

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

CHAPTER Env-Dw 700 WATER QUALITY: STANDARDS, MONITORING, TREATMENT, COMPLIANCE,  
AND REPORTING

Statutory Authority: RSA 485:2, V; RSA 485:41, IV

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REVISION NOTE #1: [Not relevant to this Part]

REVISION NOTE #2: [Not relevant to this Part]

REVISION NOTE #3: [Not relevant to this Part]

REVISION NOTE #4: [Not relevant to this Part]

REVISION NOTE #5: [Not relevant to this Part]

REVISION NOTE #6: [Not relevant to this Part]

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PART Env-Dw 717 GROUNDWATER MONITORING AND TREATMENT

Statutory Authority: RSA 485:2, V

Env-Dw 717.01 Purpose and Scope.

(a) The purpose of these rules is to implement 40 CFR 141.400 - 405, known as the “Federal Ground Water Rule” or Subpart S of 40 CFR 141, by establishing procedures and standards for the protection of public health from groundwater contamination through source monitoring, treatment, and treatment monitoring.

(b) As specified in 40 CFR 141.400(a), the requirements of this part constitute National Primary Drinking Water Regulations.

Source. #9600, eff 11-21-09; ss by #12525, eff 6-1-18

Env-Dw 717.02 Applicability; CFR Edition; General Requirements.

(a) This part shall apply to any groundwater system as defined in Env-Dw 717.03.

(b) Unless otherwise noted, all references to 40 CFR in this part shall be to the 7-1-17 edition.

(c) All PWS subject to this part shall comply with 40 CFR 141.400(c), reprinted in Appendix C.

Source. #9600, eff 11-21-09; ss by #12525, eff 6-1-18

Env-Dw 717.03 Definitions.

(a) “4-log treatment” means the process of achieving at least 99.99 percent, or 4-log, treatment of viruses, using inactivation, removal, or a combination of 4-log virus inactivation and removal before or at the first customer.

(b) “Approved sampling location” means the point in the system at which water samples are taken prior to treatment, that has been approved by the department pursuant to Env-Dw 708.

(c) “Compliance deadline” means:

(1) December 1, 2009, for any PWS that was subject to these rules as of November 21, 2009; and

(2) The deadline established in the source approval issued pursuant to Env-Dw 302 or Env-Dw 305, as applicable, or predecessor rules, for any PWS that was not subject to these rules as of November 21, 2009.

(d) “Compliance monitoring” means the requirements for sampling and analysis established in Env-Dw 717.13 through Env-Dw 717.17 for groundwater systems that treat groundwater to at least 4-log treatment.

(e) “Confluent growth” means “confluent growth” as defined in 40 CFR 141.2, as reprinted in Appendix B.

(f) “Consecutive system” means “consecutive system” as defined in 40 CFR 141.2, as reprinted in Appendix B.

(g) “Groundwater system” means:

(1) Any public water system (PWS) using groundwater as the sole source of water supply;

(2) Any PWS that uses a mixture of surface water and groundwater, unless all groundwater is combined with surface water or with groundwater under the direct influence of surface water and is treated as specified in Env-Dw 716; and

(3) Any consecutive PWS that receives water from a groundwater system as described in (1) or (2), above.

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(h) “Membrane filtration” means “membrane filtration” as defined in 40 CFR 141.2, as reprinted in Appendix B.

(i) “Provider system” means a “wholesale system” as defined in 40 CFR 141.2, as reprinted in Appendix B.

(j) “Too numerous to count” means “too numerous to count” as defined in 40 CFR 141.2, as reprinted in Appendix B.

(k) “Triggered monitoring” means the sampling requirements specified in Env-Dw 717.11 for groundwater systems that do not process groundwater to achieve 4-log treatment.

(l) “Treatment plant” means, for the purposes of this part, the location at which a disinfectant is added to groundwater.

(m) “Valid sample” means a sample that is not invalidated under Env-Dw 717.06.

Source. #9600, eff 11-21-09; ss by #12525, eff 6-1-18

Env-Dw 717.04 Compliance Dates; Monitoring Requirements.

(a) Subject to (b), below, no later than the compliance deadline, the O/O of a groundwater system where chlorine is added for disinfection or other water treatment purposes, or where the water is disinfected using ultraviolet radiation, ozonation, or any other chemical or non-chemical technique, shall:

(1) Demonstrate that:

a. The disinfection process being used meets 4-log treatment, as demonstrated in accordance with Env-Dw 717.13(a) and (b); or

b. Investigative monitoring has been conducted as specified in Env-Dw 717.09(b) and shows that the source water is free from fecal contamination; or

(2) Affirm in writing to the department that the O/O will undertake monitoring as specified in Env-Dw 717.09(c)(2).

(b) The O/O of a groundwater system that provides disinfection shall not be required to conduct investigative monitoring under (a)(1)b. or (a)(2), above, if:

(1) The disinfection process was installed after January 1, 2006; and

(2) The O/O demonstrates that all bacteria sampling required under Env-Dw 709 has been free of any coliform for at least 3 years prior to the date of installation of the disinfection process.

(c) If the O/O of a groundwater system is a political subdivision that does not vote to fund investigative monitoring, the department shall not require investigative monitoring to be done unless the state pays the costs of such monitoring.

(d) The O/O of a groundwater system where the water is disinfected who fails to make the demonstration required by (a)(1), above, who is not exempt from investigative monitoring under (b), above, shall undertake monitoring in accordance with Env-Dw 717.09(c)(2).

(e) After the compliance deadline, the O/O of a groundwater system where 4-log treatment is provided shall conduct compliance monitoring in accordance with Env-Dw 717.13 through Env-Dw 717.17.

(f) After the compliance deadline, the O/O of a groundwater system where 4-log treatment is not provided shall conduct triggered monitoring as described in Env-Dw 717.11.

Source. #9600, eff 11-21-09; ss by #12525, eff 6-1-18

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Env-Dw 717.05 Sample Collection and Analytical Requirements.

- (a) Chlorine or other disinfectants shall not be added to the source within one week prior to sampling.
- (b) The location at which source water samples are collected shall be:
  - (1) Prior to any treatment;
  - (2) Before or at the first customer for each groundwater source; and
  - (3) Approved by the department pursuant to Env-Dw 708.
- (c) Each sample taken for analysis shall contain at least 100 milliliters (ml) of water.
- (d) Groundwater source samples shall be analyzed as specified in Env-Dw 707 and 40 CFR 141.402(c)(2).

Source. #9600, eff 11-21-09; ss by #12525, eff 6-1-18

Env-Dw 717.06 Invalidation of Source Water Samples.

- (a) A sample that is invalidated under this section shall not be used to meet the monitoring requirements established in this part.
- (b) The department shall invalidate a positive sample only if the laboratory establishes, in writing, that improper sample analysis caused the positive result.
- (c) A laboratory shall invalidate a positive sample if the sample:
  - (1) Produces turbid culture in the absence of gas production using an analytical method where gas formation is examined, such as the multiple-tube fermentation technique; or
  - (2) Exhibits confluent growth or produces colonies too numerous to count with an analytical method using a membrane filter.
- (d) A laboratory shall invalidate a negative sample if the sample contains chlorine or other disinfectant.
- (e) If a sample is invalidated under (b), (c), or (d), above, the system O/O shall collect another source water sample as specified in Env-Dw 717.05 within 24 hours of being notified of the invalidation.
- (f) The system O/O shall continue to resample within 24 hours and have the samples analyzed until a valid result is obtained.
- (g) The O/O may request an extension of the 24-hour time limit in accordance with Env-Dw 717.12 if the O/O is unable to collect samples due to circumstances beyond the O/O's control.

Source. #9600, eff 11-21-09; ss by #12525, eff 6-1-18

Env-Dw 717.07 New Sources of Groundwater.

- (a) Subject to (b), below, the O/O of a groundwater system who places a new groundwater source in service after November 30, 2009, shall conduct 6 consecutive months of groundwater source sampling for E. coli, with at least one sample being taken prior to providing water to the public, to demonstrate that 4-log treatment is not required.
- (b) In lieu of (a), above, the O/O shall:
  - (1) Demonstrate, during the new source approval process specified in Env-Dw 302 or Env-Dw 305, as applicable, and in accordance with Env-Dw 717.13(a) and (b), that the proposed disinfection option meets the requirements for 4-log treatment; and

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(2) Meet the compliance monitoring requirements of Env-Dw 717.13 through Env-Dw 717.17, as applicable, within 30 days of placing the source in service.

(c) The O/O of a new groundwater source not providing 4-log treatment who is notified that any of the source water samples collected pursuant to (a), above, are E. coli positive shall:

(1) Undertake corrective action as specified in Env-Dw 717.21; and

(2) Institute a boil order notice in accordance with Env-Dw 709.19 and provide notice in accordance with the public notice requirements in Env-Dw 709.23.

(d) The O/O of a new groundwater source not providing 4-log treatment who is notified that the results from samples collected in accordance to (a), above, demonstrate that the source is free from fecal contamination shall continue to be subject to the triggered monitoring requirements described in Env-Dw 717.11.

Source. #9600, eff 11-21-09; ss by #12525, eff 6-1-18

Env-Dw 717.08 New Disinfection of Groundwater Sources after December 1, 2009.

(a) The O/O of a groundwater system who installs a new treatment process after December 1, 2009, specifically for purposes of disinfection shall meet 4-log treatment unless the O/O demonstrates, by conducting the 6 months of sampling described in Env-Dw 717.07(a), that the groundwater is free from fecal contamination.

(b) The O/O of a groundwater system who installs a new treatment process after December 1, 2009, that includes disinfection shall meet 4-log treatment unless the system:

(1) Has not had any acute violations of the microbiological MCL within the past 3 years; and

(2) Has no outstanding significant deficiencies.

(c) If the department determines that 4-log treatment is not required pursuant to (a) or (b), above, the O/O shall be subject to the triggered monitoring requirements of Env-Dw 717.11.

Source. #9600, eff 11-21-09; ss by #12525, eff 6-1-18

Env-Dw 717.09 Investigative Monitoring to Prove Source is Not Contaminated.

(a) Investigative monitoring to prove a source is not contaminated shall be as specified in (b) through (e), below.

(b) Subject to (c), below, the O/O of a groundwater system shall:

(1) Collect 6 source water samples prior to the compliance deadline, one each in March through August, and have the samples analyzed for E. coli in accordance with Env-Dw 717.05; or

(2) Collect 6 samples spaced at regular intervals, at least one week apart, within the system's normal operating season if the system does not operate in each of the months March through August, and have the samples analyzed for E. coli in accordance with Env-Dw 717.05.

(c) If 6 samples are not collected prior to the compliance deadline, the O/O of the groundwater system shall:

(1) Demonstrate that 4-log treatment is being met as specified in Env-Dw 717.13(a) and (b) and be subject to compliance monitoring as specified in Env-Dw 717.13; or

(2) Collect one source water sample in each month for 12 months beginning in the month following the month in which the compliance deadline falls and have the samples analyzed for E. coli in accordance with Env-Dw 717.05, except that systems that do not operate throughout the year shall collect 12 source water samples spaced at regular intervals, at least one week apart, within the system's normal operating season.

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(d) Subject to (e), below, if any of the samples taken pursuant to (b) or (c)(2), above, are E. coli positive, the O/O of the groundwater system shall take corrective action as specified in Env-Dw 717.21, and either:

- (1) Institute a boil order in accordance with Env-Dw 709.19 and provide notice in accordance with the public notice requirements in Env-Dw 717.23; or
- (2) Terminate use of the contaminated source and provide water from an alternate source and provide notice in accordance with the public notice requirements in Env-Dw 717.23.

(e) If a sample taken pursuant to (b) or (c)(2), above, is invalidated under Env-Dw 717.06, the O/O shall take another sample in:

- (1) The same month, if notified of the invalidation in sufficient time to do so;
- (2) The month following the months specified in (b)(1), above, if the samples are taken pursuant to (b)(1), above; or
- (3) The week following the last regularly-scheduled sample, if the samples are taken pursuant to (b)(2) or (c)(2), above.

(f) If the department determines, through a sanitary survey or review of land use activities surrounding the source, that conditions have changed such that a greater risk of fecal contamination exists than was originally present, the department shall direct the system O/O, in writing, to undertake investigative monitoring to determine whether the source has been negatively impacted.

Source. #9600, eff 11-21-09; ss by #12525, eff 6-1-18

Env-Dw 717.10 Investigative Monitoring to Discontinue 4-log Treatment.

(a) After the compliance deadline, the O/O of a groundwater system that disinfects to 4-log treatment shall not discontinue 4-log treatment unless:

- (1) No significant deficiencies related to source water integrity as specified in Env-Dw 717.20 were identified within the prior 5 years;
- (2) No microbiological violations as specified in Env-Dw 709 have occurred within the prior 3 years;
- (3) The O/O demonstrates that the source water is free from fecal contamination in accordance with (b), below; and
- (4) The O/O has submitted a written request pursuant to (c), below, that has been approved pursuant to (d), below.

(b) To demonstrate that the source water is free from fecal contamination, the O/O of a groundwater system shall:

- (1) Collect a source water sample in each of 12 consecutive months and have each sample analyzed for E. coli, unless an alternate sampling schedule has been approved by the department in accordance with (f), below; and
- (2) Provide evidence that all analytical results show the absence of E. coli.

(c) The O/O of a groundwater system who wants to discontinue providing 4-log treatment shall request to be removed from disinfection and compliance monitoring as required in Env-Dw 717.13 through Env-Dw 717.17 by submitting the following information in writing to the department:

- (1) The system's name and PWS identifier;

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- (2) The name, daytime telephone number, and, if available, e-mail address for the system's representative who can be contacted by the department regarding the request;
- (3) A full explanation of why disinfection is no longer needed; and
- (4) Documentation to show that the criteria in (a)(1)-(3) and (b), above, are met.

(d) The department shall approve the request if the request demonstrates that the criteria specified in (a)(1)-(3) and (b) are met.

(e) The department shall notify the system O/O of its decision on the request in writing. If the department denies the request, the notice shall specify the reason(s) for the denial.

(f) The O/O of a groundwater system may request a reduction in the number of samples required by (b), above, by providing information to the department, in writing, which demonstrates that the disinfection was installed:

- (1) For a system deficiency that has been corrected rather than due to a contaminated source; or
- (2) As a proactive, safety measure, even though the system had not experienced bacteria contamination, and that the system has been free of any coliform bacteria for a minimum of 3 years.

Source. #9600, eff 11-21-09; ss by #12525, eff 6-1-18

### Env-Dw 717.11 Triggered Monitoring.

(a) A groundwater system that does not provide at least 4-log treatment shall be subject to the triggered monitoring requirements specified in (b) through (e), below, upon being notified that a valid sample collected under the requirements of Env-Dw 709.02 is total coliform-positive.

(b) Within 24 hours of notification of the total coliform-positive sample, the O/O of the groundwater system shall collect at least one groundwater source sample from each groundwater source in use at the time the total coliform-positive sample was collected and have each sample analyzed for E. coli and total coliform as specified in Env-Dw 717.05.

(c) The O/O may request an extension of the 24-hour time limit in accordance with Env-Dw 717.12 if the O/O is unable to collect the samples due to circumstances beyond the O/O's control.

(d) If the valid sample is E. coli positive, the O/O of the groundwater system shall:

- (1) Institute a boil order in accordance with Env-Dw 709.19, and
- (2) Provide notice in accordance with the public notice requirements in Env-Dw 717.23.

(e) If the valid sample taken pursuant to (b), above, is E. coli positive, the O/O of the groundwater system shall:

- (1) Conduct corrective action if directed by the department in accordance with Env-Dw 717.21; or
- (2) If the department determines that the appropriate corrective action is not readily apparent, collect 5 additional source water samples from the same source within 24 hours of being notified of the positive E. coli result and have them analyzed for E. coli and total coliform bacteria as specified in Env-Dw 717.05.

Source. #9600, eff 11-21-09; ss by #12525, eff 6-1-18

### Env-Dw 717.12 Source Monitoring: Extension Requests, Alternate Plans for Multiple Wells.

(a) The O/O of a groundwater system subject to source monitoring who wishes to obtain an extension of the time in which to resample shall submit a written request for an extension to the department within 24 hours of notification of the positive result or invalidation.

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(b) The O/O of a groundwater system that has multiple wells and is subject to triggered monitoring who wishes to have a triggered source water monitoring plan that correlates each approved sampling location to a specific well shall submit a written request to the department for approval of such a plan. Preparation of a plan shall not constitute grounds to extend the requirement to sample within 24 hours of notification of the positive result.

(c) A written request submitted under (a) or (b), above, shall include:

- (1) The system's name and PWS identifier;
- (2) The name, daytime telephone number, and, if available, e-mail address for the system's representative who can be contacted by the department regarding the request;
- (3) For an extension of time, a full explanation of why an extension is necessary and how much time is requested; and
- (4) For approval of a triggered source water monitoring plan, a demonstration of which wells are associated with which distribution system sampling sites.

(d) The department shall respond to the request in writing. If the request is denied, the department's response shall specify the reason(s) for the denial.

(e) The department shall approve a request for an extension of time if the department determines that additional time is needed for reasons beyond the control of the system O/O.

(f) The department shall approve a request for a triggered source water monitoring plan that correlates each sampling location to a specific well if the department determines that the proposed plan will result in samples that fulfill the intent of the sampling requirements.

Source. #9600, eff 11-21-09; ss by #12525, eff 6-1-18

### Env-Dw 717.13 Compliance Monitoring.

(a) As required by 40 CFR 141.403(b)(1), a groundwater system that provides at least 4-log treatment shall demonstrate to the department, in writing, before the compliance deadline, that it meets 4-log treatment.

(b) The demonstration required by (a), above, shall include engineering, operational, and other information as necessary to demonstrate the effectiveness and reliability of treatment.

(c) The department shall respond in writing and, based on the technology used:

- (1) Specify operational and monitoring requirements; and
- (2) Establish a compliance monitoring program designed to ensure that all operational and monitoring requirements that are necessary to meet the purpose of the program are met, including but not limited to minimal residual disinfectant concentrations, membrane operating or membrane integrity criteria, and alternative treatment operating criteria, as applicable.

(d) Groundwater systems subject to compliance monitoring shall monitor in accordance with the schedule specified in Env-Dw 717.14 through Env-Dw 717.17, as applicable, to demonstrate treatment effectiveness.

Source. #9600, eff 11-21-09; ss by #12525, eff 6-1-18

### Env-Dw 717.14 Compliance Monitoring for Systems with Chemical Disinfection Serving More than 3,300 People.

(a) The requirements of this section shall apply to each groundwater system serving greater than 3,300 people that meets 4-log treatment using chemical disinfection.

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(b) The O/O of a groundwater system that is subject to this section shall:

- (1) Continuously monitor the residual disinfectant concentration using analytical methods specified in 40 CFR 141.74(a)(2) at the approved sampling location;
- (2) Record the lowest residual disinfectant concentration each day that water is served to the system's customers; and
- (3) Maintain the department-determined residual disinfectant concentration every day the groundwater system serves water from the groundwater source.

(c) If a failure in the continuous monitoring equipment occurs, the O/O of a groundwater system that is subject to this section shall:

- (1) Collect grab samples every 4 hours until the continuous monitoring equipment is returned to service; and
- (2) Resume continuous residual disinfectant monitoring within 14 days of the failure.

Source. #9600, eff 11-21-09; ss by #12525, eff 6-1-18

Env-Dw 717.15 Compliance Monitoring for Systems with Chemical Disinfection Serving 3,300 People or Fewer.

(a) The requirements of this section shall apply to each groundwater system serving 3,300 or fewer people that meets 4-log treatment using chemical disinfection.

(b) The O/O of a groundwater system that is subject to this section shall:

- (1) Monitor the residual disinfectant concentration using analytical methods specified in 40 CFR 141.74(a)(2) at the approved sampling location, either continuously or on a daily basis by taking a daily grab sample during the hour of peak flow or another time designated by the department;
- (2) Record the residual disinfectant concentration each day that water is served to the system's customers; and
- (3) Maintain the department-determined residual disinfectant concentration every day the groundwater system serves water from the groundwater source.

(c) The O/O of a groundwater system that is subject to this section shall collect follow-up grab samples every 4 hours if any daily grab sample measurement falls below the established residual concentration level, until the required residual concentration is met.

Source. #9600, eff 11-21-09; ss by #12525, eff 6-1-18

Env-Dw 717.16 Operation and Compliance Monitoring for Membrane Filtration.

(a) Groundwater systems using membrane filtration to meet 4-log treatment shall monitor the membrane filtration process in accordance with the monitoring requirements and specifications established by the department pursuant to (c), below, upon review of the information submitted in accordance with Env-Dw 717.13.

(b) Membrane filtration shall meet 4-log treatment requirements only if:

- (1) The membrane has an absolute molecular weight cut-off (MWCO), or an alternate parameter that describes the exclusion characteristics of the membrane, that can reliably achieve at least 4-log removal of viruses;
- (2) The membrane process is operated in accordance with compliance requirements specified by the department pursuant to Env-Dw 717.13(c); and

(3) The integrity of the membrane is intact.

(c) The department shall establish monitoring requirements and specifications designed to ensure that the membrane filtration technology being used meets 4-log treatment, using continuous monitoring of filtered water quality turbidity or particle counts, or both.

Source. #9600, eff 11-21-09; ss by #12525, eff 6-1-18

Env-Dw 717.17 Operation and Compliance Monitoring for Alternative Treatment.

(a) Groundwater systems using alternative treatment to meet 4-log treatment shall operate and monitor the alternative treatment in accordance with the operational and monitoring requirements established pursuant to (b), below, deemed necessary to demonstrate achievement of 4-log treatment.

(b) The department shall establish operational and monitoring requirements designed to ensure that the alternative treatment actually meets 4-log treatment based on the type of technology used by the system.

Source. #9600, eff 11-21-09; ss by #12525, eff 6-1-18

Env-Dw 717.18 Compliance Monitoring Reporting Requirements.

(a) The O/O of a groundwater system that provides 4-log treatment of viruses using inactivation, removal, or a department-approved combination of 4-log virus inactivation and removal shall report the information specified in (c) through (e), below, as applicable, monthly to the department by the 10<sup>th</sup> day of the month immediately following the month for which the report is being provided.

(b) The O/O of a groundwater system that provides 4-log treatment shall notify the department as soon as possible, but in no case later than the end of the next business day, any time the system fails to meet any of the requirements established for the system for greater than 4 hours, including, but not limited to, minimum residual disinfectant concentration, membrane operating criteria or membrane integrity, and alternative treatment operating criteria.

(c) The O/O of a groundwater system that provides 4-log treatment using chlorine disinfection shall report the following information:

- (1) For each day, the lowest measured residual disinfectant concentration, in milligrams per liter (mg/L), in water entering the distribution system;
- (2) The daily residual disinfectant concentration, in mg/L, in water measured at the approved sampling location at or before the first service connection;
- (3) The disinfectant contact time (CT), in minutes, associated with the calculated peak flow rate for the system used for calculating the CT value;
- (4) The daily measurement of pH of disinfected water following the point of chlorine disinfection;
- (5) The daily measurement of water temperature, in degrees Celsius, following each point of disinfection;
- (6) The daily CT value calculated for each treatment plant before or at the first customer; and
- (7) The daily determination of whether disinfection achieves at least 4-log treatment.

(d) The O/O of a groundwater system that provides 4-log treatment using membrane filtration shall report the information specified in the department's approval of the alternative treatment in accordance with Env-Dw 717.16.

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(e) The O/O of a groundwater system that provides 4-log treatment using alternative treatment shall report the information specified in the department's approval of the alternative treatment in accordance with Env-Dw 717.17.

Source. #9600, eff 11-21-09; ss by #12525, eff 6-1-18

Env-Dw 717.19 Compliance Monitoring Recordkeeping Requirements.

(a) The O/O of a groundwater system conducting compliance monitoring, including provider systems, shall maintain records according to this section.

(b) Records of minimum disinfectant residual shall be retained for 10 years.

(c) Subject to (d), below, the following records shall be retained for 5 years:

(1) The lowest daily residual disinfectant concentration;

(2) The date and duration of any failure to maintain the minimum residual disinfectant concentration for a period of more than 4 hours;

(3) The date the O/O contacted the department with notification of the failure to maintain the minimum residual disinfectant concentration for a period of more than 4 hours and the name of the individual at the department to whom the O/O spoke;

(4) The compliance requirements for membrane filtration and parameters specified by department for the approved alternative treatment, as applicable; and

(5) The date and duration of any failure to meet the membrane operating, membrane integrity, or alternative treatment operating requirements for more than 4 hours.

(d) If the O/O is notified in writing that an enforcement action or other legal action is pending against the system, the O/O shall retain all records for the longer of the time period specified in (b) or (c), above, if applicable, or 6 months after the date of the final decision in the action.

Source. #9600, eff 11-21-09; ss by #12525, eff 6-1-18

Env-Dw 717.20 Significant Deficiencies. Any of the following conditions shall constitute a significant deficiency:

(a) Well casing is buried;

(b) Top of well can be flooded;

(c) Well is not sealed;

(d) Unsanitary material or debris is stored or discarded in the sanitary radius of a well;

(e) Well is not constructed in accordance with applicable requirements;

(f) Well casing extension does not meet applicable requirements;

(g) Well is damaged or otherwise subject to contamination;

(h) Operation, maintenance, or monitoring of disinfection processes does not meet applicable requirements;

(i) System has low or negative pressures that could result in entry of contaminants;

(j) System lacks cross connection control program or devices, if applicable;

(k) Pump house is subject to flooding;

(l) Pump house conditions are unsanitary;

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- (m) System does not have a certified operator even though one is required by Env-Dw 502;
- (n) Certified operator, if required, is below the appropriate grade;
- (o) Inspection, internal cleaning, and maintenance of storage tank(s) does not meet applicable requirements;
- (p) Water storage tank is subject to contamination;
- (q) Facility operations are not inspected for unsanitary conditions on a regular basis;
- (r) Monitoring, reporting, and recordkeeping are not being done as required; and
- (s) Any other significant deficiency identified in Env-Dw 720.03.

Source. #9600, eff 11-21-09; amd by #9758, eff 7-30-10; ss by #12525, eff 6-1-18

Env-Dw 717.21 Notice of Significant Deficiencies; Corrective Actions and Corrective Action Plans.

- (a) The department shall inform the O/O and certified operator, if the system has a certified operator, of the groundwater system of all significant deficiencies in writing.
- (b) The notice issued pursuant to (a), above, shall require the O/O to:
  - (1) Implement any corrective action(s) specified in the notice for which consultation or prior approval from the department is not required within 120 days or such earlier time as is specified pursuant to (e), below; and
  - (2) Consult with the department within 30 days of receiving written notice for the purpose of developing a corrective action plan (CAP) as specified in (f), below, for any corrective action(s) not covered by (1), above.
- (c) The O/O of a groundwater system shall consult with the department within 10 days of receiving written notice from a laboratory that a groundwater source sample collected in accordance with Env-Dw 717.11 is positive for E. coli to determine what corrective action needs to be taken or whether a CAP as specified in (f), below needs to be developed.
- (d) The corrective action(s) specified in the notice shall consist of one or more of the following, as necessary to correct the problem and protect public health:
  - (1) Correct significant deficiencies;
  - (2) Provide an alternate source of water;
  - (3) Eliminate the source of contamination; or
  - (4) Provide treatment that reliably achieves 4-log treatment, as specified in Env-Dw 717.13.
- (e) The department shall specify a compliance deadline of less than 120 days if:
  - (1) The actions to be taken can reasonably be implemented in a shorter period of time; and
  - (2) An earlier date is needed to protect public health.
- (f) If a system O/O is required to develop a corrective action plan (CAP) pursuant to (b)(2) or (c), above, then within 30 days after the required consultation, or by such later date established by agreement with the department, the O/O shall develop and submit to the department a CAP that identifies the action(s) that will be taken to correct the system's deficiencies and the schedule upon which the action(s) will be taken.

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(g) If any of the significant deficiencies cannot be corrected within 120 days of the date of a notice issued pursuant to (a), above, or received from the laboratory pursuant to (c), above, the CAP submitted by the system O/O shall identify interim measures that will be taken in order to protect the health and safety of persons served by the system pending final action.

(h) The department shall approve a CAP proposed by the system O/O if:

(1) The action(s) and schedule for taking the action(s) will correct all problems within a time frame that is protective of public health; and

(2) The CAP identifies interim measures that will be taken to address any significant deficiencies that cannot be corrected within 120 days of the date of the notice in order to protect the health and safety of persons served by the system pending final action.

(i) The O/O shall not make any modifications to the approved CAP without first obtaining approval for the modifications from the department in accordance with (j) and (k), below.

(j) To request approval for modifications to the action(s) or schedule in an approved CAP, the O/O shall submit a request in writing to the department that explains the requested modification(s) and the reason(s) why the CAP as modified meet the criteria for approval specified in (k), below.

(k) The department shall approve a modification to a CAP if:

(1) The modification was made necessary due to circumstances beyond the control of the system O/O; and

(2) The CAP as modified will correct all remaining problems and be equally as protective of public health.

(l) Within 120 days of the date of a notice issued pursuant to (a) or (c), above, the O/O of a groundwater system shall:

(1) Have fully corrected all significant deficiencies; or

(2) Be in compliance with a CAP approved by the department pursuant to (h), above.

(m) The O/O of a groundwater system who has been directed to take corrective action or to implement a CAP shall notify the department within 30 days of completion of the corrective action or CAP, as applicable.

(n) A system O/O shall be subject to enforcement as specified in RSA 485:58 for any failure to correct the deficiency(ies) and for any failure to comply with an approved CAP.

Source. #9600, eff 11-21-09; ss by #9758, eff 7-30-10; ss by #12525, eff 6-1-18

### Env-Dw 717.22 Violations.

(a) Failure to meet the monitoring requirements specified in Env-Dw 717.05 through Env-Dw 717.09 and Env-Dw 717.11 through Env-Dw 717.17 shall constitute a monitoring violation.

(b) Failure to maintain at least 4-log treatment shall constitute a treatment technique violation if the failure is not corrected within 4 hours of determining the system is not maintaining at least 4-log treatment in accordance with Env-Dw 717.13 through Env-Dw 717.17.

(c) Failure to submit the monthly reports required by Env-Dw 717.18 shall constitute a reporting violation.

(d) Failure to meet the treatment technique requirements specified in Env-Dw 717.21, after notification of a significant deficiency or fecal-contaminated source water shall constitute a treatment technique violation.

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Source. #9600, eff 11-21-09; ss by #12525, eff 6-1-18

### Env-Dw 717.23 Public Notification, Consumer Confidence Report, & Special Notice.

- (a) The O/O of a groundwater system at which any violation described in Env-Dw 717.22 occurs shall conduct standard public notice in accordance with Env-Dw 801.
- (b) The O/O of a groundwater system notified of valid sample that is E. coli positive, including the O/Os of consecutive systems served by such a groundwater source, shall conduct acute public notice as specified in Env-Dw 801.
- (c) The O/O of a community groundwater system shall notify the system's customers through the consumer confidence reporting (CCR) requirements of Env-Dw 811, if:
- (1) It receives notice from the department of a significant deficiency identified in Env-Dw 717.20, that has not been corrected;
  - (2) A groundwater source sample was E. coli positive; or
  - (3) The PWS has discontinued the use of a contaminated source.
- (d) The information noted in (c)(1) or (2), above, shall be reported in the CCR annually until the deficiency, E. coli contamination, or violation has been corrected and confirmation of the correction has been received from the department.
- (e) The O/O of a non-community groundwater system shall notify its customers of a significant deficiency, as specified in Env-Dw 717.20:
- (1) That has not been corrected within 12 months of being notified of the deficiency; and
  - (2) Continue to notify the public annually until the significant deficiency is corrected.
- (f) The notice required by (e), above, shall include:
- (1) The nature of the significant deficiency and the date it was identified by the department; and
  - (2) A description of the approved plan and schedule for correction of the significant deficiency, including interim measures, progress to date, and any interim measures completed.
- (g) In a community where the population of non-English speaking residents exceeds 20% of the community population, the notice shall contain:
- (1) Information in the appropriate language(s) regarding the importance of the notice; or
  - (2) A telephone number or address, in the appropriate language, at which customers can contact the system to obtain a translated copy of the notice or assistance in the appropriate language.

Source. #9600, eff 11-21-09; ss by #12525, eff 6-1-18

### Env-Dw 717.24 Groundwater Rule General Recordkeeping Requirements.

- (a) In addition to the requirements of Env-Dw 717.19 and Env-Dw 718, the O/O of a groundwater system shall maintain the records described in (b) through (d), below, for the time period specified.
- (b) As required by 40 CFR 141.405(b)(1), documentation of corrective actions shall be retained for 10 years.
- (c) Documentation of notice to the public as required under Env-Dw 800 shall be retained for 3 years.
- (d) Records of invalidation of E. coli positive samples shall be retained for 5 years.

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Source. #9600, eff 11-21-09; ss by #12525, eff 6-1-18

Env-Dw 717.25 Groundwater Rule Consecutive System Notification and Recordkeeping Requirements.

(a) A consecutive groundwater system O/O that has a total coliform-positive sample collected under Env-Dw 709 shall:

- (1) Notify the provider system(s) within 24 hours of being notified of the total coliform-positive sample; and
- (2) If the consecutive system has a source that supplies water to the distribution system, conduct triggered monitoring as specified in Env-Dw 717.11.

(b) A provider system that does not provide 4-log treatment and receives notice from a consecutive system it serves that a sample collected under Env-Dw 709 is total coliform-positive shall:

- (1) Collect a sample from each groundwater source and analyze each sample for E. coli and total coliform, in accordance with Env-Dw 717.05, within 24 hours of being notified of the total coliform-positive sample; and
- (2) Conduct all triggered monitoring as specified in Env-Dw 717.11.

(c) A provider system that receives notice that its groundwater source sample is E. coli positive shall:

- (1) Notify all consecutive systems served by the water source within 24 hours of being notified of the E. coli positive result; and
- (2) Conduct all triggered monitoring requirements as specified in Env-Dw 717.11.

(d) Documentation of notification to the provider system(s) of total-coliform positive samples that are not invalidated under Env-Dw 717.06 shall be kept for a period of at least 5 years.

Source. #9600, eff 11-21-09; ss by #12525, eff 6-1-18

**APPENDIX A: STATE STATUTES, FEDERAL REGULATIONS IMPLEMENTED**

<b>Rule Section(s)</b>	<b>State Statute(s) Implemented</b>	<b>Federal Regulation(s) Implemented</b>
Env-Dw 717.01	RSA 485:3, I	40 CFR 141.400(a)
Env-Dw 717.02	RSA 485:3, I	40 CFR 141.400(b)
Env-Dw 717.03	RSA 485:3, I	40 CFR 141.2, 141.400(b) & 142.16
Env-Dw 717.04	RSA 485:3, I & VI	40 CFR 141.400(d)
Env-Dw 717.05	RSA 485:3, I	40 CFR 141.402(e)
Env-Dw 717.06	RSA 485:3, I	40 CFR 141.402
Env-Dw 717.07	RSA 485:3, I & VI	40 CFR 141.402(f) & 141.403(b)
Env-Dw 717.08	RSA 485:3, I & VI	40 CFR 141.400(b)
Env-Dw 717.09	RSA 485:3, I & VI	40 CFR 141.400(a); 40 CFR 141.403(b)(1)
Env-Dw 717.10	RSA 485:3, I & VI	40 CFR 141.403(c)
Env-Dw 717.11	RSA 485:3, I & VI	40 CFR 141.400(a)
Env-Dw 717.12	RSA 485:3, I & VI	40 CFR 141.402(a)
Env-Dw 717.13	RSA 485:3, I & VI	40 CFR 141.402(a); 40 CFR 141.403(b)(1)
Env-Dw 717.14	RSA 485:3, I & VI	40 CFR 141.400(b)
Env-Dw 717.15 - 717.17	RSA 485:3, I & VI	40 CFR 141.402(b)
Env-Dw 717.18	RSA 485:3, I & VI	40 CFR 141.405(a)
Env-Dw 717.19	RSA 485:3, I & VI	40 CFR 141.405(b)

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<b>Rule Section(s)</b>	<b>State Statute(s) Implemented</b>	<b>Federal Regulation(s) Implemented</b>
Env-Dw 717.20	RSA 485:3, I & VI	40 CFR 141.403 & 141.405(a)
Env-Dw 717.20 intro, (n), (s)	RSA 485:1; RSA 485:3, I & VI	40 CFR 141.403; 40 CFR 141.405(a)
Env-Dw 717.21	RSA 485:3, I & VI	40 CFR 141.202; 40 CFR 141.203; 40 CFR 141.402(h); 40 CFR 141.404
Env-Dw 717.22	RSA 485:3, I & VI	40 CFR 141.402(g) & 141.403(a)
Env-Dw 717.23	RSA 485:3, I & VI	40 CFR 141.400(a)
Env-Dw 717.24	RSA 485:3, I & VI	40 CFR 141.400(b)
Env-Dw 717.25	RSA 485:3, I & VI	40 CFR 141.400(a)

**APPENDIX B - FEDERAL DEFINITIONS**

**40 CFR §141.2**

*Compliance cycle* means the nine-year calendar year cycle during which public water systems must monitor. Each compliance cycle consists of three three-year compliance periods. The first calendar year cycle begins January 1, 1993 and ends December 31, 2001; the second begins January 1, 2002 and ends December 31, 2010; the third begins January 1, 2011 and ends December 31, 2019.

*Compliance period* means a three-year calendar period within a compliance cycle. Each compliance cycle has three three-year compliance periods. Within the first compliance cycle, the first compliance period runs from January 1, 1993 to December 31, 1995; the second from January 1, 1996 to December 31, 1998, the third from January 1, 1999 to December 31, 2001.

*Corrosion inhibitor* means a substance capable of reducing the corrosivity of water toward metal plumbing materials, especially lead and copper, by forming a protective film on the interior surface of those materials.

*Domestic or other non-distribution system plumbing problem* means a coliform contamination problem in a public water system with more than one service connection that is limited to the specific service connection from which a coliform-positive sample was taken.

*Dose equivalent* means the product of the absorbed dose from ionizing radiation and such factors as account for differences in biological effectiveness due to the type of radiation and its distribution in the body as specified the International Commission on Radiological Units and Measurements (ICRU).

*Initial compliance period* means the first full three-year compliance period which begins at least 18 months after promulgation, except for contaminants listed at §141.61(a)(19)-(21), (c) (19)-(33), and § 141.62(b)(11)-(15), initial compliance period means the first full three-year compliance period after promulgation for systems with 150 or more service connections (January 1993-December 1995), and first full three-year compliance period after the effective date of the regulation (January 1996-December 1998) for systems having fewer than 150 service connections.

*Lead service line* means a service line made of lead which connects the water main to the building inlet and any lead pigtail, gooseneck or other fitting which is connected to such lead line.

*Level 1 assessment* is an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and (when possible) the likely reason that the system triggered the assessment. It is conducted by the system operator or owner. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g. whether a ground water system is disinfected); existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The system must conduct the assessment consistent with any State directives that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system.

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*Level 2 assessment* is an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and (when possible) the likely reason that the system triggered the assessment. A Level 2 assessment provides a more detailed examination of the system (including the system's monitoring and operational practices) than does a Level 1 assessment through the use of more comprehensive investigation and review of available information, additional internal and external resources, and other relevant practices. It is conducted by an individual approved by the State, which may include the system operator. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., whether a ground water system is disinfected); existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The system must conduct the assessment consistent with any State directives that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system. The system must comply with any expedited actions or additional actions required by the State in the case of an E. coli MCL violation.

*Man-made beta particle and photon emitters* mean all radionuclides emitting beta particles and/or photons listed in Maximum Permissible Body Burdens and Maximum Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure, NBS Handbook 69, except the daughter products of thorium-232, uranium-235 and uranium-238.

*Near the first service connection* means at one of the 20 percent of all service connections in the entire system that are nearest the water supply treatment facility, as measured by water transport time within the distribution system.

*Point-of-entry treatment device* (POE) means a treatment device applied to the drinking water entering a house or building for the purpose of reducing contaminants in the drinking water distributed throughout the house or building.

*Point-of-use treatment device* (POU) means a treatment device applied to a single tap used for the purpose of reducing contaminants in drinking water at that one tap.

*Repeat compliance period* means any subsequent compliance period after the initial compliance period.

*Residual disinfectant concentration* ("C" in CT calculations) means the concentration of disinfectant measured in mg/l in a representative sample of water.

*Too numerous to count* means that the total number of bacterial colonies exceeds 200 on a 47-mm diameter membrane filter used for coliform detection.

### **40 CFR §141.91 Recordkeeping requirements:**

"Any system subject to the requirements of this subpart shall retain on its premises original records of all sampling data and analyses, reports, surveys, letters, evaluations, schedules, State determinations, and any other information required by §§141.81 through 141.88. Each water system shall retain the records required by this section for no fewer than 12 years."

## **APPENDIX C: OTHER FEDERAL PROVISIONS**

### **40 CFR §141.400(c) General Requirements**

(c) General requirements. Systems subject to this subpart must comply with the following requirements:

(1) Sanitary survey information requirements for all ground water systems as described in § 141.401.

(2) Microbial source water monitoring requirements for ground water systems that do not treat all of their ground water to at least 99.99 percent (4-log) treatment of viruses (using inactivation, removal, or a State-approved combination of 4-log virus inactivation and removal) before or at the first customer as described in § 141.402.

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(3) Treatment technique requirements, described in § 141.403, that apply to ground water systems that have fecally contaminated source waters, as determined by source water monitoring conducted under § 141.402, or that have significant deficiencies that are identified by the State or that are identified by EPA under SDWA section 1445. A ground water system with fecally contaminated source water or with significant deficiencies subject to the treatment technique requirements of this subpart must implement one or more of the following corrective action options: correct all significant deficiencies; provide an alternate source of water; eliminate the source of contamination; or provide treatment that reliably achieves at least 4-log treatment of viruses (using inactivation, removal, or a State-approved combination of 4-log virus inactivation and removal) before or at the first customer.

(4) Ground water systems that provide at least 4-log treatment of viruses (using inactivation, removal, or a State-approved combination of 4-log virus inactivation and removal) before or at the first customer are required to conduct compliance monitoring to demonstrate treatment effectiveness, as described in § 141.403(b).

(5) If requested by the State, ground water systems must provide the State with any existing information that will enable the State to perform a hydrogeologic sensitivity assessment. For the purposes of this subpart, “hydrogeologic sensitivity assessment” is a determination of whether ground water systems obtain water from hydrogeologically sensitive settings.