

*Readopt with amendment Env-Wq 306, eff. 5-22-13 (doc. #10346), to read as follows:*

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

Statutory Authority: RSA 485-A:6, XIII

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.

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.***

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

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

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

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

(d) “Hazardous waste rules” means ***the rules in subtitle*** Env-Hw~~100-1100~~; and

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

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:

(1) ~~The~~ separator is replaced, at which time a separator that meets the 2008 standard shall be installed; *or*

(2) *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), at which time a separator that meets the more stringent of the federal standard or the 2008 standard shall be installed.*

(e) For purposes of ~~this paragraph~~ *(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.

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.

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](mailto:des.wastewaterengineering@des.nh.gov); or***
- b. Mailing or delivering the certification to:***

***NH Department of Environmental Services  
29 Hazen Drive; P.O. Box 95  
Concord, NH 03302-0095***

Env-Wq 306.0607 Waivers.

- (a) The purpose of this section is to accommodate situations where strict compliance with all rules in this part might not be the best outcome in light of the particular circumstances of a specific situation.
- (b) Any owner of the practice who wishes to request a waiver of:
  - (1) Specific rules in this part shall do so in accordance with (c) and (d), below; or
  - (2) The hazardous waste rules shall do so in accordance with Env-Hw 202.
- (c) A request for a waiver shall be submitted to the department in writing.
- (d) A request for a waiver of specific rules in this part shall include the following information:
  - (1) A specific reference to the section of the rule for which a waiver is being sought;
  - (2) A full explanation of why a waiver is ~~necessary~~ ***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.
- (d) If the request for a waiver is incomplete or provides insufficient information to allow the department to make a decision, the department shall ask ~~for the requestor to provide~~ ***for the requestor to provide*** additional information ~~to be provided~~. The owner of the practice requesting a waiver shall supply the additional information within 30 days of request by the department.
- (e) The department shall grant a waiver if:
  - (1) The proposed alternative technology, device, or technique is adequate to ensure that the purpose of these rules is met and the result provides equivalent or better removal of amalgam waste than strict compliance with this part;
  - (2) The amount of amalgam waste generated annually by the practice contains no more than 0.5 grams of mercury; or
  - (3) Through the use of evaporation devices or other technologies, the owner of the practice demonstrates that:
    - a. There is no wastewater discharge from any dental chair station; and
    - b. There is no connection from any dental chair station or plumbing fixture that might discharge amalgam waste to a sanitary sewer or subsurface sewage disposal system.

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

Env-Wq 306.~~07~~**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.~~06~~**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 for the duration of any enforcement action; 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.***

**APPENDIX A: STATE STATUTES IMPLEMENTED**

<b>Rule Section(s)</b>	<b>State Statute(s) Implemented</b>
Env-Wq 306 (see also specific section listed below)	RSA 485-A:4, XVIII
Env-Wq 306.07	RSA 541-A:22, IV