



# NEW HAMPSHIRE RULEMAKING REGISTER

## OFFICE OF LEGISLATIVE SERVICES

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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)

CONTINUED MEETING: **Thursday, November 6, 2014** 9:00 a.m.  
Rooms 305/307, Legislative Office Building

REGULAR MEETING: **Thursday, November 20, 2014** 9:00 a.m.  
Rooms 305/307, Legislative Office Building

### JLCAR MEETING DATES AND RELATED FILING DEADLINES NOVEMBER-DECEMBER, 2014

The JLCAR has voted to hold its regularly scheduled monthly meetings for November through December, 2014 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
October 2	October 16	November 6
November 6	November 20	December 4
December 4	December 18	None

Notices of Proposed Rules

<u>Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Page No.</u>
2014-155	Env-A 1400 various sections	Department of Environmental Services Air Related Programs Amendments to VOC Limits for Consumer Products.	1
2014-156	He-W 532	Department of Health and Human Services Former Division of Human Services Podiatry Services.	3

Env-A 4102.17, 4102.24, 4102.28, 4103.07,  
 4103.12, 4103.68, 4104.06, 4104.13, 4104.40 intro,  
 Notice Number 2014-155 Rule Number 4104.52, 4104.54, 4104.57, 4104.73, 4105.01

<p>1. Agency Name &amp; 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(n) &amp; I-b</u></p> <p>3. Federal Authority: <u>40 CFR Part 59, Subpart C (§§201 et seq.)</u></p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Amendment <u>      X      </u></p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment <u>      X      </u></p>
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5. Short Title: Amendments to VOC Limits for Consumer Products

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

The existing rules, Env-A 4100, reduce emissions of volatile organic compounds (VOCs) by establishing caps on the VOC content of various consumer products. The rules were readopted effective February 26, 2014, with amendments to reflect revisions to the Ozone Transport Commission (OTC)\* Model Rules that added definitions, consumer product categories, new VOC limits for some products, and specific requirements for paint thinner and multipurpose solvents.

Under the current rule, the new limits are scheduled to apply on January 1, 2015. After the current rules were adopted, affected entities (manufacturers, distributors, and retailers) voiced concerns to the Department that other OTC states have not progressed as far as New Hampshire in adopting the OTC Model Rule and that compliance with disparate standards in different markets would be unduly burdensome. Until other states adopt the most current OTC Model Rule and so create a broader regional market for products manufactured in compliance with those standards, manufacturers would have to change processes in order to meet requirements applicable only in New Hampshire or discontinue sales within the state.

The Department anticipates that other OTC states will adopt the 2012 OTC Model Rule prior to January 1, 2017. In order to have consistent VOC limits for affected consumer products, the Department is proposing amendments to Env-A 4100 that would defer the applicability of the new VOC limits for 23 consumer product categories to January 1, 2017. Deferral of those VOC limits will allow manufacturers to continue to market their products in New Hampshire while affording them an opportunity to adjust their manufacturing processes in response to regionally applicable requirements.

\* The OTC is an organization created under the Clean Air Act that is responsible for advising the United States Environmental Protection Agency (EPA) on ozone transport issues and for developing and implementing regional solutions to the ground-level ozone problem in the Northeast and Mid-Atlantic regions. OTC members are Connecticut, Delaware, District of Columbia, Maine, Massachusetts, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia.

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

The rules affect manufacturers of consumer products.

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 4102.17, 4102.24, 4102.28, 4103.07, 4103.12, 4103.68	RSA 125-C:2, V-c; RSA 125-C:6, XVII; RSA 485:16-c
Env-A 4104.06, 4104.13, 4104.40 intro, 4104.52, 4104.54, 4104.57, 4104.73, 4105.01	RSA 125-C:6, XVII; RSA 125-C:4, I-b; RSA 485:16-c

NN 2014-155 Continued

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

Name:	Karla McManus	Title:	ARD 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 Tuesday, December 2, 2014**

Fax  E-mail  Other format (specify):

## 9. Public hearing scheduled for:

Date and Time: **Friday, November 21, 2014 at 1:00 PM**

Place: **Room 111, DES Offices, 29 Hazen Drive, Concord NH**

## 10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS #14:159, dated 10/21/2014 :

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

When compared to the existing rules, the proposed rules will have an indeterminable impact on costs to independently owned businesses.

**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):**

The proposed rules change the effective date from January 1, 2015 to January 1, 2017 for implementing the newer standards contained in the 2013 Ozone Transport Commission (OTC) Model rules relative to the emission of volatile organic compounds. The Department states some of the larger states in the OTC region have not yet adopted the newer standards, thus potentially resulting in New Hampshire requiring changes to VOC emissions ahead of other states in the OTC region. If the State were to adopt the new standards ahead of other states, it may result in an indeterminable impact on costs for those independently owned businesses that manufacture, distribute or sell the covered consumer products in the State that have not yet complied with the newer standards.

**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.

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

The rules are proposed to be readopted with amendments to clarify existing requirements and to delay implementation of requirements that have already been adopted but have not yet become effective. The rules apply only to manufacturers of consumer products, not to political subdivisions. Further, political subdivisions are not required to enforce the standards in the rules. 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.

Notice Number 2014-156Rule Number He-W 532

## 1. Agency Name &amp; Address:

**NH Dept. of Health & Human Services  
Office of Medicaid Business and Policy  
129 Pleasant Street  
Concord, NH 03301**

## 2. RSA Authority:

RSA 161:4-a, X

## 3. Federal Authority:

42 USC 1302

## 4. Type of Action:

Adoption \_\_\_\_\_

Amendment \_\_\_\_\_

Repeal \_\_\_\_\_

Readoption XReadoption w/amendment X5. Short Title: **PODIATRY SERVICES**

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

**He-W 532 contains the requirements for obtaining podiatry services through NH Medicaid. Specifically, the rule describes eligibility criteria, covered and non-covered services, and documentation and payment requirements.**

**The changes being proposed are limited to minor edits, updating terms, and the inclusion of a covered service (casting, strapping, and taping) which has traditionally been a Medicaid covered service but which the rule has previously not included. These amendments do not result in any programmatic changes.**

**Most of this rule was due to expire on October 24, 2014, but it is subject to extension pursuant to RSA 541-A:14-a.**

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

**Those affected by this rule are Medicaid recipients seeking podiatry services and the Medicaid providers who provide this type of service.**

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

<b>Rule</b>	<b>Federal Reg./RSA</b>
He-W 532.01	42 CFR 440.110
He-W 532.02	42 CFR 440.210; 42 CFR 440.220; 42 CFR 440.225
He-W 532.03	42 CFR 440.50; RSA 315
He-W 532.04	42 CFR 440.230
He-W 532.05	42 CFR 440.10-50; RSA 315
He-W 532.06	42 CFR 440.230(d)
He-W 532.07	42 CFR 431.107
He-W 532.08	42 CFR 455
He-W 532.09	42 CFR 433.139
He-W 532.10	42 CFR 447.200; 42 CFR 447.202; 42 CFR 447.204; RSA 541-A:21, III



NN 2014-156 Continued

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

Name: **Michael Holt** Title: **Rules Coordinator**  
Address: **Dept. of Health and Human Services** Phone #: **271-9234**  
**Administrative Rules Unit** Fax#: **271-5590**  
**129 Pleasant St.** E-mail: **michael.holt@dhhs.state.nh.us**  
**Concord, NH 03301**

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

**The proposed rules may be viewed and downloaded at:****<http://www.dhhs.nh.gov/oos/aru/comment.htm>**8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Wednesday, December 3, 2014**

Fax  E-mail  Other format (specify):

## 9. Public hearing scheduled for:

Date and Time: **Monday, November 24, 2014 at 2:30 PM**Place: **DHHS Brown Bldg., Room 232, 129 Pleasant St., Concord, NH**

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

FIS # **14:158**, dated **10/13/14**

## 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 of 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 proposed rule modifies an existing program or responsibility, but does not mandate any fees, duties or expenditures on the political subdivisions of the state, and therefore does not violate Part I, Article 28-a of the N.H. Constitution.**