

Notice Number 2024-73

Rule Number Env-C 500

<p>1. Agency Name & Address:</p> <p>Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</p>	<p>2. RSA Authority: <u>RSA 485-A:4, XIII;</u> <u>RSA 485-A:6, V</u></p> <p>3. Federal Authority: <u>n/a</u></p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment <u>X</u></p>
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5. Short Title: **Prequalification of Licensed Engineering Firms for Certain Projects**

6. (a) Summary of what the rule says and of any proposed amendments including whether the rule implements a state statute for the first time:

The Department of Environmental Services (the “Department”) is proposing to readopt with amendment Env-C 500. The existing rules establish the requirements for prequalification of licensed engineering firms by the Department. The rules are scheduled to expire on July 22, 2024. The existing rules are subject to extension for the duration of this readoption proceeding pursuant to RSA 541-A:14-a, I.

The Department is proposing to readopt the rules with proposed amendments as summarized below:

- **Change the definition of “applicant”, (Env-C 502.01), so only licensed engineering firms may apply to be rostered as prequalified and update applicable definitions and rules affected by this change;**
- **Delete the definition of “consulting engineering firm” (Env-C 502.04) and add the definition of “licensed engineering firm” (proposed Env-C 502.08);**
- **Update the definition of “professional competence” to ensure that there are at least two qualified project engineers for each category of prequalification, as applicable; and add clarification that firms must be multi-disciplinary (Env-C 502.13);**
- **Update the definition of “qualifying project” to clarify that professionally stamped as-built drawings from current qualified project engineers are required to be submitted (Env-C 502.15);**
- **Require the submittal of electronic forms to streamline the application process (Env-C 503.01 and proposed Env-C 503.05) and deleting the form requirements in current rules Env-C 503.02 and Env-C 503.07;**
- **Add specific references to applicable wastewater, drinking water, and ethics rules to the Signature Required section (proposed Env-C 503.02);**

- Update the review times for new applications to be consistent with other programs and removed the requirement for an in-person meeting with the principal of the applicant (proposed Env-C 503.03);
- Add a reference to ethics in the roster listing section (proposed Env-C 503.04);
- Require prequalified firms seeking to add additional categories of qualification to submit a new application (proposed Env-C 503.05); and
- Update the review times for renewal applications to be consistent with other programs (proposed Env-C 503.06).

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

Any engineering firm who applies for prequalification pursuant to RSA 485-A:4, XIII and any currently pre-qualified engineering firms.

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

Rule Section(s)	State Statute(s) Implemented
Env-C 500	RSA 485-A:4, XIII

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

Name:	Tracy Wood	Title:	Administrator, Wastewater Engineering Bureau
Mailing Address:	Dept. of Environmental Services 29 Hazen Drive; P.O. Box 95 Concord, NH 03302-0095	Phone #:	(603) 271-2001
		Fax#:	(603) 271-4128
		E-mail:	tracy.l.wood@des.nh.gov

The rules also can be viewed in PDF at the Public Comment Opportunities section of the NHDES website at <https://www.des.nh.gov/public-comment-opportunities> and selecting "Rulemaking"

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 PM on Friday, May 24, 2024**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Friday, May 17, 2024, at 8:30 AM**

Room 208C, NHDES Offices, 29 Hazen Drive, Concord, NH

Physical
Location:

NOTE: NHDES security procedures require all visitors to sign in and present photo identification (such as a driver's license). If you plan to attend the public hearing in person, please bring photo identification with you.

You also may attend the hearing via Microsoft Teams, which can be accessed through the following link:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_NjViNjRhMWUtMzk1Mi00MDE5LTljZGMtYzc3YjkzYTc4NWZl%40thread.v2/0?context=%7b%22Tid%22%3a%22992deae9-1c4c-42c8-a310-5088af55ba74%22%2c%22Oid%22%3a%22a5479b82-9507-4a15-be30-878966d59615%22%7d

Electronic
Access (if
applicable):

You also may join the meeting by phone:

Call in Number: (603) 931-4944

Access Code: 192 791 391#

Microsoft Teams Meeting ID: 214 730 198 850

If any questions or technical issues, please contact Ben Giorgi at 603-271-3287 or via email at benjamin.n.giorgi@des.nh.gov

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

FIS # 24:068, dated 04/05/2024

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

When compared to the existing rules, the proposed rules may increase costs to certain independently owned businesses and revenue to the state general fund. Any such increase, if any, is expected to be small.

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):

Under the proposed rules, if an existing prequalified firm seeks to increase the categories of its current prequalification, it will have to pay \$200 for a new application versus \$50 as part of its renewal process. The Department states this type of a request is a rarity. Per RSA 485-A:4, XIII, this unrestricted fee revenue is deposited in the general fund.

A. To State general or State special funds:

See #3 above. No impact on any State special fund.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

See #3 above.

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

The proposed rules modify an existing program or responsibility, but do not mandate any additional expenditure on the political subdivisions of the state and therefore do not violate Part I, Article 28-a of the N.H. Constitution.