



NEW HAMPSHIRE RULEMAKING REGISTER

OFFICE OF LEGISLATIVE SERVICES

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TABLE OF CONTENTS

<u>1.</u>	<u>OFFICE OF LEGISLATIVE SERVICES</u>	<u>Page No.</u>
a.	List of Notices of Proposed Rules NN 2016-233 through NN 2016-238	-i-
b.	Notices of Proposed Rules	1
c.	Postponement and Rescheduling of Rulemaking Hearing Re: BOARD OF EDUCATION NN 2016-210 – Ed 320 Manifest Educational Hardship	16
d.	Special Notice Regarding Draft Amended Final Proposal Hearing and Public Comment Period for: BOARD OF EDUCATION NN 2016-86 – Ed 1100 NH Rules for the Education of Children with Disabilities	17

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, January 20, 2017 9:00 a.m.**
Rooms 306/308, Legislative Office Building

CONTINUED MEETING: **Friday, February 3, 2017 9:00 a.m.**
Rooms 306/308, Legislative Office Building

See 2017 JLCAR Meeting dates and deadlines on page i and ii.

Notices of Proposed Rules

<u>Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Page No.</u>
2016-233	Puc 2000	Public Utilities Commission Competitive Electric Power Supplier and Aggregator Rules.	1
2016-234	Rev 302.02, 303.05, 307.06, 307.07, 307.12	Department of Revenue Administration Business Profits Tax Basis Step-Up and Filing Deadlines.	4
2016-235	Rev 2407.05	Department of Revenue Administration Business Enterprise Tax Short Period Return Filing Deadline.	7
2016-236	He-E 805	Department of Health and Human Services Division of Elderly and Adult Services Targeted Case Management Services.	9
2016-237	Env-Dw 103.41	Department of Environmental Services Drinking Water Programs Public Drinking Water Rules: Definition of "Owner or Operator".	11
2016-238	Env-Dw 403.02-403.03 & 714	Department of Environmental Services Drinking Water Programs Control of Lead and Copper; Public Drinking Water Primacy Amendments.	13

**JLCAR MEETING DATES AND RELATED FILING DEADLINES
JANUARY-JUNE, 2017**

The JLCAR has voted to hold its regularly scheduled meetings for January through June, 2017 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
January 6	January 20	February 3
February 3	February 17	March 3
March 3	March 17	April 7
April 7	April 21	May 5
May 5	May 19	June 2
June 2	June 16	June 30

***NOTE:** The filing deadlines relate to JLCAR meetings pursuant to RSA 541-A. However, if a proposed interim rule is filed with a rulemaking notice for publication in the *Rulemaking Register*, be aware that Thursdays—not Fridays—remain the filing deadline under the *Drafting and Procedure Manual for Administrative Rules* to have the rulemaking notice published the following week. Therefore, filing the notice together with the proposed interim rule no later than the Thursday **before** the 14-day statutory deadline would assure that both the 14-day deadline for filing the rule and the deadline for publication in the *Rulemaking Register* would be met. See description in §3.3 of Chapter 3 of the *Drafting and Procedure Manual for Administrative Rules*.

**JLCAR MEETING DATES AND RELATED FILING DEADLINES
JULY-DECEMBER, 2017**

The JLCAR has voted to hold its regularly scheduled monthly meetings for July through December, 2017 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 6	July 20	August 3
August 3	August 17	August 31
September 7	September 21	October 5
October 5	October 19	November 2
November 2	November 16	December 7
December 7	December 21	None

Notice Number 2016-233 Rule Number Puc 2000

<p>Public Utilities Commission 21 South Fruit Street, Suite 10 Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 374-F:7, V;</u> <u>RSA 365:8, XII</u></p> <p>3. Federal Authority: _____</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: Puc 2000 – Competitive Electric Power Supplier and Aggregator Rules

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

The Commission intends to readopt with amendments its Puc 2000 rules. Puc 2000 sets forth the rules applicable to the registration of competitive electric power suppliers (CEPS) and electric load aggregators, reporting and financial obligations of CEPS and aggregators, requirements applicable to the terms of service and price disclosure of CEPS and aggregators, other consumer protection provisions applicable to CEPS and aggregators, investigation of complaints involving CEPS and aggregators, and enforcement of laws and rules applicable to CEPS and aggregators.

Amendments to the existing rules are extensive and include changes based on recent legislation addressing CEPS variable rate contracts, maintenance of a customer shopping comparison website, individual customer information privacy protection, and enhanced sanctions and enforcement authority. Other material amendments address registration application requirements, financial security provisions, registration time periods, customer disclosure and notice obligations, customer solicitation restrictions, enforcement procedures, sanctions and penalties, and the specific role of aggregators which are granted agency authority by their customers to select a CEPS on their behalf. The proposed amendments of, and additions, to the rules are so extensive that the Initial Proposal as filed shows all of the existing rules as deleted, followed by the full text of the proposed amended rules.

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

These rules affect persons or entities applying for authority to conduct business as a CEPS or aggregator in the state’s retail electricity market, as well persons or entities registered to conduct business as CEPS and aggregators. The rules also encompass certain rights and remedies of the customers of CEPS and aggregators.

NN 2016-233 Continued

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

Rule(s)	State Statute (RSA)
Puc 2001	RSA 374-F:7, I and V
Puc 2002	RSA 374-F:7, I and V
Puc 2003	RSA 374-F:7, I and V
Puc 2004.01-2004.02	RSA 374-F:7, I and V
Puc 2004.03	RSA 374-F:4-b and 7, I and V
Puc 2004.04-2004.18	RSA 374-F:7, I and V
Puc 2004.19	RSA 363:37-38; RSA 374-F:7, I and V
Puc 2004.20	RSA 374-F:7, I and V
Puc 2005	RSA 374-F:7, III and V; RSA 541-A:30, II
Puc 2006	RSA 374-F:7, I and V

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

Name: **David K. Wiesner, Esq.** Title: **Staff Attorney**
 Address: **Public Utilities Commission** Phone #: **603-271-6030**
21 South Fruit Street, Suite 10 Fax#: **603-271-4033**
Concord, NH 03301 E-mail: **David.Wiesner@puc.nh.gov**
 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: **January 27, 2017**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **January 19, 2017 at 1:30 p.m.**
 Place: **N.H. Public Utilities Commission**
21 South Fruit Street, Suite 10
Concord, NH 03301

NN 2016-233 Continued

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

FIS # 16:250, dated December 6, 2016**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 and will decrease state restricted revenue by an indeterminable amount.

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 make changes to the existing rules that may increase costs to independently owned businesses that include establishing record retention standards, requirements relative to disclosures, procedures for transferring customer accounts between suppliers, requirements for inputting information into a shopping comparison website, and requirements relative to required financial security instruments.

The proposed rules decreases the initial application fee cost for competitive electric power suppliers (CEPS) from \$500 to \$250, the renewal period for CEPS from five to either one, two, or three years, and the renewal period for aggregators from five years to two years. CEPS are not required to pay a renewal registration fee, but are subject to a \$10,000 annual assessment under RSA 363-A:2, III. Electric load aggregators are required to pay a renewal registration fee if they were not required to pay the statutory \$2,000 assessment for the preceding fiscal year. There are currently 33 registered CEPS and 113 registered electric load aggregators in New Hampshire. The Public Utilities Commission estimates the proposed rules will result in CEPS and electric load aggregators paying less in fees but it is unable to determine the extent of the decrease.

A. To State general or State special funds:

See 3 above.

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 proposed rules do not mandate or assign any new, expanded, or modified programs or responsibilities to any political subdivision of the State of New Hampshire, and therefore do not violate Part I, Article 28-a of the N.H. Constitution by necessitating additional local expenditures by a political subdivision.

Notice Number 2016-234

Rule Number **Rev 302.02; Rev 303.05;
Rev 307.06; Rev 307.07;
Rev 307.12**

<p>1. Agency Name & Address:</p> <p>New Hampshire Department of Revenue Administration Legal Bureau P.O. Box 457 Concord, NH 03302-0457</p>	<p>2. RSA Authority: RSA 77-A:6, I & IV; RSA 77-A:15, II</p> <p>3. Federal Authority: _____</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: **Business Profits Tax Basis Step-Up and Filing Deadlines**

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

Rev 302.02 addresses what will be deemed a partnership for purposes of the Business Profits Tax. The existing Rev 302.02(c) implements the requirement imposed by former RSA 77-A:4, XIV that a business organization make an addition to gross business profits for a basis increase due to the sale or exchange of an interest or beneficial interest in such business organization. Rev 302.02(c) is being amended to reflect the amendment to RSA 77-A:4, XIV by New Hampshire Laws Chapter 300 of 2016, effective for sales or exchanges of interests in business organizations that occur on and after January 1, 2016. Rev 302.02(c) is also renumbered as Rev 303.05(a) in new section Rev 303.05.

Rev 307.06 addresses the Business Profits Tax return filing requirements for miscellaneous business organizations. Existing Rev 307.06(b) specifies the filing deadline for returns filed by miscellaneous business organizations, and is being amended to reflect the amendment to RSA 77-A:6, I by New Hampshire Laws Chapter 66 of 2016, which changed the filing deadline for all business organizations, except partnerships, to the fifteenth day of the fourth month following the expiration of the taxable period.

Rev 307.07 addresses the filing requirements for a combined return for the Business Profits Tax. Existing Rev 307.07(d) and (g) specify the filing deadline for a combined return, and are being amended to reflect the amendment to RSA 77-A:6, I by New Hampshire Laws Chapter 66 of 2016, which changed the filing deadline for all business organizations, except partnerships, to the fifteenth day of the fourth month following the expiration of the taxable period.

Rev 307.12 addresses the filing requirements for a short period return for the Business Profits Tax. Existing Rev 307.12(b) specifies the filing deadline for short period returns, and is being amended to reflect the amendment to RSA 77-A:6, I by New Hampshire Laws Chapter 66 of 2016, which changed the filing deadline for partnerships to the fifteenth day of the third month, and to the fifteenth day of the fourth month in the case of all other business organizations, following expiration of the taxable period.

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

The proposed amendments affect all business organizations subject to the Business Profits Tax.

NN 2016-234 Continued

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
Rev 302.02	RSA 21-J:13, I; RSA 77-A:4, XIV; RSA 77-A:15, II
Rev 303.05	RSA 21-J:13, I; RSA 77-A:4, XIV; RSA 77-A:15, II
Rev 307.06	RSA 21-J:13, I; RSA 77-A:6, I; RSA 77-A:15, II
Rev 307.07	RSA 21-J:13, I; RSA 77-A:6, I; RSA 77-A:15, II
Rev 307.12	RSA 21-J:13, I; RSA 77-A:6, I; RSA 77-A:15, II

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

Name:	Tracey Russo	Title:	Paralegal
Address:	Legal Bureau P.O. Box 457 Concord, NH 03302-0457	Phone #:	603.230.5027
		Fax#:	603.230.5932
		E-mail:	tracey.russo@dra.nh.gov

**The rules can also be viewed in PDF at
<http://revenue.nh.gov/laws/proposed-rules.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: **Friday, January 20, 2017**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Friday, January 13, 2017 at 9:00 AM**

Place: **New Hampshire Department of Revenue Administration
Medical and Surgical Building
109 Pleasant Street, 2nd Floor Training Room
Concord, NH 03301**

*****The security procedures at the Department of Revenue Administration require all visitors to sign-in and present photo identification. If you plan on attending the public hearing, please bring photo identification with you.*****

NN 2016-234 Continued

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

FIS # 16:248 , dated 12/2/2016

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 rule.

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

Notice Number 2016-235

Rule Number Rev 2407.05

<p>1. Agency Name & Address:</p> <p>New Hampshire Department of Revenue Administration Legal Bureau P.O. Box 457 Concord, NH 03302-0457</p>	<p>2. RSA Authority: <u>RSA 77-E:11, II</u></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Amendment _____</p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment <input checked="" type="checkbox"/></p>
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5. Short Title: **Business Enterprise Tax Short Period Return Filing Deadline**

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

The existing Rev 2407.05 addresses the filing of short period returns for the Business Enterprise Tax. Paragraph (b) specifies the filing deadline for short period returns, and is being amended to reflect the amendment to RSA 77-E:5, I by New Hampshire Laws Chapter 66 of 2016, which changed the filing deadline for partnerships to the fifteenth day of the third month, and to the fifteenth day of the fourth month in the case of all other business enterprises, following expiration of the taxable period.

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

The proposed amendment affects all business enterprises subject to the Business Enterprise Tax.

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

Rule Section	Statute(s) or Regulation(s)
Rev 2407.05	RSA 21-J:13, I; RSA 77-E:5, I; RSA 77-E:8; RSA 77-E:11, II

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

Name:	Tracey Russo	Title:	Paralegal
Address:	Legal Bureau P.O. Box 457 Concord, NH 03302-0457	Phone #:	603.230.5027
		Fax#:	603.230.5932
		E-mail:	tracey.russo@dra.nh.gov

**The rules can also be viewed in PDF at <http://revenue.nh.gov/laws/proposed-rules.htm>

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

NN 2016-235 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Friday, January 20, 2017**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Friday, January 13, 2017 at 9:30 AM**

Place: **New Hampshire Department of Revenue Administration
Medical and Surgical Building
109 Pleasant Street, 2nd Floor Training Room
Concord, NH 03301**

*****The security procedures at the Department of Revenue Administration require all visitors to sign-in and present photo identification. If you plan on attending the public hearing, please bring photo identification with you.*****

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

FIS # 16:249, dated 12/2/2016

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 rule.
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 proposed rule amendment 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.

Notice Number 2016-236

Rule Number He-E 805

<p>1. Agency Name & Address: NH Dept. of Health & Human Services Office of Medicaid Business & Policy 129 Pleasant Street Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 151-E:12, RSA 151:9, I, VI & VII</u></p> <p>3. Federal Authority: <u>42 USC 1396n(g)</u></p> <p>4. Type of Action:</p> <p style="padding-left: 40px;">Adoption _____</p> <p style="padding-left: 40px;">Amendment _____</p> <p style="padding-left: 40px;">Repeal _____</p> <p style="padding-left: 40px;">Readoption _____</p> <p style="padding-left: 40px;">Readoption w/amendment <u> X </u></p>
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5. Short Title: Targeted Case Management Services

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

The Department of Health and Human Services (Department) proposes to readopt with amendment He-E 805 which is an interim rule scheduled to expire February 21, 2017.

The Department proposes to readopt with amendment the existing rule to make editorial changes to replace “BEAS” with “department” to better reflect the organizational divisions of the Department, and to make a substantive change to specify that monitoring inspections shall be made during regular business hours.

The proposed rule describes the requirements for targeted case management services provided to participants in the home and community based care for the elderly and chronically ill (HCBC-ECI) program which is now known as the Choices for Independence (CFI Program). The rule includes definitions of terms, and describes who is eligible for targeted case management services, the requirements for targeted case management services, the requirements for case management agencies, the qualifications for case managers employed by case management agencies, the requirements for participant selection of a case management agency, and quality management requirements.

The proposed rule is mandated by RSA 151-E: 4 as part of the CFI Program. RSA 151-E:4 states that a person who has been determined to be Medicaid eligible for nursing facility services in accordance with RSA 151-E:3 shall have the right to receive nursing facility services. The person shall be offered and may choose to receive services in a less restrictive setting if the services are available and do not result in costs to the state and counties in excess of the limitations set forth in RSA 151-E:11, II. The choice shall be offered in accordance with state laws and federal regulations. The person shall have the right to have his or her individual support plan developed through a person-centered planning process regardless of age, disability, or residential setting.

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

Those affected by the rule include participants receiving targeted case management services through the CFI Program, case management agencies, and case managers employed by case management agencies.

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

Rule	Statute/Federal Regulation
He-E 805	RSA 151 42 USC 1396n(g)

NN 2016-236 Continued

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

Name: **Catherine Bernhard** Title: **Rules Coordinator**
Address: **Dept. of Health and Human Services** Phone #: **271-9234**
Administrative Rules Unit Fax#: **271-5590**
129 Pleasant St. E-mail: **catherine.bernhard@dhhs.nh.gov**
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: **Thursday, January 26, 2017**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, January, 19, 2017 9:00 AM**

Place: **DHHS Brown Bldg., Room 460, 129 Pleasant St., Concord, NH**

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

FIS # 16:254, dated 12/13/16

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

There is no difference in cost between the proposed rule and the existing rule.

2. **Cite the Federal mandate. Identify the impact of state funds:**

There is no federal mandate, and 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 rules modify an existing program or responsibility, but do not mandate any fees, duties or expenditures on the political subdivisions of the state, and therefore do not violate Part I, Article 28-a of the N.H. Constitution.

Notice Number	2016-237	Rule Number	Env-Dw 103.41
1. Agency Name & Address:	2. RSA Authority: RSA 485:2, V		
Department of Environmental Services	3. Federal Authority: 40 CFR 141.2		
29 Hazen Drive	4. Type of Action:		
P.O. Box 95	Adoption	X	
Concord, NH 03302-0095	Amendment		
	Repeal		
	Readoption		
	Readoption w/amendment		

5. Short Title: Public Drinking Water Rules: Definition of "Owner or Operator"

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

Existing rules in Env-Dw 103 establish the definitions that apply across subtitle Env-Dw. The Department is proposing to adopt a definition of "owner or operator" that makes the subtitle consistent with federal regulations applicable to public water systems promulgated by the U.S. Environmental Protection Agency ("EPA") to implement the federal Safe Drinking Water Act.

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

The rules will affect owners and operators of public water systems.

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	Federal Regulation(s) Implemented
Env-Dw 103.41	RSA 485:3, I	40 CFR 141.2

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

Name: Holly Green Title: DWGB Rules Coordinator
 Address: Dept. of Environmental Services Phone #: (603) 271-3114
 29 Hazen Drive; P.O. Box 95 Fax#: (603) 271-0656
 Concord, NH 03302-0095 E-mail: holly.green@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, January 27, 2017**

WRITTEN COMMENTS MAY BE SUBMITTED WITHOUT PARTICIPATING IN THE PUBLIC HEARING

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, January 19, 2017 at 10:00 AM**

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

NN 2016-237 Continued

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 16:252 , dated 12/08/16:

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 rule to the existing rule.

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 proposed rules establish definitions for terms used in Env-Dw. There are no costs associated with these rules. The rules thus do not mandate or assign any new, modified, or expanded programs or responsibilities to political subdivisions of the state in such a way as to necessitate additional local expenditures, and so do not violate Part I, Article 28-a of the New Hampshire Constitution.

Notice Number	2016-238	Rule Number	Env-Dw 403.02-403.03 & Env-Dw 714
1. Agency Name & Address:	2. RSA Authority: RSA 485:2, V		
Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	3. Federal Authority: 40 CFR 141 Subpart I		
	4. Type of Action:		
	Adoption	<input checked="" type="checkbox"/>	
	Amendment	<input type="checkbox"/>	
	Repeal	<input type="checkbox"/>	
	Readoption	<input type="checkbox"/>	
	Readoption w/amendment	<input checked="" type="checkbox"/>	

5. Short Title: Control of Lead and Copper; Public Drinking Water Primacy Amendments

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

The existing rules Env-Dw 403.02, Prohibition on Use of Lead Pipes, Solder, and Flux, and Env-Dw 714 Control of Lead and Copper, implement the federal lead and copper regulations at 40 CFR 141 Subpart I, promulgated by the U.S. Environmental Protection Agency (“EPA”) under the federal Safe Drinking Water Act. These requirements apply to community and non-transient, non-community public water systems (PWS). The rules are designed to protect those served by a PWS from exposure to lead and copper in drinking water by establishing action levels for lead and copper in drinking water and describing requirements for sampling and monitoring and corrosion control treatment and public education (notice) if the action level is exceeded.

The Department is proposing to readopt with amendments Env-Dw 403.02 and Env-Dw 714, and to adopt Env-Dw 403.03, in order to maintain state primary enforcement responsibility. Specifically, the proposed readoption with amendments and adoption make Env-Dw 403.02, Env-Dw 403.03, and Env-Dw 714 equivalent to 40 CFR Subpart I, as follows:

Env-Dw 403.02 – The proposed amendments make the rule consistent with the 2011 federal Reduction of Lead In Drinking Water Act, which revised Section 1417 of the Safe Drinking Water Act to amend the definition of “lead free” (§1417(d)) and exempted fittings that are used in non-potable water services, (§1417(a)(4)).

Env-Dw 403.03 – The proposed adoption makes the rules consistent with 40 CFR 141.42 by clarifying that an owner or operator of a community water system is required to establish and maintain a materials inventory and to report same to the Department.

Env-Dw 714.02(a) – The proposed amendments delete the definition of “initial water quality monitoring”. The current definition applies only when an exceedance has occurred. There is no equivalent federal definition and, for large water systems, federal requirements in 40 CFR 141.81 do not limit such monitoring to situations in which an exceedance has occurred. Initial water quality monitoring requirements would be addressed by the proposed amendments to the substantive requirements in Env-Dw 714.04, and more specifically identified in Table 714-1.

The proposed amendments to Env-Dw 714.02(a) would also incorporate the federal definition of “optimal corrosion control treatment” in 40 CFR 141.2.

Env-Dw 714.04 – Federal requirements in 40 CFR 141.81 require source water monitoring and treatment for large water systems even when no exceedance occurs. Therefore, the proposed amendments would make the rules consistent with federal requirements by clarifying that large water systems shall conduct source water monitoring/treatment whether or not there has been an exceedance, as required under 40 CFR 141.81(a)(1); and that small/medium water systems shall conduct source water treatment/monitoring only in the event of an action level exceedance, as specified in 40 CFR 141.81(a)(2).

In a separate rulemaking, a new definition of “owner or operator” is proposed to be adopted to make the rules consistent with 40 CFR Subpart I by clarifying that the owner or operator of a water system is a supplier of water as that term is defined in 40 CFR 141.2.

NN 2016-238 Continued

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

The rules will affect owners and operators of public water systems.

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	Federal Regulation(s) Implemented
Env-Dw 403.02	RSA 485:3,I	40 CFR 141.43(d)
Env-Dw 403.03	RSA 485:3, I	40 CFR 141.42(d)
PART Env-Dw 714	RSA 485:1; RSA 485:3, I & VII	40 CFR 141 Subpart I (§§80-91)
Env-Dw 714.01	RSA 485:1; RSA 485:3, I & VII	40 CFR §141.1; 40 CFR §141.80(a)-(b)
Env-Dw 714.02	RSA 485:1; RSA 485:3, I & VII	40 CFR §141.2
Env-Dw 714.03	RSA 485:1; RSA 485:3, I & VII	40 CFR §141.80(c)
Env-Dw 714.04	RSA 485:1; RSA 485:3, I & VII	40 CFR §§141.81 - 141.83; §§141.86- 141.88
Env-Dw 714.05	RSA 485:1; RSA 485:3, I & VII	40 CFR §141.84
Env-Dw 714.06	RSA 485:1; RSA 485:3, I & VII	40 CFR §141.85
Env-Dw 714.07	RSA 485:1; RSA 485:3, I & VII	40 CFR §141.90
Env-Dw 714.08	RSA 485:1; RSA 485:3, I & VII	40 CFR §141.86
Env-Dw 714.09	RSA 485:1; RSA 485:3, I & VII	40 CFR §141.87
Env-Dw 714.10	RSA 485:1; RSA 485:3, I & VII	40 CFR §141.88
Env-Dw 714.11	RSA 485:1; RSA 485:3, I & VII	40 CFR §141.89
Env-Dw 714.12	RSA 485:1; RSA 485:3, I & VII	40 CFR §141.91

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

Name: Holly Green Title: DWGB Rules Coordinator
 Address: Dept. of Environmental Services Phone #: (603) 271-3114
 29 Hazen Drive; P.O. Box 95 Fax#: (603) 271-0656
 Concord, NH 03302-0095 E-mail: holly.green@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, January 27, 2017**

WRITTEN COMMENTS MAY BE SUBMITTED WITHOUT PARTICIPATING IN THE PUBLIC HEARING

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, January 19, 2017 at 10:00 AM**

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

NN 2016-238 Continued

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 16:253 , dated 12/08/16:

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. Not applicable to Env-Dw 403.03 as this is a new rule.

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

No federal mandate, no impact on state funds. However, adoption of state enforceable requirements that are equivalent to federal requirements is required under the federal Safe Drinking Water Act (42 U.S.C. §300f) and the federal rules (40 CFR 141 Subpart I) in order for the state to obtain primacy for the lead and copper program. Failure to adopt the rules could result in the loss of up to \$10 million annually in federal grand funding for the Department's public drinking water program.

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

There are no costs resulting from proposed Env-Dw 403.03.

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 requirements are the same as the federal requirements to which public water systems are subject regardless of whether New Hampshire adopts the rules. The rules thus do not create, modify, or expand any program in such a way as to require political subdivisions to make any expenditures, and so do not violate Part I, Article 28-a of the N.H. Constitution.

POSTPONEMENT AND RESCHEDULING OF A RULEMAKING HEARING

Notice Number 2016-210

Rule Number Ed 320

<p>1. Agency Name & Address:</p> <p>Board of Education c/o Department of Education 101 Pleasant Street Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 193:3, I, II</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: **Manifest Educational Hardship**

6. In accordance with RSA 541-A:11, IV, a rulemaking hearing has been postponed for this proposed rule for which notice appeared in the Rulemaking Register on November 3, 2016 under Notice Number 2016-210. The public hearing has therefore been rescheduled for:

Date and Time: **Thursday, January 12, 2017 at 10:00 a.m.**

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

7. New deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Monday, January 23, 2017**

Fax E-mail Other format (specify):

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

Name: **Diana E. Fenton**

Title: **Attorney**

Address: **101 Pleasant Street
Concord, NH 03301**

Phone #: **603-271-3189**

Fax#: **N/A**

E-mail: **diana.fenton@doe.nh.gov**

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

SPECIAL NOTICE

Pursuant to RSA 541-A:9, I(i), the following special notice is being published by the Director of the Office of Legislative Services at the request of the Board of Education:

**DRAFT AMENDED FINAL PROPOSAL
RESCHEDULING OF HEARING AND EXTENSION OF PUBLIC COMMENT PERIOD**

Notice Number 2016-86 Rule Number Ed 1100 various

<p>1. Agency Name & Address:</p> <p>New Hampshire Department of Education State Board of Education 101 Pleasant Street Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 186-C:16</u></p> <p>3. Federal Authority: <u>34 CFR 300</u></p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Amendment _____</p> <p>Repeal <u>X</u></p> <p>Readoption <u>X</u></p> <p>Readoption w/amendment <u>X</u></p>
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5. Short Title: **NH Rules for the Education of Children with Disabilities**

6. Public comment is being solicited on a draft amended final proposal to be filed pursuant to RSA 541-A:12, I-a and RSA 541-A:13, II(a) & (b) in a rulemaking proceeding for which notice first appeared in the Rulemaking Register on **May 26, 2016 with a special notice on December 1, 2016** under Notice Number **2016-86**.

The public hearing announced in the special notice was originally scheduled for December 12, 2016, but was postponed due to inclement weather. It will be held at the following time and place:

Date and Time: **Thursday, January 12, 2017 at 11:00 a.m.**

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

7. Deadline for submission of materials in writing or in the electronic format specified:
Monday, January 23, 2016

Fax

E-mail

Other format (specify):

8. Contact person for copies of the amended draft final proposal and questions including requests to accommodate persons with disabilities:

Name: **Diana E. Fenton**

Title: **Attorney**

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

Phone #: **603-271-3189**

Fax#:

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

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

Copies available with corrected annotations and summary of amendments