

1. Criterion 1 (Air)

I. Requirements for Issuance of Permit

10 V.S.A. § 6086(a)(1) provides that before granting a permit, the board or district commission shall find that the subdivision or development will not result in undue water or air pollution.

II. Burden of Proof

The burden of proof for Criterion 1 is on the applicant. 10 V.S.A. § 6088(a). The applicant must present sufficient evidence to support a finding that the development will not result in undue air pollution.

III. Analysis

- A. Has the applicant provided sufficient evidence that the project or facility will not result in undue air pollution?
 - 1. Whether a pollutant is “undue” usually depends on facts such as the nature and amount of pollution, character of the surrounding area, whether the pollutant complies with certain standards or recommended levels, whether the pollutant will cause adverse health effects, and whether effective measures will be taken to reduce the pollution.
 - 2. Air pollution may include, among other things:
 - a. Industrial/manufacturing emissions such as paint fumes, saw dust, chemical vapors, and fly ash
 - b. Vehicle exhaust
 - c. Excessive dust and smoke during construction
 - d. Dust from rock crushers
 - e. Excessive noise during construction
 - f. Odor
 - g. Processing or storage of radioactive materials
 - h. Noise, to the extent that it may have an adverse effect on health

enough scientific information regarding non-thermal effects of RFR to warrant a finding of adverse health effect. Thermal effects of RFR cannot exceed 2% of the Maximum Permissible Exposure for electromagnetic radiation.

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Act 250 Training Manual

Will the activity result in “undue air pollution”? Shifting of presumptions and burdens of production.

