

TITLE LV, PROCEEDINGS IN SPECIAL CASES, Chapter 541-A, ADMINISTRATIVE PROCEDURE ACT**Section 541-A:1 Definitions.** – In this chapter:

- II. "**Agency**" means each state board, commission, department, institution, officer, or any other state official or group, other than the legislature or the courts, authorized by law to make rules or to determine contested cases.
- VI. "**File**" means the actual receipt, by the director of legislative services, of a document required to be submitted during a rulemaking process established by this chapter, under the terms and in the format prescribed by the director. The term "file" shall also apply to any other response, submission, or written explanation required during a rulemaking process established by this chapter.
- VII-a. "**Form**" means a document, whether hardcopy or electronic, with blank spaces for insertion of required or optional information, which must be submitted to the agency by persons outside the agency, such as, but not limited to, licensing applications, petitions, or requests. The term does not include a document that is called a form by the agency but which does not have blank spaces for insertion of information by persons outside the agency.
- XII. "**Party**" means each person or agency named or admitted as a party, or properly seeking and entitled as a right to be admitted as a party.
- XIII. "**Person**" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency.
- XV. "**Rule**" means each regulation, standard, form as defined in paragraph VII-a, or other statement of general applicability adopted by an agency to
 - (a) implement, interpret, or make specific a statute enforced or administered by such agency or
 - (b) prescribe or interpret an agency policy, procedure or practice requirement binding on persons outside the agency, whether members of the general public or personnel in other agencies.

The term does not include

- (a) internal memoranda which set policy applicable only to its own employees and which do not affect private rights or change the substance of rules binding upon the public,
- (b) informational pamphlets, letters, or other explanatory material which refer to a statute or rule without affecting its substance or interpretation,
- (c) personnel records relating to the hiring, dismissal, promotion, or compensation of any public employee, or the disciplining of such employee, or the investigating of any charges against such employee, or
- (d) declaratory rulings. The term "rule" shall include rules adopted by the director

of personnel, department of administrative services, relative to the state employee personnel system.

Notwithstanding the requirements of RSA 21-I:14, the term "rule" shall not include the manual described in RSA 21-I:14, I or the standards for the format, content, and style of agency annual and biennial reports described in RSA 21-I:14, IX, which together comprise the manual commonly known as the administrative services manual of procedures. The manual shall be subject to the approval of governor and council.

Section 541-A:3 – Procedure for Adoption of Rules. –

Except for interim or emergency rules, an agency shall adopt a rule by:

- I. Filing a notice of the proposed rule under RSA 541-A:6, including a fiscal impact statement and a statement that the proposed rule does not violate the New Hampshire constitution, part I, article 28-a;
- II. Providing notice to occupational licensees or those who have made timely requests for notice as required by RSA 541-A:6, III;
- III. Filing the text of a proposed rule under RSA 541-A:10;
- IV. Holding a public hearing and receiving comments under RSA 541-A:11;
- V. Filing a final proposal under RSA 541-A:12;
- VI. Responding to the committee when required under RSA 541-A:13; and
- VII. Adopting and filing a final rule under RSA 541-A:14.

Section 541-A:3 – Specificity of Rules; Identification of State or Federal Law. –

- I. If an agency proposes a rule pursuant to RSA 541-A:3 or 541-A:19, the agency shall identify the specific section or sections of state or federal statutes or regulations which the rule is intended to implement in the notice required pursuant to RSA 541-A:6 and 541-A:19, II, and either in the rule, or in a separate cross-reference table pursuant to paragraph II. The notice shall be in such form as the director of legislative services shall prescribe until otherwise provided by the drafting and procedure manual adopted pursuant to RSA 541-A:8. The identification in the rule shall be made in the manner specified in the drafting and procedure manual.
- II. If the specific section or sections of state statute or federal statute or regulation required by paragraph I are not identified in the rule itself, the agency shall file the information in a separate cross-reference table with each filing of the proposed or adopted rule other than an emergency rule. The agency shall make the table available to the public with a proposed or adopted rule whenever the rule is made available to or requested by the public. Unless otherwise specified by the drafting and procedure manual, the table shall be filed as an appendix to the rule and, when the rule is published pursuant to RSA 541-A:15, shall be published as an appendix to the rule chapter containing the rule. The table shall not be required to be filed on a separate page.

- III. General references to the name or title of a state or federal statute or regulation shall not suffice for the purposes of this section. To the extent that specific provisions of the proposed rule are designed to implement different sections or provisions of state or federal statutes or regulations, the agency shall reference the state or federal statute or regulation as provided in paragraph I, with the provision of the proposed rule that is intended to implement that statute or regulation.

Section 541-A:3b – Restriction on Rules Incorporating Documents by Reference.

- No agency may propose or adopt a rule under RSA 541-A:3 or RSA 541-A:19 that incorporates by reference any code, rule, or document from another state government without specific authority in the authorizing legislation or specific legislative approval for such a rule.

TITLE V, TAXATION, Chapter 78-A, TAX ON MEALS AND ROOMS**Section 78-A:2 Administration; Rules; Questions of Law. –**

- II. The commissioner shall adopt rules, pursuant to RSA 541-A, after public hearing, relative to carrying out the intent and purpose of this chapter.

Section 78-A:3 Definitions. – In this chapter:

- I. "**Commissioner**" means the commissioner of the department of revenue administration.
- VIII. "**Meal**" means any food or beverage, or both, including food products, prepared for human consumption and provided by a restaurant in such form as to be available for immediate consumption without further significant preparation, whether the food or beverage is provided for consumption on or off the restaurant premises. The term "meal" includes food or beverages sold on a "take out" or "to go" basis, whether or not they are packaged or wrapped and whether or not they are taken from the premises of the restaurant. The term "meal" excludes any food or beverage wholly packaged off the premises except:
- (1) sandwiches of all kinds;
 - (2) beverages in unsealed containers; and
 - (3) catered meals or meals which are delivered to the location where the meal is consumed. The term shall not include food products provided by a store or bakery products when sold in units of 6 or more. Beverage includes an alcoholic beverage provided with or without food.
- XXV. "**Taxable meal**" means any meal for which a charge is made that is purchased from a person in the business of operating a restaurant, and which is subject to a tax under RSA 78-A:6.