



# NEW HAMPSHIRE RULEMAKING REGISTER

## OFFICE OF LEGISLATIVE SERVICES

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VOLUME XXXIX, Number 40, October 3, 2019

### TABLE OF CONTENTS

1.	<u>OFFICE OF LEGISLATIVE SERVICES</u>	<u>Page No.</u>
a.	List of Notices of Proposed Rules NN 2019-163 through NN 2019-178 and Proposed Interim Rule INT 2019-29	-i-
b.	Notices of Proposed Rules and Proposed Interim Rules	1
c.	Special Notice for Additional Written Public Comment: BOARD OF NURSING NN 2018-71 – Alternative Recovery Monitoring Program	39

#### 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 Previously Scheduled for October 3, 2019 Has Been Cancelled.**

REGULAR MEETING: **Thursday, October 17, 2019 9:00 a.m.**  
Rooms 306/308, Legislative Office Building

### JLCAR MEETING DATES AND RELATED FILING DEADLINES OCTOBER-DECEMBER, 2019

The JLCAR has voted to hold its regularly scheduled monthly meetings for October 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
October 3	<b>October 17</b>	November 7
November 7	<b>November 21</b>	December 5
December 5	<b>December 19</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>
2019-163	Env-A 1500	Department of Environmental Services Air Related Programs Conformity.	1
2019-164	Env-A 1700	Department of Environmental Services Air Related Programs Permit Application Forms.	4
2019-165	Env-A 2900	Department of Environmental Services Air Related Programs SO <sub>2</sub> and NO <sub>x</sub> Annual Budget Trading and Banking Program.	6
2019-166	Env-Wt 100 various sections, 204.03(c)	Department of Environmental Services Wetlands Programs Amendments to Adopted Wetlands Rules: Definitions, Content of Waiver Requests.	8
2019-167	Env-Wt 300-600 and 900 various sections and paras.	Department of Environmental Services Wetlands Programs Amendments to Adopted Wetlands Rules.	10
2019-168	Saf-C 3900	Department of Safety, Commissioner Incident Command System.	13
2019-169	Saf-C 9005.01(a)	Department of Safety, Commissioner Breath Testing Additional Test.	15
2019-170	He-P 4034 various	Department of Health and Human Services Former Division of Public Health Services Radiation Safety Requirements for Industrial Radiographic Operations.	17
2019-171	He-P 4038 various	Department of Health and Human Services Former Division of Public Health Services The Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material.	20
2019-172	He-P 4040.06(i)	Department of Health and Human Services Former Division of Public Health Services Exemptions from Registration Fee.	22
2019-173	Ins 6001.02(a), 6001.03 intro. and (a)-(e), 6001.04(c), 6001.05(o) and (p)	Insurance Department Standard Definitions and Policy Provisions.	24

*Continued on next page*

Notices of Proposed Rules Continued

<u>Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Page No.</u>
2019-174	Saf-C 3200 various	Department of Safety, Commissioner Various Motor Vehicle Inspection Rules.	26
2019-175	Env-Wq 1001.03(c)(4), (f)(3), & (k)	Department of Environmental Services Water Quality and Quantity Programs Amendments to Waiver Requirements for Septic Systems.	29
2019-176	Ins 1302.04(a)-(c), 1303.02(g), 1305	Insurance Department Producers and Adjusters.	31
2019-177	Bar 700	Board of Barbering, Cosmetology and Esthetics Mobile Barbershops.	33
2019-178	Bar 302.05, 302.07, 404.04, 404.05	Board of Barbering, Cosmetology and Esthetics School and Shop Requirements, Licensee Standards, Fines, and Inspection Notices.	35

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 2019-29)	Saf-C 1200	Department of Safety, Commissioner Voluntary Certification of Fire Protection Equipment Technicians.	37

Notice Number	2019-163	Rule Number	Env-A 1500
1. Agency Name & Address:  Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095		2. RSA Authority: 3. Federal Authority:  4. Type of Action:	RSA 125-C:4, I(a) 42 U.S.C. 7506; 23 CFR 450; 40 CFR 51, Subpart T and Subpart W; 40 CFR 93, Subpart A  _____ _____ _____ _____ _____ X

5. Short Title: **Conformity**

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

Federal law (§176 of the Clean Air Act, as amended, and 40 CFR 93) require states to adopt rules to establish a consultative process relative to conformity determinations. Conformity applies to transportation plans, transportation improvement programs (TIPs), and projects funded or approved by the Federal Highway Administration (FHWA) or the Federal Transit Administration (FTA) in areas that do not meet or previously have not met air quality standards for ozone, carbon monoxide, particulate matter, or nitrogen dioxide (known as “nonattainment areas” or “maintenance areas,” respectively). Env-A 1500, *Conformity*, implements these federal requirements in New Hampshire to comply with the requirements and to ensure that the purpose and intent of the state implementation plan (SIP) are being met. The rules are scheduled to expire on October 1, 2019, so the Department is proposing to readopt the chapter with amendments in order to clarify and update various provisions. **The existing rules will continue in effect pursuant to RSA 541-A:14-a, I, subject to the conditions specified therein.**

Specifically, the Department is proposing to readopt the rules with amendments to: (1) clarify the rules by amending certain definitions; (2) more clearly specify the federal agencies with which the Department must coordinate or consult; (3) update the CFR references and otherwise aligning the rules with current federal requirements; (4) clarify existing requirements relative to metropolitan planning organizations (MPOs); and (5) revise New Hampshire Department of Transportation (NHDOT) requirements related to travel demand modeling and project-level conformity determinations, the frequency of interagency consultation meetings and to the length of public comment periods relative to transportation conformity.

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

The federal conformity processes reflected by the proposed rules require participation by the Department, the NH Department of Transportation; various metropolitan planning organizations (MPOs), specifically the Southern New Hampshire MPO, the Nashua MPO, the Strafford MPO, and the Rockingham MPO; regional planning commissions having municipalities located in a nonattainment or maintenance area; the U.S. Environmental Protection Agency; the Federal Highway Administration; and the Federal Transit Administration. The processes also contemplate public participation, but no sector of the public is required to participate.

NN 2019-163 Continued

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

<b>Rule Section(s)</b>	<b>State Statute(s) Implemented</b>	<b>Federal Statute(s) / Regulation(s) Implemented</b>
Env-A 1501.01 - Env-A 1501.02	RSA 125-C:4, I(a)	42 U.S.C. §7506; 40 CFR 93, Subpart A
Env-A 1502.01(a)	RSA 125-C:4, I(a)	42 U.S.C. §7506; 23 CFR §450
Env-A 1502.01(b)	RSA 125-C:4, I(a)	42 U.S.C. §7506; 40 CFR §93
Env-A 1502.02	RSA 125-C:4, I(a)	42 U.S.C. §7506; 40 CFR §93.101
Env-A 1502.03	RSA 125-C:4, I(a); RSA 36:45 - 58	42 U.S.C. §7506; 40 CFR §93.101
Env-A 1502.03(d) & (f)	RSA 125-C:4, I(a)	42 U.S.C. §7506; 42 U.S.C. §7407; 40 CFR §51.852
Env-A 1503.01	RSA 125-C:4, I(a)	42 U.S.C. §7506; 40 CFR §93.105; 40 CFR §93.122(a)(4)(ii); 40 CFR §93.125(c)
Env-A 1503.02	RSA 125-C:4, I(a)	42 U.S.C. §7506; 40 CFR §93.102
Env-A 1503.03	RSA 125-C:4, I(a)	42 U.S.C. §7506; 42 U.S.C. §7511; 42 U.S.C. §§ 75017515; 40 CFR 93, Subpart A
Env-A 1503.04	RSA 125-C:4, I(a)	42 U.S.C. §7506; 42 U.S.C. §7407
Env-A 1503.05	RSA 125-C:4, I(a)	42 U.S.C. §7506; 40 CFR 51, Subpart T; 40 CFR 93, Subpart A
Env-A 1503.06	RSA 125-C:4, I(a)	42 U.S.C. §7506; 23 CFR 450, Subpart B
Env-A 1503.07	RSA 125-C:4, I(a)	42 U.S.C. §7506; 23 CFR 450, Subpart C
Env-A 1503.08-1503.21	RSA 125-C:4, I(a)	42 U.S.C. §7506; 23 CFR 450; 40 CFR 93, Subpart A
Env-A 1504.01	RSA 125-C:4, I(a)	42 U.S.C. §7506; 40 CFR 51, Subpart W
Env-A 1504.02	RSA 125-C:4, I(a)	42 U.S.C. §7506; 40 CFR 51.853
Env-A 1504.03	RSA 125-C:4, I(a)	42 U.S.C. §7506; 40 CFR 51
Env-A 1504.04	RSA 125-C:4, I(a)	42 U.S.C. §7506; 40 CFR 51.852
Env-A 1504.05	RSA 125-C:4, I(a)	42 U.S.C. §7506; 42 U.S.C. §7511; 42 U.S.C. §§ 7501 through 7515; 40 CFR 51, Subpart W

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 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)

NN 2019-163 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 8, 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: **Tuesday, October 29, 2019 at 10:30 AM**

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

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS #19:168, dated :09/20/19

**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 rules to the existing rules.

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

New Hampshire is required to adopt the proposed rules under 42 U.S.C. §7506; 23 CFR 450; 40 CFR 51, Subpart T and Subpart W; and 40 CFR 93, Subpart A. Failure to adopt the proposed rules could result in the loss of federal highway funds because 42 U.S.C. §7506 states that no federal agency may approve, accept, or fund any plan, program, or project unless it has been found to conform with the State Implementation Plan. New Hampshire receives about \$190 million per year from the Federal Highway Administration Federal Aid Program.

**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:

Because there are no costs attributable to the proposed rules, 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.

<p>Notice Number <b>2019-164</b></p> <p>1. Agency Name &amp; Address:</p> <p>Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</p>	<p>Rule Number <b>Env-A 1700</b></p> <p>2. RSA Authority: RSA 125-C:4, I(d)&amp;(g); RSA 125-C:12, I</p> <p>3. Federal Authority: N/A</p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Amendment _____</p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment <b>X</b></p>
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5. Short Title: **Permit Application Forms**

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

The existing rules, Env-A 1700, *Permit Application Forms*, establish the information and forms required to be submitted for air-related programs by applicants for a temporary permit, state permit to operate, or Title V operating permit. The rules are scheduled to expire on October 1, 2019, so the Department is proposing to readopt the chapter with amendments to incorporate the forms themselves by reference. Thus, the submission requirements currently set forth in narrative form in the rules would be contained almost entirely in the incorporated forms. In addition, submission requirements applicable to turbines and engines, currently addressed in Env-A 1704 (ARD-2 – Fuel Burning Devices) would be moved to Env-A 1709 (ARD-7 – Engines and Turbines) and Title V submission requirements currently in Env-A 1709 would be incorporated entirely in Env-A 1703 (ARD-1 – General Facility Information). Submission requirements currently applicable to hot mix asphalt plants under Env-A 1705 (ARD-3 - Processing or Manufacturing Equipment) would be addressed in Env-A 1710 (ARD-8 –Stationary Hot Mix Asphalt Plants). **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:

The rules may impact any person who is required to obtain a temporary permit, state permit to operate, or Title V permit, because an application, as described in these rules, must be submitted to the Department. The types of facilities subject to this rule include fuel-burning devices, boilers, processing or manufacturing equipment that emits air pollutants, fuel and volatile organic liquid storage tanks, fuel loading facilities, incinerators, engines and turbines, and hot mix asphalt plants.

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) / Regulation(s) Implemented
Env-A 1701 - Env-A 1710	RSA 125-C:6, XIV; RSA 125-C:11; RSA 125-C:12, I	42 U.S.C. §7506; 40 CFR 93, Subpart A

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 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)

NN 2019-164 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 1, 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: **Friday, October 25, 2019 at 10:30 AM**

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

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS #19:169, dated 09/20/2019:

**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 federal Clean Air Act requires states to adopt an operating permit program for major sources. This requirement is found in Title V of the Act, hence the name "Title V permit". The rules in Env-A 1700 establish the forms that must be used to provide the information required to be submitted by applicants for temporary permits, state permits to operate, or Title V permits. If the state fails to adopt or readopt the rules that are critical components of the Title V program, EPA has the authority to implement and enforce its own permit program(s) in place of the state program(s) and to order that federal transportation funds be withheld from the state.

**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:

Because there are no costs attributable to the proposed rules, 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	<b>2019-165</b>	Rule Number	<b>Env-A 2900</b>
1. Agency Name & Address:		2. RSA Authority:	<u>RSA 125-O:8, I</u>
		3. Federal Authority:	<u>N/A</u>
Department of Environmental Services		4. Type of Action:	
29 Hazen Drive		Adoption	<u>          </u>
P.O. Box 95		Amendment	<u>          </u>
Concord, NH 03302-0095		Repeal	<u>          </u>
		Readoption	<u>          </u>
		Readoption w/amendment	<u>  <b>X</b>  </u>

5. Short Title: **SO2 and NOx Annual Budget Trading and Banking Program**

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

The existing rules, Env-A 2900, were originally adopted after the enactment of RSA 125-O, the NH Clean Power Act, in 2002. The rules establish an annual budget trading and banking program for sulfur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>). Annual budgets and allowance allocation methodologies are established for these pollutants as specified in RSA 125-O:3. The rules include requirements for emissions monitoring, recordkeeping, reporting, and automatic deduction of allowances to offset excess emissions. The rules also include provisions regarding energy efficiency, new renewable energy, and conservation and land management allocations in accordance with RSA 125-O:5.

The rules are scheduled to expire on October 1, 2019, so the Department is proposing to readopt the chapter with amendments to update references to federal regulations. **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:

This rule impacts two facilities owned by Granite Shore Power (GSP).

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

Rule Section(s)	State Statute(s) Implemented
Env-A 2900 (also see specific sections listed below)	RSA 125-O:2; RSA 125-O:3; RSA 125-O:4; RSA 125-O:6, I; RSA 125-O:7; RSA 125-O:8, I
Env-A 2901, Env-A 2902, Env-A 2904, Env-A 2907 - Env-A 2913	RSA 125-O:6, I
Env-A 2903	RSA 125-O:2
Env-A 2903.03	RSA 125-O:4, IV(b)
Env-A 2903.04	RSA 125-O:2, I & IX
Env-A 2904.01	RSA 125-O:3, III(a)
Env-A 2904.02	RSA 125-O:3, III(b)
Env-A 2904.04	RSA 125-O:4, IV(a)(2)
Env-A 2904.05	RSA 125-O:8, I(b)
Env-A 2904.06	RSA 125-O:4, IV(a)(2), (3), & (4)
Env-A 2905	RSA 125-O:3, III
Env-A 2906	RSA 125-O:3, II & III; RSA 125-O:4, IV; RSA 125-O:5
Env-A 2907	RSA 125-O:6, I; RSA 125-O:8, I
Env-A 2907.01	RSA 125-O:8, I(c)
Env-A 2908	RSA 125-O:6, I; RSA 125-O:8, I
Env-A 2908.01	RSA 125-O:4, IV intro
Env-A 2909	RSA 125-O:6, I; RSA 125-O:8, I
Env-A 2909.01	RSA 125-O:4, IV intro; RSA 125-O:8, I(b)
Env-A 2910	RSA 125-O:8, III
Env-A 2910.02	RSA 125-O:7

NN 2019-165 Continued

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 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, November 22, 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: **Friday, November 15, 2019 at 11:00 AM**

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

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS #19:170, dated 09/20/19:

**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 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:

There are no costs attributable to the rules, therefore, 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 <u>2019-166</u>	Rule Number <u>Env-Wt 100 various sections; Env-Wt 204.03(c)</u>
1. Agency Name & Address:  Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	2. RSA Authority: <u>RSA 482-A:11, I, VI, VI-a, VII, VIII &amp; IX</u>  3. Federal Authority: _____  4. Type of Action: Adoption <u>X</u> Amendment <u>X</u> Repeal _____ Readoption _____ Readoption w/amendment <u>X</u>

5. Short Title: **Amendments to Adopted Wetlands Rules: Definitions, Content of Waiver Requests**

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

After a lengthy process, new wetlands rules in subtitle Env-Wt were adopted in June to be effective December 15, 2019. The Department is proposing amendments to the recently adopted, but not yet effective, definitions to (1) correct cross-references; (2) add definitions of “prime wetlands” and “designated prime wetlands” so the rules are clear that the protections afforded to prime wetlands only apply if they have been designated and revise the rules where the terms are used; (3) separate designated prime wetlands from duly-established 100-foot buffers in the definition of “priority resource area”; and (4) clarify the definitions of “significant environmental impact” and “water access structure”. The Department also is proposing to amend the recently adopted, but not yet effective, Env Wt 204.03(c), relative to the content of waiver requests, to delete language that is potentially confusing.

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

Anyone who undertakes activities regulated under RSA 482-A or who otherwise uses the wetlands rules is affected by the proposed rules.

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

Rule Section(s)	State Statutes Implemented	Federal Statutes. Regulations Implemented
Env-Wt 102.54	RSA 482-A:1, 2, 3, and 4,	
Env-Wt 103.58, 103.65 & 103.66	RSA 482-A:1, 2, 3, 4, and 15	
Env-Wt 104.19, 104.33, 104.47	RSA 482-A:1, 2, 3, 4, and 8	
Env-Wt 204.03(c)	RSA 482-A:1, 3, 8, 10, 11, 26, III(b) RSA 541-A:22, IV	

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

Name: Mary Ann Tilton	Title: Wetlands Bureau Assistant Administrator
Address: Dept. of Environmental Services 29 Hazen Drive; P.O. Box 95 Concord, NH 03302-0095	Phone #: (603) 271-2929 Fax#: (603) 271-6588 E-mail: <a href="mailto:MaryAnn.Tilton@des.nh.gov">MaryAnn.Tilton@des.nh.gov</a>

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 2019-166 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 22, 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: **Friday, November 8, 2019 at 1:00 PM**

Place: **Room 208-C, DES Offices, 29 Hazen Drive, Concord NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 19:175, dated 09/24/19:

**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 rules to the recently adopted, but not yet effective 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:

Because there are no costs attributable to the proposed rules, the proposed 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. The rules thus do not violate Part I, Article 28-a of the New Hampshire Constitution.

Notice Number	2019-167	Rule Number	Env-Wt 300 - 600 & 900 various sections and paragraphs
1. Agency Name & Address:	Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	2. RSA Authority:	RSA 482-A:11, I, VI, VI-a, VII, VIII & IX
		3. Federal Authority:	
		4. Type of Action:	
		Adoption	<u>X</u>
		Amendment	<u>X</u>
		Repeal	
		Readoption	
		Readoption w/amendment	<u>X</u>
5. Short Title:	<b>Amendments to Adopted Wetlands Rules</b>		

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

After a lengthy process, new rules in subtitle Env-Wt were adopted in June to be effective December 15, 2019. The Department is proposing amendments to the recently adopted, but not yet effective, rules to correct errors that were found subsequent to adoption and to clarify certain rules that have been determined to need clarification based on preparation of forms and training materials.

Amendments to Env-Wt 300 also would replace “the 2019 effective date of this chapter” with “December 15, 2019” and add procedures for processing routine roadway maintenance registrations (inadvertently omitted in prior process). Amendments are proposed to Env-Wt 406.01(d)(1)-(2) to update the name of the NHF&G vernal pool guidance and insert the date of the draft USACE vernal pool guidance, are proposed to Env-Wt 406.06(c) to correct the omission of minor projects, and are proposed to Env-Wt 407.07(c), Table Env-Wt 407-2, Classification Criteria For Specified Projects, to add four types of projects that were inadvertently omitted. In Env-Wt 500, provisions being clarified include those pertaining to timing of bank/shoreline stabilization projects, classification of non-docking structure projects, forestry project classifications, design requirements and classification of residential and commercial/industrial projects, and plans and construction requirements for certain dam-related projects. Env-Wt 602.15 is proposed to be revised to update the taxonomic names of certain species and to correct errors in others. In Env-Wt 900, two cross-references and a spelling error are proposed to be corrected.

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

Anyone who undertakes activities regulated under RSA 482-A or who otherwise uses the wetlands rules is affected by the proposed rules.

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

Rule Section(s)	State Statutes Implemented	Federal Statutes, Regulations Implemented
Env-Wt 305.02; 306.02 intro; 307.08(a); 308.05(a)(2)a.; 308.07 heading; 309.01(b)(2) & (b)(3)c.; 309.02(i)(6); 309.03(c)(1); 309.04(c)(1); 309.05 [new]; 309.06 intro., (a) intro, (a)(9) & (18) - (20) [renumbered]; 309.07 intro, (a), (b)(1), (b)(6) & (f) - (i); 309.07 [renumbered]; 309.08(b) & (e) [renumbered]; 309.09(b) [renumbered]; 310.02; 310.05(a)(1); 310.07(a)(1); 311.04 intro, (a)-(d), (f), & (g)(13);	RSA 482-A:1 - 4, 6, 8 - 34	Clean Water Act, 33 U.S.C. Ch. 26, Subchapter IV, § 1344 (Permits for Dredged or Fill Material); 33 CFR Parts 322 & 323; USACE Gen. Permit No. NAE-2016-02415

Rule Section(s)	State Statutes Implemented	Federal Statutes, Regulations Implemented
311.05(a)(2) & (a)(20); 311.06(b) intro & (f)(1); 311.07(d); 311.08(a)(1)a.; 311.09(c) intro & (5); 311.10(a) intro & (b)(1); 311.11 intro & (d) - (g); 312.04(b)(1); 313.03(b)(9); 313.05(b); 314.06(b)(1); 315.02(b)(2); 315.03(b)(1); 315.05(b)(2) & (c)(1)		
Env-Wt 308.08(b)	RSA 482-A:1 - 4, 6, 8 - 34; RSA 483-B	Clean Water Act, 33 U.S.C. Ch. 26, Subchapter IV, § 1344 (Permits for Dredged or Fill Material); 33 CFR Parts 322 & 323; USACE Gen. Permit No. NAE-2016-02415
Env-Wt 310.01 intro, (a), (b)(1), (b)(7), & (f) - (i)	RSA 482-A:11, VI	Clean Water Act, 33 U.S.C. Ch. 26, Subchapter IV, § 1344 (Permits for Dredged or Fill Material); 33 CFR Parts 322 & 323; USACE Gen. Permit No. NAE-2016-02415
Env-Wt 406.01(d)(1) & (2); 406.06(c); 407.04(c)(3) Table 407-2	RSA 482-A:1 - 4, 6, 8 - 34	Clean Water Act, 33 U.S.C. Ch. 26, Subchapter IV, § 1344 (Permits for Dredged or Fill Material); 33 CFR Parts 322 & 323; USACE Gen. Permit No. NAE-2016-02415
Env-Wt 511.01(a)(3); 511.04(a), (c), (f) intro, & (g) intro; 511.06(c); 511.08(a)(1); 513.04(a)(1); 513.10(e); 514.03(c)(7); 514.05(e); 514.07(a)(2); 517.04(b); 518.07(a)(2) & (3); 520.05(a)(1)d., (b)(2), & (c)(1) & (2); 524.04; 524.06(c); 526.03 intro. & (h); 526.05(f)(3)	RSA 482-A:1 - 4, 6, 8 - 34; RSA 483-B; RSA 485-A; RSA 487; RSA 212-A	Clean Water Act, 33 U.S.C. Ch. 26, Subchapter IV, § 1344 (Permits for Dredged or Fill Material); 33 CFR Parts 322 & 323; USACE Gen. Permit No. NAE-2016-02415
Env-Wt 602.15	RSA 482-A:1 - 4, 6, 8 - 34; RSA 483-B; RSA 485-A; RSA 487; RSA 212-A	Clean Water Act, 33 U.S.C. Ch. 26, Subchapter IV, § 1344 (Permits for Dredged or Fill Material); 33 CFR Parts 322 & 323; USACE Gen. Permit No. NAE-2016-02415
Env-Wt 901.03(a); 902.14; 903.01(e)(5)	RSA 482-A:1 & 3; RSA 482-A:11	Clean Water Act, 33 U.S.C. Ch. 26, Subchapter IV, § 1344 (Permits for Dredged or Fill Material); 33 CFR Parts 322 & 323; USACE Gen. Permit No. NAE-2016-02415

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

Name: Mary Ann Tilton Title: Wetlands Bureau Assistant Administrator  
Address: Dept. of Environmental Services Phone #: (603) 271-2929  
29 Hazen Drive; P.O. Box 95 Fax#: (603) 271-6588  
Concord, NH 03302-0095 E-mail: [MaryAnn.Tilton@des.nh.gov](mailto:MaryAnn.Tilton@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 2019-167 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 22, 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: **Friday, November 8, 2019 at 1:00 PM**

Place: **Room 208-C, DES Offices, 29 Hazen Drive, Concord NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 19:176, dated 09/24/19:

**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 rules to the recently adopted, but not yet effective, rules. Not applicable to Env-Wt 309.05 which is a new 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):**

There is no cost or benefit attributable to Env-Wt 309.05.

**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:

Because any costs are attributable to the statute, the proposed 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. The rules thus do not violate Part I, Article 28-a of the New Hampshire Constitution.

Notice Number 2019-168

Rule Number Saf-C 3900

<p>1. Agency Name &amp; Address:</p> <p><b>NH Department of Safety 33 Hazen Drive Concord, NH 03301</b></p>	<p>2. RSA Authority: <u>RSA 21-P:14, II(z)</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: **Incident Command System**

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

**This proposal readopts with amendments Saf-C 3900, the incident command system. The rules are scheduled to expire 10-25-19 but are subject to extension pursuant to RSA 541-A:14-a. The proposed changes are as follows:**

- **The definition of the “incident command system” in Saf-C 3902.04 is being readopted with amendment to mirror the definition provided by the National Fire Academy;**
- **Saf-C 3904.01 outlining minimum training competencies is being readopted with amendment to comply with the curriculum of the Fire Standards and Training Commission for Hazardous Materials Awareness, Operator, Technician, and for the Hazardous Materials Incident Commander Level, meeting the requirements of the National Fire Protective Association, Uniform Fire Code NFPA 1, as adopted in RSA 153:1, VI-a; and**
- **Saf-C 3905.01 on reciprocity is being readopted with amendment to mirror the procedure in Fire 405 of the Fire Standards and Training Commission on transfer of credit and certification.**

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

**Emergency personnel who are seeking certification at specialties related to hazardous materials response.**

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

<b>RULE NUMBER</b>	<b>STATUTE IMPLEMENTED</b>
Saf-C 3901.01 and 3901.02	RSA 21-P:14, II(z); RSA 541-A:1, XV
Saf-C 3902.01 and 3902.02	RSA 541-A:7
Saf-C 3902.03	RSA 147-B:2, VIII
Saf-C 3902.04	RSA 147-B:2, VIII
Saf-C 3903.02 and 3903.03	RSA 21-P:14, II(z) & RSA 541-A:1, XV
Saf-C 3903 through 3905	RSA 21-P:14, II(z); RSA 541-A:1, XV



NN 2019-168 Continued

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 Room 209** Phone #: **603-227-0040**  
**Concord, NH 03301** Fax#: **603-271-1033**  
E-mail: **Keith.lohmann@dos.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: **11-8-2019 4:00 pm.**

Fax  E-mail  Other format (specify):

9. Public hearing scheduled for:

Date and Time: **October 31, 2019 2:30 pm**  
Place: **Department of Safety, 33 Hazen Drive, Concord, NH 03301,  
2<sup>nd</sup> Floor Conference Room**

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

FIS # 19:171, dated 9-20-2019

**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:

- 1. The proposed rules do not create a new program or responsibility or expand or modify an existing program or responsibility to any political subdivision.**
- 2. The proposed rules do not mandate or assign a program or responsibility to any political subdivision of the state in such a way as to increase the costs the political subdivision must pay.**
- 3. No state funding is necessary because the proposed rules do not mandate or assign a program or responsibility to any political subdivision so as to increase the costs the political subdivision must pay.**

Notice Number 2019-169

Rule Number Saf-C 9005.01(a)

1. Agency Name & Address:

**NH Department of Safety  
33 Hazen Drive  
Concord, NH 03301**

2. RSA Authority: RSA 265-A:7, III

3. Federal Authority: n/a

4. Type of Action:

Adoption \_\_\_\_\_

Amendment  X

Repeal \_\_\_\_\_

Readoption \_\_\_\_\_

Readoption w/amendment \_\_\_\_\_

5. Short Title: **Breath Testing Additional Test**

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

**The intended action changes the process in Saf-C 9005.01(a) for additional breath testing for alcohol to be consistent with the 2019 amendment to RSA 265-A:7, III by Chapter 119 of the Laws of 2019 (SB 50). This amendment changes the sequence of when a law enforcement officer is required to notify an arrestee of the procedure for an additional test to be after the initial breath test has been performed by law enforcement.**

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

**Persons arrested for driving while impaired, and law enforcement officers who made the initial arrest and have the arrestee in custody.**

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

Rule	Statute
Saf-C 9005.01(a)	RSA 265-A:5; RSA 265-A:7; RSA 265-A:8, I

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 Room 209  
Concord, NH 03301**

Phone #: **603-227-0040**

Fax#: **603-271-1033**

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

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

NN 2019-169 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **11-8-2019 4:00 pm**

 Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **10-31-2019 1:30 pm**

Place: **Department of Safety, 33 Hazen Drive, Concord, NH 03301,  
2<sup>nd</sup> Floor Conference Room**

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

FIS # 19:115, dated 7-12-2019

**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:

- 1. The proposed rule does not create a new program or responsibility or expand or modify an existing program or responsibility to any political subdivision.**
- 2. The proposed rule does not mandate or assign a program or responsibility to any political subdivision of the state in such a way as to increase the costs the political subdivision must pay.**
- 3. No state funding is necessary because the proposed rule does not mandate or assign a program or responsibility to any political subdivision so as to increase the costs the political subdivision must pay.**

Notice Number 2019-170Rule Number He-P 4034 various

1. Agency Name &amp; Address:

**Dept. of Health & Human Services  
Division of Public Health Services  
Radiological Health Section  
29 Hazen Drive  
Concord, NH 03301**

2. RSA Authority:

RSA 125-F:5, V

3. Federal Authority:

Section 274 of the Atomic Energy  
Act of 1954 as amended

4. Type of Action:

Adoption           Amendment       X      Repeal           Readoption           Readoption w/amendment           X          5. Short Title: **Radiation Safety Requirements for Industrial Radiographic Operations**

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

**The Department of Health and Human Services Radiological Health Section (DHHS/RHS) proposes to amend and readopt with amendment various paragraphs and sections of He-P 4034.**

**In addition to the requirements found elsewhere in He-P 4000, He-P 4034 sets forth the requirements for the issuance of licenses or registration for the industrial use of sources of radiation and radiation safety requirements for persons using these sources of radiation in industrial radiography as specified in Title 10, CFR Part 34, "Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations."**

**The proposed amendments to He-P 4034 are needed in order for He-P 4034 to remain compatible with US Nuclear Regulatory Commission (NRC) regulations in Title 10 CFR Part 34. The amendments to the proposal include:**

- Updating definitions;
- Updating various sections of He-P 4034 to be consistent with the language and requirements of NRC regulations in Title 10 CFR Part 34; and
- Making editorial changes to references made throughout He-P 4034.

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

**The rule affects the individuals using these sources of radiation in industrial radiography.**

## NN 2019-170 Continued

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

<b>Rule</b>	<b>State or Federal Statute or Federal Regulation Implemented</b>
He-P 4034	Section 274 of the AEA of 1954, as amended, and Title 10 CFR Part 34; Title 21 CFR Part 1020
He-P 4034.02, intro.	10 CFR 34.1
He-P 4034.03 intro., (f), (h), (v), (x), (aa), (ab), and (ag)	10 CFR 34.3, 21 CFR 1020.40
He-P 4034.05 intro., (a), and (b)	10 CFR Part 34.11, 34.13
He-P 4034.06 intro., (a), and (e)	10 CFR 34.20
He-P 4034.08(b)	10 CFR 34.23
He-P 4034.09(c) intro. and (c)(1)	10 CFR 34.25
He-P 4034.10	10 CFR 34.27
He-P 4034.11(b)	10 CFR 34.29
He-P 4034.12(f)	10 CFR 34.31
He-P 4034.13(a) intro. and (a)(1)	10 CFR 34.33
He-P 4034.14(a) and (c)	10 CFR 34.35
He-P 4034.16(d)	10 CFR 34.42
He-P 4034.17(a), (c) intro., (c)(3), (h) intro., (h)(3) intro., and (h)(3)c.	10 CFR 34.43
He-P 4034.18	10 CFR 34.45
He-P 4034.22	10 CFR 34.51
He-P 4034.28	10 CFR 34.69
He-P 4034.29	10 CFR 34.71
He-P 4034.32 intro.	10 CFR 34.79
He-P 4034.35(a)	10 CFR 34.85
He-P 4034.37	10 CFR 34.89
He-P 4034.38(a)	10 CFR 34.101

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

Name: **Allyson Zinno** Title: **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: **Thursday, October 31, 2019**

Fax  E-mail  Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, October 24, 2019 at 10:00 AM**

Place: **[DHHS, Brown Bldg., Room 163, 129 Pleasant St., Concord, NH 03301](#)**

NN 2019-170 Continued

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

FIS # 19:161 , dated September 13, 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 rule to the existing rule.

**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 2019-171

Rule Number He-P 4038 various

<p>1. Agency Name &amp; Address:  <b>Dept. of Health &amp; Human Services                  Division of Public Health Services                  Radiological Health Section                  29 Hazen Drive                  Concord, NH 03301</b></p>	<p>2. RSA Authority: <u>RSA 125-F:5, V</u>                  3. Federal Authority: <u>Section 274 of the Atomic Energy Act of 1954 as amended</u>                  4. Type of Action:                  Adoption _____                  Amendment <u>X</u>                  Repeal _____                  Readoption _____                  Readoption w/amendment _____</p>
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5. Short Title: **The Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material**

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

**The Department of Health and Human Services Radiological Health Section (DHHS/RHS) proposes to amend various sections of He-P 4038. In addition to the requirements found elsewhere in He-P 4000, He-P 4038 sets forth the physical protection requirements of radioactive material (i.e., byproduct material) as specified in Title 10 CFR Part 37, “The Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material.”**

**The proposed new amendments to He-P 4038 are necessary for He-P 4038 to remain compatible with NRC regulations in Title 10 CFR Part 37.**

**The proposal updates various sections of He-P 4038 to be consistent with the language and requirements of NRC regulations in Title 10 CFR Part 37.**

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

**The licensees who use, possess, and transport Category 1 and Category 2 quantities of radioactive material, and all licensees and persons who seek unescorted access to Category 1 and 2 quantities of radioactive material are affected by the rule.**

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

<b>Rule</b>	<b>State or Federal Statute or Federal Regulation Implemented</b>
He-P 4038 (specific provisions implementing specific statutes are given below)	RSA 125-F:1; RSA 125-F:2; and RSA 125-F:5, II, IV, and V; Section 274 of the Atomic Energy Act of 1954, as amended
He-P 4038.09(a) intro., (a)(2) intro., and (a)(2)f.	10 CFR 37.25
He-P 4038.15(d) intro. and (d)(2)	10 CFR 37.43
He-P 4038.26 intro., (a) intro., (a)(1), (c) intro., (c)(1), and (d)	10 CFR 37.77

NN 2019-171 Continued

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

Name: **Allyson Zinno** Title: **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: **Thursday, October 31, 2019**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, October 24, 2019 at 10:30 AM**

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

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

FIS # 19:162, dated September 13, 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 rule to the existing rule.

**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 proposal modifies an existing program or responsibility, but does not 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.**



Notice Number 2019-172Rule Number He-P 4040.06(i)

<p>1. Agency Name &amp; Address:</p> <p><b>Dept. of Health &amp; Human Services Division of Public Health Services Radiological Health Section 29 Hazen Drive Concord, NH 03301</b></p>	<p>2. RSA Authority: <u>RSA 125-F:5, V</u></p> <p>3. Federal Authority: <u>Section 274 of the Atomic Energy Act of 1954 as amended</u></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>
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5. Short Title: **Exemptions from Registration Fee**

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

**He-P 4040 “Registration of Radiation Machines, Magnetic Resonance Imaging Machines and Service Providers” provides the registration requirements for radiation and magnetic resonance imaging (MRI) machines and service providers. He-P 4040.06 sets forth the exemptions for the registration of radiation machines, MRI machines, and service providers.**

**The Department of Health and Human Services Radiological Health Section (DHHS/RHS) proposes to amend He-P 4040.06 by adding new paragraph (i) which exempts the registrant, if it is a state agency or local government registering a portable radiation machine which is solely used for security-related, non-human imaging, from paying the registration fee pursuant to He-P 4070.06.**

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

**The groups affected by this rule are the service providers who register radiation machines and magnetic resonance imaging machines.**

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

<b>Rule</b>	<b>State or Federal Statute or Federal Regulation Implemented</b>
He-P 4040.06(i)	RSA 125-F:5, IV & V; RSA 125-F:7, II-IV, and RSA 125-F:13

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

Name: **Allyson Zinno** Title: **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 2019-172 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Thursday, October 31, 2019**

 Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, October 24, 2019 at 11:00 AM**

Place: **[DHHS, Brown Bldg., Room 163, 129 Pleasant St., Concord, NH 03301](#)**

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

FIS # 19:163, dated September 13, 2019

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

When compared to the existing rule, the proposed rule may decrease state revenues and decrease state and local expenditures by a small but indeterminable amount.

**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):**

The proposed rule would exempt state agencies and local governments from the registration fees found in He-P 4070.06. Accordingly, the rule may result in a small but indeterminable decrease in state revenue, as well as a small but indeterminable decrease in state and local expenditures.

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

See response to (3) above.

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

See response to (3) above.

**C. To Independently owned businesses:**

None.

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

**The proposal modifies an existing program or responsibility, but does not 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.**

Notice Number **2019-173** Rule Number **Ins 6001.02(a); Ins 6001.03 intro. and (a)-(e); Ins 6001.04(c); Ins 6001.05(o) and (p)**

<p>1. Agency Name &amp; Address: <b>NH Insurance Department 21 S. Fruit St., Suite 14 Concord, NH 03301</b></p>	<p>2. RSA Authority: <b>RSA 400-A:15, I; RSA 415:6,VII; RSA 415:18, I; RSA 415-A:2; RSA 415-A:3, I</b></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action: Adoption _____ Amendment <b>X</b> _____ Repeal _____ Readoption _____ Readoption w/amendment _____</p>
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5. Short Title: **Standard Definitions and Policy Provisions**

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

**This proceeding amends sections of Part Ins 6001, entitled “Standard Definitions and Policy Provisions”, as follows: Ins 6001.02, entitled “Applicability and Scope”, is amended to make clear that Ins 6001 applies to renewal policies as well as new issues; Ins 6001.03, entitled “Definitions”, is amended to define additional terms used in ancillary health products; Ins 6001.04, entitled “Policy Definition Requirements”, is amended to establish the scope of the term “eligible employee” as used in policies; and Ins 6001.05, entitled “Prohibited Policy Provisions”, is amended to include additional prohibited provisions regarding eligibility.**

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

**Any entities that write ancillary health insurance products in this state.**

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

<b>Rule</b>	<b>Specific State Statute the Rule Implements</b>
Ins 6001.02(a)	RSA 400-A:15, I; RSA 415-A
Ins 6001.03 intro. and (a) - (e)	RSA 400-A:15, I; RSA 415:18; RSA 415-A:2, I(n); RSA 415-F:1, V
Ins 6001.04(c)	RSA 400-A:15, I; RSA 415:6; RSA 415:18; RSA 415-A-2; RSA 415-A:3
Ins 6001.05(o)	RSA 400-A:15, I; RSA 415:5; RSA 415:6; RSA 415:18; RSA 415-A-2; RSA 415-A:3
Ins 6001.05(p)	RSA 400-A:15, I; RSA 457; RSA 415:5, I(3)(a); RSA 415:5, I(3-a)(a)

NN 2019-173 Continued

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

Name: **Roni Karnis** Title: **LAH Attorney**  
Address: **NH Insurance Dept.** Phone #: **271-4002**  
**21 S. Fruit St., Suite 14** Fax#: **271-1406**  
**Concord, NH 03301** E-mail: **Roni.karnis@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: **November 5, 2019**

Fax  E-mail  Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Tuesday, October 29, 2019 at 10:30 am**

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

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

FIS # 19:172, dated September 20, 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 mandate 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 subdivisions, and therefore do not violate Part I, Article 28-a of the New Hampshire Constitution.**

Notice Number 2019-174

Rule Number Various Saf-C 3200

<p>1. Agency Name &amp; Address:</p> <p><b>NH Department of Safety 33 Hazen Drive Concord, NH 03301</b></p>	<p>2. RSA Authority: <b>RSA 21-P:14, V(a) and (b); RSA 260:5; RSA 266:1; RSA 266:59-b, III</b></p> <p>3. Federal Authority: <b>40 CFR 51.350-51.373</b></p> <p>4. Type of Action:</p> <p>Adoption <u>  X  </u></p> <p>Amendment <u>  X  </u></p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment <u>  X  </u></p>
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5. Short Title: **Various Motor Vehicle Inspection Rules**

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

**This proposal amends, adopts, and readopts with amendment various portions of Saf-C 3200, concerning motor vehicle inspection rules as follows:**

- (1) **Implements rules for procedures for rust examinations during vehicle inspections. This is as a result of Laws of 2018, Chapter 43, which became effective January 1, 2019;**
- (2) **Adopts a waiver process from OBD testing if a vehicle is driven less than 3,000 miles in a 12-month period (or prorated for early inspection);**
- (3) **In addition, amends the economic hardship extension waiver for OBD inspection (Saf-C 3222.08) to incorporate a time extension waiver that will allow an owner of a vehicle that fails the emissions portion of an annual inspection to be granted a waiver to repair the emissions system until the next inspection period, if the owner can demonstrate to the Division of Motor Vehicles a financial hardship, and the vehicle in question drives a limited number of miles per year;**
- (4) **Clarifies the criteria for rejecting a vehicle for brake lining or pad wear so that it mirrors the Code of Federal Regulations; and**
- (5) **Allows law enforcement vehicles to affix the inspection sticker to the vehicle registration if placement of the sticker on the lower left corner of the windshield interferes with law enforcement equipment or technology in the vehicle.**

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

**Owners of vehicles registered in NH; motor vehicle inspection stations; law enforcement agencies; and businesses repairing vehicles.**

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 3221.01 (a) intro. & (a)(7)	RSA 266:1, I; RSA 266:9
Saf-C 3221.04(a) intro. & (a) (5) &(6)	RSA 266:1; RSA 266:9
Saf-C 3221.06	RSA 266:1; RSA 266:3-a
Saf-C 3222.08 & Saf-C 3222.09	RSA 266:1, I; RSA 266:59-b
Saf-C 3226.26	RSA 266:1, I, IX; RSA 266:7; RSA 266:27-29
Saf-C 3245.07	RSA 266:1,I, II, II-a; RSA 266:59-b, V

NN 2019-174 Continued

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

Name: **Marta Modigliani**

Title: **Legal Counsel**

Address: **33 Hazen Drive Room 209  
Concord, NH 03301**

Phone #: **603-227-0040**

Fax#: **603-271-1033**

E-mail: **rules@dos.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: **Monday November 4, 2019 at 4:00 p.m.**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Monday October 28, 2019 at 1:00 p.m.**

Place: **2<sup>nd</sup> Floor Conference Room  
33 Hazen Drive  
Concord, NH 03305**

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

FIS # 19:046, dated April 4, 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 rule to the existing rule. Not applicable to Saf-C 3222.09 and Saf-C 3245.07, which are new.

**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 provide a low mileage waiver for vehicles that fail an on-board diagnostic (OBD) inspection and cannot make the repairs due to economic hardship. This may benefit state citizens to the extent they qualify for such waiver and avoid repair costs and in turn may result in a cost to independently owned businesses to the extent they provide automotive repairs that would have otherwise been required for inspection.

**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.

NN 2019-174 Continued

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

- 1. The proposed rules do not create a new program or responsibility or expand or modify an existing program or responsibility to any political subdivision.**
- 2. The proposed rules do not mandate or assign a program or responsibility to any political subdivision of the state in such a way as to increase the costs the political subdivision must pay.**
- 3. No state funding is necessary because the proposed rules do not mandate or assign a program or responsibility to any political subdivision so as to increase the costs the political subdivision must pay.**

Notice Number	<b>2019-175</b>	Rule Number	<b>Env-Wq 1001.03(c)(4), (f)(3), &amp; (k) [new]</b>
1. Agency Name & Address:		2. RSA Authority:	<u>RSA 485-A:29, I; 30-b, IV; &amp; 41, IV</u>
		3. Federal Authority:	<u>n/a</u>
Department of Environmental Services		4. Type of Action:	
29 Hazen Drive		Adoption	<u>                    </u>
P.O. Box 95		Amendment	<u>                    <b>X</b></u>
Concord, NH 03302-0095		Repeal	<u>                    </u>
		Readoption	<u>                    </u>
		Readoption w/amendment	<u>                    </u>

5. Short Title: **Amendments to Waiver Requirements for Septic Systems**

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

The existing rules in Env-Wq 1000 implement RSA 485-A:29-44 relative to subdivisions and septic systems (individual sewage disposal systems, or ISDS), by establishing, among other things, the procedural and substantive requirements for obtaining state approval of a proposed subdivision or ISDS. The criteria and procedures for obtaining waivers to the requirements established in Env-Wq 1000 are in Env-Wq 1001.03. The Department is proposing to modify this section to allow waivers to set-backs to surface water, very poorly drained soils, or an off-lot well installed prior to July 1, 1989 if necessary to allow an existing legal use to continue and to require set-backs that are reduced by a waiver to be as close to the specified distance as possible.

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

The rules affect any person who needs a waiver of a set-back distance to obtain approval to construct a septic system.

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

Rule Section(s)	Specific Statute(s) Implemented
Env-Wq 1001.03(c)(4), (f)(3), and (k)	RSA 485-A:1; RSA 485-A:29-44; RSA 541-A:22, IV

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

Name:	Rob Tardif, P.E.	Title:	Administrator, Subsurface Systems Bureau
Address:	Dept. of Environmental Services 29 Hazen Drive; P.O. Box 95 Concord, NH 03302-0095	Phone #:	(603) 271-2904
		Fax#:	(603) 271-6683
		E-mail:	<a href="mailto:Robert.Tardif@des.nh.gov">Robert.Tardif@des.nh.gov</a>

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 Wednesday, November 13, 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: **Monday, November 4, 2019 at 1:00 PM**

Place: **Rooms 112-113, DES Offices, 29 Hazen Drive, Concord NH**



NN 2019-175 Continued

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 19:179 , dated 9/25/2019:

**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:

There are no costs associated with the proposed rules, as the proposed rules would simply allow the Department to grant waivers to set-backs to surface water, very poorly drained soils, or an off-lot well installed prior to July 1, 1989 if necessary to allow an existing legal use to continue, and would require set-backs reduced by waiver to be as close to the set-back as possible. The rules thus do not mandate or assign any new, expanded or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivision and so do not violate Part I, Article 28-a of the New Hampshire Constitution.

Notice Number **2019-176** Rule Number **Ins 1302.04(a)-(c);  
Ins 1303.02(g); Ins 1305**

1. Agency Name & Address:

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

2. RSA Authority: **RSA 400-A:11, I; 400-A:15, I;  
RSA 402-B:6; RSA 402-D:20;  
RSA 402-J:18**

3. Federal Authority: \_\_\_\_\_

4. Type of Action:

Adoption     X    

Amendment     X    

Repeal \_\_\_\_\_

Readoption \_\_\_\_\_

Readoption w/amendment \_\_\_\_\_

5. Short Title: **Producers and Adjusters**

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

**This proceeding proposes to amend Ins 1302.04, entitled “Educational Requirements for Insurance Claims Adjusters and Public Adjusters”, to incorporate the changes to RSA 402-B:5-a regarding ethics training that were adopted by the legislature during the 2019 session in HB 606 (Chapter 112 of the Laws of 2019) and also proposes to amend Ins 1303.02, entitled “Continuing Education Advisory Councils”, by establishing a quorum for such councils. This proceeding also proposes to adopt Ins 1305, entitled “Waiver of Rules”.**

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

**All producers and adjusters authorized in the state of New Hampshire.**

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

<b>Rule</b>	<b>Specific State Statute the Rule Implements</b>
Ins 1302.04(a) – (c)	RSA 400-A:15, I; RSA 402-B:5-a.; RSA 402-D:12
Ins 1303.02(g)	RSA 400-A:15, I; RSA 400-A:11; RSA 402-J:16 II
Ins 1305.01	RSA 400-A;15, I; RSA 541-A:22, IV

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

Name: **Michelle Heaton**

Title: **Hearings Judge**

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

Phone #: **271-2399**

Fax#: **271-1406**

E-mail: **Michelle.heaton@ins.nh.gov**

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

NN 2019-176 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **November 7, 2019**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, October 31, 2019 at 1:00 pm**

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

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

FIS # 19:121, dated July 19, 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 Ins 1305 which is a new 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):**

There is no cost or benefit attributable to Ins 1305.

**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 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 subdivisions, and therefore do not violate Part I, Article 28-a of the New Hampshire Constitution.**

Notice Number 2019-177

Rule Number Bar 700

1. Agency Name & Address:

**Board of Barbering,  
Cosmetology, and Esthetics  
c/o Office of Professional  
Licensure & Certification  
121 South Fruit Street  
Concord, NH 03301**

2. RSA Authority: RSA 313-A:8, XIII

3. Federal Authority: n/a

4. Type of Action:

Adoption X

Amendment \_\_\_\_\_

Repeal \_\_\_\_\_

Readoption \_\_\_\_\_

Readoption w/amendment \_\_\_\_\_

5. Short Title: **Mobile Barbershops**

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

**The intended action is to adopt rules regarding the licensing of mobile barber shops pursuant to RSA 313-A:8, XIII. Specifically, the proposal includes the following:**

- **Bar 701.01, regarding definitions of terms used in the chapter;**
- **Bar 701.02, regarding the requirements and specifications for mobile barber shops;**
- **Bar 701.03, regarding the application form for a mobile barber shop;**
- **Bar 701.04, regarding prohibited practices for a mobile barber shop;**
- **Bar 701.05, regarding renewal of a mobile barber shop;**
- **Bar 701.06; regarding inspections of a mobile barber shop; and**
- **Bar 701.07, regarding violation points and disciplinary action for a mobile barber shop.**

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

**This proposal affects individuals wishing to obtain a license from the Board to operate a mobile barbershop.**

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

Rule	Statute
Bar 700	RSA 313-A:8, XIII

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  
Concord, NH 03301**

Phone #: **(603) 271-3103**

Fax#: **(603) 271-0597**

E-mail: **Thomas.Broderick@oplcr.nh.gov**

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

NN 2019-177 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **November 18, 2019 by the conclusion of the public hearing.**

 Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **November 18, 2019 at 11:30 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 # 19:156, dated 9/10/2019

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

Not applicable 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):**

The proposed rules governing mobile barbershops will allow individuals to engage in this specific activity under separate licensure and these individuals will pay the same existing fees applicable to non-mobile (regular) barbershops. The fee for an applicant applying for a mobile barbershop license is \$60, the fee for an applicant applying for a booth inside a mobile barbershop is \$50, the fee for renewal of a mobile barbershop license is \$100 for 2 years, and the fee for late renewal of a mobile barbershop license is \$55.

There is no requirement that a mobile barbershop licensee also obtain a regular license, and both licenses would only be required if the individual sought to engage in both mobile and regular licensed activities. RSA 313-A:25, VII and IX already provide exemptions for an individual with a regular shop license to provide services to individuals in nursing homes or for individuals with limited mobility in their own homes.

It is unknown how many individuals may pursue a mobile license and what additional revenue may be generated as result of this available licensed activity.

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

No state general funds. Additional fees will be deposited into the Office of Professional Licensure and Certification Fund pursuant to RSA 310-A:1-e, I(b).

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

See 3. Above. Political subdivisions with regulations or bylaws governing mobile commercial activities may incur additional expenses or benefit from additional revenues generated from licensing these activities.

- 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

2019-178

Rule Number

Bar 302.05, 302.07, 404.04,  
404.05

<p>1. Agency Name &amp; Address: <b>Board of Barbering, Cosmetology, and Esthetics</b> <b>c/o Office of Professional Licensure &amp; Certification</b> <b>121 South Fruit Street</b> <b>Concord, NH 03301</b></p>	<p>2. RSA Authority: <u>    <b>RSA 313-A:8, X, XIV</b>    </u></p> <p>3. Federal Authority: <u>                    <b>n/a</b>                    </u></p> <p>4. Type of Action:</p> <p style="padding-left: 40px;">Adoption <u>                    </u></p> <p style="padding-left: 40px;">Amendment <u>                    </u></p> <p style="padding-left: 40px;">Repeal <u>                    </u></p> <p style="padding-left: 40px;">Readoption <u>                    </u></p> <p style="padding-left: 40px;">Readoption w/amendment <u>          <b>X</b>          </u></p>
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5. Short Title: **School and Shop Requirements, Licensee Standards, Fines, and Inspection Notices**

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

**The intended action is to readopt with amendments the following:**

- **Bar 302.05, regarding school and shop additional requirements, to remove certain requirements and also add requirements regarding floor plans, labeling of chemicals and products, and eyewash stations;**
- **Bar 302.07, regarding licensee standards, to make changes to a rule regarding microneedling and adding a requirement for estheticians regarding the use of exfoliating substances and equipment;**
- **Bar 404.04, regarding fines, to clarify that a shop owner shall be assessed a fine for violations that occur on their premises; and**
- **Bar 404.05, regarding inspection notices, to clarify that when the Board considers imposing a fine after an inspection, licensees shall receive a copy of the inspection report.**

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

**This proposal affects both current and prospective licensees – both those holding individual licenses and those holding shop licenses – of the Board of Barbering, Cosmetology, and Esthetics.**

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

<b>Rule</b>	<b>Statute</b>
Bar 302.05	RSA 313-A:7, X; RSA 313-A:8, X; RSA 313-A:17; RSA 313-A:19
Bar 302.07	RSA 313-A:8, X, XIV
Bar 404.04	RSA 313-A:19 and RSA 313-A:7, XVI
Bar 404.05	RSA 313-A:19 and RSA 313-A:7, XVI

NN 2019-178 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: **November 18, 2019 by the conclusion of the public hearing.**

Fax  E-mail  Other format (specify):

9. Public hearing scheduled for:

Date and Time: **November 18, 2019 at 11:30 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 # 19:155, dated 9/5/2019

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

There are incidental indeterminable costs associated with proposed Bar 302.05 and Bar 404.04.  
There is no cost when comparing the cost of proposed Bar 302.07 and Bar 404.05.

**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):**

Citizens of the state who are licensed shop owners may incur minor and indeterminable costs to comply with the new requirements proposed in Bar 302.05 for floor plans, labeling of chemicals and products, and eyewash stations. These individuals may also be subject to fines for misconduct proposed under Bar 404.04. Costs associated with these possible fines are indeterminable. Citizens of the state will benefit from enhanced public health and safety resulting from these proposed changes.

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

No state general funds. Additional fines will be deposited into the Office of Professional Licensure and Certification Fund pursuant to RSA 310-A:1-e, I(b).

**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.**

Proposed Interim Rule Number

2019-29

Rule Number

Saf-C 1200

1. Agency Name &amp; Address:

**NH Department of Safety  
33 Hazen Drive  
Concord, NH 03301**

2. RSA Authority:

RSA 153:5-a

3. Federal Authority:

n/a

4. Type of Action:

Adoption X

Amendment \_\_\_\_\_

Repeal \_\_\_\_\_

Readoption X

Readoption w/amendment \_\_\_\_\_

5. Filing Date: **9-20-2019**6. Short Title: **Voluntary Certification of Fire Protection Equipment Technician Interim Rules**

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

Name: **Keith H. Lohmann**Title: **Program Specialist IV**Address: **33 Hazen Drive Room 209  
Concord, NH 03301**Phone #: **603-227-0040**Fax#: **603-271-1033**E-mail: **Keith.lohmann@dos.nh.gov**

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

8. Summary explaining the effect of the rule: **Most of the existing rules expired on 11-6-2018. The proposed rule outlines the qualifications for training standards, procedures for certification, and suspension and revocation of agency or individual certificates concerning fire protection equipment outlined in Chapter Saf-C 1200. The rules Saf-C 1203.02 on the application form for firm certificate of registration and Saf-C 1204.03 on the application form for individual certification have not expired, but they are included for readoption for the readability of the proposal as a whole.**

9. Listing of people, enterprises, and government agencies affected by the rule: **Persons and agencies who provide services on, and installation and repair of fire protection equipment to residential and commercial buildings in the State of New Hampshire.**

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

<b>RULE</b>	<b>STATUTE IMPLEMENTED</b>
Saf-C 1201.01-1202.16	RSA 541-A:7
Saf-C 1203.01	RSA 153:5-a
Saf-C 1203.02	RSA 153:5-a; RSA 541-A:16, I(b)(1)
Saf-C 1203.03	RSA 153:5-a; RSA 541-A:29
Saf-C 1203.04-1204.02	RSA 153:5-a
Saf-C 1204.03	RSA 153:5-a; RSA 541-A:16, I(b)(1)
Saf-C 1204.04	RSA 153:5-a; RSA 541-A:29
Saf-C 1204.05-1206.01	RSA 153:5-a
Saf-C 1207.01-1207.03	RSA 153:5-a; RSA 541-A:30, RSA 541-A:31
Saf-C 1208.01-1210.03	RSA 153:5-a



INT 2019-29 Continued

11. Summary of the effect upon the state if the rule were not adopted: **Citizens and businesses in the state would have no readily available method to evaluate the qualifications of persons who are going to install or service fire protection equipment. This interim rule is being proposed to minimize the time between the expiration of most of the rules in Saf-C 1200 and their subsequent readoption.**

12. Proposed date of review by the Joint Legislative Committee on Administrative Rules: **10-17-2019**

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

FIS # n/a, dated n/a

## SPECIAL NOTICE: ADDITIONAL WRITTEN PUBLIC COMMENT

Notice Number 2019-71Rule Number Nur 900

<p>1. Agency Name &amp; Address:</p> <p><b>NH Board of Nursing c/o Office of Professional Licensure &amp; Certification 121 S. Fruit Street Concord, NH 03301</b></p>	<p>2. RSA Authority: <u><b>RSA 326-B:36-a, VI(c)</b></u></p> <p>3. Federal Authority: <u>n/a</u></p> <p>4. Type of Action:</p> <p>Adoption <u><b>X</b></u></p> <p>Amendment _____</p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment _____</p>
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5. Short Title: **Alternative Recovery Monitoring Program**

In order to prepare a response pursuant to RSA 541-A:13, V(c) to a preliminary objection to Final Proposal 2019-71 made on September 20, 2019 by the Joint Legislative Committee on Administrative Rules, the Board of Nursing is soliciting additional written public comment for **Nur 900**. Notice first appeared in the Rulemaking Register on **May 2, 2019** under Notice Number **2019-71**. A public hearing for this proposed rule was held on **May 23, 2019**.

6. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **October 10, 2019 at 6:00 p.m.**

 Fax E-mail Other format (specify):

7. Contact person for copies of the final proposed rule and questions including requests to accommodate persons with disabilities:

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