

**§590. Licensing**

**1. License required; rules.** After ambient air quality standards and emission standards have been established within a region, the board may by rule provide that a person may not operate, maintain or modify in that region any air contamination source or emit any air contaminants in that region without an air emission license from the department.

A. As a condition of licensure under this chapter for any petroleum storage facility with an aboveground petroleum storage tank, the facility shall:

- (1) Ensure that any new aboveground petroleum storage tank with a storage capacity greater than 39,000 gallons used for the storage of distillate fuel products is equipped with a floating roof;
- (2) Maintain a record of any additives or materials added to any heated, aboveground petroleum storage tank;
- (3) Ensure that any heated, fixed-roof aboveground petroleum storage tank is fully insulated in a manner that minimizes temperature fluctuation and resulting breathing losses and that the temperature of the petroleum product stored in the tank is continuously monitored;
- (4) Implement forward-looking infrared technology for the monitoring of vapor leaks around any aboveground petroleum storage tank with a storage capacity greater than 39,000 gallons, as well as around the piping and fittings associated with the tank. The facility shall conduct such monitoring on at least a quarterly basis, and the results of that monitoring and any resulting repairs made as a result of detected leaks must be properly documented and provided to the department upon request;
- (5) Collect site-specific air emission test data semiannually during the most active time of operations for any existing, new or modified heated, aboveground petroleum storage tank with a storage capacity greater than 39,000 gallons, and the collected data must be used to establish site-specific air emission factors. A facility that operates in a similar manner multiple tanks of the same construction storing the same product may, upon approval by the department, collect site-specific air emission test data from a representative tank in lieu of testing all similarly operating tanks. The test data collected by the facility must be used for the purposes of annual air emissions reporting and by the department when determining compliance with licensed air emission limits;
- (6) Conduct on a monthly basis a visual inspection of the internal, floating roof of any aboveground petroleum storage tank equipped with such a roof; conduct on a monthly basis an external leak inspection of that roof using photo ionization detection technology or flame ionization detection technology; and conduct a complete inspection of the cover and seal associated with that roof every 5 years and each time the tank is emptied and degassed; and
- (7) If the facility has an aboveground petroleum storage tank with a storage capacity greater than 39,000 gallons that is equipped with an external or internal floating roof, implement a fenceline monitoring program, designed and operated by a qualified, independent 3rd-party entity, which must provide continuous emission monitoring consistent with the requirements of the United States Environmental Protection Agency's Method 325A, Volatile Organic Compounds from Fugitive and Area Sources: Sampler Deployment and VOC Sample Collection, and Method 325B, Volatile Organic Compounds from Fugitive and Area Sources: Sampler Preparation and Analysis. The facility shall provide to the department a description of its fenceline monitoring program and a copy of all data collected under the program, which the department shall make available on its publicly accessible website. [PL 2021, c. 294, §1 (NEW).]

B. A facility required to be licensed under this chapter may not load distillate fuel into a cargo tank that carried gasoline as its most recent load unless the facility is equipped with and uses a collection and control system for air emissions of volatile organic compounds. [PL 2021, c. 294, §1 (NEW).]

C. As a condition of licensure under this chapter for any new or modified bulk gasoline terminal, the terminal shall implement best practical treatment for emissions associated with the loading, unloading and storage of gasoline at the terminal that is equivalent or substantially similar to applicable best available control technology requirements implemented by the United States Environmental Protection Agency pursuant to the federal Clean Air Act. [PL 2021, c. 294, §1 (NEW).]

D. At least once every 5 years, the board shall evaluate and, if determined necessary, update the best practical treatment requirements applicable to licensed petroleum storage facilities with aboveground petroleum storage tanks. In evaluating the best practical treatment requirements pursuant to this paragraph, the board shall consider best practical treatment requirements for aboveground petroleum storage tanks implemented by other New England states and applicable best available control technology requirements implemented by the United States Environmental Protection Agency pursuant to the federal Clean Air Act. [PL 2021, c. 294, §1 (NEW).]

E. An incinerator may not be used to dispose of solid waste without a license from the department, except an incinerator with a primary chamber volume no greater than 133 cubic feet or 1,000 gallons that burns only wood waste as defined in Title 12, section 9324, subsection 7-A and painted and unpainted wood from construction and demolition debris. [PL 2021, c. 294, §1 (NEW).]

As used in this subsection, “petroleum storage facility” means a storage facility that receives petroleum products from refineries primarily by pipeline, ship or barge and delivers those products to bulk plants or to commercial or retail accounts primarily by tank truck.

The board may adopt rules to implement paragraphs A to E. Rules initially adopted to implement paragraphs A to E are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Any subsequent revision to rules adopted to implement paragraphs A to E are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2021, c. 294, §1 (RPR).]

**2. Applications.** Applications for air emission licenses must be made in a form prescribed by the commissioner and contain the information related to the proposed air contamination source and emission of air contaminants required by rule of the board. All hearings under this section must be held in a municipality within the region where the proposed emission is to be located. At this hearing, the department shall solicit and receive testimony concerning the nature of the proposed emissions; their effect on existing ambient air quality standards within the region; the availability and effectiveness of air pollution control apparatus designed to maintain the emission for which a license is sought at the levels required by law; and the expense of purchasing and installing this apparatus. The department shall grant the license and may impose appropriate and reasonable conditions as necessary to secure compliance with ambient air quality standards if the department finds that the proposed emission will:

A. Receive the best practical treatment; [PL 1991, c. 658, §1 (NEW).]

B. Not violate or be controlled so as not to violate applicable emission standards; and [PL 1991, c. 658, §1 (NEW).]

C. Either alone or in conjunction with existing emissions, not violate or be controlled so as not to violate applicable ambient air quality standards. [PL 1991, c. 658, §1 (NEW).]

[PL 1991, c. 658, §1 (NEW).]

**3. Best practical treatment.** Emissions from existing sources undergoing license renewal are receiving best practical treatment if those emissions are being controlled by an air pollution control

apparatus installed less than 15 years prior to the date of license application approval or an accepted best practical treatment analysis shows that those emissions are being controlled in a manner consistent with emission controls commonly used in sources of similar age and design in similar industries, unless:

- A. The applicant is proposing replacement of the existing air pollution control apparatus; [PL 1991, c. 658, §1 (NEW).]
- B. Additional reductions are necessary to achieve or maintain ambient air quality standards; [PL 1991, c. 658, §1 (NEW).]
- C. The department determines that emissions of air contaminants for which an ambient air quality standard has not been adopted pose an unreasonable risk to the environment or public health; or [PL 1991, c. 658, §1 (NEW).]
- D. Additional reductions are necessary to restore ambient air quality increments, even if the applicant has been previously authorized to use that increment. [PL 1991, c. 658, §1 (NEW).]

The department may at the time of the license renewal require additional instrumentation; operating practices; automated process controls; replacement of component parts; emission testing, including requirements for continuous emission monitors; equipment maintenance programs; or record keeping to increase the efficiency of existing air pollution control apparatus or other pollution mitigating measures.

[PL 1991, c. 658, §1 (NEW).]

**4. Low sulfur fuel.** Best practical treatment does not include the use of fuel with a lower sulfur content than that specified in section 603-A unless a lower sulfur fuel is required to comply with applicable emission standards or applicable ambient air quality standards.

[PL 1991, c. 658, §1 (NEW).]

**5. License conditions for start-up, shutdown and malfunctions.** In making license decisions and conditions, the department shall consider the extent to which operation of the licensed facility requires an allowance for excess emissions during cold start-ups and shutdowns of the facility as long as that facility is operated to minimize emissions and is otherwise subject to applicable standards. When the applicant demonstrates to the department that, consistent with best practical treatment requirements and other applicable standards, infrequent emissions are unavoidable during these periods, the department shall establish appropriate license allowances and conditions.

[PL 1993, c. 232, §3 (AMD).]

**6. Installation period.** If an air emission license renewal or amendment can be granted only if the licensee installs additional emission controls or other mitigating measures, then the licensee may continue to emit pollutants from air contaminant sources that will receive these controls or measures up to the same level allowed in its existing air emission license as long as the additional emission controls or mitigating measures are fully operational as soon as practicable but in no case later than 24 months after the department issues the license renewal or amendment, except as provided in this subsection. After a showing by the licensee that it can not install and bring to full operation required emission controls or mitigating measures within the 24-month period, the department may establish a later date for the installation and operation.

[PL 1991, c. 658, §1 (NEW).]

**7. Compliance with federal law.** The department has the authority to deny an air emission license for a new or modified major emitting source when it determines that the source will not comply with the requirements imposed pursuant to the Federal Clean Air Act, Title 1, Part C, subpart 2, as amended, related to the impairment of visibility in mandatory Class 1 federal areas.

[PL 1991, c. 658, §1 (NEW).]

## SECTION HISTORY

PL 1969, c. 474, §1 (NEW). PL 1971, c. 462, §5 (AMD). PL 1971, c. 618, §12 (AMD). PL 1975, c. 282, §4 (AMD). PL 1979, c. 381, §§12-14 (AMD). PL 1985, c. 745, §§1,2 (AMD). PL 1989, c. 890, §§A40,B164 (AMD). PL 1991, c. 384, §§10,11 (AMD). PL 1991, c. 384, §16 (AFF). PL 1991, c. 483, §3 (AMD). PL 1991, c. 658, §1 (RPR). PL 1993, c. 232, §3 (AMD). PL 2001, c. 626, §16 (AMD). PL 2021, c. 294, §1 (AMD).

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