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CHAPTER Env-Wq 1700 SURFACE WATER QUALITY REGULATIONS

Statutory Authority: RSA 485-A:6, I and RSA 485-A:8, VI

REVISION NOTE #1:

Document #7151, effective 12-10-99, readopted with amendments and renumbered the former Chapter Env-Ws 430 as Env-Ws 1700, containing Part Env-Ws 1701 through Part Env-Ws 1709. Document #7151 made extensive changes to the wording, format, structure, and numbering of rules in the former Chapter Env-Ws 430. Document #7151 superseded all prior filings for rules in the former Chapter Env-Ws 430. The prior filings for former Chapter Env-Ws 430 included the following documents:

- #1881, eff 12-7-81
- #2707, eff 5-15-84; EXPIRED 5-15-90
- #4896, eff 8-3-90
- #6301, INTERIM, eff 8-2-96
- #6351, eff 10-5-96

REVISION NOTE #2:

Document #9162, effective 5-21-08, readopted with amendments and renumbered former Chapter Env-Ws 1700 as Chapter Env-Wq 1700. Former Chapter Env-Ws 1700 contained Part Env-Ws 1701 through Part Env-Ws 1709. The redesignation from subtitle Env-Ws to subtitle Env-Wq was done pursuant to a rules reorganization plan for Department rules approved by the Director of the Office of Legislative Services on 9-7-05. Document #9162 replaces all prior filings for rules in the former Chapter Env-Ws 1700. The prior filings include the following documents:

Former Part Env-Ws 1701 through Part Env-Ws 1709:

- #7151, eff 12-10-99
- #9034, INTERIM, eff 12-10-07

Former Part Env-Ws 1710 Emergency Water Transfer:

- #7669, EMERGENCY, eff 3-29-02, EXPIRED 9-25-02

PART Env-Wq 1701 INTRODUCTION

Env-Wq 1701.01 Purpose. The purpose of these rules is to establish water quality standards for the state's surface water uses as set forth in RSA 485-A:8, I, II, III and V. These standards are intended to protect public health and welfare, enhance the quality of water and serve the purposes of the Clean Water Act and RSA 485-A. These standards provide for the protection and propagation of fish, shellfish, and wildlife, and provide for such uses as recreational activities in and on the surface waters, public water supplies, agricultural and industrial uses, and navigation in accord with RSA 485-A:8, I and II.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1701.02 Applicability.

- (a) These rules shall apply to all surface waters.

CHAPTER Env-Wq 1700 SURFACE WATER QUALITY REGULATIONS

Statutory Authority: RSA 485-A:6, I and RSA 485-A:8, VI

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Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1701.02 Applicability.

- (a) These rules shall apply to all surface waters.

(b) These rules shall apply to any person who causes point or nonpoint source discharge(s) of pollutants to surface waters, or who undertakes hydrologic modifications, such as dam construction or water withdrawals, or who undertakes any other activity that affects the beneficial uses or the level of water quality of surface waters.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

PART Env-Wq 1702 DEFINITIONS

Env-Wq 1702.01 “Acute toxicity” means an adverse effect such as mortality or debilitation caused by an exposure of 96 hours or less to a toxic substance.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.02 “Antidegradation” means a provision of the water quality standards that maintains and protects existing water quality and uses.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.03 “Assimilative capacity” means the amount of a pollutant or pollutants that can safely be released to a waterbody without causing violations of applicable water quality criteria or negatively impacting uses.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.04 “Benthic community” mean the community of plants and animals that live on, over, or in the substrate of the surface water.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.05 “Benthic deposit” means any sludge, sediment or other organic or inorganic accumulations on the bottom of the surface water.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.06 “Best management practices” means those practices which are determined, after problem assessment and examination of all alternative practices and technological, economic and institutional considerations, to be the most effective practicable means of preventing or reducing the amount of pollution generated by point or nonpoint sources to a level compatible with water quality goals.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.07 “Biological integrity” means the ability of an aquatic ecosystem to support and maintain a balanced, integrated, adaptive community of organisms having a species composition, diversity, and functional organization comparable to that of similar natural habitats of a region.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.08 “Biota” means species of plants or animals occurring in surface waters.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.09 “CFR” means the Code of Federal Regulations published by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.10 “Chronic toxicity” means an adverse effect such as reduced reproductive success or growth, or poor survival of sensitive life stages, which occurs as a result of prolonged exposure to a toxic substance.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.11 “Class A and B waters” means those surface waters that are legislatively classified as Class A or B waters pursuant to RSA 485-A:8, I, II and III.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Env-Wq 1702.12 “Clean Water Act (CWA)” means the federal Clean Water Act, Pub. L. 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, Pub. L. 97-117, Pub. L. 100-4, 33 U.S.C. 1251 et seq.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.13 “Community” means one or more populations co-occurring in surface waters.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.14 “Criterion” means:

- (a) A designated concentration of a pollutant;
- (b) A narrative statement concerning that pollutant that when not exceeded, will protect an organism, a population, a community, or a prescribed water use; or
- (c) A numeric value or narrative statement related to other characteristics of the surface waters, such as flow and biological community integrity.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.15 “Cultural eutrophication” means the human-induced addition of wastes containing nutrients to surface waters which results in excessive plant growth and/or a decrease in dissolved oxygen.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.16 “Department” means the department of environmental services.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.17 “Designated uses” means those uses specified in water quality standards for each waterbody or segment whether or not such uses are presently occurring.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.18 “Discharge” means:

(a) The addition, introduction, leaking, spilling, or emitting of a pollutant to surface waters, either directly or indirectly through the groundwater, whether done intentionally, unintentionally, negligently or otherwise; or

(b) The placing of a pollutant in a location where the pollutant is likely to enter surface waters.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.19 “Dissolved oxygen (D.O.)” means the oxygen dissolved as a gas in sewage, water or other liquid expressed in milligrams per liter (mg/l), parts per million (ppm), or percent saturation.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.20 “Effluent limitation(s)” means any restriction(s) imposed by the department pursuant to RSA 485-A on quantities, discharge rates, characteristics, and concentrations of pollutants which are discharged to surface waters.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.21 “Environmental Protection Agency (EPA)” means the United States Environmental Protection Agency.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.22 “Epilimnion” means the upper, well-circulated warm layer of a thermally stratified lake, pond, impoundment or reservoir.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.23 “Existing uses” means those uses, other than assimilation or waste transport, which actually occurred in the waterbody on or after November 28, 1975, whether or not they are included in the water quality standards.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.24 “High quality surface waters” means all surface waters whose water quality is better than required by any aquatic life and/or human health water quality criteria contained in these rules or other criteria assigned to the surface water, or whose qualities and characteristics make them critical to the propagation or survival of important living natural resources.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.25 “Industrial waste” means “industrial waste” as defined in RSA 485-A:2, VI, namely “any liquid, gaseous or solid waste substance resulting from any process of industry, manufacturing trade or business or from development of any natural resources.”

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.26 “Maintain and protect” means to preserve the existing and designated uses of surface waters.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.27 “Mixing zone” means a defined area or volume of the surface water surrounding or adjacent to a wastewater discharge where the surface water, as a result of the discharge, might not meet all applicable water quality standards.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.28 “Most sensitive use” means the use which is most susceptible to degradation by a specific pollutant, combination of pollutants, or activity, such as:

- (a) Drinking;
- (b) Swimming;
- (c) Boating;
- (d) Fish and aquatic life propagation;
- (e) Fish consumption by higher level consumers including man; or

(f) Irrigation.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.29 “Naturally occurring conditions” means conditions which exist in the absence of human influences.

S Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.30 “Nephelometric turbidity unit (NTU)” means a standard used to measure the optical property that causes light to be scattered and absorbed rather than transmitted in straight lines through water, as measured by a nephelometer.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.31 “Noncontact cooling water” means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product and to which no pollutants, other than heat, have been added.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.32 “Nonpoint source” means any source other than a point source as defined in Env-Wq 1702.38.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.33 “No observed effect concentration (NOEC)” means the highest measured continuous concentration, in percent, of an effluent at which no adverse effects are observed on the aquatic test organisms.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

- (i) Rolling stock;
- (j) Concentrated animal feeding operation; or
- (k) Vessel or other floating craft.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.39 “Pollutant” means “pollutant” as defined in 40 CFR 122.2.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.40 “Pollution” means the man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of water.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.41 “Population” means a group of individuals of one biological species co-occurring in time and space.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.42 “Publicly owned treatment works (POTW)” means any device or system used in the treatment of municipal sewage and/or industrial wastewater which is owned by the state, or a political subdivision of the state.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.43 “Radionuclide” means a radioactive atomic nucleus specified by its atomic number, atomic mass and energy state.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.44 “7Q10” means the lowest average flow which occurs for 7 consecutive days on an annual basis with a recurrence interval of once in 10 years on average, expressed in terms of volume per time period.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.45 “Sewage” means “sewage” as defined in RSA 485-A:2, X, namely, “the water carried waste products from buildings, public or private, together with such groundwater infiltration and surface water as may be present.”

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.46 “Surface waters” means “surface waters of the state” as defined in RSA 485-A:2, XIV and waters of the United States as defined in 40 CFR 122.2.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.47 “Tainting substance” means any material that can impart objectionable taste, odor, or color to the flesh of fish or other edible aquatic organisms.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.48 “Tidal waters” means those portions of the Atlantic Ocean within the jurisdiction of the state, and other surface waters subject to the rise and fall of the tide.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.49 “Toxicity test” means a test to determine the toxicity of a chemical or an effluent that involves exposing test organisms in a laboratory setting to one or more concentrations of the chemical or dilutions of the effluent in accordance with standard laboratory procedures.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.50 “Toxic unit chronic (TU_c)” means the reciprocal of the effluent dilution that causes no unacceptable effect to the test organisms by the end of the chronic exposure period. The TU_c can be calculated by dividing 100 by the chronic NOEC value.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.51 “Waste” means “waste” as defined in RSA 485-A:2, XVI, namely “industrial waste and other wastes.”

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.52 “Water quality standards” means the combination of designated uses of surface waters, and the water quality criteria for such surface waters based upon such uses.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.53 “Wetland” means “wetland” as defined in RSA 482-A:2, X, namely “an area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.” Wetlands include, but are not limited to, swamps, marshes, bogs and similar areas as delineated in accordance with Env-Wt 100 et seq.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.54 “Zone of passage” means an area bordering a mixing zone and which is free from pollutants and which allows for unobstructed movement of aquatic organisms.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

PART Env-Wq 1703 WATER QUALITY STANDARDS

Env-Wq 1703.01 Water Use Classifications.

(a) State surface waters shall be divided into class A and class B, pursuant to RSA 485-A:8, I, II and III. Each class shall identify the most sensitive use which it is intended to protect.

(b) All surface waters shall be restored to meet the water quality criteria for their designated classification including existing and designated uses, and to maintain the chemical, physical, and biological integrity of surface waters.

(c) All surface waters shall provide, wherever attainable, for the protection and propagation of fish, shellfish and wildlife, and for recreation in and on the surface waters.

(d) Unless the flows are caused by naturally occurring conditions, surface water quantity shall be maintained at levels adequate to protect existing and designated uses.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1703.02 Wetlands Criteria.

(a) Subject to (b), below, wetlands shall be subject to the criteria listed in this part.

(b) Wherever the naturally occurring conditions of the wetlands are different from the criteria listed in these rules, the naturally occurring conditions shall be the applicable water quality criteria.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1703.03 General Water Quality Criteria.

(a) The presence of pollutants in the surface waters shall not justify further introduction of pollutants from point or nonpoint sources, alone or in any combination.

(b) State surface waters shall retain their legislated classification even if they fail to meet any or all of the general, class-specific, or toxic criteria contained in this part.

(c) The following physical, chemical and biological criteria shall apply to all surface waters:

(1) All surface waters shall be free from substances in kind or quantity which:

- a. Settle to form harmful deposits;
- b. Float as foam, debris, scum or other visible substances;
- c. Produce odor, color, taste or turbidity which is not naturally occurring and would render it unsuitable for its designated uses;
- d. Result in the dominance of nuisance species; or
- e. Interfere with recreational activities;

(2) The level of radioactive materials in all surface waters shall not be in concentrations or combinations that would:

- a. Be harmful to human, animal or aquatic life or the most sensitive designated use;
- b. Result in radionuclides in aquatic life exceeding the recommended limits for consumption by humans; or
- c. Exceed limits specified in EPA's national drinking water regulations or Env-Ws 300 or successor rules in subtitle Env-Dw, whichever are more stringent; and

Env-Wq 1702.50 “Toxic unit chronic (TU_c)” means the reciprocal of the effluent dilution that causes no unacceptable effect to the test organisms by the end of the chronic exposure period. The TU_c can be calculated by dividing 100 by the chronic NOEC value.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.51 “Waste” means “waste” as defined in RSA 485-A:2, XVI, namely “industrial waste and other wastes.”

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.52 “Water quality standards” means the combination of designated uses of surface waters, and the water quality criteria for such surface waters based upon such uses.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.53 “Wetland” means “wetland” as defined in RSA 482-A:2, X, namely “an area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.” Wetlands include, but are not limited to, swamps, marshes, bogs and similar areas as delineated in accordance with Env-Wt 100 et seq.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1702.54 “Zone of passage” means an area bordering a mixing zone and which is free from pollutants and which allows for unobstructed movement of aquatic organisms.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

PART Env-Wq 1703 WATER QUALITY STANDARDS

Env-Wq 1703.01 Water Use Classifications.

(a) State surface waters shall be divided into class A and class B, pursuant to RSA 485-A:8, I, II and III. Each class shall identify the most sensitive use which it is intended to protect.

(b) All surface waters shall be restored to meet the water quality criteria for their designated classification including existing and designated uses, and to maintain the chemical, physical, and biological integrity of surface waters.

(c) All surface waters shall provide, wherever attainable, for the protection and propagation of fish, shellfish and wildlife, and for recreation in and on the surface waters.

(d) Unless the flows are caused by naturally occurring conditions, surface water quantity shall be maintained at levels adequate to protect existing and designated uses.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1703.02 Wetlands Criteria.

(a) Subject to (b), below, wetlands shall be subject to the criteria listed in this part.

(b) Wherever the naturally occurring conditions of the wetlands are different from the criteria listed in these rules, the naturally occurring conditions shall be the applicable water quality criteria.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1703.03 General Water Quality Criteria.

(a) The presence of pollutants in the surface waters shall not justify further introduction of pollutants from point or nonpoint sources, alone or in any combination.

(b) State surface waters shall retain their legislated classification even if they fail to meet any or all of the general, class-specific, or toxic criteria contained in this part.

(c) The following physical, chemical and biological criteria shall apply to all surface waters:

(1) All surface waters shall be free from substances in kind or quantity which:

- a. Settle to form harmful deposits;
- b. Float as foam, debris, scum or other visible substances;
- c. Produce odor, color, taste or turbidity which is not naturally occurring and would render it unsuitable for its designated uses;
- d. Result in the dominance of nuisance species; or
- e. Interfere with recreational activities;

(2) The level of radioactive materials in all surface waters shall not be in concentrations or combinations that would:

- a. Be harmful to human, animal or aquatic life or the most sensitive designated use;
- b. Result in radionuclides in aquatic life exceeding the recommended limits for consumption by humans; or
- c. Exceed limits specified in EPA's national drinking water regulations or Env-Ws 300 or successor rules in subtitle Env-Dw, whichever are more stringent; and

Env-Wq 1703.19 Biological and Aquatic Community Integrity.

(a) The surface waters shall support and maintain a balanced, integrated, and adaptive community of organisms having a species composition, diversity, and functional organization comparable to that of similar natural habitats of a region.

(b) Differences from naturally occurring conditions shall be limited to non-detrimental differences in community structure and function.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1703.20 Human Health Criteria for Toxic Substances.

(a) The department shall use a risk factor of one in 1,000,000 when determining human health criteria for all new discharges. The department shall also use a one in 1,000,000 risk factor in determining human health criteria for all existing discharges unless it can be demonstrated by the applicant for a water discharge permit under RSA 485-A:13 that the criteria obtained using the one in 1,000,000 risk factor cannot be achieved because it is either technologically impossible or economically unfeasible. However, in no case shall the department allow a risk factor greater than one in 100,000.

(b) For the protection of human health, class A and B waters shall not contain dioxin (2, 3, 7, 8 - TCDD) in excess of 0.001 ng/l, unless allowed under part Env-Wq 1707.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1703.21 Water Quality Criteria for Toxic Substances.

(a) Unless naturally occurring or allowed under part Env-Wq 1707, all surface waters shall be free from toxic substances or chemical constituents in concentrations or combinations that:

- (1) Injure or are inimical to plants, animals, humans or aquatic life; or
- (2) Persist in the environment or accumulate in aquatic organisms to levels that result in harmful concentrations in edible portions of fish, shellfish, other aquatic life, or wildlife which might consume aquatic life.

(b) Unless allowed in part Env-Wq 1707 or naturally occurring, concentrations of toxic substances in all surface waters shall not exceed the recommended safe exposure levels of the most sensitive surface water use shown in Table 1703.1, subject to the notes as explained in Env-Wq 1703.22, as follows:

PART Env-Wq 1705 FLOW STANDARDS

Env-Wq 1705.01 Assimilative Capacity. Except for combined sewer overflows where 99 percent of the assimilative capacity shall be used to determine compliance, not less than 10 percent of the assimilative capacity of the surface water shall be held in reserve to provide for future needs.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1705.02 Low Flow Conditions.

(a) The flow used to calculate permit limits shall be as specified in (b) through (d), below.

(b) For rivers and streams, the long-term harmonic mean flow, which is the number of daily flow measurements divided by the sum of the reciprocals of the daily flows, shall be used to develop permit limits for all human health criteria for carcinogens.

(c) For tidal waters, the low flow condition shall be equivalent to the conditions that result in a dilution that is exceeded 99% of the time.

(d) For rivers and streams, the 7Q10 flow shall be used to apply aquatic life criteria and human health criteria for non-carcinogens.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

PART Env-Wq 1706 SAMPLING AND ANALYSIS

Env-Wq 1706.01 Procedure. All procedures used for the purpose of collecting, preserving and analyzing samples shall be in conformance with 40 CFR Part 136 for wastewater and 40 CFR Part 141 for drinking water unless alternative procedures are specified in the surface water discharge permit.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

PART Env-Wq 1707 MIXING ZONES

Env-Wq 1707.01 Designation.

(a) Mixing zones shall be prohibited in Class A waters.

(b) For Class B waters, the department shall designate a limited area or volume of the surface water as a mixing zone if the applicant provides sufficient scientifically valid documentation to allow the department to independently determine that all criteria in Env-Wq 1707.02 have been met.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1707.02 Minimum Criteria. Mixing zones shall be subject to site specific criteria that, as a minimum:

- (a) Meet the criteria in Env-Wq 1703.03(c)(1);
- (b) Do not interfere with biological communities or populations of indigenous species;
- (c) Do not result in the accumulation of pollutants in the sediments or biota;
- (d) Allow a zone of passage for swimming and drifting organisms;
- (e) Do not interfere with existing and designated uses of the surface water;
- (f) Do not impinge upon spawning grounds and/or nursery areas of any indigenous aquatic species;
- (g) Do not result in the mortality of any plants, animals, humans, or aquatic life within the mixing zone;
- (h) Do not exceed the chronic toxicity value of 1.0 TUc at the mixing zone boundary; and
- (i) Do not result in an overlap with another mixing zone.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1707.03 Technical Standards. Mixing zones shall be established in accordance with the procedures delineated in the "Technical Support Document for Water Quality-based Toxics Control" EPA/505/2-90-001, dated March 1991.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

PART Env-Wq 1708 ANTIDegradation

Env-Wq 1708.01 Purpose. The purpose of these antidegradation provisions is to ensure that the following provisions of 40 CFR 131.12 are met:

(a) Existing uses and the level of water quality necessary to protect the existing uses shall be maintained and protected;

(b) For significant changes in water quality, where the quality of the surface waters exceeds levels necessary to support propagation of fish, shellfish, and wildlife, and recreation in and on the water, that quality shall be maintained and protected unless the department finds, after full satisfaction of the intergovernmental coordination and public participation provisions that, in accordance with Env-Wq 1708.10, allowing lower water quality is necessary to accommodate important economic or social development in the area in which the surface waters are located. In allowing such degradation or lower water quality, the department shall assure water quality adequate to fully protect existing uses. Further, the department shall assure that the highest statutory and regulatory requirements shall be achieved for all new and existing point

sources and that all cost effective and reasonable best management practices for nonpoint source control shall be implemented;

(c) For insignificant changes in water quality, where the quality of the surface waters exceeds levels necessary to support propagation of fish, shellfish, and wildlife, and recreation in and on the water, that quality shall be maintained and protected. In allowing such degradation or lower water quality, the department shall assure water quality adequate to protect existing uses fully. Further, the department shall assure that the highest statutory and regulatory requirements shall be achieved for all new and existing point sources and that all cost effective and reasonable best management practices for nonpoint source control shall be implemented;

(d) Where high quality surface waters constitute an outstanding resource waters (ORW), that water quality shall be maintained and protected; and

(e) In those cases where a potential water quality impairment is associated with a thermal discharge, the antidegradation provisions shall ensure that the requirements of section 316 of the Clean Water Act are met.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1708.02 Applicability. Antidegradation shall apply to:

- (a) Any proposed new or increased activity, including point source and nonpoint source discharges of pollutants, that would lower water quality or affect the existing or designated uses;
- (b) Any proposed increase in loadings to a waterbody when the proposal is associated with existing activities;
- (c) Any increase in flow alteration over an existing alteration; and
- (d) Any hydrologic modifications, such as dam construction and water withdrawals.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1700) #7151, eff 12-10-99; ss by #9034, INTERIM, eff 12-10-07; ss by #9162, eff 5-21-08 (See Revision Note #2 at chapter heading for Env-Wq 1700)

Env-Wq 1708.03 Submittal of Data. The applicant shall provide all information necessary to:

- (a) Identify all existing uses, including:
 - (1) Freshwater, estuarine, and marine aquatic life present in the affected surface waters;
 - (2) Other wildlife that use or are dependent on the affected surface waters;
 - (3) Presence of water quality and physical habitat that support, or would support, aquatic life or other animal or plant life;
 - (4) Presence of indigenous species and communities;
 - (5) Presence of a specialized use of the waterbody, such as a spawning area or as a habitat for a federally or state listed threatened or endangered species;