

Effective September 1, 2018, Env-Wq 402.05 reads as follows:

Env-Wq 402.05 Exemptions to Groundwater Quality Criteria. Groundwater shall be exempt from the groundwater quality criteria of Env-Wq 402.04(a) and (b) if:

- (a) The groundwater is within a groundwater discharge zone that has been permitted in accordance with Env-Wq 402.23;
- (b) The groundwater is within a groundwater management zone that has been permitted in accordance with Env-Or 607; or
- (c) The only source of the groundwater contamination is:
 - (1) Salt and other de-icing chemicals applied for winter road maintenance, provided an active source of drinking water is not made unsuitable for use as drinking water without treatment; or
 - (2) Residual 1,4-dioxane from any facility that discharges treated wastewater to groundwater, provided:
 - a. The requirements of Env-Wq 402.251 are met; and
 - b. An active source of drinking water is not made unsuitable for use as drinking water without treatment.

Effective September 1, 2018, Env-Wq 402.24, Env-Wq 402.25, and Env-Wq 402.251 read as follows:

Env-Wq 402.24 Groundwater Discharge Permit Compliance Criteria.

- (a) Domestic wastewater shall receive primary treatment by settling of solids in subsurface disposal systems and at least secondary treatment as defined in 40 CFR 133 for other disposal methods, before discharge to the ground or groundwater.
- (b) Municipal wastewater, alone or in combination with domestic wastewater, shall receive treatment in compliance with RSA 485-A:13, I(a) before being discharged to the ground or groundwater.
- (c) Non-domestic wastewater, alone or in combination with domestic wastewater, shall be treated by BAT before being discharged to the ground or groundwater.
- (d) Except as provided in Env-Wq 402.251 for 1,4-dioxane, no discharge shall cause the groundwater quality criteria set forth in Env-Wq 402.04 to be violated at any point beyond the boundary of a groundwater discharge zone.
- (e) No discharge shall cause or contribute to a violation of surface water quality standards set forth in RSA 485-A or Env-Wq 1700.
- (f) Subject to Env-Wq 402.251, the level of 1,4-dioxane in treated wastewater to be discharged to groundwater shall not exceed 2 µg/L.

Env-Wq 402.25 Response to Exceedances.

- (a) If any regulated contaminant is detected by the permittee's monitoring at a concentration that exceeds the applicable AGQS, the permittee shall:
 - (1) Within 10 days of receiving the test results that show the exceedance, notify the department of the exceedance;
 - (2) Within 21 days of receiving the test results that show the exceedance, test water for the regulated contaminant that exceeds the AGQS from each private or public drinking water supply well within 1,000 feet of the location where the exceedance occurred;

- (3) Report the results of the testing required by (2), above, to the department within 45 days of collecting the samples;
 - (4) For exceedances of contaminants other than 1,4-dioxane from a facility that discharges treated wastewater to groundwater, prepare, submit, and implement a written response plan in accordance with (b) through (g), below, to ensure that groundwater quality criteria are not violated at the boundary of the groundwater discharge zone; and
 - (5) For exceedances of 1,4-dioxane from a facility that discharges treated wastewater to groundwater, proceed as specified in Env-Wq 402.251.
- (b) If the testing done pursuant to (a)(2), above, shows the presence of a regulated contaminant in a private or public drinking water supply well at a concentration that exceeds the applicable AGQS and the department determines that it is more likely than not that the permitted wastewater discharge is the source of the regulated contaminant, the permittee shall:
- (1) Expand the testing of public and private drinking water wells beyond 1,000 feet as necessary to determine the extent of the exceedance of the applicable AGQS in drinking water supplies;
 - (2) Within 21 days of receiving the test results obtained pursuant to (1), above, submit a proposed response plan to the department that evaluates the relative costs and benefits of:
 - a. Installing treatment to remove the contaminant from the water supplied from the well; or
 - b. Provide alternate water to those served by the drinking water supply by:
 1. Providing bottled water as an interim mitigation measure until a long-term water supply alternative is provided; and
 2. Providing a long-term alternative water supply by:
 - (i) Installing, testing, and maintaining a point-of-entry water treatment system at each structure served; or
 - (ii) Connecting each structure served to a public water system.
- (c) Subject to (d), below, the response plan shall include the following:
- (1) All actions necessitated by (b), above, if applicable;
 - (2) Inspection and audit of activities and procedures at the facility to determine possible sources of groundwater contamination;
 - (3) Further site investigation to evaluate additional potential sources of groundwater contamination and the extent of their impact on groundwater quality;
 - (4) Modification of facility operation as needed to eliminate the cause of the exceedance;
 - (5) Removal or containment of the source of the groundwater contamination; and
 - (6) Groundwater quality restoration.
- (d) If facility operations cannot be modified to eliminate the cause of the exceedance or if the groundwater quality cannot be restored, the response plan shall include a schedule of activities that will be implemented for facility closure.
- (e) The permittee shall:
- (1) Submit the response plan to the department within 60 days of receiving the test results that show the exceedance; and
 - (2) Implement the response plan within 30 days of department approval.

(f) Within 90 days of receiving a proposed response plan, the department shall notify the permittee in writing of whether it has approved the plan. If the department does not approve the plan, the notice shall specify the reason(s) for the disapproval.

(g) The department shall approve the response plan if the department determines that the plan, if implemented as specified, is expected to:

- (1) Remove, treat, or contain the source(s) of groundwater contamination to prevent the additional release of regulated contaminants to groundwater;
- (2) Achieve compliance with AGQS;
- (3) Ensure safe drinking water and otherwise protect human health and the environment; and
- (4) Contain and confine groundwater contamination within the limits of the groundwater discharge zone, delineated in accordance with Env-Wq 402.23(a).

Env-Wq 402.251 Treatment for Excess 1,4-Dioxane in Wastewater Discharged to Groundwater.

(a) If the level of 1,4-dioxane in treated wastewater to be discharged to groundwater exceeds 2 µg/L or if the level of 1,4-dioxane in the groundwater at the perimeter of or outside the groundwater discharge zone exceeds the ambient groundwater quality standard (AGQS) for 1,4-dioxane established in Env-Or 603, the facility discharging the wastewater shall:

(1) If the testing done pursuant to Env-Wq 402.25(a)(2) does not show the presence of 1,4-dioxane in a private or public drinking water supply well at a concentration that exceeds the applicable AGQS, either:

- a. Treat the wastewater effluent using best available technology (BAT); or
- b. Implement an investigation and corrective action program (I&CA program) as described in (c) or (d), below, as applicable, to identify, assess, and address the potential source(s) of 1,4-dioxane; or

(2) If the testing done pursuant to Env-Wq 402.25(a)(2) shows the presence of 1,4-dioxane in a private or public drinking water supply well at a concentration that exceeds the applicable AGQS and the department determines that it is more likely than not that the permitted wastewater discharge is the source of the 1,4-dioxane, implement the response described in (1), above, and (e), below.

(b) Within 90 days of initiating the implementation of the response, the facility shall submit to the department a report of the response implemented that describes all investigative actions taken, the nature and date of each corrective action taken, and the results as demonstrated by sampling of the treated wastewater.

(c) If the permittee is a public wastewater collection and treatment system, the I&CA program required by (a)(2), above, shall include the following:

- (1) Assessment of each facility that discharges non-domestic wastewater to the wastewater system;
- (2) Sampling within the wastewater system or at facilities connected to the wastewater system to evaluate potential sources of 1,4-dioxane contamination; and
- (3) Modification of operations at facilities discharging non-domestic wastewater as needed to reduce or eliminate sources that cause or contribute to elevated concentrations of 1,4-dioxane.

(d) If the permittee is not a public wastewater collection and treatment system, the I&CA program required by (a)(2), above, shall include the following:

- (1) A review of the materials used in the facility to identify potential sources of 1,4-dioxane contamination;
 - (2) Sampling of the materials used in the facility to evaluate potential sources of 1,4-dioxane contamination; and
 - (3) Modification of facility operations, including but not limited to replacing the materials that are causing or contributing to elevated concentrations of 1,4-dioxane to the extent practicable.
- (e) If required by (a)(2), above, the permittee shall:
- (1) Expand the testing of public and private drinking water wells beyond 1,000 feet as necessary to determine the extent of the exceedance of the applicable AGQS in drinking water supplies; and
 - (2) Within 21 days of receiving the test results obtained pursuant to (1), above, submit a proposed response plan to the department that evaluates the relative costs and benefits of:
 - a. Installing treatment to remove the contaminant from the water supplied from the well; or
 - b. Provide alternate water to those served by the drinking water supply by:
 - 1. Providing bottled water as an interim mitigation measure until a long-term water supply alternative is provided; and
 - 2. Providing a long-term alternative water supply by:
 - (i) Installing, testing, and maintaining a point-of-entry water treatment system at each structure served; or
 - (ii) Connecting each structure served to a public water system.
- (f) The response plan in submitted pursuant to (e)(2), above, shall include:
- (1) A recommendation for providing alternate water; and
 - (2) A schedule for implementing the response plan.
- (g) The department shall:
- (1) Approve the plan, including the schedule, if it determines that the plan is adequate to protect public health; and
 - (2) Notify the permittee of its determination in writing, provided that if the plan is not approved the department shall identify the reason(s) why.
- (h) The permittee shall implement the response plan in accordance with the schedule approved by the department.

APPENDIX A: STATE STATUTES & FEDERAL REGULATIONS IMPLEMENTED

Rule Section(s)	State Statute(s) Implemented	Federal Regulations Implemented
Env-Wq 402 (also see specific sections listed below)	RSA 485-C:1; RSA 485-C:4, VII; RSA 485-C:11	
Env-Wq 402.05	RSA 485-C:6	40 CFR 144, 145, & 146
Env-Wq 402.24, 402.25, 402.251	RSA 485-A:13, I(a)	40 CFR 144, 145, & 146