RULEMAKING NOTICE

Notice Number		Rule Number	Env-A 3300

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), (d), & (k)** 3. Federal Authority: 42 U.S.C. 7411(d) and 7429(b) 4. Type of Action: Adoption _____ Amendment _____ Repeal _____ Readoption _____ Readoption w/amendment **X**

5. Short Title: **Municipal Waste Combustion**

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

Env-A 3300, *Municipal Waste Combustion*, establishes the operating and performance standards for existing municipal waste combustion (MWC) units with the capacity to combust greater than 35 tons per day of municipal solid waste, to comply with federal regulations promulgated pursuant to section 111(d) and section 129 of the Clean Air Act and state rules promulgated under RSA 125-C:10-a and RSA 125-M:3. The chapter is scheduled to expire on February 2, 2016, and so is proposed to be readopted. As part of the readoption, amendments are proposed to accommodate the anticipated changes in emissions limits for small MWC units (as discussed below) and to clarify a few of the existing rules.

Over the years, the public has expressed a great deal of interest regarding regulated emissions from municipal waste combustion (MWC) facilities located in New Hampshire (*i.e.*, Wheelabrator Concord and Wheelabrator Claremont), Concerns have been expressed regarding the emission limits placed on these sources. The emission limits contained in Env-A 3300 reflect either federal emission guidelines (40 CFR 60 Subpart Cb for large MWCs and 40 CFR 60 Subpart BBBB for small MWCs), or state law (RSA 125-C:10-a and RSA 125-M:3). RSA 125-C:10-a, which became effective on January 1, 2006 and contains explicit emission limits, was established to require small MWC units (Claremont facility) to meet the same federal emission guidelines as the large MWC units (Concord facility). In addition, more stringent mercury emission limits were established in RSA 125-M:3 for both large and small MWCs. Subsequent to the adoption of RSA 125-C:10-a, the EPA revised the emission guidelines for large MWCs, resulting in the emission limits for large and small MWC units in New Hampshire no longer being the same.

Legislation has been sponsored by Senator Jeb Bradley and others (*see* SB 377, available at http://gencourt.state.nh.us/bill_status/billText.aspx?id=1100&txtFormat=pdf&v=current) to again align the emission standards for the small MWCs with those for the large MWCs. Since the Legislation is in process and the rule is scheduled to expire in February 2016, the Department is proposing to incorporate the emission limits by reference to RSA 125-C:10-a and include the tables as a summary in an appendix. If the proposed changes are enacted, the Department will update the appendix of the rule at that time.

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

The rules affect existing municipal waste combustion (MWC) units with the capacity to combust greater than 35 tons per day of municipal solid waste.

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

Rule	State Statutes Implemented	Federal Statutes/Regulations Implemented
Env-A 3300	RSA 125-C:4	
Env-A 3301	RSA 125-C:4, I(a)	42 U.S.C. §§7411(d) and 7429(b)
Env-A 3302	RSA 125-C:4, I(a)	42 U.S.C. §§7411(d) and 7429(b); 40 CFR §§60.51b and 60.1940

Rule	State Statutes Implemented	Federal Statutes/Regulations Implemented
Env-A 3303.01(a)	RSA 125-C:4, I(a)	42 U.S.C. §§7411(d) and 7429(b); 40 CFR §60.34b
Env-A 3303.01(b)	RSA 125-C:4, I(a)	42 U.S.C. §§7411(d) and 7429(b); 40 CFR §60.33b
Env-A 3303.01(c)	RSA 125-C:4, I(a); RSA 125-M:3	42 U.S.C. §§7411(d) and 7429(b); 40 CFR §60.33b
Env-A 3303.01(d)	RSA 125-C:4, I(a)	42 U.S.C. §§7411(d) and 7429(b); 40 CFR §60.55b
Env-A 3303.02(a)	RSA 125-C:4, I(a)	42 U.S.C. §§7411(d) and 7429(b); 40 CFR 60, Table 5 of subpart BBBB
Env-A 3303.02(b)	RSA 125-C:4, I(a); RSA 125-M:3	42 U.S.C. §§7411(d) and 7429(b); 40 CFR 60, Table 4 of subpart BBBB
Env-A 3304.01	RSA 125-C:4, I(a)	42 U.S.C. §§7411(d) and 7429(b); 40 CFR § 60.53b(b) and (c)
Env-A 3304.02	RSA 125-C:4, I(a)	42 U.S.C. §§7411(d) and 7429(b); 40 CFR § 60.1690 and 1695
Env-A 3304.03	RSA 125-C:4, I(a)	42 U.S.C. §§7411(d) and 7429(b); 40 CFR §60.1680
Env-A 3305.01	RSA 125-C:4, I(a)	42 U.S.C. §§7411(d) and 7429(b); 40 CFR §§60.1645, 60.1650, 60.35b, and 60.54b
Env-A 3305.02	RSA 125-C:4, I(a)	42 U.S.C. §§7411(d) and 7429(b); 40 CFR §§60.1655, 60.1660, 60.1665, 60.1670, 60.35b, and 60.54b(e), (f) & (g)
Env-A 3306.01	RSA 125-C:6,XI	42 U.S.C. §§ 7411(d) and 7429(b); 40 CFR §§60.24(b)(2), 60.38b and 60.58b
Env-A 3306.02(a)	RSA 125-C:6, XI	42 U.S.C. §§7411(d) and 7429(b); 40 CFR §§60.24(b)(2), 60.38b and 60.58b
Env-A 3306.02(b)	RSA 125-C:6, XI	42 U.S.C. §§7411(d) and 7429(b); 40 CFR §§60.1775 and 60.1780
Env-A 3306.02(c)	RSA 125-C:6, XI	42 U.S.C. §§ 7411(d) and 7429(b); 40 CFR §§ 60.1785, 60.1790, 60.1795, and 60.1800
Env-A 3306.02(d)	RSA 125-C:6, XI	42 U.S.C. §§7411(d) and 7429(b); 40 CFR §60.1725
Env-A 3306.02(e)	RSA 125-C:6, XI	42 U.S.C. §§7411(d) and 7429(b); 40 CFR §60.1710
Env-A 3306.03	RSA 125-C:6, XI	42 U.S.C. §§7411(d) and 7429(b); 40 CFR §§60.1805, 60.1810, 60.1815, 60.1820, and 60.1825
Env-A 3307.01	RSA 125-C:6, XI	42 U.S.C. §§7411(d) and 7429(b); 40 CFR §§60.39b and 60.59b
Env-A 3307.02(a)	RSA 125-C:6, XI	42 U.S.C. §§7411(d) and 7429(b); 40 CFR §§60.1830, 60.1835, 60.1840, 60.1845, 60.1850, and 60.1855
Env-A 3307.02(b)	RSA 125-C:6, XI	42 U.S.C. §§7411(d) and 7429(b); 40 CFR §§60.1860, 60.1865, 60.1870, 60.1875, 60.1880, 60.1885, 60.1890, 60.1895, 60.1900, and 60.1905

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 #: Fax#: E-mail:	(603) 271-6854 (603) 271-0656 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 March 11, 2016**

☒Fax ☒E-mail ☐Other format (specify):

9. Public hearing scheduled for:

Date and Time: **March 3, 2016 at 1:00 PM**

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

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS #16:005, dated 01/20/16:

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:**
   There is no specific federal mandate. The rules are required to be included as part of an approvable amendment to the state plan submitted to the EPA to implement and enforce municipal waste combustor standards in the state. An approved state plan permits state implementation in lieu of federal implementation. There is 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 rules apply to existing municipal waste combustion (MWC) units with the capacity to combust greater than 35 tons per day of municipal solid waste, and there currently are no such devices owned by political subdivisions. Thus, the rules do not mandate or assign any new, expanded or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivision, and so do not violate Part I, Article 28-a of the New Hampshire Constitution.