</p>	<p>2. RSA Authority: <u>RSA 125-C:4, I(a) & (d)</u></p> <p>3. Federal Authority: <u>42 U.S.C. § 7661(2); 42 U.S.C. §7410(a)(2)(C); 40 CFR § 51.166; 40 CFR 70.2</u></p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Amendment _____</p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment <u>X</u></p>
--	---

5. Short Title: Greenhouse Gas (GHG) Rule

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

Env-A 619 currently incorporates the federal requirements relative to the Prevention of Significant Deterioration ("PSD") program, by establishing preconstruction and pre-modification review procedures in order to determine whether the proposed construction or modification will cause or contribute to significant deterioration of air quality in the state. This is required for the State to comply with 40 CFR 51.166, 40 CFR 52.21 and RSA 125-C. The requirements apply to all new major stationary sources and major modifications to existing sources in any portion of the state where the existing air quality meets the NAAQS.

The proposed amendments to Env-A 619.03 reflect recent revisions to the federal requirements relative to greenhouse gases ("GHGs") and will establish separate, higher thresholds for GHGs. Facilities that currently are minor sources but that will be major sources under the Title V Permitting program due to GHG emissions will need to either apply for a Title V permit or obtain a state permit that restricts their potential to emit below the major source threshold for GHGs (100,000 ton per year of CO₂e). For new major sources of GHG emissions under the PSD permitting program (or existing major sources making major modifications), sources will be subject to PSD permitting requirements for GHGs.

6. (b) Brief description of the groups affected:

The rules affect owners and operators of major sources that generate GHG emissions at levels at or above the threshold limits.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule Section(s)	State Statute(s) Implemented	Federal Statute or Regulation Implemented
Env-A 619.03	RSA 125-C:4, I(d); RSA 125-C:6, XIV; RSA 125-C:11, IV	42 U.S.C. §7410(a)(2)(C); 40 CFR § 51.166

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name:	Karla McManus	Title:	ARD Planning and Rules Manager
Address:	Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	Phone #:	271-6854
		Fax#:	271-1381
		E-mail:	Karla.McManus@des.nh.gov

The rules also can be viewed in PDF at
<http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

NN 2010-112 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: Monday, November 8, 2010 at 4:00 p.m.

 Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: Thursday, October 28, 2010; 1 p.m. to 3 p.m.

Place: Rooms 112 - 113, DES Offices, 29 Hazen Drive, Concord

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 10:125, dated 09/22/10

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

There is no difference in cost when comparing the proposed rule to the existing rules

2. Cite the Federal mandate. Identify the impact on state funds:

The US Environmental Protection Agency (EPA) finalized rules in June 2010 to regulate greenhouse gas emissions under the prevention of significant deterioration (PSD) and title V permitting programs (40CFR 51.166; 40CFR 70.2). The EPA has approved the NH Department of Environmental Services PSD and title V permitting programs for major stationary sources, however, changes are required to state rules to make them consistent with the federal requirements. The Department anticipates the existing universe of major sources in NH will not change significantly as a result of adopting the proposed rules. Until the state rules are changed, the Department will not be able to effectively administer the programs, resulting in the EPA implementing the programs until the rules are changed. No impact on state funds.

3. Cost and benefits of the proposed rule(s):

There are no costs or benefits attributable to the proposed rules.

- A. To State general or State special funds:

None

- B. To State citizens and political subdivisions:

None

- C. To independently owned businesses:

None

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The rules do not create, modify, or expand any program in such a way as to require action by any political subdivisions and so do not require any expenditures by political subdivisions. The rules thus do not violate Part I, Article 28-a of the NH Constitution.

ANNOTATIONS TO INITIAL PROPOSAL FROM THE OFFICE OF
LEGISLATIVE SERVICES

SEP 23 2010 RULEMAKING NOTICE FORM

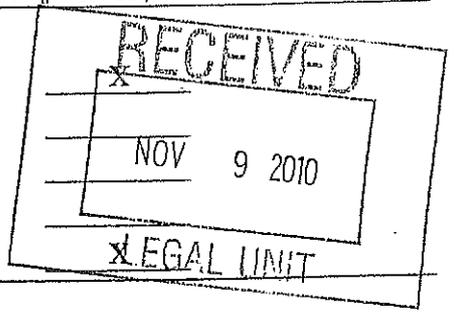
11/8

Consent

Notice Number 2010-111 Rule Number Env-A 101.35 [new]; Env-A 101.96 [new]; Env-A 101.115

1. Agency Name & Address: Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095

2. RSA Authority: RSA 125-C:4, I(a)
3. Federal Authority: 42 U.S.C. § 7661(2); 42 U.S.C. § 7410(a)(2)(C); 40 CFR § 51.166; 40 CFR 70.2
4. Type of Action: Adoption, Amendment, Repeal, Readoption, Readoption w/amendment



5. Short Title: Greenhouse Gas (GHG) Definitions

6. (a) Summary of what the rule says and the effect of the rule on those regulated: Env-A 101 contains the definitions for terms used throughout subtitle Env-A. DES is proposing to add two new definitions and to amend one existing definition in order to support changes being made in a separate rulemaking relating to regulation of greenhouse gases (GHGs). The definitions proposed to be added are for the terms "greenhouse gases (GHGs)" and "carbon dioxide equivalent emissions (CO2e)"; the definition proposed to be amended is "major source." The proposed definition of GHGs is consistent with both the state statutory definition (RSA 125-L:1, IV) and with the definition recently adopted by the U.S. EPA. The term "carbon dioxide equivalent emissions (CO2e)" is being defined because GHGs are six different gases, each of which exhibits a different global warming potential (GWP). (For example, one ton of methane emissions has a substantially higher GWP than one ton of CO2 emissions.) A standardized method of expressing GHG emissions thus is needed for comparison to the respective Prevention of Significant Deterioration (PSD) and Title V program applicability thresholds. The proposed definition is consistent with the federal definitions in 40 CFR 51.166 and 40 CFR 70.2. The definition of "major source" is proposed to be revised to clarify that, for purposes of GHG permitting, the major source threshold for PSD and Title V is 100,000 tons per year (tpy) CO2e, and the major modification threshold under the PSD program is a net emissions increase of at least 75,000 tpy CO2e. These thresholds are consistent with those recently promulgated by EPA.

6. (b) Brief description of the groups affected: The rules affect owners and operators of major sources that generate GHG emissions at levels at or above the threshold limits.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Table with 3 columns: Rule Section(s), State Statute(s) Implemented, Federal Statute or Regulation Implemented. Rows include Env-A 101.35 [new], Env-A 101.96 [new], and Env-A 101.115.

7. Contact person for copies and questions including requests to accommodate persons with disabilities: Name: Karla McManus Title: ARD Planning and Rules Manager Address: Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095 Phone #: 271-6854 Fax#: 271-1381 E-mail: Karla.McManus@des.nh.gov

RULEMAKING NOTICE FORM - Page 2

The rules also can be viewed in PDF at
<http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

TTY/TDD Access: Relay NH 1-
800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Monday, November 8, 2010 at 4:00 p.m.**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, October 28, 2010; 1 p.m. to 3 p.m.**

Place: **Rooms 112 - 113, DES Offices, 29 Hazen Drive, Concord**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 10:124, dated 09/22/10

1. **Comparison of the costs of the proposed rule(s) to the existing rule(s):**

There is no difference in cost when comparing the proposed rule to the existing rules

2. **Cite the Federal mandate. Identify the impact on state funds:**

The US Environmental Protection Agency (EPA) finalized rules in June 2010 to regulate greenhouse gas emissions under the prevention of significant deterioration (PSD) and title V permitting programs (40CFR 51.166; 40CFR 70.2). The EPA has approved the NH Department of Environmental Services PSD and title V permitting programs for major stationary sources, however, changes are required to state rules to make them consistent with the federal requirements. Until the state rules are changed, the Department will not be able to effectively administer the programs, resulting in the EPA implementing the programs until the rules are changed. No impact on state funds.

3. **Cost and benefits of the proposed rule(s):**

There are no costs or benefits attributable to the proposed rules.

- A. **To State general or State special funds:**

None

- B. **To State citizens and political subdivisions:**

None

- C. **To independently owned businesses:**

None

11. **Statement Relative to Part I, Article 28-a of the N.H. Constitution:**

The rules do not create, modify, or expand any program in such a way as to require action by any political subdivisions and so do not require any expenditures by political subdivisions. The rules thus do not violate Part I, Article 28-a of the NH Constitution.

PROPOSED RULE

Added text in *bold italics*
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Adopt new Env-A 101.35, and renumber subsequent sections accordingly, so that Env-A 101.35 reads as follows:

Env-A 101.35 "Carbon dioxide equivalent emissions (CO₂e)" means a measurement of the global warming potential of GHGs emitted, determined by multiplying the mass amount of emissions in tons per year (tpy) of each gas in the pollutant group GHGs by the associated global warming potential for that gas published at Table A-1 to subpart A of 40 CFR part 98, Global Warming Potentials, and adding the resultant values to compute a tpy CO₂e for the GHGs.

Adopt new Env-A 101.96, and renumber subsequent sections accordingly, so that Env-A 101.96 reads as follows:

Env-A 101.96 "Greenhouse gases (GHGs)" means the group of 6 gases that, when emitted to the ambient air, act as a shield to trap heat in the earth's atmosphere. The group is comprised of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

Readopt with amendment Env-A 101.113, eff. 6-30-95 (doc. #6057-A); amd by #7845, eff. 3-8-03, renumbered by #8256 and #8304, and renumber as Env-A 101.115 based on the new definitions above, so that Env-A 101.115 reads as follows:

Env-A 101.115 "Major source" means a stationary source that has been identified as meeting a specified threshold for producing pollutants of concern. The term includes:

(a) ~~"Affected source"~~ means "acid rain affected source" as defined in this part;

(b) "Major source" as defined by ~~in~~ 40 CFR 70.2, *except that in paragraph (2) of the federal definition, the emission rate for GHGs shall be 100,000 tons per year (tpy) CO₂e and 100 tpy on a mass basis; namely "any stationary source (or group of stationary sources which are located on one or more contiguous or adjacent properties, and are under the common control of the same person (or persons under common control) belonging to a single major industrial grouping and that are described in paragraph (1), (2), or (3) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two digit code) as described in the Standard Industrial Classification Manual, 1987.*

(1) ~~A major source under section 112 of the Act, which is defined as:~~

a. ~~For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control to determine whether such units or stations are major sources; or~~

b. ~~For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.~~

(2) ~~A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary source:~~

Added text in *bold italics*
 Deleted text ~~struck through~~

(1) Any source with the potential to emit nitrogen oxides in the following counties and specific quantities:

- a. In Belknap, Carroll, Cheshire, Coos, Grafton, or Sullivan counties, 100 tpy or more; or
- b. In Hillsborough, Merrimack, Rockingham or Strafford counties, 50 tpy or more; or

(2) Any source with the potential to emit volatile organic compounds in the quantity of 50 tpy or more; and

(d) For purposes of Env-A 619, a major stationary source as defined in 40 CFR 52.21(b), as revised on October 28, 2002, including any stationary source with the potential to emit 100,000 tpy or more CO_{2e} for GHGs, where potential GHG emissions also exceed the corresponding mass-based thresholds contained in 40 CFR 52.21(b)(1)(i).

APPENDIX A: STATE STATUTES AND FEDERAL STATUTES AND REGULATIONS IMPLEMENTED

Rule Section(s)	State Statute(s) Implemented	Federal Statute or Regulation Implemented
Env-A 101.35 [new]	RSA 125-C:4, I(a)	40 CFR § 52.21
Env-A 101.96 [new]	RSA 125-C:4, I(a); 125-L:1, IV	40 CFR § 52.21
Env-A 101.113/115	RSA 125-C:4, I(a)	42 U.S.C. § 7661(2) and 40 CFR 70.2

APPENDIX B: FEDERAL DEFINITIONS CITED IN ENV-A 101

40 CFR 52.21(b) Definitions:

(1)(i) Major stationary source means:

(a) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants (with thermal dryers), primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140), fossil-fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(b) Notwithstanding the stationary source size specified in paragraph (b)(1)(i) of this section, any stationary source which emits, or has the potential to emit, 250 tons per year or more of a regulated NSR pollutant; or

(c) Any physical change that would occur at a stationary source not otherwise qualifying under paragraph (b)(1) of this section, as a major stationary source, if the changes would constitute a major stationary source by itself.

40 CFR 70.2 Definitions:

Major source means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are described in paragraph (1), (2), or (3) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

(1) A major source under section 112 of the Act, which is defined as:

- (i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or
- (ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(2) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary source:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;
- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;

Readopt with amendment Env-A 619.03, eff. 4-26-03 (doc. #7879), to read as follows:

Env-A 619.03 PSD Permit Requirements.

(a) In accordance with ~~with~~ *furthurance* of RSA 125-C:11, the provisions of 40 CFR 52.21(b) through (p), (r), (t), (v), and (w), *as revised on October 28, 2002*, shall apply for the purposes of implementing a PSD permit program that meets the requirements of Title I of the Act.

(b) *For the purposes of this part, the following definitions contained in 40 CFR 52.21(b), as revised on October 28, 2002, shall apply as follows:*

- (1) *“Major stationary source” shall also mean any stationary source with the potential to emit 100,000 tpy or more CO₂e for GHGs, where potential GHG emissions also exceed the corresponding mass-based thresholds contained in 40 CFR 52.21(b)(1)(i); and*
- (2) *“Significant” shall also mean, in reference to a net emissions increase or the potential of a source to emit GHGs, a rate of emissions that would equal or exceed 75,000 tpy CO₂e and also exceeds any corresponding mass-based thresholds contained in 40 CFR 52.21(b)(23).*

(~~b~~c) For the purposes of this part, the word “department” shall replace the word “administrator” in the paragraphs of 40 CFR 52.21, *as revised on October 28, 2002*, referenced in (a), above, except in the following paragraphs:

- (1) Paragraph (b)(17);
- (2) Paragraphs (g)(1) through (6);
- (3) Paragraph (l)(2); and
- (4) Paragraph (t).

Edit. To avoid including a requirement within a definition, this could be reworded to say "also means" or "also includes".

(~~e~~d) An owner or operator of a new or modified source subject to this part shall file a permit application in accordance with the procedures set forth in Env-A 607.

(~~e~~e) A permit application subject to this part shall be subject to the public notice procedures set forth in Env-A 621.03.

APPENDIX A: STATE STATUTES AND FEDERAL STATUTES AND REGULATIONS IMPLEMENTED

Rule Section(s)	State Statute(s) Implemented	Federal Statute or Regulation Implemented
Env-A 619.03	RSA 125-C:4, I(d); RSA 125-C:6, XIV; RSA 125-C:11, IV	42 U.S.C. §7410(a)(2)(C); 40 CFR § 51.166

APPENDIX B: FEDERAL DEFINITIONS CITED IN ENV-A 619.03

40 CFR 52.21(b) Definitions:

(1) (i) Major stationary source means:

(a) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants (with thermal dryers), primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140), fossil-fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(b) Notwithstanding the stationary source size specified in paragraph (b)(1)(i) of this section, any stationary source which emits, or has the potential to emit, 250 tons per year or more of a regulated NSR pollutant; or

(c) Any physical change that would occur at a stationary source not otherwise qualifying under paragraph (b)(1) of this section, as a major stationary source, if the changes would constitute a major stationary source by itself.

(ii) A major source that is major for volatile organic compounds or NOX shall be considered major for ozone.

(iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this section whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

- (a) Coal cleaning plants (with thermal dryers);
- (b) Kraft pulp mills;
- (c) Portland cement plants;
- (d) Primary zinc smelters;
- (e) Iron and steel mills;
- (f) Primary aluminum ore reduction plants;
- (g) Primary copper smelters;
- (h) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (i) Hydrofluoric, sulfuric, or nitric acid plants;
- (j) Petroleum refineries;
- (k) Lime plants;
- (l) Phosphate rock processing plants;

- (m) Coke oven batteries;
- (n) Sulfur recovery plants;
- (o) Carbon black plants (furnace process);
- (p) Primary lead smelters;
- (q) Fuel conversion plants;
- (r) Sintering plants;
- (s) Secondary metal production plants;
- (t) Chemical process plants--The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
- (u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (w) Taconite ore processing plants;
- (x) Glass fiber processing plants;
- (y) Charcoal production plants;
- (z) Fossil fuel-fired steam electric plants of more that 250 million British thermal units per hour heat input, and
- (aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

(23) (i) Significant means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate

Carbon monoxide: 100 tons per year (tpy)

Nitrogen oxides: 40 tpy

Sulfur dioxide: 40 tpy

Particulate matter: 25 tpy of particulate matter emissions

PM₁₀: 15 tpy

PM_{2.5}: 10 tpy of direct PM_{2.5}emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions unless demonstrated not to be a PM_{2.5} precursor under paragraph (b)(50) of this section

Ozone: 40 tpy of volatile organic compounds or nitrogen oxides

Lead: 0.6 tpy

Fluorides: 3 tpy

Sulfuric acid mist: 7 tpy

Hydrogen sulfide (H₂S): 10 tpy

Total reduced sulfur (including H₂S): 10 tpy

Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): 3.2×10^{-6} megagrams per year (3.5×10^{-6} tons per year)

Municipal waste combustor metals (measured as particulate matter): 14 megagrams per year (15 tons per year)

Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tons per year)

Municipal solid waste landfills emissions (measured as nonmethane organic compounds): 45 megagrams per year (50 tons per year)

(ii) *Significant* means, in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that paragraph (b)(23)(i) of this section, does not list, any emissions rate.

(iii) Notwithstanding paragraph (b)(23)(i) of this section, *significant* means any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would construct within 10 kilometers of a Class I area, and have an impact on such area equal to or greater than 1 $\mu\text{g}/\text{m}^3$, (24-hour average).

40 CFR 98, Table A-1:

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
Carbon dioxide	124-38-9	CO ₂	1
Methane	74-82-8	CH ₄	21
Nitrous oxide	10024-97-2	N ₂ O	310
HFC-23	75-46-7	CHF ₃	11,700
HFC-32	75-10-5	CH ₂ F ₂	650
HFC-41	593-53-3	CH ₃ F	150
HFC-125	354-33-6	C ₂ HF ₅	2,800
HFC-134	359-35-3	C ₂ H ₂ F ₄	1,000
HFC-134a	811-97-2	CH ₂ FCF ₃	1,300
HFC-143	430-66-0	C ₂ H ₃ F ₃	300
HFC-143a	420-46-2	C ₂ H ₃ F ₃	3,800
HFC-152	624-72-6	CH ₂ FCH ₂ F	53
HFC-152a	75-37-6	CH ₃ CHF ₂	140
HFC-161	353-36-6	CH ₃ CH ₂ F	12
HFC-227ea	431-89-0	C ₃ H ₇ F ₇	2,900
HFC-236cb	677-56-5	CH ₂ FCF ₂ CF ₃	1,340
HFC-236ea	431-63-0	CHF ₂ CHFCF ₃	1,370
HFC-236fa	690-39-1	C ₃ H ₂ F ₆	6,300
HFC-245ca	679-86-7	C ₃ H ₃ F ₅	560
HFC-245fa	460-73-1	CHF ₂ CH ₂ CF ₃	1,030
HFC-365mfc	406-58-6	CH ₃ CF ₂ CH ₂ CF ₃	794
HFC-43-10mee	138495-42-8	CF ₃ CFHCFHCF ₂ CF ₃	1,300
Sulfur hexafluoride	2551-62-4	SF ₆	23,900

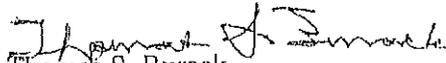
Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
Trifluoromethyl sulphur pentafluoride	373-80-8	SF ₅ CF ₃	17,700
Nitrogen trifluoride	7783-54-2	NF ₃	17,200
PFC-14 (Perfluoromethane)	75-73-0	CF ₄	6,500
PFC-116 (Perfluoroethane)	76-16-4	C ₂ F ₆	9,200
PFC-218 (Perfluoropropane)	76-19-7	C ₃ F ₈	7,000
Perfluorocyclopropane	931-91-9	C-C ₃ F ₆	17,340
PFC-3-1-10 (Perfluorobutane)	355-25-9	C ₄ F ₁₀	7,000
Perfluorocyclobutane	115-25-3	C-C ₄ F ₈	8,700
PFC-4-1-12 (Perfluoropentane)	678-26-2	C ₅ F ₁₂	7,500
PFC-5-1-14 (Perfluorohexane)	355-42-0	C ₆ F ₁₄	7,400
PFC-9-1-18	306-94-5	C ₁₀ F ₁₈	7,500
HCFE-235da2 (Isoflurane)	26675-46-7	CHF ₂ OCHClCF ₃	350
HFE-43-10pccc (H-Galden 1040x)	E1730133	CHF ₂ OCF ₂ OC ₂ F ₄ OCHF ₂	1,870
HFE-125	3822-68-2	CHF ₂ OCF ₃	14,900
HFE-134	1691-17-4	CHF ₂ OCHF ₂	6,320
HFE-143a	421-14-7	CH ₃ OCF ₃	756
HFE-227ea	2356-62-9	CF ₃ CHFOCF ₃	1,540
HFE-236ca12 (HG-10)	78522-47-1	CHF ₂ OCF ₂ OCHF ₂	2,800
HFE-236ea2 (Desflurane)	57041-67-5	CHF ₂ OCHF ₂ CF ₃	989
HFE-236fa	20193-67-3	CF ₃ CH ₂ OCF ₃	487
HFE-245cb2	22410-44-2	CH ₃ OCF ₂ CF ₃	708
HFE-245fa1	84011-15-4	CHF ₂ CH ₂ OCF ₃	286
HFE-245fa2	1885-48-9	CHF ₂ OCH ₂ CF ₃	659
HFE-254cb2	425-88-7	CH ₃ OCF ₂ CHF ₂	359
HFE-263fb2	460-43-5	CF ₃ CH ₂ OCH ₃	11
HFE-329mcc2	67490-36-2	CF ₃ CF ₂ OCF ₂ CHF ₂	919
HFE-338mcf2	156053-88-2	CF ₃ CF ₂ OCH ₂ CF ₃	552
HFE-338pcc13 (HG-01)	188690-78-0	CHF ₂ OCF ₂ CF ₂ OCHF ₂	1,500
HFE-347mcc3	28523-86-6	CH ₃ OCF ₂ CF ₂ CF ₃	575
HFE-347mcf2	E1730135	CF ₃ CF ₂ OCH ₂ CHF ₂	374
HFE-347pcf2	406-78-0	CHF ₂ CF ₂ OCH ₂ CF ₃	580
HFE-356mcc3	382-34-3	CH ₃ OCF ₂ CHFCF ₃	101
HFE-356pcc3	160620-20-2	CH ₃ OCF ₂ CF ₂ CHF ₂	110
HFE-356pcf2	E1730137	CHF ₂ CH ₂ OCF ₂ CHF ₂	265
HFE-356pcf3	35042-99-0	CHF ₂ OCH ₂ CF ₂ CHF ₂	502

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
HFE-365mcf3	378-16-5	$\text{CF}_3\text{CF}_2\text{CH}_2\text{OCH}_3$	11
HFE-374pc2	512-51-6	$\text{CH}_3\text{CH}_2\text{OCF}_2\text{CHF}_2$	557
HFE-449sl (HFE-7100) Chemical blend	163702-07-6 163702-08-7	$\text{C}_4\text{F}_9\text{OCH}_3$ $(\text{CF}_3)_2\text{CFCH}_2\text{OCH}_3$	297
HFE-569sf2 (HFE-7200) Chemical blend	163702-05-4 163702-06-5	$\text{C}_4\text{F}_9\text{OC}_2\text{H}_5$ $(\text{CF}_3)_2\text{CFCH}_2\text{OC}_2\text{H}_5$	59
Sevoflurane	28523-86-6	$\text{CH}_2\text{FOCH}(\text{CF}_3)_2$	345
HFE-356mm1	13171-18-1	$(\text{CF}_3)_2\text{CHOCH}_3$	27
HFE-338mmz1	26103-08-2	$\text{CHF}_2\text{OCH}(\text{CF}_3)_2$	380
(Octafluorotetramethylene)hydroxymethyl group	NA	$\text{X}-(\text{CF}_2)_4\text{CH}(\text{OH})-\text{X}$	73
HFE-347mmy1	22052-84-2	$\text{CH}_3\text{OCF}(\text{CF}_3)_2$	343
Bis(trifluoromethyl)-methanol	920-66-1	$(\text{CF}_3)_2\text{CHOH}$	195
2,2,3,3,3-pentafluoropropanol	422-05-9	$\text{CF}_3\text{CF}_2\text{CH}_2\text{OH}$	42
PFFPMIE	NA	$\text{CF}_3\text{OCF}(\text{CF}_3)$ $\text{CF}_2\text{OCF}_2\text{OCF}_3$	10,300

NA = not available.

FINAL PROPOSAL FILING

STATE OF NEW HAMPSHIRE

FROM  DATE December 2, 2010
Thomas S. Burack
Commissioner AT (OFFICE) DES

SUBJECT Final Proposal #2010-111 and #2010-112

TO Office of Legislative Services
Division of Administrative Rules

In accordance with RSA 541-A:12, enclosed please find the Final Proposal Cover Sheet and copies of the corresponding rule for each of the following 2 rules:

Env-A 101.35 [new]; Env-A 101.96 [new]; Env-A 101.113: Greenhouse Gas (GHG) Definitions

Env-A 619.03: Greenhouse Gas (GHG) Rule

If you have any questions, please contact Gretchen Hamel at 271-3137 or Karla McManus at 271-6854.

Enclosures

cc: Gretchen Hamel, DES Legal Unit

ec: Karla McManus, DES ARD

COVER SHEET FOR FINAL PROPOSAL

Notice Number 2010-112

Rule Number Env-A 619.03

<p>1. Agency Name & Address:</p> <p>Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</p>	<p>2. RSA Authority: <u>RSA 125-C:4, I(a)&(d)</u></p> <p>3. Federal Authority: <u>42 USC 7410(a)(2)(C); 42 USC 7661(2); 40 CFR 51.166; 40 CFR 70.2</u></p> <p>4. Type of Action:</p> <p><input checked="" type="checkbox"/> Adopt</p> <p><input type="checkbox"/> Amendment</p> <p><input type="checkbox"/> Repeal</p> <p><input checked="" type="checkbox"/> Readoption</p> <p><input checked="" type="checkbox"/> Readoption w/amendment</p>
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5. Short Title: Greenhouse Gas (GHG) Rule

6. Contact person for copies and questions:

Name:	Karla McManus	Title:	ARD Planning and Rules Manager
Address:	Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	Phone #:	(603) 271-6854

7. Yes No Agency requests Committee legal counsel review and delayed Committee review pursuant to RSA 541-A:12, I-a

8. The rulemaking notice appeared in the Rulemaking Register on **October 1, 2010**

**SEE THE INSTRUCTIONS--PLEASE SUBMIT 2 COPIES OF THIS COVER SHEET
AND 2 COPIES OF THE FOLLOWING:
(and numbered correspondingly)**

9. The "Final Proposal-Fixed Text", including the cross-reference table required by RSA 541-A:3-a, II as an appendix.

10. The full text of the RSA passage granting rulemaking authority.

11. Yes N/A Incorporation by Reference Statement(s) because this rule incorporates a document by reference for which an Incorporation by Reference Statement is required pursuant to RSA 541-A:12, III.

12. Yes N/A The "Final Proposal-Annotated Text" indicating how the proposed rule was changed because the text of the rule changed from the Initial Proposal pursuant to RSA 541-A:12, II(e).

13. Yes N/A The amended fiscal impact statement because the change to the text of the Initial Proposal affects the original fiscal impact statement (FIS) pursuant to RSA 541-A:5, VI.

COVER SHEET FOR FINAL PROPOSAL

Notice Number 2010-111 Rule Number Env-A 101.35 [new]; Env-A 101.96 [new]; Env-A 101.115

<p>1. Agency Name & Address:</p> <p>Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</p>	<p>2. RSA Authority: <u>RSA 125-C:4, I(a)</u></p> <p>3. Federal Authority: <u>42 USC 7410(a)(2)(C); 42 USC 7661(2); 40 CFR 51.166; 40 CFR 70.2</u></p> <p>4. Type of Action:</p> <p><input checked="" type="checkbox"/> Adopt</p> <p><input type="checkbox"/> Amendment</p> <p><input type="checkbox"/> Repeal</p> <p><input type="checkbox"/> Readoption</p> <p><input checked="" type="checkbox"/> Readoption w/amendment</p>
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5. Short Title: Greenhouse Gas (GHG) Definitions

6. Contact person for copies and questions:

Name:	Karla McManus	Title:	ARD Planning and Rules Manager
Address:	Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	Phone #:	(603) 271-6854

7. Yes No Agency requests Committee legal counsel review and delayed Committee review pursuant to RSA 541-A:12, I-a

8. The rulemaking notice appeared in the Rulemaking Register on **October 1, 2010**

SEE THE INSTRUCTIONS--PLEASE SUBMIT 2 COPIES OF THIS COVER SHEET AND 2 COPIES OF THE FOLLOWING: (and numbered correspondingly)

9. The "Final Proposal-Fixed Text", including the cross-reference table required by RSA 541-A:3-a, II as an appendix.
10. The full text of the RSA passage granting rulemaking authority.
11. Yes N/A Incorporation by Reference Statement(s) because this rule incorporates a document by reference for which an Incorporation by Reference Statement is required pursuant to RSA 541-A:12, III.
12. Yes N/A The "Final Proposal-Annotated Text" indicating how the proposed rule was changed because the text of the rule changed from the Initial Proposal pursuant to RSA 541-A:12, II(e).
13. Yes N/A The amended fiscal impact statement because the change to the text of the Initial Proposal affects the original fiscal impact statement (FIS) pursuant to RSA 541-A:5, VI.

Adopt new Env-A 101.35, and renumber subsequent sections accordingly, so that Env-A 101.35 reads as follows:

Env-A 101.35 “Carbon dioxide equivalent emissions (CO₂e)” means a measurement of the global warming potential of GHGs emitted, determined by multiplying the mass amount of emissions in tons per year (tpy) of each gas in the pollutant group GHGs by the associated global warming potential for that gas published at Table A-1 to subpart A of 40 CFR part 98, Global Warming Potentials, and adding the resultant values to compute a tpy CO₂e for the GHGs.

Adopt new Env-A 101.96, and renumber subsequent sections accordingly, so that Env-A 101.96 reads as follows:

Env-A 101.96 “Greenhouse gases (GHGs)” means the group of 6 gases that, when emitted to the ambient air, act as a shield to trap heat in the earth's atmosphere. The group is comprised of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

Readopt with amendment Env-A 101.113, eff. 6-30-95 (doc. #6057-A); amd by #7845, eff. 3-8-03, renumbered by #8256 and #8304, and renumber as Env-A 101.115 based on the new definitions above, so that Env-A 101.115 reads as follows:

Env-A 101.115 “Major source” means a stationary source that has been identified as meeting a specified threshold for producing pollutants of concern. The term includes:

- (a) “Acid rain affected source” as defined in this part;
- (b) “Major source” as defined in 40 CFR 70.2, July 1, 2009 edition, as amended at 75 FR 31607 by the addition of the phrase “subject to regulation” in paragraph (2) and the addition of a definition of that phrase;
- (c) “Major stationary source” as defined in paragraph (3) of the definition of major source in 40 CFR 70.2, including the following:
 - (1) Any source with the potential to emit nitrogen oxides in the following counties and specific quantities:
 - a. In Belknap, Carroll, Cheshire, Coos, Grafton, or Sullivan counties, 100 tpy or more; or
 - b. In Hillsborough, Merrimack, Rockingham or Strafford counties, 50 tpy or more; or
 - (2) Any source with the potential to emit volatile organic compounds in the quantity of 50 tpy or more; and
- (d) For purposes of Env-A 619, a major stationary source as defined in the federal definition cited in Env-A 619.03(a) or (b), as applicable.

APPENDIX A: STATE STATUTES AND FEDERAL STATUTES AND REGULATIONS IMPLEMENTED

Rule Section(s)	State Statute(s) Implemented	Federal Statute or Regulation Implemented
Env-A 101.35 [new]	RSA 125-C:4, I(a)	40 CFR § 52.21
Env-A 101.96 [new]	RSA 125-C:4, I(a); 125-L:1, IV	40 CFR § 52.21
Env-A 101.115	RSA 125-C:4, I(a)	42 U.S.C. § 7661(2) and 40 CFR 70.2

APPENDIX B: FEDERAL DEFINITIONS CITED IN ENV-A 101**40 CFR 52.21(b) Definitions:**

(1)(i) Major stationary source means:

(a) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants (with thermal dryers), primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140), fossil-fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(b) Notwithstanding the stationary source size specified in paragraph (b)(1)(i) of this section, any stationary source which emits, or has the potential to emit, 250 tons per year or more of a regulated NSR pollutant; or

(c) Any physical change that would occur at a stationary source not otherwise qualifying under paragraph (b)(1) of this section, as a major stationary source, if the changes would constitute a major stationary source by itself.

(ii) A major source that is major for volatile organic compounds or NO_x shall be considered major for ozone.

(iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this section whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

- (a) Coal cleaning plants (with thermal dryers);
- (b) Kraft pulp mills;
- (c) Portland cement plants;
- (d) Primary zinc smelters;
- (e) Iron and steel mills;
- (f) Primary aluminum ore reduction plants;
- (g) Primary copper smelters;

- (h) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (i) Hydrofluoric, sulfuric, or nitric acid plants;
- (j) Petroleum refineries;
- (k) Lime plants;
- (l) Phosphate rock processing plants;
- (m) Coke oven batteries;
- (n) Sulfur recovery plants;
- (o) Carbon black plants (furnace process);
- (p) Primary lead smelters;
- (q) Fuel conversion plants;
- (r) Sintering plants;
- (s) Secondary metal production plants;
- (t) Chemical process plants--The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
- (u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (w) Taconite ore processing plants;
- (x) Glass fiber processing plants;
- (y) Charcoal production plants;
- (z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, and
- (aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

(49) *Subject to regulation* means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of this chapter, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(i) *Greenhouse gases (GHGs)*, the air pollutant defined in § 86.1818–12(a) of this chapter as the aggregate group of six greenhouse gases: Carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation except as provided in paragraphs (b)(49)(iv) through (v) of this section.

(ii) For purposes of paragraphs (b)(49)(iii) through (v) of this section, the term *tpy CO₂ equivalent emissions (CO₂e)* shall represent an amount of GHGs emitted, and shall be computed as follows:

(a) Multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A–1 to subpart A of part 98 of this chapter— Global Warming Potentials.

(b) Sum the resultant value from paragraph (b)(49)(ii)(a) of this section for each gas to compute a tpy CO₂e.

(iii) The term *emissions increase* as used in paragraphs (b)(49)(iv) through (v) of this section shall mean that both a significant emissions increase (as calculated using the procedures in paragraph (a)(2)(iv) of this section) and a significant net emissions increase (as defined in paragraphs (b)(3) and (b)(23) of this section) occur. For the pollutant GHGs, an emissions increase shall be based on tpy CO₂e, and shall be calculated assuming the pollutant GHGs is a regulated NSR pollutant, and "significant" is defined as 75,000 tpy CO₂e instead of applying the value in paragraph (b)(23)(ii) of this section.

(50) *Regulated NSR pollutant*, for purposes of this section, means the following:

(i) Any pollutant for which a national ambient air quality standard has been promulgated and any pollutant identified under this paragraph (b)(50)(i) as a constituent or precursor for such pollutant. Precursors identified by the Administrator for purposes of NSR are the following:

(a) Volatile organic compounds and nitrogen oxides are precursors to ozone nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas.

(b) Sulfur dioxide is a precursor to PM_{2.5} in all attainment and unclassifiable areas.

(c) Nitrogen oxides are presumed to be precursors to PM_{2.5} in all attainment and unclassifiable areas, unless the State demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient PM_{2.5} concentrations.

(d) Volatile organic compounds are presumed not to be precursors to PM_{2.5} in any attainment or unclassifiable area, unless the State demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds from sources in a specific area are a significant contributor to that area's ambient PM_{2.5} concentrations.

(ii) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(iii) Any Class I or II substance subject to a standard promulgated under or established by title VI of the Act;

(iv) Beginning January 2, 2011, the pollutant GHGs is subject to regulation if:

(a) The stationary source is a new major stationary source for a regulated NSR pollutant that is not GHGs, and also will emit or will have the potential to emit 75,000 tpy CO₂e or more; or

(b) The stationary source is an existing major stationary source for a regulated NSR pollutant that is not GHGs, and also will have an emissions increase of a regulated NSR pollutant, and an emissions increase of 75,000 tpy CO₂e or more; and,

(v) Beginning July 1, 2011, in addition to the provisions in paragraph (b)(49)(iv) of this section, the pollutant GHGs shall also be subject to regulation

(a) At a new stationary source that will emit or have the potential to emit 100,000 tpy CO₂e; or

(b) At an existing stationary source that emits or has the potential to emit 100,000 tpy CO₂e, when such stationary source undertakes a physical change or change in the method of operation that will result in an emissions increase of 75,000 tpy CO₂e or more.

(vi) Particulate matter (PM) emissions, PM_{2.5} emissions and PM₁₀ emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011 (or any earlier date established in the upcoming rulemaking codifying test methods), such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM, PM_{2.5} and PM₁₀ in PSD permits. Compliance with emissions limitations for

PM, PM2.5 and PM10 issued prior to this date shall not be based on condensable particular matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particular matter shall not be considered in violation of this section unless the applicable implementation plan required condensable particular matter to be included.

40 CFR 70.2 Definitions:

Major source means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are described in paragraph (1), (2), or (3) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

(1) A major source under section 112 of the Act, which is defined as:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(2) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant subject to regulation (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary source:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;

- (xi) Lime plants;
 - (xii) Phosphate rock processing plants;
 - (xiii) Coke oven batteries;
 - (xiv) Sulfur recovery plants;
 - (xv) Carbon black plants (furnace process);
 - (xvi) Primary lead smelters;
 - (xvii) Fuel conversion plants;
 - (xviii) Sintering plants;
 - (xix) Secondary metal production plants;
 - (xx) Chemical process plants--The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
 - (xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
 - (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
 - (xxiii) Taconite ore processing plants;
 - (xxiv) Glass fiber processing plants;
 - (xxv) Charcoal production plants;
 - (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
 - (xxvii) Any other stationary source category, which as of August 7, 1980 is being regulated under section 111 or 112 of the Act.
- (3) A major stationary source as defined in part D of title I of the Act, including:
- (i) For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25 and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f) (1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;
 - (ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of volatile organic compounds;
 - (iii) For carbon monoxide nonattainment areas:
 - (A) That are classified as "serious," and
 - (B) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and
 - (iv) For particulate matter (PM-10) nonattainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM-10.

Subject to regulation means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of this chapter, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(1) *Greenhouse gases (GHGs)*, the air pollutant defined in § 86.1818--12(a) of this chapter as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation unless, as of July 1, 2011, the GHG emissions are at a stationary source emitting or having the potential to emit 100,000 tpy CO₂ equivalent emissions.

(2) The term *tpy CO₂ equivalent emissions (CO₂e)* shall represent an amount of GHGs emitted, and shall be computed by multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A-1 to subpart A of part 98 of this chapter—Global Warming Potentials, and summing the resultant value for each to compute a tpy CO₂e.

Adopt new Env-A 101.35, and renumber subsequent sections accordingly, so that Env-A 101.35 reads as follows:

Env-A 101.35 “Carbon dioxide equivalent emissions (CO₂e)” means a measurement of the global warming potential of GHGs emitted, determined by multiplying the mass amount of emissions in tons per year (tpy) of each gas in the pollutant group GHGs by the associated global warming potential for that gas published at Table A-1 to subpart A of 40 CFR part 98, Global Warming Potentials, and adding the resultant values to compute a tpy CO₂e for the GHGs.

Adopt new Env-A 101.96, and renumber subsequent sections accordingly, so that Env-A 101.96 reads as follows:

Env-A 101.96 “Greenhouse gases (GHGs)” means the group of 6 gases that, when emitted to the ambient air, act as a shield to trap heat in the earth’s atmosphere. The group is comprised of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

Readopt with amendment Env-A 101.113, eff. 6-30-95 (doc. #6057-A); amd by #7845, eff. 3-8-03, renumbered by #8256 and #8304, and renumber as Env-A 101.115 based on the new definitions above, so that Env-A 101.115 reads as follows:

Env-A 101.115 “Major source” means a stationary source that has been identified as meeting a specified threshold for producing pollutants of concern. The term includes:

(a) “Acid rain affected source” as defined in this part;

(b) “Major source” as defined in 40 CFR 70.2, ~~except that in paragraph (2) of the federal definition, the emission rate for GHGs shall be 100,000 tons per year (tpy) CO₂e and 100 tpy on a mass basis July 1, 2009 edition, as amended at 75 FR 31607 by the addition of the phrase “subject to regulation” in paragraph (2) and the addition of a definition of that phrase;~~

(c) ~~For purposes of Env-A 618, a m~~ “Major stationary source” as defined in paragraph (3) of the definition of major source in 40 CFR 70.2, including the following:

(1) Any source with the potential to emit nitrogen oxides in the following counties and specific quantities:

a. In Belknap, Carroll, Cheshire, Coos, Grafton, or Sullivan counties, 100 tpy or more; or

b. In Hillsborough, Merrimack, Rockingham or Strafford counties, 50 tpy or more; or

(2) Any source with the potential to emit volatile organic compounds in the quantity of 50 tpy or more; and

(d) ~~For purposes of Env-A 619, a major stationary source as defined in 40 CFR 52.21(b), as revised on October 28, 2002, including any stationary source with the potential to emit 100,000 tpy or more CO₂e for GHGs, where potential GHG emissions also exceed the corresponding mass-based thresholds contained in 40 CFR 52.21(b)(1)(i) the federal definition cited in Env-A 619.03(a) or (b), as applicable.~~

APPENDIX A: STATE STATUTES AND FEDERAL STATUTES AND REGULATIONS IMPLEMENTED

Rule Section(s)	State Statute(s) Implemented	Federal Statute or Regulation Implemented
Env-A 101.35 [new]	RSA 125-C:4, I(a)	40 CFR § 52.21
Env-A 101.96 [new]	RSA 125-C:4, I(a); 125-L:1, IV	40 CFR § 52.21
Env-A 101.115	RSA 125-C:4, I(a)	42 U.S.C. § 7661(2) and 40 CFR 70.2

APPENDIX B: FEDERAL DEFINITIONS CITED IN ENV-A 101

40 CFR 52.21(b) Definitions:

(1)(i) Major stationary source means:

(a) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants (with thermal dryers), primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140), fossil-fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(b) Notwithstanding the stationary source size specified in paragraph (b)(1)(i) of this section, any stationary source which emits, or has the potential to emit, 250 tons per year or more of a regulated NSR pollutant; or

(c) Any physical change that would occur at a stationary source not otherwise qualifying under paragraph (b)(1) of this section, as a major stationary source, if the changes would constitute a major stationary source by itself.

(ii) A major source that is major for volatile organic compounds or NO_x shall be considered major for ozone.

(iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this section whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

- (a) Coal cleaning plants (with thermal dryers);
- (b) Kraft pulp mills;
- (c) Portland cement plants;
- (d) Primary zinc smelters;
- (e) Iron and steel mills;
- (f) Primary aluminum ore reduction plants;
- (g) Primary copper smelters;

- (h) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (i) Hydrofluoric, sulfuric, or nitric acid plants;
- (j) Petroleum refineries;
- (k) Lime plants;
- (l) Phosphate rock processing plants;
- (m) Coke oven batteries;
- (n) Sulfur recovery plants;
- (o) Carbon black plants (furnace process);
- (p) Primary lead smelters;
- (q) Fuel conversion plants;
- (r) Sintering plants;
- (s) Secondary metal production plants;
- (t) Chemical process plants--The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
- (u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (w) Taconite ore processing plants;
- (x) Glass fiber processing plants;
- (y) Charcoal production plants;
- (z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, and
- (aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

(49) *Subject to regulation* means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of this chapter, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(i) *Greenhouse gases (GHGs)*, the air pollutant defined in § 86.1818–12(a) of this chapter as the aggregate group of six greenhouse gases: Carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation except as provided in paragraphs (b)(49)(iv) through (v) of this section.

(ii) For purposes of paragraphs (b)(49)(iii) through (v) of this section, the term *tpy CO₂ equivalent emissions (CO₂e)* shall represent an amount of GHGs emitted, and shall be computed as follows:

(a) Multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A–1 to subpart A of part 98 of this chapter— Global Warming Potentials.

(b) Sum the resultant value from paragraph (b)(49)(ii)(a) of this section for each gas to compute a tpy CO₂e.

(iii) The term *emissions increase* as used in paragraphs (b)(49)(iv) through (v) of this section shall mean that both a significant emissions increase (as calculated using the procedures in paragraph (a)(2)(iv) of this section) and a significant net emissions increase (as defined in paragraphs (b)(3) and (b)(23) of this section) occur. For the pollutant GHGs, an emissions increase shall be based on tpy CO₂e, and shall be calculated assuming the pollutant GHGs is a regulated NSR pollutant, and “significant” is defined as 75,000 tpy CO₂e instead of applying the value in paragraph (b)(23)(ii) of this section.

(50) *Regulated NSR pollutant*, for purposes of this section, means the following:

(i) Any pollutant for which a national ambient air quality standard has been promulgated and any pollutant identified under this paragraph (b)(50)(i) as a constituent or precursor for such pollutant. Precursors identified by the Administrator for purposes of NSR are the following:

(a) Volatile organic compounds and nitrogen oxides are precursors to ozone nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas.

(b) Sulfur dioxide is a precursor to PM_{2.5} in all attainment and unclassifiable areas.

(c) Nitrogen oxides are presumed to be precursors to PM_{2.5} in all attainment and unclassifiable areas, unless the State demonstrates to the Administrator’s satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area’s ambient PM_{2.5} concentrations.

(d) Volatile organic compounds are presumed not to be precursors to PM_{2.5} in any attainment or unclassifiable area, unless the State demonstrates to the Administrator’s satisfaction or EPA demonstrates that emissions of volatile organic compounds from sources in a specific area are a significant contributor to that area’s ambient PM_{2.5} concentrations.

(ii) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(iii) Any Class I or II substance subject to a standard promulgated under or established by title VI of the Act;

(iv) Beginning January 2, 2011, the pollutant GHGs is subject to regulation if:

(a) The stationary source is a new major stationary source for a regulated NSR pollutant that is not GHGs, and also will emit or will have the potential to emit 75,000 tpy CO₂e or more; or

(b) The stationary source is an existing major stationary source for a regulated NSR pollutant that is not GHGs, and also will have an emissions increase of a regulated NSR pollutant, and an emissions increase of 75,000 tpy CO₂e or more; and,

(v) Beginning July 1, 2011, in addition to the provisions in paragraph (b)(49)(iv) of this section, the pollutant GHGs shall also be subject to regulation

(a) At a new stationary source that will emit or have the potential to emit 100,000 tpy CO₂e; or

(b) At an existing stationary source that emits or has the potential to emit 100,000 tpy CO₂e, when such stationary source undertakes a physical change or change in the method of operation that will result in an emissions increase of 75,000 tpy CO₂e or more.

(vi) Particulate matter (PM) emissions, PM_{2.5} emissions and PM₁₀ emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011 (or any earlier date established in the upcoming rulemaking codifying test methods), such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM, PM_{2.5} and PM₁₀ in PSD permits. Compliance with emissions limitations for

PM, PM_{2.5} and PM₁₀ issued prior to this date shall not be based on condensable particular matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particular matter shall not be considered in violation of this section unless the applicable implementation plan required condensable particular matter to be included.

40 CFR 70.2 Definitions:

Major source means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are described in paragraph (1), (2), or (3) of this definition. For the purposes of defining “major source,” a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

(1) A major source under section 112 of the Act, which is defined as:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(ii) For radionuclides, “major source” shall have the meaning specified by the Administrator by rule.

(2) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant subject to regulation (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary source:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;

- (xi) Lime plants;
 - (xii) Phosphate rock processing plants;
 - (xiii) Coke oven batteries;
 - (xiv) Sulfur recovery plants;
 - (xv) Carbon black plants (furnace process);
 - (xvi) Primary lead smelters;
 - (xvii) Fuel conversion plants;
 - (xviii) Sintering plants;
 - (xix) Secondary metal production plants;
 - (xx) Chemical process plants--The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
 - (xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
 - (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
 - (xxiii) Taconite ore processing plants;
 - (xxiv) Glass fiber processing plants;
 - (xxv) Charcoal production plants;
 - (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
 - (xxvii) Any other stationary source category, which as of August 7, 1980 is being regulated under section 111 or 112 of the Act.
- (3) A major stationary source as defined in part D of title I of the Act, including:
- (i) For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25 and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f) (1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;
 - (ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of volatile organic compounds;
 - (iii) For carbon monoxide nonattainment areas:
 - (A) That are classified as "serious," and
 - (B) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and
 - (iv) For particulate matter (PM-10) nonattainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM-10.

Subject to regulation means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of this chapter, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(1) *Greenhouse gases (GHGs)*, the air pollutant defined in § 86.1818–12(a) of this chapter as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation unless, as of July 1, 2011, the GHG emissions are at a stationary source emitting or having the potential to emit 100,000 tpy CO₂ equivalent emissions.

(2) The term *tpy CO₂ equivalent emissions (CO₂e)* shall represent an amount of GHGs emitted, and shall be computed by multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A–1 to subpart A of part 98 of this chapter—Global Warming Potentials, and summing the resultant value for each to compute a tpy CO₂e.

Readopt with amendment Env-A 619.03, eff. 4-26-03 (doc. #7879), to read as follows:

Env-A 619.03 PSD Permit Requirements.

(a) In furtherance of RSA 125-C:11 and except as provided in (b), below, the provisions of 40 CFR 52.21(b) through (p), (r), (t), (v), and (w), July 1, 2001 edition, shall apply for the purposes of implementing a PSD permit program that meets the requirements of Title I of the Act.

(b) For the purposes of regulating GHGs in accordance with this part, the definitions of "major stationary source" and "significant" contained in 40 CFR 52.21(b), July 1, 2009 edition, as amended at 75 FR 31606-31607 by the addition of a definition of "subject to regulation" as (b)(49) and revisions to the definition of "regulated NSR pollutant" in (b)(50), shall apply.

(c) 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) Paragraphs (g)(1) through (6);
- (3) Paragraph (l)(2); and
- (4) Paragraph (t).

(d) An owner or operator of a new or modified source subject to this part shall file a permit application in accordance with the procedures set forth in Env-A 607.

(e) A permit application subject to this part shall be subject to the public notice procedures set forth in Env-A 621.03.

APPENDIX A: STATE STATUTES AND FEDERAL STATUTES AND REGULATIONS IMPLEMENTED

Rule Section(s)	State Statute(s) Implemented	Federal Statute or Regulation Implemented
Env-A 619.03	RSA 125-C:4, I(d); RSA 125-C:6, XIV; RSA 125-C:11, IV	42 U.S.C. §7410(a)(2)(C); 40 CFR § 51.166

APPENDIX B: FEDERAL DEFINITIONS CITED IN ENV-A 619.0340 CFR 52.21(b) Definitions:

(1) (i) Major stationary source means:

(a) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants (with thermal dryers), primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140), fossil-fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(b) Notwithstanding the stationary source size specified in paragraph (b)(1)(i) of this section, any stationary source which emits, or has the potential to emit, 250 tons per year or more of a *regulated NSR pollutant*; or

(c) Any physical change that would occur at a stationary source not otherwise qualifying under paragraph (b)(1) of this section, as a major stationary source, if the changes would constitute a major stationary source by itself.

(ii) A major source that is major for volatile organic compounds or NO_x shall be considered major for ozone.

(iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this section whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

- (a) Coal cleaning plants (with thermal dryers);
- (b) Kraft pulp mills;
- (c) Portland cement plants;
- (d) Primary zinc smelters;
- (e) Iron and steel mills;
- (f) Primary aluminum ore reduction plants;
- (g) Primary copper smelters;
- (h) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (i) Hydrofluoric, sulfuric, or nitric acid plants;
- (j) Petroleum refineries;
- (k) Lime plants;
- (l) Phosphate rock processing plants;
- (m) Coke oven batteries;

- (n) Sulfur recovery plants;
- (o) Carbon black plants (furnace process);
- (p) Primary lead smelters;
- (q) Fuel conversion plants;
- (r) Sintering plants;
- (s) Secondary metal production plants;
- (t) Chemical process plants--The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
- (u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (w) Taconite ore processing plants;
- (x) Glass fiber processing plants;
- (y) Charcoal production plants;
- (z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, and
- (aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

(23) (i) *Significant* means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate

Carbon monoxide: 100 tons per year (tpy)

Nitrogen oxides: 40 tpy

Sulfur dioxide: 40 tpy

Particulate matter: 25 tpy of particulate matter emissions

PM₁₀: 15 tpy

PM_{2.5}: 10 tpy of direct PM_{2.5} emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions unless demonstrated not to be a PM_{2.5} precursor under paragraph (b)(50) of this section

Ozone: 40 tpy of volatile organic compounds or nitrogen oxides

Lead: 0.6 tpy

Fluorides: 3 tpy

Sulfuric acid mist: 7 tpy

Hydrogen sulfide (H₂S): 10 tpy

Total reduced sulfur (including H₂S): 10 tpy

Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): 3.2×10^{-6} megagrams per year (3.5×10^{-6} tons per year)

Municipal waste combustor metals (measured as particulate matter): 14 megagrams per year (15 tons per year)

Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tons per year)

Municipal solid waste landfills emissions (measured as nonmethane organic compounds): 45 megagrams per year (50 tons per year)

(ii) *Significant* means, in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that paragraph (b)(23)(i) of this section, does not list, any emissions rate.

(iii) Notwithstanding paragraph (b)(23)(i) of this section, *significant* means any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would construct within 10 kilometers of a Class I area, and have an impact on such area equal to or greater than $1 \mu\text{g}/\text{m}^3$, (24-hour average).

(49) *Subject to regulation* means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of this chapter, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(i) *Greenhouse gases (GHGs)*, the air pollutant defined in § 86.1818–12(a) of this chapter as the aggregate group of six greenhouse gases: Carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation except as provided in paragraphs (b)(49)(iv) through (v) of this section.

(ii) For purposes of paragraphs (b)(49)(iii) through (v) of this section, the term tpy *CO₂ equivalent emissions (CO₂e)* shall represent an amount of GHGs emitted, and shall be computed as follows:

(a) Multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A–1 to subpart A of part 98 of this chapter— Global Warming Potentials.

(b) Sum the resultant value from paragraph (b)(49)(ii)(a) of this section for each gas to compute a tpy CO₂e.

(iii) The term *emissions increase* as used in paragraphs (b)(49)(iv) through (v) of this section shall mean that both a significant emissions increase (as calculated using the procedures in paragraph (a)(2)(iv) of this section) and a significant net emissions increase (as defined in paragraphs (b)(3) and (b)(23) of this section) occur. For the pollutant GHGs, an emissions increase shall be based on tpy CO₂e, and shall be calculated assuming the pollutant GHGs is a regulated NSR pollutant, and “significant” is defined as 75,000 tpy CO₂e instead of applying the value in paragraph (b)(23)(ii) of this section.

(iv) Beginning January 2, 2011, the pollutant GHGs is *subject to regulation* if:

(a) The stationary source is a new major stationary source for a regulated NSR pollutant that is not GHGs, and also will emit or will have the potential to emit 75,000 tpy CO₂e or more; or

(b) The stationary source is an existing major stationary source for a regulated NSR pollutant that is not GHGs, and also will have an emissions increase of a regulated NSR pollutant, and an emissions increase of 75,000 tpy CO₂e or more; and,

(v) Beginning July 1, 2011, in addition to the provisions in paragraph (b)(49)(iv) of this section, the pollutant GHGs shall also be subject to regulation

(a) At a new stationary source that will emit or have the potential to emit 100,000 tpy CO₂e; or

(b) At an existing stationary source that emits or has the potential to emit 100,000 tpy CO₂e, when such stationary source undertakes a physical change or change in the method of operation that will result in an emissions increase of 75,000 tpy CO₂e or more.

(50) *Regulated NSR pollutant*, for purposes of this section, means the following:

(i) Any pollutant for which a national ambient air quality standard has been promulgated and any pollutant identified under this paragraph (b)(50)(i) as a constituent or precursor for such pollutant. Precursors identified by the Administrator for purposes of NSR are the following:

(a) Volatile organic compounds and nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas.

(b) Sulfur dioxide is a precursor to PM_{2.5} in all attainment and unclassifiable areas.

(c) Nitrogen oxides are presumed to be precursors to PM_{2.5} in all attainment and unclassifiable areas, unless the State demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient PM_{2.5} concentrations.

(d) Volatile organic compounds are presumed not to be precursors to PM_{2.5} in any attainment or unclassifiable area, unless the State demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds from sources in a specific area are a significant contributor to that area's ambient PM_{2.5} concentrations.

(ii) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(iii) Any Class I or II substance subject to a standard promulgated under or established by title VI of the Act;

(iv) Any pollutant that otherwise is subject to regulation under the Act as defined in paragraph (b)(49) of this section.

(v) Notwithstanding paragraphs (b)(50)(i) through (iv) of this section, the term *regulated NSR pollutant* shall not include any or all hazardous air pollutants either listed in section 112 of the Act, or added to the list pursuant to section 112(b)(2) of the Act, and which have not been delisted pursuant to section 112(b)(3) of the Act, unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Act.

(vi) Particulate matter (PM) emissions, PM_{2.5} emissions and PM₁₀ emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011 (or any earlier date established in the upcoming rulemaking codifying test methods), such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM, PM_{2.5} and PM₁₀ in PSD permits. Compliance with emissions limitations for PM, PM_{2.5} and PM₁₀ issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this section unless the applicable implementation plan required condensable particulate matter to be included.

40 CFR 98, Table A-1:

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
Carbon dioxide	124-38-9	CO ₂	1
Methane	74-82-8	CH ₄	21
Nitrous oxide	10024-97-2	N ₂ O	310

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
HFC-23	75-46-7	CHF ₃	11,700
HFC-32	75-10-5	CH ₂ F ₂	650
HFC-41	593-53-3	CH ₃ F	150
HFC-125	354-33-6	C ₂ HF ₅	2,800
HFC-134	359-35-3	C ₂ H ₂ F ₄	1,000
HFC-134a	811-97-2	CH ₂ FCF ₃	1,300
HFC-143	430-66-0	C ₂ H ₃ F ₃	300
HFC-143a	420-46-2	C ₂ H ₃ F ₃	3,800
HFC-152	624-72-6	CH ₂ FCH ₂ F	53
HFC-152a	75-37-6	CH ₃ CHF ₂	140
HFC-161	353-36-6	CH ₃ CH ₂ F	12
HFC-227ea	431-89-0	C ₃ HF ₇	2,900
HFC-236cb	677-56-5	CH ₂ FCF ₂ CF ₃	1,340
HFC-236ea	431-63-0	CHF ₂ CHFCF ₃	1,370
HFC-236fa	690-39-1	C ₃ H ₂ F ₆	6,300
HFC-245ca	679-86-7	C ₃ H ₃ F ₅	560
HFC-245fa	460-73-1	CHF ₂ CH ₂ CF ₃	1,030
HFC-365mfc	406-58-6	CH ₃ CF ₂ CH ₂ CF ₃	794
HFC-43-10mee	138495-42-8	CF ₃ CFHCFHCF ₂ CF ₃	1,300
Sulfur hexafluoride	2551-62-4	SF ₆	23,900
Trifluoromethyl sulphur pentafluoride	373-80-8	SF ₅ CF ₃	17,700
Nitrogen trifluoride	7783-54-2	NF ₃	17,200
PFC-14 (Perfluoromethane)	75-73-0	CF ₄	6,500
PFC-116 (Perfluoroethane)	76-16-4	C ₂ F ₆	9,200
PFC-218 (Perfluoropropane)	76-19-7	C ₃ F ₈	7,000
Perfluorocyclopropane	931-91-9	C-C ₃ F ₆	17,340
PFC-3-1-10 (Perfluorobutane)	355-25-9	C ₄ F ₁₀	7,000
Perfluorocyclobutane	115-25-3	C-C ₄ F ₈	8,700
PFC-4-1-12 (Perfluoropentane)	678-26-2	C ₅ F ₁₂	7,500
PFC-5-1-14 (Perfluorohexane)	355-42-0	C ₆ F ₁₄	7,400
PFC-9-1-18	306-94-5	C ₁₀ F ₁₈	7,500
HCFE-235da2 (Isoflurane)	26675-46-7	CHF ₂ OCHClCF ₃	350
HFE-43-10pccc (H-Galden 1040x)	E1730133	CHF ₂ OCF ₂ OC ₂ F ₄ OCHF ₂	1,870
HFE-125	3822-68-2	CHF ₂ OCF ₃	14,900
HFE-134	1691-17-4	CHF ₂ OCHF ₂	6,320

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
HFE-143a	421-14-7	CH_3OCF_3	756
HFE-227ea	2356-62-9	$\text{CF}_3\text{CHFOCF}_3$	1,540
HFE-236ca12 (HG-10)	78522-47-1	$\text{CHF}_2\text{OCF}_2\text{OCHF}_2$	2,800
HFE-236ea2 (Desflurane)	57041-67-5	$\text{CHF}_2\text{OCHF}_2\text{CF}_3$	989
HFE-236fa	20193-67-3	$\text{CF}_3\text{CH}_2\text{OCF}_3$	487
HFE-245cb2	22410-44-2	$\text{CH}_3\text{OCF}_2\text{CF}_3$	708
HFE-245fa1	84011-15-4	$\text{CHF}_2\text{CH}_2\text{OCF}_3$	286
HFE-245fa2	1885-48-9	$\text{CHF}_2\text{OCH}_2\text{CF}_3$	659
HFE-254cb2	425-88-7	$\text{CH}_3\text{OCF}_2\text{CHF}_2$	359
HFE-263fb2	460-43-5	$\text{CF}_3\text{CH}_2\text{OCH}_3$	11
HFE-329mcc2	67490-36-2	$\text{CF}_3\text{CF}_2\text{OCF}_2\text{CHF}_2$	919
HFE-338mcf2	156053-88-2	$\text{CF}_3\text{CF}_2\text{OCH}_2\text{CF}_3$	552
HFE-338pcc13 (HG-01)	188690-78-0	$\text{CHF}_2\text{OCF}_2\text{CF}_2\text{OCHF}_2$	1,500
HFE-347mcc3	28523-86-6	$\text{CH}_3\text{OCF}_2\text{CF}_2\text{CF}_3$	575
HFE-347mcf2	E1730135	$\text{CF}_3\text{CF}_2\text{OCH}_2\text{CHF}_2$	374
HFE-347pcf2	406-78-0	$\text{CHF}_2\text{CF}_2\text{OCH}_2\text{CF}_3$	580
HFE-356mec3	382-34-3	$\text{CH}_3\text{OCF}_2\text{CHF}_2\text{CF}_3$	101
HFE-356pcc3	160620-20-2	$\text{CH}_3\text{OCF}_2\text{CF}_2\text{CHF}_2$	110
HFE-356pcf2	E1730137	$\text{CHF}_2\text{CH}_2\text{OCF}_2\text{CHF}_2$	265
HFE-356pcf3	35042-99-0	$\text{CHF}_2\text{OCH}_2\text{CF}_2\text{CHF}_2$	502
HFE-365mcf3	378-16-5	$\text{CF}_3\text{CF}_2\text{CH}_2\text{OCH}_3$	11
HFE-374pc2	512-51-6	$\text{CH}_3\text{CH}_2\text{OCF}_2\text{CHF}_2$	557
HFE-449sl (HFE-7100) Chemical blend	163702-07-6 163702-08-7	$\text{C}_4\text{F}_9\text{OCH}_3$ $(\text{CF}_3)_2\text{CF}_2\text{OCH}_3$	297
HFE-569sf2 (HFE-7200) Chemical blend	163702-05-4 163702-06-5	$\text{C}_4\text{F}_9\text{OC}_2\text{H}_5$ $(\text{CF}_3)_2\text{CF}_2\text{OC}_2\text{H}_5$	59
Sevoflurane	28523-86-6	$\text{CH}_2\text{FOCH}(\text{CF}_3)_2$	345
HFE-356mm1	13171-18-1	$(\text{CF}_3)_2\text{CHOCH}_3$	27
HFE-338mmz1	26103-08-2	$\text{CHF}_2\text{OCH}(\text{CF}_3)_2$	380
(Octafluorotetramethylene)hydroxymethyl group	NA	$\text{X}-(\text{CF}_2)_4\text{CH}(\text{OH})-\text{X}$	73
HFE-347mmy1	22052-84-2	$\text{CH}_3\text{OCF}(\text{CF}_3)_2$	343
Bis(trifluoromethyl)-methanol	920-66-1	$(\text{CF}_3)_2\text{CHOH}$	195
2,2,3,3,3-pentafluoropropanol	422-05-9	$\text{CF}_3\text{CF}_2\text{CH}_2\text{OH}$	42

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
PFFPMIE	NA	$\text{CF}_3\text{OCF}(\text{CF}_3)$ $\text{CF}_2\text{OCF}_2\text{OCF}_3$	10,300

NA = not available.

Readopt with amendment Env-A 619.03, eff. 4-26-03 (doc. #7879), to read as follows:

Env-A 619.03 PSD Permit Requirements.

(a) In furtherance of RSA 125-C:11 *and except as provided in (b), below*, the provisions of 40 CFR 52.21(h) through (p), (r), (t), (v), and (w), ~~as revised on October 28, 2002~~ *July 1, 2001 edition*, shall apply for the purposes of implementing a PSD permit program that meets the requirements of Title I of the Act.

(b) For the purposes of *regulating GHGs in accordance with* this part, the ~~following definitions of "major stationary source" and "significant" contained in 40 CFR 52.21(b), as revised on October 28, 2002~~ *July 1, 2009 edition, as amended at 75 FR 31606-31607 by the addition of a definition of "subject to regulation" as (b)(49) and revisions to the definition of "regulated NSR pollutant" in (b)(50)*, shall apply. as follows:

- ~~(1) "Major stationary source" shall also mean any stationary source with the potential to emit 100,000 tpy or more CO₂e for GHGs, where potential GHG emissions also exceed the corresponding mass-based thresholds contained in 40 CFR 52.21(b)(1)(i); and~~
~~(2) "Significant" shall also mean, in reference to a net emissions increase or the potential of a source to emit GHGs, a rate of emissions that would equal or exceed 75,000 tpy CO₂e and also exceeds any corresponding mass-based thresholds contained in 40 CFR 52.21(b)(23).~~

(c) For the purposes of this part, the word "department" shall replace the word "administrator" in the paragraphs of 40 CFR 52.21, ~~as revised on October 28, 2002~~, referenced in (a), above, except in the following paragraphs:

- (1) Paragraph (b)(17);
- (2) Paragraphs (g)(1) through (6);
- (3) Paragraph (l)(2); and
- (4) Paragraph (t).

(d) An owner or operator of a new or modified source subject to this part shall file a permit application in accordance with the procedures set forth in Env-A 607.

(e) A permit application subject to this part shall be subject to the public notice procedures set forth in Env-A 621.03.

APPENDIX A: STATE STATUTES AND FEDERAL STATUTES AND REGULATIONS IMPLEMENTED

Rule Section(s)	State Statute(s) Implemented	Federal Statute or Regulation Implemented
Env-A 619.03	RSA 125-C:4, I(d); RSA 125-C:6, XIV; RSA 125-C:11, IV	42 U.S.C. §7410(a)(2)(C); 40 CFR § 51.166

APPENDIX B: FEDERAL DEFINITIONS CITED IN ENV-A 619.03

40 CFR 52.21(b) Definitions:

(1) (i) Major stationary source means:

(a) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants (with thermal dryers), primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140), fossil-fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(b) Notwithstanding the stationary source size specified in paragraph (b)(1)(i) of this section, any stationary source which emits, or has the potential to emit, 250 tons per year or more of a *regulated NSR pollutant*; or

(c) Any physical change that would occur at a stationary source not otherwise qualifying under paragraph (b)(1) of this section, as a major stationary source, if the changes would constitute a major stationary source by itself.

(ii) A major source that is major for volatile organic compounds or NO_x shall be considered major for ozone.

(iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this section whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

- (a) Coal cleaning plants (with thermal dryers);
- (b) Kraft pulp mills;
- (c) Portland cement plants;
- (d) Primary zinc smelters;
- (e) Iron and steel mills;
- (f) Primary aluminum ore reduction plants;
- (g) Primary copper smelters;
- (h) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (i) Hydrofluoric, sulfuric, or nitric acid plants;
- (j) Petroleum refineries;
- (k) Lime plants;
- (l) Phosphate rock processing plants;
- (m) Coke oven batteries;

- (n) Sulfur recovery plants;
- (o) Carbon black plants (furnace process);
- (p) Primary lead smelters;
- (q) Fuel conversion plants;
- (r) Sintering plants;
- (s) Secondary metal production plants;
- (t) Chemical process plants--The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
- (u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (w) Taconite ore processing plants;
- (x) Glass fiber processing plants;
- (y) Charcoal production plants;
- (z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, and
- (aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

(23) (i) *Significant* means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate

Carbon monoxide: 100 tons per year (tpy)

Nitrogen oxides: 40 tpy

Sulfur dioxide: 40 tpy

Particulate matter: 25 tpy of particulate matter emissions

PM₁₀: 15 tpy

PM_{2.5}: 10 tpy of direct PM_{2.5} emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions unless demonstrated not to be a PM_{2.5} precursor under paragraph (b)(50) of this section

Ozone: 40 tpy of volatile organic compounds or nitrogen oxides

Lead: 0.6 tpy

Fluorides: 3 tpy

Sulfuric acid mist: 7 tpy

Hydrogen sulfide (H₂S): 10 tpy

Total reduced sulfur (including H₂S): 10 tpy

Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): 3.2×10^{-6} megagrams per year (3.5×10^{-6} tons per year)

Municipal waste combustor metals (measured as particulate matter): 14 megagrams per year (15 tons per year)

Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tons per year)

Municipal solid waste landfills emissions (measured as nonmethane organic compounds): 45 megagrams per year (50 tons per year)

(ii) *Significant* means, in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that paragraph (b)(23)(i) of this section, does not list, any emissions rate.

(iii) Notwithstanding paragraph (b)(23)(i) of this section, *significant* means any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would construct within 10 kilometers of a Class I area, and have an impact on such area equal to or greater than $1 \mu\text{g}/\text{m}^3$, (24-hour average).

(49) *Subject to regulation* means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of this chapter, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(i) *Greenhouse gases (GHGs)*, the air pollutant defined in § 86.1818–12(a) of this chapter as the aggregate group of six greenhouse gases: Carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation except as provided in paragraphs (b)(49)(iv) through (v) of this section.

(ii) For purposes of paragraphs (b)(49)(iii) through (v) of this section, the term tpy *CO₂ equivalent emissions (CO₂e)* shall represent an amount of GHGs emitted, and shall be computed as follows:

(a) Multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A–1 to subpart A of part 98 of this chapter— Global Warming Potentials.

(b) Sum the resultant value from paragraph (b)(49)(ii)(a) of this section for each gas to compute a tpy CO₂e.

(iii) The term *emissions increase* as used in paragraphs (b)(49)(iv) through (v) of this section shall mean that both a significant emissions increase (as calculated using the procedures in paragraph (a)(2)(iv) of this section) and a significant net emissions increase (as defined in paragraphs (b)(3) and (b)(23) of this section) occur. For the pollutant GHGs, an emissions increase shall be based on tpy CO₂e, and shall be calculated assuming the pollutant GHGs is a regulated NSR pollutant, and “significant” is defined as 75,000 tpy CO₂e instead of applying the value in paragraph (b)(23)(ii) of this section.

(iv) Beginning January 2, 2011, the pollutant GHGs is *subject to regulation* if:

(a) The stationary source is a new major stationary source for a regulated NSR pollutant that is not GHGs, and also will emit or will have the potential to emit 75,000 tpy CO₂e or more; or

(b) The stationary source is an existing major stationary source for a regulated NSR pollutant that is not GHGs, and also will have an emissions increase of a regulated NSR pollutant, and an emissions increase of 75,000 tpy CO₂e or more; and,

(v) Beginning July 1, 2011, in addition to the provisions in paragraph (b)(49)(iv) of this section, the pollutant GHGs shall also be subject to regulation

(a) At a new stationary source that will emit or have the potential to emit 100,000 tpy CO₂e; or

(b) At an existing stationary source that emits or has the potential to emit 100,000 tpy CO₂e, when such stationary source undertakes a physical change or change in the method of operation that will result in an emissions increase of 75,000 tpy CO₂e or more.

(50) *Regulated NSR pollutant*, for purposes of this section, means the following:

(i) Any pollutant for which a national ambient air quality standard has been promulgated and any pollutant identified under this paragraph (b)(50)(i) as a constituent or precursor for such pollutant. Precursors identified by the Administrator for purposes of NSR are the following:

(a) Volatile organic compounds and nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas.

(b) Sulfur dioxide is a precursor to PM_{2.5} in all attainment and unclassifiable areas.

(c) Nitrogen oxides are presumed to be precursors to PM_{2.5} in all attainment and unclassifiable areas, unless the State demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient PM_{2.5} concentrations.

(d) Volatile organic compounds are presumed not to be precursors to PM_{2.5} in any attainment or unclassifiable area, unless the State demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds from sources in a specific area are a significant contributor to that area's ambient PM_{2.5} concentrations.

(ii) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(iii) Any Class I or II substance subject to a standard promulgated under or established by title VI of the Act;

(iv) Any pollutant that otherwise is subject to regulation under the Act as defined in paragraph (b)(49) of this section.

(v) Notwithstanding paragraphs (b)(50)(i) through (iv) of this section, the term *regulated NSR pollutant* shall not include any or all hazardous air pollutants either listed in section 112 of the Act, or added to the list pursuant to section 112(b)(2) of the Act, and which have not been delisted pursuant to section 112(b)(3) of the Act, unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Act.

(vi) Particulate matter (PM) emissions, PM_{2.5} emissions and PM₁₀ emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011 (or any earlier date established in the upcoming rulemaking codifying test methods), such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM, PM_{2.5} and PM₁₀ in PSD permits. Compliance with emissions limitations for PM, PM_{2.5} and PM₁₀ issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this section unless the applicable implementation plan required condensable particulate matter to be included.

40 CFR 98, Table A-1:

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
Carbon dioxide	124-38-9	CO ₂	1
Methane	74-82-8	CH ₄	21
Nitrous oxide	10024-97-2	N ₂ O	310

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Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
HFC-23	75-46-7	CHF ₃	11,700
HFC-32	75-10-5	CH ₂ F ₂	650
HFC-41	593-53-3	CH ₃ F	150
HFC-125	354-33-6	C ₂ HF ₅	2,800
HFC-134	359-35-3	C ₂ H ₂ F ₄	1,000
HFC-134a	811-97-2	CH ₂ FCF ₃	1,300
HFC-143	430-66-0	C ₂ H ₃ F ₃	300
HFC-143a	420-46-2	C ₂ H ₃ F ₃	3,800
HFC-152	624-72-6	CH ₂ FCH ₂ F	53
HFC-152a	75-37-6	CH ₃ CHF ₂	140
HFC-161	353-36-6	CH ₃ CH ₂ F	12
HFC-227ea	431-89-0	C ₃ HF ₇	2,900
HFC-236cb	677-56-5	CH ₂ FCF ₂ CF ₃	1,340
HFC-236ea	431-63-0	CHF ₂ CHFCF ₃	1,370
HFC-236fa	690-39-1	C ₃ H ₂ F ₆	6,300
HFC-245ca	679-86-7	C ₃ H ₃ F ₅	560
HFC-245fa	460-73-1	CHF ₂ CH ₂ CF ₃	1,030
HFC-365mfc	406-58-6	CH ₃ CF ₂ CH ₂ CF ₃	794
HFC-43-10mee	138495-42-8	CF ₃ CFHCFHCF ₂ CF ₃	1,300
Sulfur hexafluoride	2551-62-4	SF ₆	23,900
Trifluoromethyl sulphur pentafluoride	373-80-8	SF ₅ CF ₃	17,700
Nitrogen trifluoride	7783-54-2	NF ₃	17,200
PFC-14 (Perfluoromethane)	75-73-0	CF ₄	6,500
PFC-116 (Perfluoroethane)	76-16-4	C ₂ F ₆	9,200
PFC-218 (Perfluoropropane)	76-19-7	C ₃ F ₈	7,000
Perfluorocyclopropane	931-91-9	C-C ₃ F ₆	17,340
PFC-3-1-10 (Perfluorobutane)	355-25-9	C ₄ F ₁₀	7,000
Perfluorocyclobutane	115-25-3	C-C ₄ F ₈	8,700
PFC-4-1-12 (Perfluoropentane)	678-26-2	C ₅ F ₁₂	7,500
PFC-5-1-14 (Perfluorohexane)	355-42-0	C ₆ F ₁₄	7,400
PFC-9-1-18	306-94-5	C ₁₀ F ₁₈	7,500
HCFE-235da2 (Isoflurane)	26675-46-7	CHF ₂ OCHClCF ₃	350
HFE-43-10pccc (H-Galden 1040x)	E1730133	CHF ₂ OCF ₂ OC ₂ F ₄ OCHF ₂	1,870
HFE-125	3822-68-2	CHF ₂ OCF ₃	14,900
HFE-134	1691-17-4	CHF ₂ OCHF ₂	6,320

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
HFE-143a	421-14-7	CH ₃ OCF ₃	756
HFE-227ea	2356-62-9	CF ₃ CHFOCF ₃	1,540
HFE-236ca12 (HG-10)	78522-47-1	CHF ₂ OCF ₂ OCHF ₂	2,800
HFE-236ea2 (Desflurane)	57041-67-5	CHF ₂ OCHF ₂ CF ₃	989
HFE-236fa	20193-67-3	CF ₃ CH ₂ OCF ₃	487
HFE-245cb2	22410-44-2	CH ₃ OCF ₂ CF ₃	708
HFE-245fa1	84011-15-4	CHF ₂ CH ₂ OCF ₃	286
HFE-245fa2	1885-48-9	CHF ₂ OCH ₂ CF ₃	659
HFE-254cb2	425-88-7	CH ₃ OCF ₂ CHF ₂	359
HFE-263fb2	460-43-5	CF ₃ CH ₂ OCH ₃	11
HFE-329mcc2	67490-36-2	CF ₃ CF ₂ OCF ₂ CHF ₂	919
HFE-338mcf2	156053-88-2	CF ₃ CF ₂ OCH ₂ CF ₃	552
HFE-338pcc13 (HG-01)	188690-78-0	CHF ₂ OCF ₂ CF ₂ OCHF ₂	1,500
HFE-347mcc3	28523-86-6	CH ₃ OCF ₂ CF ₂ CF ₃	575
HFE-347mcf2	E1730135	CF ₃ CF ₂ OCH ₂ CHF ₂	374
HFE-347pcf2	406-78-0	CHF ₂ CF ₂ OCH ₂ CF ₃	580
HFE-356mec3	382-34-3	CH ₃ OCF ₂ CHF ₂ CF ₃	101
HFE-356pcc3	160620-20-2	CH ₃ OCF ₂ CF ₂ CHF ₂	110
HFE-356pcf2	E1730137	CHF ₂ CH ₂ OCF ₂ CHF ₂	265
HFE-356pcf3	35042-99-0	CHF ₂ OCH ₂ CF ₂ CHF ₂	502
HFE-365mcf3	378-16-5	CF ₃ CF ₂ CH ₂ OCH ₃	11
HFE-374pc2	512-51-6	CH ₃ CH ₂ OCF ₂ CHF ₂	557
HFE-449sl (HFE-7100) Chemical blend	163702-07-6 163702-08-7	C ₄ F ₉ OCH ₃ (CF ₃) ₂ CF ₂ OCH ₃	297
HFE-569sf2 (HFE-7200) Chemical blend	163702-05-4 163702-06-5	C ₄ F ₉ OC ₂ H ₅ (CF ₃) ₂ CF ₂ OC ₂ H ₅	59
Sevoflurane	28523-86-6	CH ₂ FOCH(CF ₃) ₂	345
HFE-356mm1	13171-18-1	(CF ₃) ₂ CHOCH ₃	27
HFE-338mmz1	26103-08-2	CHF ₂ OCH(CF ₃) ₂	380
(Octafluorotetramethylene)hydroxymethyl group	NA	X-(CF ₂) ₄ CH(OH)-X	73
HFE-347mmy1	22052-84-2	CH ₃ OCF(CF ₃) ₂	343
Bis(trifluoromethyl)-methanol	920-66-1	(CF ₃) ₂ CHOH	195
2,2,3,3,3-pentafluoropropanol	422-05-9	CF ₃ CF ₂ CH ₂ OH	42

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FP 2010-112 Annotated 12-01-10 8

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
PFFMIE	NA	CF ₃ OCF(CF ₃) CF ₂ OCF ₂ OCF ₃	10,300

NA = not available.

ANNOTATIONS TO THE FINAL PROPOSAL FROM THE OFFICE OF
LEGISLATIVE SERVICES

DEC 02 2010

COVER SHEET FOR FINAL PROPOSAL

Final Proposal No. 2010-111
Date Filed 12-2-10 11/3

Consent

Notice Number 2010-111 Rule Number Env-A 101.35 [new]; Env-A 101.96 [new]; Env-A 101.115

<p>1. Agency Name & Address:</p> <p>Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</p>	<p>2. RSA Authority: RSA 125-C:4, I(a)</p> <p>3. Federal Authority: 42 USC 7410(a)(2)(C); 42 USC 7661(2); 40 CFR 51.166; 40 CFR 70.2</p> <p>4. Type of Action:</p> <p><input checked="" type="checkbox"/> Adopt</p> <p><input type="checkbox"/> Amendment</p> <p><input type="checkbox"/> Repeal</p> <p><input type="checkbox"/> Readoption</p> <p><input checked="" type="checkbox"/> Readoption w/amendment</p>
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5. Short Title: Greenhouse Gas (GHG) Definitions

6. Contact person for copies and questions:

Name:	Karla McManus	Title:	ARD Planning and Rules Manager
Address:	Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	Phone #:	(603) 271-6854

7. Yes No Agency requests Committee legal counsel review and delayed Committee review pursuant to RSA 541-A:12, I-a

8. The rulemaking notice appeared in the Rulemaking Register on October 1, 2010

SEE THE INSTRUCTIONS--PLEASE SUBMIT 2 COPIES OF THIS COVER SHEET AND 2 COPIES OF THE FOLLOWING: (and numbered correspondingly)

- 9. The "Final Proposal-Fixed Text", including the cross-reference table required by RSA 541-A:3-a, II as an appendix.
- 10. The full text of the RSA passage granting rulemaking authority.
- 11. Yes N/A Incorporation by Reference Statement(s) because this rule incorporates a document by reference for which an Incorporation by Reference Statement is required pursuant to RSA 541-A:12, III.
- 12. Yes N/A The "Final Proposal-Annotated Text" indicating how the proposed rule was changed because the text of the rule changed from the Initial Proposal pursuant to RSA 541-A:12, II(e).
- 13. Yes N/A The amended fiscal impact statement because the change to the text of the Initial Proposal affects the original fiscal impact statement (FIS) pursuant to RSA 541-A:5, VI.

LBAO
FIS 10:124
09/22/10

Fiscal Impact Statement for Department of Environmental Services rules governing Greenhouse Gas (GHG) Definitions. [Env-A 101.35 [new]; Env-A 101.96 [new]; Env-A 101.113]

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

There is no difference in cost when comparing the proposed rules to the existing rules.

2. Cite the Federal mandate. Identify the impact on state funds:

The US Environmental Protection Agency (EPA) finalized rules in June 2010 to regulate greenhouse gas emissions under the prevention of significant deterioration (PSD) and title V permitting programs (40CFR 51.166; 40CFR 70.2). The EPA has approved the NH Department of Environmental Services PSD and title V permitting programs, however, changes are required to state rules to make them consistent with the federal requirements. Until the state rules are changed, the Department will not be able to effectively administer the programs, resulting in the EPA implementing the programs until the rules are changed. No impact on state funds.

3. Cost and benefits of the proposed rule(s):

There are no costs or benefits attributable to the proposed rules.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

None.

Adopt new Env-A 101.35, and renumber subsequent sections accordingly, so that Env-A 101.35 reads as follows:

Env-A 101.35 "Carbon dioxide equivalent emissions (CO₂e)" means a measurement of the global warming potential of GHGs emitted, determined by multiplying the mass amount of emissions in tons per year (tpy) of each gas in the pollutant group GHGs by the associated global warming potential for that gas published at Table A-1 to subpart A of 40 CFR part 98, Global Warming Potentials, and adding the resultant values to compute a tpy CO₂e for the GHGs.

Adopt new Env-A 101.96, and renumber subsequent sections accordingly, so that Env-A 101.96 reads as follows:

Env-A 101.96 "Greenhouse gases (GHGs)" means the group of 6 gases that, when emitted to the ambient air, act as a shield to trap heat in the earth's atmosphere. The group is comprised of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

Readopt with amendment Env-A 101.113, eff. 6-30-95 (doc. #6057-A); amd by #7845, eff. 3-8-03, renumbered by #8256 and #8304, and renumber as Env-A 101.115 based on the new definitions above, so that Env-A 101.115 reads as follows:

Env-A 101.115 "Major source" means a stationary source that has been identified as meeting a specified threshold for producing pollutants of concern. The term includes:

- (a) "Acid rain affected source" as defined in this part;
- (b) "Major source" as defined in 40 CFR 70.2, July 1, 2009 edition, as amended at 75 FR 31607 by the addition of the phrase "subject to regulation" in paragraph (2) and the addition of a definition of that phrase;
- (c) "Major stationary source" as defined in paragraph (3) of the definition of major source in 40 CFR 70.2, including the following:
 - (1) Any source with the potential to emit nitrogen oxides in the following counties and specific quantities:
 - a. In Belknap, Carroll, Cheshire, Coos, Grafton, or Sullivan counties, 100 tpy or more; or
 - b. In Hillsborough, Merrimack, Rockingham or Strafford counties, 50 tpy or more; or
 - (2) Any source with the potential to emit volatile organic compounds in the quantity of 50 tpy or more; and
- (d) For purposes of Env-A 619, a major stationary source as defined in the federal definition cited in Env-A 619.03(a) or (b), as applicable.

APPENDIX A: STATE STATUTES AND FEDERAL STATUTES AND REGULATIONS IMPLEMENTED

Rule Section(s)	State Statute(s) Implemented	Federal Statute or Regulation Implemented
Env-A 101.35 [new]	RSA 125-C:4, I(a)	40 CFR § 52.21
Env-A 101.96 [new]	RSA 125-C:4, I(a); 125-L:1, IV	40 CFR § 52.21
Env-A 101.115	RSA 125-C:4, I(a)	42 U.S.C. § 7661(2) and 40 CFR 70.2

APPENDIX B: FEDERAL DEFINITIONS CITED IN ENV-A 10140 CFR 52.21(b) Definitions:

(1)(i) Major stationary source means:

(a) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: Fossil fuel-fired steam electric plants of more than 250 million-British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants (with thermal dryers), primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140), fossil-fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(b) Notwithstanding the stationary source size specified in paragraph (b)(1)(i) of this section, any stationary source which emits, or has the potential to emit, 250 tons per year or more of a regulated NSR pollutant; or

(c) Any physical change that would occur at a stationary source not otherwise qualifying under paragraph (b)(1) of this section, as a major stationary source, if the changes would constitute a major stationary source by itself.

(ii) A major source that is major for volatile organic compounds or NO_x shall be considered major for ozone.

(iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this section whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

- (a) Coal cleaning plants (with thermal dryers);
- (b) Kraft pulp mills;
- (c) Portland cement plants;
- (d) Primary zinc smelters;
- (e) Iron and steel mills;
- (f) Primary aluminum ore reduction plants;
- (g) Primary copper smelters;

- (h) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (i) Hydrofluoric, sulfuric, or nitric acid plants;
- (j) Petroleum refineries;
- (k) Lime plants;
- (l) Phosphate rock processing plants;
- (m) Coke oven batteries;
- (n) Sulfur recovery plants;
- (o) Carbon black plants (furnace process);
- (p) Primary lead smelters;
- (q) Fuel conversion plants;
- (r) Sintering plants;
- (s) Secondary metal production plants;
- (t) Chemical process plants--The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
- (u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (w) Taconite ore processing plants;
- (x) Glass fiber processing plants;
- (y) Charcoal production plants;
- (z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, and
- (aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

(49) *Subject to regulation* means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of this chapter, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(i) *Greenhouse gases (GHGs)*, the air pollutant defined in § 86.1818-12(a) of this chapter as the aggregate group of six greenhouse gases: Carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation except as provided in paragraphs (b)(49)(iv) through (v) of this section.

(ii) For purposes of paragraphs (b)(49)(iii) through (v) of this section, the term *tpy CO₂ equivalent emissions (CO₂e)* shall represent an amount of GHGs emitted, and shall be computed as follows:

(a) Multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A-1 to subpart A of part 98 of this chapter— Global Warming Potentials.

(b) Sum the resultant value from paragraph (b)(49)(ii)(a) of this section for each gas to compute a tpy CO₂e.

(iii) The term *emissions increase* as used in paragraphs (b)(49)(iv) through (v) of this section shall mean that both a significant emissions increase (as calculated using the procedures in paragraph (a)(2)(iv) of this section) and a significant net emissions increase (as defined in paragraphs (b)(3) and (b)(23) of this section) occur. For the pollutant GHGs, an emissions increase shall be based on tpy CO₂e, and shall be calculated assuming the pollutant GHGs is a regulated NSR pollutant, and "significant" is defined as 75,000 tpy CO₂e instead of applying the value in paragraph (b)(23)(i) of this section.

(50) *Regulated NSR pollutant*, for purposes of this section, means the following:

(i) Any pollutant for which a national ambient air quality standard has been promulgated and any pollutant identified under this paragraph (b)(50)(i) as a constituent or precursor for such pollutant. Precursors identified by the Administrator for purposes of NSR are the following:

(a) Volatile organic compounds and nitrogen oxides are precursors to ozone nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas.

(b) Sulfur dioxide is a precursor to PM_{2.5} in all attainment and unclassifiable areas.

(c) Nitrogen oxides are presumed to be precursors to PM_{2.5} in all attainment and unclassifiable areas, unless the State demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient PM_{2.5} concentrations.

(d) Volatile organic compounds are presumed not to be precursors to PM_{2.5} in any attainment or unclassifiable area, unless the State demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds from sources in a specific area are a significant contributor to that area's ambient PM_{2.5} concentrations.

(ii) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(iii) Any Class I or II substance subject to a standard promulgated under or established by title VI of the Act;

(iv) Beginning January 2, 2011, the pollutant GHGs is subject to regulation if:

(a) The stationary source is a new major stationary source for a regulated NSR pollutant that is not GHGs, and also will emit or will have the potential to emit 75,000 tpy CO₂e or more; or

(b) The stationary source is an existing major stationary source for a regulated NSR pollutant that is not GHGs, and also will have an emissions increase of a regulated NSR pollutant, and an emissions increase of 75,000 tpy CO₂e or more; and,

(v) Beginning July 1, 2011, in addition to the provisions in paragraph (b)(49)(iv) of this section, the pollutant GHGs shall also be subject to regulation

(a) At a new stationary source that will emit or have the potential to emit 100,000 tpy CO₂e; or

(b) At an existing stationary source that emits or has the potential to emit 100,000 tpy CO₂e, when such stationary source undertakes a physical change or change in the method of operation that will result in an emissions increase of 75,000 tpy CO₂e or more.

(vi) Particulate matter (PM) emissions, PM_{2.5} emissions and PM₁₀ emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011 (or any earlier date established in the upcoming rulemaking codifying test methods), such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM, PM_{2.5} and PM₁₀ in PSD permits. Compliance with emissions limitations for

PM, PM_{2.5} and PM₁₀ issued prior to this date shall not be based on condensable particular matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particular matter shall not be considered in violation of this section unless the applicable implementation plan required condensable particular matter to be included.

40 CFR 70.2 Definitions:

Major source means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are described in paragraph (1), (2), or (3) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

(1) A major source under section 112 of the Act, which is defined as:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(2) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant subject to regulation (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary source:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;

- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants--The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
- (xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
- (xxvii) Any other stationary source category, which as of August 7, 1980 is being regulated under section 111 or 112 of the Act.

(3) A major stationary source as defined in part D of title I of the Act, including:

- (i) For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25 and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f) (1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;
- (ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of volatile organic compounds;
- (iii) For carbon monoxide nonattainment areas:
 - (A) That are classified as "serious," and
 - (B) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and
- (iv) For particulate matter (PM-10) nonattainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM-10.

Subject to regulation means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of this chapter, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(1) *Greenhouse gases (GHGs)*, the air pollutant defined in § 86.1818–12(a) of this chapter as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation unless, as of July 1, 2011, the GHG emissions are at a stationary source emitting or having the potential to emit 100,000 tpy CO₂ equivalent emissions.

(2) The term *tpy CO₂ equivalent emissions (CO₂e)* shall represent an amount of GHGs emitted, and shall be computed by multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A–1 to subpart A of part 98 of this chapter—Global Warming Potentials, and summing the resultant value for each to compute a tpy CO₂e.

DEC 02 2010

Consent

COVER SHEET FOR FINAL PROPOSAL No. 2010-112

12/3

Date Filed 12-2-10

Notice Number 2010-112

Rule Number Env-A 619.03

<p>1. Agency Name & Address:</p> <p>Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</p>	<p>2. RSA Authority: RSA 125-C:4, I(a)&(d)</p> <p>3. Federal Authority: 42 USC 7410(a)(2)(C); 42 USC 7661(2); 40 CFR 51.166; 40 CFR 70.2</p> <p>4. Type of Action:</p> <p><input type="checkbox"/> Adopt</p> <p><input type="checkbox"/> Amendment</p> <p><input type="checkbox"/> Repeal</p> <p><input type="checkbox"/> Readoption</p> <p><input checked="" type="checkbox"/> Readoption w/amendment</p>
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5. Short Title: Greenhouse Gas (GHG) Rule

6. Contact person for copies and questions:

Name: Karla McManus Title: ARD Planning and Rules Manager

Address: Department of Environmental Services Phone #: (603) 271-6854
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

7. Yes No Agency requests Committee legal counsel review and delayed Committee review pursuant to RSA 541-A:12, I-a

8. The rulemaking notice appeared in the Rulemaking Register on October 1, 2010

SEE THE INSTRUCTIONS--PLEASE SUBMIT 2 COPIES OF THIS COVER SHEET AND 2 COPIES OF THE FOLLOWING: (and numbered correspondingly)

- 9. The "Final Proposal-Fixed Text", including the cross-reference table required by RSA 541-A:3-a, II as an appendix.
- 10. The full text of the RSA passage granting rulemaking authority.
- 11. Yes N/A Incorporation by Reference Statement(s) because this rule incorporates a document by reference for which an Incorporation by Reference Statement is required pursuant to RSA 541-A:12, III.
- 12. Yes N/A The "Final Proposal-Annotated Text" indicating how the proposed rule was changed because the text of the rule changed from the Initial Proposal pursuant to RSA 541-A:12, II(e).
- 13. Yes N/A The amended fiscal impact statement because the change to the text of the Initial Proposal affects the original fiscal impact statement (FIS) pursuant to RSA 541-A:5, VI.

LBAO
FIS 10:125
09/22/10

Fiscal Impact Statement for Department of Environmental Services rules governing Greenhouse Gas (GHG) Rule. [Env-A 619.03]

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

There is no difference in cost when comparing the proposed rules to the existing rules.

2. Cite the Federal mandate. Identify the impact on state funds:

The US Environmental Protection Agency (EPA) finalized rules in June 2010 to regulate greenhouse gas emissions under the prevention of significant deterioration (PSD) and title V permitting programs (40CFR 51.166; 40CFR 70.2). The EPA has approved the NH Department of Environmental Services PSD and title V permitting programs for major stationary sources, however, changes are required to state rules to make them consistent with the federal requirements. The Department anticipates the existing universe of major sources in NH will not change significantly as a result of adopting the proposed rules. Until the state rules are changed, the Department will not be able to effectively administer the programs, resulting in the EPA implementing the programs until the rules are changed. No impact on state funds.

3. Cost and benefits of the proposed rule(s):

There are no costs or benefits attributable to the proposed rules.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

None.

Readopt with amendment Env-A 619.03, eff. 4-26-03 (doc. #7879), to read as follows:

Env-A 619.03 PSD Permit Requirements.

(a) In furtherance of RSA 125-C:11 and except as provided in (b), below, the provisions of 40 CFR 52.21(b) through (p), (r), (t), (v), and (w), July 1, 2001 edition, shall apply for the purposes of implementing a PSD permit program that meets the requirements of Title I of the Act.

(b) For the purposes of regulating GHGs in accordance with this part, the definitions of "major stationary source" and "significant" contained in 40 CFR 52.21(b), July 1, 2009 edition, as amended at 75 FR 31606-31607 by the addition of a definition of "subject to regulation" as (b)(49) and revisions to the definition of "regulated NSR pollutant" in (b)(50), shall apply.

(c) 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) Paragraphs (g)(1) through (6);
- (3) Paragraph (l)(2); and
- (4) Paragraph (t).

(d) An owner or operator of a new or modified source subject to this part shall file a permit application in accordance with the procedures set forth in Env-A 607.

(e) A permit application subject to this part shall be subject to the public notice procedures set forth in Env-A 621.03.

APPENDIX A: STATE STATUTES AND FEDERAL STATUTES AND REGULATIONS IMPLEMENTED

Rule Section(s)	State Statute(s) Implemented	Federal Statute or Regulation Implemented
Env-A 619.03	RSA 125-C:4, I(d); RSA 125-C:6, XIV; RSA 125-C:11, IV	42 U.S.C. §7410(a)(2)(C); 40 CFR § 51.166

APPENDIX B: FEDERAL DEFINITIONS CITED IN ENV-A 619.0340 CFR 52.21(b) Definitions:

(1) (i) Major stationary source means:

(a) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants (with thermal dryers), primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140), fossil-fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(b) Notwithstanding the stationary source size specified in paragraph (b)(1)(i) of this section, any stationary source which emits, or has the potential to emit, 250 tons per year or more of a *regulated NSR pollutant*; or

(c) Any physical change that would occur at a stationary source not otherwise qualifying under paragraph (b)(1) of this section, as a major stationary source, if the changes would constitute a major stationary source by itself.

(ii) A major source that is major for volatile organic compounds or NO_x shall be considered major for ozone.

(iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this section whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

- (a) Coal cleaning plants (with thermal dryers);
- (b) Kraft pulp mills;
- (c) Portland cement plants;
- (d) Primary zinc smelters;
- (e) Iron and steel mills;
- (f) Primary aluminum ore reduction plants;
- (g) Primary copper smelters;
- (h) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (i) Hydrofluoric, sulfuric, or nitric acid plants;
- (j) Petroleum refineries;
- (k) Lime plants;
- (l) Phosphate rock processing plants;
- (m) Coke oven batteries;

- (n) Sulfur recovery plants;
- (o) Carbon black plants (furnace process);
- (p) Primary lead smelters;
- (q) Fuel conversion plants;
- (r) Sintering plants;
- (s) Secondary metal production plants;
- (t) Chemical process plants--The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
- (u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (w) Taconite ore processing plants;
- (x) Glass fiber processing plants;
- (y) Charcoal production plants;
- (z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, and
- (aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

(23) (i) *Significant* means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate

Carbon monoxide: 100 tons per year (tpy)

Nitrogen oxides: 40 tpy

Sulfur dioxide: 40 tpy

Particulate matter: 25 tpy of particulate matter emissions

PM₁₀: 15 tpy

PM_{2.5}: 10 tpy of direct PM_{2.5} emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions unless demonstrated not to be a PM_{2.5} precursor under paragraph (b)(50) of this section

Ozone: 40 tpy of volatile organic compounds or nitrogen oxides

Lead: 0.6 tpy

Fluorides: 3 tpy

Sulfuric acid mist: 7 tpy

Hydrogen sulfide (H₂S): 10 tpy

Total reduced sulfur (including H₂S): 10 tpy

Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): 3.2×10^{-6} megagrams per year (3.5×10^{-6} tons per year)

Municipal waste combustor metals (measured as particulate matter): 14 megagrams per year (15 tons per year)

Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tons per year)

Municipal solid waste landfills emissions (measured as nonmethane organic compounds): 45 megagrams per year (50 tons per year)

(ii) *Significant* means, in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that paragraph (b)(23)(i) of this section, does not list, any emissions rate.

(iii) Notwithstanding paragraph (b)(23)(i) of this section, *significant* means any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would construct within 10 kilometers of a Class I area, and have an impact on such area equal to or greater than $1 \mu\text{g}/\text{m}^3$, (24-hour average).

(49) *Subject to regulation* means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of this chapter, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(i) *Greenhouse gases (GHGs)*, the air pollutant defined in § 86.1818–12(a) of this chapter as the aggregate group of six greenhouse gases: Carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation except as provided in paragraphs (b)(49)(iv) through (v) of this section.

(ii) For purposes of paragraphs (b)(49)(iii) through (v) of this section, the term *tpy CO₂ equivalent emissions (CO₂e)* shall represent an amount of GHGs emitted, and shall be computed as follows:

(a) Multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A–1 to subpart A of part 98 of this chapter— Global Warming Potentials.

(b) Sum the resultant value from paragraph (b)(49)(ii)(a) of this section for each gas to compute a tpy CO₂e.

(iii) The term *emissions increase* as used in paragraphs (b)(49)(iv) through (v) of this section shall mean that both a significant emissions increase (as calculated using the procedures in paragraph (a)(2)(iv) of this section) and a significant net emissions increase (as defined in paragraphs (b)(3) and (b)(23) of this section) occur. For the pollutant GHGs, an emissions increase shall be based on tpy CO₂e, and shall be calculated assuming the pollutant GHGs is a regulated NSR pollutant, and “significant” is defined as 75,000 tpy CO₂e instead of applying the value in paragraph (b)(23)(ii) of this section.

(iv) Beginning January 2, 2011, the pollutant GHGs is *subject to regulation* if:

(a) The stationary source is a new major stationary source for a regulated NSR pollutant that is not GHGs, and also will emit or will have the potential to emit 75,000 tpy CO₂e or more; or

(b) The stationary source is an existing major stationary source for a regulated NSR pollutant that is not GHGs, and also will have an emissions increase of a regulated NSR pollutant, and an emissions increase of 75,000 tpy CO₂e or more; and,

(v) Beginning July 1, 2011, in addition to the provisions in paragraph (b)(49)(iv) of this section, the pollutant GHGs shall also be subject to regulation

(a) At a new stationary source that will emit or have the potential to emit 100,000 tpy CO₂e; or

(b) At an existing stationary source that emits or has the potential to emit 100,000 tpy CO₂e, when such stationary source undertakes a physical change or change in the method of operation that will result in an emissions increase of 75,000 tpy CO₂e or more.

(50) *Regulated NSR pollutant*, for purposes of this section, means the following:

(i) Any pollutant for which a national ambient air quality standard has been promulgated and any pollutant identified under this paragraph (b)(50)(i) as a constituent or precursor for such pollutant. Precursors identified by the Administrator for purposes of NSR are the following:

(a) Volatile organic compounds and nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas.

(b) Sulfur dioxide is a precursor to PM_{2.5} in all attainment and unclassifiable areas.

(c) Nitrogen oxides are presumed to be precursors to PM_{2.5} in all attainment and unclassifiable areas, unless the State demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient PM_{2.5} concentrations.

(d) Volatile organic compounds are presumed not to be precursors to PM_{2.5} in any attainment or unclassifiable area, unless the State demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds from sources in a specific area are a significant contributor to that area's ambient PM_{2.5} concentrations.

(ii) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(iii) Any Class I or II substance subject to a standard promulgated under or established by title VI of the Act;

(iv) Any pollutant that otherwise is subject to regulation under the Act as defined in paragraph (b)(49) of this section.

(v) Notwithstanding paragraphs (b)(50)(i) through (iv) of this section, the term *regulated NSR pollutant* shall not include any or all hazardous air pollutants either listed in section 112 of the Act, or added to the list pursuant to section 112(b)(2) of the Act, and which have not been delisted pursuant to section 112(b)(3) of the Act, unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Act.

(vi) Particulate matter (PM) emissions, PM_{2.5} emissions and PM₁₀ emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011 (or any earlier date established in the upcoming rulemaking codifying test methods), such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM, PM_{2.5} and PM₁₀ in PSD permits. Compliance with emissions limitations for PM, PM_{2.5} and PM₁₀ issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this section unless the applicable implementation plan required condensable particulate matter to be included.

40 CFR 98, Table A-1:

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
Carbon dioxide	124-38-9	CO ₂	1
Methane	74-82-8	CH ₄	21
Nitrous oxide	10024-97-2	N ₂ O	310

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
HFC-23	75-46-7	CHF ₃	11,700
HFC-32	75-10-5	CH ₂ F ₂	650
HFC-41	593-53-3	CH ₃ F	150
HFC-125	354-33-6	C ₂ HF ₅	2,800
HFC-134	359-35-3	C ₂ H ₂ F ₄	1,000
HFC-134a	811-97-2	CH ₂ FCF ₃	1,300
HFC-143	430-66-0	C ₂ H ₃ F ₃	300
HFC-143a	420-46-2	C ₂ H ₃ F ₃	3,800
HFC-152	624-72-6	CH ₂ FCH ₂ F	53
HFC-152a	75-37-6	CH ₃ CHF ₂	140
HFC-161	353-36-6	CH ₃ CH ₂ F	12
HFC-227ea	431-89-0	C ₃ HF ₇	2,900
HFC-236cb	677-56-5	CH ₂ FCF ₂ CF ₃	1,340
HFC-236ea	431-63-0	CHF ₂ CHFCF ₃	1,370
HFC-236fa	690-39-1	C ₃ H ₂ F ₆	6,300
HFC-245ca	679-86-7	C ₃ H ₃ F ₅	560
HFC-245fa	460-73-1	CHF ₂ CH ₂ CF ₃	1,030
HFC-365mfc	406-58-6	CH ₃ CF ₂ CH ₂ CF ₃	794
HFC-43-10mee	138495-42-8	CF ₃ CFHCFHCF ₂ CF ₃	1,300
Sulfur hexafluoride	2551-62-4	SF ₆	23,900
Trifluoromethyl sulphur pentafluoride	373-80-8	SF ₅ CF ₃	17,700
Nitrogen trifluoride	7783-54-2	NF ₃	17,200
PFC-14 (Perfluoromethane)	75-73-0	CF ₄	6,500
PFC-116 (Perfluoroethane)	76-16-4	C ₂ F ₆	9,200
PFC-218 (Perfluoropropane)	76-19-7	C ₃ F ₈	7,000
Perfluorocyclopropane	931-91-9	C-C ₃ F ₆	17,340
PFC-3-1-10 (Perfluorobutane)	355-25-9	C ₄ F ₁₀	7,000
Perfluorocyclobutane	115-25-3	C-C ₄ F ₈	8,700
PFC-4-1-12 (Perfluoropentane)	678-26-2	C ₅ F ₁₂	7,500
PFC-5-1-14 (Perfluorohexane)	355-42-0	C ₆ F ₁₄	7,400
PFC-9-1-18	306-94-5	C ₁₀ F ₁₈	7,500
HCFE-235da2 (Isoflurane)	26675-46-7	CHF ₂ OCHClCF ₃	350
HFE-43-10pccc (H-Galden 1040x)	E1730133	CHF ₂ OCF ₂ OC ₂ F ₄ OCHF ₂	1,870
HFE-125	3822-68-2	CHF ₂ OCF ₃	14,900
HFE-134	1691-17-4	CHF ₂ OCHF ₂	6,320

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
HFE-143a	421-14-7	CH_3OCF_3	756
HFE-227ea	2356-62-9	$\text{CF}_3\text{CHFOCF}_3$	1,540
HFE-236ca12 (HG-10)	78522-47-1	$\text{CHF}_2\text{OCF}_2\text{OCHF}_2$	2,800
HFE-236ea2 (Desflurane)	57041-67-5	$\text{CHF}_2\text{OCHF}_2\text{CF}_3$	989
HFE-236fa	20193-67-3	$\text{CF}_3\text{CH}_2\text{OCF}_3$	487
HFE-245cb2	22410-44-2	$\text{CH}_3\text{OCF}_2\text{CF}_3$	708
HFE-245fa1	84011-15-4	$\text{CHF}_2\text{CH}_2\text{OCF}_3$	286
HFE-245fa2	1885-48-9	$\text{CHF}_2\text{OCH}_2\text{CF}_3$	659
HFE-254cb2	425-88-7	$\text{CH}_3\text{OCF}_2\text{CHF}_2$	359
HFE-263fb2	460-43-5	$\text{CF}_3\text{CH}_2\text{OCH}_3$	11
HFE-329mcc2	67490-36-2	$\text{CF}_3\text{CF}_2\text{OCF}_2\text{CHF}_2$	919
HFE-338mcf2	156053-88-2	$\text{CF}_3\text{CF}_2\text{OCH}_2\text{CF}_3$	552
HFE-338pcc13 (HG-01)	188690-78-0	$\text{CHF}_2\text{OCF}_2\text{CF}_2\text{OCHF}_2$	1,500
HFE-347mcc3	28523-86-6	$\text{CH}_3\text{OCF}_2\text{CF}_2\text{CF}_3$	575
HFE-347mcf2	E1730135	$\text{CF}_3\text{CF}_2\text{OCH}_2\text{CHF}_2$	374
HFE-347pcf2	406-78-0	$\text{CHF}_2\text{CF}_2\text{OCH}_2\text{CF}_3$	580
HFE-356mcc3	382-34-3	$\text{CH}_3\text{OCF}_2\text{CHFCF}_3$	101
HFE-356pcc3	160620-20-2	$\text{CH}_3\text{OCF}_2\text{CF}_2\text{CHF}_2$	110
HFE-356pcf2	E1730137	$\text{CHF}_2\text{CH}_2\text{OCF}_2\text{CHF}_2$	265
HFE-356pcf3	35042-99-0	$\text{CHF}_2\text{OCH}_2\text{CF}_2\text{CHF}_2$	502
HFE-365mcf3	378-16-5	$\text{CF}_3\text{CF}_2\text{CH}_2\text{OCH}_3$	11
HFE-374pc2	512-51-6	$\text{CH}_3\text{CH}_2\text{OCF}_2\text{CHF}_2$	557
HFE-449sl (HFE-7100) Chemical blend	163702-07-6 163702-08-7	$\text{C}_4\text{F}_9\text{OCH}_3$ $(\text{CF}_3)_2\text{CFCF}_2\text{OCH}_3$	297
HFE-569sf2 (HFE-7200) Chemical blend	163702-05-4 163702-06-5	$\text{C}_4\text{F}_9\text{OC}_2\text{H}_5$ $(\text{CF}_3)_2\text{CFCF}_2\text{OC}_2\text{H}_5$	59
Sevoflurane	28523-86-6	$\text{CH}_2\text{FOCH}(\text{CF}_3)_2$	345
HFE-356mm1	13171-18-1	$(\text{CF}_3)_2\text{CHOCH}_3$	27
HFE-338mmz1	26103-08-2	$\text{CHF}_2\text{OCH}(\text{CF}_3)_2$	380
(Octafluorotetramethylene)hydroxymethyl group	NA	$\text{X}-(\text{CF}_2)_4\text{CH}(\text{OH})-\text{X}$	73
HFE-347mmyl	22052-84-2	$\text{CH}_3\text{OCF}(\text{CF}_3)_2$	343
Bis(trifluoromethyl)-methanol	920-66-1	$(\text{CF}_3)_2\text{CHOH}$	195
2,2,3,3,3-pentafluoropropanol	422-05-9	$\text{CF}_3\text{CF}_2\text{CH}_2\text{OH}$	42

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
PFPMIE	NA	CF ₃ OCF(CF ₃) CF ₂ OCF ₂ OCF ₃	10,300

NA = not available.

ADOPTED RULE

Adopt new Env-A 101.35, and renumber subsequent sections accordingly, so that Env-A 101.35 reads as follows:

Env-A 101.35 “Carbon dioxide equivalent emissions (CO₂e)” means a measurement of the global warming potential of GHGs emitted, determined by multiplying the mass amount of emissions in tons per year (tpy) of each gas in the pollutant group GHGs by the associated global warming potential for that gas published at Table A-1 to subpart A of 40 CFR part 98, Global Warming Potentials, and adding the resultant values to compute a tpy CO₂e for the GHGs.

Adopt new Env-A 101.96, and renumber subsequent sections accordingly, so that Env-A 101.96 reads as follows:

Env-A 101.96 “Greenhouse gases (GHGs)” means the group of 6 gases that, when emitted to the ambient air, act as a shield to trap heat in the earth’s atmosphere. The group is comprised of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

Readopt with amendment Env-A 101.113, eff. 6-30-95 (doc. #6057-A); amd by #7845, eff. 3-8-03, renumbered by #8256 and #8304, and renumber as Env-A 101.115 based on the new definitions above, so that Env-A 101.115 reads as follows:

Env-A 101.115 “Major source” means a stationary source that has been identified as meeting a specified threshold for producing pollutants of concern. The term includes:

- (a) “Acid rain affected source” as defined in this part;
- (b) “Major source” as defined in 40 CFR 70.2, July 1, 2009 edition, as amended at 75 FR 31607 by the addition of the phrase “subject to regulation” in paragraph (2) and the addition of a definition of that phrase;
- (c) “Major stationary source” as defined in paragraph (3) of the definition of major source in 40 CFR 70.2, including the following:
 - (1) Any source with the potential to emit nitrogen oxides in the following counties and specific quantities:
 - a. In Belknap, Carroll, Cheshire, Coos, Grafton, or Sullivan counties, 100 tpy or more; or
 - b. In Hillsborough, Merrimack, Rockingham or Strafford counties, 50 tpy or more; or
 - (2) Any source with the potential to emit volatile organic compounds in the quantity of 50 tpy or more; and
- (d) For purposes of Env-A 619, a major stationary source as defined in the federal definition cited in Env-A 619.03(a) or (b), as applicable.

APPENDIX A: STATE STATUTES AND FEDERAL STATUTES AND REGULATIONS IMPLEMENTED

Rule Section(s)	State Statute(s) Implemented	Federal Statute or Regulation Implemented
Env-A 101.35 [new]	RSA 125-C:4, I(a)	40 CFR § 52.21
Env-A 101.96 [new]	RSA 125-C:4, I(a); 125-L:1, IV	40 CFR § 52.21
Env-A 101.115	RSA 125-C:4, I(a)	42 U.S.C. § 7661(2) and 40 CFR 70.2

APPENDIX B: FEDERAL DEFINITIONS CITED IN ENV-A 101**40 CFR 52.21(b) Definitions:**

(1)(i) Major stationary source means:

(a) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants (with thermal dryers), primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140), fossil-fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(b) Notwithstanding the stationary source size specified in paragraph (b)(1)(i) of this section, any stationary source which emits, or has the potential to emit, 250 tons per year or more of a regulated NSR pollutant; or

(c) Any physical change that would occur at a stationary source not otherwise qualifying under paragraph (b)(1) of this section, as a major stationary source, if the changes would constitute a major stationary source by itself.

(ii) A major source that is major for volatile organic compounds or NO_x shall be considered major for ozone.

(iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this section whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

- (a) Coal cleaning plants (with thermal dryers);
- (b) Kraft pulp mills;
- (c) Portland cement plants;
- (d) Primary zinc smelters;
- (e) Iron and steel mills;
- (f) Primary aluminum ore reduction plants;
- (g) Primary copper smelters;

- (h) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (i) Hydrofluoric, sulfuric, or nitric acid plants;
- (j) Petroleum refineries;
- (k) Lime plants;
- (l) Phosphate rock processing plants;
- (m) Coke oven batteries;
- (n) Sulfur recovery plants;
- (o) Carbon black plants (furnace process);
- (p) Primary lead smelters;
- (q) Fuel conversion plants;
- (r) Sintering plants;
- (s) Secondary metal production plants;
- (t) Chemical process plants--The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
- (u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (w) Taconite ore processing plants;
- (x) Glass fiber processing plants;
- (y) Charcoal production plants;
- (z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, and
- (aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

(49) *Subject to regulation* means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of this chapter, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(i) *Greenhouse gases (GHGs)*, the air pollutant defined in § 86.1818–12(a) of this chapter as the aggregate group of six greenhouse gases: Carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation except as provided in paragraphs (b)(49)(iv) through (v) of this section.

(ii) For purposes of paragraphs (b)(49)(iii) through (v) of this section, the term *tpy CO₂ equivalent emissions (CO₂e)* shall represent an amount of GHGs emitted, and shall be computed as follows:

(a) Multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A–1 to subpart A of part 98 of this chapter— Global Warming Potentials.

(b) Sum the resultant value from paragraph (b)(49)(ii)(a) of this section for each gas to compute a tpy CO₂e.

(iii) The term *emissions increase* as used in paragraphs (b)(49)(iv) through (v) of this section shall mean that both a significant emissions increase (as calculated using the procedures in paragraph (a)(2)(iv) of this section) and a significant net emissions increase (as defined in paragraphs (b)(3) and (b)(23) of this section) occur. For the pollutant GHGs, an emissions increase shall be based on tpy CO₂e, and shall be calculated assuming the pollutant GHGs is a regulated NSR pollutant, and “significant” is defined as 75,000 tpy CO₂e instead of applying the value in paragraph (b)(23)(ii) of this section.

(50) *Regulated NSR pollutant*, for purposes of this section, means the following:

(i) Any pollutant for which a national ambient air quality standard has been promulgated and any pollutant identified under this paragraph (b)(50)(i) as a constituent or precursor for such pollutant. Precursors identified by the Administrator for purposes of NSR are the following:

(a) Volatile organic compounds and nitrogen oxides are precursors to ozone nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas.

(b) Sulfur dioxide is a precursor to PM_{2.5} in all attainment and unclassifiable areas.

(c) Nitrogen oxides are presumed to be precursors to PM_{2.5} in all attainment and unclassifiable areas, unless the State demonstrates to the Administrator’s satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area’s ambient PM_{2.5} concentrations.

(d) Volatile organic compounds are presumed not to be precursors to PM_{2.5} in any attainment or unclassifiable area, unless the State demonstrates to the Administrator’s satisfaction or EPA demonstrates that emissions of volatile organic compounds from sources in a specific area are a significant contributor to that area’s ambient PM_{2.5} concentrations.

(ii) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(iii) Any Class I or II substance subject to a standard promulgated under or established by title VI of the Act;

(iv) Beginning January 2, 2011, the pollutant GHGs is subject to regulation if:

(a) The stationary source is a new major stationary source for a regulated NSR pollutant that is not GHGs, and also will emit or will have the potential to emit 75,000 tpy CO₂e or more; or

(b) The stationary source is an existing major stationary source for a regulated NSR pollutant that is not GHGs, and also will have an emissions increase of a regulated NSR pollutant, and an emissions increase of 75,000 tpy CO₂e or more; and,

(v) Beginning July 1, 2011, in addition to the provisions in paragraph (b)(49)(iv) of this section, the pollutant GHGs shall also be subject to regulation

(a) At a new stationary source that will emit or have the potential to emit 100,000 tpy CO₂e; or

(b) At an existing stationary source that emits or has the potential to emit 100,000 tpy CO₂e, when such stationary source undertakes a physical change or change in the method of operation that will result in an emissions increase of 75,000 tpy CO₂e or more.

(vi) Particulate matter (PM) emissions, PM_{2.5} emissions and PM₁₀ emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011 (or any earlier date established in the upcoming rulemaking codifying test methods), such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM, PM_{2.5} and PM₁₀ in PSD permits. Compliance with emissions limitations for

PM, PM2.5 and PM10 issued prior to this date shall not be based on condensable particular matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particular matter shall not be considered in violation of this section unless the applicable implementation plan required condensable particular matter to be included.

40 CFR 70.2 Definitions:

Major source means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are described in paragraph (1), (2), or (3) of this definition. For the purposes of defining “major source,” a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

(1) A major source under section 112 of the Act, which is defined as:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(ii) For radionuclides, “major source” shall have the meaning specified by the Administrator by rule.

(2) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant subject to regulation (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary source:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;

- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants--The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
- (xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
- (xxvii) Any other stationary source category, which as of August 7, 1980 is being regulated under section 111 or 112 of the Act.

(3) A major stationary source as defined in part D of title I of the Act, including:

- (i) For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25 and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f) (1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;
- (ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of volatile organic compounds;
- (iii) For carbon monoxide nonattainment areas:
 - (A) That are classified as "serious," and
 - (B) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and
- (iv) For particulate matter (PM-10) nonattainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM-10.

Subject to regulation means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of this chapter, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(1) *Greenhouse gases (GHGs)*, the air pollutant defined in § 86.1818–12(a) of this chapter as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation unless, as of July 1, 2011, the GHG emissions are at a stationary source emitting or having the potential to emit 100,000 tpy CO₂ equivalent emissions.

(2) The term *tpy CO₂ equivalent emissions (CO₂e)* shall represent an amount of GHGs emitted, and shall be computed by multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A–I to subpart A of part 98 of this chapter—Global Warming Potentials, and summing the resultant value for each to compute a tpy CO₂e.

Readopt with amendment Env-A 619.03, eff. 4-26-03 (doc. #7879), to read as follows:

Env-A 619.03 PSD Permit Requirements.

- (a) In furtherance of RSA 125-C:11 and except as provided in (b), below, the provisions of 40 CFR 52.21(b) through (p), (r), (t), (v), and (w), July 1, 2001 edition, shall apply for the purposes of implementing a PSD permit program that meets the requirements of Title I of the Act.
- (b) For the purposes of regulating GHGs in accordance with this part, the definitions of “major stationary source” and “significant” contained in 40 CFR 52.21(b), July 1, 2009 edition, as amended at 75 FR 31606-31607 by the addition of a definition of “subject to regulation” as (b)(49) and revisions to the definition of “regulated NSR pollutant” in (b)(50), shall apply.
- (c) 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) Paragraphs (g)(1) through (6);
 - (3) Paragraph (l)(2); and
 - (4) Paragraph (t).
- (d) An owner or operator of a new or modified source subject to this part shall file a permit application in accordance with the procedures set forth in Env-A 607.
- (e) A permit application subject to this part shall be subject to the public notice procedures set forth in Env-A 621.03.

APPENDIX A: STATE STATUTES AND FEDERAL STATUTES AND REGULATIONS IMPLEMENTED

Rule Section(s)	State Statute(s) Implemented	Federal Statute or Regulation Implemented
Env-A 619.03	RSA 125-C:4, I(d); RSA 125-C:6, XIV; RSA 125-C:11, IV	42 U.S.C. §7410(a)(2)(C); 40 CFR § 51.166

APPENDIX B: FEDERAL DEFINITIONS CITED IN ENV-A 619.0340 CFR 52.21(b) Definitions:

(1) (i) Major stationary source means:

(a) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants (with thermal dryers), primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140), fossil-fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(b) Notwithstanding the stationary source size specified in paragraph (b)(1)(i) of this section, any stationary source which emits, or has the potential to emit, 250 tons per year or more of a *regulated NSR pollutant*; or

(c) Any physical change that would occur at a stationary source not otherwise qualifying under paragraph (b)(1) of this section, as a major stationary source, if the changes would constitute a major stationary source by itself.

(ii) A major source that is major for volatile organic compounds or NO_x shall be considered major for ozone.

(iii) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this section whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

- (a) Coal cleaning plants (with thermal dryers);
- (b) Kraft pulp mills;
- (c) Portland cement plants;
- (d) Primary zinc smelters;
- (e) Iron and steel mills;
- (f) Primary aluminum ore reduction plants;
- (g) Primary copper smelters;
- (h) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (i) Hydrofluoric, sulfuric, or nitric acid plants;
- (j) Petroleum refineries;
- (k) Lime plants;
- (l) Phosphate rock processing plants;
- (m) Coke oven batteries;

- (n) Sulfur recovery plants;
- (o) Carbon black plants (furnace process);
- (p) Primary lead smelters;
- (q) Fuel conversion plants;
- (r) Sintering plants;
- (s) Secondary metal production plants;
- (t) Chemical process plants--The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;
- (u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (w) Taconite ore processing plants;
- (x) Glass fiber processing plants;
- (y) Charcoal production plants;
- (z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, and
- (aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

(23) (i) *Significant* means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate

Carbon monoxide: 100 tons per year (tpy)

Nitrogen oxides: 40 tpy

Sulfur dioxide: 40 tpy

Particulate matter: 25 tpy of particulate matter emissions

PM₁₀: 15 tpy

PM_{2.5}: 10 tpy of direct PM_{2.5} emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions unless demonstrated not to be a PM_{2.5} precursor under paragraph (b)(50) of this section

Ozone: 40 tpy of volatile organic compounds or nitrogen oxides

Lead: 0.6 tpy

Fluorides: 3 tpy

Sulfuric acid mist: 7 tpy

Hydrogen sulfide (H₂S): 10 tpy

Total reduced sulfur (including H₂S): 10 tpy

Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): 3.2×10^{-6} megagrams per year (3.5×10^{-6} tons per year)

Municipal waste combustor metals (measured as particulate matter): 14 megagrams per year (15 tons per year)

Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tons per year)

Municipal solid waste landfills emissions (measured as nonmethane organic compounds): 45 megagrams per year (50 tons per year)

(ii) *Significant* means, in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that paragraph (b)(23)(i) of this section, does not list, any emissions rate.

(iii) Notwithstanding paragraph (b)(23)(i) of this section, *significant* means any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would construct within 10 kilometers of a Class I area, and have an impact on such area equal to or greater than $1 \mu\text{g}/\text{m}^3$, (24-hour average).

(49) *Subject to regulation* means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of this chapter, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(i) *Greenhouse gases (GHGs)*, the air pollutant defined in § 86.1818–12(a) of this chapter as the aggregate group of six greenhouse gases: Carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation except as provided in paragraphs (b)(49)(iv) through (v) of this section.

(ii) For purposes of paragraphs (b)(49)(iii) through (v) of this section, the term *tpy CO₂e equivalent emissions (CO₂e)* shall represent an amount of GHGs emitted, and shall be computed as follows:

(a) Multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A–1 to subpart A of part 98 of this chapter— Global Warming Potentials.

(b) Sum the resultant value from paragraph (b)(49)(ii)(a) of this section for each gas to compute a tpy CO₂e.

(iii) The term *emissions increase* as used in paragraphs (b)(49)(iv) through (v) of this section shall mean that both a significant emissions increase (as calculated using the procedures in paragraph (a)(2)(iv) of this section) and a significant net emissions increase (as defined in paragraphs (b)(3) and (b)(23) of this section) occur. For the pollutant GHGs, an emissions increase shall be based on tpy CO₂e, and shall be calculated assuming the pollutant GHGs is a regulated NSR pollutant, and “significant” is defined as 75,000 tpy CO₂e instead of applying the value in paragraph (b)(23)(ii) of this section.

(iv) Beginning January 2, 2011, the pollutant GHGs is *subject to regulation* if:

(a) The stationary source is a new major stationary source for a regulated NSR pollutant that is not GHGs, and also will emit or will have the potential to emit 75,000 tpy CO₂e or more; or

(b) The stationary source is an existing major stationary source for a regulated NSR pollutant that is not GHGs, and also will have an emissions increase of a regulated NSR pollutant, and an emissions increase of 75,000 tpy CO₂e or more; and,

(v) Beginning July 1, 2011, in addition to the provisions in paragraph (b)(49)(iv) of this section, the pollutant GHGs shall also be subject to regulation

(a) At a new stationary source that will emit or have the potential to emit 100,000 tpy CO₂e; or

(b) At an existing stationary source that emits or has the potential to emit 100,000 tpy CO₂e, when such stationary source undertakes a physical change or change in the method of operation that will result in an emissions increase of 75,000 tpy CO₂e or more.

(50) *Regulated NSR pollutant*, for purposes of this section, means the following:

(i) Any pollutant for which a national ambient air quality standard has been promulgated and any pollutant identified under this paragraph (b)(50)(i) as a constituent or precursor for such pollutant. Precursors identified by the Administrator for purposes of NSR are the following:

(a) Volatile organic compounds and nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas.

(b) Sulfur dioxide is a precursor to PM_{2.5} in all attainment and unclassifiable areas.

(c) Nitrogen oxides are presumed to be precursors to PM_{2.5} in all attainment and unclassifiable areas, unless the State demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient PM_{2.5} concentrations.

(d) Volatile organic compounds are presumed not to be precursors to PM_{2.5} in any attainment or unclassifiable area, unless the State demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds from sources in a specific area are a significant contributor to that area's ambient PM_{2.5} concentrations.

(ii) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(iii) Any Class I or II substance subject to a standard promulgated under or established by title VI of the Act;

(iv) Any pollutant that otherwise is subject to regulation under the Act as defined in paragraph (b)(49) of this section.

(v) Notwithstanding paragraphs (b)(50)(i) through (iv) of this section, the term *regulated NSR pollutant* shall not include any or all hazardous air pollutants either listed in section 112 of the Act, or added to the list pursuant to section 112(b)(2) of the Act, and which have not been delisted pursuant to section 112(b)(3) of the Act, unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Act.

(vi) Particulate matter (PM) emissions, PM_{2.5} emissions and PM₁₀ emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011 (or any earlier date established in the upcoming rulemaking codifying test methods), such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM, PM_{2.5} and PM₁₀ in PSD permits. Compliance with emissions limitations for PM, PM_{2.5} and PM₁₀ issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this section unless the applicable implementation plan required condensable particulate matter to be included.

40 CFR 98, Table A-1:

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
Carbon dioxide	124-38-9	CO ₂	1
Methane	74-82-8	CH ₄	21
Nitrous oxide	10024-97-2	N ₂ O	310

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
HFC-23	75-46-7	CHF ₃	11,700
HFC-32	75-10-5	CH ₂ F ₂	650
HFC-41	593-53-3	CH ₃ F	150
HFC-125	354-33-6	C ₂ HF ₅	2,800
HFC-134	359-35-3	C ₂ H ₂ F ₄	1,000
HFC-134a	811-97-2	CH ₂ FCF ₃	1,300
HFC-143	430-66-0	C ₂ H ₃ F ₃	300
HFC-143a	420-46-2	C ₂ H ₃ F ₃	3,800
HFC-152	624-72-6	CH ₂ FCH ₂ F	53
HFC-152a	75-37-6	CH ₃ CHF ₂	140
HFC-161	353-36-6	CH ₃ CH ₂ F	12
HFC-227ea	431-89-0	C ₃ HF ₇	2,900
HFC-236cb	677-56-5	CH ₂ FCF ₂ CF ₃	1,340
HFC-236ea	431-63-0	CHF ₂ CHFCF ₃	1,370
HFC-236fa	690-39-1	C ₃ H ₂ F ₆	6,300
HFC-245ca	679-86-7	C ₃ H ₃ F ₅	560
HFC-245fa	460-73-1	CHF ₂ CH ₂ CF ₃	1,030
HFC-365mfc	406-58-6	CH ₃ CF ₂ CH ₂ CF ₃	794
HFC-43-10mee	138495-42-8	CF ₃ CFHCFHCF ₂ CF ₃	1,300
Sulfur hexafluoride	2551-62-4	SF ₆	23,900
Trifluoromethyl sulphur pentafluoride	373-80-8	SF ₅ CF ₃	17,700
Nitrogen trifluoride	7783-54-2	NF ₃	17,200
PFC-14 (Perfluoromethane)	75-73-0	CF ₄	6,500
PFC-116 (Perfluoroethane)	76-16-4	C ₂ F ₆	9,200
PFC-218 (Perfluoropropane)	76-19-7	C ₃ F ₈	7,000
Perfluorocyclopropane	931-91-9	C-C ₃ F ₆	17,340
PFC-3-1-10 (Perfluorobutane)	355-25-9	C ₄ F ₁₀	7,000
Perfluorocyclobutane	115-25-3	C-C ₄ F ₈	8,700
PFC-4-1-12 (Perfluoropentane)	678-26-2	C ₅ F ₁₂	7,500
PFC-5-1-14 (Perfluorohexane)	355-42-0	C ₆ F ₁₄	7,400
PFC-9-1-18	306-94-5	C ₁₀ F ₁₈	7,500
HCFE-235da2 (Isoflurane)	26675-46-7	CHF ₂ OCHClCF ₃	350
HFE-43-10pccc (H-Galden 1040x)	E1730133	CHF ₂ OCF ₂ OC ₂ F ₄ OCHF ₂	1,870
HFE-125	3822-68-2	CHF ₂ OCF ₃	14,900
HFE-134	1691-17-4	CHF ₂ OCHF ₂	6,320

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
HFE-143a	421-14-7	CH ₃ OCF ₃	756
HFE-227ea	2356-62-9	CF ₃ CHFOCF ₃	1,540
HFE-236ca12 (HG-10)	78522-47-1	CHF ₂ OCF ₂ OCHF ₂	2,800
HFE-236ea2 (Desflurane)	57041-67-5	CHF ₂ OCHF ₂ CF ₃	989
HFE-236fa	20193-67-3	CF ₃ CH ₂ OCF ₃	487
HFE-245cb2	22410-44-2	CH ₃ OCF ₂ CF ₃	708
HFE-245fa1	84011-15-4	CHF ₂ CH ₂ OCF ₃	286
HFE-245fa2	1885-48-9	CHF ₂ OCH ₂ CF ₃	659
HFE-254cb2	425-88-7	CH ₃ OCF ₂ CHF ₂	359
HFE-263fb2	460-43-5	CF ₃ CH ₂ OCH ₃	11
HFE-329mcc2	67490-36-2	CF ₃ CF ₂ OCF ₂ CHF ₂	919
HFE-338mcf2	156053-88-2	CF ₃ CF ₂ OCH ₂ CF ₃	552
HFE-338pcc13 (HG-01)	188690-78-0	CHF ₂ OCF ₂ CF ₂ OCHF ₂	1,500
HFE-347mcc3	28523-86-6	CH ₃ OCF ₂ CF ₂ CF ₃	575
HFE-347mcf2	E1730135	CF ₃ CF ₂ OCH ₂ CHF ₂	374
HFE-347pcf2	406-78-0	CHF ₂ CF ₂ OCH ₂ CF ₃	580
HFE-356mec3	382-34-3	CH ₃ OCF ₂ CHF ₂ CF ₃	101
HFE-356pcc3	160620-20-2	CH ₃ OCF ₂ CF ₂ CHF ₂	110
HFE-356pcf2	E1730137	CHF ₂ CH ₂ OCF ₂ CHF ₂	265
HFE-356pcf3	35042-99-0	CHF ₂ OCH ₂ CF ₂ CHF ₂	502
HFE-365mcf3	378-16-5	CF ₃ CF ₂ CH ₂ OCH ₃	11
HFE-374pc2	512-51-6	CH ₃ CH ₂ OCF ₂ CHF ₂	557
HFE-449sl (HFE-7100) Chemical blend	163702-07-6 163702-08-7	C ₄ F ₉ OCH ₃ (CF ₃) ₂ CF ₂ OCH ₃	297
HFE-569sf2 (HFE-7200) Chemical blend	163702-05-4 163702-06-5	C ₄ F ₉ OC ₂ H ₅ (CF ₃) ₂ CF ₂ OC ₂ H ₅	59
Sevoflurane	28523-86-6	CH ₂ FOCH(CF ₃) ₂	345
HFE-356mm1	13171-18-1	(CF ₃) ₂ CHOCH ₃	27
HFE-338mmz1	26103-08-2	CHF ₂ OCH(CF ₃) ₂	380
(Octafluorotetramethylene)hydroxymethyl group	NA	X-(CF ₂) ₄ CH(OH)-X	73
HFE-347mmy1	22052-84-2	CH ₃ OCF(CF ₃) ₂	343
Bis(trifluoromethyl)-methanol	920-66-1	(CF ₃) ₂ CHOH	195
2,2,3,3,3-pentafluoropropanol	422-05-9	CF ₃ CF ₂ CH ₂ OH	42

Name	CAS No.	Chemical formula	Global warming potential (100 yr.)
PFPMIE	NA	CF ₃ OCF(CF ₃) CF ₂ OCF ₂ OCF ₃	10,300

NA = not available.

APPROVAL OF THE RULE BY THE JOINT LEGISLATIVE COMMITTEE ON
ADMINISTRATIVE RULES

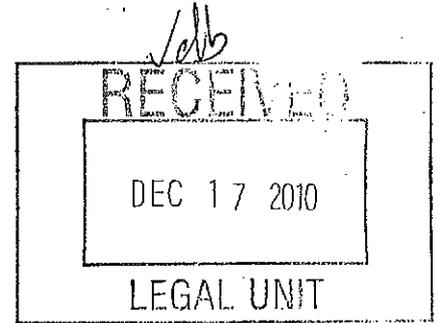
STATE OF NEW HAMPSHIRE

CAROL J. HOLAHAN
DIRECTOR



OFFICE OF LEGISLATIVE SERVICES

STATE HOUSE
107 NORTH MAIN STREET, ROOM 109
CONCORD, NEW HAMPSHIRE 03301-4951



December 16, 2010

NOTICE NO. 2010-111

RULE # Env-A 101.35, 101.96, & 101.115

RELATIVE TO: Greenhouse Gas (GHG) Definitions

The Joint Legislative Committee on Administrative Rules has reviewed the Final Proposal on the above cited rule at its meeting on DECEMBER 16, 2010

The Committee voted to approve the rule. You may proceed to adopt the rule and file it with the Office of Legislative Services, Administrative Rules. When filing the final rule, the agency is also required to file a cover letter indicating the date of final adoption and certifying the final rule is a true copy. See Section 2.19 of Chapter 3 in the N.H. Drafting and Procedure Manual for Administrative Rules. The rule will become effective either at (1) 12:01 a.m. on the day after the filing, (2) 12:01 a.m. on the date specified in the cover letter to me when the rule is filed, or (3) such other date and time as specified in the cover letter, provided that the filing occurs before such effective date and time. Please send two (2) copies of the adopted rule.

Sincerely yours,

Carol J. Holahan, Director
Office of Legislative Services

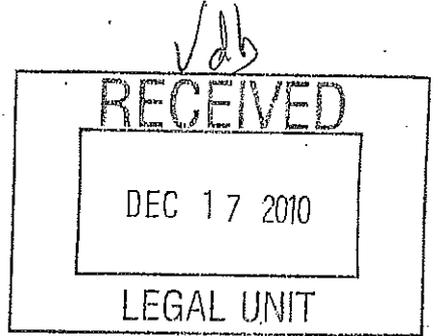
STATE OF NEW HAMPSHIRE

CAROL J. HOLAHAN
DIRECTOR



OFFICE OF LEGISLATIVE SERVICES

STATE HOUSE
107 NORTH MAIN STREET, ROOM 109
CONCORD, NEW HAMPSHIRE 03301-4951



December 16, 2010

NOTICE NO. 2010-112

RULE # Env-A 619.03

RELATIVE TO: Greenhouse Gas (GHG) Rule

The Joint Legislative Committee on Administrative Rules has reviewed the Final Proposal on the above cited rule at its meeting on DECEMBER 16, 2010

The Committee voted to approve the rule. You may proceed to adopt the rule and file it with the Office of Legislative Services, Administrative Rules. When filing the final rule, the agency is also required to file a cover letter indicating the date of final adoption and certifying the final rule is a true copy. See Section 2.19 of Chapter 3 in the N.H. Drafting and Procedure Manual for Administrative Rules. The rule will become effective either at (1) 12:01 a.m. on the day after the filing, (2) 12:01 a.m. on the date specified in the cover letter to me when the rule is filed, or (3) such other date and time as specified in the cover letter, provided that the filing occurs before such effective date and time. Please send two (2) copies of the adopted rule.

Sincerely yours,

Carol J. Holahan, Director
Office of Legislative Services

EVIDENCE OF PUBLIC NOTICE

40 CFR Part 51, Appendix V, 2.1(f)

STATE OF NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES

STATE OF NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES AIR RESOURCES DIVISION
CONCORD, NH NOTICE OF PROPOSED REVISIONS TO THE STATE IMPLEMENTATION PLAN In accordance with N.H. Admin. Rule Env-A 203.04(a) and 40 CFR § 51.102, notice is hereby given that the New Hampshire Department of Environmental Services, Air Resources Division, Intends to submit for the approval of the U.S. Environmental Protection Agency (EPA) the following proposed revisions to the New Hampshire State Implementation Plan (SIP): * Readoption of and amendments to Env-A 101 and Env-A 619.03: Greenhouse Gas Rule. Rules necessary to comply with EPA's Tailoring Rule finalized on June 3, 2010, regulating greenhouse gas (GHG) emissions under the Prevention of Significant Deterioration (PSD) and Title V permitting programs. The recently adopted rules for the Greenhouse Gas Rule SIP submittal are posted at: <http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>. Questions regarding the proposed Rules should be directed to Karla McManus at (603) 271-6854. A public hearing will be held on Monday, January 31, 2011 at 10:30 a.m. at the Department of Environmental Services, Room 113-114, 29 Hazen Drive, Concord, NH. Written comments filed and received no later than 4 p.m. on January 31, 2011, shall be considered by the Department in making a final decision. Please submit comments to Karla McManus, Planning and Rules Manager, Air Resources Division, NH Department of Environmental Services, P.O. Box 95, Concord, NH 03302-0095, Fax (603) 271-7053, or e-mail Karla.Mcmanus@des.nh.gov.
Thomas S. Burack Commissioner NH Department of Environmental Services Dated: December 28, 2010

Appeared in: *The Union Leader* on Thursday, 12/30/2010

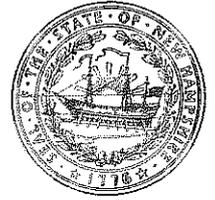
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CERTIFICATION OF PUBLIC HEARING

40 CFR Part 51, Appendix V, 2.1(g)



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

CERTIFICATION OF PUBLIC PROCESS

I hereby certify that:

In accordance with N.H. Administrative Rule Env-A 204.01(b) and 40 CFR § 51.102, public notice was given that the New Hampshire Department of Environmental Services, Air Resources Division, intended to submit for the approval of the U.S. Environmental Protection Agency (EPA) revisions to the New Hampshire State Implementation Plan (SIP) which added and amended **Greenhouse Gas (GHG) Definitions and the Greenhouse Gas Rule**. The added definitions were: **Env-A 101.35, Carbon dioxide equivalent emissions, and Env-A 101.96, Greenhouse gases**. The amended definition was **Env-A 101.115, Major source**. The amended rule was **Env-A 619.03, PSD Permit requirements**.

A public hearing on the SIP revision was held on January 31, 2011 at 10:30 a.m. at the Department of Environmental Services, Rooms 113 and 114, 29 Hazen Drive, Concord, NH. Opportunity was provided to receive oral comments during the hearing or written comments at any time up to 4:00 p.m. on the hearing date, for consideration by the Department in making a final decision.

Since no members of the public appeared for the hearing, there no record of the public hearing was made on tape.

A copy of the SIP revision was available for public inspection at the Department's offices at 29 Hazen Drive, Concord, NH during regular working hours from 8:00 a.m. to 4:00 p.m., Monday through Friday, throughout the comment period. The SIP revision was also available for downloading from the Department's website at <http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>.

The notice was published in the *Union Leader*, a newspaper of general, statewide circulation, on Thursday, December 30, 2010, more than thirty days prior to the date of the hearing.

The above statements are true to the best of my knowledge and belief.

Robert R. Scott
Director, Air Resources Division

1 FEB 11
Date

**COMPILATION OF PUBLIC COMMENTS AND NEW
HAMPSHIRE'S RESPONSE THERETO**

40 CFR Part 51, Appendix V, 2.1(h)

No public comments were received in regard to the Greenhouse Gas SIP revision, specifically rules Env-A 101.35, Env-A 101.96, Env-A 101.115, and Env-A 619.03.