

Notice Number 2023-270

Rule Number Env-Wt 200 various

<p>1. Agency Name & Address:</p> <p>Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</p>	<p>2. RSA Authority: RSA 482-A:11, I, VIII, and IX</p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Repeal X</p> <p>Readoption _____</p> <p>Readoption w/amendment X</p>
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5. Short Title: **Wetlands Hearings, Appeals, and Waiver Requests**

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 existing rules in Env-Wt 200 establish rules for permit application hearings; appeals of Department decisions under RSA 482-A and RSA 21-O:14; and the waiver of administrative rules and statutory requirements, when allowed under RSA 482-A:26. The Department of Environmental Services is proposing to readopt with amendment or repeal various rules, as described below.

The proposed changes to Env-Wt 200:

- **Eliminate the appeal ombudsman process (repealing Env-Wt 203.01, Env-Wt 203.04, and Env-Wt 203.05);**
- **Revise the requirements for the content of a waiver request (readopting with amendment Env-Wt 204.03);**
- **Revise the signature certifications for a waiver request (readopting with amendment Env-Wt 204.04); and**
- **Revise the criteria for granting a waiver of an administrative rule and for granting a waiver as allowed under RSA 482-A:26, III(b) (readopting with amendment Env-Wt 204.05 and repealing Env-Wt 204.06).**

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

The rules affect any person or entity who is required to seek a permit or other authorization for the activities listed in RSA 482-A:3.

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

Rule(s)	State Statutes Implemented
Env-Wt 201.01, Env-Wt 202.01, Env-Wt 202.02, Env-Wt 202.03, Env-Wt 203.01 (repeal), Env-Wt 203.04 (repeal), Env-Wt 203.01 (repeal)	RSA 482-A:1; RSA 482-A:3; RSA 482-A:8; RSA 482-A:10; RSA 482-A:11
Env-Wt 204.03, Env-Wt 204.04, Env-Wt 204.05, Env-Wt 204.06 (repeal)	RSA 482-A:26, III(b); RSA 541-A:22, IV

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

Name:	Darlene Forst	Title:	Administrator, Wetlands Bureau
Mailing Address:	Dept. of Environmental Services 29 Hazen Drive; P.O. Box 95 Concord, NH 03302-0095	Phone #:	603-271-4054
		Fax#:	603-271-6588
		E-mail:	darlene.c.forst@des.nh.gov

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 PM on Friday, December 29, 2023**

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

9. Public hearing scheduled for:

Date and Time: **Wednesday, December 20, 2023, at 2:00 PM**

Room 208C, DES Offices, 29 Hazen Drive, Concord, NH

Physical Location: **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 attend the hearing via Microsoft Teams, which can be accessed through the following link:

Electronic Access (if applicable): https://teams.microsoft.com/l/meetup-join/19%3ameeting_YzA4OTkzMzltNjhlMi00MTg2LWE3M2QtOTBmMjVmZWlyNDlh%40thread.v2/0?context=%7b%22Tid%22%3a%22992deae9-1c4c-42c8-a310-5088af55ba74%22%2c%22Oid%22%3a%22bbaa9077-e48d-4f82-810c-81f4ef416a17%22%7d

Meeting number (access code): 276 369 804 496

Meeting password: rR4j6b

You also may join the meeting by phone:

Call in Number: 1-603-931-4944

Access Code: 419 463 620#

If any questions or technical issues, please contact Edward McKenna at 603-271-3503 or via email at edward.p.mckenna@des.nh.gov

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

FIS # 23:266 , dated 11/01/2023

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-Wt 203.01, Env-Wt 203.04, Env-Wt 203.05 and Env-Wt 204.06 which are being repealed.

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):

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:

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.