



July 17, 2020

COMMISSION ON THE ENVIRONMENTAL AND PUBLIC HEALTH IMPACTS OF PERFLUORINATED CHEMICALS

Status Report from
NHDES, Air Resources Division



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

November
2019

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

February
11, 2020

- 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

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, non-appealable order disposing of the Town of Merrimack's appeal, whichever is earlier.

*link to Saint-Gobain Performance Plastics Variance Petition:
<https://www4.des.state.nh.us/nh-pfas-investigation/?p=1235>



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

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 department 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.

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

Questions

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