

Managing Groundwater Protection Areas Guidance and Sample Letters

October 1995
Revised December 2006

Prepared by

Source Water Protection Program
Drinking Water & Groundwater Bureau
Water Division



New Hampshire Department of Environmental Services
Water Division
29 Hazen Drive
Concord, NH 03302

Thomas S. Burack, Commissioner
Michael J. Walls, Assistant Commissioner
Harry T. Stewart, P.E., Director



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I. INTRODUCTION

This guide has been prepared for water suppliers and local officials conducting groundwater protection programs that are consistent with the protection approach enabled by New Hampshire's Groundwater Protection Act (RSA 485-C). These protection programs involve (1) educating residents and owners of businesses located in the groundwater protection area, and (2) conducting inspections, also referred to as "surveys," to ensure that businesses using greater-than-household quantities of regulated substances are employing best management practices (BMPs) to minimize the risk of groundwater contamination. *Regulated substance* means any of the following, with the exclusion of ammonia, sodium hypochlorite, sodium, acetic acid, sulfuric acid, potassium hydroxide, and potassium permanganate:

- (1) Oil as defined in RSA 146-A:2, III.
- (2) Any substance that contains a regulated contaminant for which an ambient groundwater quality standard has been established pursuant to RSA 485-C:6.
- (3) Any substance listed in 40 CFR 302, 7-1-05 edition.

Local entities (e.g., municipalities or public water systems) can implement these programs in two ways. The first is with a "voluntary program," meaning that the local entity can conduct education and survey activities, but can *not* compel local businesses to allow surveys or to use BMPs. The second way, a "regulatory program," is available to health officers (and their agents) who have obtained enforcement authority, either through the groundwater reclassification process (under RSA 485-C) or through a local health ordinance.*

Generally, there are five major steps in implementing a groundwater protection program.

5 Steps to Completing a Groundwater Protection Program

- (A) Notify the municipality(ies) where the groundwater protection areas are or will be located.
- (B) Educate residents and businesses using only household quantities of regulated substances.
- (C) Contact businesses using greater-than-household quantities of regulated substances. Notify them of Env-Wq 401 BMP rules and set up inventory interviews and surveys.
- (D) Perform surveys to determine compliance with best management practices (BMPs).
- (E) Follow up on BMP non-compliance issues through letters and additional surveys to obtain compliance.

Each of the five steps is fully explained in this guide. This guide also provides samples of letters that are designed to cover all aspects of the program. The sample letters were written to

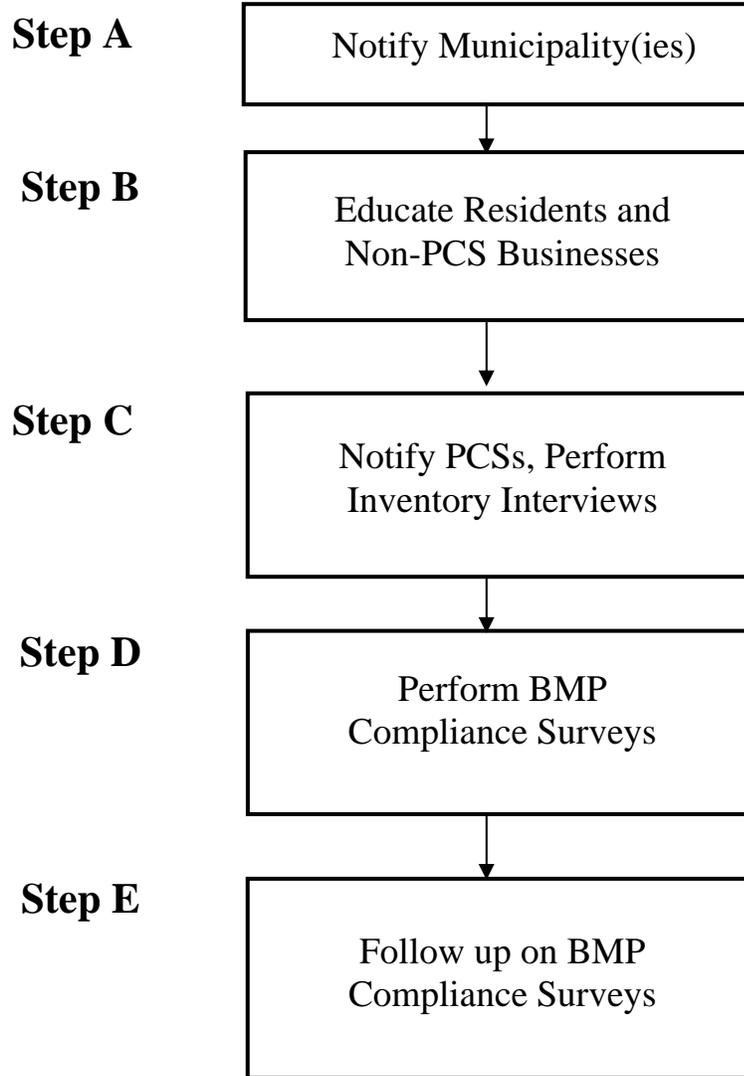
*If the groundwater protection program is designed to support groundwater reclassification, the process described in this manual, involving notification and survey of potential contamination sources (PCSs), must be carried out at least once every three years in order to maintain that classification.

cover a wide range of circumstances. The letters can be modified as needed so that they more clearly apply to your particular situation. However, it is strongly suggested that you contact the DES Drinking Water Source Protection Program to review the letters before sending them to ensure that you meet the intent and any legal notification requirements of the program.

This guide also discusses how to perform the BMP compliance surveys. While the five steps are the same in all groundwater protection programs, there are some differences in how Step E (Follow Up On BMP Non-Compliance Issues) is carried out, due to the difference in enforcement authorities. Therefore, this guide provides two descriptions of Step E, one for a voluntary program and one for a program authorized by a local ordinance or groundwater reclassification.

If you have any questions, please call the Drinking Water Source Protection Program at 271-2947 or 271-0688.

Chart 1
Five Steps for Managing Wellhead Protection Areas



II. MANAGING GROUNDWATER PROTECTION AREAS

Step A: Notify Municipalities in Which the Groundwater Protection Area is Located

Use this notice to notify abutting municipalities in advance of performing BMP compliance surveys if your groundwater protection area (or source water protection area for surface water sources) extends into another municipality and that area also contains potential contamination sources. You should not conduct BMP compliance surveys in another municipality without first notifying that municipality. This is a sample letter you may adapt with details concerning your specific water supply needs. Portions of sample letters that require modification are highlighted, and within brackets **[bold]**. Be sure to enclose DES BMP fact sheet WD-WSEB 22-4 and a copy of your protection area map with your letter.

PUT THIS SAMPLE LETTER ON YOUR LETTERHEAD

Sample Letter A: To Notify Abutting Communities within Groundwater Protection Program Areas

Date: _____

Local Governing Body
Town Hall
Town, New Hampshire, Zip Code

Dear: **[Local governing body]**:

The purpose of this letter is to inform you about the program we are planning to help protect our source(s) of public drinking water. By doing so we benefit from increased protection of our **[present and/or future]** sources and lower our water system's operating costs by receiving cost-saving waivers from certain drinking water sampling requirements under New Hampshire's chemical monitoring waiver program.

The area that we protect is called the **[wellhead or groundwater or aquifer or source water]** protection area. This is **[the area that likely contributes groundwater flow to our wells]** or **[a portion of the watershed that contributes to our surface water source or other explanation as appropriate]**. The New Hampshire Department of Environmental Services (DES) delineated this protection area for us, and it is shown on the enclosed map. As you can see, our protection area extends into your **[town or city]**.

Our protection program includes an educational mailing that provides information to homeowners and businesses about what they can do to minimize the risk of a release of regulated substances. Under DES guidelines, businesses using greater than household quantities of regulated substances are considered potential contamination sources (PCSs). In addition to notifying PCS owners and sending them educational materials, our protection program requires us to conduct in-person surveys of their facilities once every three years. An in-person survey is a visit to a PCS, done on an appointment basis, to observe the facility for compliance with state administrative rule, Env-Wq 401, Best Management Practices for Groundwater Protection. The attached DES Fact sheet gives an overview of the BMP rules. Because PCSs exist in the portion of our protection area that extends into **[town or city]**, we would like to conduct BMP compliance surveys in your **[town or city]**. However, we will not conduct BMP surveys in **[town or city]** without first notifying you. Following each survey we send a summary letter to the PCS and we will forward a copy to you, as well. Please contact me at **[phone number and email]** if you have any questions or concerns about this matter.

We appreciate your cooperation with our efforts to protect our valuable source(s) of drinking water.

Sincerely,
[Contact person's name]

Enclosures: DES fact sheet WD-WSEB 22-4; Protection area map

If the area to be protected is totally within the municipality of the entity sponsoring the protection program (i.e. municipal water department, planning board, etc.), you can skip this step. If the program is being conducted by an entity (e.g., a non-municipal water system) that is not part of municipal government, then the governing body (board of selectmen, city council, board of aldermen) should be notified.

Step B: Educate Homeowners and Businesses That Use Only Household Quantities of Regulated Substances (Less than 5 gallons)

One method of educating homeowners and businesses that use small quantities of regulated substances (i.e. non-PCS businesses) is to send a letter and basic information about how to protect drinking water supplies. This sample letter provides basic groundwater education to **all** the homeowners, tenants, and non-PCS businesses that are located within your source protection area. Fill in the appropriate information such as the name and address of the recipient, the date it is mailed, and the name and type of the water system. Be sure to use your letterhead for your letters. Include educational material such as a copy of the *Clean Drinking Water Is Up To You* pamphlet (see pages 6-7).

PUT THIS SAMPLE LETTER ON YOUR LETTERHEAD

Sample Letter B: To Provide Basic Groundwater Management Instructions for Residents and Non-PCS Businesses

Date: _____

Name of Recipient
 Recipient Address
 Town, New Hampshire, Zip Code

Dear [**the recipient's name or an appropriate term such as homeowner, neighbor, or customer**]:

The purpose of this letter is to ask for your cooperation in ensuring safe drinking water for the [**Name**] Water System. If we are all careful, substances that could pollute our drinking water will never find their way to our [**well(s)/intake pipe**].

Your property is located within the area from which water flows to our [**well(s)/intake pipe**]. As such, it is important that you are aware that what you do on your property could affect the quality of the water our system uses. Your activities can also affect the water quality at your own property.

No one wants to drink polluted water. Who would pour gasoline, motor oil, paint, garden or lawn chemicals, or household chemicals into their drinking water? Yet, the equivalent is done when someone pours any of these products down their toilet, sink, or onto the ground. By following the chemical storage, handling, and disposal tips on the enclosed flyers, you can avoid activities that could threaten water quality.

Please take the time to review and follow the instructions on the flyers. We need your help to protect this valuable source of drinking water. The management and users of this public water supply appreciate your cooperation.

Sincerely,

[**Contact person's name, title**]
 [**Name**] Water System or Town Governing Body

Enclosure: Clean Drinking Water Is Up To You!

Is Gasoline Contaminating Your Drinking Water?

Gasoline is one of the most dangerous products commonly found around the home, yet people often store and use it with little care. Some of the chemicals in gasoline have been found in drinking water with increasing frequency, including benzene, toluene, and ether, which are *easily dissolved in water*. Even very small gasoline spills can contaminate your drinking water wells or a public water supply.

To Protect Your Drinking Water From Gasoline:

1. **Avoid spilling gasoline on the ground, especially near wells**
 - Don't drain gasoline from lawnmowers, snowblowers, etc. onto the ground. Much of it does not evaporate.
 - Don't burn brush with gasoline.
 - Don't top off your fuel tank.
 - Keep refueling and engine work away from water supply wells, if possible over a concrete floor or similar barrier, and immediately clean up any gas or oil spills.
2. **Avoid spilling gasoline in lakes, ponds, and rivers**
 - Keep special gasoline-absorbing pads on your gas-powered boat; know how to use them.
 - If you own a larger boat, make sure it has no-spill tank vents.
3. **Store gasoline properly**
 - Refuel snowmobiles and ice augers on shore; do not take gasoline storage tanks onto ice-covered ponds.
 - Use a clearly labeled container made for gasoline, with a spout to avoid spills.
 - Retuel snowmobiles and ice augers on shore; do not take gasoline storage tanks onto ice-covered ponds.
4. **Dispose of waste gasoline properly**
 - Keep gasoline containers in a dry, well ventilated shed or detached garage away from water supply wells.
 - Don't keep metal gasoline cans on a dirt floor for extended periods.
 - Handle old or dirty gasoline as hazardous waste. Bring it to a household hazardous waste collection center in a proper gasoline container.

If a Spill Occurs

For *any size* spill that is not immediately cleaned up, call the DES emergency petroleum spill number at (603) 271-3644 immediately for instructions. The DES line is answered weekdays from 8 a.m. to 4 p.m. For all other times please call the NH State Police at (603) 271-3636.

Clean Drinking Water Is Up To You!



Where does your drinking water come from?

Your drinking water comes from either groundwater or surface water.

Groundwater is the water that flows through the spaces between soil particles and through fractures in rock. It comes from rain and snowmelt percolating through the ground.



Surface water comes from rainfall and snowmelt running over land and from *groundwater* seepage into lakes and rivers (including reservoirs).



Why should you be concerned?

While some pollutants (such as bacteria, viruses, and phosphorus) can be reduced by passing through soil under certain conditions, groundwater can be easily contaminated by chemicals and oils. Surface water is also affected by soil and pollutants picked up as water flows over land.

Do's and Don'ts to protect your drinking water

- DO** use non-toxic and less-toxic alternatives to pesticides and household chemicals.
- DO** take leftover household chemicals to your town's household hazardous waste collection day.
- DO** test soil every two years to determine existing nutrient levels and pH before applying fertilizers.
- DO** use slow or controlled release nitrogen sources of fertilizer.

Keep these Household Hazardous Wastes

Out of your Drinking Water

Automotive fluids, auto batteries, used motor oil, paint, paint thinner, other solvents, pesticides, and cleaning products

- DO** follow package directions on pesticides, fertilizers, and other household chemicals.
- DO** check your underground fuel storage tank (UST) frequently for leaks. Have an UST removed if it is more than 20 years old. Replace it with an aboveground storage tank that has a concrete slab underneath it, a cover and secondary containment.
- DO** take care of your septic system. Inspect the septic tank every year and have it pumped out every 3-5 years.
- DO** avoid damage to your leachfield and distribution lines by keeping vehicles, livestock, and other heavy objects off of it.
- DO** measure the area of your lawn to be fertilized to determine how much to use.
- DO** calibrate or adjust spreader settings to match the recommended rate for fertilizers.
- DO** use drip pans large enough to contain motor vehicle or power equipment fluids being replaced or drained.
- DO** fully drain oil over a drip pan or pail before disposal. Most solid waste transfer stations accept used oil filters for recycling. Store and transport used oil filters in a covered leak-proof container until disposal.

- DO** keep absorbent materials such as rags, pads, speedee-dri, kitty litter, or other clay-based products handy to the work area and clean up all spills as soon as they occur. Dispose of all used absorbents immediately in a leak-proof container.
- DO** refuel or repair engines over an impervious surface such as a concrete floor or tarp.
- DO** drain all fluids from motor vehicle parts before removing them from the vehicle.
- DO** have your UST removed by a contractor who is not familiar with state guidelines for UST removal.
- DO**NT overload your septic system with solids by using a garbage disposal, unless the system is specifically designed for one.

- DO**NT pour chemicals down the sink or toilet.
- DO**NT use septic system cleaners or additives containing acids or chemical solvents such as trichloroethylene (TCE).

- DO**NT use fertilizers if heavy rains are anticipated as the nutrients will be flushed from the lawn into drains and low areas.

- DO**NT apply fertilizers within 10 feet of culverts, drainage ditches, wells, roadways, and walks, or 25 feet of most lakes and streams as required by the Comprehensive Shoreland Protection Act, RSA 483 B:9.

- DON**'T buy more pesticides or hazardous chemicals than you need.
- DON**'T dispose of hazardous chemicals by pouring them down the drain or onto the ground.
- DON**'T over-use pesticides or household chemicals. More is not necessarily better.

Reduce - Reuse - Recycle

For more information about what you can do, please contact the Drinking Water Source Protection Program at (603) 271-7061 or visit our website at www.des.nh.gov/dwspp.

Step C: Notify Potential Contamination Sources

Successful management of potential contamination sources is based on communication, education, and whenever possible--voluntary compliance. Before conducting surveys to verify compliance with BMPs, notify PCS owners about the following:

- The groundwater or wellhead program (covered in a letter).
- The need for proper management of regulated substances (educational flyer).
- The legal requirements for PCSs (copy of Env-Wq 401 BMP rules - see Appendix A).
- What to expect during the survey (copy of Survey form - see Appendix B).

The procedure for notifying PCSs and performing inventory interviews is outlined in Chart 2 on page 9. In cases where the PCS owner is not the owner of the property, it is advisable to notify both parties. Keep in mind, however, that the **PCS owner** is the responsible party.

Inventory Interviews

In addition to notifying PCS owners you have the option of conducting an **inventory interview either by phone or in person** with each PCS owner prior to conducting a survey. The purposes of these interviews are to educate PCS owners about the program and to verify that each PCS in your inventory does indeed use large quantities of regulated substances. The inventory interview will give the PCS owner a better understanding of the substances you are interested in and give them an opportunity to come into compliance with the BMPs before you conduct your first round of surveys.

Chart 3 on page 10 gives an overview of the inventory interview process. Use a letter similar to Sample Letter C-1 (with the flyer, the BMP rules, and the Survey Form for BMP Compliance) to notify PCS owners that you will be performing inventory interviews. *(As with Sample Letter B, check to make sure that the language is consistent with your program. Also, if you are protecting existing wells, fill in the location(s) of the well(s) to be protected.)* Explain the purposes of the survey, and give an overview of the program, and a copy of the Survey Form and Instructions for BMP Compliance (a copy is in Appendix B). Ask if they use and store regulated substances in containers equal to or greater than a 5-gallon capacity. Ask if they use or store a total of more than five gallons of regulated substances. If the PCS owner or representative indicates that they do not, then record that in Section 4 of the form and keep it on file for reference in the future. You do not need to complete any of the remaining sections of the form. If they do indicate they have more than 5 gallons of regulated substances then complete the inventory interview by completing sections 2-4 of the form. Provide them with the BMP rules (Env-Wq 401). Ask if they have any questions; if you don't know the answers refer them to DES (271-2947 or 271-0688). Let the PCS owner know that you will be scheduling a BMP compliance survey and suggest they do a self-audit beforehand. Remind them that 5-gallon and larger containers (except on-premises heating oil tanks and registered aboveground and underground storage tanks) of petroleum products are covered by the BMP rules. Talk about the purposes and benefits of the program one more time: protecting drinking water and minimizing their environmental liability.

If during an on-site inventory interview you see any evidence of discharges of regulated substances (deliberate or otherwise) during your visit, contact DES at 271-2947 for advice. If not, go ahead with scheduling a compliance survey, using a letter similar to Sample Letter C-2.

If Not Conducting Inventory Interviews

If you will not be conducting inventory interviews, send a letter similar to Sample Letter C-3 on page 13 (with the flyers, the BMP rules, and the Survey form) to PCS owners to schedule the first round of compliance surveys. As with Sample Letter B, check to make sure that the language in the first and second paragraphs is consistent with your program.

Chart 2
Step C: Notify PCSs, Perform Inventory Interviews

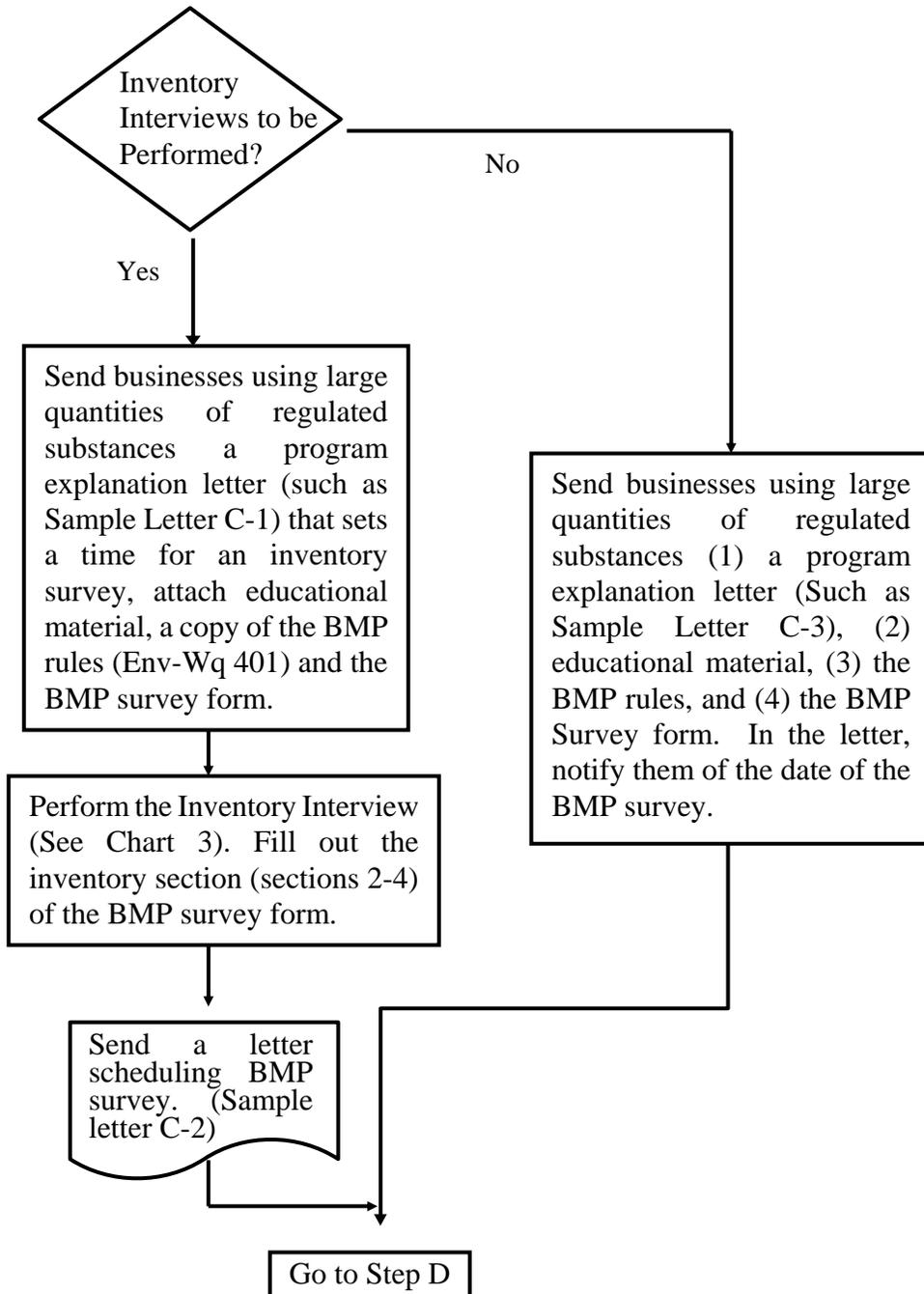
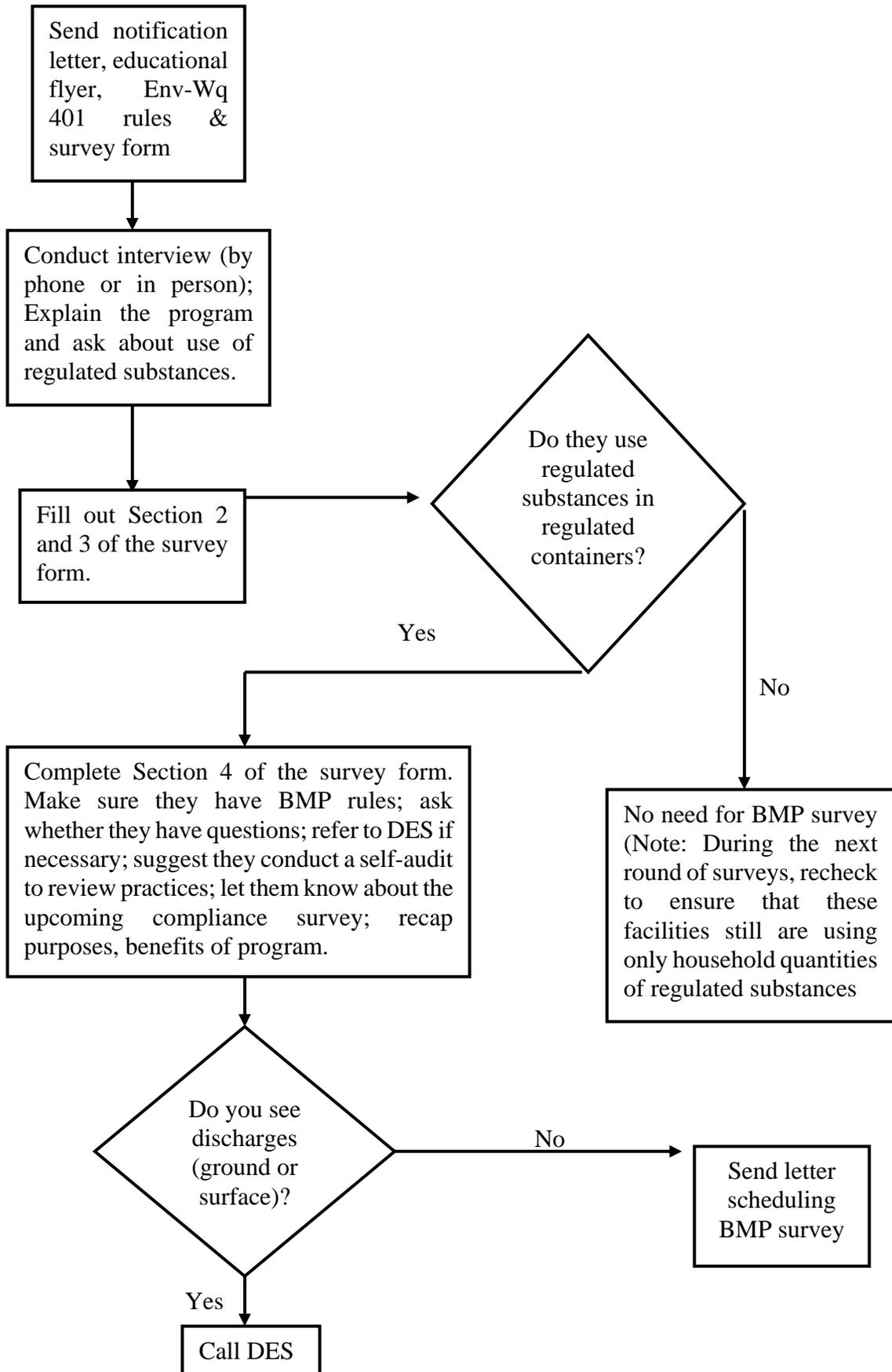


Chart 3
Performing Inventory Interviews



Sample Letter C-1

Program Explanation Letter that Sets a Time for an Inventory Interview

PUT THIS SAMPLE LETTER ON YOUR LETTERHEAD

Date: _____

RE: [Give name and location of facility], Present use: [List present use of property]

Dear [Customer, Neighbor, Facility Owner - fill in appropriate term]:

The purpose of this letter is to ask for your cooperation in ensuring safe drinking water. If we are all careful, substances that could pollute our drinking water will never find their way to our wells.

Your facility has been identified as being located in the area from which water flows to our wells [give location of wells] or [which we are protecting as a future source of drinking water]. As such, it is important that you are aware that the present use of your property listed above has the potential to affect the quality of groundwater. Your activity could also affect the water quality of your own well if you have one.

No one wants to drink polluted water. Who would pour gasoline, motor oil, paint, garden chemicals or household chemicals into their drinking water? Yet, the equivalent is done when someone pours any of these products down their toilet, sink drain, or onto the ground.

To help you avoid activities that could threaten water quality, we are enclosing an informational flyer, a copy of the State Best Management Practices for Groundwater Protection rules, Env-Wq 401, available online at <http://www.des.nh.gov/dwspp/reclass.htm>, and the Survey Form and Instructions for BMP Compliance that can be used to perform a self-audit. Compliance with these rules is mandatory if you use, store, handle, or dispose of regulated substances in greater-than-household quantities. Any unpermitted discharges to groundwater or contamination of groundwater is illegal under RSA 485-A:13 and Env-Ws 1500. By complying with these rules and implementing the suggested practices contained on the flyer you will both help us to protect this valuable source of drinking water and at the same time reduce your own environmental liability.

Providing you with this information is the first phase of the protection program we are undertaking to protect this source of water. The next step is to contact you to determine whether you use greater-than-household quantities of regulated substances and to answer any questions you may have. We will be contacting you at your facility on [date]. Please contact me at [phone number] between the hours of [] and [] if there is a specific time or alternate date you would like to meet with me. If you have any questions about this program please call me or contact N.H. Department of Environmental Services at 271-2947.

Thank you.

Sincerely,
[Contact person's name, title]

Enclosures: BMP Rules Flyer, BMP Rules, Survey Form for BMP Compliance

Sample Letter C-2**Letter Scheduling Appointment for BMP Compliance Survey after Performing an Inventory Interview**

PUT THIS SAMPLE LETTER ON YOUR LETTERHEAD

Date: _____

RE: **[Give name and location of facility]**

Dear **[Facility Owner - fill in appropriate name]**:

Thank you for giving me a chance to explain the groundwater protection program that we are in the process of implementing. As I explained during the inventory interview, the next step in this program is to conduct best management practice (BMP) surveys of facilities using larger than household quantities of regulated substances.

The purpose of this letter is to notify you of the date that I will be performing a survey of your facility. I will be in your area on **[date]**. Please contact me at **[phone number]** during the hours of **[]** and **[]** if you need me to be at your facility at a specific time or if you need to reschedule for another day.

The first letter I sent you contained a copy of the Survey Form and Instructions for BMP Compliance that I will be using. I urge you to do a self-audit to correct any violations of the Best Management Practices for Groundwater Protection rules before I arrive. This will also allow you to clarify any questions you may have about the survey before my visit.

Thanks again for your help in protecting this valuable source of drinking water.

Sincerely,

[Contact person's name, title]

Sample Letter C-3

Program Explanation Letter that Sets a Time for BMP Compliance Survey

PUT THIS SAMPLE LETTER ON YOUR LETTERHEAD

Date: _____

RE: **[Give name and location of facility]**, Present use: **[List present use of property]**

Dear **[Facility Owner - fill in appropriate name]**:

The purpose of this letter is to ask for your cooperation in ensuring safe drinking water. If we are all careful, we can protect our current or future sources of drinking water from contamination.

Your facility has been identified as being located in the area **[from which water flows to our wells (give location of well(s))]** or **[that we are protecting as a future source of drinking water]**. As such, it is important that you are aware that the present use of your property listed above has the potential to affect the quality of the water. Your activity could also affect the water quality of your own well if you have one.

No one wants to drink polluted water. Who would pour gasoline, motor oil, paint, garden chemicals or household chemicals into their drinking water? Yet, the equivalent is done when someone pours any of these products down their toilet, sink drain, or onto the ground.

To help you avoid activities that could threaten water quality, we are enclosing an informational flyer, a copy of the State Best Management Practices for Groundwater Protection rules (Env-Wq 401) and a Survey Form and Instructions for Best Management Practice (BMP) Compliance that can be used to perform a self-audit. Compliance with these rules is mandatory if you use, store, handle or dispose of regulated substances in greater-than-household quantities. Any discharges, without a DES permit, to groundwater or contamination of groundwater is illegal under RSA 485-A:13 and Env-Ws 1500. By complying with these rules and implementing the suggested practices contained on the flyer you will help us to protect our wells while at the same time reducing your own environmental liability.

Providing you with this information is the first phase of a protection program we are undertaking to protect water quality. The next step is to perform a compliance survey to ensure that you are in compliance with the enclosed rules. I will be coming to your facility on **[date]**. Please contact me at **[phone]** during the hours of **[]** and **[]** if you need me to arrive at a certain time or if we need to reschedule for a different day. I urge you to perform a self-audit with the attached survey form so that any violations of the rules can be remedied before my visit. This will also allow you to clarify any questions you may have.

Please feel free to contact me if you have any questions. Or, call the N.H. Department of Environmental Services at 271-2947. We need your help to protect this valuable source of drinking water! Thank you.

Sincerely,

[Contact person's name, title]

Enclosures: Flyer, BMP Rules, Survey Form and Instructions for BMP Compliance

Step D. Perform Surveys of Potential Contamination Sources

Appendix B, the Survey Form and Instructions for BMP Compliance, contains a list of PCSs subject to BMP compliance surveys. Those are the only facilities that you should inspect for compliance with the State BMPs for Preventing Groundwater Contamination rules (Env-Wq 401). Examples of facilities that are not subject to surveys under those rules include farms and gas stations where the only chemical use and storage involves underground storage tanks (USTs). Farms are within the jurisdiction of the Department of Agriculture, Markets and Food, and USTs are regulated by the DES. While DES does recommend that water suppliers and municipalities inspect gas stations in their source water protection areas annually for compliance with state requirements with respect to stormwater management, spill containment, and release prevention and detection, such inspections are optional and are not covered by Env-Wq 401.¹ Other PCS activities may have onsite inspections completed by DES and coordinating with DES will help reduce duplicating efforts as well as confusion by those subject to various inspections.

Upon arriving for a compliance survey, explain why you are there, and make sure you meet with the owner or person in charge. If you scheduled the survey in advance and the person in charge seems surprised, ask whether your letter had been received. If you have arrived without prior notice, ask whether it is a good time, and if not, try to schedule a time to come back. If the PCS owner will not allow you to inspect the facility, either call DES at 271-2947 or, if you are a health officer administering a program authorized by a health ordinance or reclassification, obtain an Administrative Inspection Warrant as explained in Step E for non-voluntary programs.

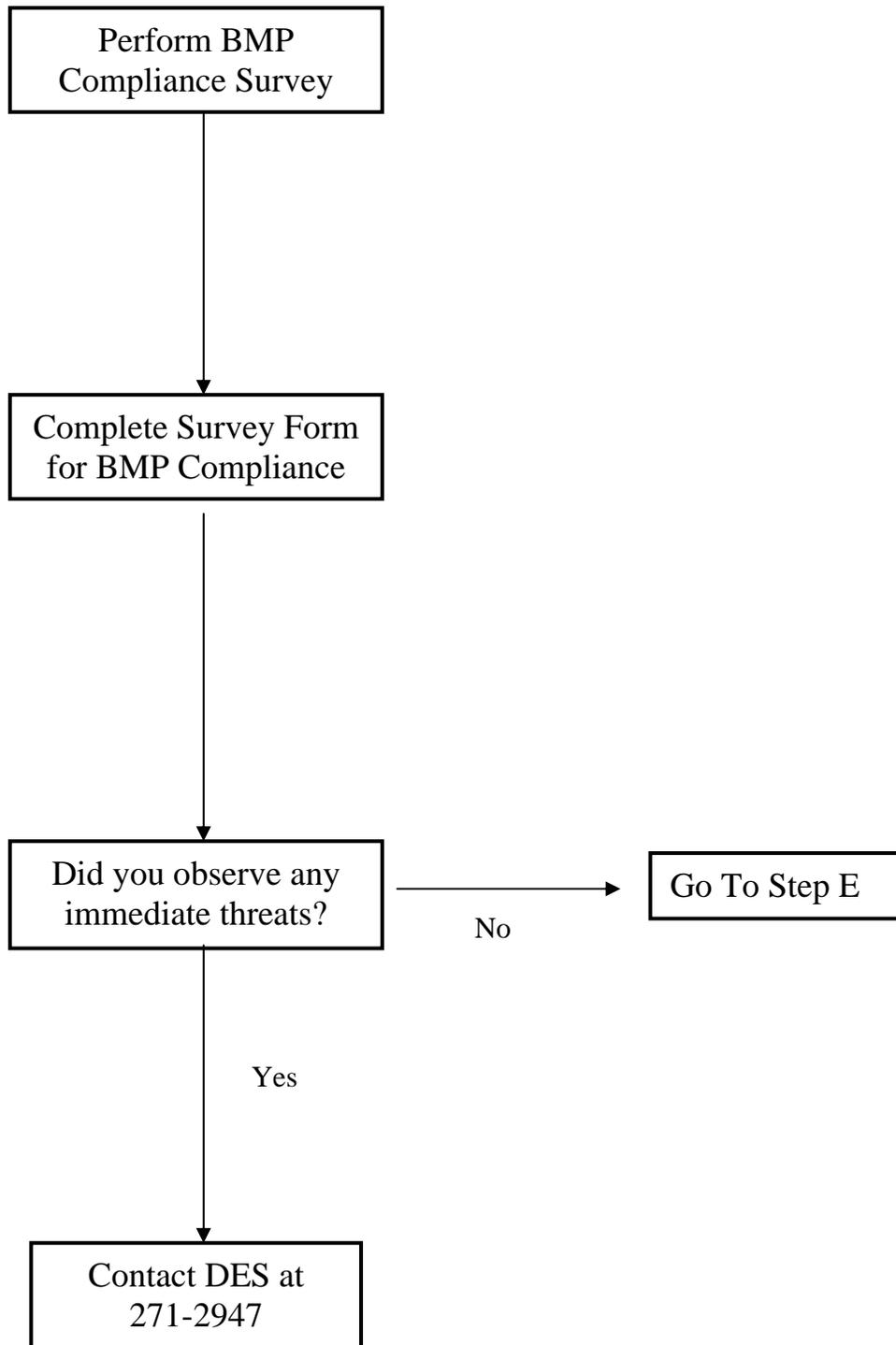
Ask to see where regulated substances are stored and handled. Go through the Survey form, asking questions and making observations. (If you have recently conducted an inventory interview at the facility, use your judgment in shortening the time spent on Section Two, Three or Four of the BMP Survey form. Discuss any problems and their solutions as you conduct the survey. Try to keep the atmosphere friendly and educational. Stick to what is covered by the Survey form. PCS owners can be put on the defensive if you ask about sensitive matters that are outside the scope of what the survey is supposed to cover. When you are finished, review any violations you found during the survey. Provide solutions or ask them to evaluate possible solutions that will help them meet the intent of the rules. Explain that they would then have at least 30 days to correct problems or work something out with DES. Reiterate the benefits of the program: protecting drinking water (yours and theirs) and minimizing their environmental liability.

If you witness any evidence of discharges, contact DES at 271-2947.

If you feel unsure about conducting the surveys on your own or would like to participate in DES's training to conduct BMP surveys, contact DES at 271-2947 or 271-0688. Personnel are available to accompany you on some surveys.

¹ For more information, please see DES fact sheet WD-WSEB-22-20, Preventing Contamination at Gas Stations – What Municipalities and Water Suppliers Can Do, available at (603) 271-0657 or <http://www.des.state.nh.us/factsheets/ws/ws-22-20.htm>.

Step D: Perform BMP Compliance Survey



Step E. For Voluntary Programs

Follow up on Potential Contamination Source Surveys

An important point to keep in mind when following up on BMP compliance surveys is that your local groundwater or wellhead program has no enforcement authority unless, 1) it is based upon a local health ordinance adopted under RSA 31:39 or RSA 147; or 2) your program is enabled by groundwater reclassification as provided for under RSA 485C; or 3) your program is based on the planning and zoning statutes (i.e. RSA 674:17,I). In the absence of one of these authorities, your program must focus on bringing about voluntary compliance with the best management practices for PCSs. (If you do have one or both of these authorities, see pages 22-25 of this guide.) In addition, if you are not a health officer, you do **not** have the authority to enter the land or the establishment of a PCS for the purpose of administering the Env-Wq 401 BMP rules without the owner's permission. If you are a health officer, there are still certain procedures to follow before entering onto private property without the owner's permission. See pages 22-25.

If efforts at voluntary compliance are not successful, you may refer violators to DES for enforcement, since the BMPs apply statewide regardless of groundwater classification. However, keep in mind that DES has limited personnel resources available for BMP enforcement. Therefore, make every effort to work out a compliance timetable with violators on your own.

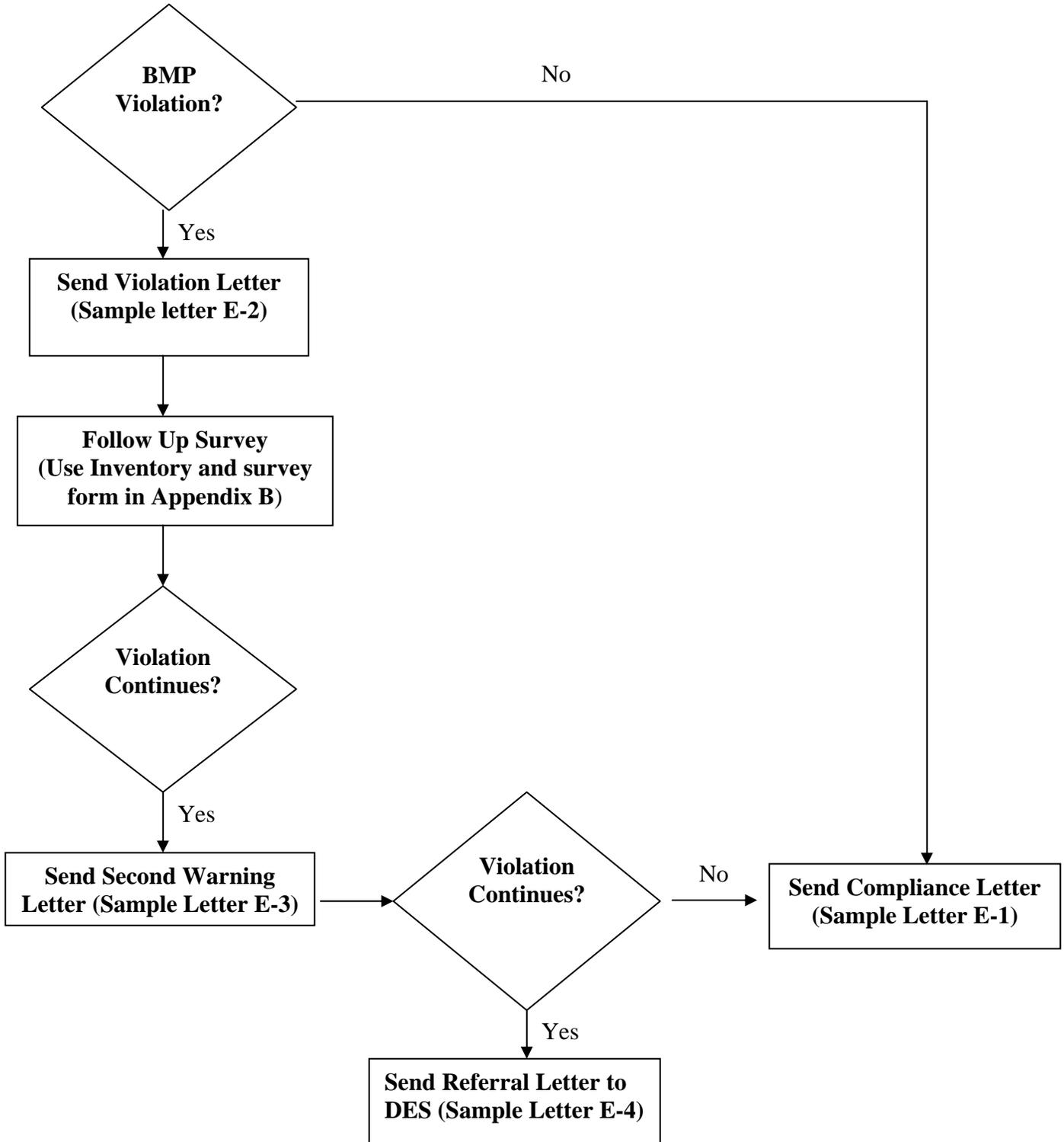
The process for Step E, following up BMP compliance surveys for voluntary programs, is shown in Chart 5 on the following page. After the BMP Survey form is completed, review Sections 5 – 8 of the form that was completed on-site and summarize any violations of the BMP rules. If you have determined that there are no violations, send a compliance letter similar to Sample Letter E-1.

If your survey did uncover one or more violations, send a violation letter, via registered mail, similar to Sample Letter E-2. Follow up with a phone call to see whether the PCS owner understands the letter and to schedule a follow-up survey. A reasonable timetable for compliance is about 30 days, unless the PCS owner provides a good reason why more time is needed.

If the follow-up survey reveals that the violations have been corrected, send a letter similar to Sample Letter E-1. If violations continue, send a Second Warning letter, via registered mail, similar to Sample Letter E-3. If you do not hear from the PCS owner within 30 days or if a subsequent follow-up survey reveals that the violations continue, send a referral letter to DES similar to E-4, and send a copy to the PCS owner. If you do not hear from DES within 30 days, call 271-2947 or 271-0688.

DES has the ability to issue written Cease and Desist Orders and to impose administrative fines for violations of RSA 485-C and Env-Wq 401. Fines can range from \$250 to \$1,000 per violation, and up to \$2,000 for non-compliance with a Cease and Desist Order. The PCS owner is entitled to a hearing before the fine is imposed. If a hearing takes place, the DES hearing officer will consider the available evidence before making a decision. The evidence will include your survey reports, copies of correspondence, and records of your telephone contacts with the PCS owner regarding the violation. Therefore, you should keep in mind that, even in a voluntary program, a successful state enforcement action may depend on the procedures you follow and the records you keep.

Chart 5 Step E: Follow Up on BMP Compliance Survey for Voluntary Programs



Sample Letter E-1

The Potential Contamination Source is in Compliance

PUT THIS SAMPLE LETTER ON YOUR LETTERHEAD

Date: _____

Dear **[Facility Owner - fill in appropriate name]**:

Thank you for participating in the survey for compliance with the Best Management Practices for Groundwater Protection rules (Env-Wq 401) that I performed at your facility, **[name of facility]** on **[date]**. I am pleased to inform you that I found no violations of these rules. Therefore, you will not hear from me again until the next round of compliance surveys, which we anticipate will be conducted in **[year]** (*Insert year you intend to do survey again*).

In the meantime, if you have any questions concerning these rules or our groundwater protection program please do not hesitate to contact me at **[phone number]**.

Thanks for your help in keeping this valuable source of drinking water safe.

Sincerely,

[Contact person's name, title]

Sample Letter E-2
The Potential Contamination Source is Violating One or More BMP Rules

PUT THIS SAMPLE LETTER ON YOUR LETTERHEAD

Date: _____

Dear **[Facility Owner - fill in appropriate name]**:

The purpose of this letter is to summarize the results of the Best Management Practices (BMP) Survey conducted at your facility on **[date]**. The Survey was performed to meet the requirements of the **[water system or town name]** Drinking Water Source Protection Program and to ensure compliance with New Hampshire Administrative Rule Env-Wq 401, Best Management Practices for Groundwater Protection. The results of the survey are as follows:

Facility Description: **[Describe the facility and what you observed during the survey]**

Regulation Description: **[Quote the pertinent rule, such as Env-Wq 401.04(e) states that regulated containers shall be clearly and visibly labeled with the name of the material stored within.]**

Compliance Description: **[Describe the violation and what can be done to correct it. You should have already discussed this with the facility representative during the survey.]**

If you need clarification of the rules or the waiver provisions contained in them, please contact DES directly at 271-2947.

Thank you in advance for your willingness to help protect our valuable source of drinking water. If you have any questions about this letter, please call me at **[phone number]** between the hours of **[]** and **[]**.

Sincerely,

[Contact person's name, title]

Enclosure: Completed Survey Form and Instructions for BMP Compliance

Sample Letter E-3 Second Warning

PUT THIS SAMPLE LETTER ON YOUR LETTERHEAD

Date: _____

Dear: **[Facility Owner - fill in appropriate term]**,

In a letter dated **[date]**, I informed you that you were not in compliance with the Best Management Practices for Groundwater Protection, Env-Wq 401. On **[date]**, I conducted a follow-up survey to determine compliance with the rules. To the best of my knowledge, you remain out of compliance with the following:

Regulation Description: **[Quote the pertinent rule, such as Env-Ws 401.04(e) states that regulated containers shall be clearly and visibly labeled with the name of the material stored within.]**

Compliance Description: **[Describe the violation and what can be done to correct it. You should have already discussed this with the facility representative during the survey.]**

[Refer to and include a copy of completed form from follow-up survey]

Unless I hear from you within 30 days of the receipt of this letter with an indication that you have corrected the violation(s) or we have agreed to a compliance schedule, I will have no choice but to refer these violations to the New Hampshire Department of Environmental Services (DES). DES is authorized to levy substantial fines and to issue cease and desist orders. Under Env-C 609, fines can range from \$500 to \$1,000 for each day of a continuing violation, and up to \$2,000 for non-compliance with a cease and desist order. It is our policy that unresolved violations are referred to DES.

Thank you in advance for your willingness to help protect our valuable source of drinking water. If you have any questions, please call me at **[phone number]** between the hours of **[]** to **[]**.

Sincerely,

[Contact person's name, title]

Enclosures: Copy of first violation letter
 Copy of completed Survey Form and Instructions for BMP Compliance

Sample Letter E-4
Referring the Violation to the State Department of Environmental Protection

PUT THIS SAMPLE LETTER ON YOUR LETTERHEAD

Date _____

Thomas S. Burack, Commissioner
N.H. Department of Environmental Services
29 Hazen Drive, P.O. Box 95
Concord NH 03302-0095

RE: Enforcement Activities under the Groundwater Protection Act, RSA 485-C

Dear Commissioner Burack:

I am writing to request the Department's assistance in managing Potential Contamination Sources in a wellhead or groundwater protection area by enforcing Env-Wq 401 Best Management Practices for Groundwater Protection. I have attempted to bring about voluntary compliance with Env-Wq 401 as described below:

A first compliance survey was held [date] at [Name of facility, location]. The following violations were discovered during that survey:

violation(s): [description of the violations as found on survey]

[Cite specific sections of the rules, describe nature of violation(s), and specify the regulated substance(s) involved].

The enclosed violation letter was sent on [date] and a follow-up survey was conducted on [date]. The second survey indicated [describe results], and second warning was sent on [date]. [Describe any communication with the PCS owner since sending the second warning.]

I have enclosed copies of all pertinent correspondence and survey forms. Thank you for your attention to this matter.

Sincerely,

[Contact person's name, title]

Enclosures: Completed form from initial survey
 Copy of first violation letter
 Completed form from follow-up survey
 Copy of second warning
 Copies of other correspondence to or from PCS owner
 Copies of records of telephone conversations with PCS owner

cc.: PCS owner

Step E for Programs Authorized by Groundwater Reclassification or Local Ordinance

Follow up on Potential Contamination Source Survey

The goal of enforcement of BMP rules is compliance resulting in greater groundwater protection. Furthermore, it is more desirable to achieve voluntary compliance than it is to institute enforcement actions. If you can convince PCS owners that following the BMPs is the right thing to do, as well as being in their own best interests, your enforcement work load will be lessened.

However, if efforts at voluntary compliance are not successful, the health officer has a number of enforcement alternatives available. This description of Step E is written for health officers or building inspectors who are administering a wellhead or groundwater protection program that is authorized by groundwater reclassification, or by a local health or zoning ordinance.

If a PCS owner denies you access for a survey, you may obtain an Administrative Inspection Warrant under RSA 595-B (see your legal counsel for assistance). The form for this warrant is available from the state Health Officer Liaison at 271-4781. However, before attempting to seek a warrant, try to convince the PCS owner to agree to the survey. Make sure the PCS owner understands that even if you do find violations, you will provide every reasonable opportunity for the PCS owner to come into compliance before you pursue enforcement actions. You may contact DES at 271-2947 for assistance if the facility owner still refuses to comply and DES will perform the survey on your behalf.

The compliance process for Step E for local programs authorized by reclassification, or local health or zoning ordinances, is shown on page 24. If you have determined that there are no violations, send a compliance letter similar to Sample Letter E-1 (page 19). If your program is authorized by a health ordinance, you may wish to call the letter a Certificate of Compliance.

If You Find A Violation

If your survey did uncover one or more violations, discuss the rule violation(s) and suggest ways to correct them during the survey. Let the facility owner be creative in finding solutions that meet the intent of the rule within 30 days, unless there is an immediate threat to public health. Then send a violation letter, similar to Sample Letter E-2 (page 19), via registered mail. Send a copy to the property owner, if different from the PCS owner. Follow up the letter with a phone call to see whether the PCS owner understands the letter and to schedule a follow-up survey. A reasonable timetable for compliance is about 30 days, unless there is an immediate threat to public health or the PCS owner provides a good reason why more time is needed.

If the follow-up survey reveals that the violations have been corrected, send a letter similar to Sample Letter E-1. If violations continue, send a Second Warning letter, via registered mail, similar to Sample Letter E-5 (on page 25 -- Note that this is different from the Second Warning used for voluntary programs). If you do not hear from the PCS owner within 30 days or if a subsequent follow-up survey reveals that the violations continue, there are several courses of action to choose from. The choice depends on several factors, including the legal authority for your program.

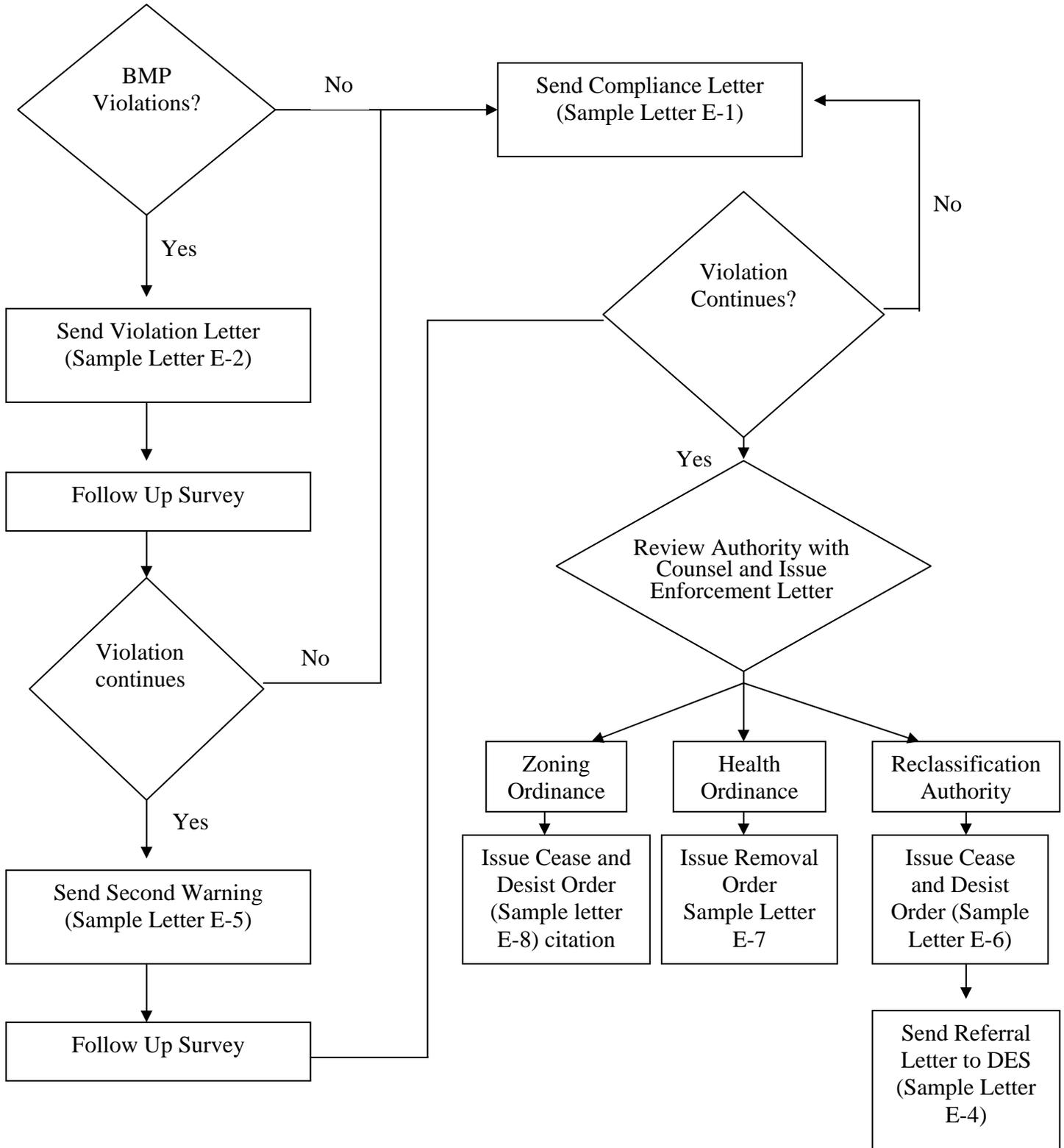
If a local groundwater protection program is authorized by a *health ordinance without reclassification*, you can pursue enforcement under RSA 147, the Chapter that empowers health officers. Send a removal order similar to Sample Letter E-7 (page 27). If the violation persists, consult your legal counsel for follow-up. To remove the violation, you will need to have funds available if you are going to incur expenses and you may need to obtain a warrant before taking action.

If a local groundwater protection program is authorized by *reclassification without a health ordinance*, you may issue a cease and desist order under RSA 485-C:16 and refer the violation to DES for follow-up. Use Sample Letter E-6 (page 26) as a model. Even if DES becomes involved in the inspection or enforcement process, the records of compliance survey(s), correspondence, and other contact with the PCS owner will be indispensable in an effort to bring the PCS into compliance and/or levy fines.

If a local groundwater protection program is authorized by *both a health ordinance and reclassification*, there are two options. The municipality may issue a removal order similar to Sample Letter E-7 (page 27). If the violation persists, consult legal counsel for follow-up. If you wish to have DES follow up the violation, you may issue a cease and desist order under 485-C:16 and refer the violation to DES. Use Sample Letter E-6 (page 26) as a model.

If a local groundwater protection program is authorized by a zoning ordinance (e.g. groundwater protection ordinance) alone, enforcement of zoning violations that affect groundwater protection can be pursued under RSA 676. Enforcement of local zoning ordinances can be pursued for violations that do not result in a “nuisance” that is “injurious to public health” in accordance with RSA 147. For example, if there is a violation of a performance standard in your groundwater protection zone or a site plan requirement send a letter similar to E-8. If the violation persists, local governments may issue cease and desist orders (RSA 676:17-a) and local land use citations (RSA 676:17-b), or may pursue civil penalties and injunctive relief in superior or district court (RSA 676:15, 17). The decision to pursue an enforcement action should be made in consultation with legal counsel.

Chart 6
Step E Follow Up on BMP Compliance Surveys for Programs Authorized by Groundwater Reclassification or Local Ordinance



Sample Letter E-5 Second Warning

PUT THIS SAMPLE LETTER ON YOUR LETTERHEAD

Date _____

Dear **[Facility Owner-fill in appropriate name]**:

In a letter dated **[date]**, I informed you that you were not in compliance with certain Best Management Practices for Groundwater Protection (Env-Wq 401) rules. On **[date]**, I conducted a second survey of your facility. To the best of my knowledge, you remain out of compliance with the following:

Regulation Description: **[Quote the pertinent rule, such as Env-Ws 401.04(e), which states that regulated containers shall be clearly and visibly labeled with the name of the material stored within.]**

Compliance Description: **[Describe the violation and what can be done to correct it. You should have already discussed this with the facility representative during the survey.]**

[Refer to and include a copy of completed form from follow-up survey]

Unless I hear from you within 30 days of the receipt of this letter with an indication that you have corrected the violation(s) or we have agreed to a compliance schedule, I will have no choice but to proceed with enforcement actions and/or to refer the matter to the NH Department of Environmental Services (DES), which is authorized to pursue substantial fines and in some instances, cease and desist orders per RSA 485-C. Fines can range from \$500 to \$2,000 per violation for non-compliance with a cease and desist order. I hope we can avoid the involvement of DES in this matter.

Thank you in advance for your willingness to help protect our valuable source of drinking water. If you have any questions, please call me at **[phone]** between the hours of **[]** and **[]**.

Sincerely,

[Contact person's name, title]

Enclosures Copy of first violation letter
Completed form from follow-up survey

Sample Letter E-6 Cease and Desist Order

PUT THIS SAMPLE LETTER ON YOUR LETTERHEAD

Date _____

Dear **[Customer, Neighbor, Facility Owner-fill in appropriate name]**:

You are hereby informed that based on a survey performed by the health officer on **[date]**, activities occurring at your property are not being performed in accordance with best management practices established by N.H. Code of Administrative Rules Env-Wq 401. You are hereby ordered to cease and desist these activities and to take the following corrective actions within **[number of days]** calendar days:

Regulation Description: **[Quote the pertinent rule, such as Env-Ws 401.04(e) states that regulated containers shall be clearly and visibly labeled with the name of the material stored within.]**

Compliance Description: **[Describe the violation and what can be done to correct it. You should have already discussed this with the facility representative during the survey.]**

[Refer to and include a copy of completed form from follow-up survey]

A copy of the BMP Survey report that details the nature of the violation is enclosed. A copy of this order has been forwarded to the Commissioner of the Department of Environmental Services for consideration of penalties and other relief as prescribed in RSA 485-C:19. Any person who violates any provision of the Groundwater Protection Act shall be guilty of a misdemeanor if a natural person and a felony if any other person, and subject to a civil penalty not to exceed \$25,000 for each violation or for each day of a continuing violation.

If you have any questions, please call me at **[phone number]** between the hours of **[]** and **[]**.

Per Order,

[Name]
Town/City Health Officer

Enclosure: Completed form from most recent BMP Survey

cc.: Commissioner, N.H. Department of Environmental Services

Sample Letter E-7 Removal Order

PUT THIS SAMPLE LETTER ON YOUR LETTERHEAD

Date: _____

RE: **[Give name and location of PCS]**

Dear **[PCS Owner, Property Owner, etc]:**

You are hereby notified that activities occurring at your property are in violation of the best management practices required by Article IV, Section IV.02 (*Check your health ordinance to make sure the correct section is cited*) of the Health Ordinance of the Town/City of **[Name]**. It has been determined, based upon a survey performed by the health officer on **[date]** that conditions at your property constitute a danger to the public health and safety under provisions of the Ordinance. A copy of the survey report, which provides details about the nature of the violation, is enclosed for your records. (*If a survey form is not used, the letter must describe the nuisance or other threat to public health.*) You are also notified that you are required to take the corrective action(s) listed below to remove the threat to public health within **[number of days]** working days of receipt of this notice. (*The number of days to be determined by the health officer, based on the seriousness of the danger to public health.*)

Facility Description: **[Describe the facility and what you observed during the survey]**

Regulation Description: **[Quote the pertinent rule, such as Env-Ws 401.04(e) states that regulated containers shall be clearly and visibly labeled with the name of the material stored within.]**

Compliance Description: **[Describe the violation and what can be done to correct it. You should have already discussed this with the facility representative during the survey.]**

Failure to correct these deficiencies may result in the health officer or his/her assistant exercising the authority provided under RSA 147:4 to enter your property and to perform corrective actions on behalf of the Town and/or referral to the N.H. Department of Environmental Services (DES). DES is authorized to pursue substantial fines and in some instances cease and desist orders per RSA 485-C. Fines can range from \$500 to \$2,000 per violation, and up to \$2,000 for non-compliance with a cease and desist order. I hope we can avoid the involvement of DES in this matter. If a removal action is required due to your negligence, you will be held responsible for the corrective costs incurred by the Town. Such costs shall constitute a lien against your property, enforceable in the same manner as property taxes, including possible loss of the property if not paid.

Please contact me at **[phone number]** during the hours of **[]** and **[]**, if you have any questions regarding this notice or how to comply with the corrective actions required by it. I will be in touch with you again prior to the end of the time period previously specified to arrange a mutually acceptable time for a compliance survey.

Per Order,

Town/City Health Officer

Enclosure: Completed form from most recent Survey Form and Instructions for BMP Compliance

NOTE: To be adequate for a municipality to collect nuisance abatement costs, the sample removal order must be sent by registered mail, return receipt requested to the last known post office address: of the current owner, if known; or of the person against whom taxes are assessed for the property; and to any tenant, occupant, owner's agent or other person known by the health officer to exercise control over the premises. (RSA 471:7-a, II)

Sample E-8

Cease and Desist – Groundwater Ordinance Violation

PUT THIS SAMPLE LETTER ON YOUR LETTERHEAD

Date: _____

RE: **[Give name and location of PCS]**

Dear **[PCS Owner, Property Owner, etc]:**

You are hereby notified that activities occurring at your property are in violation of the **[site plan regulations]** or **[Groundwater Protection Overlay District]** that contain specific measures to protect the town's groundwater resources. It has been determined by the **[local inspector]** on **[date]**, that conditions at your property are in violation of the performance standards specified **[within the District]** or **[in your plan as approved by the planning board]**.

A copy of the BMP survey report about the nature of the violation is enclosed for your records. *(If a BMP survey form is not used, the letter must describe the nature of the zoning ordinance violation or site plan regulation requirements.)* You are required to take the corrective action(s) listed below to comply with the performance standards of the ordinance within **[number of days]** working days of receipt of this notice.

Facility Description: **[Describe the facility and what you observed during the survey]**

Regulation Description: **[Quote the pertinent performance standard or rule.]**

Compliance Description: **[Describe the violation and what can be done to correct it. You should have already discussed this with the facility representative during the survey.]**

Failure to correct these deficiencies may result in further action by the town **[including the Planning Board, which may act to revoke your approval due to non-compliance with the plans submitted to the town]**. (Note: Civil penalties of \$275 per day or \$550 per day for the second and subsequent offenses, may be levied for as long as the violation continues after notice of the violation is given in accordance with RSA 676:17,I.)

Please contact me at **[phone number]** during the hours of **[]** and **[]**, if you have any questions regarding this notice or how to comply with the corrective actions required by it. I will be in touch with you again prior to the end of the time period previously specified to arrange a mutually acceptable time for a compliance survey.

Sincerely,

Town/City **[Health/Building]** Officer

Enclosure: Completed Survey Form and Instructions for BMP Compliance Form

APPENDIX A

Code of Administrative Rules Part Env-Wq 401 Best Management Practices for Groundwater Protection

[Note: Env-Ws 421 was amended and readopted as **Env-Wq 401**
Online at <http://www.des.nh.gov/rules-regs.htm>

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CHAPTER Env-Wq 400 GROUNDWATER PROTECTION

PART Env-Wq 401 BEST MANAGEMENT PRACTICES FOR GROUNDWATER PROTECTION

Statutory Authority: RSA 485-C:4, VII; RSA 485-C:11

REVISION NOTE:

Document #8786, effective 1-5-07, readopted with amendments and redesignated former Part Env-Ws 421 titled Best Management Practices as Env-Wq 401 pursuant to a rules reorganization plan for Department rules approved by the Director of the Office of Legislative Services on 9-7-05.

The prior filings for former Env-Ws 421 include the following documents:

#5543, eff 12-24-92

#6947, eff 2-25-99

Env-Wq 401.01 Purpose. The purpose of these rules is to establish the minimum required management practices to be employed when using, storing, or otherwise handling regulated substances, so that the risk of groundwater contamination is minimized.

Source. (See Revision Note at part heading for Env-Wq 401)
#8786, eff 1-5-07

Env-Wq 401.02 Applicability.

(a) Subject to (b), below, these rules shall apply only to persons who use, store, or otherwise handle any regulated substances in regulated containers.

(b) Pursuant to RSA 485-C:11, I, these rules shall not apply to:

- (1) Potential contamination sources listed in RSA 485-C:7, II(j); or
- (2) Those regulated substances defined as pesticides under RSA 430:28, XXVI.

(c) These rules also shall not apply to:

- (1) Aboveground and underground storage tanks regulated under Env-Wm 1401, Env-Wm 1402, or successor rules in subtitle Env-Or; or
- (2) On-premise-use facilities as defined in RSA 146-E:2, III.

(d) Potential contamination sources shall be subject to inspections by the department in any area.

Source. (See Revision Note at part heading for Env-Wq 401)
#8786, eff 1-5-07

Env-Wq 401.03 Definitions.

(a) “Department” means the New Hampshire department of environmental services.

(b) “Floor drain” means an opening in a floor that is not specifically included in an authorized discharge under one or more of the following regulatory mechanisms:

- (1) A NH groundwater discharge permit;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (2) A registration required by Env-Ws 1500 or successor rules in subtitle Env-Wq;
- (3) A national pollutant discharge elimination system permit; or
- (4) A local authorization to discharge to the local wastewater treatment facility.

(c) “Impervious surface” means a surface through which regulated contaminants cannot pass when spilled. The term includes concrete and asphalt unless unsealed cracks or holes are present, but does not include earthen, wooden, or gravel surfaces or other surfaces that could react with or dissolve when in contact with the substances stored on them.

(d) “Owner” means the owner of the facility or site on which the potential contamination source is located and, if different, the person who is responsible for the day-to-day management of the facility or site.

(e) “Person” means “person” as defined in RSA 485-C:2, XI, namely “any individual, partnership, company, public or private corporation, political subdivision or agency of the state, department, agency or instrumentality of the United States, or any other legal entity.”

(f) “Potential contamination source” means, as specified in RSA 485-C:7, I, human activities or operations upon the land surface that pose a foreseeable risk of introducing regulated substances into the environment in such quantities as to degrade the natural groundwater quality. Examples of potential contamination sources are listed in RSA 485-C:7, II.

(g) “Regulated container” means any device in which a regulated substance is stored, transported, treated, disposed of, or otherwise handled, with a capacity of greater than or equal to 5 gallons, other than a fuel tank attached to a motor vehicle for the sole purpose of supplying fuel to that motor vehicle for that vehicle’s normal operation.

(h) “Regulated substance” means any of the following, with the exclusion of ammonia, sodium hypochlorite, sodium, acetic acid, sulfuric acid, potassium hydroxide, and potassium permanganate:

- (1) Oil as defined in RSA 146-A:2, III;
- (2) Any substance that contains a regulated contaminant for which an ambient groundwater quality standard has been established pursuant to RSA 485-C:6; and
- (3) Any substance listed in 40 CFR 302, 7-1-05 edition.

(i) “Secondary containment” means a structure, such as a berm or dike with an impervious surface, that is adequate to hold any spills or leaks at 110% of the volume of the largest regulated container in the storage area.

(j) “Storage area” means a place where a regulated container is kept for a period of 10 or more consecutive days.

(k) “Work sink” means a sink necessary for the performance of activities that require use of a regulated substance that is not specifically included in an authorized discharge under one or more of the following regulatory mechanisms:

- (1) A NH groundwater discharge permit;
- (2) A registration required by Env-Ws 1500 or successor rules in subtitle Env-Wq;
- (3) A national pollution discharge elimination system permit; or

- (4) A local authorization to discharge to the local wastewater treatment facility.

Source. (See Revision Note at part heading for Env-Wq 401)
#8786, eff 1-5-07

Env-Wq 401.04 Storage of Regulated Substances.

(a) The owner shall store all hazardous wastes in compliance with applicable federal requirements and state requirements as specified in RSA 147-A and Env-Wm 100-1100 or successor rules in subtitle Env-Hw.

(b) The owner shall store all regulated containers on an impervious surface. The owner shall inspect the impervious surface to ensure no cracks or holes exist prior to storage of any regulated containers and annually thereafter during continued use of the storage area.

(c) The owner shall secure all storage areas against unauthorized entry by personal surveillance, physically-restricted access, or a combination of personal surveillance and physically-restricted access.

(d) The owner shall inspect all storage areas weekly for signs of spills or leakage from regulated containers. The aisle space between regulated containers that cannot be moved by hand shall be of ample size to allow an inspector to determine the condition of individual regulated containers.

(e) Each regulated container shall be clearly and visibly labeled with the chemical and trade name of the material stored within.

(f) Each regulated container shall remain closed and sealed at all times except to add or remove regulated substances. Regulated containers equipped with spigots, valves, or pumps shall be considered closed and sealed when the spigots, valves, or pumps are closed or in the "off" position, provided that drip pans are placed and maintained under the spigots, valves, or pumps.

(g) Spill control and containment equipment, including, as a minimum, absorbents to pick up spills and leaks, shall be located in the immediate area where regulated substances are transferred, used, or stored.

(h) Regulated containers in outdoor storage areas shall:

- (1) Have secondary containment;
- (2) Be kept covered at all times unless the regulated containers are in the process of being transferred to another location;
- (3) Have a covering to keep the regulated container and the secondary containment structure free of rain, snow, or ice; and
- (4) Not be stored within any of the following set-backs:
 - a. For surface waters, 50 feet;
 - b. For private wells, 75 feet;
 - c. The protective radius of any public water supply well; or
 - d. For storm drains, 50 feet.

Source. (See Revision Note at part heading for Env-Wq 401)
#8786, eff 1-5-07

Env-Wq 401.05 Transferring Regulated Substances. Regulated substances shall be transferred from or

to regulated containers only under the following conditions:

- (a) Funnels and drip pans shall be used; and
- (b) Fueling or transferring shall be done only over an impervious surface.

Source. (See Revision Note at part heading for Env-Wq 401)
#8786, eff 1-5-07

Env-Wq 401.06 Floor Drains. Interior floor drains shall discharge only to a holding tank registered in accordance with Env-Ws 1500 or successor rules in subtitle Env-Wq.

Source. (See Revision Note at part heading for Env-Wq 401)
#8786, eff 1-5-07

Env-Wq 401.07 Work Sinks. Work sinks shall discharge only to a holding tank registered in accordance with Env-Ws 1500 or successor rules in subtitle Env-Wq.

Source. (See Revision Note at part heading for Env-Wq 401)
#8786, eff 1-5-07

Env-Wq 401.08 Holding Tanks. Holding tanks that receive discharges from floor drains or work sinks shall be registered and maintained in accordance with Env-Ws 1500 or successor rules in subtitle Env-Wq.

Source. (See Revision Note at part heading for Env-Wq 401)
#8786, eff 1-5-07

Env-Wq 401.09 Release Response Information.

(a) The owner shall post release response information in accordance with (b), below, at every storage area.

(b) Release response information shall contain the information necessary to contact emergency response personnel, including the following:

- (1) The name of the individual designated by the owner to be contacted if a spill occurs;
- (2) The method by which the designated individual can be contacted when there is a release, such as by phone, or in-person at the main office;
- (3) The procedure for spill containment; and
- (4) Emergency phone numbers including 911 and, depending on local protocol:
 - a. State police;
 - b. Local police and fire department;
 - c. Local hospital;
 - d. Department of environmental services;
 - e. Poison control center; and
 - f. Office of emergency management.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Source. (See Revision Note at part heading for Env-Wq 401) #8786, eff 1-5-07

Env-Wq 401.10 Waivers.

(a) The rules contained in this part are intended to apply to a variety of conditions and circumstances. It is recognized that strict compliance with all rules prescribed herein might not fit every conceivable situation. Thus, persons subject to these rules may request a waiver of specific rules in this part in accordance with this section.

(b) The person requesting the waiver(s) shall submit the following information in writing to the department:

- (1) A description of the facility or site to which the waiver request relates, including the name, address, and identification number of the facility or site;
- (2) A reference to the specific section of the rules from which a waiver is being sought;
- (3) A full explanation of why a waiver is necessary;
- (4) Whether the waiver is needed for a limited or indefinite period of time;
- (5) A full explanation with supporting data of the alternative(s), if any, proposed to be implemented or used in lieu of the section's requirements; and
- (6) A full explanation of how the proposed alternative(s), if any, would be consistent with the intent of RSA 485-C and would adequately protect human health and the environment.

(c) The department shall grant a waiver if it determines that the intent of RSA 485-C will be met and human health and the environment will be protected. In granting the waiver, the department shall impose such conditions, including time limitations, as the department deems necessary to ensure that the activities conducted pursuant to the waiver will be protective of human health and the environment.

(d) No waiver shall be granted to any requirement specified in statute unless the statute expressly allows such requirement to be waived.

(e) The department shall issue a written response to a request for a waiver within 90 days of receipt of the request. If the department denies the request, the reasons(s) for the denial shall be clearly stated in the written response.

Source. (See Revision Note at part heading for Env-Wq 401) #8786, eff 1-5-07

APPENDIX

Rule Section(s)	State Statute(s) Implemented
Env-Wq 401 (see also specific section listed below)	RSA 485-C:1; RSA 485-C:4, VII; RSA 485-C:11
Env-Wq 401.10	RSA 541-A:22, IV

APPENDIX B

Survey Form and Instructions for Best Management Practice Compliance

Survey Form and Instructions for Best Management Practice (BMP) Compliance



BMP surveys are conducted at facilities using more than household quantities of regulated substances in conjunction with local efforts to protect sources of drinking water. The surveys are conducted to ensure that each potential contamination source (PCS) is complying with New Hampshire's BMPs for Preventing Groundwater Contamination Rule, Env-Wq 401, so that the risk of groundwater and/or surface water contamination in the source protection area is minimized.

Section 1. Survey Preparation

Follow the steps in this section to ensure that your surveys are conducted in a thorough and professional manner and to minimize the inconvenience to the PCS.

- 1. Know the BMP Rules.** Knowledge of the Env-Wq 401 BMP rules will enable you to *know what to look for* during a survey. It is important to conduct your surveys as efficiently as possible so that you don't waste your time or that of the PCS. Knowing the BMP rules will speed up a survey, prevent oversights, and is essential to discuss compliance issues.
- 2. Be sure each PCS** has received a copy of the Env-Wq 401 BMP rules and a DES fact sheet summarizing the BMP Rules *in advance* of your appointment to do the survey. Ask them to read the rules and offer to answer any questions before the survey. Many PCSs become more comfortable about a survey after realizing the "common sense" approach of the BMP rules. Bring several BMP fact sheets to each survey to distribute to the PCS representative(s).
- 3. Know your Source Water Protection Area.** During a survey keep in mind where the PCS is situated relative to your source(s). This may help you make site-specific decisions about compliance issues. Bring a map showing your protection area(s) to the survey so the PCS can see that they are located inside the protection area.
- 4. Know your Source Water Protection Area Management Plan.** Keep in mind the compliance mechanism of your management plan. One of the most commonly asked questions by PCSs is "How are the BMP rules enforced?" so you should be able to explain how you will achieve compliance with BMP violations. Emphasize that you will seek the *least costly and most practical* way to achieve compliance. Voluntary compliance is always the goal.
- 5. Find out as much as you can about a PCS before you go** to the survey. It saves time to know site -specific background information, such as: what type of sewage disposal system does the PCS have; how long has the PCS been in business; and what was the historic usage of the PCS' property. Also, before the survey, think about site-specific concerns pertaining to the storage, handling and disposal of regulated materials. For example, before surveying a printing company, anticipate that you will need to know how they store, handle and dispose of ink products. Knowing key background data and anticipating site-specific compliance concerns will help prevent oversights and will make the survey more efficient.
- 6. Be sure that the PCS understands** that a BMP survey is mutually beneficial. Explain that the Env-Wq 401 rules apply to all PCSs in New Hampshire, not just the ones within a source protection area. Also, explain that compliance with BMP rules may benefit them by: improving their environmental practices; reducing their overall environmental liability; and perhaps minimizing potential cleanup costs by preventing a release of hazardous substances. Your water system benefits from improved protection of your drinking water sources and reduced sampling costs.
7. If at all possible, **fill out Sections 2, 3, and 4 of this form before you go** to the PCS. Most PCS representatives are busy and will appreciate whatever you can do to minimize your time there. This is a good time to think about the site-specific concerns mentioned in (5) above.
- 8. Know the BMP survey form.** During a survey, it is not always possible to fill out the form in the same order as the questions are written. Knowing the form makes it much easier to "skip around" while you are touring a facility.

Section 2. Record of Survey

Fill out Sections 2 and 3 prior to each survey.

Survey Date	
Potential Contamination Source (PCS)	
Town where PCS is Located	
Agency Conducting Survey	
Name and Title of Person(s) Performing Survey	
Name and Title of Person(s) Giving Information about the PCS	

Section 3. Potential Contamination Source (PCS) Information

Update this section for each 3-year survey.

PCS Name		
PCS Address		
PCS Phone Number		
PCS Tax Map and Lot Number	Tax Map	Lot no.
PCS Owner		
PCS Owner Address (If different from above)		
General Description of Business		

Section 4. Inventory Verification

An “inventory verification” is conducted before the actual survey to find out if the PCS uses greater than household quantities of regulated substances, thereby making it subject to the Env-Wq 401 BMP rules. If the PCS does not use greater than household quantities of regulated substances, answer “no” in Step C. and do not complete the rest of this form. This verification may be performed by phone.

Complete Steps A., B., and C. below

Step A. - What regulated substances does the PCS use, handle, or store?

The best way to complete this section is to ask the PCS contact to fill out the chart below. **If possible, arrange to have the PCS fill out this chart before you arrive to do the survey.** If not done earlier, this section is filled out as the first task of your survey. Quantities listed below only need to be **estimates** of maximum quantities on hand at any one time. Any chemicals stored in regulated tanks should be included on this chart.

Regulated Substance	Quantity (gallons)	Regulated Substance	Quantity (gallons)
Transmission and brake fluid		Cleaners and Disinfectants	
Radiator coolants		De-icing salt	
Hydraulic fluid		Refrigerants	
Motor oil		Fertilizer	
Waste oil		Pesticides and herbicides	
Gasoline or jet fuel		Photo processing chemicals	
Diesel Fuel and kerosene		Printing ink	
#2 Heating oil		Lye or caustic soda	
Grease and lubricants		Metal buffing compounds	
Degreasers		PCBs (bulk)	
Battery acid (bulk)		Products labeled poison	
Rustproofers		List other products you think are hazardous , below:	
Car wash products		1.	
Asphalt and roofing tar		2.	
Paint, stain, urethane		3.	
Thinner, wood stripper		4.	
Waterproofing chemicals		5.	
Dry-Cleaning Fluids		6.	

Section 4. Inventory Verification

Step B. - What regulated substance wastes does the PCS produce?

The second part of the inventory verification is to find out if the PCS produces any regulated substance wastes and, if so, **how they are disposed**. As done for Section A, if possible arrange to have the chart below filled out by the PCS contact prior to your survey. If not done ahead of time, fill out the chart after you look over the results of Section A. For example, if the PCS is a machine shop that uses cutting oils and degreasing solvents, then the chart below must indicate how they dispose of their waste oils and used solvents. Do not list non-hazardous wastes, such as refuse and paper on this chart. Estimates of quantities generated per year are adequate.

Type of Waste	Quantity Generated per Year	Disposal Method
1.		
2.		
3.		
4.		
5.		

Step C. - Are greater than household quantities of regulated substances or wastes used, handled, or stored?

(check the appropriate box below)

If all containers at the PCS are **less than 5 gallons**, check "NO" below

√ Check Below

YES	Greater than household quantities of regulated substances or wastes are used, handled, or stored so conduct a survey to determine compliance with BMP rules.
NO	Greater than household quantities of regulated substances or wastes are not used, handled, or stored so do not conduct a survey to determine compliance with BMP rules.

If you **checked "NO" above**, do not continue with the survey because the inventory verification indicated that regulated substances are not used by the PCS.

If you **checked "YES" above**, complete the rest of this form, which contains a series of questions that need to be answered to assess if the PCS is in compliance with the BMP rules. Be sure that you answer all of the questions – indicate "n/a" if that is the correct answer.

PCSs that have underground tanks, but no other containers larger than 5 gallons are special cases. If a PCS fits that description, you should not conduct a full survey. List the USTs in Section 7, verify that the USTs are registered with the DES, and then **stop the survey**. Convenience stores and self-service gas stations are common examples.

Section 5. Regulated Substance Storage Areas

If you observe a BMP violation during a survey, point it out to the PCS contact and discuss it right away - **surveys are meant to benefit both parties.**

Storage practices of regulated substances, whether raw materials or wastes, are a major focus of the BMP rules. Therefore, one of the most important tasks of a survey is to observe all areas where the regulated substances listed in Section 4 - Steps A and B are stored. **Ask the PCS contact where they store** their regulated substances and list them below. Then be sure to carefully observe each interior and exterior storage area to see if their storage practices comply with the BMP rules. Consider at all times during your observations that you are looking for practices that could lead to a potential release of hazardous substances to the environment. Use common sense.

Step A. - List and briefly describe **all on-site storage areas** below.

Exterior Storage Areas

1.
2.
3.
4.

Interior Storage Areas

1.
2.
3.
4.

Summary of **Env-Wq 401 BMP rules pertaining to storage** of regulated substances

- Secure storage areas against unauthorized entry.
- Store regulated substances on an impervious surface.
- Inspect storage areas weekly.
- Cover regulated containers in outdoor storage areas.
- Regulated containers in outdoor storage areas must be more than 50 feet from surface water, 50 feet from storm drains, 75 feet from private wells, and more than 400 feet from public wells.
- Secondary containment is required for outdoor storage of regulated containers. On-premise use heating oil tanks are exempted, however, containment is still recommended.
- Regulated containers should be clearly and visibly labeled.

A **regulated container** is a container with a capacity of 5 gallons or more that contains hazardous substances. Multiple 5-gallon containers of a regulated substance may qualify the facility as a PCS.

Secondary containment means an impervious structure adequate to hold 110% of the volume of a regulated container.

Section 5. Regulated Substance Storage Areas

Proceed at a comfortable pace as you tour a facility.
You may miss key observations if you go too fast.

Step B. - Questions to ask when observing outdoor storage areas.

Wooden floors with earth beneath are not impervious surfaces.

Storage of Regulated Substances in outdoor storage areas (refer to Env-Wq 401.04)

- * Yes No N/A 1. Do the outdoor storage area(s) have an impervious surface under the regulated substances?
Env-Wq 401.04(b) Describe: _____

- * Yes No N/A 2. Is the outdoor storage area(s) secured against unauthorized entry (fence, surveillance, etc.)?
Env-Wq 401.04(c) Describe: _____
- * Yes No N/A 3. Is the outdoor storage area(s) inspected at least weekly for signs of spills?
Env-Wq 401.04(d)
- * Yes No N/A 4. Is there sufficient space between large containers to allow for inspections?
Env-Wq 401.04(d)
- * Yes No N/A 5. Is each regulated container clearly and visibly labeled with the name of material?
Env-Wq 401.04(e)
- * Yes No N/A 6. Is each container closed and sealed or equipped with a drip pan beneath a spigot, valve or pump?
Env-Wq 401.04(f)
- * Yes No N/A 7. Is spill control and containment equipment (i.e. absorbents) available in the outdoor storage area?
Env-Wq 401.04(g)
- * Yes No N/A 8. Are regulated substances that are stored outside covered?
Env-Wq 401.04(h)(2) Describe: _____

- * Yes No N/A 9. Are regulated substances which are stored outside > 50 feet from a surface water body or > 75 feet from a private well?
Env-Wq 401.04(h)(4)
- * Yes No N/A 10. Are regulated substances that are stored outside > 50 feet from a storm drain?
Env-Wq 401.04(h)(4) If no, is secondary containment present? _____
- * Yes No N/A 11. Are regulated substances in outdoor storage areas stored outside the protective radius of public water supply wells? (radius is usually 400' - contact 271-2947 with questions)
Env-Wq 401.04(h)(4)
- * Yes No N/A 12. Do regulated containers in outside storage areas have secondary containment?
Env-Wq 401.04(h)(1)

A cover must be permanent and large enough to keep a container fully protected from rain and snow.

Transfer (Handling) of Regulated Substances in outdoor storage areas (refer to Env-Wq 401.05)

During a survey, it is important to find out and understand **where and how** the PCS handles regulated substances. Observe all areas where fluids are used, or moved to and from.

- * Yes No N/A 13. Are regulated substances in outdoor storage areas transferred using funnels and drip pans or other spill-safe devices?
Env-Wq 401.05(a)
- * Yes No N/A 14. Are regulated substances in outdoor storage areas transferred over impervious surfaces?
Env-Wq 401.05(b) Describe: _____

Section 5. Regulated Substance Storage Areas

Release Response Information (refer to Env-Wq 401.09)

Release response information should be easy to find, clearly visible, and easy to read. If necessary, give a blank DES response form to the PCS contact. The form works best if copied onto brightly colored paper and placed in a clear plastic sleeve.

- * Yes No N/A
Env-Wq 401.09(b)
15. Is there adequate information posted at each outdoor storage area that indicates what should be done and who should be contacted in the event of a spill or other emergency?
- Yes No N/A
16. Did you recommend to the PCS that they post the DES release response form in outdoor storage areas?

Step C. - Questions to ask when observing indoor storage areas.

Storage of Regulated Substances in Indoor Storage Areas (refer to Env-Wq 401.04).

- * Yes No N/A
Env-Wq 401.04(b)
1. Does the indoor storage area(s) have an impervious surface under the regulated substances?
Describe: _____
- * Yes No N/A
Env-Wq 401.04(c)
2. Is the indoor storage area(s) secured against unauthorized entry (locked building, etc.)?
Describe: _____
- * Yes No N/A
Env-Wq 401.04(d)
3. Is the indoor storage area(s) inspected weekly for signs of spills?
- * Yes No N/A
Env-Wq 401.04(d)
4. Is there sufficient space between large containers to allow for inspections?
- * Yes No N/A
Env-Wq 401.04(e)
5. Is each regulated container clearly and visibly labeled with the name of material?
- * Yes No N/A
Env-Wq 401.04(f)
6. Is each container closed and sealed or equipped with a drip pan beneath a spigot or pump?
- * Yes No N/A
Env-Wq 401.04(g)
7. Is spill control and containment equipment (i.e. absorbents) available in the indoor storage area?

Transfer (Handling) of Regulated Substances in indoor storage areas (refer to Env-Wq 401.05)

- * Yes No N/A
Env-Wq 401.05(a)
8. Are regulated substances in indoor storage areas transferred using funnels and drip pans or other spill-safe devices?
- * Yes No N/A
Env-Wq 401.05(b)
9. Are regulated substances in indoor storage areas transferred over impervious surfaces?
Describe: _____

Release Response Information in indoor storage areas (refer to Env-Wq 401.09)

- * Yes No N/A
Env-Wq 401.09(b)
10. Is there adequate information posted at each storage area that indicates what should be done and who should be contacted in the event of a spill or other emergency?
- Yes No N/A
11. Did you recommend to the PCS that they post the DES release response form in indoor storage areas?

Section 6. Floor Drains and Work Sinks

Floor drains can be small and easily hidden from view, so be sure to **ask the PCS contact** if any floor drains are present at the facility. Do not assume that you will observe all drains.

Floor drains and work sinks are focuses of the BMP rules because they can be means by which hazardous substances are released to the environment. It is vital to know where floor drains and work sinks discharge. PCS background information is useful here because floor drains in an older building are more likely to discharge to a drywell or to an unknown point than those in a newer building. Env-Ws 1503.04 (c) prohibits discharges through floor drains to the environment. For this section, you need to know if the PCS is serviced by a sanitary sewer or by a septic system. Keep in mind that floor drains can range in size from circular drains a few inches in diameter to trench drains many feet in length.

Step A. - Floor Drains (refer to Env-Wq 401.06)

Answer questions 1- 6 below

Concentrate on floor drains located **near regulated substances**. Drains in non-hazardous areas like bathrooms, kitchens or cafeterias are not covered by the Env-Wq 401 BMP rules.

Yes No 1. Is the facility connected to a sanitary sewer?

Yes No 2. Are there any on-site septic systems?

Yes No 3. Are there any floor drains at the facility?

Observe each floor drain for **visible stains**. Note any stains in the chart below.

If you **answered "YES" to 3., above**, list their locations and briefly describe. below

list of **Floor Drains** at the PCS

1.	4.
2.	5.
3.	6.

Floor Drain Discharge Points (circle all that apply and describe in the box)

Unknown Holding Tank Sanitary Sewer Septic System Drywell Stream or Wetland

Yes No N/A 4. If you circled unknown above, did you require that the PCS **determine the discharge point** of their floor drains?

* Yes No N/A 5. Are the floor drains **authorized to discharge** by any of the following (check all that apply)?
Env-Wq 401.06

_____ Underground Injection Control (UIC) Registration	_____ National Pollution Discharge Elimination System Permit
_____ Holding Tank Registration	other
_____ Discharge Authorization from local treatment plant	other

Yes No N/A 6. Did you ask to see the permits to verify their existence?

Floor drains and work sinks **cannot discharge** into or onto the ground or water without a permit.

Section 6. Floor Drains and Work Sinks

Step B. - Work Sinks (refer to Env-Wq 401.07)

Env-Wq 401.03(k) defines work sink as a basin necessary to perform a task or process that requires a regulated substance, such as parts washing. Sinks used exclusively for hand washing are excluded from the survey unless they are stained or located near where regulated substances are used. Observe sinks for visible staining. Many facilities have devices for parts cleaning that utilize a self-contained, recirculating system for degreasing solvent. Consider these devices a work sink, but note the self-containment feature in the chart below. Self-contained degreasing sinks comply with BMP rules.

Answer questions 1 - 4 below

Yes No 1. Are there any work sinks used for non-hand washing purposes at the facility?

If you answered "YES" to question 1, list their locations and briefly describe, below

List of **Work Sinks** at the PCS

1.	4.
2.	5.
3.	6.

Work Sink Discharge Points (circle all that apply and describe in the box)

Unknown Holding Tank Self-Contained Sanitary Sewer Septic System Drywell Stream or Wetland

Yes No N/A 2. If you circled unknown, above, did you require that the PCS **determine the discharge point** of their work sinks? Report all unknown discharge locations to the DES/UIC Program at 271-2858.

* Yes No N/A 3. Are all the work sinks **authorized to discharge** by any of the following (check all that apply)?
Env-Wq 401.07

_____ Underground Injection Control (UIC) Registration	_____ National Pollution Discharge Elimination System Permit
_____ Holding Tank Registration	other
_____ Discharge authorization from local treatment plant	other

Yes No N/A 4. Did you ask to see the permits to verify their existence?

Section 7. Storage Tanks

Underground tanks cannot be directly observed, so simply list them and check their registration status. **Observe all fueling areas.** Keep in mind that the Env-Wq 401 BMP rules require that fueling be conducted on an impervious surface.

Storage tanks are either underground or aboveground. A tank is considered underground if more than 10% of its capacity is below grade. Env-Wq 401 BMP rules do not encompass all regulations pertaining to tanks; both underground and aboveground tanks are regulated apart from the BMP rules. However, because tanks have the potential to adversely impact the environment you must observe all PCS tanks and associated fueling and filling areas during a survey. List all tanks at the PCS and find out if they are registered with the DES. BMP issues applicable to tanks may include impervious surfaces, secondary containment, covers, and setbacks from surface water and wells. Be sure to keep these issues in mind while observing tanks.

Step A. - Underground Storage Tanks (USTs)

USTs are regulated by NH UST rules Env-Wm 1401. (to be readopted as Env-Or 400 in 2007)

Partial Summary of UST Regulations

- ◆ Non-residential USTs that contain other regulated materials (such as gasoline or chemicals) and are larger than 110 gallons must be registered with the DES.
- ◆ Non-residential heating oil USTs that are larger than 110 gallons must be registered with the DES if other USTs are on the site that must be registered.

Answer questions 1 - 6 below.

Yes No 1. Are any USTs located at the PCS? If "YES", list them below.

List of **USTs** at the PCS

Contents	Capacity (gal.)	Age	Contents	Capacity (gal.)	Age
1.			5.		
2.			6.		
3.			7.		
4.			8.		

* Yes No N/A Unknown
Env-Wm 1401

2. Are the USTs at the PCS registered with the DES?

Yes No N/A.

3. If you answered "unknown" or "no" to question 2, did you require the PCS to determine or correct its UST registration status, if applicable?

* Yes No N/A
Env-Wq 401.04(b)

4. Does the PCS conduct fueling operations from its USTs over an impervious surface?

* Yes No N/A
Env-Wq 401.04(g)

5. Is spill control and containment equipment (i.e. absorbents) available near the USTs (especially where fueling takes place)?

* Yes No N/A
Env-Wq 401.09

6. Is release response information posted near the USTs?

Tanks in basements are aboveground tanks if they are above the floor.

Section 7. Storage Tanks

ASTs are regulated by NH AST rules Env-Wm 1402.
(to be readopted as Env-Or 300 in 2007)

Step B. - Aboveground Storage Tanks (ASTs)

Partial Summary of AST Regulations

- A single AST with a capacity larger than 660 gallons must be registered with the DES.
- Two or more ASTs with a total storage capacity larger than 1,320 gallons must be registered with DES.
- ASTs with a capacity of 10,000 gallons or less storing **fuel oil used only to heat an on-site structure** do not have to be registered.
- ASTs with a capacity less than 660 gallons are subject to BMP rules.

Answer questions 1 - 8 below.

Yes No 1. Are any ASTs at the PCS? If "YES", list below

List of **ASTs at the PCS**

Contents	Capacity (gal.)	Age	Contents	Capacity (gal.)	Age
1.			5.		
2.			6.		
3.			7.		
4.			8.		

* Yes No N/A Unknown
Env-Wm 1402

2. Are the ASTs at the PCS registered with the DES?

Yes No N/A.

3. If you answered "unknown" or "no" above, did you require the PCS to determine or correct its AST registration status, if applicable?

* Yes No N/A
Env-Wq 401.04(b)

4. Does the PCS conduct fueling operations from its ASTs over an impervious surface?

* Yes No N/A
Env-Wq 401.09

5. Is release response information posted near the ASTs?

* Yes No N/A
Env-Wq 401.04(g)

6. Is spill control and containment equipment (i.e. absorbents) available near the ASTs?

* Yes No N/A
Env-Wq 401.04(h)(1)

7. Do the ASTs at the PCS (including those that do not require registration) have a cover (i.e. roof) if outside, secondary containment and/or a spill prevention control and countermeasure plan (SPCC)? Describe below.

* Yes No N/A
Env-Wq 401.04(h)(4)

8. Do all portable, outdoor ASTs meet the BMP setbacks from surface water (>50 feet) and private wells (>75 feet)? If no, describe below.

Section 8. Final Questions

Fill out this section **before you leave the site**. Don't rely on your memory to complete this form. Site specific information is easy to forget or to confuse with other facilities so fill out this form completely and have all your questions answered before leaving.

Yes No 1. Do any on-site septic system(s) or drywell(s) accept any non-sanitary discharges not previously mentioned? If **yes**, describe below.

Yes No 2. Are there any other non-sanitary discharges not previously mentioned? If **yes**, describe below.

Yes No 3. Did the survey indicate any other practices or findings that you want to discuss with the DES? If **yes**, describe below and call 271-2947 or 271-0688 for further assistance.

Section 9. Follow-up Procedures

Before you leave the site, inform the PCS representative that within 30 days you will get back to them in writing with the results of the survey.

- If you **circled "No"** to any question with an asterisk (*) beside it, or **circled "Yes"** to any question in Section 8, then the PCS is not in compliance with the referenced BMP or tank rule.

- ♦ If a BMP is **not in compliance** with a BMP or tank rule, you should notify them in writing within 30 days of the survey. Written notification should include suggestions about how to correct non-compliance issues as well as reasonable deadlines. Refer to the booklet "Managing Groundwater Protection Areas - Guidance and Sample Letters" for assistance. Call the DES at 271-2947 or 271-0688 for a copy of this booklet.
- ♦ A PCS should be notified in writing within 30 days even if no BMP rule violations were observed.
- ♦ It is not necessary to submit copies of completed survey forms to the DES. However, be certain to keep them in your files for reference. A copy of a completed survey form can be provided to a PCS if requested.

Please call the DES Source Water Protection Program at 271-2947 or 271-0688 if you need training, assistance or have any questions.

APPENDIX C

Best Management Practices: Photos and Explanation

Best Management Practices: Photos and Explanation

The following are examples of “*inadequate*” and “*adequate*” management practices related to regulated substances, as defined under New Hampshire Env-Wq 401. For a complete listing of regulated substances visit the US Government Printing Office website: http://www.access.gpo.gov/nara/cfr/waisidx_00/40cfr302_00.html

Env-Wq 401.03(c) Impervious surface means a surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete and asphalt unless unsealed cracks or holes are present, and do not include earthen, wooden, or gravel surfaces or other surfaces which could react with or dissolve when in contact with the substances stored on them. Regulated containers must be stored on an impervious surface.

INADEQUATE: Pervious Surface (not suitable for regulated substances)

- Pervious surfaces include soil, wood or gravel surfaces, as well as asphalt or concrete surfaces with floor drains, cracks, holes or other openings to the earth’s surface.



ADEQUATE: Impervious Surface

- Spillage onto an impervious surface provides a protective barrier to groundwater and allows for easy clean up.



Env-Wq 401.03(h) Regulated containers in outside storage areas shall be kept covered at all times unless substances are actively being added to or being removed from the regulated container...

- **INADEQUATE:** Uncovered outdoor storage of regulated containers allows the weather to more rapidly degrade the containers resulting in leaks and releases of regulated substances into surrounding ground or surface waters.



- **ADEQUATE:** “Covered storage” includes buildings as well as trailers, waterproof tarps, or proprietary “bins” that keep the containers and secondary containment areas free from rain, snow or ice.



Env-Wq 401.03(h)(1) Secondary containment means a structure such as a berm or dike with an impervious surface which is adequate to hold any spills or leaks at 110% of the volume of the largest regulated container that will be stored there. Outdoor storage of regulated substances must have secondary containment.

- **INADEQUATE:** Poor secondary containment and spill control leads to releases of regulated substances through incidental (operational) spills or catastrophic events.



- **ADEQUATE:** Good secondary containment and spill controls prevent accidental or catastrophic releases.



Env-Wq 401.04(a) All hazardous wastes shall be stored in compliance with applicable federal regulations and state requirements as specified in RSA 147-A and rules promulgated pursuant thereto. Additional outdoor storage requirements may be required under Env-WD 507 of the NH Hazardous Waste Rules.

- **INADEQUATE:** Hazardous waste or regulated substances should not be disposed of in solid waste containers. However, solid waste containers that receive solid waste with residual hazardous wastes or regulated substances, such as used oil, parts washing fluids, antifreeze should be covered to limit exposure to precipitation, leak-proof, and placed upon an impervious surface.



- **ADEQUATE:** Solid waste containers should be covered and receive only solid waste as defined by NH RSA 149M. Small amounts of residual hazardous waste or regulated substances (e.g. small amounts of drying agents with used oil mixed together) are allowed under state rules. Contact DES at (271-2947) if you have specific questions.



Env-Wq 401.04(c) Storage areas (for regulated substances) shall be secured against unauthorized entry...

- **INADEQUATE:** Unsecured storage is vulnerable to accidental spillage or vandalism.



- **ADEQUATE:** "Secured" means in a locked storage unit or under surveillance by on-site personnel.



Env-Wq 401.04(f) Each regulated container shall remain closed and sealed at all times except to add or remove regulated substances. Regulated containers equipped with spigots, valves, or pumps shall be considered closed and sealed, provided that drip pans are placed and maintained under the spigots, valves or pumps.

- **INADEQUATE:** Open container without proper controls (i.e. spigots, valves or pumps). The container is not closed and sealed.



- **ADEQUATE:** Container is closed and utilizing a pump to dispense regulated substance.



Env-Wq 401.05(b) Transferring regulated substances from or to containers shall be done only over an impervious surface.

- **INADEQUATE:** Transferring regulated substances (i.e. used oil, gasoline, etc.) over a pervious surface is a violation of Env-Wq 401.05(b).



- **ADEQUATE:** Impervious surfaces or pads typically are asphalt or concrete and can include positive limiting barriers (grooves) at the edges of the pad to hold incidental spills.

