

Notice Number 2021-70Rule Number Env-C 300

1. Agency Name &amp; Address:

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

2. RSA Authority: RSA 485:46, I;  
RSA 485:47, I-IX3. Federal Authority: N/A

4. Type of Action:

Adoption \_\_\_\_\_

Repeal \_\_\_\_\_

Readoption \_\_\_\_\_

Readoption w/amendment X5. Short Title: N.H. Environmental Laboratory Accreditation Program

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

The existing rules, Env-C 300, implement RSA 485:44 and RSA 485:46 by establishing the procedures and standards for the New Hampshire Environmental Laboratory Accreditation Program (NH ELAP). NH ELAP provides primary accreditation services to New Hampshire laboratories that offer sampling and/or analytical services where the results will be used for an official purpose, including to show compliance (or non-compliance) with public drinking water and wastewater treatment requirements.

The program is designed to ensure sufficiently accurate, precise, and consistent results of sampling and analyses for all fields of accreditation offered, which currently include chemistry, microbiology, radiochemistry (including radon), and whole effluent toxicity. Laboratories are not required to be accredited for all analyses; they may subcontract out analyses for which they are not accredited to a laboratory that is accredited for those analyses. Out-of-state laboratories may obtain primary accreditation from NH ELAP if their home states do not offer primary accreditation in a particular field for which NH ELAP does. NH ELAP also may grant secondary accreditation based on a primary accreditation obtained in a different state, provided the requirements are equivalent. NH ELAP currently uses the National Environmental Laboratory Accreditation Conference (NELAC) Standards as required by RSA 485:44, II, currently incorporating the 2009 standards.

The rules are proposed to be readopted with amendment in order to reflect 2016 updates to the national standards. The proposed amendments to the rules clarify laboratory accreditation requirements, update laboratory quality control requirements, and update third party assessor organization requirements

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

The rules affect laboratories seeking accreditation of the National Environmental Laboratory Accreditation Conference standards by the New Hampshire Environmental Laboratory Accreditation Program.

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

<b>Rule</b>	<b>State Statute(s) Implemented</b>
Env-C 301, Env-C 302	RSA 485:44, II; RSA 485:47, I
Env-C 303	RSA 485:44, I; RSA 485:44, VII; RSA 485:46; RSA 485:47
Env-C 304	RSA 485:44, II; RSA 485:44 VII; RSA 485:44, X
Env-C 305, Env-C 306	RSA 485:44, II; RSA 485:44 III; RSA 485:47
Env-C 307	RSA 485:44, II; RSA 485:44, III; RSA 485:47, I
Env-C 308	RSA 485:44, II; RSA 485:47, I
Env-C 309, Env-C 310	RSA 485:44, II, RSA 485:47, I
Env-C 311	RSA 485:44, IX, RSA 485:47, III; RSA 541-A:16, I

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

Name: **Holly Green**

Title: **DWGB Rules Coordinator**

Address: **Department of Environmental Services  
29 Hazen Drive  
P.O. Box 95**

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**Concord, NH 03302-0095**

E-mail: **holly.h.green@des.nh.gov**

The rules also can be viewed in PDF in the Public Comment Opportunities section of the NHDES website at

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

<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 Friday, September 10, 2021**

Fax

E-mail

Other format (specify):

## 9. Public hearing scheduled for:

Date and Time: **August 18, 2021 at 10:00 AM**

Place: **DES Offices  
Room 208C  
29 Hazen Drive  
Concord, NH**

**NOTE: NHDES security procedures require all visitors to sign in and present photo identification (such as a driver's license). If you plan to attend the public hearing in person, please bring photo identification with you.**

**You also may participate in this hearing via WebEx, which can be accessed through the following link:**

<https://nhgov.webex.com/nhgov/j.php?MTID=mcf35bece7fa7e8c2d4b56d4055f57440>

**Meeting number (access code):** 172 403 8456

**Meeting password:** p7gRPsA6iE3

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

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

**Access Code:** [1724038456##](#) US Toll

**Contact Emily Jones via email at: [emily.m.jones@des.nh.gov](mailto:emily.m.jones@des.nh.gov) or (603) 271-4109 if you have any questions or technical issues connecting remotely to the hearing.**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # **21:066**, dated **06/22/2021**:**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 costs to certain 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):**

In accordance with RSA 485:46, II, the proposed rules increase fees for new or renewal applications and fees for modification of existing accreditations. The statute requires a schedule of fees designed to cover the cost of this program, but it does not specify the fee amounts. The fees in the proposed rules are higher than those in the existing rules and will increase costs to laboratories seeking accreditation.

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

There will be no direct cost or benefit to the State general fund. There will be additional revenue deposited in the special revolving fund account maintained by the Department to pay for the cost of the laboratory accreditation program. RSA 485:46, II, provides that any balance in the special revolving fund account in excess of \$1,000 remaining at the end of the fiscal year shall lapse to the general fund.

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

None.

**C. To independently owned businesses:**

See #3 above.

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

**The rules do not apply to political subdivisions. 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 and so do not violate Part I, Article 28-a of the N.H. Constitution.**