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CHAPTER Env-Or 700 GROUNDWATER RELEASE DETECTION PERMITS

Statutory Authority: RSA 485-C:4, V and VI; RSA 485-C:13

REVISION NOTE:

Document #8812, effective 2-1-07, readopted with amendments and redesignated former Part Env-Wm 1403 titled Groundwater Management and Groundwater Release Detection Permits as Env-Or 700 pursuant to a rules reorganization plan for Department rules approved by the Director of the Office of Legislative Services on 9-7-05.

The prior filings for former Env-Wm 1403 include the following documents:

#1618, eff 8-5-80	#5579, eff 2-11-93
#1743, eff 4-7-81	#6945, eff 2-24-99
#1949, eff 2-8-82	#7260, eff 5-4-00
#1950, eff 2-8-82	#8436, eff 9-22-05
#2670, eff 4-12-84	

PART Env-Or 701 PURPOSE AND APPLICABILITY

Env-Or 701.01 Purpose. The purpose of these rules is to establish procedures and requirements for monitoring the groundwater for early detection of any impact associated with the activities listed in RSA 485-C:13.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 701.02 Applicability. These rules shall apply to any individual or entity that engages in any activity for which RSA 485-C:13 requires a groundwater release detection permit.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

PART Env-Or 702 DEFINITIONS

Env-Or 702.01 “Ambient groundwater quality standards (AGQS)” means “ambient groundwater quality standards” as defined in RSA 485-C:2, I, namely “maximum concentration levels for regulated contaminants in groundwater which result from human operations or activities, as delineated in RSA 485-C:6.”

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 702.02 “Assessment monitoring” means monitoring required when detection monitoring performed in accordance with a groundwater release detection permit has indicated that the concentration of any constituent exceeds the background concentrations for the constituent as established in the groundwater release detection permit.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

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Env-Or 702.03 “Background concentration” means concentrations detected in up-gradient areas or areas otherwise unaffected by the activities at the facility permitted under the release detection permit.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 702.04 “Contact person” means an individual who can be contacted on behalf of an applicant or permittee regarding the application or permit, respectively.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 702.05 “Contamination” means the presence of any regulated contaminant, as defined herein, other than naturally-occurring substances at naturally-occurring or background levels, in soil, groundwater, soil gas, air, sediment, surface water, construction/excavation debris, or any other material, at a concentration that has the potential to adversely affect human health or the environment.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 702.06 “Corrective action plan” means the corrective action proposed to prevent the discharge of regulated contaminants to groundwater, surface water, or soil.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 702.07 “Department” means the department of environmental services.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 702.08 “Detection monitoring” means routine monitoring specified in a groundwater release detection permit that is required in order to determine if a release has occurred at a facility issued a permit pursuant to Env-Or 700.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 702.09 “Discharge” means the release or addition of any regulated contaminant to land, groundwater, or surface water.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 702.10 “Engineering documents” means any document that involves the practice of engineering as defined in RSA 310-A.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 702.11 “Facility” means all contiguous land and structures associated with an activity for which a groundwater release detection permit is required by RSA 485-C:13.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

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Env-Or 702.12 “Groundwater” means “groundwater” as defined in RSA 485-C:2, VIII, namely “subsurface water that occurs beneath the water table in soils and geologic formations.”

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 702.13 “Groundwater release detection permit” means a permit issued under RSA 485-C:13 and Env-Or 700 to a facility owner for detection of any release of a regulated contaminant associated with the activities for which the permit was issued.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 702.14 “Motor vehicle salvage yard” means a contiguous land area for the storage or deposit, of unregistered motor vehicles which are no longer intended for, or in condition for, legal use on the public highways.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 702.15 “Person” means “person” as defined by RS 485-C:2, XI, namely “any individual, partnership, company, public or private corporation, political subdivision or agency of the state, department, agency or instrumentality of the United States, or any other legal entity.”

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 702.16 “Potential receptor” means a living organism or an environmental medium that is in the pathway of contamination from a discharge.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 702.17 “Receptor” means a living organism or an environmental medium that is exposed to contamination from a discharge.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 702.18 “Regulated contaminant” means “regulated contaminant” as defined in RSA 485-C:2, XIII, namely, “any physical, chemical, biological, radiological substance or other matter, other than naturally occurring substances at naturally occurring levels in water, which adversely affects human health or the environment.”

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 702.19 “Resource recovery facility” means any facility engaged in an activity beyond sorting or physical volume reduction methods to treat or process solid waste into usable secondary materials or products, including but not limited to fuel, energy, or compost.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 702.20 “Salvage yard” means a contiguous land area encompassing one-half acre or more, on or at which are stored or deposited scrap metal, junk machinery, or other materials intended for salvage that contains or potentially contain oil or other solid or liquid contaminants.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 702.21 “Surface water” means “surface water” as defined in RSA 146-A:2, VI-b, namely “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, watercourses and other bodies of water, natural or artificial.”

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

PART Env-Or 703 PERMIT REQUIREMENTS

Env-Or 703.01 Groundwater Release Detection Permit Required.

(a) As required by RSA 486-C:13, II, any person who wishes to site or operate any of the following facilities shall obtain a groundwater release detection permit prior to siting or commencing operations at the facility:

- (1) A hazardous waste disposal facility as defined under RSA 147-A;
- (2) A lined solid waste landfill;
- (3) A lined wastewater facility; or
- (4) A facility used for processing soils contaminated with petroleum products.

(b) As required by RSA 486-C:13, II, any person who wishes to conduct any of the following activities in a class GAA wellhead protection area as defined in RSA 485-C:2, XVIII shall obtain a groundwater release detection permit:

- (1) The siting or operation of a new solid waste composting facility;
- (2) The siting or operation of a new resource recovery facility;
- (3) The outdoor storage of road salt or other deicing chemicals in bulk;
- (4) The operation of an existing snow dump; or
- (5) The operation of an existing motor vehicle salvage yard or salvage yard.

(c) A groundwater release detection permit shall not be required for a facility or activity permitted under a groundwater discharge permit issued pursuant to Env-Wq 402 or a groundwater management permit issued pursuant to Env-Or 600.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 703.02 Groundwater Release Detection Permit Application.

(a) The person applying for a groundwater release detection permit shall submit the following information in or with the application for a groundwater release detection permit:

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- (1) The facility identification information specified in Env-Or 703.03;
- (2) The maps and facility plan specified in Env-Or 703.04;
- (3) The additional information specified in Env-Or 703.05;
- (4) The certifications required by Env-Or 703.06; and
- (5) The fee specified by Env-Or 703.08.

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

(c) The application shall be prepared by, or under the direct supervision of, a professional engineer or a professional geologist licensed under RSA 310-A and bear the seal of the professional responsible for preparing the document.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 703.03 Facility Identification Information. The applicant for a groundwater release detection permit shall submit the following facility identification information:

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

(b) The name, physical address, property deed reference by county, book and page, and local tax map and lot number of the facility;

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

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

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

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

(g) A description of management practices used to prevent potential contamination;

(h) A description of facility construction including liner type, diversion ditches, and other pertinent construction details, as applicable;

(i) For a new facility, an estimate of the construction time and the projected start-up date; and

- (j) The Standard Industrial Code (SIC) for industrial facilities.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 703.04 Maps and Facility Plan. The applicant for a groundwater release detection permit shall submit the following:

(a) A U.S. Geological Survey (USGS) map, 7-1/2 minute series, that clearly identifies the facility location;

(b) A potential receptors map using a tax map as a base, that identifies and locates, to the extent ascertainable, the following:

(1) Streets within 1,000 feet of the facility;

(2) Properties, including tax map and lot numbers, ownership, and land use information, within 1,000 feet of the facility;

(3) Physical structures, storage areas, and buildings, including information on building use and existence of basements, within 1,000 feet of the facility;

(4) Surface water bodies within 1,000 feet of the facility; and

(5) Water supply wells, including type of use, within 1,000 feet of the facility; and

(c) A plan of the facility prepared in accordance with the following:

(1) The plan shall include a title, a legend, and a true north arrow;

(2) The plan shall be drawn to scale and the scale shall be noted on the plan and include a graphic scale bar;

(3) The base plan sources from which the facility plan was derived shall be noted on the plan;

(4) The location, elevation, and datum of a bench mark shall be included, provided that if a bench mark referenced to NGVD is within 1,000 feet of the facility, the elevation shall be recorded using NGVD and the source of the NGVD bench mark information shall be noted on the plan;

(5) Ground surface spot elevations and contours shall be marked to show topography; and

(6) The facility plan shall identify and locate, to the extent ascertainable, the following:

a. Physical structures, storage areas, and buildings associated with the facility;

b. Existing and proposed groundwater monitoring wells that will be monitored;

c. Surface water sampling points;

d. Groundwater contours that accurately show current groundwater flow direction within 100 feet of the facility, with a table of water level measurements and elevations found in piezometers and monitoring wells used to develop the groundwater contours;

e. Surface water bodies within 100 feet of the facility;

f. Land surface contours within 100 feet of the facility;

- g. Piezometers used to develop groundwater contours;
- h. Soil borings and test pits within 100 feet of the facility;
- i. Above and underground storage tanks associated with the facility;
- j. Underground utilities at the facility; and
- k. Subsurface drains at the facility.

(d) If the facility plan is larger than 11 inches by 17 inches, the applicant shall also provide a copy of the plan scaled to fit onto an 8-1/2 inches by 11 inches or 11 inches by 17 inches sheet and modified to make items listed in (c)(1), (2), and (6)a. - e., above, legible.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 703.05 Additional Information. The applicant for a groundwater release detection permit shall also provide the following additional information:

(a) A table summarizing all monitoring results to date from existing monitoring points, including initial background values for all parameters listed under Env-Or 603.03;

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

(c) A detailed proposal for a detection monitoring program that includes the following:

(1) Monitoring for the chemicals listed in Env-Or 603.03;

(2) Monitoring of the following parameters as applicable to the property:

- a. Specific conductance;
- b. Iron;
- c. Chloride;
- d. Total Kjeldahl Nitrogen (TKN);
- e. pH;
- f. Temperature;
- g. Turbidity; and
- h. Oxidation-reduction potential (ORP);

(3) A proposed monitoring schedule;

(4) Monitoring locations; and

(5) Supporting hydrogeologic and groundwater quality information justifying the locations, frequency, and parameters selected;

(d) Test pit data and boring log data including:

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- (1) Soil sample descriptions according to:
 - a. Unified Soil Classification System;
 - b. Burmister Classification System;
 - c. "Standard Practice for Classification of Soils for Engineering Purposes," document identification number ASTM D2487-06, dated 2006; or
 - d. "Standard Practice for Description and Identification of Soils, Visual Manual Method," document identification number ASTM D2488-06, dated 2006;
- (2) Drilling methods;
- (3) "N-values" according to "Penetration Test and Split Barrel Sampling of Soil," document identification number ASTM D1586-99, dated 1999; and
- (4) Water table observations;

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

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 703.06 Certifications. The applicant for a groundwater release detection permit shall submit the following certifications:

- (a) Certification that applications have been submitted for all required local, state or federal permits; and
- (b) Certification that a copy of the complete permit application has been provided to the town/city clerk of the municipality in which the facility is or will be located.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 703.07 Signature. The applicant shall sign the application. Such signature shall constitute certification that the information contained in or otherwise submitted with the application is true, complete, and not misleading to the best of the applicant's knowledge and belief, and the applicant agrees to abide by the applicable rules and conditions of the permit, if issued.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Wq 703.08 Application Fee.

- (a) As authorized by RSA 485-C:4, VI, the applicant shall submit a fee of \$2,500 with the permit application.
- (b) If paid by checks or money order, the instrument shall be made payable to "Treasurer - State of NH."

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(c) State and local government including counties and other political subdivisions of New Hampshire shall be exempt from the fee specified in (a), above.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 703.09 Action on Applications; Permittee Obligations Upon Permitting.

(a) Within 90 days from the receipt of a complete permit application, the department shall determine whether the criteria specified in Env-Or 703.02 through Env-Or 703.08 have been met. If the criteria have been met, the department shall issue a permit for a period of 5 years, subject to renewal pursuant to Env-Or 703.10.

(b) The department shall notify the applicant of its decision in writing. If the decision is to deny the application, the written notice shall specify the reason(s) for the denial.

(c) Acceptance of the permit shall constitute permission for the department to enter the permitted facility for the purpose of collecting information, examining records, collecting samples, or undertaking other action associated with the permit.

(d) The permittee shall submit to the department, before facility start-up, an as-built site plan on an 8 1/2 inch x 11 inch or 11 inch x 17 inch sheet and boring logs and well construction details.

(e) The permittee shall submit 2 complete sets of water quality results to the department before facility start-up.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 703.10 Permit Renewal.

(a) If the permittee wishes to continue to operate a facility that is subject to a groundwater release detection permit beyond the 5-year permit term, the permittee shall submit the information specified in (d), below, to the department prior to the expiration of the permit.

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

(c) If the renewal application is not submitted at least 90 days prior to the expiration of the permit, the permittee shall discontinue active operation of the facility as of the expiration date but otherwise continue to comply with all conditions in the permit for which renewal is sought until:

- (1) The permit is renewed; or
- (2) The facility is closed in accordance with all applicable requirements.

(d) The renewal application shall be on a form provided by the department and include an update of all information submitted for the expiring permit with all future modifications included.

(e) The application shall be prepared by, or under the direct supervision of, a professional engineer or a professional geologist licensed under RSA 310-A and bear the seal of the professional responsible for preparing the document.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 703.11 Permit Modification.

(a) A permittee who wishes to request a permit modification shall submit a written request to the department that includes the reasons for the modification and a table summarizing all monitoring results to date from existing monitoring points.

(b) The department shall modify the permit or deny the request within 90 days of receipt of the request. If the department denies the request, the department shall send the permittee a written notice that states the reason(s) for the denial.

(c) The department shall modify the permit if the applicant can demonstrate compliance with Env-Or 703.13, Env-Or 703.14, and Env-Or 703.15, as applicable.

(d) The department shall initiate a procedure under RSA 541-A:30 to modify a permit without request by the permittee if the department determines that:

- (1) Issuance of the permit was based on false or misleading information;
- (2) Modification of the permit is necessary to ensure protection of human health or the environment; or
- (3) Modification of the permit is necessary to ensure compliance with Env-Or 703.13, Env-Or 703.14, and Env-Or 703.15, as applicable.

(e) To initiate a permit modification procedure, the department shall provide the permittee with written notice that:

- (1) Identifies the facility by name, department identification number, location, and permit number;
- (2) Explains the action(s) the department proposes to take and the reason(s) for the proposed action;
- (3) Identifies the department's authority for taking the proposed action;
- (4) Explains the opportunity for an adjudicative hearing and related deadlines; and
- (5) Lists the name, title, mailing address, and telephone number of the department representative who may be contacted regarding the notice.

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

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

(2) Proceed in accordance with the provisions of Env-C 200 that relate to adjudicative proceedings.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 703.12 Permit Transfer.

(a) Subject to (f), below, prior to the transfer of a release detection permit, the permittee shall file a written request with the department for a transfer of the permit to the new permittee.

(b) The transfer request shall be on a form provided by the department and include the following information:

- (1) The department permit number;
- (2) The facility name;
- (3) The site address, and tax map and lot number;
- (4) The name, mailing address, and daytime telephone number of the person to whom the permit transfer is requested;
- (5) The name, mailing address, and daytime telephone number of the current permittee; and
- (6) A summary of all monitoring results to date.

(c) Subject to (f), below, the current permittee and the person to whom the permit is proposed to be transferred shall sign the transfer request. Such signatures shall constitute certification that the information contained in the request is correct, complete, and not misleading to the knowledge and belief of the signer and that the signer agrees to comply with all requirements of the permit and all applicable rules.

(d) Within 45 days of receiving a request for transfer, the department shall approve or deny the transfer request and notify both parties of its decision in writing.

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

- (1) The facility is not presently in compliance with the permit, these rules or any other applicable statutes or rules, unless transferring the permit would facilitate returning the facility to compliance;
- (2) The permittee has failed to pay any outstanding penalties or fines issued under RSA 146-A, RSA 146-C, or RSA 147-A, unless all outstanding amounts will be paid in conjunction with the transfer;
- (3) The permittee has failed to pay any outstanding invoice associated with the department's recoverable cost pursuant to RSA 146-A, RSA 146-C, RSA 147-A, or RSA 147-B, unless all outstanding amounts will be paid in conjunction with the transfer; or
- (4) The permittee has failed to perform in accordance with a court order, consent decree or other settlement agreement relating to the property subject to the permit, unless transferring the permit would facilitate such performance.

(f) If the current permittee is unable or unwilling to file a written request for the transfer with the department, the new permittee may file the request. If the new permittee files the request pursuant to this paragraph, the signature of the current permittee shall not be required.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 703.13 Groundwater Release Detection Permit Compliance Criteria.

(a) The permittee shall conduct detection monitoring during the active life of the facility, including closure, and the post-closure period in accordance with the specific requirements of the monitoring program established in the release detection permit.

(b) The department shall remove a detection monitoring parameter for a facility if the permittee demonstrates that:

- (1) The constituent is not contained in the waste managed at the facility; and
- (2) The constituent is not generated as a result of the siting or operation of the facility.

(c) The permittee shall establish original background concentrations of all constituents required in the detection monitoring.

(d) If the concentration of any constituent in the detection monitoring is above the background value at any down-gradient monitoring well, the permittee shall:

- (1) Notify the department within 10 days after receiving results;
- (2) Conduct assessment monitoring pursuant to Env-Or 703.14 for each monitoring well for which the concentration of any constituent is above the background value unless:
 - a. The permittee demonstrates by submission of a report to the department within 60 days of notice of exceedance pursuant to (d)(1) above, that the exceedance is the result of an off-site source of contamination or an error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality; and
 - b. The department approves the report.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 703.14 Assessment Monitoring. If required under Env-Or 703.13(d), the permittee shall conduct assessment monitoring in accordance with the following:

(a) The permittee shall sample the groundwater for all regulated contaminants listed in Env-Or 603.03 and the additional parameters specified in Env-Or 703.05(c)(2), within 60 days of notifying the department of the exceedance in the detection monitoring;

(b) The permittee shall sample groundwater pursuant to (a), above, at least on a semi-annual basis;

(c) If sampling and analysis at a specific well indicates that concentrations of all regulated contaminants in the assessment monitoring are at or below background values for 2 consecutive sampling events, the permittee shall notify the department of this finding and return to detection monitoring at that well;

(d) The permittee shall submit the results of the assessment monitoring to the department within 45 days of the sampling date;

(e) The permittee shall establish a background concentration for each regulated contaminant discovered in the assessment monitoring for which a background concentration has not already been established for purposes of detection monitoring;

(f) If the concentration of a regulated contaminant detected by assessment monitoring is above the background value but below the ambient groundwater quality standard established under Env-Or 603.03, the permittee shall notify the department within 10 days after receiving results; and

(g) The permittee shall submit a corrective action plan and implementation schedule in accordance with Env-Or 703.15 to the department within 30 days of notification of a background exceedance pursuant to (f), above, in the assessment monitoring.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 703.15 Corrective Action Plan.

(a) The corrective action plan submitted by the permittee shall include the following:

- (1) Inspection and audit of activities and procedures at the facility to determine possible sources of contamination;
- (2) Remediation of the source of the exceedance;
- (3) Further groundwater investigation;
- (4) Modification of facility operation as needed to eliminate the cause of the exceedance;
- (5) Treatment of the waste stream as needed to eliminate the cause of the exceedance;
- (6) Groundwater restoration; and
- (7) If the facility operations can not be modified to eliminate the cause of the exceedance or if the groundwater cannot be restored or remediated, a schedule of activities that will be implemented for facility closure.

(b) The corrective action plan shall be prepared by or under the direct supervision of a professional engineer or a professional geologist licensed under RSA 310-A.

(c) The department shall approve the corrective action plan if the department determines that the plan is reasonably designed to:

- (1) Achieve compliance with background concentrations;
- (2) Eliminate any future discharges of regulated contaminants to the groundwater; and
- (3) Protect human health and the environment.

(d) The department shall approve the proposed implementation schedule upon determining that the schedule is protective of human health and the environment.

(e) The permittee shall implement the corrective action plan in accordance with the approved implementation schedule beginning within 30 days of department approval.

(f) If sampling and analysis at a specific well indicates that the concentration of each regulated contaminant in the assessment monitoring is at or below the corresponding background value for 2 consecutive sampling events, the permittee shall notify the department of this finding and return to detection monitoring at that well.

(g) If the concentrations of any regulated contaminant detected by assessment monitoring are above the ambient groundwater quality standard established under Env-Or 603.03, the permittee shall:

(1) Notify the department within 10 days after receiving results; and

(2) If the exceedance is the result of a discharge from the facility, apply for a groundwater management permit in accordance with Env-Or 607.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

PART Env-Or 704 MONITORING AND REPORTING

Env-Or 704.01 Water Quality Sampling, Analysis, and Reporting.

(a) The permittee shall monitor groundwater quality to ensure compliance with the terms of the permit and these rules.

(b) The permittee shall monitor surface water points and water supply wells as specified in the permit to ensure that water quality is in compliance with applicable water quality standards and the terms of the permit.

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

(d) The permittee shall operate and maintain the monitoring wells, piezometers, and other measurement, sampling, and analytical devices so that they perform to design specifications throughout the life of the monitoring program.

(e) The parameters to be monitored shall be determined on a site-specific basis depending on the regulated contaminants associated with the permitted activity.

(f) The frequency and location of water quality monitoring shall be determined on a site-specific basis depending on the hydrogeologic characteristics of the site and predicted rates of groundwater flow.

(g) The permittee shall submit the results of all sampling and analysis, including quality assurance and quality control results, required under a groundwater release detection permit to the department no later than the 45 days after the sampling date, except as provided for in Env-Or 703.13 and Env-Or 703.14.

(h) Analyses shall be performed by a laboratory certified by the U.S. Environmental Protection Agency (US EPA) or the department pursuant to Env-C 300.

(i) Sampling shall be performed in accordance with:

(1) "Practical Guide for Ground-Water Sampling," document identification number EPA/600/2-85/104, US EPA, dated September 1985;

(2) "RCRA Ground-Water Monitoring: Draft Technical Guidance," document identification number PB87107751, US EPA, dated November 1992;

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- (3) “Standards on Environmental Sampling”, 3rd Edition, document identification number ASTM ENVSAM-06, ASTM, dated 2006 (ASTM ENVSAM-06);
- (4) “SW 846 Test Methods for Evaluation Solid Waste, Physical/Chemical Methods”, USEPA, dated December 1996; and
- (5) “Standard Guide for Sampling Waste and Soils for Volatile Organic Compounds” document identification number ASTM D 4547-06, dated 2006.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 704.02 Groundwater Monitoring Wells.

(a) Monitoring wells shall be designed, installed, developed, maintained and decommissioned in accordance with We 100-1000 and the practices described in:

- (1) “Standards Relating to Environmental Site Characterization”, Second Edition, document identification number ASTM ENVSIT-06, dated 2006; and
- (2) ASTM ENVSAM-06.

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

(c) Monitoring wells shall be:

- (1) Developed prior to sampling; and
- (2) Allowed to equilibrate a minimum of 2 weeks following installation prior to sampling.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

PART Env-Or 705 WAIVERS

Env-Or 705.01 Purpose. The rules contained in Env-Or 700 are intended to apply to a variety of conditions and circumstances. It is recognized that strict compliance with all rules prescribed herein might not fit every conceivable situation. The department therefore establishes these procedures and criteria, in accordance with RSA 541-A:22, IV, to accommodate those situations where strict adherence to the rules would not be in the best interest of the public or the environment.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 705.02 Procedures.

(a) Any person who is or would be directly and adversely affected by the strict application of a rule in Env-Or 700 may request a waiver thereof.

(b) Each request for a waiver shall:

- (1) Be submitted in writing to the department; and

(2) Include the information specified in Env-Or 705.03.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 705.03 Content and Format of Waiver Request.

(a) The person requesting the waiver shall provide the following information:

- (1) The name, mailing address, and daytime telephone number of the person requesting the waiver and, if other than an individual, the name and daytime telephone number of a contact person and, if available, a fax number and e-mail address;
- (2) A description of the facility to which the waiver request relates, including name, address, and the department permit number;
- (3) A specific citation of the rule for which a waiver is being sought;
- (4) A full explanation of why a waiver is necessary;
- (5) A full explanation of the alternative(s) to the rule(s) for which a waiver is sought, if any, with backup data for support;
- (6) A statement of whether the requested waiver can be of limited duration; and
- (7) A full explanation of how granting the requested waiver would be consistent with the intent of RSA 485-C and would adequately protect human health and the environment.

(b) The person requesting the rule waiver shall sign the request. Such signature shall constitute certification that the information provided is true, complete, and not misleading to the knowledge and belief of the signer.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

Env-Or 705.04 Criteria.

(a) Subject to (c), below, the department shall grant a waiver if it determines that:

- (1) The waiver, with any alternative(s) proposed, will be at least equivalent to the requirements contained in this rule;
- (2) The waiver, with any alternative(s) proposed, will be adequate to ensure that the intent of RSA 485-C is met; and
- (3) Human health and the environment will be protected.

(b) In granting the waiver, the department shall impose such conditions, including time limitations, as the department deems necessary to ensure that the activities conducted pursuant to the waiver will meet the criteria specified in (a), above.

(c) No waiver shall be granted if the effect of the waiver would be to waive or modify a statutory requirement.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

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Env-Or 705.05 Decisions.

(a) The department shall issue a written response to a request for a waiver within 60 days of receipt of the request.

(b) If the request is denied, the written response shall specify the reason(s) for the denial.

Source. (See Revision Note at chapter heading for Env-Or 700) #8812, eff 2-1-07

APPENDIX

Rule Section(s)	State Statute(s) Implemented
Env-Or 701	RSA 485-C:4, V, RSA 485-C:13, I and IV
Env-Or 702	RSA 485-C:4, V, RSA 485-C:13
Env-Or 703.01	RSA 485-C:4, V, RSA 485-C:13, II and III
Env-Or 703.02 - 703.07	RSA 485-C:4, V, RSA 485-C:13, V and VI
Env-Or 703.08	RSA 485-C:4, VI
Env-Or 703.09	RSA 485-C:4, V, RSA 485-C:13, IV
Env-Or 703.10 - 703.12	RSA 485-C:4, V
Env-Or 703.13	RSA 485-C:4, V, RSA 485-C:13, IV
Env-Or 703.14 - 703.15	RSA 485-C:4, V
Env-Or 704	RSA 485-C:4, V, RSA 485-C:13, IV
Env-Or 705	RSA 485-C:4, V, RSA 485-C:13, I and IV