

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

PART Env-Wq 304 CERTIFICATION OF WASTEWATER TREATMENT PLANT OPERATORS

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PART Env-Wq 304 CERTIFICATION OF WASTEWATER TREATMENT PLANT OPERATORS

Statutory Authority: RSA 485-A:5-a; RSA 485-A:6, XI and XI-b; RSA 485-A:7-a;
RSA 485-A:7-b; RSA 485-A:7-c; RSA 485-A:7-d; RSA 486:9;
RSA 486:10, III

REVISION NOTE:

Document #10392, effective 8-1-13, readopted with amendments and renumbered former Part Env-Ws 901 titled “Certification of Wastewater Treatment Plant Operators” under a new subtitle as Part Env-Wq 304. The redesignation from subtitle Env-Ws to subtitle Env-Wq 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.

Document #10392 replaces all prior filings for rules formerly in Env-Ws 901. The prior filings for rules in former Env-Ws 901 include the following documents:

- #1774, eff 7-15-81
- #2352, eff 4-26-83
- #2851, eff 9-21-84, EXPIRED: 9-21-90
- #6326, INTERIM, eff 9-3-96, EXPIRED: 1-1-97
- #6502, eff 4-25-97
- #8327, eff 4-23-05

Env-Wq 304.01 Purpose. The purpose of these rules is to implement RSA 485-A:5-a, RSA 485-A:7-a, RSA 485-A:7-b, RSA 485-A:7-c, RSA 485-A:7-d, and RSA 486:9, all as reprinted in Appendix C, by requiring operators of wastewater treatment plants to be suitably qualified and have the knowledge and ability to properly operate and maintain such facilities, in order to help assure optimum treatment of all wastewaters prior to discharge to surface waters or groundwaters of the state.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.02 Applicability. These rules shall apply to:

- (a) Any individual who applies to be certified as a wastewater treatment plant operator;
- (b) Any individual who is certified as a wastewater treatment plant operator; and
- (c) Any owner of a wastewater treatment plant that requires a surface or groundwater discharge permit pursuant to RSA 485-A:13, I.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.03 Definitions.

- (a) “Advanced treatment” means a process for treating wastewater after secondary treatment to achieve effluent standards that are more stringent than conventional secondary standards, such as by removal of nutrients or metals, or both.
- (b) “Certificate” means “certificate” as defined in RSA 485-A:2, I-a, as reprinted in Appendix B.
- (c) “Certification committee” means “certification committee” as defined in RSA 485-A:2, I-b, as reprinted in Appendix B.
- (d) “Continuing education unit (CEU)” means 10 hours of participation in an organized continuing education experience that qualifies under Env-Wq 304.19.

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(e) “Department” means the department of environmental services.

(f) “Operating experience” means satisfactory performance or supervision of operation duties at a wastewater treatment plant, or equivalent related qualifying experience as described in Env-Wq 304.08(a) - (c), as appropriate for the level of certification sought.

(g) “Operator” means “operator” as defined in RSA 485-A:2, VII-a, as reprinted in Appendix B.

(h) “Operator in responsible charge” means the operator who oversees the daily operation of the wastewater treatment facility and is ultimately accountable for decisions involving all plant operational duties, including maintenance of process equipment, laboratory work, equipment operation, administration, process control, record keeping, and reporting necessary for the wastewater treatment plant to comply with applicable federal and state requirements.

(i) “Operator-in-training (OIT)” means an applicant who has met the written examination and education requirements for a particular grade but who has not had sufficient operating experience to meet the full requirements for that grade.

(j) “Population equivalent” means the calculated number of people that would normally contribute an equal amount of 0.2 pound of 5 day, 20°C, biochemical oxygen demand per capita per day.

(k) “Primary treatment” means a process for treating wastewater that is intended to remove settleable and floatable materials.

(l) “Secondary treatment” means a process for treating wastewater that is intended to remove dissolved and suspended biodegradable matter to attain conventional secondary effluent discharge criteria.

(m) “Wastewater facilities” means “wastewater facilities” as defined in RSA 485-A:2, XIX, as reprinted in Appendix B.

(n) “Wastewater residuals” means “septage” as defined in RSA 485-A:2, IX-a and “sludge” as defined in RSA 485-A:2, XI-a, both as reprinted in Appendix B.

(o) “Wastewater treatment plant (plant)” means “wastewater treatment plant” as defined by RSA 485-A:2, XVI-a, as reprinted in Appendix B.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.04 Grades of Wastewater Operator Certification. There shall be 4 grades of operators to parallel the classification of plants described in Env-Wq 304.24, as follows:

- (a) Grade I certified operators shall be qualified to supervise operation of grade I plants;
 - (b) Grade II certified operators shall be qualified to supervise operation of grade II or lower plants;
 - (c) Grade III certified operators shall be qualified to supervise operation of grade III or lower plants;
- and
- (d) Grade IV operators shall be qualified to supervise operation of grade IV or lower plants.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.05 Operator-in-Training Status.

(a) There shall be an operator-in-training (OIT) status for each grade of wastewater operator certification.

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(b) Eligibility criteria for each OIT grade shall be identical to that for the full certification grade to which the OIT correlates, except that applicants may take the written exam for a particular grade with less operating experience than required for that full grade.

(c) Operators holding an OIT certificate shall be allowed to be in responsible charge of a plant that is one or more grade classification(s) below the OIT grade certificate held.

(d) Full certification status shall be granted to an OIT after the certification committee receives written verification from the OIT's supervisor that the OIT has completed the operating experience requirement.

(e) An owner may request the certification committee to approve an OIT to be placed in responsible charge of a plant of the same grade, by submitting a written request that explains the reasons why the owner believes the individual is qualified to supervise the plant.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.06 Operator in Responsible Charge - Multiple Plants.

(a) Any operator seeking to be an operator in responsible charge of more than one plant shall request prior approval from the certification committee in accordance with this section.

(b) An operator seeking to be in responsible charge of more than one plant shall submit to the committee a written proposal that includes the following:

- (1) Time to be spent at each plant by the operator in responsible charge;
- (2) Proposed staffing levels and coverage at each plant, including the position title and time to be spent at the plant by each individual staff member;
- (3) A statement of appropriate action and remedial response to be taken during a crisis or emergency;
- (4) The proposed preventive maintenance schedules for the plants; and
- (5) The proposed process control techniques for the plants.

(c) The certification committee shall not approve the submitted proposal unless the committee determines that the proposal:

- (1) Will not jeopardize public health;
- (2) Will not compromise the proper operation and maintenance of the plants; and
- (3) Will not result in a violation of water quality standards or plant effluent criteria.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.07 Summary of Operator Certification Requirements. To qualify for certification, an applicant shall:

(a) Pass the written examination as provided in Env-Wq 304.14 or be granted reciprocity as specified in Env-Wq 304.21; and

(b) Meet the minimum operating experience and education requirements specified in Table 304.1, below, as explained in Env-Wq 304.08 and Env-Wq 304.09, respectively:

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Table 304.1 Operating Experience and Education Requirements

Grade	Operating Experience (years)	Education
I OIT	0	High School Graduate or HSE Certificate
I	1	High School Graduate or HSE Certificate
II OIT	1	High School Graduate or HSE Certificate
II	3	High School Graduate or HSE Certificate
III OIT	2	High School Graduate or HSE Certificate plus 2 years
III	4	High School Graduate or HSE Certificate plus 2 years
IV OIT	4	High School Graduate or HSE Certificate plus 2 years
IV	6	High School Graduate or HSE Certificate plus 2 years

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.08 Operating Experience Requirements.

(a) Subject to (b) or (c), below, a minimum of 50% of the operating experience required by Table 304.01 shall be met by actual on-site operating experience at a wastewater treatment plant.

(b) For a Grade II OIT, the entire one-year operating experience requirement may be substituted with a minimum of a one-year certificate in wastewater or environmental technology or an Associate degree in a relevant field such as sanitary engineering, environmental technology or studies, water treatment, wastewater treatment, natural sciences, or non-sanitary engineering disciplines.

(c) Operating experience in either a water treatment plant or industrial wastewater or pretreatment plant of a grade equal to or greater than the wastewater treatment plant operator grade being applied for, shall be substituted for up to 75% of the on-site experience requirement specified in (a), above.

(d) An applicant may request one or more of the following substitutions for the remaining 50% of the operating experience required by Table 304.01:

- (1) Experience in a related utility division or trade, such as wastewater collections, water distribution, plumbing, electrical, pipe fitting, instrumentation, laboratory, utility construction, utility design, engineering, facilities maintenance and management, and public works;
- (2) Relevant post-high school education on a year-for-year basis;
- (3) Specialized operator training courses, seminars, workshops, and technical conferences which are relevant to the wastewater industry, provided the calculation shall be based on CEUs in accordance with Env-Wq 304.19.

(e) Education applied in substitution for any stated experience requirements shall not also be applied to the education requirement.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.09 Education Requirements.

(a) The education requirement for Grade I and Grade II shall be a high school diploma or high school equivalency certificate (HSE certificate).

(b) The education requirement for Grade III and Grade IV shall be a high school diploma or HSE certificate and 2 years of relevant post-high school education, as described in (c) through (e), below.

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(c) Relevant post-high school education shall include the following:

(1) For programs in sanitary engineering, environmental technology or science, water treatment, or wastewater treatment, a bachelor's degree shall be counted as 4 years of relevant education and an associate's degree shall be counted as 2 years of relevant education; and

(2) For programs in other relevant technical and scientific disciplines, such as natural sciences and non-sanitary engineering, a bachelor's degree shall be counted as 3 years of relevant education and an associate's degree shall be counted as 1.5 years of relevant education.

(d) Partial credit toward relevant post-high school education requirements shall be allowed for academic work or vocational training, as follows:

(1) Any bachelor's degrees other than those listed in (c), above, shall be counted as 2 years of relevant education; and

(2) Any associates degree of other than those listed in (c), above shall be counted as one year of relevant education.

(e) Incomplete degree programs shall be counted as described in (f), below.

(f) Each 30 semester hours or 45 quarter hours of credits earned in programs listed in (c), above, shall be considered the equivalent of one year of post-high school education.

(g) The applicant may request substitutions for required education based on the following criteria:

(1) 2 years of operating experience may be substituted for one year of the post-high school education requirement for Grades III and IV and III OIT and IV OIT;

(2) Operating experience applied in substitution for any education requirement shall not also be applied to the experience requirement; and

(3) Specialized operator training courses, seminars, workshops, and approved technical conferences may be substituted for post-high school education without limitation, in accordance with (f), above.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.10 Application for Certificate.

(a) As required by RSA 485-A:7-a, I, any individual seeking certification as an operator shall file an application with the certification committee at least 6 weeks preceding the date of the examination on a form provided by the department.

(b) The application shall require the applicant to provide the following:

(1) The information and documents required by Env-Wq 304.11; and

(2) The application fee specified by RSA 485-A:7-a, II.

(c) The applicant shall sign the application as specified in Env-Wq 304.12.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.11 Information Required For Application. The applicant shall provide the following on or with the application form:

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- (a) Applicant's name, home mailing address, home and business telephone numbers, and, if available, an email address;
- (b) Applicant's date of birth;
- (c) For each current wastewater operator certification held by the applicant, the following:
 - (1) The state that issued the certification;
 - (2) The grade of the certificate;
 - (3) The number of the certificate;
 - (4) The date the certificate was issued; and
 - (5) Whether the certificate was achieved by examination;
- (d) Whether the application is for reciprocity;
- (e) The grade level applied for;
- (f) Whether the applicant is requesting any education or experience substitutions;
- (g) Applicant's educational background, as follows:
 - (1) The highest year of high school completed and the name and location, by town and state, of the high school;
 - (2) The year of high school graduation or date of HSE certificate, as applicable;
 - (3) The number of years of post-high school education completed, including whether an associate's or bachelor's degree was earned, major, minor if any, the name and location of the educational institution by town and state, and the year of graduation, if any;
 - (4) If requesting additional education to be applied toward experience requirement, the title, name and location of educational institution, date completed, and number of credits awarded for each such course;
 - (5) Proof of high school graduation or HSE certificate, if no post-high school education has been attained; and
 - (6) Proof of post-high school education in the form of transcripts or certificates of course completion;
- (h) Applicant's experience history for wastewater-related employment with the most recent experience listed first, including for each position held the name and address of the employer, the type of facility including treatment and solids handling units, the position title, the name and title of the supervisor for that position, a complete description of duties, whether the employment was full or part time, and, if part time, the average number of hours worked per week;
- (i) Verification of experience by signature of either the operator in responsible charge or permittee; and
- (j) The names, addresses and daytime telephone numbers of 2 references who are not related to the applicant and who have knowledge of the applicant's character, experience, and abilities.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

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Env-Wq 304.12 Signature Required.

(a) An applicant for certification, certification renewal, reciprocal certification, or retesting shall sign and date the application form.

(b) The applicant's signature shall constitute certification that:

(1) The information on the application form is true, complete, and not misleading to the best of the applicant's knowledge;

(2) The applicant understands that:

a. The submission of false, incomplete, or misleading information is grounds for denying the application or revoking any certification that is issued based on the information; and

b. That he or she is subject to the penalties specified in RSA 641:3, as reprinted in Appendix C, for making unsworn false statements; and

(3) If certification is granted, the applicant agrees to comply with Env-Wq 304.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.13 Application Processing.

(a) The certification committee shall review applications and supporting documents to determine whether the minimum criteria specified in Env-Wq 304.07 have been met such that the applicant is eligible to take the examination or is eligible for reciprocal certification.

(b) The certification committee shall notify the applicant of his/her eligibility status in writing. If the committee determines that the applicant has not met the requirements, the written notification shall specifically identify the reason(s) for the determination.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.14 Examinations.

(a) The certification committee shall prepare the written examination required by RSA 485-A:7-b to be used in determining operator knowledge, ability, and judgment in each grade of operator classification.

(b) The department shall administer written examinations at least twice each year at places and times set by the certification committee.

(c) A score of 70% correct or higher shall be required to pass the written examination.

(d) The certification committee shall notify each applicant who completes a written examination of the test results as soon as practicable but no later than 90 days following the examination.

(e) Any applicant who fails to pass the written examination may, as provided in RSA 485-A:7-a, III, take one retest at the same certification level at no additional cost. Subject to (f) and (g), below, an applicant shall take the retest at one of the next 2 scheduled examinations following the examination the applicant failed.

(f) If an applicant is unable to take the retest at one of the next 2 scheduled examinations, the applicant may request the certification committee to allow the applicant to take a retest at a later date by submitting a written request that states the reason(s) why the applicant was unable to take the retest as required by (e), above.

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(g) The certification committee shall allow the applicant to take the retest at a later examination if the committee determines that the applicant was prevented by reasons that were beyond the control of the applicant from taking the retest as provided in (e), above.

(h) Any applicant who wishes to take a retest pursuant to (e), above, shall:

(1) Provide, on or with an application form obtained from the department, the information required in:

a. Env-Wq 304.11(a) - (e); and

b. Env-Wq 304.11(f) - (j) if any of the information has changed from the original application; and

(2) Sign the application as specified in Env-Wq 304.12.

(i) Any applicant who fails to pass a written examination may make arrangements with the certification committee to review the applicant's written examination at the department's office, provided the review occurs more than 60 days preceding the date of the applicant's retest.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.15 Meeting with Certification Committee Required.

(a) Subject to (b), below, each applicant who meets all requirements for a grade II or II-OIT or higher certification, whether by examination or reciprocity, shall meet with the certification committee prior to receiving certification.

(b) An operator previously certified in New Hampshire who has met with the committee shall not be required to meet with the committee again when certified at a higher grade.

(c) An applicant who meets all requirements for a grade I certification who knows at the time of certification that he or she will be the operator in responsible charge at a plant in New Hampshire shall meet with the certification committee prior to receiving certification.

(d) An operator holding a grade I certification who is designated as the operator in responsible charge pursuant to Env-Wq 304.29(b)(1) shall contact the certification committee within 10 working days of being so designated to schedule a meeting with certification committee, if the operator has not already met with the committee pursuant to (c), above.

(e) An operator holding a grade I certification who is designated as a back-up certified operator pursuant to Env-Wq 304.29(b)(2) shall include a request to meet with the certification committee in the notice provided pursuant to Env-Wq 304.26(c).

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.16 Issuance, Display, and Duration of Certificates.

(a) The department shall issue to each applicant who passes the written examination and meets with the certification committee a certificate designating the grade of treatment for which the operator is qualified upon determining that:

(1) The applicant possesses the minimum education and experience requirements for the specified grade; and

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(2) No evidence has been presented to the certification committee that would constitute grounds for suspending, revoking, or refusing to renew a certification as specified in Env-Wq 304.22.

(b) The certificate shall be prominently displayed in the office of the wastewater treatment plant at which the operator is employed.

(c) As specified in RSA 485-A:7-c, I, a certificate issued pursuant to these rules shall be valid for 2 years from the date of issuance.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.17 Certification Renewal.

(a) As provided in RSA 485-A:7-c, II, certificates may be renewed.

(b) An operator wishing to renew his or her certification shall file the following with the committee as specified in (d), below:

(1) The information specified in (e), below, on or with a form provided by the department; and

(2) The renewal fee specified by RSA 485-A:7-c, II.

(c) The applicant shall sign the application as specified in Env-Wq 304.12.

(d) The application for renewal shall be:

(1) Delivered to the department no later than one state business day before expiration of the certification; or

(2) Postmarked no later than one day before expiration of the certification.

(e) The information required by (b)(1), above, for certification renewal shall be as follows:

(1) Applicant's name, mailing address, daytime telephone number, and, if available, an email address;

(2) The number, grade, and expiration date of the current certification;

(3) The name of the plant where the applicant is currently employed, if any;

(4) Applicant's present title;

(5) Copies of transcripts or certificates for all education the applicant has completed within the 2-year period preceding the expiration of the certificate to demonstrate compliance with the continuing education requirement specified in Env-Wq 304.18(a);

(6) Whether the operator is certified in any other jurisdiction; and

(7) Whether the operator's certification, whether from New Hampshire or another jurisdiction, has ever been suspended or revoked and, if so, whether it has been reinstated or reacquired, as applicable.

(f) Failure of the operator to file an application for renewal as specified in (b) through (e), above, shall result in the provisional expiration of the operator's certification, subject to reinstatement if the operator submits a renewal application within 90 days after the expiration date of the certification together with a late fee of 50% of the renewal fee, as provided in RSA 485-A:7-c, II. The certification committee shall notify the operator and the operator's employer, if any, of the expiration of the certification in writing.

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(g) Any operator whose certification has expired who fails to submit a renewal application as specified in (e), above, but who wishes to obtain certification shall apply for certification by submitting an application in accordance with Env-Wq 304.10 and taking the written examination as required by Env-Wq 304.14.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.18 Continuing Education Required.

(a) Subject to (b), below, for certification renewal, the operator shall acquire not less than the number of CEUs specified in Table 304.2, below in the relevant field during the 2-year period immediately prior to the expiration date of the certificate:

Table 304.2: CEU Requirements for Certificate Renewal

Operator Grade	Number of CEUs Required
I and I-OIT	1
All grades except I and I-OIT	2

(b) If more than the minimum number of CEUs required are earned, then:

- (1) A grade I or I-OIT operator may carry forward one-half CEU; and
- (2) An operator of any grade except I and I-OIT may carry forward one CEU.

(c) No operator shall carry any CEU forward beyond the renewal period immediately following the renewal period in which it was earned.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.19 Continuing Education Units.

(a) CEUs shall be determined as follows:

- (1) The CEU value of each training course, seminar, workshop, and technical conference that is relevant to the wastewater industry, as stated in Env-Wq 304.09, shall be determined on the basis of 1 CEU per 10 course hours;
- (2) Each block of 45 CEUs shall be equivalent to one year of post-high school education; and
- (3) Each 1.5 CEUs shall be equivalent to one college credit.

(b) To qualify for CEU credit, a program shall be:

- (1) Offered by the department;
- (2) Offered by a state-wide or regional professional association of wastewater treatment professionals; or
- (3) Approved by the department pursuant to Env-Wq 304.20.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

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Env-Wq 304.20 Approval of Courses for CEU Credit.

(a) An organization that wishes to offer courses for CEU credit in New Hampshire shall apply to the department by submitting the following in writing:

(1) A description of the organization, including:

- a. The organization's name, mailing address, and daytime telephone number; and
- b. If the organization is required by RSA 292, RSA 293, RSA 293-A, or other applicable provision of New Hampshire law to register with the New Hampshire secretary of state, proof of being registered and in good standing to do business in New Hampshire.

(2) The name, mailing address, daytime telephone number, and email address of an individual at the organization who can be contacted regarding the application; and

(3) A complete description of each course for which the organization is seeking approval, including:

- a. The name of the course;
- b. The name and qualifications of each individual who will present the course;
- c. The length of time attendees of the course will be under the direct supervision of the instructor;
- d. A syllabus for the course and the written materials to be used in the course, if any;
- e. The method to be used to evaluate attendees at the conclusion of the course, if any;
- f. The number of CEUs to be awarded as a result of successful completion of the course; and
- g. The format the organization will use to provide the transcript(s) or certificate(s) required by Env-Wq 304.17(e)(5).

(b) The department shall review applications submitted pursuant to (a), above, within 45 days of receiving a complete application.

(c) The department shall approve a course for CEU credit if the information submitted demonstrates that the course is at least equivalent to a course that would be offered by the department on the same or a similar topic.

(d) The department shall notify the applicant of its decision in writing. If the application is denied, the department shall specify the reason(s) for the denial in the written notice.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.21 Reciprocity Applications.

(a) As provided in RSA 485-A:7-c, III, an applicant may request the certification committee to waive the requirement for a written examination and request reciprocity if he or she has been certified as a wastewater treatment plant operator by the appropriate certification agency of any federal, state, interstate, territorial, or other jurisdiction.

(b) A request for reciprocity certification shall be made by submitting the following to the certification committee in writing:

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- (1) A completed application, as specified in Env-Wq 304.10;
 - (2) A copy of the certificate upon which the waiver request is based;
 - (3) A statement that certificate was obtained by examination and has not been suspended or revoked or, if it was suspended or revoked, that it has been reinstated or reacquired, as applicable; and
 - (4) A copy of the official regulations, rules, guidelines, or other written criteria of the jurisdiction which issued the certificate.
- (c) The applicant shall sign the application as specified in Env-Wq 304.12.
- (d) Subject to (e), below, the certification committee shall grant the request and waive the requirement for a written examination if the committee determines that:
- (1) The certificate from the other jurisdiction is still valid;
 - (2) The applicant obtained the certification by taking a written examination;
 - (3) The applicant has not had a New Hampshire certification revoked; and
 - (4) As specified in RSA 485-A:7-c, III, the certification requirements of the jurisdiction granting such certification do not conflict with these rules and are not less stringent than these rules.
- (e) No reciprocity certification shall be issued for grade IV or grade IV-OIT certificates.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.22 Suspension, Revocation, or Refusal to Renew Certificate.

- (a) After issuing a certificate or receiving a request for renewal of a certificate, if the committee receives information which indicates that cause, as defined in (c), below, exists to suspend, revoke, refuse to renew, or conditionally renew the certificate, the committee shall proceed in accordance with RSA 541-A:30.
- (b) After initiating a proceeding under (a), above, the committee shall determine whether to suspend, revoke, refuse to renew, or conditionally renew the certificate as specified in Env-Wq 304.23 through Env-Wq 304.25.
- (c) Cause to suspend, revoke, refuse to renew, or conditionally renew a certificate shall include the following;
- (1) Failing to use reasonable care, judgment, and application of his/her knowledge in the performance of his/her duties;
 - (2) Taking action(s) or failing to take action(s) relating to the collection, transportation, storage, or treatment of any wastewater in such a way as to jeopardize public health, compromise the proper operation and maintenance of a plant, or result in a violation of water quality standards or wastewater effluent criteria;
 - (3) Obtaining or assisting another to obtain a certificate through fraud, deceit, or falsification;
 - (4) Submitting false or misleading information regarding any application for certification or renewal;
 - (5) Submitting false or misleading operational documentation relating to the performance and monitoring requirements of a plant;

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(6) Failing to submit required operational documentation to appropriate regulatory agencies in a timely manner; and

(7) Failing to comply with an order of the department relative to the management of wastewater or wastewater residuals.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.23 Revocation of Certificate; Refusal to Renew Certificate.

(a) In any proceeding initiated pursuant to Env-Wq 304.22, the committee shall revoke or refuse to renew the certificate, as applicable, if the committee determines that:

(1) The underlying cause for the action cannot be corrected to conform to applicable requirements;

(2) The operator's conduct caused harm or posed a substantial threat of harm to public health or the environment;

(3) The operator does not acknowledge the severity of his or her conduct, shows no remorse, or otherwise exhibits a disregard for the wastewater operator certification program; or

(4) The operator is a chronic violator as defined in Env-C 209.

(b) An individual whose operator certification has been revoked or refused renewal pursuant to (a), above, shall not be eligible to submit an application under Env-Wq 304.10 to become a certified operator in New Hampshire unless and until the individual has submitted a written request that has been approved by the certification committee as specified in (c) through (f), below.

(c) No sooner than 3 years from the date the certification was revoked or refused renewal, the individual seeking to apply for certification shall submit a written request to the committee requesting that he or she be allowed to take the certification exam.

(d) The request filed pursuant to (c), above, shall demonstrate that the individual:

(1) Understands the seriousness of the offense(s);

(2) Has taken responsibility for his or her actions; and

(3) Has taken courses or otherwise engaged in education relating to wastewater operations at a rate of 10 hours for each year since the certificate was revoked or refused renewal.

(e) The committee shall approve the request to apply only if the committee determines, based on the information provided pursuant to (d), above, that the individual is not likely to repeat the action(s) that caused his or her certificate to be revoked or refused renewal.

(f) The committee shall notify the individual in writing of its decision. If the committee denies the request to apply, the notice shall specify the reason(s) for the committee's determination.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.24 Suspension of Certificate.

(a) In any proceeding initiated pursuant to Env-Wq 304.22, the committee shall suspend the certificate, subject to (b) and (c), below, if the committee determines that:

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(1) The underlying cause for the action can be corrected to conform to applicable requirements; and

(2) The operator's conduct does not meet the criteria for revoking the certification specified in Env-Wq 304.23(a).

(b) If the committee determines that the operator would benefit from additional continuing education, the committee shall include as a condition of the suspension that the operator obtain the additional continuing education prior to requesting reinstatement pursuant to (c), below.

(c) If a certificate is suspended pursuant to (a), above, the committee shall not reinstate the certificate until:

(1) The underlying cause for the action has been corrected to conform with applicable requirements;

(2) Any conditions established under (b), above, have been met; and

(3) The certificate holder submits a written request to the committee requesting that the certificate be reinstated which includes such documentation as is necessary to demonstrate that any conditions established under (b), above, have been met.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.25 Conditional Renewal of Certificate. In any proceeding initiated pursuant to Env-Wq 304.22 relative to an application to renew a certificate where the criteria for refusing to renew the certificate specified in Env-Wq 304.23(a) are not met but the committee determines that at least one of the underlying causes for the action has been proved, the committee shall renew the certificate subject to the following conditions:

(a) The operator shall take such action(s) as may be required to remedy the underlying cause(s) for the action; and

(b) The operator shall take such additional continuing education as the committee determines is needed to help ensure that the operator will not repeat the conduct that caused the committee to consider refusing to renew the certification.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.26 Certified Operator Notification Responsibilities.

(a) Each operator who receives certification pursuant to these rules shall maintain a current mailing address, daytime telephone number, and email address, if available, on file with the certification committee, at least one of which shall be for the operator personally rather than for the operator's employer.

(b) All communications issued by or at the direction of the certification committee that are sent to the operator's last address of record shall be presumed to have been received by the operator.

(c) An operator shall notify the certification committee in writing upon being designated as a back-up operator in responsible charge or being terminated from such a position.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

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Env-Wq 304.27 Classification and Reclassification of Wastewater Plants.

(a) The department shall classify each wastewater treatment plant into one of 4 grades based on the complexity and flow capacity of the plant’s processes, ranging from grade I, the lowest, to grade IV.

(b) The classification shall be determined by summing the applicable points from Env-Wq 304.28, as follows:

- (1) Plants with 30 or fewer points shall be grade I;
- (2) Plants with 31-55 points shall be grade II;
- (3) Plants with 56-75 points shall be grade III; and
- (4) Plants with greater than 75 points shall be grade IV.

(c) The department shall re-evaluate a plant’s classification whenever it learns of changes to the plant that may affect its grade, including:

- (1) System upgrades;
- (2) Process changes; or
- (3) Changes in effluent discharge requirements, laboratory processes or control, receiving water classification, water quality criteria, or increased treatment requirements.

(d) If as a result of a reevaluation the department changes the grade of a plant, the department shall notify the owner in writing of the change. If the change is to a higher grade, the wastewater treatment plant owner shall designate a properly certified operator pursuant to Env-Wq 304.29(a) within one year from the receipt of notification from the department.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.28 Classification Points for Wastewater Treatment Plants. Classification points for wastewater treatment plants shall be assigned in accordance with Table 304.3:

Table 304.3 Point System for the Classification of Wastewater Treatment Plants

Item	Points
<u>Size</u>	
For industrial plants only, maximum population equivalent (pop.eq.) served, peak day	1 per 10,000 pop.eq. or part thereof
For all other plants, the larger of design flow (avg. day) or peak month’s flow (avg. day) in gallons per day (GPD)	0.1 per 100,000 GPD
<u>Effluent Discharge</u>	
Receiving stream sensitivity. Primary consideration is the degree of dilution provided under low flow conditions. Point values are:	1-6
“Effluent limited segment” in EPA terminology; secondary treatment is adequate	1
More than secondary treatment is required	2
“Water quality limited segment” in EPA terminology; stream conditions are very critical (dry run, for example) and a very high degree of treatment is required	3
Effluent used in direct recycle and reuse system	6
Land disposal - evaporation	2
Subsurface disposal	5
Rapid infiltration basins	6

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Item	Points
<u>Variation in Raw Wastes</u> (slight to extreme), including industrial discharge connections. Primary consideration is frequency or intensity of deviation or excessive variation from normal or typical fluctuations; such deviation can be in terms of strength, toxicity, shock loads, I/I, etc. Point values are:	0-6
Variations do not exceed those normally or typically expected	0
Recurring deviations or excessive variations of 100 to 200 percent in strength and/or flow	2
Recurring deviations or excessive variations of more than 200 percent in strength and/or flow	4
Raw wastes subject to toxic waste discharges	6
<u>Pretreatment</u>	
Screening, comminution	3
Grit removal	3
Influent flow equalization	1
Plant pumping of main flow	3
<u>Primary Treatment</u>	
Primary clarifiers	5
Combined sedimentation/digestion	5
Chemically enhanced primary treatment	7
<u>Secondary Treatment</u>	
Activated sludge with secondary clarifiers (including extended aeration, sequencing batch reactors & oxidation ditches)	15
Stabilization ponds without aeration	5
Aerated lagoon	8
Sand filters	5
Fixed film media system	10
Subsurface disposal	5
Rapid infiltration basins	6
Overland flow	6
<u>Advanced Treatment</u>	
Polishing pond	2
Chemical/physical, including ballasted treatment	12
Biological or chemical/biological	12
Ion exchange	10
Reverse osmosis or membrane filtration	15
Chemical recovery, carbon regeneration	4
Spray irrigation	8
Overland flow	6
Filtration	8
<u>Solids Handling</u>	
Mechanical thickening	5
Anaerobic digestion	10
Aerobic digestion	6
Evaporative sludge drying	2
Mechanical dewatering	8
Solids reduction (incineration, wet oxidation)	12
Composting	7
Lime stabilization	5
Septage receiving	1

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Item	Points
<u>Disinfection</u>	
Chlorination or comparable	5
On-site generation of disinfectant	5
Dechlorination	5
Ultraviolet	5
<u>Effluent post aeration</u>	2
<u>Effluent flow equalization</u>	1
<u>Odor Control</u> . Primary consideration is complexity of odor control system operation and maintenance. Point values are:	0-2
Soil or carbon filters or equivalent	1
Chemical/wet scrubber systems or equivalent	2
<u>SCADA System</u>	1
<u>Laboratory Control by Plant Personnel</u> . Primary consideration is complexity of lab work done by plant personnel. Point values are:	0-10
Push button or visual methods for simple tests such as pH, chlorine residual, settleable solids	1
Standard procedures such as DO, COD, BOD, TSS, gas analysis, filtrations, solids, volatile content, nutrients, bacteriological analysis (membrane filter, MPN, <u>E. coli</u> , fecal coliform, <u>Enterococci</u>)	3
More advanced determinations, such as total oils, phenols, metals	5
Biological identification	7
Virus studies or similarly complex work conducted on site	10
Highly sophisticated instrumentation such as atomic absorption and gas chromatography	10

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.29 Wastewater Treatment Plant Owner Responsibilities.

- (a) As specified in RSA 485-A:5-a, wastewater treatment plants shall be operated only by certified operators.
- (b) Each wastewater treatment plant owner that is subject to these rules shall designate:
 - (1) An individual to be the operator in responsible charge who is certified in the grade equal to or greater than the classification of the plant; and
 - (2) An individual to be the back-up certified operator available to be in responsible charge of the plant in the absence of the usual certified operator in responsible charge, who is certified in a grade no more than one grade lower than the grade of the facility or an OIT certificate in the grade of the facility, provided that in the case of a grade I plant, the back-up operator shall hold a grade I certificate or higher.
- (c) The wastewater treatment plant owner shall notify the certification committee of the following within 10 working days:
 - (1) The name of the individual designated to be the operator in responsible charge; and
 - (2) Any termination of the operator in responsible charge.
- (d) A notification required by (c), above, may be made by email, fax, or letter.

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(e) The wastewater treatment plant owner shall hire a replacement for the operator in responsible charge or the back-up operator, as applicable, as soon as practicable after a termination occurs, taking into consideration:

(1) The owner's personnel code or other applicable requirements, including but not limited to the terms of any collective bargaining agreement extant in the municipality relative to hiring and promotions; and

(2) The public interest in an open competitive recruitment process for selection of qualified public employees.

(f) The committee shall give temporary approval for a wastewater treatment plant owner to hire an operator one grade below the required grade upon written request to the committee, provided the operator is qualified to take, and does take, the next scheduled examination in the next highest grade. If the operator does not pass the examination, the temporary approval shall be extended to allow one retest at the next scheduled examination.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.30 Penalties.

(a) Failure to have a certified operator in responsible charge shall be deemed to be a failure to provide proper and efficient operation and maintenance of a plant as required by RSA 486:8.

(b) Any person who is subject to these rules shall be subject to the enforcement and penalty provisions as set forth in RSA 485-A:22.

(c) Any plant that is subject to these rules for which the owner has received funds pursuant to RSA 486 shall be subject to the enforcement and penalty provisions as set forth in RSA 486.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.31 Certification Committee.

(a) The department shall implement its responsibilities relative to certifying wastewater treatment plant operators through a certification committee comprised of 3 department personnel and 2 individuals who are not employed by the department.

(b) The 3 department personnel shall be designated by the director of the department's division of water.

(c) The remaining 2 members of the committee shall be elected by the New Hampshire Water Pollution Control Association as specified in RSA 485-A:2, I-b, provided that the individuals elected shall hold current New Hampshire wastewater treatment plant operator certifications as per these rules.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

Env-Wq 304.32 Waivers.

(a) The purpose of this section is to accommodate situations where strict compliance with all rules in this part may not be the best outcome in light of the particular circumstances of the situation.

(b) Anyone who wishes to obtain a waiver of one or more specific requirements of this part shall file a written request that contains the information specified in (c), below, and is signed as specified in (d), below.

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(c) The information required by (b), above, shall be as follows:

- (1) The name, daytime telephone number and, if available, fax number and e-mail address of the person who is requesting the waiver (requestor);
- (2) If the requestor is not an individual, the name, daytime telephone number and, if available, fax number and e-mail address of each individual who has been authorized by the requestor to discuss the request with the department (authorized representative);
- (3) If the requestor is a certified operator, the certification number as shown on the certificate issued pursuant to Env-Wq 304.16(a);
- (4) If applicable, the name, location, and EPA ID number of the plant to which the waiver request relates or at which the operator works;
- (5) A reference to the specific section of the rules for which a waiver is sought;
- (6) A full explanation of why a waiver is being requested, including an explanation of the economic and operational consequences of complying with the rule as written;
- (7) A full explanation with supporting data of the alternative(s), if any, proposed to be implemented or used in lieu of the requirement in the rule;
- (8) An explanation of how long the waiver will be needed; and
- (9) A full explanation of why the requestor believes the request meets the criteria specified in (f), below.

(d) The requestor shall sign and date the waiver request. Such signature shall constitute certification that the information submitted in support of the request is true, complete, and not misleading to the best of the signer's knowledge, and that the signer understands that he or she is subject to the penalties specified in RSA 641:3, as reprinted in Appendix C, for making unsworn false statements in support of the request.

(e) Within 5 working days of receipt of a complete, signed request, the department shall forward a copy of the request to each member of the certification committee with a request for comments.

(f) The department shall issue a written response to a complete, signed request for a waiver within 45 days of receipt of the request. If the department denies the request, the reason(s) for the denial shall be clearly stated in the written response.

(g) The department shall deny a waiver unless the submitted request demonstrates that:

- (1) The requirement for which a waiver is requested is not a statutory requirement;
- (2) Granting a waiver will not jeopardize public health or safety or the environment;
- (3) The adverse operational and economic consequences of complying with the rule as written outweigh any benefit to be obtained from complying with the rule as written; and
- (4) Granting a waiver will not contravene the intent of these rules.

(h) The department shall:

- (1) Identify in the waiver the date on which the waiver expires, if any; and
- (2) Include in the waiver any conditions necessary to ensure that the criteria specified in (g), above, are met.

Source. (See Revision Note at part heading for Env-Wq 304) #10392, eff 8-1-13

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Appendix A - Statutes Implemented

Rule Section(s)	State Statute(s) Implemented
Env-Wq 304 (also see specific sections below)	RSA 485-A:5-a; RSA 485-A:7-a; RSA 485-A:7-b; RSA 485-A:7-c; RSA 485-A:7-d; RSA 486:9
Env-Wq 304.07 – Env-Wq 304.09	RSA 486:9
Env-Wq 304.10 – Env-Wq 304.13	RSA 485-A:7-a, I & II
Env-Wq 304.14	RSA 485-A:7-a, III; RSA 485-A:7-b
Env-Wq 304.16	RSA 485-A:7-c, I
Env-Wq 304.17– Env-Wq 304.20	RSA 485-A:7-c, II
Env-Wq 304.21	RSA 485-A:7-c, III
Env-Wq 304.22	RSA 485-A:7-d

Appendix B - Statutory Definitions

RSA 485-A:2

I-a. “Certificate” means a certificate of competency issued by the department stating that the operator has met the particular requirements established by the department for certification at each level of operation.

I-b. “Certification committee” means those persons designated by the commissioner, and those persons elected by the New Hampshire Water Pollution Control Association to serve as the review committee for certification of wastewater treatment plant operators.

VII-a. “Operator” means:

- (a) The individual who has full responsibility for the daily operation of a wastewater treatment plant or a pollution control facility;
- (b) The individual normally responsible for the operations shift; or
- (c) Individuals who perform important operating functions.

IX. “Person” means any municipality, governmental subdivision, public or private corporation, individual, partnership, or other entity.

IX-a. “Septage” means material removed from septic tanks, cesspools, holding tanks, or other sewage treatment storage units, excluding sewage sludge from public treatment works and industrial waste and any other sludge.

X. “Sewage” means the water-carried waste products from buildings, public or private, together with such groundwater infiltration and surface water as may be present.

XI-a. “Sludge” means the solid or semisolid material produced by water and wastewater treatment processes, excluding domestic septage; provided, however, sludge which is disposed of at solid waste facilities permitted by the department shall be considered solid waste and regulated under RSA 149-M.

XIV. “Surface waters of the state” means perennial and seasonal streams, lakes, ponds, and tidal waters within the jurisdiction of the state, including all streams, lakes, or ponds bordering on the state, marshes, water courses, and other bodies of water, natural or artificial.

XVI. “Waste” means industrial waste and other wastes.

XVI-a. “Wastewater treatment plant” means the treatment facility or group of treatment devices which treats domestic or combined domestic and industrial wastewater through alteration, alone or in combination, of the physical, chemical, or bacteriological quality of the wastewater and which dewater and handles sludge removed from the wastewater.

XIX. “Wastewater facilities” means the structures, equipment, and processes required to collect, convey, and treat domestic and industrial wastes, and dispose of the effluent and sludge.

Appendix C: Statutory Provisions Cited

RSA 485-A:5-a Operator Certification Required. – The department shall certify operators of wastewater treatment plants. Wastewater treatment plants shall be operated only by certified operators.

RSA 485-A:6 Rulemaking. – The commissioner shall adopt rules, under RSA 541-A, after public hearing, relative to:

XI. The minimum qualifications for and certification of operators of pollution control facilities.

XI-b. Certification of operators of wastewater treatment plants and revocation and suspension of such certificates as provided in RSA 485-A:7-d.

RSA 485-A:7-a Application; Special Fund. –

I. Any operator of a wastewater treatment plant seeking certification or to increase his level of certification shall file an application with the certification committee at least 6 weeks prior to the next examination date on a form provided by the department.

II. All applications shall be accompanied by a \$50 fee to cover department expenses for conducting the certification program. All fees shall be deposited with the state treasurer and deposited in a special nonlapsing wastewater plant operator certification fund to be used by the department for the administration of this subdivision and for the operation of the department-owned Wastewater Plant Operator Training Center.

III. Any applicant failing the examination shall be allowed one retest at the same certification level at no additional cost to the applicant.

RSA 485-A:7-b Examinations. – The department shall prepare written examinations to determine the knowledge, ability, and judgment of operators. Such examinations shall be administered in accordance with rules adopted by the department pursuant to RSA 485-A:6.

RSA 485-A:7-c Issuance of Certificates. –

I. Upon satisfactory completion by an applicant of the established requirements, the department shall issue to the applicant a suitable certificate designating the applicant's competency. The certificate shall indicate the level of operation for which the operator is qualified. The certificate shall remain in effect for 2 years from the date of issuance.

II. Certificates shall be renewed biennially and shall be accompanied by a \$50 renewal fee, which shall be deposited pursuant to RSA 485-A:7-a, II. If the renewal fee is not submitted within 90 days of the certificate's expiration date, the certified individual's name shall be removed from the current status and the certificate shall be deemed expired. The department shall charge a late fee of 50 percent of the renewal fee in addition to the renewal fee if the renewal is late.

III. Certificates may be issued, upon payment of the \$50 fee, without examination, for a comparable classification to any person actively seeking employment in New Hampshire who holds a certificate issued by the appropriate certification agency of any federal, state, interstate, territorial, or other jurisdiction if, in the judgment of the committee, the certification requirements of the jurisdiction granting such certification do not conflict with the department's rules and are not less stringent than rules adopted under this subdivision. The fee shall be deposited pursuant to RSA 485-A:7-a, II.

RSA 485-A:7-d Revocation. – The department may suspend or revoke the certificate of an operator under rules adopted pursuant to RSA 485-A:6.

RSA 486:9 Operator Certification. – The operators of pollution control facilities shall be certified as to their qualifications and ability to operate said facilities in accordance with rules adopted by the commissioner under RSA 541-A.

RSA 486:10 Rulemaking. – The commissioner may adopt rules under RSA 541-A relative to treatment of wastes by or from industrial and nonindustrial recipients of waste treatment services to establish:

III. Certification criteria for pollution control facilities operators.

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RSA 641:3 Unsworn Falsification. – A person is guilty of a misdemeanor if:

I. He or she makes a written or electronic false statement which he or she does not believe to be true, on or pursuant to a form bearing a notification authorized by law to the effect that false statements made therein are punishable; or

II. With a purpose to deceive a public servant in the performance of his or her official function, he or she:

(a) Makes any written or electronic false statement which he or she does not believe to be true; or

(b) Knowingly creates a false impression in a written application for any pecuniary or other benefit by omitting information necessary to prevent statements therein from being misleading; or

(c) Submits or invites reliance on any writing which he or she knows to be lacking in authenticity; or

(d) Submits or invites reliance on any sample, specimen, map, boundary mark, or other object which he or she knows to be false.

III. No person shall be guilty under this section if he or she retracts the falsification before it becomes manifest that the falsification was or would be exposed.