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[New Hampshire Code of Administrative Rules](#)  
[Env-Ws 387](#)

Adopt Env-Ws 387 to read as follows:

PART ENV-WS 387 MINOR GROUNDWATER WITHDRAWAL

Env-Ws 387.01 Purpose. The purpose of these rules is to implement RSA 485:3 and RSA 485-C by:

- (a) Establishing procedures and criteria for designating a large withdrawal as a minor withdrawal;
- (b) Establishing procedures and criteria for permitting a minor large withdrawal;
- (c) Establishing procedures and criteria for identifying the need for a minor withdrawal; and
- (d) Establishing procedures and criteria for identifying and addressing impacts which occur as a result of a permitted minor withdrawal.

Env-Ws 387.02 Definitions.

- (a) "Available water" means the arithmetic difference between water supply and demand.
- (b) "Bottled water" means water that is placed in a sealed container or packaged and is offered for sale for human consumption or other consumer uses as defined in He-P 2100.
- (c) "Community water system" means "community water system" as defined in RSA 485:1-a, I, namely "a public water system which services at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents."
- (d) "Cone of depression" means a depression in the potentiometric surface of a body of groundwater that has the general shape of an inverted cone and develops around a well from which water is being withdrawn.
- (e) "Department" means the department of environmental services.
- (f) "Downgradient area" means the area where water taken by the withdrawal would flow if the withdrawal did not operate.
- (g) "Groundwater" means "groundwater" as defined in RSA 485:C:2, VIII namely, "subsurface water that occurs beneath the water table in soil and geologic formations."

(h) "High use area" means an area providing water to a new withdrawal which is identified through hydrologic assessment as an area where demand exceeds 70% of available water.

(i) "Hydrologic cycle" means the pathways along which water moves through the environment.

(j) "Hydrology" means the science of the occurrence, circulation, distribution and properties of the waters of the earth and reaction with the environment.

(k) "Large withdrawal" means any seasonal or year-long withdrawal from a wellhead installed after July 1998, not associated with a temporary, short term use such as contaminated site management or construction de-watering, where the maximum 24-hour withdrawal is 57,600 gallons or more.

(l) "Permitted withdrawal" means a large withdrawal permitted under these rules.

(m) "Potentiometric surface" means the surface where groundwater pressure is equal to atmospheric pressure.

(n) "Public water system" means "public water system" as defined by RSA 485: 1-a, XV, namely "a system for the provision to the public of piped water for human consumption, if such systems has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least 60 days of the year."

(o) "Recharge area" means the land surface from which water reaching a location or region originates.

(p) "Registered water user" means any water user who is required to register and report water usage in accordance with Env-Wr 700, that is, all withdrawals over 20,000 gallons per day for any purpose.

(q) "Replacement well" means a new source installed to replace an existing source that operates and impacts water resources in the same manner as the well that is being replaced.

(r) "Short term use" means the one time occurrence of a withdrawal at a specific geographical location over a period of one year or less, except for contaminated site remediation, where the duration of the withdrawal extends for the time necessary to complete the objectives of the remediation.

(s) "Surface water" means "surface waters of the state" as defined in RSA 485-A:2 and waters of the United States as defined in 40 CFR 122.2.

(t) "Water related natural resource" means a natural resource that is dependent on water.

(u) "Well" means "well" as defined in RSA 485-C:2, XVII, namely "a hole or shaft sunk into the earth to observe, sample, or withdraw groundwater."

(v) "Wellhead" means the conveyance or conveyances through which and location where groundwater reaches the land surface such as the well casing, wellfield collector, or spring collection box.

(w) "Withdrawal" means removal of groundwater for any purpose.

Env-Ws 387.03 Minor Withdrawal Designation.

(a) The applicant shall submit a request for minor withdrawal designation in accordance with Env-Ws 387.09.

(b) The department shall conduct a hydrologic evaluation in accordance with Env-Ws 387.11 to determine whether the large withdrawal will be designated a minor withdrawal.

(c) The department shall designate a large withdrawal as a minor withdrawal when:

(1) The maximum 24-hour withdrawal is at least 57,600 gallons;

(2) The maximum average-day withdrawal in a 30 day period is less than 144,000 gallons per day;

(3) Available information indicates that the withdrawal does not result in adverse impacts as defined in Env-Ws 388 to water resources and other water users identified in Env-Ws 387.07; and

(4) The withdrawal is not in a high use area as determined by the department.

(d) If the department determines that the withdrawal is designated as a minor withdrawal, then the applicant shall verify the designation by conducting withdrawal testing as specified in Env-Ws 387.13 before a minor withdrawal permit is issued pursuant to Env-Ws 387.15.

(e) To retain a minor withdrawal designation, the permittee shall comply with the conditions of the permit issued pursuant to Env-Ws 387.15.

(f) If minor withdrawal designation is denied, the withdrawal shall be designated a major withdrawal and be subject to Env-Ws 388.

Env-Ws 387.04 Minor Large Withdrawal Approval Process and Requirements.

(a) Prior to starting a large withdrawal for which the maximum 30-day average will be less than 144,000 gallons per day, all entities shall:

(1) Obtain a minor withdrawal permit by verifying the withdrawal meets minor large designation criteria following the process in paragraph (c) below; or

(2) Obtain a major withdrawal permit in accordance with Env-Ws 388.

(b) Prior to starting a new withdrawal for which the maximum 30-day average will equal or exceed 144,000 gallons per day, all entities shall obtain a major withdrawal permit in accordance with Env-Ws 388.

(c) To obtain a new or renew a minor withdrawal permit, the applicant shall complete the following process:

(1) Demonstrate the need for the withdrawal by completing a conservation management plan and description of need in accordance with Env-Ws 387.05;

(2) Estimate the study area for the withdrawal in accordance with Env-Ws 387.06;

(3) Complete a water resource and use inventory of the study area in accordance with Env-Ws 387.07;

(4) Design a withdrawal testing program in accordance with Env-Ws 387.08;

(5) Submit a request for minor withdrawal designation in accordance with Env-Ws 387.09;

(6) Perform public notification in accordance with Env-Ws 387.10;

(7) Based on a hydrologic evaluation performed by the department in accordance with Env-Ws 387.11, obtain approval for a minor withdrawal designation in accordance with Env-Ws 387.12;

(8) Complete withdrawal testing in accordance with Env-Ws 387.13;

(9) If withdrawal testing verifies a minor withdrawal designation, submit a minor withdrawal permit application completed in accordance with Env-Ws 387.14; and

(10) If withdrawal testing does not verify minor withdrawal designation:

a. Collect and submit additional information that does verify minor withdrawal designation; or

b. Apply for a major withdrawal permit in accordance with Env-Ws 388.

(d) A permittee for a minor withdrawal shall comply with the following:

(1) All withdrawals shall be continuously metered and reported in accordance with requirements of a permit issued pursuant to Env-Ws 387.16;

(2) The permittee shall notify the department in writing within 30 days of any change in ownership or contact address;

(3) Where a change in permit conditions is desired, the permittee shall request modification of the permit in accordance with Env-Ws 387.17;

(4) At least 90 days prior to the date of permit expiration, the permittee shall submit an application for permit renewal in accordance with Env-Ws 387.18;

(5) When an adverse impact occurs as specified in Env-Ws 388.18 as a result of the withdrawal, the permittee shall design and implement mitigation measures in accordance with Env-Ws 387.19; and

(6) Water level monitoring and reporting of shall be completed in accordance with Env-Ws 387.16.

(e) When requested in writing and supported by data, the department shall review new hydrologic information and evaluate the designation of a minor withdrawal, and based on its findings, modify the permit in accordance with Env-Ws 387.17.

(f) Where data available to the department reveals minor withdrawal criteria are not being, or cannot be met, minor designation shall be revoked pursuant to Env-Ws 387.12, and the withdrawal shall be subject to major withdrawal requirements pursuant to Env-Ws 388.

Env-Ws 387.05 Conservation Management Plan and Description of Need.

(a) The applicant shall prepare a water conservation management plan and description of need to demonstrate the efficient use of, and need for, the proposed withdrawal for the 10 year duration of the permit issued pursuant to Env-Ws 387.15.

(b) The plan shall be presented in the minor designation request pursuant to Env-Ws 387.09.

(c) The plan shall identify:

- (1) Other water sources currently used by the applicant;
- (2) Anticipated demand for water including maximum, minimum, and average pumping rates and durations;
- (3) Factors that control water demand such as:
  - a. Consumer choice;
  - b. Delivery contracts;
  - c. Manufacturing runs;
  - d. Seasonal occupancy; and
  - e. Precipitation;
- (4) Projected growth in the demand for water and a description of the factors that control the growth in demand for water;
- (5) Alternative sources of water;
- (6) The ability to store water to reduce peak withdrawals; and
- (7) The volume of water needed versus the number of and type of institutions either served by the water, or number of items produced or manufactured with the water.

(d) The plan shall contain an analysis of water conservation measures including the following:

- (1) A description of measures being implemented to conserve water;

(2) A discussion of the feasibility of using additional water conservation measures including a description of the potential to reduce quantities of water withdrawn through reuse, recycling, and reduction of wasted water;

(3) For a public water system, a description of the status of the system's compliance with the operation criteria of Env-Ws 360 and the maintenance requirements of Env-Ws 362;

(4) For a public water system, a description of the system's use of, and planning for, the following conservation practices:

- a. Customer metering;
- b. Leak detection and repairs;
- c. Low-flow plumbing fixtures;
- d. Restricting non-essential uses such as watering lawns, washing cars, and filling swimming pools;
- e. Industrial reuse and recycling;
- f. Adopting a water conservation rate structure which may include surcharge penalties;
- g. Conducting or requiring residential, commercial, and industrial water audits;
- h. Public education; and
- i. Any other measure determined by the public water supplier to be cost-effective; and

(5) For a non-public system withdrawal:

- a. A description of the use and planning of water conservation measures which are not essential to the product or service design such as floor washing methods, leak and overflow management at a manufacturing facility, or any other type of water conservation management practices or measures implemented;
- b. Measures for reducing water use essential to product or service design, such as, re-use, loss reduction, or increased storage to reduce peaks; and



c. The cost effectiveness of water conservation measures and a schedule for any new measures planned.

Env-Ws 387.06 Study Area Estimate.

(a) The applicant shall produce an estimate of the delineation of a study area and describe it in the minor designation request in accordance with Env-Ws 387.09.

(b) For a withdrawal that is not for bottled water or a community water system, the study area may be estimated as a circle, centered on the wellhead, with a 4000-foot radius.

(c) For a withdrawal that is for bottled water or a community water system, the applicant shall delineate an estimate of the study area.

(d) The study area estimate in (c) above, shall:

(1) Be based on the hydrologic conceptual model developed for approval of the source under Env-Ws 379 for community water systems or Env-Ws 389 for bottled water sources, whichever is appropriate, based on existing information, including but not limited to:

- a. Soil boring logs;
- b. Historic water level data;
- c. Department records for existing water users and resources including testing and production reports;
- d. Published reports;
- e. National resource conservation service maps; and
- f. United States geological survey geologic, bedrock lineament, and stratified-drift aquifer maps;

(2) Delineate the extent of the study area by:

- a. Assuming a conceptual hydrologic model condition of 180 days of continuous pumping at maximum volumes without recharge from rainfall or snowmelt; and
- b. Including the following items:

1. The maximum extent of the cone of depression created by the withdrawal;
2. The maximum extent of the recharge area for the withdrawal; and
3. The downgradient area of the withdrawal;

(3) Identify the sources of information used and interpreted in order to develop the study area estimate; and

(4) Refine the estimate based on results from withdrawal testing performed in accordance with Env-Ws 387.13.

(e) The downgradient area of the withdrawal described in (d) above, shall include:

(1) The area where water taken by the withdrawal would flow if the withdrawal did not operate;

(2) The area that will provide water to the downgradient area when the withdrawal is operating; and

(3) The point where the amount to be withdrawn is negligible when compared to the amount of water crossing the boundary using one of the following methods:

a. An existing or new delineation of a watershed large enough so that the size of the entire study area for the withdrawal is at least 10 times the size of the recharge area for the withdrawal;

b. An existing or new delineation of a watershed where the amount of water crossing the downgradient boundary, that is, leaving the study under current conditions, is at least 10 times the amount to be withdrawn; or

c. An alternative method of estimating a study area, provided it relies on conservative assumptions, is demonstrated as appropriate for the site by testing results and is clearly explained and justified.

(f) The estimate of the study area described in paragraph (c)-(e) above, and each of its components shall be presented on a map as described below:

(1) The map is at a scale of 1:24000 or 1:25000;

(2) The base map information wholly depicts the data included on a United States geologic survey topographic map or a department geographical information system map; and

(3) The map figure includes a map title, date, scale, and north arrow.

Env-Ws 387.07 Water Resource and Use Inventory of the Study Area.

(a) The applicant shall complete an inventory of water resources and uses in the study area in the minor large withdrawal designation request.

(b) The inventory shall be used to notify the public of the proposed withdrawal in accordance with Env-Ws 387.10.

(c) The inventory shall be based on the following:

(1) Department records of other water uses and resources including testing and production reports;

(2) Published reports; and

(3) Municipal and public inventories and records.

(d) The inventory of water uses shall identify the following:

(1) Public water supply withdrawals and impoundments;

(2) Registered water users including withdrawals, recharges, deliveries, and releases;

(3) Permitted surface water discharges;

(4) Permitted groundwater discharges;

(5) Areas served by public water supply systems and the locations of the withdrawals;

(6) Areas served by public sewer systems and the locations of the discharge;

(7) Private wells within 1000 feet of the new withdrawal; and

(8) Other water uses that may be influenced by the withdrawal.

(e) The inventory of water uses shall identify the site address and property owner's or operator's name and address of each water use.

(f) The inventory of water uses shall identify the purpose and estimate the volume of each water use.

(g) The inventory shall identify information sources and describe efforts to collect information relating to the identification of water users in the study area.

(h) The inventory shall be presented on a map as described below:

(1) The map is at a scale of 1:24000 or 1:25000;

(2) The base map information wholly depicts the data included on a United States geologic survey topographic map or a department geographical information system map; and

(3) The map figure includes a map title, date, scale, and north arrow.

Env-Ws 387.08 Withdrawal Testing Program Design.

(a) The applicant shall propose a withdrawal testing program in the minor withdrawal designation request in accordance with Env-Ws 387.09.

(b) The testing program in (a), above shall:

(1) Demonstrate production of the maximum withdrawal volumes requested;

(2) Identify impacts from the withdrawal at the wellhead;

(3) Verify that the withdrawal will not result in adverse impacts under 180-days of continuous operation at the maximum volumes requested in the permit application; and

(4) Provide data to justify the use of any alternative methods for the testing program, study area definition, or predicting impacts from the withdrawal.

(c) The applicant shall conduct a withdrawal testing program for a withdrawal associated with bottled water in accordance with the pumping test program in Env-Ws 389.

(d) The applicant shall conduct a withdrawal testing program for a withdrawal associated with community water supplies in accordance with the pumping test program in Env-Ws 379.

(e) For other withdrawals, a withdrawal testing program shall meet the criteria identified in paragraph (f) through (q) below:

(f) The withdrawal test shall be conducted as follows:

(1) Where the applicant proposes to operate an existing withdrawal in addition to the new withdrawal to meet the water needs demonstrated in the conservation management plan and description of need under Env-Ws 387.05:

a. The existing withdrawal shall be operated during testing of the new withdrawal so that test conditions directly reflect proposed operating conditions; or

b. The applicant shall present data demonstrating the source of water for the existing withdrawal is not connected to the source for the new withdrawal;

(2) Withdrawals shall be operated continuously at constant discharge rates that do not vary more than  $\pm 5\%$  after the first 6 hours of pumping;

(3) The testing production rate of the new withdrawal shall produce at least the maximum volume that will be requested in the minor withdrawal permit application;

(4) The discharge rate from the new withdrawal and any existing withdrawals operating as part of the test in accordance with paragraph (1)a, above, shall be:

a. Measured using a calibrated device capable of providing measurements accurate to within 5% of the discharge rate; and

b. Measured every 15 minutes for the first 2 hours and at least once every hour thereafter;

(5) Discharge measurements from the new withdrawal and any existing withdrawal shall:

a. Not be averaged over a period greater than one minute; and

b. Include at least 2 readings collected and recorded for each measurement; and

(6) Pumped water shall be discharged outside the contributing area of operating wells so there is no effect resulting from the discharged water on the environmental response to the pumping;

(g) During testing, withdrawals shall operate continuously for at least 48 hours.

(h) Cessation of withdrawals after 48 hours may occur under the following circumstances:

(1) The water level in the withdrawals has fluctuated less than one inch in any 2 hours for a period of 12 hours; or

(2) The theoretical 180-day drawdown of the withdrawals:

a. Does not exceed 90% of the total available drawdown at the time of the test or 5 feet, whichever is greater; and

b. Is derived using the following methodology:

1. Water level data shall be plotted as a semi-logarithmic plot of drawdown versus elapsed time, expressed in minutes elapsed since pumping began, presented on the logarithmic axis; and

2. A straight line shall be:

(i) Drawn through the data on the semi-logarithmic plot with a slope based on the data points from the end of the pumping period; and

(ii) Used to extrapolate the drawdown for a time of 180 days which shall be the theoretical 180-day drawdown.

(i) Water levels in the new as well as any existing withdrawals shall be measured as follows:

(1) Water level measurements and time shall be recorded every 8 hours, at least 24 hours before pumping begins;

(2) Water level measurements shall be recorded immediately before pumping begins and once pumping begins, every 5 minutes for the first hour, and at least once every hour thereafter;

(3) Water level measurements shall be made using equipment capable of measuring to the nearest 0.01 foot for the water levels anticipated during pumping; and

(4) Water levels in any 4 acre or smaller surface water within 150 feet of the operating wells shall be measured using a water level staff gauge and gauge readings shall be taken just before pumping starts and once pumping begins, every 12 hours thereafter.

(j) The applicant shall request in writing, permission to monitor the following as part of withdrawal testing for all other water users located within 1000 feet of the proposed withdrawal:

(1) The operating schedule of their withdrawal; and

(2) Water levels associated with their withdrawal.

(k) On-site precipitation data shall be collected for the period beginning one week preceding pumping through the recovery period.

(l) On-site weather condition observations shall be recorded at least twice daily during pumping and recovery.

(m) When a withdrawal test is proposed, the proposal shall include the following:

(1) The proposed testing production rate and the rates of any other withdrawals that will be operated as part of the test in accordance with paragraph (f), above;

(2) A description of the construction, location, and monitoring schedule of groundwater monitoring points;

(3) A site sketch showing the discharge locations;

(4) Text that explains the technical rationale for the discharge location identified in (3), above;

(5) A description of the construction of surface water staff gauges and a site sketch showing the location the gauges that are used to monitor the water level of surface water during the withdrawal testing;

(6) A description of the method and equipment that will be used to ensure constant pumping rates are maintained;

(7) A description of discharge measurement methods and schedules;

(8) The anticipated operating schedule for nearby withdrawals identified in paragraph (j) above;

(9) The anticipated withdrawal test duration and criteria for pump shut down; and

(10) The name, telephone number, and mailing address of the person responsible for determining whether to cease pumping.

(n) Any alternative testing program shall meet or exceed the criteria of the withdrawal test specified in this section;

(o) When an alternate testing program is proposed, the proposal shall include:

(1) The information required for testing proposal pursuant to this section; and

(2) Information demonstrating that the program will meet or exceed the requirements for the standard withdrawal test.

(p) When requested by the applicant, additional testing may be performed to verify the minor withdrawal designation.

(q) Upon request by the applicant, the department shall propose a scope of work for additional withdrawal testing when:

(1) The proposed withdrawal testing is not likely to verify minor designation status; and

(2) Additional testing may verify minor withdrawal designation.

Env-Ws 387.09 Minor Large Withdrawal Designation Request.

(a) The applicant shall obtain a minor withdrawal designation before submitting a minor withdrawal permit application to the department for a proposed withdrawal or for renewal of a minor large withdrawal permit.

(b) The applicant shall distribute copies of the request to municipalities and public water suppliers in the study area in accordance with Env-Ws 387.10.

(c) The designation request shall include the following:

(1) Name, mailing address, and telephone number of applicant;



(2) A portion of the municipal tax map, showing the location of the withdrawal and identifying the tax map and parcel number of the site;

(3) A description of how the withdrawal meets all of the criteria for minor withdrawals identified in Env-Ws 387.03;

(4) The conservation management plan and description of need prepared in accordance with Env-Ws 387.05;

(5) The study area estimate completed in accordance with Env-Ws 387.06;

(6) The water resource and use inventory for the study area completed in accordance with Env-Ws 387.07;

(7) The withdrawal testing program design prepared in accordance with Env-Ws 387.08;

(8) For a community water supply system, the preliminary report prepared in accordance with Env-Ws 379; and

(9) For a new groundwater source of bottled water where a pre-testing conference is requested, the site information that must be part of a conference request in accordance with Env-Ws 389.

(d) All information submitted as part of the designation request that is material to the final decision of the department on the designation request shall be:

(1) True;

(2) Complete; and

(3) Not misleading.

Env-Ws 387.10 Public Notification.

(a) The applicant shall submit one copy of the minor large designation request identified in Env-Ws 387.09 to each municipality and public water supplier in the study area.

(b) Public notification of the proposed large withdrawal shall be completed in accordance with RSA 485-C:14-a.

(c) Notification of municipalities and public water suppliers downgradient of the recharge area for withdrawals in a river valley-aquifer or similar environment may be limited to those within 1000 feet of the river bank.

(d) If a public hearing is requested pursuant to RSA 485-C:21 III, the notice shall be posted in 2 public places at least 7 days before the public hearing at each of the following locations:

- (1) The municipality in which the proposed withdrawal is located; and
- (2) The municipality in which the entity requesting the public hearing is located.

Env-Ws 387.11 Hydrologic Evaluation by the Department.

(a) The department shall conduct a hydrologic evaluation of the source of water and the effects of the withdrawal to determine whether the criteria for designation as a minor large withdrawal as specified in Env-Ws 387.03 will be met.

(b) The evaluation shall assess:

- (1) The components of the hydrologic cycle including precipitation, runoff, storage, and discharge under existing and proposed pumping conditions;
- (2) Availability of water necessary to maintain the new withdrawal along with natural resources and existing water uses;
- (3) Amounts and locations of water recharge, return, import, withdrawal, consumptive loss, and export; and
- (4) Aquifer flow, hydraulic boundaries, recharge conditions, and interaction of the source of the withdrawal with surrounding water resources and uses.

(c) For new community water supply system wells, the evaluation shall also include a review of the preliminary estimate of the wellhead protection area submitted as part of the preliminary report prepared in accordance with Env-Ws 379.13.

(d) For new groundwater sources of bottled water where a pre-testing conference is requested in accordance with Env-Ws 389, the hydrologic evaluation shall also include a review of the conceptual hydrologic model submitted as part of that request.

(e) Minor designation shall be confirmed based on the results of the hydrologic information from the withdrawal testing program.

Env-Ws 387.12 Procedures and Criteria to Approve, Deny, or Revoke a Minor Withdrawal Designation.

(a) The department shall notify the applicant of its determination in writing within 60 days of receipt of a complete minor withdrawal designation request.

(b) The department shall make a determination on minor withdrawal designation based on a hydrologic evaluation completed in accordance with Env-Ws 387.11.

(c) Where existing information is not sufficient to make a determination of designation, the applicant may expand the scope of the withdrawal testing conducted pursuant to Env-Ws 387.13 to obtain data required to make a determination in accordance with Env-Ws 387.03.

(d) The department shall approve a minor large withdrawal designation request when available information is sufficient to conclude that the withdrawal meets the criteria for minor large withdrawal designation in accordance with Env-Ws 387.03.

(e) The department shall deny a minor withdrawal designation request or revoke a minor large withdrawal designation when information reveals that the withdrawal will result in adverse impacts or otherwise does not, or will not, meet minor withdrawal criteria pursuant to Env-Ws 387.03.

(f) If the department denies a minor large withdrawal designation, the applicant shall:

(1) Conduct additional testing until the criteria identified in Env-Ws 387.03 is verified;

(2) Be subject to major withdrawal requirements in accordance with Env-Ws 388; or

(3) Withdraw the minor designation request.

(g) The department shall revoke an existing minor withdrawal designation, after being provided with an opportunity for a hearing, when:

(1) Information reveals minor withdrawal criteria are not, and cannot be met; and

(2) If, after the issuance of minor withdrawal designation, the department receives information that indicates that the information upon which the designation was based was not true and complete or was misleading.

(h) The applicant or permittee shall have the opportunity for a hearing before the permit is suspended or revoked in accordance with RSA 541-A:30 unless an emergency action is required.

Env-Ws 387.13 Withdrawal Testing.

- (a) The applicant shall conduct a withdrawal test pursuant to Env-Ws 387.08.
- (b) Withdrawal testing shall be completed as approved in the minor withdrawal designation provided by the department in accordance with Env-Ws 387.12.
- (c) Withdrawal testing observations and results shall be presented in a minor withdrawal permit application submitted in accordance with Env-Ws 387.14.

Env-Ws 387.14 Minor Withdrawal Permit Application.

- (a) The applicant shall submit a minor withdrawal permit application to the department:
  - (1) After the department has approved a minor withdrawal designation; and
  - (2) To renew a minor permit.
- (b) The application shall include:
  - (1) The maximum volumes for which the new withdrawal permit is being requested;
  - (2) The name, mailing address, and telephone number of the applicant;
  - (3) An update of, and explanation for, any changes in the information provided in the minor withdrawal designation request completed in accordance with Env-Ws 387.09;
  - (4) A description of the activities completed to comply with the public notification requirements as specified in Env-Ws 387.10;
  - (5) Results of the withdrawal testing program completed in accordance with Env-Ws 387.13;
  - (6) Justification of any alternate methods used to estimate the study area or complete withdrawal testing;

(7) For new community water supply system wells, the final well siting report required under Env-Ws 379; and

(8) For new groundwater sources of bottled water, the well siting report required under Env-Ws 389.

(c) All information in the minor withdrawal permit application that is material to the final decision of the department on the permit application shall be:

(1) True;

(2) Complete; and

(3) Not misleading.

Env-Ws 387.15 Procedure and Criteria to Issue, Suspend or Revoke a Minor Large Withdrawal Permit.

(a) The department shall issue or deny a minor withdrawal permit or permit renewal in writing within 45 days of receipt of a complete permit application prepared in accordance with Env-Ws 387.14.

(b) The department shall issue a minor withdrawal permit when all activities have been completed in accordance with Env-Ws 387.04 and the withdrawal meets the minor withdrawal designation criteria established by Env-Ws 387.03.

(c) The department shall deny or revoke a minor withdrawal permit if all activities have not been completed in accordance with Env-Ws 387.04 or the withdrawal does not meet the minor withdrawal designation criteria established in Env-Ws 387.03.

(d) The department shall identify in writing the reasons for denying or revoking a minor withdrawal permit.

(e) An applicant denied a minor withdrawal permit under these rules may apply for a major withdrawal permit in accordance with Env-Ws 388.

(f) The procedure for revoking or suspending a minor withdrawal permit shall be as follows:

(1) The department shall notify the permittee of the date, time, and place of a hearing at which the permittee shall be given an opportunity to show cause why the permit should not be revoked or suspended, which notice and hearing shall be in accordance with RSA 541-A:31 and Env-C 200;

(2) If as a result of the hearing the department determines that the permit would not have been issued if true and complete information had been presented at the time of the application and that the site cannot be made to conform to the requirements of the rules, the department shall revoke the permit; and

(3) If as a result of the hearing the department determines that the permit would not have been issued if the true and complete information had been presented at the time of the application but that the site can be made to conform to the requirements of the rules, the department shall suspend the permit and shall reinstate the permit upon receiving proof from the permittee that the site meets the requirements of the rules for the permit.

(g) The applicant or permittee shall have the opportunity for a hearing if the permit is denied, in accordance with RSA 541-A:31.

(h) The applicant or permittee shall have the opportunity for a hearing before the permit is suspended or revoked in accordance with RSA 541-A:30 unless an emergency action is required.

(i) The department shall suspend the permit immediately, if it determines that emergency action is required in accordance with RSA 541-A:30, III by providing written notice to the permittee that includes the following information:

- (1) The facility by name, location, and permit number;
- (2) The emergency action(s) the department is taking;
- (3) The reasons for the emergency actions;
- (4) A description of the department's authority for taking such action;
- (5) The name, title, mailing address, and telephone number of the department representative who may be contacted regarding the notice;
- (6) The date, time, and location of the adjudicative hearing required by RSA 541-A:30, III; and
- (7) A dated signature of the director of the department's water division.

Env-Ws 387.16 Minor Withdrawal Permits.

(a) The department shall issue or renew a minor withdrawal permit for a 10 year period effective beginning on the date of issue.

(b) Minor withdrawal permits shall specify maximum water volume limits based on:

- (1) The need demonstrated in the conservation plan prepared in accordance with Env-Ws 387.05; and
- (2) The maximum permissible water withdrawal volumes for the purpose of mitigating impacts from the withdrawal as determined pursuant to Env-Ws 387.06 - Env-Ws 387.15.

(c) The permittee shall notify the department in writing within 30 days of any change in ownership or address.

(d) Withdrawal permits shall include:

- (1) The maximum volumes at which the new withdrawal may operate;
- (2) The conservation management plan completed pursuant to Env-Ws 387.05 that demonstrates the need for the new withdrawal and describes how all the applicant's withdrawals will be operated to meet that need;
- (3) The name, mailing address, and telephone number of the permittee;
- (4) The name, address, and telephone number of the facility;
- (5) A permit number;
- (6) A permit expiration date; and
- (7) A schedule of monitoring activities the applicant shall have to conduct including:
  - a. Cumulative flow meter readings at the start of each operating month;
  - b. Groundwater level in feet below a fixed point, at the start and in the middle of each operating month; and
  - c. Time and date of each reading.

(e) Additional permit conditions shall be established by the department when necessary to ensure that adverse impacts as determined by Env-Ws 388 do not occur.

Env-Ws 387.17 Procedure and Criteria for Minor Withdrawal Permit Modifications.

(a) The department shall modify a permit when requested by the permittee as follows:

- (1) The permittee submits a written request to the department;
- (2) The request explains the reasons for the modification; and
- (3) The department determines that the request will continue to meet the criteria for a minor large withdrawal designation in accordance with Env-Ws 387.03.

(b) Any permanent increase in the withdrawal rates shall require that the permit holder re-apply for a new minor large or major withdrawal permit pursuant to Env-Ws 387 and Env-Ws 388.

(c) The department shall deny modifications when the requirements in (a) above, have not been met.

(d) The department shall modify the permit to ensure minor designation criteria will be met in accordance with Env-Ws 387.03 after completing the following unless emergency action is required:

- (1) Provide an opportunity for a hearing pursuant to RSA 541-A:30, II; and
- (2) Provide written notice to the permittee which:
  - a. Identifies the facility by name, location, and permit number;
  - b. Explains the action(s) the department proposes to take and the reasons for the proposed action;
  - c. Identifies the department's authority for taking such action;
  - d. Lists the name, title, mailing address, and telephone number of the department representative who may be contacted regarding the notice; and
  - e. Is dated and signed by the director of the department's water division.

(e) Potential permit modifications shall include but not be limited to:



- (1) An increase in production monitoring;
- (2) An increase in monitoring and reporting of groundwater or surface water levels;
- (3) A reduction in permit volumes; and
- (4) The revocation of minor designation in accordance with Env-Ws 387.15.

Env-Ws 387.18 Procedures and Criteria for Minor Withdrawal Permit Renewal.

(a) The permittee shall submit an application for a minor withdrawal permit renewal 90 days prior to its expiration date and in accordance with Env-Ws 387.14.

(b) The permittee shall continue to comply with all conditions in the most recent permit until that permit is renewed or the facility is closed, regardless of whether an application for renewal is filed.

(c) The approval process for renewing a minor withdrawal permit shall be the same as that for a new minor withdrawal permit under Env-Ws 387.04.

(d) The application for renewal may reference information already contained in the department files if the information has not changed since the last application package was submitted and the information meets criteria for new withdrawals current at the time of application.

(e) The permit shall be renewed as a minor withdrawal if the applicant complies with Env-Ws 387.15.

(f) If the department determines that the withdrawal no longer meets the criteria for minor withdrawal designation under these rules, the applicant shall:

- (1) Apply for a permit for a major withdrawal in accordance with Env-Ws 388; or
- (2) Cease operating the withdrawal.

Env-Ws 387.19 Adverse Impact Criteria, Reporting, Response and Mitigation.

(a) An adverse impact that results from a minor large withdrawal shall be managed in accordance with Env-Ws 388.

(b) The department shall, when requested in writing, review hydrologic data and make a determination on the validity of a claim of adverse impact.

(c) The permittee shall conduct impact mitigation for all large withdrawals where adverse impacts have been identified pursuant to Env-Ws 388.

(d) Where an adverse impact occurs, the department shall revoke the minor large withdrawal designation in accordance with Env-Ws 387.15.

Env-Ws 387.20 Other Requirements. Applicants and permittees shall comply with all other relevant state, federal, and local regulations and requirements.

Env-Ws 387.21 Waivers.

(a) It is recognized that strict compliance with all rules prescribed herein might not fit every conceivable situation, and an applicant may request a waiver of specific rules outlined in this section in accordance with paragraphs (b)-(f), below.

(b) The department shall waive the requirements of Env-Ws 387.03 - Env-Ws 387.16 for a withdrawal used as a back-up water supply if all of the following criteria are met:

(1) The withdrawal operates no more than 720 hours over a calendar year;

(2) The withdrawal does not adversely impact any other water users or water resources pursuant to Env-Ws 388.18;

(3) The following information is provided to the department in writing prior to using the back-up supply:

a. The location of the proposed back-up withdrawal shown on a map at a scale of 1:24000 or 1:25000;

b. An inventory of water uses and resources pursuant to Env-Ws 387.07(c)-(h) within 2000 feet of the proposed back-up groundwater withdrawal;

c. Records describing the subsurface hydrogeology in the area of the proposed back-up groundwater withdrawal;

d. The proposed well construction details of the back-up withdrawal including the proposed vertical location and length of screen of the well;

e. The estimated maximum volume of the withdrawal from the back-up supply over any 24-hour period;

f. A description of the primary water source used including the registered water user identification number issued pursuant to Env-Wr 700 in which the back-up groundwater withdrawal is being developed; and

g. A description of the circumstances that would require the back-up groundwater withdrawal to be used;

(4) Within 7 days of using the back-up withdrawal, the applicant provides the department with a written description of the following:

a. An estimate of the total time that the back-up withdrawal will be operated; and

b. A description of the reason for the operation of the back-up groundwater withdrawal; and

(5) The department conducts a hydrologic evaluation of the proposed back-up groundwater withdrawal using the information provided by the applicant in (3) above, and determines that adverse impacts identified in Env-Ws 388.18 will not occur as a result of operating the proposed withdrawal; and

(6) If sufficient information is not available for the department to determine if adverse impacts identified in Env-Ws 388.18 might occur as the result of operating a back-up withdrawal, the applicant:

a. Obtains additional hydrogeologic information; and

b. Implements a monitoring and reporting program that verifies adverse impacts will not occur.

(c) The department shall revoke or suspend the waiver status of a back-up withdrawal if it is determined that the withdrawal is causing adverse impacts to occur as identified in Env-Ws 388.18.

(d) The department shall waive the requirements of Env-Ws 387.03 - Env-Ws 387.16 for a withdrawal that is a replacement for a withdrawal in existence prior to August 1, 1998 under the following conditions:

(1) The replacement withdrawal is constructed in the following manner:

- a. The replacement well is installed within 50 feet of the existing well;
- b. The replacement well is constructed with a well screen of similar diameter and length;
- c. The well screen is placed within the same vertical location of the existing well; and
- d. The replacement well under pumping conditions will impact groundwater hydraulics in the same manner as the existing well.

(2) Prior to installing the replacement well, the permittee submits a request for a waiver to the department for the replacement withdrawal that demonstrates compliance with (1), above; and

(3) The existing well in which the replacement well replaces is no longer operational.

(e) A requests for a waiver shall be:

(1) Submitted in writing to the department; and

(2) Include the following information:

- a. A description of the site to which the waiver request relates;
- b. A specific reference to the section of the rule for which a waiver is being sought;
- c. A full explanation of why a waiver is necessary and demonstration of hardship caused if the rule is adhered to;
- d. A full explanation of the alternatives for which a waiver is sought with backup data for support; and
- e. A full explanation of how the alternatives for which a waiver is sought are consistent with the intent of RSA 485:3 and RSA 485-C.

(f) The department shall approve a request for a waiver if it finds that the alternatives proposed are at least equivalent to the requirements contained in this section, and are adequate to ensure that the provisions of RSA 485:3 and RSA 485-C are met.

(g) The department shall not grant any waiver which in its judgment contravenes the intent of any rule.

(h) The department shall issue a written response to a request for a waiver within 30 days. If the waiver is denied, the denial shall specifically set forth the reason(s) for the denial.