

TABLE OF CONTENTS

CHAPTER Env-Dw 600 CAPACITY ASSURANCE

PART Env-Dw 601 CAPACITY ASSURANCE FOR PUBLIC WATER SYSTEMS

Section Env-Dw 601.01 Purpose
Section Env-Dw 601.02 Applicability
Section Env-Dw 601.03 Definitions
Section Env-Dw 601.04 Notice of Deficiencies; Rating Determination
Section Env-Dw 601.05 Business Plan
Section Env-Dw 601.06 Submittal and Approval of Business Plan
Section Env-Dw 601.07 Notice to the Public

REVISION NOTE:

Document #9107, effective 3-23-08, readopted with amendments and renumbered former Part Env-Ws 363 entitled “Capacity Assurance for Existing Public Water Systems” under a new subtitle as Part Env-Dw 601 entitled “Capacity Assurance for Public Water Systems”. Document #9108, effective 3-23-08, readopted with amendments and renumbered former Part Env-Ws 371 entitled “Capacity Assurance for Proposed Public Water Systems” under a new subtitle as Part Env-Dw 602. The redesignation from subtitle Env-Ws to subtitle Env-Dw was done pursuant to a rules reorganization plan for Department rules approved by the Director of the Office of Legislative Services on 9-7-05.

Documents #9107 and #9108 replace all prior filings for rules on capacity assurance formerly in, respectively, Env-Ws 363 and Env-Ws 371. The prior filings for rules on capacity assurance in former Env-Ws 363 and Env-Ws 371 include the following documents:

Env-Ws 363

#7105, eff 9-23-99, EXPIRED 9-23-07
#8994, INTERIM, eff 9-25-07

Env-Ws 371

#7105, eff 9-23-99, EXPIRED 9-23-07
#8995, INTERIM, eff 9-25-07

CHAPTER Env-Dw 600 CAPACITY ASSURANCE

PART Env-Dw 601 CAPACITY ASSURANCE FOR PUBLIC WATER SYSTEMS

Statutory Authority: RSA 485:3, XII

Env-Dw 601.01 Purpose. The purpose of these rules is to ensure the long-term viability of public water systems (PWS) as required by §119 of the federal Safe Drinking Water Act Amendments of 1996, 42 U.S.C. §300g-9 (federal SDWA), by ensuring that each community and non-transient, non-community PWS has sufficient technical, managerial, and financial capability to:

- (a) Meet the requirements of the New Hampshire Safe Drinking Water Act, RSA 485 (state SDWA); and
- (b) Provide effective and reliable water service to its customers.

Source. (See Revision Note at chapter heading for Env-Dw 600) #9107, eff 3-23-08 (formerly Env-Ws 363.01)

Env-Dw 601.02 Applicability. These rules shall apply to any community or non-transient, non-community PWS that:

- (a) Receives a notice under Env-Dw 601.04 that it has exceeded the deficiency rating as specified in Env-Dw 601.04; or
- (b) Receives an order from the department under RSA 485:4 or RSA 485:58 to comply with these rules.

Source. (See Revision Note at chapter heading for Env-Dw 600) #9107, eff 3-23-08 (formerly Env-Ws 363.02)

Env-Dw 601.03 Definitions.

(a) "Business plan" means a multifaceted assessment of the present and future managerial and financial capacity of a PWS to achieve and maintain economic viability, compliance with the state SDWA and federal SDWA, and effective and reliable service to customers.

(b) "Department" means the department of environmental services.

(c) "Significant deficiencies" means violations of chapter Env-Ws 300 as specified in Env-Ws 306.02 or successor rules in subtitle Env-Dw.

Source. (See Revision Note at chapter heading for Env-Dw 600) #9107, eff 3-23-08 (formerly Env-Ws 363.03)

Env-Dw 601.04 Notice of Deficiencies; Rating Determination.

(a) If the department identifies capacity assurance deficiencies at a PWS as a result of a sanitary survey, public complaint, repeated enforcement notices, or in any other way, the department shall notify the PWS owner of the capacity assurance deficiencies in writing.

(b) If the deficiency rating exceeds a total of 25 points as determined using Table 601-1, below, the PWS owner shall prepare a business plan and have the plan approved by the department pursuant to Env-Dw 601.05.

(c) The capacity assurance deficiency rating of the PWS shall be determined using the deficiency schedule shown below in Table 601-1:

Table 601-1
Deficiency Schedule for Capacity Assurance

<u>Area, Deficiency</u>	<u>Deficiency Points</u>
Inadequate source water capacity	15
Inadequate infrastructure (flooding, electrical, mechanical equipment), per deficiency	10
Significant deficiencies, per deficiency	10
Maximum Contaminant Levels, per violation	10
Lack of certified operator	10
Monitoring and reporting or Public Notice, per violation	10

Source. (See Revision Note at chapter heading for Env-Dw 600) #9107, eff 3-23-08 (formerly Env-Ws 363.05)

Env-Dw 601.05 Business Plan.

(a) The business plan shall serve to document the managerial and financial components of the PWS to help ensure its long-term sustainability.

(b) The business plan shall include:

- (1) A brief non-technical description of the PWS, including major components, source type and capacity, number of service connections, and number of customers;
- (2) A description of the PWS's managerial capabilities per Env-Dw 602.06, except that any rule which refers to a proposed PWS shall be understood to mean the existing PWS;
- (3) A description of the PWS's financial capabilities per Env-Dw 602.07, except that any rule which refers to a proposed PWS shall be understood to mean the existing PWS; and
- (4) Specific actions and timeline to be taken by the management of the PWS to address the deficiencies identified.

(c) The business plan shall:

- (1) Have a minimum 5-year planning horizon; and
- (2) Be reviewed annually and updated as needed.

Source. (See Revision Note at chapter heading for Env-Dw 600) #9107, eff 3-23-08 (formerly Env-Ws 363.04)

Env-Dw 601.06 Submittal and Approval of Business Plan.

(a) The owner of the PWS shall submit a business plan meeting the requirements of Env-Dw 601.05(b) and (c) to the department in writing:

- (1) Within 90 days of receiving a notice of deficiencies pursuant to Env-Dw 601.04; or
- (2) As specified in an administrative order issued pursuant to RSA 485:4 or RSA 485:58.

(b) The department shall approve the plan if it demonstrates that implementing the plan will:

- (1) Correct the deficiencies so as to bring the PWS into compliance with the state SDWA; and

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(2) Allow the PWS owner to provide effective and reliable water service to its customers.

(c) The department shall notify the PWS owner of the plan's approval or disapproval in writing. If the plan is not approved, the written notice shall specify the reason(s) therefor.

Source. (See Revision Note at chapter heading for Env-Dw 600) #9107, eff 3-23-08

Env-Dw 601.07 Notice to The Public. In the annual consumer confidence report described in Env-Ws 354 or successor rules in subtitle Env-Dw, or in an equivalent document, the PWS owner shall provide annual notice to all persons who own service connections to the water system of:

- (a) The availability of the business plan; and
- (b) A schedule of prevailing water rates.

Source. (See Revision Note at chapter heading for Env-Dw 600) #9107, eff 3-23-08 (formerly Env-Ws 363.40)

APPENDIX

Rule Section(s)	State and Federal Statute(s) Implemented
Env-Dw 601	RSA 485:3, XII; 42 U.S.C. §300g-9
Env-Dw 602	RSA 485:3, XII; 42 U.S.C. §300g-9