

## NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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#### **REVISION NOTE:**

Document #8955, effective 7-26-07, readopted with amendments and redesignated former Chapter Env-Ws 1500 titled Groundwater Discharge Permit and Registration as Env-Wq 402 pursuant to a rules reorganization plan for Department rules approved by the Director of the Office of Legislative Services on 9-7-05.

The prior filings for former Env-Ws 1500 include the following documents:

#6948, eff 2-25-99

#8829, INTERIM, eff 2-25-07

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CHAPTER Env-Wq 400 GROUNDWATER PROTECTION

PART Env-Wq 402 GROUNDWATER DISCHARGE PERMITS AND REGISTRATIONS

Statutory Authority: RSA 485-A:6, VII; RSA 485:3, X

Env-Wq 402.01 Purpose. The purpose of these rules is to implement RSA 485-A:13, I(a) and the permit program for the regulation and remediation of groundwater contamination from previous discharges or disposal of wastewater to groundwater authorized by RSA 485:3, X, by establishing standards, criteria, and procedures for groundwater discharge permits, discharge registrations, and holding tank registrations to prevent pollution and protect groundwater.

Source. (See Revision Note [RN] at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16

Env-Wq 402.02 Applicability. These rules shall apply to:

- (a) Any wastewater discharge onto the ground, into the groundwater, or to a holding tank; and
- (b) Any aquifer recharge that is not stormwater or direct precipitation.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16

Env-Wq 402.03 Definitions.

(a) “Ambient groundwater quality standards (AGQS)” means “ambient groundwater quality standards” as defined in RSA 485-C:2, I, as reprinted in Appendix C.

(b) “Aquifer recharge” means replenishment or recharge of water by human activities to the ground with the specific intent to replenish groundwater.

(c) “Best available technology (BAT)” means the best proven technology, treatment techniques or other means that are commercially available for the treatment of wastewater.

(d) “Cesspool” means an underground pit into which raw sewage or other untreated waste is discharged and from which the liquid seeps or leaches into the surrounding soil. The term includes cesspit or effluent disposal cesspool.

(e) “Contact person” means an individual who can be contacted on behalf of an applicant, registrant, or permittee regarding the application, registration, or permit, respectively.

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

(g) “Discharge” means disposal, addition, placement, or injection of any water, wastewater, septage, or sludge, onto or into the ground or groundwater, including a leak, spill, land treatment, or other intended release.

(h) “Domestic wastewater” means wastewater from human sanitary uses, including but not limited to bathing, clothes washing, and toilets.

(i) “Facility” means a building or location that is built, installed, or established to serve a particular purpose or provide a service that is subject to regulation under RSA 485-A:13.

(j) “Floor drain” means an opening in a floor into which regulated substances might be discharged.

(k) “Fluid” means “fluid” as defined in 40 CFR 144.3, as reprinted in Appendix D.

(l) “Groundwater” means “groundwater” as defined in RSA 485-C:2, VIII, as reprinted in Appendix C.

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(m) “Groundwater contamination” means a violation of groundwater quality criteria as specified in Env-Or 603.

(n) “Groundwater discharge zone” means the subsurface volume in which groundwater contamination associated with the discharge of wastewater is contained.

(o) “Injection well” means “injection well” as defined in 40 CFR 144.3, as reprinted in Appendix D.

(p) “Land application” means the placement of septage or sludge on the ground surface pursuant to a permit obtained under Env-Wq 1600 or Env-Wq 800, respectively, whether or not the material is incorporated or injected in the surface soil.

(q) “Land treatment” means the controlled application of pretreated, domestic wastewater onto land surface to achieve a designed degree of treatment through natural, physical, chemical, and biological processes within the plant-soil-water matrix. Land treatment includes spray irrigation, rapid infiltration, and overland flow systems.

(r) “Lot” means “lot” as defined in RSA 485-A:2, VII, as reprinted in Appendix C.

(s) “Non-domestic wastewater” means a wastewater generated from other than human sanitary uses including, but not limited to, industrial and commercial wastewater, or any combination of non-domestic and domestic wastewater.

(t) “Person” means “person” as defined in RSA 485-A:2, IX, as reprinted in Appendix C.

(u) “Reclaimed water” means water resulting from the treatment of domestic or non-domestic wastewater that is reused for a direct or indirect use that would not otherwise occur, the distribution and discharge of which is accomplished in a controlled and monitored manner.

(v) “Regulated contaminant” means “regulated contaminant” as defined in RSA 485-C: 2, XIII, as reprinted in Appendix C.

(w) “Regulated substance” means any of the following, excluding substances used for the treatment of drinking water or waste water at department-approved facilities:

- (1) Oil as defined in RSA 146-A:2, III;
- (2) Any substance that contains a regulated contaminant for which an ambient groundwater quality standard has been established pursuant to RSA 485-C:6; and
- (3) Any substance listed in 40 CFR 302, 7-1-05 edition.

(x) “Response plan” means proposed action to remove, treat, or contain groundwater contamination.

(y) “Septage” means “septage” as defined in RSA 485-A:2, IX-a, as reprinted in Appendix C. The term includes solids and other material removed from septage lagoons, waste from portable toilets and Type III marine sanitation devices, and grease trap waste that has been co-mingled with wastewater.

(z) “Site” means the physical land, location, or position in relation to the surroundings, on which a facility is located or is to be located.

(aa) “Sludge” means “sludge” as defined in RSA 485-A:2, XI-a, as reprinted in Appendix C.

(ab) “Surface water” means “surface waters of the state” as defined in RSA 485-A:2, XIV, as reprinted in Appendix C.

(ac) “Subsurface disposal system” means an individual sewage disposal system regulated under RSA 485-A:29 through RSA 485-A:44 and Env-Wq 1000.

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(ad) “Unlined lagoon” means a pit or excavation designed or used to receive wastewater, septage, or sludge, that has no barrier to prohibit the downward or lateral flow of the deposited waste, its constituents, or leachate.

(ae) “Wastewater” means a fluid derived from domestic or non-domestic sources that is no longer used for its original intended purpose.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16

Env-Wq 402.04 Groundwater Quality Criteria. Unless due to a natural condition or unless exempt under Env-Wq 402.05, the following criteria shall apply to all groundwaters of the state:

(a) Groundwater shall be suitable for use as drinking water without treatment;

(b) Groundwater shall not contain any regulated contaminant at a concentration greater than the ambient groundwater quality standards in Env-Wq 402.06; and

(c) Groundwater shall not contain any regulated contaminant at a concentration such that the natural discharge of that groundwater to surface water will cause a violation of a surface water quality standard established in RSA 485-A or Env-Wq 1700.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16

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

(a) The groundwater is within a groundwater discharge zone that has been permitted in accordance with Env-Wq 402.23;

(b) The groundwater is within a groundwater management zone that has been permitted in accordance with Env-Or 607; or

(c) The only source of the groundwater contamination is:

(1) Salt and other de-icing chemicals applied for winter road maintenance, provided an active source of drinking water is not made unsuitable for use as drinking water without treatment; or

(2) Residual 1,4-dioxane from any facility that discharges treated wastewater to groundwater, provided:

a. The requirements of Env-Wq 402.251 are met; and

b. An active source of drinking water is not made unsuitable for use as drinking water without treatment.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16; ss by #12553, eff 9-1-18

Env-Wq 402.06 Ambient Groundwater Quality Standards (AGQS).

(a) As specified in RSA 485-C:6, ambient groundwater quality standards (AGQS) shall apply to all regulated contaminants that result from human operations or activities, but not to naturally-occurring regulated contaminants at naturally-occurring levels.

(b) AGQS shall be as set forth in Env-Or 603.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16

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Env-Wq 402.07 Prohibited Discharges. No person shall discharge any of the following to the ground or groundwater:

- (a) Non-domestic wastewater that contains any regulated contaminant and does not receive treatment by best available technology (BAT);
- (b) Non-domestic wastewater that contains any regulated contaminant that exceeds the AGQS;
- (c) Any water, wastewater, or other liquid from a floor drain in an area where any regulated contaminant is used or stored;
- (d) Any water, wastewater, or other liquid that causes an exceedance of any of the surface water quality standards specified in RSA 485-A or Env-Wq 1700;
- (e) Any water, wastewater, or other liquid that causes any chemical or constituent in the subsurface soils or bedrock to be mobilized and cause exceedances of any AGQS;
- (f) Any water, wastewater, or other liquid that, through physical or chemical degradation or transformation, causes an exceedance of any of the groundwater quality criteria set forth in Env-Wq 402 to be violated at any point beyond the boundary of the groundwater discharge zone established pursuant to Env-Wq 402.23; or
- (g) Any water, wastewater, or other liquid that contains medical waste or unused prescription medication.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16

Env-Wq 402.08 Groundwater Discharge Permit Required.

- (a) Any person proposing to undertake any of the following activities shall first obtain a groundwater discharge permit:
  - (1) The construction and operation of an unlined wastewater, septage, or sludge lagoon;
  - (2) Land treatment of wastewater;
  - (3) The discharge onto or into the ground of non-domestic wastewater that contains any regulated contaminant and has received treatment by BAT before discharge;
  - (4) The discharge of domestic wastewater from a subsurface disposal system with a design flow equal to or greater than 20,000 gallons per day;
  - (5) The discharge of domestic wastewater from subsurface disposal systems with aggregate design flows equal to or greater than 1,000 gallons per day (gpd) for a single lot if the minimum nitrate setback distances specified in Table 402-1 are not met, provided that where the setback distances for 2 or more leach fields overlap, the leach fields shall be considered one system and the setback distance shall be determined by the combined flow of the leach fields in accordance with Table 402-1;
  - (6) Construction or operation of a reclaimed wastewater distribution and disposal system; or
  - (7) Construction and operation of an aquifer storage and recovery program.
- (b) Subject to (c), below, a groundwater discharge permit shall be obtained by the landowner.
- (c) A groundwater discharge permit may be obtained by a person other than the landowner only if the landowner has granted a deeded easement to the applicant that grants the applicant exclusive rights to use the

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groundwater as a receiving medium for wastewater disposal for a minimum of 20 years from the date the permit is expected to be issued.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16 (from Env-Wq 402.10)

Env-Wq 402.09 Groundwater Discharge Permit Not Required. A groundwater discharge permit shall not be required for the following activities or facilities:

- (a) Land application of sludge or septage performed in compliance with the applicable requirements of Env-Wq 800 and Env-Wq 1600;
- (b) A discharge of non-domestic wastewater that does not contain any regulated contaminant provided the discharge is registered in accordance with Env-Wq 402.33;
- (c) A discharge associated with a remedial action approved pursuant to Env-Or 606 provided a groundwater management permit has been issued for the site pursuant to Env-Or 607;
- (d) A discharge associated with a well pumping test or well rehabilitation activities provided that the discharge water meets AGQS as specified in Env-Wq 402.06 and a temporary discharge permit is obtained in accordance with Env-Wq 402.31 through Env-Wq 402.32;
- (e) A discharge associated with agricultural operations that are conducted in compliance with all applicable requirements of RSA title XL and best management practices developed, administered, and enforced by the New Hampshire department of agriculture, markets and food; or
- (f) The discharge of backwash from public water treatment facilities, provided the discharge is registered in accordance with Env-Wq 402.33 through Env-Wq 402.36.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16

Env-Wq 402.10 Nitrate Setbacks.

- (a) Minimum nitrate setback distances to property lines shall be as set forth in Table 402-1 below:

Table 402-1: Minimum Nitrate Setback Distance To Property Line

<b>Design Flow (gpd) for each system</b>	<b>Hydraulically Down-gradient (feet)</b>	<b>Hydraulically Side-gradient (feet)</b>	<b>Hydraulically Up-gradient (feet)</b>
1,001 – 1,100	55	28	14
1,101 – 1,200	60	30	15
1,201 – 1,300	65	33	17
1,301 – 1,400	70	35	18
1,401 – 1,500	75	38	19
1,501 – 1,600	80	40	20
1,601 – 1,700	85	43	22
1,701 – 1,800	90	45	23
1,801 – 1,900	95	48	24
1,901 – 2,000	100	50	25
2,001 – 2,100	105	53	27
2,101 – 2,200	110	55	28
2,201 – 2,300	115	58	29
2,301 – 2,400	120	60	30
2,401 – 2,500	125	63	32
2,501 – 3,000	150	75	37
3,001 – 3,500	175	88	44

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<b>Design Flow (gpd) for each system</b>	<b>Hydraulically Down-gradient (feet)</b>	<b>Hydraulically Side-gradient (feet)</b>	<b>Hydraulically Up-gradient (feet)</b>
3,501 – 4,000	200	100	50
4,001 – 4,500	225	113	57
4,501 – 5,000	250	125	63
5,001 – 6,000	275	138	69
6,001 – 7,000	300	150	75
7,001 – 8,000	320	160	80
8,001 – 9,000	340	170	85
9,001 - 10,000	350	175	88
10,001 - 15,000	435	213	107
15,001 - 19,999	500	250	125

(b) Any discharge of wastewater from a nursing home or medical care facility shall meet the minimum nitrate setback distances established in Table 402-1, regardless of whether a groundwater discharge permit is needed or not.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16

Env-Wq 402.11 Groundwater Discharge Permit Application.

(a) The applicant for a groundwater discharge permit shall submit the following on or with an application form obtained from the department:

- (1) The facility identification information specified in Env-Wq 402.12;
- (2) The maps specified in Env-Wq 402.13;
- (3) A facility plan as specified in Env-Wq 402.14;
- (4) The additional information specified in Env-Wq 402.15;
- (5) The certifications required by Env-Wq 402.16; and
- (6) The fee specified by Env-Wq 402.17.

(b) The applicant shall provide a copy of the complete application to the town/city clerk of the municipality in which the facility is or is proposed to be located.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16

Env-Wq 402.12 Facility Identification Information. The applicant for a groundwater discharge permit shall submit the following facility identification information:

(a) The name, mailing address, and daytime telephone number of the applicant and, if the applicant is other than an individual, the name and daytime telephone number of a contact person and, if available, an e-mail address and fax number for the contact person;

(b) The name, physical address, latitude and longitude of each discharge point, and the local tax map and lot number of the facility;

(c) If the applicant is applying pursuant to Env-Wq 402.08(c), the book and page number of the recorded easement;

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(d) The name, mailing address, and daytime telephone number of the owner of the facility, if other than the applicant, and if the facility owner is other than an individual, the name and daytime telephone number of a contact person for the facility owner and, if available, an e-mail address and fax number for the contact person;

(e) The name, mailing address, and daytime telephone number of the property owner, if other than the applicant, and if the property owner is other than an individual, the name and daytime telephone number of a contact person for the property owner and, if available, an e-mail address and fax number for the contact person;

(f) The name, mailing address, and daytime telephone number of the facility operator, if other than the owner of the facility;

(g) A complete description of the facility, its intended capacity, type of wastes or wastewater handled, together with supporting information describing the process involved in the pretreatment, treatment, storage, or disposal of wastes; and

(h) A detailed description of the wastewater to be discharged, including:

(1) Discharge characteristics, including calculations and analytical results if available;

(2) Volume of discharge;

(3) Total number of discharge points;

(4) Hydraulic loading rates;

(5) Nitrate movement study, if the application is for a discharge that includes domestic wastewater;

(6) Regulated contaminant movement study, if the application is for a discharge other than one covered by (5), above; and

(7) A proposed discharge schedule.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16

Env-Wq 402.13 Maps. The applicant for a groundwater discharge permit shall submit the following maps:

(a) An original or color photocopy of a U.S. Geological Survey (USGS) map, 7-1/2 minute series, that clearly identifies the facility location or a map that depicts equivalent features at a similar scale; and

(b) A groundwater discharge zone map, using a tax map as a base, that identifies and depicts the location of the following:

(1) A groundwater discharge zone boundary;

(2) Any deeded easements that restrict the use of the groundwater within the zone;

(3) Any streets within 1,000 feet of the groundwater discharge zone;

(4) Any properties, including tax map and lot number, ownership and land use information, within 1,000 feet of the groundwater discharge zone;

(5) Any surface waters within 1,000 feet of the groundwater discharge zone, including their designated river classification in accordance with RSA 483, New Hampshire Rivers Management and Protection Program, if applicable;



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- (6) The boundary of the 100-year flood zone and identification of the 100-year base flood elevation;
- (7) Any water supply sources, including type of use, within 1,000 feet of the groundwater discharge zone; and
- (8) Any source water protection areas for any community, transient, or non-community, non-transient public water supply as defined by RSA 485:1-a, within 1,000 feet of the groundwater discharge zone.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16

Env-Wq 402.14 Facility Plan.

(a) The applicant for a groundwater discharge permit shall submit a plan of the facility prepared in accordance with the following:

- (1) The plan shall include a title, a legend, and a true north arrow;
- (2) The plan shall be drawn to scale and the scale shall be noted on the plan and include a graphic scale bar;
- (3) The base plan sources from which the facility plan was derived shall be noted on the plan;
- (4) The location, elevation, and datum of a bench mark shall be included, provided that if a bench mark referenced to National Geodetic Vertical Datum (NGVD) is within 1,000 feet of the facility, elevation shall be recorded using NGVD and the source of the NGVD bench mark information shall be noted on the plan;
- (5) The plan shall identify and depict the location of the following:
  - a. Wastewater application and unlined lagoon areas, including total land area available and area to be used;
  - b. Existing and proposed groundwater monitoring wells that will be monitored;
  - c. Surface water sampling points;
  - d. Groundwater contours that show groundwater flow direction within 100 feet of the groundwater discharge zone;
  - e. Surface waters, wetlands, and drainage ways within 100 feet of the groundwater discharge zone;
  - f. Deeded easements that restrict the use of the groundwater;
  - g. A groundwater discharge zone boundary;
  - h. Land surface contours within 100 feet of the groundwater discharge zone at 2-foot intervals;
  - i. Piezometers used to develop groundwater contours and/or monitor groundwater mounding;
  - j. All soil borings and test pits within, and within 100 feet of, the groundwater discharge zone;
  - k. Physical structures and buildings associated with the facility;
  - l. Surface and underground storage tanks associated with the facility;
  - m. Underground utilities at the facility; and

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n. Subsurface drains at the facility.

(b) If the plan is larger than 11 inches by 17 inches, the applicant shall also provide a copy of the plan scaled to fit onto an 8-1/2 inches by 11 inches or 11 inches by 17 inches sheet and modified to make the items listed in (a)(1), (2), and (5)a. through g., above, legible;

(c) The plans and specifications shall be dated, signed, and sealed by the engineer of record, as that term is defined in RSA 310-A:2, III.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16

Env-Wq 402.15 Additional Information. The applicant shall provide the following additional information:

(a) A table summarizing all groundwater and surface water monitoring results to date for the last 5 years from existing monitoring points unless a longer period is specifically requested by the department;

(b) A list of reports on land use history, activities, water quality, and hydrogeology associated with the property on which the facility is located;

(c) A detailed proposal for a groundwater and surface water quality monitoring program, including proposed monitoring schedule, parameters to be analyzed, and monitoring locations, with supporting information justifying the locations, frequency, and parameters selected;

(d) Boring log data, which for applications for rapid infiltration basin or septic system sites shall be based on soil samples collected on continuous intervals to the bottom of the boring, including:

(1) Soil sample descriptions according to:

a. "Standard Practice for Classification of Soils for Engineering Purposes, Unified Soil Classification System," American Society for Testing and Materials (ASTM) D2487-11, 2011, available as noted in Appendix B; or

b. "Standard Practice for Description and Identification of Soils Visual-Manual Procedure," ASTM D2488-09a, 2009, available as noted in Appendix B;

(2) Drilling methods; and

(3) "N-values" according to "Standard Test Method for Standard Penetration Test (SPT) and Split-Barrel Sampling of Soils," ASTM D1586-11, 2011, available as noted in Appendix B;

(e) Well construction details of existing monitoring wells, top of well casing elevations and measured depth to water table from top of casing;

(f) A table of locational coordinates for monitoring wells and surface water quality points that are proposed to be included in the monitoring program for the facility, referenced to north American datum of 1983 (NAD83) or world geodetic system of 1984 (WGS84) in degrees-minutes-seconds, decimal degrees, or equivalent state plane coordinate units;

(g) A table of water level measurements and elevations found in piezometers and monitoring wells used to develop the groundwater contours;

(h) A copy of the documentation recorded in the registry of deeds which acknowledges that easement ownership rights have been obtained to restrict the use of water wells within the groundwater discharge zone;

(i) Status of department approval of design plans and operations manual for the wastewater treatment system;

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(j) A copy of the permit for drainage and erosion control measures if required by RSA 485-A:17 and Env-Wq 1500, or a copy of the application for the permit if a permit has not yet been issued;

(k) A copy of the permit for the septage or sludge management activities if required by Env-Wq 800 or Env-Wq 1600, or a copy of the application for the permit if a permit has not yet been issued;

(l) For bermed or dammed structures for which a permit is required under RSA 482, a copy of the permit or status of the application;

(m) If a certified wastewater treatment plant operator is required by RSA 485-A, a copy of the certification or status of the application; and

(n) For a new facility or a facility that is being expanded, the following information:

(1) An estimate of the construction time and the projected start-up date;

(2) A hydrogeological study that includes the following:

a. A description of the geology of the site and ambient groundwater quality;

b. Estimates of hydraulic gradients and flow directions;

c. Estimates of hydraulic conductivity and seepage velocity;

d. A description of soil types and thickness;

e. Estimates of soil infiltration rates and intended loading rates;

f. Supporting documentation and calculations to support the estimates; and

g. Any other information that is necessary to delineate a groundwater discharge zone, taking into consideration the geologic characteristics of the site, the estimated groundwater flow patterns, and regulated contaminant transport and degradation mechanism.

(3) A site-specific soil map of the proposed groundwater discharge zone prepared in accordance with the Site-Specific Soil Mapping Standards for New Hampshire and Vermont, Society of Soil Scientists of Northern New England Version No. 2, 1999, SSNNE Special Publication No. 3, available as noted in Appendix B;

(4) A vulnerability assessment for potential impacts from natural hazards, if necessary based on the proposed facility's location relative to surrounding topographic and hydrologic features that pose a reasonable threat to the facility's structural integrity or functionality, or both; and

(5) Written verification from the department of resources and economic development that no threatened or endangered species exists on the site.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16

Env-Wq 402.16 Certifications. The applicant shall submit the following certifications:

(a) Certification that application has been made for all required local, state, or federal permits;

(b) Certification that the applicant has given a copy of the completed permit application to the town/city clerk of the municipality in which the facility is or is proposed to be located.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16

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### Env-Wq 402.17 Fee.

- (a) Subject to (c), below, the applicant shall submit the fee required by RSA 485-A:13-a with each application for a new permit or a permit renewal.
- (b) If paid by check or money order, the instrument shall be payable to “Treasurer - State of NH”.
- (c) Political subdivisions of New Hampshire shall be exempt from the fee specified in (a), above.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16

### Env-Wq 402.18 Signatures Required for Groundwater Discharge Permit Application.

(a) The applicant and, if the applicant is not the owner of the facility and the property, the owner(s) of the facility and the property, shall sign the application.

(b) The signature(s) shall constitute certification by the signer(s) that:

(1) The information contained in or otherwise submitted with the application is true, complete, and not misleading to the best of the signer’s knowledge and belief;

(2) The signer understands that:

a. The submission of false, incomplete, or misleading information is grounds for:

1. Denying the application;

2. Revoking any application that is granted based on the information; and

3. If the signer is acting as or on behalf of a listed engineer as defined in Env-C 502.10, debaring the listed engineer from the roster; and

b. He or she is subject to the penalties specified in New Hampshire law, currently RSA 641:3, for making unsworn false statements; and

(3) The signer agrees to comply with all applicable rules and all conditions of the permit or registration, if issued.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16

### Env-Wq 402.19 Action on Applications for Groundwater Discharge Permits.

(a) Within 90 days from the receipt of a complete application for a groundwater discharge permit, the department shall issue a written decision to issue a permit or deny the application.

(b) If the decision is to issue a permit, the permit shall be valid for 5 years from the date of issuance, subject to renewal.

(c) The department shall grant the permit if it determines that the application demonstrates compliance with Env-Wq 402.10, Env-Wq 402.11, Env-Wq 402.23, and Env-Wq 402.24.

(d) If the department denies the application, the written decision issued pursuant to (a), above, shall state the reason(s) for the denial.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16

### Env-Wq 402.20 Permit Conditions.

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(a) The groundwater discharge permit shall contain conditions for supplemental assessments, monitoring, record keeping, and reporting as required to assure conformance with these rules, including but not limited to the following:

- (1) The parameters to be monitored based on the regulated contaminants present in the discharge or groundwater contamination area or used in the permitted activity; and
- (2) The frequency and location of water quality monitoring based on the hydrogeologic characteristics of the site, predicted rates of groundwater flow, and treatment methods employed.

(b) As a condition the permit, the permittee shall agree to control the use of groundwater within the discharge zone so as to prohibit its use for drinking water.

(c) Prior to commencing operations at the facility, the permit holder shall submit the following to the department:

- (1) An as-built site plan on 8½ inches by 11 inches or 11 inches by 17 inches sheets;
- (2) Boring logs and well construction details of wells installed after permit issuance; and
- (3) One complete set of water quality results.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16

### Env-Wq 402.21 Water Quality Sampling, Analysis, and Reporting.

(a) The permittee shall:

- (1) Monitor groundwater quality at each facility or site for which a permit has been issued under Env-Wq 402 to ensure that groundwater quality is in compliance with the terms of the permit and with Env-Wq 402;
- (2) Monitor surface water points and water supply wells as specified in the permit to ensure that water quality is in compliance with applicable water quality standards and the terms of the permit;
- (3) Monitor sampling points in the wastewater treatment system as specified in the permit to ascertain that design treatment efficiencies are achieved;
- (4) Operate and maintain all monitoring wells, piezometers, and other measurement, sampling, and analytical devices so that they perform to design specifications throughout the life of the monitoring program; and
- (5) Submit the results of all sampling and analysis required under a groundwater permit to the department no later than 45 days after the sampling date specified in the permit.

(b) All analyses shall be performed by a laboratory accredited under Env-C 300 or certified by the United States Environmental Protection Agency (US EPA) or another government agency using National Environmental Laboratory Accreditation Committee standards.

(c) Sampling shall be performed in accordance with:

- (1) "Practical Guide for Ground-Water Sampling," document identification number EPA/600/2-85/104, US EPA, September 1985, available as noted in Appendix B; or
- (2) "RCRA Ground-Water Monitoring: Draft Technical Enforcement Guidance," document identification number PB87107751, US EPA, November 1992, available as noted in Appendix B.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16 (from Env-Wq 402.08)

Env-Wq 402.22 Groundwater Monitoring Wells.

(a) Monitoring wells shall be designed, installed, and decommissioned in accordance with the practices described in:

(1) “Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process”, ASTM E1527-13, 2013, available as noted in Appendix B;

(2) “Standards Related to Environmental Sampling”, Fifth Edition, ASTM SAMP14, 2014, available as noted in Appendix B; or

(3) “Standard Guide for Decommissioning of Groundwater Wells, Vadose Zone Monitoring Devices, Boreholes, and Other Devices for Environmental Activities,” ASTM D5299-99(2012)e1, 2012, available as noted in Appendix B.

(b) The permittee shall install at least one hydraulically up-gradient groundwater monitoring well to monitor ambient groundwater quality.

(c) The permittee shall install at least 2 hydraulically down-gradient monitoring wells to monitor groundwater quality related to the activity for which the permit was issued.

(d) Monitoring wells shall be constructed and decommissioned only by licensed New Hampshire water well contractors holding a valid technical drillers license under RSA 482-B.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16 (from Env-Wq 402.09)

Env-Wq 402.23 Groundwater Discharge Zone.

(a) The boundary of the groundwater discharge zone shall be at or within the property or easement boundary or the mean high water mark of the closest surface water body, whichever is closest to the edge of the wastewater application area.

(b) Except for subsurface disposal systems permitted under Env-Wq 402.08, use of groundwater within the groundwater discharge zone shall be controlled by the permittee, either by ownership of the overlying land or by deeded easement which grants the permittee the exclusive right to use the groundwater as a receiving medium for the wastewater disposal.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16 (from Env-Wq 402.21)

Env-Wq 402.24 Groundwater Discharge Permit Compliance Criteria.

(a) Domestic wastewater shall receive primary treatment by settling of solids in subsurface disposal systems and at least secondary treatment as defined in 40 CFR 133 for other disposal methods, before discharge to the ground or groundwater.

(b) Municipal wastewater, alone or in combination with domestic wastewater, shall receive treatment in compliance with RSA 485-A:13, I(a) before being discharged to the ground or groundwater.

(c) Non-domestic wastewater, alone or in combination with domestic wastewater, shall be treated by BAT before being discharged to the ground or groundwater.

(d) Except as provided in Env-Wq 402.251 for 1,4-dioxane, no discharge shall cause the groundwater quality criteria set forth in Env-Wq 402.04 to be violated at any point beyond the boundary of a groundwater discharge zone.

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(e) No discharge shall cause or contribute to a violation of surface water quality standards set forth in RSA 485-A or Env-Wq 1700.

(f) Subject to Env-Wq 402.251, the level of 1,4-dioxane in treated wastewater to be discharged to groundwater shall not exceed 2 µg/L.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16 (from Env-Wq 402.22); ss by #12553, eff 9-1-18

Env-Wq 402.25 Response to Exceedances.

(a) If any regulated contaminant is detected by the permittee's monitoring at a concentration that exceeds the applicable AGQS, the permittee shall:

- (1) Within 10 days of receiving the test results that show the exceedance, notify the department of the exceedance;
- (2) Within 21 days of receiving the test results that show the exceedance, test water for the regulated contaminant that exceeds the AGQS from each private or public drinking water supply well within 1,000 feet of the location where the exceedance occurred;
- (3) Report the results of the testing required by (2), above, to the department within 45 days of collecting the samples;
- (4) For exceedances of contaminants other than 1,4-dioxane from a facility that discharges treated wastewater to groundwater, prepare, submit, and implement a written response plan in accordance with (b) through (g), below, to ensure that groundwater quality criteria are not violated at the boundary of the groundwater discharge zone; and
- (5) For exceedances of 1,4-dioxane from a facility that discharges treated wastewater to groundwater, proceed as specified in Env-Wq 402.251.

(b) If the testing done pursuant to (a)(2), above, shows the presence of a regulated contaminant in a private or public drinking water supply well at a concentration that exceeds the applicable AGQS and the department determines that it is more likely than not that the permitted wastewater discharge is the source of the regulated contaminant, the permittee shall:

- (1) Expand the testing of public and private drinking water wells beyond 1,000 feet as necessary to determine the extent of the exceedance of the applicable AGQS in drinking water supplies;
- (2) Within 21 days of receiving the test results obtained pursuant to (1), above, submit a proposed response plan to the department that evaluates the relative costs and benefits of:
  - a. Installing treatment to remove the contaminant from the water supplied from the well; or
  - b. Provide alternate water to those served by the drinking water supply by:
    1. Providing bottled water as an interim mitigation measure until a long-term water supply alternative is provided; and
    2. Providing a long-term alternative water supply by:
      - (i) Installing, testing, and maintaining a point-of-entry water treatment system at each structure served; or
      - (ii) Connecting each structure served to a public water system.

(c) Subject to (d), below, the response plan shall include the following:

- (1) All actions necessitated by (b), above, if applicable;

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- (2) Inspection and audit of activities and procedures at the facility to determine possible sources of groundwater contamination;
  - (3) Further site investigation to evaluate additional potential sources of groundwater contamination and the extent of their impact on groundwater quality;
  - (4) Modification of facility operation as needed to eliminate the cause of the exceedance;
  - (5) Removal or containment of the source of the groundwater contamination; and
  - (6) Groundwater quality restoration.
- (d) If facility operations cannot be modified to eliminate the cause of the exceedance or if the groundwater quality cannot be restored, the response plan shall include a schedule of activities that will be implemented for facility closure.
- (e) The permittee shall:
- (1) Submit the response plan to the department within 60 days of receiving the test results that show the exceedance; and
  - (2) Implement the response plan within 30 days of department approval.
- (f) Within 90 days of receiving a proposed response plan, the department shall notify the permittee in writing of whether it has approved the plan. If the department does not approve the plan, the notice shall specify the reason(s) for the disapproval.
- (g) The department shall approve the response plan if the department determines that the plan, if implemented as specified, is expected to:
- (1) Remove, treat, or contain the source(s) of groundwater contamination to prevent the additional release of regulated contaminants to groundwater;
  - (2) Achieve compliance with AGQS;
  - (3) Ensure safe drinking water and otherwise protect human health and the environment; and
  - (4) Contain and confine groundwater contamination within the limits of the groundwater discharge zone, delineated in accordance with Env-Wq 402.23(a).

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16 (from Env-Wq 402.23); ss by #12553, eff 9-1-18  
Env-Wq 402.251 Treatment for Excess 1,4-Dioxane in Wastewater Discharged to Groundwater.

- (a) If the level of 1,4-dioxane in treated wastewater to be discharged to groundwater exceeds 2 µg/L or if the level of 1,4-dioxane in the groundwater at the perimeter of or outside the groundwater discharge zone exceeds the ambient groundwater quality standard (AGQS) for 1,4-dioxane established in Env-Or 603, the facility discharging the wastewater shall:
- (1) If the testing done pursuant to Env-Wq 402.25(a)(2) does not show the presence of 1,4-dioxane in a private or public drinking water supply well at a concentration that exceeds the applicable AGQS, either:
    - a. Treat the wastewater effluent using best available technology (BAT); or
    - b. Implement an investigation and corrective action program (I&CA program) as described in (c) or (d), below, as applicable, to identify, assess, and address the potential source(s) of 1,4-dioxane; or
  - (2) If the testing done pursuant to Env-Wq 402.25(a)(2) shows the presence of 1,4-dioxane in a



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

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

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

(1) Assessment of each facility that discharges non-domestic wastewater to the wastewater system;

(2) Sampling within the wastewater system or at facilities connected to the wastewater system to evaluate potential sources of 1,4-dioxane contamination; and

(3) Modification of operations at facilities discharging non-domestic wastewater as needed to reduce or eliminate sources that cause or contribute to elevated concentrations of 1,4-dioxane.

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

(1) A review of the materials used in the facility to identify potential sources of 1,4-dioxane contamination;

(2) Sampling of the materials used in the facility to evaluate potential sources of 1,4-dioxane contamination; and

(3) Modification of facility operations, including but not limited to replacing the materials that are causing or contributing to elevated concentrations of 1,4-dioxane to the extent practicable.

(e) If required by (a)(2), above, the permittee shall:

(1) Expand the testing of public and private drinking water wells beyond 1,000 feet as necessary to determine the extent of the exceedance of the applicable AGQS in drinking water supplies; and

(2) Within 21 days of receiving the test results obtained pursuant to (1), above, submit a proposed response plan to the department that evaluates the relative costs and benefits of:

a. Installing treatment to remove the contaminant from the water supplied from the well; or

b. Provide alternate water to those served by the drinking water supply by:

1. Providing bottled water as an interim mitigation measure until a long-term water supply alternative is provided; and

2. Providing a long-term alternative water supply by:

(i) Installing, testing, and maintaining a point-of-entry water treatment system at each structure served; or

(ii) Connecting each structure served to a public water system.

(f) The response plan in submitted pursuant to (e)(2), above, shall include:

(1) A recommendation for providing alternate water; and

(2) A schedule for implementing the response plan.

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(g) The department shall:

- (1) Approve the plan, including the schedule, if it determines that the plan is adequate to protect public health; and
- (2) Notify the permittee of its determination in writing, provided that if the plan is not approved the department shall identify the reason(s) why.

(h) The permittee shall implement the response plan in accordance with the schedule approved by the department.

Source. #12553, eff 9-1-18

Env-Wq 402.26 Permit Renewal Process.

(a) If the permittee wishes to continue to operate a facility that is subject to a groundwater discharge permit beyond the 5-year permit term, the permittee shall submit the information specified in (c) through (e), below, and the fee required by Env-Wq 402.17 to the department prior to the expiration of the permit but not more than 90 days prior to expiration.

(b) If the renewal application is submitted prior to the expiration of the permit but not more than 90 days prior to expiration, the permittee may continue to operate under the terms of the permit even if a decision on the renewal application has not been made prior to the expiration date.

(c) If the renewal application is not submitted prior to the expiration of the permit, the permittee shall discontinue active operation of the facility as of the expiration date but otherwise continue to comply with all conditions in the original permit until the permit is renewed or the facility is closed in accordance with all applicable requirements.

(d) The renewal application shall include an update of all information submitted for the expiring permit, including information regarding any future modifications.

(e) The renewal application shall include a certification from a NH-certified wastewater system operator or NH-licensed professional engineer stating that a review and inspection of the wastewater treatment systems have been completed within the 12 months prior to the permit's expiration date and that the facility's treatment system design is adequate to meet wastewater effluent quality objectives and flow volumes.

(f) The renewal application shall include a vulnerability assessment for potential impacts from natural hazards, if necessary based on the facility's location relative to surrounding topographic and hydrologic features that pose a reasonable threat to the facility's structural integrity or functionality, or both, or if a natural hazard, extreme weather event, or declared disaster has adversely impacted the facility's structural integrity or functionality, or both, during a prior permit term.

(g) The renewal application shall reference information already contained in the department files only if the information:

- (1) Has not changed since the last application package submitted; and
- (2) Meets the current criteria specified in these rules.

(h) The department shall renew a groundwater discharge permit if the renewal application demonstrates that the facility is being and will continue to be operated in accordance with all applicable requirements.

(i) The department shall notify the permittee in writing of its decision. If the department does not renew the permit, the notice shall specify the reason(s) for the denial.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16

Env-Wq 402.27 Permit Modification and Termination.

(a) Any permittee who wishes to modify or terminate a groundwater discharge permit shall request a permit modification or permit termination by submitting a written request to the department that includes the following information:

- (1) The groundwater discharge permit number to which the request relates;
- (2) The name, daytime telephone number, and email address of a contact person for the permittee regarding the request;
- (3) Whether the request is to modify the permit or terminate the permit;
- (4) The reasons for the requested modification or termination; and
- (5) A table summarizing all monitoring results to date from existing monitoring points.

(b) The permittee shall sign the request. Such signature shall constitute the certifications specified in Env-Wq 402.18(b).

(c) After reviewing the request, the department shall:

- (1) Modify the permit if the applicant demonstrates that the requested modification is necessary or desirable to the facility remaining in, or returning to, compliance with these rules and the permit conditions; or
- (2) Terminate the permit if the applicant demonstrates that the facility is no longer operating and continued monitoring is not necessary to ensure compliance with these rules.

(d) The department shall notify the permittee in writing of its decision on the request to modify or terminate the permit within 90 days of receipt of the request. If the department denies the request, the notice shall specify the reason(s) for the denial.

(e) The department shall modify a permit without request by the permittee, in accordance with RSA 541-A:30, as follows:

- (1) After providing written notice that:
  - a. Identifies the facility by name, department site number, location, and permit number;
  - b. Explains the action(s) the department proposes to take and the reasons for the proposed action(s);
  - c. Identifies the department's authority for taking such an action;
  - d. Explains the opportunity for an adjudicative hearing and related deadlines;
  - e. Lists the name, title, mailing address, and telephone number of the department representative who can be contacted regarding the notice; and
  - f. Is dated and signed by the director or a person so authorized by the director; and
- (2) If the department determines that:
  - a. Issuance of the permit was based on false or misleading information;
  - b. Modification of the permit is necessary to ensure protection of human health or the environment; or

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c. Modification of the permit is necessary to ensure compliance with Env-Wq 402.

(f) An adjudicative hearing on a permit modification initiated by the department pursuant to (d), above, shall:

(1) Be requested by the permittee to the department in writing within 30 days of receipt of the notice from the department; and

(2) Be held in accordance with the provisions of Env-C 200 applicable to adjudicative proceedings.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-1616 (from Env-Wq 402.29)

Env-Wq 402.28 Permit Transfer.

(a) Any permittee wishing to transfer ownership of a facility having a groundwater discharge permit shall file a written request with the department at least 90 days prior to the transfer of the permit.

(b) The transfer request shall include the following information:

(1) The groundwater discharge permit number;

(2) The site name, address, and tax map/lot number;

(3) The name, mailing address, and daytime telephone number and, if available, the email address of the person to whom the permit is requested to be transferred;

(4) The name, mailing address, and daytime telephone number and, if available, the email address of the current permittee;

(5) A summary of all monitoring results to date; and

(6) The date on which the transfer of ownership is expected to occur.

(c) The current permittee and the person to whom the permit is proposed to be transferred shall sign the transfer request. Such signatures shall constitute the certifications specified in Env-Wq 402.18(b).

(d) Within 90 days of receiving a request for transfer, the department shall approve or deny the request and notify the current permittee and the new permittee of its decision in writing.

(e) The department shall deny an application to transfer a permit if:

(1) The facility is not presently in compliance with the permit, these rules, or any applicable statutes, unless transferring the permit will facilitate returning the facility to compliance;

(2) The permittee has failed to pay any outstanding penalties or costs related to the site, including the department's recoverable costs pursuant to RSA 146-A, RSA 146-C, RSA 147-B, RSA 485, and RSA 485-A, unless all outstanding amounts will be paid in conjunction with the transfer; or

(3) The permittee has failed to perform in accordance with a court order, consent decree, or other settlement agreement relating to the property subject to the groundwater permit, unless transferring the permit will facilitate such performance.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-1616 (from Env-Wq 402.30)

Env-Wq 402.29 Temporary Groundwater Discharge Permit.

(a) Any person wishing to discharge the types of liquids identified in (b), below, for not more than 4 months shall apply for a temporary groundwater discharge permit.

(b) A temporary groundwater discharge permit shall be limited to discharges to the ground or groundwater of:

- (1) Non-domestic wastewater that has received treatment by BAT; or
- (2) Water, wastewater, or other liquids that do not contain any regulated contaminants, such as are generated from:
  - a. The rehabilitation or redevelopment of a public water supply well;
  - b. Water well pumping tests;
  - c. Water storage tank purging or cleaning;
  - d. Construction dewatering;
  - e. The dewatering of storage tank excavations and replacements; and
  - f. Department-approved remedial actions.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-1616 (from Env-Wq 402.24)

Env-Wq 402.30 Temporary Groundwater Discharge Permit Compliance Criteria.

(a) Non-domestic wastewater shall meet AGQS and be treated by BAT before discharge to the ground or groundwater.

(b) No discharge shall contain any regulated contaminant in a concentration greater than the AGQS.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-1616 (from Env-Wq 402.25)

Env-Wq 402.31 Temporary Groundwater Discharge Permit Application.

(a) The applicant for a temporary groundwater discharge permit shall submit the following information to the department on or with a form obtained from the department:

- (1) The name, mailing address, and daytime telephone number of the applicant and, if the applicant is other than an individual, the name and daytime telephone number of a contact person and, if available, an e-mail address and fax number for the contact person;
- (2) The name, physical address, latitude and longitude of each discharge point, and local tax map and lot number of the facility or activity for which the temporary groundwater discharge permit is sought;
- (3) The name, mailing address, and daytime telephone number of the owner of the facility, if other than the applicant, and if the facility owner is other than an individual, the name and daytime telephone number of a contact person for the facility owner and, if available, an e-mail address and fax number for the contact person;
- (4) The name, mailing address, and daytime telephone number of the property owner, if other than the applicant, and if the property owner is other than an individual, the name and daytime telephone

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number of a contact person for the property owner and, if available, an e-mail address and fax number for the contact person;

- (5) An explanation of the proposed discharge including:
  - a. The purpose of the discharge;
  - b. The location of the closest sanitary sewer;
  - c. The proposed discharge rate and estimated duration;
  - d. The estimated starting date of the proposed discharge;
  - e. The proposed discharge location and method; and
  - f. The proposed discharge monitoring program, if the applicant can not demonstrate that the water to be discharged meets all applicable criteria;
- (6) An original or color photocopy of a USGS map, 7-1/2 minute series, that clearly identifies the facility or site location and location of the closest sanitary sewer;
- (7) A description of the type of treatment proposed, including a description of the wastewater infiltration system and information on the influent and effluent water quality and sludge or other by-products generated; and
- (8) Certification that notice has been given to the governing body of the municipality in which the facility or activity is or is proposed to be located.

(b) The applicant and, if the applicant is not the owner of the facility and the property, the owner(s) of the facility and the property, shall sign the application.

(c) The signature(s) shall constitute certification by the signer(s) that:

- (1) The information contained in or otherwise submitted with the application is true, complete, and not misleading to the best of the signer's knowledge and belief;
- (2) The signer understands that:
  - a. The submission of false, incomplete, or misleading information is grounds for:
    1. Denying the application;
    2. Revoking any application that is granted based on the information; and
    3. If the signer is acting as or on behalf of a listed engineer as defined in Env-C 502.10, debarring the listed engineer from the roster; and
  - b. He or she is subject to the penalties specified in New Hampshire law, currently RSA 641:3, for making unsworn false statements;
- (3) The signer agrees to comply with all applicable rules and all conditions of the permit, if issued; and
- (4) The applicant agrees not to discharge until written permission from the department has been received.

(d) The applicant shall provide a copy of the complete application to the town or city clerk of the municipality in which the discharge is or is proposed to be located. If the municipality is the applicant, the

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municipality shall make a copy of the application available for public review in the same manner as if the application had been received from another applicant.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16 16 (from Env-Wq 402.26)

### Env-Wq 402.32 Temporary Permit Application Processing.

(a) Within 30 days of receipt of a completed application, the department shall issue a written decision to grant or deny the requested temporary permit.

(b) If the decision is to grant the permit, the issued permit shall be non-renewable and valid for no more than 4 months.

(c) The department shall grant the permit if it determines that the application demonstrates compliance with Env-Wq 402.30.

(d) As part of the permit conditions, soil or groundwater analysis shall be required following cessation of the temporary discharge if necessary to demonstrate compliance with these rules.

Source. (See RN at p. i) #8955, eff 7-26-0707; ss by #11036, eff 3-1-16 16 (from Env-Wq 402.27)

Env-Wq 402.33 Discharge Registration Required. The owner of a facility shall obtain a discharge registration prior to engaging in any of the following activities:

(a) The discharge onto or into the ground of non-domestic wastewater that does not contain any regulated contaminant, such as:

(1) Underground injection as defined in 40 CFR 144.3; or

(2) Non-domestic wastewater discharges to subsurface disposal systems for which a groundwater discharge permit is not required under Env-Wq 402.10;

(b) The discharge of regenerant or backwash water associated with the operation of a department-approved public drinking water treatment facility;

(c) Stormwater infiltration via subsurface leaching or distribution structures;

(d) The discharge of any fluid associated with geothermal or heat pump systems, provided such discharges:

(1) Will not cause naturally-occurring chemicals or constituents in subsurface media to mobilize and cause exceedance of any AGQS; and

(2) Do not involve the use of materials or equipment in the subsurface that may degrade over time and cause exceedance of any AGQS.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16 16 (from Env-Wq 402.31)

Env-Wq 402.34 Discharge Registration Application. The applicant for a discharge registration shall submit the following information to the department on or with a form obtained from the department:

(a) The name, mailing address, and daytime telephone number of the applicant and, if the applicant is other than an individual, the name and daytime telephone number of a contact person and, if available, an e-mail address and fax number for the contact person;

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(b) The name, physical address, latitude and longitude of each discharge point, and property tax map and lot number of the facility;

(c) The name, mailing address, and daytime telephone number of the owner of the facility, if other than the applicant, and if the facility owner is other than an individual, the name and daytime telephone number of a contact person for the facility owner and, if available, an e-mail address and fax number for the contact person;

(d) The name, mailing address, and daytime telephone number of the property owner, if other than the applicant, and if the property owner is other than an individual, the name and daytime telephone number of a contact person for the property owner and, if available, an e-mail address and fax number for the contact person;

(e) The facility operator's name, if other than the applicant, facility owner, and property owner, and the operator's mailing address and daytime telephone number;

(f) An original or color photocopy of a USGS map, 7-1/2 minute series, which clearly identifies the facility location;

(g) A facility plan that clearly identifies:

(1) The discharge point relative to the facility structures, water supplies, and property lines; and

(2) Any structures or other features related to the control or management of the discharge;

(h) A complete description of the facility and type of wastes or wastewater handled at the facility;

(i) A description of the wastewater characteristics, including analytical results if necessary based on the proposed activity, likely regulated contaminants, and the potential variability of the wastewater characteristics;

(j) Information on chemical characteristics, including the material safety data sheet as required in 29 CFR Chapter 1910 Part 1200, for all products that may be constituents of the discharge;

(k) A description of the disposal method, including dimensions of any injection well proposed to be used; and

(l) The discharge rate, or discharge volume, and schedule for periodic discharges.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16 16 (from Env-Wq 402.32)

### Env-Wq 402.35 Signature Required for Discharge Registrations.

(a) The applicant and, if the applicant is not the owner of the facility and the property, the owner(s) of the facility and the property, shall sign the application.

(b) The signature(s) shall constitute certification by the signer(s) that:

(1) The information contained in or otherwise submitted with the application is true, complete, and not misleading to the best of the signer's knowledge and belief;

(2) The signer understands that:

a. The submission of false, incomplete, or misleading information is grounds for:

1. Denying the application;

2. Revoking any application that is granted based on the information; and



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3. If the signer is acting as or on behalf of a listed engineer as defined in Env-C 502.10, debarring the listed engineer from the roster; and

b. He or she is subject to the penalties specified in New Hampshire law, currently RSA 641:3, for making unsworn false statements; and

(3) The signer agrees to comply with all applicable rules and all conditions of the permit or registration, if issued.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16

Env-Wq 402.36 Discharge Registrations.

(a) Within 30 days of receipt of a complete registration application, the department shall grant the registration or, if the activities covered by the application are not consistent with the registration requirements, notify the applicant in writing to apply for a groundwater discharge permit.

(b) The department shall register the discharge if the application demonstrates that the discharge is eligible for registration and is in compliance with Env-Wq 402.04.

(c) Discharges other than those described in the registration shall be prohibited.

(d) The department shall include such conditions in the registration for the registrant to sample or monitor discharged wastewater, groundwater, or soil as are necessary to verify compliance with these rules.

(e) The registrant shall notify the department in writing when the registered discharge has ceased.

(f) If a registrant proposes to abandon an injection well, the registrant shall propose procedures for abandonment in writing to the department with a completed Discharge Well & Floor Drain Pre-Closure Notification Form dated January 2015. The department shall approve the proposed procedures if they:

(1) Are consistent with well-abandonment requirements established under RSA 482-B;

(2) Are adequate to protect human health and the environment;

(3) Demonstrate that the well will be closed in a manner that will not allow the movement of fluids containing any contaminant into the groundwater; and

(4) Demonstrate that any soil, gravel, sludge, or other material(s) removed from and/or adjacent to your discharge well will be disposed of or otherwise managed in accordance with all applicable federal, state, and local requirements.

(g) Unless otherwise provided in the registration, the facility owner shall provide a sampling tap suitable for sampling at the point of discharge to the groundwater.

(h) If the department receives information indicating that the discharge is not in compliance with the discharge registration and Env-Wq 402, the registrant shall:

(1) Sample the discharge and provide the analytical results to the department for the parameter(s) requested; and

(2) Make all existing records and other pertinent information concerning the discharge available to the department for review and copying.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16 16 (from Env-Wq 402.33)

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Env-Wq 402.37 Transfer of Discharge Registrations. If ownership of a facility having a discharge registration is transferred, then:

(a) The registrant shall provide to the department the new owner's name, mailing address, and daytime telephone number in writing at least 10 days but not more than 30 days prior to the transfer; and

(b) The new facility owner shall register the discharge with the department in accordance with Env-Wq 402.34 within 30 days after the transfer.

Source. (See RN at p. i) #8955, eff 7-26-07; ss by #11036, eff 3-1-16

Env-Wq 402.38 Floor Drains. Any person who owns a structure in which floor drains are located in areas where regulated substances are used or stored shall:

(a) Permanently seal the floor drain(s), provided that the person submits a Discharge Well & Floor Drain Pre-Closure Notification Form dated January 2015 to the department 30 days prior to sealing the drain(s);

(b) Direct the discharge into a holding tank registered in accordance with Env-Wq 402.39; or

(c) Reroute the discharge to a publicly-owned treatment works (POTW) after obtaining approval to do so from the owner of the POTW.

Source. #11036, eff 3-1-16 16 (from Env-Wq 402.34)

Env-Wq 402.39 Holding Tank Registration Applications.

(a) Any person having or wishing to install a holding tank to receive flow from floor drains or other conduits in areas where regulated substances are used or stored shall apply to the department for a holding tank registration.

(b) The department shall register only holding tanks which receive non-domestic, non-hazardous wastewater.

(c) The owner of the facility whose floor drains are or will be connected to the holding tank shall register the holding tank by submitting the following information in writing to the department on or with a form obtained from the department:

(1) The name, physical address, and property tax map and lot number of the facility;

(2) The name, mailing address, and daytime telephone number of the owner of the facility, if other than the applicant, and if the facility owner is other than an individual, the name and daytime telephone number of a contact person for the facility owner and, if available, an e-mail address and fax number for the contact person;

(3) The name mailing address, and daytime telephone number of the property owner, if other than facility owner, and if the property owner is other than an individual, the name and daytime telephone number of a contact person for the property owner and, if available, an e-mail address and fax number for the contact person;

(4) An original or color photocopy of a USGS map, 7-1/2 minute series, which clearly identifies the facility location;

(5) A site plan depicting the location of the building and the location of the holding tank and associated structures;

(6) A description of the anticipated characteristics including analytical results, if available, and volume of wastewater to be discharged to the holding tank;

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- (7) A plan which includes frequency of disposal, method of transport, and location of ultimate disposal of the wastewater and residual solids;
- (8) A complete description of the facility and type of wastes or wastewater handled at the facility; and
- (9) Design plans that meet the following requirements:
  - a. The minimum holding tank capacity shall be 1,000 gallons;
  - b. Holding tanks and piping shall be watertight and sealed with materials compatible with the liquid or other material being stored;
  - c. Access shall be provided to each compartment of the tank for inspection and cleaning by means of a removable cover or manhole, the minimum diameter of which shall be 20 inches;
  - d. Manholes shall extend to finished grade;
  - e. The entire tank shall be designed for the expected maximum structural load, with ballast provided to prevent structural damage when the tank is emptied; and
  - f. An alarm with both visual and audio signals shall be activated once the water level reaches 80% of the maximum storage capacity.

Source. #11036, eff 3-1-16 16 (from Env-Wq 402.35)

### Env-Wq 402.40 Signature Required for Holding Tank Registration Applications.

- (a) The applicant and, if the applicant is not the owner of the facility and the property, the owner(s) of the facility and the property, shall sign the holding tank registration application.
- (b) The signature(s) shall constitute certification by the signer(s) that:
  - (1) The information contained in or otherwise submitted with the application is true, complete, and not misleading to the best of the signer's knowledge and belief;
  - (2) The signer understands that:
    - a. The submission of false, incomplete, or misleading information is grounds for:
      1. Denying the application;
      2. Revoking any application that is granted based on the information; and
      3. If the signer is acting as or on behalf of a listed engineer as defined in Env-C 502.10, debaring the listed engineer from the roster; and
    - b. He or she is subject to the penalties specified in New Hampshire law, currently RSA 641:3, for making unsworn false statements;
  - (3) The signer agrees to comply with all applicable rules and all conditions of the permit, if issued; and
  - (4) The applicant agrees not to discharge until written permission from the department has been received.

Source. #11036, eff 3-1-16

### Env-Wq 402.41 Holding Tank Registrations.

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(a) Within 30 days of receipt of a complete registration application, the department shall issue a holding tank registration or notify the owner in writing of why the registration cannot be issued.

(b) The department shall grant the registration if it determines that the application demonstrates compliance with Env-Wq 402.39.

(c) Discharges other than those described in the registration shall be prohibited.

(d) The registrant shall notify the department within 30 days of:

(1) Tank installation; or

(2) Tank closure or removal.

(e) If the department receives information indicating that the holding tank is not in compliance with Env-Wq 402, the registrant shall:

(1) Sample the contents of the holding tank and provide the analytical results to the department for the parameter(s) requested; and

(2) Make all existing records and other pertinent information concerning the construction and operation of the holding tank available to the department.

(f) The registrant shall empty a holding tank and dispose of the contents in accordance with all applicable state and local rules when the tank is filled to 80% of tank capacity.

Source. #11036, eff 3-1-16

Env-Wq 402.42 Transfer of Holding Tank Registrations. If ownership of a facility having a holding tank registration is transferred, then:

(a) The registrant shall provide the new owner's name, mailing address, and daytime telephone number in writing to the department at least 10 days but not more than 30 days prior to the transfer; and

(b) The new facility owner shall register the holding tank with the department under Env-Wq 402.38(c), within 30 days after the transfer.

Source. #11036, eff 3-1-16

Env-Wq 402.43 Inspections. In order to investigate either actual or suspected sources of potential harm to human health or the environment and to ascertain compliance or non-compliance with these rules, the department shall:

(a) Inspect any premises that are subject to regulation under Env-Wq 402 as authorized by RSA 485-A:18;

(b) Gather evidence on existing conditions and procedures;

(c) Obtain representative samples of containers, floor drains, holding tanks, and other discharges;

(d) Conduct tests, analyses, and evaluations;

(e) Photograph containers, floor drains, holding tanks, processes, or conditions related to permits, registrations, and discharges;

(f) Inspect and, if the records show evidence of non-compliance, be provided with copies of any pertinent records, reports of information and test results relating to the requirements of these rules upon request; and

(g) Obtain any other information as authorized by law.

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Source. #11036, eff 3-1-1616 (from Env-Wq 402.36)

Env-Wq 402.44 Waivers.

(a) Any person who is subject to these rules who wishes to obtain a waiver of a requirement established in these rules shall submit the following information in writing to the department:

- (1) A description of the facility, site, or activity to which the waiver request relates, including the name, address, and department identification number if one has been assigned;
- (2) A reference to the specific section(s) of the rules for which a waiver is being sought;
- (3) A full explanation of why a waiver is being requested, including an explanation of the operational and economic consequences of complying with the rule as written;
- (4) Whether the waiver is needed for a limited duration and, if so, an estimate of when the waiver will no longer be needed;
- (5) A full explanation with supporting data of the alternative(s), if any, proposed to be implemented or used in lieu of the section's requirements; and
- (6) A full explanation of how the proposed alternative(s), if any, would be consistent with the intent of RSA 485, RSA 485-A, and RSA 485-C, and would adequately protect human health and the environment.

(b) The department shall grant a waiver if it determines that the intent of RSA 485, RSA 485-A, and RSA 485-C will be met and that human health and the environment will be protected. In granting the waiver, the department shall impose such conditions, including time limitations, as the department deems necessary to ensure that the activities conducted pursuant to the waiver will be protective of human health and the environment.

(c) No waiver shall be granted to any requirement specified in statute unless the statute expressly allows such requirement to be waived.

(d) The department shall issue a written response to a request for a waiver within 90 days of receipt of the request. If the request is denied, the response shall specify the reason(s) for the denial.

Source. #11036, eff 3-1-16 16 (from Env-Wq 402.37)

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

<b>Rule Section(s)</b>	<b>State Statute(s) Implemented</b>	<b>Federal Regulations Implemented</b>
Env-Wq 402 (also see specific section listed below)	RSA 485-C:1; RSA 485-C:4, VII; RSA 485-C:11	
Env-Wq 402.01 - 402.06	RSA 485-C:6	40 CFR 144, 145, & 146
Env-Wq 402.07 - 402.16	RSA 485-A:13, I(a)	40 CFR 144, 145, & 146
Env-Wq 402.17	RSA 485-A:13-a	
Env-Wq 402.18 - 402.43	RSA 485-A:13, I(a)	40 CFR 144, 145, & 146
Env-Wq 402.44	RSA 541-A:22, IV	

**APPENDIX B: INCORPORATED REFERENCES**

<b>Rule (Env-Wq)</b>	<b>Reference</b>	<b>Obtain At:</b>
		ASTM International

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Rule (Env-Wq)	Reference	Obtain At:
		100 Barr Harbor Drive PO Box C700 West Conshohocken, PA 19428-2959 1-877-909-2786 (USA & Canada) <a href="http://www.astm.org/">http://www.astm.org/</a>
402.15(d)(1)a.	Standard Practice for Classification of Soils for Engineering Purposes, Unified Soil Classification System, ASTM D2487-11, 2011	PDF \$50
402.15(d)(1)b.	Standard Practice for Description and Identification of Soils Visual-Manual Procedure, ASTM D2488-09a, 2009	PDF \$50
402.15(d)(3)	Standard Test Method for Standard Penetration Test (SPT) and Split-Barrel Sampling of Soils, ASTM D1586-11, 2011	PDF \$44
402.22(a)(1)	Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process, ASTM E1527-13, 2013	PDF \$71
402.22(a)(2)	Standards Related to Environmental Sampling” Fifth Edition, ASTM SAMP14, 2014	PDF \$199
402.22(a)(3)	Standard Guide for Decommissioning of Groundwater Wells, Vadose Zone Monitoring Devices, Boreholes, and Other Devices for Environmental Activities, ASTM D5299-99(2012)e1, 2012	PDF \$50
		Environmental Protection Agency 1200 Pennsylvania Avenue, N.W. Washington, DC 20460 (202) 272-0167
402.21(c)(1)	“Practical Guide for Ground-Water Sampling,” document identification number EPA/600/2-85/104, September 1985	No cost to download from: <a href="http://nepis.epa.gov/Exe/ZyPURL.cgi?Dockey=30000FRY.txt">http://nepis.epa.gov/Exe/ZyPURL.cgi?Dockey=30000FRY.txt</a>
402.21(c)(2)	“RCRA Ground-Water Monitoring: Draft Technical Guidance,” document identification number PB87107751, November 1992	No cost to download from: <a href="http://www.epa.gov/epawaste/hazard/correctiveaction/resources/guidance/sitechar/gwmonitr/rcra_gw.pdf">http://www.epa.gov/epawaste/hazard/correctiveaction/resources/guidance/sitechar/gwmonitr/rcra_gw.pdf</a>
402.15(n)(3)	“Site-Specific Soil Mapping Standards for New Hampshire and Vermont, Society of Soil Scientists of Northern New England” Version No. 2, SSNNE Special Publication No. 3, 1999	USDA, Natural Resource Conservation Services 1400 Independence Ave., SW Room 5105-A Washington, DC 20250 Phone: 202-720-7246 Fax: 202-720-7690 <a href="http://www.nrcs.usda.gov">http://www.nrcs.usda.gov</a> No cost to download from: <a href="http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs144p2_015566.pdf">http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs144p2_015566.pdf</a>

APPENDIX C: STATUTORY DEFINITIONS

**RSA 485-A:2**

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VII. "Lot" means a part of a subdivision or a parcel of land which can be used as a building site or intended to be used for building purposes, whether immediate or future.

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

XIII. "Regulated contaminant" means any physical, chemical, biological, radiological substance or other matter, other than naturally occurring substances at naturally occurring levels, in water which adversely affects human health or the environment.

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.

### **RSA 485-C:2**

I. "Ambient groundwater quality standards" means maximum concentration levels for regulated contaminants in groundwater which result from human operations or activities, as delineated in RSA 485-C:6.

VIII. "Groundwater" means subsurface water that occurs beneath the water table in soils and geologic formations.

## **APPENDIX D: FEDERAL DEFINITIONS**

### **40 CFR 144.3**

*Fluid* means any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state.

*Injection well* means a "well" into which "fluids" are being injected.

*Well* means A bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or, a dug hole whose depth is greater than the largest surface dimension; or, an improved sinkhole; or, a subsurface fluid distribution system.

*Well injection* means the subsurface emplacement of fluids through a well.