

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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CHAPTER Env-Dw 400 PUBLIC WATER SYSTEM CLASSIFICATION AND DESIGN

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Statutory Authority: RSA 485:1, II(c); RSA 485:3, I; RSA 485:8

REVISION NOTE:

Document #10608, effective 6-1-14, adopted Env-Dw 401.01 through Env-Dw 401.03 within a new Part Env-Dw 401 entitled “PWS Classification; Well Siting Requirements; Hydrogeologic and Engineering Studies” and within a new Chapter Env-Dw 400 entitled “Public Water System Classification and Design.” Document #10608 also readopted with amendments and renumbered former rules Env-Ws 303.04 entitled “Siting Requirements” and Env-Ws 303.06 entitled “Hydrogeologic or Engineering Study” under a new subtitle as Env-Dw 401.04 and Env-Dw 401.05, respectively. The redesignation from subtitle Env-Ws to subtitle Env-Dw was done pursuant to a rules reorganization plan for Department rules approved by the Director of the Office of Legislative Services on 9-7-05.

The former rules Env-Ws 303.03 and Env-Ws 303.06 had last been filed under Document #8498, effective 11-30-05, which had adopted Env-Ws 303.03 and Env-Ws 303.06. These rules did not expire on 11-30-13 since they were extended pursuant to RSA 541-A:14-a until replaced by the rules in Document #10608, effective 6-1-14.

Env-Dw 401.01 Classification as Community Water System.

- (a) The department shall classify a system as a community water system if:
- (1) The dwellings, units, or other structures served by the system are suitable for year-round occupancy;
  - (2) The calculation of the number of year-round residents does not include weekend, seasonal, or other transient or temporary occupants; and
  - (3) Based on (1) and (2), above, the definition of community water system in RSA 485:I-a, I, is met.
- (b) For purposes of (a)(1), above, a dwelling, unit, or other structure shall be considered suitable for year-round occupancy if it:
- (1) Has insulation, a heating system, a year-round potable water supply, and indoor plumbing; and
  - (2) Is served by a wastewater disposal system that does not discharge untreated waste directly to surface waters and an AC electric power supply.
- (c) The department shall classify a water system as a community water system if the water system will ultimately serve a permanent year-round residential population, even if it initially serves only weekend, seasonal, or other transient or temporary occupants.
- (d) Subject to (e), below, the department shall determine the population being served by:
- (1) Using the 2010 census determination of 2.5 people per household for residences with 2 or more bedrooms and the 2010 census determination of 1.5 people per unit for residences with less than 2 bedrooms, efficiency apartments, elderly housing units, or other similar types of residences; or
  - (2) Analyzing an overlay of water system distribution lines with the most recent U.S. government census estimate using geographic information system data.

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(e) If the water system owner has existing customer records that show a different population than is calculated pursuant to (d), above, the owner may submit the data to the department for purposes of the department's calculations.

Source. (See Revision Note at part heading for Env-Dw 401)  
#10608, eff 6-1-14

Env-Dw 401.02 Classification as Non-Community Water System.

(a) The owner of a community water system may request the department to classify the system as a transient, non-community water system by submitting the following to the department in writing:

- (1) A sworn affidavit attesting that fewer than 25 people reside at the location for greater than or equal to 6 months per year; and
- (2) One or more of the following types of documentation to demonstrate that the statement provided pursuant to (1), above, is true, complete, and not misleading:
  - a. Voter registration location for each occupant;
  - b. Tax records listing the permanent residence for each occupant; or
  - c. The lease or deed restriction, association by-laws, or legal instrument that limits occupancy by the same people to less than 6 months per year.

(b) The department shall classify a water system as a non-community water system if the water system is designed to regularly serve 25 or more people per day for 60 or more days per year but is not a community water system.

(c) The department shall classify a water system serving a kindergarten or day care center as a non-transient non-community water system if the water system serves 25 or more children over a 6 month or longer period, as determined by the number of children for which the facility is licensed by the child care licensing program of the New Hampshire department of health and human services.

Source. (See Revision Note at part heading for Env-Dw 401)  
#10608, eff 6-1-14

Env-Dw 401.03 Availability of Information; Updates Required.

(a) The water system owner shall:

- (1) Update the information submitted pursuant to Env-Dw 401.02(a) as necessary; and
- (2) Make the information available for review and verification during an inspection of the water system or upon request by the department.

(b) If the number of year-round residents changes, the owner shall notify the department as soon as practicable but no later than 30 days after learning of the change.

Source. (See Revision Note at part heading for Env-Dw 401)  
#10608, eff 6-1-14

Env-Dw 401.04 Siting Requirements. Before a person may enter into a financial commitment for, or initiate construction of, a new public water system or an increase in the capacity of an existing public water system, the person shall:

- (a) Notify the department; and
- (b) To the extent practicable, avoid locating part or all of the new or expanded facility at a site that:

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- (1) Is subject to a risk greater than 1% from earthquakes, floods, fires or other disasters that could damage the public water system or a portion thereof; or
- (2) Except for intake structures, is within the floodplain of a 100-year flood or is lower than any recorded high tide where appropriate records exist.

Source. (See Revision Note at part heading for Env-Dw 401)  
#10608, eff 6-1-14

Env-Dw 401.05 Hydrogeologic or Engineering Study.

(a) In a case of noncompliance with the requirements of subtitle Env-Dw or predecessor rules in Env-Ws 300 for the sizing or configuration of water system facilities or failure to meet an MCL, the system owner shall undertake an engineering or other appropriate study to determine the design factors and alternative methods of correcting the deficiencies, the cost of which shall be borne by the owner.

(b) The owner of a system serving more than 50 service customers shall engage a New Hampshire registered professional engineer or professional geologist, as appropriate, when a study includes engineering design or hydrogeologic investigations or solutions.

(c) The owner of a system for which a study for a particular MCL has already been done shall not be required to restudy the same scope of work. Where the exceedance of a MCL continues to occur, the system owner shall undertake other appropriate investigations.

Source. (See Revision Note at part heading for Env-Dw 401)  
#10608, eff 6-1-14

**Appendix A: State Statutes and Federal /Regulations Implemented**

<b>Rule Section(s)</b>	<b>State Statute(s) Implemented</b>	<b>Federal Requirement(s) Implemented</b>
Env-Dw 401.01-.401.03	RSA 485:1, II(c)	
Env-Dw 401.04	RSA 485:3, I	40 CFR 141.5
Env-Dw 401.05	RSA 485:1, II(d)	

**Appendix B: Incorporation By Reference Information**

**[None in Part Env-Dw 401]**