



NEW HAMPSHIRE RULEMAKING REGISTER

OFFICE OF LEGISLATIVE SERVICES

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VOLUME XXXIII, Number 7, February 14, 2013

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NOTE: POSSIBLE RULE EXTENSION

If the proposed rules contain existing, regular rules being readopted or readopted with amendments, and are not adopted and effective until after the expiration date(s) of the existing rules(s), then the existing rules will nevertheless continue in effect pursuant to RSA 541-A:14-a until the proposed rules are adopted and effective.

2. COMMITTEE (JLCAR)

REGULAR MEETING **Friday, February 15, 2013** 9:00 a.m.
Rooms 305/307, Legislative Office Building

CONTINUED MEETING: **Friday, March 1, 2013** 9:00 a.m.
Rooms 305/307, Legislative Office Building

JLCAR MEETING DATES AND RELATED FILING DEADLINES JANUARY-JUNE, 2013

The JLCAR has voted to hold its regularly scheduled meetings for January through June, 2013 on the third Friday of the month as 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 Fridays to address items postponed from the prior regular meetings.

Regular Meeting Filing Deadline	Regular Meeting Date	Continued Meeting Date
February 1	February 15	March 1
March 1	March 15	April 5
April 5	April 19	May 3
May 3	May 17	June 7
June 7	June 21	June 28

Notices of Proposed Rules

<u>Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Page No.</u>
2013-13	Env-A 101.104	Department of Environmental Services Air Related Programs Definition of Incinerator.	1
2013-14	Env-A 1900	Department of Environmental Services Air Related Programs Incinerators (n/k/a Incinerators and Wood Waste Burners).	3

**JLCAR MEETING DATES AND RELATED FILING DEADLINES
JULY-DECEMBER, 2013**

The JLCAR has voted to hold its regularly scheduled monthly meetings for July through December, 2013 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.

Regular Meeting Filing Deadline	Regular Meeting Date	Continued Meeting Date
July 3 (Wednesday)	July 18	August 1
August 1	August 15	September 5
September 5	September 19	October 3
October 3	October 17	November 7
November 7	November 21	December 5
December 5	December 19	None

Notice Number 2013-13 Rule Number Env-A 101.104

<p>1. Agency Name & Address:</p> <p>NH 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)</u></p> <p>3. Federal Authority: <u>N/A</u></p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Amendment _____</p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment <u>X</u></p>
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5. Short Title: Definition of Incinerator

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

Env-A 101.104, the existing definition of incinerator, is proposed to be revised to include wood waste burners in conjunction with the readoption with amendment of Env-A 1900 relative to emission standards for incinerators that are not otherwise regulated under federal rules.

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

This definition, in conjunction with the readoption with amendment of Env-A 1900, affects owners and operators of incinerators that are not specifically regulated pursuant to federal incinerator or waste combustor standards in Env-A 500, Env-A 3300, or Env-A 4300.

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

Rule Section(s)	State Statute(s) Implemented
Env-A 101.104	RSA 125-C:4, I(a)

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

Name:	Karla McManus	Title:	Planning and Rules Manager
Address:	NH Dept. of Environmental Services 29 Hazen Drive; P.O. Box 95 Concord, NH 03302-0095	Phone #:	(603) 271-6854
		Fax#:	(603) 271-1381
		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, March 29, 2013**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Friday, March 22, 2013 at 9:30 am.**

Place: **Room 110, DES Offices, 29 Hazen Drive, Concord NH**

NN 2013-13 Continued

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 13:011, dated 02/08/13:

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:

No federal mandate, no impact on state funds.

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 change in definition does not have any cost, as it does not change the scope of the substantive requirements. In any event, none of the sources affected by this rule or Env-A 1900 is owned by a political subdivision. Accordingly, the proposed rules do not violate Part I, Article 28-a of the New Hampshire Constitution because they do not assign any new, modified, or expanded programs or responsibilities to political subdivisions of the state in such a way as to necessitate local expenditures.

Notice Number	2013-14	Rule Number	Env-A 1900
1. Agency Name & Address:	NH Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	2. RSA Authority:	RSA 125-C:4, I(a)
		3. Federal Authority:	N/A
		4. Type of Action:	
		Adoption	_____
		Amendment	_____
		Repeal	_____
		Readoption	_____
		Readoption w/amendment	<u> X </u>

5. Short Title: Incinerators (n/k/a Incinerators and Wood Waste Burners)

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

The existing rules, Env-A 1900, provide emission standards for incinerators that are not otherwise regulated under federal rules. Env-A 1900 is proposed to be readopted because it is scheduled to expire on February 26, 2013.* Specifically, sections pertaining to incinerators that are now subject to more stringent federal standards have been removed, as have sections that are now covered by Env-A 1400, *Regulated Toxic Air Pollutants* (e.g., Hydrogen Chloride emission standards). The standard for allowable visible emissions for wood waste burners is proposed to be reduced from 40% opacity to match the standard for all other incinerators, which is 20% opacity, and the "automatic 6-minute exemption" has been replaced with the ability of the owner or operator to raise affirmative defenses. Reasonable options exist for incineration or alternate disposal of wood waste, so allowing the continued use of inefficient, obsolete technology (e.g., teepee-style wood waste burners) that produce visible emissions over 20% is not appropriate. The proposed rules will be clearer than the existing rules, which will benefit anyone who is using the rules. Readopting these rules will benefit public health and the environment by controlling the emissions from incinerators, mainly particulate matter. Particulate matter contains microscopic solids or liquid droplets that are so small that they can get deep into the lungs, and numerous scientific studies have linked particle pollution exposure to a variety of serious health problems.

***Pursuant to RSA 541-A:14-a, the existing rules will continue in effect until the proposed rules are adopted and effective, subject to certain exceptions that the Department does not expect to occur.**

In a companion rulemaking, the definition of incinerator, Env-A 101.104, is being amended to include wood waste burners.

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

The rules affect owners and operators of incinerators that are not specifically regulated pursuant to federal incinerator or waste combustor standards in Env-A 500, Env-A 3300 or Env-A 4300.

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

Rule Section(s)	State Statute(s) Implemented
Env-A 1901 through Env-A 1903	RSA 125-C:6, II

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

Name:	Karla McManus	Title:	Planning and Rules Manager
Address:	NH Dept. of Environmental Services 29 Hazen Drive; P.O. Box 95 Concord, NH 03302-0095	Phone #:	(603) 271-6854
		Fax#:	(603) 271-1381
		E-mail:	Karla.McManus@des.nh.gov

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NN 2013-14 Continued

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, March 29, 2013**

 Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Friday, March 22, 2013 at 9:30 am.**

Place: **Room 110, DES Offices, 29 Hazen Drive, Concord NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 13:012, dated 02/08/13:

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:

No federal mandate, no impact on state funds. The existing rules are part of the State Implementation Plan approved by the US Environmental Protection Agency pursuant to Section 110 of the Clean Air Act (42 U.S.C. § 7410). If the current rules expire and the proposed rules are not adopted, the state would be in violation of the State Implementation Plan and would potentially be subject to federal sanctions.

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:

None of the sources affected by these rules is owned by a political subdivision. Accordingly, the proposed rules do not violate Part I, Article 28-a of the New Hampshire Constitution because they do not assign any new, modified, or expanded programs or responsibilities to political subdivisions of the state in such a way as to necessitate local expenditures.