

DES EXEMPTION

Section 216-I:1

216-I:1 Definition. –

In this chapter:

I. "Approved disposal system" means a system:

(a) Constructed prior to July 1, 1967; or

(b) Constructed in accordance with plans submitted to and approved by:

(1) The former New Hampshire water supply and pollution control commission; or

(2) The department of environmental services.

Clearly, this RSA is more appropriately geared toward “constructing” a disposal system because that’s what it succinctly states. However, for the purposes of satisfying how DES classifies other “approved disposal systems”, please follow the trail of highlights.

II. "Campsite" means a parcel of land in a recreational campground or camping park rented for the placement of a tent, recreational vehicle, or a recreational camping cabin for the overnight use of its occupants.

III. "Campground owner" means the owner or operator of a recreational campground or camping park, or their agents.

IV. "Dependent vehicle" means a recreational vehicle which does not have toilet and lavatory facilities.

V. "Individual sewage disposal system" means any sewage disposal or treatment system, other than a municipally-owned and operated system, which receives either sewage or other wastes, or both.

VI. "Portable sanitary service vehicle" means a vehicle used to transport septage or waste water from a recreational vehicle to a sanitary station.

VII. "Recreational campground or camping park" means a parcel of land on which 2 or more campsites are occupied or are intended for temporary occupancy for recreational dwelling purposes only, and not for permanent year-round residency, excluding recreation camps as defined in RSA 170-E:55, I.

VII-a. "Recreational camping cabin" means a structure on a campsite, 400 square feet or less, calculated by taking the measurements of the exterior of the cabin, including all siding, corner trim, molding and area enclosed by windows, but not the roof or porch overhang, or log overhang at corners. It shall be designed not for use as a permanent dwelling but as a temporary dwelling for recreational camping and vacation use.

VIII. "Recreational vehicle" means any of the following vehicles:

(a) Motorhome or van, which is a portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.

(b) Pickup camper, which is a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.

(c) Recreational trailer, which is a vehicular, portable structure built on a single chassis, 400 square feet or less when measured at the largest exterior horizontal projections, calculated by

taking the measurements of the exterior of the recreational trailer including all siding, corner trim, molding, storage space and area enclosed by windows but not the roof overhang. It shall be designed primarily not for use as a permanent dwelling but as a temporary dwelling for recreational, camping, travel or seasonal use.

(d) Tent trailer, which is a canvas or synthetic fiber folding structure, mounted on wheels and designed for travel, recreation, and vacation purposes.

IX. "Sanitary station" means an approved facility used for accepting and disposing of wastes from recreational vehicle holding tanks, portable recreation toilets, or portable sanitary service vehicles.

X. "Tent" means a portable canvas or synthetic fiber structure used as a temporary dwelling for vacation or recreation purposes.

Source. 1989, 343:1. 1996, 228:108. 2000, 130:1-3. 2001, 49:1, eff. Aug. 10, 2001. 2019, 346:137, eff. Jan. 1, 2020.

Section 216-I:4

216-I:4 Disposal System. –

I. An approved disposal system shall be provided in all recreational campgrounds or camping parks.

II. Septage or waste water shall be discharged from recreational vehicles or portable recreational toilets into portable sanitary service vehicles, individual sewage disposal system connections, or sanitary stations.

III. Flush toilets or other approved toilet facilities, such as self-composting toilets or incinerating toilets, shall be provided in all recreational campgrounds or camping parks.

IV. The storage, collection, and disposal of refuse in recreational campgrounds or camping parks shall be conducted in a manner that will prevent health hazards, rodent harborage, insect breeding, accident or fire hazards.

V. A sanitary station shall be provided for disposal of waste from recreational vehicle holding tanks, portable recreational toilets and portable sanitary service vehicles. This requirement shall not apply to those recreational campgrounds or camping parks that have individual sewage connections to every campsite. Existing recreational campgrounds or camping parks which do not comply with this paragraph shall comply within 5 years of the effective date of this paragraph.

VI. A recreational camping cabin which has water plumbed to it shall have a connection to an approved sewage disposal system.

Source. 1989, 343:1. 2000, 130:5, eff. May 8, 2000. 2011, 52:1, eff. July 8, 2011.

What is an approved disposal system?

DES requires meeting the criteria of: Env0Wq 1003 & Env Wq 1600

NH Code Env-Wq 1602.22

“Innovative/alternative waste treatment (I/A)” means “innovative/alternative waste treatment” as defined in RSA 485-A:2, XXI, as reprinted in Appendix C. Source. #6991, eff 5-5-99; ss by

CHAPTER 485-A WATER POLLUTION AND WASTE DISPOSAL

Section 485-A

485-A:1 Declaration of Purpose. – The purpose of this chapter is to protect water supplies, to prevent pollution in the surface and groundwaters of the state and to prevent nuisances and potential health hazards. In exercising any and all powers conferred upon the department of environmental services under this chapter, the department shall be governed solely by criteria relevant to the declaration of purpose set forth in this section.

“V. "Groundwaters" shall mean all areas below the top of the water table, including aquifers, wells and other sources of groundwater.”

The above illustrates how DES involvement is not applicable for our purposes because there are no groundwater issues involved in our alternative method of collection/disposal. However, to determine what ‘alternative’ is according to statute, see below.

RSA 485-A:2, XXI states: "Innovative/alternative waste treatment" means treatment which differs from standardized and conventional practice, offers an advantage over such practice in a proposed application and satisfies the pollution abatement and treatment requirements for sewerage and sewage or waste treatment systems.

- We are relying on a contracted, permitted service to handle collection and safe disposal of all waste materials. A letter from our service provider is attached.
- Their method for collection and disposal satisfies all pollution and treatment requirements as evidenced by their state approved, permitted status.
- It IS an advantageous method because it does not affect subsurface water systems in any way.

Do we appropriately need to follow the DES rule regarding
Subdivision and approval of plans?

Sewage Disposal Systems

Section 485-A:29

485-A:29 Submission and Approval of Plans and Specifications. –

I. Any person proposing either to subdivide land, except as provided in RSA 485-A:33, or to construct a sewage or waste disposal system, shall submit 2 copies of such locally approved plans as are required by the local planning board or other local body having authority for the approval of any such subdivision of land, which is subject to department approval, and 2 copies of plans and specifications for any sewage or waste disposal systems which will be constructed on any subdivision or lot for approval in accordance with the requirements of the department as provided in this paragraph.

485-A:33 Exemptions. – There are no exemptions for portable disposal systems because they are classified as ‘alternative’. See above.

We cannot submit “plans” for an alternative method such as ours because they are **PORTABLE, NOT CONSTRUCTED, and DO NOT APPLY** to subsurface water pollution guidelines.

We **HAVE** submitted a site plan with designated locations of our portable toilet units indicated.

Further, Under NH DES criteria for **Applicability**, it clearly states:

Pursuant to RSA 485-A:29, I, Water Pollution and Waste Disposal/Submission and Approval of Plans and Specifications, NHDES regulates the subdivision of land into two or more lots if the proposed lots will not be served by municipal sewers and one (or more) of the proposed lots is less than five acres. **Subdivision approval is required for lots under 5 acres, leased land, campgrounds and condominium creation; for both residential and commercial developments where septic systems are, or will be used.**

- We **ARE NOT** utilizing a septic system of any kind for campground purposes
- We have demonstrated that our method of disposal fits well within the stated definitions of ‘alternative’ method.
- We have provided proof of utilizing a state approved method of collection and disposal that satisfies the pollution abatement and treatment requirements for sewerage.
- It is reasonable to interpret “where septic systems are, or will be used” to be a *qualifying statement* for the entire passage, and a basis for exemption.

I spoke and exchanged emails with 3 separate officers at the Department of Environmental services over a month-long period. The bottom line is although we are exempt from having to attain DES permits because of the 'alternative' method we are using, they will not write a letter indicating such exemption. As one of those officers suggested;

“The DES is not in the business of exempting; we are in the business of permitting. It’s up to the individual town or principality to determine DES applicability prior to sending an applicant our way.”

Timothy Drew, NH DES suggested NH Code Env-Wq 1003.02 is the governing code for determining applicability or exemption.

Section Env-Wq 1003.02 - Agents; Preparation of Plans; Seals Required **(a)** The agent for an applicant for subdivision approval shall be a licensed land surveyor or a permitted designer. **(b)** The agent for an applicant for ISDS approval shall be a permitted designer. **(c)** Plans for a small ISDS shall be prepared by a permitted designer, except that a property owner may prepare a design for a small ISDS to serve his or her own domicile, as provided in RSA 485-A:35, II. **(d)** Plans for an ISDS that are prepared by a permitted designer shall bear the seal of that permitted designer. **(e)** The seal required by (d), above, shall be as follows: **(1)** The seal shall be circular in design with corner borders; **(2)** The seal shall be 1.9 inches in height; **(3)** The circular portion shall include the wording "New Hampshire" at the top and "Department of Environmental Services" at the bottom; and **(4)** The words "Designer of Subsurface Disposal Systems" and the name and permit number of the permitted designer shall be contained within the circular area. **(f)** Subject to (g), below, an ISDS shall be designed by a permitted designer who is also a civil or sanitary professional engineer (P.E.) licensed in the state of New Hampshire if the ISDS is: **(1)** For a single structure for which the ISDS will have a design flow of greater than 2,500 GPD; **(2)** For a group of structures proposed to share an EDA for which the combined design flow is greater than 2,500 GPD; **(3)** On a ledge lot, and has a design flow of: **a.** Greater than 600 GPD for a commercial use; or **b.** Greater than 1,500 GPD for a residential use; or **(4)** A pipe-and-stone system intended to be installed beneath a driveway or parking area. **(g)** Plans for an ISDS designed pursuant to (f), above, shall bear the individual's designer seal as specified in (b), above, and P.E. seal as required by RSA 310-A:18. **(h)** Plans for an ISDS required by (f), above, to be designed by a permitted designer/P.E. may be designed by a permitted designer who is not a P.E., but shall only be submitted to the department after being reviewed and approved by a P.E. who is also a permitted designer. For such applications, the plans shall bear the designer seal of the permitted designer who designed the ISDS and the P.E. seal of the P.E. who reviewed and approved the plans. **(i)** As required by RSA 310-A:67, II, plans that involve the practice of land surveying as defined by RSA 310-A:54, IV shall bear the stamp and signature of a licensed land surveyor. **(j)** For any ISDS designed by a permitted designer/P.E. pursuant to (f) or (h), above, that was approved with multiple connections to one or more EDAs, an application to connect to the EDA shall not require a P.E. stamp.

- We have provided a small, self-created site plan which demonstrates where these portable methods of collection will be located.
- We have provided proof of how safe handling and disposal will be conducted.

RSA 485-A:35II Permit Eligibility/Exemption

II: I. Any person who desires to submit plans and specifications for a sewage or waste disposal system for the person's own domicile shall not be required to obtain a permit under this paragraph provided that the person attests to eligibility for this exemption in the application for construction approval.

Clearly, the all of the rules governing DES involvement suggest it is more appropriately geared towards projects involving *actual construction*, and NOT the type of project we filed with the town for special exception.

Therefore, I hereby attest to being eligible for this exemption based on the 8 following criteria:

1. We are not doing **any** physical construction
2. We do not have, nor use any 'subsurface' systems for the campground
3. We are not constructing or utilizing any type of waste disposal systems at all. It will all be handled through a contracted service.
4. Under NH DES criteria for Applicability, it clearly states:
Pursuant to RSA 485-A:29, I, Water Pollution and Waste Disposal/Submission and Approval of Plans and Specifications, NHDES regulates the subdivision of land into two or more lots if the proposed lots will not be served by municipal sewers and one (or more) of the proposed lots is less than five acres. **Subdivision approval is required for lots under 5 acres, leased land, campgrounds and condominium creation; for both residential and commercial developments where septic systems are, or will be used.**

Source:https://www.des.nh.gov/organization/divisions/water/ssb/permit_subdiv_approval.htm

5. **Hazardous materials handling: Waste:** We're contracted with Best Septic of Loudon who are licensed by the state and permitted to handle waste materials from our portable toilet units. Letter attached.
6. As the DES officer suggested, it is incumbent upon town to determine DES applicability and exemption before an applicant is sent their way.
7. RSA 212:34 (fish and game) Duty of Care clearly outlines our type of operation, along with "ancillary" facilities such as parking and portable toilets. It also specifies camping as one of the outdoor recreational pursuits it recognizes.

8. On the Planning Board Site Plan Review Application #11; asks for a DES subdivision number, and in parenthesis it says; 'if applicable'. This clearly implies the board acknowledges that there *are* exceptions and inapplicable factors—which in this instance and based on the above criteria, should be appropriately applied to my proposal.