

RULEMAKING NOTICE

Notice Number _____	Rule Number _____	Env-A 1300
<p>1. Agency Name & Address:</p> <p style="margin-left: 20px;">Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</p>	<p>2. RSA Authority: _____</p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p style="margin-left: 20px;">Adoption _____</p> <p style="margin-left: 20px;">Amendment _____</p> <p style="margin-left: 20px;">Repeal _____</p> <p style="margin-left: 20px;">Readoption _____</p> <p style="margin-left: 20px;">Readoption w/amendment <u> X </u></p>	<p style="margin-left: 20px;">RSA 125-C:4, I(a), (b), and (k)</p> <p style="margin-left: 20px;">42 U.S.C. 7410, 7502(c), & 7511c</p>
<p>5. Short Title: NOx RACT Rules</p>		

6. (a) Summary of what the rule says and of any proposed amendments:

The existing rules, Env-A 1300, establish Reasonably Available Control Technology (RACT) requirements for stationary sources that emit nitrogen oxides (NOx). The rules specify emission standards and requirements for NOx RACT for specified boilers, combustion turbines, internal combustion engines, asphalt plant dryers, incinerators, wallboard dryers, calcining mills, calciners, gypsum rock dryers, emergency generators, load shaving units, and miscellaneous sources. The rules also specify the criteria and procedures by which a source can request alternative RACT emission limits which, if approved by the Department, are then incorporated into a RACT Order. The rules are scheduled to expire on October 31, 2018, but are subject to extension pursuant to RSA 541-A:14-a. The rules are proposed to be readopted with amendment in order to:

- Streamline the annual performance tune-up on applicable boiler(s) to match federal requirements in 40 CFR 63, Subpart JJJJJ and Subpart DDDDD;
- Lower the NOx emission standards for municipal waste combustors;
- Lower the NOx emission standards for older load shaving, gas-fired engines to match older prime power, gas-fired engine limits;
- Lower the NOx emission standards for older load shaving and older prime power, liquid-fired engines to 40 CFR 60, Subpart III Tier 2 levels; and
- Lower the NOx emissions standards for wet bottom utility boilers firing coal.

In addition, pursuant to section 182(f) of the CAA and 40 CFR 51.1116, states like New Hampshire that are part of the Ozone Transport Region were required to develop and submit a RACT certification related to the 2008 8-hour ozone National Ambient Air Quality Standard by July 20, 2014. DES submitted a draft in March of 2014 and EPA provided comments at that time. In February 2017, the EPA issued a “Findings of Failure to Submit State Implementation Plan Submittals for the 2008 Ozone National Ambient Air Quality Standard (NAAQS)” for 15 states, including New Hampshire, and the District of Columbia. The rule is also being updated pursuant to that finding and will be incorporated into the State Implementation Plan (SIP) when finalized. By September 6, 2018, New Hampshire must submit a completed SIP that includes the updated NOx RACT rule. As specified by EPA the RACT certification for the 2008 8-hour Ozone NAAQs will also serve as the 2015 RACT certification.

6. (b) Brief description of the groups affected:

The rules apply to owners and operators of specified boilers, combustion turbines, internal combustion engines, asphalt plant dryers, incinerators, wallboard dryers, calcining mills, calciners, gypsum rock dryers, emergency generators, load shaving units, and miscellaneous sources.

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6. (c) Specific section(s) of state statute or federal statute or regulation the rule is intended to implement:

Rule Section(s)	State Statute(s) Implemented	Federal Statute(s) Implemented
Env-A 1300	RSA 125-C:46, II and XI	42 U.S.C. §§ 7410, 7502(c) & 7511c

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: Karla McManus Title: Planning and Rules Manager, Air Division
Address: Dept. of Environmental Services Phone #: (603) 271-6854
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Concord, NH 03302-0095 E-mail: Karla.McManus@des.nh.gov

The rules also can be viewed in PDF at <http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm> TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **4:00 p.m. on Friday, May 25, 2018**

YOU MAY SUBMIT WRITTEN COMMENTS WITHOUT ATTENDING THE PUBLIC HEARING

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, May 17, 2018 at 1:00 PM**
Place: **Rooms 110-111, DES Offices, 29 Hazen Drive, Concord NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 18:065 , dated 04/04/2018:

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

There is no difference in cost when comparing the proposed rules to the existing rules.

2. Cite the Federal mandate. Identify the impact on state funds:

42 U.S.C. 7410 requires each state to prepare a plan which provides for implementation, maintenance, and enforcement of each national ambient air quality standard (NAAQS) in each air quality control region (or portion thereof) within the state. In the case where an area in the state has been designated a nonattainment area, i.e., an area where air quality does not meet a NAAQA, 42 U.S.C. 7502(c) requires that the plan provide for the implementation of all reasonably available control measures as expeditiously as practicable, including such reductions in emissions from existing sources in the area as may be obtained through, at a minimum, the adoption of Reasonably Available Control Technology (RACT), and must provide for attainments of the NAAQS. In addition, 42 U.S.C. 7511c establishes an ozone transport region that includes the entire State of New Hampshire. States included in this region are also required to adopt rules to control the formation of ozone. Thus, a rule regulating NOx emissions, such as Env-A 1300, is required by federal mandate. If the state complies with these federal mandates, it is eligible to receive grant funds from the federal government pursuant to 42 U.S.C. 7405. New Hampshire received approximately \$1.7 million annually for all of the DES air programs. Because the funds are received in a block grant, it is not possible to estimate the portion attributable to the proposed rules.

3. Cost and benefits of the proposed rule(s):

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The rules do not create, modify, or expand any program in such a way as to require action by any political subdivisions and so do not require any expenditures by political subdivisions. The rules thus do not violate Part I, Article 28-a of the NH Constitution.