

Adopt Env-Wq 307 to read as follows:

PART Env-Wq 307 ADMINISTRATIVE FINE SCHEDULE

Statutory Authority: RSA 485-A:22, V, and RSA 485-A:43, V.

Env-Wq 307.01 Purpose. The purpose of Env-Wq 307 is to establish a schedule of fines which may be imposed under the authority of RSA 485-A:22, V for violations of RSA 485-A:5-18, of any rule adopted under the authority of RSA 485-A:6, or of any permit or approval issued under the authority of RSA 485-A:5-18.

Env-Wq 307.02 Fine Amounts for Major Violations. The proposed fine amount for all knowing violations of RSA 485-A:5-18, of any rule in Env-Wq 300, or of any permit or approval issued under the authority of RSA 485-A:5-18 shall be \$2,000 for each offense, including but not limited to:

(a) Conducting any regulated activities without obtaining a permit or certification if required by Env-Wq 300;

(b) Submitting false or misleading information relating to any application for a permit, certification, modification, renewal, transfer, waiver, equivalency determination, or any other request for approval;

(c) Submitting false or misleading information relating to any report or other submission required by Env-Wq 300 or any permit, certification, modification, renewal, transfer, waiver, or equivalency determination issued thereunder; and

(d) Violating the conditions of any permit, certification, modification, renewal, transfer, waiver, or equivalency determination issued pursuant to RSA 485-A:5-18 and Env-Wq 300.

Env-Wq 307.03 Fine Amounts for Moderate Violations. The proposed fine amount for the following violations shall be \$1,500 per offense:

(a) For recklessly or negligently submitting false or misleading information relating to any application for permit or authorization required pursuant to RSA 485-A:5-18 and Env-Wq 300; and

(b) For recklessly or negligently commencing any regulated activities without obtaining a permit or certification; meeting the conditions required by such permits, certification, or authorization; or meeting any other requirements of Env-Wq 300.

Env-Wq 307.04 Fines Amounts for Violations with No Previously Scheduled Fine.

(a) For the purposes of this section, the following definitions shall apply:

(1) “Major deviation from requirement” means the violator deviated from a requirement of a statute or rule to such an extent that there is substantial non-compliance;

(2) “Moderate deviation from requirement” means the violator significantly deviated from a requirement of a statute or rule but some requirements were implemented as intended, such that approximately half the requirements were met;

(3) “Minor deviation from requirement” means the violator deviated partially from a requirement of a statute or rule such that most of the requirement was met;

(4) “Major potential for harm” means a substantial likelihood of causing harm to human health or the environment;

(5) “Moderate potential for harm” means a moderate likelihood of causing harm to human health or the environment; and

(6) “Minor potential for harm” means a small likelihood of causing harm to human health or the environment.

(b) For violating the requirements of, or refusing to comply with, any of the provisions of RSA 485-A:5-18; and any rule adopted; or permit or approval issued under the authority of RSA 485-A:6, not identified in Env-Wq 307, the proposed fine for each violation shall be calculated pursuant to Table 307-1, below, based on the extent of deviation from the requirement and the potential for harm.

Table 307-1: Matrix for Calculated Fines – Maximum Fine \$2,000

	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

Env-Wq 307.05 ~~Administrative Fine Hearings~~***Appeals***. ~~Env C 200 shall apply to all administrative fine hearings, and adjudication of the total proposed fine shall be in accordance with Env C 204.24~~***Any person who receives a notice of administrative fines from the department pursuant to RSA 485-A:22, V; and Env-Wq 307 may appeal to the water council in accordance with RSA 485-A:22, V; and RSA 21-O:7, IV.***

Appendix A

Rule Section(s)	State Statute(s) Implemented
Env-Wq 307	RSA 485-A:22, V(a)