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New Hampshire Code of Administrative Rules  
Env-Wm 100-300, 2100-3700 Solid Waste Rules

**SOLID WASTE MANAGEMENT**  
NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

TABLE OF CONTENTS

<b>CHAPTER ENV-WM 100 ORGANIZATIONAL RULES.....</b>	<b>100-1</b>
PART ENV-WM 101 PURPOSE AND APPLICABILITY.....	100-1
<i>Env-Wm 101.01 Purpose.....</i>	<i>100-1</i>
<i>Env-Wm 101.02 Applicability.....</i>	<i>100-1</i>
<i>Env-Wm 101.03 Solid Waste Exclusions.....</i>	<i>100-2</i>
<i>Env-Wm 101.04 Solid Waste Facility Exclusions.....</i>	<i>100-2</i>
PART ENV-WM 102 SOLID WASTE RULE DEFINITIONS.....	100-2
PART ENV-WM 103 RESERVED.....	100-25
PART ENV-WM 104 - ENV-WM 109 RESERVED.....	100-25
<b>CHAPTER ENV-WM 200 PROCEDURAL RULES.....</b>	<b>200-1</b>
PART ENV-WM 201 APPLICABILITY.....	200-1
<i>Env-Wm 201.01 Applicability.....</i>	<i>200-1</i>
PART ENV-WM 202 WAIVER OF SOLID WASTE RULES.....	200-1
<i>Env-Wm 202.01 Purpose.....</i>	<i>200-1</i>
<i>Env-Wm 202.02 Procedures.....</i>	<i>200-1</i>
<i>Env-Wm 202.03 Application Content and Format.....</i>	<i>200-1</i>
<i>Env-Wm 202.04 Criteria.....</i>	<i>200-2</i>
<i>Env-Wm 202.05 Decision on the Application.....</i>	<i>200-3</i>
PART ENV-WM 203 CLAIMS OF CONFIDENTIALITY.....	200-3
<i>Env-Wm 203.01 Purpose.....</i>	<i>200-3</i>
<i>Env-Wm 203.02 Applicability.....</i>	<i>200-3</i>
<i>Env-Wm 203.03 Procedure.....</i>	<i>200-3</i>
<i>Env-Wm 203.04 Exceptions.....</i>	<i>200-3</i>
<i>Env-Wm 203.05 Release or Other Use of Information.....</i>	<i>200-3</i>
PART ENV-WM 204 NON-ADJUDICATIVE PUBLIC HEARINGS.....	200-3
<i>Env-Wm 204.01 Applicability.....</i>	<i>200-3</i>
<i>Env-Wm 204.02 Procedure.....</i>	<i>200-4</i>
PART ENV-WM 205 ADJUDICATIVE HEARINGS.....	200-4
<i>Env-Wm 205.01 Applicability.....</i>	<i>200-4</i>
<i>Env-Wm 205.02 Procedure.....</i>	<i>200-4</i>
PARTS ENV-WM 206 ENV-WM 210 RESERVED.....	200-4
<b>CHAPTER ENV-WM 300 PERMITS.....</b>	<b>300-1</b>
PART ENV-WM 301 PURPOSE AND APPLICABILITY.....	300-1
<i>Env-Wm 301.01 Purpose.....</i>	<i>300-1</i>
<i>Env-Wm 301.02 Applicability.....</i>	<i>300-1</i>
PART ENV-WM 302 SOLID WASTE FACILITY PERMITS.....	300-1
<i>Env-Wm 302.01 Purpose.....</i>	<i>300-1</i>
<i>Env-Wm 302.02 Solid Waste Permit Required.....</i>	<i>300-1</i>
<i>Env-Wm 302.03 Solid Waste Permit Exemptions.....</i>	<i>300-1</i>
<i>Env-Wm 302.04 Solid Waste Permit Types.....</i>	<i>300-3</i>
<i>Env-Wm 302.05 Solid Waste Facility Types.....</i>	<i>300-4</i>
<i>Env-Wm 302.06 Permitting System Criteria.....</i>	<i>300-4</i>
PART ENV-WM 303 FILING PROVISIONS FOR APPLICATIONS, REGISTRATIONS AND REPORTS.....	300-4
<i>Env-Wm 303.01 Purpose.....</i>	<i>300-4</i>
<i>Env-Wm 303.02 Applicability.....</i>	<i>300-5</i>
<i>Env-Wm 303.03 Basic Filing Requirements.....</i>	<i>300-5</i>
<i>Env-Wm 303.04 Signature Requirements.....</i>	<i>300-6</i>
<i>Env-Wm 303.05 Notice of Filing to Abutters.....</i>	<i>300-6</i>
<i>Env-Wm 303.06 Additional Filing Requirements.....</i>	<i>300-8</i>
<i>Env-Wm 303.07 Municipality and District.....</i>	<i>300-8</i>
<i>Env-Wm 303.08 Notice for GAA and GA-1 Groundwater Protection Areas.....</i>	<i>300-9</i>

**SOLID WASTE MANAGEMENT**  
**NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES**

TABLE OF CONTENTS

<i>Env-Wm 303.09</i>	<i>Notices for Areas of Threatened or Endangered Species</i>	300-9
<i>Env-Wm 303.10</i>	<i>Notice for Airport Proximity</i>	300-10
<i>Env-Wm 303.11</i>	<i>Notice for Designated River Areas</i>	300-10
<i>Env-Wm 303.12</i>	<i>Notice to Department of Justice</i>	300-10
<i>Env-Wm 303.13</i>	<i>Compliance Status and History</i>	300-10
<i>Env-Wm 303.14</i>	<i>Compliance Certification</i>	300-11
<i>Env-Wm 303.15</i>	<i>Compliance Report</i>	300-12
<b>PART ENV-WM 304</b>	<b>APPLICATION REVIEW</b>	<b>300-12</b>
<i>Env-Wm 304.01</i>	<i>Applicability</i>	300-12
<i>Env-Wm 304.02</i>	<i>Application Receipt</i>	300-12
<i>Env-Wm 304.03</i>	<i>Application Completeness Determination</i>	300-13
<i>Env-Wm 304.04</i>	<i>Incomplete Applications</i>	300-13
<i>Env-Wm 304.05</i>	<i>Completing an Incomplete Application</i>	300-14
<i>Env-Wm 304.06</i>	<i>Complete Applications</i>	300-14
<i>Env-Wm 304.07</i>	<i>Technical Review</i>	300-15
<i>Env-Wm 304.08</i>	<i>Public Hearing</i>	300-15
<b>PART ENV-WM 305</b>	<b>APPLICATION DECISIONS</b>	<b>300-18</b>
<i>Env-Wm 305.01</i>	<i>Applicability</i>	300-18
<i>Env-Wm 305.02</i>	<i>Decision on Application</i>	300-18
<i>Env-Wm 305.03</i>	<i>Denial of a Requested Approval</i>	300-18
<i>Env-Wm 305.04</i>	<i>Issuance of Any Requested Approval</i>	300-19
<i>Env-Wm 305.05</i>	<i>Issuance of Permits</i>	300-20
<i>Env-Wm 305.06</i>	<i>Issuance of Permit Modifications</i>	300-22
<b>PART ENV-WM 306</b>	<b>REVOCAION AND SUSPENSION</b>	<b>300-23</b>
<i>Env-Wm 306.01</i>	<i>Purpose</i>	300-23
<i>Env-Wm 306.02</i>	<i>Applicability</i>	300-23
<i>Env-Wm 306.03</i>	<i>Procedure</i>	300-23
<i>Env-Wm 306.04</i>	<i>Decision</i>	300-24
<i>Env-Wm 306.05</i>	<i>Good Cause</i>	300-24
<b>PART ENV-WM 307</b>	<b>STATUS OF EXISTING PERMITS</b>	<b>300-25</b>
<i>Env-Wm 307.01</i>	<i>Purpose</i>	300-25
<i>Env-Wm 307.02</i>	<i>Applicability</i>	300-25
<i>Env-Wm 307.03</i>	<i>Status of Permits Issued Prior to July 1, 1991</i>	300-25
<i>Env-Wm 307.04</i>	<i>Status of Permits Issued Between June 30, 1991 and October 29, 1997</i>	300-25
<i>Env-Wm 307.05</i>	<i>Status of Temporary Permits</i>	300-26
<i>Env-Wm 307.06</i>	<i>Administration of Temporary Permits</i>	300-26
<i>Env-Wm 307.07</i>	<i>Call of Temporary Permits</i>	300-27
<i>Env-Wm 307.08</i>	<i>Landfills with Temporary Permits</i>	300-27
<i>Env-Wm 307.09</i>	<i>Non-Landfill Facilities with Temporary Permits</i>	300-27
<i>Env-Wm 307.10</i>	<i>Exceptions to Designated Permit Titles and Classifications</i>	300-28
<i>Env-Wm 307.11</i>	<i>Provisions for Reissuing an Existing Permit</i>	300-28
<b>PART ENV-WM 308</b>	<b>INTERIM STATUS</b>	<b>300-30</b>
<i>Env-Wm 308.01</i>	<i>Purpose</i>	300-30
<i>Env-Wm 308.02</i>	<i>Applicability</i>	300-30
<i>Env-Wm 308.03</i>	<i>Registration and Determination of Interim Status</i>	300-30
<i>Env-Wm 308.04</i>	<i>Interim Status Operating Period</i>	300-30
<i>Env-Wm 308.05</i>	<i>Interim Status Operating Requirements</i>	300-30
<i>Env-Wm 308.06</i>	<i>Compliance Report and Temporary Waivers</i>	300-31
<i>Env-Wm 308.07</i>	<i>Expiration of Interim Status</i>	300-31
<i>Env-Wm 308.08</i>	<i>Interim Status Facility Closure</i>	300-32
<b>PART ENV-WM 309</b>	<b>REGISTRATIONS</b>	<b>300-32</b>
<i>Env-Wm 309.01</i>	<i>Purpose</i>	300-32
<i>Env-Wm 309.02</i>	<i>Applicability</i>	300-32
<i>Env-Wm 309.03</i>	<i>Registration Requirement</i>	300-32
<i>Env-Wm 309.04</i>	<i>Registration Processing</i>	300-34
<b>PART ENV-WM 310</b>	<b>FACILITY APPLICATION FEES</b>	<b>300-34</b>
<i>Env-Wm 310.01</i>	<i>Applicability</i>	300-34

**SOLID WASTE MANAGEMENT**  
NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

TABLE OF CONTENTS

<i>Env-Wm 310.02</i>	<i>Standard Permit Application Fees for Facilities Without a Temporary Permit</i>	300-34
<i>Env-Wm 310.03</i>	<i>Standard Permit Application Fees for Temporary Permit Facilities</i>	300-36
<i>Env-Wm 310.04</i>	<i>Permit-by-Notification Fees</i>	300-36
<i>Env-Wm 310.05</i>	<i>Research and Development Facility Permit Fee</i>	300-36
<i>Env-Wm 310.06</i>	<i>Emergency Permit Application Fees</i>	300-36
<i>Env-Wm 310.07</i>	<i>Type I Permit Modification Fees</i>	300-36
<i>Env-Wm 310.08</i>	<i>Type II Permit Modification Fee</i>	300-36
<i>Env-Wm 310.09</i>	<i>Type III Permit Modification Fee</i>	300-37
<i>Env-Wm 310.10</i>	<i>Type IV Permit Modification Fee</i>	300-37
<i>Env-Wm 310.11</i>	<i>Type V Permit Modification Fees</i>	300-37
<i>Env-Wm 310.12</i>	<i>Payment of Permit Application Fees</i>	300-37
<b>PART ENV-WM 311</b>	<b>PERMIT-BY-NOTIFICATION REQUIREMENTS</b>	<b>300-37</b>
<i>Env-Wm 311.01</i>	<i>Purpose and Applicability</i>	300-37
<i>Env-Wm 311.02</i>	<i>Requirements and Limitations</i>	300-37
<i>Env-Wm 311.03</i>	<i>Application Content and Format</i>	300-38
<i>Env-Wm 311.04</i>	<i>Application Filing</i>	300-40
<i>Env-Wm 311.05</i>	<i>Application Review and Decision</i>	300-40
<b>PART ENV-WM 312</b>	<b>RESEARCH AND DEVELOPMENT PROJECTS PERMITTING PROVISIONS</b>	<b>300-40</b>
<i>Env-Wm 312.01</i>	<i>Purpose and Applicability</i>	300-40
<i>Env-Wm 312.02</i>	<i>Applicable Requirements and Limitations</i>	300-40
<i>Env-Wm 312.03</i>	<i>Research and Development Permit Application Content and Format</i>	300-41
<i>Env-Wm 312.04</i>	<i>Research and Development Permit Application Filing</i>	300-42
<i>Env-Wm 312.05</i>	<i>Research and Development Permit Application Review and Decision</i>	300-42
<b>PART ENV-WM 313</b>	<b>EMERGENCY FACILITY PERMIT PROVISIONS</b>	<b>300-43</b>
<i>Env-Wm 313.01</i>	<i>Purpose and Applicability</i>	300-43
<i>Env-Wm 313.02</i>	<i>Applicable Requirements and Limitations</i>	300-43
<i>Env-Wm 313.03</i>	<i>Pre-application Contact</i>	300-43
<i>Env-Wm 313.04</i>	<i>Emergency Facility Permit Application Content and Format</i>	300-44
<i>Env-Wm 313.05</i>	<i>Emergency Facility Permit Application Filing</i>	300-44
<i>Env-Wm 313.06</i>	<i>Emergency Facility Permit Application Processing</i>	300-44
<b>PART ENV-WM 314</b>	<b>STANDARD FACILITY PERMITTING PROVISIONS</b>	<b>300-45</b>
<i>Env-Wm 314.01</i>	<i>Purpose and Applicability</i>	300-45
<i>Env-Wm 314.02</i>	<i>Applicable Requirements and Limitations</i>	300-45
<i>Env-Wm 314.03</i>	<i>Standard Facility Permit Application Content and Format</i>	300-45
<i>Env-Wm 314.04</i>	<i>Facility Identification</i>	300-46
<i>Env-Wm 314.05</i>	<i>Identification of Parties</i>	300-47
<i>Env-Wm 314.06</i>	<i>Facility Description</i>	300-47
<i>Env-Wm 314.07</i>	<i>Status of Other Permits/Approvals</i>	300-47
<i>Env-Wm 314.08</i>	<i>Legal Notifications and Agreements</i>	300-48
<i>Env-Wm 314.09</i>	<i>Concurrence of Property Owner</i>	300-48
<i>Env-Wm 314.10</i>	<i>Site Report</i>	300-48
<i>Env-Wm 314.11</i>	<i>Plans and Specifications</i>	300-49
<i>Env-Wm 314.12</i>	<i>Financial Report</i>	300-49
<i>Env-Wm 314.13</i>	<i>Other Information</i>	300-50
<i>Env-Wm 314.14</i>	<i>Application Filing</i>	300-50
<i>Env-Wm 314.15</i>	<i>Application Review and Decision</i>	300-50
<b>PART ENV-WM 315</b>	<b>PERMIT MODIFICATION</b>	<b>300-50</b>
<i>Env-Wm 315.01</i>	<i>Applicability</i>	300-50
<i>Env-Wm 315.02</i>	<i>Definitions</i>	300-51
<i>Env-Wm 315.03</i>	<i>Approval Required</i>	300-53
<i>Env-Wm 315.04</i>	<i>Permit Modification Application Filing Procedures</i>	300-53
<i>Env-Wm 315.05</i>	<i>Application Content and Format, Type I Modifications</i>	300-54
<i>Env-Wm 315.06</i>	<i>Application Content and Format, Type II Modifications</i>	300-55
<i>Env-Wm 315.07</i>	<i>Application Content and Format, Type III Modification</i>	300-56
<i>Env-Wm 315.08</i>	<i>Application Content and Format, Type IV Modifications</i>	300-57
<i>Env-Wm 315.09</i>	<i>Application Content and Format, Type V Modification</i>	300-57

**SOLID WASTE MANAGEMENT**  
NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

TABLE OF CONTENTS

<i>Env-Wm 315.10 Application Review and Decision</i> .....	300-58
<b>PART ENV-WM 316 PERFORMANCE HISTORY REQUIREMENTS</b> .....	<b>300-59</b>
<i>Env-Wm 316.01 Purpose</i> .....	300-59
<i>Env-Wm 316.02 Applicability</i> .....	300-59
<i>Env-Wm 316.03 Disclosure Required</i> .....	300-59
<i>Env-Wm 316.04 Form of Disclosure</i> .....	300-60
<i>Env-Wm 316.05 Entities and Individuals Required to Submit Information</i> .....	300-60
<i>Env-Wm 316.06 Scope of Disclosure</i> .....	300-61
<i>Env-Wm 316.07 Filing of Disclosure Forms</i> .....	300-61
<i>Env-Wm 316.08 Background Investigation Fee</i> .....	300-62
<b>PARTS ENV-WM 317 THROUGH ENV-WM 319 RESERVED</b> .....	<b>300-62</b>
<b>PARTS ENV-WM 320 THROUGH ENV-WM 344 RESERVED</b> .....	<b>300-62</b>
<b>PART ENV-WM 345 STATE-GUARANTEED BONDS FOR CLEAN-UP OR CLOSURE OF WASTE SITES - EXPIRED</b> .....	<b>300-62</b>
<b>PARTS ENV-WM 346 THROUGH ENV-WM 350 RESERVED</b> .....	<b>300-62</b>
<b>CHAPTER ENV-WM 2100 COLLECTION, STORAGE, AND TRANSFER FACILITY REQUIREMENTS</b> .....	<b>2100-1</b>
<b>PART ENV-WM 2101 APPLICABILITY</b> .....	<b>2100-1</b>
<i>Env-Wm 2101.01 Applicability</i> .....	2100-1
<b>PART ENV-WM 2102 PERMITTING REQUIREMENTS</b> .....	<b>2100-1</b>
<i>Env-Wm 2102.01 Permit Required</i> .....	2100-1
<i>Env-Wm 2102.02 Permit Application Requirements</i> .....	2100-1
<b>PART ENV-WM 2103 SITING REQUIREMENTS</b> .....	<b>2100-1</b>
<i>Env-Wm 2103.01 Applicability</i> .....	2100-1
<i>Env-Wm 2103.02 Setback Requirements</i> .....	2100-2
<b>PART ENV-WM 2104 DESIGN REQUIREMENTS</b> .....	<b>2100-2</b>
<i>Env-Wm 2104.01 Applicability</i> .....	2100-2
<i>Env-Wm 2104.02 General Design Requirements</i> .....	2100-2
<i>Env-Wm 2104.03 Design Features and Appurtenances</i> .....	2100-2
<i>Env-Wm 2104.04 Waste Handling and Storage Area Design Requirements</i> .....	2100-3
<i>Env-Wm 2104.05 Waste Stockpiles</i> .....	2100-4
<b>PART ENV-WM 2105 OPERATING REQUIREMENTS</b> .....	<b>2100-5</b>
<i>Env-Wm 2105.01 Applicability</i> .....	2100-5
<i>Env-Wm 2105.02 Collection and Storage Requirements</i> .....	2100-5
<i>Env-Wm 2105.03 Waste Transfer Requirements</i> .....	2100-6
<i>Env-Wm 2105.04 Public Benefit Requirements</i> .....	2100-6
<b>PART ENV-WM 2106 CLOSURE REQUIREMENTS</b> .....	<b>2100-7</b>
<i>Env-Wm 2106.01 Applicability</i> .....	2100-7
<i>Env-Wm 2106.02 Removal of Processed Recyclable Materials</i> .....	2100-7
<b>PART ENV-WM 2107 PERMIT-BY-NOTIFICATION FACILITIES</b> .....	<b>2100-7</b>
<i>Env-Wm 2107.01 Purpose</i> .....	2100-7
<i>Env-Wm 2107.02 Limited Public Transfer Stations</i> .....	2100-7
<i>Env-Wm 2107.03 Collection Centers for Select Recyclables</i> .....	2100-8
<i>Env-Wm 2107.04 Scrap Metal Collection and Recycling Centers</i> .....	2100-8
<i>Env-Wm 2107.05 Truck Transfer Stations</i> .....	2100-9
<b>PART ENV-WM 2108 PERMIT-EXEMPT FACILITIES</b> .....	<b>2100-10</b>
<i>Env-Wm 2108.01 Purpose</i> .....	2100-10
<i>Env-Wm 2108.02 General Conditions for Exemption</i> .....	2100-10
<i>Env-Wm 2108.03 Site of Generation C/S/T Facilities</i> .....	2100-11
<i>Env-Wm 2108.04 C/S/T Facilities for Processed Select Recyclable Materials</i> .....	2100-11
<i>Env-Wm 2108.05 C/S/T Facilities for Unprocessed Select Recyclable Materials</i> .....	2100-11
<i>Env-Wm 2108.06 Waste In-Transit Storage Areas</i> .....	2100-11
<i>Env-Wm 2108.07 Roadside Clean-up Staging Areas</i> .....	2100-12

**SOLID WASTE MANAGEMENT**  
NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

TABLE OF CONTENTS

**CHAPTER ENV-WM 2200 PROCESSING OR TREATMENT FACILITY REQUIREMENTS ..... 2200-1**

PART ENV-WM 2201 APPLICABILITY .....	2200-1
<i>Env-Wm 2201.01 Applicability</i> .....	2200-1
PART ENV-WM 2202 PERMITTING REQUIREMENTS .....	2200-1
<i>Env-Wm 2202.01 Permit Required</i> .....	2200-1
<i>Env-Wm 2202.02 Permit Application Requirements</i> .....	2200-1
PART ENV-WM 2203 SITING REQUIREMENTS .....	2200-1
<i>Env-Wm 2203.01 Applicability</i> .....	2200-1
<i>Env-Wm 2203.02 Setback Requirements</i> .....	2200-2
PART ENV-WM 2204 DESIGN REQUIREMENTS .....	2200-2
<i>Env-Wm 2204.01 Applicability</i> .....	2200-2
<i>Env-Wm 2204.02 General Design Requirements</i> .....	2200-2
<i>Env-Wm 2204.03 Design Features and Appurtenances</i> .....	2200-3
<i>Env-Wm 2204.04 Handling and Storage Areas for Waste and Materials</i> .....	2200-3
PART ENV-WM 2205 OPERATING REQUIREMENTS .....	2200-3
<i>Env-Wm 2205.01 Applicability</i> .....	2200-3
<i>Env-Wm 2205.02 General Operating Objectives</i> .....	2200-4
<i>Env-Wm 2205.03 Collection and Storage of Incoming Waste</i> .....	2200-4
<i>Env-Wm 2205.04 Management of Bypass and Residual Waste</i> .....	2200-4
<i>Env-Wm 2205.05 Processing and Treatment Requirements</i> .....	2200-5
<i>Env-Wm 2205.06 Management of Processed and Treated Waste</i> .....	2200-5
<i>Env-Wm 2205.07 Management of Waste-Derived Products</i> .....	2200-5
<i>Env-Wm 2205.08 Public Benefit</i> .....	2200-6
PART ENV-WM 2206 CLOSURE REQUIREMENTS .....	2200-6
<i>Env-Wm 2206.01 Applicability</i> .....	2200-6
<i>Env-Wm 2206.02 Removal of Processed Recyclable Materials</i> .....	2200-6
<i>Env-Wm 2206.03 Land Application of Uncertified Waste-Derived Products</i> .....	2200-6
<i>Env-Wm 2206.04 Removal of Residual Waste</i> .....	2200-7
PART ENV-WM 2207 PERMIT-BY-NOTIFICATION FACILITIES .....	2200-7
<i>Env-Wm 2207.01 Purpose</i> .....	2200-7
<i>Env-Wm 2207.02 Infectious Waste Treatment Facilities</i> .....	2200-7
<i>Env-Wm 2207.03 Concrete Processing Facilities</i> .....	2200-8
<i>Env-Wm 2207.04 P/T Facilities Producing Certified Waste-Derived Products</i> .....	2200-8
PART ENV-WM 2208 PERMIT-EXEMPT FACILITIES .....	2200-9
<i>Env-Wm 2208.01 Purpose</i> .....	2200-9
<i>Env-Wm 2208.02 General Conditions for Exemption</i> .....	2200-9
<i>Env-Wm 2208.03 Generator P/T Facilities</i> .....	2200-9
<i>Env-Wm 2208.04 Infectious Waste Bench Top Facilities</i> .....	2200-9
<i>Env-Wm 2208.05 Burn Piles</i> .....	2200-10
<i>Env-Wm 2208.06 P/T Facilities Using Select Processed Recyclable Materials</i> .....	2200-10
<i>Env-Wm 2208.07 P/T Facilities Using Non-Select Processed Recyclable Materials</i> .....	2200-11
<i>Env-Wm 2208.08 Certified Testing Laboratories</i> .....	2200-11

**CHAPTER ENV-WM 2300 COMPOSTING FACILITY REQUIREMENTS ..... 2300-1**

PART ENV-WM 2301 APPLICABILITY .....	2300-1
<i>Env-Wm 2301.01 Applicability</i> .....	2300-1
PART ENV-WM 2302 PERMITTING REQUIREMENTS .....	2300-1
<i>Env-Wm 2302.01 Permit Required</i> .....	2300-1
<i>Env-Wm 2302.02 Permit Application Requirements</i> .....	2300-1
PART ENV-WM 2303 SITING REQUIREMENTS .....	2300-1
<i>Env-Wm 2303.01 Applicability</i> .....	2300-1
<i>Env-Wm 2303.02 Siting Requirements</i> .....	2300-2
PART ENV-WM 2304 DESIGN REQUIREMENTS .....	2300-2
<i>Env-Wm 2304.01 Applicability</i> .....	2300-2

**SOLID WASTE MANAGEMENT**  
NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

TABLE OF CONTENTS

<i>Env-Wm 2304.02</i>	<i>General Design Requirements</i>	2300-2
<i>Env-Wm 2304.03</i>	<i>Process Design Requirements</i>	2300-2
<i>Env-Wm 2304.04</i>	<i>Waste Collection, Storage and Processing Area Design Requirements</i>	2300-3
<b>PART ENV-WM 2305</b>	<b>OPERATING REQUIREMENTS</b>	<b>2300-3</b>
<i>Env-Wm 2305.01</i>	<i>Applicability</i>	2300-3
<i>Env-Wm 2305.02</i>	<i>General Operating Requirements</i>	2300-4
<i>Env-Wm 2305.03</i>	<i>Product Quality Assurance/Quality Control Requirements</i>	2300-5
<i>Env-Wm 2305.04</i>	<i>Compost Classes</i>	2300-6
<i>Env-Wm 2305.05</i>	<i>Class A Compost</i>	2300-7
<i>Env-Wm 2305.06</i>	<i>Uses, Class AA Compost</i>	2300-7
<i>Env-Wm 2305.07</i>	<i>Uses, Class A Compost</i>	2300-7
<i>Env-Wm 2305.08</i>	<i>Uses, Off-Specification Compost</i>	2300-7
<i>Env-Wm 2305.09</i>	<i>Compost Identification</i>	2300-8
<i>Env-Wm 2305.10</i>	<i>Out-of-State Compost</i>	2300-8
<b>PART ENV-WM 2306</b>	<b>CLOSURE REQUIREMENTS</b>	<b>2300-8</b>
<i>Env-Wm 2306.01</i>	<i>Applicability</i>	2300-8
<i>Env-Wm 2306.02</i>	<i>Closure Requirements</i>	2300-9
<b>PART ENV-WM 2307</b>	<b>PERMIT-BY-NOTIFICATION FACILITIES</b>	<b>2300-9</b>
<i>Env-Wm 2307.01</i>	<i>Purpose</i>	2300-9
<i>Env-Wm 2307.02</i>	<i>Small Food Waste Composting Facilities</i>	2300-9
<b>PART ENV-WM 2308</b>	<b>PERMIT-EXEMPT FACILITIES</b>	<b>2300-11</b>
<i>Env-Wm 2308.01</i>	<i>Purpose</i>	2300-11
<i>Env-Wm 2308.02</i>	<i>General Conditions for Exemption</i>	2300-11
<i>Env-Wm 2308.03</i>	<i>Generator Composting Facilities</i>	2300-11
<b>CHAPTER ENV-WM 2400</b>	<b>INCINERATION FACILITY REQUIREMENTS</b>	<b>2400-1</b>
<b>PART ENV-WM 2401</b>	<b>APPLICABILITY</b>	<b>2400-1</b>
<i>Env-Wm 2401.01</i>	<i>Applicability</i>	2400-1
<b>PART ENV-WM 2402</b>	<b>INCINERATOR PERMIT APPLICATION REQUIREMENTS</b>	<b>2400-1</b>
<i>Env-Wm 2402.01</i>	<i>Permit Required</i>	2400-1
<i>Env-Wm 2402.02</i>	<i>Permit Application Requirements</i>	2400-1
<b>PART ENV-WM 2403</b>	<b>SITING REQUIREMENTS</b>	<b>2400-1</b>
<i>Env-Wm 2403.01</i>	<i>Siting Requirements</i>	2400-1
<b>PART ENV-WM 2404</b>	<b>DESIGN REQUIREMENTS</b>	<b>2400-1</b>
<i>Env-Wm 2404.01</i>	<i>Applicability</i>	2400-2
<i>Env-Wm 2404.02</i>	<i>General Design Requirements</i>	2400-2
<i>Env-Wm 2404.03</i>	<i>Combustion Unit</i>	2400-2
<b>PART ENV-WM 2405</b>	<b>OPERATING REQUIREMENTS</b>	<b>2400-2</b>
<i>Env-Wm 2405.01</i>	<i>Applicability</i>	2400-2
<i>Env-Wm 2405.02</i>	<i>General Operating Requirements</i>	2400-3
<i>Env-Wm 2405.03</i>	<i>Additional Signs and Postings</i>	2400-3
<i>Env-Wm 2405.04</i>	<i>Combustion Requirements</i>	2400-3
<i>Env-Wm 2405.05</i>	<i>Ash Residue Management</i>	2400-3
<b>PART ENV-WM 2406</b>	<b>CLOSURE REQUIREMENTS</b>	<b>2400-3</b>
<i>Env-Wm 2406.01</i>	<i>Closure Requirements</i>	2400-3
<b>PART ENV-WM 2407</b>	<b>PERMIT-BY-NOTIFICATION INCINERATORS</b>	<b>2400-4</b>
<i>Env-Wm 2407.01</i>	<i>Purpose</i>	2400-4
<i>Env-Wm 2407.02</i>	<i>Infectious Waste Incinerator</i>	2400-4
<b>PART ENV-WM 2408</b>	<b>PERMIT-EXEMPT INCINERATORS</b>	<b>2400-4</b>
<i>Env-Wm 2408.01</i>	<i>Purpose</i>	2400-4
<i>Env-Wm 2408.02</i>	<i>General Conditions for Exemption</i>	2400-4
<i>Env-Wm 2408.03</i>	<i>Animal Crematoriums</i>	2400-4
<b>CHAPTER ENV-WM 2500</b>	<b>LANDFILL REQUIREMENTS</b>	<b>2500-1</b>
<b>PART ENV-WM 2501</b>	<b>APPLICABILITY</b>	<b>2500-1</b>
<i>Env-Wm 2501.01</i>	<i>Applicability</i>	2500-1

**SOLID WASTE MANAGEMENT**  
NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

TABLE OF CONTENTS

PART ENV-WM 2502 PERMITTING REQUIREMENTS .....	2500-1
<i>Env-Wm 2502.01 Permit Required</i> .....	2500-1
<i>Env-Wm 2502.02 Permit Application Requirements</i> .....	2500-1
PART ENV-WM 2503 FEDERAL REQUIREMENTS FOR MSW LANDFILLS .....	2500-1
<i>Env-Wm 2503.01 Purpose</i> .....	2500-1
<i>Env-Wm 2503.02 Applicability</i> .....	2500-1
<i>Env-Wm 2503.03 Applicability of Federal Law</i> .....	2500-2
<i>Env-Wm 2503.04 Standards Specific to MSWLFs Subject to 40 CFR 258</i> .....	2500-2
PART ENV-WM 2504 SITING REQUIREMENTS .....	2500-3
<i>Env-Wm 2504.01 Applicability</i> .....	2500-3
<i>Env-Wm 2504.02 Groundwater Protection Standards</i> .....	2500-3
<i>Env-Wm 2504.03 Surface Water Protection Standards</i> .....	2500-4
<i>Env-Wm 2504.04 Set-back Requirements</i> .....	2500-4
<i>Env-Wm 2504.05 Geologic Siting Limitations</i> .....	2500-5
<i>Env-Wm 2504.06 Other Siting Limitations</i> .....	2500-5
PART ENV-WM 2505 DESIGN AND CONSTRUCTION REQUIREMENTS .....	2500-5
<i>Env-Wm 2505.01 Applicability</i> .....	2500-5
<i>Env-Wm 2505.02 General Landfill Design Requirements</i> .....	2500-5
<i>Env-Wm 2505.03 Landfill Subgrade and Base Grade Standards</i> .....	2500-6
<i>Env-Wm 2505.04 Liner Material and Construction Requirements</i> .....	2500-7
<i>Env-Wm 2505.05 Liner System Design Standards</i> .....	2500-7
<i>Env-Wm 2505.06 Leachate Collection and Removal System Design Standards</i> .....	2500-8
<i>Env-Wm 2505.07 Leak Detection and Location System Design Standards</i> .....	2500-10
<i>Env-Wm 2505.08 Groundwater and Surface Water Monitoring System Design Standards</i> .....	2500-11
<i>Env-Wm 2505.09 Stormwater Management System Design Standards</i> .....	2500-11
<i>Env-Wm 2505.10 Landfill Capping System Design Standards</i> .....	2500-12
<i>Env-Wm 2505.11 Other Landfill Design Requirements</i> .....	2500-16
<i>Env-Wm 2505.12 MSW Landfill Design Standards</i> .....	2500-17
<i>Env-Wm 2505.13 MSW Incinerator Ash Landfill Design Standards</i> .....	2500-17
<i>Env-Wm 2505.14 Construction/Demolition Debris Landfill and Coal Ash Landfill Design Standards</i> .....	2500-17
<i>Env-Wm 2505.15 Design Standards for Landfills Receiving Other Solid Waste Types</i> .....	2500-17
<i>Env-Wm 2505.16 Quality Assurance/Quality Control Standards for Liner and Capping Systems</i> .....	2500-17
PART ENV-WM 2506 OPERATING REQUIREMENTS .....	2500-20
<i>Env-Wm 2506.01 Applicability</i> .....	2500-20
<i>Env-Wm 2506.02 Waste Placement</i> .....	2500-20
<i>Env-Wm 2506.03 Landfill Cover During Operations</i> .....	2500-21
<i>Env-Wm 2506.04 Operating Standards for Groundwater and Surface Water Monitoring</i> .....	2500-22
<i>Env-Wm 2506.05 Leachate Management Requirements</i> .....	2500-22
<i>Env-Wm 2506.06 Stormwater Management Requirements</i> .....	2500-23
<i>Env-Wm 2506.07 Decomposition Gas Control Requirements</i> .....	2500-23
<i>Env-Wm 2506.08 Inspections, Maintenance, Monitoring and Reporting Requirements</i> .....	2500-24
<i>Env-Wm 2506.09 Other Operating Standards</i> .....	2500-27
<i>Env-Wm 2506.10 Construction/Demolition Debris Landfill Operating Requirements</i> .....	2500-27
<i>Env-Wm 2506.11 Asbestos Waste Landfill Operating Requirements</i> .....	2500-27
<i>Env-Wm 2506.12 Prohibitions</i> .....	2500-27
PART ENV-WM 2507 CLOSURE REQUIREMENTS .....	2500-28
<i>Env-Wm 2507.01 Applicability</i> .....	2500-28
<i>Env-Wm 2507.02 Closure Scheduling</i> .....	2500-28
<i>Env-Wm 2507.03 Landfill Closure and Post-Closure Requirements</i> .....	2500-28
<i>Env-Wm 2507.04 Performance Standards</i> .....	2500-30
<i>Env-Wm 2507.05 Post-Closure Inspections, Monitoring, Maintenance and Reporting Requirements</i> .....	2500-30
PART ENV-WM 2508 LANDFILL RECLAMATION .....	2500-32
<i>Env-Wm 2508.01 Applicability</i> .....	2500-32
<i>Env-Wm 2508.02 Approval Required</i> .....	2500-32
<i>Env-Wm 2508.03 Feasibility Study</i> .....	2500-32

**SOLID WASTE MANAGEMENT**  
NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

TABLE OF CONTENTS

<i>Env-Wm 2508.04 Landfill Reclamation Work Plan</i> .....	2500-33
<i>Env-Wm 2508.05 Contingency Plan</i> .....	2500-34
<b>PART ENV-WM 2509 PERMIT-BY-NOTIFICATION LANDFILLS</b> .....	<b>2500-34</b>
<i>Env-Wm 2509.01 Purpose</i> .....	2500-34
<i>Env-Wm 2509.02 Off-site Masonry Debris Landfill</i> .....	2500-34
<i>Env-Wm 2509.03 Off-site Stump Dump</i> .....	2500-35
<b>PART ENV-WM 2510 PERMIT-EXEMPT LANDFILLS</b> .....	<b>2500-35</b>
<i>Env-Wm 2510.01 Purpose</i> .....	2500-35
<i>Env-Wm 2510.02 General Exemption Provisions</i> .....	2500-35
<i>Env-Wm 2510.03 Exemption Conditions</i> .....	2500-35
<i>Env-Wm 2510.04 On-site Asphalt and Masonry Debris Landfill</i> .....	2500-36
<i>Env-Wm 2510.05 Leachfield Repair Residuals Landfill</i> .....	2500-36
<i>Env-Wm 2510.06 Abandoned Underground Structures</i> .....	2500-36
<i>Env-Wm 2510.07 Incidental Animal Burial</i> .....	2500-37
<i>Env-Wm 2510.08 Pet Cemeteries</i> .....	2500-37
<i>Env-Wm 2510.09 Off-site Stump Dump</i> .....	2500-37
<b>CHAPTER ENV-WM 2600 MANAGEMENT OF CERTAIN WASTES</b> .....	<b>2600-1</b>
<b>PART ENV-WM 2601 ASBESTOS</b> .....	<b>2600-1</b>
<i>Env-Wm 2601.01 Applicability</i> .....	2600-1
<i>Env-Wm 2601.02 Collection, Storage and Transfer Requirements</i> .....	2600-1
<i>Env-Wm 2601.03 Processing and Treatment Requirements</i> .....	2600-2
<i>Env-Wm 2601.04 Disposal Requirements</i> .....	2600-2
<i>Env-Wm 2601.05 Reuse Requirements and Limitations</i> .....	2600-3
<i>Env-Wm 2601.06 Transportation, Packaging and Labeling Requirements</i> .....	2600-3
<i>Env-Wm 2601.07 Testing and Reporting Requirements</i> .....	2600-4
<i>Env-Wm 2601.08 Other Requirements</i> .....	2600-4
<b>PART ENV-WM 2602 ASH</b> .....	<b>2600-5</b>
<i>Env-Wm 2602.01 Applicability</i> .....	2600-5
<i>Env-Wm 2602.02 Collection, Storage and Transfer Requirements</i> .....	2600-5
<i>Env-Wm 2602.03 Processing and Treatment Requirements</i> .....	2600-6
<i>Env-Wm 2602.04 Disposal Requirements</i> .....	2600-6
<i>Env-Wm 2602.05 Reuse Requirements and Limitations</i> .....	2600-7
<i>Env-Wm 2602.06 Transportation, Packaging and Labeling Requirements</i> .....	2600-7
<i>Env-Wm 2602.07 Testing and Reporting Requirements</i> .....	2600-7
<i>Env-Wm 2602.08 Other Requirements</i> .....	2600-8
<b>PART ENV-WM 2603 CONTAMINATED SOILS AND MEDIA</b> .....	<b>2600-8</b>
<i>Env-Wm 2603.01 Applicability</i> .....	2600-8
<i>Env-Wm 2603.02 Collection, Storage and Transfer Requirements</i> .....	2600-8
<i>Env-Wm 2603.03 Processing and Treatment Requirements</i> .....	2600-9
<i>Env-Wm 2603.04 Disposal Requirements</i> .....	2600-9
<i>Env-Wm 2603.05 Reuse Requirements and Limitations</i> .....	2600-9
<i>Env-Wm 2603.06 Transportation Requirements</i> .....	2600-12
<i>Env-Wm 2603.07 Testing and Reporting Requirements</i> .....	2600-12
<b>PART ENV-WM 2604 INFECTIOUS WASTE</b> .....	<b>2600-12</b>
<i>Env-Wm 2604.01 Applicability</i> .....	2600-12
<i>Env-Wm 2604.02 Collection, Storage and Transfer Requirements</i> .....	2600-13
<i>Env-Wm 2604.03 Processing and Treatment Requirements</i> .....	2600-14
<i>Env-Wm 2604.04 Disposal Requirements</i> .....	2600-15
<i>Env-Wm 2604.05 Reuse Requirements and Limitations</i> .....	2600-15
<i>Env-Wm 2604.06 Transportation, Packaging and Labeling Requirements</i> .....	2600-15
<i>Env-Wm 2604.07 Testing and Reporting Requirements</i> .....	2600-16
<i>Env-Wm 2604.08 Other Requirements</i> .....	2600-16
<b>PART ENV-WM 2605 TIRES</b> .....	<b>2600-16</b>
<i>Env-Wm 2605.01 Applicability</i> .....	2600-16
<i>Env-Wm 2605.02 Collection, Storage and Transfer Requirements</i> .....	2600-16
<i>Env-Wm 2605.03 Processing and Treatment Requirements</i> .....	2600-17

**SOLID WASTE MANAGEMENT**  
NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

TABLE OF CONTENTS

<i>Env-Wm 2605.04 Disposal Requirements</i> .....	2600-17
<i>Env-Wm 2605.05 Reuse Requirements and Limitations</i> .....	2600-17
<i>Env-Wm 2605.06 Transportation Requirements</i> .....	2600-18
<i>Env-Wm 2605.07 Testing and Reporting Requirements</i> .....	2600-18
<i>Env-Wm 2605.08 Other Requirements</i> .....	2600-18
PARTS ENV-WM 2606 AND ENV-WM 2607 - REPEALED AND RESERVED .....	2600-18
<b>CHAPTER ENV-WM 2700 UNIVERSAL FACILITY REQUIREMENTS.....</b>	<b>2700-1</b>
PART ENV-WM 2701 PURPOSE AND APPLICABILITY.....	2700-1
<i>Env-Wm 2701.01 Purpose</i> .....	2700-1
<i>Env-Wm 2701.02 Applicability</i> .....	2700-1
PART ENV-WM 2702 UNIVERSAL ENVIRONMENTAL PERFORMANCE REQUIREMENTS	
.....	2700-1
<i>Env-Wm 2702.01 Environmental Conservation and Protection</i> .....	2700-1
<i>Env-Wm 2702.02 Discharge of Pollutants Prohibited</i> .....	2700-1
<i>Env-Wm 2702.03 Protection of Wildlife</i> .....	2700-1
<i>Env-Wm 2702.04 Safety</i> .....	2700-2
<i>Env-Wm 2702.05 Dams, Flowage and Flood Provisions</i> .....	2700-2
PART ENV-WM 2703 UNIVERSAL SITING REQUIREMENTS.....	2700-2
<i>Env-Wm 2703.01 Distance to Other Facilities</i> .....	2700-2
<i>Env-Wm 2703.02 Easements and Rights-of-Way</i> .....	2700-2
<i>Env-Wm 2703.03 Property Ownership and Access Rights</i> .....	2700-2
<i>Env-Wm 2703.04 Groundwater and Surface Waters</i> .....	2700-3
<i>Env-Wm 2703.05 Wetlands</i> .....	2700-3
<i>Env-Wm 2703.06 Shoreland Protection</i> .....	2700-3
<i>Env-Wm 2703.07 Designated Rivers</i> .....	2700-3
PART ENV-WM 2704 UNIVERSAL DESIGN REQUIREMENTS.....	2700-3
<i>Env-Wm 2704.01 Basic Design Requirements</i> .....	2700-3
<i>Env-Wm 2704.02 Roads and Traffic Control</i> .....	2700-3
<i>Env-Wm 2704.03 Drainage</i> .....	2700-4
<i>Env-Wm 2704.04 Protection of Landfill Closure Systems</i> .....	2700-4
<i>Env-Wm 2704.05 Wastewater Systems</i> .....	2700-4
<i>Env-Wm 2704.06 Motor Vehicle Waste Collection</i> .....	2700-4
<i>Env-Wm 2704.07 Equipment</i> .....	2700-4
PART ENV-WM 2705 UNIVERSAL OPERATING REQUIREMENTS.....	2700-5
<i>Env-Wm 2705.01 General Operating Requirements</i> .....	2700-5
<i>Env-Wm 2705.02 Unauthorized Use Prohibited</i> .....	2700-5
<i>Env-Wm 2705.03 Traffic Management</i> .....	2700-6
<i>Env-Wm 2705.04 Reuse of Waste</i> .....	2700-6
<i>Env-Wm 2705.05 Public Benefit</i> .....	2700-6
<i>Env-Wm 2705.06 Operator Qualifications</i> .....	2700-7
<i>Env-Wm 2705.07 Facility Staffing</i> .....	2700-7
<i>Env-Wm 2705.08 Financial Assurance</i> .....	2700-7
<i>Env-Wm 2705.09 Incident Reporting</i> .....	2700-8
<i>Env-Wm 2705.10 Out-of-State Waste Recordkeeping</i> .....	2700-9
PART ENV-WM 2706 UNIVERSAL CLOSURE REQUIREMENTS.....	2700-9
<i>Env-Wm 2706.01 Trigger Events for Closure</i> .....	2700-9
<i>Env-Wm 2706.02 General Closure Requirements</i> .....	2700-10
PART ENV-WM 2707 AND ENV-WM 2708 - EXPIRED AND RESERVED .....	2700-10
<b>CHAPTER ENV-WM 2800 ADDITIONAL FACILITY REQUIREMENTS.....</b>	<b>2800-1</b>
PART ENV-WM 2801 PURPOSE AND APPLICABILITY.....	2800-1
<i>Env-Wm 2801.01 Purpose</i> .....	2800-1
<i>Env-Wm 2801.02 Applicability</i> .....	2800-1
PART ENV-WM 2802 ADDITIONAL SITING REQUIREMENTS.....	2800-1
<i>Env-Wm 2802.01 General Siting Requirements</i> .....	2800-1

**SOLID WASTE MANAGEMENT**  
NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

TABLE OF CONTENTS

<i>Env-Wm 2802.02 Co-existence with Other Activities</i> .....	2800-1
<b>PART ENV-WM 2803 ADDITIONAL DESIGN REQUIREMENTS</b> .....	<b>2800-2</b>
<i>Env-Wm 2803.01 General Design Requirements</i> .....	2800-2
<i>Env-Wm 2803.02 Equipment Installation</i> .....	2800-2
<i>Env-Wm 2803.03 Access Control</i> .....	2800-2
<i>Env-Wm 2803.04 Surrounding Properties</i> .....	2800-2
<i>Env-Wm 2803.05 Design Plans and Specifications, Content and Format</i> .....	2800-3
<b>PART ENV-WM 2804 ADDITIONAL CONSTRUCTION REQUIREMENTS</b> .....	<b>2800-3</b>
<i>Env-Wm 2804.01 Prerequisites for Construction</i> .....	2800-3
<i>Env-Wm 2804.02 Notice of Intent to Construct</i> .....	2800-4
<i>Env-Wm 2804.03 Approval to Commence Construction</i> .....	2800-5
<i>Env-Wm 2804.04 General Construction Requirements</i> .....	2800-6
<i>Env-Wm 2804.05 Design Changes During Construction</i> .....	2800-7
<i>Env-Wm 2804.06 Project Engineer and Resident Engineer</i> .....	2800-7
<i>Env-Wm 2804.07 Construction Reporting and Recordkeeping Requirements</i> .....	2800-8
<i>Env-Wm 2804.08 Interaction with Department During Construction</i> .....	2800-9
<b>PART ENV-WM 2805 ADDITIONAL OPERATING REQUIREMENTS</b> .....	<b>2800-10</b>
<i>Env-Wm 2805.01 Prerequisites for Operations</i> .....	2800-10
<i>Env-Wm 2805.02 Notice of Intent to Operate</i> .....	2800-11
<i>Env-Wm 2805.03 Operating Approval</i> .....	2800-11
<i>Env-Wm 2805.04 Basic Operating Requirements</i> .....	2800-12
<i>Env-Wm 2805.05 Signs and Postings</i> .....	2800-12
<i>Env-Wm 2805.06 Facility Operating Records</i> .....	2800-12
<i>Env-Wm 2805.07 Reporting Requirements</i> .....	2800-13
<i>Env-Wm 2805.08 Hours of Operation</i> .....	2800-15
<i>Env-Wm 2805.09 Receipt and Management of Waste</i> .....	2800-15
<i>Env-Wm 2805.10 Management of Residual Waste</i> .....	2800-15
<i>Env-Wm 2805.11 Operating Plan Content and Format</i> .....	2800-16
<i>Env-Wm 2805.12 Interactions with Districts</i> .....	2800-18
<i>Env-Wm 2805.13 Annual Report for Active Facilities, Content</i> .....	2800-18
<i>Env-Wm 2805.14 Annual Report for Inactive Facilities, Content</i> .....	2800-19
<b>PART ENV-WM 2806 ADDITIONAL CLOSURE REQUIREMENTS</b> .....	<b>2800-19</b>
<i>Env-Wm 2806.01 Commencement of Closure Activities</i> .....	2800-20
<i>Env-Wm 2806.02 Notice of Intent to Close</i> .....	2800-20
<i>Env-Wm 2806.03 Basic Facility Closure Requirements</i> .....	2800-20
<i>Env-Wm 2806.04 Closure Plan, Content and Format</i> .....	2800-20
<i>Env-Wm 2806.05 Temporary Cessation of Facility Construction or Operations</i> .....	2800-21

**CHAPTER ENV-WM 2900 PERMIT-BY-NOTIFICATION FACILITY REQUIREMENTS**

.....	<b>2900-1</b>
<b>PART ENV-WM 2901 PURPOSE AND APPLICABILITY</b> .....	<b>2900-1</b>
<i>Env-Wm 2901.01 Purpose</i> .....	2900-1
<i>Env-Wm 2901.02 Applicability</i> .....	2900-1
<b>PART ENV-WM 2902 GENERAL REQUIREMENTS</b> .....	<b>2900-1</b>
<i>Env-Wm 2902.01 Universal Requirements</i> .....	2900-1
<i>Env-Wm 2902.02 Requirements for Operating Longer than 90-days</i> .....	2900-1
<i>Env-Wm 2902.03 Consecutive Permits Prohibited</i> .....	2900-2
<i>Env-Wm 2902.04 Obligation to Obtain Other Approvals</i> .....	2900-2
<i>Env-Wm 2902.05 Permittee and Operator Qualifications</i> .....	2900-2
<i>Env-Wm 2902.06 Permit Transfer Limitations and Requirements</i> .....	2900-3
<b>PART ENV-WM 2903 SITING REQUIREMENTS</b> .....	<b>2900-3</b>
<i>Env-Wm 2903.01 Location Restrictions, New Permit-by-Notification Facilities</i> .....	2900-3
<i>Env-Wm 2903.02 Additional Location Restrictions for Landfills</i> .....	2900-3
<b>PART ENV-WM 2904 OPERATING REQUIREMENTS</b> .....	<b>2900-4</b>
<i>Env-Wm 2904.01 General Operating Requirements</i> .....	2900-4
<i>Env-Wm 2904.02 Authorized Waste</i> .....	2900-4

**SOLID WASTE MANAGEMENT**  
NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

TABLE OF CONTENTS

<i>Env-Wm 2904.03 Prohibited Waste</i> .....	2900-4
<i>Env-Wm 2904.04 Capacity Limits</i> .....	2900-4
<i>Env-Wm 2904.05 Landfill Operating Requirements</i> .....	2900-5
<b>PART ENV-WM 2905 CLOSURE REQUIREMENTS</b> .....	2900-5
<i>Env-Wm 2905.01 Non-landfill Closure Requirements</i> .....	2900-5
<i>Env-Wm 2905.02 Landfill Closure Requirements</i> .....	2900-5
<i>Env-Wm 2905.03 Notification of Closure</i> .....	2900-6

**CHAPTER ENV-WM 3000 PUBLIC GRANTS FOR LANDFILL AND INCINERATOR CLOSURE.....3000-1**

<b>PART ENV-WM 3001 PURPOSE &amp; APPLICABILITY</b> .....	3000-1
<i>Env-Wm 3001.01 Purpose</i> .....	3000-1
<i>Env-Wm 3001.02 Applicability</i> .....	3000-1
<b>PART ENV-WM 3002 COSTS ELIGIBLE FOR REIMBURSEMENT</b> .....	3000-1
<i>Env-Wm 3002.01 Purpose</i> .....	3000-1
<i>Env-Wm 3002.02 Eligible Costs</i> .....	3000-1
<b>PART ENV-WM 3003 APPLICATIONS FOR LANDFILL CLOSURE GRANTS</b> .....	3000-1
<i>Env-Wm 3003.01 Applicability</i> .....	3000-1
<i>Env-Wm 3003.02 Grant Applications</i> .....	3000-1
<b>PART ENV-WM 3004 APPLICATIONS FOR INCINERATOR CLOSURE GRANTS</b> .....	3000-3
<i>Env-Wm 3004.01 Applicability</i> .....	3000-3
<i>Env-Wm 3004.02 Grant Applications</i> .....	3000-3
<b>PART ENV-WM 3005 APPLICATION FILING AND PROCESSING</b> .....	3000-4
<i>Env-Wm 3005.01 Purpose</i> .....	3000-4
<i>Env-Wm 3005.02 Application Filing</i> .....	3000-4
<i>Env-Wm 3005.03 Application Processing</i> .....	3000-4
<i>Env-Wm 3005.04 Application Decision</i> .....	3000-4
<b>PART ENV-WM 3006 GRANT AWARDS</b> .....	3000-5
<i>Env-Wm 3006.01 Purpose</i> .....	3000-5
<i>Env-Wm 3006.02 Grant Priorities</i> .....	3000-5
<i>Env-Wm 3006.03 Grant Funding</i> .....	3000-5
<b>PART ENV-WM 3007 DISBURSEMENT OF GRANT AWARDS</b> .....	3000-5
<i>Env-Wm 3007.01 Purpose</i> .....	3000-5
<i>Env-Wm 3007.02 Financed Eligible Costs</i> .....	3000-5
<i>Env-Wm 3007.03 Eligible Costs Paid with Cash</i> .....	3000-5
<i>Env-Wm 3007.04 Failure to Comply</i> .....	3000-5
<b>PART ENV-WM 3008 ADJUSTMENTS TO GRANT AWARDS</b> .....	3000-5
<i>Env-Wm 3008.01 Purpose</i> .....	3000-5
<i>Env-Wm 3008.02 Adjustments Due to Receipt of New Third Party Funds</i> .....	3000-6
<i>Env-Wm 3008.03 Adjustments Due to New Expenditures</i> .....	3000-6
<i>Env-Wm 3008.04 Notification of Receipt of Additional Funds</i> .....	3000-6

**CHAPTER ENV-WM 3100 FINANCIAL ASSURANCE.....3100-1**

<b>PART ENV-WM 3101 PURPOSE AND APPLICABILITY</b> .....	3100-1
<i>Env-Wm 3101.01 Purpose</i> .....	3100-1
<i>Env-Wm 3101.02 Applicability</i> .....	3100-1
<b>PART ENV-WM 3102 DEFINITIONS</b> .....	3100-1
<b>PART ENV-WM 3103 FINANCIAL ASSURANCE REQUIREMENTS</b> .....	3100-2
<i>Env-Wm 3103.01 Financial Assurance Plan</i> .....	3100-2
<i>Env-Wm 3103.02 Closure Cost Estimation</i> .....	3100-2
<i>Env-Wm 3103.03 Financial Assurance Mechanisms, All Facilities</i> .....	3100-3
<i>Env-Wm 3103.04 Financial Assurance Mechanisms, Public Facilities</i> .....	3100-4
<i>Env-Wm 3103.05 Local Government Financial Test</i> .....	3100-5
<i>Env-Wm 3103.06 Local Government Guarantee</i> .....	3100-6
<b>PART ENV-WM 3104 REVIEW AND APPROVAL</b> .....	3100-7

**SOLID WASTE MANAGEMENT**  
NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

TABLE OF CONTENTS

<i>Env-Wm 3104.01 Review</i> .....	3100-7
<i>Env-Wm 3104.02 Approval</i> .....	3100-7
<b>PART ENV-WM 3105 ADJUSTMENTS AND CHANGES</b> .....	<b>3100-7</b>
<i>Env-Wm 3105.01 Modifications</i> .....	3100-7
<i>Env-Wm 3105.02 Annual Updates</i> .....	3100-7
<i>Env-Wm 3105.03 Replacement</i> .....	3100-7
 <b>CHAPTER ENV-WM 3200 CERTIFICATION OF WASTE-DERIVED PRODUCTS ...3200-1</b>	
<b>PART ENV-WM 3201 PURPOSE AND APPLICABILITY</b> .....	<b>3200-1</b>
<i>Env-Wm 3201.01 Purpose</i> .....	3200-1
<i>Env-Wm 3201.02 Applicability</i> .....	3200-1
<b>PART ENV-WM 3202 CERTIFICATION REQUIREMENTS</b> .....	<b>3200-1</b>
<i>Env-Wm 3202.01 Certification Required</i> .....	3200-1
<i>Env-Wm 3202.02 Status of Certified Waste-Derived Products</i> .....	3200-1
<i>Env-Wm 3202.03 General Provisions for Obtaining Certification</i> .....	3200-2
<i>Env-Wm 3202.04 General Requirements and Limitations</i> .....	3200-2
<b>PART ENV-WM 3203 WASTE-DERIVED PRODUCTS CERTIFIED BY RULE</b> .....	<b>3200-3</b>
<i>Env-Wm 3203.01 Purpose</i> .....	3200-3
<i>Env-Wm 3203.02 Applicability</i> .....	3200-3
<i>Env-Wm 3203.03 General Provisions</i> .....	3200-3
<i>Env-Wm 3203.04 Salvaged Materials and Items</i> .....	3200-3
<i>Env-Wm 3203.05 Cloned Products</i> .....	3200-4
<i>Env-Wm 3203.06 Products from Select Processed Recyclables</i> .....	3200-4
<i>Env-Wm 3203.07 Products Meeting Published State or National Standards</i> .....	3200-5
<i>Env-Wm 3203.08 Waste Paper for Bulking</i> .....	3200-5
<i>Env-Wm 3203.09 Derivatives of Discarded Wood</i> .....	3200-6
<i>Env-Wm 3203.10 Waste-derived Compost</i> .....	3200-6
<i>Env-Wm 3203.11 Soils Decontaminated by Treatment Processes</i> .....	3200-6
<i>Env-Wm 3203.12 Wood Ash as a Bulking Agent or Odor Control Agent</i> .....	3200-6
<i>Env-Wm 3203.13 Manufactured Topsoil</i> .....	3200-6
<i>Env-Wm 3203.14 Coal Ash</i> .....	3200-7
<i>Env-Wm 3203.15 Methane Fuel</i> .....	3200-7
<i>Env-Wm 3203.16 Energy</i> .....	3200-7
<i>Env-Wm 3203.17 Cement Kiln Dust</i> .....	3200-7
<b>PART ENV-WM 3204 CRITERIA FOR CERTIFICATION</b> .....	<b>3200-7</b>
<i>Env-Wm 3204.01 Purpose</i> .....	3200-7
<i>Env-Wm 3204.02 Applicability</i> .....	3200-7
<i>Env-Wm 3204.03 Certification Criteria</i> .....	3200-7
<i>Env-Wm 3204.04 Need</i> .....	3200-7
<i>Env-Wm 3204.05 Product Quality and Quality Control</i> .....	3200-8
<i>Env-Wm 3204.06 Impact on Society</i> .....	3200-8
<b>PART ENV-WM 3205 APPLICATION REQUIREMENTS</b> .....	<b>3200-8</b>
<i>Env-Wm 3205.01 Applicability</i> .....	3200-8
<i>Env-Wm 3205.02 Application Content and Format</i> .....	3200-9
<i>Env-Wm 3205.03 Applicant Identification</i> .....	3200-9
<i>Env-Wm 3205.04 Product Identification and General Description</i> .....	3200-9
<i>Env-Wm 3205.05 Manufacturer Identification</i> .....	3200-10
<i>Env-Wm 3205.06 Production</i> .....	3200-10
<i>Env-Wm 3205.07 Use, Distribution and Markets</i> .....	3200-11
<i>Env-Wm 3205.08 Demonstration of Criteria</i> .....	3200-12
<i>Env-Wm 3205.09 Signature and Certification of Application Information</i> .....	3200-12
<b>PART ENV-WM 3206 APPLICATION FILING</b> .....	<b>3200-12</b>
<i>Env-Wm 3206.01 Application Filing</i> .....	3200-12
<b>PART ENV-WM 3207 APPLICATION REVIEW</b> .....	<b>3200-12</b>
<i>Env-Wm 3207.01 Application Receipt</i> .....	3200-12
<i>Env-Wm 3207.02 Application Completeness Determination</i> .....	3200-13

**SOLID WASTE MANAGEMENT**  
NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

TABLE OF CONTENTS

<i>Env-Wm 3207.03 Incomplete Applications</i> .....	3200-13
<i>Env-Wm 3207.04 Complete Applications</i> .....	3200-14
<i>Env-Wm 3207.05 Application Decision</i> .....	3200-14
<b>PART ENV-WM 3208 LIST OF CERTIFIED WASTE-DERIVED PRODUCTS</b> .....	<b>3200-14</b>
<i>Env-Wm 3208.01 Purpose</i> .....	3200-14
<i>Env-Wm 3208.02 Applicability</i> .....	3200-15
<i>Env-Wm 3208.03 Compilation and Maintenance of List</i> .....	3200-15
<i>Env-Wm 3208.04 Distribution of List</i> .....	3200-15
<b>PART ENV-WM 3209 REVOCATION AND SUSPENSION OF CERTIFICATION</b> .....	<b>3200-15</b>
<i>Env-Wm 3209.01 Applicability</i> .....	3200-15
<i>Env-Wm 3209.02 Procedure</i> .....	3200-15
<i>Env-Wm 3209.03 Good Cause</i> .....	3200-16
<b>CHAPTER ENV-WM 3300 SOLID WASTE FACILITY OPERATOR TRAINING AND CERTIFICATION</b> .....	<b>3300-1</b>
<b>PART ENV-WM 3301 PURPOSE AND APPLICABILITY</b> .....	<b>3300-1</b>
<i>Env-Wm 3301.01 Purpose</i> .....	3300-1
<i>Env-Wm 3301.02 Applicability</i> .....	3300-1
<b>PART ENV-WM 3302 DEFINITIONS</b> .....	<b>3300-1</b>
<b>PART ENV-WM 3303 PROVISIONS FOR OPERATOR CERTIFICATION</b> .....	<b>3300-2</b>
<i>Env-Wm 3303.01 Operator Certification Required</i> .....	3300-3
<i>Env-Wm 3303.02 Levels of Operator Certification</i> .....	3300-3
<i>Env-Wm 3303.03 General Provisions for Obtaining Operator Certification</i> .....	3300-3
<i>Env-Wm 3303.04 Interim Operator Certification</i> .....	3300-3
<i>Env-Wm 3303.05 Operator Certification by Training and Examination</i> .....	3300-4
<i>Env-Wm 3303.06 Operator Certification by Reciprocity</i> .....	3300-4
<b>PART ENV-WM 3304 APPLICATION REQUIREMENTS</b> .....	<b>3300-5</b>
<i>Env-Wm 3304.01 Application Content and Format</i> .....	3300-5
<i>Env-Wm 3304.02 Application Filing and Processing</i> .....	3300-5
<b>PART ENV-WM 3305 MINIMUM QUALIFICATIONS</b> .....	<b>3300-7</b>
<i>Env-Wm 3305.01 Minimum Qualifications for Operator Certification</i> .....	3300-7
<i>Env-Wm 3305.02 Substitutions to Operator Qualifications</i> .....	3300-7
<b>PART ENV-WM 3306 OPERATOR CERTIFICATION RENEWAL</b> .....	<b>3300-8</b>
<i>Env-Wm 3306.01 Operator Certification Renewal Requirements</i> .....	3300-8
<i>Env-Wm 3306.02 Continuing Education Requirements</i> .....	3300-8
<i>Env-Wm 3306.03 Renewal Applications</i> .....	3300-8
<i>Env-Wm 3306.04 Application Filing and Processing</i> .....	3300-8
<i>Env-Wm 3306.05 Renewal</i> .....	3300-9
<b>PART ENV-WM 3307 REVOCATION AND SUSPENSION</b> .....	<b>3300-9</b>
<i>Env-Wm 3307.01 Applicability</i> .....	3300-10
<i>Env-Wm 3307.02 Procedure</i> .....	3300-10
<i>Env-Wm 3307.03 Good Cause</i> .....	3300-10
<b>CHAPTER ENV-WM 3400 REQUIREMENTS FOR LAND APPLICATION OF WOOD ASH</b> .....	<b>3400-1</b>
<b>PART ENV-WM 3401 PURPOSE AND APPLICABILITY</b> .....	<b>3400-1</b>
<i>Env-Wm 3401.01 Purpose</i> .....	3400-1
<i>Env-Wm 3401.02 Applicability</i> .....	3400-1
<b>PART ENV-WM 3402 LAND APPLICATION REQUIREMENTS</b> .....	<b>3400-1</b>
<i>Env-Wm 3402.01 Certification Required</i> .....	3400-1
<i>Env-Wm 3402.02 Status of Certified Wood Ash</i> .....	3400-1
<i>Env-Wm 3402.03 General Provisions for Obtaining Certification</i> .....	3400-1
<b>PART ENV-WM 3403 CRITERIA FOR LAND APPLICATION</b> .....	<b>3400-1</b>
<i>Env-Wm 3403.01 Source</i> .....	3400-1
<i>Env-Wm 3403.02 Quality</i> .....	3400-2

**SOLID WASTE MANAGEMENT**  
**NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES**

*TABLE OF CONTENTS*

<i>Env-Wm 3403.03 Use</i> .....	3400-2
<b>PART ENV-WM 3404 PERMIT-EXEMPT LAND APPLICATION FACILITIES</b> .....	<b>3400-2</b>
<i>Env-Wm 3404.01 Land Application Sites</i> .....	3400-2
<i>Env-Wm 3404.02 Ash Standards</i> .....	3400-2
<i>Env-Wm 3404.03 Use</i> .....	3400-3
<i>Env-Wm 3404.04 Farm Management Plan</i> .....	3400-3
<i>Env-Wm 3404.05 Maximum Metals Concentration in Soils</i> .....	3400-3
<i>Env-Wm 3404.06 Universal Environmental Performance Requirements</i> .....	3400-3
<i>Env-Wm 3404.07 Recordkeeping</i> .....	3400-3
<b>PART ENV-WM 3405 APPLICATION AND APPROVAL</b> .....	<b>3400-3</b>
<i>Env-Wm 3405.01 Application Content and Format</i> .....	3400-3
<i>Env-Wm 3405.02 Application Filing</i> .....	3400-4
<i>Env-Wm 3405.03 Application Receipt</i> .....	3400-4
<i>Env-Wm 3405.04 Application Review</i> .....	3400-4
<i>Env-Wm 3405.05 Incomplete Applications</i> .....	3400-4
<i>Env-Wm 3405.06 Complete Applications</i> .....	3400-5
<i>Env-Wm 3405.07 Application Decision</i> .....	3400-5
<b>PART ENV-WM 3406 TESTING AND REPORTING REQUIREMENTS</b> .....	<b>3400-6</b>
<i>Env-Wm 3406.01 Wood Ash Testing and Reporting</i> .....	3400-6
<i>Env-Wm 3406.02 Annual Reporting</i> .....	3400-7
<b>PART ENV-WM 3407 STATUS OF APPROVALS GRANTED BEFORE OCTOBER 29, 1997</b>	
.....	3400-7
<i>Env-Wm 3407.01 Applicability</i> .....	3400-7
<i>Env-Wm 3407.02 Status of Approval</i> .....	3400-7
<b>CHAPTER ENV-WM 3500 REDUCTION OF TOXICS IN PACKAGING.....</b>	<b>3500-1</b>
<b>PART ENV-WM 3501 PURPOSE AND APPLICABILITY</b> .....	<b>3500-1</b>
<i>Env-Wm 3501.01 Purpose</i> .....	3500-1
<i>Env-Wm 3501.02 Applicability</i> .....	3500-1
<b>PART ENV-WM 3502 DEFINITIONS</b> .....	<b>3500-1</b>
<b>PART ENV-WM 3503 EXEMPTIONS</b> .....	<b>3500-2</b>
<i>Env-Wm 3503.01 Petition for Exemption</i> .....	3500-2
<i>Env-Wm 3503.02 Criteria for Petitioned Exemptions</i> .....	3500-3
<i>Env-Wm 3503.03 Processing of Petition for Exemption</i> .....	3500-3
<b>PART ENV-WM 3504 RENEWAL OF EXEMPTIONS</b> .....	<b>3500-4</b>
<i>Env-Wm 3504.01 Request for Renewal of Exemption</i> .....	3500-4
<i>Env-Wm 3504.02 Criteria for Renewal of Exemption</i> .....	3500-4
<i>Env-Wm 3504.03 Processing of Petition for Renewal of Exemption</i> .....	3500-5
<b>PART ENV-WM 3505 CERTIFICATE OF COMPLIANCE</b> .....	<b>3500-5</b>
<i>Env-Wm 3505.01 Availability of Certificate of Compliance</i> .....	3500-5
<i>Env-Wm 3505.02 Certificate of Compliance Contents</i> .....	3500-6
<i>Env-Wm 3505.03 Requests for Certificate of Compliance</i> .....	3500-6
<i>Env-Wm 3505.04 Amended Certificate of Compliance</i> .....	3500-6
<b>CHAPTER ENV-WM 3600 SOLID WASTE MANAGEMENT DISTRICTS.....</b>	<b>3600-1</b>
<b>PART ENV-WM 3601 APPLICABILITY</b> .....	<b>3600-1</b>
<i>Env-Wm 3601.01 Applicability</i> .....	3600-1
<b>PART ENV-WM 3602 DISTRICT AND SUBDISTRICT AGREEMENTS</b> .....	<b>3600-1</b>
<i>Env-Wm 3602.01 Filing</i> .....	3600-1
<b>PART ENV-WM 3603 DISTRICT AND SUBDISTRICT SOLID WASTE MANAGEMENT PLANS</b>	
.....	3600-1
<i>Env-Wm 3603.01 District Plan Submittals</i> .....	3600-1
<i>Env-Wm 3603.02 District Plan Requirements</i> .....	3600-1
<i>Env-Wm 3603.03 Geographics and Economics</i> .....	3600-1
<i>Env-Wm 3603.04 Current and Projected Waste Streams</i> .....	3600-2
<i>Env-Wm 3603.05 Existing Waste Disposal Facilities and Programs</i> .....	3600-2

**SOLID WASTE MANAGEMENT**  
NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

TABLE OF CONTENTS

<i>Env-Wm 3603.06 Future Capacity</i> .....	3600-3
<i>Env-Wm 3603.07 Implementation</i> .....	3600-4
<b>PART ENV-WM 3604 DISTRICT AND SUBDISTRICT PLAN REVIEW AND APPROVAL ..</b>	<b>3600-5</b>
<i>Env-Wm 3604.01 District and Subdistrict Plan Review</i> .....	3600-5
<i>Env-Wm 3604.02 Approval Process</i> .....	3600-5
<i>Env-Wm 3604.03 Notification</i> .....	3600-5
<i>Env-Wm 3604.04 Implementing, Changing and Updating a Plan</i> .....	3600-5
<i>Env-Wm 3604.05 District Plan Approval Duration</i> .....	3600-6
<b>CHAPTER ENV-WM 3700 INSPECTION AND ENFORCEMENT .....</b>	<b>3700-1</b>
<b>PART ENV-WM 3701 APPLICABILITY .....</b>	<b>3700-1</b>
<i>Env-Wm 3701.01 Applicability</i> .....	3700-1
<b>PART ENV-WM 3702 INSPECTION .....</b>	<b>3700-1</b>
<i>Env-Wm 3702.01 Right of Inspection</i> .....	3700-1
<i>Env-Wm 3702.02 Credential Presentation</i> .....	3700-1
<i>Env-Wm 3702.03 Inspection Reports</i> .....	3700-1
<b>APPENDIX I.....</b>	<b>APPENDIX-1</b>

**CHAPTER Env-Wm 100 ORGANIZATIONAL RULES**

Statutory Authority: RSA 149-M:7 and RSA 147-A:3

**REVISION NOTE:**

Document #5172, effective 7-1-91, repealed Part Env-Wm 1901 entitled "Solid Waste Rules" and replaced that part with rules regulating solid waste which contain extensive changes from the wording, format, and structure of the rules in former Part Env-Wm 1901. Document #5172 contains the following rules:

Parts Env-Wm 101 through Env-Wm 103  
 Parts Env-Wm 201 through Env-Wm 205  
 Parts Env-Wm 301 through 319  
 Chapters Env-Wm 2100 through Env-Wm 2800

The requirements in former Part Env-Wm 1901 have been amended and incorporated into the rules listed above by Document #5172. The rules in former Part Env-Wm 1901 had been amended and renumbered from Part He-P 1901 by Document #4964, effective 10-31-90. Document #5172 supersedes Document #4964 and all prior filings for rules in Part He-P 1901. The prior filings for former Part He-P 1901 include the following documents, where "(E)" indicates emergency rules and "(I)" interim rules:

#218.3, eff 12-27-73)	#4239(E), eff 3-19-87
#2258(E), eff 12-14-82	#4263, eff 6-4-87
#2333, eff 3-31-83	#4394(E), eff 4-8-88
#2462, eff 9-5-83	#4472, eff 8-19-88
#2464, eff 9-5-83	#4842, eff 6-19-90
#2729, eff 5-28-84	#4880(I), eff 7-25-90
#2895, eff 10-30-84	#4964, eff 10-31-90
	#5172, eff 7-1-91

Document #218.3 was the first filing under RSA 541-A for rules by the Division of Public Health Services relating to solid waste management, and it was filed on 12-27-73. There was no further filing relative to solid waste by the Division until #2258, effective 12-14-82, although filings specifically relative to hazardous waste by the Division began with Document #1760, effective 6-3-81. The Department of Environmental Services became operational on January 2, 1987, and filings of documents after that date were made by the Department. See Revision Note at Part heading for Env-Wm 110 for the history of filings relative to hazardous waste.

**PART Env-Wm 101 PURPOSE AND APPLICABILITY**

Env-Wm 101.01 Purpose. The purpose of the rules in this subtitle is to minimize risks to the environment, public health and safety by assuring proper management of solid waste and hazardous waste.

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

Env-Wm 101.02 Applicability.

(a) The following rules shall apply to management of solid waste in New Hampshire:

- (1) Env-Wm 101 through Env-Wm 102;
- (2) Env-Wm 201 through Env-Wm 205;
- (3) Env-Wm 301 through Env-Wm 316; and
- (4) Env-Wm 2100 through Env-Wm 3700.

(b) The following rules shall apply to management of hazardous waste in New Hampshire:

- (1) Env-Wm 101 and Env-Wm 110;
- (2) Env-Wm 211 through Env-Wm 216;
- (3) Env-Wm 351 through Env-Wm 353; and
- (4) Env-Wm 400 through Env-Wm 1000.

(c) In the solid waste rules, any requirement that applies to a facility shall be a requirement that applies to the permittee.

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

Env-Wm 101.03 Solid Waste Exclusions. The solid waste rules shall not apply to the following wastes and materials:

(a) Hazardous waste as defined in RSA 147-A:2, including a solid waste which the generator formally declares in accordance with Env-Wm 502.01(c)(2) to be a hazardous waste and which is subsequently managed as a hazardous waste pursuant to the requirements of RSA 147-A;

(b) Solid or dissolved materials in irrigation return flows;

(c) Cut or uprooted stumps buried on-site with local approval, if required, provided that such burial locations are not located within 75 feet of any drinking water supply;

(d) Municipal and industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended;

(e) Radioactive materials as defined and regulated by the New Hampshire rules for the control of radiation, He-P 2000 and He-P 4000;

(f) Septage as defined in RSA 485-A:2,IX-a; and

(g) Sludge as defined in RSA 485-A:2,XI-a, namely "solid or semi-solid material produced by water and wastewater treatment processes, provided, however sludge which is disposed at solid waste facilities permitted by the waste management division of department of environmental services shall be considered solid waste and regulated under RSA 149-M," and the solid waste rules;

(h) Yard waste;

(i) Bodies of deceased persons; and

(j) Waste-derived products which are certified for distribution and use pursuant to Env-Wm 3200 and actively managed.

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

Env-Wm 101.04 Solid Waste Facility Exclusions. The solid waste rules shall not apply to a facility that has demonstrated to the department, by complying with the registration requirements in Env-Wm 309, that it ceased operating before July 10, 1981.

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

## **PART Env-Wm 102 SOLID WASTE RULE DEFINITIONS**

Env-Wm 102.01 "Abutter" means "abutter" as defined by RSA 149-M:4,I, namely "any person who owns property adjacent to, or across a road, railroad, or stream from the property on which a solid waste facility may be permitted."

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

Env-Wm 102.02 "Accumulated waste" means the quantity of waste stored at a facility in excess of the storage capacity specified in the permit or permit exemption.

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

Env-Wm 102.03 "Active life" means that period of time at a facility during which solid waste is or will be received, processed, treated or disposed, beginning with the date of first waste receipt and ending with the date waste is last received, processed, treated or disposed. The term includes both operating and non-operating days falling between the described beginning and ending points.

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

Env-Wm 102.04 "Actively manage" means to handle a waste or material, including waste-derived products and recyclable materials, in a controlled manner without causing:

- (a) A nuisance;
- (b) An adverse effect to the environment, public health and safety;
- (c) Accumulations which have no identifiable destination or value; and
- (d) A loss of material value in the market place due to material damage, degradation and/or contamination.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97; ss by #7224, eff 3-31-00

Env-Wm 102.05 "Amended water" means water to which a chemical wetting agent, such as a surfactant, has been added to improve penetration of the water into asbestos or other materials to limit the potential for airborne particulates.

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

Env-Wm 102.06 "Approved bulking agent" means any material which a facility is authorized in the permit or by the solid waste rules to mix with waste to provide, for processing or treatment of the waste, a source of carbon, air spaces and liquid absorption. The term includes waste-derived products certified for distribution and use as a bulking agent pursuant to Env-Wm 3200.

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

Env-Wm 102.07 "Applicant" means the person applying for a permit, permit modification, certificate, waiver or other approval pursuant to the solid waste rules and who will be responsible for complying with the provisions of the approval, if granted.

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

Env-Wm 102.08 "Application" means information and documentation submitted to the department by an applicant to request a permit, permit modification, certificate, waiver or other approval pursuant to the solid waste rules.

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

Env-Wm 102.09 "Approved design capacity" means the quantity of waste a facility is authorized to manage, expressed as follows:

- (a) For all facilities, the average weekly tonnage to be received at the facility during the quarter in which the most waste is anticipated to be received, as specified in the permit or the permit exemption;
- (b) For processing or treatment or transfer facilities:
  - (1) The rated through-put capacity of the equipment for processing of solid waste, as specified in the permit or permit exemption; and
  - (2) The approved storage capacity; and
- (c) For landfills, the approved design volume.

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

Env-Wm 102.10 "Approved design volume" means the maximum in-place volume of waste, including cover materials, to be received at a landfill during its active life, as specified in the permit or the permit exemption.

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

Env-Wm 102.11 "Approved storage capacity" means the maximum quantity of waste which a facility is authorized to store, pending removal, processing, treatment or disposal as specified in the permit or permit exemption.

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

Env-Wm 102.12 "Aquifer" means a geological formation, group of formations, or part of a formation, that is capable of yielding usable quantities of groundwater.

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

Env-Wm 102.13 "Asbestos" means asbestos as defined by RSA 141-E:2,I, namely "amosite, chrysotile, crocidolite, or asbestiform tremolite, actinolite, or anthophyllite."

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

Env-Wm 102.14 "Asbestos waste" means:

- (a) Solid waste that contains more than one percent asbestos by weight;
- (b) Any asbestos-containing solid waste that is collected in a pollution control device designed to remove asbestos; and
- (c) The entire volume and weight of any waste identified in (a) or (b) above when mixed with any other material or any solid waste.

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

Env-Wm 102.15 "Asbestos waste site" means any site that is not permitted to receive asbestos, where asbestos waste, either on the surface or subsurface, is located.

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

Env-Wm 102.16 "Authorized facility" means a facility holding all requisite federal, state or local permits, licenses or approvals. As applied to a New Hampshire facility, the term includes both permitted facilities and permit-exempt facilities which hold all requisite federal and local permits, licenses or approvals.

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

Env-Wm 102.17 "Authorized waste" means a waste that is approved by the department for receipt by a facility, as specified in the permit or permit exemption as applicable.

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

Env-Wm 102.18 "Base flood" means a flood that has a one per cent chance of being equaled or exceeded in any given year. The term includes "100-year flood."

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

Env-Wm 102.19 "Bill of lading" means a receipt, issued by the transporter, listing waste and/or materials shipped.

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

Env-Wm 102.20 "Biologicals" means preparations made from living organisms and their products, including vaccines and cultures, intended for use in diagnosing, immunizing and/or treating humans or animals or in research pertaining thereto.

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

Env-Wm 102.21 "Body fluids" means liquid emanating or derived from humans and limited to blood, cerebrospinal, synovial, pleural, peritoneal and pericardial fluids and semen and vaginal secretions.

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

Env-Wm 102.22 "Bottom ash" means the ash residue remaining after combustion of solid waste, fossil fuel, wood, sludge or other materials in an incinerator that is discharged through and from the grates, combustor or stoker.

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

Env-Wm 102.23 "Bulky waste" means large items that cannot be handled by normal solid waste processing, collection or disposal methods, such as appliances, furniture, large auto parts, tires, and, when they are not buried on-site in accordance with RSA 149-M:4,XXII, tree stumps.

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

Env-Wm 102.24 "Bypass waste" means any waste that is delivered to a processing or treatment facility but cannot be processed or treated by the facility. The term includes downtime waste, excess waste, unsuitable waste, and accumulated waste.

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

Env-Wm 102.25 "Call" means action by the department to invoke the provisions of a temporary permit requiring the permittee to either commence the facility closure process or the process for obtaining a permanent permit issued pursuant to RSA 149-M and the solid waste rules for continued operation of the facility.

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

Env-Wm 102.26 "Cap" means the final cover placed over solid waste at a landfill to minimize the amount of precipitation contacting the solid waste, to prevent contact with the solid waste and to assist in the collection of landfill gas.

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

Env-Wm 102.27 "Capacity needs" means the amount of facility capacity identified as necessary to accommodate the management of solid waste for:

(a) The state, as contained in the most recent version of the state solid waste plan required by RSA 149-M:6,VI; and

(b) A solid waste management district, as contained in the most recent version of that district's solid waste plan required by RSA 149-M:24,IV.

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

Env-Wm 102.28 "Cell" means, within a landfill, the smallest unit of subdivided area which is surrounded by berms that hydraulically separate the cell, when active, from other cells of the landfill when such other cells have not yet received wastes or been constructed.

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

Env-Wm 102.29 "Certified operator" means an individual certified pursuant to Env-Wm 3300.

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

Env-Wm 102.30 "Certified waste-derived product" means a waste-derived product certified for distribution and use pursuant to Env-Wm 3200.

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

Env-Wm 102.31 "Class A compost" means compost meeting the criteria specified in Env-Wm 2305.05.

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

Env-Wm 102.32 "Class AA compost" means compost produced from the following source-separated wastes and materials only:

- (a) Yard waste and farming crop residuals;
- (b) Food waste;
- (c) Animal manure; and/or

(d) Approved bulking agents, including waste-derived products certified for distribution and use as a composting bulking agent pursuant to Env-Wm 3200.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97; ss by #6894-A, eff 12-1-98

Env-Wm 102.33 "Closure" means the procedures used to permanently cease use of a facility, or portion thereof, in a manner that will minimize future risks of environmental damage and includes all required post-closure inspection, monitoring and maintenance activities.

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

Env-Wm 102.34 "Coefficient of permeability" means saturated hydraulic conductivity and is the rate of laminar flow of water through a unit cross-sectional area of porous medium under a unit hydraulic gradient at a standard temperature.

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

Env-Wm 102.35 "Collection, storage and transfer facility means a facility which collects waste from any location, stores the waste for a limited period of time and subsequently transfers the waste to another location without having changed the characteristics of the waste as received except by having sorted, packaged and/or compacted the waste. The term includes "transfer station" as defined by Env-Wm 102.170, "recycling facility" as defined by Env-Wm 102.136, stockpiles of waste, and collection devices such as dumpsters.

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

Env-Wm 102.36 "Combined ash" means a mixture of bottom ash and fly ash.

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

Env-Wm 102.37 "Commercial facility" means a facility which receives waste from an unlimited service area. The term does not include limited public and limited private facilities.

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

Env-Wm 102.38 "Commissioner" means the commissioner as defined by RSA 149-M:4,III, namely "the commissioner of the department of environmental services."

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

Env-Wm 102.39 "Compost" means "compost" as defined by RSA 149-M:4,IV, namely "a stable, humus-like substance which is derived from a process involving the biological decomposition of any readily biodegradable material, such as animal manure, garbage, yard waste, septage, sludge, or other organic solid wastes, and which can be beneficially reused for land application."

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

Env-Wm 102.40 "Composting facility" means a facility which produces compost.

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

Env-Wm 102.41 "Confidential business information" means information that is exempt from disclosure under RSA 91-A:5,IV.

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

Env-Wm 102.42 "Construction and demolition debris" means non-putrescible waste building materials and rubble which is solid waste resulting from the construction, remodeling, repair or demolition of structures or roads. The term includes but is not limited to, bricks, concrete and other masonry materials, wood, wall coverings, plaster, dry wall, plumbing, fixtures, non-asbestos insulation or roofing shingles, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes and electrical wiring and components, incidental to any of the above and containing no hazardous liquid or metals. The term does not include asbestos waste, garbage, corrugated container board, electrical fixtures containing hazardous liquids such as fluorescent light ballasts or transformers, furniture, appliances, tires, drums and containers, and fuel tanks.

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

Env-Wm 102.43 "Contingency plan" means a document describing organized, planned, and technically-coordinated courses of action to be followed by a facility in case of emergency or other special conditions, such as equipment breakdowns; fire; odor; vectors; explosion; spills; receipt or release of hazardous or toxic materials or substances; groundwater, surface water or air contamination attributable to a facility; and other incidents that could threaten human health or safety or the environment.

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

Env-Wm 102.44 "Council" means the waste management council established by RSA 21-O:9.

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

Env-Wm 102.45 "Cover material" means soil or other functionally equivalent material that is placed over solid waste at a landfill. The term does not include materials used to construct a landfill capping system.

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

Env-Wm 102.46 "Department" means "department" as defined by RSA 149-M:4,V, namely "the department of environmental services."

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

Env-Wm 102.47 "Designated river" means that portion of a river which has been specifically designated by the general court pursuant to RSA 483:15.

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

Env-Wm 102.48 "Director" means the director of the division of waste management.

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

Env-Wm 102.49 "Discharge" means the accidental or intentional release, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of any solid waste or solid waste constituent, including leachate, into or on any air, land or water.

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

Env-Wm 102.50 "Disposal" means "disposal" as defined by RSA 149-M:4,VI, namely "the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or onto any land or water with the possible result that such solid waste or any constituent of it may enter the environment, be emitted into the air, or be discharged into any waters, including groundwater."

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97; ss by #6894-A, eff 12-1-98

Env-Wm 102.51 "District" means "district" as defined by RSA 149-M:4,VII, namely "a solid waste management district established under "RSA 149-M:24".

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

Env-Wm 102.52 "District plan" means "district plan" as defined by RSA 149-M:4,VIII, namely "the plan developed for waste management within a district, and approved by the department."

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

Env-Wm 102.53 "Division" means the division of waste management within the department of environmental services.

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

Env-Wm 102.54 "Dormant application" means an application for which the applicant has failed to submit the information required to complete the application within 12 months of the date the application is first deemed incomplete by the department.

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

Env-Wm 102.55 "Downtime waste" means any processable or treatable solid waste accumulated during a scheduled or unscheduled shut-down of facility operations.

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

Env-Wm 102.56 "Emergency permit" means a permit issued pursuant to the solid waste rules which authorizes waste management activities at a facility for a limited period of time in response to an emergency for which no other readily available response exists and for which a delayed response to obtain another type of permit would result in an unnecessary risk to public health, safety or the environment.

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

Env-Wm 102.57 "Emergency permit facility" means a facility authorized or requiring authorization by issuance of an emergency permit.

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

Env-Wm 102.58 "Encapsulant or sealant" means a substance applied to a material, such as friable asbestos, which controls the release of airborne fibers or particles.

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

Env-Wm 102.59 "Endangered or threatened species" means any species protected under the Federal Endangered Species Act or under NH RSA 212-A, Endangered Species Conservation Act.

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

Env-Wm 102.60 "Environmental monitoring points" means locations, monitoring wells, and devices for sampling air, soil, groundwater or surface water at a facility.

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

Env-Wm 102.61 "Excess waste" means solid waste which cannot be processed or treated because the facility is operating at its approved design capacity.

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

Env-Wm 102.62 "Expansion" means an increase in the approved design capacity, approved design volume or approved storage capacity of a facility.

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

Env-Wm 102.63 "Facility" means "facility" as defined in RSA 149-M:4,IX; namely "a location, system, or physical structure for the collection, separation, storage, transfer, processing, treatment, or disposal of solid waste." The term includes "solid waste facility," "waste management facility" and "solid waste management facility."

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

Env-Wm 102.64 "Facility identification" means, in the context of filing an application or registration pursuant to the solid waste rules, all of the following information for a facility:

- (a) Name;
- (b) Functional classification pursuant to Env-Wm 302;
- (c) Mailing address;
- (d) Permit number, if applicable;
- (e) Location by street address and municipality; and
- (f) If for a facility not yet issued a permit:
  - (1) Local tax map and lot numbers;
  - (2) Deed reference by county, volume and page numbers;
  - (3) A plotting on a United States Geological Survey (USGS) topographic map, or copy thereof, prepared at a scale of 1:24,000 or 1:25,000; and
  - (4) Latitude and longitude of a known fixed point on the site; and
  - (5) Written directions from a known point of reference in the vicinity of the facility site.

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

Env-Wm 102.65 "Floodplain" means the land area adjoining inland or coastal waters which is capable of being inundated by a base flood.

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

Env-Wm 102.66 "Fly ash" means the ash residue from the combustion of solid waste, fossil fuel, wood, sludge, or other material that is entrained in the gas stream of the incinerator and removed by the air pollution control equipment.

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

Env-Wm 102.67 "Footprint" means:

(a) For a permitted landfill or stockpile, the area in which solid waste actually exists or formerly existed, or is proposed to be placed, as authorized in the permit, regardless of whether solid waste has actually been deposited;

(b) For a proposed landfill or stockpile, the area in which solid waste is to be placed as proposed in the permit application; and

(c) For any other landfill or stockpile, the area in which solid waste actually exists.

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

Env-Wm 102.68 "Friable asbestos" means "friable asbestos material" as defined by 40 CFR 61, namely "any material containing more than one percent asbestos as determined using the method specified in appendix A, subpart F, 40 CFR part 763, section 1, Polarized Light Microscopy, that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure."

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

Env-Wm 102.69 "Generator" means any person whose act or process produces a waste or whose act first causes waste to be subject to regulation.

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

Env-Wm 102.70 "Geocomposite" means a manufactured material using geotextiles, geogrids, geomembranes, or combinations of same, in a laminated or composite form.

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

Env-Wm 102.71 "Geogrid" means a netlike polymeric material used with foundation, soil, rock, earth, or any other geotechnical engineering-related material as an integral part of a man-made structure or system to provide reinforcement to soil slopes.

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

Env-Wm 102.72 "Geomembrane" means an essentially impermeable membrane used with foundation, soil, rock, earth, or any other geotechnical engineering-related material as an integral part of a man-made structure or system designed to limit the movement of liquid or gas into or out of the system.

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

Env-Wm 102.73 "Geonet" means a type of a geosynthetic that allows planar flow of liquids.

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

Env-Wm 102.74 "Geosynthetics" means the generic classification of all synthetic materials used in geotechnical engineering applications, including geotextiles, geogrids, geomembranes, and geocomposites.

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

Env-Wm 102.75 "Geotextile" means any permeable textile used with foundation, soil, rock, earth or any other geotechnical engineering-related material as an integral part of a man-made structure or system which is designed to act as a filter to prevent the flow of soil fines or other particles into drainage systems, or to provide planar flow for drainage, or to serve as a cushion to protect geomembranes, or to provide structural support.

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

Env-Wm 102.76 "Groundwater" means water below the land surface in the zone of saturation of soil or rock and includes perched water separated from the main body of groundwater by an unsaturated zone.

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

Env-Wm 102.77 "Groundwater table" means the seasonally high surface of groundwater naturally occurring at atmospheric pressure.

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

Env-Wm 102.78 "Hazardous waste" means hazardous waste as defined by RSA 147-A:2,VII, namely "a solid, semi-solid, liquid or contained gaseous waste, or any combination of these wastes:

(a) Which, because of either quantity, concentration, or physical, chemical, or infectious characteristics may:

(1) Cause or contribute to an increase in mortality or an increase in irreversible or incapacitating reversible illness; or

(2) Pose a present or potential threat to human health or the environment when improperly treated, stored, disposed of, or otherwise mismanaged.

(b) Or which has been identified as a hazardous waste by the department using the criteria established under RSA 147-A:3,I or as listed under RSA 147-A:3,II. Such wastes include, but are not limited to, those which are reactive, toxic, corrosive, ignitable, irritants, strong sensitizers or which generate pressure through decomposition, heat or other means. Such wastes do not include radioactive substances that are regulated by the Atomic Energy Act of 1954, as amended."

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

Env-Wm 102.79 "Hazardous waste rules" means the rules found in Env-Wm 101, Env-Wm 110, Env-Wm 211 through Env-Wm 216, Env-Wm 351 through Env-Wm 353 and Env-Wm 400 through Env-Wm 1000.

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

Env-Wm 102.80 "Hearing" means "hearing" as defined by RSA 149-M:4,X, namely "the opportunity for the submission of written or oral comments, or both."

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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

Env-Wm 102.81 "High level disinfection" means inactivation of all vegetative bacteria, fungi, lipophilic/hydrophilic viruses, parasites and mycobacteria at a 6 Log<sub>10</sub>, or a million-fold, reduction or greater.

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

Env-Wm 102.82 "Household hazardous waste" means hazardous waste generated from non-commercial usage by persons in their living abodes.

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

Env-Wm 102.83 "Household infectious waste" means infectious waste generated from non-commercial medical treatment of individuals in personal residences, such as needles from self-administered insulin treatments.

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

Env-Wm 102.84 "Identification of parties" means, in the context of filing an application or registration pursuant to the solid waste rules, all of the following information for the applicant or registrant, facility operator and property owner:

(a) If an individual, the individual's name, date of birth, mailing address and telephone number; or

(b) If other than an individual:

(1) The information required by RSA 149-M:10,I(b); and

(2) The name, title, mailing address and telephone number of the individual associated with and designated by the identified party to be the contact individual for matters concerning the application or registration being filed.

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

Env-Wm 102.85 "Imminent hazard" means any condition or practice which presents a substantial and immediate threat to human health, safety or the environment.

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

Env-Wm 102.86 "Impermeable" means not permitting passage through a substance which, when used in the solid waste rules to describe any soil or geosynthetic component of a landfill liner or cap, means the component has a saturated hydraulic conductivity of  $1 \times 10^{-7}$  cm/sec or less.

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

Env-Wm 102.87 "Incinerator" means "incinerator" as defined by RSA 149-M:4,X-a, namely "a facility which employs a method of using controlled thermal combustion, including flame combustion, to thermally break down waste or other materials, including refuse-derived fuel, to an ash residue that contains little or no combustible materials."

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

Env-Wm 102.88 "Inert construction and demolition debris" means construction and demolition debris which is comprised of materials that do not degrade, combust or generate leachate.

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

Env-Wm 102.89 "Infectious agent" means any organism, such as a virus, bacteria, parasite, fungus or other microbial agent which is capable of being communicated by invasion and multiplication in body tissues and body fluids, and capable of causing disease or adverse health impacts in humans.

## NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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

Env-Wm 102.90 "Infectious waste" means any waste which because of its infectious nature may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

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

Env-Wm 102.91 "Insignificant effect on environmental quality" means a minimal adverse change in the quality of groundwater, surface water, air quality or public health, either for the short term or the long term.

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

Env-Wm 102.92 "Land owner" means the record owner of a parcel of land upon which a facility is or is proposed to be located.

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

Env-Wm 102.93 "Landfill reclamation" means the excavation of a portion or all of a landfill for the purpose of reducing landfill volume; reducing closure and post-closure costs by complete or partial removal of the landfill; creating capacity; and/or reducing adverse environmental impacts through the mining and separation of waste and soils into recyclable, reusable and/or combustible components. The term does not include recontouring, regrading or relocating existing waste at a landfill to reduce the landfill footprint and/or to achieve final grades.

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

Env-Wm 102.94 "Landfill" means a facility which collects and disposes of waste by landfilling methods. The term includes facilities that collect and store waste indefinitely. The term does not include incinerators, land application sites, surface impoundments and injection wells.

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

Env-Wm 102.95 "Landfilling" means a method of disposing of solid waste, by the intentional placement of the solid waste in or on land where it will remain after closure.

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

Env-Wm 102.96 "Leachate" means a liquid, including any suspended components in the liquid, which has contacted or passed through solid waste.

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

Env-Wm 102.97 "Lift" means a layer of compacted solid waste and the cover material immediately above it in a landfill or other land disposal site.

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

Env-Wm 102.98 "Limited private facility" means a type of "private facility" as defined by RSA 149-M:4,XVI and Env-Wm 102.123 that is permitted to receive only wastes generated by permittee.

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

Env-Wm 102.99 "Limited public facility" means a type of "public facility" as defined by RSA 149-M:4,XVIII and Env-Wm 102.132 that is permitted to receive only wastes generated by sources that are within the permittee's jurisdiction and/or within the jurisdiction of other towns, governmental units, agencies, political subdivisions or districts that have entered into a written agreement with the permittee for management of said waste.

## NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Source. #6619-A, eff 10-29-97; ss by #6894-A, eff 12-1-98; ss by #7224, eff 3-31-00

Env-Wm 102.100 "Limited service" means the service type provided by a public or private facility which, through the conditions of the permit, allows the facility to receive authorized waste from specified sources only.

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

Env-Wm 102.101 "Liner" means a barrier that restricts the downward or lateral flow of the overlying waste and its constituents, or leachate. Liners can be either natural, for instance clay, or man-made, for instance plastic.

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

Env-Wm 102.102 "Low permeability cap" means a cap installed for landfill closure with a permeability of not greater than  $1 \times 10^{-5}$  cm/sec.

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

Env-Wm 102.103 "Lower explosive limit" means the lowest concentration by percentage in air of a flammable gas or vapor in which an explosion can occur upon ignition at 25EC (78EF) at atmospheric pressure.

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

Env-Wm 102.104 "Manure" means manure as defined by RSA 149-M:4,XI, namely "animal feces and urine with natural organic bedding materials such as hay, sawdust, straw or wood chips, but exclusive of human waste." The term also includes animal feces and urine which are not mixed with bedding or which are mixed with newsprint that has been used as bedding.

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

Env-Wm 102.105 "Monitoring well" means a well used for the purpose of sampling groundwater and/or measuring groundwater elevations.

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

Env-Wm 102.106 "Monofill" means a landfill or landfill cell into which only one type of waste is placed.

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

Env-Wm 102.107 "Mixed municipal solid waste" means municipal solid waste that is not separated by type.

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

Env-Wm 102.108 "Municipal solid waste" (MSW) means solid waste generated at residences, commercial or industrial establishments, and institutions, but excluding construction and demolition debris, automobile scrap and other motor vehicle waste, infectious waste, asbestos waste, contaminated soil and other absorbent media and ash other than ash from household stoves.

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

Env-Wm 102.109 "New facility" means a facility not existing as of October 29, 1997. The term includes proposed facilities and landfill expansions beyond the footprint boundaries.

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

Env-Wm 102.110 "Non-friable asbestos" means any asbestos material which does not contain friable asbestos.

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

Env-Wm 102.111 "Non-friable category I asbestos" means "category I nonfriable asbestos containing material (ACM)" as defined in 40 CFR 61, namely "asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than one percent asbestos as determined using the method specified in appendix A, subpart F, 40 CFR part 763, section 1, Polarized Light Microscopy."

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

Env-Wm 102.112 "Non-friable category II asbestos" means "category II nonfriable asbestos containing material (ACM)" as defined in 40 CFR 61, namely "any material, excluding Category I nonfriable ACM, containing more than one percent asbestos as determined using the methods specified in appendix A, subpart F, 40 CFR part 763, section 1, Polarized Light Microscopy that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure."

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

Env-Wm 102.113 "Non-landfill facility" means a facility which is not a landfill, including collection, storage and transfer facilities, processing or treatment facilities and land application sites.

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

Env-Wm 102.114 "Nonpoint sources" means pollution sources that are diffuse by nature, in that the pollution emitted does not normally enter the environment by discrete conveyances as do point sources. Nonpoint sources of pollution potentially result from activities associated with agriculture, silviculture, mining of sand and gravel, urban storm runoff, urban and rural construction, subsurface disposal systems, deicing salts from highways, and sludge, septage and solid waste disposal on the land.

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

Env-Wm 102.115 "Open burning" means "open burning" as defined by 40 CFR 61, namely "the combustion of solid waste without:

- (a) Control of combustion air to maintain adequate temperature for efficient combustion;
- (b) Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and
- (c) Control of the emissions of the combustion products."

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

Env-Wm 102.116 "Owner" means a person who owns a facility or part of a facility.

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

Env-Wm 102.117 "Permit" means "permit" as defined by RSA 149-M:4,XIV, namely "an authorization from the department for the construction and operation of a facility."

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

Env-Wm 102.118 "Permit-by-notification" means a permit, obtained after supplying notification in accordance with the requirements of Env-Wm 311, authorizing the construction and operation of certain solid waste facilities as prescribed in Env-Wm 2107, Env-Wm 2207, Env-Wm 2307, Env-Wm 2407 and Env-Wm 2509.

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

## NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Env-Wm 102.119 "Permit-by-notification facility" means a facility authorized or requiring authorization by issuance of a permit-by-notification.

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

Env-Wm 102.120 "Permit-exempt facility" means a facility not required by the solid waste rules to hold a permit issued pursuant to RSA 149-M, as specified by Env-Wm 302.03.

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

Env-Wm 102.121 "Permitted facility" means a facility with a valid permit issued pursuant to RSA 149-M and the solid waste rules.

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

Env-Wm 102.122 "Permittee" means a person to whom a permit to operate or construct a facility is issued pursuant to the solid waste rules or, in the case of a permit-exempt facility, the person who is responsible for construction, operation, maintenance, closure and post-closure monitoring of the facility.

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

Env-Wm 102.123 "Person" means "person" as defined in RSA 149-M:4,XV, namely "any individual, business entity, including a trust, firm, joint stock company, corporation, including a government corporation; partnership; association; government agency; or political subdivision of the state."

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

Env-Wm 102.124 "Phase" means, within a landfill, an area comprised of 2 or more stages and which is surrounded by berms that hydraulically separate the phase from other phases of the landfill when such phases have not yet received wastes or been constructed.

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

Env-Wm 102.125 "Preliminary plan" means a plan for a proposed activity that provides sufficient information to determine that the proposed activity meets the requirements of the solid waste rules, but does not provide a level of detail or include documentation or features sufficient to implement the proposed activity in compliance with the solid waste rules. The term applies to design plans, operating plans, financial assurance plans, and closure plans for facilities.

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

Env-Wm 102.126 "Private facility" means a "private facility" as defined in RSA 149-M:4,XVI, namely "one whose permit is held by a person other than a government unit or agency or political subdivision of the state."

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

Env-Wm 102.127 "Process" means any activity that changes the chemical, biological or physical characteristics of a waste.

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

Env-Wm 102.128 "Processed recyclable material" means a recyclable material which has been physically sorted and separated by material type, formed into bales or otherwise physically processed and packaged in a manner satisfying the specifications for transportation to and acceptance by a market that will use the material for the production of certified waste-derived products.

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

## NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Env-Wm 102.129 "Processing or treatment facility" means a facility which collects waste from any location, stores the waste for a limited period of time, subsequently processes or treats the waste, subsequently stores the processed or treated waste for a limited period of time and ultimately transfers the treated or processed waste to another location. The term excludes collection, storage and transfer facilities, landfills and land application sites.

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

Env-Wm 102.130 "Property owner" means the record owner of the parcel of land and/or structures where a facility is or is proposed to be located. The term includes "landowner" and "facility owner."

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

Env-Wm 102.131 "Public benefit" means "public benefit" as defined in RSA 149-M:4,XVII, namely "the protection of the health, economy and natural environment of the state of New Hampshire consistent with RSA 149-M:11".

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

Env-Wm 102.132 "Public facility" means "public facility" as defined in RSA 149-M:4,XVIII, namely "one whose permit is held by a town or other governmental unit or agency or political subdivision of the state, or a combination thereof."

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

Env-Wm 102.133 "Putrescible material" means any organic material which can decompose and give rise to foul odors and noxious by-products.

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

Env-Wm 102.134 "Qualified professional engineer" means a person who is a registered professional engineer in New Hampshire and whose formal education, training and experience in the field of engineering falls within the scope of the professional engineering efforts required to be undertaken.

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

Env-Wm 102.135 "Recyclable materials" means "recyclable materials" as defined in RSA 149-M:4,XIX, namely "materials that can be used to produce marketable goods, including but not limited to separated clear and colored glass, aluminum, ferrous and nonferrous metals, plastics, corrugated cardboard, motor vehicle batteries, tires from motor vehicles, and paper." The term does not include:

- (a) Hazardous waste, hazardous air pollutants, and other waste not regulated as solid waste, as identified in Env-Wm 101.03;
- (b) Waste identified as non-reusable in Env-Wm 2600, including asbestos and infectious waste; and
- (c) Wastes from an unspecified production or generation process, such as municipal solid waste incinerator ash and contaminated soils or absorbent media.

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

Env-Wm 102.136 "Recycling facility" means a collection, storage and transfer facility which collects, stores and prepares recyclable materials for market and transfers processed recyclable materials to markets for recycling. The term includes "recycling center."

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

Env-Wm 102.137 "Recycling" means "recycling" as defined by RSA 149-M:4,XX, namely "the collection, storage, processing and redistribution of recyclable materials." The term excludes the

redistribution of recyclable materials for any purpose constituting disposal as defined in RSA 149-M:4,VI, incineration or another purpose not directly related to the production of certified waste-derived products.

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

Env-Wm 102.138 "Refuse" means "refuse" as defined by RSA 149-M:4,XXI, namely "any waste product, solid or having the character of a solid rather than a liquid in that it will not flow readily without additional liquid, and which is composed wholly or partly of such materials as garbage, swill, sweepings, cleanings, trash, rubbish, litter, industrial or domestic solid wastes; organic wastes or residue of animals sold as meat; fruit, vegetable or animal matter from kitchens, dining rooms, markets, food establishments or any places dealing in or handling meat, fowl, fruits, grain or vegetables; offal, animal excreta, or the carcasses of animals; brick, plaster or other waste matter resulting from the demolition, alteration, or construction of buildings or structures; or accumulated waste material, cans, containers, tires, junk, or other such substances which may become a nuisance." The term does not include yard waste, actively managed waste-derived products which are certified for distribution and use pursuant to Env-Wm 3200, and bodies of deceased persons. The term includes recyclable materials, whether processed or unprocessed.

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

Env-Wm 102.139 "Representative sample" means a sample collected from a population or whole that exhibits the average or typical properties of the larger population or whole.

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

Env-Wm 102.140 "Research and development facility permit" means a permit issued pursuant to the solid waste rules authorizing research and development projects.

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

Env-Wm 102.141 "Research and development permit facility" means a facility authorized or requiring authorization by issuance of a research and development facility permit.

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

Env-Wm 102.142 "Research and development project" (R&D project) means a scientific study involving the collection, storage, transfer, processing, treatment or disposal of solid waste, that is conducted by one or more investigators, qualified by reason of education and experience, and which is intended to further fundamental knowledge, evaluate processes or technologies, and generate and interpret data relative to solid waste management.

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

Env-Wm 102.143 "Residual waste" means solid waste remaining after processing, treatment or disposal of solid waste or as a by-product of processing or treatment or disposal of solid waste, including leachate, decomposition gases and waste-derived products not certified for distribution and use pursuant to Env-Wm 3200. The term includes "residuals."

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

Env-Wm 102.144 "Reuse" means the act of placing a waste into service again, subsequent to its generation.

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

Env-Wm 102.145 "Runoff" means the liquid that drains from an area as surface flow.

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

Env-Wm 102.146 "Salvaged item or material" means an item or material which has been recovered or diverted from the solid waste stream and, without processing or treatment except for incidental cleaning, reconditioning or repair, is or will be used in a manner consistent with its original purpose. Examples include

used auto parts which are removed from the vehicle and reused as auto parts on another vehicle; used furniture pieces which are repaired or restored for use as furniture; used tools or equipment which are reconditioned and returned to use as tools or equipment; left-over latex paint used as paint; scrap fabric used as fabric; scrap lumber used as lumber; and used brick used as brick.

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

Env-Wm 102.147 "Saturated hydraulic conductivity" means the rate of laminar flow of water through a unit cross-sectional area of porous medium under a unit hydraulic gradient at a standard temperature. The term includes "coefficient of permeability."

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

Env-Wm 102.148 "Saturated zone" means that part of the earth's crust in which the interconnected voids are filled with water at a pressure equal to or greater than atmospheric pressure. The term includes "zone of saturation."

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

Env-Wm 102.149 "Select recyclable material" means a recyclable material comprised of one of the following materials: paper, cardboard, glass, plastic, ferrous metal, non-ferrous metal, or textile materials.

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

Env-Wm 102.150 "Service area" means the area(s) or place(s) from which a facility receives waste, typically identified by geographic location or by generator source, or a combination thereof.

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

Env-Wm 102.151 "service type" means the type of service a facility provides based on the source of waste received, as follows:

- (a) Unlimited service, as is provided by a commercial facility; or
- (b) Limited service, as is provided by either a limited public or limited private facility.

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

Env-Wm 102.152 "Solid waste" means solid waste as defined by RSA 149-M:4,XXII, namely "any matter consisting of putrescible material, refuse or residue from an air pollution control facility; and other discarded or abandoned material. It includes solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities. For purposes of this chapter [RSA 149-M] it does not include hazardous wastes as defined in RSA 147-A:2; solid or dissolved materials in irrigation return flows; cut or uprooted tree stumps buried on-site with local approval if required, provided that such burial locations are not located within 75 feet of any drinking water supply; municipal and industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended; source, special nuclear or by-product materials as defined by the Atomic Energy Act of 1954, as amended; or septage or sludge as defined in RSA 485-A:2,IX-a and XI-a," that is to say sludge which is not disposed at solid waste facilities permitted under RSA 149-M. The term "solid waste" also does not include yard waste, actively managed waste-derived products which are certified for distribution and use pursuant to Env-Wm 3200, and bodies of deceased persons.

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

Env-Wm 102.153 "Solid waste management" means "Solid waste management" as defined by RSA 149-M:4,XXIII, namely "the systematic administration of activities for the collection, source separation, processing, treatment, transportation, transfer, storage, recovery and disposal of solid waste." The term includes "management of solid waste."

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

## NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Env-Wm 102.154 "Solid waste facility operator training" means professional and/or technical instruction which supplies the required amount of solid waste management information as provided and approved by the department pursuant to Env-Wm 3300.

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

Env-Wm 102.155 "Solid waste rules" means those rules found in Env-Wm 101 through Env-Wm 102, Env-Wm 201 through Env-Wm 205, Env-Wm 301 through Env-Wm 316, Env-Wm 2100 through Env-Wm 3700.

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

Env-Wm 102.156 "Source water protection inventory" means a list, compiled and maintained by the department, which identifies regulated or permitted sites that are known or potential threats to drinking water quality.

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

Env-Wm 102.157 "source reduction" means "source reduction" as defined in RSA 149-M:4,XXIV, namely "changing industrial processes, technologies and product components with the specific objective of reducing the amount or toxicity of waste at the source."

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

Env-Wm 102.158 "Source separation" means dividing solid waste into some or all of its component parts at the point of generation.

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

Env-Wm 102.159 "Stage" means, within a landfill, an area comprised of 2 or more cells and which is surrounded by berms that hydraulically separate the stage, when active, from other stages of the landfill when such other stages have not yet received wastes or been constructed.

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

Env-Wm 102.160 "Standard permit" means a permit to construct and operate a solid waste facility, issued pursuant to RSA 149-M as follows:

- (a) For a facility permitted on or after October 29, 1997, pursuant to Env-Wm 314;
- (b) For a facility permitted before October 29, 1997, pursuant to the provisions of Env-Wm 307.

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

Env-Wm 102.161 "Standard permit facility" means a facility authorized or requiring authorization by issuance of a standard permit.

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

Env-Wm 102.162 "State plan" means "state plan" as defined in RSA 149-M:4,XXVI, namely "the state solid waste management plan developed under RSA 149-M:29."

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

Env-Wm 102.163 "Storage" means the temporary accumulation, containment or stockpiling of wastes.

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

Env-Wm 102.164 "Surface water" means "surface waters of the state" as defined by RSA 485-A:2,XIV, namely "streams, lakes, ponds and tidal waters within the jurisdiction of the state, including all

streams, lakes or ponds bordering on the state, marshes, water courses and other bodies of water, natural or artificial."

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

Env-Wm 102.165 "Tank" means a device designed to contain solid waste in a liquid or gaseous form, including leachate, for storage or transportation.

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

Env-Wm 102.166 "Temporary permit" means a permit issued prior to October 29, 1997, pursuant to a rule codified as Env-Wm 315 effective July 1, 1991 and amended December 24, 1991.

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

Env-Wm 102.167 "Temporary permit facility" means a facility holding a temporary permit.

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

Env-Wm 102.168 "Time of concentration" means the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the design point.

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

Env-Wm 102.169 "Transfer" means, depending on the context in which it is used:

- (a) Removal of waste from one location to another location; or
- (b) Authorizing a permit to be held by a new permittee, pursuant to the type IV permit modification criteria and procedures in Env-Wm 315.

Source. #6619-A, eff 10-29-97; ss by #7224, eff 3-31-00

Env-Wm 102.170 "Transfer station" means a solid waste collection, storage and transfer facility, which collects, stores and transfers solid waste, including non-recyclable waste.

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

Env-Wm 102.171 "Treat" means to process a waste by a method or technique that uses an external agent or agents to cause a chemical, biological or physical change, said agents to include heat, chemicals, or incorporation of other substances or materials.

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

Env-Wm 102.172 "Type of waste" means a category of waste, at least as specific as the following, which describes the belonging waste by its material composition and/or other distinguishing characteristics:

- (a) Ash;
- (b) Bulky waste;
- (c) Construction and demolition debris;
- (d) Hazardous waste;
- (e) Household hazardous waste;
- (f) Household infectious waste;
- (g) Infectious waste;

- (h) Municipal solid waste;
- (i) Putrescible waste;
- (j) Recyclable materials;
- (k) White goods; and
- (l) Yard waste.

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

Env-Wm 102.173 "Unlimited service" means the service type provided by a commercial facility which, through the conditions of the permit, allows the facility to receive authorized waste from any source, including the spot market.

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

Env-Wm 102.174 "Unsaturated zone" means the zone between the land surface and the saturated zone in which the void spaces in soil or rock are only partially or intermittently filled with water. The term includes the "zone of aeration."

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

Env-Wm 102.175 "Unsuitable waste" means waste for which a processing or treatment facility is not designed and which, if processed or treated by that facility, may adversely effect the quality of the products or materials being produced by the facility or the quality of residual waste generated by the facility to the extent that the residuals cannot be managed as required by Env-Wm 2205.

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

Env-Wm 102.176 "Vector" means any carrier that is capable of transmitting a pathogen from one organism to another including, but not limited to, flies and other insects, rodents, birds, and other vermin.

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

Env-Wm 102.177 "Waste-derived product" means a material or item which is produced, in whole or in part, using materials or items which are recovered or diverted from the solid waste stream.

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

Env-Wm 102.178 "Waste reduction" means the reduction of waste at the source by changing industrial processes, technologies, and product components with the specific objective of reducing the quantity or rate at which waste is generated.

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

Env-Wm 102.179 "Waste shipment record" means a shipping document, originated and signed by the waste generator, which is used to track and substantiate the disposition of waste.

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

Env-Wm 102.180 "Wetland" means an area that is subject to the jurisdiction of the New Hampshire wetlands council under RSA 482-A.

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

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Env-Wm 102.181 "White goods" means a generic term for a variety of discarded household appliances, including clothes washers, clothes dryers, stoves, refrigerators, freezers, dishwashers and air conditioners.

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

Env-Wm 102.182 "Working face" means the portion of a landfill where solid waste is being actively deposited, spread, compacted, and covered.

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

Env-Wm 102.183 "Yard waste" means leaves, grass clippings, garden debris, and small or chipped branches.

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

**PART Env-Wm 103 RESERVED**

Source. #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; rpld by #6619-A, eff 10-29-97

**PART Env-Wm 104 - Env-Wm 109 RESERVED**

Source. #5172, eff 7-1-91

**CHAPTER Env-Wm 200 PROCEDURAL RULES**

Statutory Authority: RSA 149-M:7 and RSA 147-A:3

**PART Env-Wm 201 APPLICABILITY**

Env-Wm 201.01 Applicability.

(a) The rules in Env-Wm 201 through Env-Wm 205 shall apply to all procedures undertaken pursuant to RSA 149-M and the solid waste rules.

(b) The rules in Env-Wm 211 through Env-Wm 216 shall apply to all procedures undertaken pursuant to RSA 147-A and the hazardous waste rules.

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

**PART Env-Wm 202 WAIVER OF SOLID WASTE RULES**

Env-Wm 202.01 Purpose. The solid waste rules are intended to apply to a variety of conditions and uses. It is recognized that strict compliance with all solid waste rules may cause hardship or not fit every conceivable situation. The department therefore establishes these procedures and criteria to accommodate those situations where strict adherence would not be in the best interest of the public.

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

Env-Wm 202.02 Procedures.

(a) Any person who is or would be directly and adversely affected by the strict application of a solid waste rule may apply for a waiver thereof.

(b) Each application for a waiver shall be filed in writing as specified in Env-Wm 303.

(c) Each application for a waiver shall include the information specified in Env-Wm 202.03.

(d) All waiver applications which are submitted as part of an application for a permit or permit modification shall be submitted with such permit or permit modification application, or as soon thereafter as the need for the waiver is identified by the applicant or the department.

(e) Applications for waiver shall be processed in accordance with Env-Wm 304.

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

Env-Wm 202.03 Application Content and Format.

(a) The applicant for waiver shall provide the following information in the application, compiled in the order shown:

(1) Identification of the applicant, including name, mailing address and telephone number;

(2) Identification of the facility or activity to which the request relates;

(3) Identification of the specific section(s) of the solid waste rules from which a waiver is sought;

(4) A full explanation of why a waiver is being requested, including an explanation of the hardship that would be caused by compliance with the rule;

(5) A full explanation of the alternate procedure, method, or other activity that is sought to be substituted for the procedure, method or other activity that is required by the rule from which a waiver is being sought, including written documentation and/or data to support the alternative;

(6) The limit of duration requested for the waiver, if any;

(7) A full explanation of why the applicant believes that having the waiver granted will meet the criteria in Env-Wm 202.04; and

(8) Proof of providing notices of filing as required by (b) and (c), below.

(b) If the requested waiver relates to a specific facility, the applicant shall notify the abutters, host municipality, host solid waste district and other affected entities, if any, as specified in Env-Wm 303.

(c) If the request is for a waiver to a set-back to a residence or property line, the applicant shall provide a notice of filing to the affected property owner as specified in Env-Wm 303.

(d) If the application for waiver is being submitted as part of an application for a permit or permit modification, the notice of filing may be combined with any required notice of filing for the permit application, as specified by Env-Wm 303.

(e) Applications for waiver shall be signed by the applicant and the property owner as specified in Env-Wm 303.

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

Env-Wm 202.04 Criteria.

(a) Subject to (b), below, a request for a waiver shall be granted if:

(1) Exemption from complying with the rule shall:

a. Not result in an adverse effect to the environment or natural resources of the state, public health or to public safety;

b. Not result in an impact on abutting properties that is more significant than that which would result from complying with the rule; and

c. Be in keeping with the intent and purpose of the rule being waived; and

(2) One or more of the following conditions is satisfied:

a. Strict compliance with the rule will result in an adverse effect on the environment, public health and safety;

b. Strict compliance with the rule will result in a circumvention of the goals and objectives of the state's solid waste management program, as specified in RSA 149-M:1 through 3 and the state solid waste management plan; or

c. Strict compliance with the standard will provide no benefit to the public and will cause an operational or economic hardship to the applicant.

(b) Economic, technological, practical application and safety issues shall be considered in evaluating a demonstration of the above criteria; however, the application of standards shall not be weighed solely on the basis of cost.

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

Env-Wm 202.05 Decision on the Application. The department shall make a decision on an application for waiver in accordance with Env-Wm 305.

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

### **PART Env-Wm 203 CLAIMS OF CONFIDENTIALITY**

Env-Wm 203.01 Purpose. The purpose of this part is to provide a mechanism by which a person who submits information to the department can protect confidential business information or trade secrets.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, 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 203.02 Applicability. Subject to Env-C 208.05, any person submitting information to the department may make a claim of confidentiality for all confidential business information, or any part thereof, pursuant to the criteria and procedures of Env-C 208.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, 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 203.03 Procedure.

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

Env-Wm 203.04 Exceptions.

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

Env-Wm 203.05 Release or Other Use of Information.

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

### **PART Env-Wm 204 NON-ADJUDICATIVE PUBLIC HEARINGS**

Env-Wm 204.01 Applicability. Non-adjudicative public hearings shall be held in the following cases:

- (a) When proposing to adopt solid waste rules;
- (b) Before initiating eminent domain proceedings, pursuant to RSA 149-M:21;
- (c) To receive oral public comment on a permit application pursuant to Env-Wm 304;
- (d) For any matter, which is not a contested case, for which the department is required by law or by the solid waste rules to hold a hearing; and
- (e) For any matter normally not requiring public participation but deemed by the department to have significant public interest.

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

Env-Wm 204.02 Procedure. The procedures for a non-adjudicative public hearing shall be as specified in Env-C 203 and Env-Wm 304.

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

**PART Env-Wm 205 ADJUDICATIVE HEARINGS**

Env-Wm 205.01 Applicability. An adjudicative hearing shall be held by the department in the following cases:

(a) To give a permittee or other affected party an opportunity to show cause why the department should not proceed with a proposed decision to suspend or revoke any permit under RSA 149-M and the solid waste rules; and

(b) In any other case that is a contested case as defined by RSA 541-A.

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

Env-Wm 205.02 Procedure. The procedures for an adjudicative public hearing shall be as specified in Env-C 202.

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

**PARTS Env-Wm 206 Env-Wm 210 RESERVED**

Source. #5172, eff 7-1-91

**CHAPTER Env-Wm 300 PERMITS**

Statutory Authority: RSA 149-M:7 and RSA 147-A:3

**PART Env-Wm 301 PURPOSE AND APPLICABILITY**

Env-Wm 301.01 Purpose. The purpose of the rules in this chapter is to establish provisions for administering:

- (a) A solid waste management facility permit system pursuant to RSA 149-M; and
- (b) A hazardous waste management facility permit system pursuant to RSA 147-A.

Source. (See Revision Note at PART Heading 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 301.02 Applicability.

- (a) The rules in Env-Wm 301 through Env-Wm 316 shall apply to permitting solid waste management facilities.
- (b) The rules in Env-Wm 351 through Env-Wm 353 shall apply to permitting hazardous waste management facilities.

Source. (See Revision Note at PART Heading 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 302 SOLID WASTE FACILITY PERMITS**

Env-Wm 302.01 Purpose. The purpose of the rules in this part is to:

- (a) Describe the system of permits established by the solid waste rules for authorizing construction, operation and closure of solid waste management facilities pursuant to RSA 149-M:9; and
- (b) Identify permit-exempt facilities pursuant to RSA 149-M:7,V and RSA 149-M:9,I.

Source. (See Revision Note at PART Heading 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 302.02 Solid Waste Permit Required. Except as provided in Env-Wm 302.03, a facility at which solid waste is collected, stored, transferred, processed, treated and/or disposed shall do so only in accordance with a permit issued by the department pursuant to RSA 149-M:9 and the solid waste rules.

Source. (See Revision Note at PART Heading 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 302.03 Solid Waste Permit Exemptions.

- (a) Pursuant to RSA 149-M:9,I and subject to the provisions of Env-Wm 305.04(b), no permit shall be required to haul or store manure being used as fertilizer including the production of compost.
- (b) Pursuant to RSA 149-M:7,V and subject to the provisions of Env-Wm 305.04(b), no permit shall be required to:

- (1) Collect, store, and transfer a waste as specified in Env-Wm 2108;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (2) Process or treat a waste, for reuse or other purposes, as specified in Env-Wm 2208, Env-Wm 2308 and Env-Wm 2408;
- (3) Landfill a waste as specified in Env-Wm 2510;
- (4) Land spread ash from the combustion of virgin wood as specified in Env-Wm 3404;
- (5) Manage a waste that has been formally declared by the generator, in accordance with Env-Wm 502.01(c)(2), to be a hazardous waste, provided that the waste is managed in accordance with the requirements of RSA 147-A and rules adopted pursuant thereto;
- (6) Manage virgin wood by above ground methods not including composting, provided that:
  - a. The virgin wood is actively managed;
  - b. Management practices comply with the universal facility requirements in Env-Wm 2700;
  - c. Stockpiles conform to the requirements in Env-Wm 2104.05;
  - d. The virgin wood is not mixed or co-mingled with any other wastes or materials at the waste generation site or any other location; and
  - e. If combusted:
    1. The facility burns only brush and slash which measures 5 inches or less in diameter and/or clean, untreated lumber with an end cross-sectional area of 24 square inches or less;
    2. A permit to kindle the waste is issued by the forest fire warden pursuant to RSA 227-L:17,II, prior to stockpiling any virgin wood; and
    3. Written authorization to operate a brush storage and burn site is issued by the department pursuant to Env-A 1001.04(a), prior to stockpiling any virgin wood;
- (7) Conduct bench scale research and development projects within a building or other location used for research studies, provided that practices comply with the universal facility requirements in Env-Wm 2700;
- (8) Temporarily operate or permanently close a facility which:
  - a. Has obtained interim status in accordance with Env-Wm 308; and
  - b. Complies with the requirements for operating or closing an interim status facility as specified in Env-Wm 308;
- (9) Manage boiler slag from the combustion of coal, destined for use as a raw material for commercial and industrial purposes, provided that:
  - a. The boiler slag is actively managed; and
  - b. Management practices comply with the universal facility requirements in Env-Wm 2700;
- (10) Collect, store, transfer, process, treat, and/or dispose of waste concrete, cement, brick, other inert masonry materials, and/or bituminous concrete, provided that:
  - a. The waste is actively managed;
  - b. Management practices comply with the universal facility requirements in Env-Wm 2700;

- c. The materials comprising the waste are derived from virgin materials only;
  - d. The materials comprising the waste are fully cured;
  - e. The waste is free of any materials or substances that have the potential to leach contaminants to groundwater or surface water or to emit pollutants to the air, including lead paint, asbestos, and chemicals;
  - f. If landfilled, the bituminous concrete waste is not ground or pulverized; and
  - g. The activity occurs after March 30, 1999; and
- (11) Collect, store, and process wooden pallets and wooden crates into wood chips, provided that:
- a. The wood chip is certified for distribution and use pursuant to Env-Wm 3200 and accordingly managed;
  - b. The pallets and crates are actively managed;
  - c. Management practices comply with the universal facility requirements in Env-Wm 2700;
  - d. The pallets and crates comply with the toxics in packaging requirements in RSA 149-M:32 through 40;
  - e. The pallets and crates have not been treated in any way, including painted or stained, except for labeling purposes, or pressure treated;
  - f. The pallets and crates are free of glues and adhesives;
  - g. The pallets and crates are empty;
  - h. The pallets and crates are not otherwise contaminated with foreign substances;
  - i. Stockpiles conform to the requirements of Env-Wm 2104.05; and
  - j. All residual waste resulting from the management of the pallets and crates, including nails and fasteners, is actively managed in accordance with all applicable rules and regulations.

Source. (See Revision Note at PART Heading 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 #6894-B, eff 12-1-98; amd by #7225, eff 3-31-00

Env-Wm 302.04 Solid Waste Permit Types. The solid waste rules shall establish a permit system comprised of the following permit types:

- (a) Standard permit, pursuant to Env-Wm 314, for a facility meeting each of the following criteria:
  - (1) The facility is not a permit-exempt facility in Env-Wm 302.03;
  - (2) The facility is not eligible for a permit-by-notification pursuant to Env-Wm 2107, Env-Wm 2207, Env-Wm 2307, Env-Wm 2407, or Env-Wm 2509;
  - (3) The facility is not eligible for a research and development permit pursuant to Env-Wm 312;
  - (4) The facility is not eligible for an emergency permit pursuant to Env-Wm 313; and

(5) If the facility is a temporary permit facility, it elects to continue operating following call of the temporary permit and is not a landfill.

(b) Temporary permit, for facilities that obtained temporary permit status prior to October 29, 1997;

(c) Permit-by-notification, pursuant to Env-Wm 311, for certain limited waste management activities, as specified in Env-Wm 2107, Env-Wm 2207, Env-Wm 2307, Env-Wm 2407 and Env-Wm 2509 based on the functional classification of the facility;

(d) Research and development facility permit, pursuant to Env-Wm 312, for research and development projects as defined by Env-Wm 102; and

(e) Emergency permit, pursuant to Env-Wm 313, for facilities which operate for a limited period of time in response to an emergency for which no other readily available response exists and for which a delayed response to obtain another type of permit will result in an unnecessary risk to public health, safety or the environment.

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

Env-Wm 302.05 Solid Waste Facility Types. Facility permits shall be issued on the basis of facility type according to the following facility functional classifications:

(a) Land disposal sites, including landfills, as defined by Env-Wm 102;

(b) Processing or treatment facilities, as defined by Env-Wm 102, including:

(1) Composting facilities; and

(2) Incineration facilities; and

(c) Collection, storage and transfer facilities, as defined by Env-Wm 102, including:

(1) Transfer stations; and

(2) Recycling centers.

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

Env-Wm 302.06 Permitting System Criteria. The following factors shall be used in the solid waste rules to determine the applicable permitting requirements:

(a) The type of permit;

(b) Duration of facility operations;

(c) The functional classification of a facility; and

(d) The type of waste handled by the facility.

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

## **PART Env-Wm 303 FILING PROVISIONS FOR APPLICATIONS, REGISTRATIONS AND REPORTS**

Env-Wm 303.01 Purpose. The purpose of the rules in this part is to specify requirements for filing applications, registrations and reports required by the solid waste rules.

Source. (See Revision Note at PART Heading 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 303.02 Applicability.

(a) The rules in this part shall apply to all persons filing the following applications on or after October 29, 1997:

- (1) New permits, pursuant to Env-Wm 311 through Env-Wm 314;
- (2) Modification of existing permits, pursuant to Env-Wm 315, including permit transfer and permit renewal applications; and
- (3) Waivers of any requirement of the solid waste rules, pursuant to Env-Wm 202.

(b) The rules in Env-Wm 303.03 and Env-Wm 303.04 shall also apply to persons filing facility registrations pursuant to Env-Wm 309.

(c) The rules in Env-Wm 303.03 and Env-Wm 303.04 shall also apply to persons filing facility reports required by the solid waste rules, including status reports such as notices of intent to construct or operate, annual reports, quarterly reports for landfills, compliance reports and other facility reporting data specified by the solid waste rules.

Source. (See Revision Note at PART Heading 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 303.03 Basic Filing Requirements.

(a) Applications, registrations and reports shall be prepared:

- (1) On and with such forms as the department provides; or
- (2) If no form is provided pursuant to (1) above, on paper supplied by the applicant in a format consistent with the application content and format requirements specified by the solid waste rules for the particular type of application, registration or report being filed.

(b) Applications, registrations and reports shall be signed as specified in Env-Wm 303.04.

(c) Applications shall be submitted to the department in triplicate, except applications for a permit-by-notification pursuant to Env-Wm 311 and for a type III permit modification pursuant to Env-Wm 315 shall be submitted in quadruplicate, with stamped legal sized envelopes addressed in capital letters to the applicant, the host municipality and host solid waste management district. The envelopes shall bear no return address.

(d) Registrations pursuant to Env-Wm 309 shall be filed in duplicate.

(e) Facility reports shall be filed in duplicate.

(f) All applications shall be submitted with the fee specified in Env-Wm 310, if any.

(g) Applications shall be submitted with the compliance information required by Env-Wm 303.13.

(h) Except as provided in (i) below, all components and copies of an application, registration and report shall be submitted together at the same time.

(i) If the content and format requirements for a particular type of application require the applicant to submit personal and business disclosure information pursuant to Env-Wm 316, the applicant shall:

- (1) Submit the information as specified in Env-Wm 316 direct to the New Hampshire department of justice, office of attorney general (NHDoJ/OAG) on or before the date the balance of the application is submitted to the department; and

- (2) Provide proof thereof to the department with the application.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #5886-A, eff 8-26-94; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 303.04 Signature Requirements.

(a) Each application, registration and report shall be signed by the applicant, registrant or permittee as applicable.

(b) If the applicant, registrant or permittee is other than an individual, the application shall be signed by the person(s) duly authorized to sign for the applicant, registrant or permittee as applicable.

(c) The applicant's, registrant's or permittee's signature shall constitute:

(1) An affirmation that the material and information submitted is correct and complete to the best of the applicant's, registrant's or permittee's knowledge and belief;

(2) An acknowledgment that any approval granted based on false and/or incomplete information shall be subject to revocation or suspension pursuant to Env-Wm 306, and civil or criminal penalties;

(3) An agreement to pay the outstanding balance of the application fee due pursuant to Env-Wm 310, if any, upon presentation of an invoice; and

(4) For applications not subject to Env-Wm 3100, certification of financial responsibility pursuant to Env-Wm 2705.08(b).

(d) Each application shall be signed by the owner and land owner, if different than the applicant.

(e) If the property owner is other than an individual, the application shall be signed by the person(s) duly authorized to sign for the property owner.

(f) The property owner's signature shall constitute an affirmation that:

(1) The applicant has, or shall be granted, the legal right to occupy and use the property on which the facility is or will be located for the purposes specified in the application; and

(2) The property owner shall grant access to the property for closure and post-closure monitoring of the facility and site as required by the solid waste rules.

(g) All signatures shall be original signatures on all copies of applications, registrations and reports filed with the department.

Source. (See Revision Note at PART Heading 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 #6894-B, eff 12-1-98

Env-Wm 303.05 Notice of Filing to Abutters.

(a) If the application content and format requirements, as provided in Env-Wm 311 through Env-Wm 315, require the applicant to provide a notice of filing to abutters, the applicant shall:

(1) Provide notice as specified by (b) through (e) below; and

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(2) Place a copy of the application at a publicly accessible location, for example the public library or town hall, for public review until final action on the application is taken by the department.

(b) The notice of filing shall be:

(1) Sent by certified mail, return receipt requested; or

(2) Delivered in hand, in which case a signed acknowledgment from the recipient that the notice was received shall be obtained.

(c) The notice of filing shall be sent or delivered before the date the application is filed with the department, but not earlier than 30 days beforehand.

(d) If the applicant or the owner of the facility site owns any abutting parcel of land, the notice of filing shall be sent to the owner(s) of the next parcel(s) not owned by the applicant or facility site owner.

(e) The notice of filing shall include the following information:

(1) A statement that an application is scheduled to be filed with the department, including the type of application being filed and the anticipated filing date;

(2) Facility identification and location, including:

a. Facility name;

b. Permit number, if applicable;

c. Street address; and

d. Municipality;

(3) The name(s) and mailing address(es) of the:

a. Applicant, which in the case of an application for permit transfer shall be both the existing and proposed permittee;

b. Facility owner;

c. Facility operator; and

d. Property owner;

(4) A description of the activity(s) for which approval is being sought, including as applicable:

a. The type(s) of waste management activities to be undertaken at the facility;

b. The quantity and type(s) of waste to be received by the facility;

c. The quantity and type(s) of waste to be stored at the facility;

d. The quantity and type(s) of waste to be disposed at the facility;

e. The facility service area;

f. The facility service type;

g. The facility life expectancy;

h. Other information required to accurately describe the scope and nature of the proposed activity(s); and

i. The estimated date of facility construction and operation;

(5) Identification of the locally accessible place where the application shall be available for public review;

(6) Name, title, mailing address and telephone number of the individual associated with the applicant and available to respond to inquiries during the application review process;

(7) Name, title, mailing address and telephone number of the agency official or employee who may be contacted regarding the application, which name and information shall be provided to the applicant by the department upon request at the time the applicant prepares the notice;

(8) Description of the application processing provisions as specified by the solid waste rules. The description shall be detailed sufficiently as to inform the notice recipient of the basic process steps and schedule. An application process flow chart, as provided by the department upon request, shall suffice;

(9) If the application is for approval to transfer a permit, a statement that the department shall receive written comments from the abutters for a period of 30 days following the date the application is filed; and

(10) If the application includes a request for a waiver to any rule, a statement so indicating and specifically citing the rule(s).

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

Env-Wm 303.06 Additional Filing Requirements.

(a) The applicant for a permit, permit modification, or waiver to a solid waste rule relating to a specific facility, shall comply with the filing requirements in:

(1) Env-Wm 303.07; and,

(2) Env-Wm 303.08 through Env-Wm 303.12, if applicable;

(b) Each filing required by (a) above shall be:

(1) Sent by certified mail, return receipt requested; or

(2) Delivered in hand, in which case a signed acknowledgment from the recipient that the notice was received shall be obtained.

(c) Each filing required by (a) above shall be made no later than the date the applicant submits the application to the department, but not earlier than 30 days beforehand.

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

Env-Wm 303.07 Municipality and District.

(a) The applicant for a new permit pursuant to Env-Wm 311 through Env-Wm 314 and a type I, type III and type IV permit modification pursuant to Env-Wm 315 shall provide to each of the following entities a copy of the complete application and a notice of filing containing the information specified in Env-Wm 303.05(e) and, if applicable, (c) below:

(1) The host municipality and other affected municipalities as specified by (b) below, which in the case of:

- a. A town, shall be sent to the town clerk and selectmen;
- b. A city, shall be sent to the city clerk and mayor and city council; and
- c. An unincorporated town or place, shall be sent to the county commissioners; and

(2) The chairperson of the host solid waste management district and other affected districts as specified by (b) below.

(b) If the requested approval directly affects a service provided by a specific municipality(s) and/or district(s) besides the host municipality and/or host solid waste management district, for instance an application to expand or reduce the permitted service area of a limited public facility used or to be used by a non-host municipality or district, then the applicant shall also provide a copy of the application and notice of filing to each municipality and/or district so affected.

(c) If the requested approval involves any activity which is a potential contamination source in a groundwater protection area classified as GAA or GA-1 pursuant to RSA 485-C, the notice sent to the municipality shall also provide the information required by Env-Wm 303.08.

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

Env-Wm 303.08 Notice for GAA and GA-1 Groundwater Protection Areas. The applicant for approval for any activity which is a potential contamination source in a groundwater protection area classified as GAA or GA-1 pursuant to RSA 485-C shall provide to the affected local entity as defined by RSA 485-C:2,X:

(a) A copy of the complete application; and

(b) A notice of filing containing:

(1) The information specified in Env-Wm 303.05(e); and

(2) A statement that the department shall suspend action on the application for 30 days following the filing to allow the municipality and local entity to submit written recommendations concerning the proposed project, as provided in RSA 485-C:14.

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

Env-Wm 303.09 Notices for Areas of Threatened or Endangered Species.

(a) The applicant for any approval relating to a proposed activity located in an area of threatened or endangered species shall provide a copy of the complete application and a notice of filing as specified in (b) below to each of the following entities:

(1) The New Hampshire department of fish and game; and

(2) The New Hampshire department of resources and economic development, national heritage inventory program.

(b) The notice of filing shall contain the following information:

(1) The information specified in Env-Wm 303.05(e); and

(2) A request to submit to the department, within 30 days following the notice of filing, written comments concerning the adequacy of the application relative to protecting threatened or endangered species pursuant to Env-Wm 2702.03.

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

Env-Wm 303.10 Notice for Airport Proximity. The applicant for approval to manage putrescible waste within the protective radius of certain airports as specified in Env-Wm 2702.04(c) shall provide the following information to the federal aviation administration (FAA):

- (a) A copy of the complete application;
- (b) A notice of filing containing:
  - (1) The information specified in Env-Wm 303.05(e); and
  - (2) A request for the FAA to submit to the department, within 30 days following the notice of filing, written comments concerning the adequacy of the application relative to satisfying the requirements of Env-Wm 2702.04(c).

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

Env-Wm 303.11 Notice for Designated River Areas.

(a) The applicant for approval of a proposed activity affecting any river or segment designated under RSA 483 shall provide a copy of the complete application and a notice of filing, as specified in (b) below, to:

- (1) The department's rivers coordinator established pursuant to RSA 483:3; and
- (2) The chairman of the applicable local river management advisory committee established pursuant to RSA 483:8.

(b) The notice of filing shall contain:

- (1) The information specified in Env-Wm 303.05(e); and
- (2) A request to submit to the department, within 30 days following the notice of filing, written comments concerning the adequacy of the application relative to satisfying the requirements of RSA 483.

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

Env-Wm 303.12 Notice to Department of Justice. Applicants required pursuant to Env-Wm 316.02(a) to provide information to the department of justice (DoJ) for background investigation purposes shall provide, with the information, a notice of filing containing the information specified in Env-Wm 303.05(e).

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

Env-Wm 303.13 Compliance Status and History.

(a) All applicants, except emergency permit applicants, shall submit compliance information with the application, as specified by (b) and (c) below.

(b) Applicants for a permit-by-notification and applicants for a type III permit modification shall submit compliance certification in accordance with Env-Wm 303.14.

(c) Applicants for a standard permit, research and development facility permit, waiver, or a type I, II, IV, or V permit modification shall submit either:

- (1) Compliance certification pursuant to Env-Wm 303.14; or
- (2) If unable to certify compliance pursuant to Env-Wm 303.14, a compliance report pursuant to Env-Wm 303.15.

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

Env-Wm 303.14 Compliance Certification.

(a) The applicant shall certify that each of the statements listed in (b) below are true for each of the following individuals and entities:

- (1) The applicant;
- (2) The owner;
- (3) The facility operator;
- (4) All individuals and entities holding 10% or more of the applicant's debt or equity;
- (5) All of the applicant's officers, directors, and partners; and
- (6) All individuals and entities having managerial or supervisory or substantial decision-making authority and responsibility for the management of facility operations or the activity(s) for which approval is being sought; and
- (7) For a research and development permit, the lead investigator.

(b) The applicant shall certify that each of the following statements are true:

- (1) No individual or entity listed in (a) above has been convicted of or plead guilty or no contest to a felony in any state or federal court during the 5 years before the date of the application;
- (2) No individual or entity listed in (a) above has been convicted of or plead guilty or no contest to a misdemeanor for a violation of environmental statutes or rules in any state or federal court during the 5 years before the date of the application;
- (3) No individual or entity listed in (a) above has owned or operated any hazardous or solid waste facility which has been the subject of an administrative or judicial enforcement action for a violation of environmental statutes or rules during the 5 years before the date of the application;
- (4) No individual or entity listed in (a) above has been the subject of any administrative or judicial enforcement action for a violation of environmental statutes and rules during the 5 years before the date of the application;
- (5) All hazardous and solid waste facilities owned or operated in New Hampshire by any individual or entity listed in (a) above are in compliance with either:
  - a. All applicable environmental statutes, rules, and department permit requirements; or
  - b. A department approved schedule for achieving compliance therewith;
- (6) All individuals and entities listed in (a) above are in compliance with all civil and criminal penalty provisions of any outstanding consent agreement, settlement, or court order to which the department is a party; and
- (7) All individuals and entities listed in (a) above have paid, or are in compliance with the payment schedule for any administrative fine assessed by the department; and
- (8) All individuals and entities listed in (a) above are in compliance with all terms and conditions under every administrative order, court order or settlement agreement relating to programs implemented by the department.

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

Env-Wm 303.15 Compliance Report

(a) Applicants unable to certify compliance pursuant to Env-Wm 303.14 shall submit a compliance report as specified by (b) below.

(b) The compliance report shall include:

(1) A complete explanation of the circumstances which cause any statement in Env-Wm 303.14(b)(1) through (8) to be untrue;

(2) For each circumstance which causes a statement in Env-Wm 303.14(b)(1) through (8) to be untrue, an explanation as to why the department should not find it to be grounds for denying the requested approval pursuant to the provisions of RSA 149-M:9, IX or X; and

(3) For each circumstance which causes a statement in Env-Wm 303.14(b)(5) through (8) to be untrue, a plan and schedule by which the applicant proposes to achieve full compliance.

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

**PART Env-Wm 304 APPLICATION REVIEW**

Env-Wm 304.01 Applicability.

(a) The rules in this part shall apply to all persons filing applications for the following approvals on or after October 29, 1997:

(1) New permits pursuant to Env-Wm 311 through Env-Wm 314;

(2) Modification of existing permits, pursuant to Env-Wm 315, including permit transfer and permit renewal applications; and

(3) Waivers of any requirement of the solid waste rules, pursuant to Env-Wm 202.

(b) An application of a type identified in (a) above, filed before October 29, 1997 and not yet deemed complete, shall be subject to the provisions of this part.

(c) An application of a type identified in (a) above, filed and deemed complete before October 29, 1997, shall be subject only to the provisions of this part which apply to those steps of the application review process not yet completed.

Source. (See Revision Note at PART Heading 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 304.02 Application Receipt.

(a) Upon receipt of an application, the department shall determine whether the application filing requirements in Env-Wm 303 have been met.

(b) Applications filed contrary to Env-Wm 303 shall not be accepted for processing.

(c) Except as provided in (d) below, an application filed contrary to Env-Wm 303 shall be held by the department while the applicant is notified of the deficiency and given an opportunity to correct the deficiency. If 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.

(d) An application for a permit-by-notification pursuant to Env-Wm 311 or for a type III permit modification pursuant to Env-Wm 315, if filed contrary to Env-Wm 303, shall not be held as described in (c) above and shall be denied in accordance with Env-Wm 305.03(c) through (d).

Source. (See Revision Note at PART Heading 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 304.03 Application Completeness Determination.

(a) Within 60 days after the date an application is filed in accordance with Env-Wm 303, the department shall determine whether the application is complete, namely whether the application satisfies the content and format requirements specified by the solid waste rules for the type of application filed.

(b) If the applicant submits any information to complete or amend the application between the date of initial filing and the date the department determines the application is complete, the 60 day review time shall be measured from the date of latest submittal.

(c) If the application is incomplete, the provisions in Env-Wm 304.04 shall apply.

(d) If the application is complete, the provisions of Env-Wm 304.06 shall apply.

(e) Notwithstanding any other provision of this part, the department shall suspend the processing of any application when required by other provisions of law, including RSA 485-C:14. No portion of the suspension time shall be included in computing the time limits for processing the application.

(f) The department shall not determine that an application is complete until all disclosure forms required pursuant to Env-Wm 316 have been filed by the applicant with the department of justice (DoJ).

Source. (See Revision Note at PART Heading 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 304.04 Incomplete Applications.

(a) Except as provided in (c) through (e) below, if an application is determined to be 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 agency official or employee who may be contacted regarding the application; and

(4) The applicant shall be alerted to the application dormancy provisions specified in Env-Wm 304.05(d).

(b) A copy of the notice of incompleteness shall be sent by the department to all persons and entities to whom the applicant was required to provide a copy of the initial application pursuant to Env-Wm 303.

(c) In the event that an incomplete application provides information sufficient for the department to determine that the proposed activity does not meet the requirements of the solid waste rules and requires substantial revision to meet said requirements, or that any other provision for denial exists as provided in Env-Wm 305, the department shall deny the requested approval and send written notice thereof in accordance with Env-Wm 305, in lieu of deeming the application incomplete.

(d) Applications for permits-by-notification pursuant to Env-Wm 311 and type III permit modifications pursuant to Env-Wm 315, if incomplete upon initial submittal, shall be denied pursuant to Env-Wm 305.03(c) through (e).

(e) If an application is incomplete for incidental versus substantive reasons, the department may so notify the applicant by telephone in lieu of providing a written notice of incompleteness, provided that:

(1) The anticipated time required of the applicant to correct the deficiency shall be less than the anticipated time required of the department to notify the applicant in writing;

(2) The department shall specify in the verbal notice a reasonable time period for correcting the deficiency, after which time written notice shall be sent by the department in accordance with (a) and (b) above, if no response by the applicant is received by the department; and

(3) The department shall specify in the verbal notice that the applicant shall be required to also send a copy of the response, with a cover letter stating the reason for providing the additional information, to all persons and entities identified in Env-Wm 303 to whom the applicant was required to provide a copy of the initial application.

(f) Upon notifying an applicant that the application is incomplete, the department shall suspend further processing of the application pending receipt of the additional information requested.

(g) 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. (See Revision Note at PART Heading 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 304.05 Completing an Incomplete Application.

(a) Information submitted to the department by an applicant to complete an incomplete application shall be filed in accordance with Env-Wm 303 and, if applicable, (b) below.

(b) The applicant shall:

(1) Provide a copy of all information submitted to complete an incomplete application to each person and entity identified in Env-Wm 303 to whom the applicant was required to provide a copy of the initial application; and

(2) Provide to the department a written and signed statement attesting to the same.

(c) Information received to complete an incomplete application shall be reviewed by the department in accordance with Env-Wm 304.02 and Env-Wm 304.03.

(d) The applicant shall submit all information required to complete an incomplete application within one year from the date the application is initially deemed incomplete. 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. (See Revision Note at PART Heading 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 304.06 Complete Applications.

(a) When the department determines that an application is complete, the department shall provide written notice to the applicant wherein:

- (1) The applicant, type of application, and all documents that constitute the complete application shall be identified;
- (2) The application shall be deemed complete;
- (3) The dates and arrangements for a public hearing pursuant to Env-Wm 304.08 shall be identified, if known by the time notice of completeness is given; and
- (4) The name, title, mailing address and telephone number of the department official or employee who may be contacted regarding the application shall be provided.

(b) A copy of the notice of completeness shall be sent by the department to all persons and entities to whom the applicant was required to provide a copy of the application pursuant to Env-Wm 303.

(c) A notice of completeness and a notice of decision pursuant to Env-Wm 305 shall be combined, if a public hearing shall not be held and the department has completed a technical review of the application as required by Env-Wm 304.07.

(d) A permit-by-notification pursuant to Env-Wm 311 and a type III permit modification pursuant to Env-Wm 315 shall be approved in accordance with Env-Wm 305 upon determining the application is complete.

(e) A determination of completeness by the department, that is not accompanied by a final decision on the application, shall not be construed as a determination of the viability of the requested approval.

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

Env-Wm 304.07 Technical Review.

(a) Except as provided in (c) below, a complete application shall undergo a technical review by the department to determine:

- (1) Whether the proposed activity meets all applicable criteria for issuance as specified in the solid waste rules; or
- (2) Whether a condition for denial, as specified in Env-Wm 305, exists.

(b) During the technical review process, the department shall consider all information received from the following sources, as applicable:

- (1) The applicant;
- (2) The abutters, host municipality, host solid waste management district and other affected entities responding to notification given by the applicant pursuant to Env-Wm 303;
- (3) Persons participating in a public hearing pursuant to Env-Wm 304.08, if held; and
- (4) The New Hampshire department of justice pursuant to the provisions of Env-Wm 316.

(c) For applications for a permit-by-notification pursuant to Env-Wm 311 and a type III permit modification pursuant to Env-Wm 315, the department shall not independently assess whether the proposed activity meets all requirements of the solid waste rules and shall rely on the applicant's certification attesting to the same as specified by Env-Wm 311 and Env-Wm 315.

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

Env-Wm 304.08 Public Hearing.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(a) A public hearing shall be required for all permit applications and applications for permit modification, except as provided by (b) below.

(b) Pursuant to RSA 149-M:9, a public hearing shall not be required, except as noted in (d) below, for applications to approve a facility or activity expected to have an insignificant effect on environmental quality, as specified in (c) below.

(c) Facilities and activities authorized by the following types of approvals shall be deemed to have an insignificant effect on environmental quality:

(1) Permits-by-notification pursuant to Env-Wm 2107, Env-Wm 2207, Env-Wm 2307, Env-Wm 2407 and Env-Wm 2509;

(2) Emergency permits;

(3) Research and development project permits;

(4) Standard permits for existing facilities operating in compliance with the solid waste rules under the provisions of a temporary permit;

(5) Standard permits for limited public collection, storage and transfer facilities;

(6) Type I-B, type II, type III, type IV and type V permit modifications pursuant to Env-Wm 315;

(7) Construction approvals pursuant to Env-Wm 2800, including approvals to construct landfill capping systems; and

(8) Operating approvals pursuant to Env-Wm 2800;

(d) Pursuant to RSA 149-M:11,IV(a), a public hearing shall be required for an application:

(1) To establish a new facility accommodating greater than 30 tons of waste per day, on average; and

(2) To increase the capacity of an existing facility from less than to greater than 30 tons per day, on average.

(e) The department shall provide notice of the public hearing to the applicant, the host municipality, host solid waste management district, other affected entities excluding abutters receiving notice pursuant to (i) below, and the public, as specified in (f) through (h) below.

(f) Notice to the public shall be by publication in a newspaper of general circulation in the host municipality and host solid waste management district.

(g) Notice to the applicant, host municipality, host solid waste management district and other affected entities excluding abutters receiving notice pursuant to (i) below, shall be provided in writing and sent by first class mail.

(h) The notice of public hearing shall:

(1) Identify the:

a. Applicant by name and mailing address;

b. Type of application;

c. Nature of the proposal; and

- d. Facility name, location by street and municipality, type and, if applicable, permit number;
  - (2) State the date, time and location of the hearing;
  - (3) Identify the location(s) where a copy of the complete application is available for public review;
  - (4) State that testimony may be submitted in writing to the department at any time before the close of the hearing notice period in lieu of attending and/or providing oral testimony at the public hearing;
  - (5) Request disabled persons planning to attend the hearing and requiring special assistance under the provisions of the Americans with Disabilities Act to contact the department in advance of the hearing to identify the type of assistance required; and
  - (6) Provide the name, title, mailing address and telephone number of the department official or employee who may be contacted regarding the application and hearing, and to whom written public hearing testimony may be submitted.
- (i) Pursuant to RSA 149-M:9,VIII, the applicant shall provide a notice of public hearing, as specified in (h) above, to all abutters by certified mail, return receipt requested. If the applicant or the facility site owner owns any abutting parcel of land, the notice of hearing shall be sent to the owner(s) of the next parcel(s) not owned by the applicant or facility site owner.
- (j) The applicant shall make a copy of the complete application available at a locally accessible place for public review from the date hearing notice is first provided through the date the hearing record is closed by the department.
- (k) Upon instruction by the department, the applicant shall make arrangements for locating the public hearing as specified by (l) below.
- (l) The public hearing shall be held at a location that:
- (1) Is within the host municipality or, in the case of an unincorporated town or unorganized place, in the host county;
  - (2) Provides access for disabled persons in conformance with Title II of the Americans with Disabilities Act as provided in public law 101-336;
  - (3) Provides adequate seating and parking for the number of persons anticipated to attend; and
  - (4) Provides a public address system as appropriate for the size of the hearing room and the anticipated number of attendees.
- (m) Pursuant to Env-Wm 310, the applicant shall pay the cost, if any, for:
- (1) Hearing notice publication;
  - (2) Rental of the hearing room;
  - (3) Hiring security personnel for crowd control if, based on the nature of the application and indications of public interest, the department or the host municipality determines crowd control measures will be required to protect the public health and safety; and
  - (4) Hiring interpreters for disabled persons or providing other such services when required to comply with the Americans with Disabilities Act.
- (n) The department shall conduct the hearing in accordance with Env-C 203 and Env-C 205.

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

**PART Env-Wm 305 APPLICATION DECISIONS**

Env-Wm 305.01 Applicability. The rules in this part shall apply to all applications reviewed in accordance with Env-Wm 304.

Source. (See Revision Note at PART Heading 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 305.02 Decision on Application.

(a) Following completion of the review procedures in Env-Wm 304 and within either 120 days following the receipt date of the complete application or 30 days following a public hearing held pursuant to Env-Wm 304.08(d) and RSA 149-M:11,IV(a), whichever occurs latest, the department shall either issue or deny the requested approval, in writing.

(b) A decision for denial shall be made pursuant to the provisions of Env-Wm 305.03.

(c) A decision for issuance shall be made pursuant to:

- (1) Env-Wm 305.04;
- (2) Env-Wm 305.05, if for a permit; and
- (3) Env-Wm 305.06, if for a permit modification.

(d) The applicant and all persons and entities to whom the applicant was required to provide a copy of the application pursuant to Env-Wm 303 shall be notified of the decision in writing by the department.

(e) Pursuant to RSA 149-M:9,XII(b), the final decision on an application for a type IV permit modification to transfer a permit shall not be made until at least 30 days after the public hearing, if held.

Source. (See Revision Note at PART Heading 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 305.03 Denial of a Requested Approval.

(a) The written decision for 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 304.04(c), all documents submitted by the applicant that form the basis of the decision;
- (2) State the specific reason(s) for the denial based on (b) below;
- (3) Identify the applicable provisions for appeal pursuant to RSA 21-O:9,V;
- (4) Provide the name, title, mailing address and telephone number of the department official or employee who may be contacted regarding the decision; and
- (5) Be signed by the director or a person so authorized by the director.

(b) A requested approval shall be denied if one or more of the following conditions applies:

- (1) The proposed activity does not meet the applicable requirements of RSA 149-M and the solid waste rules;

(2) The application provides insufficient or ambiguous information that precludes a determination that the proposed approval will comply with RSA 149-M and the applicable requirements of the solid waste rules, and the deficiencies are so substantial as to not be remedied by subjecting the approval to compensating terms and conditions;

(3) The department determines that the applicant meets the criteria for denial pursuant to RSA 149-M:9,IX;

(4) The applicant has not demonstrated its legal right to occupy the subject property;

(5) As required by RSA 483:12-a, the department is notified by the rivers coordinator that a proposed activity violates a protection measure under RSA 483:9, RSA 483:9-a, or RSA 483:9-b;

(6) The application becomes a dormant application;

(7) The application is for a permit-by-notification or type III permit modification and the applicant is unable to provide compliance certification pursuant to Env-Wm 303.14; or

(8) The application meets any other provision for denial as specified in the solid waste rules for the particular type of application reviewed.

(c) An application for a permit-by-notification pursuant to Env-Wm 311 or a type III permit modification pursuant to Env-Wm 315 shall be denied based on (b)(2) above if the application is filed contrary to the requirements in Env-Wm 303 or is not complete upon initial filing.

(d) In conformance with (a) above, notice for denial pursuant to (c) above shall be made by sending to the applicant, host municipality and host solid waste district a copy of the notification form which:

(1) Bears the department's dated receipt stamp;

(2) Is clearly marked "incomplete/denied";

(3) Is marked to identify the deficiencies;

(4) Is imprinted with the information required by (a)(3) above;

(5) Is signed and dated by the director or person so authorized by the director; and

(6) Is stapled to a business card bearing the information required by (a)(4) above.

(e) Denial of a permit-by-notification or a type III permit modification due to improperly filing or completing the application upon initial filing shall not preclude the applicant from later obtaining an approval by properly submitting a complete notification.

Source. (See Revision Note at PART Heading 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 #6894-B, eff 12-1-98

Env-Wm 305.04 Issuance of Any Requested Approval.

(a) The written decision for any approval shall:

(1) Identify the person to whom the approval is granted;

(2) Identify the type of approval and authority for issuance;

(3) Identify all documents that constitute the complete application;

(4) 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 information specified in:
  1. Env-Wm 305.05, if a facility permit; and
  2. Env-Wm 305.06, if a facility permit modification.

(5) Be signed and dated by the director or a person so authorized by the director.

(b) An approval granted by the department 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. (See Revision Note at PART Heading 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 305.05 Issuance of Permits.

(a) A standard permit, emergency permit and research and development facility permit shall:

- (1) Be issued in conformance with Env-Wm 305.04;
- (2) Specify the functional classification of the facility pursuant to Env-Wm 302;
- (3) Specify the facility shall be constructed, operated and closed in accordance with RSA 149-M and the solid waste rules;
- (4) Identify all plans approved by the department as part of the permit and incorporate said plans by reference into the terms and conditions of the permit; and
- (5) Include terms and conditions, based on the information provided in the permit application and in conformance with the applicable facility requirements in Env-Wm 2100 through 2900 and Env-Wm 3100, for the following:
  - a. Facility location;
  - b. Facility design;
  - c. Facility construction;
  - d. Facility operation, including:
    1. Operating restrictions including:
      - i. Facility function;
      - ii. Capacity;
      - iii. Service type;
      - iv. Service area; and

- v. Authorized and prohibited waste types;
- 2. Public benefit requirements pursuant to RSA 149-M:11;
- 3. Maintenance and monitoring requirements; and
- 4. Reporting requirements;
- e. Financial assurance for guaranteeing the cost of facility closure; and
- f. Facility closure, including post-closure requirements.

(b) Except for a permit-by-notification, emergency permit not exempt pursuant to Env-Wm 313.02(b) or research and development permit not exempt pursuant to Env-Wm 312.02(b), a permit issued on the basis of a permit application containing preliminary as opposed to final plans for facility design and construction, operation, financial assurance or closure, shall include terms and conditions requiring the permittee to obtain final plan approval pursuant to the provisions of Env-Wm 315 for a type II permit modification.

(c) A standard permit issued for a facility that will be constructed in phases over time, such as a landfill, shall specify terms and conditions requiring the permittee to obtain final design plan approval for construction on a phase by phase basis pursuant to the provisions in Env-Wm 315 for a type II permit modification.

(d) Pursuant to the provisions of RSA 149-M:9,XI, a facility permit shall be continuous in duration, extending from the date of signature through any required post-closure period, except as provided by (e) below and Env-Wm 306.

(e) Pursuant to the provisions of RSA 149-M:11,XI, a permit shall expire as follows:

(1) A standard permit issued pursuant to Env-Wm 314 for a new facility shall expire 2 years from the date of issuance if the permittee has not obtained approval to construct the facility pursuant to the provisions of Env-Wm 2804, unless the permit specifically exempts the facility from the 2 year construction deadline on the basis of a demonstration of public benefit that accounted for a later construction date;

(2) A permit-by-notification issued pursuant to Env-Wm 311 shall expire:

a. For a facility with an active life longer than 90 days, one year from the date of issuance if facility construction has not commenced; and

b. For a facility with an active life of 90 days or less, 90 days from the date the facility will commence operations, as declared in the application.

(3) An emergency permit issued pursuant to Env-Wm 313 shall expire following completion of the emergency response actions and facility closure requirements identified in the permit; and

(4) A research and development facility permit shall expire following completion of the studies and facility closure requirements identified in the permit.

(f) A permit-by-notification pursuant to Env-Wm 311 shall be issued in conformance with Env-Wm 305.04 by:

(1) Having the notification form imprinted and prepared to include all of the information required by Env-Wm 305.04(a)(1) through (4);

(2) Marking the notification form "approved";

(3) Affixing the department's dated receipt stamp to the form; and

(4) Having the form signed and dated by the director or a person so authorized by the director.

(g) A form processed as specified in (f) above shall constitute the written permit for a permit-by-notification facility.

(h) Any proposed change to the location, design, operation or closure of a facility as permitted by the department shall require approval pursuant to Env-Wm 315 and Env-Wm 305.06, except as noted in (i) below.

(i) A permit-by-notification issued pursuant to Env-Wm 311 shall not be modified, except if the modification is a type III or type V modification pursuant to Env-Wm 315 or a permit transfer pursuant to Env-Wm 2902.06(d). Any other modification of a permit-by-notification facility shall be authorized only by issuance of a new permit-by-notification for the modified facility.

Source. (See Revision Note at PART Heading 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 305.06 Issuance of Permit Modifications.

(a) A facility permit modification granted pursuant to Env-Wm 315 shall:

(1) Be issued in conformance with Env-Wm 305.04;

(2) Identify the permit which is being modified, including the facility:

a. Name;

b. Location; and

c. Permit number;

(3) Stipulate how the permit is being modified, including citation of each condition of the permit that is modified;

(4) Identify all plans approved by the department as part of the modification and incorporate such plans by reference into the terms and conditions of the permit; and

(5) Be signed and dated by the director or a person so authorized by the director.

(b) In conformance with (a) above, a type III and type V permit modification granted pursuant to Env-Wm 315 shall be issued by:

(1) Having the form imprinted and prepared to include all of the information specified by Env-Wm 305.04;

(2) Marking the notification form "approved";

(3) Affixing the department's dated receipt stamp to the form; and

(4) Having the form signed and dated by the director or person so authorized by the director.

(c) A form, processed as specified in (b) above, shall constitute the approved permit modification for the permit-by-notification facility.

(d) Upon receipt of an approved permit modification, the permittee shall attach the approval to the permit and maintain a copy thereof as part of the facility operating records.

(e) In the case of a type V permit modification issued pursuant to Env-Wm 315 for the purpose of recording a name change, the approval shall expire unless the permittee:

- (1) Publishes a notice of the name change in a newspaper of general circulation in the host municipality and host solid waste district within 10 days after the effective date of the modification; and
- (2) Sends a copy of the published notice to the department within 10 days following publication.

Source. (See Revision Note at PART Heading 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 306 REVOCATION AND SUSPENSION**

Env-Wm 306.01 Purpose. The purpose of the rules in this part is to establish procedures by which the department shall revoke, suspend or modify a permit or other approval issued pursuant to RSA 149-M and the solid waste rules.

Source. (See Revision Note at PART Heading 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 306.02 Applicability. The rules in this part shall apply to actions by the department to revoke, suspend or modify a permit or other approval issued pursuant to RSA 149-M and the solid waste rules.

Source. (See Revision Note at PART Heading 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 306.03 Procedure.

(a) Revocation, suspension or modification of a permit by the department shall proceed in accordance with RSA 541-A:30 and this part.

(b) If, pursuant to investigation or inspection in accordance with Env-Wm 3700, the department determines there may be good cause for revocation, suspension or modification, as specified in Env-Wm 306.05, the permittee shall be so notified in writing by certified mail, return receipt requested, and provided an opportunity for an adjudicative hearing.

(c) Written notice provided pursuant to (b) above, shall:

- (1) Identify:
  - a. The facility by name, location and permit number;
  - b. The action(s) the department proposes to take;
  - c. The reason(s) for the proposed action(s);
  - d. The department's authority for taking such action(s);
  - e. The date, time and place for an adjudicative hearing; and
  - f. The name, title, mailing address and telephone of the department official or employee who may be contacted regarding the notice;

(2) State that:

- a. The permittee may waive the right to an adjudicative hearing by so notifying the department in writing within 5 days after the notice receipt date;
  - b. In the event the permittee either waives the right to a hearing or fails to appear at the hearing, the proposed action shall become immediately effective; and
  - c. Written notice of the department's final action shall be provided by certified mail, return receipt requested;
- (3) Be dated and signed by the director or a person so authorized by the director; and
  - (4) Be sent by first class mail to the host municipality and host solid waste management district.
- (d) The adjudicative hearing shall proceed in accordance with Env-C 202.

Source. (See Revision Note at PART Heading 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 306.04 Decision.

(a) A permit shall be revoked if the department determines, following the procedures in Env-Wm 306.03, that:

- (1) Good cause as provided in Env-Wm 306.05 exists; and
- (2) There are no circumstances by which the permittee can correct or eliminate the underlying problem.

(b) A permit shall be suspended if the department determines, following the procedures in Env-Wm 306.03, that:

- (1) Good cause as provided in Env-Wm 306.05 exists; and
- (2) Given time to do so, the permittee can correct the underlying problem and thereafter resume facility operations in full compliance with the solid waste rules.

(c) A permit shall be modified by the department if the department determines, following the procedures in Env-Wm 306.03, that:

- (1) Good cause as provided in Env-Wm 306.05 exists; and
- (2) The underlying problem can be corrected or eliminated by changing a condition(s) of the permit.

Source. (See Revision Note at PART Heading 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 306.05 Good Cause. The following shall provide good cause to revoke, suspend or modify a permit:

- (a) A criteria for revocation or suspension as provided in RSA 149-M:12 exists;
- (b) Issuance of the permit was based on false or misleading information; and/or
- (c) The permittee or the facility meets any other criteria for permit denial as specified in Env-Wm 305.

Source. (See Revision Note at PART Heading 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 307 STATUS OF EXISTING PERMITS**

Env-Wm 307.01 Purpose.

(a) The purpose of the rules in this part is to:

(1) Classify existing permits according to the system of permits specified in Env-Wm 302 so as to clearly identify how the existing permits will be administered by the department after October 29, 1997; and

(2) Specify procedures by which the department will reissue an existing permit, if requested by the permittee, for the sole purpose of rewording the terms and conditions to clarify but not modify facility requirements under RSA 149-M, the solid waste rules and the permit.

(b) There is no intent by the rules in this part to modify the conditions of any existing permit.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #5886-A, eff 8-26-94; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 307.02 Applicability. The rules in this part shall apply to all permits granted under the authority of RSA 149-M prior to October 29, 1997.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #5296, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 307.03 Status of Permits Issued Prior to July 1, 1991.

(a) A permit issued pursuant to RSA 149-M prior to July 1, 1991 shall be titled and administratively classified as a "standard permit" under the solid waste rules, except as provided in Env-Wm 307.10.

(b) The terms and conditions of the permit shall remain unchanged.

(c) If the permit bears no permit number, the department shall assign a number for data management and reporting purposes.

(d) Each permittee affected by (a) through (c) above shall be sent written notice thereof by the department.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #5296, eff 12-24-91; rpld by #5886-A, eff 8-26-94; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 307.04 Status of Permits Issued Between June 30, 1991 and October 29, 1997.

(a) Each of the following types of permits, issued pursuant to RSA 149-M between June 30, 1991 and October 29, 1997, shall be titled and administratively classified as a "standard permit" under the solid waste rules, except as provided in Env-Wm 307.10:

(1) "Standard permit";

(2) "Limited permit for existing facility"; and

(3) "Limited permit for new facility";

(b) An "emergency permit," issued pursuant to RSA 149-M between June 30, 1991 and October 29, 1997 shall remain titled and administratively classified as an "emergency permit" under the solid waste rules, except as provided in Env-Wm 307.10.

(c) A "research and development permit," issued pursuant to RSA 149-M between June 30, 1991 and October 29, 1997, shall remain titled and administratively classified as a "research and development permit," except as provided in Env-Wm 307.10.

(d) For each permit identified in (a) through (c) above, the terms and conditions of the permit shall remain unchanged.

(e) If a permit identified in (a) through (c) above bears no permit number, the department shall assign a number to the permit for the data management and reporting purposes.

(f) Each permittee affected by (a) through (e) above shall be sent written notice thereof by the department.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #5886-A, eff 8-26-94; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

#### Env-Wm 307.05 Status of Temporary Permits.

(a) A "temporary permit" issued pursuant to RSA 149-M between June 30, 1991 and October 29, 1997, shall remain titled and administratively classified as a "temporary permit" under the solid waste rules, except as provided in Env-Wm 307.10.

(b) Temporary permits shall be administered as specified in Env-Wm 307.06 through Env-Wm 307.09.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #5296, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

#### Env-Wm 307.06 Administration of Temporary Permits.

(a) Temporary permits shall be subject to call by the department pursuant to the provisions of Env-Wm 307.07.

(b) A facility which ceased operations prior to issuance of the temporary permit or which ceases to operate after issuance of the temporary permit shall not resume operations under the provisions of the temporary permit, except pursuant to a notice of temporary cessation in Env-Wm 2806.05.

(c) Until required to close pursuant to Env-Wm 307.08 or Env-Wm 307.09, an operating facility with a temporary permit may continue operating under its temporary permit provided that the facility:

(1) Complies with the terms and conditions of the temporary permit, including the provisions of Env-Wm 2700, Env-Wm 2805 and Env-Wm 2105, Env-Wm 2205, Env-Wm 2305, Env-Wm 2405 or Env-Wm 2506 as applicable based on the functional classification of the facility, except:

a. There shall be no requirement to provide a written operating plan; and

b. The operating requirements applicable to liners and leachate collection and removal systems shall not apply to unlined landfills; and

(2) Submits, in accordance with the requirements of Env-Wm 303 and by January 1, 1999, a status report on facility operations which:

a. Shall identify the facility's remaining capacity and life expectancy; and

- b. Shall certify compliance with the requirements of (c)(1) above, specifically including compliance with the groundwater management requirements in RSA 485.

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

Env-Wm 307.07 Call of Temporary Permits.

- (a) Temporary permits for the following facilities shall be called on October 29, 1997:

- (1) Inactive facilities; and
- (2) Active facilities unable to certify compliance pursuant to Env-Wm 307.06.

- (b) The department shall determine the priority for call of all other temporary permits, as follows:

- (1) Priority shall be assigned to landfills consistent with the criteria provided in RSA 149-M:49; and
- (2) Priority shall be assigned to non-landfill facilities based on the hierarchy established in RSA 149-M:3, with highest priority given to facilities lowest in the hierarchy.

- (c) The department shall call temporary permits in order of the facility's assigned priority by notifying the permittee in writing.

- (d) Written notice provided pursuant to (c) above shall instruct the permittee to comply with Env-Wm 307.08 or Env-Wm 307.09, as applicable.

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

Env-Wm 307.08 Landfills with Temporary Permits.

- (a) A landfill holding a temporary permit shall close in accordance with Env-Wm 2706, Env-Wm 2806 and Env-Wm 2507.

- (b) Following call of a temporary landfill permit, the permittee shall:

- (1) Within 60 days of the date of call, submit to the department for approval a schedule for developing and implementing a facility closure plan that meets the requirements of (a) above;
- (2) By the date specified in the schedule approved by the department pursuant to (1) above, submit for department approval a facility closure plan as specified in Env-Wm 2806; and
- (3) Implement facility closure in accordance with the closure plan and schedule approved by the department pursuant to Env-Wm 2806.

- (c) A temporary landfill permit shall remain in effect for the duration of the required closure and post-closure period.

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

Env-Wm 307.09 Non-Landfill Facilities with Temporary Permits.

- (a) Following call of a temporary permit for an inactive non-landfill facility, pursuant to Env-Wm 307.07(a)(1), the permittee shall either:

- (1) Implement facility closure in accordance with the requirements of Env-Wm 2806; or
- (2) Submit documentation demonstrating that the facility is already closed in accordance with the requirements of Env-Wm 2806.

(b) Following call of a temporary permit for an active non-landfill facility, pursuant to Env-Wm 307.07(b)(2) or (c), the permittee shall either:

(1) Within one year of the date of call, file an application for a standard permit pursuant to Env-Wm 314 or a permit-by-notification pursuant to Env-Wm 311; or

(2) Implement facility closure in accordance with the requirements of Env-Wm 2806.

(c) If, pursuant to Env-Wm 307.07(a)(2), the permit is called due to inability to certify compliance pursuant to Env-Wm 307.06, the facility shall either:

(1) Cease operations and implement facility closure in accordance with the requirements of Env-Wm 2806; or

(2) Obtain a waiver pursuant to Env-Wm 202 to continue operating subject to implementing a plan to achieve full compliance within one year of the date of permit call and pending final action on a permit application filed pursuant to (b)(1) above.

(d) An active non-landfill facility shall be required to implement closure in accordance with the requirements of Env-Wm 2806 if:

(1) It fails to complete in a timely fashion any permit application filed pursuant to (b)(1) above;

(2) The department denies the permit application; or

(3) A provision for closure pursuant to Env-Wm 2706 exists.

(e) A temporary permit for a non-landfill facility shall be retired:

(1) Upon issuance of a standard permit or permit-by-notification for the same facility; or

(2) Upon written notice thereof to the permittee by the department, following full closure of the facility and the end of any required post-closure monitoring and maintenance period.

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

Env-Wm 307.10 Exceptions to Designated Permit Titles and Classifications.

(a) Any person holding a permit identified in Env-Wm 307.02 through Env-Wm 307.05 and believing that the activity(s) authorized in the permit are the same as an activity(s) now exempt from a permit pursuant to Env-Wm 101.03, Env-Wm 302.03, Env-Wm 2108, Env-Wm 2208, Env-Wm 2308, Env-Wm 2408, Env-Wm 2510, or Env-Wm 3404, may request the department to review the terms and conditions of the permit to determine whether the permit shall be retired in favor of the comparable permit exemption.

(b) Following receipt of a request pursuant to (a) above, the department shall review the terms and conditions of the permit to determine whether the facility meets the requirements of a permit-exempt facility.

(c) If the department determines that the facility meets the requirements of a permit-exempt facility, the original permit shall be retired.

(d) The permittee shall be notified in writing of the department's decision.

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

Env-Wm 307.11 Provisions for Reissuing an Existing Permit.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(a) A permittee may request the department to reissue an existing permit for the sole purpose of rewording the terms and conditions to clarify but not modify requirements applicable to the facility under RSA 149-M, the solid waste rules and the permit.

(b) A request pursuant to (a) above shall be made in writing, to include:

- (1) Facility identification, including name, location by street and municipality, and permit number;
- (2) Permittee identification, including name, mailing address and telephone number;
- (3) A statement requesting the department to initiate action to reissue the permit pursuant to the rules in this section;
- (4) Date of the request; and
- (5) Signature of the permittee.

(c) Following receipt of a request as specified by (b) above, the department shall review the terms and conditions of the permit to determine whether reissuance of the permit will have an administrative benefit to both the department and the permittee, based on the criteria provided by (d) below.

(d) There shall be an administrative benefit to reissuing a permit if:

- (1) The permit was originally issued by the department as the division of public health services;  
or
- (2) The terms and conditions of the permit include references to rules, statutes or regulations either no longer in effect or amended to such an extent as to make:
  - a. The legal meaning of the terms and conditions unclear without knowing the history of the cited rules, statutes or regulations; and/or
  - b. A plain reading of the terms and conditions to be an incorrect legal meaning.

(e) If there is an administrative benefit to reissuing the permit, the department shall prepare and send a preliminary draft of the rewritten permit to the permittee for review and comment.

(f) Following receipt of comments by the permittee on the preliminary draft, the department shall prepare and send a proposed final draft of the rewritten permit to the permittee for review and response pursuant to (g) below.

(g) Following receipt of a proposed final draft of the rewritten permit, the permittee shall notify the department as to which of the following actions shall be taken:

- (1) Because the permittee agrees that the proposed final draft permit meets the objective for reissuance, namely clarification, and does not constitute a modification of the permit as shall otherwise proceed in accordance with Env-Wm 306, the department shall proceed to reissue the permit in the form presented by the proposed final draft; or
- (2) Because the permittee disagrees that the proposed final draft permit meets the objective for reissuance, namely clarification, and/or believes the proposed final draft permit constitutes a modification of the permit under RSA 541-A, the permittee shall:
  - a. Withdraw the request for reissuance; or
  - b. Agree to proceed with reissuance in accordance with the modification procedures specified in Env-Wm 306, including the opportunity for an adjudicative hearing pursuant to RSA 541-A:30.

(h) The department shall proceed in accordance with the permittee's response provided pursuant to (g) above.

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

### **PART Env-Wm 308 INTERIM STATUS**

Env-Wm 308.01 Purpose. The purpose of the rules of this part is to:

(a) Identify facilities that qualify for interim status and are therefore temporarily exempt from holding a permit, pursuant to Env-Wm 302.03(b)(8); and

(b) Identify interim status facility operating and closure requirements.

Source. (See Revision Note at PART Heading 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 308.02 Applicability. The rules in this part shall apply to all persons owning a facility, existing as of October 29, 1997, at which soil and/or absorbent media contaminated with virgin petroleum product(s), received from off-site locations, is being managed.

Source. (See Revision Note at PART Heading 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 308.03 Registration and Determination of Interim Status.

(a) The owner of a facility identified in Env-Wm 308.02 shall register in accordance with Env-Wm 309 within 60 days of October 29, 1997.

(b) Following receipt of registration, the department shall notify the facility owner in writing whether interim status shall be granted or denied.

(c) Interim status shall be granted if the facility is a facility identified in Env-Wm 308.02 and a complete registration is filed.

(d) If interim status shall be denied, the department shall so state the reason(s) in the written notice.

Source. (See Revision Note at PART Heading 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 308.04 Interim Status Operating Period.

(a) Pursuant to Env-Wm 302.03(b)(8), interim status shall allow a facility to temporarily operate without a permit, subject to meeting the requirements of Env-Wm 308.05.

(b) Interim status shall expire as specified in Env-Wm 308.07.

Source. (See Revision Note at PART Heading 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 308.05 Interim Status Operating Requirements. A facility shall only operate under interim status if:

(a) Subject to any waivers granted pursuant to Env-Wm 308.06, operations shall comply with:

(1) Env-Wm 2700;

(2) Env-Wm 2800 subject to the following exceptions:

a. The requirements for a written operating plan shall not apply during interim status operations; and

b. The requirement for a written closure plan shall not apply during interim status until closure is triggered pursuant to Env-Wm 308.06;

(3) Env-Wm 2100 through Env-Wm 2500, as applicable based on the functional classification of the facility; and

(4) Env-Wm 2603

(b) The nature, scope and capacity of facility operations shall not expand;

(c) A condition for expiration specified in Env-Wm 308.07 shall not exist; and

(d) Within 180 days of being granted interim status, the owner of the facility shall file the following information in accordance with Env-Wm 303:

(1) Certification of compliance with (a) above or, if unable to certify compliance, a compliance report and application(s) for waiver pursuant to Env-Wm 308.06; and

(2) If the facility will continue to operate after interim status expires, an application to obtain a permit for continued operation pursuant to Env-Wm 314 or Env-Wm 315; or

(3) If the facility will not continue to operate after interim status expires, a closure plan and schedule pursuant to Env-Wm 2806.

Source. (See Revision Note at PART Heading 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 308.06 Compliance Report and Temporary Waivers.

(a) The compliance report required by Env-Wm 308.05(d)(1) shall identify all noncomplying aspects of facility operations and provide either:

(1) A plan and schedule for achieving compliance before issuance of a permit based on the application filed pursuant to Env-Wm 308.05(d)(2), if the facility does not intend to close when interim status expires; or

(2) A plan and schedule for achieving compliance through implementation of a closure plan pursuant to Env-Wm 2806, including post-closure remedial activities if applicable based on site conditions, if the facility shall not continue to operate beyond the expiration of interim status.

(b) For any non-complying aspect of facility operations, a waiver pursuant to Env-Wm 202 shall be required for operations under interim status.

(c) Any waiver issued shall be subject to implementing a plan to achieve full compliance before the expiration of interim status.

Source. (See Revision Note at PART Heading 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 308.07 Expiration of Interim Status. Interim status shall expire if:

- (a) The facility fails to comply with the interim status operating requirements in Env-Wm 308.05;
- (b) The department issues or denies a permit based on the application filed pursuant to Env-Wm 308.05(d)(2); or
- (c) The facility closes in accordance with a plan and schedule for closure submitted pursuant to the provisions of Env-Wm 308.05(d)(3) and approved by the department pursuant to Env-Wm 2806, including completion of post-closure remedial activities if applicable based on site conditions.

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

Env-Wm 308.08 Interim Status Facility Closure. Any facility subject to this part shall be required to implement full closure in accordance with Env-Wm 2806 if:

- (a) The facility fails to submit registration pursuant to Env-Wm 309;
- (b) Interim status expires pursuant to Env-Wm 308.07; or
- (c) A provision for closure in Env-Wm 2706 applies.

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

## **PART Env-Wm 309 REGISTRATIONS**

Env-Wm 309.01 Purpose.

(a) The purpose of registration of landfills that stopped receiving waste before July 10, 1981 is to provide the department with:

- (1) Documentation demonstrating that the criteria for exemption in Env-Wm 101.04 applies; and
- (2) Information to identify whether an exempt landfill poses a potential threat to human health and the environment which requires action under the provisions of other state or federal regulations.

(b) The purpose of registration of interim status facilities is to notify the department of facility existence and to initiate the permitting or closure process pursuant to Env-Wm 308.

Source. (See Revision Note at PART Heading 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 309.02 Applicability. The rules in this part shall apply to:

- (a) Persons owning landfills, including asbestos waste sites, which stopped receiving waste before July 10, 1981 and claiming exemption from the solid waste rules pursuant to Env-Wm 101.04; and
- (b) Persons owning facilities requiring interim status pursuant to Env-Wm 308.

Source. (See Revision Note at PART Heading 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 309.03 Registration Requirement.

- (a) Persons identified in Env-Wm 309.02 shall register in accordance with (b) below.
- (b) The following registration information shall be filed with the department in accordance with Env-Wm 303:

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (1) Facility identification:
- (2) Identification of parties;
- (3) If a written permit has been issued by the department for any other activity at the facility or site, the following information for each permit so issued:
  - a. The permittee's name, mailing address and telephone number;
  - b. The permit number;
  - c. The type of permit or description of the activity(s) authorized by the permit; and
  - d. The date of issuance;
- (4) The operating status of the facility, including:
  - a. Whether active or inactive;
  - b. The date the facility commenced operations; and
  - c. The remaining facility life expectancy; or
  - d. The date on which the facility ceased active operation;
- (5) The type(s) of waste management activity(s) conducted at the facility, including:
  - a. Collection;
  - b. Storage;
  - c. Transfer;
  - d. Processing;
  - e. Treatment; and
  - f. Landfilling;
- (6) Type of service provided by the facility, as defined in Env-Wm 102, namely "limited" or "unlimited";
- (7) The type(s) of wastes handled at the facility;
- (8) Identification of the service area, including a list of all New Hampshire communities and areas outside the state served by facility;
- (9) For interim status facilities, the capacity of the facility as follows:
  - a. Design capacity of processing and treatment equipment;
  - b. Quantity of waste managed at the facility, on average annually, since first commencing operations; and
  - c. Storage capacity;
- (10) For inactive landfills, an estimated volume of waste at the facility;

(11) For inactive landfills, a description of the type and depth of cover material placed over landfilled waste;

(12) If the facility is active, the days and hours of operation; and

(13) A report of any environmental assessment done of the facility.

(c) Notification provided the department in accordance with Env-Wm 315 of rules adopted under RSA 149-M effective July 1, 1991 shall constitute registration under this part.

Source. (See Revision Note at PART Heading 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 309.04 Registration Processing.

(a) Following receipt of registration from the owner of a landfill that stopped receiving waste before July 10, 1981, the department shall review the information submitted and, if it determines that the landfill is a known or suspected source of groundwater or surface water contamination, the department shall notify the facility owner of the requirements of RSA 485.

(b) Following receipt of registration from an asbestos waste site that stopped receiving waste before July 10, 1981, the department shall notify the site owner of requirements for site closure and post-closure maintenance in compliance with RSA 147-A, RSA 141-E, 40 CFR Part 61, 29 CFR Part 1910, and 29 CFR Part 1926.

(c) Following receipt of registration from a facility seeking interim status, the department shall determine whether the facility qualifies for interim status and so notify the facility owner in accordance with Env-Wm 308.

Source. (See Revision Note at PART Heading 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 310 FACILITY APPLICATION FEES**

Statutory Authority: RSA 149-M:7

Env-Wm 310.01 Applicability. The rules in this part shall apply to persons filing applications for permits and permit modifications.

Source. (See Revision Note at PART Heading 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 310.02 Standard Permit Application Fees for Facilities Without a Temporary Permit.

(a) The permit application fee (PAF) for a standard permit for a facility without a temporary permit shall be:

(1) Zero if the facility is scheduled to close; or

(2) The sum of the minimum base fee (MBF) as specified in (b) below plus the product of a capacity factor (CF) as specified in (c) below multiplied by a lifespan index (LI) as specified in (d) below, plus the cost of completing a background investigation (BI) pursuant to Env-Wm 316, plus the cost of public notice and hearing (PNH) pursuant to Env-Wm 304, as illustrated in the following equation:

$$\text{PAF} = \text{MBF} + (\text{CF})(\text{LI}) + \text{BIF} + \text{PNH}$$

(b) The MBF shall be the largest fee specified in Table 310-I which corresponds to any function encompassed at the facility:

TABLE 310-I  
MBF for Single Function Facilities

Facility Type	Minimum Base Fee (MBF)
Landfill, lined	\$15,000
Landfill, unlined	\$ 5,000
Processing/Treatment	\$ 2,000
Collection/Storage/Transfer	\$ 2,000

(c) The CF shall be determined from Table 310-II based on the design capacity of the facility in tons per day (TPD), as demonstrated in the application:

TABLE 310-II  
CF Based on Facility Capacity

Facility Capacity (TPD)	Capacity Factor
601 or more	\$20,000
301 to 600	\$10,000
121 to 300	\$ 5,000
31 to 120	\$ 2,000
30 or fewer	\$ 1,000

(d) The LI shall be determined from Table 310-III based on the designed active life expectancy of the facility, as demonstrated in the permit application:

TABLE 310-III  
LI Based on Facility Life Expectancy

Facility Life Expectancy	Lifespan Index
more than 10 years	1.0
more than 5, to 10 years	0.8
more than 1, to 5 years	0.4
1 year or less	0.1

Source. (See Revision Note at PART Heading 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 #6894-B, eff 12-1-98

Env-Wm 310.03 Standard Permit Application Fees for Temporary Permit Facilities. The fee for filing a standard permit application for a temporary permit facility shall be \$500.

Source. (See Revision Note at PART Heading 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 310.04 Permit-by-Notification Fees. There shall be no fee for filing an application for a permit-by-notification.

Source. (See Revision Note at PART Heading 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 310.05 Research and Development Facility Permit Fee. The fee for a research and development facility permit application shall be calculated in accordance with the equation given in Env-Wm 310.02 using the following substitute values:

(a) The MBF shall equal \$1000; and

(b) The CF shall be determined from Table 310-II based on the total quantity of waste the project involves instead of the daily capacity of the facility.

Source. (See Revision Note at PART Heading 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 310.06 Emergency Permit Application Fees. There shall be no permit application fee for an emergency permit.

Source. (See Revision Note at PART Heading 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 310.07 Type I Permit Modification Fees.

(a) The fee for filing an application for a type I-A permit modification as specified in Env-Wm 315.02 shall be the greater of the following:

(1) \$1500; or

(2) If the modification will increase the capacity of the facility, the PAF calculated in accordance with Env-Wm 310.02 using the CF in Table 310-II that corresponds to the net increase in permitted facility capacity and the LI in Table 310-III that corresponds to the remaining life of the facility if modified as proposed.

(b) The fee for filing an application for a type I-B permit modification as specified in Env-Wm 315.02 shall be \$100.

Source. (See Revision Note at PART Heading 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 310.08 Type II Permit Modification Fee. There shall be no fee for filing an application for a type II permit modification as specified in Env-Wm 315.02, except as follows:

(a) If the application involves the review of final design plans and specifications for construction of new landfill area other than the initial landfill phase, the fee shall equal the product of the applicable MBF in Table 310-I and the LI in Table 310-III that corresponds to the life expectancy of the area being constructed; and

(b) If the application involves the review of final design plans and specifications for construction of a lined landfill capping system or any portion thereof, the fee shall equal the product of the applicable MBF in Table 310-I and the ratio of the cap area to the total permitted footprint, measured in square feet in plan view.

Source. (See Revision Note at PART Heading 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 310.09 Type III Permit Modification Fee. There shall be no fee for filing an application for a type III modification.

Source. (See Revision Note at PART Heading 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 310.10 Type IV Permit Modification Fee. The fee for filing an application for a type IV modification shall equal \$1000 plus the cost of completing a background investigation (BIF) pursuant to Env-Wm 316 plus the cost of public notice and hearing (PNH) pursuant to Env-Wm 304.

Source. (See Revision Note at PART Heading 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 310.11 Type V Permit Modification Fees. There shall be no fee for a type V permit modification.

Source. (See Revision Note at PART Heading 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 310.12 Payment of Permit Application Fees.

(a) Fees shall be paid at the time of filing the application, except for the BIF and PNH portion of the fee which shall be paid upon presentation of an invoice for the actual costs.

(b) Fees shall be non-refundable.

(c) Fees, if paid by check or money order, shall be made payable to "Treasurer, State of NH.@"

Source. (See Revision Note at PART Heading 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 311 PERMIT-BY-NOTIFICATION REQUIREMENTS**

Env-Wm 311.01 Purpose and Applicability.

(a) The rules in this part specify provisions for obtaining a permit-by-notification.

(b) A permit-by-notification shall apply to facilities identified in Env-Wm 2107, Env-Wm 2207, Env-Wm 2307, Env-Wm 2407 and Env-Wm 2509.

Source. (See Revision Note at PART Heading 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 #6894-B, eff 12-1-98

Env-Wm 311.02 Requirements and Limitations.

(a) A permit-by-notification shall be obtained by filing notification in accordance with this part. The notification shall constitute a permit application for the facility.

(b) A permit-by-notification shall be issued for facilities meeting the following requirements, as certified by the applicant in the application:

- (1) Env-Wm 2900;
- (2) Env-Wm 2700;
- (3) Env-Wm 2800, for facilities having an active life longer than 90 days;
- (4) Env-Wm 2107, Env-Wm 2207, Env-Wm 2307, Env-Wm 2407 or Env-Wm 2509 depending on the type of facility; and
- (5) Env-Wm 2600, depending on the type of waste managed.

(c) A permit-by-notification facility shall not be transferred to a new owner, except for landfill transfers occurring automatically pursuant to Env-Wm 2902.06(d). In all other cases, a transferred permit-by-notification facility shall, for administrative purposes, be deemed a new facility and the new owner shall obtain a permit as though the facility were new, if operations continue after the property transfers.

Source. (See Revision Note at PART Heading 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 311.03 Application Content and Format. The applicant for a permit-by-notification shall submit the following information in the permit application:

- (a) Identification of parties;
- (b) Facility identification;
- (c) Facility type, as specified in Env-Wm 2107, Env-Wm 2207, Env-Wm 2307, Env-Wm 2407 and Env-Wm 2509;
- (d) Dates facility construction and operation are scheduled to commence;
- (e) Active life expectancy of the facility;
- (f) A facility site plan, drafted to scale and referenced to a known fixed point, showing:
  - (1) The location of the facility and the parcel of land upon which the facility is or will be located, including:
    - a. Property boundaries;
    - b. Access points;
    - c. Rights-of-way and/or easements; and
    - d. Areas or features protected or restricted by the applicable siting requirements in Env-Wm 2700 through Env-Wm 2900; and
  - (2) All of the following for a facility involving either new construction, or management of waste outside a building, or management of waste inside an existing building where there is the potential for discharge to the outside environment, as by floor drains or the like:
    - a. Above ground structures and utilities;
    - b. Below ground structures and utilities, including:

1. Underground storage tanks;
2. Wells and waterlines;
3. Septic systems and sewer lines; and
4. Power, communication, and fuel lines;

- c. Surface waters; and
- d. Wetlands.

(3) Show the proposed facility, including:

- a. Waste handling areas, including areas and devices designated for receipt of waste, inspection of waste, processing or treatment of waste, and hot load isolation areas, as applicable;
- b. Waste storage areas, including the designated footprint for any stockpiles, areas and devices designated for storage of unprocessed waste, processed waste, processed recyclable materials, waste-derived products, bypass waste and residual waste as applicable; and
- c. If for a landfill, the vertical and lateral limits of the proposed waste disposal area and a detail of the cap profile; and

(4) Showing compliance with all required setback distances, by a dimensioned line drawn from the facility to each site feature which is protected by a specified setback requirement in Env-Wm 2700 through Env-Wm 2900, as applicable; and

(g) If the facility is located on property subject to enforcement action or within a groundwater management zone, the information required to show compliance with Env-Wm 2903.01(c) and (d).

(h) Certification, in addition to that required by Env-Wm 303.04, signed by the applicant attesting to the following:

(1) That the applicant has read and understands, and shall comply with all applicable requirements for the siting, design, construction, operation and closure of the facility as identified in Env-Wm 311.02;

(2) For a facility with an active life longer than 90 days, that:

- a. An operating plan and closure plan, meeting the content and format requirements specified in Env-Wm 2805.11 and Env-Wm 2806.04 respectively, have been prepared and shall be available and maintained as specified by Env-Wm 2902.02(a)(2) and (3); and
- b. The facility shall operate and close in conformance therewith;

(3) That the applicant has filed a copy of the application with the host municipality and host solid waste management district as required pursuant to Env-Wm 303; and

(4) That the applicant and all persons identified in Env-Wm 303.14(a) meet the compliance criteria specified in with Env-Wm 303.14(b).

Source. (See Revision Note at PART Heading 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 #6894-B, eff 12-1-98

Env-Wm 311.04 Application Filing. The applicant shall file an application for a permit-by-notification in accordance with Env-Wm 303, as follows:

(a) All information required by Env-Wm 311.03 shall be compiled into one comprehensive submittal; and

(b) The applicant shall sign and file 4 copies of the application with the department, including the following:

(1) The fee specified in Env-Wm 310; and

(2) Three legal sized postage paid envelopes, bearing no return address and addressed in capital letters to the:

a. Applicant;

b. Host municipality; and

c. Host solid waste management district.

(c) The applicant shall concurrently file a copy of the application with the host municipality and host solid waste management district.

Source. (See Revision Note at PART Heading 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 311.05 Application Review and Decision. The application shall be processed in accordance with Env-Wm 304 and Env-Wm 305.

Source. (See Revision Note at PART Heading 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 312 RESEARCH AND DEVELOPMENT PROJECTS PERMITTING PROVISIONS**

Env-Wm 312.01 Purpose and Applicability.

(a) The rules in this part specify the provisions for obtaining a research and development facility permit.

(b) A research and development facility permit shall apply to research and development projects, as defined in Env-Wm 102, except no permit shall be required for research and development facilities identified in Env-Wm 302.03(b)(7).

Source. (See Revision Note at PART Heading 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 312.02 Applicable Requirements and Limitations.

(a) A research and development facility permit shall be issued for research and development projects meeting the following requirements:

(1) Funding for the project shall be by public or private research grant monies distributed after submission of a written proposal for the scope of the project;

(2) A government agency or research institution, such as a public or private university, shall conduct or supervise the project; and

(3) Subject to (b) below, the project shall comply with:

- a. Env-Wm 2700;
- b. Env-Wm 2800, as applicable based on active life expectancy;
- c. Env-Wm 2100 through Env-Wm 2500 based on the functional classification of project activity(s);
- d. Env-Wm 2600 depending on the type(s) of waste involved by the project; and
- e. Env-Wm 3100.

(b) Compliance with (a)(3)b. through (a)(3) d. above shall not be required if the applicant demonstrates in the permit application that compliance with the requirement shall defeat the purpose of the project and that exemption from the requirement shall not cause a violation of the universal facility requirements in Env-Wm 2700.

(c) A research and development facility permit shall be subject to the provisions of Env-Wm 315 for modification, including renewal and transfer.

(d) A research and development facility permit shall be issued for a limited time period not to exceed the time period required to complete the studies and implement facility closure, based on a schedule provided in the permit application.

Source. (See Revision Note at PART Heading 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 312.03 Research and Development Permit Application Content and Format. The applicant shall provide the following information in the permit application, compiled in the order shown:

- (a) Identification of parties;
- (b) If the project will occur at a facility which holds a permit issued by the department, identification of the facility by name, location including street and municipality, and permit number;
- (c) If the project will occur at a location other than an already permitted facility, identification of the unpermitted location including the street address and municipality;
- (d) The name(s) and address(es) of the person(s) providing funding for the project in accordance with Env-Wm 312.02(a);
- (e) Identification of:
  - (1) The government agency or research institution, such as a public or private university, that will conduct or supervise the project pursuant to Env-Wm 312.02(a); and
  - (2) The name(s), address(es) and qualifications of the investigator(s) who will be undertaking the project, including designation of the lead investigator who will have overall primary responsibility for the project;
- (f) A proposal for the scope of the project, including:
  - (1) The type(s) and quantity of wastes to be studied;
  - (2) The process to be studied;
  - (3) If the project relates to activities at a permitted facility, a description of how the study so relates;

- (4) The anticipated results of the study; and
- (5) The length of time requested for the study;

(g) Copies of all english-language articles or reports published in scientific or technical journals which document or otherwise discuss studies of the process or methods proposed to be studied, and copies of all foreign-language articles or reports, translated into english, which have been published in scientific or technical journals which reflect negatively on the process or methods proposed to be studied;

(h) Pursuant to the requirements of Env-Wm 2706:

- (1) A description of how and when the wastes used in the study will be ultimately disposed;
- (2) A description of how any equipment or property used in the study will be closed; and
- (3) The schedule for closure; and

(i) A certification signed by the lead investigator that the project shall not contravene the applicable requirements for permitting research and development projects, as specified in Env-Wm 312.02; and

(j) Completed personal and business disclosure forms pursuant to Env-Wm 316, for the applicant, lead investigator, and facility operator, if unable to provide compliance certification pursuant to Env-Wm 303.14.

Source. (See Revision Note at PART Heading 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 #6894-B, eff 12-1-98

Env-Wm 312.04 Research and Development Permit Application Filing. Applications for a research and development facility permit shall be signed and filed by the applicant in accordance with Env-Wm 303, with the fee specified in Env-Wm 310.

Source. (See Revision Note at PART Heading 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 312.05 Research and Development Permit Application Review and Decision.

(a) Applications for a research and development facility permit shall be processed by the department pursuant to the provisions of Env-Wm 304 and Env-Wm 305.

(b) As a condition of any permit issued, the permittee shall provide the following information:

- (1) By March 31, an annual report prepared by the lead investigator which summarizes the work completed for the previous calendar year and provides a summary of all data generated;
- (2) Within 3 months following the termination of the project, a project summary report prepared by the lead investigator including a summary of the project, a summary of all data generated, and a discussion of the results of the study;
- (3) If the project will be the subject of an article for publication, a copy of the article or a draft of the article; and

(4) Copies of all data generated when required to support any project finding which will be used to obtain another permit, permit exemption, permit modification or waiver to any solid waste or hazardous waste rule.

Source. (See Revision Note at PART Heading 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 313 EMERGENCY FACILITY PERMIT PROVISIONS**

#### Env-Wm 313.01 Purpose and Applicability.

(a) The rules in this part shall specify requirements for obtaining an emergency facility permit.

(b) An emergency facility permit shall apply to facilities which operate for a limited period of time in response to any emergency for which no other readily available response exists and for which a delayed response to obtain another type of permit will result in an unnecessary risk to public health, safety or the environment.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #6372, eff 11-16-96; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

#### Env-Wm 313.02 Applicable Requirements and Limitations.

(a) An emergency facility permit shall be issued for facilities identified in Env-Wm 313.01(b) meeting the following requirements:

- (1) Env-Wm 2700;
- (2) Env-Wm 2800, as applicable based on active life expectancy;
- (3) Env-Wm 2100 through Env-Wm 2500, as applicable based on the functional classification of the facility; and
- (4) Env-Wm 2600, as applicable based on the type of waste the facility manages.

(b) The requirements in (a)(2) and (a)(4) above shall not apply if the department determines, based on the nature of the emergency and the information in the permit application, that compliance with the requirement will prohibit effective emergency response.

(c) An emergency permit shall be subject to the provisions of Env-Wm 315 for modification, including permit transfer and renewal.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #6372, eff 11-16-96; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

#### Env-Wm 313.03 Pre-application Contact.

(a) Prior to filing an application for emergency permit, the applicant, or affiliated person having first hand knowledge of the situation, shall contact the department by telephone or in person to report that an emergency condition exists.

(b) The applicant or affiliated person having first hand knowledge of the situation shall identify:

- (1) The nature of the emergency;
- (2) The types of waste involved;

- (3) The desired response action;
- (4) The estimated schedule for effective emergency response; and
- (5) Other information relevant to determining that an emergency condition as specified in Env-Wm 313.01(b) exists.

(c) Based on the information provided pursuant to (b) above, the department shall make a preliminary determination as to the applicability of an emergency permit pursuant to the provisions of Env-Wm 313.01(b) and so advise the applicant.

(d) If the department determines that the situation warrants an application for emergency permit, the department shall make a preliminary determination as to which of the discretionary permit application requirements shall not apply, as provided in Env-Wm 313.02(b), and shall so advise the applicant.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #6372, eff 11-16-96; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 313.04 Emergency Facility Permit Application Content and Format. The applicant for an emergency facility permit shall provide the following information compiled in the order shown:

- (a) Identification of parties;
- (b) Facility identification;
- (c) A description of the emergency conditions that pose the threat to public health, safety or the environment, including an explanation of the cause of the emergency conditions;
- (d) Certification from the local health officer or fire chief that the conditions do pose a threat to public health, safety or the environment, or, if such certification cannot be obtained, a statement that such certification was sought and an explanation as to why certification was refused;
- (e) A description of the activity proposed to address the emergency conditions and information to demonstrate the activity shall comply with all applicable permitting requirements; and
- (f) A description of any post-activity monitoring proposed.

Source. (See Revision Note at PART Heading 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 313.05 Emergency Facility Permit Application Filing. Applications for an emergency facility permit shall be signed and filed by the applicant in accordance with Env-Wm 303.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6372, eff 11-16-96; ss by #6619-B, eff 10-29-97

Env-Wm 313.06 Emergency Facility Permit Application Processing. Applications for an emergency facility permit shall be processed by the department in accordance with Env-Wm 304 and Env-Wm 305, as follows:

- (a) Following receipt of a complete application, the department shall determine whether the information provided in the permit application and other available information demonstrates that the proposed activity shall be necessary to protect the environment, public health and safety;
- (b) If the department determines that the proposed activity is necessary to protect the environment, public health and safety and that all other requirements identified in Env-Wm 313.01(b) and Env-Wm 313.02 are met, the department shall issue the permit;

(c) If the department determines it shall issue a permit, authorization to commence the emergency response activity shall be given orally by the director, or person so authorized by the director, and a written permit shall be issued within 10 working days thereafter; and

(d) An emergency permit shall be effective for the time period required to complete the emergency response action(s) identified in the permit and complete facility closure.

Source. (See Revision Note at PART Heading 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 314 STANDARD FACILITY PERMITTING PROVISIONS**

### Env-Wm 314.01 Purpose and Applicability.

(a) The rules in this part specify the requirements for obtaining a standard permit.

(b) A standard permit shall apply to a facility which:

- (1) Is not permit-exempt pursuant to Env-Wm 302.03;
- (2) Is not eligible for a permit-by-notification pursuant to Env-Wm 2107, Env-Wm 2207, Env-Wm 2307, Env-Wm 2407, or Env-Wm 2509;
- (3) Is not eligible for a research and development permit pursuant to Env-Wm 312;
- (4) Is not eligible for an emergency permit pursuant to Env-Wm 313; and
- (5) If a temporary permit facility, it elects to continue operating following call of the temporary permit and is not a landfill.

Source. (See Revision Note at PART Heading 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 #6894-B, eff 12-1-98

### Env-Wm 314.02 Applicable Requirements and Limitations.

(a) A standard permit facility shall comply with:

- (1) Env-Wm 2700;
- (2) Env-Wm 2800, if the facility has an active life longer than 90 days;
- (3) Env-Wm 2100 through Env-Wm 2500, as applicable based on the functional classification of the facility;
- (4) Env-Wm 2600, as applicable based on the type of waste managed by the facility; and
- (5) Env-Wm 3100.

(b) A standard permit shall be subject to the provisions in Env-Wm 315 for permit modification, including permit transfer and renewal.

Source. (See Revision Note at PART Heading 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 314.03 Standard Facility Permit Application Content and Format.

(a) A standard permit application shall be organized and prepared by the applicant as follows:

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (1) Section 1, "identification," shall include the information required by Env-Wm 314.04 and Env-Wm 314.05;
- (2) Section 2, "facility description," shall include the information required by Env-Wm 314.06;
- (3) Section 3, "other permits," shall include the information required by Env-Wm 314.07;
- (4) Section 4, "legal notifications and agreements," shall include the information required by Env-Wm 314.08 and Env-Wm 314.09;
- (5) Section 5, "site report," shall include the information required by Env-Wm 314.10;
- (6) Section 6, "plans and specifications," shall include the information required by Env-Wm 314.11;
- (7) Section 7, "operating plan," shall be:
  - a. Prepared in accordance with Env-Wm 2805.11; or
  - b. Marked "not applicable" if the facility is no longer operating and is not proposing to recommence operations;
- (8) Section 8, "closure plan," shall be prepared in accordance with Env-Wm 2806.04;
- (9) Section 9, "financial report," shall include the information required by Env-Wm 314.12;
- (10) Section 10, "performance history," shall include:
  - a. The information required by Env-Wm 303.13 and Env-Wm 303.14; and
  - b. Certification that the information required by Env-Wm 316 has been submitted to the department of justice, if applicable.
- (11) Section 11, "public benefit," shall include the information required by RSA 149-M:11 in conformance with the provisions of Env-Wm 2705.05;
- (12) Section 12, "signature," shall include the signatures required by Env-Wm 303; and
- (13) Section 13, "fee," shall include a fee calculation form provided by the department, which shall contain the information required to calculate the permit application fee in accordance with Env-Wm 310.

Source. (See Revision Note at PART Heading 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 #6894-B, eff 12-1-98

Env-Wm 314.04 Facility Identification. The applicant shall identify the facility, by providing the following information:

- (a) Facility identification, as specified by Env-Wm 102.64; and
- (b) Facility status, including:
  - (1) Whether the facility is a proposed or existing facility; and
  - (2) Identification of solid waste management permits and other approvals already issued by the department for the facility;

Source. (See Revision Note at PART Heading 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 #6894-B, eff 12-1-98

Env-Wm 314.05 Identification of Parties. The applicant shall identify parties, as specified by Env-Wm 102.84.

Source. (See Revision Note at PART Heading 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 314.06 Facility Description. The applicant shall describe the facility, including the following information:

- (a) Facility functional classification as identified in Env-Wm 302;
- (b) The type of ownership of the facility, namely whether a public facility or private facility;
- (c) The facility service type, namely whether a limited service area facility or an unlimited service area facility;
- (d) The type(s) of waste to be received by the facility and the type(s) of waste to be prohibited by the facility, or, for a facility which is no longer operating and which is not proposing to recommence operations, the type(s) of waste the facility did receive;
- (e) The capacity for each facility function as follows:
  - (1) Storage, expressed in tons and cubic yards;
  - (2) Processing or treatment, expressed in tons and cubic yards per day on average annually; and
  - (3) Disposal, expressed in tons and cubic yards;
- (f) The designed life expectancy of the facility or, for a facility which is no longer operating and which is not proposing to recommence operations, the date the facility started operating and the date the facility stopped operating; and
- (g) Identification of the facility service area, which:
  - (1) For a limited service area facility, shall be specified by identifying the precise geographic area(s) and/or generator(s) to be served by the facility; and
  - (2) For an unlimited service area facility, shall be specified by identifying the geographic area(s) and/or generators most likely to be served by the facility.

Source. (See Revision Note at PART Heading 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 #6894-B, eff 12-1-98

Env-Wm 314.07 Status of Other Permits/Approvals. The applicant shall identify and provide the status of other required permits and approvals as follows:

- (a) Identify, in a list, all local and other state or federal permits or approvals which are, or may be required, for the facility; and
- (b) Indicate in the list the status of each application or approval, as follows:
  - (1) If an application has not yet been filed, the anticipated filing date;

(2) If an application has been filed, the date of filing and the nature of any subsequent communications from the issuing authority, if any; and

(3) If a permit or approval has been issued, the date of issuance and the expiration date, if any.

Source. (See Revision Note at PART Heading 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 314.08 Legal Notifications and Agreements.

(a) Each applicant for a standard permit shall notify all abutters, the host municipality, host solid waste district and other affected entities in accordance with Env-Wm 303.

(b) The applicant shall include in the permit application:

(1) A copy of the written notification(s);

(2) A list of all required recipients including name and mailing address; and

(3) Copies of the signed registered letter receipts or signed acknowledgments of receipt for each required recipient.

Source. (See Revision Note at PART Heading 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 314.09 Concurrence of Property Owner. If the applicant and the property owner are not the same, the applicant shall provide information to demonstrate how compliance with the requirements of Env-Wm 2703.03 shall be obtained prior to the effective date of a permit, if issued, and shall include copies of all relevant legal agreements.

Source. (See Revision Note at PART Heading 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 314.10 Site Report.

(a) The applicant shall provide a site report which either:

(1) Demonstrates that:

a. The location of the facility complies with all applicable siting requirements, as noted in Env-Wm 314.02(a); and

b. The facility site is, in all other respects, a suitable location for the facility; or

(2) For an existing facility which is no longer operating and which is not proposing to recommence operations, identifies and describes:

a. The location of the facility;

b. Existing site features and conditions;

c. The physical relationship of the facility to its surroundings; and

d. Environmental effects, both adverse and beneficial, caused by the facility.

(b) The information required by (a) above shall specifically include:

- (1) A copy of the local tax map(s) which shows the property on which the facility is, or will be, sited and which identifies all abutters required to be notified pursuant to Env-Wm 303;
- (2) Map(s) identifying surrounding land use and zoning;
- (3) A narrative description of the site, including:
  - a. A physical description;
  - b. A 50-year history of the use(s) of the site; and
  - c. A discussion of any known or suspected conditions at the site which are or should be of environmental, public health or safety concern;
- (4) Map(s) and narrative discussion of the facility's proximity to and/or impact on sensitive environments, including, but not limited to, flood hazard zones, wetlands, habitat for endangered or threatened wildlife, designated rivers, other surface waters, and water supplies;
- (5) A hydrogeological report of the site if the facility has managed or will manage waste which has the potential to cause groundwater or surface water contamination, including, as applicable, all information required by the administrative rules for groundwater management and groundwater release detection permits, Env-Wm 1403.
- (6) Discussion of anticipated traffic impacts by the facility, unless the facility is no longer operating and is not proposing to recommence operations; and
- (7) Other information as required to demonstrate compliance with the applicable siting requirements.

Source. (See Revision Note at PART Heading 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 #6894-B, eff 12-1-98; amd by #7225, eff 3-31-00

Env-Wm 314.11 Plans and Specifications. The applicant shall provide plans and specifications prepared in accordance with Env-Wm 2803.05, as follows:

- (a) For a proposed facility, the applicant shall submit preliminary design plans and specifications with calculations and other supporting documentation necessary to demonstrate compliance with all applicable design requirements, as noted in Env-Wm 314.02(a); and
- (b) For an existing facility, the applicant shall submit:
  - (1) A plan showing the existing facility; and
  - (2) Preliminary design plans and specifications, as specified by (a) above, for any proposed changes to the existing design.

Source. (See Revision Note at PART Heading 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 #6894-B, eff 12-1-98

Env-Wm 314.12 Financial Report. The applicant shall provide a financial report, including:

- (a) The estimated cost of constructing the facility, unless the facility is an existing facility and no new construction is proposed;
- (b) The type and source of financing for any new construction being proposed;

(c) The estimated facility operating cost(s), unless the facility is no longer operating and is not proposing to recommence operations;

(d) For a proposed facility or an existing facility that will continue operating, the estimated tipping fees or, if no tipping fee will be assessed by the facility, the estimated average cost per ton to manage waste at the facility;

(e) The estimated costs of closure and post-closure monitoring based on the requirements set forth in Env-Wm 3100; and

(f) A financial assurance plan in accordance with Env-Wm 3100.

Source. (See Revision Note at PART Heading 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 #6894-B, eff 12-1-98

Env-Wm 314.13 Other Information. In the event the information submitted is insufficient for the department to make an independent determination that the facility and all persons associated therewith comply with the requirements of RSA 149-M and the solid waste rules and protect human health, safety and the environment, the applicant shall submit such additional information as the department determines necessary to make the determination.

Source. (See Revision Note at PART Heading 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 314.14 Application Filing. Standard facility permit applications shall be signed and filed by the applicant as specified in Env-Wm 303, with the fee as specified in Env-Wm 310.

Source. (See Revision Note at PART Heading 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 314.15 Application Review and Decision. Standard facility permit applications shall be reviewed in accordance with Env-Wm 304 and Env-Wm 305.

Source. (See Revision Note at PART Heading 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 315 PERMIT MODIFICATION**

### Env-Wm 315.01 Applicability.

(a) Except as specified by (b) through (d) below, the rules in this part shall apply to modifying facility permits issued pursuant to RSA 149-M and the solid waste rules, including action to transfer a permit and renew an expiring permit.

(b) The rules in this part shall not apply to transferring a permit-by-notification, as specified by Env-Wm 311.02(c).

(c) The rules in this part pertaining to a type III permit modification shall not apply to applicants unable to certify compliance pursuant to Env-Wm 303.14. Instead, the provisions for obtaining a type I-B permit modification shall apply.

(d) The rules in this part shall not apply to permit modifications initiated by the department pursuant to Env-Wm 306.

Source. (See Revision Note at PART Heading 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 #6894-B, eff 12-1-98

Env-Wm 315.02 Definitions.

(a) "Type I modification" means an amendment to the terms and conditions of a permit that is not a type II through type V modification. The term includes type I-A and type I-B modifications.

(b) "Type I-A modification" means a type I modification that has the potential to adversely affect the state's ability to achieve the waste reduction goal in RSA 149-M:2 by means of establishing and maintaining an integrated system of facilities which is consistent with the hierarchy in RSA 149-M:3 and which provides a substantial public benefit pursuant to RSA 149-M:11. Examples of type I-A modifications include, but are not limited to:

- (1) Increasing the approved design capacity of a facility;
- (2) Changing the expiration date of a permit;
- (3) Reducing the operating life expectancy of a New Hampshire landfill without a comparable reduction in the permitted capacity of the landfill, as by directly or indirectly increasing the quantity of waste received daily;
- (4) Expanding the permitted service area of a facility;
- (5) Changing the facility service type from a limited service area facility to an unlimited service area facility; and
- (6) Changing facility operations to include a waste management method less preferred in the RSA 149-M:3 hierarchy than authorized by the current terms and conditions of the permit.

(c) "Type I-B modification" means a type I modification that is not a type I-A modification because, based on information available at the time the modification is proposed, there is no expectation that the proposed change will adversely affect the state's ability to achieve the waste reduction goal in RSA 149-M:2 by establishing and maintaining an integrated system of facilities which is consistent with the hierarchy in RSA 149-M:3 and which provides a substantial public benefit pursuant to RSA 149-M:11. The term includes modifications that would fall within the scope of a type III permit modification, but are excluded from being a type III modification because the permittee is unable to certify compliance pursuant to Env-Wm 303.14.

(d) "Type II modification" means an amendment to the terms and conditions of a permit to approve and incorporate by reference final or revised design, operating, financial assurance or closure plans for a facility which have been prepared pursuant to a condition of the permit or a solid waste rule specifically requiring submission of such plans. Examples of type II modifications include, but are not limited to:

- (1) Approving final plans for construction, operation, financial assurance or closure of a facility based on preliminary plans provided in the application, as required to satisfy prerequisites for construction or operation pursuant to Env-Wm 2800, and Env-Wm 305.05(b) and (c); and
- (2) Approving preliminary plans for closure of a landfill under the provisions of a temporary permit pursuant to Env-Wm 307.08(b).

(e) "Type III modification" means an amendment to the terms and conditions of a permit, held by a permittee able to certify compliance pursuant to Env-Wm 303.13 and Env-Wm 303.14, to effect one of the following minor changes:

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(1) A change in facility operating hours within the limits specified in Env-Wm 2805.08(a) or within alternative limits specified in the permit pursuant to Env-Wm 2805.08(b);

(2) A change in a key above ground site feature, including a facility structure or appurtenance, which:

a. Is made subsequent to filing record drawings in accordance with Env-Wm 2804.07;

b. Does not:

1. Alter the permitted function(s) of the facility;

2. Change the basis of the approved facility design; or

3. Violate any applicable siting criteria specified in the solid waste rules; and

c. Is merely a change to improve facility operations within the limits specified in the permit; and

(3) A change in facility operations to separately collect, store and transfer source separated select recyclable materials not previously managed separately by the facility, to the extent that the activity:

a. Does not increase either the approved design or storage capacity of the facility; and

b. Does not require a change in the approved financial assurance plan of record for the facility.

(4) For landfills, a change in the type of cover material to be used at the facility, pursuant to Env-Wm 2506.03;

(5) A name change for the permittee or facility that does not constitute a type IV modification; and

(6) A change in organizational structure, officers, directors, partners, key employees or entities holding 10% or more of the permittee's equity or debt that does not constitute a type IV modification.

(f) "Type IV modification" means an amendment to the terms and conditions of a permit to authorize permit transfer and record a change in the:

(1) Operational control of a facility; or

(2) Ownership of the facility, as follows:

a. For a partnership, a change in the majority of general partners;

b. For a corporation, a transfer of all corporate assets or of a majority of voting shares to a new individual or entity;

c. For other organizations, a transfer of the control of the organization to a new individual or entity; and

d. For an individual, transfer of control to another individual or entity.

(g) "Type V modification" means an amendment to the terms and conditions of a permit pursuant to Env-Wm 2805.06(b) to allow facility records to be stored at off-site locations or to be destroyed.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #5296, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98; amd by #7225, eff 3-31-00

Env-Wm 315.03 Approval Required.

(a) Before making a modification to the design, construction, operation or closure of a facility as permitted by the department, the permittee shall obtain written approval for such modification in accordance with this part.

(b) A permittee shall request approval to implement a facility modification by filing an application for permit modification as follows:

(1) For a type I modification, the permittee shall submit an application that provides the information specified in Env-Wm 315.05;

(2) For a type II modification, the permittee shall submit an application that provides the information specified in Env-Wm 315.06;

(3) For a type III modification, the permittee shall submit an application in the form of a notification that provides information specified in Env-Wm 315.07;

(4) For a type IV modification, the existing permittee and proposed new permittee shall be co-applicants and shall submit an application that provides the information specified in Env-Wm 315.08; and

(5) For a type V modification, the permittee shall submit an application that provides information as specified in Env-Wm 315.09.

Source. (See Revision Note at PART Heading 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 315.04 Permit Modification Application Filing Procedures.

(a) All applications to modify a permit shall be signed and filed by the permittee in accordance with Env-Wm 303.

(b) Applications for a type IV modification shall be signed and filed by both the existing permittee and the proposed permittee, as co-applicants.

(c) Applications for a type III modification shall include the following signature requirements in addition to the requirements specified in Env-Wm 303:

(1) A signed statement by the permittee certifying that:

a. The proposed change is within the defined limits of a type III modification pursuant to Env-Wm 315.02;

b. The proposed change shall not cause the facility to contravene any applicable requirement in Env-Wm 2700 or violate any other condition of the permit; and

c. In accordance with Env-Wm 303.13, the compliance standards in Env-Wm 303.14 are met;

(2) If the permittee is not the property owner, a signed statement by the property owner to certify acceptance of the modification; and

(3) For a type III modification to effect a name change pursuant to Env-Wm 315.02(e), certification that:

a. The proposed change is based solely on a change in the name of the permittee or facility, as applicable, and that no change in officers, directors, partners, key employees or persons holding 10 percent or more of the permittee's equity or debt shall occur as a consequence of the change in name; and

b. That the permittee shall publish notice and submit proof thereof as required by Env-Wm 305.06(e).

Source. (See Revision Note at PART Heading 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 #6894-B, eff 12-1-98

Env-Wm 315.05 Application Content and Format, Type I Modifications. For a type I permit modification, the permittee shall provide the following information and materials, compiled in the order shown:

(a) Facility identification;

(b) Identification of parties;

(c) A complete description of the proposed modification, including:

(1) The type of modification as specified by Env-Wm 315.02;

(2) Identification of each written permit condition which shall require amendment to effect the proposed modification and draft language for the same;

(3) Identification of each document incorporated by reference into the permit and requiring amendment to effect the proposed modification, including design plans, operating plans, closure plans and financial assurance plans;

(4) Draft amendments for each document identified pursuant to (3) above, as follows:

a. If the proposed modification requires changes to the last approved facility design plan(s) of record, the revised design plan(s) shall be prepared in accordance with Env-Wm 2803.05;

b. If the proposed modification requires changes to the last approved facility operating plan of record, the required amendments shall be prepared in accordance with Env-Wm 2805 and, subject to e. below, may be presented in the form of replacement pages ready for substitution into the plan of record, each page being clearly marked to show the date of revision;

c. If the proposed modification requires changes to the last approved facility closure plan of record, the required amendments shall be prepared in accordance with Env-Wm 2806 and, subject to e. below, may be presented in the form of replacement pages ready for substitution into the plan of record, each page being clearly marked to show the date of revision;

d. If the proposed modification requires changes to the last approved financial assurance plan of record, the proposed revisions shall be presented in the form of a complete financial assurance plan as specified in Env-Wm 3100 and shall include all related draft financial assurance documents required to effect the proposed modification; and

e. In the event there is no last approved plan of record for any of a. through d. above, a plan shall be provided as specified in Env-Wm 2803.05, Env-Wm 2805, Env-Wm 2806 and/or Env-Wm 3100, as applicable, based on the proposed modified facility; and

- (5) Information demonstrating that the proposed modified facility meets all requirements of the solid waste rules;
- (d) A proposed schedule for implementing the modification;
- (e) A statement of need describing why the proposed change is necessary or desirable;
- (f) Identification of the impacts, both positive and adverse, which the proposed modification will have, including the following considerations:
  - (1) The effect the modification will have on facility function, capacity, life expectancy, service type and service area;
  - (2) The effect the modification will have on the environment, public health and safety;
  - (3) The effect the modification will have on the state's ability to achieve the goals and objectives specified in RSA 149-M:2;
  - (4) The effect the modification will have on establishing and maintaining integrated waste management systems consistent with the hierarchy of waste management methods in RSA 149-M:3; and
  - (5) Information that demonstrates that the facility, as modified, will be consistent with the state solid waste management plan and the applicable district plan, pursuant to RSA 149-M:12, I(b);
- (g) For a type I-A modification, a demonstration of public benefit in accordance with RSA 149-M:11 and in conformance with the provisions of Env-Wm 2705.05;
- (h) Identification and status of all other permits or approvals necessary to effect the proposed modification;
- (i) Proof that municipalities, districts and other affected entities have been provided a copy of the application and a notice of filing as specified by Env-Wm 303; and
- (j) For a type I-A modification, proof that notification of abutters has been made in accordance with Env-Wm 303.

Source. (See Revision Note at PART Heading 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 315.06 Application Content and Format, Type II Modifications. For a type II permit modification, the permittee shall provide:

- (a) Facility identification;
- (b) Identification of parties;
- (c) A narrative description of the proposed modification, including:
  - (1) The type of modification as specified by Env-Wm 315.02;
  - (2) Copy of the plans for which approval is being sought, as follows:
    - a. Construction plans and specifications shall be prepared in accordance with Env-Wm 2803.05;