

APPENDIX II-B

OFFICE OF LEGISLATIVE BUDGET ASSISTANT
REQUEST FOR FISCAL IMPACT STATEMENT (FIS)

FIS Number _____

Rule Number En 200

<p>1. Agency Name & Address:</p> <p>Department of Energy 21 S. Fruit St., Ste. 10 Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 12-P:5, IV</u></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p style="padding-left: 20px;">Adoption <u>X</u></p> <p style="padding-left: 20px;">Amendment _____</p> <p style="padding-left: 20px;">Repeal _____</p> <p style="padding-left: 20px;">Readoption _____</p> <p style="padding-left: 20px;">Readoption w/amendment _____</p> <p style="padding-left: 20px;">Interim rule _____</p> <p>5. Have the rules expired? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p style="padding-left: 20px;">Date Expired: _____</p>
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6. Short Title: **En 200 PROCEDURAL RULES**

7. Contact Person:

Name:	Marie-Helene B. Bailinson, Esq.	Title:	Hearings Examiner
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Remember:

- (a) A copy of the proposed rule or an annotated copy of the amended rule must accompany this form. The annotated copy shall use [brackets] to indicate deleted material, and underlining for added material, or any other annotation style allowed in Section 5.4 in Chapter 4 of the Drafting and Procedure Manual for Administrative Rules.
- (b) Please provide the methodology and any calculations used in determining the fiscal impact. Where appropriate or necessary, please attach a worksheet detailing the methodology and associated calculations.
- (c) This form may be replicated to expedite preparation.
- (d) Please allow 10 working days from day of receipt for the Office of Legislative Budget Assistant to complete the fiscal impact statement. Additional information about this form is in Section 2.3 in Chapter 3 of the Drafting and Procedure Manual for Administrative Rules.

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- (e) Please provide the following information and attach additional sheets if necessary:

NOTE: Pursuant to RSA 541-A:5, IV the fiscal impact of the proposed rule which was previously effective but has expired, or of a proposed rule which adopts a current agency policy, procedure or practice as a rule for the first time, shall not be assessed as an existing rule but as a proposed rule which is not yet effective.

- (1) Summarize the intended action and the proposed rule. The intended action is defined by RSA 541-A:5, VII as the proposed adoption, amendment, readoption, readoption with amendment, or repeal of a rule pursuant to RSA 541-A.

The intended action of the rulemaking is to adopt Chapter En 200 Procedural Rules. This request is limited to adopting only En 201.05 Waiver of Rules.

On July 1, 2021, the Department came into existence and many functions previously performed by the New Hampshire Public Utilities Commission (NHPUC) were transferred to the Department. Under RSA 12-P:14, “[e]xisting rules, orders, and approvals of the [NHPUC] which are associated with any functions, powers, and duties, transferred to the [Department] pursuant to RSA 12-P:11 or any other statutory provision, shall continue in effect notwithstanding any provision of RSA 541-A:17, II to the contrary, and be enforced by the commissioner of the [Department] or the [NHPUC], as applicable, until they otherwise expire or are repealed or amended in accordance with applicable law, or for a period of 5 years, whichever occurs first.” See 2021 N.H. Laws Chapter 91 (House Bill 2-FN-A-Local); 2022 N.H. Laws Chapter 245 (House Bill 1258). The transfer of functions also operated to authorize the Department to consider and grant or deny waiver requests regarding rules for which it exercises authority, consistent with the waiver standards established in Puc 201.05. Pursuant to RSA 12-P:14, the Department has relied on Puc 201.05 when assessing request to waive rules.

The NHPUC has proposed to amend its procedural rules. The amendment to the NHPUC procedural rules includes Puc 201.05. If the amendment is approved, the Department will be unable to rely on the NHPUC’s rule concerning waiver. The ability to waive rules is necessary for the administration of the Department. Therefore, the Department is putting forth its own version of 201.05 to provide the Department the ability to review waiver requests in a timely and efficient manner.

- (2) Is the cost associated with this intended action mandated by the rule or by state statute? If the cost is mandated by statute, then the rule itself may not have a cost or benefit associated with it. Please state either the statute or chapter law that is instigating this rule.

The costs, if any, associated with these rules are the direct result of the creation of the Department under RSA 12-P:2, I.

- (3) Compare the cost of the proposed rule with the cost of the existing rule, if there is an existing rule. Please provide the methodology and any calculations used in making your determination. If there is no cost, please explain why.

The Department currently enforces Puc 201.05 with regard to waivers. This is a new rule. There are no incremental or net costs as a result of the proposed Chapter En 200 rules when compared to the rule currently enforced by the Department. Considered separately, the new rule should have no incremental costs to the regulated community, and may decrease costs of compliance with other rules.

- (4) To the extent the proposed rule had expired, please indicate the cost of the expired rule as you do for a new rule, and if applicable, the difference in cost of any proposed change from the expired rule. Please provide the methodology and any calculations used in making your determination. If there is no cost, please explain why.

These are new rules being proposed by the Department.

- (5) Describe the costs and benefits to the state general fund which would result from this intended action.

The Department does not expect any cost or benefit to the state general fund as a result of the proposed rules.

- (6) Explain and cite the federal mandate for the intended action, if there is such a mandate. How would the mandate affect state funds?

The proposed rules are not the result of a federal mandate.

- (7) Describe the cost and benefits to any state special fund which would result.

There is no impact to any state special fund as a result of the proposed rules.

- (8) Describe the costs and benefits to the political subdivisions of the state.

There are no specific or particular costs to political subdivisions of the state other than normal administrative costs.

- (9) Describe the costs and benefits to the citizens of the state.

There is no direct cost to the citizens of the state.

- (10) Describe the costs and benefits to any independently owned business, including a description of the specific reporting and recordkeeping requirements upon those employing fewer than 10 employees.

Any costs to independently owned business to comply with the rules are expected to be de minimus. Independently owned businesses may see their costs reduced by the application of a waiver to other Department rules.

Chapter En 200 rules do not impose any costs that are particular to independently-owned businesses or businesses employing fewer than 10 employees, and do not impose any new costs upon regulated utilities. Regulated utilities may see their costs reduced by the application of a waiver to other Department rules.