RULEMAKING NOTICE

Notice Number ___________________________________________ Rule Number ____________

1. Agency Name & Address:

Department of Environmental Services
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

2. RSA Authority: RSA 486:14, I(a) & (c)


4. Type of Action:

   Amendment ___________
   Repeal ___________
   Readoption ___________
   Readoption w/amendment X

5. Short Title: State Water Pollution Control Revolving Loan Fund (CWSRF)

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

   The existing rules, Env-Wq 500, implement RSA 486:14, which authorizes the Department to participate in federally funded clean water revolving loan funds. The rules are proposed to be readopted with amendment in response to an audit of the program that recommended amended protocols to clarify how and when interest rates are selected for financial assistance agreements. In addition, revisions are proposed to: (1) better align the Clean Water State Revolving Loan Fund (CWSRF) rules with the Drinking Water State Revolving Loan Fund (DWSRF) rules (Env-Dw 1100); and (2) update the rules, including but not limited to the following:

   (a) Clarify existing definitions, add missing definitions, and delete definitions that are not needed;

   (b) Adjust how the interest rate is determined to allow flexibility within each authorizing grant period;

   (c) Clarify the rules as to how and when interest rates are established in initial and final financial assistance agreements;

   (d) Update the procedures for entering into financial assistance agreements with applicants, and the requirements for entering into financial assistance agreements with non-governmental entities; and

   (e) Clarify the rules regarding the Intended Use Plan (IUP), including adding notice requirements in advance of amending the IUP.

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

   The proposed rules affect any entity that applies for financial assistance from the Clean Water State Revolving Fund (CWSRF), or that already receives financial assistance from the CWSRF.

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

<table>
<thead>
<tr>
<th>Rule</th>
<th>State Statute(s) Implemented</th>
<th>Federal Statute(s), Regulations Implemented</th>
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<tbody>
<tr>
<td>Env-Wq 504</td>
<td>RSA 486:14</td>
<td>33 U.S.C. §§1251-1387; 40 CFR §§35.3115, 3120, 3125, 3135</td>
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<td>Env-Wq 505</td>
<td>RSA 486:14</td>
<td>33 U.S.C. §§1251-1387; 40 CFR §§35.3150</td>
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</tbody>
</table>
7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: Beth Malcolm
Title: Administrator III, Wastewater Engineering Bureau
Address: Dept. of Environmental Services
29 Hazen Drive; P.O. Box 95
Concord, NH 03302-0095
Phone #: (603) 271-2978
Fax#: (603) 271-4128
E-mail: Beth.L.Malcolm@des.nh.gov

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

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: 4:00 p.m. on Thursday, September 22, 2022

YOU MAY SUBMIT WRITTEN COMMENTS WITHOUT ATTENDING THE PUBLIC HEARING

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

9. Public hearing scheduled for:

Date and Time: Thursday, September 15, 2022, at 1:00 PM
Place: NH Department of Environmental Services
29 Hazen Drive, Room 208C, Concord, NH 03302-0095

This will also be a virtual hearing via GoToWebinar. Registration Link: https://attendee.gotowebinar.com/register/154197035146608142.
After registering, you will receive a confirmation email containing information about joining the webinar.

Contact Nina Buckman at Christina.M.Buckman@des.nh.gov, or (603) 271-3448 for technical assistance with joining the meeting.

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

FIS # 22:158, dated 08/10/2022:

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:
Title VI of the federal Clean Water Act (CWA), 33 U.S.C. §§1381-1387, authorizes the award of revolving loan fund capitalization grants to States, which in turn are authorized to provide low-cost loans and other types of assistance to eligible entities to finance the costs of water pollution abatement projects. Eligible entities in the state would lose a significant source of funding if New Hampshire did not participate. The intended action readopts with amendment the existing rules. If the rules are not adopted, EPA could withdraw approval/authorization, resulting in the loss of approximately $30,000,000 to $35,000,000 annually in pass-through federal funds to the Department.

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:

   Costs are only incurred by political subdivisions if they choose to apply for funding from the CWSRF, which would necessarily include a vote to incur the costs associated with applying, receiving, and administering the funds. 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.