



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

GSP Merrimack LLC
431 River Road
Bow, NH 03304

Re: Merrimack Generation Station
Title V Operating Permit No. TV-0055

**ADMINISTRATIVE ORDER
No. 24-001 ARD**

February 7, 2024

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, to GSP Merrimack LLC under the authority of RSA 125-C:15. This Administrative Order is effective upon issuance.

B. PARTIES

1. The New Hampshire Department of Environmental Services (“NHDES”) is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive in Concord, New Hampshire.
2. GSP Merrimack LLC (“GSP Merrimack”) is a limited liability company registered to do business in New Hampshire having a mailing address of 431 River Road, Bow, NH 03304. According to records maintained by the New Hampshire Secretary of State, Granite Shore Power LLC is the only listed member of GSP Merrimack.

C. STATEMENTS OF FACTS AND LAW

1. RSA chapter 125-C authorizes NHDES to regulate sources of air pollution in New Hampshire. RSA 125-C:4 authorizes the Commissioner of NHDES to adopt rules relative to the prevention, control, abatement, and limitation of air pollution in New Hampshire. In accordance with this authority, the Commissioner has adopted NH CODE ADMIN. RULES Env-A 100 *et seq* (the “Air Program Rules”).
2. RSA 125-C:6 and RSA 125-C:11, authorize NHDES to establish and operate a statewide system under which permits shall be required for the construction, installation, operation or material modification of air pollution devices and sources. In accordance with this authority, the Commissioner of NHDES has adopted NH CODE ADMIN. RULES Env-A 600 to regulate a statewide permit system.
3. RSA 125-C:11, I-a, prohibits the construction, installation, operation, or modification of an affected source as defined in RSA 125-C:2, and as further defined by rules adopted by the Commissioner of NHDES, unless the affected source possesses and complies with a temporary

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permit, general permit, or an individual operating permit issued by the Commissioner of NHDES in accordance with the requirements of the Clean Air Act.

4. GSP Merrimack owns and operates a facility that generates electricity at 431 River Road in Bow, New Hampshire (the "Facility"). At the Facility, GSP Merrimack operates two coal-fired boilers, coal crushing and limestone processing equipment, two combustion turbines, a temporary boiler, an emergency generator, and an emergency cooling water pump among other devices.

5. On July 30, 2020, NHDES reissued Title V Operating Permit No. TV-0055 (the "Permit") to GSP Merrimack to operate the regulated devices at the Facility. On September 26, 2022, NHDES amended and reissued the Permit to GSP Merrimack. The Permit expires on June 30, 2025.

6. In the Permit, NHDES assigned emission unit identification numbers "MK1" and "MK2" to the two coal-fired electric generating units ("EGUs") at the Facility. Emissions from MK1 and MK2 are exhausted through a common stack designated in the Permit as "STMK3."

7. GSP Merrimack is required by the Permit to limit filterable particulate matter ("fPM") emissions from STMK3 to 0.03 pounds per million British thermal unit ("lb/MMBtu") when MK1 and/or MK2 are operating, at Item 8.b.1 in Table 5 of Condition VIII.B. Item 8.b.1 references 40 CFR 63.9991 & 63.10005(h) in Subpart UUUUU.

8. Env-A 505.01(cw) states that the owner or operator of any stationary source that emits a hazardous air pollutant listed pursuant to Section 112(b) of the Clean Air Act shall comply with 40 CFR 63, Subpart UUUUU, *National Emission Standards for Hazardous Air Pollutants from Coal- and Oil-fired Electric Utility Steam Generating Units*.

9. GSP Merrimack may qualify for low emitting electric ("LEE") generating unit status for particulate matter if the results of the latest stack test demonstrate that emissions are less than or equal to 50% of the limit in the Permit, at Item 8.b.2 in Table 5 of Condition VIII.B.

10. GSP Merrimack is required by the Permit to conduct a performance stack test every three years to maintain LEE generating unit status for particulate matter, at Item 32 in Table 7 of Condition VIII.G referencing 40 CFR 63, Subpart UUUUU and Env-A 2304.01.

11. GSP Merrimack is required by the Permit to conduct compliance stack testing between 90 and 100 percent, inclusive, of maximum production rate or rated capacity; at a production rate at which maximum emissions occur, or at such operating conditions agreed upon during a pre-test meeting conducted pursuant to Env-A 802.05, at Item 36.a in Table 7 of Condition VIII.G referencing Env-A 802.10.

12. Based on stack testing conducted in 2015-2017, MK1 and MK2 qualified for LEE generating unit status for particulate matter, as noted in the Permit. Based on stack testing conducted in 2020, GSP Merrimack maintained its LEE status for particulate matter allowing it to continue to conduct testing at the Facility on a 3-year schedule.

13. On February 27, 2023, GSP Merrimack conducted a timely performance test of MK1 and MK2 at the combined stack, STMK3.

14. On April 28, 2023, NHDES received a stack test report from GSP Merrimack with the results from the testing in February. The results showed that GSP Merrimack exceeded the permitted limit of 0.030 lb/MMBtu for fPM.
15. On June 20, 2023, NHDES issued an acceptance letter to GSP Merrimack for the stack testing in February stating that it determined that the results were technically accurate and demonstrated that the Facility emitted fPM at a rate of 0.052 lb/MMBtu.
16. On July 4, 2023, GSP Merrimack brought MK1 and/or MK2 online and operated the boilers for a total of 73.5 hours during the period of July 4th through July 8th during which time testing was not scheduled.
17. On July 10, 2023, NHDES received from GSP Merrimack notification that the Facility had been operated to respond to an ISO New England summer claim capability audit.
18. On July 11, 2023, NHDES reminded GSP Merrimack in writing that any operation of the coal-fired boilers since the failed stack test, and until compliance is demonstrated, is operating in violation of the permitted fPM emission limit.
19. On August 23, 2023, NHDES issued a Notice of Findings (“NOF”) to GSP Merrimack noting the exceedance of the permitted fPM limit and requesting information and process data to determine the cause of the exceedance. In the NOF, NHDES also notified GSP Merrimack that the Facility no longer met the criteria for LEE generating unit status for particulate matter.
20. In its response on September 22, 2023, GSP Merrimack asserted that the failed stack test was not valid and that the requested process data was not available.
21. On October 12, 2023, NHDES sent a letter to GSP Merrimack, in which it reiterated that the department considered the failed stack test valid and that GSP Merrimack no longer met the criteria for LEE generating unit status for particulate matter.
22. On October 15, 2023, GSP Merrimack brought MK1 and MK2 online and operated the boilers for a combined total of 93.5 hours during the period of October 15th through October 19th. GSP Merrimack proposed testing for October 19th but did not conduct the re-test.
23. On November 27, 2023, GSP Merrimack brought MK1 and MK2 online and operated the boilers for a total of 73 hours during the period of November 27th through November 29th. GSP Merrimack proposed testing for November 30th but did not conduct the re-test.
24. On December 4, 2023, GSP Merrimack brought MK1 and MK2 online and operated the boilers for a total of 113 hours during the period of December 4th through December 8th. GSP Merrimack proposed testing for December 7th and 8th but did not conduct the re-test.
25. On January 16, 2024, GSP Merrimack brought the boilers online and operated for a total of 102 hours during the period of January 16th through January 21st.
26. On January 17, 2024, NHDES staff contacted GSP Merrimack regarding visual observations indicating that the Facility was operating without prior notice to the department. GSP Merrimack

staff responded that it was operating the boilers to conduct troubleshooting activities and would contact NHDES if a re-test would be conducted.

27. Env-A 911.04 requires the owner or operator of a permitted device to notify the department within 24 hours, or on the next business day, of any permit deviation that causes excess emissions; and submit a written report of the permit deviation within 10 days of discovery of the exceedance that included certain specified information about the permit deviation.

28. Condition XXVII of the Permit requires GSP Merrimack to maintain records and to notify NHDES within 24 hours, or on the next business day, of any permit deviation that causes excess emissions; and submit to NHDES a written report of the permit deviation within 10 days of discovery of the exceedance in accordance with Env-A 911.04(d).

29. On January 19, 2024, GSP Merrimack scheduled a compliance stack re-test for January 22, 2024. On the same day NHDES requested that GSP Merrimack submit permit deviation reports covering any operation from July 11, 2023, to the present in accordance with Env-A 911 and Condition XXVIII of the Permit.

30. GSP Merrimack operated the Facility from January 16, 2024, through January 21, 2024, for a total of 139 hours according to data from ISO New England.

31. On January 21, 2024, GSP Merrimack cancelled the proposed re-test.

32. On January 24, 2024, NHDES received the requested permit deviation reports.

33. GSP Merrimack is required by the Permit to comply with emission limits at all times except during startup and shutdown, comply with work practice requirements during periods of startup and shutdown, and operate and maintain the affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions at all times; at Item 11 in Table 5 of Condition VIII.B referencing 40 CFR 63, Subpart UUUUU.

34. NHDES calculates that, to date, GSP Merrimack has operated MK1 and/or MK2 for a total of 505.5 hours since the failed stack test.

D. DETERMINATION OF VIOLATIONS

1. GSP Merrimack LLC violated Env-A 505.01(cw) and the Permit, at Item 8.b.1 in Table 5 of Condition VIII.B, by exceeding the fPM emission limit of 0.03 lb/MMBtu during a stack test completed on February 28, 2023.

2. GSP Merrimack LLC violated Env-A 911.04 and the Permit, at Condition XXVII, by failing to notify NHDES of permit deviations that caused excess emissions in a timely manner.

E. ORDER

Based on the above findings and determinations, NHDES hereby orders GSP Merrimack as follows:

1. **Within 7 days of the date of this Order**, GSP Merrimack shall submit to NHDES a written narrative of any measures that have been taken since the failed stack test to correct process operations that will result in a successful compliance test.
2. **Within 14 days of the date of this Order**, GSP Merrimack shall schedule a stack retest for fPM emissions and notify NHDES in writing of the proposed test date.
3. **At least 24 hours prior to operating MK1 and/or MK2**, GSP Merrimack shall notify NHDES via email that the device(s) will be brought online and the reason that the coal-fired boilers will be operated. GSP Merrimack shall report daily to NHDES the number of boiler operating hours.
4. **Within 45 days of the date of this Order**, GSP Merrimack shall complete a compliance stack test for fPM that demonstrates compliance with the fPM limit of 0.030 lb/MMbtu.
5. **At least 5 business days prior to conducting the compliance test**, GSP Merrimack shall submit to NHDES a pretest protocol or amendments to the existing protocol review and approval.
6. **At least 3 business days prior to conducting the compliance test**, GSP Merrimack shall attend a pretest meeting with NHDES staff either in person or by videoconference.
7. **Within 5 business days after completion of the compliance stack test**, GSP Merrimack shall provide preliminary test results for fPM emissions from the Facility.
8. **Within 60 days after completion of the compliance stack test**, GSP Merrimack shall submit to NHDES a final report of the test results for fPM emissions from the Facility.
9. **During the compliance stack retest**, GSP Merrimack shall collect electrostatic precipitator ("ESP") data for each fPM test run conducted that includes the number of fields in service for each ESP, the number of fields out of service for each ESP, hourly data showing secondary power (secondary voltage and amperage) and the outlet flue gas temperature for each ESP and information showing that MK1 and MK2 precipitators were at normal operating conditions at the time of the stack test; and shall promptly submit the data to NHDES.
10. GSP Merrimack shall submit to NHDES permit deviation reports, in accordance with Env-A 911 and Condition XXVIII of the Permit, for each boiler operating day and shall treat each day as operation that results in excess emissions of fPM, until GSP Merrimack demonstrates compliance with the permitted fPM emissions limit or ceases to operate MK1 and MK2.
11. GSP Merrimack shall send **all** correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to NHDES as follows: NHDES Air Resources Division, **Attn: Edward Peduto**, Enforcement Section Supervisor, P.O. Box 95, Concord, NH 03302-0095 ~ Fax: 1-603-271-7053 ~ e-mail: edward.f.pedutojr@des.nh.gov.

F. APPEAL

Any person aggrieved by this Order may appeal the Order to the New Hampshire Air Resources Council (the "Council") by filing an appeal that meets the requirements specified in RSA 21-O:14 and the rules adopted by the Council, Ec-Air 200. The appeal must be filed directly with the Council within 30 days of the date of this decision and must set forth fully every ground upon which it is claimed that the decision complained of is unlawful or unreasonable. Only those grounds set forth in the notice of appeal can be considered by the Council.

Information about the Council, including a link to Council rules, is available at <https://www.nhec.nh.gov/air-resources-council/about>. Copies of Council rules also are available from the NHDES Public Information Center at 1-603-271-2975.

G. OTHER PROVISIONS

Please note that RSA 125-C:15 provides for administrative fines and civil penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. The Respondent remains obligated to comply with all applicable requirements, in particular RSA chapter 125-C, the Air Program Rules, and the Permit. NHDES will continue to monitor compliance with applicable requirements and will take appropriate action if additional violations are discovered.

COPY


Robert R. Scott, Commissioner
Department of Environmental Services

cc: NHDES Legal Unit
CORPORATION SERVICE COMPANY, 10 Ferry Street S313, Concord, NH, 03301 (*registered agent*)
AFS #3301300026 (Stationary Source)

ec: Public Information Officer, NHDES PIP Office
K. Allen Brooks, Chief, AGO-Environmental Protection Bureau
Bow Select Board
Edward Peduto, Enforcement Section Supervisor, ARD/NHDES
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