

CHAPTER Env-Wq 300 SURFACE WATER PROTECTION

PART Env-Wq 301 STATE SURFACE WATER DISCHARGE PERMITS

Statutory Authority: RSA 485-A:6, VII; RSA 485-A:13, I(a)

REVISION NOTE:

Document #10348, effective 5-22-13, renumbered the former Chapter Env-Ws 400 titled “Protection of State Surface Waters” under a new subtitle as Chapter Env-Wq 300 titled “State Surface Water Protection.” Document #10348 also readopted with amendments and renumbered the former Part Env-Ws 401 titled “Protection of State Surface Waters” under a new subtitle as Part Env-Wq 301 titled “State Surface Water Discharge Permits.” 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 #10348 replaces all prior filings for rules formerly in Env-Ws 401. The prior filings for rules in former Env-Ws 401 include the following documents:

- #589, eff 11-12-74
- #2239, eff 12-31-82
- #2670, eff 4-12-84, EXPIRED 4-12-90
- #5063, eff 2-4-91; EXPIRED 2-4-97
- #6460, INTERIM, eff 2-21-97; EXPIRED 6-21-97
- #6533, eff 6-28-97
- #8361, eff 5-28-05

Env-Wq 301.01 Purpose. The purpose of these rules is to establish the standards and procedures by which a facility can obtain a state discharge permit under RSA 485-A:13, I(a).

Source. (See Revision Note at part heading for Env-Wq 301)
#10348, eff 5-22-13; ss by #13613, eff 5-22-23

Env-Wq 301.02 Applicability.

(a) These rules shall apply to all discharges of pollutants from a point source to surface waters that require a state discharge permit only.

(b) These rules shall not apply to:

- (1) Facilities that require both a state discharge permit and a federal National Pollutant Discharge Elimination System (NPDES) permit under section 402 of the Clean Water Act, which are subject to regulations adopted by the United States Environmental Protection Agency under 40 CFR, including but not limited to 40 CFR Parts 122 and 125;
- (2) Any activity for which a water quality certification is required pursuant to RSA 485-A:12, III and §401 of the Clean Water Act; or
- (3) Discharges that are subject to Env-Wq 305.

Source. (See Revision Note at part heading for Env-Wq 301)
#10348, eff 5-22-13; ss by #13613, eff 5-22-23

Env-Wq 301.03 Definitions.

- (a) “7Q10” means “7Q10” as defined in RSA 485-A:2, XXIV, as reprinted in appendix B.
- (b) “Administratively complete” means that the application contains all items and information required by the applicable provisions in Env-Wq 301.
- (c) “Biochemical oxygen demand (BOD)” means a measurement of the amount of oxygen used by the decomposition of organic material in a wastewater sample over a 5-day period.
- (d) “Bypass” means bypass as defined in RSA 485-A:2, XVII, as reprinted in appendix B.
- (e) “Department” means “department” as defined in RSA 485-A:2, III, as reprinted in appendix B.
- (f) “Discharge” means the addition, introduction, leaking, spilling, or emitting of a pollutant to surface waters of the state, whether done intentionally, unintentionally, negligently, or otherwise.
- (g) “Effluent limitations” means any restriction(s) imposed by the department, pursuant to RSA 485-A, or by the United States Environmental Protection Agency (EPA), pursuant to 40 CFR Parts 122 or 125, on quantities, discharge rates, characteristics, or concentrations of pollutants that are discharged to surface waters of the state.
- (h) “Existing uses” means those uses actually attained in the water body on or after November 28, 1975, whether or not they are included in Env-Wq 1700. The term does not include assimilation or transport of pollutants.
- (i) “Harmonic mean flow” means the number of daily stream flow measurements divided by the sum of the reciprocals of the daily stream flows.
- (j) “Industrial waste” means “industrial waste” as defined in RSA 485-A: 2, VI, as reprinted in appendix B.
- (k) “Municipality” means a city or town.
- (l) “Operator in responsible charge” means the operator who oversees the daily operation of the wastewater treatment facility and is ultimately accountable for decisions involving all plant operational duties, including maintenance of process equipment, laboratory work, equipment operation, administration, process control, record keeping, and reporting, necessary for the wastewater treatment plant to comply with applicable federal and state requirements.
- (m) “Other waste” means “other waste” as defined in RSA 485-A:2, VIII, as reprinted in appendix B.
- (n) “Person” means “person” as defined in RSA 485-A:2, IX, as reprinted in appendix B.
- (o) “pH” means a measure of the hydrogen ion concentration in a solution, expressed as the logarithm to the base 10, of the reciprocal of the hydrogen ion concentration in gram moles per liter.
- (p) “Point source” means a discernible, confined, and discrete conveyance from which pollutants are or might be discharged. The term includes but is not limited to a pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft. The term does not include return flows from irrigated agriculture.
- (q) “Pollutant” means any dredged material, solid waste, incinerator residue, sewage, filter backwash, garbage, sewage sludge, septage, munitions, chemical wastes, biological materials, genetically engineered or altered materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, or any other

industrial, commercial, municipal, or agricultural waste or any other substance in concentrations or amounts that, when in contact with surface waters, could create a nuisance or render such waters harmful, detrimental, or injurious to public health, safety, or welfare, to plant, animal, or aquatic life, or to other designated or existing uses.

(r) “Receiving water” means the surface waters into which pollutants are or may be discharged.

(s) “Sewage” means sewage as defined in RSA 485-A:2, X, as reprinted in appendix B.

(t) “Surface waters” means “surface waters of the state” as defined in RSA 485-A:2, XIV as reprinted in appendix B, wetlands that are subject to regulation under RSA 482-A, and “waters of the United States” as defined in 40 CFR §122.2 that are within the jurisdiction of the state. The term does not include non-tidal drainage ditches that were designed, built, and used to convey wastewater or stormwater. The term also does not include constructed wetlands, cooling ponds, lagoons, and other treatment systems designed and built solely as wastewater or stormwater treatment systems, provided such facilities were not initially constructed in surface waters of the state or were not constructed to serve other mitigation purposes.

(u) “Tidal waters” means those portions of the Atlantic Ocean within the jurisdiction of the state, and other surface waters subject to the rise and fall of the tide.

(v) “Upset” means “upset” as defined in RSA 485-A:2, XVIII, as reprinted in appendix B.

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

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

(y) “Wetland” means “wetlands” as defined by RSA 482-A:2, X, as reprinted in appendix B.

Source. (See Revision Note at part heading for Env-Wq 301) #10348, eff 5-22-13; ss by #13613, eff 5-22-23

Env-Wq 301.04 Permit Application Required; Application Content.

(a) Pursuant to RSA 485-A:13, I(a), no person shall discharge any sewage or waste to surface water without first obtaining a written permit from the department.

(b) Any person wishing to obtain a new or modified state surface water discharge permit shall apply for a permit or permit modification, as applicable, by submitting the following information in writing to the department:

- (1) The name and location of the facility;
- (2) The name, title, and daytime telephone number of the operator in responsible charge of the facility;
- (3) The name, mailing address, daytime telephone number, and, if available, an email address of the owner of the facility and, if the owner is other than an individual, the name, title, daytime telephone number, and, if available, an email address of an individual who can be contacted regarding the application;
- (4) The mailing address of the facility;
- (5) The applicable North American Industry Classification System (NAICS) code(s);

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- (6) A list of any other environmental permits that the facility has obtained or has applied for;
 - (7) A description of the business conducted at the facility;
 - (8) A unit process flow diagram and design data for existing and proposed wastewater treatment facilities;
 - (9) A list of the water supply source(s) for the facility and, if water from more than one source is discharged, the percent of the total that each source represents;
 - (10) An original or a color copy of a 7½ minute series USGS Quadrangle map showing the location of the facility and all discharge pipes to the receiving water body, provided, however that if a 7½ minute map is unavailable, a 15 minute series shall be acceptable;
 - (11) A facility site plan showing buildings, outfall locations, surface waters, and drainage in sufficient detail so that they can be located on site;
 - (12) The name of the receiving water;
 - (13) If applicable, facility plans and specifications for design and construction stamped by a New Hampshire professional engineer as required by RSA 310-A:18;
 - (14) A description and location of the uses of the receiving water located within 5 miles of the discharge(s);
 - (15) Any available water quality data of the receiving water or, if applicable, effluent data not previously submitted to the department;
 - (16) If the owner of the facility is not the owner of the land on which the facility is or will be located, a notarized affidavit signed by the land owner that the applicant, or the facility owner the applicant represents, has right, title, or interest in the property on which the facility is or will be located, because the facility owner leases or has a binding option to purchase the property on which the facility is or will be located;
 - (17) If the owner of the facility is an entity that is required by RSA 292, RSA 293, RSA 293-A, or other applicable provision of New Hampshire law to register with the New Hampshire secretary of state, proof that the entity is registered and in good standing to do business in New Hampshire; and
 - (18) Where the applicant is not the legal owner of the facility, a copy of the agreement authorizing the applicant to act on behalf of the owner for purposes of the application.
- (c) Any applicant requesting authorization for a new discharge or an increased discharge of pollutants at an existing facility shall contact the department prior to submitting the application to determine whether the department will need any instream water quality information in order to assess the impact of the discharge on the receiving water. If the department does not already have the instream water quality data necessary to assess the impact of the discharge on the receiving water, the applicant shall submit the necessary data.

Source. (See Revision Note at part heading for Env-Wq 301)
#10348, eff 5-22-13; ss by #13613, eff 5-22-23

Env-Wq 301.05 Signature Required.

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(a) The applicant and, if the applicant is other than the owner of the facility, the owner shall sign the application submitted pursuant to Env-Wq 301.04.

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

(1) The information provided is true, complete, and not misleading to the knowledge and belief of the signer; and

(2) The signer understands that any permit granted based on false, incomplete, or misleading information shall be subject to revocation.

Source. (See Revision Note at part heading for Env-Wq 301) #10348, eff 5-22-13; ss by #13613, eff 5-22-23

Env-Wq 301.06 Completeness Review; Hearing Notice.

(a) Within 30 days of receipt of an application, the department shall determine whether the application is administratively complete.

(b) If the department determines that the application does not contain all required information, the department shall notify the applicant in writing of what information is needed to complete the application.

(c) The notice sent pursuant to (b), above, also shall inform the applicant that:

(1) If the information is not provided within 60 days of the department's request, the application will be denied; and

(2) The time that elapses between the date of the notice and the receipt by the department of all information required to complete the application shall not be included in the 60-day period referenced in Env-Wq 301.08(c).

(d) If the applicant submits any information to complete or amend the application between the date of initial filing and the date the department determines the application is complete, the 60-day period referenced in Env-Wq 301.08(c) shall be measured from the date of latest submittal.

(e) If the department does not receive the information needed to complete the application, the department shall inform the applicant in writing that the application is denied due to the incompleteness.

(f) Pursuant to RSA 541-A:29, IV, the department may extend the time periods for review upon written agreement of the applicant.

(g) When the department determines that the application is administratively complete, the department shall:

(1) Give notice of the application as required by RSA 485-A:4, XVII, by first-class mail to the clerk of the municipality in which the point of discharge is located and each adjacent municipality that is located on the same receiving water as the point of discharge;

(2) Schedule a public hearing on the application in the municipality in which the activity is proposed to occur and determine the date by which written public comments must be submitted, which shall be 15 days after the date of the hearing;

(3) Publish notice of the public hearing and public comment period no less than 30 days prior to the hearing in a newspaper of local circulation; and

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- (4) Conduct the hearing in accordance with Env-Wq 301.07 and the provisions of Env-C 200 that apply to non-adjudicative proceedings.
- (h) The notice published pursuant to (g)(3), above, shall contain the following information:
 - (1) The name and mailing address of the applicant;
 - (2) The location, date, and time of the public hearing;
 - (3) The locally-accessible place where the application can be reviewed;
 - (4) The name, address, and telephone number of the individual in the department to whom comments can be sent;
 - (5) The type of activity proposed to be conducted;
 - (6) The proposed location of the facility;
 - (7) The name of the owner; and
 - (8) The deadline for submission of written comments.
- (i) A determination that the application is administratively complete shall not be construed as a decision on the merits of the application.

Source. (See Revision Note at part heading for Env-Wq 301) #10348, eff 5-22-13; ss by #13613, eff 5-22-23

Env-Wq 301.07 Public Hearing.

- (a) At the hearing, the applicant shall:
 - (1) Make at least 2 copies of the application available for people to review at the hearing, with additional copies being provided at the applicant's discretion;
 - (2) Make a presentation to the public, summarizing all of the information contained in the application; and
 - (3) Respond to questions concerning the proposed activity.
- (b) After the applicant has responded to all questions concerning the proposed activity, the department shall receive public comment on the application, including any comment and supporting information as to its accuracy and completeness.

Source. (See Revision Note at part heading for Env-Wq 301) #10348, eff 5-22-13; ss by #13613, eff 5-22-23

Env-Wq 301.08 Application Review; Decision.

- (a) After the conclusion of the public comment period, the department shall complete a technical review of the application and consider all of the comments received at the hearing and in writing so as to determine whether the application meets the criteria specified in Env-Wq 301.09.
- (b) If the information submitted with an administratively complete application is insufficient for the department to determine that the application meets the criteria specified in Env-Wq 301.09, the department shall request such additional information from the applicant as the department deems necessary to make the

determination. Such request shall be in writing and shall include the information specified in Env-Wq 301.06(c).

(c) Within 60 days of receipt of a complete application and any information requested pursuant to (b), above, the department shall:

(1) Approve the application and issue a permit if the application meets the criteria specified in Env-Wq 301.09; or

(2) Deny the application if the application does not meet the criteria specified in Env-Wq 301.09.

(d) The department shall send written notice of its decision to the applicant and to the governing body of the municipality(ies) to which the notice specified in Env-Wq 301.06(g)(1) was sent.

(e) If the department denies the application, the notice sent pursuant to (d), above, shall:

(1) Specify the reason(s) for the denial; and

(2) Inform the applicant that the decision may be appealed to the water council in accordance with Env-WC 200.

Source. (See Revision Note at part heading for Env-Wq 301) #10348, eff 5-22-13; ss by #13613, eff 5-22-23

Env-Wq 301.09 Criteria for Issuance of Permit. The department shall issue a permit if it determines that the information provided by the applicant establishes that the proposed discharge:

(a) Will not violate any applicable provision of RSA 485-A; and

(b) Will not cause or contribute to a violation of Env-Wq 1700.

Source. (See Revision Note at part heading for Env-Wq 301) #10348, eff 5-22-13; ss by #13613, eff 5-22-23

Env-Wq 301.10 Suspension, Revocation, or Refusal to Renew.

(a) If, after issuing a permit to a facility, the department receives information that indicates that good cause, as set forth in (f), below, exists to suspend or revoke the permit, the department shall proceed in accordance with the provisions of RSA 541-A and Env-C 200 that apply to adjudicative proceedings.

(b) After proceeding in accordance with (a), above, the department shall revoke the permit if the department determines that the reason for good cause cannot be corrected to conform to applicable requirements.

(c) After proceeding in accordance with (a), above, the department shall suspend the permit, subject to (d) below, if the department determines that, while good cause exists, the reason that good cause exists can be corrected to conform to applicable requirements.

(d) If a permit is suspended pursuant to (c), above, the department shall not reinstate the permit until:

(1) The reason for good cause has been corrected to conform with applicable requirements; and

(2) The permit holder submits a written request to the department requesting that the permit be reinstated.

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(e) If after receiving a request for renewal of a permit, the department receives information which indicates that good cause, as set forth in (f), below, exists to refuse to renew the permit, the department shall proceed in accordance with the provisions of RSA 541-A and Env-C 200 that apply to adjudicative proceedings and refuse to renew the permit, until the reason for good cause has been corrected to conform with applicable requirements.

(f) Good cause to suspend, revoke, or refuse to renew a permit shall include the following:

(1) The permit holder has not complied with the conditions of the permit or these rules;

(2) The plans submitted with the application do not accurately portray the actual site and facility;

(3) Information submitted in support of the application is not true and complete or is misleading;

(4) The permit holder has failed to comply with an order of the department relative to wastewater management, including an order to undertake corrective measures;

(5) The permit holder has failed to comply with an order of the department relative to a violation of any other statute administered by the department; or

(6) The permit holder has failed to pay any administrative, civil, or criminal penalties owed to the department.

(g) If the department determines, based on all available scientific and valid information, that the permitted activity is creating an immediate danger to human health or the environment, the department shall proceed in accordance with RSA 541-A:30, III.

(h) The department shall inform the applicant that the decision to suspend, revoke, or refuse to renew may be appealed to the water council in accordance with Env-WC 200.

Source. (See Revision Note at part heading for Env-Wq 301) #10348, eff 5-22-13; ss by #13613, eff 5-22-23

Env-Wq 301.11 Permit Transfers.

(a) In order to transfer a permit, the permit holder shall submit to the department:

(1) A copy of the permit;

(2) The name, mailing address, and daytime telephone number of the person(s) to whom the permit will be transferred;

(3) The information required in Env-Wq 301.13(b); and

(4) A copy of a notarized notification signed by the new permittee stating the date that the new permittee will assume the responsibility of the requirements of the permit.

(b) The person to whom the permit is proposed to be transferred shall submit the documentation required pursuant to Env-Wq 301.04(b)(16) through (18), as applicable.

(c) The department shall process the request in accordance with Env-Wq 301.06 (a) through (f).

(d) The department shall approve such transfer within 60 days of receiving an administratively complete application if:

- (1) The permit holder is in compliance with these rules and the permit;
- (2) Good cause as defined by Env-Wq 301.10(f) to suspend, revoke, or refuse to renew the permit does not exist; and
- (3) The person to whom the permit is proposed to be transferred meets the requirements set forth in Env-Wq 301.04(b)(16) through (18).

Source. (See Revision Note at part heading for Env-Wq 301) #10348, eff 5-22-13; ss by #13613, eff 5-22-23

Env-Wq 301.12 Transfer of Land Ownership.

(a) If a facility that has an existing state discharge permit is located on land that is transferred to a new owner, the permit holder shall notify the department within 10 days of the transfer and shall suspend all activities covered by the permit until the statement described in (c), below, is signed by the new property owner, notarized, and received by the department.

(b) If a signed statement as described in (c), below, does not accompany the notice of land transfer, then upon receipt of the notice the department shall commence a proceeding under the provisions of RSA 541-A and Env-C 200 that apply to adjudicative proceedings to revoke the permit. If the permit holder obtains and submits the signed statement, the proceeding shall be terminated.

(c) The statement from the new owner shall state that the new owner:

- (1) Is aware that the facility exists on the land;
- (2) Agrees to the continued operation of the facility;
- (3) Has given permission to the permit holder to enter upon the land for purposes of operation, including the implementation of remedial measures if ordered by the department; and
- (4) Is aware that the department must be allowed access to the property to conduct inspections, review and copy records, and monitor and sample a facility's wastewater and the surface water to which the facility discharges.

(d) If the new owner chooses to discontinue the activities covered by the state discharge permit, the permit holder shall:

- (1) Submit a written statement to the department indicating that the permit-related activities have been discontinued; and
- (2) Remove sufficient infrastructure specific to the activities that were subject to the permit so as to eliminate the discharge to the receiving water.

Source. (See Revision Note at part heading for Env-Wq 301) #10348, eff 5-22-13; ss by #13613, eff 5-22-23

Env-Wq 301.13 Modification of a Permit.

(a) The permit holder shall apply to the department for approval to modify the permit prior to modifying any processes or procedures that could result in a change to the volume or quality of the discharge from the facility.

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(b) To apply for a permit modification, the permit holder shall provide the following information to the department:

- (1) The facility permit number;
- (2) The name, address, and daytime telephone number of the permit holder, owner, and operator and, if available, an email address for each;
- (3) A detailed description of all proposed modifications;
- (4) If applicable, revised plans and specifications for construction stamped by a New Hampshire professional engineer;
- (5) An explanation of the necessity of the proposed change(s);
- (6) The effect of the modification on the facility's discharge;
- (7) The identification and status of all other federal or state permits or approvals needed to effect the necessary modification(s);
- (8) The permit holder's proposed schedule for implementing such changes; and
- (9) A list and status of any outstanding violations, accompanied by a statement from the permit holder indicating how full compliance shall be attained prior to approval of the modification.

(c) The department shall process the permit application in accordance with Env-Wq 301.06(a) through (f).

(d) The department shall approve the modification within 60 days of receiving an administratively complete application if it determines that:

- (1) All applicable requirements of these rules have been met;
- (2) If the applicant is other than the owner, the owner has given permission to the applicant for the modification; and
- (3) All other state permits which are necessary for the proposed modification have been applied for.

Source. (See Revision Note at part heading for Env-Wq 301) #10348, eff 5-22-13; ss by #13613, eff 5-22-23

Env-Wq 301.14 Duration and Renewal of State Surface Water Discharge Permits.

(a) A state surface water discharge permit issued pursuant to these rules shall be valid for 5 years from the date of issuance and may be renewed.

(b) A permit holder wishing to renew a state surface water discharge permit shall submit an application as specified in Env-Wq 301.04 to the department at least 60 days prior to the date the permit will expire.

(c) Upon receipt of an application to renew, the department shall proceed in accordance with Env-Wq 301.06(a) - (h), Env-Wq 301.07, and Env-Wq 301.08.

Source. (See Revision Note at part heading for Env-Wq 301) #10348, eff 5-22-13; ss by #13613, eff 5-22-23

Env-Wq 301.15 Permit Conditions Common to all Permits. The following conditions shall apply to each state discharge permit:

(a) The permittee shall not at any time, either alone or in conjunction with any other person(s), cause directly or indirectly the discharge of any pollutant into receiving waters except pollutants that have been treated in such a manner as to not lower the applicable class water quality, interfere with the existing uses or designated uses assigned to waters by the legislature, exceed the effluent limitations, or violate any of the conditions listed in the permit;

(b) The permittee shall provide effective operation and maintenance of the pollution control facilities, which means that the facility shall be operated and maintained in accordance with the plant operation and maintenance manuals and manufacturer's equipment manuals, so as to meet the permit's effluent limitations;

(c) The permittee shall use only those laboratories that have been accredited pursuant to Env-C 300;

(d) The permittee shall monitor all discharges in accordance with the conditions specified in the permit, using analyses performed in accordance with 40 CFR §136 unless other test procedures have been specified in the permit;

(e) The permittee shall submit monitoring results, postmarked no later than the 15th day of the month following the completed reporting period;

(f) The permittee shall retain records at the permitted facility of the following:

(1) Monitoring data;

(2) Monitoring equipment calibration records;

(3) Monitoring equipment maintenance records;

(4) Original strip chart recordings from continuous monitoring instrumentation;

(5) Copies of all reports required by the permit; and

(6) Records of all data used to complete the application for the permit;

(g) The records required by (f), above, shall be retained for not less than 3 years from the date of the sample, measurement, report or application, as applicable, provided that this period shall be extended through the duration of any enforcement action;

(h) The permittee shall allow any authorized employee or agent of the department to enter any land or establishment of the company during the normal business hours for the purpose of collecting samples, conducting dye tests, making video recordings, examining and copying any records, or taking photographs, necessary to the investigation and enforcement of the water pollution control laws of the state of New Hampshire;

(i) The effluent limitations contained in the permit and the stream classification requirements as provided by RSA 485-A:8 shall be met and maintained at all times. Whenever it is demonstrated that the effluent limitations are not adequate to maintain said stream classification requirements, the permittee shall be required to conform to such effluent limitations as shall be necessary for the maintenance of such requirements;

(j) The department shall periodically review and revise, as necessary, the conditions of the permit so that water quality standards, existing uses, and designated uses shall be maintained and protected at all times;

(k) The permit shall not be transferable except in accordance with Env-Wq 301.11;

(l) The permittee shall give notice in accordance with RSA 485-A:13, I(c), whenever a bypass or upset of a treatment facility occurs; and

(m) Permittees that discharge treated wastewater to tidal waters shall provide immediate notification to the department and the New Hampshire department of health and human services in the event of a discharge of untreated sewage or the bypass of a disinfection system.

Source. (See Revision Note at part heading for Env-Wq 301) #10348, eff 5-22-13; ss by #13613, eff 5-22-23

Env-Wq 301.16 Additional Permit Conditions. If additional conditions or effluent limitations are necessary to ensure that the discharge does not violate Env-Wq 1700, the department shall include such conditions or effluent limitations in the permit.

Source. (See Revision Note at part heading for Env-Wq 301) #10348, eff 5-22-13; ss by #13613, eff 5-22-23

Env-Wq 301.17 Application of Criteria in Establishing Effluent Permit Limits.

(a) The effluent limits for bacteria and pH for all permits shall be applied at the end of the pipe with no allowance for dilution by the receiving water.

(b) Subject to Env-Wq 301.18, all other applicable effluent limits shall be developed as follows:

(1) Where the receiving water is a river or stream, the harmonic mean flow shall be used to develop effluent limits for all human health criteria for carcinogens;

(2) Where the receiving water is a river or stream, the 7Q10 flow shall be used to develop monthly average and maximum daily effluent limits for aquatic life criteria for toxics, human-health criteria for non-carcinogens, and for non-toxic pollutants, such as BOD; and

(3) Where the receiving water is a tidal water, the flow condition for computing effluent permit limits for toxic substances and for non-toxic pollutants such as BOD shall be equivalent to the conditions that result in a dilution that is exceeded 99% of the time.

Source. (See Revision Note at part heading for Env-Wq 301) #10348, eff 5-22-13; ss by #13613, eff 5-22-23

Env-Wq 301.18 Use of Alternate Flow Conditions to Develop Effluent Limits.

(a) An applicant who wishes to develop effluent limits using a flow condition other than the applicable condition specified in Env-Wq 301.17 shall submit a written request to use an alternative flow condition to the department with the application submitted pursuant to Env-Wq 301.04.

(b) The request shall include:

(1) Any additional information necessary to ensure that the discharge will not violate Env-Wq 1700 or the applicable provisions of RSA 485-A:8;

(2) An explanation of why using the alternative flow condition will result in an effluent limit that is at least as protective of public health and the environment as the specified flow condition; and

(3) Whether additional sampling will be done in support of the request.

(c) If additional sampling will be done in support of the request, the applicant shall submit a scope of work and a quality assurance project plan (QAPP) in accordance with EPA Requirements for Quality Assurance Project Plans (QA/R-5), EPA/240/B-01/003, March 2001, prior to initiating the additional sampling.

(d) The department shall approve the scope of work if the scope of work and QAPP demonstrate that the data resulting from the sampling will be a reliable indicator that using the alternative flow condition will result in an effluent limit that is at least as protective of public health and the environment as the specified flow condition.

(e) The department shall approve the use of an alternative flow condition to develop one or more effluent limits if the applicant demonstrates that:

(1) The discharge will not violate Env-Wq 1700 or the applicable provisions of RSA 485-A:8; and

(2) Using the alternative flow condition will result in an effluent limit that is at least as protective of public health and the environment as the specified flow condition.

Source. (See Revision Note at part heading for Env-Wq 301) #10348, eff 5-22-13; ss by #13613, eff 5-22-23

PARTS Env-Wq 302 – Env-Wq 303 - RESERVED

PART Env-Wq 304 CERTIFICATION OF WASTEWATER TREATMENT PLANT OPERATORS

Part Env-Wq 304 was readopted with amendments, Document #13755, effective 09-27-23, and is posted in the adopted rules section of the NHDES website rules library.

PART Env-Wq 305 PRETREATMENT OF INDUSTRIAL WASTEWATER

Statutory Authority: RSA 485-A:6, VI

REVISION NOTE:

Document #10381, effective 8-1-13, readopted with amendments and renumbered former Part Env-Ws 904 titled “Standards for Pretreatment of Industrial Wastewater” under a new subtitle as Part Env-Wq 305 titled “Pretreatment of Industrial Wastewater”. 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 #10381 replaces all prior filings for rules formerly in Env-Ws 904. The prior filings for rules in former Env-Ws 904 include the following documents:

- #2240, eff 12-31-82
- #2851, eff 9-21-84; EXPIRED 9-21-90
- #6373, eff 11-16-96
- #8203, INTERIM, eff 11-16-04
- #8328, eff 4-23-05

Env-Wq 305.01 Purpose. The purpose of these standards is to implement RSA 485-A:4, XV and RSA 485-A:5 so as to prevent the indirect discharge of pollutants to a publicly owned treatment works (POTW) that would:

- (a) Pass through, interfere with, or otherwise be incompatible with the safe and successful performance, operation, and maintenance of the POTW;
- (b) Cause the POTW to violate any water quality standards specified in Env-Wq 1700; or
- (c) Adversely impact sludge quality and prevent its use or disposal as other than a hazardous waste.

Source. (See Revision Note at part heading for Env-Wq 305) #10381, eff 8-1-13; ss by #13241, eff 7-24-21

Env-Wq 305.02 Applicability. These rules shall apply to the discharge of industrial wastes, as defined in RSA 485-A:2, VI, to a POTW.

Source. (See Revision Note at part heading for Env-Wq 305) #10381, eff 8-1-13; ss by #13241, eff 7-24-21

Env-Wq 305.03 Definitions. As used herein the following terms shall have the following meanings:

- (a) “Department” means the New Hampshire department of environmental services.
- (b) “Domestic septage” means either liquid or solid material removed from a septic tank, cesspool, or similar containment area that receives only domestic sewage.
- (c) “Domestic sewage” means sewage comprised of waste and wastewater from household or commercial operations, that:
 - (1) Contains no industrial waste; and
 - (2) Is discharged to or otherwise enters a treatment works.
- (d) “Fume toxicity screening level” means that concentration of a pollutant in water that, under equilibrium conditions, a confined environment, and a standard temperature, would cause the concentration of the pollutant in the air over that water to exceed the exposure limit.
- (e) “Headworks” means that portion of a wastewater treatment plant (WWTP) that first receives the total influent flow for initial treatment.
- (f) “Headworks loading limit” means the maximum allowable quantity of pollutants at the headworks of a WWTP when the following constraints are considered:
 - (1) Water quality standards for the receiving water;
 - (2) Discharge permit limits;
 - (3) Inhibition of biological treatment processes;
 - (4) Sludge criteria;
 - (5) Corrosive destruction of the WWTP;
 - (6) Air quality limitations; and
 - (7) Worker safety.

(g) “Indirect discharge” means the introduction of pollutants into a POTW from any non-domestic sources.

(h) “Indirect discharger” means a facility that discharges waste, as defined in RSA 485-A:2, XVI, alone or in combination with domestic sewage to a POTW.

(i) “Industrial waste” means “industrial waste” as defined in RSA 485-A:2, VI, reprinted in Appendix B.

(j) “Interference” means an indirect discharge that, alone or in conjunction with indirect discharge(s) from other sources:

(1) Inhibits or disrupts the POTW’s treatment processes or operations, or its processing, use, or disposal of sludge in compliance with applicable statutes and rules;

(2) Is a cause of a violation of any requirements of the POTW’s federal or state discharge permit; or

(3) Prevents sewage sludge use or disposal in compliance with the following statutory provisions and rules or permits issued thereunder:

a. Env-Sw 100 et seq. relative to solid waste management;

b. Env-A 100 et seq. relative to air pollution control;

c. The General Pretreatment Regulations For Existing and New Sources of Pollution, 40 CFR 403;

d. The Federal Toxic Substances Control Act, 15 U.S.C. ch. 53;

e. The Federal Marine Protection, Research and Sanctuaries Act, 33 U.S.C. §§ 1401-1445 and 16 U.S.C. §§ 1431-1445; and

f. Env-Wq 800 and 40 CFR Part 503 relative to use or disposal of sewage sludge.

(k) “Local limit” means a pollutant quantity specified in a municipal sewer ordinance that numerically limits the amount of a specified pollutant that can be discharged to the POTW by an indirect discharger.

(l) “Medical/infectious waste” means “medical/infectious waste” as defined in RSA 125-N:2, VIII, reprinted in Appendix B.

(m) “Municipal sewer use ordinance” means that set of ordinances, bylaws, or regulations duly adopted by the governing body of the municipality relating to the POTW and all appurtenant structures, including any pretreatment facilities as are required for the proper maintenance and operation of the foregoing enumerated facilities.

(n) “Municipality” means, for the purposes of these rules, any state, county, city, town, district, governmental subdivision of the state, or any other public entity, other than federal agencies, responsible for the operation and maintenance of the treatment works.

(o) “Other wastes” means “other wastes” as defined in RSA 485-A:2, VIII, reprinted in Appendix B.

(p) “Pass through” means a discharge to a POTW in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW’s federal or state discharge permit, or both.

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

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(r) “Pharmaceutical waste” means a prescription drug, as defined in RSA 318:1, XVII, or a nonprescription or proprietary medicine, as defined in RSA 318:1, XVIII, that is no longer suitable for its intended purpose or is otherwise being discarded.

(s) “Pretreatment” means the application of physical, chemical, or biological processes, either singly or in combination, to reduce the amount of pollutants in or alter the nature of the pollutant property in a waste prior to discharge into a POTW.

(t) “Publicly owned treatment works (POTW)” means a treatment works that is owned by a municipality.

(u) “Radiological waste” means radioactive waste as regulated by RSA 125-F.

(v) “Sewage” means “sewage” as defined in RSA 485-A:2, X, reprinted in Appendix B.

(w) “Significant indirect discharger” means an indirect discharger that meets one or more of the following criteria:

- (1) Is subject to national categorical pretreatment standards under 40 CFR 403.6;
- (2) Discharges an average of 10,000 gallons per day or more of process wastewater;
- (3) Discharges a process wastewater that contributes 5 percent or more of the hydraulic or organic loading to the wastewater treatment plant;
- (4) Discharges medical/infectious waste, pharmaceutical waste, or radiological waste if such a discharge has been designated by the municipality as having a reasonable potential for adversely affecting the POTW’s operation or performance or for violating any pretreatment standard or requirement; or
- (5) Is designated as such by the municipality as having a reasonable potential for adversely affecting the POTW’s operation or performance or for violating any pretreatment standard or requirement.

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

(y) “Sludge toxicity” means the degree to which a sludge has a toxic effect on living organisms.

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

(aa) “Treatment works” means any device or system used in the collection, storage, treatment, recycling, or reclamation of sewage or industrial waste and includes all collection sewers, interceptor sewers, pumping stations, treatment and appurtenant facilities essential to the operation of an entire system.

(ab) “Upset” means “upset” as defined in RSA 485-A:2, XVIII, reprinted in Appendix B.

(ac) “Waste” means “waste” as defined in RSA 485-A:2, XVI, reprinted in Appendix B.

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

(ae) “Winnepesaukee River Basin Program (WRBP)” means the wastewater collection system and treatment facilities established and operated under RSA 485-A:45-54.

Source. (See Revision Note at part heading for Env-Wq 305)
#10381, eff 8-1-13; ss by #13241, eff 7-24-21

Env-Wq 305.04 Municipal Sewer Use Ordinance.

(a) A municipality with a POTW shall develop and maintain a sewer use ordinance.

(b) Any municipality served by the WRBP pursuant to RSA 485-A:45-54 shall obtain verification of compliance with Env-Wq 1200 from the WRBP for a sewer use ordinance or revision thereto, prior to department review.

(c) Subject to Env-Wq 305.07, in order to be approvable pursuant to Env-Wq 305.08 a municipal sewer use ordinance or revisions thereto shall include the following minimum pretreatment standards and related provisions applicable to indirect dischargers:

- (1) Local limits as specified in Env-Wq 305.05;
- (2) Fume toxicity, explosivity, and ignitability screening levels when necessary for the protection of personnel or sewer structures;
- (3) A requirement that wastes introduced into a POTW by any person shall not:
 - a. Interfere with the safety, operation, maintenance, or performance of the POTW;
 - b. Have an adverse effect on the receiving stream;
 - c. Prevent disposal of sludge in the manner used by the POTW; or
 - d. Otherwise endanger life, limb, public property, or constitute a nuisance;
- (4) A prohibition on diluting any waste stream to meet required limits;
- (5) A list of wastes prohibited to be discharged to the POTW, which shall include as a minimum the items listed in Env-Wq 305.06;
- (6) A provision or provisions by which the municipality may require a discharger to:
 - a. Install and maintain monitoring and sampling equipment;
 - b. Keep records of monitoring and sampling data, including quality assurance/quality control records for a period of at least 5 years from the date of the measuring, sampling, or report, which period shall be extended through the duration of any enforcement action; and
 - c. Submit records upon written request to local or state officials;
- (7) A space for documentation that the local authority has adopted the sewer use ordinance, including adoption date and signatures of adopting officials;
- (8) A requirement that an indirect discharge of wastewater shall only be allowed to a sewer connected to the POTW;
- (9) A requirement that all newly-connected discharges shall be in compliance with pretreatment standards prior to connection to the POTW;
- (10) A requirement that each significant indirect discharger obtain a discharge permit from the owner of the POTW in accordance with Env-Wq 305.10 through Env-Wq 305.16, as applicable,

prior to discharging any industrial waste to the POTW, provided that the ordinance may include the provisions of Env-Wq 305.19 or Env-Wq 305.20, or both, to allow the permitting authority to allow certain discharges of limited duration without a permit;

(11) A requirement that any discharge permit issued include the conditions identified in Env-Wq 305.18;

(12) A requirement that any dental practice that is required by Env-Wq 306 to have an amalgam separator, properly install and maintain the separator;

(13) A requirement that grease interceptors be installed and maintained in accordance with local and state codes and requirements and that maintenance records be periodically provided to the POTW; and

(14) A requirement that at least once a year the municipality inspect each significant indirect discharger for compliance with the discharge permit, which inspection shall include sampling if the municipality determines that sampling is necessary to determine compliance.

Source. (See Revision Note at part heading for Env-Wq 305) #10381, eff 8-1-13; ss by #13241, eff 7-24-21

Env-Wq 305.05 Local Limits. The municipality shall develop local limits as follows:

(a) Local limits shall specifically meet the headworks loading limit and reflect the design and operational capabilities of the WWTP;

(b) Specific numerical limits shall be required on constituents contained in waste if the inclusion of such limits is necessary to meet applicable federal and state law;

(c) Local limits shall be established on a mass basis to allow indirect dischargers to reduce water use; and

(d) Local limits shall be reevaluated and revised as necessary no less than every 5 years from adoption.

Source. (See Revision Note at part heading for Env-Wq 305) #10381, eff 8-1-13; ss by #13241, eff 7-24-21

Env-Wq 305.06 Prohibited Wastes. The list of prohibited wastes required by Env-Wq 305.04(c)(5) shall include the following:

(a) Any waste containing any pollutant in a concentration that is likely to cause corrosive or structural damage to the POTW, and in no case any waste having a pH lower than 5.0 or higher than 12.0;

(b) Solid or viscous pollutants in any amount that is likely to cause obstruction to the flow in the POTW or result in interference with the proper operation of the POTW;

(c) Any pollutant, including oxygen-demanding pollutants, released in a discharge at a flow rate or pollutant concentration or quantity that is likely to:

(1) Cause interference with POTW operations;

(2) Constitute a hazard to humans or animals;

(3) Create a public nuisance;

(4) Exceed any national categorical pretreatment standard; or

(5) Cause pass through;

- (d) Any waste that contains a concentration or quantity of any pollutant such that the introduction of the waste to a POTW is likely to cause a treatment process upset and subsequent loss of treatment ability;
- (e) Any waste that contains heat in an amount that is likely to inhibit biological activity in a POTW resulting in an interference, and in no case heat in such quantities that the temperature of the influent at the WWTP headworks exceeds 40°C, equivalent to 104°F;
- (f) Pollutants that create a fire or explosion hazard in the POTW, including but not limited to waste streams with a closed cup flashpoint of less than 140°F, equivalent to 60°C, using the test methods specified in 40 CFR Part 261.21;
- (g) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in an amount that is likely to cause interference or pass through;
- (h) Pollutants that result in toxic gases, vapors, or fumes within the POTW in a quantity that is likely to cause worker health and safety problems;
- (i) Any trucked or hauled pollutants, except at discharge points designated by the POTW;
- (j) Any medical/infectious waste or radiological waste designated by the municipality as having a reasonable potential for adversely affecting the POTW's operation or performance or for violating any pretreatment standard or requirement;
- (k) Any wastewater that is likely to cause the POTW's effluent or sludge to fail a toxicity test;
- (l) Any hazardous waste listed or designated by the department under Env-Hw 400; and
- (m) Any pharmaceutical waste, except for such pharmaceutical wastes as are required by federal law to be disposed of by flushing into a municipal sewer system.

Source. (See Revision Note at part heading for Env-Wq 305) #10381, eff 8-1-13; ss by #13241, eff 7-24-21

Env-Wq 305.07 Alternate Provisions. A municipality may omit an element required by Env-Wq 305.04 from its municipal sewer use ordinance, or may include alternate or additional elements in its municipal sewer use ordinance, only if:

- (a) The municipality obtains a waiver pursuant to Env-Wq 305.09; or
- (b) The municipality includes, as part of its submittal pursuant to Env-Wq 305.08, an explanation of:
 - (1) Why the required element was omitted or alternate or additional elements were included; and
 - (2) How the resulting municipal sewer use ordinance supports the purpose and intent of the industrial pretreatment requirements as expressed in RSA 485-A and Env-Wq 305.

Source. (See Revision Note at part heading for Env-Wq 305) #10381, eff 8-1-13; ss by #13241, eff 7-24-21

Env-Wq 305.08 Approval of Municipal Sewer Use Ordinance.

- (a) Each municipality shall submit its sewer use ordinance or any revisions thereto to the department for approval before adoption.

(b) Within 60 days of receipt of a sewer use ordinance from a municipality, the department shall review the ordinance for conformity with Env-Wq 305.04.

(c) The department shall approve the sewer use ordinance if it determines that:

- (1) The ordinance contains all of the elements required by Env-Wq 305.04 or alternate provisions provided in accordance with Env-Wq 305.07; and
- (2) The ordinance does not contain any provisions that are less stringent than the elements required by Env-Wq 305.04.

(d) The department shall notify the municipality of its approval or disapproval of the sewer use ordinance in writing. If the ordinance is not approved, the written notification shall specify the reason(s) for disapproval.

(e) Within 60 days of adopting the approved sewer use ordinance, the municipality shall send to the department:

- (1) A copy of the adopted ordinance; or
- (2) A copy of the signature page together with a certification that no changes were made to the department-approved ordinance prior to adoption.

Source. (See Revision Note at part heading for Env-Wq 305) #10381, eff 8-1-13; ss by #13241, eff 7-24-21

Env-Wq 305.09 Waivers.

(a) Waivers to the pretreatment standards set forth in a sewer use ordinance approved by the department shall be granted by the department only in accordance with this section.

(b) All requests for waiver approval shall be submitted to the department by the municipality and shall be in writing.

(c) All waiver requests shall include the following information:

- (1) A full explanation of why a waiver is necessary, with supporting information and calculations;
- (2) A full explanation of how the granting of the waiver is consistent with the purpose of RSA 485-A as set forth in RSA 485-A:1;
- (3) A technical analysis of the effects of the proposed discharge on the POTW, relative to:
 - a. Performance and effluent quality;
 - b. Operation and maintenance;
 - c. Safety and health of workers;
 - d. Pass through; and
 - e. Sludge use or disposal; and
- (4) Any other information that the person requesting the waiver believes is relevant to the waiver request.

(d) The department shall review the waiver request within 30 days of receipt. If the request does not contain all of the information specified in (c), above, or if the information is otherwise insufficient to allow the department to make an informed decision, the department shall request additional information.

(e) The department shall grant a waiver if the information submitted by the applicant demonstrates that:

(1) The alternatives proposed are at least equivalent to the specific requirements contained in the rule; or

(2) The alternatives proposed are adequate to ensure that the purpose of RSA 485-A is met and the result provides equivalent or better protection of the POTW and the receiving waters.

(f) The department shall notify the municipality of its decision in writing. If the waiver request is denied, the written decision shall specifically state the reason(s) for the denial.

Source. (See Revision Note at part heading for Env-Wq 305) #10381, eff 8-1-13; ss by #13241, eff 7-24-21

Env-Wq 305.10 Industrial Wastewater Discharge Request.

(a) Subject to (b), below, the owner of an indirect discharger from which industrial waste is or will be discharged to a POTW that has its wastewater treatment plant located in New Hampshire shall apply for approval of the discharge in accordance with this section prior to discharging any industrial waste, increasing the volume of the industrial wastewater flow, or changing any characteristics of the discharge, such as discharge location, pollutant concentration, or pollutant characteristics, if such discharge:

(1) Is from a significant indirect discharger;

(2) Could cause pass through or interference with the POTW;

(3) Could have an adverse effect on the receiving stream or otherwise endanger public or private safety or property; or

(4) Could constitute a nuisance by affecting qualities not specifically regulated, such as odor or the color of the discharge.

(b) The requirements of (a), above, shall not apply if the discharge request is submitted in accordance with Env-Wq 305.11, Env-Wq 305.19, or Env-Wq 305.20.

(c) The completed discharge request application required in (a) above, shall be submitted on the “Application for Industrial Wastewater Indirect Discharge Request”, NHDES-W-09-027 dated July 2021, available via the department’s website at www.des.nh.gov, and shall:

(1) Include the information specified in Env-Wq 305.12 and Env-Wq 305.13; and

(2) Be signed by the applicant as specified in Env-Wq 305.14.

(d) The applicant shall submit the complete, signed discharge request as specified in Env-Wq 305.15 or Env-Wq 305.16, as applicable.

Source. (See Revision Note at part heading for Env-Wq 305) #10381, eff 8-1-13; ss by #13241, eff 7-24-21

Env-Wq 305.11 Discharge Request Submission, Processing, and Approvals: EPA-Approved Pretreatment POTW. Any person proposing to discharge wastewater to an EPA-approved pretreatment POTW, namely Claremont, Concord, Derry, Dover, Jaffrey, Keene, Manchester, Merrimack, Milford, Nashua, Rochester, Somersworth, or WRBP, shall comply with the applicable requirements of the respective POTW per 40 CFR Part 403.

Source. (See Revision Note at part heading for Env-Wq 305) #10381, eff 8-1-13; ss by #13241, eff 7-24-21

Env-Wq 305.12 Discharge Request Form: Municipal Portion. The municipality shall complete the first part of the discharge request form by providing:

- (a) The name of the municipality;
- (b) The name of the applicant;
- (c) Whether the requested permit is for a new discharge or a modified discharge;
- (d) Prior flow volume, if any;
- (e) Proposed flow volume and total flow volume to be discharged; and
- (f) The printed or typed name and title of the individual authorized by the governing body of the municipality to sign discharge requests as specified in Env-Wq 305.14(a).

Source. (See Revision Note at part heading for Env-Wq 305) #10381, eff 8-1-13; ss by #13241, eff 7-24-21

Env-Wq 305.13 Discharge Request Form: Applicant Portion. The applicant shall provide the following information on or with the applicant portion of the discharge request form:

- (a) The name, street address, and mailing address of the indirect discharger;
- (b) The name, position, and daytime telephone number of a responsible individual at the indirect discharger, such as a plant manager, plant engineer, president, or vice president of the company, who has been authorized by the indirect discharger to certify the permit application as specified in Env-Wq 305.14(b);
- (c) The North American Industry Classification System (NAICS) code of the indirect discharger and, if available, the SIC code(s);
- (d) Whether the indirect discharger is subject to national categorical standards, and if so, which standards;
- (e) Information on the proposed flow, including the estimated average, minimum, maximum and total daily flow for domestic discharges and each process discharge and the time and duration of those discharges;
- (f) A schematic of the proposed pretreatment process;
- (g) The name, company, and license number of the chemical, civil, sanitary, or environmental professional engineer (PE) authorized to work in New Hampshire under RSA 310-A who prepared the treatment system plans and specifications, if plans and specifications are being submitted for review;
- (h) If applicable, plans, specifications, and operation and maintenance procedures for new or modified treatment facilities at the indirect discharger, stamped by the PE identified pursuant to (g), above;
- (i) A schematic diagram showing the production process, including the origin of each waste stream;

(j) A list of pollutants expected to be present in the discharge and the anticipated quantity of each, based on:

(1) Analyses of the waste stream(s) to be discharged, in which case test results shall be submitted with the discharge permit request; or

(2) Knowledge of the process that produces the wastewater;

(k) If pretreatment is proposed, whether as a BMP or control technique or technology, performance results of the pretreatment as determined by testing or by the manufacturer;

(l) Information on the toxicity and treatability of the pollutants proposed to be discharged, as available from manufacturer's testing, safety, and data publications;

(m) A map showing the location within the municipality of the indirect discharger with respect to the POTW;

(n) A listing of all chemicals used at the indirect discharger that will be or could be discharged, such as production chemicals, degreasers, and cleaning solvents;

(o) A description and location diagram of all sampling locations at the indirect discharger;

(p) A brief narrative describing those measures taken or planned to reduce water usage and implement pollution prevention techniques, if any, such as:

(1) Flow restrictors;

(2) Countercurrent rinses;

(3) Recycling of non-contact cooling water;

(4) Chemical substitutions; and

(5) Pollutant source reduction; and

(q) A list of all environmental permits held by or for the indirect discharger.

[Source.](#) (See Revision Note at part heading for Env-Wq 305) #10381, eff 8-1-13; ss by #13241, eff 7-24-21

Env-Wq 305.14 Signatures and Certifications.

(a) The individual authorized by the governing body of the municipality to sign discharge requests shall sign and date the discharge application. Such signature shall constitute certification that the proposal meets with the approval of all local authorities having jurisdiction over the request.

(b) The responsible individual identified pursuant to Env-Wq 305.13(b) shall sign and date the discharge application.

(c) Such signature shall constitute certification that:

(1) The application and all attachments were prepared under the responsible individual's direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted;

(2) Based on inquiry by the responsible individual of the individual or individuals who manage the system, or those individuals directly responsible for gathering the information, the information submitted is true, accurate, and complete to the best of the responsible individual's knowledge and belief; and

(3) The responsible individual is aware that there are significant penalties for submitting false information, including the possibility of criminal prosecution under RSA 641 for knowing violations.

Source. (See Revision Note at part heading for Env-Wq 305)
#10381, eff 8-1-13; ss by #13241, eff 7-24-21

Env-Wq 305.15 Discharge Request Submission: Local Treatment.

(a) This section shall apply to the processing of discharge requests where the municipality, in which the applicant is located, owns and operates the POTW that will receive and treat the discharge.

(b) The applicant shall submit the completed, signed discharge request to the municipality.

(c) Upon receipt of a discharge request, the municipality shall evaluate the proposed discharge and the ability of the POTW to accommodate the discharge based on information submitted by the applicant.

(d) No municipality shall allocate or accept for treatment more than 90 percent of the headworks loading limits of its WWTP.

(e) The municipality shall not approve the discharge request unless the proposed discharge meets all applicable requirements of these rules and all applicable local pretreatment programs and sewer use ordinances.

(f) If the municipality approves the discharge request, an authorized official of the municipality shall:

(1) Sign the discharge request as specified in Env-Wq 305.14(a); and

(2) Forward the discharge request to the department.

Source. (See Revision Note at part heading for Env-Wq 305)
#10381, eff 8-1-13; ss by #13241, eff 7-24-21

Env-Wq 305.16 Discharge Request Submission: Remote Treatment.

(a) This section shall apply to the processing of discharge applications where the POTW that will receive and treat the discharge (host POTW) is not owned and operated by the municipality in which the applicant is located (satellite municipality), other than discharges that are subject to Env-Wq 305.11.

(b) The applicant shall submit the completed, signed discharge request to the satellite municipality. The satellite municipality may request the applicant to submit 2 copies of the completed discharge request form.

(c) Upon receipt of a discharge request, the satellite municipality shall:

(1) Evaluate the proposed discharge for compliance with locally applicable requirements; and

(2) Approve the discharge request if the proposed discharge meets all locally applicable requirements.

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(d) If the satellite municipality approves the discharge request, an authorized official of the satellite municipality shall:

- (1) Sign the discharge request as specified in Env-Wq 305.14(a); and
- (2) Forward the discharge request to the department and to the host POTW.

(e) Upon receipt of a discharge request, the host POTW shall evaluate the proposed discharge and the ability of the POTW to accommodate the discharge based on information submitted by the applicant.

(f) No host POTW shall allocate or accept for treatment more than 90 percent of the headworks loading limits of its WWTP.

(g) The host POTW shall not approve the discharge request unless the proposed discharge meets all applicable requirements of these rules and all applicable local pretreatment programs and sewer use ordinances.

(h) If the host POTW decides to accept the discharge, the host community shall submit a completed "Host POTW Acknowledgement", NHDES-W-09-063, dated January 2021, available via the department's website at www.des.nh.gov, by providing the following information:

- (1) The name of the host POTW;
 - (2) The name of the satellite municipality;
 - (3) The name of the industry to which the discharge request applies;
 - (4) The date of the discharge request;
 - (5) The date the discharge request was received by the host POTW;
 - (6) Whether any comments are being provided, and if so, the comments; and
 - (7) The name and title of the individual who has been authorized to sign the Acknowledgement on behalf of the host POTW.
- (i) The authorized representative of the host POTW shall sign and date the Acknowledgement.
- (j) The host POTW shall send the completed Acknowledgement to:

Industrial Pretreatment Supervisor
NH DES Water Division
PO Box 95
Concord, NH 03302-0095.

Source. (See Revision Note at part heading for Env-Wq 305)
#10381, eff 8-1-13; ss by #13241, eff 7-24-21

Env-Wq 305.17 Discharge Application Processing.

(a) Upon receipt of a completed, signed discharge request and, if applicable, a completed, signed "Host POTW Acknowledgement", the department shall review the request.

(b) The department shall approve the request subject to the conditions listed in (c), below, if the information submitted demonstrates that:

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- (1) The proposed discharge meets all applicable requirements of these rules and all applicable local pretreatment programs and sewer use ordinances; and
 - (2) If applicable, the host POTW has agreed to accept the discharge.
- (c) The department's approval of a discharge request shall be subject to the following conditions:
- (1) The indirect discharger shall fully comply with the applicable sewer use ordinance;
 - (2) The indirect discharger shall fully comply with all applicable federal, state and local pretreatment standards and requirements;
 - (3) The indirect discharger shall not add any water or other liquid to the effluent so as to reduce the concentration of pollutants by increasing the volume of effluent as a substitute for any pretreatment necessary to maintain compliance;
 - (4) The indirect discharger shall not make changes to any processes that contribute to the wastewater discharge that would increase the amount of flow, change the characteristics of the pollutants discharged, or increase the concentration of any pollutant without prior approval by the department through the submission of a new industrial wastewater discharge request in accordance with Env-Wq 305.10;
 - (5) The approval shall be based on and apply only to the subject discharge request and all associated plans and supporting information as submitted in the completed, signed discharge request;
 - (6) The approval shall become void if the discharge approved does not begin within one year from the date of approval; and
 - (7) Any other conditions as may be necessary to ensure compliance with pretreatment standards.
- (d) Upon receipt of notification from the department that the discharge request is approved, the municipality in which the applicant is located shall issue a discharge permit to the indirect discharger.
- (e) The municipality shall provide a copy of the discharge permit issued to the indirect discharger in accordance with (d), above, and any subsequent renewal, to the department by:
- (1) Sending an electronic copy via email to des.wastewaterengineering@des.nh.gov; or
 - (2) Mailing a paper copy of the permit to:

Industrial Pretreatment Supervisor
NH DES Water Division
PO Box 95
Concord, NH 03302-0095.
- (f) The municipality shall enforce the conditions of the discharge permit in accordance with RSA 485-A:5, III, reprinted in Appendix C.

Source. (See Revision Note at part heading for Env-Wq 305)
#10381, eff 8-1-13; ss by #13241, eff 7-24-21

Env-Wq 305.18 Discharge Permits. The discharge permit for significant indirect dischargers issued pursuant to Env-Wq 305.17(d) shall contain the following provisions:

- (a) Indirect discharger name, street address, mailing address, and daytime telephone number;

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- (b) Dates of issuance and expiration;
- (c) The general and specific conditions and prohibitions from the sewer use ordinance that apply to the discharge;
- (d) A list of pollutants, allowable parameters, and discharge limits;
- (e) Identification of applicable EPA categorical standards;
- (f) A list of pollutants to be monitored and the monitoring requirements applicable thereto;
- (g) Sampling frequency, techniques, and locations;
- (h) Each condition specified in the department's IDR approval;
- (i) Reporting requirements;
- (j) Inspection requirements;
- (k) Notification requirements, including for:
 - (1) Slug loading;
 - (2) Spills, bypasses, and upsets;
 - (3) Changes in volume or characteristics of the discharge for which a permit revision is not required; and
 - (4) Permit violations;
- (l) Record keeping requirements;
- (m) Applicable definitions from the sewer use ordinance;
- (n) Applicable civil and criminal penalties for violations;
- (o) Notification requirements prior to any new or increased discharge;
- (p) A requirement to submit a complete new application at a specified frequency, which shall be not less than once every five years;
- (q) A requirement to provide a copy of the permit to the department, if the department so requests; and
- (r) Notification that the state has legal authority to take direct action against the indirect discharger to enforce the provisions of Env-Wq 305.01 in accordance with RSA 485-A:5, IV, reprinted in Appendix C.

Source. (See Revision Note at part heading for Env-Wq 305) #10381, eff 8-1-13; ss by #13241, eff 7-24-21

Env-Wq 305.19 Discharge Permits Not Required for New Technology Trials. A discharge request and permit shall not be required for a trial of a new technology provided that:

- (a) The trial will not last longer than 4 months; and
- (b) No discharge from the indirect discharger at which the trial is occurring is likely to cause a violation of:
 - (1) The indirect discharger's existing discharge permit from the municipality; or

- (2) Any requirements of the municipality's sewer use ordinance or any other applicable state, federal, or local requirements.

Source. (See Revision Note at part heading for Env-Wq 305)
#10381, eff 8-1-13; ss by #13241, eff 7-24-21

Env-Wq 305.20 Approval of Special Discharges of Limited Duration.

(a) Any person proposing to discharge, as a one-time or otherwise limited duration discharge, waters or wastes to the public sewers that contain the substances or possess the characteristics enumerated in Env-Wq 305.06, or that exceed any applicable national categorical pretreatment standard, local limit or local prohibited waste, or that might otherwise have a deleterious effect on the POTW or its processes or equipment or on the POTW's receiving waters, or that might otherwise create a hazard to life or constitute a public nuisance, shall request permission from the POTW prior to discharging the waters or waste.

(b) To request permission to discharge, the person shall provide the following information:

- (1) The nature of the waters or wastes to be discharged;
- (2) The estimated duration of the discharge; and
- (3) The anticipated start of the discharge.

(c) If necessary to fully characterize the proposed discharge, the person shall provide:

- (1) The discharge peak rate and volume over a specified time period;
- (2) Chemical analyses of the proposed discharge;
- (3) A line diagram of the production process showing the origin of each waste stream;
- (4) A listing of all chemicals used in the facility which could be discharged to the sewer;
- (5) A plot plan of sewers on the user's property showing sewer and any pretreatment facility location;
- (6) Details of any wastewater pretreatment facilities; and
- (7) Details of systems established by the user to prevent and control the losses of materials through spills to the public sewer or storm drain.

(d) The POTW shall deny the request unless it determines that the proposed discharge:

- (1) Is not likely to cause a significant adverse impact to receiving waters or to the POTW, community or POTW personnel;
- (2) Is not likely to create a hazard to life or constitute a public nuisance; and
- (3) Could be treated to alleviate the adverse impact.

(e) If the POTW determines that the criteria specified in (d), above, are met, the POTW shall grant the request, subject to any conditions as are necessary to minimize any adverse impact, such as restricting the rate or timing of discharge or requiring pretreatment of the discharge.

(f) If the POTW accepts the discharge but determines that the discharge will cause the community or POTW to incur additional expenses as a result of the discharge, the POTW may require the person to pay the added cost of handling and treating the wastes as a condition of allowing the discharge.

Source. (See Revision Note at part heading for Env-Wq 305)
#10381, eff 8-1-13; ss by #13241, eff 7-24-21

Env-Wq 305.21 Reporting. In order to demonstrate compliance with RSA 485-A:5, III, each municipality shall provide the following to the department no less frequently than once every 5 years:

(a) A copy of its current sewer use ordinance if it has been revised without department approval subsequent to any previous submittal to the department or a certification that no changes have been made;

(b) A current list of all significant indirect dischargers to the POTW that includes the following information for each significant indirect discharger:

- (1) Name and address;
- (2) The name and daytime telephone number of a contact person;
- (3) Products manufactured;
- (4) Industrial processes used;
- (5) Existing pretreatment processes; and
- (6) Discharge permit status;

(c) A list of all permitted indirect dischargers; and

(d) A certification that the municipality is strictly enforcing its sewer use ordinance and all discharge permits it has issued.

Source. (See Revision Note at part heading for Env-Wq 305)
#10381, eff 8-1-13; ss by #13241, eff 7-24-21

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; ss by #13287, eff 12-1-21

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 and is or could be discharged as wastewater.

(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.

(c) These rules shall not supersede the federal requirements at 40 CFR 441 for dental practices that are subject to the federal requirements.

Source. (See Revision Note at part heading for Env-Wq 306) #10346, eff 5-22-13; ss by #13287, eff 12-1-21

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 New Hampshire department of environmental services;

(d) “Hazardous waste rules” means the rules in subtitle Env-Hw; 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; ss by #13287, eff 12-1-21

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.

(e) For purposes of (d), above, 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.

(f) Notwithstanding (d) above, when a federal requirement relative to standards for mercury amalgam separators that is more stringent than the 1999 standard becomes effective, which currently is scheduled to occur on June 14, 2027 under 40 CFR 441.30(a)(1)(iii), a separator that meets the federal standard shall be installed.

Source. (See Revision Note at part heading for Env-Wq 306) #10346, eff 5-22-13; ss by #13287, eff 12-1-21

Env-Wq 306.05 Initial Certification.

(a) The owner of the practice who installs or arranges for the installation of an amalgam separator at a dental practice, or who obtains an existing dental practice through purchase or transfer of any kind, 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.

(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; ss by #13287, eff 12-1-21

Env-Wq 306.06 Annual Certification.

(a) By the last business day of January each year, the owner of the practice shall certify to the department that the amalgam separator is installed, operated, and maintained in accordance with the manufacturer's requirements.

(b) The certification required by (a), above, shall:

- (1) Include the information specified in Env-Wq 306.05(c);
- (2) Be signed as specified in Env-Wq 306.05(d); and

(3) Be submitted to the department by:

a. Attaching a scan of the certification to an email sent to des.wastewaterengineering@des.nh.gov; or

b. Mailing or delivering the certification to:

NH Department of Environmental Services
Wastewater Engineering Bureau
29 Hazen Drive P.O. Box 95
Concord, NH 03302-0095

Source. #13287, eff 12-1-21

Env-Wq 306.07 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 being requested;

(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.

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

(f) 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:

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- a. There is no wastewater discharge from any dental chair station; and
- 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.

(g) 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 (formerly Env-Wq 306.06)

Env-Wq 306.08 Compliance Period. No wastewater shall be discharged from any dental practice that is subject to this part 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 306.07.

Source. (See Revision Note at part heading for Env-Wq 306)
#10346, eff 5-22-13 (formerly Env-Wq 306.07)

Env-Wq 306.09 Record Keeping.

- (a) The owner of the practice shall maintain:
 - (1) Records of manufacturer-recommended inspection and servicing events; and
 - (2) Shipping manifests of amalgam waste that is collected and shipped as hazardous waste.
- (b) The owner of the practice shall:
 - (1) Maintain the records and manifests for a period of not less than 3 years, which period shall be extended throughout the pendency of any enforcement action until such time as the action is final; and
 - (2) Provide copies of the records to the department upon request during an on-site compliance inspection or based on questions raised by the annual certification filed pursuant to Env-Wq 306.06 or by a failure to file the annual certification.

Source. #13287, eff 12-1-21

Appendix A

Rule Section(s)	State Statute(s) Implemented
Env-Wq 301 (also see specific sections listed below)	RSA 485-A:8; RSA 485-A:13, I(a)
Env-Wq 301.06	RSA 485-A:4, XVII
Env-Wq 301.10	RSA 541-A:30
Env-Wq 304 (also see specific sections below)	RSA 485-A:5-a; RSA 485-A:7-a; RSA 485-A:7-b; RSA 485-A:7-c; RSA 485-A:7-d; RSA 486:9
Env-Wq 304.07 – Env-Wq 304.09	RSA 486:9
Env-Wq 304.10 – Env-Wq 304.13	RSA 485-A:7-a, I & II
Env-Wq 304.14	RSA 485-A:7-a, III; RSA 485-A:7-b
Env-Wq 304.16	RSA 485-A:7-c, I
Env-Wq 304.17– Env-Wq 304.20	RSA 485-A:7-c, II
Env-Wq 304.21	RSA 485-A:7-c, III
Env-Wq 304.22	RSA 485-A:7-d
Env-Wq 305 (see also specific sections listed below)	RSA 485-A:4, XV; RSA 485-A:5
Env-Wq 305.09	RSA 541-A:22, IV
Env-Wq 305.10	RSA 485-A:4, VI, IX-a, IX-b, IX-c
Env-Wq 305.11	RSA 485-A:45-54
Env-Wq 305.12 - Env-Wq 305.16	RSA 485-A:4, VI, IX-a, IX-b, IX-c
Env-Wq 305.17	RSA 485-A:4, IX-c
Env-Wq 306 (see also specific section listed below)	RSA 485-A:4, XVIII
Env-Wq 306.06	RSA 541-A:22, IV
Env-Wq 306.07	RSA 541-A:22, IV

Appendix B - Statutory DefinitionsRSA 125-N:2

VIII. “Medical/infectious waste” means any solid waste that is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals. Medical/infectious waste does not include any hazardous waste regulated under RSA 147-A.

RSA 482-A:2

X. “Wetlands” means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

RSA 485-A:2

III. "Department" means the department of environmental services.

VI. “Industrial waste” means any liquid, gaseous or solid waste substance resulting from any process of industry, manufacturing trade or business or from development of any natural resources.

VII-a. “Operator” means:

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

VIII. "Other wastes" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, ashes, offal, oil, tar, chemicals and other substances other than sewage or industrial wastes, and any other substance harmful to human, animal, fish or aquatic life.

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

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

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

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

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

XVI. "Waste" means industrial waste and other wastes.

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

XVII. "Bypass" means the intentional diversion of waste streams from any portion of the wastewater facilities.

XVIII. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with permit effluent limitations because of factors beyond the reasonable control of the permittee.

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

XXIV. "7Q10" means the lowest average flow that occurs for 7 consecutive days on an annual basis with a recurrence interval of once in 10 years on average, expressed in terms of volume per time period.

Appendix C: Statutory Provisions Cited

RSA 485-A:5

III. No municipality or other governmental entity owning or controlling any public sewage and waste treatment facility shall permit the discharge of any waste to such facility which does not comply with pretreatment standards established by the department.

RSA 485-A:5

IV. Pretreatment standards or effluent limits adopted by a municipality as part of its sewer use ordinance or industrial pretreatment program and approved by the department shall be enforceable by the department as pretreatment standards established under RSA 485-A:4, XV and rules adopted under RSA 485-A:6.