

EVIDENCE OF THE RULE'S ADOPTION

40 CFR Part 51, Appendix V, 2.1(b)



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

January 7, 2011

Carol J. Holahan, Director
c/o OLS, Division of Administrative Rules
State House Annex, Room 219
Concord, NH 03301

Re: Adoption of Final Rules, FP # 2010-113

Dear Director Holahan:

Please be advised that I, as Commissioner of the Department of Environmental Services, have adopted the following rules:

Env-A 2300: Mitigation of Regional Haze

The Joint Legislative Committee on Administrative Rules approved these rules at its meeting on January 7, 2011.

A copy of the adopted rules is being filed electronically, concurrent with the e-filing of this adoption letter. The original, signed adoption letter is being sent separately by messenger mail for your records.

I, Thomas S. Burack, Commissioner of the Department of Environmental Services, hereby certify that the enclosed are true copies of the rules I have adopted.

Sincerely,

Thomas S. Burack
Commissioner

Enclosures

cc: Gretchen Hamel, DES Legal Unit
DES Public Information and Permitting Office

cc: K. Allen Brooks, Chief, AGO-Environmental Protection Bureau
Karla McManus, DES ARD

COPY OF THE ACTUAL RULE

40 CFR Part 51, Appendix V, 2.1(d)

As of January 8, 2011, CHAPTER Env-A 2300 reads as follows:

CHAPTER Env-A 2300 MITIGATION OF REGIONAL HAZE

Statutory Authority: RSA 125-C:4, I(a), (b), (k)

PART Env-A 2301 PURPOSE; APPLICABILITY; DEFINITIONS

Env-A 2301.01 Purpose. The purpose of this chapter is to establish emission standards for sulfur dioxide (SO₂), nitrogen oxides (NO_x), and total suspended particulate matter (TSP) at certain fossil-fuel-fired steam generating units in order to reduce emissions that contribute to regional haze. These rules are necessary to ensure compliance with §169A of the Act and regional haze program requirements established at 40 CFR 51.308, including but not limited to the provisions for Best Available Retrofit Technology (BART).

Env-A 2301.02 Applicability. This chapter shall apply to any fossil-fuel-fired steam generating unit having a maximum heat input rate of more than 1,000 million BTUs per hour that existed as of August 7, 1977 and has either a:

- (a) Cyclone-firing, wet-bottom boiler fueled by coal or any combination of fuels using coal; or
- (b) Tangential-firing, dry-bottom boiler fueled by oil or gas or any combination of oil or gas.

Env-A 2301.03 Definitions.

(a) “Best Available Retrofit Technology (BART)” means “best available retrofit technology” as defined in 40 CFR 51.301, namely “an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.”

(b) “Coal” means “coal” as defined in Env-A 1211.02.

(c) “Gas” means “gas or gaseous fuel” as defined in Env-A 1211.02.

(d) “Maximum heat input rate” means “maximum heat input rate” as defined in Env-A 1211.02.

(e) “Oil” means any petroleum-based liquid fuel oil, including distillate and residual fuel oils.

(f) “Regional haze” means “regional haze” as defined in 40 CFR 51.301, namely “visibility impairment that is caused by the emission of air pollutants from numerous sources located over a wide geographic area. Such sources include, but are not limited to, major and minor stationary sources, mobile sources, and area sources.”

(g) “Stack test” means the sampling, analysis, and reporting of emissions from a stationary point source in accordance with testing procedures specified in Env-A 802.

(h) “Total suspended particulate matter (TSP)” means particulate matter as measured by the high-volume method described in Appendix B of 40 CFR Part 50.

(i) “Visibility impairment” means “visibility impairment” as defined in 40 CFR 51.301, namely “any humanly perceptible change in visibility (light extinction, visual range, contrast, coloration) from that which would have existed under natural conditions.”

PART Env-A 2302 EMISSION STANDARDS FOR MITIGATION OF REGIONAL HAZE

Env-A 2302.01 Emission Standards Applicable to Cyclone-Firing, Wet-Bottom Boilers.

(a) For any cyclone-firing, wet-bottom boiler subject to this chapter whose maximum heat input rate is less than or equal to 3,000 million BTUs per hour, the following emission rates shall apply:

- (1) SO₂ emissions shall not exceed limitations specified in permit conditions established in accordance with Env-A 600;
- (2) NO_x emissions shall not exceed limitations specified in permit conditions established in accordance with Env-A 600; and
- (3) Beginning on July 1, 2013, TSP emissions shall not exceed 0.08 lb per million BTUs, demonstrated by completion of periodic stack tests as specified in Env-A 2304.01(b) on the outlet side of the final emission control device.

(b) For any cyclone-firing, wet-bottom boiler subject to this chapter whose maximum heat input rate is greater than 3,000 million BTUs per hour, the following emission rates shall apply:

- (1) SO₂ emissions shall not exceed limitations specified in permit conditions established in accordance with Env-A 600;
- (2) Beginning on July 1, 2013, NO_x emissions shall not exceed 0.30 lb per million BTUs on a 30-day rolling average basis as recorded by a continuous emissions monitoring system (CEMS) as specified in Env-A 2303; and
- (3) Beginning on July 1, 2013, TSP emissions shall not exceed 0.08 lb per million BTUs, demonstrated by completion of periodic stack tests as specified in Env-A 2304.01(b) on the outlet side of the final emission control device.

Env-A 2302.02 Emission Standards Applicable to Tangential-Firing, Dry-Bottom Boilers. For any tangential-firing, dry-bottom boiler subject to this chapter, the following emission rates shall apply:

(a) Beginning on July 1, 2013, SO₂ emissions shall not exceed 0.50 pound (lb) per million BTUs on a 30-day rolling average basis as recorded by a CEMS as specified in Env-A 2303;

(b) NO_x emissions shall not exceed limitations specified in permit conditions established in accordance with Env-A 600; and

(c) TSP emissions shall not exceed limitations specified in permit conditions established in accordance with Env-A 600.

PART Env-A 2303 CONTINUOUS EMISSIONS MONITORING SYSTEMS

Env-A 2303.01 Requirements for Continuous Emissions Monitoring Systems. The owner or operator of a source whose emissions are required to be monitored and recorded by a CEMS as provided in Env-A 2302.01 or Env-A 2302.02 shall:

(a) Install, calibrate, operate, maintain, and perform quality assurance testing of the CEMS in accordance with Env-A 808; and

(b) Comply with recordkeeping requirements for CEMS specified in Env-A 903.04.

PART Env-A 2304 PERFORMANCE TESTING

Env-A 2304.01 Performance Testing Requirements Applicable to Cyclone-Firing, Wet-Bottom Boilers. For any cyclone-firing, wet-bottom boiler subject to this chapter, performance tests shall be conducted as follows:

(a) Performance testing for SO₂ emissions and NO_x emissions shall meet the requirements specified in permit conditions established in accordance with Env-A 600; and

(b) Periodic stack tests for TSP emissions shall be conducted in accordance with Env-A 802, subject to the following:

(1) For an initial period of 3 years, stack tests shall be conducted annually, with the first stack test to be completed by June 30, 2013;

(2) Beginning on July 1, 2015, stack tests shall be conducted every other year, with the fourth stack test to be completed by June 30, 2017; and

(3) At any facility where an affected unit shares a common stack with a second affected unit, the stack emissions shall be tested as from one source, by either of the following methods:

a. With both units operating simultaneously, a stack test on the combined emissions from both units, or

b. With one unit operating at a time, separate stack tests on the emissions from each unit.

Env-A 2304.02 Performance Testing Requirements Applicable to Tangential-Firing, Dry-Bottom Boilers. For any tangential-firing, dry-bottom boiler subject to this chapter, performance tests shall be conducted as follows:

(a) Performance testing for SO₂ emissions, NO_x emissions, and TSP emissions shall meet the requirements specified in permit conditions established in accordance with Env-A 600; and

(b) Any stack test required to demonstrate compliance with this part shall be conducted in accordance with Env-A 802.

Appendix

Rule Section(s)	State Statute(s) Implemented	Federal Statute(s) Implemented
Env-A 2300	RSA 125-C:4, I(a), (b), (k)	42 U.S.C. §7491, 40 CFR §51.308

**EVIDENCE THAT NEW HAMPSHIRE FOLLOWED ALL
PROCEDURAL REQUIREMENTS**

40 CFR Part 51, Appendix V, 2.1(e)

REQUEST FOR FISCAL IMPACT STATEMENT

STATE OF NEW HAMPSHIRE

DATE September 17, 2010

FROM

Thomas S. Burack
Commissioner

MAW
TSB

AT (OFFICE) DES

SUBJECT

Request for Fiscal Impact Statement

TO

Legislative Budget Assistant

In accordance with NH RSA 541-A:5, enclosed please find a Request for Fiscal Impact Statement and a copy of the corresponding administrative rules for the following:

Env-A 2300: Mitigation of Regional Haze

Please fax the Fiscal Impact Statement to Gretchen Hamel at 271-8805.

If you have any questions, please contact Gretchen Hamel at 271-3137.

cc: Gretchen Hamel, Administrator, DES Legal Unit
ec: Karla McManus, ARD Planning and Rules Manager

**OFFICE OF LEGISLATIVE BUDGET ASSISTANT
REQUEST FOR FISCAL IMPACT STATEMENT (FIS)**

FIS Number _____ Rule Number _____ Env-A 2300

<p>1. Agency Name & Address:</p> <p>Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</p>	<p>2. RSA Authority: <u>RSA 125-C:4, I(a), (b), (k)</u></p> <p>3. Federal Authority: <u>42 U.S.C. §7491; 40 CFR 51.308</u></p> <p>4. Type of Action:</p> <table style="width: 100%; border: none;"> <tr><td style="padding-left: 20px;">Adoption</td><td style="text-align: right; padding-right: 20px;"><u> X </u></td></tr> <tr><td style="padding-left: 20px;">Amendment</td><td style="text-align: right; padding-right: 20px;">_____</td></tr> <tr><td style="padding-left: 20px;">Repeal</td><td style="text-align: right; padding-right: 20px;">_____</td></tr> <tr><td style="padding-left: 20px;">Readoption</td><td style="text-align: right; padding-right: 20px;">_____</td></tr> <tr><td style="padding-left: 20px;">Readoption w/amendment</td><td style="text-align: right; padding-right: 20px;">_____</td></tr> <tr><td style="padding-left: 20px;">Interim rule</td><td style="text-align: right; padding-right: 20px;">_____</td></tr> </table> <p>5. Have the rules expired? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p style="padding-left: 20px;">Date Expired: _____</p>	Adoption	<u> X </u>	Amendment	_____	Repeal	_____	Readoption	_____	Readoption w/amendment	_____	Interim rule	_____
Adoption	<u> X </u>												
Amendment	_____												
Repeal	_____												
Readoption	_____												
Readoption w/amendment	_____												
Interim rule	_____												

6. Short Title: Mitigation of Regional Haze

7. Contact Person:

Name:	Gretchen Hamel	Title:	Administrator, Legal Unit
Address:	Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	Phone #:	271-3137
		Fax #:	271-8805

(1) Summarize the rule.

Regional haze is a visibility impairment caused by the emission of air pollutants from numerous sources located over a wide geographic area. Section 169A of the Clean Air Act (42 U.S.C. §7491) mandates visibility protection for federal Class I federal areas, which include 156 national parks and wilderness areas. Regionally, Class I areas include the Great Gulf and Presidential Range - Dry River Wilderness and Acadia National Park. The proposed rules, Chapter Env-A 2300, Mitigation of Regional Haze, establish emission standards for sulfur dioxide (SO₂), nitrogen oxides (NO_x), and total suspended particulate matter (TSP) at certain fossil-fuel-fired power plants that contribute to regional haze. Subtitle Env-A already contains rules govern haze-causing pollutants, including SO₂, NO_x, and TSP; the proposed rules would supplement those requirements and make the emission limitations for the 3 named pollutants more stringent for the sources that would be subject to the rules. Specifically, the rules will establish new emission limits for SO₂, NO_x, and TSP to be effective on July 1, 2013 for any fossil-fuel-fired steam generating unit having a maximum heat input rate of more than 1,000 million BTUs per hour that existed as of August 7, 1977 and has either a cyclone-firing, wet-bottom boiler fueled by coal (or any combination of fuels using coal) or a tangential-firing, dry-bottom boiler fueled by oil or gas (or any combination of oil or gas).

(2) Is the cost associated with this rule mandated by the rule or by state statute? If the cost is mandated by statute, then the rule itself may not have a cost or benefit associated with it. Please state either the statute or chapter law that is instigating this rule.

The State is required by 42 U.S.C. §7491 and 40 CFR Part 51, Subpart P Protection of Visibility (specifically, 40 CFR §51.308) to develop a program to assure reasonable progress toward meeting the national goal of preventing any future, and remedying any existing, impairment of visibility in mandatory Class I Federal areas in which impairment results from manmade air pollution. RSA 125-C:4 requires the commissioner to adopt rules relative to, *inter alia*, the prevention, control, abatement, and limitation of air pollution; primary and secondary ambient air quality standards; and procedures for air testing and monitoring and recordkeeping. The proposed rules are the most cost-effective way to comply with the state and federal statutory requirements. The rules are being adopted under RSA 125-C:4, I(a), (b), and (k) to implement RSA 125-C:1 and the federal regional haze requirements.

REQUEST FOR FISCAL IMPACT STATEMENT (FIS) - Page 2

- (3) *Compare the cost of the proposed rule with the cost of the existing rule, if there is an existing rule.*

The proposed rules could result in increased costs to the three emission units that will be subject to them. However, two of the three units will be capable of meeting the proposed emission requirements with existing emission controls and with additional controls already under construction as required by other state law, and the third will be capable of meeting these emission requirements with existing emission controls and with reasonable adjustments to the sulfur content of its residual fuel oil and/or to the fuel oil/natural gas ratio used in combustion. Because DES cannot predict the costs of fuel in 2013, no estimate of any potential cost increment can be made.

- (4) *Describe the costs and benefits to the state general fund which would result from this rule.*

There would be no costs or benefits to the state general fund as a result of this rule.

- (5) *Explain and cite the federal mandate for the proposed rule, if there is such a mandate. How would the mandate affect state funds?*

The Clean Air Act, Section 169A (42 U.S.C. §7491) states that Congress has declared "as a national goal the prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution." States' requirements to achieve this goal are established in 40 CFR Part 51, Subpart P (§§51.300-309). Required SIP elements are described in 40 CFR 51.308, Regional Haze Program Requirements. These include provisions at 40 CFR 51.308(e) for Best Available Retrofit Technology (BART), affecting certain older, fossil-fuel-fired power plants. If DES does not adopt the rules, New Hampshire will be out-of-compliance with the federal requirements for the regional haze program and EPA could impose sanctions, including the loss of federal transportation funding.

- (6) *Describe the cost and benefits to any state special fund which would result.*

There would be no significant cost or benefit to any state special fund as a result of the proposed rules. Although the owner of the affected facilities pays emission-based fees, emissions are already controlled to approximately the same level as will be required.

- (7) *Describe the costs and benefits to the political subdivisions of the state.*

There will be no costs to political subdivisions of the state as a result of the proposed rules, as none of the affected emissions units are owned or operated by political subdivisions. It is unlikely that there will be measurable benefits, although political subdivisions in areas expected to benefit from the rules could see an increase in tourism-related revenues.

- (8) *Describe the costs and benefits to the citizens of the state.*

The proposed rules are not expected to result in any costs or benefits to citizens of the state in general. Citizens may benefit from improved visibility resulting from the lower emission limits for SO₂, NO_x, and TSP which are being imposed as a result of the Clean Air Act, 42 U.S.C. §7491.

- (9) *Describe the costs and benefits to any independently owned business, including a description of the specific reporting and recordkeeping requirements upon those employing fewer than 10 employees.*

The proposed rules are not expected to result in any costs or benefits to independently owned businesses, as the only business that owns emissions units that will be subject to the rule is PSNH.

The rules do not contain any reporting or recordkeeping requirements.

Adopt CHAPTER Env-A 2300 to read as follows:

CHAPTER Env-A 2300 MITIGATION OF REGIONAL HAZE

Statutory Authority: RSA 125-C:4, I(a), (b), (k)

PART Env-A 2301 PURPOSE; APPLICABILITY; DEFINITIONS

Env-A 2301.01 Purpose. The purpose of this chapter is to establish emission standards for sulfur dioxide (SO₂), nitrogen oxides (NO_x), and total suspended particulate matter (TSP) at certain fossil-fuel-fired steam generating units in order to reduce emissions that contribute to regional haze. These rules are necessary to ensure compliance with §169A of the Act and regional haze program requirements established at 40 CFR 51.308, including but not limited to the provisions for Best Available Retrofit Technology (BART).

Env-A 2301.02 Applicability. This chapter shall apply to any fossil-fuel-fired steam generating unit having a maximum heat input rate of more than 1,000 million BTUs per hour that existed as of August 7, 1977 and has either a:

- (a) Cyclone-firing, wet-bottom boiler fueled by coal or any combination of fuels using coal; or
- (b) Tangential-firing, dry-bottom boiler fueled by oil or gas or any combination of oil or gas.

Env-A 2301.03 Definitions.

(a) "Best Available Retrofit Technology (BART)" means "best available retrofit technology" as defined in 40 CFR 51.301, namely "an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology."

(b) "Coal" means "coal" as defined in Env-A 1211.02.

(c) "Gas" means "gas or gaseous fuel" as defined in Env-A 1211.02.

(d) "Maximum heat input rate" means "maximum heat input rate" as defined in Env-A 1211.02.

(e) "Oil" means any petroleum-based liquid fuel oil, including distillate and residual fuel oils.

(f) "Regional haze" means "regional haze" as defined in 40 CFR 51.301, namely "visibility impairment that is caused by the emission of air pollutants from numerous sources located over a wide geographic area. Such sources include, but are not limited to, major and minor stationary sources, mobile sources, and area sources."

(g) "Stack test" means the sampling, analysis, and reporting of emissions from a stationary point source in accordance with testing procedures specified in Env-A 802.

(h) "Total suspended particulate matter (TSP)" means particulate matter as measured by the high-volume method described in Appendix B of 40 CFR Part 50.

(i) "Visibility impairment" means "visibility impairment" as defined in 40 CFR 51.301, namely "any humanly perceptible change in visibility (light extinction, visual range, contrast, coloration) from that which would have existed under natural conditions."

FISCAL IMPACT STATEMENT

LBAO
FIS 10:126
09/22/10

Fiscal Impact Statement for Department of Environmental Services rules governing Mitigation of Regional Haze. [Env-A 2300]

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

When compared to the existing rules, the proposed rules may increase costs to independently owned businesses by an indeterminable amount.

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

The Clean Air Act, Section 169A (42 USC § 7491) and 40 CFR Part 51, Subpart P Protection of Visibility require the state to develop a program to assure reasonable progress toward meeting the national goal of preventing any future, and remedying any existing, impairment of visibility in mandatory class I federal areas in which impairment results from manmade air pollution. If the proposed rules are not adopted, the State would be out of compliance with federal requirements that could result in the US Environmental Protection Agency imposing sanctions, including the loss of federal transportation funding.

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

The Department notes there are three emission units, all owned by Public Service of New Hampshire (PSNH), that will be subject to these rules. PSNH may experience increased costs to the three emission units, however the Department indicates that two of the three units will be capable of meeting the proposed emission requirements with existing emission controls and with additional controls already under construction to meet state law. The Department further indicates the third emission unit will be able to meet the emission requirements with existing emission controls and reasonable adjustments to the sulfur content of its residual fuel oil and/or to the fuel oil/natural gas ratio used in combustion. The Department has no information on FY 2013 fuel costs to estimate any potential increase in cost.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

See 3 above.

RULEMAKING NOTICE FILING

STATE OF NEW HAMPSHIRE

DATE September 22, 2010

FROM Thomas S. Burack
Commissioner

SUBJECT Rulemaking Notice

TO Office of Legislative Services
Division of Administrative Rules

AT (OFFICE) DES

*MAW
FS
TSD*

Please accept for filing the enclosed Rulemaking Notice for the following rules:

Env-A 2300: Mitigation of Regional Haze

Questions from OLS regarding the Rulemaking Notice should be directed to Gretchen Hamel at 271-3137.

Questions from the public regarding the proposed rules, public hearing, or public comment period should be directed to Karla McManus at 271-6854.

Enclosures

cc: Gretchen Hamel, DES Legal Unit Administrator

ec: K. Allen Brooks, Chief, AGO-Environmental Protection Bureau
Karla McManus, DES ARD Planning and Rules Manager
ARD Distribution list

RULEMAKING NOTICE FORM

Notice Number _____ Rule Number _____ Env-A 2300

<p>1. Agency Name & Address:</p> <p>Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</p>	<p>2. RSA Authority: RSA 125-C:4, I(a), (b), (k)</p> <p>3. Federal Authority: 42 U.S.C. §7491; 40 CFR 51.308</p> <p>4. Type of Action:</p> <p>Adoption <u> X </u></p> <p>Amendment <u> </u></p> <p>Repeal <u> </u></p> <p>Readoption <u> </u></p> <p>Readoption w/amendment <u> </u></p>
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5. Short Title: Mitigation of Regional Haze

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

Regional haze is a visibility impairment caused by the emission of air pollutants from numerous sources located over a wide geographic area. Section 169A of the Clean Air Act (42 U.S.C. §7491) mandates visibility protection for federal Class I federal areas, which include 156 national parks and wilderness areas. Regionally, Class I areas include the Great Gulf and Presidential Range - Dry River Wilderness and Acadia National Park. The proposed rules, Chapter Env-A 2300, Mitigation of Regional Haze, establish emission standards for sulfur dioxide (SO₂), nitrogen oxides (NO_x), and total suspended particulate matter (TSP) at certain fossil-fuel-fired power plants that contribute to regional haze. Subtitle Env-A already contains rules govern haze-causing pollutants, including SO₂, NO_x, and TSP; the proposed rules would supplement those requirements and make the emission limitations for the 3 named pollutants more stringent for the sources that would be subject to the rules. Specifically, the rules will establish new emission limits for SO₂, NO_x, and TSP to be effective on July 1, 2013 for any fossil-fuel-fired steam generating unit having a maximum heat input rate of more than 1,000 million BTUs per hour that existed as of August 7, 1977 and has either a cyclone-firing, wet-bottom boiler fueled by coal (or any combination of fuels using coal) or a tangential-firing, dry-bottom boiler fueled by oil or gas (or any combination of oil or gas).

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

The only facilities impacted are owned by Public Service of New Hampshire (PSNH). Individuals, including tourists, whose views of the protected areas are impacted will benefit from the proposed rule.

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

Rule Section(s)	State Statute(s) Implemented	Federal Statute(s) Implemented
Env-A 2300	RSA 125-C:4, I(a), (b), (k)	42 U.S.C. §7491, 40 CFR §51.308

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

Name:	Karla McManus	Title:	ARD Planning and Rules Manager
Address:	Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	Phone #:	271-6854
		Fax#:	271-1381
		E-mail:	Karla.McManus

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)

RULEMAKING NOTICE FORM - Page 2

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Monday, November 8, 2010 at 4:00 p.m.**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, October 28, 2010, 9:30 a.m. - 12:30 p.m.**

Place: **Rooms 111-112-113-114, DES Offices, 29 Hazen Drive, Concord, NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 10:126, dated 09/22/10

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

When compared to the existing rules, the proposed rules may increase costs to independently owned businesses by an indeterminable amount.

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

The Clean Air Act, Section 169A (42 USC § 7491) and 40 CFR Part 51, Subpart P Protection of Visibility require the state to develop a program to assure reasonable progress toward meeting the national goal of preventing any future, and remedying any existing, impairment of visibility in mandatory class I federal areas in which impairment results from manmade air pollution. If the proposed rules are not adopted, the State would be out of compliance with federal requirements that could result in the US Environmental Protection agency imposing sanctions, including the loss of federal transportation funding.

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

The Department notes that there are three emission units, all owned by Public Service of New Hampshire (PSNH), that will be subject to these rules. PSNH may experience increased costs to the three emission units, however the Department indicates that two of the three units will be capable of meeting the proposed emission requirements with existing emission controls and with additional controls already under construction to meet state law. The Department further indicates the third emission unit will be able to meet the emission requirements with existing emission controls and reasonable adjustments to the sulfur content of its residual fuel oil and/or to the fuel oil/natural gas ratio used in combustion. The Department has no information on FY 2013 costs to estimate any potential increase in cost.

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 proposed rules do not create, expand, or modify any program or responsibility in such a way as to necessitate additional local expenditures by political subdivisions. The rules thus do not violate Part I, Article 28-a of the New Hampshire Constitution.

RULEMAKING REGISTER



NEW HAMPSHIRE RULEMAKING REGISTER

OFFICE OF LEGISLATIVE SERVICES

ROOM 219, STATE HOUSE ANNEX
25 CAPITOL STREET

CONCORD, NEW HAMPSHIRE 03301-6312

Tel. (603) 271-3680

Website: www.gencourt.state.nh.us/rules/index.html

TDD Access:

Relay NH 1-800-735-2964

Fax (603) 271-7871

VOLUME XXX, Number 39, October 1, 2010

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c.	Special Notice: Amendments to the <i>New Hampshire Drafting and Procedure Manual for Administrative Rules</i> and JLCAR Hearing Date	16
2.	<u>COMMITTEE (JLCAR)</u>	
	CONTINUED MEETING: Thursday, October 7, 2010 9:00 a.m. Rooms 306/308, Legislative Office Building	
	REGULAR MEETING: Thursday, October 21, 2010 9:00 a.m. Rooms 306/308, Legislative Office Building	

JLCAR MEETING DATES AND RELATED FILING DEADLINES OCTOBER-DECEMBER, 2010

The JLCAR has voted to hold its regularly scheduled monthly meetings for October through December, 2010 on the third Thursdays listed below. The minimum 14-day "deadline" prior to the regular JLCAR meeting is listed for agencies to file final proposals or proposed interim rules* for placement on the JLCAR agenda pursuant to RSA 541-A:12, I and RSA 541-A:19, V. The JLCAR has also scheduled continued meetings as listed below on select Thursdays to address any items postponed from the prior regular meetings.

*Note: *Register* publication, and notice filing deadlines, will still occur on Fridays, except as noted. RSA 541-A:19, V requires that an agency's interim rulemaking notice, whether in a newspaper or in the *Register*, must be published at least 7 days prior to the JLCAR meeting. Therefore, the deadline for filing a proposed interim rule with a *Register* notice will be earlier as listed below.

<u>*Filing Deadline for Interim Rules w/ Register Notice</u>	<u>Regular Meeting Filing Deadline</u>	<u>Regular Meeting Date</u>	<u>Continued Meeting Date</u>
--	--	September 16	October 7
October 1	October 7	October 21	November 4
October 29	November 4	November 18	December 2
November 24 (Wednesday)	December 2	December 16	None

Notice Number	2010-113	Rule Number	Env-A 2300
1. Agency Name & Address: Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	2. RSA Authority:	RSA 125-C:4, I(a), (b), (k)	
	3. Federal Authority:	42 U.S.C. §7491; 40 CFR 51.308	
	4. Type of Action:		
	Adoption	X	
	Amendment	_____	
	Repeal	_____	
	Readoption	_____	
	Readoption w/amendment	_____	

5. Short Title: Mitigation of Regional Haze

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

Regional haze is a visibility impairment caused by the emission of air pollutants from numerous sources located over a wide geographic area. Section 169A of the Clean Air Act (42 U.S.C. §7491) mandates visibility protection for federal Class I federal areas, which include 156 national parks and wilderness areas. Regionally, Class I areas include the Great Gulf and Presidential Range - Dry River Wilderness and Acadia National Park. The proposed rules, Chapter Env-A 2300, Mitigation of Regional Haze, establish emission standards for sulfur dioxide (SO₂), nitrogen oxides (NO_x), and total suspended particulate matter (TSP) at certain fossil-fuel-fired power plants that contribute to regional haze. Subtitle Env-A already contains rules govern haze-causing pollutants, including SO₂, NO_x, and TSP; the proposed rules would supplement those requirements and make the emission limitations for the 3 named pollutants more stringent for the sources that would be subject to the rules. Specifically, the rules will establish new emission limits for SO₂, NO_x, and TSP to be effective on July 1, 2013 for any fossil-fuel-fired steam generating unit having a maximum heat input rate of more than 1,000 million BTUs per hour that existed as of August 7, 1977 and has either a cyclone-firing, wet-bottom boiler fueled by coal (or any combination of fuels using coal) or a tangential-firing, dry-bottom boiler fueled by oil or gas (or any combination of oil or gas).

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

The only facilities impacted are owned by Public Service of New Hampshire (PSNH). Individuals, including tourists, whose views of the protected areas are impacted will benefit from the proposed rule.

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

Rule Section(s)	State Statute(s) Implemented	Federal Statute(s) Implemented
Env-A 2300	RSA 125-C:4, I(a), (b), (k)	42 U.S.C. §7491, 40 CFR §51.308

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

Name:	Karla McManus	Title:	ARD Planning and Rules Manager
Address:	Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	Phone #:	271-6854
		Fax#:	271-1381
		E-mail:	Karla.McManus

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)

NN 2010-113 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: Monday, November 8, 2010 at 4:00 p.m.

 Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: Thursday, October 28, 2010, 9:30 a.m. - 12:30 p.m.

Place: Rooms 111-112-113-114, DES Offices, 29 Hazen Drive, Concord, NH

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 10:126, dated 09/22/10

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

When compared to the existing rules, the proposed rules may increase costs to independently owned businesses by an indeterminable amount.

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

The Clean Air Act, Section 169A (42 USC § 7491) and 40 CFR Part 51, Subpart P Protection of Visibility require the state to develop a program to assure reasonable progress toward meeting the national goal of preventing any future, and remedying any existing, impairment of visibility in mandatory class I federal areas in which impairment results from manmade air pollution. If the proposed rules are not adopted, the State would be out of compliance with federal requirements that could result in the US Environmental Protection agency imposing sanctions, including the loss of federal transportation funding.

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

The Department notes that there are three emission units, all owned by Public Service of New Hampshire (PSNH), that will be subject to these rules. PSNH may experience increased costs to the three emission units, however the Department indicates that two of the three units will be capable of meeting the proposed emission requirements with existing emission controls and with additional controls already under construction to meet state law. The Department further indicates the third emission unit will be able to meet the emission requirements with existing emission controls and reasonable adjustments to the sulfur content of its residual fuel oil and/or to the fuel oil/natural gas ratio used in combustion. The Department has no information on FY 2013 costs to estimate any potential increase in cost.

- 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 proposed rules do not create, expand, or modify any program or responsibility in such a way as to necessitate additional local expenditures by political subdivisions. The rules thus do not violate Part I, Article 28-a of the New Hampshire Constitution.



NEW HAMPSHIRE RULEMAKING REGISTER

OFFICE OF LEGISLATIVE SERVICES

ROOM 219, STATE HOUSE ANNEX
25 CAPITOL STREET

CONCORD, NEW HAMPSHIRE 03301-6312

Tel. (603) 271-3680

Website: www.gencourt.state.nh.us/rules/index.html

TDD Access:

Relay NH 1-800-735-2964

Fax (603) 271-7871

VOLUME XXX, Number 45, November 12, 2010

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THANKSGIVING HOLIDAYS



Publication of November 24, 2010 Rulemaking Register

Thursday, November 25 and Friday, November 26 are state holidays. The Register that week will be published on Wednesday, November 24.

Deadline for December 3, 2010 Rulemaking Register

The deadline for filing rulemaking notices to be published in the December 3 Register will be the end of work day Wednesday, November 24.

EXTENSION OF PUBLIC COMMENT DEADLINE

Notice Number 2010-113Rule Number Env-A 2300

1. Agency Name & Address:

Department of Environmental Services
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

2. RSA Authority: RSA 125-C:4, I(a), (b), (k)3. Federal Authority: 42 U.S.C. §7491; 40 CFR 51.308

4. Type of Action:

Adoption X

Amendment _____

Repeal _____

Readoption _____

Readoption w/amendment _____

5. Short Title: Mitigation of Regional Haze

6. In accordance with RSA 541-A:11, III, the public comment deadline for this proposed rule has been extended past its scheduled date for which notice appeared in the Rulemaking Register on

October 1, 2010 under Notice Number 2010-113

7. New deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: Monday, November 22, 2010 at 4:00 p.m.

 Fax E-mail Other format (specify):

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

Name: Karla McManusTitle: ARD Planning and Rules ManagerAddress: Department of Environmental ServicesPhone #: 271-685429 Hazen DriveFax#: 271-1381P.O. Box 95Concord, NH 03302-0095E-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)

ANNOTATIONS TO INITIAL PROPOSAL FROM THE OFFICE OF
LEGISLATIVE SERVICES

Consent
Edit.

RULEMAKING NOTICE FORM

Notice Number 2010-113 Rule Number Env-A 2300

<p>1. Agency Name & Address:</p> <p>Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</p>	<p>2. RSA Authority: <u>RSA 125-C:4, I(a), (b), (k)</u></p> <p>3. Federal Authority: <u>42 U.S.C. §7491; 40 CFR 51.308</u></p> <p>4. Type of Action:</p> <p>Adoption <u>X</u></p> <p>Amendment _____</p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment _____</p>
--	--

5. Short Title: Mitigation of Regional Haze

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

Regional haze is a visibility impairment caused by the emission of air pollutants from numerous sources located over a wide geographic area. Section 169A of the Clean Air Act (42 U.S.C. §7491) mandates visibility protection for federal Class I federal areas, which include 156 national parks and wilderness areas. Regionally, Class I areas include the Great Gulf and Presidential Range - Dry River Wilderness and Acadia National Park. The proposed rules, Chapter Env-A 2300, Mitigation of Regional Haze, establish emission standards for sulfur dioxide (SO₂), nitrogen oxides (NO_x), and total suspended particulate matter (TSP) at certain fossil-fuel-fired power plants that contribute to regional haze. Subtitle Env-A already contains rules govern haze-causing pollutants, including SO₂, NO_x, and TSP; the proposed rules would supplement those requirements and make the emission limitations for the 3 named pollutants more stringent for the sources that would be subject to the rules. Specifically, the rules will establish new emission limits for SO₂, NO_x, and TSP to be effective on July 1, 2013 for any fossil-fuel-fired steam generating unit having a maximum heat input rate of more than 1,000 million BTUs per hour that existed as of August 7, 1977 and has either a cyclone-firing, wet-bottom boiler fueled by coal (or any combination of fuels using coal) or a tangential-firing, dry-bottom boiler fueled by oil or gas (or any combination of oil or gas).

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

The only facilities impacted are owned by Public Service of New Hampshire (PSNH). Individuals, including tourists, whose views of the protected areas are impacted will benefit from the proposed rule.

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

Rule Section(s)	State Statute(s) Implemented	Federal Statute(s) Implemented
Env-A 2300	RSA 125-C:4, I(a), (b), (k)	42 U.S.C. §7491, 40 CFR §51.308

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

Name:	Karla McManus	Title:	ARD Planning and Rules Manager
Address:	Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	Phone #:	271-6854
		Fax#:	271-1381
		E-mail:	Karla.McManus

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: **Monday, November 8, 2010 at 4:00 p.m.**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, October 28, 2010, 9:30 a.m. - 12:30 p.m.**

Place: **Rooms 111-112-113-114, DES Offices, 29 Hazen Drive, Concord, NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 10:126, dated 09/22/10

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

When compared to the existing rules, the proposed rules may increase costs to independently owned businesses by an indeterminable amount.

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

The Clean Air Act, Section 169A (42 USC § 7491) and 40 CFR Part 51, Subpart P Protection of Visibility require the state to develop a program to assure reasonable progress toward meeting the national goal of preventing any future, and remedying any existing, impairment of visibility in mandatory class I federal areas in which impairment results from manmade air pollution. If the proposed rules are not adopted, the State would be out of compliance with federal requirements that could result in the US Environmental Protection agency imposing sanctions, including the loss of federal transportation funding.

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

The Department notes that there are three emission units, all owned by Public Service of New Hampshire (PSNH), that will be subject to these rules. PSNH may experience increased costs to the three emission units, however the Department indicates that two of the three units will be capable of meeting the proposed emission requirements with existing emission controls and with additional controls already under construction to meet state law. The Department further indicates the third emission unit will be able to meet the emission requirements with existing emission controls and reasonable adjustments to the sulfur content of its residual fuel oil and/or to the fuel oil/natural gas ratio used in combustion. The Department has no information on FY 2013 costs to estimate any potential increase in cost.

A. To State general or State special funds:

None

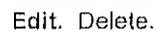
B. To State citizens and political subdivisions:

None

C. To independently owned businesses:

None

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution: The proposed rules do not create, expand, or modify any program or responsibility in such a way as to necessitate additional local expenditures by political subdivisions. The rules thus do not violate Part I, Article 28-a of the New Hampshire Constitution.

Edit. Delete.

Adopt CHAPTER Env-A 2300 to read as follows:

CHAPTER Env-A 2300 MITIGATION OF REGIONAL HAZE

Statutory Authority: RSA 125-C:4, I(a), (b), (k)

PART Env-A 2301 PURPOSE; APPLICABILITY; DEFINITIONS

Env-A 2301.01 Purpose. The purpose of this chapter is to establish emission standards for sulfur dioxide (SO₂), nitrogen oxides (NO_x), and total suspended particulate matter (TSP) at certain fossil-fuel-fired steam generating units in order to reduce emissions that contribute to regional haze. These rules are necessary to ensure compliance with §169A of the Act and regional haze program requirements established at 40 CFR 51.308, including but not limited to the provisions for Best Available Retrofit Technology (BART).

Env-A 2301.02 Applicability. This chapter shall apply to any fossil-fuel-fired steam generating unit having a maximum heat input rate of more than 1,000 million BTUs per hour that existed as of August 7, 1977 and has either a:

- (a) Cyclone-firing, wet-bottom boiler fueled by coal or any combination of fuels using coal; or
- (b) Tangential-firing, dry-bottom boiler fueled by oil or gas or any combination of oil or gas.

Env-A 2301.03 Definitions.

(a) “Best Available Retrofit Technology (BART)” means “best available retrofit technology” as defined in 40 CFR 51.301, namely “an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.”

(b) “Coal” means “coal” as defined in Env-A 1211.02.

(c) “Gas” means “gas or gaseous fuel” as defined in Env-A 1211.02.

(d) “Maximum heat input rate” means “maximum heat input rate” as defined in Env-A 1211.02.

(e) “Oil” means any petroleum-based liquid fuel oil, including distillate and residual fuel oils.

(f) “Regional haze” means “regional haze” as defined in 40 CFR 51.301, namely “visibility impairment that is caused by the emission of air pollutants from numerous sources located over a wide geographic area. Such sources include, but are not limited to, major and minor stationary sources, mobile sources, and area sources.”

(g) “Stack test” means the sampling, analysis, and reporting of emissions from a stationary point source in accordance with testing procedures specified in Env-A 802.

(h) “Total suspended particulate matter (TSP)” means particulate matter as measured by the high-volume method described in Appendix B of 40 CFR Part 50.

(i) “Visibility impairment” means “visibility impairment” as defined in 40 CFR 51.301, namely “any humanly perceptible change in visibility (light extinction, visual range, contrast, coloration) from that which would have existed under natural conditions.”

PART Env-A 2302 EMISSION STANDARDS FOR MITIGATION OF REGIONAL HAZE

Env-A 2302.01 Emission Standards Applicable to Cyclone-Firing, Wet-Bottom Boilers.

(a) For any cyclone-firing, wet-bottom boiler subject to this chapter whose maximum heat input rate is less than or equal to 3,000 million BTUs per hour, the following emission rates shall apply:

- (1) SO₂ emissions shall not exceed limitations specified in permit conditions established in accordance with Env-A 600;
- (2) NO_x emissions shall not exceed limitations specified in permit conditions established in accordance with Env-A 600; and
- (3) Beginning on July 1, 2013, TSP emissions shall not exceed 0.08 lb per million BTUs, demonstrated by completion of periodic stack tests as specified in Env-A 2304.01(b) on the outlet side of the final emission control device.

(b) For any cyclone-firing, wet-bottom boiler subject to this chapter whose maximum heat input rate is greater than 3,000 million BTUs per hour, the following emission rates shall apply:

- (1) SO₂ emissions shall not exceed limitations specified in permit conditions established in accordance with Env-A 600;
- (2) Beginning on July 1, 2013, NO_x emissions shall not exceed 0.37 lb per million BTUs on a calendar monthly average basis as recorded by a continuous emissions monitoring system (CEMS) as specified in Env-A 2303; and
- (3) Beginning on July 1, 2013, TSP emissions shall not exceed 0.08 lb per million BTUs, demonstrated by completion of periodic stack tests as specified in Env-A 2304.01(b) on the outlet side of the final emission control device.

Env-A 2302.02 Emission Standards Applicable to Tangential-Firing, Dry-Bottom Boilers. For any tangential-firing, dry-bottom boiler subject to this chapter, the following emission rates shall apply:

(a) Beginning on July 1, 2013, SO₂ emissions shall not exceed 0.50 pound (lb) per million BTUs on a calendar monthly average basis as recorded by a CEMS as specified in Env-A 2303;

(b) NO_x emissions shall not exceed limitations specified in permit conditions established in accordance with Env-A 600; and

(c) TSP emissions shall not exceed limitations specified in permit conditions established in accordance with Env-A 600.

PART Env-A 2303 CONTINUOUS EMISSIONS MONITORING SYSTEMS

Env-A 2303.01 Requirements for Continuous Emissions Monitoring Systems. The owner or operator of a source whose emissions are required to be monitored and recorded by a CEMS as provided in Env-A 2302.01 or Env-A 2302.02 shall:

(a) Install, calibrate, operate, maintain, and perform quality assurance testing of the CEMS in accordance with Env-A 808; and

(b) Comply with recordkeeping requirements for CEMS specified in Env-A 903.04.

PART Env-A 2304 PERFORMANCE TESTING

Env-A 2304.01 Performance Testing Requirements Applicable to Cyclone-Firing, Wet-Bottom Boilers. For any cyclone-firing, wet-bottom boiler subject to this chapter, performance tests shall be conducted as follows:

(a) Performance testing for SO₂ emissions and NO_x emissions shall meet the requirements specified in permit conditions established in accordance with Env-A 600; and

(b) Periodic stack tests for TSP emissions shall be conducted in accordance with Env-A 802, subject to the following:

(1) For an initial period of 3 years, stack tests shall be conducted annually, with the first stack test to be completed by June 30, 2013;

(2) Beginning on July 1, 2015, stack tests shall be conducted every other year, with the fourth stack test to be completed by June 30, 2017; and

(3) At any facility where an affected unit shares a common stack with a second affected unit, the stack emissions shall be tested as from one source, by either of the following methods:

a. With both units operating simultaneously, a stack test on the combined emissions from both units, or

b. With one unit operating at a time, separate stack tests on the emissions from each unit.

Env-A 2304.02 Performance Testing Requirements Applicable to Tangential-Firing, Dry-Bottom Boilers. For any tangential-firing, dry-bottom boiler subject to this chapter, performance tests shall be conducted as follows:

(a) Performance testing for SO₂ emissions, NO_x emissions, and TSP emissions shall meet the requirements specified in permit conditions established in accordance with Env-A 600; and

(b) Any stack test required to demonstrate compliance with this part shall be conducted in accordance with Env-A 802.

Appendix

Rule Section(s)	State Statute(s) Implemented	Federal Statute(s) Implemented
Env-A 2300	RSA 125-C:4, I(a), (b), (k)	42 U.S.C. §7491, 40 CFR §51.308

FINAL PROPOSAL FILING

STATE OF NEW HAMPSHIRE

FROM *Thomas S. Burack* DATE December 2, 2010
Thomas S. Burack
Commissioner AT (OFFICE) DES

SUBJECT Final Proposal #2010-~~18~~ 113

TO Office of Legislative Services
Division of Administrative Rules

In accordance with RSA 541-A:12, enclosed please find the Final Proposal Cover Sheet and copies of the corresponding rule for the following rules:

Env-A 2300: Mitigation of Regional Haze

If you have any questions, please contact Gretchen Hamel at 271-3137 or Karla McManus at 271-6854.

Enclosures

cc: Gretchen Hamel, DES Legal Unit

cc: Karla McManus, DES ARD

COVER SHEET FOR FINAL PROPOSAL

Notice Number 2010-113

Rule Number Env-A 2300

<p>1. Agency Name & Address:</p> <p>Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</p>	<p>2. RSA Authority: <u>RSA 125-C:4, I (a), (b), (k)</u></p> <p>3. Federal Authority: <u>42 U.S.C. §7491; 40 CFR 51.308</u></p> <p>4. Type of Action:</p> <p><input checked="" type="checkbox"/> Adopt</p> <p><input type="checkbox"/> Amendment</p> <p><input type="checkbox"/> Repeal</p> <p><input type="checkbox"/> Readoption</p> <p><input type="checkbox"/> Readoption w/amendment</p>
--	---

5. Short Title: Mitigation of Regional Haze

6. Contact person for copies and questions:

Name:	Karla McManus	Title:	ARD Planning and Rules Manager
Address:	Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	Phone #:	(603) 271-6854

7. Yes No Agency requests Committee legal counsel review and delayed Committee review pursuant to RSA 541-A:12, I-a

8. The rulemaking notice appeared in the Rulemaking Register on **October 1, 2010**

**SEE THE INSTRUCTIONS--PLEASE SUBMIT 2 COPIES OF THIS COVER SHEET
AND 2 COPIES OF THE FOLLOWING:
(and numbered correspondingly)**

9. The "Final Proposal-Fixed Text", including the cross-reference table required by RSA 541-A:3-a, II as an appendix.

10. The full text of the RSA passage granting rulemaking authority.

11. Yes N/A Incorporation by Reference Statement(s) because this rule incorporates a document by reference for which an Incorporation by Reference Statement is required pursuant to RSA 541-A:12, III.

12. Yes N/A The "Final Proposal-Annotated Text" indicating how the proposed rule was changed because the text of the rule changed from the Initial Proposal pursuant to RSA 541-A:12, II(e).

13. Yes N/A The amended fiscal impact statement because the change to the text of the Initial Proposal affects the original fiscal impact statement (FIS) pursuant to RSA 541-A:5, VI.

Adopt CHAPTER Env-A 2300 to read as follows:

CHAPTER Env-A 2300 MITIGATION OF REGIONAL HAZE

Statutory Authority: RSA 125-C:4, I(a), (b), (k)

PART Env-A 2301 PURPOSE; APPLICABILITY; DEFINITIONS

Env-A 2301.01 Purpose. The purpose of this chapter is to establish emission standards for sulfur dioxide (SO₂), nitrogen oxides (NO_x), and total suspended particulate matter (TSP) at certain fossil-fuel-fired steam generating units in order to reduce emissions that contribute to regional haze. These rules are necessary to ensure compliance with §169A of the Act and regional haze program requirements established at 40 CFR 51.308, including but not limited to the provisions for Best Available Retrofit Technology (BART).

Env-A 2301.02 Applicability. This chapter shall apply to any fossil-fuel-fired steam generating unit having a maximum heat input rate of more than 1,000 million BTUs per hour that existed as of August 7, 1977 and has either a:

- (a) Cyclone-firing, wet-bottom boiler fueled by coal or any combination of fuels using coal; or
- (b) Tangential-firing, dry-bottom boiler fueled by oil or gas or any combination of oil or gas.

Env-A 2301.03 Definitions.

- (a) "Best Available Retrofit Technology (BART)" means "best available retrofit technology" as defined in 40 CFR 51.301, namely "an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology."
- (b) "Coal" means "coal" as defined in Env-A 1211.02.
- (c) "Gas" means "gas or gaseous fuel" as defined in Env-A 1211.02.
- (d) "Maximum heat input rate" means "maximum heat input rate" as defined in Env-A 1211.02.
- (e) "Oil" means any petroleum-based liquid fuel oil, including distillate and residual fuel oils.
- (f) "Regional haze" means "regional haze" as defined in 40 CFR 51.301, namely "visibility impairment that is caused by the emission of air pollutants from numerous sources located over a wide geographic area. Such sources include, but are not limited to, major and minor stationary sources, mobile sources, and area sources."
- (g) "Stack test" means the sampling, analysis, and reporting of emissions from a stationary point source in accordance with testing procedures specified in Env-A 802.
- (h) "Total suspended particulate matter (TSP)" means particulate matter as measured by the high-volume method described in Appendix B of 40 CFR Part 50.
- (i) "Visibility impairment" means "visibility impairment" as defined in 40 CFR 51.301, namely "any humanly perceptible change in visibility (light extinction, visual range, contrast, coloration) from that which would have existed under natural conditions."

PART Env-A 2304 PERFORMANCE TESTING

Env-A 2304.01 Performance Testing Requirements Applicable to Cyclone-Firing, Wet-Bottom Boilers. For any cyclone-firing, wet-bottom boiler subject to this chapter, performance tests shall be conducted as follows:

(a) Performance testing for SO₂ emissions and NO_x emissions shall meet the requirements specified in permit conditions established in accordance with Env-A 600; and

(b) Periodic stack tests for TSP emissions shall be conducted in accordance with Env-A 802, subject to the following:

(1) For an initial period of 3 years, stack tests shall be conducted annually, with the first stack test to be completed by June 30, 2013;

(2) Beginning on July 1, 2015, stack tests shall be conducted every other year, with the fourth stack test to be completed by June 30, 2017; and

(3) At any facility where an affected unit shares a common stack with a second affected unit, the stack emissions shall be tested as from one source, by either of the following methods:

a. With both units operating simultaneously, a stack test on the combined emissions from both units, or

b. With one unit operating at a time, separate stack tests on the emissions from each unit.

Env-A 2304.02 Performance Testing Requirements Applicable to Tangential-Firing, Dry-Bottom Boilers. For any tangential-firing, dry-bottom boiler subject to this chapter, performance tests shall be conducted as follows:

(a) Performance testing for SO₂ emissions, NO_x emissions, and TSP emissions shall meet the requirements specified in permit conditions established in accordance with Env-A 600; and

(b) Any stack test required to demonstrate compliance with this part shall be conducted in accordance with Env-A 802.

Appendix

Rule Section(s)	State Statute(s) Implemented	Federal Statute(s) Implemented
Env-A 2300	RSA 125-C:4, I(a), (b), (k)	42 U.S.C. §7491, 40 CFR §51.308

Adopt CHAPTER Env-A 2300 to read as follows:

CHAPTER Env-A 2300 MITIGATION OF REGIONAL HAZE

Statutory Authority: RSA 125-C:4, I(a), (b), (k)

PART Env-A 2301 PURPOSE; APPLICABILITY; DEFINITIONS

Env-A 2301.01 Purpose. The purpose of this chapter is to establish emission standards for sulfur dioxide (SO₂), nitrogen oxides (NO_x), and total suspended particulate matter (TSP) at certain fossil-fuel-fired steam generating units in order to reduce emissions that contribute to regional haze. These rules are necessary to ensure compliance with §169A of the Act and regional haze program requirements established at 40 CFR 51.308, including but not limited to the provisions for Best Available Retrofit Technology (BART).

Env-A 2301.02 Applicability. This chapter shall apply to any fossil-fuel-fired steam generating unit having a maximum heat input rate of more than 1,000 million BTUs per hour that existed as of August 7, 1977 and has either a:

- (a) Cyclone-firing, wet-bottom boiler fueled by coal or any combination of fuels using coal; or
- (b) Tangential-firing, dry-bottom boiler fueled by oil or gas or any combination of oil or gas.

Env-A 2301.03 Definitions.

(a) “Best Available Retrofit Technology (BART)” means “best available retrofit technology” as defined in 40 CFR 51.301, namely “an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.”

(b) “Coal” means “coal” as defined in Env-A 1211.02.

(c) “Gas” means “gas or gaseous fuel” as defined in Env-A 1211.02.

(d) “Maximum heat input rate” means “maximum heat input rate” as defined in Env-A 1211.02.

(e) “Oil” means any petroleum-based liquid fuel oil, including distillate and residual fuel oils.

(f) “Regional haze” means “regional haze” as defined in 40 CFR 51.301, namely “visibility impairment that is caused by the emission of air pollutants from numerous sources located over a wide geographic area. Such sources include, but are not limited to, major and minor stationary sources, mobile sources, and area sources.”

(g) “Stack test” means the sampling, analysis, and reporting of emissions from a stationary point source in accordance with testing procedures specified in Env-A 802.

(h) “Total suspended particulate matter (TSP)” means particulate matter as measured by the high-volume method described in Appendix B of 40 CFR Part 50.

(i) “Visibility impairment” means “visibility impairment” as defined in 40 CFR 51.301, namely “any humanly perceptible change in visibility (light extinction, visual range, contrast, coloration) from that which would have existed under natural conditions.”

PART Env-A 2304 PERFORMANCE TESTING

Env-A 2304.01 Performance Testing Requirements Applicable to Cyclone-Firing, Wet-Bottom Boilers. For any cyclone-firing, wet-bottom boiler subject to this chapter, performance tests shall be conducted as follows:

(a) Performance testing for SO₂ emissions and NO_x emissions shall meet the requirements specified in permit conditions established in accordance with Env-A 600; and

(b) Periodic stack tests for TSP emissions shall be conducted in accordance with Env-A 802, subject to the following:

(1) For an initial period of 3 years, stack tests shall be conducted annually, with the first stack test to be completed by June 30, 2013;

(2) Beginning on July 1, 2015, stack tests shall be conducted every other year, with the fourth stack test to be completed by June 30, 2017; and

(3) At any facility where an affected unit shares a common stack with a second affected unit, the stack emissions shall be tested as from one source, by either of the following methods:

a. With both units operating simultaneously, a stack test on the combined emissions from both units, or

b. With one unit operating at a time, separate stack tests on the emissions from each unit.

Env-A 2304.02 Performance Testing Requirements Applicable to Tangential-Firing, Dry-Bottom Boilers. For any tangential-firing, dry-bottom boiler subject to this chapter, performance tests shall be conducted as follows:

(a) Performance testing for SO₂ emissions, NO_x emissions, and TSP emissions shall meet the requirements specified in permit conditions established in accordance with Env-A 600; and

(b) Any stack test required to demonstrate compliance with this part shall be conducted in accordance with Env-A 802.

Appendix

Rule Section(s)	State Statute(s) Implemented	Federal Statute(s) Implemented
Env-A 2300	RSA 125-C:4, I(a), (b), (k)	42 U.S.C. §7491, 40 CFR §51.308

ADOPTED RULE

Adopt CHAPTER Env-A 2300 to read as follows:

CHAPTER Env-A 2300 MITIGATION OF REGIONAL HAZE

Statutory Authority: RSA 125-C:4, I(a), (b), (k)

PART Env-A 2301 PURPOSE; APPLICABILITY; DEFINITIONS

Env-A 2301.01 Purpose. The purpose of this chapter is to establish emission standards for sulfur dioxide (SO₂), nitrogen oxides (NO_x), and total suspended particulate matter (TSP) at certain fossil-fuel-fired steam generating units in order to reduce emissions that contribute to regional haze. These rules are necessary to ensure compliance with §169A of the Act and regional haze program requirements established at 40 CFR 51.308, including but not limited to the provisions for Best Available Retrofit Technology (BART).

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- (a) Cyclone-firing, wet-bottom boiler fueled by coal or any combination of fuels using coal; or
- (b) Tangential-firing, dry-bottom boiler fueled by oil or gas or any combination of oil or gas.

Env-A 2301.03 Definitions.

(a) "Best Available Retrofit Technology (BART)" means "best available retrofit technology" as defined in 40 CFR 51.301, namely "an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology."

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PART Env-A 2304 PERFORMANCE TESTING

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 - (2) Beginning on July 1, 2015, stack tests shall be conducted every other year, with the fourth stack test to be completed by June 30, 2017; and
 - (3) At any facility where an affected unit shares a common stack with a second affected unit, the stack emissions shall be tested as from one source, by either of the following methods:
 - a. With both units operating simultaneously, a stack test on the combined emissions from both units, or
 - b. With one unit operating at a time, separate stack tests on the emissions from each unit.

Env-A 2304.02 Performance Testing Requirements Applicable to Tangential-Firing, Dry-Bottom Boilers. For any tangential-firing, dry-bottom boiler subject to this chapter, performance tests shall be conducted as follows:

- (a) Performance testing for SO₂ emissions, NO_x emissions, and TSP emissions shall meet the requirements specified in permit conditions established in accordance with Env-A 600; and
- (b) Any stack test required to demonstrate compliance with this part shall be conducted in accordance with Env-A 802.

Appendix

Rule Section(s)	State Statute(s) Implemented	Federal Statute(s) Implemented
Env-A 2300	RSA 125-C:4, 1(a), (b), (k)	42 U.S.C. §7491, 40 CFR §51.308

APPROVAL OF THE RULE BY THE JOINT LEGISLATIVE COMMITTEE ON
ADMINISTRATIVE RULES

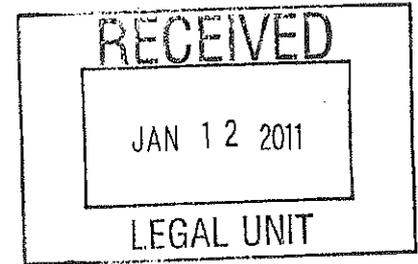
CAROL J. HOLAHAN
DIRECTOR

STATE OF NEW HAMPSHIRE



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January 10, 2010

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the following certified rule(s) filed with the Director of Legislative Services, in accordance with RSA 541-A, the
Administrative Procedures Act.

Document # #9846
Relative to: Env-A 2300 - Mitigation of Regional Haze.
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In all communications with this office concerning the above rule(s), please cite the appropriate document
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