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CHAPTER Env-Wq 1300 NEW HAMPSHIRE CLEAN LAKES PROGRAM

Statutory Authority: RSA 487:18 and 24

REVISION NOTE #1:

Document #8703-A, effective 9-5-06, readopted with amendments and redesignated former Chapter Env-Ws 1300 entitled Exotic Aquatic Weed Control as Env-Wq 1300, pursuant to a rules reorganization plan for Department rules approved by the Director of the Office of Legislative Services on 9-7-05 and changed the chapter heading to New Hampshire Clean Lakes Program.

Former Chapter Env-Ws 1300 was filed under document #6852, effective 9-5-98.

REVISION NOTE #2:

Document #10696, effective 10-18-14, readopted or readopted with amendments all of the rules in Env-Wq 1301 through Env-Wq 1307, which had last been filed in Chapter Env-Wq 1300 under Document #8703-A. Changes in Document #10696 included the internal renumbering of many of the former rules within Env-Wq 1302, Env-Wq 1306, and Env-Wq 1307. Document #10696 also adopted new Part Env-Wq 1308 and new Part Env-Wq 1309.

Although Env-Wq 1300 had last been filed under Document #8703-A, effective 9-5-06, these rules did not expire on 9-5-14 since they were extended pursuant to RSA 541-A:14-a until entirely replaced by the rules in Document #10696, effective 10-18-14.

PART Env-Wq 1301 PURPOSE AND APPLICABILITY

Env-Wq 1301.01 Purpose. The purpose of these rules is to implement the following statutory provisions:

- (a) RSA 487:16-a, which prohibits the sale, distribution, importation, purchase, propagation, transportation, or introduction of exotic aquatic weeds into the state;
- (b) RSA 487:17 relative to limiting the eutrophication of lakes and ponds, controlling exotic aquatic weeds, designating restricted use areas, and making financial grants for management of exotic aquatic weeds;
- (c) RSA 487:18 relative to project prioritizations;
- (d) RSA 487:20 relative to eligibility requirements;
- (e) RSA 487:21 relative to cost sharing; and
- (f) RSA 487:22 relative to municipal agreements.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1301.02 Applicability. These rules shall apply to:

- (a) Individuals who live, work, and recreate on the surface waters of New Hampshire; and
- (b) Persons who:
 - (1) Own or manage places of business that offer the sale or other distribution of exotic aquatic weeds; or
 - (2) Are responsible for or are otherwise interested in monitoring, maintaining, or investigating exotic aquatic weed-related water quality.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

PART Env-Wq 1302 DEFINITIONS

Env-Wq 1302.01 “Bottom barrier” means a semi-permeable, fine mesh screening, laid over an area of sediments in a surface water to shade and physically inhibit plant growth.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1302.02 “Commissioner” means the commissioner of the department.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1302.03 “Cultivar” means a cultivated species of plant for which there is no wild form.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1302.04 “Department” means the department of environmental services.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1302.05 “Diagnostic and feasibility study” means a study as contemplated by RSA 487:21, I, to identify sources of pollution to a surface water and recommend the most cost effective practices to restore or preserve water quality.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1302.06 “Exotic aquatic weeds” means “exotic aquatic weeds” as defined in RSA 487:16, II, as reprinted in Appendix B.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1302.07 “Herbaria” means collections of dried, pressed plants for the purposes of education and scientific study.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1302.08 “Infested waters” means water and water bodies having populations of prohibited exotic aquatic weeds such as milfoil or fanwort.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

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Env-Wq 1302.09 “Integrated pest management (IPM)” means an aquatic plant management approach that includes:

- (a) Defining the problem or need;
- (b) Identifying the desired exotic aquatic plant management goals;
- (c) Making decisions based on site-specific information;
- (d) Using ecosystem, watershed, and cost perspectives to determine long-term strategies;
- (e) Developing a system of integrated exotic plant control methods, including mechanical-physical, biological, chemical, and cultural BMPs; and
- (f) Quantitatively assessing the results of the control methods.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1302.10 “Limited infestations” means an infestation of 5 acres or less.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1302.11 “Maintenance project” means a project designed to remediate a water impairment through the short-term control of an exotic aquatic weed infestation or a water quality problem by treating the problem but not the underlying cause.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1302.12 “New infestation” means an infestation that was not previously reported to or otherwise identified by the department.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1302.13 “Person” means “person” as defined in RSA 485-A:2, IX, as reprinted in Appendix B.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1302.14 “Public access” means “public access” as defined in RSA 271:20-a, I, as reprinted in Appendix B.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1302.15 “Public access site” means a location for public access.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

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Env-Wq 1302.16 “Public boat access area” means an area adjacent to a public body of water that:

- (a) Is owned or controlled by the state, is available for public use, and has been designated by the fish and game department as a boat launching area under the statewide public boat access program; or
- (b) Has otherwise been formally designated by the appropriate authority as available for public use, without any residency requirement.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1302.17 “Public bodies of water” means:

- (a) Public waters as defined in RSA 271:20;
- (b) Any impoundment of a stream, lake, pond, or tidal or marine waters of 10 acres or more; and
- (c) Any other body of water owned by the state or by a state agency or department.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1302.18 “Restricted use area” means a marked area or marked areas of a water body where infestations of exotic aquatic weeds have been delineated in accordance with Env-Wq 1304, which is closed to entry by boaters, anglers, or other water users and their equipment except in emergency situations where property or human life is endangered.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1302.19 “Surface waters of the state” means “surface waters of the state” as defined in RSA 485-A:2, XIV, as reprinted in Appendix B.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

PART Env-Wq 1303 LISTING OF PROHIBITED EXOTIC AQUATIC WEEDS; EXEMPTIONS

Env-Wq 1303.01 Criteria for Listing Exotic Aquatic Weeds as Prohibited. The department shall list an aquatic plant species as prohibited if it meets any of the following criteria:

- (a) The species does not naturally occur in New Hampshire and will cause or is likely to cause economic or environmental harm or harm to human health or safety if introduced to the area, because it grows or is likely to grow more rapidly than native plants so as to impair an ecosystem’s ability to function by altering its productivity, decomposition, water fluxes, nutrient cycling and loss, soil fertility, erosion, dissolved oxygen concentrations, or its ability to maintain its existing species diversity;
- (b) The species is known to invade and disrupt aquatic and wetland ecosystems in other geographic areas where the climate is similar to that of New Hampshire;
- (c) The species is able to create dense, monospecific stands or monotypic stands that displace or destroy native plant habitat, destroy fish and wildlife habitats, inhibit water circulation, hinder navigation or irrigation, or severely restrict the recreational use of waterways; and

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- (d) The species resists effective control by present technology or available management practices.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1303.02 Prohibited Exotic Aquatic Weeds. Subject to Env-Wq 1303.03, the following exotic aquatic weeds shall not be offered for sale, distributed, sold, imported, purchased, propagated, transported, or introduced in the state, pursuant to RSA 487:16-a, because they pose a substantial threat to native species in the state:

- (a) Butomus umbellatus, commonly referred to as flowering rush;
- (b) All Cabomba species, including but not limited to Cabomba caroliniana and commonly referred to as fanworts;
- (c) Crassula helmsii, commonly referred to as swamp stonecrop;
- (d) Egeria densa, commonly referred to as Brazilian elodea;
- (e) Epilobium hirsutum, commonly referred to as great willow herb or hairy willow herb;
- (f) Glyceria maxima, commonly referred to as reed sweet grass or manna grass;
- (g) Hydrilla verticillata; commonly referred to as Hydrilla or Anacharis;
- (h) Hydrocharis morsus-ranae, commonly referred to as frogbit;
- (i) Hygrophila polysperma, commonly referred to as East Indian hygrophila;
- (j) Ipomoea aquatica, commonly referred to as water spinach;
- (k) Iris pseudocarus, commonly referred to as yellow iris or yellow flag iris;
- (l) Lagarosiphon major, commonly referred to as African oxygen weed;
- (m) Limnophila sessiliflora, commonly referred to as ambulia;
- (n) Lythrum salicaria, L. virgatum, L. alatum and their cultivars, commonly referred to as purple loosestrife;
- (o) Marsilea quadrifolia, commonly referred to as water fern;
- (p) Myosotis scorpioides, commonly referred to as water forget-me-not;
- (q) All Myriophyllum species, including but not limited to Myriophyllum heterophyllum, Myriophyllum spicatum, and Myriophyllum aquaticum, and commonly referred to as milfoils or feather-foils;
- (r) Najas minor, commonly referred to as European naiad;
- (s) Nymphoides peltata, commonly referred to as yellow floating heart;
- (t) Phragmites australis or P. communis, commonly referred to as common reed;
- (u) Potamogeton crispus, commonly referred to as curly leaf pondweed;
- (v) Sagittaria japonica, commonly referred to as double flowering arrowhead, Japanese arrowhead, or old world arrowhead;

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- (w) Sagittaria sagittifolia, commonly referred to as giant sagittaria;
- (x) Salvinia molesta, commonly referred to as giant salvinia;
- (y) All Trapa species, commonly referred to as water chestnuts;
- (z) Typha gracilis, commonly referred to as slender cattail;
- (aa) Typha laxmanii, commonly referred to as dwarf cattail or Laxman's cattail; and
- (ab) Typha minima, commonly referred to as miniature cattail or micro-mini cattail.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1303.03 Synonymy.

(a) The prohibited status of exotic aquatic weeds shall apply to the most recent and accepted scientific and common names of the species as listed in Env-Wq 1303.02 and to undesignated synonyms for the listed species.

(b) Plant status shall be determined using the Latin name of the species.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1303.04 Inspections.

(a) For purposes of this section, "business" means a commercial establishment that is open to the public and maintains stocks of aquatic plants for sale or other distribution, including pet stores and nurseries.

(b) The department shall inspect, during a business's normal business hours, the aquatic plants on display to the public.

(c) If the department's inspector observes plants that are on the list of prohibited species, the inspector shall inform the on-site manager of the business of the prohibitions of RSA 487:16-a and request the manager to discontinue the sale or other distribution of the plants.

(d) If the department's inspector observes plants that could be on the list of prohibited species, the inspector shall inform the on-site manager of the business of the prohibitions of RSA 487:16-a and request the manager to provide a sample of the questionable aquatic plant material of sufficient size to allow identification of the plant material at no compensation.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1303.05 Exemptions for Transportation. Transportation of any exotic aquatic weed(s) on any road or highway in the state shall be exempt from the transportation prohibition of RSA 487:16-a, if:

(a) The transportation is for the purpose of disposal as part of a harvest control activity under the supervision of the department; or

(b) The transportation is for the purpose of identifying a species or reporting the presence of a species, and the plant material is in a sealed container.

Source. (See Revision Note #1 at chapter heading for Env-

Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14
(See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1303.06 Acceptable Means of Disposal.

(a) Any exotic aquatic weed shall be immediately disposed of away from water or moist areas where it might survive.

(b) Acceptable means of disposal shall include:

- (1) Burning or incinerating;
- (2) Land filling;
- (3) Disposing in a trash container whose contents are destined for incineration or land filling;
- (4) Desiccating;
- (5) Composting, if applied away from surface waters; and
- (6) Any other method that ensures the plant material will not enter surface waters.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14
(See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1303.07 Exemptions for Preserved Specimens, Research or Education, and Field Experimentation.

(a) Subject to (b) and (c), below, and as authorized by RSA 487:16-a, the following uses of exotic aquatic weeds shall be exempt from the prohibitions of RSA 487:16-a:

- (1) Exotic aquatic weeds in the form of herbaria or other preserved specimens;
- (2) Exotic aquatic weeds being used in a controlled environment, such as in a laboratory for research or for educational display; and
- (3) Exotic aquatic weeds that are subjected to experimental processes or equipment in the field for the purpose of finding control mechanisms for such exotic aquatic weeds.

(b) All specimens shall be destroyed as specified in Env-Wq 1303.06 when they are no longer used as specified in (a), above.

(c) For plants subjected to experimental processes or equipment in the field, the exemption shall apply only if such experimental processes or equipment are conducted in a way that prevents the spread of such weeds.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14
(See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1303.08 Notification Requirement.

(a) Any person, other than an employee of the department acting in his or her official capacity, who participates in any of the activities exempted pursuant to Env-Wq 1303.05 and Env-Wq 1303.07, shall notify the department prior to or within 24 hours after performing such activity, by calling 271-3503 and asking for the Exotic Species Program or Limnology Center.

(b) Notification shall not be required for disposal after removal from recreational watercraft and equipment such as trailers, motors, fishing equipment, or diving gear.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

PART Env-Wq 1304 RESTRICTED USE AREAS

Env-Wq 1304.01 Designation and De-listing of Restricted Use Areas.

(a) The commissioner shall designate as a restricted use area any area that contains a limited infestation of exotic aquatic weeds, such as:

- (1) Areas with new infestations;
- (2) Infestations in areas with a high risk of fragmentation; and
- (3) Areas in waterbodies with previously-documented infestations where treatments or management practices have removed all but a small area of exotics that can be contained with the establishment of a restricted use area until such time that other management practices can remove the remainder of the population.

(b) After designation, a restricted use area shall be in place until the area is no longer infested as determined using the criteria in (a), above, or until a period of 3 years has expired since the time of designation, whichever is sooner.

(c) When an infestation has been eradicated or cannot be successfully treated or managed within the 3-year time limit, or the 3-year time limit has been reached, the commissioner shall evaluate the designated area to determine whether to de-list the area or extend the area's designation as restricted use.

(d) In considering whether to designate a restricted use area pursuant to (a), above, or whether to extend the designation pursuant to (c), above, the commissioner shall proceed as directed by RSA 487:17, II(d).

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1304.02 Notice of Restricted Use Areas.

(a) Whenever a restricted use area is established, the department shall:

- (1) Post signs and place buoys warning of a restricted use area in accordance with Env-Wq 1304.03 and Env-Wq 1304.04;
- (2) Issue a press release to the newspapers serving each town in which the waterbody having the restricted use area is located; and
- (3) Add the waterbody to the list posted on the department's website pursuant to (b)(2), below.

(b) By June 1 of each year, the department shall:

- (1) Issue press releases to the newspapers in the towns surrounding each water body in which a restricted use area is designated or has been de-listed within the past 12 months to inform the public that a list of restricted use areas is available on the department's web site; and
- (2) Post a list that identifies each waterbody that has a restricted use area or an area that has been de-listed within the past 12 months on the department's website.

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(c) The press release issued pursuant to (a)(2), above, and the list posted pursuant to (b)(2), above, shall include the following information:

- (1) The town(s) in which the water body containing the restricted use area is located;
- (2) The name of the water body containing the restricted use area;
- (3) The specific location of the infestation within the water body;
- (4) The type of infestation; and
- (5) The general dimensions of the restricted use area.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1304.03 Delineation and Markers for Restricted Use Areas.

(a) The department or its designee shall mark restricted use areas using buoys and signs as specified in this section.

(b) For each surface water in which a restricted use area is located, at least one sign meeting the requirements of Env-Wq 1304.08 shall be posted at each public access site and public boat access area on the surface water.

(c) If the actual restricted use area is in a cove, then:

- (1) A boat channel shall be marked using 2 buoys that are not connected to each other but are each connected to the nearest shore by rope with small floats at least every 8 feet, to restrict recreational access to the area while allowing access by boat to shorefront properties in the cove; and
- (2) If either buoy is more than 300 feet from shore, one additional buoy shall be connected to the rope between that buoy and the shore.

(d) If the actual restricted use area is not in a cove, then:

- (1) A minimum of 3 buoys that are connected to each other by rope with small floats at least every 8 feet shall be placed around the actual restricted use area; and
- (2) The buoys shall be not more than 300 feet apart.

(e) All buoys required by (c) or (d), above, shall meet the requirements of Env-Wq 1304.04.

(f) Buoys and signs shall be removed at the end of each growing season, unless removed sooner pursuant to the de-listing process.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1304.04 Type of Warning Buoy. The buoy used to warn of a restricted use area shall:

- (a) Be a standard state danger buoy;
- (b) Be white and international orange in color;
- (c) Have an orange diamond symbol with an X through it; and

(d) Read as follows: “Restricted Use Area, pursuant to RSA 487. NH Dept. of Environmental Services 603-271-3503.”

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1304.05 Marking of Restricted Use Areas by Municipalities.

(a) Any municipality with a method of marking restricted use areas within municipal surface water supplies that is similar to the method described in Env-Wq 1304.03 and Env-Wq 1304.04 may request the department to approve the use of the method in lieu of Env-Wq 1304.03 and Env-Wq 1304.04, by submitting a request in writing to the department.

(b) The request shall describe the municipality’s method of marking restricted use areas and identify the area(s) to which it is to be applied.

(c) The department shall authorize the municipality to mark municipal surface water supplies using the municipality’s method if the municipality’s method is equivalent to or more stringent than the method identified in Env-Wq 1304.03 and Env-Wq 1304.04.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1304.06 Navigation Prohibition. Subject to Env-Wq 1304.07, no person or equipment, including boaters, anglers, or other water users and private or commercial watercraft of any type, shall enter a restricted use area except in emergency situations where property or human life is endangered.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1304.07 Restricted Use Areas at Access Points. If an infestation occurs at an access point to a marina or private residence, or at a public or private boat ramp, the access point may continue to be used if a bottom barrier is put over the infestation to keep it from spreading or, if the water is too shallow for a bottom barrier, the weeds are hand-pulled, provided:

(a) The work is by SCUBA divers who have received weed control diver certification from the professional association of diving instructors;

(b) The project is conducted in accordance with a non-emergency response plan designed pursuant to Env-Wq 1305.03;

(c) The project is not located in prime wetlands, marshes, bogs, or tidal wetlands;

(d) Diver-assisted harvesting of exotic aquatic weeds in flowing waters may be initiated only at the most upstream location of the infestation;

(e) The project is not in a wetland that has been identified by the department of resources and economic development, natural heritage inventory as an exemplary natural community or that has documented occurrences of state- or federally-listed endangered or threatened species; and

(f) The owner of the property obtains any permit or provides any notice required by RSA 482-A or Env-Wt 100 et seq.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14

(See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1304.08 Signs. The signs posted pursuant to Env-Wq 1304.03(a) shall:

(a) Be at least 8 ½ by 11 inches in size;

(b) Include a picture of a warning buoy; and

(c) Inform people that the purpose of the buoys is to mark a restricted use area and that the area must not be entered except in emergencies where property or human life is endangered.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1304.09 Installation and Removal of Buoys.

(a) The department shall install buoys during weekday office hours.

(b) The department shall remove the buoys at the end of each growing season, unless removed sooner pursuant to the de-listing process.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

PART Env-Wq 1305 RESPONSE PROTOCOLS FOR NEW INFESTATIONS

Env-Wq 1305.01 Emergency Response Protocol for Small New Infestations.

(a) Upon notification of a possible new infestation of exotic aquatic weeds, the department shall:

(1) Document the infestation in accordance with Env-Wq 1305.02; and

(2) Determine whether the infestation is small enough that eradication is reasonably possible based on the criteria specified in (b), below.

(b) The department shall determine that eradication is reasonably possible if:

(1) The infestation is present as:

a. A small patch or scattered individual stems, such that the infestation can be controlled by hand-pulling the subject plant stems using snorkeling or SCUBA diving activities; or

b. A single dense mat or a series of separate dense mats wherein each mat covers an area less than 400 square feet, such that the infestation can be controlled by installing bottom barriers; and

(2) The infestation is a new infestation in a previously-uninfested water body or in a previously-uninfested area of a water body having already-controlled or otherwise minimal infestations.

(c) If the infestation meets the criteria specified in (b), above, the department shall undertake hand-pulling or install bottom barriers, or both, as is most likely to control the infestation.

(d) If the infestation is not small enough to be controlled with hand-pulling or bottom barriers, the department shall develop a plan for an appropriate non-emergency response in accordance with Env-Wq 1305.03.

Source. (See Revision Note #1 at chapter heading for Env-

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Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14
(See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1305.02 Documentation of Infestation. To document a new infestation, the department shall:

- (a) Conduct a site inspection of subject waterbody within 72 hours of a new report;
- (b) Collect a specimen of the suspect plant;
- (c) Determine whether the plant is a native or exotic species per RSA 487:16, II, as follows:
 - (1) When fruit or flower is present, the department shall make an identification directly; and
 - (2) When no fruit or flower is present, the department shall send the specimen for genetic analysis to verify the species level identification;
- (d) Map and characterize the extent of the infestation;
- (e) Document any native plant abundances and community structure around and dispersed within the exotic plant population; and
- (f) Identify potential impacts to downstream habitats as a result of the infestation or possible control activities.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14
(See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1305.03 Non-Emergency Response Plan.

- (a) If an infestation does not qualify as a small new infestation per Env-Wq 1305.01, the department shall develop a plan in consultation with interested stakeholders, including affected municipalities and lake associations, to address the infestation as a non-emergency response.
- (b) The department shall implement any portion of the plan developed pursuant to (a), above, that calls for department action.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14
(See Revision Note #2 at chapter heading for Env-Wq 1300)

PART Env-Wq 1306 EXOTIC AQUATIC WEED INFESTATION CONTROL GRANTS

Env-Wq 1306.01 Eligibility for Exotic Aquatic Weed Infestation Control Grant. To be eligible for a grant under RSA 487:21, III for a project to control infestations of exotic aquatic weeds, the proposed project shall:

- (a) Be for a surface water of the state that is infested with at least one exotic aquatic weed listed in Env-Wq 1303.02; and
- (b) Incorporate integrated pest management (IPM) strategies.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #9488, eff 6-23-09; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

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Env-Wq 1306.02 Application for Exotic Aquatic Weed Infestation Control Grant.

(a) The applicant for a grant to control one or more infestations of exotic aquatic weeds shall submit a completed application for funding assistance on a form obtained from the department to the department's Exotic Species Program by September 15 of the year preceding the year for which the grant is requested.

(b) The applicant shall provide the following information:

- (1) The applicant's name and summer and winter mailing addresses;
- (2) Whether the applicant is an individual, political subdivision, association, or private business or other legal entity;
- (3) If the applicant is not an individual, the name, daytime telephone number with area code, and email address, if any, of an individual who can be contacted on behalf of the applicant with questions regarding the application;
- (4) The year and season or months the applicant proposes to implement the project;
- (5) The name of the surface water for which the grant is sought, whether it is public or private, and the name of each town in which it is located;
- (6) For each town, the number of public access sites and public boat access areas on the surface water;
- (7) The predominant use(s) of the surface water and surrounding land area, and if the surface water is the source for a public water system, the name of the public water system; and
- (8) The name of each type of exotic aquatic weed with which the surface water is infested, and for each:
 - a. The size and location of the infestation;
 - b. Whether the infestation first occurred in the previous 12 months;
 - c. The impact of the infestation to recreational, ecological, and economic values of the surface water; and
 - d. The proposed control technique(s), including proposed IPM strategies.

(c) The applicant, if an individual, or a responsible official of the organization or political subdivision that is applying for the grant who has been authorized to sign the application shall sign and date the application and print or type his or her name and title.

(d) The signature provided pursuant to (c), above, shall constitute certification that the individual is duly authorized to sign the application on behalf of the applicant and that the information contained in the application is true and complete to the signer's information and belief.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1306.03 Eligibility Determinations.

(a) The department shall:

- (1) Review all grant applications received on or before the deadline established in Env-Wq 1306.02(a) to determine whether the proposed project meets the eligibility criteria specified in Env-Wq 1306.01; and

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(2) Assign points to the projects that meet the eligibility criteria in accordance with Env-Wq 1306.05.

(b) The department shall notify each applicant in writing of its eligibility determination, as follows:

(1) If a project is determined to be not eligible, the written notice shall specify the reason(s) for the determination; and

(2) If a project is determined to be eligible, the department shall request the applicant to:

- a. Consult with the department to determine the scope and location of the proposed work;
- b. Obtain bids for the proposed work; and
- c. Submit a proposed grant amount based on the bids to the department within 30 days of the date of the notice.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1306.04 Grant Awards.

(a) After the deadline for submitting bids, the department shall allocate the available grant funds beginning with the highest-ranking project and continuing until no projects or funds remain, whichever occurs first.

(b) The department shall notify each applicant of the amount of grant funds awarded, if any.

(c) Each applicant who receives a grant award shall provide the following to the department prior to spending any grant funds:

- (1) A new or updated W-9 form, as appropriate;
- (2) An original Certificate of Good Standing or a Certificate of Existence from the New Hampshire secretary of state's office, as applicable;
- (3) A signed and notarized standard state grant agreement form as promulgated by the New Hampshire departments of justice and administrative services or a document that contains equivalent terms; and
- (4) A signed and notarized certificate of authority.

Source. (See Revision Note 1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; amd by #9488, eff 6-23-09; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1306.05 Prioritizing Exotic Aquatic Weed Infestation Control Projects. Pursuant to RSA 487:18, the priority of proposed exotic aquatic weed infestation control projects shall be determined by totaling the points assigned under each of the following categories:

(a) Points assigned based on the type of infestation in the surface water shall be as follows:

(1) A surface water having one or more widespread and well-established infestations shall receive one point;

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- (2) A surface water having one or more established infestations that are showing signs of spreading to uninfested portions of the waterbody shall receive 3 points;
 - (3) A surface water having one or more infestations that first occurred within the past 12 months and are small or localized shall receive 5 points; and
 - (4) The score for this category shall be multiplied by a weighting factor of 4;
- (b) Points assigned based on the type of proposed control action shall be as follows:
- (1) Projects where herbicide treatment will be followed by non-chemical management efforts, such as hand removal or bottom barriers, shall receive one point;
 - (2) Projects where only non-herbicide controls will be used shall receive 3 points;
 - (3) Projects where a new or innovative IPM strategy will be tried that will minimize adverse effects on fish and wildlife, their habitats, and the environment shall receive 5 points; and
 - (4) The score for this category shall be multiplied by a weighting factor of 3;
- (c) Points assigned based on the type and availability of public access sites and public boat access areas shall be as follows:
- (1) Private ponds shall receive no points;
 - (2) Public bodies of water with no known public access site shall receive one point;
 - (3) Public bodies of water where the public access site is open land or beach and there is no public boat access area shall receive 3 points;
 - (4) Public bodies of water where a public boat access area exists shall receive 5 points; and
 - (5) The score for this category shall be multiplied by a weighting factor of 2;
- (d) Points assigned based on the predominant use(s) of the surface water and surrounding land area shall be as follows:
- (1) Surface waters where less than 30% of the shorefront is developed shall receive no points;
 - (2) Surface waters where the surrounding land use is mostly residential and boating is predominantly small motorized and unmotorized craft shall receive one point;
 - (3) Surface waters where the surrounding land use is a mix of residential and transient and boating is a mix of large and small motorized and unmotorized craft, shall receive 3 points;
 - (4) Surface waters designated as public water supplies shall receive 5 points; and
 - (5) The score for this category shall be multiplied by a weighting factor of 2;
- (e) Points assigned based on the impact of the infestation to recreational and economic values of the surface water shall be as follows:
- (1) Infestations in areas of a surface water that are off-shore of mostly undeveloped land areas where there is little impact to recreational or commercial uses shall receive no points;
 - (2) Infestations with mostly residential aesthetic impacts shall receive one point;

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(3) Infestations with impacts to residential boat access or beaches as well as to residents shall receive 3 points; and

(4) Infestations with impacts to commercial operations, such as marinas, public beaches, motels, restaurants, and public docks, shall receive 5 points;

(f) Points assigned based on the impact of the infestation to ecological values of the surface water shall be as follows:

(1) Infestations that are physically contained and do not threaten the life cycle of native aquatic plant or animal communities shall receive no points;

(2) Infestations that are rapidly spreading and threaten the life cycle of native plant and animal communities shall receive 3 points; and

(3) Infestations that pose a risk to rare, threatened, or endangered plant or animal species within a surface water shall receive 5 points;

(g) Points assigned based on the treatment history of the surface water shall be as follows:

(1) Projects funded within the last 2 years shall receive no points;

(2) Projects not funded within the last 2 years where there was no request for funding in those 2 years shall receive one point;

(3) Projects not funded within the last 2 years where funding was requested and denied due to lack of available funds shall receive 3 points; and

(4) Projects not previously funded shall receive 5 points; and

(h) Points assigned based on the amount of local match shall be as follows:

(1) Projects where the applicant proposes to provide not more than 50% match for the project shall receive no points;

(2) Projects where the applicant proposes to provide at least 50% but less than 65% match for the project shall receive one point;

(3) Projects where the applicant proposes to provide at least 65% but less than 80% match for the project shall receive 3 points; and

(4) Projects where the applicant proposes to provide 80% or more match for the project shall receive 5 points.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1306.06 Contracting Procedures. Grant recipients shall comply with all applicable federal, state, and local contracting requirements when contracting for services to control or eradicate infestations of exotic aquatic weeds.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1306.07 Reporting Requirements.

(a) For maintenance projects using aquatic herbicides, the grant recipient shall submit a report at the end of the growing season that identifies the type of herbicide, rate of chemical application, success of the treatment, total project cost, and impacts to any non-target aquatic or land-based plant or animal species, and provides a summary of IPM strategies used during the grant period.

(b) To satisfy the reporting requirement of (a), above, the grant recipient may submit a photocopy or electronic copy of the aquatic pesticide project report submitted to the department of agriculture, markets and foods pursuant to Pes 603.03(c)(26), or any successor rule, that the grant recipient has supplemented with any information required by (a), above, that is not already in the report.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1306.08 Recordkeeping Requirements. All grant recipients shall keep detailed records of documented grant disbursements, match, and project tasks and deliverables for a period of 3 years from the end of the contractual period for the grant.

Source. (See Revision Note 1 at chapter heading for Env-Wq 1300) #10696, eff 10-18-14

PART Env-Wq 1307 DIAGNOSTIC AND FEASIBILITY STUDIES

Env-Wq 1307.01 Nomination for Diagnostic and Feasibility Study.

(a) A nomination for water body for inclusion in the diagnostic and feasibility study program established under RSA 487:21, I, shall be filed:

- (1) By a municipality or an organization, such as a lake association, that is in good standing with the New Hampshire secretary of state; and
- (2) For a surface water that meets the eligibility criteria specified in Env-Wq 1307.02.

(b) The nominating entity shall provide the information specified in Env-Wq 1307.03 in writing to the DES Limnology Center Director and Clean Lakes Program Coordinator.

Source. (See Revision Note 1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; amd by #9488, eff 6-23-09 ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1307.02 Eligibility Criteria for Diagnostic and Feasibility Studies. To be eligible for participation in the diagnostic and feasibility study program established under RSA 487:21, I, the water body shall be:

(a) A surface water of the state that is:

- (1) Listed as impaired on the current or draft list prepared pursuant to §303(d) of the federal Clean Water Act as specified in 40 CFR 130.7;
- (2) Identified as being at risk of being impaired in documented Volunteer Lake Assessment Program (VLAP) data demonstrating a statistically-significant decline in water quality; or
- (3) Experiencing change(s) within its boundaries or within its watershed that are deemed a significant risk to the water quality and designated water uses by the department pursuant to section 305(b) of the federal Clean Water Act as specified in 40 CFR 130.8; and

(b) The subject of an organized and coordinated water quality monitoring program that has collected water quality data spanning 10 or more consecutive years, such that:

- (1) The surface water is monitored at least 3 times from May 15 through October 1, with samples being taken at least 30 days apart; and
- (2) All analyses were performed by a laboratory accredited for the analyses by the department pursuant to Env-C 300 or by EPA or another government agency using National Environmental Laboratory Accreditation Committee standards.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1307.03 Information Required for Nominations.

(a) The nominating entity shall provide the following information:

- (1) The entity's name and mailing address;
- (2) The name, daytime telephone number with area code, and email address, if any, of an individual who can be contacted on behalf of the entity with questions regarding the nomination;
- (2) The name of the surface water that would be the subject of the study, whether it is public or private, and the name of each town in which it is located;
- (3) Certification that the surface water meets the eligibility criteria specified in Env-Wq 1307.02;
- (4) The reason(s) for nomination;
- (5) Observations related to declines in the recreational, ecological, and economic value of the surface water due to impairment;
- (6) Specific areas of concern in the surface water or watershed, or both;
- (7) Desired outcomes for surface water and watershed conditions; and
- (8) The level of financial support and volunteer participation the entity is prepared to provide during the study and implementation phases.

(d) A responsible official of the entity that is nominating the water body who has been authorized to sign the application shall sign and date the application and print or type his or her name and title.

(e) The signature provided pursuant to (a), above, shall constitute certification that the individual is duly authorized to sign the application on behalf of the entity and that the information contained in the application is true and complete to the signer's information and belief.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1307.04 Participation Determinations.

(a) The department shall review each nomination received to:

- (1) Determine whether the nominating entity and water body meet the eligibility criteria specified in Env-Wq 1307.01(a) and Env-Wq 1307.02, respectively; and

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(2) Assign points using the prioritization criteria specified in Env-Wq 1307.05 to each nomination that meets the eligibility criteria.

(b) The department shall notify each nominating entity in writing regarding whether or not the proposed project was selected for participation. If the proposed project was not selected, the written notice shall specify the reason(s) for the decision.

(c) The department shall maintain a list of accepted nominations, ranked in order of the number of points assigned.

(d) As funds become available, the department shall conduct diagnostic and feasibility studies in the order on the ranked list.

Source. (See Revision Note #1 at chapter heading for Env-Wq 1300) #8703-A, eff 9-5-06; ss by #10696, eff 10-18-14 (See Revision Note #2 at chapter heading for Env-Wq 1300)

Env-Wq 1307.05 Prioritizing Diagnostic and Feasibility Studies. Pursuant to RSA 487:18, project priority shall be determined by totaling the points assigned under each of the following categories:

(a) Points assigned based on the degree of impairment of the surface water shall be as follows:

(1) Lakes and ponds not listed as impaired on the current or draft list prepared pursuant to section 303(d) of the federal Clean Water Act as specified in 40 CFR 130.7 shall receive no points;

(2) Lakes and ponds not listed as impaired on the current or draft list prepared pursuant to section 303(d) of the federal Clean Water Act as specified in 40 CFR 130.7, but identified as being at risk of being impaired in documented Volunteer Lake Assessment Program (VLAP) data demonstrating a statistically-significant decline in water quality shall receive 3 points;

(3) Lakes and ponds listed as impaired on the current or draft list prepared pursuant to section 303(d) of the federal Clean Water Act as specified in 40 CFR 130.7 shall receive 5 points; and

(4) The score for this category shall be multiplied by a weighting factor of 4;

(b) Points assigned based on the type and availability of public access sites and public boat access areas shall be as follows:

(1) Privates lakes and ponds shall receive no points;

(2) Public bodies of water with no known public access site shall receive one point;

(3) Public bodies of water where the public access site is open land or beach and there is no public boat access area shall receive 3 points;

(4) Public bodies of water where a public boat access area exists shall receive 5 points; and

(5) The score for this category shall be multiplied by a weighting factor of 2;

(c) Points assigned based on the predominant use(s) of the surface water and surrounding land area shall be as follows:

(1) Surface waters where less than 30% of the shorefront is developed shall receive no points;

(2) Surface waters where the surrounding land use is mostly residential and boating is predominantly small motorized and unmotorized craft shall receive one point;

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(3) Surface waters where the surrounding land use is a mix of residential and transient and boating is a mix of large and small motorized and unmotorized craft shall receive 3 points;

(4) Surface waters designated as public water supplies shall receive 5 points; and

(5) The score for this category shall be multiplied by a weighting factor of 2;

(d) Points assigned based on the impact of the impairment or potential impairment to recreational and economic values of the surface water shall be as follows:

(1) The impairment is to areas of a surface water that are off-shore of mostly-undeveloped land areas where there is little impact to recreational or commercial uses shall receive no points;

(2) The impairment is on lakes and ponds with mostly residential aesthetic impacts shall receive one point;

(3) The impairment impacts residential or public beaches shall receive 3 points; and

(4) The impairment impacts commercial operations, such as marinas, public beaches, motels, restaurants, and public docks, shall receive 5 points;

(e) Points assigned based on the impact of the impairment or potential impairment to ecological values of the surface water shall be as follows:

(1) Impairments to mostly non-native plant or animal communities in the lake or pond shall receive no points; and

(2) Impairments to native plant or animal species, such that the identified impairment would reduce the habitat for those species to the point where their abundance may be altered, shall receive 3 points; and

(f) Points assigned based on the amount of local match shall be as follows:

(1) Projects where the applicant proposes to provide not more than 50% match for the project shall receive no points;

(2) Projects where the applicant proposes to provide at least 50% but less than 65% match for the project shall receive one point;

(3) Projects where the applicant proposes to provide at least 65% but less than 80% match for the project shall receive 3 points; and

(4) Projects where the applicant proposes to provide 80% or more match for the project shall receive 5 points.

Source. (See Revision Note #2 at chapter heading for Env-Wq 1300) #10696, eff 10-18-14

PART Env-Wq 1308 EXOTIC AQUATIC WEED INFESTATION PREVENTION GRANTS

Env-Wq 1308.01 Eligibility for Exotic Aquatic Weed Infestation Prevention Grant. To be eligible for a grant under RSA 487:21, III for a project to prevent infestations of exotic aquatic weeds, the proposed project shall:

(a) Affect one or more surface waters of the state; and

(b) Address at least one of the exotic aquatic weed species identified in Env-Wq 1303.02.

Source. (See Revision Note #2 at chapter heading for Env-

Wq 1300) #10696, eff 10-18-14

Env-Wq 1308.02 Application for Exotic Aquatic Weed Infestation Prevention Grant.

(a) The applicant for a grant to prevent infestations of exotic aquatic weeds shall submit a completed application for funding assistance to the department's Exotic Species Program by November 15 of the year preceding the year for which the grant is requested.

(b) To apply, the applicant shall provide:

(1) The information specified in Env-Wq 1308.03 on or with a form obtained from the department that has been signed as specified in Env-Wq 1308.04;

(2) If the project is targeted to a specific waterbody:

a. If applicable, copies of the written permissions obtained from owners of private property on which any project task will occur as described in Env-Wq 1308.03(h)(2)d.; and

b. Documentation demonstrating the local support described pursuant to Env-Wq 1308.03(h)(3); and

(3) Such additional information, including but not limited to designs and graphics, as the applicant deems relevant.

Source. (See Revision Note #2 at chapter heading for Env-Wq 1300) #10696, eff 10-18-14

Env-Wq 1308.03 Information Required for Exotic Aquatic Weed Infestation Prevention Grant Application. The information required by Env-Wq 1308.02(b)(1) shall be as follows:

(a) A short title for the project, for example "Boater Education for [Waterbody Name]";

(b) The applicant's name and mailing address;

(c) Whether the applicant is a political subdivision, association, or private business or other legal entity;

(d) The name, daytime telephone number with area code, and email address, if any, of an individual who can be contacted on behalf of the applicant with questions regarding the application;

(e) Whether the grant is for a state-wide project or a waterbody-specific project, and if the project is specific to a waterbody, the name of the waterbody and the name of each town in which it is located;

(f) The amount of the grant being requested, the amount of the local match, and the total project cost;

(g) A brief description of the project suitable for use in publicity if the proposal is selected for funding;

(h) A narrative of no more than 4 pages that includes the following:

(1) A clear and concise description of the purpose and goals of the project relative to exotic aquatic weed infestation prevention activities and, for each goal, how the determination of whether the goal was achieved will be made;

(2) A list of each task to be undertaken as part of the project and the following information for each:

a. Name of task;

b. Timeframe for task;

c. The name and daytime contact information for the individual who will perform the task;

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- d. A brief summary of task, including its purpose and result and whether the task will occur on privately-owned property; and
 - e. The name of each other project partner that has a role in accomplishing the task with a description of that role;
- (3) A description of local support for the project, including support from nearby landowners, watershed groups, public water suppliers, municipalities, water users, and other organizations with an interest in milfoil and other exotic aquatic weed infestation prevention.
 - (4) The proposed start date and end date of the project;
 - (5) A concise summary of what the project is intended to accomplish, who will do it, and how it will be implemented;
 - (6) A list of target species; and
 - (7) A description of the target audience, if applicable; and
- (i) A proposed project budget that identifies the quantity, rate or per unit cost, total cost, match amount and source, and grant amount for each budget item, including but not limited to equipment, labor, materials and supplies, salary and benefits, and contracted services, subject to the following:
 - (1) Applicants for prevention grants shall provide at least 50% match of the total project cost;
 - (2) The local match may include contributions of cash or the value of donated services from individuals, organizations, or municipalities;
 - (3) Volunteer labor may be valued as match at a rate identified for New Hampshire in the Independent Sector's Value of Volunteer Time, http://www.independentsector.org/volunteer_time;
 - (4) Donated professional services may be valued as match at a documented professional rate; and
 - (5) Donated equipment may be valued as match using market leasing rates; and
 - (j) A budget breakout that lists each project task and, for each, the amount of grant funding for the task, the amount of the match for the task, and the total cost for the task.

Source. (See Revision Note #2 at chapter heading for Env-Wq 1300) #10696, eff 10-18-14

Env-Wq 1308.04 Signature Required.

- (a) A responsible official of the organization or political subdivision that is applying for the grant who has been authorized to sign the application shall sign and date the application and print or type his or her name and title.
- (b) The signature provided pursuant to (a), above, shall constitute certification that the individual is duly authorized to sign the application on behalf of the applicant and that the information contained in the application is true and complete to the signer's information and belief.

Source. (See Revision Note #2 at chapter heading for Env-Wq 1300) #10696, eff 10-18-14

Env-Wq 1308.05 Funding Determinations.

(a) The department shall review all grant applications received prior to the deadline established in Env-Wq 1308.02(a), rank them using the prioritization criteria specified in Env-Wq 1308.06, and assign funding amounts based on available funds.

(b) The department shall notify each applicant in writing regarding whether or not a grant was awarded. If a grant is not awarded, the written notice shall specify the reason(s) for the decision.

(c) Upon notification of grant award, the applicant shall provide the following to the department:

- (1) A new or updated W-9 form, as appropriate;
- (2) An original Certificate of Good Standing or a Certificate of Existence from the New Hampshire secretary of state's office, as applicable;
- (3) A signed and notarized standard state grant agreement form as promulgated by the New Hampshire departments of justice and administrative services or a document that contains equivalent terms; and
- (4) A signed and notarized certificate of authority.

Source. (See Revision Note #2 at chapter heading for Env-Wq 1300) #10696, eff 10-18-14

Env-Wq 1308.06 Prioritizing Exotic Aquatic Weed Infestation Prevention Projects. Pursuant to RSA 487:18, project priority shall be determined by totaling the points assigned under each of the following categories:

(a) Points assigned based on the scope of the project's impact shall be as follows:

- (1) A project to provide educational information at a single waterbody shall receive one point for each public access site and public boat access area at which the information will be provided and one point per 100 people who historically have used the access site or area; and
- (2) A project intended to provide educational information at more than one waterbody shall receive one point for each waterbody, one point for each public access site and public boat access area at which the information will be provided, and one point per 100 people who historically have used the access site or area;

(b) Points assigned based on the number of species and the impact of potential infestations to ecological values of the surface water shall be as follows:

- (1) A project shall receive one point for each exotic aquatic weed species listed in Env-Wq 1303.02 proposed to be addressed; and
- (2) A project shall receive one additional point for each species that typically spreads rapidly and threatens the life cycle of native plant and animal communities;

(c) Points assigned based on the type of project shall be as follows:

- (1) A project that proposes to use materials or methods that are completely untested shall receive no points;
- (2) A project that proposes to use materials or methods that have been shown in limited uses to be effective shall receive 3 points; and

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- (3) A project that proposes to use materials or methods that have a strong record of success shall receive 5 points; and
- (d) Points assigned based on the amount of local match shall be as follows:
- (1) A project where the applicant proposes to provide a 50% match for the project shall receive no points;
 - (2) A project where the applicant proposes to provide at least 50% but less than 65% match for the project shall receive one point;
 - (3) A project where the applicant proposes to provide at least 65% but less than 80% match for the project shall receive 3 points; and
 - (4) A projects where the applicant proposes to provide 80% or more match for the project shall receive 5 points.

Source. (See Revision Note #2 at chapter heading for Env-Wq 1300) #10696, eff 10-18-14

Env-Wq 1308.07 Required Records.

- (a) The grant recipient shall maintain:
- (1) Accounting records to show how grant money was spent and how it was matched;
 - (2) A project record to document completion of each project task and whether any modifications were made to the task; and
 - (3) Records to document whether the goals of the project were achieved.
- (b) The grant recipient shall make the records required by (a), above, available for review by the department during normal business hours at the department's request.

Source. (See Revision Note #2 at chapter heading for Env-Wq 1300) #10696, eff 10-18-14

Env-Wq 1308.08 Required Reports.

- (a) The grant recipient shall submit a written report to the department at the completion of the project.
- (b) The report required by (a), above, shall include:
- (1) A description of any deviations or modifications to the project as described in the application were made, and if so, why;
 - (2) Whether the goals of the project were achieved, and if not achieved, the likely reason(s) why;
 - (3) A table summarizing and enumerating the tasks and deliverables realized/achieved for each task outlined in the project proposal.
 - (4) The final actual budget for the project, highlighting any amendments made during the course of the project, and including the types and amount of match contributed towards the grant.

Source. (See Revision Note #2 at chapter heading for Env-Wq 1300) #10696, eff 10-18-14

PART Env-Wq 1309 EXOTIC AQUATIC WEED RESEARCH GRANTS

Env-Wq 1309.01 Eligibility for Exotic Aquatic Weed Research Grant. To be eligible for a grant under RSA 487:21, III for a project to research exotic aquatic weeds, the proposed project shall:

- (a) Address the biology, ecology, or control, or any combination thereof, of one or more exotic aquatic weeds listed in Env-Wq 1303.02;
- (b) Be executed by researchers affiliated with academia or by private consultants holding degrees in aquatic ecology, biology, chemistry, or related fields; and
- (c) Incorporate integrated pest management (IPM) strategies, if the project is related to an exotic aquatic weed control activity.

Source. (See Revision Note #2 at chapter heading for Env-Wq 1300) #10696, eff 10-18-14

Env-Wq 1309.02 Application for Exotic Aquatic Weed Research Grant.

(a) The applicant for an exotic aquatic weed research grant shall submit a completed application for funding assistance to the department's Exotic Species Program by November 15 of the year preceding the year for which the grant is requested.

(b) To apply, the applicant shall provide:

- (1) The information specified in Env-Wq 1309.03 on or with a form obtained from the department that has been signed as specified in Env-Wq 1309.04;
- (2) If the project is targeted to a specific waterbody:
 - a. A U.S. Geological Survey map having a 1:20,000 scale, with the project location and surrounding watershed clearly marked; and
 - b. If applicable, copies of the written permissions obtained from owners of private property on which any project task will occur; and
- (3) Such additional information as the applicant deems relevant.

Source. (See Revision Note #2 at chapter heading for Env-Wq 1300) #10696, eff 10-18-14

Env-Wq 1309.03 Information Required for Exotic Aquatic Weed Research Grant Application. The information required by Env-Wq 1309.02(b)(1) shall be as follows:

- (a) A title for the project;
- (b) The applicant's name and mailing address;
- (c) Whether the applicant is a political subdivision, association, or private business or other legal entity;
- (d) The name, daytime telephone number with area code, and email address, if any, of an individual who can be contacted on behalf of the applicant with questions regarding the application;
- (e) The amount of the grant being requested and the total project cost;
- (g) A brief description of the project suitable for use in publicity if the proposal is selected for funding;
- (h) A narrative of no more than 4 pages that includes the following:

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- (1) A clear and concise description of the purpose and goals of the project relative to exotic aquatic weed research and, for each goal, how the determination of whether the goal was achieved will be made;
- (2) A concise summary of what the project is intended to accomplish, who will do it, specific field and/or laboratory methods to be used, where the work will occur, and estimated dates of project initiation and completion;
- (3) A list of each research team member responsible for more than administrative functions, and for each a brief description of the individual's relevant experience and education;
- (4) A list of each task to be undertaken as part of the project, and for each a brief explanation of what will be accomplished, who is responsible, and when it will be completed;
- (5) A list of target species; and
- (6) A description of the target audience, if applicable; and

(i) A proposed project budget that identifies the quantity, rate or per unit cost, total cost, match amount and source, and grant amount for each budget item, including but not limited to equipment, labor, materials and supplies, salary and benefits, and contracted services, subject to the following:

- (1) Applicants for research grants shall indicate what match level, if any, will be provided towards the total project cost;
- (2) The match may include contributions of cash or the value of donated services from individuals, organizations, or municipalities;
- (3) Volunteer labor may be valued as match at a rate identified for New Hampshire in the Independent Sector's Value of Volunteer Time, [http://www.independentsector.org/volunteer time](http://www.independentsector.org/volunteer_time);
- (4) Donated professional services may be valued as match at a documented professional rate; and
- (5) Donated equipment may be valued as match using market leasing rates; and

(j) A budget breakout that lists each project task and, for each, the amount of grant funding for the task, the amount of the match for the task, and the total cost for the task.

Source. (See Revision Note #2 at chapter heading for Env-Wq 1300) #10696, eff 10-18-14

Env-Wq 1309.04 Signature Required.

(a) A responsible official of the organization or political subdivision that is applying for the grant who has been authorized to sign the application shall sign and date the application and print or type his or her name and title.

(b) The signature provided pursuant to (a), above, shall constitute certification that the individual is duly authorized to sign the application on behalf of the applicant and that the information contained in the application is true and complete to the signer's information and belief.

Source. (See Revision Note #2 at chapter heading for Env-Wq 1300) #10696, eff 10-18-14

Env-Wq 1309.05 Funding Determinations.

(a) The department shall review all grant applications received prior to the deadline established in Env-Wq 1309.02(a), rank them using the prioritization criteria specified in Env-Wq 1309.06, and assign funding amounts based on available funds.

(b) The department shall notify each applicant in writing regarding whether or not a grant was awarded. If a grant is not awarded, the written notice shall specify the reason(s) for the decision.

(c) Upon notification of grant award, the applicant shall provide the following to the department:

- (1) A new or updated W-9 form, as appropriate;
- (2) An original Certificate of Good Standing or a Certificate of Existence from the New Hampshire secretary of state's office, as applicable;
- (3) A signed and notarized standard state grant agreement form as promulgated by the New Hampshire departments of justice and administrative services or a document that contains equivalent terms; and
- (4) A signed and notarized certificate of authority.

Source. (See Revision Note #2 at chapter heading for Env-Wq 1300) #10696, eff 10-18-14

Env-Wq 1309.06 Prioritizing Exotic Aquatic Weed Research Projects. Pursuant to RSA 487:18, project priority shall be determined by totaling the points assigned under each of the following categories:

(a) Points assigned based on the project's approach shall be as follows:

- (1) A project to research a new in-water approach for controlling existing infestations shall receive one point;
- (2) A project to research the biology or ecology of a species on the list in Env-Wq 1303.02 that is not well understood shall receive 2 points; and
- (3) A project to research a new approach to preventing new infestations shall receive 3 points;

(b) Points assigned based on the number of species and the impact of potential infestations to ecological values of the surface water shall be as follows:

- (1) A project shall receive one point for each species on the list in Env-Wq 1303.02 proposed to be addressed; and
- (2) A project shall receive one additional point for each species that typically spreads rapidly and threatens the life cycle of native plant and animal communities; and

(c) Points assigned based on the amount of local match shall be as follows:

- (1) A project where the applicant proposes to provide less than a 50% match for the project shall receive no points;
- (2) A project where the applicant proposes to provide at least 50% but less than 65% match for the project shall receive one point;
- (3) A project where the applicant proposes to provide at least 65% but less than 80% match for the project shall receive 3 points; and

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(4) A projects where the applicant proposes to provide 80% or more match for the project shall receive 5 points.

Source. (See Revision Note #2 at chapter heading for Env-Wq 1300) #10696, eff 10-18-14

Env-Wq 1309.07 Required Records.

(a) The grant recipient shall maintain:

- (1) Accounting records to show how grant money was spent and how it was matched;
- (2) A project record to document completion of each project task and whether any modifications were made to the task; and
- (3) Records to document whether the goals of the project were achieved.

(b) The grant recipient shall make the records required by (a), above, available for review by the department during normal business hours at the department's request.

Source. (See Revision Note #2 at chapter heading for Env-Wq 1300) #10696, eff 10-18-14

Env-Wq 1309.08 Required Reports.

(a) The grant recipient shall submit a written report to the department at the completion of the project.

(b) The report required by (a), above, shall include:

- (1) A description of any deviations or modifications to the project as described in the application were made, and if so, why;
- (2) A detailed explanation of the findings of the study, formatted as either a technical report or as a scientific paper manuscript, including sections for introduction, methods, results and a discussion of findings, as well tables and figures as may be appropriate to relay data collected as part of the study;
- (3) Whether the goals of the project were achieved, and if not achieved, the likely reason(s) why; and
- (4) The final actual budget for the project, highlighting any amendments made during the course of the project, and including the types and amount of match contributed towards the grant.

Source. (See Revision Note #2 at chapter heading for Env-Wq 1300) #10696, eff 10-18-14

APPENDIX A: STATE STATUTES IMPLEMENTED

Rule	State Statute(s) Implemented
Env-Wq 1301	RSA 487:15 - 23
Env-Wq 1302	RSA 487:15 - 23
Env-Wq 1303	RSA 487:16-a
Env-Wq 1304	RSA 487:17, II(d)
Env-Wq 1305	RSA 487:17, II(c)
Env-Wq 1306	RSA 487:17, :20, :21
Env-Wq 1306.01	RSA 487:17, I(c), II, & III; RSA 487:18, :20, :21
Env-Wq 1306.04(a)	RSA 487:17, :18
Env-Wq 1307	RSA 487:17, :18, :20, :21, :22
Env-Wq 1307.01	RSA 487:17, I(c), II, & III; RSA 487:18, :20, :21
Env-Wq 1308	RSA 487:26-29
Env-Wq 1309	RSA 487:26-29

APPENDIX B: STATUTORY DEFINITIONS**271:20-a Definition of Public Access. –**

I. Public access to public waters means legal passage to any of the public waters of the state by way of designated contiguous land owned or controlled by a state agency, assuring that all members of the public shall have access to and use of the public waters for recreational purposes.

II. Public access also means that no barriers or other impediments shall exist in the roads and ways leading to any of the public waters.

485-A:2 Definitions. –

IX. “Person” means any municipality, governmental subdivision, public or private corporation, individual, partnership, or other entity.

XIV. “Surface waters of the state” means perennial and seasonal streams, lakes, ponds, and tidal waters within the jurisdiction of the state, including all streams, lakes, or ponds bordering on the state, marshes, water courses, and other bodies of water, natural or artificial.

487:16 Definitions. – In this subdivision:

II. The term “exotic aquatic weeds” includes only those species of vascular aquatic plants which were not part of New Hampshire's native aquatic flora before 1950. Cabomba caroliniana and Myriophyllum heterophyllum are examples of exotic aquatic weeds.