

STATE OF NEW HAMPSHIRE



OFFICE OF LEGISLATIVE SERVICES
ADMINISTRATIVE RULES
STATE HOUSE ANNEX
25 CAPITOL STREET, ROOM 234
CONCORD, NH 03301

Rulemaking Notice Form

Notice Number: 2025-206

Rule Number: Env-Wq 1000

1. **Agency:** Department of Environmental Services
Water Quality and Quantity Programs
29 Hazen Drive, P.O. Box 95
Concord, NH 03302-0095
2. **RSA Authority:** RSA 485-A:29, I(b); RSA 485-A:30-b, IV; RSA 485-A:31, IV; RSA 485-A:35, II; RSA 485-A:36, III; RSA 485-A:38, III; RSA 485-A:39, III; RSA 485-A:41, IV and V; RSA 485-A:43, V
3. **Federal Authority:** N/A
4. **Action(s):** Adoption, Readoption, Readoption w/Amendment, Repeal
5. **Short Title:** Subdivisions; Individual Sewage Disposal Systems
6. **(a) Summary of what the rule says and of any proposed amendments including whether the rule implements a state statute for the first time:**

The existing rules implement RSA 485-A:29-44 relative to subdivisions and individual sewage disposal systems (ISDS) by establishing the procedural and substantive requirements for obtaining state approval of a proposed subdivision, ISDS, or holding tank; establishing standards for operating and maintaining septic systems; establishing criteria and procedures for obtaining approval of innovative/alternative technology; and implementing RSA 485-A:39 relative to site assessment studies for developed waterfront property.

The Department of Environmental Services (Department) is proposing to readopt with amendments Env-Wq 1000. Some of the amendments reflect major statutory changes during the 2022, 2023, and 2024 legislative sessions that resulted in required rule changes, including:

- Chapter 302:1 of the Laws of 2022 (HB 1293): removed the ability for a homeowner to design an ISDS for their own domicile without being a permitted designer and amending the application processing requirements for the department;
- HB 1312 from 2022 was sent to interim study committee to investigate the rules regarding gravity grease interceptors and how they related to the State Plumbing Code. The Department and the Plumbing Code Review Board collaborated to develop revised rules that add more options for compliance for small food establishments and eliminate conflicts with the Plumbing Code. These changes have been incorporated into Env-Wq 1012 in the proposed rules;
- Chapter 123 of the Laws of 2023 (HB 247): removed the need for encroachment waivers and changed the protective well radii requirements for off-lot wells. This bill made major changes to the policies regarding setbacks to off-lot wells and the process for amending plans if a well cannot be installed at the location indicated on the approved plan;
- Chapter 147:4 of the Laws of 2023 (SB 229): changed the qualification and submission requirements for a permit by rule for the repair or replacement of an ISDS, including allowing a single-family residence with one accessory dwelling unit to qualify;
- Chapter 107:3 of the Laws of 2024 (HB 1113): changed the requirements for developed waterfront properties so there is a process to evaluate any septic system within the protected shoreland when there is a transfer of property, eliminating the site assessment study requirements;
- Chapter 111:1 of the Laws of 2024 (HB 1139): specifically allows stone-and-pipe systems and concrete chamber systems for residential use to be constructed 24 inches above seasonal high water table (SHWT) if certain conditions are met;
- Chapter 112:1 of the Laws of 2024 (HB 1140): allows a person to install a new ISDS on property they are developing for their own domicile if certain conditions are met without the need of obtaining an installer's permit from the department; and
- Chapter 113: 1-2 of the Laws of 2024 (HB 1141): specifies that a change in use that increases the load on a sewage disposal system requires an application for approval, in addition to clarifying other requirements.

The Department is also proposing to readopt the rules with changes meant to address other issues identified by staff and stakeholders and to further the purposes established in RSA 485-A:1. Many of the changes are meant to clarify rules that have been confusing to the regulated community. The amendments do the following:

- Amending the waiver criteria, incorporating by reference the waiver request form, and specifying that it can be filed electronically or using the form (Env-Wq 1001.03);
- Amending the definition for "applicant" to require permitted designers to submit applications for ISDS and required a permitted designer or licensed land surveyor to submit subdivision applications, rather than the property owner for either application. This will match the rules to practice (Env-Wq 1002.02);

- Clarifying the definitions of “cesspool” (Env-Wq 1002.09), “commercial” (Env-Wq 1002.12), ISDS (Env-Wq 1002.40), and “residence” (Env-Wq 1002.61);
- Adding definitions for “basal area” (Env-Wq 1002.05), “drainage ditch” (Env-Wq 1002.20), “full-time use or occupancy” (Env-Wq 1002.29), “mounding analysis” (Env-Wq 1002.47), “surface waters” (Env-Wq 1002.75), “wastewater characteristics” (Env-Wq 1002.80), “water well contractor” (Env-Wq 1002.82), and “well” (Env-Wq 1002.83);
- Adopting and amending the definitions to distinguish between the types of grease interceptors per industry standards (Env-Wq 1002.31, 1002.32, and 1002.36), in addition to amending the requirements related to grease interceptors (Part Env-Wq 1012);
- Simplifying the definition of “increase the load on a sewage disposal system” to ensure consistency with the changes in Chapter 113:1-2 of the Laws of 2024 and ensure the regulated community understands that load is not the same as flow (Env-Wq 1002.39);
- Eliminating unused and unnecessary definitions (“applicant’s agent”, “large system”, “marshes”, “small system”, and “when land is exchanged between abutters”);
- The remainder of the definitions are either being readopted and renumbered or readopted with minor editorial and substantive amendments and renumbered;
- Clarifying that department approval is required for the modification of an existing structure so that wastewater is discharged to an ISDS (Env-Wq 1003.01);
- Various changes to Env-Wq Part 1003 due to the amended definition of “applicant” (Env-Wq 1003.02 and Env-Wq 1003.05);
- Amending Env-Wq 1003.02(a), formerly (c), This rule is revised so that property owners are no longer permitted to design an ISDS to serve their own property, per the change in statute,
- Amending Env-Wq 1003.02(d), formerly (f), to raise the design flow for when an ISDS must be designed by a permitted designer who is also a civil or sanitary professional engineer;
- Clearly defining what constitutes an administratively complete application (Env-Wq 1003.04);
- Incorporating by reference the electronic and paper versions of the application forms for both ISDS and subdivisions (Env-Wq 1003.06 and Env-Wq 1003.12), amending the signature requirements to clarify what needs to be submitted for paper versus electronic applications (env-Wq 1003.05), and amending the processing requirements for applications (Env-Wq 1004.01);
- Requiring permitted designers to report to an ITA owner when a failed system being replaced contains technology with an ITA (Env-Wq 1003.12);
- Clarifying and adding to the plan requirements for both subdivision and ISDS applications (Env-Wq 1003.07 and Env-Wq 1003.13);

- Repealing rules that implemented the now eliminated requirement for encroachment waivers due to Chapter Law 123 of the Laws of 2023 (Env-Wq 1003.16 and Env-Wq 1004.04);
- Clarifying the deadlines for an applicant when the department requests more information (Env-Wq 1004.01(d));
- Requiring that the approximate location of any required easements be depicted on submitted plans (Env-Wq 1004.02);
- Clarifying when amended plans need to be submitted for approval for subdivisions (Env-Wq 1004.04);
- Amending the rules to allow for inspection of a partially installed ISDS under certain circumstances (Env-Wq 1004.06(c) and (d));
- Adding rules to incorporate the homeowner installation requirements from HB 1140 (Env-Wq 1004.06(f));
- Adding an affidavit requirement for the homeowner installation of a replacement ISDS for their domicile (Env-Wq 1004.06(g) and Env-Wq 1004.17(d));
- Clarifying the requirements for whether an amended plan or a new construction approval is required when there are changes to the design of the ISDS after a construction approval has been issued (Env-Wq 1004.07);
- Increasing the requirements for when an approval to operate is sought for an ISDS having multiple connections to the EDA, but only some of the connections have been installed at the time of inspection (Env-Wq 1004.08);
- Clarifying what components of an ISDS need to be inspected by a professional engineer during the construction process when a professional engineer was required to design the ISDS (Env-Wq 1004.09);
- Changing rule language to allow the extension of a construction approval that will or has expired (Env-Wq 1004.12);
- Changing the requirements for when a well is not installed in the location designated in the approved plans (Env-Wq 1004.13);
- Incorporating by reference the form required to transfer a construction approval (Env-Wq 1004.15);
- Clarifying the process for the repair or replacement of an ISDS (Env-Wq 1004.17);
- Increasing the valid time period for the construction approval for the replacement of a failed ISDS from 90 days to 180 days, and allowing one 180-day extension under certain circumstances (Env-Wq 1004.19);

- Amending Env-Wq 1004.20 to allow an additional exception for when a replacement ISDS for a system that is not failed does not need to be installed even if the existing ISDS does not have department approval;
- Revising the rule to simplify so that that expansions, relocations, or replacement of any structure connected to an ISDS must comply with RSA 485-A:38 (Env-Wq 1004.21);
- Amending the rules related to changes to the location or use of a structure that could affect the approval for an existing ISDS (Env-Wq 1004.22);
- Clarifying what land is not available for use when calculating minimum lot size (Env-Wq 1005.02);
- Clarifying that the factors for sewage loading must be determined based on soil groups and slopes (Env-Wq 1005.03);
- Modifying Env-Wq 1005.04 and Env-Wq 1005.11 to clarify that the broader category of conservation restrictions is allowed for open space subdivision and non-building lots, not only conservation easements;
- Clarifying the test pit rules to ensure that the permitted designer is the one analyzing test pits and adding a requirement when new test pits must be dug (Part Env-Wq 1006);
- Adding a process to prove an existing use, for lot loading purposes, through town records and affidavits and removing the requirement for low flow fixtures (Env-Wq 1008.01);
- Adding a requirement for a bed mounding analysis for an ISDS with a capacity of more than 2500 gallons per day and up to 5000 gallons per day, clarifying the requirements for an ISDS with a capacity of more than 5000 gallons per day, and adding a design parameter for equal dosing or distribution to each bed for an ISDS with multiple beds (Env-Wq 1008.02);
- Significantly amending the requirements on how to determine the daily flow volume, including revised parameters for metered flow and adding definitions for “commercial light flow”, “heavy commercial flow”, and “full occupancy” for residential and commercial use (Env-Wq 1008.03);
- Clarifying the requirements for minimum separation distances, including relaxing some of the setback requirements (Env-Wq 1008.04);
- Adding that if a groundwater easement on an abutting property is needed to meet the nitrate setback requirements, the easement must be depicted on the plans (Env-Wq 1008.05);
- Incorporating the legislative changes in Chapter 123 of the Laws of 2023 regarding protective well radii requirements for off-lot wells and providing relevant linkages to Water Well Board rules (Env-Wq 1008.06 to Env-Wq 1008.09 and the removal of current Env-Wq 1008.10 to Env-Wq 1008.12);

- Amending Env-Wq 1008.10 (formerly Env-Wq 1008.13) to ensure that all needed easements must be recorded, even if the owner is the same for the lot with the ISDS and the abutting lot that requires an easement for the ISDS;
- Adding minor changes to the sewer line requirements (Env-Wq 1009);
- Revising the septic tank capacity requirements based on residential use, commercial use, and combined use (Env-Wq 1010.01 and Env-Wq 1010.02);
- Revising the requirements for when the replacement of a septic tank does not require department approval (Env-Wq 1010.14);
- Adding a rule to specify when the re-use of a septic tank is allowed (Env-Wq 1010.15);
- Clarifying the type of grease interceptor that is required and when a hydromechanical grease interceptor may be used in lieu of a gravity grease interceptor (Env-Wq 1012);
- Clarifying who is responsible for wiring effluent pumps and alarms and adding a rule to explicitly state that these rules do not cover municipal sewer pumps and siphons (Env-Wq 1013);
- Changing the requirements for distance above the seasonal high water table (SHWT) to incorporate the legislative changes in Chapter 111:1 of the Laws of 2024 (Env-Wq 1014.08) and for distance above SHWT and impermeable substratum for systems not covered by that statutory change (Env-Wq 1014.07);
- Clarifying the requirements for sizing an EDA (Env-Wq 1016.01), septic stone sieve analysis specifications (Env-Wq 1016.06), and backfilling of conventional stone-and-pipe beds (Env-Wq 1016.07);
- Adopting Env-Wq 1016.05 about the location of trees and shrubbery relative to the ISDS;
- Amending the construction and design requirements for concrete chambers (Env-Wq 1017.02 to Env-Wq 1017.04);
- Revising to require that all pipe connections be in accordance with the manufacturer's specifications (Env-Wq 1017.05);
- Clarifying the requirements for beds and trenches in Part Env-Wq 1018;
- Adding flexibility to the fill material requirements for pressure distribution systems (Env-Wq 1019.02) and replacing the pressure distribution worksheet with references incorporated by reference to use for calculating pressure distribution;
- Amending Env-Wq 1019.04 to remove the pressure distribution worksheet and instead incorporate by reference two options for use in calculating pressure distribution;
- Clarifying the requirements for dry wells (Part Env-Wq 1020);

- Revising the requirements for raised EDAs to allow other stable material to be used to cover a beds and that 2:1 slopes may be used to avoid other permanent features such as trees (Env-Wq 1021.04);
- Refining the requirements for privies, mini-dry wells for gray water, and holding tanks in addition to adding specific requirements for composting and incinerator toilets (Part Env-Wq 1022); and
- Additionally, various editorial and cross-reference changes and straight readoptions of currently existing sections are made throughout the proposal.

The Department is proposing changes to Part Env-Wq 1024, which establishes the process for obtaining approval of innovative/alternative technology (ITA) pursuant to RSA 485-A:29, I(b) and any procedural requirements once an owner has obtained approval for their innovative/alternative technology and any design manual. The proposed rules would establish a new phased-in reporting requirement for ITA owners, amendments to the requirement that updated ITA manuals must be approved by the department, and a required process for requesting an amendment to an ITA and when a new ITA is required. Rules regarding the suspension or revocation of an ITA are added.

Env-Wq 1025 is proposed to be replaced with new language in order to implement the changes in Chapter 107:3 of the Laws of 2024 (now RSA 485-A:39) eliminating the site assessment study requirements and clarifying the statutory the requirements for developed waterfront properties.

Lastly, the Department is also proposing to adopt a schedule of administrative fines at Env-Wq 1026 as required by RSA 485-A:43, V, for violations of RSA 485-A and the administrative rules at Env-Wq 1000. The previous schedule of administrative fines on subdivisions and septic systems was in cross-program rule Env-C 604 in Chapter Env-C 600. Env-C 604 expired in 2008, and the department is in the process of adopting a schedule of administrative fines for each agency program individually where required by statute, rather than in cross-program rules. None of the rules in Env-Wq 1000 have expired.

6. (b) Brief description of the groups affected:

Groups affected include (1) designers permitted pursuant to RSA 485-A:35 and installers permitted pursuant to RSA 485-A:36; (2) people, entities, or governmental units who own property that is served or will be served by sewage or waste disposal system; (2) people, entities, or governmental units that wish to subdivide property and any consultants hired by such persons; (3) people, entities, or governmental units who own developed waterfront property who wish to sell the property; (4) people or entities who wish to obtain approval of innovative/alternative septic system technology; and (5) any person who violates the provisions in RSA 485-A:29-44 or any rule in Env-Wq 1000, including any person who designs an ISDS without the required permit or anyone who installs an ISDS without the required permit for a property other than their own domicile.

6. (c) **Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:**

Rule Section(s)	Specific Statute(s) Implemented
Env-Wq 1001	RSA 485-A:1; RSA 485-A:29-44
Env-Wq 1001.03	RSA 541-A:22, IV
Env-Wq 1002	RSA 485-A:2; RSA 485-A:29-44
Env-Wq 1003	RSA 485-A:1; RSA 485-A:29-44
Env-Wq 1004	RSA 485-A:1; RSA 485-A:29-44
Env-Wq 1005	RSA 485-A:1; RSA 485-A:29-44
Env-Wq 1006	RSA 485-A:1; RSA 485-A:29-44
Env-Wq 1007	RSA 485-A:1; RSA 485-A:29-44
Env-Wq 1008	RSA 485-A:1; RSA 485-A:29-44
Env-Wq 1009	RSA 485-A:1; RSA 485-A:29-44
Env-Wq 1010	RSA 485-A:1; RSA 485-A:29-44
Env-Wq 1011	RSA 485-A:1; RSA 485-A:29-44
Env-Wq 1012	RSA 485-A:1; RSA 485-A:29-44
Env-Wq 1013	RSA 485-A:1; RSA 485-A:29-44
Env-Wq 1014	RSA 485-A:1; RSA 485-A:29-44
Env-Wq 1015	RSA 485-A:1; RSA 485-A:29-44
Env-Wq 1016	RSA 485-A:1; RSA 485-A:29-44
Env-Wq 1017	RSA 485-A:1; RSA 485-A:29-44
Env-Wq 1018	RSA 485-A:1; RSA 485-A:29-44
Env-Wq 1019	RSA 485-A:1; RSA 485-A:29-44
Env-Wq 1020	RSA 485-A:1; RSA 485-A:29-44
Env-Wq 1021	RSA 485-A:1; RSA 485-A:29-44
Env-Wq 1022	RSA 485-A:1; RSA 485-A:29-44
Env-Wq 1023	RSA 485-A:1; RSA 485-A:29-44
Env-Wq 1024	RSA 485-A:1; RSA 485-A:4, IX; RSA 485-A:29-44
Env-Wq 1025	RSA 485-A:39
Env-Wq 1026	RSA 485-A:22, V(a)

7. **Contact person for copies and questions including requests to accommodate persons with disabilities:**

Name: Aron Johnson	Title: Legal Coordinator
Address: NH Dept. of Environmental Services 29 Hazen Drive, P.O. Box 95 Concord, NH 03302-0095	Phone Number: (603) 271-2464
	FAX Number:
	Email: Aron.B.Johnson@des.nh.gov

8. **Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified:**

Friday, October 31, 2025

☐ **Fax**

☒ **Email**

nhdesrules@des.nh.gov

☒ **Other:**

Online submission at [NH Online Forms System - NHDES Administrative Rules Public Comment Form](#)

9. **Public hearing scheduled for:**

Date: Friday, October 24, 2025

Time: 10:00 AM

Place:

Room 208C, DES Offices, 29 Hazen Drive, Concord, NH

NOTE: NHDES security procedures require all visitors to sign in and present photo identification (such as a driver's license). If you plan to attend the public hearing in person, please bring photo identification with you.

Electronic Access, if applicable:

[Link for Public Hearing via Teams](#)

Meeting number (access code): 288 161 866 306 3

Meeting password: ob9pz2gL

You also may join the meeting by phone:

Call in Number: 1-603-931-4944

Access Code: 229 061 852#

If any questions or technical issues, please contact Edward McKenna at 603-271-1023 or via email at edward.p.mckenna@des.nh.gov

10. **Fiscal Impact Statement (Prepared by Legislative Budget Assistant):**

FIS #: 25:181, dated: 2025-09-12

1. **Comparison of the costs of the proposed rule(s) to the existing rule(s):**

When compared to the existing rules the General Fund could see an increase in revenue. Certain State citizens, political subdivisions and independently owned businesses could see an indeterminable increase or decrease in costs depending on site-specific design needs.

- Not applicable to the certain section of Env-Wq 1002 as certain sections have been added and repealed.
 - New: Env-Wq 1002.05, Env-Wq 1002.20, Env-Wq 1002.29, Env-Wq 1002.31, Env-Wq 1002.47, Env-Wq 1002.75, Env-Wq 1002.82, and Env-Wq 1002.83.

- Repealed: Env-Wq 1002.03, Env-Wq 1002.41, Env-Wq 1002.44, Env-Wq 1002.66, and Env-Wq 1002.78 (just repealed).
- Not applicable to Env-Wq 1003.16 which was repealed.
- Not applicable to Env-Wq 1004.04 and Env-Wq 1004.24, which were repealed.
- Not applicable to Env-Wq 1008.10 through Env-Wq 1008.12, which were repealed.
- Not applicable to Env-Wq 1010.15, Env-Wq 1012.02, Env-Wq 1013.05, Env-Wq 1016.05, and Env-Wq 1022.05 as these are new rules.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

The proposed rule changes could either raise or lower costs depending on the property and system design. Some revisions are expected to reduce costs and delays by increasing flexibility and efficiency, while others may increase upfront costs to meet updated standards but provide long-term savings. Overall, the net impact will vary by project.

Proposed rule Env-Wq 1026 establishes the proposed fine schedule with a maximum fine of \$2,000. See impact below:

	Minor Deviation from Requirement	Moderate Deviation from Requirement	Major Deviation from Requirement
Minor Potential for Harm	range: \$100 to \$500 default: \$250	range: \$500 to \$1,000 default: \$750	range: \$1,000 to \$1,500 default: \$1,250
Moderate Potential for Harm	range: \$500 to \$1,000 default: \$750	range: \$1,000 to \$1,500 default: \$1,250	range: \$1,500 to \$2,000 default: \$1,750
Major Potential for Harm	range: \$1,000 to \$1,500 default: \$1,250	range: \$1,500 to \$2,000 default: \$1,750	\$2,000

A. To State general or State special funds:

The proposed rules will not result in costs to the state general or special funds. However, adoption of the administrative fine rules in Env-Wq 1026 could generate indeterminable revenue to the general fund from fines collected under Env-Wq 1026. A maximum fine of \$2,000 is established in RSA 485-A:43, V.

B. To State citizens and political subdivisions:

State citizens and political subdivisions will not be affected unless subdivision or individual sewage disposal systems (ISDS) approval is needed. For those requiring

approval, the proposed changes could result in cost increases, cost decreases, or neutral impacts depending on site-specific conditions:

- Potential cost decreases include reduced professional engineering requirements for certain stone-and-pipe systems under commercial driveways (Env-Wq 1003.02(d)(5)); reduced fill material needed for certain systems designed 24 inches above the seasonal high-water table, resulting in an estimated \$1,000–\$2,000 savings for a typical 3-bedroom home (Env-Wq 1014.08; attributable to statute); and prevention of costly delays through clarified installation modification procedures (Env-Wq 1004.07) and increased flexibility in well placement (Env-Wq 1004.13).
- Potential cost increases include slightly larger septic tank sizes to meet industry and EPA standards (Env-Wq 1010.01 & 1010.02) and negligible initial capital costs to update ISDS plan details (Env-Wq 1003.13).
- Administrative fines under Env-Wq 1026 would only result in costs to citizens or political subdivisions if they violate RSA 485-A:29-41 or Env-Wq 1000.

C. To independently owned businesses:

Independently owned businesses are not affected unless subdivision or ISDS approval is required. Where approval is needed, the cost and benefit impacts are the same as those described for state citizens and political subdivisions, with variation based on site-specific design needs.

Administrative fines under Env-Wq 1026 would only apply if a violation of RSA 485-A:29-41 or Env-Wq 1000 occurs and would be an increased cost to independently owned businesses.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed rules modify an existing program or responsibility and do not mandate any additional expenditure on the political subdivisions of the state. Therefore, they do not violate Part I, Article 28-a of the N.H. Constitution.