



NEW HAMPSHIRE RULEMAKING REGISTER

OFFICE OF LEGISLATIVE SERVICES

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TABLE OF CONTENTS

1.	<u>OFFICE OF LEGISLATIVE SERVICES</u>	<u>Page No.</u>
a.	List of Notices of Proposed Rules NN 2019-130 through NN 2019-135, Proposed Interim Rules INT 2019-21 through INT 2019-22, and Proposed Expedited Revisions to Agency Forms EXRF 2019-4	-i-
b.	Notices of Proposed Rules	1
c.	Postponement and Rescheduling of Rulemaking Hearing Re: BOARD OF PSYCHOLOGISTS NN 2019-110 – Petition for Waiver	22
d.	List of Adopted Rules	24

NOTE: POSSIBLE RULE EXTENSION

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

2. COMMITTEE (JLCAR)

REGULAR MEETING: **Thursday, August 15, 2019 9:00 a.m.**
Rooms 306/308, Legislative Office Building

CONTINUED MEETING: **Thursday, September 5, 2019 9:00 a.m.**
Rooms 306/308, Legislative Office Building

a.	List of Final Proposals, Proposed Interim Rules, Expedited Revisions to Agency Forms, and Objection Responses for Review	23
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JLCAR MEETING DATES AND RELATED FILING DEADLINES AUGUST-DECEMBER, 2019

The JLCAR has voted to hold its regularly scheduled monthly meetings for August through December, 2019 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
August 1	August 15	September 5
September 5	September 19	October 3
October 3	October 17	November 7
November 7	November 21	December 5
December 5	December 19	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>
2019-130	Env-Hw 100 various sections	Department of Environmental Services Hazardous Waste Programs Hazardous Waste - Organization and Definitions.	1
2019-131	Env-Hw 203.03	Department of Environmental Services Hazardous Waste Programs Hazardous Waste - Procedural Rules for e-Manifests and Import/Export.	3
2019-132	Env-Hw 300-800, 1100,1200 various sections	Department of Environmental Services Hazardous Waste Programs Hazardous Waste Amendments: E-Manifest-Related Revisions to Permits, Identification of Hazardous Waste, Generators, Transporters, Facility Owners/Operators, Recycling, Universal Waste, Land Disposal Restrictions.	5
2019-133	Fam 404.01, 404.07, 404.10, 804.01	Board of Family Mediator Certification Continuing Education and Requirement to Screen.	10
2019-134	Den 401.03, 402.01, 403.03, 403.07	Board of Dental Examiners Qualified Dental Assistants' Duties, Dental Hygienists' Duties, Continuing Education.	12
2019-135	Psyc 202.01 intro. & (p), 204.02, 302.05, 303.02, 303.04, 303.05	Board of Psychologists Informal Resolution, Post-Doctoral Supervision, Application Process, Temporary License Application, and Written Examinations.	14

Notices of Proposed Interim Rules

<u>Interim Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Page No.</u>
(INT 2019-21)	He-W 654.21	Department of Health and Human Services Former Division of Human Services Allocated Income.	16
(INT 2019-22)	Emp 501.11 and 501.12	Department of Employment Security Claimant Requirements.	18

Notices of Proposed Expedited Revisions to Agency Forms

<u>Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Page No.</u>
EXRF 2019-4	He-M 1001.20(a)	Department of Health and Human Services Former Div. of Mental Health and Developmental Svcs. Expedited Revision to "Request for Certification of Community Residence and/or Community Participation Services Provider".	21

Notice Number 2019-130	Rule Number Env-Hw 100 various sections
1. Agency Name & Address: Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	2. RSA Authority: <u>RSA 147-A:3, V; RSA 541-A:16, I(a)</u> 42 U.S.C. §§6921 - 6939e; 3. Federal Authority: <u>40 CFR Parts 260 - 279</u> 4. Type of Action: Adoption <u>X</u> Amendment _____ Repeal <u>X</u> Readoption _____ Readoption w/amendment <u>X</u>

5. Short Title: **Hazardous Waste – Organization and Definitions**

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

The existing rules, Env-Hw 100, establish the definitions that apply throughout subtitle Env-Hw. The Department is proposing to update the edition date of the Code of Federal Regulations (CFR) cited in the rules throughout the subtitle unless otherwise noted, adopt the federal requirements for electronic manifests, update incorporated federal definitions, repeal the incorporation of the federal definition of “foreign consignee”, replace existing definitions relevant to the export/import of hazardous waste and use of electronic manifests with current federal terms, and adopt definitions for the following terms: electronic manifest, electronic manifest system, exporter, and importer.

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

The rules affect any individual or entity that generates, stores, treats, recycles, transports, or disposes of hazardous waste.

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-Hw 101.04	RSA 147-A:3	40 CFR 260.3
Env-Hw 101.05	RSA 147-A:3, V	40 CFR 260.4; 40 CFR 260.5
Env-Hw 102.02	RSA 147-A:2 & 3, I	40 CFR 260.10
Env-Hw 103.39, 103.40, 103.45, 103.55, 103.56 (repealed), 103.72	RSA 147-A:2 & 3, I	40 CFR 260.10; 40 CFR 262.81
Env-Hw 104.02, 104.17, 104.18	RSA 147-A:2 & 3, I	40 CFR 260.10; 40 CFR 268.2(c)

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

Name:	Wendy Bonner	Title:	Regulatory Manager, Hazardous Waste Management Bureau
Address:	Dept. of Environmental Services 29 Hazen Drive; P.O. Box 95 Concord, NH 03302-0095	Phone #:	(603) 271-2937
		Fax#:	(603) 271-2456
		E-mail:	wendy.bonner@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 2019-130 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, September 6, 2019**

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, August 29, 2019 at 9:00 AM**

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

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 19:125 , dated 07/24/2019:

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-Hw 101.05, 9(a) and (b) and Env-Hw 103.39, Env-Hw 103.40, Env-Hw 103.55 and Env-Hw 103.72 which are new.

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

The Resource Conservation and Recovery Act (RCRA), Subtitle C provides for federal authorization of state programs that are at least as stringent as the federal requirements. 40 CFR 271 specifies the requirements to be met by a state's hazardous waste program (including adoption of requirements promulgated by EPA under the authority of RCRA, the Hazardous and Solid Waste Amendments of 1984 (HSWA), or the Hazardous Waste Electronic Manifest Establishment Act in order to receive and maintain authorization from EPA. Once authorized, the state program is enforceable in lieu of the federal program. The New Hampshire Department of Environmental Services has been authorized by the EPA to implement the RCRA Subtitle C program in New Hampshire and receives approximately \$502,000 annually to implement the program. If the rules are not updated, EPA may initiate proceedings to revoke the authorization, which would result in the loss of the federal funds. The federal requirements then would be enforced in New Hampshire by EPA.

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

There is no fiscal cost or benefit associated with Env-Hw101.05, 9(a) and (b) or Env-Hw 103.39, Env-Hw 103.40, Env-Hw 103.55 and Env-Hw 103.72.

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 subtitle Env-Hw, so 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 2019-131	Rule Number Env-Hw 203.03
1. Agency Name & Address: Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	2. RSA Authority: <u>RSA 147-A:3, V; RSA 541-A:16, I(b) intro</u> 3. Federal Authority: <u>42 U.S.C. §§6921 - 6939e; 40 CFR Parts 260 - 279</u> 4. Type of Action: Adoption _____ Amendment _____ Repeal _____ Readoption _____ Readoption w/amendment <u> X </u>

5. Short Title: **Hazardous Waste – Procedural Rules for e-Manifests and Import/Export**

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

The existing rules, Env-Hw 200, establish procedures that apply to the hazardous waste management program established in subtitle Env-Hw, implementing RSA 147-A. Env-Hw 203.03 is proposed to be readopted with amendments to incorporate federal requirements applicable to electronic manifests and the export/import of hazardous waste.

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

The rules affect any individual or entity that generates, stores, treats, recycles, transports, or disposes of hazardous waste.

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-Hw 203.03	RSA 147-A:3, III and IV; RSA 541-A:16, I(b) intro	40 CFR 260.2

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

Name: Wendy Bonner	Title: Regulatory Manager, Hazardous Waste Management Bureau	
Address: Dept. of Environmental Services 29 Hazen Drive; P.O. Box 95 Concord, NH 03302-0095	Phone #: (603) 271-2937	Fax#: (603) 271-2456
	E-mail: Wendy.Bonner@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, September 6, 2019**

YOU MAY SUBMIT WRITTEN COMMENTS WITHOUT ATTENDING THE PUBLIC HEARING

Fax
 E-mail
 Other format (specify):

NN 2019-131 Continued

9. Public hearing scheduled for:

Date and Time: **Thursday, August 29, 2019 at 9:00 AM**

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

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 19:126 , dated 7/24/2019:

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:

The Resource Conservation and Recovery Act (RCRA), Subtitle C provides for federal authorization of state programs that are at least as stringent as the federal requirements. 40 CFR 271 specifies the requirements to be met by a state's hazardous waste program (including adoption of requirements promulgated by EPA under the authority of RCRA, the Hazardous and Solid Waste Amendments of 1984 (HSWA), or the Hazardous Waste Electronic Manifest Establishment Act) in order to receive and maintain authorization from EPA. Once authorized, the state program is enforceable in lieu of the federal program. The New Hampshire Department of Environmental Services has been authorized by the EPA to implement the RCRA Subtitle C program in New Hampshire and receives approximately \$502,000 annually to implement the program. If the rules are not updated, EPA may initiate proceedings to revoke the authorization, which would result in the loss of the federal funds. The federal requirements then would be enforced in New Hampshire by EPA.

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

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

None.

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

The rules do not create, modify, or expand any program in such a way as to require action by political subdivisions and so do not require any expenditures by political subdivisions. The rules thus do not violate Part I, Article 28-a of the N.H. Constitution.

Notice Number	2019-132	Rule Number	Env-Hw 300-800, 1100, 1200, various sections
1. Agency Name & Address:	2. RSA Authority: <u>RSA 147-A:3, V; RSA 147-B:7</u> 42 U.S.C. §§6921 - 6939e;		
Department of Environmental Services	3. Federal Authority: <u>40 CFR Parts 260 - 279</u>		
29 Hazen Drive	4. Type of Action:		
P.O. Box 95	Adoption	<u>X</u>	
Concord, NH 03302-0095	Amendment	<u>X</u>	
	Repeal	<u>X</u>	
	Readoption	<u> </u>	
	Readoption w/amendment	<u>X</u>	
5. Short Title:	Hazardous Waste Amendments: E-Manifest-Related Revisions to Permits, Identification of Hazardous Waste, Generators, Transporters, Facility Owners/Operators, Recycling, Universal Waste, Land Disposal Restrictions		

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

The existing rules in subtitle Env-Hw implement RSA 147-A by establishing requirements governing the generation, storage, treatment, transportation, and disposal of hazardous waste (“HW”). The Department is required to adopt or incorporate federal HW regulations on an ongoing basis to maintain authorization to administer the federal Resource Conservation and Recovery Act (“RCRA”) in New Hampshire. Amendments to definitions and procedural rules (Env-Hw 100 and Env-Hw 200, respectively) are proposed in companion rulemakings.

Chapters Env-Hw 300 through 800, and 1100 & 1200, respectively:

- Establish the procedures and requirements for application, issuance and modification of HW management facility permits;
- Establish standards for identifying and listing HW;
- Establish requirements for full quantity and small quantity hazardous waste generators, including storage, manifest, delivery, recordkeeping, and emergency action requirements;
- Establish requirements for hazardous waste transporters, including manifest, delivery, recordkeeping, emergency action, and registration requirements;
- Establish requirements for owners and operators of hazardous waste facilities and hazardous waste transfer facilities, including requirements applicable to receipt of shipments, rejected shipments, recordkeeping/reporting, and emergency action requirements;
- Establish requirements for recycling hazardous waste, including requirements applicable to classification of materials, management, disposal, burning for energy recovery, management of used oil, and precious metal recovery;
- Establish requirements that may be used in lieu of Env-Hw 300 through Env-Hw 700 for management of certain widely generated “universal wastes”, including batteries, pesticides, mercury-containing devices, lamps, cathode ray tubes, and antifreeze; and
- Incorporate by reference federal requirements and restrictions applicable to land disposal of hazardous waste, pursuant to 40 CFR 268, with some clarifications to conform with state-specific terminology, cross-references, and other requirements in Env-Hw.

NN 2019-132 Continued

Various rules are proposed to be adopted, amended, repealed, or readopted with amendments in order to:

- Better align New Hampshire's hazardous waste rules with federal requirements as identified during New Hampshire's RCRA authorization application process, including permit renewal procedures, references to federal regulations for certain ignitable hazardous wastes, recordkeeping for federal biennial reports, and responses to accidental discharges of hazardous waste;
- Incorporate federal requirements for use of electronic manifests;
- Incorporate federal requirements for leak detection systems;
- Incorporate a federal exemption for airbag waste;
- Incorporate federal export/import provisions;
- Incorporate select provisions of the federal Generator Improvements Rule, including clarification of a test method for analyzing hazardous waste; requirements for consolidating New Hampshire Small Quantity Generator (NHSQG) waste at a Full Quantity Generator (FQG) that is under the same control as the NHSQG; and federal biennial reporting requirements;
- Incorporate a federal revision to the P075 listing for nicotine waste;
- Reduce regulatory requirements for generators who generate only wastes that are not counted toward generator classification;
- Allow generators to correct manifest errors within one business day instead of immediately;
- Remove a transportation time limit that was more stringent than federal requirements;
- Repeal certain sections of the existing rules that would be made redundant by incorporating by reference federal requirements;
- Better align New Hampshire's requirements for management of spent lead-acid batteries with federal requirements;
- Clarify existing requirements; and
- Specify exceptions to the CFR edition dates established in Env-Hw 101.04.

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

The rules affect any individual or entity that generates, stores, treats, recycles, transports, or disposes of hazardous waste.

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)	Federal Regulation(s)
Env-Hw 304.04(n), 304.06, 304.31	RSA 147-A:3, III, IV, VIII-X, XIII, XXV; RSA 147-A:4; RSA 147-A:5	40 CFR 124; 40 CFR 264.1; 40 CFR 265.1; 40 CFR 270
Env-Hw 401.02(a)-(c); 401.03(a)(7), (b)(9), (b)(22)a., (b)(23)a., (b)(26)a., (b)(34)a. & b., (b)(35), (b)(36), (g)(8), (k), & (l)	RSA 147-A:3, I, II, IV & VI	40 CFR 261
Env-Hw 401.06(j); 402.04(b)	RSA 147-A:3, I, II	40 CFR 261
Env-Hw 402.06(a)	RSA 147-A:3, I, II, IV & VI	40 CFR 261
Env-Hw 403.03	RSA 147-A:3, I, II	40 CFR 261
Env-Hw 501.01; 501.02(c) & (h); 501.03	RSA 147-A:3, IV, VI	40 CFR 262.10
Env-Hw 503.03(b)-(d)	RSA 147-A:3, IV, VI	40 CFR 262.13
Env-Hw 504.01; 504.02(a) intro, (a)(13), (a)(15) & (g); 504.04	RSA 147-A:3, VI, XXVIII; RSA 147-A:6-a	40 CFR 262.10; 40 CFR 262.17; 40 CFR 262.18
Env-Hw 505.01	RSA 147-A:3, VI	40 CFR 262.18
Env-Hw 507.03(c)	RSA 147-A:3, III, IV, XIII	40 CFR 262.16; 40 CFR 262.17
Env-Hw 508.03 intro & (d)	RSA 147-A:3, III, IV, VI, XIII	40 CFR 262.14

Rule Section(s)	State Statute(s)	Federal Regulation(s)
Env-Hw 509.02(a) intro. & (7), (d) intro. & (4) & (l)	RSA 147-A:3, III, IV, VI, XIII	40 CFR 262.17
Env-Hw 509.03 intro., (h) intro. (h)(1) intro. & (h)(1)b.	RSA 147-A:3, III, IV, VI, XIII	40 CFR 262.15
Env-Hw 510.01; 510.02	RSA 147-A:3, IV, V; RSA 147-B:7; RSA 147-B:8	40 CFR 262 Subpart B
Env-Hw 510.03	RSA 147-A:3, IV, V; RSA 147-B:7; RSA 147-B:8; RSA 147-B:9	40 CFR 262 Subpart B
Env-Hw 510.04; 510.05	RSA 147-A:3, IV, V; RSA 147-B:7; RSA 147-B:8	40 CFR 262 Subpart B
Env-Hw 510.06	RSA 147-A:3, IV, V; RSA 147-B:7; RSA 147-B:8	40 CFR 262 Subparts B & H
Env-Hw 511.01; 511.02	RSA 147-A:3, III-VI	40 CFR 262.17; 40 CFR 262.18; 40 CFR 262 Subpart B
Env-Hw 512.01	RSA 147-A:3, I-VII, XIII; RSA 147-B:7; RSA 147-B:8; RSA 147-B:9	40 CFR 262 Subparts D & H
Env-Hw 512.02	RSA 147-A:3, I-VI; RSA 147-B:7; RSA 147-B:8; RSA 147-B:9; RSA 147-B:11	40 CFR 262 Subpart D
Env-Hw 512.03	RSA 147-A:3, I-VI	40 CFR 262 Subparts D & H
Env-Hw 512.04	RSA 147-A:3, I-VI	40 CFR 262 Subpart D
Env-Hw 513.03	RSA 147-A:3, III, IV, VI, VII, XXV; RSA 147-A:11	40 CFR 262.16, 40 CFR 262.17
Env-Hw 601.01	RSA 147-A:3, XXV; RSA 147-A:6	40 CFR 263.10
Env-Hw 602.01	RSA 147-A:3, VIII; RSA 147-A:6	
Env-Hw 603.01	RSA 147-A:3, IV	40 CFR 263.10
Env-Hw 604.01; 604.02-604.04 (repealed)	RSA 147-A:3, V	40 CFR 263 Subpart B
Env-Hw 606.01; 606.02 (repealed)	RSA 147-A:3, IV, V	40 CFR 263 Subpart B
Env-Hw 607.01; 607.03-607.05 (repealed)	RSA 147-A:3, VI	40 CFR 263 Subpart B
Env-Hw 608.03	RSA 147-A:3, VII, XXV	40 CFR 263 Subpart C
Env-Hw 609.01(f) intro., (f)(4) intro.(f)(4)e.	RSA 147-A:3, VIII, IX; RSA 147-A:6	
Env-Hw 701.01; 701.03	RSA 147-A:3, III, IV, XXV	40 CFR 264; 40 CFR 265
Env-Hw 703.01; 703.02; 704.01; 702.03 & 703.04 (repealed)	RSA 147-A:3, V, VI	40 CFR 264 Subpart E; 40 CFR 265 Subpart E
Env-Hw 705.01(b) intro., (b)(2) intro. & (b)(2)b.; (b)(16); (b)(17) & (c); 705.02(c) & (e)(4); 705.03	RSA 147-A:3, III - VI; RSA 147-B:8	40 CFR 264 Subpart E; 40 CFR 265 Subpart E
Env-Hw 706.03	RSA 147-A:3, III, IV, VI, VII, XXV; RSA 147-A:11	40 CFR 264.56; 40 CFR 265.56
Env-Hw 804.01	RSA 147-A:3, IV	40 CFR 261; 40 CFR 266
Env-Hw 807.06(b) intro. & (15)	RSA 147-A:3, I, IV, VI	40 CFR 261; 40 CFR 279
Env-Hw 808.02	RSA 147-A:3, III, IV, V, VI; RSA 147-A:5, III, IV	40 CFR 266
Env-Hw 808.03; 808.04	RSA 147-A:3, III, IV, V, VI	40 CFR 266
Env-Hw 809.01	RSA 147-A:3, III, IV	40 CFR 266
Env-Hw 809.02; 809.03	RSA 147-A:3, IV	40 CFR 266
Env-Hw 809.04	RSA 147-A:3, III, IV	40 CFR 266

Rule Section(s)	State Statute(s)	Federal Regulation(s)
Env-Hw 809.05; 809.06	RSA 147-A:3, IV, VI	40 CFR 266
Env-Hw 1101.02	RSA 147-A:3, IV	40 CFR 273
Env-Hw 1102.08; 1104.05; 1104.06; 1106.07; 1107.03	RSA 147-A:3, IV, VI	40 CFR 273
Env-Hw 1109.02 (heading change)	RSA 147-A:3, IV	40 CFR 273
Env-Hw 1110.04	RSA 147-A:3, IV, XIII	40 CFR 273
Env-Hw 1111.02 (heading change); 1111.03; 1112.02 (heading change); 1113.02 (heading change)	RSA 147-A:3, IV	40 CFR 273
Env-Hw 1201.02; 1201.03; 1202.01	RSA 147-A:3, IV & VI	40 CFR 268

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

Name: Wendy Bonner Title: Regulatory Manager, Hazardous Waste Management Bureau
Address: Dept. of Environmental Services Phone #: (603) 271-2937
29 Hazen Drive; P.O. Box 95 Fax#: (603) 271-2456
Concord, NH 03302-0095 E-mail: Wendy.Bonner@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, September 6, 2019**

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, August 29, 2019 at 9:00 AM**

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

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 19:127 , dated 07/24/2019:

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

There is no difference cost when comparing the proposed rules to the existing rules.

Not applicable to Env-Hw 501.02(h), Env-Hw 510.04(c) and Env-Hw 606.01(b), Env-Hw 504.02(a)(15)(c) and Env-Hw 505.01(b).

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

The Resource Conservation and Recovery Act (RCRA), Subtitle C provides for federal authorization of state programs that are at least as stringent as the federal requirements. 40 CFR 271 specifies the requirements to be met by a state's hazardous waste program (including adoption of requirements promulgated by EPA under the authority of RCRA, the Hazardous and Solid Waste Amendments of 1984 (HSWA), or the Hazardous Waste Electronic Manifest Establishment Act) in order to receive and maintain authorization from EPA. Once authorized, the state program is enforceable in lieu of the federal program. The New Hampshire Department of Environmental Services has been authorized by the EPA to implement the RCRA Subtitle C program in New Hampshire and receives approximately \$502,000 annually to implement the program. If the rules are not updated, EPA may initiate proceedings to revoke the authorization, which would result in the loss of the federal funds. The federal requirements then would be enforced in New Hampshire by EPA.

NN 2019-132 Continued**3. Cost and benefits of the proposed rule(s):**

Env-Hw 501.02(h), Env-Hw 510.04(c) and Env-Hw 606.01(b) are State-initiated amendments that will likely result in savings to waste generators by reducing state regulatory requirements, providing greater flexibility for generators to correct manifest errors, and allowing generators to choose appropriate and cost-effective disposal locations for shipments without unnecessary time constraints. The amount of savings cannot be determined. Under Env-Hw 501.02(h) political subdivisions, small health centers, and Women, Infants and Children (WIC) programs that use blood testing devices to test for lead poisoning in children will experience decreased costs as the small amount of waste generated from such devices, when properly neutralized, will not count toward hazardous waste generator classification.

Env-Hw 504.02(a)(15)(c) and Env-Hw 505.01(b) are more stringent than federal requirements, and therefore any additional cost or benefit is attributable to the proposed rules. The Department does not anticipate there will be costs associated with to Env-Hw 504.02(a)(15)(c). There may be an indeterminable increase in costs associated with Env-Hw 505.01(b) requiring recognized traders to notify the Department if there are any changes to their notification information.

A. To State general or State special funds:

There will be no impact on the State general fund. There will likely be a decline in revenue to the Hazardous Waste Cleanup Fund as a result of proposed Env-Hw 501.02(h) which will exempt certain generators from providing initial notification of hazardous waste activity and paying the associated \$150 fee; the exemption of airbag waste; and removal of patches, gums, and lozenges that are FDA-approved over-the-counter nicotine replacement therapies from the P075 acutely hazardous waste listing.

B. To State citizens and political subdivisions:

There will be no cost or benefit to State citizens. Political subdivisions that use blood testing devices to test for lead poisoning in children will experience the savings related Env-Hw 501.02(h) described in # 3 above.

C. To independently owned businesses:

Businesses that are hazardous waste generators will realize the costs and savings described in #3 above. To the extent small health centers and Women, infants and Children (WIC) programs are considered independently owned businesses, they will experience the savings related Env-Hw 501.02(h) described in # 3 above.

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

Most of the proposed changes incorporate requirements that are the same as federal requirements that are required to be adopted or are already in effect in New Hampshire regardless of whether New Hampshire adopts the rules. Where the federal requirements have become less stringent, adoption of the federal requirements will reduce costs. To the extent that other requirements in the existing rules are being readopted, they do not create new costs for political subdivisions. To the extent there are any increased costs associated with requiring FQGs consolidating NHSQG waste to provide the EPA ID# of the NHSQG or requiring subsequent notification by recognized traders if there are any changes to their notification information, such costs are due to proposed revisions that are within the scope of modifications to existing programs or responsibilities allowed under the New Hampshire Supreme Court's analysis in *City of Concord v. State*, 164 N.H. 130 (2012), and thus do not violate Part I, Article 28-a of the New Hampshire Constitution.

Notice Number **2019-133** Rule Number **Fam 404.01; Fam 404.07; Fam 404.10; Fam 804.01**

<p>1. Agency Name & Address:</p> <p>NH Board of Family Mediator Certification c/o Office of Professional Licensure & Certification 121 S. Fruit Street Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 328-C:8, I(c), II(a)</u></p> <p>3. Federal Authority: <u>n/a</u></p> <p>4. Type of Action:</p> <p>Adoption <u>X</u></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: **Continuing Education and Requirement to Screen**

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

The intended action is as follows:

- (a) **To readopt with amendments Fam 404.01, regarding required continuing education, to make changes to the required topic of family dynamics;**
- (b) **To adopt Fam 404.07 specifying what courses on family dynamics shall cover, and renumber existing Fam 404.07 – Fam 404.08 as Fam 404.08 – Fam 404.09;**
- (c) **To readopt with amendments Fam 404.09, regarding application for Board approval of continuing education classes, and renumber the rules as Fam 404.10, to specify how individuals shall submit requests for continuing education credits where the course covered several topics; and**
- (d) **To readopt with amendments Fam 804.01, regarding the requirement to engage in routine in-person screening for domestic violence, to fix an editorial error.**

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

This proposal affects current licensees of the Board of Family Mediator Certification.

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

Rule	Statute
Fam 404.01	RSA 328-C:4-a, IV; RSA 328-C:6
Fam 404.07	RSA 328-C:4-a, IV; RSA 328-C:6
Fam 404.10 (formerly Fam 404.09)	RSA 328-C:4-a, IV; RSA 328-C:6; RSA 328-C:8, I(b); RSA 541-A:16, I(b) intro
Fam 804.01	RSA 328-C:8, I(e)

NN 2019-133 Continued

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

Name: **Tom Broderick** Title: **Attorney III**
Address: **121 S. Fruit Street** Phone #: **(603) 271-3103**
Concord, NH 03301 Fax#: **(603) 271-0597**
E-mail: **Thomas.Broderick@opl.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: **September 10, 2019 by the conclusion of the public hearing.**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **September 10, 2019 at 4:30 p.m.**
Place: **Office of Professional Licensure & Certification, 121 S. Fruit St.,
Concord, NH 03301**

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

FIS # 19:120, dated July 12, 2019

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

There is no cost when comparing proposed Fam 404.08, Fam 404.09 Fam 804.01 to the existing rules. Not applicable to Fam 404.07 as this is a new proposed 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):**

Licenses and independent businesses who employ such licensees and cover their costs may incur incidental and indeterminable costs to comply with the continuing education requirements contained in proposed Fam 404.01, Fam 404.07 and Fam 404.10.

- A. **To State general or State special funds:**

None.

- B. **To State citizens and political subdivisions:**

See 3. Above. No cost to 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 violate Part I, Article 28-a of the New Hampshire Constitution. These rules do not mandate or assign this program to any political subdivision in any way.

Notice Number 2019-134 Rule Number Den 401.03, 402.01, 403.03, 403.07

<p>1. Agency Name & Address:</p> <p>NH Board of Dental Examiners c/o Office of Professional Licensure & Certification 121 South Fruit Street Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 317-A:12, XI, XII-b</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: **Qualified Dental Assistants' Duties, Dental Hygienists' Duties, Continuing Education**

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

The intended action is as follows:

(a) To readopt with amendments Den 401.03, regarding qualified dental assistants' duties, to fix a citation to another Den rule;

(b) To readopt with amendments Den 402.01, regarding hygienists' duties, to add a section allowing hygienists, under general supervision, to administer, prescribe, and dispense fluoride supplements, topically applied fluoride, and chlorhexidine gluconate oral rinse;

(c) To readopt with amendments Den 403.03, regarding continuing education requirements, to require that both hygienists and dentists earn at least 2 CEUs in medical emergency training per biennium; and

(d) To readopt with amendments Den 403.07, regarding categories of credit of CEUs, to fix minor issues in the rule and offer further clarification.

Den 401.03 is scheduled to expire 8-9-19 but is subject to extension pursuant to RSA 541-A:14-a.

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

This proposal affects dentists and dental hygienists who are currently licensed with the Board.

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

Rule	Statute
Den 401.03	RSA 317-A:12, XII-b
Den 402.01	RSA 317-A:21-c; RSA 317-A:12, XII-b
Den 403.03	RSA 317-A:12, XI
Den 403.07	RSA 317-A:12, XI

NN 2019-134 Continued

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

Name: **Tom Broderick** Title: **Attorney III**
Address: **121 S. Fruit Street** Phone #: **(603) 271-3103**
Concord, NH 03301 Fax#: **(603) 271-0597**
E-mail: **Thomas.Broderick@oplcnh.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: **September 9, 2019 at the conclusion of the public hearing.**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **September 9, 2019 at 3:00 p.m.**
Place: **Office of Professional Licensure & Certification, 121 S. Fruit St.,
Concord, NH 03301**

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

FIS # 19:140, dated July 31, 2019

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:

These rules do not violate Part I, Article 28-a of the New Hampshire Constitution. These rules do not mandate or assign this program to any political subdivision in any way.

NN 2019-135 Continued

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

Name: **Tom Broderick** Title: **Attorney III**
Address: **121 S. Fruit Street** Phone #: **(603) 271-3103**
Concord, NH 03301 Fax#: **(603) 271-0597**
E-mail: **Thomas.Broderick@oplc.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: **September 6, 2019 by the conclusion of the public hearing.**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **September 6, 2019 at 10:00 a.m.**
Place: **Office of Professional Licensure & Certification, 121 S. Fruit St.,
Concord, NH 03301**

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

FIS # 19:116, dated July 31, 2019

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

There is no cost when comparing the proposed rules to the existing rules. The \$300 license application fee associated with the proposed Psyc 303.02(a)(5) and Psyc 303.02(i)(5) are attributable to RSA 329-B:12, I, and not the proposed 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 violate Part I, Article 28-a of the New Hampshire Constitution. These rules do not mandate or assign this program to any political subdivision in any way.

Proposed Interim Rule Number 2019-21 Rule Number He-W 654.21

<p>1. Agency Name & Address:</p> <p>NH Dept. of Health & Human Services Bureau of Family Assistance 129 Pleasant Street Concord, NH 03301</p> <p>5. Filing Date: 7/26/2019</p>	<p>2. RSA Authority: <u>RSA 161:4-a, III & X(a) & (m); RSA 167:3-c, I</u></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Amendment _____</p> <p>Repeal _____</p> <p>Readoption <u>X</u></p> <p>Readoption w/amendment _____</p>
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6. Short Title: **Allocated Income**

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

Name:	Kim Reeve, Esq.	Title:	Legal Counsel – Admin Rules
Address:	NH Dept. of Health & Human Services Administrative Rules Unit 129 Pleasant Street Concord, NH 03301	Phone #:	271-9640
		Fax#:	271-5590
		E-mail:	kimberly.reeve@dhhs.nh.gov

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. Summary explaining the effect of the rule:

The Department of Health and Human Services (Department) is proposing to readopt He-W 654.21 as an interim rule pursuant to RSA 541-A:19, I(d) without changes because it is scheduled to expire August 20, 2019. He-W 654.21 describes allowable income allocations for applicants and recipients of financial or medical assistance to provide for the unmet needs of a dependent, and it defines who qualifies as a dependent for this purpose. The rule also describes an allowable income deduction for maintenance of the home when an individual with adult category financial or medical assistance who does not have a community spouse is institutionalized in a nursing facility. Furthermore, the rule describes the types of exceptional circumstances that constitute significant financial duress in response to an administrative appeal to request an increase of the community spouse’s income allowance, and, if the request is granted, how to adjust the allowance.

9. Listing of people, enterprises, and government agencies affected by the rule:

This rule affects individuals applying for or receiving all categories of financial assistance or the adult categories of medical assistance. It also affects community spouses of institutionalized individuals.

10. Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement.

Rule	Specific State or Federal Statutes the Rule Implements
He-W 654.21	RSA 161:4-a, III & X(a); RSA 167:3-c, I; 43 USC 1396r-5

INT 2019-21 Continued

11. Summary of the effect upon the state if the rule were not adopted:

The following describes the impacts if the interim rule were not adopted:

- **Individuals applying for or receiving financial or medical assistance who provide for the unmet needs of a dependent would be unable to use a dependent income allocation, and therefore, may become financially ineligible for financial or medical assistance. This may result in a decreased, but indeterminable cost to the state;**
- **An individual with adult category financial or medical assistance with no spouse who lives in the community and who becomes institutionalized would be unable to allocate a portion of his or her income for maintenance of the home. This may result in individuals paying a higher monthly cost of care, and a decreased, but indeterminable cost to the state; and**
- **If an institutionalized spouse or his or her a community spouse files an administrative appeal to request a higher community spouse income allowance based on a claim of significant financial duress, the Department would not have criteria to describe the types of exceptional circumstances that result in significant financial duress, nor a description of how to adjust the income allowance when significant financial duress is determined to exist.**

12. Proposed date of review by the Joint Legislative Committee on Administrative Rules:

August 15, 2019

13. The fiscal impact statement prepared by the Legislative Budget Assistant

No fiscal impact statement is required with this interim rule.

Proposed Interim Rule Number

2019-22

Rule Number

Emp 501.11 and Emp
501.12

<p>1. Agency Name & Address:</p> <p>State of New Hampshire Department of Employment Security 45 South Fruit Street Concord, NH 03301</p> <p>5. Filing Date: 7/29/19</p>	<p>2. RSA Authority: RSA 282-A:31, I (a); RSA 282-A:112, I</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>6. Short Title: Claimant Requirements</p>	

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

Name:	Marie-Hélène Bailinson	Title:	Legal Coordinator
Address:	State of NH-Dept. of Employment Security 45 South Fruit Street Concord, NH 03301	Phone:	603-228-4072
		Fax#	603-228-4080
		E-mail:	Marie-Helene.B.Bailinson@nhes.nh.gov
		TYY/TDD Access Relay NH: 1-800-735-2964 or dial 711 (in NH)	

8. Summary explaining the effect of the rule:

In order to maintain conformity with federal requirements and receive Unemployment Compensation (UC) administrative grants from the US Department of Labor (USDOL) and certain Federal Unemployment Tax Act credits, all states are required to have in place Work Search requirements for claimants as a condition of collection of state and Federal UC benefits. *See* Section 303 (a) (12), Social Security Act (SSA); 42 U.S.C. 503.

According to the USDOL state Work Search requirements contained in Section 303 (a) (12), SSA, can be waived ONLY if: (1) the temporary layoff has a definite recall date and (2) the work search waiver applies to all workers and not only workers in a single industry. When a statutory waiver is proposed, the Department seeks an opinion from the USDOL so that the federal government has an opportunity to examine any conformity concerns. Current law RSA 282-A:31, I (d) (2), which became effective in 2012 (Chapter 212 of the Laws of 2012), permits a waiver from searching for work if the recall date is less than 4 weeks and there is a reasonable expectation of return to work in that time period. Current rules Emp 501.11 on employment services and Emp 501.12 on work search define the “fewer than 4 weeks” and “reasonable assurance” terminology effectuating RSA 282-A:31, I (d) (2).

SB 62 which has been enacted into law (Chapter 227 of the Laws of 2019), effective on July 12, 2019, which adds a new provision to the same statute concerning benefit eligibility conditions, RSA 282-A:31, I. Pursuant to newly enacted RSA 282-A:31, I (d) (5), an individual is exempt from Work Search requirements if the individual “furnishes evidence satisfactory to the commissioner that such individual has a definite date for returning to work which is within 9 weeks of the last day of work.” In response to a request for an opinion by the USDOL regarding potential conformity concerns, the USDOL has given direction to the Department that this new and additional Work Search waiver under RSA 282-A:31, I (d) (5)

INT 2019-22 Continued

as provided for in SB 62 law creates no issues with Federal Unemployment Compensation Law. The USDOL has approved this new language specifically because it refers to a “definite return date within nine weeks.” The USDOL has opined that it “is within reason to be able to exempt seasonal workers who are temporarily laid off.”

The Department is proposing an interim rule pursuant to RSA 541-A:19, I (a) to conform to the new state statute in Chapter 227 by readopting with amendments rules Emp 501.11 and Emp 501.12. It is important to clarify for the general public as soon as possible the terminology in the newly effective statute and also transparently show how the 9 weeks are calculated as we have done in Emp 501.11 and Emp 501.12 for the “fewer than 4-week work search waiver.” Clarifying the meaning of the word “definite” is essential for the public’s understanding of Chapter 227 and of the Department’s practice in accordance with this new law. One of the reasons for this is that the standard for determining whether a 9-week work search waiver is warranted is higher than that for determining whether a “fewer than 4-week work search waiver” is warranted. The fact that Chapter 227 has added RSA 282-A:31, I (d) (5) does not remove the 4-week waiver pursuant to RSA 282-A:31, I (d) (2) but rather adds an additional piece to the continuum.

In order to qualify for such exemption, the claimants are required to show that they have a “definite return to work date within 9 weeks (63 days) of the layoff.” A “definite” return to work date shall mean that the claimant has been given a guarantee of employment which is to begin as a regular and continuous work schedule within 9 weeks of the last day of work. If the individual does not have a “definite” date for returning to work within 63 days, they must begin looking for temporary work that they are capable of doing and/or could learn to doing in accordance with benefit eligibility requirements.

The Proposed Interim Rule is a vehicle by which the Department can give employers and claimants detailed notice regarding the effect of the new statute and whether it releases a particular claimant from their obligation to perform a work search. Although the newly effective statute pertains to all workers on temporary layoffs, of immediate concern are school bus drivers who have begun their summer layoffs already and who will quickly need clarity as to what extent Chapter 227 governs their work search requirements.

Another reason the Department needs to update current rules quickly and to provide clear guidance to the regulated public regarding work search requirements is that HB 2, relative to state fees, funds, revenues, and expenditures, contains a provision amending the time period in RSA 282-A:31, I (d) (5) as effectuated by Chapter 227. The HB 2 provision appears at Section 420 of the committee of conference report (Number 2630c) and proposes to increase the work search waiver from 9 to 11 weeks. There is a contingency provision in HB 2 which states:

“421 Contingency. If SB 62 of the 2019 regular legislative session becomes law, then section 420 of this act shall take effect one minute after the effective date of SB 62.”

Given the uncertainty as to whether the law will eventually settle on a 9 or 11 week work search waiver, the Department has worded the language of the rule to refer back to RSA 282-A:31, I (d) (5).

The Department plans to engage in regular rulemaking so that the language of the Proposed Interim Rule will become a regular rule in effect for up to 10 years.

9. Listing of people, enterprises, and government agencies affected by the rule:

The rules at issue relate to a claimant’s eligibility to receive unemployment compensation. New Hampshire employers and those citizens applying for unemployment compensation benefits after the effective date of the new statute will have clarification relative to the statutory implications.

INT 2019-22 Continued

10. Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement.

Rule	Specific State or Federal Statutes the Rule Implements
Emp 501.11	RSA 282-A: 9, IV(x); 30, XI; 31, I, III
Emp 501.12	RSA 282-A:31, I, III; 32, I (d); 39

11. Summary of the effect upon the state if the rule were not adopted:

The Department seeks to have these rules enacted as Interim Rules under RSA 541-A:19, I(a) in order to “[c]onform with a new or amended codified state statute or chaptered session law...” Adding clarity by way of interpretation or specificity relative to a newly effective state statute to be administered by the Department is necessary for claimants, employers and the Department. Any confusion regarding the definition of “9 weeks” or the definition of a “definite” return to work date could negatively impact claimants and employers. The Department also seeks to avoid any negative impact regarding federal conformity. The opinion of the USDOL was that there are no conformity concerns regarding NH’s new work search exemption as long as the temporary layoff requires a “definite” return to work date within 9 weeks. Implementation of clear requirements with respect to this language will also help to avoid confusion with the USDOL. The Department seeks to avoid unnecessary misunderstandings that would require further explanation or potential costs assessed to NH employers.

12. Proposed date of review by the Joint Legislative Committee on Administrative Rules: **8/15/19**

13. The fiscal impact statement prepared by the Legislative Budget Assistant, if applicable.

FIS # 19:129, dated 7/29/19

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 interim rules to the existing rules.

Any cost or benefit associated with the proposed interim rules is attributable to RSA 282-A:31 as amended by Chapter 227, Laws of 2019 and not the proposed 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.

NOTICE FOR EXPEDITED REVISIONS TO AGENCY FORMS

Proposed Expedited Revision Number 2019-4 Form Number (Not applicable)

1. Agency Name & Address: Dept. of Health & Human Services Office of Client and Legal Services 105 Pleasant Street Concord, NH 03301	2. RSA Authority: <u>RSA 126-A:20, I</u> 3. Federal Authority: _____
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4. Short Title: **Expedited Revision to “Request for Certification of Community Residence and/or Community Participation Services Provider”**

5. Explanation of the reason for the proposed readoption with amendment of the form:

The Department of Health and Human Services (Department) proposes to readopt with amendment the application form “Request for Certification of Community Residence and/or Community Participation Services Provider” (April 2019), which is incorporated by reference in He-M 1001.20(a).

The Department proposes to enter expedited form rulemaking to update the above referenced application pursuant to RSA 541-A:19-c.

Applicants that are applying to become a community residence and/or a community participation services provider or are renewing their certification as a community residence and/or a community participation services provider must complete the application form “Request for Certification of Community Residence and/or Community Participation Services Provider”. This application is being updated to add the requirement for an applicant to identify what type of residence he or she is applying for, that is, a staffed residence or a family residence. This requirement was on the previous version of the application form, but was overlooked when the application form was updated in April 2019 and incorporated by reference in He-M 1001.20(a), effective May 7, 2019.

6. Contact person for copies and questions about the proposed form:

Name:	Allyson Zinno	Title:	Administrative Rules Coordinator
Address:	Dept. of Health & Human Services Administrative Rules Unit 129 Pleasant Street, Brown Bldg. Concord, NH 03301	Phone #:	(603) 271-9604
		Fax#:	(603) 271-5590
		E-mail:	allyson.zinno@dhhs.nh.gov
		TTY/TDD Access:	Relay NH 1-800-735-2964 or dial 711 (in NH)

7. Deadline for submission of materials in writing or in the electronic format specified:
Thursday, August 15, 2019.
 Fax

 E-mail

 Other format (specify):

POSTPONEMENT AND RESCHEDULING OF A RULEMAKING HEARING

Notice Number 2019-110Rule Number Psyc 210

1. Agency Name & Address:

**Board of Psychologists
c/o Office of Professional
Licensure & Certification
121 S. Fruit Street
Concord, NH 03301**

2. RSA Authority: RSA 541-A:16, I(b) intro.3. Federal Authority: N/A

4. Type of Action:

Adoption X

Amendment _____

Repeal _____

Readoption _____

Readoption w/amendment _____

5. Short Title: **Petition for Waiver**

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 July 3, 2019 under Notice Number 2019-110. The public hearing has therefore been rescheduled for:

Date and Time: **August 16, 2019 at 10:45 a.m.**Place: **121 S. Fruit Street, Concord, NH 03301**

7. New deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **August 16, 2019 at the conclusion of the public hearing.**

 Fax E-mail Other format (specify):

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

Name: **Tom Broderick**Title: **Attorney III**Address: **121 S. Fruit Street
Concord, NH 03301**Phone #: **(603) 271-3103**Fax#: **(603) 271-6990**E-mail: **Thomas.Broderick@oplcr.nh.gov**TTY/TDD Access: Relay NH 1-800-735-2964
or dial 711 (in NH)

FINAL PROPOSALS FOR COMMITTEE REVIEW ON AUGUST 15, 2019

<u>Final Proposal #</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>
2019-33	Ph 807.02 & 812.02	Pharmacy Board Registered and Certified Pharmacy Technician Duties.
2019-48	He-M 525	Department of Health and Human Services Former Div. of Mental Health & Developmental Svcs. Participant Directed and Managed Services.
2019-58	Mil 100-300 (various)	Milk Sanitation Board Milk Sanitation Rules.
2019-61	Opt 303.01	Board of Registration in Optometry Fee Schedule.
2019-66	He-P 2300	Department of Health and Human Services Former Division of Public Health Services Sanitary Production and Distribution of Food.
2019-71	Nur 900	Board of Nursing Alternative Recovery Monitoring Program.
2019-77	Plc 100-200	Office of Professional Licensure and Certification Organizational Rules, Practice and Procedural Rules.
2019-78	He-P 3200	Department of Health and Human Services Former Division of Public Health Services Special Supplemental Nutrition Program for Women, Infants and Children (WIC).
2019-79	He-P 803	Department of Health and Human Services Former Division of Public Health Services New Hampshire Nursing Home Rules.
2019-87	Ins 6203	Insurance Department Ancillary Health Minimum Standards for Benefits for Accident-Only and Specified Accident Coverage.
2019-93	Occ 303.01	Governing Board of Occupational Therapists Eligibility Requirements.
2019-96	Nur 304.01 & 304.02	Board of Nursing Endorsement.
2019-97	Mid 203.01, 302.05, 303.01, 303.02	Midwifery Council Complaint Procedures, Documentation for Initial Certification, Laceration Repairs.
2019-104	Rev 3402.01(e) and (f), 3402.03(a), (b) intro. and (b)(2) and (b)(3)	Department of Revenue Administration Notice of Intent to Cut Wood or Timber.

PROPOSED INTERIM RULES FOR COMMITTEE REVIEW ON AUGUST 15, 2019

<u>Proposed Interim #</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>
INT 2019-21	He-W 654.21	Department of Health and Human Services Former Division of Human Services Allocated Income.
INT 2019-22	Emp 501.11 and 501.12	Department of Employment Security Claimant Requirements

EXPEDITED REVISIONS TO AGENCY FORMS FOR COMMITTEE REVIEW ON AUGUST 15, 2019

<u>Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>
EXRF 2019-2	Form 8WC Lab 504.02 (c) & (d)	Department of Labor Employer's First Report of Injury.
EXRF 2019-3	Form 331 He-W 837.04(c)(10)b.	Department of Health and Human Services Former Division of Human Services Granite Advantage Health Care Program Form: Licensed Medical Professional Certification of Medical Frailty.
EXRF 2019-4	He-M 1001.20(a)	Department of Health and Human Services Former Div. of Mental Health and Developmental Svcs. Expedited Revision to "Request for Certification of Community Residence and/or Community Participation Services Provider".

PRELIMINARY OBJECTION RESPONSES FOR COMMITTEE REVIEW ON AUGUST 15, 2019

FP 2019-5	Ed 1400	Board of Education Learn Everywhere Program for High School Graduation Credit.
FP 2019-83	Cub 102, 103, 204, 207 & 300	Current Use Board Organizational and Practice and Procedure Rules and Rules on Criteria for Open Space Current Use Assessment.

NOTICE OF ADOPTED RULES

<u>Document # (Final Proposal)</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Effective Expires</u>
12824 (FP 2019-62)	Nur 602.07	Board of Nursing Nurse-Educator Qualifications.	7/6/2019 7/6/2029
12825 (INT 2019-16)	Ncr 1100	Department of Natural and Cultural Resources Natural Heritage Program Rules.	7/10/2019 1/6/2020
12826 (FP 2019-39)	Rab 306.01 & 308.01	Real Estate Appraiser Board Appraisal Management Company Fees.	7/18/2019 7/18/2029
12827 (INT 2019-18)	He-P 811	Department of Health and Human Services Former Division of Public Health Services End Stage Renal Disease Dialysis Centers.	7/20/2019 1/16/2020
12828 (EXRF 2019-1)	Form 320, He-W 837.06(b) Form 321, He-W 837.06(a) Form 330, He-W 837.04(a) Form 340, He-W 837.10(c)	Department of Health and Human Services Former Division of Human Services Granite Advantage Health Care Program Forms: Monthly Reporting, Reporting Education Participation, Exemption Request, and Good Cause Request.	7/20/2019 7/20/2029
12829 (INT 2019-19)	He-W 652.07	Department of Health and Human Services Former Division of Human Services Developing Potential Sources of Income.	7/20/2019 1/16/2020
12830 (INT 2019-20)	He-E 801	Department of Health and Human Services Division of Elderly and Adult Services Choices for Independence Program.	8/7/2019 2/3/2020
12831 (FP 2019-65)	Env-A 1000	Department of Environmental Services Air Related Programs Prevention, Abatement, and Control of Open Source Air Pollution.	8/1/2019 8/1/2029
12832 (FP 2019-75)	Rev 806.04(c); 807.04(a) intro. & (a)(2); 809.03 intro. & (b); 809.06; 809.07	Department of Revenue Administration Indicia of Real Estate Transfer Tax Paid.	7/25/2019 7/25/2029
12833 (FP 2019-76)	Rev 3002.07(b) intro. & (b)(1); 3003.02(a), 3004.02(b) intro. & (b)(2), 3004.06	Department of Revenue Administration Indicia of L-CHIP Paid.	7/25/2019 7/25/2029
12834 (FP 2019-81)	Rev 500	Department of Revenue Administration Excavation Tax and Taxation of Excavation Area.	7/25/2019 7/25/2029

NOTICE OF ADOPTED RULES

<u>Document #</u> (Final Proposal)	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Effective</u> <u>Expires</u>
12835 (FP 2019-52)	Nur 704.04	Board of Nursing Program Coordinator Qualifications.	7/26/2019 7/26/2029
12836 (FP 2019-14)	Env-Wq 402 various sections & paragraphs	Department of Environmental Services Water Quality and Quantity Programs Discharges to Groundwater of Wastewater Containing Certain Per- and Polyfluoroalkyl Substances.	9/30/2019 9/30/2029
12837 (FP 2019-15)	Env-Or 603.03(b) intro & (2) and (c) intro & Table 600-1 pertaining to certain compounds	Department of Environmental Services Oil and Remediation Programs Amendments to Ambient Groundwater Quality Standards (AGQS).	9/30/2019 9/30/2029
12838 (FP 2019-16)	Env-Dw 700 and 800 various sections & paragraphs	Department of Environmental Services Drinking Water Programs Water Quality Standards, Monitoring, Compliance, Reporting, and Public Notification for Certain Per- and Polyfluoroalkyl Substances.	9/30/2019 9/30/2029
12839 (FP 2019-37)	Lot 7200	Lottery Commission Games of Chance.	7/27/2019 7/27/2029
12840 (FP 2019-7)	Sep 200	Board of Septic System Evaluators Procedural Rules. <i>(As practice and procedure rules they do not expire except pursuant to RSA 541-A:17, II).</i>	7/30/2019
12841 (FP 2019-8)	Sep 600	Board of Septic System Evaluators Standards of Practice.	7/30/2019 7/30/2029
12842 (INT 2019-15)	Vet 206, 301.02-400, & 502-700	Board of Veterinary Medicine Rules of the Board of Veterinary Medicine.	8/1/2019 1/28/2020