



# NEW HAMPSHIRE RULEMAKING REGISTER

## OFFICE OF LEGISLATIVE SERVICES

ROOM 219, STATE HOUSE ANNEX

25 CAPITOL STREET

CONCORD, NEW HAMPSHIRE 03301-6312

Tel. (603) 271-3680

Website: [www.gencourt.state.nh.us/rules/index.html](http://www.gencourt.state.nh.us/rules/index.html)

TDD Access:

Relay NH 1-800-735-2964

Fax (603) 271-7871

VOLUME XXXVIII, Number 40, October 4, 2018

### TABLE OF CONTENTS

1.	<u>OFFICE OF LEGISLATIVE SERVICES</u>	<u>Page No.</u>
a.	List of Notices of Proposed Rules NN 2018-164 through NN 2018-167	-i-
b.	Notices of Proposed Rules	1

#### NOTE: POSSIBLE RULE EXTENSION

If the proposed rules contain existing, regular rules being readopted or readopted with amendments, and are not adopted and effective until after the expiration date(s) of the existing rules(s), then the existing rules will nevertheless continue in effect pursuant to RSA 541-A:14-a until the proposed rules are adopted and effective.

## 2. COMMITTEE (JLCAR)

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

REGULAR MEETING: **Thursday, October 18, 2018 9:00 a.m.**  
Rooms 306/308, Legislative Office Building

### JLCAR MEETING DATES AND RELATED FILING DEADLINES OCTOBER-DECEMBER, 2018

The JLCAR has voted to hold its regularly scheduled monthly meetings for October 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
--	<b>September 20</b>	October 4
October 4	<b>October 18</b>	November 1
November 1	<b>November 15</b>	December 6
December 6	<b>December 20</b>	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>
2018-164	Puc 3000	Public Utilities Commission Competitive Natural Gas Supplier and Aggregator Rules.	1
2018-165	He-W 606.104(b) intro. & (b)(12) and 699.05(d) intro., (d)(3) intro., & (d)(3)b.	Department of Health and Human Services Former Division of Human Services Emergency Assistance and Verification.	4
2018-166	Env-A 2800	Department of Environmental Services Air Related Programs Sand & Gravel Sources, Non-Metallic Mineral Processing Plants, Cement & Concrete Sources.	6
2018-167	He-W 742.02(b)	Department of Health and Human Services Former Division of Human Services Utility Expenses Incurred Separately.	8

Notice Number 2018-164Rule Number Puc 3000

<b>Public Utilities Commission</b> <b>21 South Fruit Street, Suite 10</b> <b>Concord, NH 03301</b>	2. RSA Authority: <u>RSA 365:8-a</u>
	3. Federal Authority: _____
	4. Type of Action:
	Adoption _____
	Amendment _____
	Repeal _____
Readoption <u>X</u>	
Readoption w/amendment <u>X</u>	

5. Short Title: **Puc 3000 – Competitive Natural Gas Supplier and Aggregator Rules**

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

The Public Utilities Commission intends to effectively readopt with amendments its Puc 3000 rules. Puc 3000 sets forth the rules applicable to the registration of competitive natural gas suppliers (CNGS) and natural gas aggregators, reporting and financial obligations of CNGS and aggregators, requirements applicable to the terms of service and related disclosures of CNGS and aggregators, other consumer protection provisions applicable to CNGS and aggregators, investigation of complaints involving CNGS and aggregators, and enforcement of laws and rules applicable to CNGS and aggregators.

Puc 3001 on purpose and application of the rules is being readopted without change. Puc 3002 – Puc 3006 are being readopted with amendments.

Amendments to the existing rules are extensive and include changes based on recent legislation addressing individual customer information privacy protection. Other material amendments address registration application requirements, financial security provisions, registration time periods, customer disclosure and notice obligations, customer solicitation restrictions, enforcement procedures, and sanctions and penalties.

Puc 3001 – Puc 3005 were scheduled to expire on September 25, 2018 but are subject to extension pursuant to RSA 541-A:14-a.

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

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

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 which the Rule Implements
Puc 3000 (other specific statute provisions implemented by specific rules are listed below)	RSA 365:8-a
Puc 3004.11	RSA 363:37-38; RSA 365:8-a
Puc 3005	RSA 365:8-a; RSA 541-A:30,II
Puc 3006	RSA 365:8-a

NN 2018-164 Continued

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: **December 14, 2018**

Fax  E-mail  Other format (specify):

9. Public hearing scheduled for:

Date and Time: **November 27, 2018 at 10:00 a.m.**

Place: **N.H. Public Utilities Commission**  
**21 South Fruit Street, Suite 10**  
**Concord, NH 03301**

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

FIS # 18:164, dated September 24, 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 will decrease costs to competitive natural gas suppliers (CNGS) and natural gas aggregators and decrease revenue to the State by an indeterminate amount. Not applicable to Puc 3003.08, Puc 3004.05, Puc 3004.07, Puc 3005.02, and Puc 3005.06, which are new sections.

**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 decrease the fee for initial registration from \$500 to \$250 decreasing restricted revenue to the state and the cost to natural gas suppliers subject to the initial registration fee. The registration fee is restricted revenue which supports the PUC administration and offsets funding that would otherwise be obtained through the PUC assessment. There is no cost or benefit to the State general fund or any State special fund.

Regarding the new sections:

- Puc 3003.08 clarifies the process for a CNGS to withdraw its registration to serve customers in the state and primarily represents an additional consumer protection measure. The CNGS is relieved from its financial security and PUC assessment obligations only once the withdrawal process and timeline have been completed. This may result in additional incremental financial impact to the CNGS, however the amount of any such potential financial impact is indeterminate.

NN 2018-164 Continued

*(Item 10. continued)*

- Puc 3004.05 is a new section which provides for a process and timeline when a CNGS seeks to voluntarily discontinue its service to customers in the state. It is primarily an additional consumer protection measure focused on notice to customers and customer transitions to different service. The CNGS is relieved from its registration and financial security obligations only once the service discontinuance process and timeline have been completed. This may result in additional incremental financial impact to the CNGS, however the amount of any such potential financial impact is indeterminate.
- Puc 3004.07 authorizes the PUC to take certain actions to ensure continuous service if a CNGS has not made adequate provisions for transfers of affected customers to gas utility delivery service or to another CNGS. The PUC may direct the gas utility to transfer customers to its service, draw on the CNGS's financial security to cover transition costs, and order the CNGS to provide adequate notice to its customers. These are additional consumer protection measures that may result in incremental financial impact to the affected CNGS, however the amount of any such potential financial impact is indeterminate.
- Puc 3005.02 authorizes the PUC to prospectively suspend marketing and sales activities by a CNGS which has been found to have engaged in a "sanctionable event." This is a less severe remedial measure than full suspension or revocation that would permit existing customers to continue service with the CNGS while prohibiting the CNGS from soliciting or enrolling new customers in the state for a period of time. There may be a potential financial benefit to the CNGS in those circumstances, however the amount of any such potential financial benefit is indeterminate.
- Puc 3005.06 clarifies the payment priority order for claims against a CNGS's financial security, with customer complaint reparations/restitution, PUC fines, and PUC assessments ranked in order of relative significance. Because all of those items are already covered by financial security under the existing rules, there should not be an additional incremental financial impact to any affected CNGS.

**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 2018-165

Rule Number He-W 606.104(b) intro. & (b)(12) & He-W 699.05(d) intro., (d)(3) intro., & (d)(3)b.

<p>1. Agency Name &amp; Address:</p> <p><b>Dept. of Health and Human Services Division of Family Assistance 129 Pleasant St, Brown Bldg. Concord, NH 03301</b></p>	<p>2. RSA Authority: <b>RSA 167:3-c, II-a &amp; RSA 167:83, II(c)</b></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Amendment <b>X</b></p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment _____</p>
--	--

5. Short Title: **Emergency Assistance and Verification**

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

**The Department of Health and Human Services (Department) is proposing to amend He-W 606.104(b) and He-W 699.05(d)(3)b. He-W 606.104(b) describes acceptable documentation for individuals seeking emergency assistance. He-W 699.05(d) describes non-financial eligibility requirements for emergency assistance to retain housing.**

**The proposed amendment to He-W 606.104(b) inserts subparagraph (b)(12) to identify acceptable documentation to verify that an unsafe or unhealthy housing living condition exists.**

**In an effort to harmonize eligibility for Temporary Assistance to Needy Families (TANF), in support with language in other parts of He-W 699.05, the proposed amendment to He-W 699.05(d)(3)b. clarifies that an individual that is in sanction, but actively engaging to cure his or her sanction, is eligible to apply for emergency assistance.**

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

**The groups affected by the proposed rules include individuals who are seeking and are eligible for emergency assistance.**

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 606.104(b) intro. and (b)(12)	RSA 167:3-c, II-a; RSA 167:7, V; RSA 167:83, I(c) & II(c); 45 CFR 233.120
He-W 699.05(d) intro., (d)(3) intro., and (d)(3)b.	RSA 167:3-c, II-a; RSA 167:7, V; RSA 167:79, VI; RSA 167:82, III; RSA 167:83, I(c); RSA 167:86; RSA 167:88; 45 CFR 233.120

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

Name:	<b>Allyson Zinno</b>	Title:	<b>Administrative Rules Coordinator</b>
Address:	<b>Dept. of Health &amp; Human Services Administrative Rules Unit 129 Pleasant Street, Brown Bldg. Concord, NH 03301</b>	Phone #:	<b>271-9604</b>
		Fax#:	<b>271-5590</b>
		E-mail:	<b>allyson.zinno@dhhs.nh.gov</b>

NN 2018-165 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Thursday, November 1, 2018**

 Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, October 25, 2018 at 1:00 PM**

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

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

FIS # 18:160, dated September 6, 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	2018-166	Rule Number	Env-A 2800
1. Agency Name & Address:		2. RSA Authority:	RSA 125-C:4, I(a)
		3. Federal Authority:	N/A
Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095		4. Type of Action:	
		Adoption	_____
		Amendment	_____
		Repeal	_____
		Readoption	_____
		Readoption w/amendment	X
5. Short Title:	Sand & Gravel Sources; Non-Metallic Mineral Processing Plants; Cement & Concrete Sources		

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

The existing rules Env-A 2800 contain standards for particulate matter emissions, visible emissions and fugitive dust requirements for sand and gravel sources, non-metallic mineral processing plants, and cement and concrete sources as well as permit by notification requirements for non-metallic mineral processing plants. The rules are scheduled to expire on October 1, 2018, so the Department is proposing to readopt the chapter with amendments to clarify existing requirements, including that electronic submittal of information is allowed for permits by notification. **The existing rules will continue in effect pursuant to RSA 541-A:14-a, I, subject to the conditions specified therein.**

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

Sand and gravel sources, non-metallic mineral processing plants, and cement and concrete sources are affected.

## 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 Regulations Implemented
Env-A 2801	RSA 125-C:6, II	
Env-A 2802	RSA 125-C:6, II	
Env-A 2803	RSA 125-C:6, II	40 CFR § 60.675 40 CFR 60 subpart 000
Env-A 2804	RSA 125-C:6, II	
Env-A 2805	RSA 125-C:6, II	
Env-A 2806 (also see specific section below)	RSA 125-C:11, III-c	40 CFR 60.676(a)(1), (2), (3), and (4) 40 CFR 60 subpart 000
Env-A 2806.06	RSA 125-C:12, IV-c	

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

Name:	Karla McManus	Title:	Planning and Rules Manager
Address:	Dept. of Environmental Services 29 Hazen Drive; P.O. Box 95 Concord, NH 03302-0095	Phone #:	(603) 271-6854
		Fax#:	(603) 271-1381
		E-mail:	Karla.McManus@des.nh.gov

The rules also can be viewed in PDF at  
<http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

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



NN 2018-166 Continued

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, November 9, 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, November 1, 2018 at 1:30 PM**

Place: **Room 114, DES Offices, 29 Hazen Drive, Concord NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 18:163 , dated 9/21/018:

**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:**

There is no federal mandate. The existing rule is part of a State Implementation Plan (SIP), which has been approved by the U.S. Environmental Protection Agency pursuant to Section 110 of the Clean Air Act, 43 U.S.C. § 7410. If the rule is allowed to expire, the state would be in violation of the SIP and subject to federal sanctions.

**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, expand, or modify any program or responsibility in such a way as to necessitate additional local expenditures by political subdivisions. The rules thus do not violate Part I, Article 28-a of the New Hampshire Constitution.

Notice Number 2018-167

Rule Number He-W 742.02(b)

<p>1. Agency Name &amp; Address:</p> <p><b>Dept. of Health and Human Services</b>  <b>Division of Family Assistance</b>  <b>129 Pleasant St, Brown Bldg.</b>  <b>Concord, NH 03301</b></p>	<p>2. RSA Authority: <u>RSA 167:3-c, I</u></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Amendment <u>X</u></p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment _____</p>
--	---

5. Short Title: **Utility Expenses Incurred Separately**

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

The Department of Health & Human Services (Department) is proposing to amend He-W 742.02(b) to update the amount of the Standard Utility Allowances (SUAs) for heat, utilities, electricity, and telephone costs pursuant to 7 CFR 273.9(d)(6)(iii).

SUAs are Supplemental Nutrition Assistance Program (SNAP) deductions used to offset utility costs that SNAP households may incur outside of rent or mortgage payments. SUAs are adjusted annually based on changes that occur in the Consumer Price Index for Urban Consumers (CPI-U) in the Northeast Region. The updated SUAs will likely result in more households being eligible for SNAP benefits and existing SNAP households receiving an increased SNAP allotment. The internet SUA of \$50 remains the same. The methodology for updating SUAs also remains the same.

The Food and Nutrition Service (FNS) requires that New Hampshire lower the heat SUA by \$1 to offset a medical deduction waiver. Therefore, the heat SUA has been adjusted to account for this offset.

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

The groups affected by the proposed rule include households that have SNAP benefits or households that might be eligible for SNAP benefits.

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 742.02(b)	RSA 161:2, XIII; RSA 161:4-a, IV; RSA 167:3-c, I; RSA 167:4, I(a); 7 CFR 273.9(d)(6)(iii); 7 USC 2014(e)(6)(C)-(D)

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>

NN 2018-167 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Thursday, November 1, 2018**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, October 25, 2018 at 10:00 AM**

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

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

FIS # 18:161, dated September 11, 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 federal expenditures and increase benefits to the state citizens, to the extent that they are eligible for benefits under the Supplemental Nutrition Assistance Program (SNAP).

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

Pursuant to 7 CFR 273.9(d)(6)iii, state agencies may develop standard utility allowances (SUA) to determine SNAP household's excess shelter deduction and make adjustments to reflect changes in cost. Although the proposed rule increases monthly SUAs, resulting in increased SNAP expenditures, this change will have no effect on state funds because SNAP benefits are 100 percent federally funded.

**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 does 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 does not violate Part I, Article 28-a of the N.H. Constitution.**