

CHAPTER Env-Wq 300 SURFACE WATER PROTECTION

PART Env-Wq 304 CERTIFICATION OF WASTEWATER TREATMENT PLANT OPERATORS

Statutory Authority: RSA 485-A:5-a; RSA 485-A:6, XI and XI-b; RSA 485-A:7-a;
RSA 485-A:7-b; RSA 485-A:7-c; RSA 485-A:7-d; RSA 486:9;
RSA 486:10, III

Env-Wq 304.01 Purpose. The purpose of these rules is to implement RSA 485-A:5-a, RSA 485-A:7-a, RSA 485-A:7-b, RSA 485-A:7-c, RSA 485-A:7-d, and RSA 486:9, as reprinted in Appendix C, by requiring operators of wastewater treatment plants to be suitably qualified and have the knowledge and ability to properly operate and maintain such plants, in order to meet all applicable permit requirements and achieve the highest quality of effluent of all wastewaters prior to discharge to surface waters or groundwaters of the state.

Env-Wq 304.02 Applicability. These rules shall apply to:

- (a) Any individual who applies to be certified as a wastewater treatment plant operator;
- (b) Any individual who is certified as a wastewater treatment plant operator; and
- (c) Any owner of a wastewater treatment plant that requires a surface or groundwater discharge permit pursuant to RSA 485-A:13, I.

Env-Wq 304.03 Definitions.

- (a) “Advanced treatment” means a process for treating wastewater after secondary treatment to achieve effluent standards that are more stringent than conventional secondary standards, such as by removal of nutrients or metals, or both.
- (b) “Authorized representative” means an individual authorized by the wastewater treatment plant owner to submit reports, respond to inquiries, and oversee the OIRC and the back-up OIRC.
- (c) “Certificate” means “certificate” as defined in RSA 485-A:2, I-a, as reprinted in Appendix B.
- (d) “Certification committee” means “certification committee” as defined in RSA 485-A:2, I-b, as reprinted in Appendix B.
- (e) “Department” means the department of environmental services.
- (f) “Operating experience” means satisfactory performance or supervision of operation duties at a wastewater treatment plant, or equivalent related qualifying experience as described in Env-Wq 304.07(e)-(f), as appropriate for the level of certification sought.
- (g) “Operator” means “operator” as defined in RSA 485-A:2, VII-a, as reprinted in Appendix B.
- (h) “Operator in responsible charge (OIRC)” means the operator who oversees the daily operation of the wastewater treatment plant, or a significant portion of a grade III or IV plant, and is ultimately accountable for decisions involving all plant operational duties, including maintenance of process equipment, laboratory work, equipment operation, administration, process control, record keeping, and reporting necessary for the wastewater treatment plant to comply with applicable federal and state requirements.
- (i) “Operator-in-training (OIT)” means an applicant who has met the written examination and education requirements for a particular grade but who has not had sufficient operating experience to meet the full requirements for that grade.

(j) "Population equivalent" means the calculated number of people that would normally contribute an equal amount of 0.2 pound of 5 day, 20°C, biochemical oxygen demand per capita per day.

(k) "Primary treatment" means a process for treating wastewater that is intended to remove settleable and floatable materials.

(l) "Secondary treatment" means a process for treating wastewater that is intended to remove dissolved and suspended biodegradable matter to attain conventional secondary effluent discharge criteria.

(m) "Training credit hour (TCH)" means one hour of participation on an organized continuing education experience that qualifies under Env-Wq 304.17.

(n) "Wastewater facilities" means "wastewater facilities" as defined in RSA 485-A:2, XIX, as reprinted in Appendix B.

(o) "Wastewater residuals" means "septage" as defined in RSA 485-A:2, IX-a and "sludge" as defined in RSA 485-A:2, XI-a, both as reprinted in Appendix B.

(p) "Wastewater treatment plant (plant)" means "wastewater treatment plant" as defined by RSA 485-A:2, XVI-a, as reprinted in Appendix B.

Env-Wq 304.04 Grades of Wastewater Operator Certification. There shall be 4 grades of operators to parallel the classification of plants described in Env-Wq 304.27, as follows:

- (a) Grade I certified operators shall be qualified to supervise operation of grade I plants;
 - (b) Grade II certified operators shall be qualified to supervise operation of grade II or lower plants;
 - (c) Grade III certified operators shall be qualified to supervise operation of grade III or lower plants;
- and
- (d) Grade IV certified operators shall be qualified to supervise operation of grade IV or lower plants.

Env-Wq 304.05 Operator-in-Training Status.

(a) There shall be an operator-in-training (OIT) status for each grade of wastewater operator certification.

(b) Eligibility criteria for each OIT status shall be identical to that for the full certification grade to which the OIT correlates, except that applicants may take the written exam for a particular grade with less operating experience than required for that full grade, so long as the operating experience requirements can be met within 3 years.

(c) If the OIT applicant passes the written examination and obtains OIT status but fails to meet the required operating experience within 3 years, then the operator shall resume their prior grade.

(d) Full certification shall be granted to an OIT after the department receives written verification from the OIT's supervisor that the OIT has completed the operating experience requirement.

(e) An owner may request that the department approve an OIT to be placed in responsible charge of a plant of the same grade, by submitting a written waiver request pursuant to Env-Wq 304.32.

Env-Wq 304.06 Operator Certification Requirements. To qualify for certification, an applicant shall:

(a) Pass the written examination as provided in Env-Wq 304.12 or be granted reciprocity as specified in Env-Wq 304.19; and

(b) Meet the minimum operating experience and education requirements specified in Table 304.1, below, as explained in Env-Wq 304.07 and Env-Wq 304.08, respectively:

Table 304.1 Operating Experience and Education Requirements for Certification.

Grade	Operating Experience (years)	Education
I	1	High School Graduate or High School Equivalency (HSE) Certificate
II	3	High School Graduate or HSE Certificate
III	4	High School Graduate or HSE Certificate plus 2 years of relevant post-high school education
IV	6	High School Graduate or HSE Certificate plus 2 years of relevant post-high school education

Env-Wq 304.07 Operating Experience Requirements.

- (a) For a grade I, no operating experience shall be required in order to take the examination.
- (b) For a grade II, a minimum of 1 year of operating experience shall be required in order to take the examination, but the operating experience may be substituted with the following:
 - (1) A one year certificate in wastewater or environmental technology; or
 - (2) An associate degree in a relevant field such as sanitary engineering, environmental technology or studies, water treatment, wastewater treatment, natural sciences, or non-sanitary engineering disciplines.
- (c) For a grade III, a minimum of 2 years of operating experience shall be required at a grade II wastewater treatment plant or higher in order to take the examination.
- (d) For a grade IV, a minimum of 3 years of operating experience shall be required at a grade III wastewater treatment plant or higher in order to take the examination.
- (e) A minimum of 50% of the operating experience required by Table 304.01 shall be met by actual on-site operating experience at a wastewater treatment plant.
- (f) An applicant may request one or more of the following experience or education substitutions for the remaining 50% of the operating experience required by Table 304.01:
 - (1) Experience in a related utility division or trade, such as wastewater collections, water distribution, plumbing, electrical, pipe fitting, instrumentation, laboratory, utility construction, utility design, engineering, facilities maintenance and management, public works, or similar relevant military experience;
 - (2) Relevant post-high school education on a year-for-year basis;
 - (3) Specialized operator training courses, seminars, workshops, and technical conferences which are relevant to the wastewater industry, provided the calculation shall be based on one TCH for every hour of approved training.
- (g) Education applied in substitution for any stated experience requirements shall not also be applied to the education requirement.

Env-Wq 304.08 Education Requirements.

- (a) The education requirement for grade I and grade II shall be a high school diploma or HSE.
- (b) The education requirement for grade III and grade IV shall be a high school diploma or HSE certificate and 2 years of relevant post-high school education, as described in (c) through (g), below.
- (c) Relevant post-high school education shall include the following:
 - (1) For programs in sanitary engineering, environmental technology or science, water treatment, or wastewater treatment, a bachelor's degree shall be counted as 4 years of relevant education and an associate's degree shall be counted as 2 years of relevant education; and
 - (2) For programs in other relevant technical and scientific disciplines, such as natural sciences and non-sanitary engineering, a bachelor's degree shall be counted as 3 years of relevant education and an associate's degree shall be counted as 1.5 years of relevant education.
- (d) Partial credit toward relevant post-high school education requirements shall be allowed for academic work or vocational training, as follows:
 - (1) Any bachelor's degrees other than those listed in (c), above, shall be counted as 2 years of relevant education; and
 - (2) Any associates degree of other than those listed in (c), above shall be counted as one year of relevant education.
- (e) Incomplete degree programs shall be counted as described in (f), below.
- (f) Each 30 semester hours or 45 quarter hours of credits earned in programs listed in (c), above, shall be considered the equivalent of one year of post-high school education.
- (g) The applicant may request substitutions for one year of required education based on the following criteria:
 - (1) Two years of operating experience may be substituted for one year of the post-high school education requirement for grades III and IV;
 - (2) One year of operating experience as an OIRC in a grade II wastewater treatment plant or higher, may be substituted for one year of the education requirement;
 - (3) Operating experience applied in substitution for any education requirement shall not also be applied to the experience requirement; and
 - (4) Specialized operator training courses, seminars, workshops, and approved technical conferences, and relevant Military Operational Specialties (MOS) training may be substituted for post-high school education provided that the calculation shall be one TCH for every hour of approved training.

Env-Wq 304.09 Application for Certificate, Application Fee, and Proof of Education and Experience.

- (a) As required by RSA 485-A:7-a, I, any individual seeking certification or to increase their level of certification as an operator shall, at least 6 weeks preceding the date of the examination, provide the following to the certification committee:
 - (1) Complete and submit electronically the "Wastewater Treatment Operator Certification Exam Application", NHDES-W-09-004, September 2023, available at:
<https://onlineforms.nh.gov/?formtag=NHDES-W-09-004>;

- (2) Proof of high school graduation or HSE, if no post-high school education was completed;
 - (3) Proof of post-high school education in the form of transcripts;
 - (4) Proof of post high-school specialized training pursuant to Env-Wq 304.07(f)(3) and Env-Wq 304.08(g)(4), if any; and
 - (5) The application fee, as specified in RSA 485-A:7-a, II, as reprinted in Appendix C.
- (b) The applicant shall sign the application as specified in Env-Wq 304.10.

Env-Wq 304.10 Signature Required.

- (a) An applicant for certification, certification renewal, reciprocal certification, or retesting shall sign and date the applicable application form.
- (b) The applicant's signature shall constitute certification that:
- (1) The information on the application form is true, complete, and not misleading to the best of the applicant's knowledge and belief;
 - (2) If certification is granted, the applicant agrees to comply with Env-Wq 304, including the wastewater code of ethics in Env-Wq 304.25; and
 - (3) By submitting the online form, I certify that I am the applicant listed in this application.

Env-Wq 304.11 Application Processing.

- (a) The certification committee shall review applications and supporting documents to determine whether the minimum criteria specified in Env-Wq 304.06 have been met such that the applicant is eligible to take the examination or is eligible for reciprocal certification.
- (b) The certification committee shall notify the applicant of their eligibility status in writing. If the committee determines that the applicant has not met the requirements, the written notification shall specifically identify the reason(s) for the determination.

Env-Wq 304.12 Examinations.

- (a) The department shall prepare the written examination required by RSA 485-A:7-b to be used in determining operator knowledge, ability, and judgment in each grade of operator classification.
- (b) The department shall administer written examinations at least twice each year at places and times set by the department.
- (c) A score of 70% correct or higher shall be required to pass the written examination.
- (d) The department shall notify each applicant who completes a written examination of the test results as soon as practicable but no later than 60 days following the examination.
- (e) Any applicant who fails to pass the written examination may, as provided in RSA 485-A:7-a, III, take one retest at the same certification level at no additional cost. An applicant shall take the retest at one of the next 2 scheduled examinations following the examination the applicant failed.
- (f) Any applicant who wishes to take a retest pursuant to (e), above, shall notify the department in writing at least 6 weeks prior to the scheduled examination date and provide any changes to the original application submitted pursuant to Env-Wq 304.09.

(g) Any applicant who fails to pass a written examination may make arrangements with the department to review the applicant's written examination at the department's office, provided the review occurs more than 60 days preceding the date of the applicant's retest.

Env-Wq 304.13 Meeting with Certification Committee Required.

(a) Subject to (b), below, each applicant who achieves certification, whether by examination or reciprocity, shall meet with the certification committee prior to receiving certification as follows:

- (1) The notice of the meeting shall be posted on the department's website and provided to the applicant by email at least 10 days in advance of the meeting; and
- (2) The department shall provide the applicant with the certificate prior to the close of the meeting.

(b) An operator previously certified in New Hampshire who has met with the certification committee shall not be required to meet with the committee again when certified at a higher grade.

Env-Wq 304.14 Issuance, Display, and Duration of Certificates.

(a) The department shall issue to each applicant who passes the written examination and meets with the certification committee, a certificate designating the grade of treatment for which the operator is qualified upon determining that:

- (1) The applicant possesses the minimum education and experience requirements for the specified grade; and
- (2) No evidence has been presented to the certification committee that would constitute grounds for suspending, revoking, or refusing to renew a certification as specified in Env-Wq 304.20.

(b) The certificate shall be prominently displayed in the office of the wastewater treatment plant at which the operator is employed.

(c) As specified in RSA 485-A:7-c, I, a certificate issued pursuant to these rules shall be valid for 2 years from the date of issuance.

Env-Wq 304.15 Certification Renewal.

(a) As provided in RSA 485-A:7-c, II, certificates may be renewed.

(b) An operator wishing to renew their certification shall provide to the department, no later than one state business day before expiration of the certification, the following:

- (1) Complete and submit electronically the "Wastewater Treatment Operator Certification Renewal Application", NHDES-W-09-004, September 2023, available at: <https://onlineforms.nh.gov/?formtag=NHDES-W-09-004>;
- (2) Copies of certificates for all education that the applicant has completed within the 2-year period preceding the expiration of the certificate to demonstrate compliance with the TCH requirements specified in Env-Wq 304.16; and
- (3) The renewal fee specified by RSA 485-A:7-c, II, as reprinted in Appendix C.

(c) The applicant shall sign the application as specified in Env-Wq 304.10.

(d) Failure of the operator to file an application for renewal as specified in (b) above, shall result in expiration of the operator’s certification.

(e) The department shall notify the operator and the operator’s employer, if any, of the expiration of the certification in writing via email or letter.

(f) If the completed renewal application is submitted before the expiration date of the certification without payment, then the operator shall submit the renewal fee within 90 days of the certificate's expiration date, together with a late fee of 50% of the renewal fee, as provided in RSA 485-A:7-c, II.

(g) Any operator whose certification has expired who fails to submit a renewal application as specified in (b), above, who wishes to obtain certification shall apply for certification by submitting an application in accordance with Env-Wq 304.09 and taking the written examination as required by Env-Wq 304.12.

(h) Any operator requesting to have their certification placed in inactive status shall submit the request in writing to the department prior to the expiration of their certification, subject to the following requirements:

- (1) An operator may remain in inactive status for a period of no more than 2 years from the date of the request;
- (2) An operator that is in inactive status shall not engage in any activities associated with operation of a plant; and
- (3) To reactivate from inactive status, the operator shall:
 - a. Complete and submit a renewal application as required in (b)(1) above;
 - b. Provide copies of transcripts or certificates documenting 40 TCH’s; and
 - c. Submit the \$50 renewal fee authorized in RSA 485-A:7-c, II.

Env-Wq 304.16 Continuing Education Required.

(a) For certification renewal, the operator shall acquire not less than the number of TCHs specified in Table 304.2, below:

Table 304.2: TCH Requirements for Certificate Renewal

Operator Grade and OIT status	Number of TCHs Required
I-OIT	10
All grades	20

(b) At least 50% of the TCHs shall be directly related to wastewater treatment processes or maintenance of those processes, and the remaining shall be in a relevant field as provided in Env-Wq 304.07(f)(1).

(c) The required TCHs shall be completed during the 2-year period immediately prior to the expiration date of the certificate, except as provided in (d) below.

- (d) If more than the minimum number of TCHs required are earned, then:
 - (1) A I-OIT operator may carry forward 5 TCHs; and
 - (2) All grades may carry forward 10 TCHs.

(e) No operator shall carry any TCHs forward beyond the renewal period immediately following the renewal period in which it was earned.

Env-Wq 304.17 Requirements for Training Credit Hours (TCH) Courses.

(a) To qualify for TCH credit, a course shall be:

- (1) Offered by the department;
- (2) Offered by a state-wide or regional professional association of wastewater treatment professionals; or
- (3) Approved by the department pursuant to Env-Wq 304.18.

(b) For courses qualified in accordance with (a)(1)-(3) above, the department shall award TCHs in one hour increments to instructors for each hour of instructor training provided.

Env-Wq 304.18 Approval of Courses for TCH Credit.

(a) An organization that wishes to offer courses for TCH credit in New Hampshire shall provide to the department the following:

- (1) Complete and submit electronically the "Wastewater Operator Training Course Approval" form, NHDES-W-09-068, September 2023, available at: <https://onlineforms.nh.gov/?formtag=NHDES-W-09-068>;
- (2) A syllabus for the course and the written materials to be used in the course, if any;
- (3) A sample of the transcript or certificate that will be issued upon completion of the course; and
- (4) If the organization is required by RSA 292, RSA 293, RSA 293-A, or other applicable provision of New Hampshire law to register with the New Hampshire secretary of state, proof that the organization is registered and in good standing to do business in New Hampshire.

(b) The department shall review applications submitted pursuant to (a), above, within 45 days of receiving a complete application.

(c) The department shall approve a course for a period of 5-years, for TCH credit if the information submitted demonstrates that the course is at least equivalent to a course that would be offered by the department on the same or a similar topic.

(d) The department shall notify the organization of its decision in writing. If the application is denied, the department shall specify the reason(s) for the denial in the written notice.

(e) Any changes to the course, approved pursuant to (c) above, shall require written notice to and approval by the department prior to implementation by the organization.

Env-Wq 304.19 Reciprocity Applications.

(a) As provided in RSA 485-A:7-c, III, an applicant may request the certification committee to waive the requirement for a written examination and request reciprocity if they have been certified as a wastewater treatment plant operator by the appropriate certification agency of any federal, state, interstate, territorial, or other jurisdiction.

(b) A request for reciprocity certification shall be provided to the certification committee and include the following:

- (1) Complete and submit electronically the "Wastewater Treatment Operator Certification Reciprocity Application", NHDES-W-09-004, September 2023, available at: <https://onlineforms.nh.gov/?formtag=NHDES-W-09-004>;
- (2) A copy of the certificate or license upon which the reciprocity certification request is based;
- (3) A copy of the official regulations, rules, guidelines, or other written criteria of the jurisdiction which issued the certificate;
- (4) Proof of high school graduation or HSE, if no post-high school education was completed;
- (5) Proof of post-high school education in the form of transcripts;
- (6) Proof of post high-school specialized training pursuant to Env-Wq 304.07(f)(3) and Env-Wq 304.08(g)(4), if any; and
- (7) The reciprocity fee specified by RSA 485-A:7-c, III, as reprinted in Appendix C.

(c) The applicant shall sign the application as specified in Env-Wq 304.10.

(d) Subject to (e), below, the certification committee shall grant the request and waive the requirement for a written examination if the committee determines that:

- (1) The certificate from the other jurisdiction is still valid;
- (2) The applicant obtained the certification by taking a written examination;
- (3) The applicant has not had a certification revoked or suspended in any state; and
- (4) As specified in RSA 485-A:7-c, III, the certification requirements of the jurisdiction granting such certification do not conflict with these rules and are not less stringent than these rules.

(e) No reciprocity certification shall be issued for grade IV.

Env-Wq 304.20 Suspension, Revocation, or Refusal to Renew Certificate.

(a) After issuing a certificate or receiving a request for renewal of a certificate, if the department receives information which indicates that cause, as defined in (c), below, exists to suspend, revoke, refuse to renew, or conditionally renew the certificate, the department shall proceed in accordance with RSA 541-A:30.

(b) After initiating a proceeding under (a), above, the department shall determine whether to suspend, revoke, refuse to renew, or conditionally renew the certificate as specified in Env-Wq 304.21 through Env-Wq 304.23.

(c) Cause to suspend, revoke, refuse to renew, or conditionally renew a certificate shall include the following;

- (1) Failing to use reasonable care, judgment, and application of their knowledge in the performance of their duties;
- (2) Taking action(s) or failing to take action(s) relating to the collection, transportation, storage, or treatment of any wastewater in such a way as to jeopardize public health, compromise the

proper operation and maintenance of a plant, or result in a violation of water quality standards or wastewater effluent criteria;

- (3) Obtaining or assisting another to obtain a certificate through fraud, deceit, or falsification;
- (4) Submitting false or misleading information regarding any application for certification or renewal;
- (5) Submitting false or misleading operational documentation relating to the performance and monitoring requirements of a plant;
- (6) Failing to submit required operational documentation to appropriate regulatory agencies in a timely manner;
- (7) Failing to comply with an order of the department relative to the management of wastewater or wastewater residuals; and
- (8) Failing to comply Env-Wq 304.25.

Env-Wq 304.21 Revocation of Certificate; Refusal to Renew Certificate.

(a) In any proceeding initiated pursuant to Env-Wq 304.20, the department shall revoke or refuse to renew the certificate, as applicable, if the department determines that:

- (1) The underlying cause for the action cannot be corrected to conform to applicable requirements;
- (2) The operator's conduct caused harm or posed a substantial threat of harm to public health or the environment;
- (3) The operator does not acknowledge the severity of their conduct, shows no remorse, or otherwise exhibits a disregard for the wastewater operator certification program; or
- (4) The operator is a chronic non-complier as defined in Env-C 209.

(b) An individual whose operator certification has been revoked or refused renewal pursuant to (a), above, shall not be eligible to submit an application under Env-Wq 304.09 to become a certified operator in New Hampshire unless and until the individual has submitted a written request that has been approved by the department as specified in (c) through (f), below.

(c) No sooner than 3 years from the date the certification was revoked or refused renewal, the individual seeking to apply for certification shall submit a written request to the department requesting that they be allowed to take the certification exam.

(d) The request filed pursuant to (c), above, shall demonstrate that the individual:

- (1) Understands the seriousness of the offense(s);
- (2) Has taken responsibility for their actions; and
- (3) Has taken courses or otherwise engaged in education relating to wastewater operations at a rate of 10 hours for each year since the certificate was revoked or refused renewal.

(e) The department shall approve the request to apply only if the department determines, based on the information provided pursuant to (d), above, that the individual is not likely to repeat the action(s) that caused their certificate to be revoked or refused renewal.

(f) The department shall notify the individual in writing of its decision. If the department denies the request to apply, the notice shall specify the reason(s) for the department's determination.

Env-Wq 304.22 Suspension of Certificate.

(a) In any proceeding initiated pursuant to Env-Wq 304.20, the department shall suspend the certificate, subject to (b) and (c), below, if it determines that:

- (1) The underlying cause for the action can be corrected to conform to applicable requirements; and
- (2) The operator's conduct does not meet the criteria for revoking the certification specified in Env-Wq 304.21(a).

(b) If the department determines that the operator would benefit from additional continuing education, the department shall include as a condition of the suspension that the operator obtain the additional continuing education prior to requesting reinstatement pursuant to (c), below.

(c) If a certificate is suspended pursuant to (a), above, the department shall not reinstate the certificate until:

- (1) The underlying cause for the action has been corrected to conform with applicable requirements;
- (2) Any conditions established under (b), above, have been met; and
- (3) The certificate holder submits a written request to the department requesting that the certificate be reinstated which includes such documentation as is necessary to demonstrate that any conditions established under (b), above, have been met.

Env-Wq 304.23 Conditional Renewal of Certificate. In any proceeding initiated pursuant to Env-Wq 304.20 relative to an application to renew a certificate where the criteria for refusing to renew the certificate specified in Env-Wq 304.21(a) are not met but the department determines that at least one of the underlying causes for the action has been proven, the department shall renew the certificate subject to the following conditions:

(a) The operator shall take such action(s) as may be required to remedy the underlying cause(s) for the action; and

(b) The operator shall take such additional continuing education as the department determines is needed to help ensure that the operator will not repeat the conduct that caused the department to consider refusing to renew the certification.

Env-Wq 304.24 Certified Operator Notification and Reporting Responsibilities.

(a) Each operator who receives certification pursuant to these rules shall maintain a current mailing address, daytime telephone number, and email address, if available, on file with the department, at least one of which shall be for the operator personally rather than for the operator's employer.

(b) All communications issued by or at the direction of the department that are sent to the operator's last address of record shall be presumed to have been received by the operator.

(c) An operator shall notify the department in writing upon being designated as an OIRC, a back-up OIRC, or upon termination from such a position.

(d) The OIRC shall annually complete and submit electronically to the department, no later than February 15, the "Wastewater Operator in Responsible Charge Verification Form", NHDES-W-09-055, September 2023, available at: <https://onlineforms.nh.gov/?formtag=NHDES-W-09-055>.

Env-Wq 304.25 Wastewater Treatment Plant Operator Code of Ethics.

(a) Certified wastewater treatment plant operators shall comply with the following code of ethics, the purpose of which is to ensure the ethical operation and maintenance of the plant assets, mechanical equipment, and chemical processes in order to protect public health and the environment.

(b) The certified operator shall comply with the following:

- (1) Use reasonable care and judgement in the performance of their operational duties;
- (2) Ensure the integrity of the samples that they collect, prepare, or analyze to ensure that the results are a true representation of water quality;
- (3) Undertake only those jobs which they are qualified for by reason of education, training, and experience to perform;
- (4) Immediately advise the OIRC or the owner of the plant, as applicable, and document adverse conditions as they arise; and
- (5) If the certified operator's judgment is overruled by the owner of the plant or the certified operator's employer, in circumstances in which the safety, health, or welfare of the public or the environment are endangered, the certified operator shall inform and document that they informed the owner or employer, as applicable, of the possible consequences.

Env-Wq 304.26 Request for Multi-Plant Certified Operator Endorsement.

(a) Any certified operator seeking to operate more than one plant shall request prior approval for a multi-plant operator endorsement from the department in accordance with this section.

(b) A certified operator seeking to be operate more than one plant shall complete and submit electronically to the department a "Wastewater Operator Multi-Plant Endorsement" form, NHDES-W-09-065, September 2023, available at: <https://onlineforms.nh.gov/?formtag=NHDES-W-09-065>.

(c) The department shall approve the multi-plant endorsement request if it determines, based upon the information provided that the request:

- (1) Will not jeopardize public health;
- (2) Will not compromise the proper operation and maintenance of the plants; and
- (3) Will not result in a violation of water quality standards or plant effluent criteria.

(d) The department shall notify the requestor of the decision in writing.

(e) If the request is approved, it shall state the duration of the approval, list all of the facilities for which the approval is granted, and include conditions necessary to assure that the criteria in (d)(1)-(3) are met for the duration of the approval.

(f) If the request is denied, the department shall identify the specific reason(s) for denial.

(g) The following maximum number of wastewater treatment plants may be operated under a multi-plant endorsement approved pursuant to (d) above and as classified in Env-Wq 304.28:

- (1) One grade III or IV plant as OIRC;
- (2) Two grade III or IV plants as back-up OIRC;
- (3) Two grade I or II plants as OIRC; or
- (4) Four grade I or II plants as back-up OIRC.

(h) A certified operator that was issued an approved multi-plant endorsement shall file an updated "Wastewater Operator Multi-Plant Endorsement" form specified in (a) above, within 10 days of any change in the information that was previously provided.

Env-Wq 304.27 Classification and Reclassification of Wastewater Plants.

(a) The department shall classify each wastewater treatment plant into one of 4 grades based on the complexity and flow capacity of the plant’s processes, ranging from grade I, the lowest, to grade IV.

(b) The classification shall be determined by summing the applicable points from Env-Wq 304.28, as follows:

- (1) Plants with 30 or fewer points shall be grade I;
- (2) Plants with 31-55 points shall be grade II;
- (3) Plants with 56-75 points shall be grade III; and
- (4) Plants with greater than 75 points shall be grade IV.

(c) The department shall re-evaluate a plant’s classification whenever it learns of changes to the plant that may affect its grade, including:

- (1) System upgrades;
- (2) Process changes; or
- (3) Changes in effluent discharge requirements, laboratory processes or control, receiving water classification, water quality criteria, or increased treatment requirements.

(d) If as a result of a reevaluation the department changes the grade of a plant, the department shall notify the owner in writing of the change. If the change is to a higher grade, the wastewater treatment plant owner shall designate a properly certified operator pursuant to Env-Wq 304.29(a) within one year from the receipt of notification from the department.

Env-Wq 304.28 Classification Points for Wastewater Treatment Plants. Classification points for wastewater treatment plants shall be assigned in accordance with Table 304.3:

Table 304.3 Point System for the Classification of Wastewater Treatment Plants

Item	Points
<u>Size</u>	
For industrial plants only, maximum population equivalent (pop.eq.) served, peak day	1 point per 10,000 pop.eq. or part thereof
For all other plants, the larger of design flow (avg. day) or peak month’s flow (avg. day) in gallons per day (GPD)	0.1 point per 100,000 GPD

Item	Points
<u>Effluent Discharge</u>	
Receiving stream sensitivity. Primary consideration is the degree of dilution provided under low flow conditions. Point values are:	1-6
“Effluent limited segment” in EPA terminology; secondary treatment is adequate	1
More than secondary treatment is required	2
“Water quality limited segment” in EPA terminology; stream conditions are very critical (dry run, for example) and a very high degree of treatment is required	3
Effluent used in direct recycle and reuse system	6
Land disposal evaporation	2
Subsurface disposal	5
Rapid infiltration basins	6
<u>Variation in Raw Wastes</u> (slight to extreme), including industrial discharge connections and septage receiving. Primary consideration is frequency or intensity of deviation or excessive variation from normal or typical fluctuations; such deviation can be in terms of strength, toxicity, shock loads, I/I, etc. Point values are:	0-6
Variations do not exceed those normally or typically expected	0
Recurring deviations or excessive variations of 100 to 200 percent in strength and/or flow	2
Recurring deviations or excessive variations of more than 200 percent in strength and/or flow	4
Raw wastes subject to toxic waste discharges	6
<u>Pretreatment</u>	
Screening, comminution	3
Grit removal	3
Influent flow equalization	1
Plant pumping of main flow	3
<u>Primary Treatment</u>	
Primary clarifiers	5
Combined sedimentation/digestion	5
Chemically enhanced primary treatment	7
<u>Secondary Treatment</u>	
Activated sludge with secondary clarifiers (including extended aeration, sequencing batch reactors & oxidation ditches)	15
Stabilization ponds without aeration	5
Aerated lagoon	8
Sand filters	5
Fixed film media system	10
Subsurface disposal	5
Rapid infiltration basins	6
Overland flow	6
<u>Advanced Treatment</u>	
Polishing pond	2
Chemical/physical, including ballasted treatment	12
Biological or chemical/biological	12
Ion exchange	10
Reverse osmosis or membrane filtration	15
Chemical recovery, carbon regeneration	4

Item	Points
Spray irrigation	8
Overland flow	6
Filtration	8
Solids Handling	
Mechanical thickening	5
Anaerobic digestion	10
Aerobic digestion	6
Evaporative sludge drying	2
Mechanical dewatering	8
Solids reduction (incineration, wet oxidation)	12
Composting	7
Lime stabilization	5
Septage receiving	3
Disinfection	
Chlorination or comparable	5
On-site generation of disinfectant	5
Dechlorination	5
Ultraviolet	5
Effluent post aeration	2
Effluent flow equalization	1
Odor Control. Primary consideration is complexity of odor control system operation and maintenance. Point values are:	0-2
Soil or carbon filters or equivalent	1
Chemical/wet scrubber systems or equivalent	2
SCADA System	1
Laboratory Control by Plant Personnel. Primary consideration is complexity of lab work done by plant personnel. Point values are:	0-10
Push button or visual methods for simple tests such as pH, chlorine residual, settleable solids	1
Standard procedures such as DO, COD, BOD, TSS, gas analysis, filtrations, solids, volatile content, nutrients, bacteriological analysis (membrane filter, MPN, <u>E. coli</u> , fecal coliform, <u>Enterococci</u>)	3
More advanced determinations, such as total oils, phenols, metals	5
Biological identification	7
Virus studies or similarly complex work conducted on site	10
Highly sophisticated instrumentation such as atomic absorption and gas chromatography	10

Env-Wq 304.29 Wastewater Treatment Plant Owner Responsibilities.

- (a) As specified in RSA 485-A:5-a, wastewater treatment plants shall be operated only by certified operators.
- (b) Each wastewater treatment plant owner shall:
 - (1) Designate an individual to be the OIRC who is certified in the grade equal to or greater than the classification of the plant;
 - (2) Designate an individual to be the back-up OIRC who would be available to be in responsible charge of the plant in the absence of the usual certified OIRC. This designated individual shall be certified in the grade equal to or greater than the classification of the plant;

- (3) Designate an authorized representative for the plant; and
- (4) Ensure that all personnel performing the following important operating functions at wastewater treatment plants are certified under these rules:
 - a. Removal of all pollutants from wastewater in order to comply with permitted limits;
 - b. Maintenance of pumps, valves, and processing equipment;
 - c. Operation of chemical feeding devices, performance of laboratory analysis, and maintenance of required records; and
 - d. Monitoring of a Supervisory Control and Data Acquisition (SCADA) system, gauges, or other equipment that monitors process stability.

(c) The wastewater treatment plant owner shall annually complete and submit electronically to the department, no later than February 15, the "Designation of Authorized Representative, Operator in Responsible (OIRC) and Back-up OIRC for Permitted Wastewater Treatment Plants" form, NHDES-W-09-067, September 2023, available at: <https://onlineforms.nh.gov/?formtag=NHDES-W-09-067>.

(d) The wastewater treatment plant owner or its authorized representative shall notify the department in writing via email or a letter within 24-hours of the termination of the OIRC or the back-up OIRC.

(e) The wastewater treatment plant owner or its authorized representative shall hire a replacement for the OIRC or the back-up OIRC, as applicable, as soon as practicable after a termination occurs, and notify the department of such hiring, taking into consideration:

- (1) The owner's personnel code or other applicable requirements, including but not limited to the terms of any collective bargaining agreement extant in the municipality relative to hiring and promotions; and
- (2) The public interest in an open competitive recruitment process for selection of qualified public employees.

(f) The department shall give temporary approval for a wastewater treatment plant owner to hire an operator one grade below the required grade upon written request to the department, provided the operator is qualified to take, and does take, the next scheduled examination in the next highest grade. If the operator does not pass the examination, the temporary approval shall be extended to allow one retest at the next scheduled examination.

Env-Wq 304.30 Penalties.

(a) Failure to have a certified OIRC or back-up OIRC shall be deemed to be a failure to provide proper and efficient operation and maintenance of a plant as required by RSA 486:9.

(b) Any person who is subject to these rules shall be subject to the enforcement and penalty provisions as set forth in RSA 485-A:22.

Env-Wq 304.31 Certification Committee. The certification committee serves as the review committee for certification of wastewater treatment plant operators, and shall be comprised as follows:

(a) Three certified operators designated by the director of the department's division of water, no more than 2 of which shall be employed by the department;

(b) Two certified operators shall be elected by the New Hampshire Water Pollution Control Association as specified in RSA 485-A:2, I-b, provided that the designated individuals elected shall hold a current New Hampshire wastewater treatment plant operator certification pursuant to these rules; and

(c) Two certified operators designated by the director of the department's division of water, one of which shall be designated as the primary alternate, and the other designated as the secondary alternate, to sit in place of a member(s) designated in (a) or (b) above, in the event that a member(s) is unavailable.

Env-Wq 304.32 Waivers.

(a) The purpose of this section is to accommodate situations where strict compliance with all rules in this part may not be the best outcome in light of the particular circumstances of the situation.

(b) Anyone who wishes to obtain a waiver of one or more specific requirements of this part shall file a written request that contains the information specified in (c), below, and is signed as specified in (d), below.

(c) The information required by (b), above, shall be as follows:

(1) The name, daytime telephone number, and e-mail address of the person who is requesting the waiver;

(2) If the requestor is not an individual, the name, daytime telephone number, and e-mail address of each individual who has been authorized by the requestor to discuss the request with the department;

(3) If the requestor is a certified operator, the certification number as shown on the certificate issued pursuant to Env-Wq 304.16(a);

(4) If applicable, the name, location, and EPA ID or DES ID number of the plant to which the waiver request relates or at which the operator works;

(5) A reference to the specific section of the rules for which a waiver is sought;

(6) A full explanation of why a waiver is being requested, including an explanation of the economic and operational consequences of complying with the rule as written;

(7) A full explanation with supporting data of the alternative(s), if any, proposed to be implemented or used in lieu of the requirement in the rule;

(8) An explanation of how long the waiver will be needed; and

(9) A full explanation of why the requestor believes the request meets the criteria specified in (f), below.

(d) The requestor shall sign and date the waiver request. Such signature shall constitute certification that the information submitted in support of the request is true, complete, and not misleading to the best of the signer's knowledge.

(e) The department shall issue a written response to a complete, signed request for a waiver within 45 days of receipt of the request. If the department denies the request, the reason(s) for the denial shall be clearly stated in the written response.

(f) The department shall deny a waiver unless the submitted request demonstrates that:

(1) The requirement for which a waiver is requested is not a statutory requirement;

(2) Granting a waiver will not jeopardize public health or safety or the environment;

- (3) The adverse operational and economic consequences of complying with the rule as written outweigh any benefit to be obtained from complying with the rule as written; and
- (4) Granting a waiver will not contravene the intent of these rules.
- (g) The department shall:
 - (1) Identify in the waiver the date on which the waiver expires, if any; and
 - (2) Include in the waiver any conditions necessary to ensure that the criteria specified in (f), above, are met.

APPENDIX A: STATE STATUTES IMPLEMENTED

Rule Section(s)	State Statute(s) Implemented
Env-Wq 304 (also see specific sections below)	RSA 485-A:5-a; RSA 485-A:7-a; RSA 485-A:7-b; RSA 485-A:7-c; RSA 485-A:7-d; RSA 486:9
Env-Wq 304.06 – Env-Wq 304.08	RSA 486:9
Env-Wq 304.09 – Env-Wq 304.11	RSA 485-A:7-a, I & II
Env-Wq 304.12	RSA 485-A:7-a, III; RSA 485-A:7-b
Env-Wq 304.13	RSA 485-A:7-a, I
Env-Wq 304.14	RSA 485-A:7-c, I
Env-Wq 304.15-Env-Wq 304.18	RSA 485-A:7-c, II
Env-Wq 304.19	RSA 485-A:7-c, III
Env-Wq 304.20-Env-Wq 304.22	RSA 485-A:7-d
Env-Wq 304.23	RSA 485-A:7-c, II, RSA 485-A:7-d
Env-Wq 304.24	RSA 485-A:5-a, RSA 486:9
Env-Wq 304.25-Env-Wq 304.30	RSA 486:9
Env-Wq 304.31	RSA 485-A:2, I-b
Env-Wq 304.32	RSA 541-A:22, IV

APPENDIX B: STATUTORY DEFINITIONS

RSA 485-A:2

I-a. “Certificate” means a certificate of competency issued by the department stating that the operator has met the particular requirements established by the department for certification at each level of operation.

I-b. “Certification committee” means those persons designated by the commissioner, and those persons elected by the New Hampshire Water Pollution Control Association to serve as the review committee for certification of wastewater treatment plant operators.

VI. “Industrial waste” means any liquid, gaseous or solid waste substance resulting from any process of industry, manufacturing trade or business or from development of any natural resources.

VII-a. “Operator” means:

- (a) The individual who has full responsibility for the daily operation of a wastewater treatment plant or a pollution control facility;
- (b) The individual normally responsible for the operations shift; or
- (c) Individuals who perform important operating functions.

VIII. “Other wastes” means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, ashes, offal, oil, tar, chemicals and other substances other than sewage or industrial wastes, and any other substance harmful to human, animal, fish or aquatic life.

IX. “Person” means any municipality, governmental subdivision, public or private corporation, individual, partnership, or other entity.

IX-a. “Septage” means material removed from septic tanks, cesspools, holding tanks, or other sewage treatment storage units, excluding sewage sludge from public treatment works and industrial waste and any other sludge.

X. “Sewage” means the water-carried waste products from buildings, public or private, together with such groundwater infiltration and surface water as may be present.

XI-a. “Sludge” means the solid or semisolid material produced by water and wastewater treatment processes, excluding domestic septage; provided, however, sludge which is disposed of at solid waste facilities permitted by the department shall be considered solid waste and regulated under RSA 149-M.

XIV. “Surface waters of the state” means perennial and seasonal streams, lakes, ponds, and tidal waters within the jurisdiction of the state, including all streams, lakes, or ponds bordering on the state, marshes, water courses, and other bodies of water, natural or artificial.

XVI. “Waste” means industrial waste and other wastes.

XVI-a. “Wastewater treatment plant” means the treatment facility or group of treatment devices which treats domestic or combined domestic and industrial wastewater through alteration, alone or in combination, of the physical, chemical, or bacteriological quality of the wastewater and which dewater and handles sludge removed from the wastewater.

XVII. “Bypass” means the intentional diversion of waste streams from any portion of the wastewater facilities.

XVIII. “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with permit effluent limitations because of factors beyond the reasonable control of the permittee.

XIX. “Wastewater facilities” means the structures, equipment, and processes required to collect, convey, and treat domestic and industrial wastes, and dispose of the effluent and sludge.

APPENDIX C: STATUTORY PROVISIONS CITED

RSA 485-A:5-a Operator Certification Required. – The department shall certify operators of wastewater treatment plants. Wastewater treatment plants shall be operated only by certified operators.

RSA 485-A:6 Rulemaking. – The commissioner shall adopt rules, under RSA 541-A, after public hearing, relative to:

XI. The minimum qualifications for and certification of operators of pollution control facilities.

XI-b. Certification of operators of wastewater treatment plants and revocation and suspension of such certificates as provided in RSA 485-A:7-d.

RSA 485-A:7-a Application; Special Fund. –

I. Any operator of a wastewater treatment plant seeking certification or to increase his level of certification shall file an application with the certification committee at least 6 weeks prior to the next examination date on a form provided by the department.

II. All applications shall be accompanied by a \$50 fee to cover department expenses for conducting the certification program. All fees shall be deposited with the state treasurer and deposited in a special nonlapsing wastewater plant operator certification fund to be used by the department for the administration of this subdivision and for the operation of the department-owned Wastewater Plant Operator Training Center.

III. Any applicant failing the examination shall be allowed one retest at the same certification level at no additional cost to the applicant.

RSA 485-A:7-b Examinations. – The department shall prepare written examinations to determine the knowledge, ability, and judgment of operators. Such examinations shall be administered in accordance with rules adopted by the department pursuant to RSA 485-A:6.

RSA 485-A:7-c Issuance of Certificates. –

I. Upon satisfactory completion by an applicant of the established requirements, the department shall issue to the applicant a suitable certificate designating the applicant's competency. The certificate shall indicate the level of operation for which the operator is qualified. The certificate shall remain in effect for 2 years from the date of issuance.

II. Certificates shall be renewed biennially and shall be accompanied by a \$50 renewal fee, which shall be deposited pursuant to RSA 485-A:7-a, II. If the renewal fee is not submitted within 90 days of the certificate's expiration date, the certified individual's name shall be removed from the current status and the certificate shall be deemed expired. The department shall charge a late fee of 50 percent of the renewal fee in addition to the renewal fee if the renewal is late.

III. Certificates may be issued, upon payment of the \$50 fee, without examination, for a comparable classification to any person actively seeking employment in New Hampshire who holds a certificate issued by the appropriate certification agency of any federal, state, interstate, territorial, or other jurisdiction if, in the judgment of the committee, the certification requirements of the jurisdiction granting such certification do not conflict with the department's rules and are not less stringent than rules adopted under this subdivision. The fee shall be deposited pursuant to RSA 485-A:7-a, II.

RSA 485-A:7-d Revocation. – The department may suspend or revoke the certificate of an operator under rules adopted pursuant to RSA 485-A:6.

RSA 486:9 Operator Certification. – The operators of pollution control facilities shall be certified as to their qualifications and ability to operate said facilities in accordance with rules adopted by the commissioner under RSA 541-A.

RSA 486:10 Rulemaking. – The commissioner may adopt rules under RSA 541-A relative to treatment of wastes by or from industrial and nonindustrial recipients of waste treatment services to establish:

III. Certification criteria for pollution control facilities operators.