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CHAPTER Env-Dw 600 CAPACITY ASSURANCE

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

PART Env-Dw 602 CAPACITY ASSURANCE FOR PROPOSED PUBLIC WATER SYSTEMS

Statutory Authority: RSA 485:3, XII

Env-Dw 602.01 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 proposed PWS has the technical, managerial, and financial capacity 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) #9108, eff 3-23-08 (formerly Env-Ws 371.01)

Env-Dw 602.02 Applicability. These rules shall apply to:

- (a) Proposed community PWS other than a PWS owned by a political subdivision;
- (b) Proposed non-transient, non-community PWS; and
- (c) Any existing water system that does not meet the definition of a PWS but plans to expand in size so as to become a PWS.

Source. (See Revision Note at chapter heading for Env-Dw 600) #9108, eff 3-23-08 (formerly Env-Ws 371.02)

Env-Dw 602.03 Definitions.

- (a) "Applicant" means the individual or entity proposing to establish a PWS.
- (b) "Business plan" means a multifaceted assessment of the projected managerial and financial capacity of a proposed PWS to achieve and maintain economic viability, compliance with the state SDWA and federal SDWA, and effective and reliable service to customers.
- (c) "Department" means the department of environmental services.

Source. (See Revision Note at chapter heading for Env-Dw 600) #9108, eff 3-23-08 (formerly Env-Ws 371.03)

Env-Dw 602.04 Demonstrating Capacity Assurance for New PWS. Capacity assurance for new PWS as required by Env-Ws 372.03 or Env-Ws 373.03, or successor rules in subtitle Env-Dw, shall be demonstrated by the applicant through the following submittals:

- (a) A business plan as specified in Env-Dw 602.05, which includes a demonstration of managerial capabilities and financial capabilities; and
- (b) A technical design assurance submittal as specified in Env-Ws 370 or Env-Ws 372 through Env-Ws 374, or successor rules in subtitle Env-Dw, as appropriate.

Source. (See Revision Note at chapter heading for Env-Dw 600) #9108, eff 3-23-08 (formerly Env-Ws 371.04)

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Env-Dw 602.05 Business Plan for a Proposed PWS.

(a) The business plan for a proposed PWS shall include:

- (1) A brief, non-technical description of the proposed PWS and its customers, including major components, source type and capacity, number of service connections, and number of customers;
- (2) A description of the managerial capabilities of the applicant, as applicable to the proposed PWS, as specified in Env-Dw 602.06; and
- (3) A description of the financial capabilities of the applicant, as applicable to the proposed PWS, as specified in Env-Dw 602.07.

(b) The business plan shall:

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

(c) The applicant shall submit a preliminary business plan to the department at the same time as the applicant submits the final design for the PWS pursuant to Env-Ws 370 or Env-Ws 372-374 or successor rules in subtitle Env-Dw.

(d) The department shall review the preliminary business plan and provide written comments to the applicant if the department determines that the projected costs or rates are not realistic in view of typical costs or rates for similar projects in New Hampshire.

(e) The applicant shall submit a final business plan to the department before the system is issued approval to operate. The final plan shall address any comments provided by the department on the preliminary plan and include final costs, water rates, staffing, and bylaws.

(f) The department shall approve the final business plan if the department determines that by implementing the plan, the PWS will achieve the purpose of these rules as stated in Env-Dw 602.01.

(g) The department shall notify the applicant 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) #9108, eff 3-23-08 (formerly Env-Ws 371.05)

Env-Dw 602.06 Description of Managerial Capabilities. The description of the managerial capabilities of the applicant required by Env-Dw 602.05(a)(2) shall include:

(a) Identification of the type of ownership of the proposed PWS, including organizational rules of its management and rules governing the election of officers;

(b) A functional organizational schematic of the management of the PWS, including:

- (1) Responsible managerial officials, such as board members, the individual(s) in charge of long-term capital planning, capital repair and maintenance, and the individual(s) in charge of billing and debt collection, issuing consumer confidence reports, SDWA public notices, and similar customer interactions;
- (2) The certified primary operator and any other individual(s) directly responsible for achieving effective and reliable routine system operations; and

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(3) All subcontracted services;

(c) Documentation showing that the proposed PWS holds or will hold a deed covenant for each property intended to be served by the PWS, which:

(1) Requires the customer's water service connection to the PWS to be maintained for domestic use;

(2) Clearly states that the customer is liable for appropriate payment for domestic water service; and

(3) Has been reviewed by an attorney licensed in New Hampshire, who has certified that the methodology selected for maintaining and using the connection to the central system is legal and enforceable in the State of New Hampshire.

(d) A written explanation of the method that will be implemented to ensure payment of all water bills for all customers served, which:

(1) Requires each customer connected to the PWS to pay for the water service provided; and

(2) Has been reviewed by an attorney licensed in the State of New Hampshire, who has certified that the method identified to insure payment is legal and enforceable in the State of New Hampshire.

Source. (See Revision Note at chapter heading for Env-Dw 600) #9108, eff 3-23-08 (formerly Env-Ws 371.20-371.23)

Env-Dw 602.07 Description of Financial Capabilities. The description of the financial capabilities of the applicant required by Env-Dw 602.05(a)(3) shall include:

(a) Final construction costs for the water system, including all costs attributable to:

(1) Water source development;

(2) Water treatment, pumping, and storage equipment;

(3) Pumphouse/control building;

(4) Water distribution system;

(5) Customer connection to the system;

(6) All costs associated with engineering in developing the water system;

(7) Legal services associated with the establishment of the water system; and

(8) All other water system costs not otherwise categorized and identified above;

(b) An asset inventory, including a schedule of the useful life of all water system components, average life expectancies and current retail replacement costs, based on Table 602-1, below, unless the PWS owner provides an alternative schedule and justification:

Table 602-I  
Anticipated Life Expectancies

<b>Component</b>	<b>Anticipated Life Expectancy</b>
Control building/Pumphouse	40 years
Aboveground Storage tanks	50 years
Underground storage tanks	30 years
Pumping and control equipment	10 years
Distribution system	50 years
Wells	25 years
Water treatment equipment	10 years

(c) A projection of the annual expenses of operating the PWS over a minimum 5-year planning horizon, using generally accepted accounting principles, including:

- (1) Applicable state and federal taxes and fees;
- (2) Depreciation;
- (3) Annual debt repayment, including principal and interest or rate of return where applicable;
- (4) Annual funding of a capital reserve account for general repair or replacement of existing facilities and compliance with anticipated regulatory requirements; and
- (5) A list of operation expenses related to water supply source(s) including:
  - a. Electrical power;
  - b. Water treatment chemicals;
  - c. Certified operator and other contracted staff;
  - d. Compliance water quality testing; and
  - e. Other operational costs; and

(d) Projected water rates, the rate structure, and the fee schedule for the entire 5 year planning period, including:

- (1) Type of rate structure, for example, increasing block rate to encourage water conservation;
- (2) Water use charges;
- (3) Disconnect and activation charges;
- (4) Hydrant and fire sprinkler charges;
- (5) Late fees and fees for lost billing; and
- (6) Backflow device permits and testing charges.

Source. (See Revision Note at chapter heading for Env-Dw 600) #9108, eff 3-23-08 (formerly Env-Ws 371.25, 371.30-371.34)

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Env-Dw 602.08 Initial and Continuing Disclosure.

(a) The water system owner or representative shall provide the projected rates and fees notice required by Env-Dw 602.07(d) to initial purchasers of the real estate intended to be serviced by the PWS.

(b) In the annual consumer confidence report described in Env-Ws 352 or successor rules in subtitle Env-Dw, or in an equivalent document, the PWS shall provide annual notice to all persons who own service connections to the water system of:

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

Source. (See Revision Note at chapter heading for Env-Dw 600) #9108, eff 3-23-08 (formerly Env-Ws 371.40)

**APPENDIX**

<b>Rule Section(s)</b>	<b>State and Federal Statute(s) Implemented</b>
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