

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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CHAPTER Env-Wq 2200 VOLUNTARY CERTIFIED SALT APPLICATOR PROGRAM

Statutory Authority: RSA 489-C:3

PART Env-Wq 2201 PURPOSE AND APPLICABILITY

Env-Wq 2201.01 Purpose. The purpose of these rules is to implement the voluntary salt applicator certification program established in RSA 489-C in order to:

(a) Improve efficiency in salt use, such that the least amount of salt is used to ensure safe conditions on surfaces traveled by pedestrians and vehicles in winter conditions;

(b) Reduce the amount of salt used by commercial applicators, as measured in tons of salt per acre per year, over time while maintaining safe conditions for pedestrians and vehicles in winter conditions; and

(c) Establish a voluntary system for commercial salt applicators to track their salt use and provide information annually to the salt accounting system.

Source. #10447, INTERIM, eff 11-1-13, EXPIRED: 4-30-14

New. #10697, eff 10-18-14

Env-Wq 2201.02 Applicability. These rules shall apply to any commercial applicator, as defined in RSA 489-C:1, II, who elects to obtain the certification authorized by RSA 489-C:2.

Source. #10447, INTERIM, eff 11-1-13, EXPIRED: 4-30-14

New. #10697, eff 10-18-14

PART Env-Wq 2202 DEFINITIONS

Env-Wq 2202.01 “Apply salt” means “apply salt” as defined in RSA 489-C:1, I, as reprinted in Appendix B.

Source. #10447, INTERIM, eff 11-1-13, EXPIRED: 4-30-14

New. #10697, eff 10-18-14

Env-Wq 2202.02 “Approved training program” means a course that has been approved by the department pursuant to Env-Wq 2207.02 to provide the training necessary for an individual to become knowledgeable in the areas identified in Env-Wq 2204.01(a).

Source. #10447, INTERIM, eff 11-1-13, EXPIRED: 4-30-14

New. #10697, eff 10-18-14

Env-Wq 2202.03 “Commercial applicator” means “commercial applicator” as defined in RSA 489-C:1, II, as reprinted in Appendix B.

Source. #10447, INTERIM, eff 11-1-13, EXPIRED: 4-30-14

New. #10697, eff 10-18-14

Env-Wq 2202.04 “Department” means the department of environmental services.

Source. #10447, INTERIM, eff 11-1-13, EXPIRED: 4-30-14

New. #10697, eff 10-18-14

Env-Wq 2202.05 “Individual certificate” means a certification earned by an individual based on course work as described in this chapter.

Source. #10447, INTERIM, eff 11-1-13, EXPIRED: 4-30-14

New. #10697, eff 10-18-14 (from Env-Wq 2202.06)

Env-Wq 2202.06 “Master certificate” means a certification issued to the owner or chief supervisor of a business that employs multiple commercial applicators, as described in RSA 489-C:2.

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Source. #10447, INTERIM, eff 11-1-13, EXPIRED: 4-30-14  
New. #10697, eff 10-18-14 (from Env-Wq 2202.07)

Env-Wq 2202.07 “Salt” means “salt” as defined in RSA 489-C:1, V, as reprinted in Appendix B.

Source. #10447, INTERIM, eff 11-1-13, EXPIRED: 4-30-14  
New. #10697, eff 10-18-14 (from Env-Wq 2202.08)

Env-Wq 2202.08 “Salt accounting system” means the online database operated by the UNH T<sup>2</sup> Center for the purposes of tracking annual salt use and the locations of salt application by commercial applicators.

Source. #10447, INTERIM, eff 11-1-13, EXPIRED: 4-30-14  
New. #10697, eff 10-18-14 (from Env-Wq 2202.09)

Env-Wq 2202.09 “Salt alternative” means “salt alternative” as defined in RSA 489-C:1, VI, as reprinted in Appendix B.

Source. #10447, INTERIM, eff 11-1-13, EXPIRED: 4-30-14  
New. #10697, eff 10-18-14 (from Env-Wq 2202.10)

Env-Wq 2202.10 “Successfully complete an approved training program” means attending an approved training program and achieving a passing grade on the examination offered at the end of the program.

Source. #10697, eff 10-18-14

PART Env-Wq 2203 CERTIFICATION OF COMMERCIAL APPLICATORS

Env-Wq 2203.01 Qualifications for Certification.

(a) To qualify for certification under RSA 489-C:2 and this chapter, an individual shall be knowledgeable in the following areas:

- (1) The chemical properties of salt with respect to its ability to melt snow under ambient conditions, including but not limited to pavement temperature, air temperature, and dew point;
- (2) Calibration of salt spreading equipment;
- (3) Calculation of salt application rates;
- (4) Effective use of salt brine for anti-icing;
- (5) Effective use of salt brine and other liquids for pre-wetting salt;
- (6) Effective plowing techniques; and
- (7) New technologies for de-icing and anti-icing.

(b) Individuals shall demonstrate knowledge in the areas specified in (a), above, by successfully completing an approved training program.

Source. #10447, INTERIM, eff 11-1-13, EXPIRED: 4-30-14  
New. #10697, eff 10-18-14 (from Env-Wq 2204.01)

Env-Wq 2203.02 Application for Certification. Any person wishing to be certified shall submit to the department the following:

(a) A completed application form that contains the information specified in Env-Wq 2203.03 and is signed as specified in Env-Wq 2203.04; and

(b) Documentation showing that the applicant, if an individual, or the applicant’s owner or chief supervisor if the applicant is a business, has:

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(1) Successfully completed an approved training program for initial certification, as specified in Env-Wq 2206.02(a), within the previous 2 years; or

(2) Successfully completed an approved training program for initial certification, as specified in Env-Wq 2206.02(a), within the previous 5 years and successfully completed an approved training program for renewal, as specified in Env-Wq 2206.02(b), within the previous 2 years.

Source. #10447, INTERIM, eff 11-1-13, EXPIRED: 4-30-14  
New. #10697, eff 10-18-14 (from Env-Wq 2204.02)

Env-Wq 2203.03 Information Required for Certification. The applicant shall provide the following as required by Env-Wq 2203.02(a) on a form obtained from the department:

(a) As required by RSA 489-C:4, I, the full name and address of the person applying for the certification and, if a business applying for a master certification for the owner or chief supervisor, the name and title of the individual who will be responsible under the master certification;

(b) As required by RSA 489-C:4, II, the name and address of a person whose domicile is in the state and who is authorized to receive and accept service of summons and legal notices of all kinds for the applicant;

(c) The applicant's mailing address, if different from the address provided pursuant to (a)(1), above, daytime telephone number, and email address, if any;

(d) The name, address, and daytime telephone number of the salt application business with which the applicant is affiliated, if any;

(e) Whether the applicant owns, is employed by, or contracts with the business identified pursuant to (b), above, and whether the applicant is seeking a master certificate or an individual certificate;

(f) As required by RSA 489-C:4, III, identification of each type of apparatus that is or will be used by the applicant to apply salt or salt alternative and, for each, whether the salt or salt alternative is liquid or dry when applied;

(g) How often the spreader is calibrated; and

(h) Each type of deicing or anti-icing materials that are or will be used.

Source. #10697, eff 10-18-14 (from Env-Wq 2204.03)

Env-Wq 2203.04 Signature Required.

(a) If the applicant is an individual applying for initial or renewal certification, the applicant shall sign and date the application form.

(b) If the applicant is a business applying for an initial master certification or a renewal master certification for the owner or chief supervisor, the individual authorized by the business to sign the application shall sign and date the application form.

(c) The signature provided pursuant to (a) or (b), above, as applicable, shall constitute certification that:

(1) The information provided on or with the application form, as applicable, is true, complete, and not misleading to the best of the applicant's knowledge; and

(2) The applicant understands that:

a. The submission of false, incomplete, or misleading information is grounds for denying the application or revoking any certification that is issued based on the information;

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- b. He or she is subject to penalties for making unsworn false statements, as established in RSA 641:3 or any successor statute;
- c. Certification is subject to renewal annually and is contingent upon successful completion of continuing education requirements and submittal of annual reports; and
- d. RSA 489-C:2 establishes that any business holding a master certificate must ensure that all commercial applicators operating under its master certificate receive the required training and must provide the required recordkeeping on behalf of its commercial applicators.

Source. #10697, eff 10-18-14 (from Env-Wq 2204.04)

Env-Wq 2203.05 Review of Application; Issuance of Certificates.

(a) Within 10 working days of receiving a complete application as specified in Env-Wq 2203.02, the department shall determine whether the submitted information demonstrates that the applicant meets the requirements specified in RSA 489-C and this part for becoming a certified salt applicator.

(b) If the department determines that the applicant meets the requirements and is seeking an individual certificate, the department shall issue a certificate that identifies the individual as a certified salt applicator under RSA 489-C.

(c) If the department determines that the applicant meets the requirements and is seeking a master certificate, the department shall issue a master certificate that identifies the business and identifies the responsible individual as a certified salt applicator under RSA 489-C who is required by RSA 489-C:2 to:

- (1) Ensure that all commercial applicators operating under the master certificate receive training in the areas specified in Env-Wq 2203.01(a); and
- (2) Provide the required recordkeeping on behalf of all commercial applicators operating under the master certificate.

(d) A certificate issued under (b) or (c), above, shall be valid from the date of issuance through June 30 of the following year, unless revoked pursuant to Env-Wq 2205.

(e) If the department determines that an applicant does not meet the requirements for certification, the department shall send a written notice to the applicant that:

- (1) Specifies the reason(s) why the applicant was not certified; and
- (2) Informs the applicant that the decision can be appealed as a permitting decision under RSA 21-O:14.

Source. #10697, eff 10-18-14 (from Env-Wq 2204.05)

Env-Wq 2203.06 Certification Renewal; Frequency of Training.

(a) To apply for renewal, a certified salt applicator shall submit the following to the department no later than June 15 of the year of expiration:

- (1) A completed application form that contains the information specified in Env-Wq 2203.03 and has been signed as specified in Env-Wq 2203.04;
- (2) Documentation that the applicant has successfully completed:
  - a. Initial certification within the previous 2 years; or
  - b. Initial certification within the previous 5 years and not less than 2 hours of instruction within the previous 2 years under an approved training program for certification renewal as specified in Env-Wq 2206.02(b); and

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(3) A statement that the applicant currently holds a valid certification as a salt applicator and has not acted or failed to act in any way that would constitute just cause to revoke the certification.

(b) Within 10 working days of receiving a complete application for renewal as specified in (a), above, the department shall determine whether the information submitted demonstrates that the applicant:

(1) Currently holds a valid certificate as a salt applicator;

(2) Has filed all required reports; and

(3) Has not acted or failed to act in any way that would constitute just cause to revoke the certification.

(c) If the department determines that the applicant meets the requirements for certification renewal and is seeking an individual certificate, the department shall issue an individual certificate as specified in Env-Wq 2203.05(b).

(d) If the department determines that the applicant meets the requirements for certification renewal and is seeking a master certificate, the department shall issue a master certificate as specified in Env-Wq 2203.05(c).

(e) A certificate issued under (c) or (d), above, shall be valid from July 1 of the year of issue through June 30 of the following year, unless revoked pursuant to Env-Wq 2205.

(f) If the department determines that the applicant does not meet the requirements for certification renewal, the department shall send a written notice to the applicant that:

(1) Specifies the reason(s) why the applicant's certification was not renewed; and

(2) Informs the individual that the decision can be appealed under RSA 21-O:14 as:

a. A permitting decision, if the reason for denial is that the applicant is not qualified; or

b. An enforcement decision, if the reason for denial is that the applicant has acted or failed to act in a way that constitutes just cause to revoke the certification.

Source. #10697, eff 10-18-14 (from Env-Wq 2204.06)

PART Env-Wq 2204 ANNUAL REPORTING REQUIRED

Env-Wq 2204.01 Annual Reporting for Individual Certificate Holders.

(a) Certified applicators holding an individual certificate shall report the information specified in (b), below, to the salt accounting system no later than June 1 of each year.

(b) The information required to be reported by (a), above, shall describe salt usage during the preceding winter as follows:

(1) The total amount of salt used, in tons of solid salt and gallons of salt brine;

(2) The name of each town in which salt was applied and, for each, the number of acres of paved surface maintained; and

(3) The type and amount of each salt alternative used.

Source. #10447, INTERIM, eff 11-1-13, EXPIRED: 4-30-14

New. #10697, eff 10-18-14

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Env-Wq 2204.02 Annual Reporting for Master Certificate Holders.

(a) Certified applicators holding a master certificate shall report the information specified in (b), below, to the salt accounting system no later than June 1 of each year.

(b) The information required to be reported by (a), above, shall be as follows:

- (1) The name of each commercial applicator applying salt under the supervision of the master certificate holder;
- (2) The total amount of salt used, in tons of solid salt and gallons of salt brine;
- (3) The name of each town in which salt was applied and, for each, the number of acres of paved surface maintained; and
- (4) The type and amount of each salt alternative used.

Source. #10447, INTERIM, eff 11-1-13, EXPIRED: 4-30-14

New. #10697, eff 10-18-14

PART Env-Wq 2205 REVOCATION OF CERTIFICATION

Env-Wq 2205.01 Revocation of Certificate. If after issuing an initial or renewal certificate the department receives reliable information suggesting that just cause, as specified in Env-Wq 2205.02, exists to revoke the certification, the department shall proceed in accordance with RSA 541-A:30 and the provisions of Env-C 200 that apply to adjudicative proceedings.

Source. #10447, INTERIM, eff 11-1-13, EXPIRED: 4-30-14

New. #10697, eff 10-18-14 (from Env-Wq 2206.01)

Env-Wq 2205.02 Acts Justifying Revocation. Just cause to revoke a certificate shall include the following:

- (a) Submitting false or misleading information regarding any application for initial or renewal certification;
- (b) Failing to submit annual reports as required by Env-Wq 2204.02;
- (c) Obtaining certification through fraud, deceit, or intentional falsification; or
- (d) Failing to use reasonable care, judgment, and application of his/her knowledge in performance of his/her duties.

Source. #10447, INTERIM, eff 11-1-13, EXPIRED: 4-30-14

New. #10697, eff 10-18-14 (from Env-Wq 2206.02)

PART Env-Wq 2206 TRAINING PROGRAM APPROVAL

Env-Wq 2206.01 Application for Training Program Approval. An organization seeking approval of a training program shall apply by submitting the following in writing to the department:

(a) A description of the organization, including:

- (1) The organization's name, mailing address, and daytime telephone number; and
- (2) 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 of being registered and in good standing to do business in New Hampshire.

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(b) The name, mailing address, daytime telephone number, and email address of an individual at the organization who can be contacted regarding application;

(c) A list of courses to be offered; and

(d) A complete description of each course for which the organization is seeking approval, including:

(1) The name of the course;

(2) Whether the course will be offered for initial certification or renewal certification;

(3) The name and qualifications of each individual who will present the course;

(4) The length of time attendees of the course will be under direct supervision of the instructor;

(5) A syllabus for the course and the written materials to be used in the course;

(6) The type of test to be offered at the end of the course to evaluate whether attendees have obtained the knowledge required by Env-Wq 2203.01(a); and

(7) The format the organization will use to provide the documentation applicants must submit under Env-Wq 2203.02(b) or Env-Wq 2203.06(a)(2), as applicable.

Source. #10447, INTERIM, eff 11-1-13, EXPIRED: 4-30-14

New. #10697, eff 10-18-14

Env-Wq 2206.02 Department Approval of Training Programs.

(a) The department shall approve a training program for initial certification if the information submitted pursuant to Env-Wq 2206.01 demonstrates that the training program provides at least 4 hours of instruction and will impart the information necessary for attendees to become knowledgeable in the areas identified in Env-Wq 2203.01(a).

(b) The department shall approve a training program for certification renewal if the information submitted pursuant to Env-Wq 2206.01 demonstrates that the training program provides at least 2 hours of instruction and will impart the information necessary for attendees to become more knowledgeable in one or more of the areas identified in Env-Wq 2203.01(a).

Source. #10447, INTERIM, eff 11-1-13, EXPIRED: 4-30-14

New. #10697, eff 10-18-14

**APPENDIX A: STATUTES IMPLEMENTED**

<b>Rule Section(s)</b>	<b>State Statute(s) Implemented</b>
Env-Wq 2200 (also see additional statute for specific parts below)	RSA 489-C:2
Env-Wq 2205	RSA 541-A:30, II
Env-Wq 2206	RSA 541-A:30, II

**APPENDIX B: RSA 489-C**

**RSA 489-C Salt Applicator Certification Option**

**RSA 489-C:1 Definitions.** In this chapter:

- I. “Apply salt” means to apply salt or a salt alternative to roadways, parking lots, or sidewalks for the purpose of winter maintenance.
- II. “Commercial applicator” means any individual who applies or supervises others who apply salt, but shall not include municipal or state employees.
- III. “Commissioner” means the commissioner of the department of environmental services.
- IV. “Department” means the department of environmental services.
- V. “Salt” means sodium chloride, calcium chloride, magnesium chloride, or any other substance containing chloride.
- VI. “Salt alternative” means any substance not containing chloride used for the purpose of de-icing or anti-icing.

**RSA 489-C:2 Certification Option.** Commercial applicators may elect to be annually certified by the department. Applicator certificates shall be issued by the department. Any business that employs multiple commercial applicators may obtain a master certificate for the owner or chief supervisor, and commercial applicators employed by the business may obtain certificates to qualify under the master certificate. Any business holding a master certificate shall ensure that all commercial applicators operating under its master certificate receive the required training and shall provide the required recordkeeping on behalf of all commercial applicators. Annual fees for certificates obtained under a master certificate shall be significantly less than the fees for a master certificate.

**RSA 489-C:3 Rulemaking Authority.** The commissioner shall adopt rules pursuant to RSA 541-A, relative to:

- I. Policies and goals for applying salt.
- II. Receiving and allocating federal grants and other funds or gifts for the purpose of carrying out any of the provisions of this chapter.
- III. The types and frequency of training programs required for certification.
- IV. Procedures for commercial applicators to obtain certification.
- V. Recordkeeping required for commercial applicators to maintain certification.

**RSA 489-C:4 Application for Certification.** Applications for certification shall be on a form prescribed by the department and shall include the following:

- I. The full name and address of the person applying for the certification.
- II. The name and address of a person whose domicile is in the state, and who is authorized to receive and accept service of summons and legal notices of all kinds for the applicant.
- III. The type of apparatus used to apply salt or salt alternative whether liquid or dry.
- IV. Any other information deemed necessary by the department.

**RSA 489-C:5 Administration and Enforcement.**

- I. The commissioner shall administer and enforce the provisions of this chapter.
- II. The department may issue an order to any person who is in violation of any provision of this chapter, an applicator certificate issued under this chapter, or a rule adopted under this chapter, to cease and desist from any act in violation of such provision, certification, or rule. Orders of the department under this section shall be effective immediately.
- III. The commissioner, after notice and hearing pursuant to RSA 541-A, may revoke the certification of any person who violates this chapter. Rehearings and appeals relating to revocation shall be governed by RSA 541.

**APPENDIX C: OTHER RELEVANT STATUTES**

**RSA 508:22 New Section; Liability Limited for Winter Maintenance.**

I. No commercial applicator as defined in RSA 489-C:1, II and certified under RSA 489-C:2, or owner, occupant, or lessee of land whose premises is maintained by a commercial applicator certified under RSA 489-C:2, shall be liable for damages arising from insufficiencies or hazards on any premises owned, occupied, maintained, or operated by them, even with actual notice thereof, when such hazards are caused solely by snow or ice, and the commercial applicator's, owner's, occupant's, or lessee's failure or delay in removing or mitigating such hazards is the result of its implementation, absent gross negligence or reckless disregard of the hazard, of best management practices for winter road, parking lot, and sidewalk maintenance adopted and published by the department of transportation and the department of environmental services. All commercial applicators, owners, occupants, or lessees who adopt such best management practices shall be presumed to be acting pursuant to the best management practices in the absence of proof to the contrary.

II. In order to receive the liability protection provided in paragraph I, a commercial applicator as defined in RSA 489-C:1, II, or an owner, occupant, or lessee of land shall keep a written record describing its winter road, parking lot and property maintenance practices. The written record shall include the type and rate of application of de-icing materials used, the dates of treatment, and the weather conditions for each event requiring de-icing. Such records shall be kept for a period of 3 years.

**RSA 641:3 Unsworn Falsification.** – A person is guilty of a misdemeanor if:

I. He or she makes a written or electronic false statement which he or she does not believe to be true, on or pursuant to a form bearing a notification authorized by law to the effect that false statements made therein are punishable; or

II. With a purpose to deceive a public servant in the performance of his or her official function, he or she:

(a) Makes any written or electronic false statement which he or she does not believe to be true; or

(b) Knowingly creates a false impression in a written application for any pecuniary or other benefit by omitting information necessary to prevent statements therein from being misleading; or

(c) Submits or invites reliance on any writing which he or she knows to be lacking in authenticity; or

(d) Submits or invites reliance on any sample, specimen, map, boundary mark, or other object which he or she knows to be false.

III. No person shall be guilty under this section if he or she retracts the falsification before it becomes manifest that the falsification was or would be exposed.