

Notice Number 2023-277

Rule Number Env-Wq 2101

1. Agency Name & Address:  
  
**Department of Environmental Services  
29 Hazen Drive  
Concord, New Hampshire**

2. RSA Authority: RSA 485:61, I  
3. Federal Authority: \_\_\_\_\_  
4. Type of Action:  
Adoption \_\_\_\_\_  
Repeal \_\_\_\_\_  
Readoption \_\_\_\_\_  
Readoption w/amendment X

5. Short Title: **Water Conservation**

6. (a) Summary of what the rule says and of any proposed amendments including whether the rule implements a state statute for the first time:

**The Department of Environmental Services (Department) is proposing to readopt with amendment the existing rule, Env-Wq 2101, implementing RSA 485:61, Rules for Water Conservation, by requiring water systems and other water users that are subject to the rule to implement practices that reduce the use, loss, and waste of water. The rule applies to entities seeking Department approval for a new permit application for a water withdrawal. The rule establishes a range of initiatives that must be implemented based on the type of water system or water user and establishes timeframes for implementation.**

**Amendments to the rule are being proposed that are intended to: (1) reorganize the rule to provide clarity and (2) better align the requirements with advancements in the water conservation field that have been made since the rule was originally adopted.**

**The existing rule is scheduled to expire on December 3, 2023, and is proposed to be readopted to continue the requirements in place. Pursuant to RSA 541-A:14-a, I, the existing rule will continue in effect for the duration of this readoption proceeding.**

6. (b) Brief description of the groups affected:

**Persons, businesses, and political subdivisions that elect to develop new sources of water that require approval will have to comply with the rule. Residents of, and visitors to, the state will benefit because the rule helps to ensure that the use of the state's water resources are maximized for the public and the environment. Conservation of the state's water resources through the reduction of water use, loss, and waste will have a positive net impact on all residents.**

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

| Rule Section(s) | State Statute(s) |
|-----------------|------------------|
| Env-Wq 2101     | RSA 485:61       |

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Holly Green** Title: **Rules Coordinator**  
Mailing Address: **NHDES Water Division** Phone #: **1-603-271-3114**  
**Drinking Water & Groundwater Bureau** Fax#: **1-603-271-5171**  
**P.O. Box 95** E-mail: **holly.h.green@des.nh.gov**  
**Concord, NH 03302-0095**  
TTY/TDD Access: Relay NH 1-800-735-2964  
or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Wednesday, January 17, 2024, at 4 PM**

Fax  E-mail  Other format (specify): **USPS**

9. Public hearing scheduled for:

Date and Time: **Tuesday, January 9, 2024, at 1 PM**  
Physical Location: **Dept. of Safety Conference Rooms, (2<sup>nd</sup> Floor)**  
**33 Hazen Drive, Concord, New Hampshire**  
Electronic Access (if applicable): **N/A**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant):

FIS # 23:272, dated 11/15/2023

**1. Comparison of the costs of the proposed rule(s) to the existing rule(s):**

When compared to the existing rules the proposed rules will increase and decrease costs to political subdivisions and independently owned businesses by indeterminable amounts.

**2. Cite the Federal mandate. Identify the impact on state funds:**

No federal mandate, no impact on state funds.

**3. Cost and benefits of the proposed rule(s):**

The Department has identified the following costs and benefits attributable to the proposed rules:

- The proposed change for certain community water systems to keep logs and report their water loss actions yearly instead of every three (3) years is intended to save time and costs and should be net less or equivalent in time and costs to the existing requirement.
- The proposed, new requirement for water systems to address causes of pressure transients and water hammer should be net less or equivalent in time and cost when compared to not addressing those issues and having to make repairs.
- The proposed change for water systems to complete the water audit using the AWWA Free Water Audit Software is intended to save time and costs.
- The proposed change for certain community water systems to complete a water audit every year and water loss action plan every three (3) years would not add any new costs.
- The requirement for certain community water systems to bill in gallons instead of “cubic feet” or “units.” will require a conversion: One (1) cubic foot = 7.48052 gallons. The

conversion will help the consumer better understand their water usage, as gallons are easier to conceptualize than cubic feet. Some water systems could make the changes in-house, while others may request their billing software company to make the change. The cost of this change would vary from system to system.

- The proposed change for agricultural crop water users to develop a water conservation plan in accordance with the NRCS manual and by working with people familiar with the manual is intended to save the water user time and cost, because many of the types of projects that would be subject to the rule already involve NRCS and conservation requirements. The water user can access existing resources rather than starting the water conservation plan from scratch.
- The proposed, new requirement for industrial, commercial, or institutional (ICI) water users to identify all existing and proposed water-using equipment will only require staff time. The amount of time will vary based on the size and type of the facility; however, it is anticipated to take less than one (1) hour total, and many water users will already have this information compiled.
- The proposed change for the ICI water user to include infrastructure in the automatic irrigation system network in the audit and to address improperly functioning equipment is intended to save the water user cost due to wasteful water and energy usage. It is also the standard practice for an irrigation system audit.
- The proposed, new requirement for ICI water users to seed all new or replacement lawns with water-efficient seed mix is intended to save the water users cost in future irrigation needs.
- Removing the requirement for public notification, will save the water users time and cost due to the preparation of the mailing and postage.
- Political subdivisions that elect to develop new sources of water that require approval will have to comply with the rule. However, the expenditure of funds to develop a new water source would have to be approved for funding by a vote of the local legislative body of the political subdivision.
- If a political subdivision elects to develop a new source that is subject to the proposed rule, there may be a financial benefit, because implementation of water conservation practices (1) reduces (or eliminates) the need to build or expand infrastructure to treat and distribute water; (2) reduces the costs associated with purchasing and storing water treatment chemicals; (3) reduces the costs of disposing waste materials associated with water treatment; and (4) reduces the costs associated with purchasing energy to pump, treat, and distribute water.

**A. To State general or State special funds:**

None.

**B. To State citizens and political subdivisions:**

See #3 above for the costs and benefits to political subdivisions. There will be no additional cost or benefit to State citizen.

**C. To independently owned businesses:**

See #3 above.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

**The proposed readoption with amendment of the rules does not violate Part I, Article 28-a of the New Hampshire Constitution, because the readoption with amendment of the rules does not assign any new, modified, or expanded programs or responsibilities to any political subdivision of the state in such a way as to increase local expenditures.**