

Readopt with amendment Env-Sw 1000, eff. 7-1-2014 (Doc #10598), to read as follows:

CHAPTER Env-Sw 1000 UNIVERSAL SOLID WASTE FACILITY REQUIREMENTS

Statutory Authority: RSA 149-M:7

PART Env-Sw 1001 PURPOSE AND APPLICABILITY

Env-Sw 1001.01 Purpose. The purpose of the rules in this chapter is to ensure that facilities are located, designed, constructed, operated, and closed in a manner that does not endanger public health or adversely affect the environment and which minimizes the potential for accidents that could lead to personal injury or property damage.

Env-Sw 1001.02 Applicability. The rules in this chapter shall apply to all facilities, including permit-exempt facilities, unless otherwise noted.

PART Env-Sw 1002 UNIVERSAL ENVIRONMENTAL PERFORMANCE REQUIREMENTS

Env-Sw 1002.01 Environmental Conservation and Protection. Facilities shall be located, designed, constructed, operated, and closed in a manner that is protective of human health, preserves the natural environment, and conserves natural resources.

Env-Sw 1002.02 Discharge of Pollutants Prohibited.

(a) Facilities and practices shall not cause a discharge of pollutants into surface waters of the United States or the state in violation of Section 402 of the Clean Water Act, 33 U.S.C. 1342.

(b) Facilities and practices shall not cause a discharge of dredged material to waters of the United States in violation of RSA 482-A or Section 404 of the Clean Water Act, 33 U.S.C. 1344.

(c) Facilities and practices shall not cause a non-point source of pollution that contravenes the requirements of an areawide or statewide water quality management plan under Section 319 of the Clean Water Act, 33 U.S.C. 1329.

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

(e) Facilities and practices shall not cause air pollution in violation of federal or state law, any air quality rules implemented by the department or the conditions of any air quality permit issued by department, or the New Hampshire Clean Air Act state implementation plan filed pursuant to 42 U.S.C. 7410.

(f) Facilities and practices for which blasting of bedrock is anticipated shall comply with the requirements in Env-Wq 1500.

Env-Sw 1002.03 Protection of Wildlife.

(a) Facilities shall determine whether the facility property contains any documented occurrences of state or federally-listed threatened or endangered wildlife species by using the natural heritage bureau DataCheck tool (NHB DataCheck) at <https://www4.des.state.nh.us/nhb-datacheck/> and obtaining a DataCheck request results letter.

(b) If the NHB DataCheck letter indicates documented occurrences of state or federally-listed threatened or endangered species, then the facility shall:

- (1) Request consultation with the New Hampshire fish and game department (NHF&G) to assure that the facility does not appreciably jeopardize the continued existence of threatened and endangered species as defined by Fis 1002.04; and
- (2) Maintain all relevant correspondence with NHF&G and incorporate all conservation measures recommended by NHF&G.

Env-Sw 1002.04 Safety.

- (a) Facilities and practices shall not cause concentrations of explosive gases such as methane to exceed 25% of the lower explosive limit of the gases in any structure, excluding facility-related gas recovery equipment, or to exceed 50% of the lower explosive limit of the gases in the soil at the property boundary.
- (b) Facilities shall be designed, constructed, operated, and closed in a manner that minimizes the risk of fires and provides the ability to deal with them effectively if they occur.
- (c) Facilities that manage putrescible waste and are located within 10,000 feet (3,048 meters) of any airport runway used by turbojet aircraft or within 5,000 feet (1,524 meters) of any airport runway used by only piston-type aircraft shall be designed, constructed, operated, and closed in a manner that minimizes the risk of attracting birds that may be hazardous to aircraft.
- (d) Facilities and practices shall comply with the rules adopted by the New Hampshire department of labor relative to employee safety and health, Lab 1400.

Env-Sw 1002.05 Dams, Flowage, and Flood Provisions.

- (a) Facilities and practices shall comply with RSA 482 relative to dams and flowage.
- (b) Facilities and practices shall protect all waste storage, handling, and disposal areas against impact from the 100-year flood.

PART Env-Sw 1003 UNIVERSAL SITING REQUIREMENTS

Env-Sw 1003.01 Distance to Other Facilities. A facility or practice shall not physically interfere with the proper operation or closure of any other facility.

Env-Sw 1003.02 Easements and Rights-of-Way. The location of a facility shall be outside the limits of any right-of-way or easement, except as provided by Env-Sw 1003.03.

Env-Sw 1003.03 Property Ownership and Access Rights.

- (a) The location of a facility shall be on property owned by the permittee or on property for which the property owner has granted a lease, easement, or other legal right to the permittee for use of the property for said purpose, including access to the property when required by the permittee and department for closure and post-closure monitoring of the facility and site.
- (b) The location of a facility may be on property where a right-of-way, easement, or other legal right for use of the property is granted to a third party, provided that the grant shall not adversely affect the permittee's ability to meet all facility requirements pursuant to RSA 149-M, the solid waste rules, and the terms and conditions of the permit.

Env-Sw 1003.04 Groundwater and Surface Waters.

- (a) No facility shall be located in violation of RSA 483, relative to management and protection of rivers.
- (b) No facility shall be located in violation of RSA 485, RSA 485-A, and RSA 485-C, relative to protection of groundwater.

(c) A facility shall not be sited within the sanitary protective area, as defined in Env-Dw 301.30, of a public water system well, as defined in RSA 485-C:2, XII and RSA 485-C:2, XVII.

Env-Sw 1003.05 Wetlands. No facility shall be located in violation of RSA 482-A, relative to protection of wetlands.

Env-Sw 1003.06 Shoreland Protection. No facility shall be located in violation of RSA 483-B, relative to protection of shorelands.

Env-Sw 1003.07 Designated Rivers. No facility shall be sited in violation of RSA 483, relative to protection of designated rivers.

PART Env-Sw 1004 UNIVERSAL DESIGN REQUIREMENTS

Env-Sw 1004.01 Basic Design Requirements.

(a) The design of a facility shall be compatible with achieving the universal environmental performance requirements in Env-Sw 1002.

(b) The design of a facility shall facilitate operations in accordance with the universal operating standards in Env-Sw 1005 and all other requirements of the solid waste rules, as applicable.

Env-Sw 1004.02 Roads and Traffic Control.

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

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

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

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

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

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

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

Env-Sw 1004.03 Drainage.

(a) Stormwater management systems shall be designed in accordance with the requirements of Env-Wq 1500.

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

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

Env-Sw 1004.04 Protection of Landfill Closure Systems. The design of a facility shall include measures or features to avoid damage during construction and operation of the facility to any component of a landfill closure system, including:

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

Env-Sw 1004.05 Wastewater Systems. All wastewater collection, transmission, and treatment features which are part of or specifically serve a facility shall be designed in accordance with RSA 485-A.

Env-Sw 1004.06 Motor Vehicle Waste Collection. Pursuant to RSA 149-M:9, IV, a facility which receives motor vehicle wastes shall be designed to provide for separation of such wastes.

Env-Sw 1004.07 Equipment.

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

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

PART Env-Sw 1005 UNIVERSAL OPERATING REQUIREMENTS

Env-Sw 1005.01 General Operating Requirements.

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

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

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

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

- (1) Dust;
- (2) Litter;
- (3) Insects;
- (4) Odors;
- (5) Vectors;
- (6) Spills;

- (7) The production of leachate;
- (8) Fire hazards including spontaneous combustion;
- (9) The generation of methane and other hazardous gases;
- (10) Noise; and
- (11) Other nuisances.

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

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

Env-Sw 1005.02 Unauthorized Use Prohibited. Unauthorized entry to and unauthorized use of a facility shall be prohibited by:

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

Env-Sw 1005.03 Traffic Management.

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

(b) Facility operations shall be conducted in a manner as to accommodate on-site traffic flow in a safe and efficient manner.

Env-Sw 1005.04 Reuse of Waste.

(a) A waste, including waste-derived products, shall be distributed and used only in accordance with Env-Sw 1500.

(b) A waste destined for reuse shall be stored in a manner that protects its market value.

(c) A facility shall disclose the following information to consumers of waste-derived product(s) distributed by the facility for use:

- (1) The content and nature of the waste-derived products;
- (2) The proper uses of the waste-derived products and any restrictions related thereto;
- (3) Any hazards that might result from use of the waste-derived products;
- (4) Proper methods for disposal of the waste-derived product; and
- (5) Other such information as might be required by applicable federal and state consumer protection rules and regulations.

Env-Sw 1005.05 Public Benefit.

(a) A facility shall be operated so as to comply with the requirements of RSA 149-M:11, XI, relative to providing a substantial public benefit.

(b) The following facilities shall be deemed to provide a substantial public benefit and therefore need not make an explicit demonstration of substantial public benefit in a permit application:

- (1) A permit-exempt facility;
- (2) A permit-by-notification facility;
- (3) An emergency permit facility;
- (4) A research and development facility; and
- (5) A general permit facility.

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

- (1) Any limited public facility; and
- (2) Any limited private facility.

Env-Sw 1005.06 Operator Qualifications.

(a) The individual(s) that operate and maintain a facility shall be capable of efficiently doing so in a manner which is protective of human health, preserves the natural environment, and conserves natural resources.

(b) The individual(s) that operate and maintain a facility shall demonstrate a level of knowledge and understanding of the solid waste rules sufficient to operate and maintain the facility in compliance with all applicable requirements of the solid waste rules and the facility permit.

(c) Operators of non-exempt facilities shall be trained and certified pursuant to Env-Sw 1600.

Env-Sw 1005.07 Facility Staffing.

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

(b) Unless the facility is exempted by Env-Sw 1603.04, each facility shall have at least one principal operator certified, in accordance with Env-Sw 1600, present at the facility during operation.

Env-Sw 1005.08 Financial Assurance.

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

(b) Prior to commencing operation of a facility, the permittee shall assure that adequate funds, in an amount no less than the amount calculated pursuant to Env-Sw 1403.02, are readily available to cover the cost of facility closure.

(c) The permittee shall provide a formal financial assurance plan when required pursuant to Env-Sw 1400.

Env-Sw 1005.09 Incident Reporting.

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

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

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

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

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

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

- (1) Facility name, location by street, and municipality, and permit number;
- (2) Permittee name, mailing address, and telephone number;
- (3) Name, mailing address and, if available, telephone number of the complainant;
- (4) The nature of the complaint, date(s) of receipt by the permittee, and a complete description of the circumstances or situation giving rise to the complaint;
- (5) A description of the permittee's response action(s); and
- (6) Such other information as required by (c) above if the circumstances or situation giving rise to the complaint require reporting under (c) above.

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

PART Env-Sw 1006 UNIVERSAL CLOSURE REQUIREMENTS

Env-Sw 1006.01 Trigger Events for Closure. A facility shall implement closure as specified in Env-Sw 1006.02 when one or more of the following conditions exist:

- (a) The facility's operating permit expires or is revoked pursuant to RSA 149-M:12, II, or the facility has no operating permit;
- (b) The permittee abandons use of the facility or ceases facility operations, unless notice is provided pursuant to Env-Sw 1106.05;
- (c) Facility development is abandoned prior to commencing facility operations, unless notice is provided pursuant to Env-Sw 1106.05;
- (d) The facility sustains irreparable damage or otherwise cannot operate in accordance with its permit and the solid waste rules;
- (e) Environmental conditions exist at the site causing a threat to human health or the environment and such conditions have not been or cannot be remediated;
- (f) If the facility is a landfill, it reaches its approved design volume or its temporary permit is called pursuant to Env-Sw 307;
- (g) The facility reaches the end of its life expectancy or can no longer meet performance standards; or
- (h) The facility is issued an administrative or judicial order to close.

Env-Sw 1006.02 General Closure Requirements. A facility shall be closed in accordance with the following provisions:

- (a) All waste deliveries to the facility shall be terminated;
- (b) All waste not permitted to remain at the facility following closure, including processed recyclable materials and all surface debris and litter, shall be removed from the facility to an authorized facility;
- (c) If the facility is a landfill, all waste permitted to remain at the facility shall be contained and covered as necessary to protect the environment, public health, and safety, and to achieve and maintain compliance with all universal facility performance requirements in Env-Sw 1002;
- (d) Waste management equipment shall be removed or decommissioned, except for equipment needed to meet post-closure monitoring and maintenance obligations, if any;
- (e) If the facility is not a land disposal facility, the facility site shall be cleaned to its original condition of cleanliness;
- (f) If it is impracticable to return the facility site to its original condition of cleanliness pursuant to (e) above, whether because the character of the surrounding land use has changed, the original condition was in violation of state or federal environmental or public health laws, rules or regulations, or for any other reason, the permittee shall clean the facility site so as to render it suitable for an alternate use consistent with local land use and zoning regulations or plans; and
- (g) Post-closure monitoring and maintenance shall be undertaken as required to assure the facility is closed in a manner to not adversely affect the environment, public health, or safety.

APPENDIX

Rule Sections	State Statute(s) Being Implemented
Env-Sw 1000	RSA 149-M:6, III; RSA 149-M:7, II, III, XIV; RSA 149-M:9, I, III