



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

Rulemaking Notice Form

Notice Number: 2026-49

Rule Number: Env-Wq 402

1. **Agency:** Department of Environmental Services
Water Quality and Quantity Programs
29 Hazen Drive
PO Box 95
Concord, NH 03302
2. **RSA Authority:** RSA 485-A:6, VII; RSA 485:3, X; RSA-C:4, V & VI
3. **Federal Authority:** 42 U.S.C. 300h; 40 CFR 144, 145, & 146
4. **Action(s):** Readopt w/Amendment and Repeal
5. **Short Title:** Groundwater Discharge Permits and Registrations
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 Department of Environmental Services (department) is proposing to readopt with amendment Env-Wq 402, which are set to expire March 1, 2026, and are subject to extension pursuant to RSA 541-A:14-a. The existing rules, Env-Wq 402, establish standards, criteria, and procedures for groundwater discharge permits, groundwater discharge registrations, and holding tank registrations to prevent pollution and protect groundwater. The focus of Env-Wq 402 is to minimize groundwater contamination from the improper disposal of waste and wastewater containing various contaminants produced by human activities.

The rules are being proposed to be readopted with amendment to incorporate the ambient groundwater quality standards (AGQSs) for arsenic and manganese at Env-Or 603.03(c), Table 600-1. The AGQS for arsenic was lowered from 10 µg/L to 5 µg/L and the manganese AGQS was lowered from 0.84 mg/L to 0.30 mg/L, both effective January 1, 2021. Revisions to the required response to exceedances are being proposed. Other modifications to the rules improve the structure and clarity, including referencing forms for our permit applications and registrations. Language being added recognizes that, in some locations, PFAS at concentrations below the AGQS is commonly found in groundwater

and additional treatment is not required before the water is discharged. The process for renewing a groundwater discharge permit will be revised and updated. The department's review timeframes will also be revised to bring them into compliance with statutory requirements.

Env-Wq 402.05 would be revised to include an exemption for groundwater from meeting groundwater quality criteria if the only source of groundwater contamination is residual arsenic or manganese from a facility that discharges treated wastewater to groundwater, provided a drinking water source is not compromised and subject to certain conditions.

Revisions to Env-Wq 402.09 would streamline the permitting process for small community water supply well testing, removing the requirement for a separate temporary discharge permit. Amendments throughout Env-Wq 402 clarify existing requirements.

New section Env-Wq 402.27 describes the response that would be required of a facility when it's determined to be the source of the contamination that caused its groundwater discharges to exceed the AGQS for arsenic or manganese. This would include water testing and corrective action in the form of treatment or providing an alternative water supply.

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

The rules apply to any individual or entity that needs a groundwater discharge permit or who already holds a groundwater discharge permit and wishes to renew the permit.

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

| Rule Section(s) | State Statute(s) Implemented | Federal Regulations Implemented |
|------------------------|--|--|
| Env-Wq 402.01 - 402.02 | RSA 485:3, X; RSA 485-A:13; RSA 485-C:4, V | 40 CFR 144; 145; 146 |
| Env-Wq 402.03 | RSA 485-C:2; RSA 485-C:6 | 40 CFR 144.3 |
| Env-Wq 402.04 - 402.15 | RSA 485-C:4, III & V; RSA 485-A:13, I(a) | 40 CFR 144; 145; 146 |
| Env-Wq 402.16 | RSA 485-A:13-a; RSA 485-C:4, VI | |
| Env-Wq 402.17 - 402.45 | RSA 485-C:4, III & V; RSA 485-A:13, I(a); RSA 485-A:13, I(a) | 40 CFR 144; 145; 146 |
| Env-Wq 402.46 | RSA 541-A:22, IV | |

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

| | |
|--|--|
| Name: Aron Johnson | Title: Legal Coordinator |
| Address: 29 Hazen Drive PO Box 95 Concord, NH 03302 | 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, April 7, 2026

- Fax
 Email nhdesrules@des.nh.gov
 Other: [NHDES Administrative Rules Public Comment Form](#)

9. **Public hearing scheduled for:**

Date: Tuesday, March 31, 2026

Time: 10:00 AM

Place:

Room 208C, NHDES 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:

You also may attend the hearing via Microsoft Teams, which can be accessed through the link below:

Microsoft Teams

[Join the meeting now](#)

Dial in by phone

[+1 603-931-4944](tel:+16039314944), [186547654#](tel:+16039314944) United States, Concord

[Find a local number](#)

Phone conference ID: 186 547 654#

Contact Chris Watts at Christopher.V.Watts@des.nh.gov or [\(603\) 271-3139](tel:(603)271-3139) if you have any questions or technical issues connecting to the hearing.

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

FIS #: 26:028, dated: 2026-02-18

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

When compared to the existing rules, the proposed rules may decrease costs to certain independently owned businesses. Not applicable to Env-Wq 402.27 as this is a new rule.

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

RSA 485:1, I and the 1996 amendments to the federal Safe Drinking Water Act, as implemented through 40 CFR 142, require states to maintain drinking water standards that are at least as stringent as federal requirements. The proposed rules in Env-Wq 402, which correspond to federal regulations at 40 CFR parts 144, 145, and 146, are necessary for New Hampshire to continue demonstrating equivalency and to administer the program in lieu of the U.S. Environmental Protection Agency. Failure to maintain this equivalency could result in the loss of primacy and place approximately \$8,000,000 in annual federal Safe Drinking Water Act funding at risk.

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

When compared to the existing rules, Env-Wq 402.28 provides groundwater discharge permit renewal requirements. The application shall include items required by permit conditions, including monthly operating reports, summaries of monitoring results, and a description of any changes at the facility. As these materials are generally already required, the impact to independently owned businesses would be minimal, with negligible savings that would vary by facility.

Env-Wq 402.31(b) and Env-Wq 402.35(a) reduce requirements related to temporary groundwater discharge permits and groundwater discharge registrations. The amendments allow low-level PFAS, below ambient groundwater quality standards, in temporary discharges and discharge registrations, which would result in a cost savings to the regulated community. Without these amendments, entities may be required to provide PFAS treatment or containerize and haul water to a wastewater treatment facility, both of which are costly. The amended rules also reduce the need for a temporary discharge permit in certain situations where a permit was previously required, including construction dewatering of less than 20,000 gallons per day and private well pumping tests. The impact to independently owned businesses would depend on the site but could result in estimated cost savings of \$10,000 or more in situations where temporary PFAS treatment would otherwise be required.

Env-Wq 402.27 is a newly proposed rule requiring groundwater discharge permittees to develop response plans when arsenic and manganese levels exceed thresholds identified in the groundwater monitoring network. This rule establishes a separate response approach that provides additional flexibility for these contaminants, which are naturally occurring. The impact to independently owned businesses would be indeterminable and would depend on site specific conditions and the response actions required.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

See # 3 above.

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

Any costs associated with the proposed rules are primarily attributable to the statute. The proposed rules do not mandate or assign to any local subdivision a program or responsibility that is new, expanded, or modified from what existed before state action which would necessitate additional expenditures by a local subdivision. The proposed rules do not impose a change to an underlying function, duty, or activity performed or to be performed by a local government, and so do not violate Part I, Article 28-a of the New Hampshire Constitution.