

Town of Merrimack, NH Appeal

Saint-Gobain Performance Plastics Variance Petition

Background on Saint-Gobain Air Permit

September 2018

- NH State Statute RSA 125-C:10-e Requirements for Air Emissions of Perfluorinated Compounds Impacting Soil and Water
- NHDES identified Saint-Gobain as subject to the statute and required a permit application/BACT analysis within 6 months

March 2019 Saint-Gobain submitted permit application/BACT analysis

October 2019 NHDES issued draft air permit; public comment period started

Novembe 2019 Public hearing on draft permit; public comment period ended December 31, 2019

February

• NHDES issued final air permit to Saint-Gobain for the installation of a regenerative thermal oxidizer (RTO)

February 11, 2021 Deadline for completion of construction and installation of the RTO

Town of Merrimack Appeal* to Air Resources Council regarding Air Permit

Town of Merrimack is seeking relief from the ARC on four issues related to the air permit. Per the appeal:

- Prohibit uncontrolled PFC emissions.
- Return PFC emission limitations contained in the final permit to those proposed in the draft permit.
- Require an enhanced control device optimization program.
- Require the installation of a hydrogen fluoride (HF) scrubber.

*link to Town of Merrimack Appeal: NHDES Website Legal Unit - Enforcement Actions and Appeals Docket No. 20-05 ARC





Town of Merrimack Appeal

March 10

- Town of Merrimack submitted appeal to NHDES
- Docket number assigned; Appeal submitted to ARC on April 6, 2020

May 11

- ARC accepted the appeal and assigned hearing officer
- Atty. David Conley Hearing Officer

June 29

- Pre-hearing conference (Hearing Officer, Attys for Town of Merrimack, Saint-Gobain, NHDES/NHDOJ)
- Set hearing date; discussed schedule for motions, objections, submittal of witness and exhibit lists

December 14

Hearing on Town of Merrimack Appeal in front of ARC

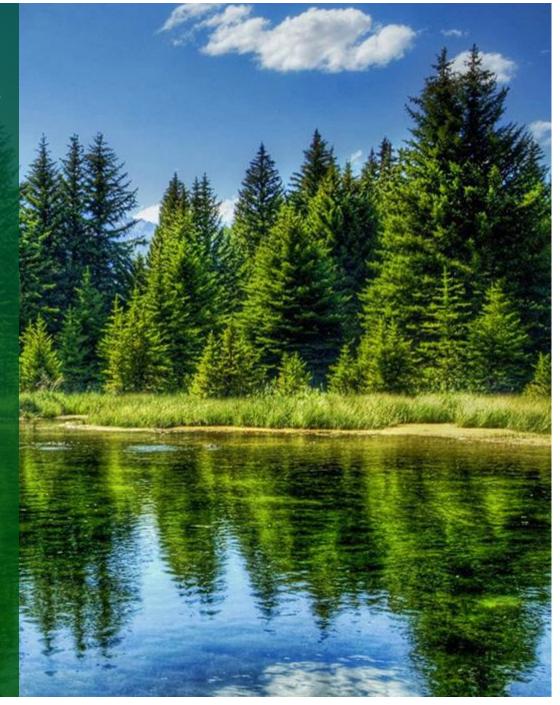
NH Environmental Councils Website: Air Resources Council Env-AC 200 Procedural Rules – Air Resources Council



Saint-Gobain Performance Plastics Variance Petition* to NHDES

Per the variance petition: Saint-Gobain is requesting a variance of the February 11, 2021 deadline

- Cited the Town of Merrimack's appeal and the COVID-19 pandemic as the underlying reasons for the request.
- Requested new deadline:
 - February 11, 2022; or
 - One year from the date of the final, nonappealable order disposing of the Town of Merrimack's appeal, whichever is earlier.



Saint-Gobain Performance Plastics Variance Petition

June 4

Saint-Gobain submitted variance petition to NHDES

June 19

 NHDES published public notice requesting comments and announcing the virtual public hearing

July 9

NHDES requested additional information from Saint-Gobain; due July 24, 2020

August 5

Virtual public hearing; details on NHDES PFAS Blog on or around July 27, 2020

NHDES Website: OneStop Data and Information Facility ID: 3301100165 Application No. 20-0145



Saint-Gobain Performance Plastics Variance Petition

NH Statutes Chapter 125-C *Air Pollution Control* – RSA 125-C:16 *Variances*NH Code of Administrative Rules Env-A 200, *Procedural Rules* – Env-A 202, *Variances*

Env-A 202.07 Decision

Within 15 working days after the public hearing, the <u>department</u> shall issue a written decision on the petition that sets forth the findings on which the decision is based.

The department shall grant a variance if the department determines that:

- (1) The petitioner has taken reasonable steps to eliminate or prevent air pollution;
- (2) Granting a variance would not create a danger to public health, welfare, or safety;
- (3) The source of air pollution has social and economic value to the area in which it is located;

and

(4) Enforcement of the requirement for which the variance is sought would produce serious economic hardship on the petitioner without equal or greater benefits to the public.

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Saint-Gobain Performance Plastics Variance Petition NHDES' Request for Additional Information

NH Statutes Chapter 541-A Administrative Procedures Act RSA 541-A:29 Agency Action on Applications, Petitions and Requests

- RTO vendor proposed schedule for installation and operation of the RTO
- Modifications made to date, remaining work needed, contractors involved, and an updated schedule
- Documentation from each vendor and subcontractor who have informed Saint-Gobain of delays due to COVID-19
- Documentation from the manufacturer of the chosen RTO, including schematics, documentation
 of design, and a detailed description of the control device





