

RULEMAKING NOTICE

Notice Number _____	Rule Number _____	Env-Wq 2102
1. Agency Name & Address: Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	2. RSA Authority: 3. Federal Authority: 4. Type of Action:	RSA 488:9, I - IV & VII n/a _____ _____ _____ _____ X

5. Short Title: **Water Use Registration and Reporting**

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

The existing rules implement RSA 488, Water Management, by establishing procedures and standards for the registration, measurement, and reporting of water use. Any cumulative water use that exceeds an average of 20,000 gallons of water per day in any 7-day period, or exceeds a total volume of 600,000 gallons in any 30-day period must be registered, measured, recorded, and reported to the Department.

The existing rules are scheduled to expire on September 24, 2016, so the Department is proposing to readopt them. **The existing rules will continue in effect pursuant to RSA 541-A:14-a, I, subject to the conditions stated therein.** As part of the readoption, the rules are proposed to be amended to (1) clarify existing requirements, including adding definitions and aligning the rules and forms; and (2) improve the data reporting process for water users and for the Department.

Specific changes include, but are not limited to, the following:

- The existing rules do not require signatures or certifications on registrations or reports; the proposed rules require any person required to register a water use to sign and date the filing and to certify the information is true, complete, and not misleading.
- Currently, discharges can be reported as the same as withdrawals only if the daily volume of discharge equals at least 90 percent of the volume of the corresponding withdrawal **and** the source and destination are the same. The proposed rules eliminate the requirement for the source and destination to be the same.
- Currently, hydropower facilities must report water use to the Department quarterly. The proposed rules require hydropower facilities to report water use to the Department annually.
- Currently, agricultural and irrigation water users must submit water use data by November 1 for the prior growing season. The proposed rules require agricultural and irrigation water users to submit water use data by January 15 of the year following the year in which the use occurred.
- Currently, water use data must be submitted on a form supplied by the Department. The proposed rules require water use data to be submitted using an electronic reporting system.

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

The rules apply to any person (individual or entity) whose cumulative water use exceeds an average of 20,000 gallons of water per day in any 7-day period, or exceeds a total volume of 600,000 gallons in any 30-day period. Typical users include public water suppliers, wastewater treatment facilities, commercial/industrial operations, institutions, agriculture, irrigators, snowmakers, aquaculture, mining, and bottled water.

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

Rule Section(s)	State Statute(s) Implemented
Env-Wq 2102.01	RSA 488:1
Env-Wq 2102.02	RSA 488:3; 9; & 11
Env-Wq 2102.03 - 2102.04	RSA 488:2

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Rule Section(s)	State Statute(s) Implemented
Env-Wq 2102.05	RSA 488:3; 4; 4-a; & 6
Env-Wq 2102.06 - 2102.09	RSA 488:3; 5; 6; & 9, VII
Env-Wq 2102.10 - 2102.15	RSA 488:4; 4-a; & 9, III, IV, & VII
Env-Wq 2102.16 - 2102.26	RSA 488:3; 6; & 9, VII
Env-Wq 2102.27	RSA 488:4; 4-a; & 9, III
Env-Wq 2102.28	RSA 488:3; 4; & 6
Env-Wq 2102.29 - 2102.32	RSA 488:6
Env-Wq 2102.33	RSA 541-A:22, IV

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

Name:	Holly Green	Title:	DWGB Rulemaking Coordinator
Address:	Dept. of Environmental Services 29 Hazen Drive; P.O. Box 95 Concord, NH 03302-0095	Phone #:	(603) 271-3114
		Fax#:	(603) 271-0656
		E-mail:	holly.green@des.nh.gov

The rules also can be viewed in PDF at

<http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

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, November 4, 2016**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, October 20, 2016 at 10:00 AM**

Place: **Room 110, DES Offices, 29 Hazen Drive, Concord NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 16:190, dated 09/15/16:

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.

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:

RSA 488 requires any person using in excess of 20,000 gallon per day threshold to register, measure, and report water use; the rules simply define what is required for registration, the accuracy with which water use must be measured, and the frequency and method of reporting. The elements specified in the rules are the least-cost method of implementing the statutory requirements, and have been further streamlined by using technology that was not available when the rules were adopted in 2008. The costs associated with the rules are thus attributable to the statute. In any event, the rules specifically allow registered water users that also are public water systems to substitute any information reported to the Department under other requirements for the reports required by these rules. 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 New Hampshire Constitution.