

- (3) Constitute a safety hazard;
- (4) Constitute a nuisance; or
- (5) Violate any federal regulation or state rule.

Source. #6619-B, eff 10-29-97

Env-Wm 2605.06 Transportation Requirements. Tires, either whole or processed, shall be transported in a manner to prevent blowing or falling debris.

Source. #6619-B, eff 10-29-97

Env-Wm 2605.07 Testing and Reporting Requirements. Facilities managing tires shall comply with the reporting requirements specified in Env-Wm 2100 through Env-Wm 2900, as applicable.

Source. #6619-B, eff 10-29-97

Env-Wm 2605.08 Other Requirements.

- (a) The open burning of tires or processed tires shall be prohibited.
- (b) Tires shall be managed in a manner as to avoid establishing habitat for breeding mosquito populations.

Source. #6619-B, eff 10-29-97

**PARTS Env-Wm 2606 and Env-Wm 2607 - REPEALED AND RESERVED**

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; amd by #5297, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; rpld by #6619-B, eff 10-29-97

## CHAPTER Env-Wm 2700 UNIVERSAL FACILITY REQUIREMENTS

Statutory Authority: RSA 149-M:7

### PART Env-Wm 2701 PURPOSE AND APPLICABILITY

Env-Wm 2701.01 Purpose. The purpose of the rules in this chapter is to ensure that facilities are located, designed, constructed, operated and closed in a manner that does not endanger public health or adversely affect the environment and which minimizes the potential for accidents that could lead to personal injury or property damage.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2701.02 Applicability. The rules in this chapter shall apply as specified in Env-Wm 101.02(c) to all facilities, including permit-exempt facilities.

Source. #6619-B, eff 10-29-97

### PART Env-Wm 2702 UNIVERSAL ENVIRONMENTAL PERFORMANCE REQUIREMENTS

Env-Wm 2702.01 Environmental Conservation and Protection. Facilities shall be located, designed, constructed, operated and closed in a manner that conserves natural resources and is protective of the natural environment, human health and safety.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2702.02 Discharge of Pollutants Prohibited.

(a) Facilities and practices shall not cause a discharge of pollutants into surface waters of the United States or the state in violation of Section 402 of the Federal Clean Water Act.

(b) Facilities and practices shall not cause a discharge of dredged material to waters of the United States in violation of RSA 482-A or Section 404 of the Clean Water Act.

(c) Facilities and practices shall not cause a non-point source of pollution that contravenes the requirements of an areawide or statewide water quality management plan under Section 319 of the Clean Water Act.

(d) Facilities and practices shall not contaminate surface water or groundwater in violation of federal or state law, any rules implemented by the department or any administratively-attached board, or the conditions of any permit issued by the department or any administratively-attached board.

(e) Facilities and practices shall not cause air pollution in violation of federal or state law, any air quality rules implemented by the department or the conditions of any air quality permit issued by department, or the New Hampshire state implementation plan under the Clean Air Act.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2702.03 Protection of Wildlife. Facilities or practices shall not adversely affect endangered or threatened species.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2702.04 Safety.

(a) Facilities and practices shall not cause concentrations of explosive gases such as methane to exceed 25% of the lower explosive limit of the gases in any structure, excluding facility-related gas recovery equipment, or to exceed 50% of the lower explosive limit of the gases at the property boundary.

(b) Facilities shall be designed, constructed, operated and closed in a manner that minimizes the risk of fires and provides the ability to deal with them effectively if they occur.

(c) Facilities that manage putrescible waste and are located within 10,000 feet (3,048 meters) of any airport runway used by turbojet aircraft or within 5,000 feet (1,524 meters) of any airport runway used by only piston-type aircraft shall be designed, constructed, operated and closed in a manner that minimizes the risk of attracting birds that may be hazardous to aircraft.

(d) Facilities and practices shall comply with the administrative rules for safety and health, Lab 1400.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; amd by #7225, eff 3-31-00

Env-Wm 2702.05 Dams, Flowage and Flood Provisions.

(a) Facilities and practices shall comply with RSA 482 relative to dams and flowage.

(b) Facilities and practices shall protect all waste storage, handling and disposal areas against impact from the 100 year flood.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

**PART Env-Wm 2703 UNIVERSAL SITING REQUIREMENTS**

Env-Wm 2703.01 Distance to Other Facilities. A facility or practice shall not physically interfere with the proper operation or closure of any other facility.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2703.02 Easements and Rights-of-Way. The location of a facility shall be outside the limits of any right-of-way or easement, except as provided by Env-Wm 2703.03.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; ss by #7225, eff 3-31-00

Env-Wm 2703.03 Property Ownership and Access Rights.

(a) The location of a facility shall be on property owned by the permittee or on property for which the property owner has granted a lease, easement or other legal right to the permittee for use of the property for said purpose, including access to the property when required by the permittee and department for closure and post-closure monitoring of the facility and site.

(b) The location of a facility may be on property where a right-of-way, easement or other legal right for use of the property is granted to a third party, provided that the grant shall not adversely affect the permittee's ability to meet all facility requirements pursuant to RSA 149-M, the solid waste rules and the terms and conditions of the permit.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2703.04 Groundwater and Surface Waters.

(a) No facility shall be located in violation of RSA 483, relative to management and protection of rivers.

(b) No facility shall be located in violation of RSA 485, RSA 485-A and RSA 485-C, relative to protection of groundwater.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2703.05 Wetlands. No facility shall be located in violation of RSA 482-A, relative to protection of wetlands.

Source. #6619-B, eff 10-29-97

Env-Wm 2703.06 Shoreland Protection. No facility shall be located in violation of RSA 483-B, relative to protection of shorelands.

Source. #6619-B, eff 10-29-97

Env-Wm 2703.07 Designated Rivers. No facility shall be sited in violation of RSA 483, relative to protection of designated rivers.

Source. #6894-B, eff 12-1-98

**PART Env-Wm 2704 UNIVERSAL DESIGN REQUIREMENTS**

Env-Wm 2704.01 Basic Design Requirements.

(a) The design of a facility shall be compatible with achieving the universal environmental performance requirements in Env-Wm 2702.

(b) The design of a facility shall facilitate operations in accordance with the universal operating standards in Env-Wm 2705 and all other requirements of the solid waste rules, as applicable.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2704.02 Roads and Traffic Control.

(a) The design of the facility as it relates to the management of traffic on roads leading to and from the facility's entrance and exit points shall meet all applicable local standards if the roads are municipal streets or roads or, if the roads are state roads, shall meet the requirements of the New Hampshire department of transportation.

(b) A facility shall be designed to prevent entering and exiting vehicles from obstructing the safe flow of traffic on any public road leading to or from facility.

(c) Adequate on-site area at the facility's entrance and exit points shall be provided to allow the number and types of waiting vehicles expected to use the facility during peak times to safely queue off the public road(s) and right-of-way.

(d) A facility shall be designed to accommodate on-site traffic flow in a safe and efficient manner in all weather conditions.

(e) Separate on-site access for passenger vehicles shall be provided at facilities where public drop-off is allowed.

(f) A facility shall be designed to assure that traffic conflicts shall not occur between bulk transport vehicles, passenger vehicles and pedestrians at the facility site.

(g) The on-site road surface and the road base shall be suitable for heavy vehicles and capable of withstanding expected loads.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2704.03 Drainage.

(a) Site drainage features shall be designed in accordance with the requirements of RSA 485-A:17.

(b) Detention basins and other drainage structures shall be located and designed to minimize the potential to adversely impact any landfill closure system located at or near the site.

(c) Surface drainage shall be collected and directed to discharge points having no potential to affect the performance of any groundwater or surface water monitoring system, leachate collection and removal system, or any other component of a landfill closure system.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2704.04 Protection of Landfill Closure Systems. The design of a facility shall include measures or features to avoid damage during construction and operation of the facility to any component of a landfill closure system, including:

- (a) Ground control markers;
- (b) The capping system;
- (c) Leachate collection system risers and clean-outs;
- (d) Groundwater monitoring wells; and
- (e) Decomposition gas control devices.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2704.05 Wastewater Systems. All wastewater collection, transmission and treatment features which are part of or specifically serve a facility shall be designed in accordance with RSA 485-A.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2704.06 Motor Vehicle Waste Collection. Pursuant to RSA 149-M:9,IV, a facility which receives motor vehicle wastes shall be designed to provide for separation of such wastes.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2704.07 Equipment.

(a) Equipment shall be installed at a facility in conformance with the manufacturer's specifications and recommendations for installation, unless otherwise allowed by the solid waste rules.

(b) Pursuant to RSA 149-M:10,II, municipalities and waste haulers shall affix ownership identification and/or facility or company logo to all waste containers used in conjunction with the operation of a facility.

Source. #6619-B, eff 10-29-97

**PART Env-Wm 2705 UNIVERSAL OPERATING REQUIREMENTS**

Env-Wm 2705.01 General Operating Requirements.

(a) A facility shall not exceed the capacity limits specified in its permit or, in the case of a permit-exempt facility, the capacity limits specified by the exemption, if any.

(b) A facility shall operate in a manner consistent with the design limitations of the facility and associated equipment.

(c) Facility equipment shall be operated and maintained in conformance with manufacturer specifications and recommendations unless otherwise allowed by the solid waste rules.

(d) A facility, including associated equipment, containers and vehicles, shall be operated and maintained in a manner that controls to the greatest extent practicable:

- (1) Dust;
- (2) Litter;
- (3) Insects;
- (4) Odors;
- (5) Vectors;
- (6) Spills;
- (7) The production of leachate;
- (8) Fire hazards including spontaneous combustion;
- (9) The generation of methane and other hazardous or explosive gases;
- (10) Noise; and
- (11) Nuisances.

(e) The permittee shall regularly inspect, monitor and maintain the facility to assure compliance with the permit and the solid waste rules.

(f) The permittee shall execute facility repairs and correct, abate and remediate facility operating problems in a timely manner and as directed by the department in conformance with the solid waste rules.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2705.02 Unauthorized Use Prohibited. Unauthorized entry to and unauthorized use of a facility shall be prohibited by:

- (a) Restricting access to the facility;
- (b) Regularly inspecting the waste received and managed at the facility; and
- (c) Other appropriate measures based on the type, size, location and life expectancy of the facility and the type, source and quantity of waste handled by the facility.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2705.03 Traffic Management.

- (a) Facility operations shall be conducted in a manner that shall not allow incoming or exiting vehicles to obstruct the safe passage of traffic on any public road leading to and from the facility.
- (b) Facility operations shall be conducted in a manner as to accommodate on-site traffic flow in a safe and efficient manner.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2705.04 Reuse of Waste.

- (a) A waste, including waste-derived products, shall be distributed and used only in accordance with Env-Wm 3200.
- (b) A waste stored for reuse shall be stored in a manner that protects its market value.
- (c) A facility shall disclose the following information to consumers of waste-derived product(s) distributed by the facility for use:
  - (1) The content and nature of the waste-derived products;
  - (2) The proper uses of the waste-derived products and any restrictions related thereto;
  - (3) Any hazards that might result from use of the waste-derived products;
  - (4) Proper methods for disposal of the waste-derived product; and
  - (5) Other such information as might be required by applicable federal and state consumer protection rules and regulations.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2705.05 Public Benefit.

- (a) A facility shall comply with the requirements of RSA 149-M:11,X, relative to providing a substantial public benefit.
- (b) The following facilities shall be deemed to provide a substantial public benefit and therefore need not make an explicit demonstration of public benefit in a permit application:
  - (1) A permit-exempt facility;
  - (2) A permit-by-notification facility;

(3) An emergency permit facility; and

(4) A research and development facility;

(c) The following facilities shall be deemed to satisfy the first criteria for public benefit in RSA 149-M:11,III(a) and therefore need only address the remaining 2 criteria in RSA 149-M:11,III(b) and (c) when making a demonstration of public benefit in an application for a permit or permit modification:

(1) Any limited public facility; and

(2) Any limited private facility.

Source. #6619-B, eff 10-29-97

Env-Wm 2705.06 Operator Qualifications.

(a) A facility operator shall be capable of efficiently operating and maintaining the facility in a manner which is protective of the environment, public health and safety.

(b) A facility operator shall demonstrate a level of knowledge and understanding of the solid waste rules sufficient to operate the facility in compliance with all applicable requirements of the solid waste rules and the facility permit.

(c) Operators of a level I facility, as specified by Env-Wm 3302.05, shall demonstrate the qualifications required pursuant to (b) above by operating and maintaining the facility in accordance with all applicable requirements of the solid waste rules and the facility permit.

(d) Operators of level II through level IV facilities, as specified by Env-Wm 3302.06 through Env-Wm 3302.08, shall demonstrate the qualifications required pursuant to (b) above by complying with Env-Wm 316 and Env-Wm 3300, and by operating and maintaining the facility in accordance with all applicable requirements of the solid waste rules and the facility permit.

Source. #6619-B, eff 10-29-97

Env-Wm 2705.07 Facility Staffing.

(a) A facility shall be staffed with persons qualified by reason of education, experience and performance history to operate the facility in accordance with all applicable requirements of the solid waste rules and the permit.

(b) For level II through level IV facilities, as specified by Env-Wm 3302.06 through Env-Wm 3302.08:

(1) All persons who operate the facility shall be certified by either issued certification or interim certification in accordance with Env-Wm 3300;

(2) For every one to 5 operators, there shall be at least one supervisor who shall be certified as a level III or level IV operator in accordance with Env-Wm 3300; and

(3) During the hours of operation, no less than 50 percent of the on-site personnel directly involved with the management of solid waste shall be operators certified by issued certification in accordance with Env-Wm 3300.

Source. #6619-B, eff 10-29-97

Env-Wm 2705.08 Financial Assurance.

(a) The permittee shall be responsible for the cost of facility closure, including all post-closure obligations.



(b) Prior to commencing operation of a facility, the permittee shall assure that adequate funds, in an amount no less than the amount calculated pursuant to Env-Wm 3103.02, are readily available to cover the cost of facility closure.

(c) In order to meet the obligation specified by (b) above, the permittee shall provide a formal financial assurance plan when required pursuant to Env-Wm 3100.

Source. #6619-B, eff 10-29-97

Env-Wm 2705.09 Incident Reporting.

(a) The permittee shall report to the department all incidents or situations at the facility which involve an imminent and substantial risk to human health, safety or the environment and/or which constitute a violation of the solid waste rules or the facility permit.

(b) Reports pursuant to (a) above shall be verbally made to the department by the permittee as soon as practicable.

(c) The permittee shall submit a written report pursuant to (a) above within 5 working days of the time the permittee becomes aware of the incident or situation and include the following information:

- (1) Facility name, location by street and municipality, and permit number;
- (2) Permittee name, mailing address and telephone number;
- (3) Identification of all persons involved in the incident or situation, including name, title and affiliation;
- (4) A description of the incident or situation, including:
  - a. The date and time the incident or situation occurred;
  - b. The quantity and types of wastes and material(s) involved in the incident or situation and in the clean-up activities;
  - c. Measures employed to contain releases caused by the incident or situation; and
  - d. An assessment of actual or potential hazards to the environment, safety and human health related to the incident; and
- (5) Measures the permittee has or intends to apply to reduce, eliminate, and prevent a recurrence of the incident or situation.

(d) The permittee shall report to the department, in writing, complaints made by abutters or other third parties which involve operating conditions or practices having the potential to adversely effect human health, safety or the environment or which involve a recurring or persistent nuisance situation such as noise, litter, odor, dust or vectors.

(e) The written report pursuant to (d) above shall be made as soon as practicable and include the following information:

- (1) Facility name, location by street and municipality, and permit number;
- (2) Permittee name, mailing address and telephone number;
- (3) Name, mailing address and, if available, telephone number of the complainant;

(4) The nature of the complaint, date(s) of receipt by the permittee, and a complete description of the circumstances or situation giving rise to the complaint;

(5) A description of the permittee's response action(s); and

(6) Such other information as required by (c) above if the circumstances or situation giving rise to the complaint require reporting under (c) above.

(f) The rules in (a) and (d) above shall not be construed to mean a report is required on each day that an incident persists if the likelihood of its persistence is disclosed to the department in the initial report and the permittee is taking action to remedy the problem.

Source. #6619-B, eff 10-29-97

**Env-Wm 2705.10 Out-of-State Waste Recordkeeping.**

(a) Upon receipt of out-of-state waste by a disposal facility, the permittee shall obtain the information specified in (b) below in the form of a written statement signed by the transporter certifying under penalty of unsworn falsification pursuant to RSA 641:3 that the information is true and correct to the best of the transporter's knowledge and belief.

(b) The information required pursuant to (a) above shall include:

(1) The printed or typed name and mailing address of the person delivering the out-of-state waste;

(2) The date of delivery;

(3) A declaration of the total number of tons of out-of-state waste being delivered to the facility; and

(4) The point of origin of the out-of-state waste contained in each load, identified by individual state, and number of tons from that state.

(c) The permittee shall maintain in a secure location the records required by (a) and (b) above, and provide a copy to the department pursuant to Env-Wm 3702.

Source. #6619-B, eff 10-29-97

**PART Env-Wm 2706 UNIVERSAL CLOSURE REQUIREMENTS**

Env-Wm 2706.01 Trigger Events for Closure. A facility shall implement closure as specified in Env-Wm 2706.02 when one or more of the following conditions exists:

(a) The facility's operating permit expires or is revoked pursuant to RSA 149-M:12,II, or the facility has no operating permit;

(b) The permittee abandons use of the facility or ceases facility operations, unless notice is provided pursuant to Env-Wm 2806.05;

(c) Facility development is abandoned prior to commencing facility operations, unless notice is provided pursuant to Env-Wm 2806.05;

(d) The facility sustains irreparable damage or otherwise cannot operate in accordance with its permit and the solid waste rules;

(e) Environmental conditions exist at the site causing a threat to human health or the environment and such conditions have not been or cannot be remediated;

(f) If the facility is a landfill, it reaches its approved design volume or its temporary permit is called pursuant to Env-Wm 307;

(g) The facility reaches the end of its life expectancy and/or can no longer meet performance standards; or

(h) The facility is issued an administrative or judicial order to close.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; ss by #7225, eff 3-31-00

Env-Wm 2706.02 General Closure Requirements. A facility shall be closed in accordance with the following provisions:

(a) All waste deliveries to the facility shall be terminated;

(b) All waste not permitted to remain at the facility following closure, including processed recyclable materials and all surface debris and litter, shall be removed from the facility to an authorized facility;

(c) If the facility is a landfill, all waste permitted to remain at the facility shall be contained and covered as necessary to protect the environment, public health and safety, and to achieve and maintain compliance with all universal facility performance requirements in Env-Wm 2702;

(d) Waste management equipment shall be removed or decommissioned, except for equipment needed to meet post-closure monitoring and maintenance obligations, if any;

(e) If the facility is not a land disposal facility, the facility site shall be cleaned to its original condition of cleanliness;

(f) If it is impracticable to return the facility site to its original condition of cleanliness pursuant to (e) above, whether because the character of the surrounding land use has changed, the original condition was in violation of state or federal environmental or public health laws, rules or regulations, or for any other reason, the permittee shall clean the facility site so as to render it suitable for an alternate use consistent with local land use and/or zoning regulations or plans; and

(g) Post-closure monitoring and maintenance shall be undertaken as required to assure the facility is closed in a manner to not adversely effect the environment, public health or safety.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

## **PART Env-Wm 2707 AND Env-Wm 2708 - EXPIRED AND RESERVED**

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRED 10-29-97

## CHAPTER Env-Wm 2800 ADDITIONAL FACILITY REQUIREMENTS

Statutory Authority: RSA 149-M:7

### PART Env-Wm 2801 PURPOSE AND APPLICABILITY

Env-Wm 2801.01 Purpose. The purpose of the rules in this chapter is to ensure that the facilities identified in Env-Wm 2801.02(a), shall be located, designed, operated and closed in a manner that does not endanger public health or adversely affect the environment and which minimizes the potential for accidents that could lead to personal injury or property damage.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2801.02 Applicability.

(a) Subject to (b) below, the rules in this chapter shall apply as specified in Env-Wm 101.02(c) to all facilities having an active life longer than 90 days, except:

- (1) Permit-exempt facilities;
- (2) Research and development permit facilities as provided by Env-Wm 312.02(b); and
- (3) Emergency permit facilities as provided by Env-Wm 313.02(b).

(b) A requirement in this chapter specifying the use of a particular material or procedure shall not apply if an alternative is approved by the department as a condition of the permit based on a demonstration by the applicant or permittee presented in a permit application, application for permit modification or compliance report, as applicable, that:

- (1) The alternative material or procedure shall be functionally equivalent or superior to the material or procedure specified by rule; and
- (2) The alternative shall not be prohibited by any other state rules or federal regulations applicable to the facility.

(c) The requirements in this chapter shall apply as the complement of the requirements in Env-Wm 2700 for all facilities, Env-Wm 2900 for permit-by-notification facilities, Env-Wm 2100 through Env-Wm 2500 as applicable based on the functional classification of the facility, and Env-Wm 2600 as applicable based on the type of waste managed by the facility.

Source. #6619-B, eff 10-29-97

### PART Env-Wm 2802 ADDITIONAL SITING REQUIREMENTS

Env-Wm 2802.01 General Siting Requirements. The location of a facility shall be compatible with meeting all design, construction, operating and closure requirements specified for the facility in the solid waste rules, including requirements noted in Env-Wm 2802.01(c), as applicable:

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2802.02 Co-existence with Other Activities. The property on which the facility locates shall not also be the site of any activity not specifically authorized in the facility permit, either because it is an activity not regulated by the solid waste rules such as the collection of used oil for recycling or the operation of a non-waste related business, or because it is a permit-exempt activity such as the operation of a burn pile pursuant to Env-Wm 2208.05, unless:

(a) The activity shall have no adverse affect on operating the permitted facility in compliance with the solid waste rules and the permit; and

(b) When required by Env-Wm 2805.07(d), notice of the activity shall be provided to the department as specified in Env-Wm 2805.07(e) and (f).

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

## **PART Env-Wm 2803 ADDITIONAL DESIGN REQUIREMENTS**

### **Env-Wm 2803.01 General Design Requirements.**

(a) A facility shall employ best practicable technology(s) and sound engineering practices in meeting the applicable design requirements specified in the solid waste rules.

(b) Where options exist relative to design concepts, preference shall be given to the option which provides:

- (1) The least complex alternative(s) for facility construction, operation and maintenance; and
- (2) Exhibits the required performance standard(s).

(c) The design of a facility shall be compatible and facilitate compliance with the applicable facility operating and closure requirements specified in the solid waste rules.

Source. #6619-B, eff 10-29-97

Env-Wm 2803.02 Equipment Installation. The installation and use of manufactured equipment at a facility shall conform to the manufacturer's specifications and recommendations, unless the permittee provides a written statement by a qualified professional engineer certifying that the non-conforming installation and use shall not adversely affect the environment, public health or safety.

Source. #6619-B, eff 10-29-97

### **Env-Wm 2803.03 Access Control.**

(a) The perimeter of a facility site shall be fenced in a manner as to restrict unauthorized access to the facility, except no fence shall be required if natural site features restrict access to the site, or all waste handling, storage and disposal areas at the facility are wholly contained within locked structures or devices when the facility operator is not present.

(b) Weather resistant signs, which state that access is restricted, shall be posted around the perimeter of a facility site wherever fencing is not required by (a) above.

(c) The lawful access points to the facility shall be secured by locked gates or the equivalent during times when the facility operator is not be present.

Source. #6619-B, eff 10-29-97

Env-Wm 2803.04 Surrounding Properties. The design of a facility shall incorporate features to minimize adverse impacts, if any, to surrounding properties, such as the use of stockade fencing where appropriate to shield waste storage and handling areas from view and to control the off-site transport of dust and windblown litter, and the use of landscaping berms or other vegetation for similar purposes.

Source. #6619-B, eff 10-29-97

Env-Wm 2803.05 Design Plans and Specifications, Content and Format. Facility plans and specifications, including preliminary and final plans submitted with an application pursuant to Env-Wm 311 through Env-Wm 315 and record drawings submitted pursuant to Env-Wm 2804.07, shall conform to the following requirements:

(a) Plans and specifications shall bear the date of preparation and, for a facility already permitted, the facility permit number;

(b) Plans and specifications shall be clearly readable;

(c) Plans and specifications shall be prepared in accordance with standard engineering practices, including dimensions, labels, details and other graphic elements;

(d) Plans and specifications shall be stamped by a qualified professional engineer as required by RSA 310-A;

(e) Except as provided by (f) below, plans shall:

(1) Be prepared at a scale of no less than 1 inch = 50 feet;

(2) Be presented on paper no larger than 24 inches by 36 inches;

(3) Show profiles drawn to standard scales with a ratio of 10 horizontal to 1 vertical, such as 40:4 and 50:5;

(4) Show elevations of the surface to the nearest 0.1 foot;

(5) Show elevations of the piping, sewer, and manhole inverts to the nearest 0.01 foot;

(6) Report all elevations in feet and tenths and reference all elevations to a standard datum, which shall be indicated on the plans, based on mean sea level; and

(7) Show contours at a minimum interval of 2 feet on all plan views.

(f) Alternatives to (e) above shall be accepted if, prior to submitting the plans, the applicant requests approval of the alternative(s) and shows in the request that, based on the size of the land area being shown, the size of the detail being shown or the margin of error acceptable, the information to be presented on the plans will be as clear and understandable prepared according to the alternative(s) as it would be prepared according to (e) above.

(g) Plans and specifications submitted for construction approval shall include the intended methods for sequencing facility construction, consistent with:

(1) The seasonal restrictions specified in Env-Wm 2804.04;

(2) The construction schedule required by Env-Wm 2804.02; and

(3) For landfills constructed in phases over time, the requirements in Env-Wm 2505.11(d).

(h) Plans and specifications shall be submitted with all calculations and design related documentation required to support and verify the adequacy of the proposed design and construction.

Source. #6619-B, eff 10-29-97

## **PART Env-Wm 2804 ADDITIONAL CONSTRUCTION REQUIREMENTS**

Env-Wm 2804.01 Prerequisites for Construction.

(a) Prior to commencing construction of a facility, or any phase or portion thereof, the permittee shall:

(1) Obtain approval for the applicable design plans and specifications, as follows:

a. For a permit-by-notification facility or other facility which is not subject to the provisions in Env-Wm 305.05(b) and (c), the facility plans submitted in the application shall be deemed approved for construction upon issuance of the permit; and

b. For facilities with a standard permit, emergency permit or research and development permit which is subject to the provisions in Env-Wm 305.05(b) and (c), plans and specifications for construction shall be approved pursuant to the provisions for a type II permit modification in Env-Wm 315;

(2) If the construction project is for new landfill capacity, obtain approval for preliminary plans to close the facility as though the phase being constructed will be the terminal phase, as follows:

a. By submitting such plans with the permit application and obtaining approval thereof by issuance of the permit; or

b. By submission of such plans with the application for permit modification required pursuant to (1)b. above;

(3) If required pursuant to Env-Wm 2804.04(f), file a site safety and contingency work plan and the related certification with the department;

(4) Obtain legal rights of access or property ownership as required by Env-Wm 2703.03 and, if applicable, Env-Wm 2504.06 and Env-Wm 2507.03(d);

(5) Comply with all other pre-construction requirements specified in the permit; and

(6) After complying with (1) through (5) above, file a notice of intent to construct as specified in Env-Wm 2804.02.

(b) For a landfill or other facility constructed in phases over time, including construction of a landfill closure system, the permittee shall comply with the requirements specified in (a) above for each new phase of construction.

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 2804.02 Notice of Intent to Construct.

(a) A notice of intent to construct shall include:

(1) Facility identification;

(2) A construction schedule that provides the following information:

a. The intended starting date of construction; and

b. The discrete construction activities to be performed, including:

1. The order in which they will be performed;

2. The projected starting date for each; and

3. The estimated length of time required to complete each activity;

(3) The name, address and professional qualifications of the construction contractor(s);

(4) For construction of a facility which is subject to Env-Wm 2804.06, the name(s), address(es), telephone number(s) and professional qualifications of the resident engineer and project engineer as required by Env-Wm 2804.06;

(5) For construction of a facility which is not subject to Env-Wm 2804.06, the name(s), address(es) and telephone number(s) of the person(s) in responsible charge of construction activities;

(6) Identification of the plans and specifications approved for construction, by attaching a copy of the approval or providing reference to the terms and conditions of the permit wherein the approval is granted; and

(7) Affirmation that all other prerequisite approvals and actions, as specified in Env-Wm 2804.01(a), have been satisfied for the proposed construction activity.

(b) The notice of intent to construct shall be signed by the permittee and property owner.

(c) The notice of intent to construct shall be:

(1) Filed with the department in duplicate; and

(2) Copied to the host municipality and district.

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98; amd by #7225, eff 3-31-00

Env-Wm 2804.03 Approval to Commence Construction.

(a) Except as provided in (e) below, upon receipt of a complete notice of intent to construct, a copy of the notice bearing the department's dated receipt stamp shall be returned to the permittee.

(b) The permittee shall:

(1) Attach the returned copy of the notice to a copy of the permit, or section of the permit, which granted approval of the applicable plans and specifications; and

(2) Prominently display each at the construction site.

(c) The returned copy of the notice shall constitute approval to commence construction as specified in the notice and in accordance with the approved plans and specifications.

(d) Approval to commence construction shall:

(1) Expire one year from the date of issuance if construction is not commenced; and

(2) Be subject to terms and conditions as necessary to assure that the facility is constructed in accordance with the approved plans and specifications, all applicable rules, regulations and the terms and conditions of the permit.

(e) If the permittee has not satisfied all prerequisites for construction as specified in Env-Wm 2804.01, the notice of intent to construct shall not be returned by the department upon receipt and approval to commence construction shall be thereby withheld while the permittee is notified and corrects the deficiency.

(f) The department shall first notify the permittee by telephone of a deficiency pursuant to (e) above and follow it in writing within 10 working days, if the permittee has not corrected the deficiency in the meantime.



(g) Suspension or revocation of a construction approval shall be subject to the provisions in Env-Wm 306.

Source. #6619-B, eff 10-29-97

Env-Wm 2804.04 General Construction Requirements.

(a) Except for the field changes allowed by Env-Wm 2804.05, a facility shall be constructed in strict accordance with the approved plans and specifications.

(b) Construction of a facility shall occur in accordance with standard engineering and construction practices.

(c) The permittee shall assure implementation of quality assurance controls during construction.

(d) Construction of a facility shall not take place during climatic conditions having the potential to adversely affect:

(1) The quality of the work being performed; or

(2) The performance of the facility or any component thereof when operated and closed.

(e) The permittee shall assure that construction practices shall comply with all applicable labor safety standards including but not limited to the following:

(1) Regulations administered by the Occupational Safety and Health Administration (OSHA); and

(2) Statutes and rules implemented by the New Hampshire department of labor.

(f) Construction involving the removal or relocation of waste shall occur in accordance with a site safety and contingency work plan as follows:

(1) The plan shall satisfy all applicable federal, state and local requirements for protection of human health and the environment; and

(2) Except as provided by (3) below, the plan shall be submitted for informational purposes in accordance with Env-Wm 2804.01 including a signed statement by a qualified professional attesting to the adequacy of the plan;

(3) Submittal of the site safety and contingency work plan shall not be required for incidental waste removal such as occurs during gas vent installation.

(g) Prior to causing any part of any waste containment, conveyance, processing or treatment system at a facility to become inaccessible for inspection and repair, the system shall be inspected and tested to assure that it meets all applicable standards and specifications.

(h) Following completion of inspection and testing pursuant to (g) above, a written inspection report shall be prepared, including:

(1) The method of inspection(s);

(2) The applicable test protocol and standards; and

(3) For a facility which is subject to Env-Wm 2804.06, the professional stamp and signature of the project engineer to certify that, based upon inspection and testing conducted pursuant to the approved design plans and specifications and all additional information known to the project engineer, the applicable facility system has been constructed in accordance with the approved plans and specifications.

Source. #6619-B, eff 10-29-97

Env-Wm 2804.05 Design Changes During Construction.

(a) During construction of a facility not subject to Env-Wm 2804.06, the permittee may implement a change to the approved plans and specifications, without explicit department approval, provided that:

- (1) The change(s) shall not violate any siting, design, operating or closure requirement applicable to the facility; and
- (2) The change(s) shall be identified and reported to the department on the record drawings filed pursuant to Env-Wm 2804.07.

(b) During construction of a facility which is subject to Env-Wm 2804.06, the permittee may implement a change to the approved plans and specifications, without explicit department approval, provided that the project engineer:

- (1) Determines that all conditions specified in (c) below shall be met;
- (2) Fully documents the change in the bi-weekly construction report submitted to the department pursuant to Env-Wm 2804.07, or earlier whenever possible; and
- (3) Establishes a record of the change(s) so as to allow the change to be identified and reported to the department on the record drawings filed pursuant to Env-Wm 2804.07.

(c) A design change shall not be implemented pursuant to (b) above unless:

- (1) The change shall not be relevant to assessing facility siting criteria and maintaining compliance therewith;
- (2) The design change shall be functionally equivalent or superior to the design feature being changed;
- (3) Other than the fact that the change is not explicitly part of the approved plans and specifications, the change shall comply with all applicable rules and regulations and all terms and conditions of the permit;
- (4) The change shall not require any change to the facility's approved operating, closure and financial assurance plans; and
- (5) The change shall not involve the use of waste-derived products not certified for distribution and use pursuant to Env-Wm 3200.

(d) For a facility which is subject to Env-Wm 2804.06, a change to the approved plans or specifications which does not meet the conditions specified in (c) above shall be authorized only by issuance of a permit modification pursuant to the provisions of Env-Wm 315.

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 2804.06 Project Engineer and Resident Engineer. A standard permit facility, emergency permit facility not exempt pursuant to Env-Wm 313.02(b) and research and development permit facility not exempt pursuant to Env-Wm 312.02(b), shall comply with the following requirements:

(a) The permittee shall designate a project engineer to:

- (1) Administer the technical aspects of the construction contract; and

- (2) Provide technical coordination of the design, permitting, and construction issues.
- (b) The project engineer shall:
  - (1) Be a qualified professional engineer;
  - (2) Administer all construction contracts;
  - (3) Approve all construction contract change orders;
  - (4) Monitor all inspections and testing;
  - (5) Provide statements and reports as required by Env-Wm 2804.05, Env-Wm 2804.07 and Env-Wm 2805.02;
  - (6) Maintain facility construction records during the construction period;
  - (7) Monitor all construction activities to ensure compliance with the permit, specifically including the approved design plans and specifications;
  - (8) Monitor the scheduling of all construction activities;
  - (9) Generate the written status report required by Env-Wm 2804.07 at the end of each 2 week period; and
  - (10) Assure compliance with a quality assurance/quality control plan pursuant to Env-Wm 2505.16 if applicable.
- (c) If the project engineer is not present at the site when all construction activities at a facility are performed, the permittee shall assure that a qualified resident engineer is present to monitor all construction activities.
- (d) The resident engineer required by (c) above shall:
  - (1) Be a qualified professional engineer; or
  - (2) Work under the supervision of a qualified professional engineer; and
  - (3) Be experienced in and knowledgeable about the work he/she shall be overseeing; and
  - (4) Report directly to the project engineer.
- (e) The requirements of (a) through (d) above shall not apply if:
  - (1) The permittee has demonstrated in the permit application, or the application for a type II permit modification for construction plan approval, that the nature and scope of the proposed construction activity(s) shall not require professional engineering oversight to assure protection of the environment, public health and safety and to meet other requirements of law; and
  - (2) The exclusion is approved as a condition of the permit or permit modification.

Source. #6619-B, eff 10-29-97

Env-Wm 2804.07 Construction Reporting and Recordkeeping Requirements.

- (a) The permittee shall submit in accordance with Env-Wm 303, no later than the Wednesday following the end of each 2 week work period during construction of a facility, a written status report of all construction activities in progress.

(b) The status report submitted pursuant to (a) above shall include the following information:

- (1) Facility identification, including name, location by street and municipality, and permit number;
- (2) Description of work completed to date;
- (3) An amended construction schedule if the anticipated schedule deviates from the last construction schedule of record;
- (4) Design changes implemented pursuant to Env-Wm 2804.05, if any; and
- (5) Damage and repair information pursuant to (e) below, if any.

(c) Upon completion of each major element of construction involving a waste containment, conveyance, processing or treatment system subject to inspection and testing pursuant to Env-Wm 2804.04(g), the permittee shall submit a copy of the inspection report and engineer's certification prepared in accordance with Env-Wm 2804.04(h).

(d) The permittee shall maintain, with the facility operating records pursuant to Env-Wm 2805.06, all construction related records required to document permit compliance and to prepare and validate the record drawings.

(e) If a facility sustains damage during construction which has the potential to adversely affect the integrity of facility operations, life expectancy or performance, the permittee shall:

- (1) Inform the department, as soon as practicable under the circumstances,
- (2) Provide, with the related biweekly construction progress report, a written damage and repair report detailing the incident.

(f) No later than 90 days following completion of construction, the permittee shall:

- (1) Submit in accordance with Env-Wm 303 the applicable facility record drawings, prepared in accordance with Env-Wm 2803.05 and explicitly identifying all features different than the features provided in the approved plans and specifications; and
- (2) Provide written certification that the facility, as-built, meets or exceeds all applicable requirements of the permit including the approved plans and specifications.

Source. #6619-B, eff 10-29-97

Env-Wm 2804.08 Interaction with Department During Construction.

(a) During construction, the permittee shall provide department personnel with access to the construction site for monitoring, inspection and enforcement purposes, pursuant to Env-Wm 3700.

(b) During construction, the permittee shall provide department personnel with access to a construction trailer work station, or other appropriate on-site work station, for use in reviewing plans, specifications and other construction-related records.

(c) During construction, the permittee shall allow department personnel to attend scheduled pre-construction meetings and other construction related meetings with the project engineer and/or the contractor.

(d) The permittee shall address all issues of concern that the department identifies in writing as a consequence of inspecting or monitoring facility construction activities.

(e) If an issue of concern pursuant to (d) above involves a determination by the department that facility construction might not be proceeding in accordance with the approved design plans and specifications, the permittee shall either:

(1) Voluntarily halt construction until the issue is resolved; or

(2) Proceed with construction on the basis that the department shall only grant approval to operate the facility after the issue of concern is resolved or, if the issue of concern involves the construction of a facility closure system, on the basis that the department shall only release the permittee from financial assurance obligations after the issue of concern is resolved.

(f) Revocation or suspension of the construction approval shall be subject to the provisions in Env-Wm 306.

Source. #6619-B, eff 10-29-97

## **PART Env-Wm 2805 ADDITIONAL OPERATING REQUIREMENTS**

### **Env-Wm 2805.01 Prerequisites for Operations.**

(a) Prior to commencing operation of a facility, or any phase or portion thereof, the permittee shall:

(1) Obtain operating plan approval, as follows:

a. For a permit-by-notification facility or other facility which is not subject to the provisions of Env-Wm 305.05(b) and (c), the operating plan shall be approved through issuance of the permit and, for a permit-by-notification facility, based solely on representations by the permittee in the application pursuant to Env-Wm 2902.02(a)(2); and

b. For facilities with a standard permit, emergency permit or research and development permit issued subject to the provisions in Env-Wm 305.05(b) and (c), the operating plan shall be approved pursuant to the provisions for a type II permit modification in Env-Wm 315;

(2) Assure financial responsibility for facility closure, as follows:

a. For a permit-by-notification facility or other facility not subject to Env-Wm 3100, financial responsibility shall be assured by having certified responsibility in the permit application pursuant to Env-Wm 303.04; and

b. For facilities with a standard permit, emergency permit or research and development permit issued subject to the provisions of Env-Wm 305.05(b) and (c), financial responsibility shall be assured in accordance with the provisions of a final financial assurance plan approved pursuant to the provisions for a type II permit modification in Env-Wm 315 and by submitting all original signed financial assurance documents required to verify the plan has been implemented and is in effect;

(3) Complete facility construction in accordance with all applicable construction requirements and submit all construction status reports, including construction inspection reports, as specified in Env-Wm 2804.07;

(4) Comply with all other pre-operation requirements specified in the permit; and

(5) After complying with (1) through (4) above, file a notice of intent to operate as specified in Env-Wm 2805.02.

(b) For a landfill or other facility operated on a phase by phase basis over time, the permittee shall comply with the requirements specified in (a) above each time operation of a new phase commences.

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98; amd by #7225, eff 3-31-00

Env-Wm 2805.02 Notice of Intent to Operate.

(a) A notice of intent to operate shall include the following:

(1) Facility identification;

(2) Date permittee intends to commence operations;

(3) Facility operating hours;

(4) A statement, signed and stamped by the project engineer for a facility subject to Env-Wm 2804.06 or signed by the permittee for a facility not subject to Env-Wm 2804.06, that to the best of his/her knowledge, the facility has been constructed in accordance with the permit, the solid waste rules and the approved plans and specifications and is fit for operation in accordance therewith;

(5) For facilities with a standard permit, emergency permit or research and development permit issued subject to the provisions of Env-Wm 305.05(b) and (c), identification of the approved operating plans and approved financial assurance plan;

(6) For a permit-by-notification facility, reaffirmation of the existence of the operating plan pursuant to the provisions of Env-Wm 2902.02(a)(2) and reaffirmation of financial responsibility for closure pursuant to Env-Wm 2705.08(b);

(7) The name, certificate number and telephone number of all certified facility operators, in conformance with the requirements of Env-Wm 2705.06 and Env-Wm 2705.07;

(8) The name and telephone number of the facility manager or other individual designated by the permittee as being the individual the department should contact regarding operation of the facility; and

(9) Affirmation that all other prerequisite approvals and actions, as specified in Env-Wm 2805.01(a), have been satisfied for the proposed operations.

(b) The notice of intent to operate shall be signed by the permittee and property owner.

(c) The notice of intent to operate shall be:

(1) Filed with the department in duplicate; and

(2) Copied to the host municipality and district.

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98; amd by #7225, eff 3-31-00

Env-Wm 2805.03 Operating Approval.

(a) Except as provided in (e) below, upon receipt of a complete notice of intent to operate, a copy of the notice bearing the department's dated receipt stamp shall be returned to the permittee.

(b) The permittee shall attach the returned copy of the notice to the permit.

(c) The returned copy of the notice shall constitute approval to commence operations as specified in the notice and in accordance with the approved operating plan.

(d) Approval to commence operations shall be subject to terms and conditions as necessary to assure that the facility operates in accordance with the approved plans and specifications, all applicable rules and regulations, and the terms and conditions of the permit.

(e) If the permittee has not satisfied all prerequisites for operations, as specified in Env-Wm 2805.01, the notice of intent to construct shall not be returned by the department upon receipt and approval to commence operations shall be thereby withheld while permittee is notified and corrects the deficiency.

(f) The department shall first notify the permittee by telephone of a deficiency pursuant to (e) above and follow it in writing within 10 working days if the permittee has not corrected the deficiency in the meantime.

(g) Suspension or revocation of an operating approval shall be subject to the provisions in Env-Wm 306.

Source. #6619-B, eff 10-29-97

#### Env-Wm 2805.04 Basic Operating Requirements.

(a) A facility shall operate in compliance with RSA 149-M, all requirements in the solid waste rules, including those noted in Env-Wm 2801.02(c) as applicable and this part, and the terms and conditions of the permit.

(b) As a condition of the permit, the facility shall operate in accordance with the last approved operating plan record.

Source. #6619-B, eff 10-29-97

#### Env-Wm 2805.05 Signs and Postings.

(a) Legible signs shall be posted at or near each public entrance to a facility.

(b) The signs required pursuant to (a) above shall include the following:

- (1) The facility name and permit number;
- (2) The name, address and telephone number of the permittee;
- (3) The days and hours that the facility shall be open to receive waste;
- (4) The type of wastes accepted; and
- (5) A statement that unlawful dumping shall be subject to fine and prosecution.

(c) A copy of the permit, including a complete copy of the last approved operating plan of record and a complete copy of the last approved closure plan of record, shall be maintained at a location accessible to facility operators.

(d) A copy of the authorization page of the permit bearing the permit number and the authorization signature, shall be prominently displayed at the facility.

(e) Current operator certification certificates, obtained pursuant to the provisions of Env-Wm 3300, shall be prominently displayed at the facility.

Source. #6619-B, eff 10-29-97

#### Env-Wm 2805.06 Facility Operating Records.

(a) The permittee shall compile and maintain records at the facility which document all phases of facility operations, including the following information:

- (1) Identification of the facility by name, location by street and municipality and permit number;
- (2) Identification of the permittee by name, address and telephone number;
- (3) Identification of all facility operator(s) by name, address, certificate number, and date(s) of employment at the facility;
- (4) Quantity, type, source and destination of all waste received by the facility;
- (5) Quantity, type and destination of all waste generated by the facility, if any, including bypass waste and residual waste;
- (6) Quantity, type and destination of all certified waste-derived products produced by the facility, if any;
- (7) Record of inspections, maintenance, and repairs;
- (8) Record of accidents, violations, remedial and emergency event response actions;
- (9) Record of complaints received and related response actions;
- (10) Data from all environmental monitoring performed at or for the facility, whether required by the solid waste rules or the permit or undertaken voluntarily;
- (11) Documentation of contact with the waste management district(s) served by the facility as required by Env-Wm 2805.12;
- (12) If the facility is subject to 40 CFR 258, such information and documentation that the permittee shall be required therein to place into the facility operating records;
- (13) Other recordkeeping information and documentation required by Env-Wm 2100 through Env-Wm 2500 as applicable based on the functional classification of the facility; and
- (14) Other information and documentation as required by the terms and conditions of the permit.

(b) The operating records identified in (a) above shall be maintained at the facility at all times during the active life of the facility, unless approval is granted pursuant to the provisions for a type V permit modification in Env-Wm 315 or a waiver to relocate or destroy the record.

(c) Operating records shall be made available for department inspection and copies provided to the department pursuant to Env-Wm 3700.

(d) Following closure of the facility, the operating records shall be maintained at a location approved by the department in the closure plan, unless destruction of the records is approved pursuant to the provisions for a type V permit modification in Env-Wm 315.

Source. #6619-B, eff 10-29-97

Env-Wm 2805.07 Reporting Requirements.

(a) The permittee shall notify the department in writing within 30 calendar days of any change in the facility address, telephone number, key certified operators and contact person(s).



(b) The permittee shall file an annual facility report by March 31 for the prior calendar year for each year that the facility operates and for each year of the facility's post-closure monitoring and maintenance period, as follows:

(1) For a facility that received waste during the reporting year, the report shall contain the information required by Env-Wm 2805.13, except as provided by (3) below.

(2) For a facility that did not receive waste during the reporting year and is either undergoing closure or has completed closure excluding completion of all post-closure monitoring and maintenance obligations, the annual report shall contain the information required by Env-Wm 2805.14, except as provided by (3) below.

(3) Except for facility identification information, the permittee shall not be required to submit in the annual report any information specified in Env-Wm 2805.13 or Env-Wm 2805.14 if:

a. The information was already reported in writing to the department during the calendar reporting year and the permittee provides a written statement which identifies:

1. The nature of the information already submitted;
2. The date the information was submitted or the date on the document containing the information;
3. The title of the document containing the information, if applicable; and
4. The name of the person who submitted the information; and/or

b. The information is unchanged from the previous calendar reporting year and the permittee marks the item "unchanged from last annual report" and cites the date of the last annual report that contained the information;

(c) The permittee shall report all changes in operational and ownership control in accordance with the provisions for a type III or type IV permit modification, as applicable, pursuant to Env-Wm 315.

(d) Pursuant to (e) below and in accordance with Env-Wm 303, the permittee shall notify the department in writing prior to conducting the following activities at the facility not specifically authorized in the permit:

(1) Any activity not regulated by the solid waste rules but involving a waste listed in Env-Wm 101.03; and

(2) Any activity that is permit-exempt in Env-Wm 302.03.

(e) For activities commencing at the facility site after permit issuance, written notice pursuant to (d) above shall include the following, compiled in the order shown:

(1) Facility name, location by street and municipality, and permit number;

(2) A description of the subject activity;

(3) A site plan showing the location of the subject activity in relation to the permitted facility activities;

(4) The date the subject activity will commence and the anticipated duration of the activity;

(5) Identification and status of other local, state and federal permits and approvals required to implement the subject activity; and

(6) Certification, signed by the permittee, that the activity shall not adversely affect the permitted construction, operation and closure of the facility as required by Env-Wm 2802.02.

(f) For activities existing at the facility site prior to permit issuance, written notice pursuant to (d) above shall be provided in the permit application by showing the activity on the existing features plan and describing the activity in the siting assessment.

Source. #6619-B, eff 10-29-97

Env-Wm 2805.08 Hours of Operation.

(a) Except as provided by (b) below, all active and routine facility operations, including waste disposal, facility inspections, maintenance, repairs and monitoring, shall occur between 6:00 a.m. and 6:00 p.m. under normal non-emergency circumstances.

(b) Regular operating hours outside of the normal 6:00 a.m. to 6:00 p.m. window specified by (a) above shall be allowed only if:

(1) Approved by the department in the terms and conditions of the permit based on information provided in an application which demonstrates:

- a. The facility shall not successfully operate within the normal window; and
- b. The alternative hours shall not result in problems relating to safety, access control or nuisances; or

(2) The facility shall be a limited private facility and shall receive no waste from off-site locations.

Source. #6619-B, eff 10-29-97

Env-Wm 2805.09 Receipt and Management of Waste.

(a) Only authorized wastes, as specified in the permit, shall be accepted by a facility.

(b) Incoming wastes shall be inspected and, if necessary, sampled and analyzed to assure the facility accepts authorized waste only.

(c) Unauthorized waste shall be rejected by the facility.

(d) The permittee shall advise the transporter of a rejected waste as to potentially available alternative facilities which the permittee believes or knows to be authorized to receive the type of waste being rejected.

(e) The quantity of incoming waste, outgoing waste and certified waste-derived products produced by the facility shall be measured and recorded in the facility operating records.

Source. #6619-B, eff 10-29-97

Env-Wm 2805.10 Management of Residual Waste.

(a) Facility operations shall include provisions to properly manage residual waste.

(b) A facility shall obtain and maintain access to at least 2 authorized locations where adequate capacity exists to handle the type and quantity of all residual waste, excluding landfill decomposition gas, that the facility shall regularly generate during its operating and post-closure periods.

(c) A residual waste shall not be distributed for use unless certified for distribution and use in accordance with Env-Wm 3200.

Source. #6619-B, eff 10-29-97

Env-Wm 2805.11 Operating Plan Content and Format.

(a) A facility operating plan shall provide sufficient detail to allow the certified operator and other trained facility personnel to operate the facility in compliance with RSA 149-M, the permit and the solid waste rules without further explanation or guidance.

(b) The operating plan shall be prepared as a loose leaf document to facilitate amendment as specified in Env-Wm 315.

(c) Each page of the operating plan shall bear the date of preparation or last revision, as applicable, and the facility name, location and permit number, if a permit is issued for the facility at the time that the operating plan or a modification thereto is prepared.

(d) The content and organizational format of the operating plan shall be as follows:

(1) Section 1, titled "facility identification," shall identify:

- a. The facility name, mailing address, location by street address and municipality, and permit number;
- b. The type of the facility;
- c. The capacity of the facility;
- d. The facility service type;
- e. The facility service area; and
- f. The name, address and telephone number of the permittee, property owner, and operator;

(2) Section 2, titled "authorized and prohibited waste," shall provide a list of:

- a. The specific waste types the facility which shall be authorized to receive; and
- b. The specific waste types the facility shall not be authorized to receive.

(3) Section 3, titled "routine operations plan," shall provide a detailed description of how the daily operations of the facility will be conducted to assure that the facility will be operated in accordance with the solid waste rules, including a description of:

- a. Hours of operations;
- b. Facility access control and on-site traffic patterns;
- c. Waste acceptance and rejection procedures, including unloading, sorting and inspection procedures;
- d. The procedure by which the quantity and source(s) of all wastes received by the facility shall be determined and recorded;
- e. The procedure by which the quantity and destination of all outgoing waste and certified waste-derived products shall be determined and recorded;
- f. The storage time and capacity limits for all wastes received by the facility and the procedures by which the limits shall be monitored to assure compliance therewith;

g. All collection, storage, transfer, processing, treatment and disposal methods and procedures employed by the facility for managing waste following receipt; and

h. For facilities that process or treat waste, the methods or procedures for managing bypass waste and the quality assurance/quality control procedures relating to the management of processed or treated waste.

(4) Section 4, titled "residual waste management plan," shall provide a detailed description of how all residual waste, if any, shall be managed by the facility, including the information specified in a. through d. below, or if the facility will not generate any residual waste, a statement so indicating.

a. The type and estimated quantity of all residual wastes to be generated by the facility;

b. How such wastes shall be managed at the facility prior to removal;

c. Information to demonstrate how the provisions of Env-Wm 2805.10 shall be met; and

d. Quality assurance/quality control provisions, to assure that the wastes to be transferred shall be acceptable to the receiving facility.

(5) Section 5, titled "facility maintenance, inspection and monitoring plan," shall identify all routine maintenance, inspection and monitoring requirements necessary to assure the integrity of facility operations, including a description of the measures to be undertaken to monitor and inhibit the following:

a. Spontaneous combustion;

b. Other fire hazards;

c. Vector production;

d. Generation of methane, hazardous and/or explosive gases;

e. Odors;

f. Dust;

g. Windblown litter;

h. Leachate; and

i. Spills.

(6) Section 6, titled "contingency plan," shall:

a. Identify all reasonably foreseeable emergencies, such as fire, explosion, operator injury, and the like, based on the type of facility and wastes being handled;

b. Describe the appropriate response of facility personnel for each emergency identified in a. above; and

c. Include identification of and telephone numbers for all local and state officials to be notified in the event of an emergency;

(7) Section 7, titled "employee training program," shall provide a description of employee training program(s); and

(8) Section 8, titled "recordkeeping and reporting," shall provide a description of record keeping procedures as necessary to comply with Env-Wm 2805.06 and Env-Wm 2805.07.

Source. #6619-B, eff 10-29-97

Env-Wm 2805.12 Interactions with Districts.

(a) During the active life of a facility, the permittee shall annually communicate with the host solid waste management district to assure that:

(1) All operating requirements established for the facility pursuant to the provisions of RSA 149-M:11,XI pertaining to the requirements of RSA 149-M:11,III(c) and RSA 149-M:12,I(b) are being met by the facility; and

(2) Facility operations meet other relevant planning needs and requirements identified or established by the district, to the extent allowed by the permit.

(b) The communication required by (a) above may be provided by sending to the district chairperson a copy of the facility's annual report with a cover letter identifying the purpose of the communication and soliciting a response by district officials concerning the requirements of (a) above.

Source. #6619-B, eff 10-29-97

Env-Wm 2805.13 Annual Report for Active Facilities, Content. For facilities that received waste during the reporting year, the annual report required by Env-Wm 2805.07(b) shall include the following:

(a) Facility name, location by street and municipality, and permit number;

(b) Name, address and telephone number of the permittee;

(c) Name, address, certificate number and telephone number of all facility operators;

(d) Status of the facility, including whether active or inactive and the estimated remaining life and capacity of the facility;

(e) Quantity in tons, type and source of all waste received by the facility, with out-of-state tonnage figures separately listed and totaled;

(f) Destination of all wastes received by the facility;

(g) Quantity, type and destination of all waste generated by the facility, including bypass and residual waste;

(h) For processing and treatment facilities producing certified waste-derived products:

(1) The quantity, type and market destination of each waste-derived product produced and distributed by the facility; and

(2) Certification that all waste-derived products distributed by the facility for use met the applicable standards for distribution and use pursuant to Env-Wm 3200 or, if not true, a detailed explanation of the situation and actions taken by the permittee to remedy the problem;

(i) For non-landfill facilities, the estimated quantity of waste stored at the facility, by type, as of the end of the calendar reporting year;

(j) A summary and assessment of environmental monitoring performed at the facility, whether required by the solid waste rules or the permit or undertaken voluntarily;

(k) Pursuant to the provisions of RSA 149-M:11,XI, a discussion of how facility operations satisfied the public benefit requirements specified in the permit, if any; and

(l) Other information, if any, identified as annual reporting information in:

- (1) Env-Wm 2100 through Env-Wm 2500 specific to the type of facility, as applicable; and
- (2) Env-Wm 2600 specific to the type(s) of waste managed by the facility, as applicable.

Source. #6619-B, eff 10-29-97

Env-Wm 2805.14 Annual Report for Inactive Facilities, Content. For facilities not receiving waste during the reporting year and either undergoing closure or having completed closure except for post-closure monitoring and maintenance obligations, the annual report required by Env-Wm 2805.07 shall include the following:

- (a) Facility name, location by street and municipality, and permit number;
- (b) Name and address of the permittee;
- (c) Name, address, certificate number and telephone number of all facility operators, if applicable;
- (d) Name, address, affiliation and telephone number of the person or persons responsible for managing all post-closure activities at the facility;
- (e) Facility status, including, as applicable:
  - (1) Date the facility discontinued receipt of waste;
  - (2) Commencement and completion dates for all construction activities at the facility related to the approved closure plan; and
  - (3) Anticipated or scheduled date for completing all required post-closure monitoring and maintenance activities;
- (f) A summary and assessment of all environmental monitoring performed at or for the facility, whether required by the solid waste rules or the permit or undertaken voluntarily, specifically including as applicable:
  - (1) Information identified as post-closure annual reporting information in Env-Wm 2100 through Env-Wm 2500 specific to the type of facility;
  - (2) Information identified as post-closure annual reporting information in Env-Wm 2600 specific to the type(s) of waste that were managed by the facility;
  - (3) Information concerning emergency events or other unexpected or unusual events at the facility relevant to assessing whether the facility is achieving post-closure performance expectations; and
  - (4) For a facility having post-closure obligations, an evaluation of the available environmental monitoring data and other information pertaining to facility conditions, including a statement by a qualified professional engineer identifying whether the facility is achieving post-closure performance expectations and whether adjustments to the approved post-closure monitoring and maintenance period and/or provisions are recommended in light of the performance evaluation.

Source. #6619-B, eff 10-29-97

## **PART Env-Wm 2806 ADDITIONAL CLOSURE REQUIREMENTS**

Env-Wm 2806.01 Commencement of Closure Activities. Prior to commencing closure of a facility, the permittee shall file a notice of intent to close as described by Env-Wm 2806.02 and, for any closure activity involving construction, shall obtain construction approval pursuant to the provisions of Env-Wm 2804.

Source. #6619-B, eff 10-29-97

Env-Wm 2806.02 Notice of Intent to Close. The notice of intent to close shall include:

- (a) Facility identification;
- (b) Date the facility intends to stop receiving wastes;
- (c) A copy of the facility's approved closure plan or file reference thereto or, if there is no approved closure plan of record, three copies of a proposed closure plan prepared in accordance with Env-Wm 2806.04 and submitted with an application for a type I-B permit modification pursuant to Env-Wm 315;
- (d) If the provisions of the last approved closure plan of record are no longer applicable or no longer conform to the closure requirements of the solid waste rules, identification of such provisions and revisions in accordance with Env-Wm 315; and
- (e) The date the facility intends to commence closure activities.

Source. #6619-B, eff 10-29-97

Env-Wm 2806.03 Basic Facility Closure Requirements. A facility shall close in conformance with the solid waste rules and the provisions of an approved closure plan in conformance with Env-Wm 2806.04.

Source. #6619-B, eff 10-29-97

Env-Wm 2806.04 Closure Plan, Content and Format.

(a) A facility closure plan shall provide sufficient detail to allow a third party to implement and complete all required facility closure tasks in compliance with RSA 149-M, the permit and the solid waste rules without further explanation or guidance or as provided by (b) below.

(b) For a landfill closure plan prepared before the facility reaches final grades, the design plans and specifications for the capping system and related appurtenances shall be considered preliminary and need not provide final design detail sufficient to allow third party implementation without further explanation or guidance. However, any closure plan approved on the basis of preliminary plans shall include, in the list of closure tasks, provisions for preparing final design plans and specifications for the capping system and related appurtenances, as specified in Env-Wm 2507.

(c) The closure plan shall be prepared as a loose leaf document to facilitate amendment as specified in Env-Wm 315.

(d) Each page of the closure plan shall bear the date of preparation or revision, as applicable, and the facility name and permit number.

(e) The closure plan shall be organized and prepared as follows:

- (1) Section 1, titled "facility identification," shall provide the facility name, mailing address, location and permit number;
- (2) Section 2, titled "closure schedule," shall provide the anticipated date of closure and a closure schedule that sets forth each discrete activity that will be undertaken to complete facility closure, the order in which the activities will be undertaken and the estimated length of time the activity will take;

(3) Section 3, titled "waste identification," shall identify all types of waste received or intended to be received by the facility during its active life;

(4) Section 4, titled "notifications," shall provide a description of how notice shall be given to facility users prior to terminating receipt of waste;

(5) Section 5, titled "closure requirements," shall provide:

- a. A list of each major closure work task required to implement and complete closure of the facility;
- b. A description of the procedures for completing all required closure work tasks; and
- c. Design plans and specifications for construction of required closure systems;

(6) Section 6, titled "post-closure requirements," shall identify and describe all required post-closure testing, inspection, maintenance or monitoring that will be performed at the facility pursuant to the provisions of the solid waste rules and the permit;

(7) Section 7, titled "recordkeeping and reporting," shall identify and describe:

- a. All recordkeeping and reporting obligations required of the facility following completion of the closure work identified in section 5 of the closure plan; and
- b. Locations and provisions for storing facility records, including the operating records, following facility closure;

(8) Section 8, titled "other permits," shall:

- a. Identify all other local, state and federal permits and approvals required to implement facility closure, including the implementation of all post-closure monitoring and maintenance requirements;
- b. Identify the status of each permit and approval identified pursuant to a. above; and
- c. For a landfill located on property not owned by the permittee, include a copy of the written executed access agreement required by Env-Wm 2703.03;

(9) Section 9, titled "closure cost estimate," shall provide a closure cost estimate prepared in accordance with the criteria in Env-Wm 3103.02.

Source. #6619-B, eff 10-29-97

Env-Wm 2806.05 Temporary Cessation of Facility Construction or Operations.

(a) A permittee shall be deemed to have abandoned the use of a facility if no wastes are received, processed or treated at the facility or if development of a facility under construction is discontinued for a period of 90 days, except as provided by (b) below.

(b) A facility shall not be deemed abandoned if the permittee provides written notice to the department identifying the conditions for the temporary cessation of operation and identifies the provisions for resuming operation or construction of the facility, including the following information:

- (1) Facility name, location by street and municipality, and permit number;
- (2) Activity(s) being temporarily discontinued;
- (3) Reason for the temporary discontinuance of activity(s);



(4) Date activities are anticipated to resume; and

(5) Provisions which shall be undertaken to protect the environment, public health and safety during the temporary discontinuance.

(c) Following notice of temporary cessation, the department shall notify the permittee whether additional actions shall be required to secure the facility and site to prevent adverse impact to the environment, public health and safety, based on information provided in the notice and other available information concerning the status of the facility.

(d) Failure by the permittee to take action to secure the facility and site as specified shall require the permittee to implement closure in accordance with the solid waste rules and the permit.

Source. #6619-B, eff 10-29-97

## CHAPTER Env-Wm 2900 PERMIT-BY-NOTIFICATION FACILITY REQUIREMENTS

Statutory Authority: RSA 149-M:7

### PART Env-Wm 2901 PURPOSE AND APPLICABILITY

Env-Wm 2901.01 Purpose. The purpose of the rules in this chapter is to:

(a) Prescribe the requirements and limitations for siting, designing, constructing, operating and closing a facility under the provisions of a permit-by-notification issued pursuant to Env-Wm 311; and

(b) Ensure, through the prescribed requirements and limitations, that permit-by-notification facilities shall be sited, designed, operated and closed in a manner that does not endanger the public health or adversely affect the environment and which minimizes the potential for accidents that could lead to personal injury or property damage.

Source. #6619-B, eff 10-29-97

Env-Wm 2901.02 Applicability. The rules in this chapter shall apply as specified in Env-Wm 101.02(c) to all permit-by-notification facilities.

Source. #6619-B, eff 10-29-97

### PART Env-Wm 2902 GENERAL REQUIREMENTS

Env-Wm 2902.01 Universal Requirements. All permit-by-notification facilities shall comply with the following:

(a) The universal facility requirements in Env-Wm 2700;

(b) The waste specific requirements in Env-Wm 2600 as applicable to the type of waste managed by the facility; and

(c) The requirements of this chapter.

Source. #6619-B, eff 10-29-97

Env-Wm 2902.02 Requirements for Operating Longer than 90-days.

(a) A permit-by-notification facility, having an active life longer than 90 days, shall comply with the requirements in Env-Wm 2800, with the following exceptions:

(1) There shall be no requirement to submit final design plans and specifications for construction approval;

(2) There shall be no requirement to submit an operating plan, provided that:

a. A written operating plan which meets the requirements of Env-Wm 2805.11 is prepared prior to operating the facility;

b. The operating plan is available for use by the facility operator(s) and for inspection by the department pursuant to Env-Wm 3700;

c. The permittee submits in the permit application a signed statement which attests to the existence of the plan, and certifies that the plan meets the requirements of Env-Wm 2805.11; and

d. The facility operates in compliance with the solid waste rules and the permit; and

(3) There shall be no requirement to submit a closure plan, provided that:

- a. A written closure plan that meets the requirements of Env-Wm 2806.04 is prepared prior to operating the facility;
- b. The closure plan is available for use by the facility operator(s) and for inspection by the department pursuant to Env-Wm 3700;
- c. The permittee submits in the permit application a signed statement which attests to the existence of the plan, and certifies that the plan meets the requirements of Env-Wm 2806.04; and
- d. The facility closes in compliance with the solid waste rules and the permit.

(b) A non-landfill permit-by-notification facility having an active life longer than 90 days shall comply with the following:

- (1) Env-Wm 2103 through Env-Wm 2106, if the facility is a collection, storage and transfer facility identified in Env-Wm 2107;
- (2) Env-Wm 2203 through Env-Wm 2206, if the facility is a processing or treatment facility identified in Env-Wm 2207 or a composting facility identified in Env-Wm 2307 or an incinerator identified in Env-Wm 2407;
- (3) Env-Wm 2303 through Env-Wm 2306, if the facility is a composting facility identified in Env-Wm 2307; and
- (4) Env-Wm 2403 through Env-Wm 2406, if the facility is an incinerator identified in Env-Wm 2407.

(c) A permit-by-notification landfill shall not be permitted to have an active life longer than 90 days unless:

- (1) The facility is located on publicly owned land;
- (2) The permittee is a government agency or unit or a political subdivision of the state; and
- (3) Vehicular access to the facility is physically restricted at all times when a facility operator is not present.

Source. #6619-B, eff 10-29-97

Env-Wm 2902.03 Consecutive Permits Prohibited. Consecutively dated permits-by-notification shall not be issued to a facility as a means to avoid obtaining a standard permit pursuant to the solid waste rules or as a means to avoid any requirement specified in Env-Wm 2902.02.

Source. #6619-B, eff 10-29-97

Env-Wm 2902.04 Obligation to Obtain Other Approvals. The existence of a permit-by-notification shall not affect a person's obligation to obtain all requisite federal, state or local permits, licenses or approvals, or to comply with all other applicable federal, state, district or local permits, ordinances, laws or approvals or conditions pertaining to the permit-by-notification activities.

Source. #6619-B, eff 10-29-97

Env-Wm 2902.05 Permittee and Operator Qualifications.

(a) The permittee and facility owner shall be one in the same.

- (b) The permittee shall be in responsible charge of operating the facility.
- (c) The permittee shall be able to provide compliance certification pursuant to Env-Wm 303.14.
- (d) If the facility has an active life longer than 90 days, the operator(s) shall be certified pursuant to Env-Wm 3300.

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 2902.06 Permit Transfer Limitations and Requirements.

- (a) A permit-by-notification shall be non-transferable, except as provided in (d) below.
- (b) In the event a permit-by-notification facility will be sold or otherwise conveyed to a second party, the second party shall apply pursuant to Env-Wm 311 to obtain a new permit-by-notification for the facility if the second party intends to continue operating the facility.
- (c) If the second party does not obtain a new permit-by-notification to continue operating the facility, the permittee of record shall close the facility in accordance with the solid waste rules and the permit prior to conveying the facility to the second party.
- (d) In the case of a closed permit-by-notification landfill, the following shall apply:
  - (1) The applicable permit-by-notification shall be automatically transferred to the new property owner upon conveyance of the property to a new owner;
  - (2) Prior to conveyance, the permittee of record shall disclose the existence of the closed facility to the potential new owner and inform the potential new owner of all permit obligations related thereto; and
  - (3) Failure to provide such disclosure shall not alleviate a new owner, as permittee, from meeting any regulatory obligation relating to the facility.

Source. #6619-B, eff 10-29-97

**PART Env-Wm 2903 SITING REQUIREMENTS**

Env-Wm 2903.01 Location Restrictions, New Permit-by-Notification Facilities. The following restrictions shall apply to siting all new permit-by-notification facilities:

- (a) The facility shall not be sited on property that is subject to any on-going enforcement action by the department, unless the facility is approved by the department as part of the enforcement action and a copy of the approval is submitted with the application for the related permit-by-notification;
- (b) The facility shall not be sited within 50 feet of any property line;
- (c) The facility shall not be sited in a flood plain;
- (d) The facility shall be sited in conformance with Env-Wm 2703; and
- (e) If the facility has an active life longer than 90 days, it shall be sited in conformance with Env-Wm 2802.

Source. #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98

Env-Wm 2903.02 Additional Location Restrictions for Landfills.

- (a) A permit-by-notification landfill shall not be sited less than 75 feet to surface water, and wetlands;

(b) A permit-by-notification landfill shall be located to provide at least 4 feet of vertical separation between the base of the disposal area and the seasonal high groundwater table;

(c) A permit-by-notification landfill shall be located to provide at least 4 feet of vertical separation between the base of the disposal area and bedrock; and

(d) A permit-by-notification landfill shall not be sited less than 50 feet from the footprint of any landfill which is not yet capped.

(e) A permit-by-notification landfill having an active life longer than 90 days shall be sited on publicly owned land only.

Source. #6619-B, eff 10-29-97

#### **PART Env-Wm 2904 OPERATING REQUIREMENTS**

Env-Wm 2904.01 General Operating Requirements. A permit-by-notification facility shall comply with the universal operating requirements in Env-Wm 2705 and the requirements of this part.

Source. #6619-B, eff 10-29-97

Env-Wm 2904.02 Authorized Waste. A permit-by-notification facility shall receive only those wastes specifically authorized in Env-Wm 2107, Env-Wm 2207, Env-Wm 2307, Env-Wm 2407 or Env-Wm 2509, as applicable to the type of facility being permitted.

Source. #6619-B, eff 10-29-97

Env-Wm 2904.03 Prohibited Waste. A permit-by-notification facility shall not receive the following types of solid waste:

- (a) Asbestos waste;
- (b) Explosive waste;
- (c) Contained gaseous waste, unless collected for recycling;
- (d) Liquid waste;
- (e) Infectious waste, except for those facilities explicitly authorized by the provisions of Env-Wm 2207;
- (f) Animal carcasses;
- (g) Contaminated soils and other absorbent media; and
- (h) Out-of-state waste, unless the waste is received for recycling, not incineration or disposal.

Source. #6619-B, eff 10-29-97; ss by #7225, eff 3-31-00

Env-Wm 2904.04 Capacity Limits.

(a) The capacity of a permit-by-notification facility shall be limited to that which is specified in Env-Wm 2107, Env-Wm 2207, Env-Wm 2307, Env-Wm 2407 and Env-Wm 2509, as applicable to the type of facility being permitted.

(b) To assure compliance with RSA 149-M:11,IV(a), no permit-by-notification facility shall receive greater than 30 tons of waste per day as averaged over the active life of the facility.

Source. #6619-B, eff 10-29-97

Env-Wm 2904.05 Landfill Operating Requirements. The following requirements shall apply to operating all permit-by-notification landfills:

(a) At all times during facility operations, the permittee shall maintain cover materials at the site in a quantity sufficient to comply with all daily and final cover requirements specified by the solid waste rules, except publicly owned facilities with an active life longer than 90 days may maintain the cover materials at other locations readily accessible to the site and permittee;

(b) Only soil shall be used as cover material;

(c) Waste shall be placed, compacted and covered in a manner as to eliminate voids, limit settlement and otherwise limit the potential for sink-holes or surface openings to develop; and

(d) Waste shall be placed only within the vertical and lateral limits of the facility as identified on a plan submitted in the permit application pursuant to Env-Wm 311 and approved by the department by permit issuance.

Source. #6619-B, eff 10-29-97

## **PART Env-Wm 2905 CLOSURE REQUIREMENTS**

Env-Wm 2905.01 Non-landfill Closure Requirements.

(a) A permit-by-notification non-landfill shall close in conformance with Env-Wm 2706.

(b) All waste shall be removed to an authorized facility that is not another permit-by-notification facility; and

(c) Closure shall be completed within 30 days following the date of last waste receipt or before the expiration date of the permit, whichever is earlier.

Source. #6619-B, eff 10-29-97

Env-Wm 2905.02 Landfill Closure Requirements.

(a) A permit-by-notification landfill shall close in conformance with Env-Wm 2706.

(b) At least 2 feet of compacted soil shall be placed as final cover over all landfilled waste;

(c) If a greater depth than identified in (b) above is specified for the particular facility type in Env-Wm 2509, the greater depth shall be provided;

(d) Final cover shall be compacted, graded, seeded and mulched in a manner as to produce and sustain vegetative growth and/or otherwise stabilized to prevent erosion;

(e) Closure shall be completed within 30 days following the date of last waste receipt or before the expiration date of the permit, whichever is earlier, except as provided by (f) below;

(f) If the date of last waste receipt falls within a time period where seasonal factors prevent closure by the date specified in (e) above, the permittee may delay closure provided that:

(1) Within 10 days following the date of last waste receipt, the permittee provides a written notice to the department specifying:

a. The facility has ceased receiving waste;

b. Closure cannot be completed as required in (e) above due to seasonal factors; and

c. The date by which closure will be completed as required by (4) below;

- (2) The permittee shall control access to the facility by gates and bars or other means appropriate to the site to prevent unauthorized entry and dumping during the inactive, pre-closure period;
  - (3) The permittee shall take such action as necessary to otherwise secure the site against potential harm to the environment, human health and safety during the inactive, pre-closure period; and
  - (4) The permittee shall implement closure as soon as practicable under the circumstances.
- (g) Following closure, the permittee shall assure that the integrity of the cover materials is maintained, that voids and sink holes do not develop, and that the site is otherwise protective of the environment, public health and safety;
- (h) The permittee shall regularly inspect the facility and, when necessary, implement repairs and/or take other remedial action to achieve and maintain compliance with the requirements of (g) above; and
- (i) In the event the disposal area is disturbed for any reason after closure, the permittee shall subsequently restore the area pursuant to (b) through (d) above.
- (j) If buried waste is removed from a permit-by-notification landfill, the permittee shall dispose of the removed waste at an authorized facility.

Source. #6619-B, eff 10-29-97

Env-Wm 2905.03 Notification of Closure. Upon completion of all required closure activities at a permit-by-notification facility, the permittee shall certify in writing to the department that closure has been completed as required by the solid waste rules.

Source. #6619-B, eff 10-29-97

## **CHAPTER Env-Wm 3000 PUBLIC GRANTS FOR LANDFILL AND INCINERATOR CLOSURE**

### **PART Env-Wm 3001 PURPOSE & APPLICABILITY**

Env-Wm 3001.01 Purpose. The purpose of the rules in this chapter is to:

- (a) Implement RSA 149-M:41-50, which authorizes state grants to municipalities to encourage and assist them in closing unlined solid waste landfills and certain municipal incinerators; and
- (b) Supplement RSA 149-M:41-50.

Source. #6095, eff 9-26-95; ss by #7492, eff 5-18-01

Env-Wm 3001.02 Applicability. The rules in this chapter shall apply to:

- (a) Unlined municipal solid waste landfills, owned by New Hampshire municipalities and closed after July 1, 1984; and
- (b) Municipal incinerators identified in RSA 149-M:42,IV.

Source. #6095, eff 9-26-95; ss by #7492, eff 5-18-01

### **PART Env-Wm 3002 COSTS ELIGIBLE FOR REIMBURSEMENT**

Env-Wm 3002.01 Purpose. The rules in this part specify the criteria by which the department determines whether costs incurred by a municipality to close a facility identified in Env-Wm 3001.02 are costs eligible for a 20% reimbursement through issuance of a grant.

Source. #7492, eff 5-18-01

Env-Wm 3002.02 Eligible Costs. A cost of facility closure shall be eligible for a 20% reimbursement through issuance of a grant, provided that:

- (a) The cost meets the provisions of RSA 149-M:42, III;
- (b) The municipality has paid the cost using funds raised by the municipality through taxation or loans approved by the voting members of the municipality; and
- (c) The costs are not covered by other funds such as identified in Env-Wm 3003.02(h) or Env-Wm 3004.02(h).

Source. #7492, eff 5-18-01

### **PART Env-Wm 3003 APPLICATIONS FOR LANDFILL CLOSURE GRANTS**

Env-Wm 3003.01 Applicability. The rules in this part shall apply to a municipality that has completed, or is in the process of completing, closure of a landfill identified in Env-Wm 3001.02(a) and is seeking to be reimbursed for related eligible costs as specified by Env-Wm 3002.02.

Source. #7492, eff 5-18-01

Env-Wm 3003.02 Grant Applications. A municipality seeking to be reimbursed for landfill closure costs shall submit a grant application that contains the following information:

- (a) Name, mailing address, and telephone number of the grant applicant;
- (b) Name and location of the landfill for which the grant award is being requested;
- (c) Landfill permit number, issued pursuant to RSA 149-M;



(d) Groundwater release detection or groundwater management permit number, issued pursuant to RSA 485-C;

(e) A photocopy of the warrant article, corporate resolution, or other legally binding document authorizing the municipality to undertake the closure project;

(f) Closure project information, including:

(1) Name of engineering consultant;

(2) Name of construction contractor;

(3) Bid advertisement date;

(4) Contract award date; and

(5) Construction start date;

(g) A schedule of the closure costs for which 20% reimbursement is being requested, with related supporting documentation necessary to substantiate that the costs are eligible costs as specified in Env-Wm 3002.02, including:

(1) Copies of all related authorized contracts, change orders, and amendments thereto;

(2) Copies of all related invoices; and

(3) Proof of payment;

(h) Eligible cost financing information, including:

(1) Total eligible costs paid in cash;

(2) Total eligible costs paid through financing;

(3) Copies of the related institution-generated finance schedules; and

(4) Monies received from third party sources and used to close the landfill, including but not limited to funds from the following sources:

a. U.S. Farmers Home Administration;

b. U.S. Rural Development Administration;

c. U.S. Department of Housing and Urban Development

d. Community development block grants;

e. Potentially responsible party groups formed to collectively participate in the closure of the landfill; and

f. Insurance policy proceeds;

(i) If closure construction is complete, certification of completion by a qualified professional engineer and acceptance of the closure project by the municipality pursuant to Env-Wm 2804.07(f);

(j) If closure construction is not complete, the estimated future eligible closure costs and related financing obligations; and

(k) A notarized statement, signed by a duly authorized representative for the applicant, affirming that:

(1) The applicant meets the requirements specified in RSA 149-M:46; and

(2) The material and information submitted is correct and complete to the best of the applicant's knowledge and belief.

Source. #7492, eff 5-18-01

#### **PART Env-Wm 3004 APPLICATIONS FOR INCINERATOR CLOSURE GRANTS**

Env-Wm 3004.01 Applicability. The rules in this part shall apply to a municipality that has completed closure of an incinerator identified in Env-Wm 3001.02(b) and is seeking to be reimbursed for related eligible costs as specified by Env-Wm 3002.02.

Source. #7492, eff 5-18-01

Env-Wm 3004.02 Grant Applications. A municipality seeking to be reimbursed for incinerator closure costs shall submit a grant application that contains the following information:

(a) Name, mailing address, and telephone number of the grant applicant;

(b) Name and location of the incinerator for which the grant award is being requested;

(c) Incinerator permit number, issued pursuant to RSA 149-M;

(d) Groundwater release detection or groundwater management permit number if applicable, issued pursuant to RSA 485-C;

(e) A photocopy of the warrant article, corporate resolution, or other legally binding document authorizing the municipality to undertake the closure project;

(f) Closure project information, including:

(1) Name of engineering consultant;

(2) Name of construction contractor;

(3) Bid advertisement date;

(4) Contract award date;

(5) Construction start date; and

(6) Construction completion date;

(g) A schedule of the closure costs for which 20% reimbursement is being requested, with related supporting documentation to substantiate that the costs are eligible costs as specified in Env-Wm 3002.02, including:

(1) Copies of all related authorized contracts, change orders, and amendments thereto;

(2) Copies of all related invoices; and

(3) Proof of payment;

(h) Eligible cost financing information, including:

- (1) Total eligible costs paid in cash;
- (2) Total eligible costs paid through financing;
- (3) Copies of the related institution-generated finance schedules; and
- (4) Monies received from third party sources and used to close the incinerator, including but not limited to funds from the following sources
  - a. U.S. Farmers Home Administration;
  - b. U.S. Rural Development Administration;
  - c. U.S. Department of Housing and Urban Development;
  - d. Community development block grant;
  - e. Potentially responsible party groups formed to collectively participate in the closure of the incinerator; and
  - f. Insurance policy proceeds;
- (i) Certification of completion by a qualified professional engineer and acceptance of the closure project by the municipality pursuant to Env-Wm 2804.07(f); and
- (j) A notarized statement, signed by a duly authorized representative for the applicant, affirming that:
  - (1) The applicant meets the requirements specified in RSA 149-M:46; and
  - (2) The material and information submitted is correct and complete to the best of the applicant's knowledge and belief.

Source. #7492, eff 5-18-01

## **PART Env-Wm 3005 APPLICATION FILING AND PROCESSING**

Env-Wm 3005.01 Purpose. The rules in this part specify requirements for filing and processing a grant application.

Source. #7492, eff 5-18-01

Env-Wm 3005.02 Application Filing. A grant application shall be submitted to the department, in writing, by the applicant on forms provided by the department.

Source. #7492, eff 5-18-01

Env-Wm 3005.03 Application Processing. The department shall process an application in accordance with RSA 541-A:29.

Source. #7492, eff 5-18-01

Env-Wm 3005.04 Application Decision.

- (a) A grant application shall be approved if the application is complete pursuant to the provisions of Env-Wm 3003 and Env-Wm 3004.
- (b) A municipality having an approved grant application shall be eligible to receive a grant.

(c) Grants, not to exceed 20% of the eligible costs associated with an approved application, shall be awarded and disbursed as specified in Env-Wm 3006 and Env-Wm 3007.

Source. #7492, eff 5-18-01

#### **PART Env-Wm 3006 GRANT AWARDS**

Env-Wm 3006.01 Purpose. The rules in this part specify the criteria by which a grant shall be awarded to a municipality that has an approved grant application as specified in Env-Wm 3003 and 3004.

Source. #7492, eff 5-18-01

Env-Wm 3006.02 Grant Priorities. A grant shall be awarded in a manner consistent with the priorities established in RSA 149-M:47 and RSA 149-M:49.

Source. #7492, eff 5-18-01

Env-Wm 3006.03 Grant Funding. A grant shall be awarded based on funding pursuant to RSA 149-M:50.

Source. #7492, eff 5-18-01

#### **PART Env-Wm 3007 DISBURSEMENT OF GRANT AWARDS**

Env-Wm 3007.01 Purpose. The rules in this part specify how the department disburses grant monies to a municipality following the award of a grant.

Source. #7492, eff 5-18-01

Env-Wm 3007.02 Financed Eligible Costs. Subject to Env-Wm 3007.04, grant awards for eligible costs that the municipality has paid through financing shall:

- (a) Be paid by the department on a schedule that corresponds to the municipality's payback schedule;
- (b) Include 20% of the principal payment associated with the eligible costs; and
- (c) Include 20% of the debt service payment associated with the eligible costs.

Source. #7492, eff 5-18-01

Env-Wm 3007.03 Eligible Costs Paid With Cash. Subject to Env-Wm 3007.04 and Env-Wm 3008.03, grant awards for eligible costs that the municipality has paid with cash shall:

- (a) Be paid by the department as a single payment following grant approval; and
- (b) Not exceed 20% of the eligible costs.

Source. #7492, eff 5-18-01

Env-Wm 3007.04 Failure to Comply. Failure to comply with RSA 149-M:46 shall result in loss of grant payment.

#### **PART Env-Wm 3008 ADJUSTMENTS TO GRANT AWARDS**

Env-Wm 3008.01 Purpose. The rules in this part specify how the department adjusts the value of a municipality's grant award following the municipality's receipt or expenditure of funds for facility closure not previously identified in the grant application.

Source. #7492, eff 5-18-01

Env-Wm 3008.02 Adjustments Due to Receipt of New Third Party Funds.

(a) The department shall adjust future financed grant award payments to reflect the receipt of additional funds by a municipality from a third party relating to the closure project.

(b) For grant awards previously paid in a lump sum, or financed grant awards for which all amortized grant payments have been made, the municipality shall reimburse the state for the amount of excess grant money received as a result of receiving additional funds from a third party relating to the closure project.

Source. #7492, eff 5-18-01

Env-Wm 3008.03 Adjustments Due to New Expenditures.

(a) A municipality seeking to be reimbursed for the expenditure of funds for facility closure not previously disclosed in a grant application shall:

(1) File a landfill closure grant application for the additional landfill expenditures as specified in Env-Wm 3003; or

(2) File an incinerator closure grant application for the additional incinerator expenditures as specified in Env-Wm 3004.

(b) The application shall be processed in accordance with Env-Wm 3005 and Env-Wm 3006.

(c) The department shall adjust future financed grant award payments to reflect the expenditure of additional funds by a municipality for eligible costs relating to the closure project.

(d) The department shall adjust grant awards previously paid in a lump sum, or financed grant awards for which all amortized grant payments have been made, by reimbursing the municipality in a lump sum any shortage of grant award money due.

Source. #7492, eff 5-18-01

Env-Wm 3008.04 Notification of Receipt of Additional Funds.

(a) A municipality which received a grant award paid in a lump sum, or a grant award for which all amortized grant payments have been made, shall notify the department within 30 days following the receipt or expenditure of funds for facility closure not previously disclosed to the department.

(b) A municipality scheduled to receive future financed grant award payments shall disclose to the department within 30 days of a scheduled grant payment, whether the municipality has received or expended additional funds for facility closure not previously disclosed to the department.

Source. #7492, eff 5-18-01

## CHAPTER Env-Wm 3100 FINANCIAL ASSURANCE

Statutory Authority: RSA 149-M:7

### PART Env-Wm 3101 PURPOSE AND APPLICABILITY

Env-Wm 3101.01 Purpose. The purpose of the rules in this chapter is to identify requirements and procedures for providing and maintaining a financial assurance plan to guarantee the cost of closing a facility and, for a facility subject to 40 CFR 258.58, the cost of corrective action.

Source. #6619-B, eff 10-29-97

Env-Wm 3101.02 Applicability.

(a) The rules in this chapter shall apply as specified in Env-Wm 101.02(c) to all facilities, except as provided by (b) below.

(b) The rules in this chapter shall not apply to a:

- (1) Permit-exempt facility;
- (2) Permit-by-notification facility;
- (3) Facility for which the closure cost estimate, prepared in accordance with Env-Wm 3103.02, is \$3000 or less;
- (4) Emergency permit facility; and
- (5) Limited private non-landfill facility.

Source. #6619-B, eff 10-29-97

### PART Env-Wm 3102 DEFINITIONS

Env-Wm 3102.01 "Binding commitment" means a signed loan agreement between the permittee and the state of New Hampshire and approved by the governor and council.

Source. #6619-B, eff 10-29-97

Env-Wm 3102.02 "Debt service" means the amount of principal and interest due on a loan in the current year.

Source. #6619-B, eff 10-29-97

Env-Wm 3102.03 "Deficit" means a negative balance calculated by taking the beginning fund balance plus annual revenue minus total annual expenditures.

Source. #6619-B, eff 10-29-97

Env-Wm 3102.04 "Local government" means a legally-recognized political subdivision in the state of New Hampshire, including solid waste districts, whose revenue is generated by the same voters as are responsible for the closure of the regulated municipal solid waste landfill facility.

Source. #6619-B, eff 10-29-97

Env-Wm 3102.05 "Total revenues" means proceeds from all taxes and fees collected by the local government responsible for landfill closure, but does not include the proceeds from borrowing or asset sales or proceeds earned from funds managed by local government on behalf of a specific third party.

Source. #6619-B, eff 10-29-97

**PART Env-Wm 3103 FINANCIAL ASSURANCE REQUIREMENTS**

Env-Wm 3103.01 Financial Assurance Plan.

(a) A permittee shall establish, implement and maintain an approved financial assurance plan to guarantee the cost of facility closure.

(b) A financial assurance plan shall include:

- (1) A closure cost estimate prepared in accordance with Env-Wm 3103.02;
- (2) Provisions for guaranteeing the cost of facility closure based on one or any combination of the options specified in Env-Wm 3103.03 through Env-Wm 3103.06;
- (3) For the options specified in Env-Wm 3103.03, the identity of the financial institution providing the guarantee; and
- (4) For a local government proposing to use the state approved financial test to assure its obligations, as provided in Env-Wm 3103.03:

a. A letter signed by the local government's chief financial officer which:

1. Identifies all current cost estimates covered by a financial test, as described in Env-Wm 3103.05; and
2. Provides evidence of and certifies that the local government meets the conditions of Env-Wm 3103.05 (a) through (h);

b. The local government's year-end financial statements for the latest fiscal year, audited by an independent, certified public accountant (CPA) who conducts comprehensive audits, with:

1. The unqualified opinion of the auditor; or
2. The qualified opinion of and a written explanation by the auditor as to why the qualification should be deemed insufficient to warrant disallowance of the financial test;

c. A report to the local government by the local government's independent CPA, as follows:

1. The report shall be based on performing a review of the financial ratios required by Env-Wm 3103.05(a)(3), if applicable, and the requirements of Env-Wm 3103.05(b) and Env-Wm 3103.05(c)(3) and (4);
2. The report shall state the procedures performed and the CPA's findings; and

d. A copy of the comprehensive annual financial report (CAFR) used to comply with Env-Wm 3103.05 (d) or certification that the requirements of General Accounting Standards Board Statement 18, No. 101-A, published August, 1993 have been met.

(c) A proposed financial assurance plan shall be:

- (1) Submitted by the permittee in accordance with Env-Wm 303; and
- (2) Reviewed and approved by the department pursuant to Env-Wm 3104.

Source. #6619-B, eff 10-29-97

Env-Wm 3103.02 Closure Cost Estimation.

(a) The dollar amount guaranteed by a financial assurance plan shall be no less than the estimated total closure costs determined pursuant to (b) through (g) below.

(b) The closure cost estimate shall be figured based on representative current market rates for having a third party perform all required closure and post-closure activities at the point in the facility's active life when the extent and manner of facility operations in compliance with permit conditions and applicable laws and rules makes closure the most expensive, as indicated by the approved facility closure plan.

(c) For a landfill constructed in phases, the permittee may figure closure costs in accordance with (b) above based on the constructed area of the facility only, instead of the entire permitted footprint.

(d) Any facility subject to the corrective action requirements specified in 40 CFR 258.58, shall comply with the financial assurance requirements specified in 40 CFR Subpart G.

(e) The cost of removing and disposing of all wastes not permitted to remain at the facility following closure shall be included in the closure cost estimate, excluding actively managed select processed recyclable materials.

(f) Salvage value from the sale of facility structures, equipment or other assets associated with the facility and profits from the sale of recyclable materials shall not be treated as a credit to reduce total closure costs.

(g) The closure cost estimate shall:

(1) Be itemized and documented to show the unit cost and quantity of each item, service, and activity required to close the facility in accordance with the solid waste rules and the approved facility closure plan.

(2) Include a line item for contingencies equaling no less than 10% of the total itemized costs; and

(3) For landfills, include the following costs if final design plans and specifications for landfill closure are not yet approved, include a line item for:

a. The cost of preparing final design plans and specifications for closure; and

b. The cost of the fee specified in Env-Wm 310.08(b) for filing an application for a type II permit modification to obtain final design plan approval for construction of all required landfill closure systems; and

(4) For landfills, be certified by a qualified professional engineer.

Source. #6619-B, eff 10-29-97

Env-Wm 3103.03 Financial Assurance Mechanisms, All Facilities.

(a) Financial assurance shall be provided in one, or any combination, of the following forms:

(1) An irrevocable letter of credit issued for a period of at least one year from an institution whose operations are regulated and examined by a federal or New Hampshire state agency;

(2) An insurance policy, except that insurance issued by an affiliated captive insurance company shall not be acceptable;

(3) A surety bond, issued by a surety company listed as an acceptable surety on federal bonds in Circular 570 of the U.S. Department of the Treasury;

(4) A trust fund established in accordance with the laws of the state of New Hampshire;



(5) For a landfill, a binding commitment between the permittee and the state of New Hampshire for a state revolving fund loan designated for closure of the landfill; or

(6) Another mechanism that meets the criteria provided in 40 CFR 258.74(i).

(b) If using a surety bond, insurance policy or letter of credit, the permittee shall also establish a standby trust to receive the proceeds of the surety bond, insurance policy or letter of credit.

(c) Each financial assurance instrument specified in (a) and (b) above, except (a)(5), shall specifically identify the state of New Hampshire as the beneficiary.

(d) Funds held in trust accounts may be invested, but shall provide for the preservation of principal.

(e) Financial assurance documents, including a standby trust, shall be in a form comparable to the text specified by 40 CFR 264, with the following revisions:

(1) The phrase "hazardous waste" shall be replaced with the phrase "solid waste";

(2) The phrase "EPA administrator" shall be replaced with the phrase "department on behalf of the state of New Hampshire";

(3) All cites to "40 CFR" shall be replaced with "RSA 149-M and the solid waste rules"; and

(4) The term "RCRA C" shall be omitted.

(f) Letters of credit shall include a provision to automatically extend the expiration date by at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies the permittee and the department by certified mail, return receipt requested, of a decision to not extend the expiration date.

(g) Insurance policies and surety bonds shall include a provision to prohibit any cancellation without prior notice of cancellation being sent to the permittee and the department by certified mail, return receipt requested, at least 120 days before the effective date of cancellation.

Source. #6619-B, eff 10-29-97

Env-Wm 3103.04 Financial Assurance Mechanisms, Public Facilities.

(a) A public facility not subject to 40 CFR 258 shall provide proof of financial assurance:

(1) In accordance with Env-Wm 3103.03; or

(2) Through an alternative comprehensive plan which guarantees that all funds for the estimated facility closure costs shall be readily available for closure activities.

(b) A public facility subject to 40 CFR 258 shall provide proof of financial assurance using:

(1) The mechanisms identified in Env-Wm 3103.03;

(2) The local government financial test specified in Env-Wm 3103.05, if qualified pursuant to (c) below; or

(3) The local government guarantee specified in Env-Wm 3103.06 if qualified pursuant to (c) below.

(c) A public facility shall be qualified to use a financial assurance mechanism specified in Env-Wm 3103.05 and Env-Wm 3103.06 if the facility is:

(1) Qualified for the state 20% landfill closure grant program as determined in accordance with Env-Wm 3000; and

(2) Subject to a closure schedule approved by the department reflecting completion of closure construction by December 31, 2003.

Source. #6619-B, eff 10-29-97

Env-Wm 3103.05 Local Government Financial Test.

(a) A local government proposing to assure its obligations under the state approved local government financial test shall meet the following requirements as applicable:

(1) If the local government has outstanding, rated, general obligation bonds not secured by insurance, a letter of credit, or other collateral or guarantee, all such general obligation bonds shall have a current rating of Aaa, Aa, A, or Baa, as issued by Moody's, or AAA, AA, A, or BBB, as issued by Standard and Poor's; or

(2) The local government shall be included in an outstanding bond issue through the New Hampshire municipal bond bank and shall not be in default; or

(3) The local government shall satisfy each of the following financial ratios based on the local government's most recent audited annual financial statement:

a. The ratio of cash plus marketable securities to total expenditures shall be greater than or equal to 0.05, using available cash and marketable securities held by the local government on the last day of the fiscal year, excluding cash and marketable securities designated to satisfy past obligations or special purposes other than landfill closure such as pensions and capital reserve funds not held for landfill closure purposes; and

b. The ratio of annual debt service to total expenditures shall be less than or equal to 0.20, where total expenditures shall exclude capital outlays, debt repayment, capital reserve funds not expended for landfill closure purposes, trust funds, and pension funds.

(b) The local government proposing to assure its obligations under the state approved local government financial assurance test shall:

(1) Prepare its financial statements in conformity with Generally Accepted Accounting Principles for Governments; and

(2) Have its financial statements audited by an independent certified public accountant.

(c) A local government shall not be eligible to assure its obligations under the state approved local government financial test if it:

(1) Is currently in default on any outstanding general obligation bonds or outstanding bonds with the New Hampshire municipal bond bank; or

(2) Has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard and Poor's; or

(3) Operated at a deficit equal to 5% or more of total annual revenue in each of the past 2 fiscal years; or

(4) Receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant auditing its financial statement and negatively impacting the current financial position of the local government.

(d) A local government shall disclose in each comprehensive annual financial report (CAFR) all closure and post-closure care costs and corrective action costs, if any, which the local government has assured through the financial test provisions in 40 CFR 258.50.

(e) Disclosure pursuant to (d) above shall include:

- (1) The nature and source of the closure and post-closure care requirements;
- (2) The reported liability at the balance sheet date;
- (3) The estimated total closure and post-closure care cost remaining to be recognized;
- (4) The percentage of landfill capacity used to date; and
- (5) The estimated landfill life in years.

(f) Conformance with Government Accounting Standards Board Statement 18, No. 101-A, published August, 1993 shall be deemed in compliance with (d) above.

(g) Subject to (h) below, a local government may use the state approved local financial assurance test to assure closure, post-closure, and corrective action costs that equal up to 43% of the local government's total annual revenue.

(h) If the local government assures other environmental obligations through a financial test, including those associated with underground injection control wells (UIC) facilities under 40 CFR 144.62, petroleum underground storage tank facilities under 40 CFR 280, PCB storage facilities under 40 CFR 761, and hazardous waste treatment, storage, and disposal facilities under 40 CFR 264 and 265, it shall:

- (1) Add those costs to the closure, post-closure, and corrective action costs it seeks to assure through use of the state approved local financial test; and
- (2) Assure that the total shall not exceed 43% of the local government's total annual revenue.

(i) A local government shall obtain an alternate financial assurance instrument as specified in Env-Wm 3103.03 or Env-Wm 3103.06 for those costs that exceed the limits set in (g) and (h) above.

Source. #6619-B, eff 10-29-97

Env-Wm 3103.06 Local Government Guarantee.

(a) For a facility meeting the requirements of Env-Wm 3103.04(c), a local government may assure its obligations by obtaining a written guarantee provided by a guarantor pursuant to (b) below.

(b) The guarantor shall be a political subdivision in New Hampshire and comply with the terms of the written guarantee.

(c) The guarantee shall:

- (1) Provide that if the permittee fails to perform closure, post-closure care, and/or corrective action for a facility covered by the guarantee, the guarantor shall:
  - a. Perform, or pay a third party to perform, closure, post-closure care, and/or corrective action as required; or
  - b. Establish a fully-funded trust fund as specified in 40 CFR 258.74(a) identifying the state of New Hampshire as the intended beneficiary and established in accordance with the laws of the state of New Hampshire;

(2) Include provisions specifying that the guarantee shall remain in force until the earlier of the following dates:

- a. 120 days following the receipt date of a written notice of cancellation sent by certified mail, return receipt requested to the local government and to the department; or
- b. The date the local government implements an approved financial assurance replacement pursuant to Env-Wm 3105.03; and

(3) Include a provision specifying that if the guarantor ceases to meet the requirements in Env-Wm 3103.05, the guarantor shall provide alternate assurance for the duration of the agreement.

Source. #6619-B, eff 10-29-97

#### **PART Env-Wm 3104 REVIEW AND APPROVAL**

Env-Wm 3104.01 Review. The department shall review a proposal for financial assurance as part of the permit application or closure plan review process, as applicable.

Source. #6619-B, eff 10-29-97

Env-Wm 3104.02 Approval. A proposal for financial assurance shall not be approved if the department determines that the proposal does not:

- (a) Meet the requirements for financial assurance specified in this part; or
- (b) Satisfy the requirements of RSA 149-M:9,X.

Source. #6619-B, eff 10-29-97

#### **PART Env-Wm 3105 ADJUSTMENTS AND CHANGES**

Env-Wm 3105.01 Modifications.

(a) Any proposal to change an approved financial assurance plan shall be submitted to the department as an application for a type II permit modification pursuant to the provisions of Env-Wm 315.

(b) Applications to modify an approved financial assurance plan shall include all of the information required by Env-Wm 3104.01.

Source. #6619-B, eff 10-29-97

Env-Wm 3105.02 Annual Updates.

(a) A permittee shall submit an annual update of the facility's closure cost estimate to the department no later than the anniversary of the permit issue date or an alternative date agreed upon by the department and the permittee in writing.

(b) The financial assurance mechanism shall be updated in an amount consistent with the most current closure cost estimate.

(c) A local government using either of the mechanisms in Env-Wm 3103.05 or Env-Wm 3103.06 shall submit documentation required in Env-Wm 3103.01(b)(4) annually within 180 days following the close of the local government's fiscal year.

Source. #6619-B, eff 10-29-97

Env-Wm 3105.03 Replacement.

(a) A permittee shall submit a revised financial assurance plan for approval pursuant to Env-Wm 3105.01 within 30 days of learning that any portion of its financial assurance shall be canceled or not renewed by the issuer.

(b) The permittee shall demonstrate that it has obtained replacement financial assurance promptly upon receiving the department's approval of a revised plan, but no later than 30 days before the cancellation or expiration date of the existing financial assurance.

(c) A local government using the state approved local government financial test to assure its obligations shall satisfy the requirements of the financial test at the close of each fiscal year. If the local government no longer meets the requirements of the local government financial test it shall, within 210 days following the close of the local government's fiscal year, obtain alternative financial assurance as specified in Env-Wm 3103.03.

Source. #6619-B, eff 10-29-97

## CHAPTER Env-Wm 3200 CERTIFICATION OF WASTE-DERIVED PRODUCTS

Statutory Authority: RSA 149-M:7,VII

### PART Env-Wm 3201 PURPOSE AND APPLICABILITY

Env-Wm 3201.01 Purpose. The purpose of the rules in this chapter is to establish criteria and procedures by which waste-derived products, as defined by Env-Wm 102, shall be certified for distribution and use.

Source. #6619-B, eff 10-29-97

Env-Wm 3201.02 Applicability.

(a) The rules in this chapter shall apply to persons distributing or using a waste-derived product in New Hampshire, except wood ash as specified by (b) below.

(b) The rules in this chapter shall not apply to persons who distribute or use wood ash for agricultural land application in compliance with Env-Wm 3400.

Source. #6619-B, eff 10-29-97

### PART Env-Wm 3202 CERTIFICATION REQUIREMENTS

Env-Wm 3202.01 Certification Required.

(a) Except as specified by (b) below, no person shall distribute or use a waste-derived product within New Hampshire unless the product is:

- (1) Certified for distribution and use in accordance with this chapter; and
- (2) Used in accordance with the provisions of the certification.

(b) A person distributing and using wood ash for agricultural land application shall comply with the requirements of Env-Wm 3400 instead of the requirements of (a) above.

Source. #6619-B, eff 10-29-97

Env-Wm 3202.02 Status of Certified Waste-Derived Products.

(a) A waste-derived product certified for distribution and use pursuant to this chapter, which is actively managed and used in accordance with the applicable provisions of the certification, shall be deemed not a solid waste and therefore not subject to regulation by the solid waste rules.

(b) Certification granted pursuant to this chapter shall not constitute an endorsement by the department of the waste-derived product.

(c) Certification shall not mean that a product is benign to the environment, public health and safety or that the product will perform according to consumer expectations or manufacturer or distributor representations.

(d) Certification shall not constitute authorization for a facility producing a waste-derived product to be exempt from the solid waste rules. It is the waste-derived product, not the waste used to manufacture the product, which is certified and thereby deemed not a solid waste.

(e) Certification shall not affect any person's obligation to obtain all requisite federal, state or local permits, licenses or approvals to comply with all other applicable federal, state, district or local permits, ordinances, laws or approvals or conditions pertaining to distribution, use and disposal of a certified waste-derived product.

(f) Certification shall not exempt any person from the provisions of RSA 149-M and the solid waste rules when the certified waste-derived product resumes the status of a solid waste, including when it ceases to be actively managed or is otherwise abandoned and/or discarded.

Source. #6619-B, eff 10-29-97

Env-Wm 3202.03 General Provisions for Obtaining Certification.

(a) Waste-derived products shall be certified for distribution and use pursuant to one of the following provisions:

(1) Certain waste-derived products and groups of waste-derived products sharing common characteristics shall be automatically certified by rule, as provided in Env-Wm 3203; and

(2) Waste-derived products not certified by rule pursuant to Env-Wm 3203 shall become certified if, based on an application filed pursuant to Env-Wm 3205, the department determines that the waste-derived product meets the criteria for certification specified in Env-Wm 3204.

(b) Pursuant to Env-Wm 3208, the department shall compile, maintain and distribute a list of all certified waste-derived products including:

(1) Those certified by rule pursuant to Env-Wm 3203; and

(2) Those certified by application pursuant to Env-Wm 3205.

(c) For a non-proprietary waste-derived product not certified and listed pursuant to Env-Wm 3208, any person may seek to have the product certified by filing an application for certification pursuant to Env-Wm 3205.

(d) For a proprietary waste-derived product not certified and listed pursuant to Env-Wm 3208, only the person having proprietary control of the product may file an application for certification pursuant to Env-Wm 3205.

Source. #6619-B, eff 10-29-97

Env-Wm 3202.04 General Requirements and Limitations. Certification of a waste-derived product, whether provided by rule pursuant to Env-Wm 3203 or pursuant to the application provisions of Env-Wm 3205, shall be subject to each of the following general requirements and limitations:

(a) A certified waste-derived product shall not contain:

(1) A hazardous waste;

(2) A hazardous air pollutant including asbestos waste;

(3) Any waste identified in Env-Wm 2600 as non-reusable, including asbestos waste and infectious waste; or

(4) Any other waste requiring treatment and disposal to protect human health and the environment from exposure hazards documented in nationally recognized scientific and public health studies and publications;

(b) A certified waste-derived product, if produced from a waste identified in Env-Wm 2600, shall be subject to the reuse requirements and limitations specified in Env-Wm 2600;

(c) The certified waste-derived product shall not be distributed or used except in compliance with all applicable state and federal laws;

(d) Distributors and users of certified waste-derived products shall manage the products in conformance with the universal environmental performance standards in Env-Wm 2702;

(e) When specified by the solid waste rules as a condition of the certification or when required to comply with state or federal marketing or consumer protection laws, distributors of certified waste-derived products shall disclose the following information to consumers:

- (1) The content and nature of the waste-derived product contained in the product;
- (2) The proper uses of the materials and any restrictions related thereto;
- (3) Any hazards that might result from use of the waste-derived product as directed;
- (4) Proper disposal methods; and
- (5) Other such information as may be required by applicable state or federal marketing or consumer protection laws; and

(f) Certification granted pursuant to Env-Wm 3205 shall be subject to revocation and suspension pursuant to Env-Wm 3209.

Source. #6619-B, eff 10-29-97

## **PART Env-Wm 3203 WASTE-DERIVED PRODUCTS CERTIFIED BY RULE**

### **Env-Wm 3203.01 Purpose.**

(a) The purpose of the rules in this part is to identify waste-derived products which are deemed certified by rule for distribution and use.

(b) The rules in this part are intended to certify by rule all waste-derived products which are common to the market place and pose no greater risk to the environment, public health and safety than exists by distributing and using comparable products which are not waste-derived.

(c) The waste-derived products identified in Env-Wm 3203.04 through Env-Wm 3203.14 are not necessarily mutually exclusive. Due to the diversity of waste-derived products, it is plausible for a given product to be certified for distribution and use under more than one section of this part.

Source. #6619-B, eff 10-29-97

Env-Wm 3203.02 Applicability. The rules in this part shall apply to all persons distributing or using in New Hampshire any of the waste-derived products identified herein as certified by rule for distribution and use.

Source. #6619-B, eff 10-29-97

Env-Wm 3203.03 General Provisions. The waste-derived products identified in Env-Wm 3203.04 through Env-Wm 3203.16 shall be deemed certified for distribution and use, subject to the requirements and limitations specified in Env-Wm 3202.04.

Source. #6619-B, eff 10-29-97

### **Env-Wm 3203.04 Salvaged Materials and Items.**

(a) Salvaged materials and items shall be deemed certified for distribution and use for their original intended purpose provided that when so used, the materials and items shall not pose a greater risk to the environment, public health or safety than when first marketed and used.

(b) Salvaged materials and items specified by (a) above shall include:



- (1) Used equipment which is cleaned, repaired and reconditioned for continued use in a manner consistent with the purpose of the equipment when originally marketed, such as used lawnmowers, tools and furniture;
- (2) Used brick reused as brick;
- (3) Auto parts removed from a vehicle, repaired and/or reconditioned to a serviceable condition, and reused on another vehicle for their originally prescribed purpose;
- (4) Non-hazardous latex paint used as paint;
- (5) Scrap fabric reused as fabric; and
- (6) Scrap lumber reused as lumber.

Source. #6619-B, eff 10-29-97

Env-Wm 3203.05 Cloned Products.

(a) A waste-derived product serving the same purpose and of the same material composition as the discarded product from which it is derived, hereafter referred to as a cloned product, shall be deemed certified for distribution and use for said purpose, provided that the cloned product, when used for its intended purpose, shall not pose a greater risk to the environment, public health or safety than the product from which it is cloned.

(b) Cloned products as specified in (a) above shall include:

- (1) A paper product made from a comparable discarded paper product;
- (2) Glass products made from a comparable discarded glass product;
- (3) A plastic product made from a comparable discarded plastic product;
- (4) A metal product made from a comparable discarded metal product;
- (5) A textile product made from a comparable discarded textile product;
- (6) A wood product made from a comparable discarded wood product;
- (7) An asphalt product made from a comparable discarded asphalt product; and
- (8) A gypsum product made from a comparable discarded gypsum product.

Source. #6619-B, eff 10-29-97

Env-Wm 3203.06 Products from Select Processed Recyclables.

(a) A product which is made by substituting a select processed recyclable material, as defined by Env-Wm 102, for a raw material and which is comparable in form and function, although not necessarily material composition, to an existing non-waste-derived product, shall be deemed certified for distribution and use for the same purpose as the comparable non-waste-derived product, provided that:

- (1) The waste-derived product shall not be used to fill land or water bodies or to amend or mix with soils for agricultural or other purposes, unless the product is also certified for such purpose pursuant to Env-Wm 3203.07; and
- (2) The waste-derived product shall perform as effectively or more effectively than the comparable existing non-waste-derived product(s).

(b) The waste-derived products specified by (a) above shall include:

- (1) Synthetic fabrics made from used plastic soda bottles and other discarded plastic materials, comparable in form, function and performance to non-waste derived fabrics;
- (2) Reflectorized paint produced using glass beads made from discarded glass containers, comparable in form, function and performance to reflectorized paint produced using glass beads from virgin materials; and
- (3) Any product into which a select processed recyclable material is incorporated and which, by form, function and performance, is indistinguishable from a non-waste-derived product in the market place except by knowing through labeling or other external information that the product contains a recyclable material.

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 3203.07 Products Meeting Published State or National Standards.

(a) A waste-derived product which meets a published standard shall be deemed certified for distribution and use for the purpose prescribed in the published standard, provided that:

- (1) The standard shall be published by an agency or organization having no direct sales interest in the product, as identified in (b) below;
- (2) Production, distribution and use of the waste-derived product for the intended purpose shall not:
  - a. Cause a violation of the universal environmental performance standards specified in Env-Wm 2702; nor
  - b. Pose a greater risk to the environment, public health and safety than is posed by a comparable existing non-waste-derived alternative product or, if no such comparable product exists, by disposing of the waste of origin in accordance with the solid waste rules.

(b) The published standards referenced in (a) above shall include standards published by:

- (1) The American Society for Testing Materials (ASTM); and
- (2) New Hampshire and federal agencies which establish standards for the procurement and/or distribution of goods for public use and/or consumption, including departments overseeing transportation, environmental protection, health and welfare, agriculture, education and defense.

(c) The subject waste-derived products shall include:

- (1) Coal-fired electric power plant fly ash used as a lightweight aggregate in concrete masonry units meeting the standard published in ASTM C-331-89; and
- (2) Processed glass aggregate for roadway construction meeting a published state or federal highway construction standard.

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 3203.08 Waste Paper for Bulking. Shredded waste paper and cardboard shall be deemed certified for distribution and use as a bulking agent for composting, including septage or sludge composting and as a bulking agent for landfilling, including septage or sludge landfilling.

Source. #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98

Env-Wm 3203.09 Derivatives of Discarded Wood. Chips, shavings, and sawdust from virgin wood or from pallets or crates meeting the criteria for permit exemption in Env-Wm 302.03(b)(11), shall be deemed certified for distribution and use as:

- (a) Fuel;
- (b) Mulch;
- (c) Animal bedding; and
- (d) A bulking agent for composting or landfilling, including septage or sludge composting or landfilling, provided that at least 80 percent of the wood material is 3/4 inch, or less, in size.

Source. #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98

Env-Wm 3203.10 Waste-derived Compost. Compost derived from waste shall be deemed certified by rule for distribution and use as follows:

- (a) If Class AA compost, for use as compost without restriction;
- (b) If Class A compost, for use as compost within the limits identified in Env-Wm 2305.07 and subject to identification in accordance with Env-Wm 2305.09;
- (c) If Class A compost except for particle size being greater than 10 millimeters (0.39 inches), for use in landfill cover systems pursuant to Env-Wm 2305.08.

Source. #6619-B, eff 10-29-97

Env-Wm 3203.11 Soils Decontaminated by Treatment Processes. Clean soil derived from contaminated soil, by having fully treated the soil at an authorized facility to meet the standards specified in Env-Wm 2603, shall be deemed certified for distribution and use as soil, excluding uses:

- (a) In residential applications;
- (b) In playground applications;
- (c) Within the 100-year flood plain or a wetland;
- (d) On or in lands used for the production of crops for direct human consumption;
- (e) Within a recharge area of any sole source drinking water supply; or
- (f) Within 100 feet of any surface water.

Source. #6619-B, eff 10-29-97

Env-Wm 3203.12 Wood Ash as a Bulking Agent or Odor Control Agent. Wood ash that is certified for land application pursuant to Env-Wm 3400 shall be deemed certified for distribution and use as:

- (1) An approved bulking agent for composting, including sludge composting; and
- (2) An odor control agent for septage and sludge management.

Source. #6619-B, eff 10-29-97; ss by #7225, eff 3-31-00

Env-Wm 3203.13 Manufactured Topsoil. Topsoil which is manufactured using wood ash shall be deemed certified for distribution and use as topsoil provided that:

- (a) The wood ash is certified for land application pursuant to Env-Wm 3400; and

(b) The other topsoil ingredients shall be limited to one or more of the following:

- (1) Sludge, if in compliance with Env-Ws 800;
- (2) Yard waste; and/or
- (3) Uncontaminated soil, not including soil certified pursuant to Env-Wm 3203.11.

Source. #6619-B, eff 10-29-97

Env-Wm 3203.14 Coal Ash. Boiler slag from the combustion of coal shall be deemed certified for distribution and use as a raw material for industrial and commercial purposes.

Source. #6619-B, eff 10-29-97

Env-Wm 3203.15 Methane Fuel. Methane fuel derived from the decomposition of waste at an authorized facility shall be deemed certified for distribution and use as fuel, provided that it meets market fuel standards.

Source. #6619-B, eff 10-29-97

Env-Wm 3203.16 Energy. Energy derived from the combustion of solid waste at authorized facilities shall be deemed certified for distribution and use as power.

Source. #6619-B, eff 10-29-97

Env-Wm 3203.17 Cement Kiln Dust. Cement kiln dust shall be deemed certified for distribution and use as an odor control agent for sludge and septage, as provided in Env-Ws 800 and Env-Wm 1600.

Source. #7225, eff 3-31-00

#### **PART Env-Wm 3204 CRITERIA FOR CERTIFICATION**

Env-Wm 3204.01 Purpose. The purpose of the rules in this part is to establish the criteria for certifying a waste-derived product for distribution and use pursuant to an application filed in accordance with Env-Wm 3205.

Source. #6619-B, eff 10-29-97

Env-Wm 3204.02 Applicability. The criteria in this part shall apply to having a waste-derived product certified for distribution and use pursuant to the application provisions in Env-Wm 3205.

Source. #6619-B, eff 10-29-97

Env-Wm 3204.03 Certification Criteria. Applicants seeking to have a waste-derived product certified for distribution and use shall demonstrate in the application filed pursuant to Env-Wm 3205 that the overall benefit(s) derived for society from production and use of the product shall exceed the benefit(s) of not producing and using the product, based on the criteria specified in Env-Wm 3204.04 through Env-Wm 3204.06.

Source. #6619-B, eff 10-29-97

Env-Wm 3204.04 Need. The applicant shall demonstrate a need for the waste-derived product based on the following criteria:

(a) The waste-derived product shall either:

- (1) Be comparable in form and function to an existing product in the market place which is not derived from waste, and shall perform as effectively or more effectively than the existing product; or
- (2) Satisfy an identifiable and unfulfilled need in society without violating the universal environmental performance standards in Env-Wm 2702.

(b) There shall be an identifiable user or buyer for the waste-derived product; and

(c) Waste derived products used for agronomic purposes shall provide an identifiable benefit(s) to the sites to which it is land applied.

Source. #6619-B, eff 10-29-97

Env-Wm 3204.05 Product Quality and Quality Control. The applicant shall demonstrate that the production process meets the following requirements:

(a) Production of the waste-derived product shall neither:

(1) Cause a violation of any requirement in Env-Wm 2700; nor

(2) Pose a greater risk to the environment, public health and safety than does the production of an existing comparable non-waste-derived product or, if no comparable non-waste-derived product exists, by directly disposing of the waste in accordance with the solid waste rules;

(b) The physical and analytical characteristics of the waste used to produce the product shall be defined in a written specification;

(c) The physical and analytical characteristics of the waste-derived product shall be defined in a written specification; and

(d) The production process shall include quality assurance/ quality control procedures to assure the defined specifications shall be met through the production process.

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 3204.06 Impact on Society. The applicant shall demonstrate that use of the waste-derived product in society shall have a minimal net impact based on the following requirements:

(a) Use of the waste-derived product as intended shall neither:

(1) Cause a violation of any requirement in Env-Wm 2700; nor

(2) Pose a greater risk to the environment, public health and safety than does the use of an existing comparable non-waste-derived product or, if no comparable non-waste-derived product exists, by disposing of the waste in accordance with the solid waste rules; and

(b) Disposal of the waste-derived product shall not pose a greater risk to the environment, public health and safety than would be posed by directly disposing of the waste from which the product is produced.

Source. #6619-B, eff 10-29-97

## **PART Env-Wm 3205 APPLICATION REQUIREMENTS**

Env-Wm 3205.01 Applicability.

(a) Except as specified by (b) and (c) below, the rules in this part shall apply to any person seeking to have a waste-derived product certified for distribution and use.

(b) The rules in this part shall not apply to waste-derived products already certified for distribution and use, as listed by the department pursuant to Env-Wm 3209.

(c) For a proprietary waste-derived product, the rules in this part shall apply only to the person having proprietary control of the product.

Source. #6619-B, eff 10-29-97

Env-Wm 3205.02 Application Content and Format. An application to certify a waste-derived product for distribution and use shall include the information specified in Env-Wm 3205.03 through Env-Wm 3205.09, compiled in the order shown.

Source. #6619-B, eff 10-29-97

Env-Wm 3205.03 Applicant Identification. The applicant shall provide the following information to identify the applicant:

- (a) If an individual, name, mailing address and telephone number; or
- (b) If other than an individual:
  - (1) The information specified in RSA 149-M:10,I(b); and
  - (2) The name, title, mailing address and telephone number of the individual designated by the applicant to be the contact individual for matters concerning the application;
- (c) A statement identifying the applicant's interest in having the waste-derived product certified, including any of the following as applicable:
  - (1) The applicant produces or intends to produce the waste-derived product;
  - (2) The applicant distributes or intends to distribute the waste-derived product to users or other distributors;
  - (3) The applicant generates or intends to generate the waste used to produce the waste-derived product;
  - (4) The applicant collects or intends to collect from generators or others, the waste used to produce the waste-derived product; and/or
  - (5) The applicant uses or intends to use the waste-derived product.

Source. #6619-B, eff 10-29-97

Env-Wm 3205.04 Product Identification and General Description. The applicant shall provide the following information to identify and describe in general terms the subject waste-derived product:

- (a) Product name, including:
  - (1) A common name which denotes the general purpose of the product, such as "aggregate," "driveway sealer," "glue," or "absorbent"; and
  - (2) A trade name, if applicable;
- (b) General product description, including:
  - (1) Purpose(s) for which the product will be used; and
  - (2) Physical appearance of the product, distinguishing characteristics, and waste and other material content;
- (c) Identification of a comparable existing non-waste-derived product(s), if any, by common name and trade name if applicable;

(d) A statement identifying the reason(s) why the applicant believes the waste-derived product is not yet certified for distribution and use, including a brief description of the product characteristic(s) or other factors used by the applicant to rule out a determination that the product is already certified by either of the following 2 mechanisms:

(1) By rule pursuant to Env-Wm 3203; and

(2) By department approval of a previously filed application, as determined by the certified waste-derived product listing compiled, maintained and distributed by the department pursuant to Env-Wm 3208.

Source. #6619-B, eff 10-29-97

Env-Wm 3205.05 Manufacturer Identification. The applicant shall provide the following information to identify the manufacturer(s) of the waste-derived product:

(a) A statement identifying whether the waste-derived product is a proprietary product;

(b) If the waste-derived product is proprietary, identification of the person(s) having proprietary control of the product, including:

(1) For an individual, the individual's name, date of birth, mailing address and telephone number; and

(2) For other than an individual:

a. The information specified in RSA 149-M:10,I(b); and

b. The name, title, mailing address and telephone number of the person designated by the applicant to be the contact person for matters concerning the application; and

(c) If the waste-derived product is non-proprietary, the name(s) and location(s) of all existing manufacturers and potential manufacturers known to the applicant, including the applicant if applicable.

Source. #6619-B, eff 10-29-97

Env-Wm 3205.06 Production. The applicant shall provide the following information to describe the production process:

(a) Identification and characterization of the waste(s) used to produce the waste-derived product, including:

(1) A brief description of its physical appearance and physical state, including whether the waste is a solid, liquid or gas;

(2) A description of other distinguishing characteristics, including characteristics which have the potential to create a nuisance and/or adversely effect the environment, public health and safety, such as odor, dust, fire, explosion, respiratory hazards including the potential for dust or fumes, and dermal contact hazards for instance chemical burns to skin;

(3) Documentation and materials detailing the general quality of the waste including:

a. Physical, chemical and, where appropriate, biological characteristics of the waste based on current and representative sampling or equivalent documentation and including analytical test results for those constituents that are reasonably thought to be present in the waste and which are known or suspected, by way of published scientific documentation, to pose a potential risk to human health or the environment;

- b. Material safety data sheets for the waste and constituents of the waste, if published pursuant to OSHA regulations; and
    - c. Samples of the waste, if requested by the department to either enhance the department's understanding of the appearance and characteristics of the waste, and/or to verify the applicant's analytical test results in instances where the waste has the potential to contain constituents harmful to human health or the environment;
  - (4) Source(s) of the waste, including:
    - a. A description of the process by which the waste is generated; and
    - b. Identification of all generators known to the applicant, including name(s) and location(s); and
  - (5) Estimated quantity of waste generated annually in New Hampshire; and
- (b) A detailed description of the process by which the waste-derived product is or will be produced, including:
- (1) Product specifications, establishing:
    - a. Material and waste content;
    - b. Acceptance limits for material and waste constituents, using physical, chemical and biological parameters as appropriate to the type(s) of material(s) and type(s) of waste being used to produce the waste-derived product; and
    - c. Other factors, as necessary to identify the minimum standards the waste-derived product shall meet prior to being released by the manufacturer for distribution and use;
  - (2) Narrative description of the process, from beginning to end, including a description of:
    - a. Any processing or treatment applied to the waste prior to producing the waste-derived product;
    - b. Industrial or manufacturing practices and/or technologies used to produce the waste-derived product; and
    - c. Residual and bypass waste management practices;
  - (3) Process flow diagrams and/or schematic diagrams as appropriate, depicting the process described pursuant to (2) above; and
  - (4) Product quality assurance/quality control procedures used to affirm the waste-derived product meets the standards specified pursuant to (1) above.

Source. #6619-B, eff 10-29-97

Env-Wm 3205.07 Use, Distribution and Markets. The applicant shall provide the following information to describe how the waste-derived product will be distributed and used and to identify markets:

- (a) Description of all intended uses of the product;
- (b) Potential hazards to the environment, public health and safety resultant from product use as intended;
- (c) Description of specific product use and disposal restrictions essential to assuring no increased risk to the environment, public health and safety resultant from use and disposal of the product;



(d) A demonstration of the existence or reasonable expectation of the existence of a market for the waste-derived product, based on the following:

- (1) A comparison of the characteristics and specifications of the waste-derived product or material and the required market characteristics and specifications of the product or material;
- (2) The benefit that will be achieved by use of the waste-derived product;
- (3) Information to document existing use of the same or similar waste-derived product and/or a contract to purchase the waste-derived product;

(e) Estimated market value of the waste-derived product, in dollars; and

(f) Description of how the waste-derived product will be distributed for use.

Source. #6619-B, eff 10-29-97

Env-Wm 3205.08 Demonstration of Criteria. Using the information provided pursuant to Env-Wm 3205.03 through Env-Wm 3205.07, the applicant shall provide a written assessment demonstrating how each of the criteria for certification in Env-Wm 3204.04 through Env-Wm 3204.06 shall be met by the production, distribution and use of the waste-derived product.

Source. #6619-B, eff 10-29-97

Env-Wm 3205.09 Signature and Certification of Application Information.

(a) Each application shall be signed by the applicant.

(b) If the applicant is other than an individual, the application shall be signed by the person(s) so authorized by the applicant.

(c) The signature shall constitute an affirmation that the material and information submitted is correct and complete to the best of his/her knowledge and belief.

Source. #6619-B, eff 10-29-97

## **PART Env-Wm 3206 APPLICATION FILING**

Env-Wm 3206.01 Application Filing.

(a) Applications shall be prepared:

(1) On and with such forms as the department provides; or

(2) If no form shall be provided pursuant to (1) above, on paper supplied by the applicant in a format consistent with the application content and format requirements specified in Env-Wm 3205.

(b) Applications to certify a waste-derived product for distribution and use shall be filed with the department in triplicate.

(c) Each copy of the application filed with the department shall bear an original signature pursuant to Env-Wm 3205.09.

Source. #6619-B, eff 10-29-97

## **PART Env-Wm 3207 APPLICATION REVIEW**

Env-Wm 3207.01 Application Receipt.

(a) Upon receipt of an application, the department shall determine whether the filing requirements in Env-Wm 3206 have been met.

(b) Applications filed contrary to Env-Wm 3206 shall not be processed by the department, but shall be held by the department while the applicant is notified of the deficiency and given an opportunity to correct the deficiency.

(c) If, after notice pursuant to (b) above, the applicant fails to correct the deficiency within 10 working days or within another mutually agreed time, the department shall return the application as filed, with a written explanation as to the reason(s) for returning the application.

Source. #6619-B, eff 10-29-97

Env-Wm 3207.02 Application Completeness Determination.

(a) Within 60 days after the date an application is filed in accordance with Env-Wm 3206, the department shall determine whether the application is complete.

(b) If the applicant submits any information to complete the application between the date of initial filing and the date the application is deemed complete, the 60 day review time shall be measured from the date of latest submittal.

Source. #6619-B, eff 10-29-97

Env-Wm 3207.03 Incomplete Applications.

(a) If the application is incomplete, the applicant shall be so notified in writing as specified by (b) below.

(b) Notice given pursuant to (a) above shall:

- (1) Identify the applicant, type of application and all documents that constitute the incomplete application;
- (2) Identify the deficiencies;
- (3) Provide instructions for completing the application;
- (4) Provide the name, title, mailing address and telephone number of the agency official or employee who may be contacted regarding the application; and
- (5) Alert the applicant to the application dormancy provisions in (g) and (h) below.

(c) In the event that an incomplete application provides information sufficient for the department to determine that the criteria for issuance shall not be met, the department shall deny the requested approval and send written notice thereof in accordance with Env-Wm 3207.05, in lieu of deeming the application incomplete.

(d) If an application is incomplete for incidental and not substantive reasons, the department may so notify the applicant by telephone in lieu of providing a written notice of incompleteness, based on the following criteria:

- (1) The anticipated time required for the applicant to correct the deficiency shall be less than the anticipated time required for the department to notify the applicant in writing; and
- (2) The department shall specify in the verbal notice a reasonable time period, determined in consultation with the applicant, for correcting the deficiency, after which written notice shall be sent by the department in accordance with (b) above if the applicant has failed to respond within the specified time.

(e) Upon notifying an applicant that the application is incomplete, the department shall suspend further processing of the application pending receipt of the additional information required.

(f) No portion of the time between the date a notice of incompleteness is provided and the date the applicant responds shall be included in computing the time limits for processing the application.

(g) The applicant shall submit all information required to complete an incomplete application within one year from the date the application is initially deemed incomplete.

(h) An incomplete application that becomes a dormant application as defined by Env-Wm 102 shall be deemed denied without further action by the department.

Source. #6619-B, eff 10-29-97

Env-Wm 3207.04 Complete Applications. A complete application shall undergo a technical review by the department pursuant to the criteria for certification specified in Env-Wm 3204.

Source. #6619-B, eff 10-29-97

Env-Wm 3207.05 Application Decision.

(a) If the criteria for certification in Env-Wm 3204 are met, the department shall certify the waste-derived product for distribution and use, subject to terms and conditions, by:

- (1) Placing the waste-derived product on the list pursuant to Env-Wm 3208; and
- (2) Notifying the applicant in writing.

(b) If the criteria for certification in Env-Wm 3204 are not met, the department shall deny the requested approval and shall so notify the applicant in writing.

(c) The notice of denial shall:

- (1) Identify the applicant, type of application and all documents that constitute the complete application or, if the decision for denial is made without a complete application pursuant to Env-Wm 3205, all documents submitted by the applicant that form the basis of the decision;
- (2) State the specific reasons for the denial;
- (3) Provide the name, title, mailing address and telephone number of the department official or employee who may be contacted regarding the application and denial;
- (4) Identify the applicable provisions for appeal pursuant to RSA 21-O:9,V; and
- (5) Be signed by the director or person so authorized by the director.

Source. #6619-B, eff 10-29-97

**PART Env-Wm 3208 LIST OF CERTIFIED WASTE-DERIVED PRODUCTS**

Env-Wm 3208.01 Purpose.

(a) The purpose of the rules in this part is to describe the procedures by which the department shall compile, maintain and distribute a list of all certified waste-derived products.

(b) The purpose for compiling, maintaining and distributing the list as identified in (a) above shall be to provide current information to the public concerning the identity and status of waste-derived products.

Source. #6619-B, eff 10-29-97

Env-Wm 3208.02 Applicability. The rules in this part shall specify the procedures by which the department shall compile, maintain and distribute a list of waste-derived products certified for distribution and use pursuant to this chapter.

Source. #6619-B, eff 10-29-97

Env-Wm 3208.03 Compilation and Maintenance of List.

(a) All waste-derived products certified by rule as specified in Env-Wm 3203 shall be placed on a list for public distribution pursuant to Env-Wm 3208.04.

(b) Any continually generated waste which was certified for reuse under the provisions of Env-Wm 318 in effect prior to and repealed on October 29, 1997, shall be deemed certified for distribution and use pursuant to this chapter and accordingly placed on the list, provided that the waste is a waste-derived product and not a processed recyclable material not yet made into a product.

(c) Each time the department certifies a new waste-derived product by approving an application for certification pursuant to Env-Wm 3205, the department shall add the new certified waste-derived product to the list identified in (a) above.

(d) The information on the list shall include:

(1) Product identification, including:

- a. Common name;
- b. Trade name, if any; and
- c. Description, including waste content;

(2) Identification of the person having proprietary control of the product, if any;

(3) Authorized uses and restricted uses;

(4) Date of certification; and

(5) Reference to all documents which constituted the complete application.

Source. #6619-B, eff 10-29-97

Env-Wm 3208.04 Distribution of List. The list identified in Env-Wm 3208.03 shall be available for public distribution, at no charge, following either a written or verbal request.

Source. #6619-B, eff 10-29-97

## **PART Env-Wm 3209 REVOCATION AND SUSPENSION OF CERTIFICATION**

Env-Wm 3209.01 Applicability. The rules in this part shall apply to actions by the department to revoke or suspend certifications issued pursuant to Env-Wm 3207.05.

Source. #6619-B, eff 10-29-97

Env-Wm 3209.02 Procedure.

(a) Revocation or suspension of certification shall proceed in accordance with RSA 541-A:30 and this part.

(b) Prior to making a decision to revoke or suspend certification, the department shall hold an adjudicative hearing in accordance with Env-C 202.

(c) A written notice of hearing shall be provided to the general public by publication in a statewide newspaper and to persons the department knows to have a direct interest in the product, including product manufacturers, distributors and waste generators.

(d) The hearing notice shall identify:

- (1) The product;
- (2) The action the department proposes to take;
- (3) The reason(s) for the proposed action;
- (4) The department's authority for taking such action;
- (5) The date, time and place for the hearing; and
- (6) The name, title, mailing address and telephone number of the department official or employee who may be contacted regarding the notice.

(e) Certification shall be revoked if the department determines, following the procedures in RSA 541-A:30, that:

- (1) Good cause as provided in Env-Wm 3209.03 exists; and
- (2) There are no circumstances by which the underlying problem can be corrected or eliminated for the product and certification in question.

(f) Subject to (g) below, certification shall be suspended if the department determines, following the procedures in RSA 541-A:30, that:

- (1) Good cause as provided in Env-Wm 3209.03 exists; and
- (2) Given time to do so, there are circumstances by which the underlying problem can be corrected or eliminated, thereafter allowing the certification to be reinstated as originally issued.

(g) Written notice of the department's decision shall be provided to the public, all other persons receiving notice of the hearing pursuant to (c) above and all hearing participants.

(h) Upon revocation or suspension of certification, the department shall remove the waste-derived product from the list maintained pursuant to Env-Wm 3208.

Source. #6619-B, eff 10-29-97

Env-Wm 3209.03 Good Cause. The following shall provide good cause to revoke or suspend certification:

(a) The certification was issued based on false, incomplete or misleading information which, if known at the time the application was being processed, would have prohibited issuance of the certification based on the criteria for certification in Env-Wm 3204;

(b) New information, not available to the department prior to issuance of the certification, becomes available and shows that the waste-derived product does not in fact meet the criteria for certification in Env-Wm 3204;

(c) For a proprietary product, the proprietor meets the criteria for permit denial pursuant to RSA 149-M:9,IX; or

(d) For a proprietary product, the facility producing the product is not in compliance with the solid waste rules and the terms and conditions for facility operation or closure as provided in the facility permit or permit exemption as the case may be.

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

## CHAPTER Env-Wm 3300 SOLID WASTE FACILITY OPERATOR TRAINING AND CERTIFICATION

Statutory Authority: RSA 149-M:7

### PART Env-Wm 3301 PURPOSE AND APPLICABILITY

Env-Wm 3301.01 Purpose. The purpose of the rules in this chapter is to implement a solid waste facility operator training and certification program, pursuant to RSA 149-M:6,XIII and RSA 149-M:9,VI, to assure that:

- (a) Solid waste facility operators are qualified to operate and maintain solid waste facilities properly; and
- (b) Solid waste facilities are operated at the highest attainable level of safety and efficiency thereby providing the greatest possible protection to the environment and to public health.

Source. #6619-B, eff 10-29-97

Env-Wm 3301.02 Applicability. The rules in this chapter shall apply to all persons who operate facilities except persons who operate a level I facility as defined by Env-Wm 3302.05.

Source. #6619-B, eff 10-29-97

### PART Env-Wm 3302 DEFINITIONS

Env-Wm 3302.01 "Class I incinerator" means a device engineered to burn solid waste for volume reduction under controlled conditions.

Source. #6619-B, eff 10-29-97

Env-Wm 3302.02 "Class II incinerator" means a device engineered to burn solid waste for volume reduction under controlled conditions that recovers energy as a by-product.

Source. #6619-B, eff 10-29-97

Env-Wm 3302.03 "Class III incinerator" means a device engineered to burn infectious waste.

Source. #6619-B, eff 10-29-97

Env-Wm 3302.04 "Interim operator certification" means certification temporarily provided to an operator prior to obtaining certification by completing operator training and certification pursuant to Env-Wm 3303.05.

Source. #6619-B, eff 10-29-97

Env-Wm 3302.05 "Level I facility" means any of the following:

- (a) A permit-exempt facility;
- (b) A permit-by-notification facility having an active life of 90 days or less;
- (c) An emergency permit facility; and
- (d) A research and development permit facility.

Source. #6619-B, eff 10-29-97

Env-Wm 3302.06 "Level II facility" means a facility that is not a level I facility and is a monofill for only brush and stumps.

Source. #6619-B, eff 10-29-97

Env-Wm 3302.07 "Level III facility" means a facility that is not a level I facility and is any of the following:

- (a) A landfill that is permitted to receive 30 tons or less per day of waste on average annually;
- (b) A monofill that only receives scrap metal, construction and demolition debris or asbestos;
- (c) A transfer station, a recycling facility, or a composting facility which receives 30 tons or less of waste per day on average annually; or
- (d) A Class I incinerator.

Source. #6619-B, eff 10-29-97

Env-Wm 3302.08 "Level IV facility" means a facility that is not a level I facility and is:

- (a) A landfill which has a liner system;
- (b) A landfill which is permitted to accept more than 30 tons per day of waste on average annually;
- (c) An ash landfill;
- (d) A transfer station, a recycling facility or composting facility permitted to accept more than 30 tons of waste per day on average annually; or
- (e) A Class II or Class III incinerator.

Source. #6619-B, eff 10-29-97

Env-Wm 3302.09 "Operator training program" means professional and/or technical instruction, provided or sponsored by the department, which supplies the amount of solid waste management information required to pass an examination and obtain certification pursuant to Env-Wm 3303.05.

Source. #6619-B, eff 10-29-97

Env-Wm 3302.10 "Operator training update program" means an operator training program, provided or sponsored by the department, which supplies information and instruction to certified operators seeking certification renewal, said information and instruction being of a nature that refreshes and adds to the operator's existing solid waste management knowledge.

Source. #6619-B, eff 10-29-97

Env-Wm 3302.11 "Responsible charge" means accountability for and performance of active daily on-site operation of a solid waste facility.

Source. #6619-B, eff 10-29-97

Env-Wm 3302.12 "Solid waste facility operator" or "operator" means an individual who is directly involved in solid waste management activities at a facility.

Source. #6619-B, eff 10-29-97

Env-Wm 3302.13 "Solid waste facility operator certification" means the status granted to a solid waste facility operator who demonstrates competency in his/her chosen occupation in accordance with the provisions of Env-Wm 3303. The term includes "operator certification."

Source. #6619-B, eff 10-29-97

## **PART Env-Wm 3303 PROVISIONS FOR OPERATOR CERTIFICATION**



Env-Wm 3303.01 Operator Certification Required. Except as noted in Env-Wm 3301.02, all solid waste facility operators shall be certified by the department for the level of his/her responsibilities as specified by Env-Wm 3303.02.

Source. #6619-B, eff 10-29-97

Env-Wm 3303.02 Levels of Operator Certification. Operator certification shall be granted by level based on a range of responsibilities and duties as follows:

- (a) A certified level IV operator/manager shall be considered qualified to be in responsible charge at a level IV, III, II or I facility and may assume supervisory responsibilities pursuant to Env-Wm 2705.07(b)(2);
- (b) A certified level III advanced operator shall be considered qualified to be in responsible charge at a level III, II or I facility and may assume supervisory responsibilities pursuant to Env-Wm 2705.07(b)(2);
- (c) A level II certified operator shall be considered qualified to be in responsible charge at a level II or I facility but shall not assume supervisory responsibilities pursuant to Env-Wm 2705.07(b)(2); and
- (d) A certified level I attendant and a level I attendant-in-training may work at, but not be in responsible charge at any solid waste facility.

Source. #6619-B, eff 10-29-97

Env-Wm 3303.03 General Provisions for Obtaining Operator Certification.

- (a) A person shall obtain operator certification for a specified level of operator, by:
  - (1) Attending the department's operator training program and passing an examination applicable to the level of certification sought, pursuant to Env-Wm 3303.05; or
  - (2) Receiving reciprocity pursuant to Env-Wm 3303.06.
- (b) Prior to obtaining certification pursuant to either Env-Wm 3303.05 or Env-Wm 3303.06, interim operator certification for a specified level of operator shall be granted to a person pursuant to Env-Wm 3303.04.
- (c) Certification shall be effective for one year from the date of issuance.
- (d) Expiring operator certification shall be renewed pursuant to Env-Wm 3306.01.
- (e) A person may upgrade his/her operator certification to a higher level of operator by attending the operator training program and passing the examination applicable to the higher level.

Source. #6619-B, eff 10-29-97

Env-Wm 3303.04 Interim Operator Certification.

- (a) Interim operator certification shall be automatically granted to applicants who are approved, in accordance with Env-Wm 3304.02(c)(2), to attend operator training.
- (b) Interim operator certification shall be granted for the level of operator that formed the basis of the approved application.
- (c) Interim operator certification shall be effective from the date an approved application is filed to the date that the applicant either obtains operator certification pursuant to Env-Wm 3303.05 or fails to attend operator training or take a required examination as scheduled, whichever is earlier.

Source. #6619-B, eff 10-29-97

Env-Wm 3303.05 Operator Certification by Training and Examination.

- (a) On a semi-annual basis, the department shall administer an operator training program and written examination for operator certification.
- (b) The written examination shall be structured to test the applicant's knowledge of the field of solid waste management for the level of certification sought.
- (c) Persons wishing to attend an operator training program and take the examination shall file an application pursuant to Env-Wm 3304.01.
- (d) The applicant shall be processed in accordance with Env-Wm 3304.02.
- (e) The examinations shall be graded on a pass/fail basis, with the passing score being 70% correct.
- (f) A person who attends an operator training program and passes the examination shall be certified for the level of operator for which the examination was specified.
- (g) Operator certificates obtained by training and examination shall:
  - (1) Be issued in writing;
  - (2) Be effective for a period of one year from the date of issuance; and
  - (3) Be subject to renewal pursuant to the provisions of Env-Wm 3306.01.
- (h) A person who fails the certification examination may retake the examination, at any time convenient to both the applicant and the department and as often as necessary to obtain operator certification. However, after 2 unsuccessful attempts the applicant shall reattend the operator training program prior to retaking the examination.
- (i) Each application for repeat operator training shall be made in accordance with Env-Wm 3304, except no fee shall be required.

Source. #6619-B, eff 10-29-97

Env-Wm 3303.06 Operator Certification by Reciprocity.

- (a) A person having the following credentials shall be eligible for operator certification by reciprocity:
  - (1) The person holds operator certification through private industry or another state which was issued based on a training and examination program comparable in scope to the operator training and certification program provided by the department;
  - (2) The person has successfully completed training by the manufacturer of a specific type of facility for which the department does not offer training; or
  - (3) For incineration facilities, the person is certified pursuant to the American Society for Mechanical Engineers' "Standard for the Qualification and Certification of Resource Recovery Facility," ASME QRO-1-1994 with 1996 addenda.
- (b) An applicant for reciprocity pursuant to (a) above shall submit an application as specified in Env-Wm 3304.01.
- (c) If the director determines that the applicant has the credentials for certification by reciprocity as specified in (a) above and meets all other certification requirements, the director shall issue operator certification.
- (d) Operator certificates obtained by reciprocity shall:

- (1) Be issued in writing;
- (2) Be effective for a period of one year from the date of issuance; and
- (3) Be subject to renewal pursuant to the provisions of Env-Wm 3306.01.

Source. #6619-B, eff 10-29-97

#### **PART Env-Wm 3304 APPLICATION REQUIREMENTS**

##### **Env-Wm 3304.01 Application Content and Format.**

(a) A person wishing to obtain operator certification shall file a written application which includes the following information on and with such forms provided by the department:

- (1) Applicant name, residential mailing address and telephone number;
- (2) Level of operator certification for which the application is being made, as specified in Env-Wm 3303;
- (3) Proof of qualifications for the desired level of operator certification based on the minimum qualifications specified in Env-Wm 3305, including the following:
  - a. Amount and type of applicable work experience related to or in the field of solid waste management, including for each facility where the applicant has been employed and is currently employed:
    1. Facility name and address;
    2. Type of facility;
    3. Name and title of supervisor;
    4. Applicant's title;
    5. Description of duties; and
    6. Dates of employment; and
  - b. If education is being substituted for experience pursuant to Env-Wm 3305.02, a statement to identify the level of secondary and post-secondary education attained, with a letter from the registrar certifying college education;
- (4) For applications to become certified by reciprocity pursuant to Env-Wm 3303.06:
  - a. Copies of all currently valid operator certifications applicable to solid waste management;
  - b. The name and mailing address of the certifying agency or company;
  - c. A statement identifying whether the operator certification(s) in b above was/were obtained by exam;
- (5) A signed statement by the applicant attesting to the truth and accuracy of the information provided in the application.

Source. #6619-B, eff 10-29-97

##### **Env-Wm 3304.02 Application Filing and Processing.**

- (a) Applications for operator certification shall be filed by the applicant with a \$50.00 fee.
- (b) The fee, if paid by check or money order, shall be made payable to "treasurer, State of New Hampshire."
- (c) Applications for operator training and examination shall be processed by the department as follows:
  - (1) The department shall review the application to determine whether all required information is submitted and whether the applicant meets the minimum qualifications required for the level of operator certification sought, as specified in Env-Wm 3305.01;
  - (2) If the application is complete and the minimum qualifications are met, the department shall approve the application, schedule the applicant to attend the next available operator training program and grant the applicant interim certification pursuant to Env-Wm 3303.04;
  - (3) If the application is incomplete, the applicant shall be so notified in writing and provided the opportunity to correct the deficiencies;
  - (4) If the information provided in the application does not demonstrate that the applicant meets the minimum qualifications for operator certification, the applicant shall be so notified in writing and provided the opportunity to submit additional information to demonstrate the minimum qualifications are met or to revise the application for a level of operator certification that is compatible with the applicant's qualifications; and
  - (5) If an applicant fails to meet the minimum qualifications for operator certification:
    - a. The application shall be denied, meaning the applicant shall not be scheduled to attend operator training;
    - b. Interim operator certification shall not be granted; and
    - c. The applicant shall be so notified in writing with the reasons for denial stated.
- (c) Applications for reciprocity shall be processed by the department as follows:
  - (1) The department shall review the application to determine whether all required information is submitted and whether the applicant meets the minimum qualifications required for the level of operator certification sought, as specified in Env-Wm 3305.01;
  - (2) If the application is complete and the minimum qualifications are met, the director shall determine whether the applicant has the credentials for reciprocity as specified in Env-Wm 3303.06(a);
  - (3) If the director determines that the applicant has the credentials for certification by reciprocity as specified in (a) above and meets all other certification requirements, the director shall issue operator certification;
  - (4) If the application is incomplete, the applicant shall be so notified in writing and provided the opportunity to correct the deficiencies;
  - (5) If the information provided in the application does not demonstrate that the applicant meets the minimum qualifications for operator certification, the applicant shall be so notified in writing and provided the opportunity to submit additional information to demonstrate the minimum qualifications are met or to revise the application for a level of operator certification that is compatible with the applicant's qualifications; and

(6) If the applicant fails to meet the minimum qualifications for operator certification or does not have the credentials for reciprocity:

- a. Operator certification shall not be granted;
- b. The applicant shall be so notified in writing with the reasons for denial stated; and
- c. The applicant shall have the opportunity to obtain certification by training and examination.

Source. #6619-B, eff 10-29-97

## **PART Env-Wm 3305 MINIMUM QUALIFICATIONS**

Env-Wm 3305.01 Minimum Qualifications for Operator Certification. The following qualifications shall apply to all candidates for operator certification, whether by reciprocity or by training and examination:

(a) All levels of operators, except a level I attendant-in-training, shall be able to communicate in english; and

(b) Subject to Env-Wm 3305.02, the following education and experience credentials shall apply:

(1) A level IV operator/manager shall:

- a. Hold a high school diploma or GED; and
- b. Have a minimum of 5 years of experience in a field related to waste management;

(2) A level III advanced operator shall:

- a. Hold a high school diploma or GED; and
- b. Have a minimum of 3 years of experience in a field related to waste management;

(3) A level II operator shall:

- a. Have completed the eighth grade; and
- b. Have a minimum of 2 years of experience in a field related to waste management;

(4) A level I attendant shall have one year of experience in a field related to waste management; and

(5) A level I attendant-in-training shall require no experience.

Source. #6619-B, eff 10-29-97

### Env-Wm 3305.02 Substitutions to Operator Qualifications.

(a) By request of the applicant to the director, the following substitutions shall be made to the requirements of Env-Wm 3305.01, subject to the limitations identified in (c) below:

(1) One year of college education may be substituted for one year experience, up to a maximum of 4 years for level IV operators, 2 years for level III operators and one year for level II operators; and

(2) One year of experience may be substituted for one year of elementary or high school up to a maximum of one year.

(b) High school education shall not be substituted for experience.

- (c) Education applied toward experience shall not also be applied toward the education requirement.

Source. #6619-B, eff 10-29-97

**PART Env-Wm 3306 OPERATOR CERTIFICATION RENEWAL**

Env-Wm 3306.01 Operator Certification Renewal Requirements.

- (a) Any person seeking operator certification renewal for the same level of operator shall:

- (1) Comply with Env-Wm 3306.02; and
- (2) Submit a written application for renewal pursuant to Env-Wm 3306.03 and Env-Wm 3306.04.

- (b) Any person seeking operator certification renewal for a higher level of operator shall file an application pursuant to Env-Wm 3304 to attend operator training and take the applicable level of examination.

Source. #6619-B, eff 10-29-97

Env-Wm 3306.02 Continuing Education Requirements. Each applicant for renewal shall participate in an operator training update program prior to filing the application for operator certification renewal.

Source. #6619-B, eff 10-29-97

Env-Wm 3306.03 Renewal Applications.

- (a) The application for operator certification renewal shall be submitted on and with such forms as provided by the department.

- (b) The application shall include the following:

- (1) Applicant name, residential mailing address and telephone number;
- (2) Identification of certification currently held, by certificate number, level of operator and date of issuance;
- (3) Name, mailing address, permit number and telephone number of the facility(s) where the applicant is currently employed;
- (4) The name and title of the applicant's supervisor or the facility manager;
- (5) The applicant's current title or position, including a brief description of the duties required of the position;
- (6) If the applicant's current operator certification was issued pursuant to the provisions for reciprocity in Env-Wm 3303.06 and the applicant has changed jobs since the issue date of the current operator certification, information to demonstrate that the provisions for reciprocity remain applicable to the applicant's current job duties; and
- (7) Proof that the applicant has attended an approved operator training update program since the issue date of the applicant's current operator certification, as required by Env-Wm 3306.03; and
- (8) A signed statement by the applicant attesting to the truth and accuracy of the information provided in the application.

Source. #6619-B, eff 10-29-97

Env-Wm 3306.04 Application Filing and Processing.

(a) An application for renewal of operator certification pursuant to Env-Wm 3306.01(a) shall be filed within the time frame specified by (b) below.

(b) To assure issuance of renewal before the applicant's current operator certification expires and to assure each renewal application contains current information, the application shall be submitted not less than 15 days nor more than 90 days before the expiration date of the applicant's current operator certification.

(c) The application shall be processed by the department in accordance with Env-Wm 3304.02, except:

(1) Applications received more than 90 days before the expiration date the applicant's current operator certification shall be returned to the applicant for resubmittal within the time frame specified by (b) above; and

(2) For applications received less than 15 days before the expiration date of the applicant's current operator certification, there shall be no guarantee of renewal prior to the expiration date of the current certification. However, in such cases, the provisions of RSA 541-A:30 shall apply.

(d) Applications for renewal shall be submitted with a \$50.00 fee, except applications received after certification has expired shall be submitted with a \$75.00 fee.

(e) Renewal fees, if paid by check, shall be made payable to "treasurer, State of New Hampshire."

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

#### Env-Wm 3306.05 Renewal.

(a) The department shall renew an applicant's operator certification and provide written notice thereof to the applicant provided that:

(1) The application for renewal of operator certification contains all of the information required by Env-Wm 3306.03;

(2) The applicant has complied with Env-Wm 3306.02;

(3) The applicant has carried out his/her operator duties in accordance with the solid waste rules and the facility's permit; and

(4) If renewal is for certification originally obtained by reciprocity, the applicant's current job duties remain within the scope of the provisions for reciprocity.

(b) Renewal of operator certification shall be for the same level of operator.

(c) Operator certification renewal shall:

(1) Be issued in writing;

(2) Be effective for a period of one year from the date of issuance; and

(3) Be subject to renewal pursuant to the provisions of this part.

(d) If the applicant fails to meet the criteria for renewal as provided in (a) above, the applicant shall be so notified in writing.

Source. #6619-B, eff 10-29-97

## **PART Env-Wm 3307 REVOCATION AND SUSPENSION**

Env-Wm 3307.01 Applicability. The rules in this part shall apply to actions by the department to revoke or suspend an operator's certification.

Source. #6619-B, eff 10-29-97

Env-Wm 3307.02 Procedure.

(a) Revocation or suspension of an operator's certification shall proceed in accordance with RSA 541-A:30.

(b) Certification shall be revoked if the department determines, following the procedures in RSA 541-A:30, that:

(1) Good cause as provided in Env-Wm 3307.03 exists; and

(2) There are no circumstances by which the operator can correct or eliminate the underlying problem.

(c) Certification shall be suspended if the department determines, following the procedures in RSA 541-A:30, that:

(1) Good cause as provided in Env-Wm 3307.03 exists; and

(2) Given time to do so, the operator can correct the underlying problem and be qualified to again hold certification for the same level in compliance with the requirements in this chapter.

Source. #6619-B, eff 10-29-97

Env-Wm 3307.03 Good Cause. The following shall provide good cause to suspend or revoke operator certification:

(a) The operator obtained certification through fraud, deceit or falsification, including:

(1) Submission of false or misleading information in the application;

(2) Cheating on the examination; and

(3) Falsifying attendance at operator training and/or update training;

(b) In the performance of her/his duties, the operator has knowingly violated the solid waste rules, conditions of a facility permit, or other rules or permits related to programs administered by the department; or

(c) The operator has failed to comply with an order of the department.

Source. #6619-B, eff 10-29-97



## CHAPTER Env-Wm 3400 REQUIREMENTS FOR LAND APPLICATION OF WOOD ASH

Statutory Authority: RSA 149-M:7

### PART Env-Wm 3401 PURPOSE AND APPLICABILITY

Env-Wm 3401.01 Purpose. The purpose of the rules in this chapter is to establish criteria and procedures by which ash generated from the combustion of clean wood shall be certified for distribution and beneficial use in agricultural land applications.

Source. #6619-B, eff 10-29-97

Env-Wm 3401.02 Applicability.

(a) Except as provided in (b) below, the rules in this chapter shall apply to any person distributing and using wood ash for agricultural land application in New Hampshire.

(b) The rules in this chapter shall not apply to persons using wood ash from their household wood stove(s) for agricultural land application in New Hampshire.

Source. #6619-B, eff 10-29-97

### PART Env-Wm 3402 LAND APPLICATION REQUIREMENTS

Env-Wm 3402.01 Certification Required. No person shall distribute, receive, store or use ash for land application in New Hampshire unless:

(a) The ash shall be certified for distribution and use in accordance with this chapter;

(b) The ash shall be actively managed; and

(c) The ash shall be used in accordance with the provisions of the certification.

Source. #6619-B, eff 10-29-97

Env-Wm 3402.02 Status of Certified Wood Ash. Wood ash certified pursuant to this chapter shall be approved for distribution to and receipt, storage and use by the permit-exempt land application facilities identified in Env-Wm 3404 only.

Source. #6619-B, eff 10-29-97

Env-Wm 3402.03 General Provisions for Obtaining Certification.

(a) The generator of wood ash to be land applied shall obtain the required certification by filing an application pursuant to Env-Wm 3405.

(b) The applicant shall demonstrate in the application that the wood ash meets the criteria for land application in Env-Wm 3403.

(c) The generator shall, as a condition of the certification, continually monitor the quality of the ash in accordance with Env-Wm 3406, unless certified on a one-time basis.

Source. #6619-B, eff 10-29-97

### PART Env-Wm 3403 CRITERIA FOR LAND APPLICATION

Env-Wm 3403.01 Source.

(a) Only ash generated from the combustion of clean wood shall be land applied.

(b) Ash generated from the combustion of wood containing any of the following materials or substances shall not be land applied:

- (1) Paints;
- (2) Stains;
- (3) Preservatives; and
- (4) Other materials or substances not naturally occurring in wood.

Source. #6619-B, eff 10-29-97

Env-Wm 3403.02 Quality. Wood ash that is land applied shall:

(a) Not contain heavy metals in excess of the following concentrations, as determined on a dry weight basis:

- (1) For arsenic, 41 mg/kg;
- (2) For cadmium, 39 mg/kg;
- (3) For chromium, 1200 mg/kg;
- (4) For copper, 1500 mg/kg;
- (5) For lead, 300 mg/kg;
- (6) For mercury, 17 mg/kg;
- (7) For molybdenum, 75 mg/kg;
- (8) For nickel, 420 mg/kg;
- (9) For selenium, 100 mg/kg;
- (10) For zinc, 2800 mg/kg; and

(b) Be substantially free of uncombusted material.

Source. #6619-B, eff 10-29-97

Env-Wm 3403.03 Use. Land application of wood ash shall only occur at sites meeting the requirements for a permit exemption in Env-Wm 3404.

Source. #6619-B, eff 10-29-97

#### **PART Env-Wm 3404 PERMIT-EXEMPT LAND APPLICATION FACILITIES**

Env-Wm 3404.01 Land Application Sites. Wood ash land application sites shall be exempt from obtaining a permit, subject to meeting the requirements in Env-Wm 3404.02 through Env-Wm 3404.07.

Source. #6619-B, eff 10-29-97

Env-Wm 3404.02 Ash Standards. A permit-exempt land application site shall receive and use only ash certified for distribution and use in accordance with this chapter.

Source. #6619-B, eff 10-29-97

Env-Wm 3404.03 Use. The owner of a permit-exempt land application site shall use the ash received only in accordance with a farm management plan established for the site pursuant to Env-Wm 3404.04.

Source. #6619-B, eff 10-29-97

Env-Wm 3404.04 Farm Management Plan.

(a) Subject to the approval of and supervision by the New Hampshire department of agriculture, a site-specific farm management plan for the land application site shall be developed and approved by the UNH cooperative extension or by private consultants.

(b) The site-specific farm management plan for the permit-by-rule land application site shall include provisions for:

- (1) Ash storage, in conformance with Env-Wm 2702;
- (2) Soil testing as required to assure that the criteria in Env-Wm 3404.05 shall be met; and
- (3) Application rates to assure that the criteria in Env-Wm 3404.05 shall be met.

Source. #6619-B, eff 10-29-97

Env-Wm 3404.05 Maximum Metals Concentration in Soils. Wood ash shall not be applied to land where heavy metal concentrations in the soil exceed the cumulative pollutant loading rates established in Env-Ws 800.

Source. #6619-B, eff 10-29-97

Env-Wm 3404.06 Universal Environmental Performance Requirements. Practices at a permit-exempt wood ash land application site shall not violate the universal facility requirements in Env-Wm 2700.

Source. #6619-B, eff 10-29-97

Env-Wm 3404.07 Recordkeeping.

(a) The owner of the permit-exempt land application site shall maintain records to document the land application practices.

(b) The owner of the permit-exempt land application site shall maintain a copy of the farm management plan with site records.

(c) The generator of certified wood ash shall maintain a copy of the farm management plan for all wood ash land application sites at which the generator's ash is used.

(d) Land application site records and farm management plans shall be made available for department inspection pursuant to Env-Wm 3700.

Source. #6619-B, eff 10-29-97

**PART Env-Wm 3405 APPLICATION AND APPROVAL**

Env-Wm 3405.01 Application Content and Format. The applicant shall prepare the application for certification including the following:

- (a) Name, address and telephone number of the ash generator;
- (b) Name, address and telephone number of the facility producing the wood ash;
- (c) Volume of wood ash to be land applied, expressed in tons per year; and

- (d) Report of analyses of representative samples of the wood ash pursuant to Env-Wm 3406.01.

Source. #6619-B, eff 10-29-97

Env-Wm 3405.02 Application Filing.

- (a) Applications to certify wood ash for distribution and use shall be filed with the department in duplicate.
- (b) Applications to certify wood ash for distribution and use shall be signed by the ash generator as the applicant.
- (c) The signature of the applicant shall constitute:
- (1) An affirmation that the material and information submitted is correct and complete to the best of his/her knowledge and belief;
  - (2) An affirmation that the facility generating the wood ash only combusts clean wood, as prescribed in Env-Wm 3403.01.

Source. #6619-B, eff 10-29-97

Env-Wm 3405.03 Application Receipt.

- (a) Upon receipt of an application, the department shall determine whether the filing requirements in Env-Wm 3405.02 have been met.
- (b) Applications filed contrary to Env-Wm 3405.02 shall not be processed by the department, but shall be held by the department while the applicant is notified of the deficiency and given an opportunity to correct the deficiency.
- (c) If, after notice pursuant to (b) above, the applicant fails to correct the deficiency within 10 working days or within a mutually agreed time, the department shall return the application as filed, with a written explanation as to the reason(s) for returning the application.

Source. #6619-B, eff 10-29-97

Env-Wm 3405.04 Application Review.

- (a) Within 60 days following the date an application is filed in accordance with Env-Wm 3405.02, the department shall determine whether the application is complete.
- (b) If the applicant submits any information to complete the application between the date of initial filing and the date the department determined the application is complete, the 60 day review time shall be measured from the date of latest submittal.

Source. #6619-B, eff 10-29-97

Env-Wm 3405.05 Incomplete Applications.

- (a) If the application is incomplete, the department shall provide written notice to the applicant wherein:
- (1) The applicant, type of application and all documents that constitute the incomplete application shall be identified;
  - (2) The deficiencies shall be identified;

(3) Instructions shall be provided for completing the application, including the name, title, mailing address and telephone number of the department official or employee who may be contacted regarding the application; and

(4) The applicant shall be alerted to the dormancy provisions in (d) and (e) below.

(b) In the event that an incomplete application provides information sufficient for the department to determine the criteria for issuance are not be met, the department shall deny the requested approval and send written notice thereof in accordance with Env-Wm 3405.07(c), in lieu of deeming the application incomplete.

(c) If an application is incomplete for incidental and not substantive reasons, the department may so notify the applicant by telephone in lieu of providing a written notice of incompleteness, based on the following criteria:

(1) The anticipated time required for the applicant to correct the deficiency shall be less than the anticipated time required for the department to notify the applicant in writing; and

(2) The department shall specify in the verbal notice a reasonable time period, determined in consultation with the applicant, for correcting the deficiency, after which written notice shall be sent by the department in accordance with (a) above if the applicant fails to respond within the specified time.

(d) Upon notifying an applicant that the application is incomplete, the department shall suspend further processing of the application pending receipt of the additional information required.

(e) No portion of the time between the date a notice of incompleteness is provided and the date the applicant responds shall be included in computing the time limits for processing the application.

Source. #6619-B, eff 10-29-97

Env-Wm 3405.06 Complete Applications. A complete application shall undergo a technical review by the department pursuant to the criteria for land application in Env-Wm 3403.

Source. #6619-B, eff 10-29-97

Env-Wm 3405.07 Application Decision.

(a) If the criteria for certification in Env-Wm 3403 are met, the department shall issue a certificate authorizing the distribution and use of the wood ash pursuant to (d) below.

(b) If the criteria for certification in Env-Wm 3403 are not met, the department shall deny the requested approval and shall so notify the applicant in writing.

(c) The notice of denial shall:

(1) Identify the applicant, type of application and all documents that constitute the complete application or, if the decision for denial is made without a complete application pursuant to Env-Wm 3405.05(b), all documents submitted by the applicant that form the basis of the decision;

(2) State the specific reasons for the denial;

(3) Provide the name, title, mailing address and telephone number of the department official or employee who may be contacted regarding the application and denial;

(4) Identify the applicable provisions for appeal pursuant to RSA 21-O:9,V; and

(5) Be signed by the director or a person so authorized by the director.

(d) The certification to distribute and use wood ash shall:

- (1) Identify the person to whom the approval shall be granted;
- (2) Identify the type of approval and authority for issuance;
- (3) Identify all documents that constitute the complete application;
- (4) Identify the specific source(s) of the wood ash to which the certification exclusively applies, including the name of the generator and location of the ash generating facility;
- (5) Specify the terms and conditions under which the approved activity shall be authorized, including:
  - a. The date the approval shall be effective;
  - b. The expiration date, if any, and provisions for renewal as applicable; and
  - c. The requirements specified in Env-Wm 3406; and
- (6) Be signed by the director or a person so authorized by the director.

(e) Any decision by the department to issue certification shall not affect the applicant's obligation to obtain all requisite federal, state or local permits, licenses or approvals, or to comply with all other applicable federal, state, district or local permits, ordinances, laws or approvals or conditions pertaining to the approved activity.

Source. #6619-B, eff 10-29-97

## **PART Env-Wm 3406 TESTING AND REPORTING REQUIREMENTS**

### **Env-Wm 3406.01 Wood Ash Testing and Reporting.**

(a) Wood ash that is land applied shall be tested on at least a quarterly basis using monthly composite samples for all parameters listed in, and in accordance with, (d) below.

(b) Results of wood ash analyses shall be reported to the department upon completion.

(c) Reports shall be filed in accordance with Env-Wm 303.

(d) Analyses of representative samples of wood ash pursuant to (a) above shall be as follows:

- (1) The analyses shall use EPA test procedures in EPA manual SW 846;
- (2) The analyses shall include testing for the following constituents:
  - a. Cadmium;
  - b. Chromium;
  - c. Copper;
  - d. Lead;
  - e. Mercury;
  - f. Nickel;
  - g. Zinc;

- h. Potassium;
- i. Molybdenum;
- j. Selenium;
- k. Calcium;
- l. Magnesium;
- m. Vanadium;
- n. Arsenic;
- o. Boron;
- p. Sodium;
- q. Phosphorus;
- r. Chlorides;
- s. Per cent carbon; and
- t. Lime equivalence; and

(3) The test for metals listed in (2) above shall be for total metals.

Source. #6619-B, eff 10-29-97; amd by #7225, eff 3-31-00

Env-Wm 3406.02 Annual Reporting.

- (a) Generators of wood ash certified for land application shall file an annual report with the department.
- (b) Annual reports shall include the following information:
  - (1) Identification and records of all land application sites which received wood ash;
  - (2) The volume of wood ash, expressed in tons, received by each land application site; and
  - (3) The cumulative loading calculations for metals for each land application site receiving wood ash.
- (c) Reports shall be filed in accordance with Env-Wm 303.

Source. #6619-B, eff 10-29-97

**PART Env-Wm 3407 STATUS OF APPROVALS GRANTED BEFORE OCTOBER 29, 1997**

Env-Wm 3407.01 Applicability. The rules in this part shall apply to all persons holding a written certification or approval to distribute and use wood ash for agricultural land application granted by the department prior to October 29, 1997 and signed by the director or person so authorized by the director.

Source. #6619-B, eff 10-29-97

Env-Wm 3407.02 Status of Approval.

- (a) A written certification or approval identified in Env-Wm 3407.01 shall remain valid after October 29, 1997.

- (b) The terms and conditions of the certification or approval shall remain unchanged.
- (c) If required for administrative purposes, the department shall:
  - (1) Assign a new number to the certification or approval granted prior to October 29, 1997; and
  - (2) Send written notice thereof to the person holding the certification or approval.

Source. #6619-B, eff 10-29-97



## CHAPTER Env-Wm 3500 REDUCTION OF TOXICS IN PACKAGING

Statutory Authority: RSA 149-M:32-40

### PART Env-Wm 3501 PURPOSE AND APPLICABILITY

Env-Wm 3501.01 Purpose. The purpose of these rules is to supplement the provisions of RSA 149-M:32-40, relative to reducing heavy metals in package and packaging components as one step in reducing the toxicity of solid waste when it is disposed of by landfilling or incineration.

Source. #5768, eff 12-29-93, EXPIRED 12-29-99

New. #7343, eff 8-12-00

Env-Wm 3501.02 Applicability. These rules shall apply to all package and packaging components sold, offered for sale or otherwise distributed in New Hampshire except as provided by RSA 149-M:35.

Source. #5768, eff 12-29-93, EXPIRED 12-29-99

New. #7343, eff 8-12-00

### PART Env-Wm 3502 DEFINITIONS

Env-Wm 3502.01 "Commissioner" means the commissioner of the department of environmental services.

Source. #5768, eff 12-29-93, EXPIRED 12-29-99

New. #7343, eff 8-12-00

Env-Wm 3502.02 "Department" means the department of environmental services.

Source. #5768, eff 12-29-93, EXPIRED 12-29-99

New. #7343, eff 8-12-00

Env-Wm 3502.03 "Division" means the waste management division of the department of environmental services.

Source. #5768, eff 12-29-93, EXPIRED 12-29-99

New. #7343, eff 8-12-00

Env-Wm 3502.04 "Intentional introduction" means the act of deliberately using a regulated heavy metal in the formulation of a package or packaging component where its continued presence in the final package or packaging component is to provide a specific characteristic or quality. The term does not include the use of a regulated heavy metal as a processing agent or intermediate to impart certain chemical or physical changes during manufacturing, whereupon the incidental retention of a residue of the metal in the final package or packaging component is neither desired nor deliberate but is inherent in the process and the final package or packaging component is in compliance with RSA 149-M:34,III.

Source. #7343, eff 8-12-00

Env-Wm 3502.05 "Manufacturer" means any person producing a package or packaging component which is used by a purchaser to package a product.

Source. #7343, eff 8-12-00

Env-Wm 3502.06 "Package" means "package" as defined in RSA 149-M:33,VII.

Source. #7343, eff 8-12-00

Env-Wm 3502.07 "Packaging component" means "packaging component" as defined in RSA 149-M:33,VIII.

Source. #7343, eff 8-12-00

Env-Wm 3502.08 "Person" means "person" as defined in RSA 149-M:4,XV.

Source. #7343, eff 8-12-00

Env-Wm 3502.09 "Petitioner" means a manufacturer or supplier filing a petition for exemption from RSA 149-M:35.

Source. #7343, eff 8-12-00

Env-Wm 3502.10 "Post-consumer material" means "post-consumer material" as defined in RSA 149-M:33,IX.

Source. #7343, eff 8-12-00

Env-Wm 3502.11 "Purchaser" means any person receiving a package or packaging component directly from the manufacturer or supplier of the package or packaging component who then sells or distributes the package or packaging component to a retail consumer.

Source. #7343, eff 8-12-00

Env-Wm 3502.12 "Reformulate" means to change the way a package or packaging component is manufactured so as to result in a different concentration of lead, cadmium, mercury or hexavalent chromium.

Source. #7343, eff 8-12-00

Env-Wm 3502.13 "Supplier" means any person offering to sell or selling a package or packaging component which is used by a purchaser to package a product.

Source. #7343, eff 8-12-00

## **PART Env-Wm 3503 EXEMPTIONS**

Env-Wm 3503.01 Petition for Exemption.

(a) No petition for exemption shall be necessary if a package or packaging component is eligible for an automatic exemption under RSA 149-M:35.

(b) Subject to (c) below, in order for a petition for exemption from RSA 149-M:32-40 to be valid, the manufacturer of the package or packaging component shall file the petition.

(c) If a manufacturer of a package or packaging component does not provide a supplier with a certificate of compliance and the supplier believes the package or packaging component is eligible for an exemption, the supplier may file a petition for exemption.

(d) The petition for exemption shall be filed with the department.

(e) The petition shall include the following:

(1) The name, address, and telephone number of the manufacturer or supplier seeking the exemption;

- (2) The name and position of the individual who can answer questions on behalf of the petitioner about the petition;
- (3) The reason why the exemption is being sought;
- (4) The type of package or packaging component for which the exemption is sought and the use thereof;
- (5) The heavy metals identified in RSA 149-M:32 that are present in the package or packaging components;
- (6) The concentration(s) of the identified heavy metal(s) present in the package or packaging component, and the testing methods used to determine the concentration(s);
- (7) If the package or packaging components are necessary in order to comply with health or safety requirements of federal law as specified in RSA 149-M:35, I(b) identification of the federal law(s) together with a copy of the law(s); and
- (8) If there is no feasible alternative for reducing the identified heavy metals in the package or packaging components, substantiating information addressing the criteria in Env-Wm 3503.02, including a timetable for ongoing and future efforts to achieve compliance through feasible alternatives to using the identified heavy metals.

Source. #5768, eff 12-29-93, EXPIRED 12-29-99

New. #7343, eff 8-12-00

Env-Wm 3503.02 Criteria for Petitioned Exemptions.

(a) No petition for an exemption shall be granted unless the petitioner demonstrates to the commissioner either that:

- (1) The identified heavy metals present in the package or packaging component are necessary in order to comply with federal health or safety requirements; or
- (2) No feasible alternative to the use of the identified heavy metals exists, as "no feasible alternative" is defined in RSA 149-M:35, I(c).

(b) A petitioner shall demonstrate that the identified heavy metals present in the package or packaging component are necessary in order to comply with federal health or safety requirements by providing a copy of the federal requirements together with such additional information as would allow an independent reasonable person to conclude that the metals are necessary.

(c) A petitioner shall demonstrate that no feasible alternative exists to the use of the heavy metal in the package or packaging component by submitting such written materials as would allow an independent reasonable person to conclude that the metals are essential to the protection, safe handling or functioning of the package's contents.

Source. #5768, eff 12-29-93, EXPIRED 12-29-99

New. #7343, eff 8-12-00

Env-Wm 3503.03 Processing of Petition for Exemption.

(a) The department shall notify the petitioner in writing within 5 working days of receiving a petition for exemption that the exemption petition has been received.

(b) The department shall review the exemption petition for completeness within 30 days of receipt.

(c) If the exemption petition is determined to be incomplete, the department shall notify the petitioner within 10 working days of the determination with a specific request for the information needed to complete the application.

(d) If the exemption petition is determined to be complete, the commissioner shall designate staff to review the petition and make a recommendation to grant or deny, within 60 days of designation, based on the criteria specified in Env-Wm 3503.02.

(e) The commissioner shall review the petition, the recommendation, and the criteria specified in Env-Wm 3503.02. If the commissioner determines that the petition meets the criteria, the commissioner shall grant the petition within 30 days of the date it was forwarded, and shall notify the petitioner in writing of the decision.

(f) If the petition is granted, the written notice shall include:

(1) The effective date of the exemption;

(2) The expiration date of the exemption; and

(3) The deadline for the application for renewal of the exemption, which shall be 90 days prior to the expiration date of the exemption.

(g) The petitioner shall send an annual progress report to the commissioner based on the petitioner's efforts to come into compliance with RSA 149-M:32-40.

(h) If the commissioner determines that the petition does not meet the criteria, the commissioner shall deny the petition within 30 days of the date it was forwarded, and shall notify the petitioner in writing of the decision and of the right to appeal under Env-C 204. The written notice shall state the reason(s) for the denial.

Source. #5768, eff 12-29-93, EXPIRED 12-29-99

New. #7343, eff 8-12-00

## **PART Env-Wm 3504 RENEWAL OF EXEMPTIONS**

### **Env-Wm 3504.01 Request for Renewal of Exemption.**

(a) Any manufacturer or supplier seeking a renewal of an exemption received pursuant to Env-Wm 3503.03 shall file a written renewal request at least 90 days prior to the exemption's expiration date.

(b) The renewal request shall contain:

(1) The information specified in Env-Wm 3503.01(d);

(2) The differences, if any, between the information in the renewal request and the information provided with the original exemption petition; and

(3) For exemption renewals based on there being no feasible alternative to the use of the identified heavy metal, a report on progress in meeting the timetable for achieving compliance that was submitted with the original exemption request.

Source. #5768, eff 12-29-93, EXPIRED 12-29-99

New. #7343, eff 8-12-00

Env-Wm 3504.02 Criteria for Renewal of Exemption. Criteria for renewal of exemption shall be as specified in Env-Wm 3503.02.

Source. #5768, eff 12-29-93, EXPIRED 12-29-99

New. #7343, eff 8-12-00

Env-Wm 3504.03 Processing of Petition for Renewal of Exemption. The renewal request shall be processed in accordance with Env-Wm 3503.03.

Source. #5768, eff 12-29-93, EXPIRED 12-29-99

New. #7343, eff 8-12-00

**PART Env-Wm 3505 CERTIFICATE OF COMPLIANCE**

Env-Wm 3505.01 Availability of Certificate of Compliance.

- (a) Certificates of compliance shall be made available as prescribed by RSA 149-M:36,I.
- (b) If a supplier is unable to obtain a certificate of compliance from a manufacturer of a package or packaging component but has sufficient information to prepare the certificate, the supplier shall prepare the certificate based on that information.
- (c) If a supplier is unable to obtain a certificate of compliance from a manufacturer of a package or packaging component and does not have sufficient information to prepare the certificate, the supplier shall not be guilty of a failure to provide the certificate if the supplier has notified the department in accordance with (e) below that the certificate is unavailable from the manufacturer.
- (d) If a purchaser is unable to obtain a certificate of compliance from a manufacturer or supplier of a package or packaging component, the purchaser shall not be liable for failure to retain the certificate as required by RSA 149-M:36,I if the purchaser has notified the department in accordance with (e) below that the certificate is unavailable from the manufacturer or supplier.

(e) Notification under (c) or (d) above shall:

- (1) Be in writing; and
- (2) Include the following:
  - a. The name, address and telephone number of the person filing the notification;
  - b. The type of package or packaging component for which a certificate cannot be obtained;
  - c. The name(s) and address(es) and, if available, the telephone number(s) of the manufacturer of the package or packaging component;
  - d. If the notice is filed pursuant to (d) above, the name(s) and address(es) and, if available, the telephone number(s) of the supplier(s) of the package or packaging component; and
  - e. A brief summary of the attempts made to obtain the certificate.
- (f) No person shall be held responsible for erroneous information in a certificate of compliance if all of the following are true:
  - (1) The person is not the manufacturer of the package or packaging component;
  - (2) The person did not prepare the certificate;
  - (3) The person did not have any reason to believe the information in the certificate was erroneous; and
  - (4) The person in good faith believed the information in the certificate to be true.

Source. #7343, eff 8-12-00

Env-Wm 3505.02 Certificate of Compliance Contents.

(a) All certificates of compliance for package or packaging components shall be completed by the manufacturer or supplier and included in the shipment of the package or packaging component to the purchaser.

(b) Each certificate of compliance shall include the following:

- (1) Type of package or packaging component;
- (2) Company name;
- (3) Company address;
- (4) Name, signature, and title of authorized official;
- (5) Name and position of the individual who can answer questions regarding the composition of the package or packaging component;
- (6) Date the certificate of compliance is completed;
- (7) Either a statement that there has been no intentional introduction of the identified heavy metals in the package or packaging component, or, for a package or packaging component for which an exemption has been granted under RSA 149-M:35, a statement identifying the applicable exemption which allows the intentional introduction; and
- (8) Either a statement that the total concentration of any incidental amounts of the identified heavy metals in the package or packaging component does not exceed the limit established in RSA 149-M:34 or, for a package or packaging component for which an exemption has been granted under RSA 149-M:35, a statement identifying the applicable exemption allowing the exceedence of the limits.

Source. #7343, eff 8-12-00

Env-Wm 3505.03 Requests for Certificate of Compliance.

(a) Requests for copies of certificates of compliance shall be made in accordance with RSA 149-M:39.

(b) The manufacturer or supplier who receives a request for a certificate of compliance in accordance with RSA 149-M:39 shall provide a copy of the written request to the department with the copy of its response required by RSA 149-M:39.

Source. #7343, eff 8-12-00

Env-Wm 3505.04 Amended Certificate of Compliance.

(a) Amendments to certificates of compliance shall be made in accordance with RSA 149-M:36,II .

(b) In addition to the information specified in Env-Wm 3504.02, the amended certificate shall include the following:

- (1) The previous composition of the package or packaging component;
- (2) The reformulation, including the new level of identified heavy metals used; and

(3) Any difference(s) between the grounds for compliance as stated in the original certificate of compliance and the amended certificate of compliance.

Source. #7343, eff 8-12-00

## CHAPTER Env-Wm 3600 SOLID WASTE MANAGEMENT DISTRICTS

Statutory Authority: RSA 149-M:7

### PART Env-Wm 3601 APPLICABILITY

Env-Wm 3601.01 Applicability. The rules in this chapter shall apply to all municipalities addressing the management of solid waste as required by RSA 149-M:23 through 25.

Source. #6619-B, eff 10-29-97

### PART Env-Wm 3602 DISTRICT AND SUBDISTRICT AGREEMENTS

Env-Wm 3602.01 Filing. Pursuant to RSA 149-M:24,III, solid waste management districts shall file a copy of their written organizational agreement with the department upon execution.

Source. #6619-B, eff 10-29-97

### PART Env-Wm 3603 DISTRICT AND SUBDISTRICT SOLID WASTE MANAGEMENT PLANS

Env-Wm 3603.01 District Plan Submittals.

(a) Within 120 days from the date of district formation, a district shall submit to the department for review and approval pursuant to Env-Wm 3604, a solid waste management plan which is endorsed by the district membership.

(b) A copy of the district's minutes approving the submission of the proposed district plan shall constitute evidence that the plan is endorsed by the district members.

Source. #6619-B, eff 10-29-97

Env-Wm 3603.02 District Plan Requirements.

(a) The district plan shall complement the state solid waste plan for the purposes of implementation.

(b) The district plan shall conform to the requirements of RSA 149-M:25 and the requirements in Env-Wm 3603.03 through Env-Wm 3603.06.

Source. #6619-B, eff 10-29-97

Env-Wm 3603.03 Geographics and Economics. The district plan shall include a description of the geographic and economic relationships between the municipalities belonging to the district, including:

(a) A list of municipalities belonging to the district;

(b) A regional map showing:

(1) The location of the municipalities belonging to the district;

(2) Existing road networks; and

(3) Natural geographic features;

(c) Current and projected 5, 10, and 15 year populations and estimated tourist populations within the member municipalities and for the district;

(d) Identification of commercial and industrial activity that affects the population; and



(e) The current municipal solid waste budget for each member municipality and financial reserves accumulated by each municipality for future solid waste expenditures.

Source. #6619-B, eff 10-29-97

Env-Wm 3603.04 Current and Projected Waste Streams.

(a) A district plan shall include a description and analysis of the current and projected 5, 10, and 15 year waste streams generated by the member municipalities as to the type, volume and weight.

(b) The description and analysis shall include, for each member municipality, the quantity of:

- (1) Residential waste generated;
- (2) Commercial and industrial waste generated;
- (3) Potential recyclable material, identified by type;
- (4) Waste actually being recycled;
- (5) Motor vehicle waste, including used oil, wet-cell batteries and tires generated;
- (6) Yard waste generated;
- (7) Construction and demolition debris generated;
- (8) Incinerator bottom ash and fly ash generated;
- (9) Bulky wastes including metals generated;
- (10) Stumps and brush generated;
- (11) Household hazardous waste generated;
- (12) Infectious waste generated; and
- (13) Other wastes generated, particular to the district.

(c) The description and analysis shall include the total quantity of waste generated by each member municipality and the district.

Source. #6619-B, eff 10-29-97

Env-Wm 3603.05 Existing Waste Disposal Facilities and Programs. A district plan shall include an analysis of the existing waste management facilities and practices active within the district, including:

(a) A list and description of facilities located in the district, including the following information for each facility:

- (1) Facility type;
- (2) Facility location;
- (3) Facility owner;
- (4) Facility operator;
- (5) Description of operations;

- (6) Estimated facility life expectancy and remaining capacity;
  - (7) Types and amounts, by weight and volume, of waste handled annually;
  - (8) Facility users;
  - (9) Permit and compliance status of the facility; and
  - (10) All contractual arrangements by member municipalities for facility use;
- (b) A description of existing recycling programs, including:
- (1) Materials recycled;
  - (2) Method of collection, sorting, and processing; and
  - (3) Markets;
- (c) An analysis of the network currently available for transporting solid waste within the district and subdistricts, including:
- (1) The waste pickup system;
  - (2) The delivery system; and
  - (3) Destinations; and
- (d) A description of arrangements for managing district generated waste at facilities outside the district, including:
- (1) Inter-municipal and/or contractual arrangements;
  - (2) Types and quantities of waste so managed; and
  - (3) Management locations.

Source. #6619-B, eff 10-29-97

Env-Wm 3603.06 Future Capacity. A district plan shall identify a 10 year capacity for managing waste at existing, expanded, and/or proposed facilities and provisions for an ongoing planning process of 15 years from the date of plan submittal, including:

- (a) Identification and description of planned recycling and waste reduction programs, including:
- (1) Types of materials to be collected and the methods of collection;
  - (2) The facilities for and methods of receiving, storing and processing materials;
  - (3) The markets for use of recycled materials;
  - (4) The economic ramifications to the district and member municipalities from the proposed collection, processing and marketing of recycled waste; and
  - (5) The implementation of programs, including:
    - a. Project coordination;

- b. Activities to educate the public about recycling and waste reduction programs;
- c. Local ordinance provisions to implement the programs;
- d. Provisions for curb-side collection; and
- e. The construction of material recovery facilities;

(b) Identification and description of the management options to be evaluated and/or implemented for non-recyclable solid waste addressing the following factors:

- (1) Environmental issues;
- (2) Economic and financial issues;
- (3) Capacity planning and assured services;
- (4) Technical requirements;
- (5) Land and siting requirements;
- (6) Traffic and transportation issues;
- (7) Regulatory requirements;
- (8) Implementation requirements; and
- (9) Consistency with the solid waste management hierarchy in RSA 149-M:3;

(c) Identification and description of the management methods to be evaluated and the implementation requirements for select wastes, including:

- (1) Composting of organic material;
- (2) Tires;
- (3) Bulky metal wastes;
- (4) Construction and demolition debris;
- (5) Stumps and brush;
- (6) Household hazardous waste;
- (7) Infectious waste;
- (8) Waste oil;
- (9) Wet cell batteries;
- (10) Incinerator ash; and
- (11) Other wastes particular to the district;

Source. #6619-B, eff 10-29-97

Env-Wm 3603.07 Implementation. A district plan shall include a description of how the plan will be implemented including, but not limited to:

- (a) The financial means and organizational structure;
- (b) A schedule of implementation including specific milestones for short and long term activities; and
- (c) A funding mechanism for implementation.

Source. #6619-B, eff 10-29-97

**PART Env-Wm 3604 DISTRICT AND SUBDISTRICT PLAN REVIEW AND APPROVAL**

Env-Wm 3604.01 District and Subdistrict Plan Review. The department shall review each district plan and provide written notice to the district in accordance with RSA 149-M:25,II.

Source. #6619-B, eff 10-29-97

Env-Wm 3604.02 Approval Process.

- (a) The department shall approve a district plan provided that:
  - (1) The member municipalities have endorsed the plan;
  - (2) The plan affirmatively addresses the criteria in RSA 149-M:25 and each of the requirements in Env-Wm 3603.02 through Env-Wm 3603.07; and
  - (3) The plan is consistent with achieving the solid waste reduction goal in RSA 149-M:2 and the disposal hierarchy in RSA 149-M:3.
- (b) If a district plan does not meet the conditions for approval, the department shall provide a rejection notice pursuant to Env-Wm 3604.03 and require modifications of those portions of the plan that are deficient according to (a) above.
- (c) Districts shall respond to the department's request for modifications and changes within 75 days of receipt of the written notification provided pursuant to Env-Wm 3604.03.

Source. #6619-B, eff 10-29-97

Env-Wm 3604.03 Notification.

- (a) Each municipality in a district shall be notified by the department in writing as to a decision to approve or reject a proposed district plan.
- (b) If the department rejects the plan, the notification shall specify the specific reason(s) for the rejection.

Source. #6619-B, eff 10-29-97

Env-Wm 3604.04 Implementing, Changing and Updating a Plan.

- (a) Pursuant to RSA 149-M:25,II, a district shall begin implementing its plan within 60 days after receipt of written notice approval by the department.
- (b) In order to demonstrate continuous compliance with an approved plan as required by RSA 149-M:25,III and to assure facility permits are issued by the department in conformity with a district plan as required by RSA 149-M:11, a district shall submit any changes to the district plan in writing, to the department 30 days prior to such changes.

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(c) Review and approval of the changes shall proceed in accordance with Env-Wm 3604.02 and Env-Wm 3604.03.

Source. #6619-B, eff 10-29-97

Env-Wm 3604.05 District Plan Approval Duration. The approval of a district plan shall be continuous subject to the provisions of Env-Wm 3604.04(b) and RSA 149-M:25, I(e).

Source. #6619-B, eff 10-29-97

## CHAPTER Env-Wm 3700 INSPECTION AND ENFORCEMENT

Statutory Authority: RSA 149-M:7

### PART Env-Wm 3701 APPLICABILITY

Env-Wm 3701.01 Applicability. All facilities, including permit-exempt facilities, shall be subject to the inspection provisions of this part.

Source. #6619-B, eff 10-29-97

### PART Env-Wm 3702 INSPECTION

Env-Wm 3702.01 Right of Inspection. In order to investigate either actual or suspected sources of potential harm to human health or the environment and to ascertain compliance or non-compliance with the solid waste rules, the department shall:

- (a) Inspect any public or private property or premises as authorized by RSA 149-M:6,IV, including collection, storage, transfer, processing, treatment, and disposal facilities;
- (b) Gather evidence on existing conditions and procedures;
- (c) Obtain representative samples of containers, materials and wastes;
- (d) Conduct tests, analyses, and evaluations;
- (e) Photograph containers, tanks, labels, processes or conditions related to waste collection, storage, transfer, processing, treatment, and disposal;
- (f) Inspect and/or be provided copies of any pertinent records, reports of information and test results relating to the requirements of the solid waste rules upon request; and
- (g) Obtain any other information as authorized by law.

Source. #6619-B, eff 10-29-97

Env-Wm 3702.02 Credential Presentation. In conducting an inspection of a facility, department personnel shall, subject to privileges provided for by law, present his/her identification to, in order of preference, the owner or operator or their representative or to the senior company representative present, if any.

Source. #6619-B, eff 10-29-97

Env-Wm 3702.03 Inspection Reports. Upon conducting an inspection of a facility, the department shall, subject to RSA 91-A:

- (a) Make a written report listing the conditions found during the inspection;
- (b) Keep the report on file at the department; and
- (c) Provide a copy of the report to the owner or operator or his agent, if requested.

Source. #6619-B, eff 10-29-97

**Appendix I**  
**State Statute Cross Reference Table as required by RSA 541-A:3-a,II**

Note: The requirement in RSA 542-A:3-a,II became effective August 25, 1998. Therefore, the information provided in the table below covers only those rules having an effective date on or after August 25, 1998. If you require the same information for a rule having an effective date before August 25, 1998, contact the Department of Environmental Services, Waste Management Division at 6 Hazen Drive, Concord, NH, 03301, telephone (603) 271-2925, for assistance.

<b><u>Rule Number</u></b>	<b><u>State Statute Implemented</u></b>
Env-Wm 102.04 .....	RSA 149-M:7,XV
Env-Wm 102.99 .....	RSA 149-M:7,XV
Env-Wm 102.169 .....	RSA 149-M:7,XV
Env-Wm 203 .....	RSA 149-M:7,XV
Env-Wm 302.03(b)(10) .....	RSA 149-M:7, V
Env-Wm 303.07(a) .....	RSA 149-M:7, III; RSA 149-M:9
Env-Wm 304.08(n) .....	RSA 149-M:6, V; RSA 149-M:9, VIII; RSA 149-M:11, IV(a)
Env-Wm 305.02(a) .....	RSA 149-M:9, VIII; RSA 149-M:12
Env-Wm 310.04 .....	RSA 149-M:7, IV; RSA 149-M:9, V
Env-Wm 314.09 .....	RSA 149-M:9, III
Env-Wm 314.10(b)(5) .....	RSA 149-M:9, III
Env-Wm 315.02(e)(3) .....	RSA 149-M:6, III; RSA 149-M:7, III; RSA 149-M:9
Env-Wm 2107.03 .....	RSA 149-M:6, III; RSA 149-M:7,II & III; RSA 149-M:9,III
Env-Wm 2107.04 .....	RSA 149-M:6, III; RSA 149-M:7,II & III; RSA 149-M:9,III
Env-Wm 2107.05 .....	RSA 149-M:6, III; RSA 149-M:7,II & III; RSA 149-M:9,III
Env-Wm 2510.09 .....	RSA 149-M:7,II & III, and RSA 149-M:9,III
Env-Wm 2702.04(d) .....	RSA 149-M:7,II
Env-Wm 2703.02 .....	RSA 149-M:7,II
Env-Wm 2706.01 .....	RSA 149-M:7,XIV
Env-Wm 2804.02(a) .....	RSA 149-M:6, III; RSA 149-M:7,II & III; RSA 149-M:9,I
Env-Wm 2805.01(a) .....	RSA 149-M:6, III; RSA 149-M:7,II & III; RSA 149-M:9,I
Env-Wm 2805.02(a) .....	RSA 149-M:6, III; RSA 149-M:7,II & III; RSA 149-M:9,I
Env-Wm 2904.03 .....	RSA 149-M:7,II
Env-Wm 3001.01 .....	RSA 149-M:41-50
Env-Wm 3001.02(a) .....	RSA 149-M:50
Env-Wm 3001.02(b) .....	RSA 149-M:42, IV
Env-Wm 3002 .....	RSA 149-M:42, III
Env-Wm 3003, 3004 and 3005 .....	RSA 149-M:44; 149-M:45 & 149-M:46
Env-Wm 3006.01 - 3006.02 .....	RSA 149-M:41-47; 14-M:49
Env-Wm 3006.03 .....	RSA 149-M:50
Env-Wm 3007.01 - 3007.03 .....	RSA 149-M:50; 14-M:43
Env-Wm 3007.04 .....	RSA 149-M:46
Env-Wm 3008 .....	RSA 149-M:50; 149-M:43; 149-M:48, II, III & VI
Env-Wm 3203.12 .....	RSA 149-M:7,V
Env-Wm 3203.17 .....	RSA 149-M:7,V
Env-Wm 3406.01(d) .....	RSA 149-M:7,V
Env-Wm 3501.01 .....	RSA 149-M:32
Env-Wm 3501.02 .....	RSA 149-M:34
Env-Wm 3501.03 .....	RSA 149-M:33
Env-Wm 3502.01 .....	RSA 149-M:35
Env-Wm 3502.02 .....	RSA 149-M:35
Env-Wm 3502.03 .....	RSA 149-M:35
Env-Wm 3503.01 .....	RSA 149-M:35
Env-Wm 3503.02 .....	RSA 149-M:35
Env-Wm 3504.01 .....	RSA 149-M:36
Env-Wm 3504.02 .....	RSA 149-M:36
Env-Wm 3504.03 .....	RSA 149-M:36
Env-Wm 3504.04 .....	RSA 149-M:36