

RULEMAKING NOTICE

Notice Number _____	Rule Number _____	Env-Dw 716
<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:</p> <p>3. Federal Authority:</p> <p>4. Type of Action:</p> <p style="padding-left: 20px;">Adoption _____</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 <u> X </u></p>	<p>RSA 485:2,V; RSA 485:3, I(c); RSA 485:41, II & IV</p> <hr/> <p>42 U.S.C. §300f; 40 CFR Subpart H (§§70-76), Subpart P (§§170-175), Subpart T (§§500-571), & Subpart W (§§700-723)</p> <hr/>

5. Short Title: **Public Water Systems: Filtration, Disinfection, and Waste Recycling**

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

The existing rules, Env-Dw 716, implement 40 CFR 141 Subpart H, §§70-76, Filtration and Disinfection; 40 CFR 141 Subpart P, §§170-175, Enhanced Filtration and Disinfection; 40 CFR 141 Subpart T, §§500-571, Enhanced Filtration and Disinfection - Systems Serving Fewer Than 10,000 People; and 40 CFR 141 Subpart W, §§700-723, Enhance treatment for Cryptosporidium. These rules are known collectively as the Surface Water Treatment Rules (SWTRs) and were promulgated by EPA under the Federal Safe Drinking Water Act. The State must adopt equivalent rules in order to retain primacy for its drinking water program.

The SWTRs provide protection from disease-causing pathogens, such as *Giardia lamblia*, *Legionella*, and *Cryptosporidium*, that are commonly present in surface water and in groundwater that is under the direct influence of surface water. To protect public health, drinking water from such sources must be treated. Treatment includes disinfection and, in most cases, filtration. The SWTRs also protect against contaminants that can form during drinking water treatment. The rules are scheduled to expire on January 1, 2018, and so are proposed to be readopted to ensure the continued protection of surface water resources and maintain equivalency with the SWTRs so as to retain primacy. **The existing rules will continue in effect until new rules are effective pursuant to RSA 541-A:14-a, I, subject to the conditions stated therein.** As part of the readoption, amendments are proposed to adjust definitions to reflect Env-Dw 100 and to replace the term “owner” with “O/O” throughout Env-Dw 716 to reflect the change in terminology required by EPA.

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

The rules will affect owner/operators of public water systems that have surface water or groundwater under the direct influence of surface water as a source, in whole or in part.

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	Federal Regulation(s) Implemented
Env-Dw 716	RSA 485:3, I & VI RSA 485:41, II & IV	40 CFR 141 Subpart H (§§70-76) 40 CFR 141 Subpart P (§§171-175) 40 CFR 141 Subpart T (§§500-571) 40 CFR 141 Subpart W (§§700-723)

RULEMAKING NOTICE - Page 2

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

Name: Holly Green Title: DWGB Rules Coordinator
Address: Dept. of Environmental Services Phone #: (603) 271-3114
29 Hazen Drive; P.O. Box 95 Fax#: (603) 271-0656
Concord, NH 03302-0095 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, February 9, 2018**

YOU MAY SUBMIT WRITTEN COMMENTS WITHOUT ATTENDING THE PUBLIC HEARING

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Tuesday, January 30, 2018 at 10:00 AM**

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

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 17:186, dated 12/18/17:

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:

The rules are required under the federal Safe Drinking Water Act (42 U.S.C. §300f) and the federal Surface Water Treatment Rules (40 CFR Subpart H (§§70-76), Subpart P (§§170-175), Subpart T (§§500-571), and Subpart W (§§700-723)), in order for the state to retain primacy. Failure to adopt the rules could result in the loss of up to \$8 million in federal grant funding for the Department's drinking water program.

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:

Any costs associated with complying with the requirements are attributable to federal regulations, which would apply regardless of whether the Department adopted the rules. The rules thus do not create, modify, or expand any program in such a way as to require political subdivisions to make any expenditures, and so do not violate Part I, Article 28-a of the N.H. Constitution.