

**RULEMAKING NOTICE FORM**

Notice Number \_\_\_\_\_

Rule Number \_\_\_\_\_

Env-C 200 various sections

<p>1. Agency Name &amp; Address:</p> <p><b>Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</b></p>	<p>2. RSA Authority: <u><b>RSA 541-A:16, I(b); RSA 541-A:30-a, I</b></u></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p style="padding-left: 20px;">Adoption <u>  <b>X</b>  </u></p> <p style="padding-left: 20px;">Repeal _____</p> <p style="padding-left: 20px;">Readoption _____</p> <p style="padding-left: 20px;">Readoption w/amendment <u>  <b>X</b>  </u></p>
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5. Short Title: **Amendments to Accommodate Virtual Hearings and Remote Participation**

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

The existing rules in Chapter Env-C 200 establish procedures in various areas that apply across all NHDES programs. Certain sections of the rules are proposed to be readopted with amendments to explicitly contain procedures for conducting adjudicative hearings and non-adjudicative hearings via electronic means, and to allow participation in an in-person adjudicative hearing from a remote location via electronic means. New definitions of “remote participation”, “via electronic means”, and “virtual hearing” are proposed to be adopted to facilitate these amendments. Amendments also are proposed to reflect that documents requested under RSA 91-A can be produced electronically and that recordings of public hearings are available via the NHDES website.

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

The proposed rules affect all persons who participate in adjudicative hearings or non-adjudicative hearings, or both, held by the Department.

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 201.01	RSA 541-A:16, I(b); RSA 541-A:30-a, III; all other statutes identified in this table
Env-C 202.05, 202.09 -.12, 202.16 [new], 202.18 -.19 [new]	RSA 541-A:16, I(b); RSA 541-A:30-a, III; all other statutes identified in this table
Env-C 204.06, 204.08, 204.11-.12, 204.14, 204.16, 204.19 -.21, 204.23	RSA 541-A:16, I(b)(2); RSA 541-A:30, II; RSA 125-C:15, I-b; RSA 125-D:4; RSA 125-I:3-a; RSA 125-J:8, I-a; RSA 141-E:16; RSA 146-A:15; RSA 146-C:10-a; RSA 147-A:17-a; RSA 149-M:16; RSA 149-M:37, IV; RSA 482:79-a; RSA 482:89, II; RSA 482-A:13; RSA 483-B:18, III(c); RSA 485:58, IV; RSA 485-A:22,V; RSA 485-A:28, II; RSA 485-A:43,V; RSA 485-A:54,V; RSA 485-C:18; RSA 487:7, II
Env-C 205.04, 205.07 -.09	RSA 541-A:11, I; RSA 541-A:16, I(b)
Env-C 210.05-.06	RSA 541-A:11, I; RSA 541-A:16, I(b)

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

Name:	<b>Jenna Wilson</b>	Title:	<b>Paralegal II, Legal Unit</b>
Address:	<b>Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</b>	Phone #:	<b>(603) 271-0399</b>
		Fax#:	<b>(603) 271-8805</b>
		E-mail:	<b><a href="mailto:Jenna.M.Wilson@des.nh.gov">Jenna.M.Wilson@des.nh.gov</a></b>

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"

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 4, 2021**

Fax  E-mail  Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, May 20, 2021 at 10:00 AM**

**This will be a virtual hearing via WebEx, which can be accessed through the following link:**

**<https://nhgov.webex.com/nhgov/onstage/g.php?MTID=e9c8a4d93f79ead5b1630d4654c592185>**

**Meeting number (access code): 160 622 6101**

Place: **Meeting password: Env-C200**

**You also may join the meeting by phone:**

**Call in Number: 1-415-655-0001 US Toll**

**Meeting Number (access code): 160 622 6101**

**Contact Jenna Wilson at [Jenna.M.Wilson@des.nh.gov](mailto:Jenna.M.Wilson@des.nh.gov) or (603) 271-0399 if you have any questions or technical issues connecting to the hearing.**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 21:039, dated 04/13/2021:

**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.

Not applicable to Env-C 202.16, Env-C 202.18, and Env-C 202.19 which are new sections.

**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 may result in reduced costs for State citizens, political subdivisions, and independently owned businesses from being able to participate in hearings via electronic means.

There is not cost or benefit attributable to the new sections, Env-C 202.16, Env-C 202.18, and Env-C 202.19, which add definitions of "remote participation", "via electronic means", and "virtual hearing".

**A. To State general or State special funds:**

None.

**B. To State citizens and political subdivisions:**

See #3 above.

**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 amend existing procedures to allow hearings to be held via electronic means, to allow participation in in-person hearings by electronic means, to clarify that records can be produced electronically, and to clarify that recordings of public hearings are available on-line. As such, the rules have no costs associated with them and could result in cost savings. 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 N.H. Constitution.