



OFFICE OF LEGISLATIVE SERVICES
ADMINISTRATIVE RULES
STATE HOUSE ANNEX
25 CAPITOL STREET, ROOM 234
CONCORD, NH 03301

Rulemaking Notice Form

Notice Number: 2026-227

Rule Number: Env-C 803.03 and Env-C 804.02

1. **Agency:** Department of Environmental Services
Cross-Program Rules
Agency Address: Department of Environmental Services
29 Hazen Dr.
P.O. Box 95
Concord, NH 03302-0095
2. **RSA Authority:** RSA 217-A:7, III, and RSA 212-A:9, IV
3. **Federal Authority:** N/A
4. **Action(s):** Readopt w/Amendment
5. **Short Title:** Ecological Review Related to Threatened and Endangered Species
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 current rules establish the procedure for requesting a screening using the DataCheck Tool and receiving a results letter, and the procedure for requesting an ecological review for potential impacts by a project on threatened and endangered species and exemplary natural communities.

The department is proposing to readopt with amendment Env-C 803.03 and Env-C 804.02 due to the development of a replacement DataCheck Tool for submission of requests for a screening of the database and an ecological review. Due to the new online screening tool, the forms need updating to match the forms in the new DataCheck Tool. The fee for all screenings, regardless of the results, is proposed to be the minimum fee required by RSA 217-A:7, II. "No hits" letters will no longer be free in order to meet the minimum fee requirement in law.

The department is also proposing amendments to reduce the list of items that need to be submitted with an ecological review request pursuant to Env-C 804.02.

Does this rule implement a state statute for the first time?

These proposed rule amendments do not implement a state statute for the first time.

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

The rules affect any person or entity that requests a DataCheck Tool screening under RSA 217-A:7, or an ecological review under RSA 217-A:7, II or RSA 212-A:9, IV.

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 803.03	RSA 217-A:7
Env-C 804.02	RSA 217-A:7; RSA 212-A:9

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

Name: Aron Johnson	Title: Legal Coordinator
Address: 29 Hazen Dr., P.O. Box 95 Concord, NH 03302-0095	Phone Number: (603) 271-2464
	FAX Number:
	Email: aron.b.johnson@des.nh.gov

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

Friday, November 20, 2026

☐ **Fax**

☒ **Email** nhdesrules@des.nh.gov

☒ **Other:** Online submission at [NHDES Administrative Rules Public Comment Form](#)

9. Public hearing scheduled for:

Date: Friday, November 13, 2026

Time: 11:00 AM

Place: NHDES Offices

29 Hazen Drive, Room 208C

Concord, NH

Electronic Access, if applicable:

[Link for Public Hearing via Teams](#)

Meeting number (meeting ID): 280 110 046 473 457

Meeting password: YZ9ow2f5

By phone:

Call in Number: [603-931-4944](tel:603-931-4944)

Access Code: 772 542 641#

If any questions or technical issues, please contact Edward McKenna at [603-271-1023](tel:603-271-1023) or via email at edward.p.mckenna@des.nh.gov.

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

FIS #: 26:219, dated: Thursday, October 8, 2026

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

When compared to the existing rules, the proposed rules will increase State revenues and increase costs to certain State citizens, political subdivisions, and independently owned businesses.

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 amend requirements related to DataCheck Tool screenings and ecological review requests. The existing rules require a \$50 fee for DataCheck Tool screenings, consistent with the statutory minimum established in Chapter 141:6 of the Laws of 2025, but do not require the fee when an online screening indicates there are no relevant records. The proposed rules eliminate this exception and require the \$50 fee for all DataCheck Tool screenings.

In 2023, 1,750 screenings resulted in no relevant records, compared to 1,828 in 2024 and 1,571 in 2025. At \$50 per screening, the proposed rules would have resulted in additional revenue of \$87,500, \$91,400, and \$78,550, respectively. Based on historical activity and a decline in DataCheck Tool requests in 2026, State restricted revenue is estimated to increase by approximately \$60,000 to \$90,000 annually.

A. To State general or State special funds:

State restricted revenue to the Water Resources Fund will increase by approximately \$60,000 to \$90,000 annually. No impact on state general funds.

B. To State citizens and political subdivisions:

Certain State citizens and political subdivisions will experience an increase in costs of \$50 per DataCheck Tool screening when the screening indicates there are no relevant records.

C. To independently owned businesses:

Certain independently owned businesses will experience an increase in costs of \$50 per DataCheck Tool screening when the screening indicates there are no relevant records.

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.