SANBORN HEAD

New Hampshire Env-Or 600 Rules Changes Issued

BY: RUSS ABELL, PG, LSP ON JANUARY 22, 2025



On December 24, 2024, the New Hampshire Department of Environmental Services (NHDES) posted final amendments to the Env-Or 600 Rules.

On December 24, 2024, the New Hampshire Department of Environmental Services (NHDES) posted final amendments to the Env-Or 600 Rules. The final rules followed release of the November 2024 Final Proposal and Report of Public Comments (Comments Report). The rule changes are effective immediately with recent revisions noted as "eff. 12-25-24." Below is a summary of selected key changes in the newly adopted rule changes and key differences from the proposed rules:

- Soil remediation standards (SRS) were developed for per- and polyfluorinated alkyl substances (PFAS). New SRS for PFAS included:
  - PFOA: 0.0004 milligrams per kilogram (mg/kg)
  - PFNA: 0.0013 mg/kg
  - PFHxS: 0.0004 mg/kg
  - PFOS: 0.0005 mg/kg
- The Comments Report states that the NHDES used leaching-based soil values and practical quantification limits (PQLs) to develop the SRS for the four PFAS.
  - The final SRS for PFOS was based on leaching-based soil values protective of groundwater quality.
  - The final SRS for PFOA, PFNA, and PFHxS were revised from earlier proposed values and now are based on the upper range of quantitation limits reported in the USEPA Method 1633 multi-laboratory validation study.
- SRS for naphthalene was revised from 5 to 28 mg/kg.
- Notification revisions:
  - Immediate notification revisions include:
    - Immediate notification defined as soon as practical but within one hour.
    - Discharge of any regulated contaminants to surface water or groundwater.
  - Discharges impacting indoor air quality that indicate release of a regulated contaminant need to notify NHDES within 24 hours of obtaining quantitative data
  - "Any other person" notification requirement clarified to oil discharges
- Background in soil – Several changes to originally proposed amendments were reversed following receipt of public comments such that background in soil is mostly similar to the previous version of the rules:
  - Proposed definition to include "natural" and "anthropogenic" background was not finalized and the definition remains unchanged.
  - NHDES provided additional discussion in their Comments Report of the Background Threshold Values (BTVs) they calculated for New Hampshire based on a the USGS Study (Santangelo et al., 2022) and compared them to background studies completed in Vermont and Maine. The Comments Report indicated that calculated BTVs and background studies from Vermont and Maine were reviewed as part of the development of Soil Remediation Standards (SRS) for PFAS in the adopted rules.
  - NHDES stated in the Comments Report that PFAS, as with other contaminants, in soil are not subject to reporting requirements if concentrations are attributable to background. The NHDES also stated that they are developing guidance for this issue. The Comments Report noted that, to demonstrate background at a site, the assessment will need to include evaluation of lateral and vertical extents and a multiple lines of evidence approach.
- Earthwork/Development sites – While revisions to the rules did not address these site specifically, the Comments Report did acknowledge that

addressing certain conditions where detected PFAS are attributable to background may not be possible under the current options provided in Env-SW 900 rules. NHDES indicated that they will be initiating rulemaking for Env-SW 900 to modify as needed for addressing PFAS-contaminated soil.

- Proposed items not included in the final rules include the following:
  - Proposal to require employees and contractors who have knowledge of a release to report to NHDES was removed. The language remains focused on responsible parties.
  - Proposal to require responsible parties to create websites for PFAS release site was removed.

The newly adopted rules are now available on the NHDES website at https://www.des.nh.gov/sites/g/files/ehbemt341/files/documents/env-or-600_0.pdf .

The November 2024 Report of Public Comments is available on the NHDES website at

https://www.pfas.des.nh.gov/sites/g/files/ehbemt586/files/inline-documents/sonh/2024-65-env-or-600-comments.pdf .

Reference:

Santangelo, L.M., Tokranov, A.K., Welch, S.M., Schlosser, K.E.A., Marts, J.M., Drouin, A.F., Ayotte, J.D., Rousseau, A.E., and Harfmann, J.L., 2022, Statewide survey of shallow soil concentrations of per- and polyfluoroalkyl substances (PFAS) and related chemical and physical data across New Hampshire, 2021: U.S. Geological Survey data release, https://doi.org/10.5066/P9KG38B5.