

CHAPTER Env-A 1600 FUEL SPECIFICATIONS

PART Env-A 1601 PURPOSE

Env-A 1601.01 Purpose. The purpose of this chapter is to prevent, abate, and control pollutants emitted into the ambient air by controlling the use of fuels containing specific pollutant elements and compounds, pursuant to RSA 125-C:6, II.

Source. #6519-B, eff 5-29-97 (from Env-A 401); ss by #8330, eff 4-23-05

PART Env-A 1602 SCOPE

Env-A 1602.01 Scope. This chapter shall apply to any person who causes or allows the use of the fuels specified in Part Env-A 1603 or who burns such fuels at a stationary source or device in the state. This chapter shall also apply to the suppliers of such fuels.

Source. #6519-B, eff 5-29-97; ss by #8330, eff 4-23-05

PART Env-A 1603 APPLICABLE FUELS

Env-A 1603.01 Applicable Liquid Fuels. The following liquid fuels, whether blended or not, shall be subject to this chapter:

- (a) No. 2 oil;
- (b) No. 4 oil;
- (c) No. 5 oil;
- (d) No. 6 oil;
- (e) Kerosene-1 oil;
- (f) Kerosene-2 oil;
- (g) Jet A aviation fuel;
- (h) Jet A-1 aviation fuel;
- (i) Jet B aviation fuel;
- (j) JP-4 aviation fuel;
- (k) JP-8 aviation fuel;
- (l) Aviation gasoline;
- (m) Used oil; and
- (n) Crude oil.

Source. #6519-B, eff 5-29-97; ss by #8330, eff 4-23-05

Env-A 1603.02 Applicable Gaseous Fuels. All gaseous fuels, including natural gas, liquefied natural gas (LNG), liquefied petroleum gas (LP gas), propane, manufactured gas, and blended gas, shall be subject to the

requirements of this chapter. Municipal solid waste landfill gas shall not be subject to the requirements of this chapter.

Source. #6519-B, eff 5-29-97; ss by #8330, eff 4-23-05; ss by #8330, eff 4-23-05

Env-A 1603.03 Applicable Solid Fuels. All coal to be used as fuel, including blended coal, shall be subject to the requirements of this chapter.

Source. #6519-B, eff 5-29-97

PART Env-A 1604 SULFUR CONTENT LIMITATIONS FOR LIQUID FUELS

Env-A 1604.01 Maximum Sulfur Content Allowable in Liquid Fuels.

- (a) The sulfur content of No. 2 oil and JP-4 aviation fuel shall not exceed 0.40 percent sulfur by weight.
- (b) The sulfur content of No. 4 oil shall not exceed 1.00 percent sulfur by weight.
- (c) The sulfur content of No. 5 oil, No. 6 oil, and crude oil shall not exceed the following limits:
 - (1) Where such fuel is used in Coos county, 2.20 percent sulfur by weight; and
 - (2) Where such fuel is used anywhere else in the state, 2.00 percent sulfur by weight.
- (d) The sulfur content of aviation gasoline shall not exceed 0.05 percent sulfur by weight.
- (e) The sulfur content of kerosene-1 oil shall not exceed 0.04 percent sulfur by weight.
- (f) The sulfur content of kerosene-2 oil and Jet A, A-1, B, and JP-8 aviation fuels shall not exceed 0.30 percent sulfur by weight.
- (g) The sulfur content of used oil shall not exceed 2.00 percent sulfur by weight.

Source. #6519-B, eff 5-29-97 (from Env-A 402.02); ss by #8330, eff 4-23-05

PART Env-A 1605 SULFUR CONTENT LIMITATIONS FOR GASEOUS FUELS

Env-A 1605.01 Maximum Sulfur Content Allowable in Gaseous Fuels. Gaseous fuel shall contain no more than 15 grains of sulfur per 100 cubic feet of gas at standard temperature and pressure.

Source. #6519-B, eff 5-29-97 (from Env-A 402.03); ss by #7788, eff 10-31-02; ss by #8330, eff 4-23-05

PART Env-A 1606 SULFUR CONTENT LIMITATIONS FOR SOLID FUELS

Env-A 1606.01 Maximum Sulfur Content Allowable in Coal.

- (a) For a coal-burning device placed in operation before April 15, 1970:
 - (1) The sulfur content of coal shall not exceed 2.8 pounds per million BTU gross heat content; and
 - (2) The sulfur content of coal shall not exceed 2.0 pounds per million BTU gross heat content averaged over any consecutive 3-month period.
- (b) For a coal-burning device placed in operation on or after April 15, 1970:

- (1) The sulfur content of coal shall not exceed 1.5 pounds per million BTU gross heat content; and
- (2) The sulfur content of coal shall not exceed 1.0 pound per million BTU gross heat content, averaged over any consecutive 3-month period.

Source. #6519-B, eff 5-29-97 (from Env-A 402.04); ss by #8330, eff 4-23-05

PART Env-A 1607 FUEL ANALYSIS REQUIREMENT FOR SUPPLIERS OF LIQUID OR SOLID FUEL

Env-A 1607.01 Fuel Analysis Requirement for Suppliers of Liquid or Solid Fuel. Each fuel company that supplies fuel for use or for sale for use within the state shall provide each distributor or purchaser of coal or liquid fuel, except homeowners purchasing No. 2 oil, with the following:

- (a) For coal or No. 5 oil, No. 6 oil, used oil, or crude oil, a written statement of the maximum weight percentage sulfur of the fuel; or
- (b) For any liquid fuel listed in Env-A 1603.01 other than those listed in (a), above, one of the following:
 - (1) A written statement of the maximum weight percentage sulfur of the fuel; or
 - (2) A written statement that the sulfur content of the fuel as delivered does not exceed state or federal standards for that fuel.

Source. #6519-B, eff 5-29-97 (from Env-A 404.01); ss by #8330, eff 4-23-05; ss by #8878, eff 4-27-07

PART Env-A 1608 USE OF NON-CONFORMING FUELS

Env-A 1608.01 Prohibition on Use of Non-Conforming Fuels. Except as provided in Env-A 1609, no person shall cause or allow the use of a non-conforming fuel in this state.

Source. #6519-B, eff 5-29-97; ss by #8330, eff 4-23-05

PART Env-A 1609 FUEL SHORTAGE

Env-A 1609.01 Acute Fuel Shortage Contingency.

- (a) In the event of a fuel shortage that causes an immediate need to use non-conforming fuel, a person may request approval from the director to use non-conforming fuel.
- (b) A request to use non-conforming fuel shall include the following:
 - (1) A detailed statement describing the reason(s) for the insufficient supply of conforming fuel and the acute nature of the insufficiency; and
 - (2) A statement that the acute nature of the insufficiency is the sole reason for the request.
- (c) The request shall be signed by a responsible official.

Source. #6519-B, eff 5-29-97 (from Env-A 405); ss by #8330, eff 4-23-05

Env-A 1609.02 Approval of a Request to Use Non-Conforming Fuel. The director shall approve a request to use non-conforming fuel provided:

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- (a) Applicant has provided a detailed statement describing the reason(s) for the insufficient supply of conforming fuel and the acute nature of the insufficiency;
- (b) Applicant has provided a statement that the acute nature of the insufficiency is the sole reason for the request;
- (c) The request is signed by a responsible official; and
- (d) Approval of the request will not create a condition that will cause imminent danger to the environment or public health.

Source. #6519-B, eff 5-29-97(from Env-A 405); ss by #8330, eff 4-23-05

Env-A 1609.03 Limitations on Approvals to Use Non-Conforming Fuels.

- (a) An approval to use non-conforming fuel issued pursuant to this part shall be valid for a period not to exceed 90 days from the date of issuance.
- (b) An approval to use non-conforming fuel shall not be renewable.

Source. #6519-B, eff 5-29-97 (from Env-A 405); ss by #8330, eff 4-23-05

Env-A 1609.04 EPA Notification.

- (a) Within 5 days of granting a request to use non-conforming fuel, the director shall notify the EPA of such approval.

Source. #6519-B, eff 5-29-97 (from Env-A 405); ss by #8330, eff 4-23-05

PART Env-A 1610 COMPLIANCE

Env-A 1610.01 Fuel Analysis for Compliance.

- (a) In order to determine compliance, the department shall sample or require sampling or re-sampling of any fuel.
- (b) Such sampling, which shall include compositing, testing, and analyzing fuel samples, shall be conducted in accordance with the methodology specified in Env-A 800 or 40 CFR 60.

Source. #6519-B, eff 5-29-97; ss by #8330, eff 4-23-05

PART Env-A 1611 OXYGEN-FLEXIBLE REFORMULATED GASOLINE

Statutory Authority: RSA 125-C:4

Env-A 1611.01 Purpose. The purpose of this part is to establish regulations for the control or prohibition of certain fuels for use in motor vehicles and motor vehicle engines.

Source. #7586, INTERIM, eff 10-31-01, EXPIRES: 4-29-02

New. #7686, eff 5-2-02

Env-A 1611.02 Applicability. This part shall apply to any person who sells, offers for sale, dispenses, supplies, offers for supply, stores, transports, or causes the transportation of gasoline in New Hampshire for the purpose of dispensing it as a motor fuel in the counties of Hillsborough, Merrimack, Rockingham, and Strafford.

Source. #7586, INTERIM, eff 10-31-01, EXPIRES: 4-29-02

New. #7686, eff 5-2-02

Env-A 1611.03 Definitions. For the purpose of this part, the following definitions apply:

(a) “Batch of gasoline” means a quantity of gasoline that is homogeneous with regard to those properties that are specified for conventional gasoline, reformulated gasoline, or oxygen-flexible reformulated gasoline.

(b) “Carrier” means any distributor who transports, stores, or causes the transportation or storage of gasoline or diesel fuel without taking title to or otherwise having any ownership of the gasoline or diesel fuel, and without altering either the quality or quantity of the gasoline or diesel fuel.

(c) “Conventional gasoline” means any gasoline which has not been certified under Env-A 1611.05 or 40 CFR 80.40.

(d) “Covered area” means Merrimack, Hillsborough, Rockingham, and Strafford counties.

(e) “Distributor” means any person who transports, stores, or causes the transportation or storage of gasoline at any point between any gasoline refinery or importer’s facility and any retail outlet or wholesale purchaser-consumer’s facility.

(f) “Blendstock” means any liquid compound which is blended with other liquid compounds to produce gasoline. Pursuant to 40 CFR 80.2(s), the term includes “blending stock” and “component.”

(g) “Importer” means any person who brings gasoline, gasoline blending stocks or components from a foreign country into New Hampshire.

(h) “Oxygen-flexible reformulated gasoline” (OFRFG) means any gasoline whose formulation has been certified under Env-A 1611.05(a) and which meets each of the standards and requirements prescribed under Env-A 1611.06.

(i) “Oxygenate” means any substance which, when added to gasoline, increases the oxygen content of that gasoline.

(j) “Oxygenate blender” means any person who owns, leases, operates, controls, or supervises an oxygenate blending facility, or who owns or controls the blendstock or gasoline used or the gasoline produced at an oxygenate blending facility.

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(k) "Oxygenate blending facility" means any facility, including a tank truck, at which oxygenate is added to gasoline or blendstock, and at which the quality or quantity of gasoline is not altered in any other manner except for the addition of deposit control additives.

(l) "Refiner" means any person who owns, leases, operates, controls, or supervises a refinery.

(m) "Refinery" means any facility, including but not limited to a plant, tank truck, or vessel where gasoline is produced, including any facility at which blendstocks are combined to produce gasoline, or at which blendstock is added to gasoline.

(n) "Reformulated gasoline" means gasoline certified in accordance with 40 CFR 80.40.

(o) "Reformulated gasoline blendstock for oxygenate blending" (RBOB) means a petroleum product which, when blended with a specified type and percentage of oxygenate, meets the definition of reformulated gasoline, and to which the specified type and percentage of oxygenate is added other than by the refiner or importer of the RBOB at the refinery or import facility where the RBOB is produced or imported.

(p) "Retail outlet" means any establishment at which gasoline is sold or offered for sale or dispensed for use as a motor fuel.

(q) "Retailer" means any person who owns, leases, operates, controls, or supervises a retail outlet.

(r) "Tank truck" means any truck, trailer or tractor-trailer combination used for transporting gasoline, blendstock, or components.

(s) "Wholesale purchaser-consumer" means any organization that is an ultimate consumer of gasoline, and which purchases or obtains gasoline from a supplier for use in a motor vehicle and receives delivery of that product into a storage tank of at least 550-gallon capacity.

Source. #7586, INTERIM, eff 10-31-01, EXPIRES: 4-29-02

New. #7686, eff 5-2-02

Env-A 1611.04 Certification Requirements.

(a) The requirements of this section shall apply to all gasoline dispensed within the covered area.

(b) Gasoline dispensed in a covered area shall be certified under Env-A 1611.05.

(c) Any person subject to this part, for all OFRFG it dispenses, shall meet the standards and requirements under Env-A 1611.06 on a per-gallon basis.

(d) For all gasoline that is to be dispensed in the covered area, a person subject to this part shall properly designate the gasoline as:

(1) Reformulated or OFRFG; and

(2) Either VOC-controlled or not VOC-controlled.

(e) In an investigation or for an inspection by the department, a person subject to this part shall provide data on the subject gasoline necessary to run the phase II complex model as described in 40 CFR 80.45, as required to demonstrate compliance with Env-A 1611.10.

(f) Any person who sells, offers for sale, dispenses, supplies, offers for supply, stores, transports, or causes the transportation of reformulated gasoline in New Hampshire shall:

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- (1) Comply with either the recordkeeping requirements in 40 CFR 80.74 and the product transfer documentation requirements in 40 CFR 80.77 or the recordkeeping requirements in Env-A 1611.08 and the product transfer documentation requirements in Env-A 1611.09; and
- (2) In an investigation or for an inspection by the department, provide copies of any of the documents generated under subparagraph (1) above, to the director or to the director's authorized representative.

Source. #7586, INTERIM, eff 10-31-01, EXPIRES: 4-29-02

New. #7686, eff 5-2-02

Env-A 1611.05 Fuel Certification Procedures. Gasoline shall be deemed certified as OFRFG if it:

- (a) Complies with the standards and requirements specified in Env-A 1611.06; or
- (b) Has been certified as phase II reformulated gasoline pursuant to 40 CFR 80.40.

Source. #7586, INTERIM, eff 10-31-01, EXPIRES: 4-29-02

New. #7686, eff 5-2-02

Env-A 1611.06 Standards and Requirements for OFRFG.

- (a) Emissions performance reduction standards shall be as follows:

- (1) For VOCs, each gallon of OFRFG designated as VOC-controlled shall meet a minimum 23.4% emissions performance reduction as established under the phase II complex model in 40 CFR 80.45;
- (2) For NO_x, each gallon of OFRFG designated as VOC-controlled shall meet a minimum 3.0% emissions performance reduction as established under the phase II complex model in 40 CFR 80.45;
- (3) For NO_x, each gallon of OFRFG not designated as VOC-controlled shall meet a maximum 2.5% emissions performance increase as established under the phase II complex model in 40 CFR 80.45;
- (4) For benzene, each gallon of OFRFG shall contain a maximum of 1.3% benzene by volume; and
- (5) For toxics, each gallon of OFRFG shall meet a minimum 20.0% emissions performance reduction as established under the phase II complex model in 40 CFR 80.45.

(b) OFRFG shall contain no heavy metals, including lead or manganese, on a per-gallon basis. The director shall waive this prohibition for a heavy metal other than lead if the director determines that addition of the heavy metal to the gasoline will not increase, on an aggregate mass or cancer-risk basis, toxic air pollutant emissions from motor vehicles.

Source. #7586, INTERIM, eff 10-31-01, EXPIRES: 4-29-02

New. #7686, eff 5-2-02

Env-A 1611.07 Determining Compliance with Standards. To determine whether gasoline meets the standards specified in Env-A 1611.06:

- (a) Measurement of the liquid gasoline characteristics necessary as inputs to the phase II complex model shall be done in accordance with the methods listed in 40 CFR 80.46; and

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(b) The phase II complex emissions model provided in 40 CFR 80.45 shall be used by inserting the gasoline measurements obtained in accordance with (a) above.

Source. #7586, INTERIM, eff 10-31-01, EXPIRES: 4-29-02

New. #7686, eff 5-2-02

Env-A 1611.08 Recordkeeping Requirements.

(a) All persons in the gasoline distribution network, as described in this section, shall:

- (1) Maintain records containing the information as required in this section; and
- (2) Retain such records for a period of 5 years from the date of creation.

(b) Any person subject to this part who sells, offers for sale, dispenses, supplies, offers for supply, stores, transports, or causes the transportation of any reformulated gasoline or OFRFG for the purpose of dispensing it as a motor fuel in the covered area shall maintain records containing the following information:

- (1) The product transfer documentation for all reformulated gasoline or OFRFG for which the person is the transferor or transferee; and
- (2) For any sampling and testing of reformulated gasoline or OFRFG:
 - a. The location, date, time, and storage tank or truck identification for each sample collected;
 - b. The identification of the person who collected the sample and the person who performed the testing;
 - c. The results of the tests;
 - d. The actions taken to stop the sale of any gasoline found not to be in compliance; and
 - e. The actions taken to identify the cause of any noncompliance and prevent future instances of noncompliance.

(c) In addition to other requirements of this section, any person subject to this part shall, for all OFRFG produced in or imported into New Hampshire, maintain records containing the following information:

- (1) Results of the tests to determine OFRFG properties and characteristics specified in Env-A 1611.06; and
- (2) The volume of gasoline associated with each of the above test results using the method normally employed at the refinery or import facility for this purpose.

Source. #7586, INTERIM, eff 10-31-01, EXPIRES: 4-29-02

New. #7686, eff 5-2-02

Env-A 1611.09 Product Transfer Documentation. On each occasion when any person transfers custody of or title to any gasoline, other than when gasoline is sold or dispensed for use in motor vehicles at a retail outlet or wholesale purchaser-consumer facility, the transferor shall provide to the transferee documents that include the following information:

(a) The name and address of the transferor;

- (b) The name and address of the transferee;
 - (c) The volume of gasoline that is being transferred;
 - (d) The location of the gasoline at the time of the transfer;
 - (e) The date of the transfer;
 - (f) The proper identification of the gasoline as conventional gasoline, OFRFG, or reformulated gasoline;
- and
- (g) In the case of reformulated gasoline or OFRFG, the proper identification as VOC-controlled or not VOC-controlled.

Source. #7586, INTERIM, eff 10-31-01, EXPIRES: 4-29-02

New. #7686, eff 5-2-02

Env-A 1611.10 Controls and Prohibitions on OFRFG.

(a) No person shall manufacture and sell or distribute, offer for sale or distribution, dispense, supply, offer for supply, store, transport, or cause the transportation of any gasoline represented as OFRFG and intended for sale or use in any covered area:

- (1) Unless each gallon of such gasoline meets the applicable benzene maximum standard specified in Env-A 1611.06;
- (2) Unless the product transfer documentation for such gasoline complies with the requirements in Env-A 1611.09; and
- (3) During the period May 1 through September 15 for all persons except retailers and wholesale purchaser-consumers, and during the period June 1 through September 15 for all persons including retailers and wholesale purchaser-consumers, unless each gallon of such gasoline:
 - a. Is VOC-controlled; and
 - b. Has a VOC emissions reduction percentage which is greater than or equal to the applicable minimum specified in Env-A 1611.06.

(b) No person subject to this part shall produce or import any gasoline represented as OFRFG and intended for sale or use in any covered area unless:

- (1) Such gasoline meets the definition of OFRFG; and
- (2) The properties of such gasoline correspond to the product transfer documents.

(c) Gasoline shall be presumed to be intended for sale or use in a covered area unless:

- (1) Product transfer documentation such as required in Env-A 1611.09 accompanying such gasoline clearly indicates the gasoline is intended for sale and use only outside any covered area; or
- (2) The gasoline is contained in the storage tank of a retailer or wholesale purchaser-consumer outside any covered area.

(d) No person shall combine any OFRFG with any non-oxygenate blendstock except:

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- (1) A person who meets each requirement specified for a refiner under subpart D of 40 CFR 80; and
 - (2) The blendstock that is added to OFRFG meets all OFRFG standards without regard to the properties of the OFRFG to which the blendstock is added.
- (e) No person shall add any additional oxygenate to previously certified OFRFG.
- (f) No person shall combine any RBOB with any other gasoline, blendstock, or oxygenate except:
- (1) Oxygenate of the type and amount, or within the range of amounts, specified by the refiner or importer at the time the RBOB was produced or imported; or
 - (2) Other RBOB for which the same oxygenate type and amount, or range of amounts, was specified by the refiner or importer.
- (g) No person shall combine any VOC-controlled reformulated gasoline that is produced using ethanol with any VOC-controlled reformulated gasoline that is produced using any other oxygenate during the period January 1 through September 15.
- (h) No person shall combine any OFRFG with any conventional gasoline and sell the resulting mixture as reformulated gasoline or OFRFG.

Source. #7586, INTERIM, eff 10-31-01, EXPIRES: 4-29-02

New. #7686, eff 5-2-02

APPENDIX

| Rule | Specific Section of State or Federal Statute or Regulation which the Rule Is Intended to Implement |
|-------------------------|---|
| Env-A 1601 – Env-A 1604 | RSA 125-C:4, I(a); RSA 125-C:6, II |
| Env-A 1605.01 | RSA 125-C:4, I(a) |
| Env-A 1606 | RSA 125-C:4, I(a); RSA 125-C:6, II |
| Env-A 1607.01 | RSA 125-C:4, I(k) |
| Env-A 1608 – Env-A 1610 | RSA 125-C:4, I(a); RSA 125-C:6, II |
| Env-A 1611 | RSA 125-C:4, I(a); RSA 485:16-b, I |