



NEW HAMPSHIRE RULEMAKING REGISTER

OFFICE OF LEGISLATIVE SERVICES

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VOLUME XXXVIII, Number 16, April 19, 2018

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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: **Friday, April 20, 2018 9:00 a.m.**
Rooms 306/308, Legislative Office Building

CONTINUED MEETING: **Friday, May 4, 2018 9:00 a.m.**
Rooms 306/308, Legislative Office Building

JLCAR MEETING DATES AND RELATED FILING DEADLINES APRIL-JUNE, 2018

The JLCAR has voted to hold its regularly scheduled meetings for April through June, 2018 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
April 6	April 20	May 4
May 4	May 18	June 1
June 1	June 15	June 29

***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*.

Notices of Proposed Rules

<u>Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Page No.</u>
2018-67	Env-A 101.671	Department of Environmental Services Air Related Programs Definition of "emergency generator".	1
2018-68	Env-A 1300	Department of Environmental Services Air Related Programs NOx RACT Rules.	3
2018-69	He-W 602.03, 702.03, & 802.03	Department of Health and Human Services Former Division of Human Services Expiring Rules Related to Telephone Applications.	5
2018-70	Saf-C 1002.06(e), 1006.07, 1011.03, & 1011.05	Department of Safety, Commissioner Various Driver Licensing Rules.	7
2018-71	Saf-C 1808.03(e), 1808.04, 1808.05, 1808.06	Department of Safety, Commissioner Various Commercial Vehicle Licensing Rules.	9
2018-72	Saf-C 5200	Department of Safety, Commissioner Guidelines for Establishing Maximum Rates for Hazardous Materials Incident Response.	11
2018-73	Ins 3300	Insurance Department Insurance Scores.	14
2018-74	Ed 403.03, 405.01, 407.01	Board of Education Non-public School Approval.	17

**JLCAR MEETING DATES AND RELATED FILING DEADLINES
JULY-DECEMBER, 2018**

The JLCAR has voted to hold its regularly scheduled monthly meetings for July through December, 2018 on the third Thursday 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 Thursdays to address any items postponed from the prior regular meetings.

Regular Meeting Filing Deadline	Regular Meeting Date	Continued Meeting Date
July 5	July 19	August 2
August 2	August 16	September 6
September 6	September 20	October 4
October 4	October 18	November 1
November 1	November 15	December 6
December 6	December 20	None

CORRECTION

The rulemaking notice on Page 10 of the Rulemaking Register of April 12, 2018 had an error in citation to the United States Code in the fiscal impact statement for the following proposed rule:

<u>Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>
2018-66	Emp 500 (various)	Department of Employment Security Claimant Requirements

The complete, corrected fiscal impact statement is printed below:

FIS # **18:063** dated **4/2/18**

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:

42 U.S.C. 1320b-7(a),(b)(3). The Department is required by federal law to establish criteria by which claimants may be determined to be eligible for unemployment compensation benefits. These rules are necessary to comply with US Department of Labor requirements that state practices conform to applicable federal law and regulations. There is no impact on state funds.

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

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

None.

Notice Number 2018-67

Rule Number Env-A 101.671

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:

n/a

4. Type of Action:

Adoption _____
Amendment _____
Repeal _____
Readoption _____
Readoption w/amendment X

5. Short Title: **Definition of “emergency generator”**

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

Existing Env-A 101 contains the definitions for terms used throughout subtitle Env-A. Existing Env-A 101.671 defines an “emergency generator”. The Department is proposing to amend the definition of “emergency generator” to make it consistent with a federal court decision and EPA guidance regarding implementation of 40 CFR 63, Subpart ZZZZ and 40 CFR 60 Subpart III and JJJJ. Under those federal regulations engines operating in certain circumstances are defined as “emergency generators” and exempt from federal requirements to install emission controls, conduct stack testing, and to burn specified fuels. Those circumstances typically involve storm or disaster related interruption of electrical power. In addition prior to 2015, engines operated by agreement with the regional transmission authority to reduce demand on the electrical grid during high use periods were also considered to be emergency generators and, thus, exempt from requirements applicable to non-emergency uses. In 2008, the Department amended the state definition of “emergency generator” to be consistent with federal regulations by including engines used under such agreements. In 2015, the U.S. Court of Appeals for the District of Columbia, in *Del. Dep’t of Natural Res. & Envtl. Control v. EPA*, 785 F.3d 1 (D.C. Cir. 2015), invalidated parts of the federal regulations allowing exemptions for engines used for such demand-response purposes. As a result, engines used for those purposes are no longer exempt from federal requirements regarding emission controls, stack testing, or fuel selection. The proposed amendments would make the state definition of “emergency generator” consistent with the decision of the DC Circuit and subsequent EPA guidance on implementation of the federal regulations impacted by that decision.

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

The rules apply to owners and operators of specified generators who were previously eligible to operate those generators as “emergency generators” under agreement with the regional transmission authority.

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 Statute or Regulation Implemented
Env-A 101.671	RSA 125-C:4, I(a); RSA 125-C:6, II & XIV; RSA 125-C:11, I & III	42 U.S.C. §§7410, 7502(c), 7511c

Notice Number 2018-68

Rule Number Env-A 1300

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), (b), and (k)

3. Federal Authority:

42 U.S.C. 7410, 7502(c), & 7511c

4. Type of Action:

Adoption _____
Amendment - - - - -
Repeal _____
Readoption _____
Readoption w/amendment X

5. Short Title: **NO_x RACT Rules**

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

The existing rules, Env-A 1300, establish Reasonably Available Control Technology (RACT) requirements for stationary sources that emit nitrogen oxides (NO_x). The rules specify emission standards and requirements for NO_x RACT for specified boilers, combustion turbines, internal combustion engines, asphalt plant dryers, incinerators, wallboard dryers, calcining mills, calciners, gypsum rock dryers, emergency generators, load shaving units, and miscellaneous sources. The rules also specify the criteria and procedures by which a source can request alternative RACT emission limits which, if approved by the Department, are then incorporated into a RACT Order. The rules are scheduled to expire on October 31, 2018, but are subject to extension pursuant to RSA 541-A:14-a. The rules are proposed to be readopted with amendment in order to:

- Streamline the annual performance tune-up on applicable boiler(s) to match federal requirements in 40 CFR 63, Subpart JJJJJ and Subpart DDDDD;
- Lower the NO_x emission standards for municipal waste combustors;
- Lower the NO_x emission standards for older load shaving, gas-fired engines to match older prime power, gas-fired engine limits;
- Lower the NO_x emission standards for older load shaving and older prime power, liquid-fired engines to 40 CFR 60, Subpart IIII Tier 2 levels; and
- Lower the NO_x emissions standards for wet bottom utility boilers firing coal.

In addition, pursuant to section 182(f) of the CAA and 40 CFR 51.1116, states like New Hampshire that are part of the Ozone Transport Region were required to develop and submit a RACT certification related to the 2008 8-hour ozone National Ambient Air Quality Standard by July 20, 2014. DES submitted a draft in March of 2014 and EPA provided comments at that time. In February 2017, the EPA issued a “Findings of Failure to Submit State Implementation Plan Submittals for the 2008 Ozone National Ambient Air Quality Standard (NAAQS)” for 15 states, including New Hampshire, and the District of Columbia. The rule is also being updated pursuant to that finding and will be incorporated into the State Implementation Plan (SIP) when finalized. By September 6, 2018, New Hampshire must submit a completed SIP that includes the updated NO_x RACT rule. As specified by EPA the RACT certification for the 2008 8-hour Ozone NAAQs will also serve as the 2015 RACT certification.

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

The rules apply to owners and operators of specified boilers, combustion turbines, internal combustion engines, asphalt plant dryers, incinerators, wallboard dryers, calcining mills, calciners, gypsum rock dryers, emergency generators, load shaving units, and miscellaneous sources.

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 Statute(s) Implemented
Env-A 1300	RSA 125-C:46, II and XI	42 U.S.C. §§ 7410, 7502(c) & 7511c

NN 2018-68 Continued

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

Name: Karla McManus Title: Planning and Rules Manager, Air Division
Address: Dept. of Environmental Services Phone #: (603) 271-6854
29 Hazen Drive; P.O. Box 95 Fax#: (603) 271-1381
Concord, NH 03302-0095 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 Friday, May 25, 2018**

YOU MAY SUBMIT WRITTEN COMMENTS WITHOUT ATTENDING THE PUBLIC HEARING

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, May 17, 2018 at 1:00 PM**

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

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 18:065, dated 04/04/2018:

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:

42 U.S.C. 7410 requires each state to prepare a plan which provides for implementation, maintenance, and enforcement of each national ambient air quality standard (NAAQS) in each air quality control region (or portion thereof) within the state. In the case where an area in the state has been designated a nonattainment area, i.e., an area where air quality does not meet a NAAQA, 42 U.S.C. 7502(c) requires that the plan provide for the implementation of all reasonably available control measures as expeditiously as practicable, including such reductions in emissions from existing sources in the area as may be obtained through, at a minimum, the adoption of Reasonably Available Control Technology (RACT), and must provide for attainments of the NAAQS. In addition, 42 U.S.C. 7511c establishes an ozone transport region that includes the entire State of New Hampshire. States included in this region are also required to adopt rules to control the formation of ozone. Thus, a rule regulating NOx emissions, such as Env-A 1300, is required by federal mandate. If the state complies with these federal mandates, it is eligible to receive grant funds from the federal government pursuant to 42 U.S.C. 7405. New Hampshire received approximately \$1.7 million annually for all of the DES air programs. Because the funds are received in a block grant, it is not possible to estimate the portion attributable to the proposed rules.

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 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 2018-69 Rule Number He-W 602.03, He-W 702.03 & He-W 802.03

<p>1. Agency Name & Address: Dept. of Health and Human Services Division of Family Assistance 129 Pleasant St, Brown Bldg. Concord, NH 03301</p>	<p>2. RSA Authority: RSA 161:4-a, IV; RSA 161:4-a, IX; and RSA 167:3-c, I</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 <u> X </u></p> <p>Readoption w/amendment <u> X </u></p>
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5. Short Title: **Expiring Rules Related to Telephone Applications**

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

He-W 602.03 allows individuals to request assistance via telephone, as long as the Department of Health and Human Services (Department) still has the funding available to do so. He-W 602.03 is scheduled to expire April 23, 2018 but is subject to extension pursuant to RSA 541-A:14-a.

The Department is proposing to readopt with amendment He-W 602.03. He-W 602.03 is being amended by removing reference to telephone applications concerning medical assistance, and clarifying, by adding the word “financial”, that it relates to financial assistance only.

He-W 702.03, allows individuals to request food assistance via telephone, as long as the Department still has funding available to do so. He-W 702.03 is scheduled to expire April 23, 2018 but is subject to extension pursuant to RSA 541-A:14-a.

The Department is also proposing to readopt He-W 702.03 as is.

Lastly, the Department proposes to adopt He-W 802.03 as rules regarding eligibility for medical assistance are being reorganized into Chapter He-W 800. He-W 802.03 allows individuals to request medical assistance, other than medical assistance as described in He-W 858.05 and He-W 858.06, via telephone application.

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

The groups affected by the proposed rules include the applicants who are requesting financial assistance, food stamp benefits and medical assistance, except for medical assistance as described in He-W 858.05 and He-W 858.06.

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

<u>Rule</u>	<u>RSA/ Federal Citation</u>
He-W 602.03	RSA 161:4-a, IX; RSA 167:3-c, I; RSA 167:4; RSA 167:8; 45 CFR 206.10(a)(1); 45 CFR 206.10(b)(2)
He-W 702.03	RSA 161:4-a, IV; RSA 167:3-c, I; RSA 167:4; RSA 167:8; 7 CFR 273.2
He-W 802.03	RSA 161:4-a, IV; RSA 167:3-c, I; RSA 167:4; RSA 167:8; 7 CFR 273.2

NN 2018-69 Continued

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

Name: **Allyson Zinno** Title: **Administrative Rules Coordinator**
Address: **Dept. of Health & Human Services** Phone #: **271-9604**
Administrative Rules Unit Fax#: **271-5590**
129 Pleasant Street, Brown Bldg. E-mail: **allyson.zinno@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: **Friday, May 18, 2018**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Friday, May 11, 2018 at 3:00 PM**

Place: **DHHS, Brown Bldg., Room 163, 129 Pleasant St., Concord, NH 03301**

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

FIS # 18:058, dated April 2, 2018

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 rules do not create a new program or responsibility, expand or modify an existing program or responsibility, or 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 2018-70

Rule Number

Saf-C 1002.06(e), Saf-C 1006.07, Saf-C 1011.03, & Saf-C 1011.05

<p>1. Agency Name & Address:</p> <p>NH Department of Safety 33 Hazen Drive Concord, NH 03305</p>	<p>2. RSA Authority: RSA 21-P:14, IV(b), RSA 21-P:14, IV(a)</p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Amendment X _____</p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment X _____</p>
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5. Short Title: **Various Driver Licensing Rules**

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

Saf-C 1002.06 is the driver licensing rule that outlines the requirements for a non-U.S. citizen to obtain a New Hampshire driver's license. It is being amended by adding a paragraph (e), which allows a non-citizen who has an application for permanent resident status delayed by Citizenship and Immigration Services (CIS), to apply for, and receive one or more 120-day extensions by the Division of Motor Vehicles to the temporary license, so long as the immigration application has not been denied by CIS. Saf-C 1006.07 on re-examination for a driver's license after failure is being readopted with amendment to require additional training by license applicants who have failed a driver exam numerous times. Saf-C 1011.03 on change of gender on drivers' licenses is being readopted with amendment to add psychologists to the list of medical professional who can certify transgender individuals, and Saf-C 1011.05 on a duplicate driver's license is being readopted with amendment to incorporate a new form (DSMV 637) by reference.

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

Driver license applicants who have failed the licensing exams, driver license applicants, and applicants for non-driver IDs, and psychologists.

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

Rule	Statute Implemented
Saf-C 1002.06(e)	RSA 21-P:14, IV(e); RSA 263:39-a, I
Saf-C 1006.07	RSA 21-P:14, IV(b); RSA 260:5; RSA 263:7
Saf-C 1011.03	RSA 21-P:14, IV(a); RSA 263:5
Saf-C 1011.05	RSA 21-P:14, IV(a); RSA 263:5

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

Name: **Keith Lohmann**

Title: **Program Specialist IV**

Address: **33 Hazen Drive**

Phone #: **603-223-3852**

Concord, NH 03305

Fax#: **603-271-3903**

E-mail: **Keith.Lohmann@dos.nh.gov**

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

NN 2018-70 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **5/25/2018 12:00 Noon**

 Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **5/17/2018 10:00am**

Place: **33 Hazen Drive, Concord, NH 2nd Floor Conference Room**

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

FIS # 18:060, dated 4/5/2018

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 state citizens and benefits 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 set requirements for individuals seeking a road skills re-examination after multiple failures, specifically requiring additional hours behind the wheel before re-examination. If failed three times, the applicant is required to complete five hours with an approved driving school and 10 hours under documented supervision before re-examination and if failed an additional three times 10 and 20 hours, respectively, is required. Therefore, to the extent an individual fails the road skills examination multiple times, there could be an increase cost to the individual and increase benefit to approved driving schools, if fees are charged for the additional behind the wheel hours.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

See 3 above. No impact on political subdivisions.

C. To independently owned businesses:

See 3 above.

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

These 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. There will be a cost in the case of Saf-C 1006.07, but only on those license applicants who have failed a licensing exam numerous times. There should be no cost to political subdivision in the case of Saf-C 1002.06(e), Saf-C 1011.03 or Saf-C 1011.05.

Notice Number 2018-71 Rule Number **Saf-C 1808.03(e), Saf-C 1808.04, Saf-C 1808.05, Saf-C 1808.06**

<p>1. Agency Name & Address:</p> <p>NH Department of Safety 33 Hazen Drive Concord, NH 03305</p>	<p>2. RSA Authority: RSA 21-P:14, IV(m), RSA 263:9, RSA 263:98, VIII & X</p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption <u> X </u></p> <p>Amendment <u> X </u></p> <p>Repeal _____</p> <p>Readoption <u> X </u></p> <p>Readoption w/amendment <u> X </u></p>
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5. Short Title: **Various Commercial Vehicle Licensing Rules**

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

Saf-C 1808 specifies requirements governing suspension of a commercial driver’s license or endorsements. Saf-C 1808.03(e) on length of suspension is being amended to refer specifically to Saf-C 1808.04, which is a new rule. Saf-C 1808.04 outlines the procedures to be used to request reinstatement of a permanently disqualified commercially driver license. Saf-C 204.11 on the commercial driver license hearing is being readopted with amendment and renumbered as Saf-C 1808.05 concerning the hearing process to determine a one-year minimum or a lifetime revocation. Finally, Saf-C 204.12 on the suspension of a non-resident commercial driver license for a violation of RSA 263:94 is being readopted and renumbered as Saf-C 1808.06.

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

New Hampshire commercial driver license holders in the case of Saf-C 1808.03(e), 1808.04, 1808.05, and out-of-state commercial driver license holders in the case of Saf-C 1808.06.

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
Saf-C 1808.03(e)	RSA 21-P:14, IV(m); RSA 263:94, IV; RSA 263:98, X
Saf-C 1808.04	RSA 21-P:14, IV(m); RSA 263:94, IV; RSA 263:98, VIII, X
Saf-C 1808.05	RSA 21-P:14, IV(m); RSA 263:94, IV; RSA 265-A:25
Saf-C 1808.06	RSA 21-P:14, IV(m); RSA 263:94; RSA 263:98, X

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

Name: Keith Lohmann	Title: Program Specialist IV
Address: 33 Hazen Drive	Phone #: 603-223-3852
Concord, NH 03305	Fax#: 603-271-3903
	E-mail: Keith.lohmann@dos.nh.gov

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

NN 2018-71 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **5/25/2018 12 noon**

 Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **5/17/2018 11:00 am**

Place: **33 Hazen Drive, Concord, NH 2nd Floor Conference Room**

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

FIS # 18:062, dated 4/2/2018

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 Saf-C 1808.04 as these are new 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:

These 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. All of the costs associated with these rules apply to commercial driver license holders. There should be no cost to a political subdivision in the case of any of these rules.

Notice Number 2018-72Rule Number Saf-C 5200

1. Agency Name & Address:

**NH Department of Safety
33 Hazen Drive
Concord, NH 03305**

2. RSA Authority: RSA 154:8-a, II-a (b)3. Federal Authority: n/a

4. Type of Action:

Adoption X

Amendment _____

Repeal _____

Readoption _____

Readoption w/amendment _____

5. Short Title: **Guidelines for Establishing Maximum Rates for Hazardous Materials Incident Response**

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

This proposal adopts Saf-C 5200 which had previously expired on 6-23-09 and 1-8-13. The rules outline the methodology used to create and set the maximum allowable rates to be used by regional hazardous material teams in recouping their costs for responding to hazardous materials incidents. Chapter Law 2006:102, effective 7-8-06, repealed and re-enacted RSA 154:8-a, II-a(g) to change the methodology for use to set the rates, and this rule outlines that new methodology.

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

Hazardous Material Response Teams and entities responsible for hazardous material spills.

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

RULE NUMBER	STATUTE IMPLEMENTED
Saf-C 5201	RSA 541-A:7
Saf-C 5202	RSA 541-A:7
Saf-C 5203.01	RSA 154:8-a, II-a
Saf-C 5203.02	RSA 154:8-a, II-a
Saf-C 5204.01	RSA 154:8-a, II-a

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

Name: **Keith Lohmann**Title: **Program Specialist IV**Address: **33 Hazen Drive**Phone #: **603-223-3852****Concord, NH 03305**Fax#: **603-271-3903**E-mail: **Klohmann2@gmail.com**TTY/TDD Access: Relay NH 1-800-735-2964
or dial 711 (in NH)

NN 2018-72 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **5/25/2018 12 Noon**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **May 17, 2018 9:00 am**

Place: **33 Hazen Drive, Concord, NH 2nd Floor Conference Room**

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

FIS # 18:016, dated 2/9/2018

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

Not applicable as the rules expired June 23, 2009, except for Saf-C 5203.04(d), which expired January 8, 2013.

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):

This is a readoption with amendments of previously expired rules that outline the methodology used to create and set the maximum allowable rates to be used by regional hazardous material teams in recouping their costs for responding to hazardous materials incidents. See the following table for a comparison of the proposed rules with the expired rules:

<i>Category</i>	<i>Cost - Old Rule</i>	<i>Cost - New Rule</i>	<i>Methodology</i>
Vehicle - Engine	\$155/hour	Variable, from \$68 - \$81.40/hour, based on FEMA schedule or alternative equipment/action list	Use standard schedule utilized by FEMA for emergency response, and/or rates in State of New Hampshire commercial hazardous material contract.
Vehicle - Tow & Trailer	\$91/hour	Variable, from \$25.90 to \$41.10/hour based on FEMA schedule or alternative equipment/action list	Use standard schedule utilized by FEMA for emergency response, and/or rates in State of New Hampshire commercial hazardous material contract.
Vehicle - Other	\$32/hour	Variable, based on specific configuration of vehicle	Use standard schedule utilized by FEMA for emergency response, and/or rates in State of New Hampshire commercial hazardous material contract.

NN 2018-72 Continued

(Item 10. continued)

On-Call Personnel	\$55/hour	Max of \$135/hour, based on actual salary or call rate per individual, including FICA, retirement, and Medicare	Because of wide variation in personnel rates, Department determined that the fairest methodology would be to use the actual rate of personnel, up to a maximum of \$135/hour.
Expendable Material	Retail Cost	Retail cost	Fairest methodology for teams and person causing spill.
Miscellaneous Material	Invoice or Receipt	Invoice or receipt	Department determined this was the fairest methodology for teams and person causing spill.
Administrative Fee	15% of total bill	20% of total bill	Incremental increase from 2001 for administrative charges.
Initial Response	None	\$250	New category based on need to front-loaded cost of team activation. The addition of this category is also the rationale for the lower equipment rate.

A. To State general or State special funds:

Reimbursements are paid by the responsible party directly to the hazardous material teams. None of the funds accrue to any state fund.

B. To State citizens and political subdivisions:

To the extent that citizens fund political subdivisions which bear the burden of costs associated with hazardous material responses, the proposed rules will allow that cost to be shifted to those responsible for causing the incidents.

C. To independently owned businesses:

The proposed rules will impact independently owned businesses only to the extent that those businesses are responsible for causing a hazardous material spill.

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

These 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. These rules establish the maximum rates to be used by teams to receive reimbursement for costs associated with hazardous material incidents.

Notice Number 2018-73Rule Number Ins 3300

1. Agency Name & Address:

NH Insurance Dept.
21 S. Fruit St., Suite 14
Concord, NH 03301

2. RSA Authority:

RSA 400-A:15, I;
RSA 412:15, III(b);
RSA 412:43, I

3. Federal Authority: _____

4. Type of Action:

Adoption _____

Amendment _____

Repeal _____

Readoption _____

Readoption w/amendment X 5. Short Title: **INSURANCE SCORES**

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

This proceeding readopts with amendments Ins 3300 which specifies conditions for when insurance scores, credit scores, or credit report information may be used by insurers for underwriting and/or rating purposes of private automobile and/or homeowners insurance. The amendments correct punctuation and grammar; clarify language in the scope section Ins 3301.02 and in subparagraph (a)(3) for the notification section Ins 3309.01; add a waiver provision in Ins 3301.04; and include identity theft issues as a prohibited factor in Ins 3305.01.

The existing rules are scheduled to expire 7-1-18 but are subject to extension pursuant to RSA 541-A:14-a.

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

Any insurers that underwrite or rate automobile or homeowners insurance in the state of New Hampshire.

NN 2018-73 Continued

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

Rule	Statute
Ins 3301.01	RSA 400-A:15, I; RSA 412:15, III; RSA 412:43, I
Ins 3301.02	RSA 400-A:15, I; RSA 412:15, III; RSA 412:43, I
Ins 3301.03	RSA 400-A:15, I; RSA 402-J; RSA 412:15, III; RSA 412:43, I
Ins 3301.04	RSA 400-A:15, I; RSA 541-A:22, IV
Ins 3302.01	RSA 400-A:15, I; RSA 412:15, III; RSA 412:43, I; RSA 417:4 VIII(e)
Ins 3303.01	RSA 400-A:15, I; RSA 412:15, III; RSA 412:16; RSA 412:43, I; RSA 417:4, VIII(e); RSA 417-A; RSA 417-B
Ins 3304.01	RSA 400-A:15, I; RSA 412:15, III; RSA 412:16; RSA 412:43, I; RSA 417:4, VIII(g)
Ins 3305.01	RSA 400-A:15, I; RSA 412:15, III; RSA 412:16; RSA 412:43, I
Ins 3305.02	RSA 400-A:15, I; RSA 412:15, III; RSA 412:16; RSA 412:43, I
Ins 3306.01	RSA 400-A:15, I; RSA 412:15, III; RSA 412:16; RSA 412:43, I
Ins 3307.01	RSA 400-A:15, I; RSA 412:15, III; RSA 412:16; RSA 412:43, I
Ins 3308.01	RSA 400-A:15, I; RSA 412:15, III; RSA 412:16; RSA 412:43, I; RSA 417:4, VIII(e) & (g); RSA 417:27; RSA 417-A; RSA 417-B
Ins 3308.02	RSA 91-A:5; RSA 400-A:15, I; RSA 400-A:16; RSA 412:15, III; RSA 412:16; RSA 412:43, I
Ins 3309.01	RSA 400-A:15, I; RSA 400-B:4; RSA 412:15, III; RSA 412:16; RSA 412:43, I
Ins 3309.02	RSA 400-A:15, I; RSA 412:15, III; RSA 412:43, I
Ins 3310.01	RSA 400-A:15, I; RSA 412:15, III; RSA 412:43, I; RSA 417:4 VIII(g); RSA 417-A; RSA 417-B
Ins 3311.01	RSA 400-A:15, I & III; RSA 412:15, III; RSA 412:43, I; RSA 412:40

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

Name: **Emily Doherty** Title: **P&C Attorney**
Address: **NH Insurance Dept.** Phone #: **271-4843**
21 S. Fruit St., Suite 14 Fax#: **271-1406**
Concord, NH 03301 E-mail: **Emily.doherty@ins.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: **May 31, 2018**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Wednesday, May 23, 2018 at 10:30 am**

Place: **Room 158, NH Insurance Department, 21 S. Fruit Street, Concord, NH**

NN 2018-73 Continued

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

FIS # 18:069 , dated April 10, 2018

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:

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 rule does not mandate any new, expanded, or modified program or responsibility to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivisions.

Notice Number 2018-74

Rule Number

Ed 403.03; Ed 405.01;
Ed 407.01

<p>1. Agency Name & Address:</p> <p>State Board of Education c/o NH Department of Education 101 Pleasant Street Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 186:11, XXIX</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>
<p>5. Short Title: Non-public School Approval</p>	

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

Ed 403.03 addresses annual reports affecting the approval of non-public schools for attendance purposes. Ed 403.03 is being readopted with amendment to allow nonpublic schools to complete and submit the required annual reports electronically instead of by mail. This will help to streamline the process for the non-public schools as well as for the Department.

Ed 405.01 addresses the identification of recognized accrediting agencies for program approval for non-public schools. Ed 405.01 is being readopted with amendment to remove the names of the accrediting agencies and amends the rule to set forth the criteria by which an entity can become an accrediting agency.

Ed 407.01 addresses retention of student records for the approval of non-public schools. Ed 407.01 is being readopted with amendment to strike the requirement to maintain a hard copy of the pupil register pursuant to RSA 189:27-b.

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

Non-public schools are affected by this rule as well as recognized agencies for non-public school program approval.

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

RULE	STATUTE
Ed 403.03	RSA 186:11, XXIX
Ed 405.01	RSA 186:11, XXIX
Ed 407.01	RSA 189:27-a

NN 2018-74 Continued

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

Name:	Diana Fenton	Title:	Attorney
Address:	Department of Education	Phone #:	(603) 271-3189
	101 Pleasant Street	Fax#:	(603) 271-4134
	Concord, NH 03301	E-mail:	Diana.fenton@doe.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: **May 24, 2018**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **May 10, 2018 at 1:00 p.m.**

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

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

FIS # 18:071, dated 4/11/18

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:

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:

Relative to Part I, Article 28-a of the NH Constitution, there are no added costs for these proposed rules to the state or to political subdivisions. These rules provide the requirements for career and technical education and alternative education programs. These processes are already in place. Therefore, there is no violation of Part I, Article 28-a.