

Notice Number 2024-16

Rule Number Env-Wq 2200

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| <p>1. Agency Name & Address:</p> <p>Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</p> | <p>2. RSA Authority: <u>RSA 489-C:3 and RSA 489-C:2-a, III</u></p> <p>3. Federal Authority: <u>N/A</u></p> <p>4. Type of Action:</p> <p>Adoption <u>X</u></p> <p>Repeal <u>X</u></p> <p>Readoption <u>X</u></p> <p>Readoption w/amendment <u>X</u></p> |
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5. Short Title: **Voluntary Certified Salt Applicator Program**

6. (a) Summary of what the rule says and of any proposed amendments including whether the rule implements a state statute for the first time:

The existing rules, Env-Wq 2201 through Env-Wq 2206, establish a voluntary commercial certified salt applicator program. The existing rules include requirements for applying for initial and renewal certifications, reporting, criteria and procedures for revoking certifications, and obtaining approval for training programs. RSA 508:22 conveys liability protection to certified commercial salt applicators.

The Department of Environmental Services (the “Department”) is proposing, as described below, to readopt, readopt with amendment, or repeal the existing rules in Env-Wq 2201 through Env-Wq 2206, and to adopt new rules, including in Env-Wq 2207, to establish a municipal winter maintenance certification program. The proposed rules are meant to implement legislative changes due to Laws of 2021, Chapter 204:2, Part III, effective 7-1-21, including the new RSA paragraph codified as RSA 489-C:2-a.

The proposal makes the following changes to the existing rules:

- New definitions for “employee or official of a governmental unit”, “governmental unit”, “municipal winter maintenance certification program”, and “Snow Boss” are being adopted to implement the municipal winter maintenance certification program. Env-Wq 2202.06, Env-Wq 2202.07, Env-Wq 2202.10, and Env-Wq 2202.13.**
- The definition of “salt accounting system” in the existing Env-Wq 2202.09 is being repealed and all references to that term in the rules is being deleted. Env-Wq 2201.01, Env-Wq 2204.01, and Env-Wq 2204.02.**
- The proposal incorporates by reference required application and application renewal forms. Env-Wq 2203.03 and Env-Wq 2203.06.**
- The number of working days for the Department to review applications would increase from 10 days to 15 days to allow Department staff additional time to review applications as the program continues to see an increase in submitted applications. Env-Wq 2203.05(a) and (c) and Env-Wq 2203.06(e) and (g).**
- The deadline of June 15 to submit required documentation to renew certification will be removed and replaced with an annual renewal process. The Voluntary Certified Salt Applicator Program has been active for ten years. Very few renewal applicants meet this deadline even with multiple reminders. Many of the Green SnowPro approved trainings are administered in late summer and early fall in direct conflict**

with peak landscaping season for the majority of Green SnowPro contractors. Many applicants do not submit their renewal applications until they have completed their required training for renewing their certification. Env-Wq 2203.06.

- For renewal of certifications, the requirement for completion of an approved training program for initial certification would change from being required every five years to every six years. The current rules require certified salt applicators to complete an approved training program for initial certification within the previous five years and a renewal course within the previous two years. Changing the requirement for the initial course from every five years to every six years would allow the certificate holder to complete a course once every two years, saving on training costs and time to complete required training. Env-Wq 2203.06.
- The proposed repeal of Env-Wq 2203.07 would remove the requirements related to the late filing of renewal applications. The late filing deadline has caused confusion for both applicants and Department staff. Because the certification is annual and issued certificates have both a date of issuance and a universal date of expiration for all certificates issued by the Department, under the proposed rules certified salt applicators would not receive a valid certificate until all the training requirements are fulfilled and required documentation has been submitted to the Department.

The proposed rules in Env-Wq 2207 implement RSA 489-C:2-a for the first time.

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

The rules affect any person who is currently certified under the voluntary commercial certified salt applicator program or applies for the program in the future. The rules also affect any municipality that wishes to apply for the municipal winter maintenance certification program.

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

| Rule Section(s) | State Statute(s) Implemented |
|--|-------------------------------------|
| Env-Wq 2201 | RSA 489-C:2 |
| Env-Wq 2202.01-Env-Wq 2202.07 | RSA 489-C:2 |
| Env-Wq 2202.08 (formerly Env-Wq 2202.06) | RSA 489-C:2 |
| Env-Wq 2202.09 (formerly Env-Wq 2202.07) | RSA 489-C:2 |
| Env-Wq 2202.10 | RSA 489-C:2 |
| Env-Wq 2202.11 (formerly Env-Wq 2202.08) | RSA 489-C:2 |
| Env-Wq 2202.09 (repeal) | RSA 489-C:2 |
| Env-Wq 2202.12 (formerly Env-Wq 2202.10) | RSA 489-C:2 |
| Env-Wq 2202.13 | RSA 489-C:2 |
| Env-Wq 2202.14 (formerly Env-Wq 2202.11) | RSA 489-C:2 |
| Env-Wq 2202.15 (formerly Env-Wq 2202.12) | RSA 489-C:2 |
| Env-Wq 2202.16 (formerly Env-Wq 2202.13) | RSA 489-C:2 |
| Env-Wq 2203.01-Env-Wq 2203.06 | RSA 489-C:2 |
| Env-Wq 2203.07 (repeal) | RSA 489-C:2 |
| Env-Wq 2203.07 (formerly Env-Wq 2203.08) | RSA 489-C:2 |
| Env-Wq 2204 | RSA 489-C:2 |
| Env-Wq 2205 and Env-Wq 2206 | RSA 541-A:30, II |
| Env-Wq 2207.01- Env-Wq 2207.10 | RSA 489-C:2-a |

| Rule Section(s) | State Statute(s) Implemented |
|-----------------------------------|------------------------------|
| Env-Wq 2207.11 and Env-Wq 2207.12 | RSA 541-A:30, II |

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

Name: **Steve Landry** Title: **Supervisor, NHDES Watershed Assistance Section**
Mailing Address: **Dept. of Environmental Services** Phone #: **603-271-2969**
29 Hazen Drive; P.O. Box 95 Fax#:
Concord NH 03302-0095 E-mail: **stephen.c.landry@des.nh.gov**
TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **4:00 PM on Thursday, March 7, 2024**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, February 29, 2024 at 2:00 PM**

Physical Location: **NHDES | Room 208C | 29 Hazen Drive | Concord NH**

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

Electronic Access (if applicable):

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

[Click here to join the meeting](#)

Meeting number (access code): 251 941 206 527

Meeting password: aeqjnw

You also may join the meeting by phone:

Call in Number: 1-603-931-4944

Access Code: 317 129 964#

If any questions or technical issues, please contact Andrea Bejtlich at 603-271-2969 or via email at andrea.l.bejtlich@des.nh.gov

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

FIS # 24:004, dated 01/16/2024

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

When compared to the existing rules, the proposed rules will increase annual state revenue and political subdivision expenditures by approximately \$22,500. Not applicable to Env-Wq 2207.01 through Env-Wq 2207.12 which are new rules.

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

No federal mandate, no impact on state funds.

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

The proposed rules adopt new requirements at Part Env-Wq 2207 that establish a municipal winter maintenance certification program due to Laws of 2021, Chapter 204, codified as RSA 489-C:2-a. Proposed Env-Wq 2203.07 adds a \$450 application and renewal fee for the municipal program. This fee amount is not established in the statute. The Department estimates 50 municipalities will apply for the program increasing revenue to the salt application fund by approximately \$22,500 ($50 \times \$450 = \$22,500$).

A. To State general or State special funds:

There will be no additional cost or benefit to the State general fund. Revenue to the salt application fund established in RSA 489-C:5 will increase by an estimated \$22,500.

B. To State citizens and political subdivisions:

There will be no additional cost or benefit to State citizens. Political subdivisions that voluntarily apply for an initial or renewal certification will pay a fee of \$450 annually.

C. To independently owned businesses:

None.

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

Because the program is voluntary, the proposed rules do not mandate any additional expenditure on the political subdivisions of the state and therefore do not violate Part I, Article 28-a of the N.H. Constitution.