



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

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TABLE OF CONTENTS

1.	<u>OFFICE OF LEGISLATIVE SERVICES</u>	<u>Page No.</u>
a.	List of Notices of Proposed Rules NN 2010-109 through NN 2010-115	-i-
b.	Notices of Proposed Rules	1
c.	Special Notice: Amendments to the <i>New Hampshire Drafting and Procedure Manual for Administrative Rules</i> and JLCAR Hearing Date	16

2. COMMITTEE (JLCAR)

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.

*Filing Deadline for Interim Rules w/ <i>Register</i> Notice	Regular Meeting Filing Deadline	Regular Meeting Date	Continued Meeting Date
--	--	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

NEW HAMPSHIRE RULEMAKING REGISTER

Notices of Proposed Rules

<u>Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Page No.</u>
2010-109	Phy 303.07, 304.04, 305.01, 403.05, & 403.08	Governing Board of Physical Therapists Jurisprudence Examination.	1
2010-110	Phy 500	Governing Board of Physical Therapists Ethical Standards.	3
2010-111	Env-A 101.35, 101.96, & 101.115	Department of Environmental Services Air Related Programs Greenhouse Gas (GHG) Definitions.	5
2010-112	Env-A 619.03	Department of Environmental Services Air Related Programs Greenhouse Gas (GHG) Rule.	7
2010-113	Env-A 2300	Department of Environmental Services Air Related Programs Mitigation of Regional Haze.	9
2010-114	Env-Wq 404 (currently Env-Ws 384)	Department of Environmental Services Water Quality and Quantity Programs Underground Injection Control Requirements.	11
2010-115	Rev 901, 902, 903 various sections	Department of Revenue Administration Interest and Dividends Tax.	13

Notice Number 2010-109

Rule Number Phy 303.07, Phy 304.04, Phy 305.01, Phy 403.05, & Phy 403.08

<p>1. Agency Name & Address:</p> <p>Governing Board of Physical Therapists c/o Office of Licensed Allied Health Professionals 2 Industrial Park Drive Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 328-A:4, III</u></p> <p>3. Federal Authority: _____</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 <u> X </u></p>
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5. Short Title: **Jurisprudence Examination**

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

These rules will require all physical therapists and physical therapist assistants who wish to obtain a full or conditional initial license or reinstate a license lapsed for more than 70 days to take the jurisprudence examination. Phy 303.07 is a new rule requiring the exam. The requirement on the jurisprudence examination are also amendments to existing rules Phy 304.04, Phy 305.01, Phy 403.05, and Phy 403.08 on license application materials, eligibility requirements, reinstatement application requirements, and supporting materials. These rules are being readopted with the amendments.

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

All physical therapist or physical therapist assistants who are applying for full or conditional initial license or reinstate a license lapsed for more than 70 days.

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

Rule	Statute
Phy 303.07	RSA 328-A:3, I, RSA 328-A:4, III
Phy 304.04	RSA 328-F:11, I(a), RSA 328-A:3, II
Phy 305.01	RSA 328-F:11, I(a), RSA 328-A:3, II
Phy 403.05	RSA 326-F:11, I(c), RSA 328-A:3, II
Phy 403.08	RSA 326-F:11, I(c), RSA 328-A:3, II

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

Name: **Tina M. Kelley**
Address: **2 Industrial Park Drive
Concord, NH 03301**

Title: **Administrator**
Phone #: **603-271-8389**
Fax#: **603-271-6702**
E-mail: **Tina.Kelley@nh.gov**

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

NN 2010-109 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: November 29, 2010 by 4:00 p.m.

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Wednesday, November 17, 2010 at 2:00 p.m.**

Place: **2 Industrial Park Drive, Concord NH 03301**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 10:110 , dated August 25, 2010

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 and 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: **This proposal does not effect any political subdivision. Therefore, there is no violation of the New Hampshire constitution, Part I, Article 28-a.**

Notice Number 2010-110Rule Number Phy 500

1. Agency Name & Address:

**Governing Board of Physical Therapists
c/o Office of Licensed Allied Health
Professionals
2 Industrial Park Drive
Concord, NH 03301**

2. RSA Authority: RSA 328-F:11, II(b)

3. Federal Authority: _____

4. Type of Action:

Adoption _____

Amendment _____

Repeal _____

Readoption _____

Readoption w/amendment X5. Short Title: **Ethical Standards**

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

Phy 500 on ethical standards are being readopted with amendments. The amendments to these rules bring the physical therapist and physical therapist assistant's ethical standards to the current national standards.

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

All physical therapist or physical therapist assistants licensed in the State of NH.

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

**Rule
Phy 500**

**Statute
RSA 328-F:11, II(b)**

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

Name: **Tina M. Kelley**Title: **Administrator**Address: **2 Industrial Park Drive
Concord, NH 03301**Phone #: **603-271-8389**Fax#: **603-271-6702**E-mail: **Tina.Kelley@nh.gov**

TTY/TDD Access: Relay NH 1-800-735-
2964 or dial 711 (in NH)

NN 2010-110 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: November 29, 2010 by 4:00 p.m.

 Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Wednesday, November 17, 2010 at 2:00 p.m.**

Place: **2 Industrial Park Drive, Concord NH 03301**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 10:111, dated August 25, 2010

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 and 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: **This proposal does not effect any political subdivision. Therefore, there is no violation of the New Hampshire constitution, Part I, Article 28-a.**

Notice Number	2010-111	Rule Number	Env-A 101.35 [new]; Env-A 101.96 [new]; Env-A 101.115
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)
		3. Federal Authority:	42 U.S.C. § 7661(2); 42 U.S.C. §7410(a)(2)(C); 40 CFR § 51.166; 40 CFR 70.2
		4. Type of Action:	
		Adoption	<u> X </u>
		Amendment	<u> </u>
		Repeal	<u> </u>
		Readoption	<u> </u>
		Readoption w/amendment	<u> X </u>

5. Short Title: Greenhouse Gas (GHG) Definitions

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

Env-A 101 contains the definitions for terms used throughout subtitle Env-A. DES is proposing to add two new definitions and to amend one existing definition in order to support changes being made in a separate rulemaking relating to regulation of greenhouse gases (GHGs). The definitions proposed to be added are for the terms “greenhouse gases (GHGs)” and “carbon dioxide equivalent emissions (CO₂e)”; the definition proposed to be amended is “major source.” The proposed definition of GHGs is consistent with both the state statutory definition (RSA 125-L:1, IV) and with the definition recently adopted by the U.S. EPA. The term “carbon dioxide equivalent emissions (CO₂e)” is being defined because GHGs are six different gases, each of which exhibits a different global warming potential (GWP). (For example, one ton of methane emissions has a substantially higher GWP than one ton of CO₂ emissions.) A standardized method of expressing GHG emissions thus is needed for comparison to the respective Prevention of Significant Deterioration (PSD) and Title V program applicability thresholds. The proposed definition is consistent with the federal definitions in 40 CFR 51.166 and 40 CFR 70.2. The definition of “major source” is proposed to be revised to clarify that, for purposes of GHG permitting, the major source threshold for PSD and Title V is 100,000 tons per year (tpy) CO₂e, and the major modification threshold under the PSD program is a net emissions increase of at least 75,000 tpy CO₂e. These thresholds are consistent with those recently promulgated by EPA.

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

The rules affect owners and operators of major sources that generate GHG emissions at levels at or above the threshold limits.

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 or Regulation Implemented
Env-A 101.35 [new]	RSA 125-C:4, I(a)	40 CFR § 52.21
Env-A 101.96 [new]	RSA 125-C:4, I(a); 125-L:1, IV	40 CFR § 52.21
Env-A 101.113/115	RSA 125-C:4, I(a)	42 U.S.C. § 7661(2) and 40 CFR 70.2

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@des.nh.gov

NN 2010-111 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; 1 p.m. to 3 p.m.**

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

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 10:124, dated 09/22/10

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 rule to the existing rules

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

The US Environmental Protection Agency (EPA) finalized rules in June 2010 to regulate greenhouse gas emissions under the prevention of significant deterioration (PSD) and title V permitting programs (40CFR 51.166; 40CFR 70.2). The EPA has approved the NH Department of Environmental Services PSD and title V permitting programs for major stationary sources, however, changes are required to state rules to make them consistent with the federal requirements. Until the state rules are changed, the Department will not be able to effectively administer the programs, resulting in the EPA implementing the programs until the rules are changed. No impact on state funds.

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

There are no costs or benefits attributable to the proposed rules.

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.

Notice Number 2010-112

Rule Number Env-A 619.03

<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) & (d)</p> <p>3. Federal Authority: 42 U.S.C. § 7661(2); 42 U.S.C. §7410(a)(2)(C); 40 CFR § 51.166; 40 CFR 70.2</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: Greenhouse Gas (GHG) Rule

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

Env-A 619 currently incorporates the federal requirements relative to the Prevention of Significant Deterioration (“PSD”) program, by establishing preconstruction and pre-modification review procedures in order to determine whether the proposed construction or modification will cause or contribute to significant deterioration of air quality in the state. This is required for the State to comply with 40 CFR 51.166, 40 CFR 52.21 and RSA 125-C. The requirements apply to all new major stationary sources and major modifications to existing sources in any portion of the state where the existing air quality meets the NAAQS.

The proposed amendments to Env-A 619.03 reflect recent revisions to the federal requirements relative to greenhouse gases (“GHGs”) and will establish separate, higher thresholds for GHGs. Facilities that currently are minor sources but that will be major sources under the Title V Permitting program due to GHG emissions will need to either apply for a Title V permit or obtain a state permit that restricts their potential to emit below the major source threshold for GHGs (100,000 ton per year of CO₂e). For new major sources of GHG emissions under the PSD permitting program (or existing major sources making major modifications), sources will be subject to PSD permitting requirements for GHGs.

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

The rules affect owners and operators of major sources that generate GHG emissions at levels at or above the threshold limits.

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 or Regulation Implemented
Env-A 619.03	RSA 125-C:4, I(d); RSA 125-C:6, XIV; RSA 125-C:11, IV	42 U.S.C. §7410(a)(2)(C); 40 CFR § 51.166

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@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)

NN 2010-112 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; 1 p.m. to 3 p.m.**

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

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 10:125, dated 09/2210

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 rule to the existing rules

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

The US Environmental Protection Agency (EPA) finalized rules in June 2010 to regulate greenhouse gas emissions under the prevention of significant deterioration (PSD) and title V permitting programs (40CFR 51.166; 40CFR 70.2). The EPA has approved the NH Department of Environmental Services PSD and title V permitting programs for major stationary sources, however, changes are required to state rules to make them consistent with the federal requirements. The Department anticipates the existing universe of major sources in NH will not change significantly as a result of adopting the proposed rules. Until the state rules are changed, the Department will not be able to effectively administer the programs, resulting in the EPA implementing the programs until the rules are changed. No impact on state funds.

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

There are no costs or benefits attributable to the proposed rules.

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.

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>
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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)

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.

Notice Number 2010-114 Rule Number Env-Wq 404 (currently Env-Ws 384)

1. Agency Name & Address: Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	2. RSA Authority:	<u>RSA 485:2, V; RSA 485:3, X</u>
	3. Federal Authority:	<u>40 CFR 144, 145, and 146</u>
	4. Type of Action:	
	Adoption	<u>X</u>
	Amendment	<u> </u>
	Repeal	<u> </u>
	Readoption	<u> </u>
	Readoption w/amendment	<u>X</u>

5. Short Title: Underground Injection Control Requirements

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

The existing rules implement the federal Underground Injection Control (UIC) program, which is intended to prevent contamination of underground drinking water resources. Specifically, the rules incorporate the requirements promulgated by EPA under the Federal Safe Drinking Water Act, codified at 40 CFR 144, 145, and 146, by reference. The federal rules establish requirements for the construction, operation, permitting, closure, and remediation of injection wells that place fluids underground for storage or disposal, as well as criteria and procedures for how to safely operate injection wells to prevent contamination of underground drinking water resources. The rules also ban certain facilities that are detrimental to the environment, including large capacity cesspools and discharges to groundwater at motor vehicle facilities. State rules are required for the State to retain primacy of the UIC program, and adopting the federal regulations by reference is the most efficient approach to maintaining primacy -- both because of the time saved on redrafting federal requirements to meet state rule drafting requirements and because it minimizes the potential to confuse the regulated community by having the same requirements written differently.

The rules are proposed to be readopted with amendments that clarify which definitions apply to which provisions and redesignate the rules as Env-Wq 404 per the plan previously approved by OLS. Also, the reference to 40 CFR 9 in Env-Wq 404.04 is proposed to be removed because it refers to approvals by the Office of Management and Budget under the Paperwork Reduction Act and so is unnecessary.

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

The rules will affect owners and operators of facilities where underground injection to a well or wells occurs.

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 Regulation(s) Implemented
Env-Wq 404	RSA 485:3, X	40 CFR 144, 145, and 146

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

Name:	James Tilley	Title:	Program Planner I
Address:	Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	Phone #:	603-271-0657
		Fax#:	603-271-0656
		E-mail:	james.tilley@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)

NN 2010-114 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Friday, November 5, 2010 at 4:00 p.m.**

 Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Tuesday, October 26, 2010 at 9:00 a.m.**

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

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 10:120, dated 09/15/10

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:**

Federal Safe Drinking Water Act, codified at 40 CFR 144, 145, and 146, and 40 CFR 141.21(d), establish requirements for the construction, operation, permitting, closure, and remediation of injection wells that place fluids underground for storage or disposal as well as criteria and procedures for how to safely operate injection wells to prevent contamination of underground drinking water resources. The proposed rules are required under federal statute and regulations in order for the state to retain primacy for the UIC program. Failure to adopt the rules could result in the loss of an estimated \$56,000.00 in federal grant funding for the UIC program.

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

None

- 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 require any political subdivision to do anything not required by federal law. The rules thus 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, and so do not violate Part I, Article 28-a of the N.H. Constitution.

Notice Number 2010-115

Rule Number Rev 901, Rev 902, Rev 903 (various)

<p>1. Agency Name & Address:</p> <p>New Hampshire Department of Revenue Administration 109 Pleasant Street, PO Box 457 Concord, NH 03302-0457</p>	<p>2. RSA Authority: <u>RSA 21-J:13, I</u></p> <p>3. Federal Authority: <u>N/A</u></p> <p>4. Type of Action:</p> <p>Adoption <u>X</u></p> <p>Amendment _____</p> <p>Repeal <u>X</u></p> <p>Readoption _____</p> <p>Readoption w/amendment <u>X</u></p>
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5. Short Title: **Interest and Dividends Tax**

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

Chapter Rev 900, is being amended to effectuate the amendments to RSA 77, Interest and Dividends Tax, passed by the Legislature in SSHB 1 (Chapter Law 1:50-54, Special Session Laws of 2010), which repealed the amendments to RSA 77 relating to distributions from limited liability companies, partnerships and associations that were enacted in Chapter Law:144:275-280, Laws of 2009. The effect of the amendments and repeals to these rules is to effectuate the amendments to RSA 77 that do the following: 1) eliminate the taxation of distributions from limited liability companies, partnerships and associations with shares that are not transferable; 2) make partnerships, limited liability companies, and associations the beneficial interests in which are not represented by transferable shares subject to the tax; and 3) eliminates debt-financed by the entity as an element of accumulated profits. Under the amendment to Rev 902.08, accumulated profits will be calculated in the same manner that it was prior to the amendments to Rev 900 in Document # 9658, which were effective 2-24-2010.

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

Individuals, Limited Liability Companies, Partnerships, Trusts and Associations subject to the Interest & Dividends Tax under RSA 77.

NN 2010-115 Continued

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

RULE	STATUTE
Rev 901.01	RSA 77:4
Rev 901.02	RSA 77:3, I(b)
Rev 901.03	RSA 77:4, III
Rev 901.05	RSA 21-J:13,I
Rev 901.06 (Repealed)	RSA 21-J:13,I
Rev 901.07 (formerly Rev 901.08)	RSA 77:4
Rev 901.10 (Repealed)	RSA 21-J:13,I
Rev 901.18 (formerly Rev 901.21)	RSA 21-J:13,I
Rev 901.19	RSA 77:14-a; RSA 77:14-c
Rev 901.20 (Repealed)	RSA 77:14-a; RSA 77:14-c
Rev 902.06	RSA 21-J:13,I, RSA 77:12
Rev 902.07	RSA 21-J:13,I, RSA 77:14a-d
Rev 902.08	RSA 21-J:13,I
Rev 902.09	RSA 21-J:13,I
Rev 903.05	RSA 21-J:13,I,
Rev 903.06	RSA 21-J:13,I
Rev 903.07 (Repealed)	RSA 21-J:13,I
Rev 903.10 (Repealed)	RSA 21-J:13,I
Rev 903.11 (Repealed)	RSA 21-J:13,I

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

Name: **Katherine M. Deverell** Title: **Administrative Secretary**
Address: **109 Pleasant Street, PO Box 457** Phone #: **603.271.8264**
Concord, NH 03302-0457 Fax#: **603.271.6121**
E-mail: **Katherine.Deverell@rev.state.nh.us**
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 1, 2010**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Friday, October 22, 2010 @ 10:00 am.**

Place: **New Hampshire Department of Revenue Administration
Medical and Surgical Building
109 Pleasant Street
Concord, NH 03302**

NN 2010-115 Continued

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 10:122 , dated 9/20/2010

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. Any costs or benefits related to the rules are attributable to RSA 77.

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):

There are no costs or benefits attributable to the proposed rules. Any costs or benefits associated with these rules are mandated by RSA 77.

- 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 rule does not mandate fees, or additional local expenditures on a political subdivision of the state and therefore does not violate Part I, Article 28-a of the NH Constitution.

SPECIAL NOTICE

The Joint Legislative Committee on Administrative Rules (JLCAR) has proposed amendments to the *New Hampshire Drafting and Procedure Manual for Administrative Rules (Manual)* pursuant to RSA 541-A:8 and is soliciting agency and public comment to the *Manual* as amended, including Chapters 1 through 5, Appendix I, and Appendix II. The *Manual* contains the rulemaking procedures for filing proposed and adopted rules with the Office of Legislative Services, Administrative Rules (OLS), and the drafting and numbering requirements for rules with which agencies must comply pursuant to RSA 541-A:8.

The JLCAR has also planned a public hearing for oral comment during the continued JLCAR meeting scheduled on **October 7, 2010** at 9:00 a.m. in Rooms 306/308 of the Legislative Office Building, 33 North State Street, Concord, NH. The specific time of day for the hearing on the amended *Manual* will be announced. The deadline for submission of written and electronic comment at the mailing and e-mail addresses below is **October 28, 2010**.

The *Manual* has been clarified and updated to address OLS and JLCAR administrative changes and statutory changes to RSA 541-A and RSA 91-A through the 2010 legislative session. The amended *Manual* will replace the last amended edition of the *Manual* dated September 21, 2001, with its 2002 statutory updates, and the forms in Appendix II as amended through September, 2003. The amendments in the *Manual* include, but are not limited to, changes in the following areas:

- Expanded categorization of practice and procedure rules which do not expire pursuant to RSA 541-A:17, II;
- Waivers of RSA 541-A deadlines pursuant to RSA 541-A:40, IV;
- Public meetings of boards and commissions on rulemaking pursuant to RSA 91-A:2;
- Agency forms as defined in RSA 541-A:1, VII-a; adoption as rules pursuant to RSA 541-A:19-b by incorporation by reference of forms or by setting forth the requirements of the forms in rules; and provisions that do not expire;
- Electronic filing and electronic signatures for proposed and adopted rules and declaratory rulings, pursuant to RSA 541-A:1, V-a and RSA 541-A:1, VI;
- Expedited repeal procedure for rules pursuant to RSA 541-A:19-a, including an OLS rulemaking form;
- Expedited revision procedure for agency forms pursuant to RSA 541-A:19-c, including an OLS rulemaking form;
- Fiscal impact statements and proposed interim rules; and
- Deadline for the JLCAR to file joint resolutions.

For copies and questions about the amended *Manual* contact:

Name: Scott F. Eaton
Address: Office of Legislative Services
Administrative Rules
25 Capitol Street, Room 219
Concord, NH 03301

Title: Administrative Rules Director
Phone: (603) 271-3680
Fax: (603) 271-7871
E-mail: scott.eaton@leg.state.nh.us