

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

PART Env-Wq 306 STANDARDS FOR MANAGEMENT OF MERCURY-CONTAINING AMALGAM

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PART Env-Wq 306 STANDARDS FOR MANAGEMENT OF MERCURY-CONTAINING AMALGAM

Statutory Authority: RSA 485-A:6, XIII

REVISION NOTE:

Document #10346, effective 5-22-13, readopted with amendments and renumbered former Part Env-Ws 905 titled “Standards for Management of Mercury-Containing Amalgam” under a new subtitle as Part Env-Wq 306. 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 #10346 replaces all prior filings for rules formerly in Env-Ws 905, which consisted of Document #8362, effective 5-28-05.

Env-Wq 306.01 Purpose. The purpose of these rules is to implement RSA 485-A:4, XVIII so as to reduce the discharge of mercury-containing amalgam from dental offices into wastewater.

Source. (See Revision Note at part heading for Env-Wq 306) #10346, eff 5-22-13

Env-Wq 306.02 Applicability.

(a) These rules shall apply to any dental practice where mercury-containing amalgam is applied, altered, maintained, or removed from within the human oral cavity or where mercury-containing amalgam waste is otherwise generated.

(b) These rules shall not apply to orthodontists, periodontists, oral and maxillofacial surgeons, oral pathologists, and oral and maxillofacial radiologists who do not generate mercury-containing amalgam waste.

Source. (See Revision Note at part heading for Env-Wq 306) #10346, eff 5-22-13

Env-Wq 306.03 Definitions. For the purposes of this part, the following definitions shall apply:

(a) “Amalgam separator” means equipment designed to remove amalgam particles from wastewater at a dental practice, so as to reduce the number of amalgam particles and therefore the amount of amalgam entering the sewer system or subsurface sewage disposal system;

(b) “Dental practice” means a business established for the purpose of practicing dentistry, as defined by RSA 317-A:20;

(c) “Department” means the department of environmental services;

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(d) “Hazardous waste rules” means Env-Hw 100-1100; and

(e) “Owner of the practice” means the individual, partnership, corporation, or association who owns the dental practice.

Source. (See Revision Note at part heading for Env-Wq 306)
#10346, eff 5-22-13

Env-Wq 306.04 Amalgam Separator.

(a) Before any dental practice discharges wastewater containing mercury-containing amalgam residues into a sewer system or to a subsurface disposal system, the owner of the practice shall ensure that such wastewaters are treated by an amalgam separator that:

- (1) Subject to (d), below, is certified by the manufacturer as meeting International Organization for Standardization (ISO) 11143:2008(E) standards; and
- (2) Is designed and constructed for the expected volume and flow rate of discharge from the dental practice it serves.

(b) The owner of the practice shall ensure that the amalgam separator is installed, operated, and maintained at the dental practice in accordance with the manufacturer’s requirements.

(c) Waste amalgam collected by an amalgam separator or by any other filter, trap, or other method shall be managed as hazardous wastes in accordance with the hazardous waste rules.

(d) A dental practice that was in operation prior to the 2013 effective date of this part that uses an amalgam separator installed pursuant to Env-Ws 905 which meets the ISO 11143:1999(E) standards may continue to use that separator until such time as the separator is replaced, at which time a separator that meets the 2008 standard shall be installed. For purposes of this paragraph, replacement of a collection container or other part, such as a filter, that is considered routine maintenance shall not require replacement of the entire system.

Source. (See Revision Note at part heading for Env-Wq 306)
#10346, eff 5-22-13

Env-Wq 306.05 Certification.

(a) The owner of the practice who installs or arranges for the installation of an amalgam separator at a dental practice shall certify in writing to the department that an amalgam separator has been properly installed in accordance with this part.

(b) The certification required by (a), above, shall be provided to the department within 30 days of completion of installation.

(c) The certification shall:

- (1) Identify the manufacturer and model of amalgam separator installed;
- (2) Include a written description, which may be a sketch, of the location of the amalgam separator;
- (3) Identify the owner of the practice and the street address of the dental practice at which the amalgam separator was installed; and
- (4) Identify the maximum flow rate the amalgam separator is designed to treat.

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(d) The certification shall be signed by:

- (1) A duly-authorized corporate officer, if the dental practice is a corporation;
- (2) One of the general partners, if the dental practice is a partnership;
- (3) The sole proprietor, if the dental practice is a sole proprietorship; or
- (4) A duly-authorized officer of the association, if the dental practice is a professional association.

Source. (See Revision Note at part heading for Env-Wq 306)
#10346, eff 5-22-13

Env-Wq 306.06 Waivers.

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

(b) Any owner of the practice who wishes to request a waiver of:

- (1) Specific rules in this part shall do so in accordance with (c) and (d), below; or
- (2) The hazardous waste rules shall do so in accordance with Env-Hw 202.

(c) A request for a waiver shall be submitted to the department in writing.

(d) A request for a waiver of specific rules in this part shall include the following information:

- (1) A specific reference to the section of the rule for which a waiver is being sought;
- (2) A full explanation of why a waiver is necessary;
- (3) Detailed information showing how the granting of the waiver is consistent with this part; and
- (4) A technical analysis demonstrating how any proposed alternate technology, device, or technique provides equivalent or better removal of amalgam waste than strict compliance with this part.

(d) If the request for a waiver is incomplete or provides insufficient information to allow the department to make a decision, the department shall ask for additional information to be provided. The owner of the practice requesting a waiver shall supply the additional information within 30 days of request by the department.

(e) The department shall grant a waiver if:

- (1) The proposed alternative technology, device, or technique is adequate to ensure that the purpose of these rules is met and the result provides equivalent or better removal of amalgam waste than strict compliance with this part;
- (2) The amount of amalgam waste generated annually by the practice contains no more than 0.5 grams of mercury; or
- (3) Through the use of evaporation devices or other technologies, the owner of the practice demonstrates that:
 - a. There is no wastewater discharge from any dental chair station; and

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b. There is no connection from any dental chair station or plumbing fixture that might discharge amalgam waste to a sanitary sewer or subsurface sewage disposal system.

(f) A waiver granted under this section shall apply solely to the rule in this part that is waived, and shall not excuse compliance by the alternative technology, device, or technique with any other applicable federal, state, or local requirements.

Source. (See Revision Note at part heading for Env-Wq 306)
#10346, eff 5-22-13

Env-Wq 306.07 Compliance Period. No wastewater shall be discharged from any dental practice unless:

- (a) An amalgam separator has been installed and is operating as per Env-Wq 306.04; or
- (b) A waiver has been obtained in accordance with Env-Wq 306.06.

Source. (See Revision Note at part heading for Env-Wq 306)
#10346, eff 5-22-13

Appendix A

Rule Section(s)	State Statute(s) Implemented
Env-Wq 306 (see also specific section listed below)	RSA 485-A:4, XVIII
Env-Wq 306.06	RSA 541-A:22, IV