

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

PART Env-Dw 1002 WATER SUPPLY LAND PROTECTION GRANT PROGRAM

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CHAPTER Env-Dw 1000 GRANTS FOR PUBLIC WATER SYSTEMS

PART Env-Dw 1001 GRANTS FOR SURFACE WATER TREATMENT, REGIONAL WATER SYSTEMS,
AND GROUNDWATER INVESTIGATIONS

PART Env-Dw 1002 WATER SUPPLY LAND PROTECTION GRANT PROGRAM

Statutory Authority: RSA 486-A

REVISION NOTE:

Document #9490, effective 6-23-09, readopted with amendments and renumbered former Part Env-Ws 394, entitled Water Supply Land Grant Program, under a new subtitle as Part Env-Dw 1002 entitled Water Supply Land Protection Grant Program within a new Chapter Env-Dw 1000 entitled Grants for Public Water Systems. 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.

Document #9490 replaces all prior filings for rules formerly in Env-Ws 394. The prior filings for rules in former Env-Ws 394 include the following documents:

#7400, INTERIM, eff 11-3-00, EXPIRED: 5-2-01 #7487, eff 5-3-01 #9461, INTERIM, eff 5-3-09

Env-Dw 1002.01 Purpose. The purpose of these rules is to implement RSA 486-A by establishing procedures and standards for the application and award of grants to purchase land or conservation easements for land within the source water protection areas of active, proposed, or future sources of public water supply for community or non-community, non-transient water systems, to ensure the permanent protection of these critical drinking water resources.

Source. (See Revision Note on p.1) #9490, eff 6-23-09; ss by #9932, eff 5-27-11; ss by #12441, eff 1-1-18

Env-Dw 1002.02 Incorporated Definitions. Unless otherwise defined in this part, terms used herein shall be as defined in Env-Dw 100.

Source. #12441, eff 1-1-18

Env-Dw 1002.03 Part-Specific Definitions.

- (a) “Active” means being subject to RSA 485, the NH Safe Drinking Water Act.
- (b) “Applicant” means an entity that is applying for a water supply land protection grant under this program and that is:
 - (1) A municipality; or
 - (2) A nonprofit organization exempt from taxation under §501(c)(3) of the Internal Revenue Code that has public water supply or land conservation as its principal mission.
- (c) “Contamination” means “contamination” as defined in Env-Or 602, as reprinted in Appendix B.
- (d) “Conservation easement” means a legally-enforceable agreement between a land owner and a person who holds the conservation easement, such as a land trust or governmental agency, that permanently restricts the uses of the land to which it applies in order to protect the land’s conservation values.
- (e) “Conservation interest” means:
 - (1) The fee simple ownership of a parcel of land where the land is to be protected from development in perpetuity; or
 - (2) A conservation easement.
- (f) “Future source of public drinking water supply” means “future source of public drinking water supply” as defined in RSA 486-A:2, IV-a, as reprinted in Appendix B.

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- (g) “Grantee” means “water supply land protection grantee” as defined in RSA 486-A:2, VIII, as reprinted in Appendix B.
- (h) “Grant property” means:
- (1) Fee ownership of a parcel of land, or portion thereof, that will be acquired using grant funds and protected from development in perpetuity; or
 - (2) An interest in land that will protect the land from development in perpetuity, such as a conservation easement, that is to be acquired using grant funds.
- (i) “Match property” means:
- (1) Fee ownership of a parcel of land, or portion thereof, that is to be protected from development in perpetuity as part of the match requirements specified in Env-Dw 1002.07; or
 - (2) An interest in land, such as a conservation easement, that will be used to meet the match requirements specified in Env-Dw 1002.07.
- (j) “Municipality” means a city, town, village district, or precinct.
- (k) “Potential contamination source” means a potential contamination source as described in RSA 485-C:7, I, as reprinted in Appendix C, that is known to the applicant, visible during an on-site inspection, or identified by the department’s geographic information system and verified by on-site inspection, except that for purposes of this part, the term does not include agricultural activities that are conducted in accordance with the “Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire” published by the New Hampshire department of agriculture, markets, and food, revised July 2017, available at <https://www.agriculture.nh.gov/publications-forms/documents/bmp-manual.pdf>.
- (l) “Proposed source” means a proposed well or surface water intake for which a community or non-transient non-community water system has received all required approvals from the department.
- (m) “Riparian frontage” means the extent of the frontage of land along a surface water that is:
- (1) Depicted in the high resolution National Hydrography Dataset (NHD) maintained by the New Hampshire geological survey at 1:24,000-scale or better as lake/pond, stream/river, swamp/marsh, canal/ditch, connector, or reservoir, and that drains to the water supply source via surface flow; or
 - (2) A perennial stream that has continuous flow during years of normal rainfall and that drains to the water supply source via surface flow.
- (n) “Source” means groundwater or surface water that contributes water to a well or surface water intake.
- (o) “Source water protection area” means “source water protection area” as defined in RSA 486-A:2, VI, as reprinted in Appendix B.
- (p) “Stewardship” means “stewardship” as defined in RSA 486-A:2, VII, as reprinted in Appendix B.
- (r) “Transaction costs” means the costs attributable to activities associated with completing a purchase of land or of placing a conservation easement on land, including but not limited to:
- (1) Completing a land appraisal, land survey, baseline documentation report, title examination, environmental site assessment, stewardship plan, or any combination thereof;
 - (2) Legal fees, recording fees, other closing costs, or any combination thereof; and
 - (3) Providing financial support for the stewardship of the conservation interest created by the document required by Env-Dw 1002.24, which can include paid staff time.

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- (s) “Undeveloped” means forest, farm, or other land that:
 - (1) Has not been converted into a housing, commercial, or industrial building site; and
 - (2) Contains no structures or alterations that would jeopardize water quality.

Source. (See Revision Note on p.1) #9490, eff 6-23-09; amd by #9932, eff 5-27-11; ss by #12441, eff 1-1-18

Env-Dw 1002.04 Process for Obtaining Water Supply Land Protection Grants. The process for obtaining a water supply land protection grant shall be as follows:

- (a) The applicant shall complete a project eligibility application in accordance with Env-Dw 1002.08 and submit it to the department prior to the deadline specified by the department in accordance with Env-Dw 1002.05;
- (b) The department shall make an eligibility determination on each project eligibility application and notify each applicant in accordance with Env-Dw 1002.13;
- (c) For each project that is determined to be eligible, the applicant shall:
 - (1) Complete a final grant application in accordance with Env-Dw 1002.14, which includes documentation of commitment of at least a 75% match as specified in Env-Dw 1002.07; and
 - (2) Submit the final grant application to the department in accordance with Env-Dw 1002.14 by the deadline established by the department in accordance with Env-Dw 1002.05;
- (d) The department shall review and rank the final applications in accordance with Env-Dw 1002.17 and notify each applicant of project selection in accordance with Env-Dw 1002.19;
- (e) For each project that is selected for a grant, the applicant shall submit the following to the department prior to the grant being awarded:
 - (1) An environmental site assessment, if required by Env-Dw 1002.20(b), prepared in accordance with Env-Dw 1002.20(c) and (d);
 - (2) A property survey prepared in accordance with Env-Dw 1002.21;
 - (3) An appraisal prepared in accordance with Env-Dw 1002.22;
 - (4) A title examination and an opinion of title prepared in accordance with Env-Dw 1002.23;
 - (5) Baseline documentation in accordance with Env-Dw 1002.26(c); and
 - (6) A stewardship plan in accordance with Env-Dw 1002.26(b)(3); and
- (f) For each grant that is awarded, the grantee shall:
 - (1) Execute the land transaction(s) in accordance with Env-Dw 1002.27;
 - (2) Record the deed(s) and survey(s), if applicable, in accordance with Env-Dw 1002.27;
 - (3) Adhere to grant contract conditions; and
 - (4) Provide ongoing stewardship of each grant property and match property in accordance with Env-Dw 1002.26(d).

Source. (See Revision Note on p.1) #9490, eff 6-23-09; amd by #9932, eff 5-27-11; ss by #12441, eff 1-1-18 (formerly Env-Dw 1002.03)

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Env-Dw 1002.05 Application Deadlines.

(a) The deadline for submission of an application to determine project eligibility shall be no sooner than 60 days following the date that grant funds become available and no later than 180 days following such date.

(b) The department shall announce the deadline by publishing the date on the department's web page, issuing a press release, and mailing an announcement by U.S. Postal Service or electronic mail, or both, to those entities who have requested to be informed of such deadlines.

(c) For each round of funding, the deadline for filing a final application shall be:

(1) No sooner than 30 days and no later than 120 days from the project eligibility application deadline; and

(2) Announced at the same time as the project eligibility application deadline established pursuant to (a), above.

(d) Eligibility applications for projects that occur between grant rounds shall be considered for funding in a subsequent grant round provided the eligibility application is submitted prior to the applicant acquiring the land or conservation easement(s).

Source. (See Revision Note on p.1) #9490, eff 6-23-09; ss by #12441, eff 1-1-18 (formerly Env-Dw 1002.04)

Env-Dw 1002.06 Eligibility Criteria. A project shall be eligible for a grant only if all of the following conditions are met:

(a) Each grant property and each match property is in a source water protection area for an active, proposed, or future source of public drinking water for a community or non-transient non-community water system, except for any small portions of land that extend beyond the source water protection area boundary and would be impractical to subdivide off, as specified in RSA 486-A:7, II(a);

(b) Each grant property and each match property that is being obtained for the protection of a surface water supply either:

(1) Is within 5 miles of the intake on a river or, in the case of reservoirs or lakes, is within 5 miles of the source being protected; or

(2) Contains riparian frontage within the watershed of the water supply source;

(c) Each grant property and each match property is outside the sanitary protective area for a proposed or future source, provided that any portion of a property that is within the sanitary protective area for a proposed or future source is not eligible for funding;

(d) The applicant's share of the project value, or match, meets the criteria specified in Env-Dw 1002.07;

(e) Each grant property and each match property is undeveloped land and free of:

(1) Known contamination; and

(2) Potential contamination sources;

(f) No grant property is already permanently protected or owned by the applicant prior to submitting a project eligibility application;

(g) No match property is already permanently protected more than one year prior to the date the project eligibility application is submitted;

(h) Title to each grant property will be held by a grantee, as required by RSA 486-A:7, II(b); and

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- (i) Title to each match property will be held by a person who would qualify as an applicant.

Source. (See Revision Note on p.1) #9490, eff 6-23-09; amd by #9932, eff 5-27-11; ss by #12441, eff 1-1-18 (formerly Env-Dw 1002.05)

Env-Dw 1002.07 Match Criteria.

(a) The value of the match shall equal at least 75% of the eligible water supply land protection costs as defined by RSA 486-A:2, III-a, which include the costs for the land or interest in land and associated legal and transaction costs associated with the protection of each grant property and each match property.

- (b) The match shall consist of one or more of the following:

(1) A municipal, state, or federal appropriation, which may include funding from the drinking water state revolving loan fund;

(2) A private cash donation;

(3) A donation, or partial donation, of match property in one or more existing or proposed source water protection areas, providing the following conditions are met:

a. Title to the match property will be held by a person who would qualify as an applicant;

b. The transaction(s) to acquire the match property will be completed prior to or simultaneously with the completion of the transaction(s) for the grant property(ies);

c. The match value for the match property has been or will be established by an appraisal in accordance with Env-Dw 1002.22; and

d. The match property is not being used and has not been used as a match for another grant project; and

(4) A donation, or partial donation, of services or payment for services necessary to complete the transaction, including land transaction consultant, survey, appraisal, title opinion, environmental assessment, stewardship baseline documentation, paid staff time, and legal fees.

Source. (See Revision Note on p.1) #9490, eff 6-23-09; amd by #9932, eff 5-27-11; ss by #12441, eff 1-1-18 (formerly Env-Dw 1002.06)

Env-Dw 1002.08 Project Eligibility Application. To apply for a determination of project eligibility, the applicant shall submit the following on or with an Application For Land Protection Grant Project Eligibility form (eligibility application) obtained from the department:

- (a) The part I information specified in Env-Dw 1002.09;

(b) The part II information specified in Env-Dw 1002.10 for each property to be acquired with the grant funds requested and each match property;

- (c) The part III information specified in Env-Dw 1002.11;

- (d) The part IV maps and other information specified in Env-Dw 1002.12; and

- (e) The signed and dated certifications specified in Env-Dw 1002.15(a) and (b).

Source. (See Revision Note on p.1) #9490, eff 6-23-09; amd by #9932, eff 5-27-11; ss by #12441, eff 1-1-18 (formerly Env-Dw 1002.07)

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Env-Dw 1002.09 Part I Information. The information required by Env-Dw 1002.08(a) shall be as follows:

(a) The name, mailing address, and daytime telephone number, including area code, of the applicant and, if available, an e-mail address;

(b) Whether the applicant is a municipality or a §501(c)(3) non-profit having public water supply or land conservation as a principal mission;

(c) The name, mailing address, and daytime telephone number including area code of an individual who is authorized to interact with the department on behalf of the applicant relative to the application and, if available, an e-mail address for that individual;

(d) The PWS and source identifiers for each source of public drinking water that will be protected or, for a proposed source or if the source identifier is not known, the public water system's PWS identifier or a description of the source(s) of public drinking water to be protected;

(e) The total number of drinking water sources to be protected;

(f) The total amount of funding sought from the department to acquire the grant property(ies);

(g) Whether match funds have already been authorized or appropriated by the applicant's governing body and if not, the anticipated date of such authorization or approval;

(h) A statement or other indication that each of the eligibility criteria specified in Env-Dw 1002.06 has been met;

(i) A list of each component of the match, and for each, the following:

(1) The type of match, such as public funds, private funds, donated land or easement(s), or donated services;

(2) The source of the match;

(3) Whether the component has been authorized, received, or is anticipated; and

(4) The estimated value of the component;

(j) The total value of the match;

(k) The percentage of total costs represented by the match;

(l) For each property to be acquired with the requested grant funds and for each match property, indicate which it is in a numbered list and provide:

(1) The location of the property by street address, city or town, tax map and lot number, and county;

(2) The book and page number of the deed to the current owner; and

(3) The parcel's acreage;

(m) The total acreage of the area proposed for protection, that is, the total combined acreage of all the grant properties and match properties;

(n) The total number of Part II forms being submitted with the application;

(o) Whether the applicant's governing body has already approved applying for the grant, and:

(1) If so, the date approved; or

(2) If not, the anticipated date of approval; and

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(p) Whether the applicant plans to contract with an organization to provide long-term stewardship, and if so and the organization has been identified, the name of the organization.

Source. (See Revision Note on p.1) #9490, eff 6-23-09;
ss by #12441, eff 1-1-18

Env-Dw 1002.10 Part II Information. The information required by Env-Dw 1002.08(b) for each property to be acquired with the grant funds requested and each match property shall be as follows:

- (a) The number of the parcel from the list required by Env-Dw 1002.09(l) and whether it will be acquired with grant funds or is part of the required match;
- (b) The location of the property by street address, city or town, tax map and lot number, and county;
- (c) The book and page number of the deed to the current owner;
- (d) The total acreage of the parcel and the acreage to be protected, if less than the entire parcel;
- (e) The length of the riparian frontage;
- (f) The distance from the property's boundary to the source proposed to be protected;
- (g) A brief description of all structures and land alterations such as impoundments, gravel pits, utilities, wells, roads, trails, or other disturbances;
- (h) Whether there are any encumbrances on the property, including but not limited to mortgages, liens, easements, or right-of-ways, and, if so, a list of each that identifies the location and owner;
- (i) The approximate area, in acres or by percentage of the total parcel, that is covered by:
 - (1) Open fields;
 - (2) Forest;
 - (3) Wetlands; and
 - (4) Surface waters;
- (j) Whether the property interest expected to be acquired is fee simple title or a conservation easement;
- (k) The name and mailing address of each current owner of the property;
- (l) The name and mailing address of the proposed owner of the property and of the proposed holder of the conservation interest, if not the same;
- (m) The estimated or appraised fair market value or the assessed value of the property;
- (n) If known, the price at which the owner of the property is willing to sell the property;
- (o) For match property, the estimated transaction costs to acquire the land;
- (p) The amount of funds requested for the parcel;
- (q) Detailed directions to the property and instructions on how to gain access to it for purposes of inspection;
- (r) A description of the proposed land uses for the property; and
- (s) A description of conservation values for the property, including:
 - (1) Watershed, floodplain, wetland, and water-quality protection value;

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- (2) Existing and potential public recreational uses and accessibility;
- (3) Significant scenic value;
- (4) Historic, cultural, or archaeological value;
- (5) Unique geologic features;
- (6) Rare species value or “exemplary natural communities” value, as identified by the New Hampshire department of natural and cultural resources, division of forest and lands, natural heritage bureau (NH NHB);
- (7) Length of undeveloped shoreline on pond, lake, stream, or navigable river;
- (8) Wildlife value and management potential, such as being identified as a conservation focus area in the Wildlife Action Plan prepared by the New Hampshire fish and game department;
- (9) Forestry value, management status, and acres of productive soils;
- (10) Agricultural value, including acres of “important farmland” identified by the U.S. Department of Agriculture, Natural Resources Conservation Service; and
- (11) Any other identified conservation value.

Source. (See Revision Note on p.1) #9490, eff 6-23-09; ss by #12441, eff 1-1-18

Env-Dw 1002.11 Part III Information. The information required by Env-Dw 1002.08(c) shall relate to existing and planned water supply source protection measures that are being implemented or are planned by the PWS or the city or town in which the source is located, as follows:

- (a) Whether a comprehensive source water protection program plan is being implemented or is planned, and if planned the estimated date of implementation;
- (b) Whether any source water protection area regulations are in effect or are being planned, and if planned the estimated date of implementation;
- (c) Whether a source water protection area educational program is being implemented or is planned, and if planned the estimated date of implementation;
- (d) Whether there is an established land acquisition plan in the source water protection area;
- (e) Whether there is any existing source water protection area ownership beyond the sanitary radius or control through easement by water suppliers or others;
- (f) Whether there is a long-term plan for meeting system demand; and
- (g) Whether a water conservation plan is being implemented or is planned, and if planned the estimated date of implementation.

Source. (See Revision Note on p.1) #9490, eff 6-23-09; ss by #12441, eff 1-1-18

Env-Dw 1002.12 Part IV Maps and Other Supporting Information. The maps and other supporting information required by Env-Dw 1002.08(d) shall be as follows:

- (a) A USGS topographic map or other topographic map with the following clearly delineated, as applicable:
 - (1) Each source water protection area;
 - (2) The sanitary radius for each source to be protected;

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- (3) Each property to be acquired with the requested grant;
- (4) Each match property;
- (5) Any property already owned or otherwise protected by the applicant; and
- (6) Any lands that are already protected;

(b) Geographic information system (GIS) shape file(s) or a paper map showing the boundaries of each grant property and each match property at a scale that ensures all details are legible and that shows:

- (1) The location of:
 - a. All structures and land alterations such as impoundments, gravel pits, utilities, wells, roads, trails, or other disturbances;
 - b. All easements and right-of-ways on the property; and
- (2) The approximate areas covered by field, forest, wetlands, and surface waters, each shaded or colored to be distinctive;

(c) If a source water or wellhead protection plan exists and is available, a copy of the plan or the URL of a web page where it can be accessed;

(d) If source water protection regulations are in effect, a copy of the regulations or the URL of a web page where they can be accessed; and

(e) For a proposed source, all available hydrogeologic information about the source.

Source. (See Revision Note on p.1) #9490, eff 6-23-09; ss by #12441, eff 1-1-18

Env-Dw 1002.13 Eligibility Determination.

(a) The department shall determine that a proposed project warrants review as a grant application if the eligibility application demonstrates that the project meets the eligibility requirements specified in Env-Dw 1002.06.

(b) The department shall notify the applicant in writing of the project's eligibility within 30 calendar days of the project eligibility application submission deadline.

(c) If the project as proposed does not meet the eligibility requirements specified in Env-Dw 1002.06, the applicant may revise the project eligibility application and resubmit it in a subsequent grant round.

Source. (See Revision Note on p.1) #9490, eff 6-23-09; ss by #12441, eff 1-1-18 (formerly Env-Dw 1002.08)

Env-Dw 1002.14 Final Grant Application Requirements. After being notified that the project is eligible, the applicant shall submit the following on or with a Final Grant Application form obtained from the department:

(a) The name, mailing address, and daytime telephone number, including area code, of the applicant and, if available, an e-mail address;

(b) Whether the applicant is a municipality or a §501(c)(3) non-profit having public water supply or land conservation as a principal mission;

(c) The name, mailing address, and daytime telephone number including area code of an individual who is authorized to interact with the department on behalf of the applicant relative to the application and, if available, an e-mail address for that individual;

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- (d) If no changes have occurred in any of the information provided on or with the eligibility application, certification that no changes have occurred;
- (e) If any changes have occurred in any of the information or other supporting items provided on or with the eligibility application, replacement pages with all necessary updates; and
- (f) The signed and dated certifications specified in Env-Dw 1002.15(c) and (d).

Source. (See Revision Note on p.1) #9490, eff 6-23-09; ss by #12441, eff 1-1-18 (formerly Env-Dw 1002.09)

Env-Dw 1002.15 Certifications Required for Grant Applications.

(a) For an application for determination of eligibility, the applicant shall make the following certifications by having an authorized representative sign and date the following statements and printing or typing his or her name and title in the spaces provided:

- (1) The signer has been duly authorized by the applicant to sign the application;
- (2) All data and information submitted in support of the application are true, complete, and not misleading to the best of the applicant's knowledge and belief;
- (3) The applicant understands that any department determination that the applicant and the applicant's project are eligible for a grant that is based on false, incomplete, or misleading information is subject to modification, up to and including reversal, through an adjudicative proceeding conducted in accordance with applicable provisions of Env-C 200; and
- (4) The applicant and the signer are subject to the penalties specified in New Hampshire law for falsification in official matters, currently RSA 641.

(b) For an application for determination of eligibility, each owner of grant or match property shall make the following certifications by signing and dating the following statements and printing or typing his or her name in the space provided:

- (1) Based on the data and information submitted in support of the application, the landowner is willing to enter into negotiations for the acquisition of the property;
- (2) All encumbrances on the property, including but not limited to mortgages, liens, easements, and right-of-ways, are identified as part of the application; and
- (3) The owner is subject to the penalties specified in New Hampshire law for falsification in official matters, currently RSA 641.

(c) For a final application for a grant, the applicant shall make the following certifications by having an authorized representative sign and date the following statements and printing or typing his or her name and title in the spaces provided:

- (1) The signer has been duly authorized by the applicant to sign the application;
- (2) All data and information submitted in or with the eligibility application remains true, complete, and not misleading to the best of the applicant's knowledge and belief, or if changes have occurred, the updated or corrected information submitted with the final application is true, complete, and not misleading to the best of the applicant's knowledge and belief;
- (3) The applicant will comply with the conditions specified in RSA 486-A:7, II;
- (4) The applicant understands that any department determination that the applicant and the applicant's project are eligible for a grant that is based on false, incomplete, or misleading information is subject to modification, up to and including reversal, through an adjudicative proceeding conducted in accordance with applicable provisions of Env-C 200; and

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(5) The applicant and the signer are subject to the penalties specified in New Hampshire law for falsification in official matters, currently RSA 641.

(d) For a final application for a grant, each owner of grant or match property shall make the following certifications by signing and dating the following statements and printing or typing his or her name in the space provided:

(1) Based on the data and information submitted in support of the application, the owner agrees to not sell or commit to sell the property(ies) covered by the application except to the applicant for not less than 120 days;

(2) The landowner agrees to allow the property(ies) to be inspected, surveyed, and appraised within 120 days from the date of receipt by the department of a copy of the application;

(3) All encumbrances on the property(ies), including but not limited to mortgages, liens, easements, and right-of-ways, are identified as part of the eligibility application or, if changes have occurred, as part of the final application; and

(4) The owner is subject to the penalties specified in New Hampshire law for falsification in official matters, currently RSA 641.

Source. (See Revision Note on p.1) #9490, eff 6-23-09; ss by #12441, eff 1-1-18

Env-Dw 1002.16 Confidentiality of Certain Information. The price at which each owner of grant property or match property will sell the property provided pursuant to Env-Dw 1002.10(n) or Env-Dw 1002.14(e) and information regarding financial encumbrances such as mortgages or liens that is submitted in accordance with Env-Dw 1002.10(h) or Env-Dw 1002.14(e), shall be:

(a) Treated as confidential under RSA 91-A:5, IV; and

(b) Subject to disclosure only with the consent of the applicant until the department has selected the application for grant funding.

Source. (See Revision Note on p.1) #9490, eff 6-23-09; ss by #12441, eff 1-1-18 (formerly Env-Dw 1002.11)

Env-Dw 1002.17 Application Ranking and Selection.

(a) The department shall rank each project within 60 days of the final application submittal deadline established pursuant to Env-Dw 1002.05.

(b) Subject to (f), below, the ranking shall be based on the points awarded to each application by the department using the point system specified in Env-Dw 1002.18 after the department reviews the application and conducts a site walk, with the application receiving the most points being ranked the highest.

(c) The department shall:

(1) Provide notice and otherwise proceed in accordance with RSA 486-A:8-a, II; and

(2) Select projects for funding in each grant round starting with the highest ranked project and continuing until all available funding is depleted.

(d) No single applicant shall receive greater than 30% of the available funding in any one grant application round.

(e) Projects not selected for funding in a grant round due to insufficient funds shall be reconsidered in future grant rounds providing the applicant notifies the department that the grant application is to be reconsidered and any date-sensitive aspects of the application are updated.

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(f) Notwithstanding the number of points assigned pursuant to Env-Dw 1002.18, for the purpose of allocating funds provided by the department of transportation as part of the mitigation package associated with the wetlands permit for the interstate highway I-93 widening project to permanently protect critical water supply lands in municipalities located near the project, the department shall give first priority to projects in the Lake Massabesic watershed.

Source. (See Revision Note on p.1) #9490, eff 6-23-09; ss by #12441, eff 1-1-18 (formerly Env-Dw 1002.12)

Env-Dw 1002.18 Scoring System.

(a) The department shall assign points to each application as specified in (b) through (r), below, and then add the points together to get one point total, or score, for the application as a whole.

(b) For each project that is located within more than one source water protection area, the department shall calculate a score for each source water protection area and then use the highest score to rank the project in relation to other projects.

(c) The department shall assign points based on the type of water system as follows:

- (1) For a non-transient non-community system, 0 points;
- (2) For a community system other than a municipally-owned system, one point; or
- (3) For a municipal system, 5 points.

(d) The department shall assign points based on the population served by the water system as follows:

- (1) For a system serving 25 to 100 people, 0 points;
- (2) For a system serving 101 to 500 people, one point;
- (3) For a system serving 501 to 2,500 people, 2 points;
- (4) For a system serving 2,501 to 5,000 people, 3 points; or
- (5) For a system serving over 5,000 people, 4 points.

(e) The department shall assign points based on the number of community water supply sources to be protected as follows:

- (1) For one source, 0 points;
- (2) For 2 sources, one point; or
- (3) For 3 or more sources, 2 points.

(f) The department shall assign points based on the total acreage of grant property and match property as follows:

- (1) For a project containing less than 10 acres, 0 points;
- (2) For a project containing 10 acres or more but not more than 40 acres, one point;
- (3) For a project containing more than 40 but not more than 99 acres, 2 points;
- (4) For a project containing more than 99 but not more than 250 acres, 3 points; or
- (5) For a project containing more than 250 acres, 4 points.

(g) The department shall assign points based on the presence of any or all of the following natural resource, cultural, and historical attributes on the grant property and match property, as follows:

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- (1) For a project containing or abutting great ponds, perennial streams or rivers, non-forested wetlands, or floodplains greater than 5 acres, one point;
- (2) For a project containing state- or federally-listed threatened or endangered species, habitat for such species that has been determined by the executive director of the New Hampshire fish and game department, pursuant to RSA 212-A:9, III, to be critical, or rare plants, rare animals, or exemplary natural communities that have been identified by the NH NHB, ½ point;
- (3) For a project that abuts conservation land such that there is an unfragmented block of undeveloped land 500 acres or more in size, ½ point;
- (4) For a project containing important farmland according to the U.S. Department of Agriculture, Natural Resources Conservation Service classification system, ½ point;
- (5) For a project with existing or potential outdoor recreation amenities, such as public trails and public boat access points, ½ point;
- (6) For a project containing historical, cultural, or archaeologically significant lands that are on the National Register of Historic Places or identified by the New Hampshire department of natural and cultural resources, division of historical resources, ½ point; and
- (7) For a project containing any other identified conservation value, ½ point.

(h) For groundwater sources, the department shall assign points based on the distance of the grant property or match property from the existing or proposed source to be protected as follows:

- (1) If any of the land is located within the sanitary protective area for an existing source, 25 points;
- (2) If any of the land is located within 600 feet of the edge of the sanitary protective area, 20 points;
- (3) If any of the land is located 600 to 1,000 feet from the edge of the sanitary protective area, 15 points;
- (4) If any of the land is located 1,000 to 2,000 feet from the edge of the sanitary protective area, 10 points;
- (5) If any of the land is located 2,000 to 3,000 feet from the edge of the sanitary protective area, 5 points;
- (6) If any of the land is located 3,000 to 4,000 feet from the edge of the sanitary protective area, 2 points;
- (7) If any of the land is located 4,000 to 5,000 feet from the edge of the sanitary protective area, one point; or
- (8) If any of the land is located more than 5,000 feet from the edge of the sanitary protective area, 0 points.

(i) For river sources, the department shall assign points based on the distance of the grant property and match property up gradient from the intake and within the watershed of the source being protected, as follows:

- (1) If any of the land is located within 400 feet of the intake, 20 points;
- (2) If any of the land is located 400 to 1,000 feet from the intake, 15 points;
- (3) If any of the land is located 1,000 to 2,000 feet from the intake, 10 points;
- (4) If any of the land is located 2,000 to 3,000 feet from the intake, 5 points;
- (5) If any of the land is located 3,000 to 4,000 feet from the intake, 2 points;

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- (6) If any of the land is located 4,000 to 5,000 feet from the intake, one point; or
 - (7) If any of the land is located more than 5,000 feet from the intake, 0 points.
- (j) For surface water sources, the department shall assign points based on riparian frontage as follows:
- (1) For riparian frontage that is within 5 miles of the intake or shore, 2 points for every 1,000 feet of frontage;
 - (2) For riparian frontage that is greater than 5 miles and less than 10 miles from the intake or shore, one point for every 1,000 feet of said frontage; and
 - (3) If the project includes land on both sides of a river or stream, the frontage on both sides shall be counted.
- (k) For pond, lake, or impoundment sources, the department shall assign points based on the distance of the grant property or match property from the intake of the source being protected, as follows:
- (1) If any of the land is within 400 feet of the shore, 20 points;
 - (2) If any of the land is 400 to 1,000 feet from the shore, 15 points;
 - (3) If any of the land is 1,000 to 2,000 feet from the shore, 10 points;
 - (4) If any of the land is 2,000 to 3,000 feet from the shore, 5 points;
 - (5) If any of the land is 3,000 to 4,000 feet from the shore, 2 points;
 - (6) If any of the land is 4,000 to 5,000 feet from the shore, one point; or
 - (7) If any of the land is more than 5,000 feet of the shore, 0 points.
- (l) The department shall assign points based on the percentage of total project value, including cash and interests in land to be donated, that is to be provided as match by the applicant as follows:
- (1) For a percentage of total project value greater than 75% but less than 85%, one point; or
 - (2) For a percentage of total project value of 85% or greater, 2 points.
- (m) The department shall assign points based on the water supply protection measures that are or will be in effect, as follows:
- (1) For sources for which a comprehensive source water protection program plan is being implemented, one point;
 - (2) For sources with source water protection area regulations in effect, one point;
 - (3) For sources with a source water protection area educational program in effect, one point;
 - (4) For sources with an established land acquisition plan, one point;
 - (5) For sources with existing source water protection area ownership beyond sanitary radius or control through easement by water suppliers or others, one point;
 - (6) For sources with a long-term plan for meeting system demand, one point; and
 - (7) For sources for which a water conservation plan is being implemented, one point.
- (n) The department shall assign points based on the average per capita income and equalized taxable valuation for the municipality where those served by the water supply to be protected reside, based on the most recent available data, as follows:
- (1) For an area with either or both of the averages above the statewide average, 0 points; and

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- (2) For an area with both of the averages below the statewide average, 2 points.
- (o) The department shall assign 2 points for applications initiated or supported by the water supplier.
- (p) The department shall assign one point for first-time applicants.
- (q) The department shall assign one point to projects with a signed contractual agreement between the applicant and the landowner(s).
- (r) The department shall assign one point to projects where the applicant has funds that are already authorized by the applicant's governing body.

Source. (See Revision Note on p.1) #9490, eff 6-23-09; ss by #12441, eff 1-1-18 (formerly Env-Dw 1002.13)

Env-Dw 1002.19 Notice of Selection; Required Actions.

(a) The department shall notify each applicant in writing within 60 days of the final application deadline regarding whether the application has been selected for grant funding. The notice shall specifically state that the selection is contingent upon the completion of the requirements specified in (b) and, if applicable, (c), below.

(b) After a project has been selected for grant funding, the applicant shall complete the following for each grant property and match property prior to the department disbursing a grant:

- (1) An environmental site assessment, in accordance with Env-Dw 1002.20(c) and (d), if required by Env-Dw 1002.20(b), that indicates that the land is not contaminated;
- (2) A property survey in accordance with Env-Dw 1002.21;
- (3) An appraisal in accordance with Env-Dw 1002.22;
- (4) A title examination and legal opinion that there is clear and marketable title to the property in accordance with Env-Dw 1002.23;
- (5) Baseline documentation in accordance with Env-Dw 1002.26(c); and
- (6) A stewardship plan in accordance with Env-Dw 1002.26(d).

(c) Where the grantee is a municipality, the project shall be approved by the local governing body, as defined in RSA 672:6, of the municipality applying for the grant prior to the department awarding a grant.

Source. (See Revision Note on p.1) #9490, eff 6-23-09; ss by #12441, eff 1-1-18 (formerly Env-Dw 1002.14)

Env-Dw 1002.20 Environmental Site Assessment Requirements.

(a) The environmental site assessment specified in Env-Dw 1002.19(b)(1) shall be done in accordance with this section.

(b) The applicant shall submit an environmental site assessment for any grant property or match property:

- (1) That contains any:
 - a. Known contamination; or
 - b. Potential contamination source; or
- (2) For which the site walk performed by the department in accordance with Env-Dw 1002.17(b) identifies actual or potential sources of contamination.

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- (c) An environmental site assessment shall be performed by an environmental consultant who has at least 5 years' experience in preparing site assessments.
- (d) An environmental site assessment shall include the following:
 - (1) A history of land usage that covers from the present back to the property's first developed use or to 1940, whichever is earlier;
 - (2) A description of the site inspection;
 - (3) A review of all department records relating to site investigations or other environmental assessments for all properties located within 1,000 feet of the property;
 - (4) A description of the review conducted pursuant to (3), above, including the date of the review and who conducted the review;
 - (5) A description of the findings from the review; and
 - (6) An opinion by the consultant that there are no contamination concerns on the grant property or any match property.
- (e) The applicant shall submit the environmental site assessment to the department upon completion.
- (f) The department shall accept the environmental site assessment if the environmental consultant certifies under penalty of false swearing that:
 - (1) He or she has at least 5 years' experience in preparing site assessments; and
 - (2) The assessment was conducted in accordance with this section.

Source. (See Revision Note on p.1) #9490, eff 6-23-09; ss by #12441, eff 1-1-18 (formerly Env-Dw 1002.15)

Env-Dw 1002.21 Property Survey Requirements.

- (a) The property survey required by Env-Dw 1002.19(b)(2) shall be done in accordance with this section if a survey of each grant property and match property does not already exist that meets the survey standards that were established by the New Hampshire board of land surveyors created under RSA 310-A:55 ("board") and that were in effect in New Hampshire at the time the notice under Env-Dw 1002.15(a) is provided.
- (b) A New Hampshire licensed land surveyor shall perform a standard property survey for each property in accordance with the standards established by the board. If 2 or more properties are contiguous, the survey may be done on the combined contiguous properties.
- (c) In addition to marking turning points as specified in the established survey standards, the boundary lines shall be visibly marked so that they can be located by an individual who wishes to walk the boundary of the property. If the marking is not permanent, it shall be renewed at sufficient intervals so as to remain visible.
- (d) The survey plan shall include the boundaries and acreage of each property and the method and accuracy of the survey.
- (e) Subject to (f), below, the applicant shall provide the department with one paper or electronic copy of the standard property survey for each grant property and each match property.
- (f) The applicant may provide a digitized polygon file of the standard property survey for each grant property and each match property in lieu of the paper copy required by (e), above.

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(g) The department shall accept the survey if the surveyor certifies under penalty of false swearing that the survey was conducted in accordance with the surveying standards established by the board.

Source. (See Revision Note on p.1) #9490, eff 6-23-09; ss by #12441, eff 1-1-18 (formerly Env-Dw 1002.16)

Env-Dw 1002.22 Appraisal Requirements.

(a) The appraisal required by Env-Dw 1002.19(b)(3) shall be completed in accordance with this section.

(b) The required appraisal shall be conducted by an appraiser as defined in RSA 310-B:2, XIX, who has at least 2-years' experience in water supply land appraisals or conservation interest appraisals, as appropriate for the application.

(c) An appraisal shall be conducted for the grant property and for the match property based on the terms of the document prepared pursuant to Env-Dw 1002.24 to transfer the conservation interest and the survey performed pursuant to Env-Dw 1002.19(b)(2).

(d) The appraisal shall determine the fair market value of the grant property and of the match property.

(e) The appraisal shall be completed prior to the grant being awarded but no earlier than one year prior to the estimated date of transfer of the conservation interest, subject to (f), below.

(f) The department shall accept an appraisal that was completed more than one year prior to the estimated date of the transfer of the conservation interest if the applicant submits a written request to do so together with an update letter from an appraiser who meets the requirements of (b), above, that a market analysis shows that the fair market value of the property is within 5% of the value shown by the appraisal.

(g) If real estate prices have dropped in the county in which the grant or match property is located to such an extent that the validity of the original appraisal can reasonably be questioned, the department shall request the applicant to submit either:

(1) A new appraisal; or

(2) An update letter from an appraiser who meets the requirements of (b), above, that a market analysis shows that the fair market value of the property is within 5% of the value shown by the appraisal.

(h) The applicant shall submit the appraisal to the department.

(i) The department shall accept the appraisal if the appraiser certifies under penalty of false swearing that the appraisal:

(1) Meets the requirements of this section; and

(2) Was conducted in accordance with the requirements established by or under RSA 310-B in effect at the time the appraisal was conducted.

Source. (See Revision Note on p.1) #9490, eff 6-23-09; ss by #12441, eff 1-1-18 (formerly Env-Dw 1002.17)

Env-Dw 1002.23 Title Examination and Opinion Requirements.

(a) The title examination and opinion required by Env-Dw 1002.19(b)(4) shall be obtained in accordance with this section.

(b) The title opinion shall be based on an examination of the title of each grant property and each match property.

(c) The applicant shall submit the title examination and opinion to the department.

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(d) The department shall accept the title examination and opinion if the individual rendering the opinion certifies under penalty of false swearing that the title examination was conducted in accordance with the title examination standards established by the New Hampshire Bar Association in effect when the opinion is rendered.

Source. (See Revision Note on p.1) #9490, eff 6-23-09; ss by #12441, eff 1-1-18 (formerly Env-Dw 1002.18)

Env-Dw 1002.24 Conservation Interest Instrument Requirements.

- (a) Each conservation interest instrument shall:
- (1) Uphold the conservation purposes of RSA 486-A in perpetuity;
 - (2) Protect the quality and sustainable yield of ground and surface water resources associated with the property;
 - (3) Safeguard the environmental values of the property that are dependent on water quality and quantity; and
 - (4) Convey the right to the State of New Hampshire to enforce the conditions and restrictions of the conservation interest and to recover the costs of such enforcement from the easement holder or property owner, or both, if the easement holder and property owner fail to enforce the conditions and restrictions.
- (b) Each conservation interest instrument shall contain, at a minimum, the following restrictions:
- (1) No industrial or commercial activities or improvements shall occur on the property except in conjunction with any water supply, agricultural, forestry, or outdoor recreational activities that are allowed by the instrument, subject to such conditions as are specified in the instrument;
 - (2) No land surface alterations shall occur on the property, such as filling, excavation, mining, and dredging, except in conjunction with any water supply, agricultural, forestry, or outdoor recreational activities that are allowed by the instrument, and only to the extent that they do not degrade or threaten to degrade the quality and sustainable yield of ground and surface water resources associated with the property;
 - (3) No wastes generated off the property shall be disposed of, stored, or discharged on the property;
 - (4) No substances that would be hazardous waste if discarded or abandoned shall be disposed of on the property, and no such substances shall be stored or applied on the property except in conjunction with any water supply, agricultural, forestry, or outdoor recreational activities that are allowed by the instrument, and provided that the storage and use do not threaten water supply protection and are specifically allowed by the instrument, subject to such conditions as are specified in the instrument;
 - (5) No motorized vehicles shall be allowed for recreational purposes, provided that snowmobiles as defined in RSA 215-A:1, XIII may be allowed if they are operated:
 - a. Only on snow and ice outside the sanitary protective area of public water supply well(s);
 - b. More than 250 feet from a surface water body being used as a public water supply;
 - c. More than 100 feet from tributaries contributing to such water bodies; except when crossing such tributaries; and
 - d. Only on designated snowmobile trails depicted on a plan approved by the department in accordance with Env-Dw 1002.25;

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- (6) No acts or uses shall occur on the property that would:
 - a. Degrade the water quality such that the standards set for public drinking water by the department would be threatened;
 - b. Cause an unsustainable quantity of water to be withdrawn; or
 - c. Harm state or federally recognized rare, threatened or endangered species; and
- (7) Allowable activities, such as community drinking water supply, agriculture, forestry, and outdoor recreation, shall be conducted in accordance with a plan, best management practices, or conditions set forth in the instrument.

(c) If the instrument is conveying a conservation easement, all other customary rights and privileges of fee ownership shall be retained by the fee owner, including the right to privacy and to carry out all regular agricultural and forestry practices that are not prohibited by the restrictions.

Source. (See Revision Note on p.1) #9490, eff 6-23-09; ss by #12441, eff 1-1-18 (formerly Env-Dw 1002.19)

Env-Dw 1002.25 Snowmobile Trail Plan Approval.

- (a) Designated snowmobile trails described in Env-Dw 1002.24(b)(5)d. shall be shown on a plan submitted to the department prior to the conservation interest document being filed.
- (b) The plan shall:
 - (1) Show all existing and proposed trails; and
 - (2) Describe how users of the trails will be educated regarding the need to protect the conservation values of the property over which the trails run.
- (c) If a new trail is added or an existing trail is moved after the original plan is approved, a modified plan shall be submitted to and approved by the department prior to the new or relocated trail(s) being used.
- (d) The department shall review the plan and issue a written decision to approve or deny it within 30 days of receipt of a new or modified plan.
- (e) The department shall approve the plan if the trails meet the criteria specified in Env-Dw 1002.24(b)(5)a. through c. and users of the trails will be educated regarding the need to protect the conservation values of the property over which the trails run.

Source. #12441, eff 1-1-18 (formerly Env-Dw 1002.20)

Env-Dw 1002.26 Stewardship Requirements.

- (a) The grantee shall be responsible for ongoing stewardship of each conservation interest acquired, whether as grant property or as match property.
- (b) The grantee shall:
 - (1) Determine the financial and management resources needed to monitor and enforce the terms of the conservation interest for each grant property and match property;
 - (2) Establish that it has or can obtain funds to monitor and enforce the terms of the conservation interest;
 - (3) Develop and submit to the department a stewardship plan to meet the requirements of (d), below; and
 - (4) Implement the stewardship plan to safeguard the drinking water source.

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(c) Prior to acquisition, the grantee shall prepare and submit a baseline documentation report that describes, in writing and with photographs, the condition of the property at the time of acquisition, including water quality and quantity data.

(d) The stewardship plan shall require the grantee to:

(1) Inspect the property annually to confirm that boundaries are being maintained and land is being appropriately protected according to the terms of the conservation interest and for the purpose of RSA 486-A;

(2) For property not held in fee simple, contact all landowners annually to inform the landowners of their obligations under the easement;

(3) Prepare and submit the annual stewardship report required by RSA 486-A:7, II(e) to the department, prior to January 31 of each year, containing the following:

a. A description of the site inspection conducted;

b. A map or sketch of the property, which may be a copy of the survey plan submitted pursuant to Env-Dw 1002.21, with the approximate route taken during the site inspection clearly delineated on the map or sketch;

c. A description of any physical changes to the property;

d. A description of any landowner contact conducted;

e. A description of any conditions that violate or may violate the provisions of the deed or easement or the intent of the conservation interest;

f. A description, including current status of any violations witnessed and remedial steps taken; and

g. The name or position title and contact information of the individual responsible for sending the annual stewardship report to the department;

(4) Notify the department of any change to the information required by (3)g., above, within 60 days of the change or by December 31 of the year in which the change occurred, whichever is earlier; and

(5) If snowmobiles are allowed by the conservation interest instrument, ensure that individuals using snowmobiles comply with the snowmobile trail plan approved pursuant to Env-Dw 1002.25.

(e) The grantee may contract with a person having expertise in conservation land management to perform one or more of the requirements of this section, however the grantee shall retain ultimate responsibility for all requirements.

Source. #12441, eff 1-1-18 (formerly Env-Dw 1002.21)

Env-Dw 1002.27 Final Approval, Execution, and Deed Recordation.

(a) The department shall approve a land transaction based on the following:

(1) Confirmation that the property is not contaminated based on any environmental site assessment performed in accordance with Env-Dw 1002.20;

(2) Confirmation of the property boundaries and acreage by the property survey performed in accordance with Env-Dw 1002.21;

(3) Negotiation of a price not to exceed the fair market value determined by the appraisal performed in accordance with Env-Dw 1002.22;

(4) Confirmation of clear and marketable title for the property as determined by the title examination conducted in accordance with Env-Dw 1002.23;

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(5) Determination that the deed language requires that the land or interest in land remains in the public trust, prohibits land uses detrimental to water supply protection, and allows for public access, all in accordance with RSA 486-A:7, II(c)-(d) and Env-Dw 1002.24;

(6) Receipt by the department of the baseline documentation and stewardship plan prepared in accordance with Env-Dw 1002.26; and

(7) Confirmation that the match requirements have been met.

(b) Upon approving a land transaction as specified in (a), above, the department shall:

(1) Forward the requisite documentation to the governor and executive council to request approval of the grant; and

(2) Disburse the grant if approved by the governor and executive council.

(c) The grantee may complete the transaction prior to approval by the governor and executive council, but completion of the transaction shall not guarantee that the grant will be approved.

Source. #12441, eff 1-1-18 (formerly Env-Dw 1002.22)

Env-Dw 1002.28 Procedure for Release of Lands Acquired with Grant Money.

(a) As provided in RSA 486-A:13, I:

(1) No deviation in the uses of any grant property to uses or purposes not consistent with the purposes of this chapter shall be allowed; and

(2) The sale, transfer, conveyance, or release of any such land or interest in land from public trust shall be prohibited except when the conditions of RSA 486-A:13, II or III are met.

(b) A grantee who believes that the conditions of RSA 486-A:13, II or III are met may submit a written request to the department to release lands acquired with water supply land protection grant funds.

(c) The request shall explain why the grantee believes that the conditions of RSA 486-A:13, II or III, as applicable, are met.

(d) The department shall review the request to determine whether to release the land, using all available hydrogeologic and treatment technology information.

(e) The department shall inform the grantee of the decision in writing within 90 days of receiving the request.

(f) If the department releases the land, the department shall provide the grantee with a payment schedule within 90 days of approving a release of lands for repaying the grant as provided in RSA 486-A:13, II or III, as applicable.

Source. #12441, eff 1-1-18 (formerly Env-Dw 1002.23)

Env-Dw 1002.29 Waivers. Any applicant or grantee who is or would be directly and adversely affected by the strict application of a rule in Env-Dw 1002 and who wishes to request a waiver shall do so as specified in Env-Dw 202.

Source. #12441, eff 1-1-18 (formerly Env-Dw 1002.24)

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APPENDIX A: STATUTE(S) IMPLEMENTED

| Rule Section(s) | Statute(s) Implemented |
|--|---|
| Env-Dw 1001 (see also specific sections below) | RSA 486-A |
| Env-Dw 1001.01 | RSA 486-A:1 |
| Env-Dw 1001.02 | RSA 486-A:2 |
| Env-Dw 1001.03 | RSA 486-A:3, RSA 486-A:9, II(b) |
| Env-Dw 1001.05 | RSA 486-A:4, RSA 486-A:9, II(b) |
| Env-Dw 1001.07 | RSA 486-A:3, III, RSA 486-A:9, II(b) |
| Env-Dw 1001.09 | RSA 486-A:9 |
| Env-Dw 1001.10 | RSA 486-A:9 |
| Env-Dw 1001.11 | RSA 486-A:5, I; RSA 486-A: 7, I, RSA 486-A:9, I (a) |
| Env-Dw 1001.12 | RSA 486-A:9, I (b)-(f), |
| Env-Dw 1001.13 | RSA 486-A:8 |
| Env-Dw 1001.14 | RSA 486-A:8, RSA 486-A:9, I (e) |
| Env-Dw 1001.15 | RSA 9-B:4; RSA 486-A:8, III |
| Env-Dw 1002.01 | RSA 486-A:1 |
| Env-Dw 1002.02, 1002.03 | RSA 486-A:2 |
| Env-Dw 1002.02(g) & (h) (new) | RSA 486-A:2 |
| Env-Dw 1002.03(a) & (b) | RSA 486-A:11, II |
| Env-Dw 1002.03(c) | RSA 486-A:11, III |
| Env-Dw 1002.03(d) | RSA 486-A:9, II(d); RSA 486-A:11, IV |
| Env-Dw 1002.03(e) | RSA 486-A:9, II(d); RSA 486-A:11, I, III, & V; RSA 486-A:13 |
| Env-Dw 1002.03(f) intro | RSA 486-A:9, II(d); RSA 486-A:11, I, III, & V; RSA 486-A:13 |
| Env-Dw 1002.04 | RSA 486-A:11, II & III |
| Env-Dw 1002.04(a) & (b) | RSA 486-A:11, II |
| Env-Dw 1002.04(c) | RSA 486-A:11, III |
| Env-Dw 1002.04(d) | RSA 486-A:9, II(d); RSA 486-A:11, IV |
| Env-Dw 1002.04(e), (f) | RSA 486-A:9, II(d); RSA 486-A:11, I, III, & V; RSA 486-A:13 |
| Env-Dw 1002.05 | RSA 486-A:11, II & III |
| Env-Dw 1002.05 intro, (a), (c), & (h) | RSA 486-A:2, III-a & VIII; RSA 486-A:7, II(a); RSA 486-A:11, II |
| Env-Dw 1002.06 | RSA 486-A:2, III-a & VIII; RSA 486-A:7, II(a); RSA 486-A:11, II |
| Env-Dw 1002.06(b)(3) a. | RSA 486-A:2, III-a & VIII; RSA 486-A:3, II; RSA 486-A:12 |
| Env-Dw 1002.07 | RSA 486-A:2, III-a & VIII; RSA 486-A:3, II; RSA 486-A:12 |
| Env-Dw 1002.08 - 1002.12 | RSA 486-A:11, II & III |
| Env-Dw 1002.13 | RSA 486-A:9, II; RSA 486-A:11, II & III |
| Env-Dw 1002.14 | RSA 486-A:11, III |
| Env-Dw 1002.15 | RSA 486-A:7, II(a) - (e); RSA 486-A:11, III |
| Env-Dw 1002.16 | RSA 486-A:11 |
| Env-Dw 1002.17 - 1002.19 | RSA 486-A:8, II; RSA 486-A:11, IV |
| Env-Dw 1002.20 | RSA 486-A:11, III |
| Env-Dw 1002.21 & 1002.22 | RSA 486-A:11, I & III |
| Env-Dw 1002.23 | RSA 486-A:11, III |
| Env-Dw 1002.24 | RSA 486-A:1; RSA 486-A:11, III |
| Env-Dw 1002.24(a), (c) intro & (1), (d) | RSA 486-A:11; RSA 541-A:22, IV |
| Env-Dw 1002.25 | RSA 486-A:11, III |
| Env-Dw 1002.26 | RSA 486-A:11, III & V |
| Env-Dw 1002.27 | RSA 486-A:7, II(c) & (d); RSA 486-A:11 |
| Env-Dw 1002.28 | RSA 486-A:13 |
| Env-Dw 1002.29 | RSA 486-A:11; RSA 541-A:22, IV |

APPENDIX B: STATUTORY AND REGULATORY DEFINITIONS

RSA 486-A:2

I. "Construction" means:

(a) The installation or building of:

(1) New wells or well buildings;

(2) Filtration systems and associated pump stations, pump equipment, chemical treatment systems, telemetry and metering equipment, and storage tanks; and

(3) Distribution mains and valves needed to interconnect the new wells or filtration system to the existing system as may be required by the department and the EPA or to interconnect public water systems to form a regional water system.

(b) Altering, improving or adding to existing water treatment or water source, storage or transmission main facilities or regional water system interconnections in order to meet the requirements of the surface water treatment rules or to meet the water needs of a regional water system.

(c) Engineering services related to the activities identified under this paragraph, including the scientific evaluation of the groundwater contributing area of public wells with recorded levels of chemical contaminants, excluding MTBE, using a method approved by the department.

III. "Eligible surface water treatment costs" means the actual cost of construction and related services necessary for a municipality to comply with the surface water treatment rules of the department of environmental services and the EPA, but shall not include the following:

(a) Land acquisition, except for land which shall be an integral part of a well system or filtration system;

(b) Easements and rights-of-way necessary to the project;

(c) Distribution systems and any improvement thereto not necessary for the municipality to achieve compliance with the surface water treatment rules; and

(d) Any administrative, legal, and fiscal costs related to the project.

III-b. "Eligible regional water system costs" means that portion of the costs of construction and related services attributable, as determined by the department, to the provision of water for domestic, commercial, or fire protection purposes, whether as routine supply or emergency reserve supply, through one or more of the interconnections that form a regional water system, but shall not include any of the following:

(a) Land acquisition, except for land which shall be an integral part of a well system or filtration system.

(b) Easements and rights-of-way necessary to the project.

(c) Distribution systems and any improvement thereto not necessary for the municipality to achieve compliance with the surface water treatment rules.

(d) Administrative, legal, and fiscal costs related to the project.

III-c "Eligible evaluation of the groundwater contribution area of public wells that have recorded levels of chemical contaminants excluding MTBE" means that portion of the actual costs of scientific evaluation of the contribution area of the sources of public drinking water, such as a well or surface water intake, through which water is likely to flow towards the source and related services attributable, as determined by the department, to the provisions of water for domestic, commercial, or fire protection purposes, whether as routine supply or emergency backup supply, through one or more interconnections that form a regional water system, but shall not include the following:

(a) Land acquisition, except for land which shall be an integral part of a well system or filtration system;

(b) Easements and rights-of-way necessary to the project;

(c) Distribution systems and any improvement thereto not necessary for the municipality to achieve compliance with the surface water treatment rules; and

(d) Any administrative, legal, and fiscal costs related to the project.

IV. "EPA" means the United States Environmental Protection Agency.

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IV-a. “Future source of public drinking water supply” means:

- (a) Stratified-drift aquifer areas identified by the department as favorable gravel well areas not constrained by existing development; and
- (b) Other groundwater resources identified by the department as high-yielding aquifer areas not constrained by existing development.

V-b. “Groundwaters” means all areas below the top of the water table, including aquifers, wells, and other sources of groundwater.

VI. “Source water protection area” means the area around a source of public drinking water, such as a well or surface water intake, through which water is likely to flow towards the source.

VII. “Stewardship” means ongoing surveillance of water supply protection land acquired pursuant to this chapter to ensure that the conservation intent is maintained.

VIII. “Water supply land protection grantee” means an entity that receives a water supply land protection grant to acquire and maintain in perpetuity land or easements for the purpose of protecting a drinking water source. A water supply land protection grantee shall be a nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code and having public water supply or land conservation as its principal mission or a municipality.

Env-Or 602.07 “Contamination” means the presence of any regulated contaminant, as defined herein, other than naturally occurring substances at naturally occurring or background levels, in soil, groundwater, soil gas, air, sediment, surface water, construction/excavation debris, or any other material at a concentration that has the potential to adversely affect human health or the environment.

Env-Or 602.26 “Regulated contaminant” means “regulated contaminant” as defined in RSA 485-C:2, XIII, as reprinted in Appendix C.

RSA 485-C:2

XIII. “Regulated contaminant” means any physical, chemical, biological, radiological substance or other matter, other than naturally occurring substances at naturally occurring levels, in water which adversely affects human health or the environment.

APPENDIX C: STATUTORY PROVISIONS

RSA 485-C:7 Potential Contamination Sources. –

I. Human activities or operations upon the land surface shall be considered potential contamination sources if the activity or operation poses a reasonable risk that regulated contaminants may be introduced into the environment in such quantities as to degrade the natural groundwater quality.

II. For purposes of this chapter, potential contamination sources shall include the following:

- (a) Vehicle service and repair shops, including but not limited to: automobile, truck, and equipment service or repair shops, autobody shops; and aircraft fueling, deicing, and maintenance areas.
- (b) General service and repair shops, including but not limited to: furniture stripping, painting, and refinishing; photographic processing; printing; appliance and small engine repair; boat repair, service, and refinishing; refrigeration, heating, ventilating and air conditioning shops.
- (c) Metalworking shops, including, but not limited to: machine shops; metal plating, heat treating, smelting and jewelry making shops.
- (d) Manufacturing facilities, including, but not limited to: electronics and chemical manufacturing, processing, and reclamation; paper, leather, plastic, fiberglass, rubber, silicon and glass making; a pharmaceutical production; pesticide manufacture; and chemical preservation of wood and wood products.
- (e) Underground and aboveground storage facilities for oil and hazardous substances, as defined in RSA 146-C.

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- (f) Waste and scrap processing and storage, including, but not limited to: junkyards, scrap yards, and auto salvage yards; wastewater treatment plants; dumps, landfills, transfer stations and other solid waste facilities; and wastewater or septage lagoons.
- (g) Transportation corridors, including, but not limited to, highways and railroads.
- (h) Septic systems, including, but not limited to large septic systems which require a groundwater discharge permit under RSA 485-A:13.
- (i) Laboratories and professional offices, including but not limited to: medical, dental, and veterinary offices; and research and analytical laboratories.
- (j) Use of agricultural chemicals, including but not limited to: golf courses; feed lots, kennels, piggeries, and manure stockpiles; parks; nurseries and sod farms; and the usage of registered pesticides.
- (k) Salt storage and use for winter road and parking lot maintenance.
- (l) Snow dumps.
- (m) Stormwater infiltration ponds or leaching catch basins.
- (n) Cleaning services, including but not limited to: dry cleaners, laundromats; beauty salons; and car washes.
- (o) Food processing plants, including but not limited to: meat packing and slaughterhouses; dairies; and processed food manufacture.
- (p) Fueling and maintenance of excavation and earthmoving equipment.
- (q) Concrete, asphalt and tar manufacture.
- (r) Cemeteries.
- (s) Hazardous waste facilities regulated under the Resource Conservation and Recovery Act, as implemented by RSA 147-A.