



NEW HAMPSHIRE RULEMAKING REGISTER

OFFICE OF LEGISLATIVE SERVICES

ROOM 219, STATE HOUSE ANNEX

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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: **Thursday, July 21, 2016** 9:00 a.m.
Rooms 306/308, Legislative Office Building

CONTINUED MEETING: **Thursday, August 4, 2016** 9:00 a.m.
Rooms 306/308, Legislative Office Building

JLCAR MEETING DATES AND RELATED FILING DEADLINES JULY-DECEMBER, 2016

The JLCAR has voted to hold its regularly scheduled monthly meetings for July through December, 2016 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 7	July 21	August 4
August 4	August 18	September 1
September 1	September 15	October 6
October 6	October 20	November 3
November 3	November 17	December 1
December 1	December 15	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>
2016-107	Env-Wq 1400	Department of Environmental Services Water Quality and Quantity Programs Shoreland Protection.	1
2016-108	Ed 504.05	Board of Education Paraeducator I and II.	3
2016-109	Env-Or 603.03(b), (c) intro, & Table 600-1 pertaining to PFOA and PFOS	Department of Environmental Services Oil and Remediation Programs Ambient Groundwater Quality Standards (AGQS) for Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonate (PFOS).	5
2016-110	Tra 303	Department of Transportation Reasonable Access for Twin Trailers.	7

Notice Number	2016-107	Rule Number	Env-Wq 1400
1. Agency Name & Address:		2. RSA Authority:	RSA 483-B:17
		3. Federal Authority:	
Department of Environmental Services		4. Type of Action:	
29 Hazen Drive		Adoption	X
P.O. Box 95		Amendment	
Concord, NH 03302-0095		Repeal	X
		Readoption	X
		Readoption w/amendment	X

5. Short Title: Shoreland Protection

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

The existing rules implement RSA 483-B, the Shoreland Water Quality Protection Act ("Act"). The Act protects the State's surface waters by placing certain restrictions on activities conducted within 250 feet of the reference line of public waters. The rules establish standards for activities within the protected shoreland, establish application forms, specify what must be submitted with applications, establish processes for obtaining rule waivers, and establish standards for determining the adequacy of revegetation plans where buffer restoration is required by the statute. Most of the rules are scheduled to expire on July 1, 2016, so the Department is proposing to readopt the rules. **The existing rules will continue in effect pursuant to RSA 541-A:14-a, I, subject to the conditions specified therein.** As part of the readoption, the Department is proposing amendments to clarify existing provisions and to reflect changes made to RSA 483-B between 2009 and 2013, including but not limited to the creation of a permit by notification process.

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

Any individual, entity, or political subdivision that owns property within the protected shoreland and wishes to develop or redevelop the property will be affected by these rules.

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

Rule Section(s)	State Statute(s) Implemented
Env-Wq 1401	RSA 483-B:1; RSA 483-B:2
Env-Wq 1402	RSA 483-B:4; RSA 483-B:17, VIII and IX
Env-Wq 1403	RSA 483-B:5; RSA 483-B:9, V(a) and (b); RSA 483-B:17, III
Env-Wq 1403.03; 1403.04; 1403.05(a)	RSA 483-B:9, V(a) & (b); RSA 483-B:17, III
Env-Wq 1404.01	RSA 483-B:9, V(c)
Env-Wq 1404.02	RSA 483-B:9, V(d) & (g)
Env-Wq 1405	RSA 483-B:17, IV
Env-Wq 1406	RSA 483-B:5-b; RSA 483-B:17, I and X
Env-Wq 1407	RSA 483-B:5-b; RSA 483-B:17, I and X
Env-Wq 1408	RSA 483-B:11
Env-Wq 1409	RSA 483-B:9, V(i)
Env-Wq 1410	RSA 483-B:12; RSA 483-B:17, II
Env-Wq 1411	RSA 483-B:3; RSA 483-B:6
Env-Wq 1412	RSA 483-B:9, V(a) and (b); RSA 483-B:17, IX
Env-Wq 1413	RSA 541-A:22, IV
Env-Wq 1414	RSA 541-A:16, I(b)

NN 2016-107 Continued

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

Name:	Darlene Forst	Title:	Environmentalist IV
Address:	Dept. of Environmental Services 29 Hazen Drive; P.O. Box 95 Concord, NH 03302-0095	Phone #:	(603) 271-4067
		Fax#:	(603) 271-6588
		E-mail:	darlene.forst@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 August 8, 2016**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **August 1, 2016 at 10:00 AM**

Place: **Room 110-111, DES Offices, 29 Hazen Drive, Concord NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 16:118, dated 6/20/2016:

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:

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 rules do not create, modify, or expand any program in such a way as to require action by 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 N.H. Constitution.

Notice Number 2016-108Rule Number Ed 504.05 and Ed 504.06

1. Agency Name & Address:

**State Board of Education
c/o Department of Education
101 Pleasant Street
Concord, NH 03301**

2. RSA Authority: RSA 21-N:9, II(s)

3. Federal Authority: _____

4. Type of Action:

Adoption X

Amendment _____

Repeal _____

Readoption _____

Readoption w/amendment _____

5. Short Title: **Paraeducator I & II**

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

Ed 504.05 contains the certification requirements for a Paraeducator II. The former rule expired 7/1/14. The expired rule is being updated with competencies consistent with current standards and practice. Ed 504.06 contains the certification requirements for a Paraeducator I. The former rule expired 7/1/14. The expired rule is being updated with competencies consistent with current standards and practice.

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

The affected groups of the changes will include individuals certified and employed as a Paraeducator I or a Paraeducator II.

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

Rule	Statute
Ed 504.05	RSA 21-N:9, II(s)
Ed 504.06	RSA 21-N:9, II(s)

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

Name: **Diana Fenton**Title: **Attorney**

Address: **Department of Education
101 Pleasant Street
Concord, NH 03301**

Phone #: **271-3189**

Fax#:

E-mail: **Diana.Fenton@doe.nh.gov**

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

NN 2016-108 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Monday, August 29, 2016**

 Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Monday, August 15, 2016 at 10:30 a.m.**

Place: **NH Department of Education
101 Pleasant Street
State Board Room
Concord, NH 03301**

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

FIS # 16:108 dated June 24, 2016

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

Not applicable as these rules expired July 2014.

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 establish credentialing requirements for paraeducators. There were no costs associated with the expired rules and there is no difference in cost between the expired rules and 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:

Relative to Part I, Article 28-a of the N.H. Constitution, there are no added costs for these proposed rules to the state or to political subdivisions. These rules provide the requirements for the credentialing and educator preparation program approval processes. These processes are already in place. The credentialing and program approval procedures are self-funded activities of the NH Department of Education from the credentialing fee revenues. Therefore, there is no violation of Part I, Article 28-a.

Notice Number <u>2016-109</u>	Env-Or 603.03(b), (c) intro, & Table 600-1 Rule Number <u>pertaining to PFOA & PFOS</u>
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-C:4, III</u> 3. Federal Authority: _____ 4. Type of Action: Adoption _____ Amendment _____ Repeal _____ Readoption <u>X</u> Readoption w/amendment _____

5. Short Title: Ambient Groundwater Quality Standards (AGQS) for Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonate (PFOS)

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

Effective May 31, 2016, the Department adopted Emergency Ambient Groundwater Quality Standards (AGQS) for perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS) based on Health Advisory levels established by EPA. The Emergency AGQS were needed to enable the Department to require responsible parties to remediate contaminated groundwater or otherwise provide safe drinking water to the properties in New Hampshire whose drinking water has been or may be affected by PFOA and/or PFOS contamination. The emergency AGQS will expire on November 27, 2016 unless readopted prior to that date. The Department is proposing to readopt the emergency rules as regular rules so that the AGQS for PFOA and PFOS will remain in place.

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

The proposed rules affect persons who are responsible for groundwater contamination from PFOA and/or PFOS and persons who rely on such groundwater for drinking water.

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

Rule Section(s)	State Statute Implemented
Env-Or 603.03(b) and (c) intro and Table 600-1 as it pertains to perfluorooctanoic acid and perfluorooctane sulfonate	RSA 485-C:6, I

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

Name: John Regan	Title: Administrator, Hazardous Waste Remediation Bureau
Address: Dept. of Environmental Services 29 Hazen Drive; P.O. Box 95 Concord, NH 03302-0095	Phone #: (603) 271-3744 Fax#: (603) 271-2181 E-mail: John.Regan@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, August 19, 2016**

Fax

E-mail

Other format (specify):

NN 2016-109 Continued

9. Public hearings scheduled for:

Date and Time: **Wednesday, August 3, 2016 at 6:00 PM**

Place: **Campbell High School Auditorium; 1 Highlander Court, Litchfield, NH**

Directions & map available at:

[http://www.bing.com/maps/default.aspx?rtp=adr.-pos.42.8252792358398 - 71.4458312988281-1+Highlander+Court%2c+Litchfield%2c+NH+03052+Campbell+High+School](http://www.bing.com/maps/default.aspx?rtp=adr.-pos.42.8252792358398-71.4458312988281-1+Highlander+Court%2c+Litchfield%2c+NH+03052+Campbell+High+School)

Date and Time: **Wednesday, August 10, 2016 at 6:00 PM**

Place: **Conference Room A; NHDES Portsmouth Regional Office; Pease International Tradeport; 222 International Drive, Suite 175; Portsmouth, NH**

Directions & map available at: <http://des.nh.gov/contserr/regional.htm>

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 16:120, dated 06/27/16:**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. Any cost or benefit is attributable to RSA 485-C:4, III and RSA 485-C:6, I and not the 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:

RSA 485-C:6, I, requires the Department to “establish and adopt ambient groundwater quality standards for regulated contaminants which adversely affect human health or the environment.” This paragraph also requires that “[w]here federal maximum contaminant level or health advisories have been promulgated under the Federal Safe Drinking Water Act or rules relevant to such act, ambient groundwater quality standards shall be equivalent to such standards” and further provides that “[w]here no federal maximum contaminant level or health advisory has been issued, the commissioner may adopt ambient groundwater quality standards on a basis which provides for an adequate margin of safety to protect human health and safety.” The U.S. Environmental Protection Agency recently adopted Health Advisory levels for PFOA, PFOS, and PFOA/PFOS combined, based on its determination that the chemicals adversely affect human health. Because state statute requires the Department to adopt the Health Advisory levels as AGQS, any costs associated with the new AGQS are attributable to the statute. Because any costs are attributable to the statute, 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 N.H. Constitution.

Notice Number 2016-110Rule Number Tra 303

1. Agency Name & Address:

**New Hampshire Department of Transportation
7 Hazen Drive
Concord, NH 03301**

2. RSA Authority: 21-L:12, XVI3. Federal Authority: 23 CFR 658.19

4. Type of Action:

Adoption X

Amendment _____

Repeal _____

Readoption _____

Readoption w/amendment _____

5. Short Title: **Reasonable Access for Twin Trailers**

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

This rule regulates access for twin trailers on routes not included in the national network. The former rule expired 5/19/00. The change from the expired rule to the proposed rule pertains to access along a local route, whereby the Department will coordinate with the local authority for a more streamlined approach.

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

Commercial truckers and organizations.

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

Rule	Specific State Statute the Rule Implements
Tra 303.01	RSA 265:108
Tra 303.02	RSA 265:108
Tra 303.03	RSA 265:108
Tra 303.04	RSA 265:108
Tra 303.05	RSA 265:108
Tra 303.06	RSA 265:108
Tra 303.07	RSA 265:108
Tra 303.08	RSA 265:108
Tra 303.09	RSA 541-A:31
Tra 303.10	RSA 265:108

NN 2016-110 Continued

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

Name: **Kathleen Mulcahey-Hampson** Title: **Sr. Hearings Examiner**
Address: **NHDOT7 Hazen Drive** Phone #: **603-271-1698**
Concord, NH 03301 Fax#: **603-271-3914**
E-mail: **kmulcahey-hampson@dot.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: **August 12, 2016**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **August 5, 2016 10:00 am**
Place: **John O. Morton Bldg.**
7 Hazen Drive, Room 112
Concord, NH 03301

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

FIS # 16:117, dated 6/24/16

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

Not applicable as these rules expired May 2000.

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

The proposed rules are required under 23 CFR 658.19, however they have no impact on state funds.

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

The proposed rules relate to regulation of twin trailers trucks on routes not included in the national network and have been expired since May of 2000. There were no costs associated with the expired rules and there is no difference in cost between the expired rules and 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:

This rule does not mandate or assign any new, expanded or modified program or responsibility to any political subdivision and does not necessitate additional local expenditures by the political subdivision.