



NEW HAMPSHIRE RULEMAKING REGISTER

OFFICE OF LEGISLATIVE SERVICES

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VOLUME XXXIX, Number 20, May 16, 2019

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NOTE: POSSIBLE RULE EXTENSION

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

2. COMMITTEE (JLCAR)

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

CONTINUED MEETING: **Friday, June 7, 2019 9:00 a.m.**
Rooms 306/308, Legislative Office Building

JLCAR MEETING DATES AND RELATED FILING DEADLINES MAY-JUNE, 2019

The JLCAR has voted to hold its regularly scheduled meetings for May through June, 2019 on the third Friday of the month as listed below, except as noted. The minimum 14-day “deadline” prior to the regular JLCAR meeting is listed for agencies to file final proposals or proposed interim rules* for placement on the JLCAR agenda pursuant to RSA 541-A:12, I and RSA 541-A:19, V. The JLCAR has also scheduled continued meetings as listed below on select Fridays to address items postponed from the prior regular meetings.

Regular Meeting Filing Deadline*	Regular Meeting Date	Continued Meeting Date
May 3	May 17	June 7
June 7	June 21	June 28

***NOTE:** The filing deadlines relate to JLCAR meetings pursuant to RSA 541-A. However, if a proposed interim rule is filed with a rulemaking notice for publication in the *Rulemaking Register*, be aware that Thursdays—not Fridays—remain the filing deadline under the *Drafting and Procedure Manual for Administrative Rules* to have the rulemaking notice published the following week. Therefore, filing the notice together with the proposed interim rule no later than the Thursday **before** the 14-day statutory deadline would assure that both the 14-day deadline for filing the rule and the deadline for publication in the *Rulemaking Register* would be met. See description in §3.3 of Chapter 3 of the *Drafting and Procedure Manual for Administrative Rules*.

Notices of Proposed Rules

<u>Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Page No.</u>
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).	1
2019-79	He-P 803	Department of Health and Human Services Former Division of Public Health Services New Hampshire Nursing Home Rules.	4
2019-80	Env-A 1200	Department of Environmental Services Air Related Programs Volatile Organic Compounds (VOCs) Reasonably Available Control Technology (RACT).	8
2019-81	Rev 500	Department of Revenue Administration Excavation Tax and Taxation of Excavation Area.	10

**JLCAR MEETING DATES AND RELATED FILING DEADLINES
JULY-DECEMBER, 2019**

The JLCAR has voted to hold its regularly scheduled monthly meetings for July 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
July 3 (Wednesday)	July 18	August 1
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

Notice Number	2019-78	Rule Number	He-P 3200
1. Agency Name & Address: Dept. of Health & Human Services Division of Public Health Services NH Women, Infant, and Children (WIC) Program 29 Hazen Drive Concord, NH 03301	2. RSA Authority:		RSA 132:10-b, I
	3. Federal Authority:		7 CFR Part 246.12
	4. Type of Action:		
	Adoption		_____
	Amendment		_____
		Repeal	_____
		Readoption	X
		Readoption w/amendment	X

5. Short Title: **Special Supplemental Nutrition Program for Women, Infants and Children (WIC)**

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

He-P 3200 is the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) and provides the procedures for implementation of the program in New Hampshire. This rule describes the participant eligibility requirements, the foods provided, local agency and vendor participation, vendor monitoring, sanctions, and the notices and appeals process.

The Department of Health and Human Services (Department) is proposing to readopt and readopt with amendment the rules in He-P 3200. The proposal removes language pertaining to the use of paper vouchers, replaces it with language to reflect the change to electronic benefits, and updates the term “instrument” with the term “benefit” throughout. The proposal also:

- **Adds definitions in He-P 3201 for the terms “authorized product list (APL)”, “eWIC cardholder”, “WIC benefits”, and “30-day temp participants”;**
- **Amends the existing definitions in He-P 3201 for the terms “above-50 percent”, “authorized vendor”, “benefits”, “cash value voucher” which becomes “cash value benefit”, “competitive price criteria”, “enrollment”, “food instrument”, “homeless”, “inadequate participant access”, and “proxy”;**
- **Removes the definitions in He-P 3201, for the term “authorized vendors in the same geographical area”;**
- **Amends He-P 3202 on participant eligibility criteria, to allow any government issued identification card, mortgage statement containing the address of, or a paystub with the name and address of the applicant as a form of proof of residence, and amends the applicant category of pregnant women so they will not have to provide documentation of pregnancy if they are visibly pregnant;**
- **Amends He-P 3203.01 on supplemental foods, to allow supplemental foods based on a licensed healthcare provider’s prescription and removes the allowance of supplemental foods based on the participants shopping and storage considerations;**
- **Amends He-P 3203.03 on restrictions, by removing organic foods from the restrictions list;**
- **Amends He-P 3203.04 on prorating food packages, by updating the section with a new proration schedule that shows how a new family member, or an applicant with a 30-day temporary certification, falls into an existing family group’s benefit cycle, that the person’s benefits issued will be based on the days remaining in that family group benefit cycle, and by adding how a participant’s benefits will be prorated if terminated;**

NN 2019-78 Continued

- Amends He-P 3205.01 on selection of vendors, by removing the reference to authorized vendors in the same geographical area here and throughout, by clarifying the assessment of the vendor's qualifications that the Department completes; by adding that a vendor's application will be denied or the vendor will be terminated if he or she fails to maintain a card acceptor device for eWIC cards; and by incorporating by reference the American National Standards Institute "ANSI X9.93-2014" (Part 1 and 2) and the United States Department of Agriculture, Food and Nutrition Service's "WIC-Electronic Benefits Transfer (EBT) Guidance and Resources";
- Amends He-P 3205.02 on written agreement, by clarifying what federal regulations the vendor shall comply with and removing references to restricted agreements between the vendor and the Department;
- Amends He-P 3205.04 on vendor training, by clarifying that at least one vendor representative shall participate in a Department-provided face to face interactive training at least once every 3 years;
- Amends He-P 3207.02 on participants, by updating the category I, category II, and category III violations;
- Amends He-P 3207.03 on vendors, by deleting the existing category I violations and making the existing category II violations, category III, and category IV violations, respectively, into category I, category II, and category III violations, and by incorporating by reference the United States Agriculture, Food and Nutrition Service "Operating Rules Women, Infants and Children (WIC) Electronic Benefits Transfer (EBT)" (September 2014); and
- Amends He-P 3207.03 on vendors, by increasing the civil penalties pursuant to 7 CFR 3.91(b)(3)(v).

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

The proposed rule will affect vendors of the WIC program as well as recipients of the WIC program.

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

RULE	STATUTE
He-P 3201	7 CFR 246.2 and 246.7
He-P 3202	7 CFR 246.7
He-P 3203	7 CFR 246.10
He-P 3204	7 CFR 246.5 and 246.6
He-P 3205	7 CFR 246.12 and RSA 132:10-b, I
He-P 3206	7 CFR 246.12
He-P 3207.01	7 CFR 246.2, 7 CFR 246.7
He-P 3207.02	7 CFR 246.5, 246.12, 246.15 and 246.23(b), and 246.23(c)
He-P 3207.03	7 CFR 246.5, 246.12, 246.15 and 246.23
He-P 3208	7 CFR 246.9, 246.12, 246.18 and 278.6

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

Name:	Allyson Zinno	Title:	Administrative Rules Coordinator
Address:	Dept. of Health and Human Services Administrative Rules Unit 129 Pleasant St. Concord, NH 03301	Phone #:	271-9604
		Fax#:	271-5590
		E-mail:	allyson.zinno@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>

NN 2019-78 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Monday, June 17, 2019.**

☒ Fax☒ E-mail☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Monday, June 10, 2019 at 1:30 pm**

Place: **DHHS Brown Bldg., Auditorium, 129 Pleasant St., Concord, NH**

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

FIS # **19:068**, dated **April 16, 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 have an indeterminable impact on independently owned businesses.

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

Pursuant to 7 CFR 3.91(b)(3)(v) the Civil Monetary Penalty Inflation Adjustment increases the maximum civil money penalties to \$15,041 for each violation, with a maximum amount per investigation of \$60,161. The program is federally funded and any civil penalties collected are applied to the state administrative fund which funds the 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:

Retail grocer vendors participating in the program have to ensure their software is capable of accepting EBT transactions. There may be an indeterminable cost to independently owned business to the extent the retail grocer vendors participate and are required to obtain compatible software.

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

The proposed rule 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	2019-79	Rule Number	He-P 803
1. Agency Name & Address:	2. RSA Authority: <u>RSA 151:9, I(a) through (m)</u>		
Dept. of Health and Human Services	3. Federal Authority: _____		
Health Facility Licensing Unit	4. Type of Action:		
129 Pleasant Street	Adoption _____		
Concord, NH 03301	Amendment _____		
	Repeal _____		
	Readoption _____		
	Readoption w/amendment <u>X</u>		

5. Short Title: **New Hampshire Nursing Home Rules**

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

He-P 803 sets forth the requirements necessary to operate and maintain a licensed nursing home facility. As required by RSA 151:9, I(a), the proposed rule establishes specific provisions and criteria for such facilities in the areas of sanitation, organization, administration, physical environment, health and safety, nursing services, resident environment, dietary needs, medical records, medication, infection control, personnel, protective oversight services, and management of resident records. Groups affected by this rule include operators of Nursing Homes, residents who receive Nursing Home services, and their families. The current rule is an interim rule which is scheduled to expire on July 29, 2019.

The Department of Health and Human Services (Department) is proposing to readopt with amendment He-P 803. The proposed changes to this rule, as compared with the existing rule, include:

- Updating the rule for better clarity, program integrity, and to be consistent with the language used in other licensing rules that have been more recently readopted, including updated definitions, updated structure, and updated terminology;
- Updating He-P 803.03 on definitions by adding the definitions of “activities of daily living”, “addition”, “area of non-compliance”, “critical incident stress management”, “direct care”, “elopement”, “equipment or fixtures”, “facility”, “health care occupancy”, “incident command system”, “life safety code”, “modification”, “nursing care”, “personal care”, “qualifications”, “qualified personnel”, “reconstruction”, “renovation”, “repair”, “state monitoring”, and “volunteer”;
- Updating He-P 803.03 on definitions by deleting definitions for “business day”, “deficiency”, “employee”, and “nurse”;
- Updating He-P 803.03 on definitions by amending the definitions of “administrator”, “admission”, “advance directive”, “affiliated or related parties”, “agent”, “applicant”, “care plan”, “change of ownership”, “chemical restraint”, “core services”, “Department”, “direct care personnel”, “directed plan of correction”, “do not resuscitate order”, “governing body”, “guardian”, “informed consent”, “inspection”, “license”, “license certificate”, “licensed premises”, “medical director”, “medication”, “orders”, “patient rights”, “personnel”, “plan of correction”, “pro re nata”, “protective care”, “resident”, and “unusual incident”;
- Updating He-P 803.03 on definitions with various other editorial changes for clarity;

NN 2019-79 Continued

- Updating He-P 803.04 on initial license application requirements to require the most up to date edition of the application, add the application certifications, add additional requirements that must accompany the initial application, and make other editorial and clarity changes;
- Updating He-P 803.05 on processing of an application and issuance of licenses by clarifying that the necessary inspection be both a clinical and a life safety code inspection and clarifying that the Department shall deny a license request, based on the certain criteria listed in the rule, unless a waiver has been granted;
- Updating He-P 803.06 on license expirations and procedures for renewals by changing the expiration of a license if a renewal application is not received. Instead of the license expiring the following year on the last day of the month in which the licensed was issued, the license will expire the following year on the last day of the month prior to the month in which the licensed was issued;
- Updating He-P 803.07 on nursing home construction, alterations or renovations throughout and incorporating the 2018 version of the Facility Guidelines Institute “Guidelines for Design and Construction of Residential Health, Care, and Support Facilities”;
- Updating He-P 803.10 on waivers by changing the time limit of a waiver from 12 months to permanent, unless the Department specifically places a time limit on a waiver, and changing the time limit for renewal of a non-permanent waiver;
- Updating He-P 803.12 on administrative remedies by adding an administrative fine for failure to submit architectural sprinkler and fire alarm plans or drawings;
- Updating He-P 803.14 on duties and responsibilities of all licensees and the process for reportable incidents;
- Updating He-P 803.15 on required services by adding the requirement that a registered nurse (RN) be on staff at least 8 hours within a 24-hour period and amending what orders a licensee shall obtain from a licensed practitioner;
- Updating He-P 803.16 on medication services to include electronic orders as acceptable mode of orders;
- Updating He-P 803.18 on personnel by adding additional requirements for the licensee and employees;
- Updating He-P 803.19 on resident records to include (1) documentation when a resident has been given the opportunity to participate in the development of a care plan and (2) a resident’s code status;
- Updating He-P 803.20 on food service;
- Updating He-P 803.23 on infection control by a requiring a licensee to appoint a person to be in charge of and develop and implement an infection control program, and make reference to a licensed practitioner throughout;
- Updating He-P 803.24 on quality improvement and what the quality improvement committee is responsible for;

NN 2019-79 Continued

- Updating He-P 803.25 on sanitation by incorporating by reference the 2018 version of the Facility Guidelines Institute's "Guidelines for Design and Construction of Residential Health, Care, and Support Facilities Table 2.5-1" and amending the language to be consistent with other administrative rules;
- Updating He-P 803.26 on physical environment for clarification;
- Updating He-P 803.27 on emergency and fire safety procedures with changes regarding documentation of fire drills and clarification on the storage and use of oxygen cylinders or systems; and
- Adding He-P 803.28 on emergency preparedness.

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

These rules affect any individual, agency, partnership, corporation, government entity, association, or other legal entity operating a nursing home, except all facilities listed in RSA 151:2, II(a)-(g) and all entities which are owned or operated by the State of New Hampshire pursuant to RSA 151:2, II(h).

6. (c) 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-P 803.01 – He-P 803.03	RSA 151:9, I(a) and (b)
He-P 803.04 – He-P 803.07	RSA 151:2, I and II and RSA 151:9, I
He-P 803.08	RSA 151:9, I(a)
He-P 803.09	RSA 151:9, I(e) and RSA 151:6-a
He-P 803.10	RSA 151:9, I(a) and (b)
He-P 803.11	RSA 151:9, I(e) and RSA 151:6
He-P 803.12	RSA 151:9, I(f), (g), (l), and (m)
He-P 803.13	RSA 151:9, I(f), (h), and (l)
He-P 803.14 – He-P 803.27	RSA 151:9, I(a)
He-P 803.28	RSA 151:9, I(a)

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

Name:	Allyson Zinno	Title:	Administrative Rules Coordinator
Address:	Dept. of Health and Human Services Administrative Rules Unit 129 Pleasant St. Concord, NH 03301	Phone #:	271-9604
		Fax#:	271-5590
		E-mail:	allyson.zinno@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>

NN 2019-79 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Wednesday, June 19, 2019.**

☒ Fax☒ E-mail☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Wednesday, June 12, 2019 at 3:00 pm**

Place: **DHHS Brown Bldg., Auditorium, 129 Pleasant St., Concord, NH**

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

FIS # **19:070**, dated **May 1, 2019**

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

When compared to the interim rules, the proposed rules will have an indeterminable impact on state general fund revenue and costs incurred by independently-owned businesses.

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:

Changes to the schedule of fines may result in increased or lowered state general fund revenue. Any cost or benefit to the general fund as a result of the proposed rules would only be insofar as a licensee is or has been in noncompliance with the relevant rule or law.

B. To State citizens and political subdivisions:

None.

C. To Independently owned businesses:

Costs to businesses may decrease to the extent that permanent waivers are granted for individual licensees, resulting in a reduction in required application filings.

Costs to businesses may increase as a result of the following:

- additional documentation required for application submissions;
- record retention requirements for volunteers and independent contractor licensees; and
- requirements to develop emergency plans.

Changes to the schedule of fines may result in increased or lowered costs to businesses. Any cost or benefit to the general fund as a result of the proposed rules would only be insofar as a licensee is or has been in noncompliance with the relevant rule or law.

Licensees and businesses may experience indeterminable costs to the extent volunteers and independent contractors are required pay for and submit a criminal background check.

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

The proposed rule 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	2019-80	Rule Number	Env-A 1200
1. Agency Name & Address:	Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	2. RSA Authority:	RSA 125-C:4, I(a) & (d)
		3. Federal Authority:	42 U.S.C. 7410, 7502(c), & 7511c
		4. Type of Action:	
		Adoption	_____
		Amendment	_____
		Repeal	_____
		Readoption	X
		Readoption w/amendment	X

5. Short Title: **Volatile Organic Compounds (VOCs) Reasonably Available Control Technology (RACT)**

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

The existing rules establish requirements for the implementation of reasonably available control technology (RACT) on certain stationary sources located in New Hampshire that emit volatile organic compounds (VOCs), as required to comply with sections 172(c)(1) and 182(b)(2) of the Clean Air Act. VOCs can interact with nitrogen oxides (NOx) to form ground-level ozone, which is one of the pollutants for which a National Ambient Air Quality Standard has been established. Because of how ozone is formed, reducing VOCs will, in turn, reduce ozone formation. Sources that are subject to the rules have the option of meeting specified emission limits, control techniques, or work practice standards, or of obtaining a RACT order containing equivalent conditions. Sources subject to the rules include coating and printing operations, industrial cleaning solvent operations, fiberglass boat materials manufacturing operations, and miscellaneous industrial adhesive operations.

The rules are scheduled to expire on June 1, 2019, so the Department is proposing to readopt the chapter with minor amendments for clarity and to align with federal requirements. **The existing rules will continue in effect pursuant to RSA 541-A:14-a, I, subject to the conditions specified therein.**

Specifically, the proposed rules would clarify (1) exemptions from certain compliance provisions; (2) that flat wood paneling and adhesive coating operations can use alternative compliance procedures; (3) that rules applicable to various operations also apply to related cleaning activities, consistent with federal requirements; and (4) available methods of calculating emissions for certain control options. The proposed rules would also clarify certain table headings and cross references.

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

The rules will affect any entity that owns or operates a source that generates VOC emissions at levels over the threshold amount.

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 1201.01 - 1201.03(c)	RSA 125-C:4, I(a); RSA 125-C:6, II	42 U.S.C. §7410, §7502(c) & §7511c
Env-A 1201.03(d)	RSA 125-C:4, I(a) & (n) RSA 125-C:6, II	42 U.S.C. §7410, §7502(c) & §7511c
Env-A 1201.04 - 1204.32	RSA 125-C:4, I(a); RSA 125-C:6, II	42 U.S.C. §7410, §7502(c) & §7511c
Env-A 1204.33	RSA 125-C:4, I(a) & (n) RSA 125-C:6, II	42 U.S.C. §7410, §7502(c), & §7511c
Env-A 1204.34 - 1220	RSA 125-C:4, I(a); RSA 125-C:6, II	42 U.S.C. §7410, §7502(c) & §7511c
Env-A 1221.01 & 1221.02	RSA 125-C:4, I(a) & (n) RSA 125-C:6, II	42 U.S.C. §7410, §7502(c) & §7511c
Env-A 1221.03 - 1222	RSA 125-C:4, I(a); RSA 125-C:6, II	42 U.S.C. §7410, §7502(c) & §7511c

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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, June 28, 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, June 21, 2019 at 9:30 AM**

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

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 19:074 , dated 05/07/19:

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:

42 U.S.C. 7410 requires each state to prepare a plan which provides for implementation, maintenance, and enforcement of each national ambient air quality standard (NAAQS) in each air quality control region (or portion thereof) within the state. In the case where an area in the state has been designated a nonattainment area, i.e., an area where air quality does not meet a NAAQS, 42 U.S.C. 7502(c) requires the plan to provide for the implementation of all reasonably available control measures as expeditiously as practicable, including such reductions in emissions from existing sources in the area as may be obtained through, at a minimum, the adoption of RACT, and must provide for attainments of the NAAQS. In addition, 42 U.S.C. 7511c establishes an ozone transport region that includes the entire state of New Hampshire. States included in this region are also required to adopt rules to control the formation of ozone. Thus, a rule regulating VOC emissions, such as Env-A 1200, is required by federal mandate. If the state complies with these federal mandates, it is eligible to receive grant monies from the federal government pursuant to 42 U.S.C. 7405. New Hampshire receives approximately \$1.7 million in federal money annually for all of the Department's air programs. Because the funds are received in a block grant, it is not possible to estimate the portion attributable to the proposed rules.

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

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

None.

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

The 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 2019-81Rule Number Rev 500

1. Agency Name & Address:

**Department of Revenue Administration
P.O. Box 457
Concord, NH 03302-0457**

2. RSA Authority: RSA 72-B:18

3. Federal Authority: _____

4. Type of Action:

Adoption _____

Amendment _____

Repeal _____

Readoption X

Readoption w/amendment _____

5. Short Title: **Excavation Tax and Taxation of Excavation Area**

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

Rev 500 contains the rules governing the excavation tax and taxation of the excavation area, including definitions and requirements on filing of forms, certification by municipal assessing officials, distribution of forms, bonding, and appeals. Rev 500 is being readopted without amendments.

Rev 500 is scheduled to expire on 5-18-19 but is subject to extension pursuant to RSA 541-A:14-a.

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

The groups affected are persons subject to the Excavation Tax and Taxation of Excavation Area and municipal assessing officials.

NN 2019-81 Continued

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

RULE	STATUTE
Rev 501.01	RSA 72-B:2
Rev 501.02	RSA 155-E:1,I
Rev 501.03	RSA 155-E:1,II
Rev 501.04	RSA 72-B:18
Rev 501.05	RSA 72-B:2, VI
Rev 501.06	RSA 72-B:18
Rev 501.07	RSA 155-E:5 & 11
Rev 501.08	RSA 72-B:2, II
Rev 501.09	RSA 72-B:218
Rev 501.10	RSA 72-B:18
Rev 501.11	RSA 72-B:2, VIII
Rev 501.12	RSA 72-B:2, IX
Rev 501.13	RSA 72-B:18
Rev 501.14	RSA 72-B:18
Rev 502.01	RSA 72-B:8 and 8-a, RSA 72-B:16
Rev 502.02	RSA 72-B:9
Rev 503.01	RSA 72-B:8, RSA 72-B:18
Rev 504.01	RSA 72-B:8
Rev 504.02	RSA 72-B:9
Rev 504.03	RSA 72-B:8
Rev 505.01	RSA 72-B:1, II
Rev 505.02	RSA 72-B: 1,
Rev 505.03	RSA 72-B: 1,
Rev 506.01	RSA 72-B:1, I
Rev 506.02	RSA 72-B:2, VII
Rev 506.03	RSA 72-B:18
Rev 506.04	RSA 72-B:18
Rev 506.05	RSA 72-B:18
Rev 506.06	RSA 72-B:18
Rev 507.01	RSA 72-B:5
Rev 508.01	RSA 72-B:13

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

Name: **Tracey Russo**

Title: **Paralegal**

Address: **Legal Bureau
P.O. Box 457
Concord, NH 03302-0457**

Phone #: **603-230-5027**

Fax#: **603-230-5932**

E-mail: **Tracey.Russo@dra.nh.gov**

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

NN 2019-81 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Monday, June 17, 2019**

☒ Fax☒ E-mail☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **June 7, 2019 @ 2:00 pm**

Place: **New Hampshire Department of Revenue Administration
Medical and Surgical Building
109 Pleasant Street, 2nd Floor Training Room
Concord, NH 03301**

*****The security procedures at the Department of Revenue Administration require all visitors to sign-in and present photo identification. If you plan on attending the public hearing, please bring photo identification with you.*****

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

FIS # 19:071, dated 05/01/19

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:

The rules do not mandate fees or additional local expenditures on a political subdivision of the state, and, therefore, do not violate Part I, Article 28-a of the N.H. Constitution.