

TITLE L

WATER MANAGEMENT AND PROTECTION

CHAPTER 488

WATER MANAGEMENT

Section 488:1

488:1 Statement of Purpose. – This chapter provides for uniform statewide collection of water use data to understand how water resources are utilized in the state by establishing procedures and standards for the registration, measurement, and reporting of water use. The legislature recognizes the fundamental importance of water resources and intends to provide a framework to obtain and maintain basic water use data for the state. The legislature recognizes that information describing the major water uses of the state along with assessing the amount of water in a given watershed or aquifer are integral to all water resource quantity assessments and management decisions. Water use data is necessary to understand the effects of cumulative uses, transfers, discharges, and consumptive water losses in aquifers and watersheds in the state. Water use data also identifies the quantity and timing of existing water uses, and this information can be used to estimate future water needs of the state. Water use data is also necessary for verifying compliance with and equitable enforcement of state laws pertaining to groundwater and surface water.

Source. 2005, 240:1, eff. Jan. 1, 2006.

Section 488:2

488:2 Definitions. –

In this chapter:

- I. "Commissioner" means the commissioner of the department of environmental services.
- II. "Department" means the department of environmental services.
- III. "Discharge" means the return of water to the environment.
- IV. "Groundwater" means subsurface water that occurs beneath the water table in soils and geologic formations.
- V. "Person" means 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.
- VI. "Surface waters" means any lake, pond, river, stream, wetland, or tidal waters.
- VII. "Transfer" means any conveyance of water from one real property or place of business to another or incorporation into a product for subsequent distribution.
- VIII. "Withdrawal" means the removal or collection of water by pumping or gravity from surface water or groundwater.

Source. 2005, 240:1, eff. Jan. 1, 2006.

Section 488:3

488:3 Registration Required. –

- I. No person shall withdraw or discharge a cumulative amount of more than 20,000 gallons of water per day, averaged over any 7-day period, or more than 600,000 gallons of water over any 30-day period, at a single real property or place of business without registering the withdrawal or discharge with the department. Transfers of such volume of water shall also be registered. Registration shall be in addition to any required permits.
- II. No registration shall be transferred to another person without written notification to the commissioner.

Source. 2005, 240:1, eff. Jan. 1, 2006.

Section 488:4

488:4 Measurement Required. – Each withdrawal, discharge, or transfer required to be registered under this chapter shall be metered or measured by a technically appropriate and verifiable method approved by the commissioner. Withdrawals and discharges shall be measured at the point of withdrawal or discharge, respectively. Transfers shall be measured at a technically appropriate point approved by the commissioner.

Source. 2005, 240:1, eff. Jan. 1, 2006.

Section 488:4-a

488:4-a Measurement of Withdrawals for Snowmaking. – Notwithstanding RSA 488:4, water use associated with snowmaking shall be measured at the point water is withdrawn from any natural source of water for use by a snowmaking system and at the point that water is entering into the snowmaking system, and such water withdrawal and use shall be measured by an appropriate and calculable method such as a weir, stream gauge, meter, or a technically appropriate and calculable method utilizing the manufacturer's plated specifications as they relate to gallons of water pumped per minute. Diversions from natural sources into storage reservoirs may be measured by using the measurement of the amount of water entering a snowmaking system and by calculating the change in the amount of water stored in the storage reservoir, provided separate records of the water withdrawn from each natural source are maintained.

Source. 2011, 142:1, eff. Aug. 6, 2011.

Section 488:5

488:5 Application for Registration. – Registration shall be in a form prescribed by the commissioner.

Source. 2005, 240:1, eff. Jan. 1, 2006.

Section 488:6

488:6 Recordkeeping. – The registrant shall keep records that include the amount of water being withdrawn, discharged, or transferred, the location, the frequency, date, time, and the rate of withdrawal, discharge, or transfer and other information the commissioner may require to fulfill the purpose of this chapter. The registrant shall submit records to the department in a form and at a frequency prescribed by the commissioner.

Source. 2005, 240:1, eff. Jan. 1, 2006.

Section 488:6-a

488:6-a Record Keeping for Snowmaking Withdrawals. – Notwithstanding RSA 488:6, water use records associated with snowmaking shall be maintained and documented monthly, and 24-hour maximum volumes of water withdrawn from each natural water source and the water entering the snowmaking system shall be maintained and documented monthly.

Source. 2011, 142:2, eff. Aug. 6, 2011.

Section 488:7

488:7 Compliance. –

I. Registration and withdrawal of water under RSA 488:3 shall be deemed to grant permission to the department to enter onto the registered property to review compliance with the provisions of the registration.

II. Upon obtaining credible information that any person is not registered in accordance with RSA 488:3, I and is

withdrawing, discharging, or transferring a cumulative amount of more than 20,000 gallons of water per day, averaged over any 7-day period, or more than 600,000 gallons of water over any 30-day period, at a single real property or place of business, the department may obtain an administrative inspection warrant in accordance with RSA 595-B to determine compliance with the registration requirements.

Source. 2005, 240:1, eff. Jan. 1, 2006.

Section 488:8

488:8 Administrative Fines. –

I. The commissioner, after notice and hearing pursuant to RSA 541-A, may impose an administrative fine not to exceed \$2,000 for each offense upon any person who knowingly:

- (a) Violates any provision of this chapter or any rule or order adopted or issued under it.
- (b) Makes any material false statement in any document required to be filed or maintained.
- (c) Renders inaccurate, falsifies, or tampers with any monitoring device or method.

II. Rehearings and appeals from a decision of the commissioner under this section shall be in accordance with RSA 541.

III. Any administrative fine imposed under this section shall not preclude the imposition of further penalties under this chapter. The commissioner may assess additional fines upon any person who has received written notification from the department regarding violations of the provisions of this chapter or rules adopted pursuant to this chapter, if the violations have not been mitigated within 30 days of receipt of notification.

Source. 2005, 240:1, eff. Jan. 1, 2007.

Section 488:9

488:9 Rulemaking. –

The commissioner shall adopt rules, pursuant to RSA 541-A, relative to:

I. The content and structure of all forms pertaining to registrations to be received or issued by the department, including information and other materials to be submitted with the registration.

II. The form, content, structure, and frequency of filing of the records required under this chapter. The commissioner shall balance resource management objectives with the economic impact of filings when determining the substance of this rule and shall also give consideration to proprietary and confidentiality concerns.

III. Criteria and methodology for water withdrawal, transfer, and discharge measurement.

IV. Criteria to identify actions that constitute withdrawals, transfers, or discharges required to be registered pursuant to this chapter.

V. A schedule of administrative fines which may be imposed under this chapter for violation of this chapter or rules adopted pursuant to this chapter.

VI. Procedures for notice and hearing prior to the imposition of an administrative fine.

VII. Forms and frequency for reporting to the department the records required under RSA 488:6-a regarding snowmaking and water withdrawals for snowmaking.

Source. 2005, 240:1. 2011, 142:3, eff. Aug. 6, 2011.

Section 488:10

488:10 Appeals. – Unless otherwise specified, actions of the department may be appealed in accordance with RSA 21-O:14.

Source. 2005, 240:1, eff. Jan. 1, 2006.

Section 488:11

488:11 Exemption. – This chapter shall not apply to a discrete withdrawal arising from an emergency event.

Source. 2005, 240:1, eff. Jan. 1, 2006.