

TABLE OF CONTENTS

CHAPTER Env-Wq 400 GROUNDWATER PROTECTION

PART Env-Wq 402 GROUNDWATER DISCHARGE PERMIT AND REGISTRATION

- Env-Wq 402.01 Purpose
- Env-Wq 402.02 Applicability
- Env-Wq 402.03 Definitions
- Env-Wq 402.04 Groundwater Quality Criteria
- Env-Wq 402.05 Exemptions to Groundwater Quality Criteria
- Env-Wq 402.06 Ambient Groundwater Quality Standards (AGQS)
- Env-Wq 402.07 Prohibited Discharges
- Env-Wq 402.08 Water Quality Sampling, Analysis, and Reporting
- Env-Wq 402.09 Groundwater Monitoring Wells
- Env-Wq 402.10 Groundwater Discharge Permit Required
- Env-Wq 402.11 Groundwater Discharge Permit Application
- Env-Wq 402.12 Facility Identification Information
- Env-Wq 402.13 Maps
- Env-Wq 402.14 Facility Plan
- Env-Wq 402.15 Additional Information
- Env-Wq 402.16 Certifications
- Env-Wq 402.17 Fee
- Env-Wq 402.18 Signatures
- Env-Wq 402.19 Action on Applications
- Env-Wq 402.20 Permit Conditions
- Env-Wq 402.21 Groundwater Discharge Zone
- Env-Wq 402.22 Groundwater Discharge Permit Compliance Criteria
- Env-Wq 402.23 Response to Exceedances
- Env-Wq 402.24 Temporary Groundwater Discharge Permit
- Env-Wq 404.25 Temporary Groundwater Discharge Permit Compliance Criteria
- Env-Wq 404.26 Temporary Groundwater Discharge Permit Application
- Env-Wq 404.27 Temporary Permit Application Processing
- Env-Wq 402.28 Permit Renewal Process
- Env-Wq 402.29 Permit Modification and Termination
- Env-Wq 402.30 Permit Transfer
- Env-Wq 402.31 Discharge Registration Required
- Env-Wq 402.32 Discharge Registration Application
- Env-Wq 402.33 Discharge Registrations
- Env-Wq 402.34 Floor Drains
- Env-Wq 402.35 Holding Tank Registrations for Discharges of Non-domestic, Non-hazardous Wastewater
- Env-Wq 402.36 Inspections
- Env-Wq 402.37 Waivers

CHAPTER Env-Wq 400 GROUNDWATER PROTECTION

PART Env-Wq 402 GROUNDWATER DISCHARGE PERMIT AND REGISTRATION

Statutory Authority: RSA 485-A:1; RSA 485-A:13, I(a); RSA 485:3, X; RSA 485-C:6

REVISION NOTE:

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

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

#6948, eff 2-25-99

#8829, INTERIM, eff 2-25-07, EXPIRES: 8-24-07

Env-Wq 402.01 Purpose. The purpose of these rules is to establish standards, criteria, and procedures for groundwater discharge permits and discharge registrations to prevent pollution and protect groundwater.

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

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

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

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

Env-Wq 402.03 Definitions.

(a) “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.”

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

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

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

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

(f) “Contamination” or “contaminated” means the presence of any regulated contaminant in soil, groundwater, air, sediment, surface water, construction/excavation debris, or other material, other than

naturally-occurring substances at naturally-occurring or background levels, at a concentration that has the potential to adversely affect human health or the environment.

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

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

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

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

(k) “Floor drain” means an opening in a floor that is not specifically included in an authorized discharge under one or more of the following regulatory mechanisms:

- (1) A national pollutant discharge elimination system permit; or
- (2) Local authorization to discharge to the local wastewater treatment facility.

(l) “Fluid” means any material or substance which flows or moves whether in a semisolid, liquid, sludge, or gaseous state.

(m) “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.”

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

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

(p) “Injection well” means “injection well” as defined in 40 CFR 144.3.

(q) “Land application” means the placement of septage or sludge on the ground surface for beneficial use, whether or not the material is incorporated or injected in the surface soil.

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

(s) “Local entity” means:

- (1) A town or city, acting through a planning board, conservation commission, water department, health officer, or other duly-constituted municipal unit;
- (2) A village district established under RSA 52 or its predecessor statutes;
- (3) An entity established by intergovernmental agreement under RSA 53-A; or
- (4) A supplier of water for wellhead protection areas tributary to wells owned by the public water system.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(t) “Lot” means “lot” as defined in RSA 485-A:2, VII, namely “a part of a subdivision or a parcel of land which can be used as a building site or intended to be used for building purposes, whether immediate or future.”

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

(v) “Person” means “person” as defined in RSA 485-A:2, IX, namely “any municipality, governmental subdivision, public or private corporation, individual, partnership, or other entity.”

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

(x) “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.”

(y) “Regulated substance” means any of the following, with the exclusion of ammonia, sodium hypochlorite, sodium hydroxide, acetic acid, sulfuric acid, potassium hydroxide, potassium permanganate and manganese generated solely from backwashing public drinking water treatment facilities:

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

(z) “Response plan” means proposed action to remove, treat, or contain contaminants or groundwater exceeding ambient groundwater quality standards.

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

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

(ac) “Sludge” means “sludge” as defined in RSA 485-A:2, XI-a, namely “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.”

(ad) “Surface water” means “surface waters of the state” as defined in RSA 485-A:2, XIV, 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, water courses, and other bodies of water, natural or artificial.”

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(ae) “Subsurface disposal system” means wastewater disposal systems regulated under RSA 485-A:29 through RSA 485-A:44.

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

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

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

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

- (a) Groundwater shall be suitable for use as drinking water without treatment;
- (b) Groundwater shall not contain any regulated contaminant at a concentration greater than the ambient groundwater quality standards in Env-Wq 402.06; and
- (c) Groundwater shall not contain any regulated contaminant at a concentration such that the natural discharge of that groundwater to surface water will cause a violation of a surface water quality standard established in Env-Ws 1700 or successor rules in Env-Wq 1700.

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

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

- (a) The groundwater is within a groundwater discharge zone permitted in accordance with Env-Wq 402.21;
- (b) The groundwater is within a groundwater management zone permitted in accordance with Env-Or 607; or
- (c) The groundwater is contaminated solely from application of salt and other de-icing chemicals for winter road maintenance, provided an active source of drinking water is not made unsuitable for use as drinking water without treatment.

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

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

- (a) Pursuant to RSA 485-C:6, ambient groundwater quality standards (AGQS) shall apply to all regulated contaminants which result from human operations or activities. AGQS shall not apply to naturally-occurring contaminants.
- (b) AGQS shall be as set forth in Env-Or 603.

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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

- (a) Non-domestic wastewater that contains any regulated contaminant and does not receive treatment by BAT;
- (b) Non-domestic wastewater that contains any regulated contaminant that exceeds the AGQS;
- (c) Any water, wastewater, or other liquid from a floor drain in an area where any regulated contaminant is used or stored;
- (d) Any water, wastewater, or other liquid that causes an exceedance of any of the surface water quality standards specified in Env-Ws 1700 or successor rules in Env-Wq 1700;
- (e) Any water, wastewater, or other liquid that causes any chemical or constituent in the subsurface soils or bedrock to be mobilized and cause exceedances of any AGQS; or
- (f) Any water, wastewater, or other liquid that causes an exceedance of any of the groundwater quality criteria set forth in Env-Wq 402 to be violated at any point beyond the boundary of the groundwater discharge zone established pursuant to Env-Wq 402.21.

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

Env-Wq 402.08 Water Quality Sampling, Analysis, and Reporting.

- (a) The permittee shall monitor groundwater quality at each facility or site for which a permit has been issued under Env-Wq 402 to ensure that groundwater quality is in compliance with the terms of the permit and with Env-Wq 402.
- (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 monitor sampling points in the wastewater and groundwater treatment systems specified in the permit to ascertain that design treatment efficiencies are achieved.
- (d) The permittee shall operate and maintain all monitoring wells, piezometers, and other measurement, sampling, and analytical devices so that they perform to design specifications throughout the life of the monitoring program.
- (e) The parameters to be monitored shall be determined on a site-specific basis depending on the regulated contaminants present in the discharge or contaminated area or used in 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, predicted rates of groundwater flow, and treatment methods employed.
- (g) The permittee shall submit the results of all sampling and analysis required under a groundwater permit to the department no later than the 45 days after the sampling date specified in the permit.
- (h) All analyses shall be performed by a laboratory certified by the United States Environmental Protection Agency (US EPA) or another government agency using National Environmental Laboratory Accreditation Committee standards.

(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, September 1985; or
- (2) "RCRA Ground-Water Monitoring: Draft Technical Enforcement Guidance," document identification number PB87107751, US EPA, November 1992.

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

Env-Wq 402.09 Groundwater Monitoring Wells.

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

- (1) "Standards Relating to Environmental Site Characterization", Second Edition, document identification number ENVSITE02, ASTM, 2002;
- (2) "Standards on Environmental Sampling" Second Edition, document identification number ENVSAMP-97, ASTM, dated July 1997; or
- (3) "Guide for Decommissioning of Ground Water Wells, Vadose Zone Monitoring Devices, Boreholes and Other Devices for Environmental Activities," ASTM, Designation: D5299, approved 1999, and published 2001.

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

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

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

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

Env-Wq 402.10 Groundwater Discharge Permit Required.

(a) Any person proposing to undertake any of the following activities shall first obtain a groundwater discharge permit:

- (1) The construction and operation of an unlined wastewater, septage, or sludge lagoon;
- (2) Land treatment of wastewater;
- (3) The discharge onto or into the ground of non-domestic wastewater that contains any regulated contaminant and has received treatment by BAT before discharge;
- (4) The discharge of domestic wastewater from a subsurface disposal system with a design flow equal to or greater than 20,000 gallons per day;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(5) The discharge of domestic wastewater from subsurface disposal systems with aggregate design flows equal to or greater than 1,000 gallons per day (gpd) for a single lot if the following criteria are met:

- a. The minimum nitrate setback distances specified in Table 402-1, below, are violated; and
- b. Where the setback distances for 2 or more leach fields overlap, the leach fields shall be considered one system and the setback distance shall be determined by the combined flow of the leach fields in accordance with Table 402-1, below;

(6) Construction or operation of a reclaimed wastewater distribution and disposal system; or

(7) Construction and operation of an aquifer storage and recovery program.

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

TABLE 402-1  
MINIMUM NITRATE SETBACK DISTANCE TO PROPERTY LINE (FEET)

Design Flow (gpd) For each system	Hydraulically Down-gradient	Hydraulically Side-gradient	Hydraulically Up-gradient
1,001 – 1,100	55	28	14
1,101 – 1,200	60	30	15
1,201 – 1,300	65	33	17
1,301 – 1,400	70	35	18
1,401 – 1,500	75	38	19
1,501 – 1,600	80	40	20
1,601 – 1,700	85	43	22
1,701 – 1,800	90	45	23
1,801 – 1,900	95	48	24
1,901 – 2,000	100	50	25
2,001 – 2,100	105	53	27
2,101 – 2,200	110	55	28
2,201 – 2,300	115	58	29
2,301 – 2,400	120	60	30
2,401 – 2,500	125	63	32
2,501 – 3,000	150	75	37
3,001 – 3,500	175	88	44
3,501 – 4,000	200	100	50
4,001 – 4,500	225	113	57
4,501 – 5,000	250	125	63
5,001 – 6,000	275	138	69
6,001 – 7,000	300	150	75
7,001 – 8,000	320	160	80
8,001 – 9,000	340	170	85
9,001 - 10,000	350	175	88
10,001 - 15,000	435	213	107
15,001 - 19,999	500	250	125

(c) A groundwater discharge permit shall not be required for the following activities or facilities:



NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (1) Land application of sludge or septage performed in compliance with the applicable requirements of Env-Wq 800 and Env-Wq 1600;
  - (2) A discharge of non-domestic wastewater that does not contain any regulated contaminant provided the discharge is registered in accordance with Env-Wq 402.31;
  - (3) A discharge associated with a remedial action approved pursuant to Env-Or 606 provided a groundwater management permit has been issued for the site pursuant to Env-Or 607;
  - (4) A discharge associated with a well pumping test or well rehabilitation activities provided that the discharge water meets AGQS as specified in Env-Wq 402.06 and a temporary discharge permit is obtained in accordance with the procedures outlined in Env-Wq 402.26 through Env-Wq 402.27;
  - (5) A discharge associated with agricultural operations that are conducted in compliance with all applicable requirements of RSA title XL and best management practices developed, administered, and enforced by the New Hampshire department of agriculture, markets and food; or
  - (6) The discharge of backwash from public water treatment facilities, provided the discharge is registered in accordance with Env-Wq 402.31 through Env-Wq 402.33.
- (d) Subject to (e), below, a groundwater discharge permit shall be obtained by the landowner.
- (e) A groundwater discharge permit may be obtained by a person other than the landowner provided that:
- (1) The landowner has granted a deeded easement to the person that grants the person exclusive rights to use the groundwater as a receiving medium for wastewater disposal for a minimum of 20 years from the date the permit is expected to be issued; or
  - (2) The landowner and other person jointly apply for a permit and acknowledge in the application that, if the permit is issued, both parties shall be jointly and severally liable and responsible for operation, maintenance, monitoring, closure, and compliance with all applicable department rules.

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

Env-Wq 402.11 Groundwater Discharge Permit Application.

- (a) The person applying for a groundwater discharge permit shall submit the following in or with the application for a groundwater discharge permit:
- (1) The facility identification information specified in Env-Wq 402.12;
  - (2) The maps specified in Env-Wq 402.13;
  - (3) A facility plan as specified in Env-Wq 402.14;
  - (4) The additional information specified in Env-Wq 402.15;
  - (5) The certifications required by Env-Wq 402.16; and
  - (6) The fee specified by Env-Wq 402.17.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

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

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

(b) The name, physical address, 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, 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 pretreatment, treatment, storage, or disposal of wastes;

(g) The Standard Industrial Code (SIC) for industrial facilities; and

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

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

(2) Volume of discharge;

(3) Total number of discharge points;

(4) Hydraulic loading rates;

(5) Nitrate or contaminant movement study, if applicable; and

(6) A proposed discharge schedule.

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

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

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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

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

- (1) A groundwater discharge zone boundary;
- (2) Any deeded easements that restrict the use of the groundwater within the zone;
- (3) Any streets within 1,000 feet of the groundwater discharge zone;
- (4) Any properties, including tax map and lot number, ownership and land use information, within 1,000 feet of the groundwater discharge zone;
- (5) Any surface waters within 1,000 feet of the groundwater discharge zone, including their designated river classification in accordance with RSA 483, New Hampshire Rivers Management and Protection Program, if applicable;
- (6) Any water supply sources, including type of use, within 1,000 feet of the groundwater discharge zone; and
- (7) Any source water protection areas for any community, transient, or non-community, non-transient public water supply as defined by RSA 485:1-a, within 1,000 feet of the groundwater discharge zone.

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

Env-Wq 402.14 Facility Plan.

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

- (1) The plan shall include a title, a legend, and a true north arrow;
- (2) The plan shall be drawn to scale and the scale shall be noted on the plan and include a graphic scale bar;
- (3) The base plan sources from which the facility plan was derived shall be noted on the plan;
- (4) The location, elevation, and datum of a bench mark shall be included, provided that if a bench mark referenced to National Geodetic Vertical Datum (NGVD) is within 1,000 feet of the facility, elevation shall be recorded using NGVD and the source of the NGVD bench mark information shall be noted on the plan;
- (5) The plan shall identify and depict the location of the following:
  - a. Wastewater application and unlined lagoon areas, including total land area available and area to be used;
  - b. Existing and proposed groundwater monitoring wells that will be monitored;
  - c. Surface water sampling points;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- d. Groundwater contours that show groundwater flow direction within 100 feet of the groundwater discharge zone;
- e. Surface waters, wetlands, and drainage ways within 100 feet of the groundwater discharge zone;
- f. Deeded easements that restrict the use of the groundwater;
- g. A groundwater discharge zone boundary;
- h. Land surface contours within 100 feet of the groundwater discharge zone at 2-foot intervals;
- i. Piezometers used to develop groundwater contours and/or monitor groundwater mounding;
- j. Soil borings and test pits within 100 feet of the groundwater discharge zone;
- k. Physical structures and buildings associated with the facility;
- l. Surface and underground storage tanks associated with the facility;
- m. Underground utilities at the facility; and
- n. Subsurface drains at the facility.

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

(c) The plans and specifications shall be stamped by a professional engineer licensed in accordance with RSA 310-A.

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

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

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

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

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

(d) Boring log data including:

(1) Soil sample descriptions according to:

- a. "Standard Classification of Soils for Engineering Purposes, Unified Soil Classification System," American Society for Testing and Materials, Designation: D2487, approved June 29, 1990, and published August 1990, updated 2000; or

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

b. “Standard Practice for Description and Identification of Soils, Visual Manual Procedure,” American Society for Testing and Materials Designation: D2488, approved June 29, 1990, and published August 1990, updated 2000;

(2) Drilling methods; and

(3) “N-values” according to “Penetration Test and Split Barrel Sampling of Soil,” American Society for Testing and Materials Designation: D1586, approved October 15, 1992, readopted 1999;

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

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

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

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

(i) A copy of the permit for drainage and erosion control measures if required by RSA 485-A:17 and Env-Ws 415 or successor rules in Env-Wq 1500, or a copy of the application for the permit if a permit has not yet been issued;

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

(k) For bermed or dammed structures, a copy or status of the dam permit, if required under RSA 482 and the rules in subtitle Env-Wr;

(l) A copy or status of the wastewater treatment plant operator certification, if required under RSA 485-A:5-a; and

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

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

(2) A hydrogeological study that includes the following:

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

b. Estimates of hydraulic gradients and flow directions;

c. Estimates of hydraulic conductivity and seepage velocity;

d. A description of soil types and thickness;

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

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

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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

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

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

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

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

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

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

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

Env-Wq 402.17 Fee.

(a) Subject to (c), below, the applicant shall submit the fee required by RSA 485-A:13-a with each application for a new permit or a permit renewal.

(b) If paid by check or money order, the instrument shall be payable to "Treasurer - State of NH".

(c) Political subdivisions of New Hampshire shall be exempt from the fee specified in (a), above.

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

Env-Wq 402.18 Signatures.

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

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

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

(2) The signer agrees to abide by the applicable rules and conditions of the permit or registration, if issued.

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

Env-Wq 402.19 Action on Applications.

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

(b) If the decision is to grant the permit, the issued permit shall be valid for a period of 5 years, subject to renewal.

(c) The department shall grant the permit if it determines that the application demonstrates compliance with Env-Wq 402.10, Env-Wq 402.11, Env-Wq 402.21, and Env-Wq 402.22.

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

Source. (See Revision Note at part heading for Env-Wq 402) #8955, eff 7-26-07

Env-Wq 402.20 Permit Conditions.

(a) The groundwater discharge permit shall contain conditions for monitoring, record keeping, and reporting as required to assure conformance with these rules.

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

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

Source. (See Revision Note at part heading for Env-Wq 402) #8955, eff 7-26-07

Env-Wq 402.21 Groundwater Discharge Zone.

(a) The boundary of the groundwater discharge zone shall be at or within the property or easement boundary or the mean high water mark of the closest surface water body, whichever is closest to the edge of the wastewater application area. No discharge of domestic wastewater shall violate groundwater quality criteria set forth in Env-Wq 402.04 at any point beyond the boundary of a groundwater discharge zone.

(b) Except for subsurface disposal systems permitted under Env-Wq 402.10, use of groundwater within the groundwater discharge zone shall be controlled by the permittee, either by ownership of the overlying land or by deeded easement which grants the permittee the exclusive right to use the groundwater as a receiving medium for the wastewater disposal. As a condition of issuance of a permit, the permittee shall agree to control the use of groundwater within the discharge zone so as to prohibit its use for drinking water.

Source. (See Revision Note at part heading for Env-Wq 402) #8955, eff 7-26-07

Env-Wq 402.22 Groundwater Discharge Permit Compliance Criteria.

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

(b) Municipal wastewater, alone or in combination with domestic wastewater, shall receive treatment in compliance with RSA 485-A:5 before being discharged to the ground or groundwater.

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

(d) No discharge shall cause the groundwater quality criteria set forth in Env-Wq 402.04 to be violated at any point beyond the boundary of a groundwater discharge zone.

(e) No discharge shall cause degradation which results in a violation of surface water quality standards set forth in Env-Ws 1700, or successor rules in Env-Wq 1700, in any surface water body.

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

Env-Wq 402.23 Response to Exceedances.

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

- (1) Notify the department within 10 days of receiving the test results that show the exceedance; and
- (2) Prepare a written response plan to ensure that groundwater quality criteria is not violated at the boundary of the groundwater discharge zone.

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

- (1) Inspection and audit of activities and procedures at the facility to determine possible sources of contamination;
- (2) Further site investigation to evaluate additional potential contaminant sources and the extent of their impact on groundwater quality;
- (3) Modification of facility operation as needed to eliminate the cause of the exceedance;
- (4) Removal or containment of the contamination source; and
- (5) Groundwater quality restoration.

(c) If the facility operations can not be modified to eliminate the cause of the exceedance or if the groundwater quality cannot be restored, the response plan shall include a schedule of activities that will be implemented for facility closure.

(d) The permittee shall:

- (1) Submit the response plan to the department within 60 days of receiving the test results that show the exceedance; and
- (2) Implement the response plan within 30 days of department approval.

(e) Within 90 days of receiving a proposed response plan, the department shall notify the permittee in writing of whether it has approved the plan. If the department does not approve the plan, the notice shall specify the reason(s) for the disapproval.

(f) The department shall approve the response plan if the department determines that the plan, if implemented as specified, is expected to:



NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (1) Remove, treat, or contain the contamination source to prevent the additional release of contaminants to groundwater;
- (2) Achieve compliance with AGQS;
- (3) Protect human health and the environment; and
- (4) Contain and confine contaminated groundwater within the limits of the groundwater discharge zone, delineated in accordance with the procedures of Env-Wq 402.22(a).

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

Env-Wq 402.24 Temporary Groundwater Discharge Permit.

(a) The department shall issue a non-renewable, temporary groundwater discharge permit that is valid for not more than 4 months if the applicant demonstrates compliance with Env-Wq 402.25 and Env-Wq 402.26.

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

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

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

Env-Wq 402.25 Temporary Groundwater Discharge Permit Compliance Criteria.

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

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

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

Env-Wq 402.26 Temporary Groundwater Discharge Permit Application.

(a) The applicant for a temporary groundwater discharge permit shall submit the following information to the department:

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (1) The name, mailing address, and daytime telephone number of the applicant and, if the applicant is other than an individual, the name and daytime telephone number of a contact person and, if available, an e-mail address and fax number for the contact person;
  - (2) The name, physical address, property deed reference by county, book and page, and local tax map and lot number of the facility;
  - (3) The name, mailing address, and daytime telephone number of the owner of the facility, if other than the applicant, and if the facility owner is other than an individual, the name and daytime telephone number of a contact person for the facility owner and, if available, an e-mail address and fax number for the contact person;
  - (4) The name, mailing address, and daytime telephone number of the property owner, if other than the applicant, and if the property owner is other than an individual, the name and daytime telephone number of a contact person for the property owner and, if available, an e-mail address and fax number for the contact person;
  - (5) An explanation of the proposed discharge including:
    - a. The purpose of the discharge;
    - b. The location of the closest sanitary sewer;
    - c. The proposed discharge rate and estimated duration;
    - d. The estimated starting date of the proposed discharge;
    - e. The proposed discharge location and method; and
    - f. The proposed discharge monitoring program, if the applicant can not demonstrate that the water to be discharged meets all applicable criteria;
  - (7) An original or color photocopy of a USGS map, 7-1/2 minute series, that clearly identifies the facility or site location and location of the closest sanitary sewer;
  - (8) A description of the type of treatment proposed, including a description of the wastewater infiltration system and information on the influent and effluent water quality and sludge or other by-products generated;
  - (9) Certification that notice has been given to the governing body of the municipality in which the facility is or is proposed to be located.
- (b) The applicant and, if the applicant is not the owner of the facility and the property, the owner(s) of the facility and the property, shall sign the application.
- (c) The signature(s) shall constitute certification by the signer(s) that:
- (1) The information contained in or otherwise submitted with the application is true, complete, and not misleading to the best of the signer's knowledge and belief; and
  - (2) The signer agrees to abide by the applicable rules and conditions of the permit, if issued; and
  - (3) The applicant agrees not to discharge until written permission from the department has been received.

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

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

Env-Wq 402.27 Temporary Permit Application Processing.

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

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

(c) The department shall grant the permit if it determines that the application demonstrates compliance with Env-Wq 402.25 and Env-Wq 402.26.

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

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

Env-Wq 402.28 Permit Renewal Process.

(a) If the permittee wishes to continue to operate a facility that is subject to a groundwater discharge permit beyond the 5-year permit term, the permittee shall submit the information specified in (d), below, and the fee required by Env-Wq 402.17 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 original permit until the permit is renewed or the facility is closed in accordance with all applicable requirements.

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

(e) The renewal application may reference information already contained in the department files if the information:

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

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

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

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

Env-Wq 402.29 Permit Modification and Termination.

(a) A permittee shall request a permit modification or permit termination by submitting a written request to the department, including the reasons for the modification or termination and a table summarizing all monitoring results to date from existing monitoring points.

(b) The department shall:

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

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

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

(1) After providing written notice that:

- a. Identifies the facility by name, department site number, location, and permit number;
- b. Explains the action(s) the department proposes to take and the reasons for the proposed action(s);
- c. Identifies the department's authority for taking such an action;
- d. Explains the opportunity for an adjudicative hearing and related deadlines;
- e. Lists the name, title, mailing address, and telephone number of the department representative who can be contacted regarding the notice; and
- f. Is dated and signed by the director or a person so authorized by the director; and

(2) If the department determines that:

- a. Issuance of the permit was based on false or misleading information;
- b. Modification of the permit is necessary to ensure protection of human health or the environment; or
- c. Modification of the permit is necessary to ensure compliance with Env-Wq 402.

(e) 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

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

Env-Wq 402.30 Permit Transfer.

(a) At least 90 days prior to a transfer of ownership of a facility with a groundwater discharge permit, the permittee shall file a written request with the department for a transfer of the permit to the new owner.

(b) Transfer requests shall include the following information:

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

(c) The current permittee and the person to whom the permit is proposed to be transferred shall sign the transfer request. Such signatures shall constitute certification that the information contained in the request is correct, complete, and not misleading to the knowledge and belief of the signer.

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

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

- (1) The facility is not presently in compliance with the permit, these rules, or any applicable statutes, unless transferring the permit would facilitate returning the facility to compliance;
- (2) The permittee has failed to pay any outstanding penalties or costs related to the site, including the department's recoverable costs pursuant to RSA 146-A, RSA 146-C, RSA 147-B, RSA 485, and RSA 485-A, unless all outstanding amounts will be paid in conjunction with the transfer; or
- (3) The permittee has failed to perform in accordance with a court order, consent decree, or other settlement agreement relating to the property subject to the groundwater permit, unless transferring the permit would facilitate such performance.

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

Env-Wq 402.31 Discharge Registration Required. The owner of a facility shall obtain a discharge registration prior to engaging in any of the following activities:

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

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

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (2) Non-domestic wastewater discharges to subsurface disposal systems for which a groundwater discharge permit is not required under Env-Wq 402.10;
- (b) The discharge of regenerant or backwash water associated with the operation of a department-approved public drinking water treatment facility;
- (c) Stormwater infiltration via subsurface leaching or distribution structures;
- (d) The discharge of any fluid associated with geothermal or heat pump systems, provided such discharges:
  - (1) Will not cause naturally-occurring chemicals or constituents in subsurface media to mobilize and cause exceedance of any AGQS; and
  - (2) Do not involve the use of materials or equipment in the subsurface that may degrade over time and cause exceedance of any AGQS.

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

Env-Wq 402.32 Discharge Registration Application. The applicant for a discharge registration shall submit the following information to the department:

- (a) The name, mailing address, and daytime telephone number of the applicant and, if the applicant is other than an individual, the name and daytime telephone number of a contact person and, if available, an e-mail address and fax number for the contact person;
- (b) The name, physical address, property deed reference by county book and page, and property tax map and lot number of the facility;
- (c) The name, mailing address, and daytime telephone number of the owner of the facility, if other than the applicant, and if the facility owner is other than an individual, the name and daytime telephone number of a contact person for the facility owner and, if available, an e-mail address and fax number for the contact person;
- (d) The name, mailing address, and daytime telephone number of the property owner, if other than the applicant, and if the property owner is other than an individual, the name and daytime telephone number of a contact person for the property owner and, if available, an e-mail address and fax number for the contact person;
- (e) The facility operator's name, if other than the applicant, facility owner, and property owner, and the operator's mailing address and daytime telephone number;
- (f) An original or color photocopy of a USGS map, 7-1/2 minute series, which clearly identifies the facility location;
- (g) A facility plan that clearly identifies:
  - (1) The discharge point relative to the facility structures, water supplies, and property lines; and
  - (2) Any structures or other features related to the control or management of the discharge;
- (h) A complete description of the facility and type of wastes or wastewater handled at the facility;

- (i) A description of the wastewater characteristics, including analytical results;
- (j) Information on chemical characteristics, including the material safety data sheet as required in 29 CFR Chapter 1910 Part 1200, for all products that may be constituents of the discharge;
- (k) A description of the disposal method, including dimensions of any injection well proposed to be used; and
- (l) The discharge rate, or discharge volume, and schedule for periodic discharges.

Source. (See Revision Note at part heading for Env-Wq 402) #8955, eff 7-26-07

Env-Wq 402.33 Discharge Registrations.

- (a) Within 30 days of receipt of a complete registration application, the department shall grant the registration or, if the activities covered by the application are not consistent with the registration requirements, notify the applicant in writing to apply for a groundwater discharge permit.
- (b) The department shall register the discharge if the application demonstrates that the discharge is eligible for registration and is in compliance with Env-Wq 402.04.
- (c) Discharges other than those described in the registration shall be prohibited.
- (d) The department shall include such conditions in the registration for the registrant to sample or monitor discharged wastewater, groundwater, or soil as are necessary to verify compliance with these rules.
- (e) The registrant shall notify the department in writing when the registered discharge has ceased.
- (f) If a registrant proposes to abandon an injection well, the registrant shall propose procedures for abandonment in writing to the department. The department shall approve the proposed procedures if they are adequate to protect human health and the environment.
- (g) Unless otherwise provided in the registration, the facility owner shall provide a sampling tap suitable for sampling at the point of discharge to the groundwater.
- (h) If the department receives information which indicates that the discharge is not in compliance with the discharge registration and Env-Wq 402, the registrant shall sample the discharge and provide the analytical results to the department for the parameter(s) requested.
- (i) If the department receives information which indicates that the discharge is not in compliance with the discharge registration and Env-Wq 402, the registrant shall make all existing records and other pertinent information concerning the discharge available to the department.
- (j) If ownership of the facility is transferred, the registrant shall provide to the department the new owner's name, mailing address, and daytime telephone number in writing within 10 days of the transfer.
- (k) The new facility owner shall register the discharge with the department in accordance with Env-Wq 402.30 within 30 days of the transfer.

Source. (See Revision Note at part heading for Env-Wq 402) #8955, eff 7-26-07

Env-Wq 402.34 Floor Drains. Any person who owns a structure in which floor drains are located in areas where regulated substances are used or stored shall:

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (a) Permanently seal the floor drain(s), provided that the person submits a pre-closure notification form to the department 30 days prior to sealing the drain(s);
- (b) Direct the discharge into a holding tank registered in accordance with Env-Wq 402.35; or
- (c) Reroute the discharge to a publicly-owned treatment works (POTW) after obtaining approval to do so from the owner of the POTW.

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

Env-Wq 402.35 Holding Tank Registrations for Discharges of Non-domestic, Non-hazardous Wastewater.

(a) A holding tank registration shall be required for the use of holding tanks that receive flow from floor drains or other conduits in areas where regulated substances are used or stored.

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

(c) The owner of the facility shall register the holding tank by submitting the following information in writing to the department:

- (1) The name, physical address, property deed reference by county, book and page, and property tax map and lot number of the facility;
- (2) The name, mailing address, and daytime telephone number of the owner of the facility, if other than the applicant, and if the facility owner is other than an individual, the name and daytime telephone number of a contact person for the facility owner and, if available, an e-mail address and fax number for the contact person;
- (3) The name mailing address, and daytime telephone number of the property owner, if other than facility owner, and if the property owner is other than an individual, the name and daytime telephone number of a contact person for the property owner and, if available, an e-mail address and fax number for the contact person;
- (4) An original or color photocopy of a USGS map, 7-1/2 minute series, which clearly identifies the facility location;
- (5) A site plan depicting the location of the building and the location of the holding tank and associated structures;
- (6) A description of the anticipated characteristics including analytical results, if available, and volume of wastewater to be discharged to the holding tank;
- (7) A plan which includes frequency of disposal, method of transport, and location of ultimate disposal of the wastewater and residual solids;
- (8) A complete description of the facility and type of wastes or wastewater handled at the facility; and
- (9) Design plans that meet the following requirements:
  - a. The minimum holding tank capacity shall be 1,000 gallons;



NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- b. Holding tanks and piping shall be watertight and sealed with materials compatible with the liquid or other material being stored;
- c. Access shall be provided to each compartment of the tank for inspection and cleaning by means of either a removable cover or manhole, the minimum diameter of which shall be 20 inches;
- d. Manholes shall extend to finished grade;
- e. The entire tank shall be designed for the expected maximum structural load, with ballast provided to prevent structural damage when the tank is emptied; and
- f. An alarm with both visual and audio signals shall be activated once the water level reaches 80% of the maximum storage capacity.

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

(f) The department shall grant the registration if it determines that the application demonstrates compliance with (c), above. Discharges other than those described in the registration shall be prohibited.

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

- (1) Tank installation; or
- (2) Tank closure or removal.

(h) If the department receives information which indicates that the holding tank is not in compliance with Env-Wq 402, the registrant shall sample the contents of the holding tank and provide the analytical results to the department for the parameter(s) requested.

(i) If the department receives information which indicates that the holding tank is not in compliance with Env-Wq 402, the registrant shall make all existing records and other pertinent information concerning the construction and operation of the holding tank available to the department.

(j) If ownership of the facility is transferred, the registrant shall provide the new owner's name, mailing address, and daytime telephone number in writing to the department within 10 days of the transfer.

(k) The new facility owner shall register the holding tank with the department under Env-Wq 402.35, within 30 days of the transfer.

(l) The registrant shall make lawful arrangements to empty the holding tank(s) and dispose of the contents in accordance with all applicable state and local rules when the tank(s) are filled to 80% of tank capacity.

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

Env-Wq 402.36 Inspections. In order to investigate either actual or suspected sources of potential harm to human health or the environment and to ascertain compliance or non-compliance with these rules, the department shall:

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

- (b) Gather evidence on existing conditions and procedures;
- (c) Obtain representative samples of containers, floor drains, holding tanks, and other discharges;
- (d) Conduct tests, analyses, and evaluations;
- (e) Photograph containers, floor drains, holding tanks, processes, or conditions related to permits, registrations, and discharges;
- (f) Inspect and, if the records show evidence of non-compliance, be provided with copies of any pertinent records, reports of information and test results relating to the requirements of these rules upon request; and
- (g) Obtain any other information as authorized by law.

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

Env-Wq 402.37 Waivers.

- (a) The rules contained in this part are intended to apply to a variety of conditions and circumstances. It is recognized that strict compliance with all rules might not fit every conceivable situation.
- (b) The person requesting the waiver(s) shall submit the following information in writing to the department:
  - (1) A description of the facility or site to which the waiver request relates, including the name, address, and department identification number if one has been assigned;
  - (2) A reference to the specific section(s) of the rules for which a waiver is being sought;
  - (3) A full explanation of why a waiver is necessary;
  - (4) Whether the waiver is needed for a limited duration and, if so, an estimate of when the waiver will no longer be needed;
  - (5) A full explanation with supporting data of the alternative(s), if any, proposed to be implemented or used in lieu of the section's requirements; and
  - (6) A full explanation of how the proposed alternative(s), if any, would be consistent with the intent of RSA 485, RSA 485-A, and RSA 485-C, and would adequately protect human health and the environment.
- (c) The department shall grant a waiver if it determines that the intent of RSA 485, RSA 485-A, and RSA 485-C will be met and that human health and the environment will be protected. In granting the waiver, the department shall impose such conditions, including time limitations, as the department deems necessary to ensure that the activities conducted pursuant to the waiver will be protective of human health and the environment.
- (d) No waiver shall be granted to any requirement specified in statute unless the statute expressly allows such requirement to be waived.
- (e) The department shall issue a written response to a request for a waiver within 90 days of receipt of the request. If the request is denied, the response shall specify the reason(s) for the denial.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Source. (See Revision Note at part heading for Env-Wq 402)  
#8955, eff 7-26-07

APPENDIX

<b>Rule Section(s)</b>	<b>State Statute(s) Implemented</b>	<b>Federal Regulations Implemented</b>
Env-Wq 401 (see also specific section listed below)	RSA 485-C:1; RSA 485-C:4, VII; RSA 485-C:11	
Env-Wq 401.10	RSA 541-A:22, IV	
Env-Wq 402.01 - 402.06	RSA 485-C:6	40 CFR 144, 145, & 146
Env-Wq 402.07 - 402.16	RSA 485-A:13, I(a)	40 CFR 144, 145, & 146
Env-Wq 402.17	RSA 485-A:13-a	
Env-Wq 402.18 - 402.36	RSA 485-A:13, I(a)	40 CFR 144, 145, & 146
Env-Wq 402.37	RSA 541-A:22, IV	