

Change the chapter heading for Env-Sw 1100 to read as follows:

CHAPTER Env-Sw 1100 ADDITIONAL ***SOLID WASTE*** FACILITY REQUIREMENTS

Statutory Authority: RSA 149-M:6, RSA 149-M:7, RSA 149-M:9

Readopt with amendment Env-Sw 1101 through Env-Sw 1104, effective 7-1-14 (Document #10598), to read as follows:

PART Env-Sw 1101 PURPOSE AND APPLICABILITY

Env-Sw 1101.01 Purpose. The purpose of the rules in this chapter is to ensure that ~~the~~ facilities ~~identified in Env-Sw 1101.02(a)~~, are located, designed, operated and closed in a manner that does not endanger public health or adversely affect the environment and which minimizes the potential for accidents that could lead to personal injury or property damage.

Env-Sw 1101.02 Applicability.

(a) Subject to (b) below, the rules in this chapter shall apply to all facilities having an active life longer than 90 days, except:

- (1) Permit-exempt facilities ***as provided by Env-Sw 302.03***;
- (2) Research and development permit facilities as provided by Env-Sw 312.02~~(b)~~;
- (3) Emergency permit facilities as provided by Env-Sw 313.02~~(b)~~; and
- (4) General permit facilities as provided by Env-Sw 308.

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

- (1) The alternative material or procedure is functionally equivalent or superior in its protection of public health and the environment to the material or procedure specified by rule; and
- (2) The alternative is not prohibited by any other state rules or federal regulations applicable to the facility.

(c) The requirements in this chapter shall apply as the complement of the requirements in Env-Sw 1000 for all facilities, Env-Sw 1200 for permit-by-notification facilities, Env-Sw 400 through Env-Sw 800 as applicable based on the functional classification of the facility, and Env-Sw 900 as applicable based on the type of waste managed by the facility.

PART Env-Sw 1102 ADDITIONAL SITING REQUIREMENTS

Env-Sw 1102.01 General Siting Requirements. The location of a facility shall be compatible with meeting all design, construction, operating and closure requirements specified for the facility in the solid waste rules, including requirements noted in Env-Sw 1101.02(c), as applicable.

Env-Sw 1102.02 Co-existence with Other Activities. ~~The property on which the facility is proposed to be located shall not also be the site of any activity not specifically authorized in the facility permit, either because it is an activity not regulated by the solid waste rules such as the collection of used oil for recycling or the operation of a non waste related business, or because it is a permit exempt activity such as the operation of a burn pile pursuant to Env-Sw 508.05, unless:~~

~~(a) The activity will not interfere with operating the permitted facility in compliance with the solid waste rules and the permit; and~~ ***Co-existing activities shall not interfere with construction, operation, and closure of a solid waste facility.***

~~(b) When required by Env-Sw 1105.07(d), notice of the activity is provided to the department as specified in Env-Sw 1105.07(e) and (f).~~ ***Notification of co-existing activities shall be made in the application for a permit or in accordance with Env-Sw 1105.07.***

PART Env-Sw 1103 ADDITIONAL DESIGN REQUIREMENTS

Env-Sw 1103.01 General Design Requirements.

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

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

- (1) The least complex alternative(s) for facility construction, operation and maintenance;
- (2) The required performance standard(s); and
- (3) The same or less risk of failure compared to designs that are ~~in common usage~~ ***commonly used*** in the industry and which comply with current requirements established under the solid waste rules.

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

Env-Sw 1103.02 Equipment Installation. The installation and use of manufactured equipment at a facility shall conform to the manufacturer's specifications and recommendations, unless the permittee provides a written statement ***bearing the signature and seal of*** by a qualified professional engineer certifying that the non-conforming installation and use ~~shall~~***will*** not adversely affect the environment, public health or safety.

Env-Sw 1103.03 Access Control.

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

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

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

Env-Sw 1103.04 Surrounding Properties. The design of a facility shall incorporate features to minimize adverse impacts, if any, to surrounding properties, such as the use of stockade fencing, ***berms, or vegetated buffers*** ~~where appropriate~~ to shield waste storage and handling areas from view and to control the off-site transport of dust and windblown litter, ~~and the use of landscaping berms or other vegetation for similar purposes.~~

Env-Sw 1103.05 Design Plans and Specifications, Content and Format. Facility plans and specifications, including preliminary and final plans submitted with an application pursuant to Env-Sw 311 through Env-Sw 315 and record drawings submitted pursuant to Env-Sw 1104.07, shall conform to the following requirements:

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

(b) Plans and specifications shall be clearly readable;

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

(d) Plans and specifications shall ~~be bear stamped~~ ***the signature and seal of*** a qualified professional engineer as required by RSA 310-A;

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

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

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

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

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

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

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

(7) Show contours at a minimum interval of 2 feet on all plan views; ~~;~~ ***and***

(8) ***Show a north arrow.***

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

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

(1) ~~The seasonal restrictions~~ ***adverse conditions*** specified in Env-Sw 1104.04;

(2) The construction schedule required by Env-Sw 1104.02; and

(3) For landfills constructed in phases over time, the requirements in Env-Sw 805.11(d).

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

PART Env-Sw 1104 ADDITIONAL CONSTRUCTION REQUIREMENTS

Env-Sw 1104.01 Prerequisites for Construction.

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

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

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

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

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

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

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

(3) If required pursuant to Env-Sw 1104.04(f), file a site safety and contingency work plan and the related certification with the department;

(4) Obtain legal rights of access or property ownership as required by Env-Sw 1003.03 and, if applicable, Env-Sw 804.06 and Env-Sw 807.03(d);

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

(6) After complying with (1) through (5) above, file a notice of intent to construct as specified in Env-Sw 1104.02.

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

Env-Sw 1104.02 Notice of Intent to Construct.

(a) A notice of intent to construct shall ***be submitted on a "Notice of Intent to Construct", NHDES-S-05-034, December 2023, available at: X include:***

~~(1) Facility identification;~~

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

~~a. The intended starting date of construction; and~~

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

~~1. The order in which they will be performed;~~

~~2. The projected starting date for each; and~~

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

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

~~(4) For construction of a facility which is subject to Env-Sw 1104.06, the name(s), address(es), telephone number(s) and professional qualifications of the resident engineer and project engineer as required by Env-Sw 1104.06;~~

~~(5) For construction of a facility which is not subject to Env-Sw 1104.06, the name(s), address(es) and telephone number(s) of the person(s) in responsible charge of construction activities;~~

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

~~(7) Affirmation that all other prerequisite approvals and actions, as specified in Env-Sw 1104.01(a), have been satisfied for the proposed construction activity.~~

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

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

(1) Filed ***in accordance*** with the department in duplicate ~~Env-Sw 303~~; and

(2) Copied to the host municipality and district.

Env-Sw 1104.03 Approval to Commence Construction.

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

(b) The permittee shall:

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

(2) Prominently display ~~each~~ ***the documents required in (b)(1)*** at the construction site.

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

(d) Approval to commence construction shall:

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

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

(e) If the permittee has not satisfied all prerequisites for construction as specified in Env-Sw 1104.01, ~~the notice of intent to construct shall not be returned by the department upon receipt and approval to commence construction shall be thereby withheld while the permittee is notified~~ ***in accordance with (f) below*** and corrects the deficiency.

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

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

Env-Sw 1104.04 General Construction Requirements.

(a) Except for the ~~field~~***design*** changes allowed by Env-Sw 1104.05, a facility shall be constructed in strict accordance with the approved plans and specifications.

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

(c) The permittee shall implement quality assurance controls during construction.

(d) Construction of a facility shall not take place during ~~elimatic~~-adverse conditions, ***including extreme weather events***, having the potential to adversely affect:

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

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

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

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

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

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

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

(2) Except as provided by (3) below, the plan shall be submitted for informational purposes in accordance with Env-Sw 1104.01 including a signed statement by a qualified professional attesting to the adequacy of the plan; and

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

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

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

(1) The method of inspection(s);

(2) The applicable test protocol and standards; and

(3) For a facility which is subject to Env-Sw 1104.06, the professional ~~stamp and signature~~ ***and seal*** of the project engineer to certify that, based upon inspection and testing conducted pursuant to the approved design plans and specifications and all additional information known to the project engineer, the applicable facility system has been constructed in accordance with the approved plans and specifications.

(i) ***Construction shall be conducted in a manner that controls to the greatest extent practicable:***

(1) ***Dust;***

(2) ***Litter;***

(3) ***Insects;***

(4) ***Odors;***

(5) ***Vectors;***

(6) ***Spills;***

(7) ***The production of leachate;***

(8) ***Fire hazards, including spontaneous combustion;***

(9) ***The generation of methane and other hazardous or explosive gases;***

(10) ***Noise; and***

(11) ***Nuisances.***

Env-Sw 1104.05 Design Changes During Construction.

(a) During construction of a facility not subject to Env-Sw 1104.06, the permittee may implement a change to the approved plans and specifications, without explicit department approval, provided that:

(1) The change(s) ~~shall~~ ***does*** not violate any siting, design, operating, or closure requirement applicable to the facility; and

(2) The change(s) ~~shall~~ ***is*** be identified and reported to the department on the record drawings filed pursuant to Env-Sw 1104.07.

(b) During construction of a facility which is subject to Env-Sw 1104.06, the permittee may implement a change to the approved plans and specifications, without explicit department approval, provided that the project engineer:

(1) Determines that all conditions specified in (c) below ~~shall~~ ***bear*** met;

(2) Fully documents the change in the bi-weekly construction report submitted to the department pursuant to Env-Sw 1104.07, or earlier whenever possible; ~~and~~

(3) Establishes a record of the change(s) so as to allow the change to be identified and reported to the department on the record drawings filed pursuant to Env-Sw 1104.07; ***and***

(4) ***Provides their signature and seal to approve the change.***

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

(1) The change ~~shall~~ is not be relevant to assessing facility siting criteria, ***including depth to bedrock or groundwater***, and maintaining compliance therewith;

(2) ***The design change shall does not include an increase in facility capacity or a change in the permitted vertical or lateral limits of the facility;***

(3) The design change ~~shall be~~ is functionally equivalent or superior to the design feature being changed;

(4) Other than the fact that the change is not explicitly part of the approved plans and specifications, the change ~~shall comply~~ ***ies*** with all applicable rules and regulations and all terms and conditions of the permit;

(5) The change ~~shall~~ ***does*** not require any change to the facility's approved operating, closure and financial assurance plans; and

(6) The change ~~shall~~ ***does*** not involve the use of waste-derived products not certified for distribution and use pursuant to Env-Sw 1500.

(d) For a facility which is subject to Env-Sw 1104.06, a change to the approved plans or specifications which does not meet the conditions specified in (c) above shall be authorized only by issuance of a permit modification pursuant to the provisions of Env-Sw 315.

Env-Sw 1104.06 Project Engineer and Resident Engineer. A standard permit facility, emergency permit facility not exempt pursuant to Env-Sw 313.02(b) and research and development permit facility not exempt pursuant to Env-Sw 312.02(b), shall comply with the following requirements:

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

- (1) Administer the technical aspects of the construction contract; and
- (2) Provide technical coordination of the design, permitting, and construction issues;

(b) The project engineer shall:

- (1) Be a qualified professional engineer;
- (2) Administer all construction contracts;
- (3) Approve all construction contract change orders;
- (4) Monitor all inspections and testing;
- (5) Provide statements and reports ***bearing the signature and seal of a qualified engineer*** as required by ***Env-Sw 1104.04***, Env-Sw 1104.05, Env-Sw 1104.07, and Env-Sw 1105.02;
- (6) Maintain facility construction records during the construction period;
- (7) Monitor all construction activities to ensure compliance with the permit, specifically including the approved design plans and specifications;
- (8) Monitor the scheduling of all construction activities;
- (9) Generate the written status report required by Env-Sw 1104.07 at the end of each 2 week period; and

(10) Assure compliance with a quality assurance/quality control plan pursuant to Env-Sw 805.16 if applicable;

(c) ~~If the~~***Either a*** project engineer is not present at the site when all construction activities at a facility are performed, the permittee shall assure that a ***or a*** qualified resident engineer ***shall be on site at all times when construction activities are performed*** ~~is present to monitor all construction activities;~~

(d) The ***qualified*** resident engineer required by (c) above shall:

(1) Be a qualified professional engineer; or

(2) Work under the supervision of a qualified professional engineer; and

(3) Be experienced in and knowledgeable about the work ~~he/she~~***they shall*** will be overseeing; and

(4) Report directly to the project engineer; and

(e) The requirements of (a) through (d) above shall not apply if:

(1) The permittee has demonstrated in the permit application, or the application for a ~~type II~~ permit modification for construction plan approval, that the nature and scope of the proposed construction activity(s) ~~shall~~***does*** not require professional engineering oversight to assure protection of the environment, public health and safety and to meet other requirements of law; and

(2) The exclusion is approved as a condition of the permit or permit modification.

Env-Sw 1104.07 Construction Reporting and Recordkeeping Requirements.

(a) ***Except as provided in Env-Sw 1104.09,*** ~~The~~ permittee shall submit ***a written status report*** ~~in accordance with Env-Sw 303,~~ no later than the Wednesday following the end of each 2 week work period during construction of a facility, ~~a written status report of all construction activities in progress.~~

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

(1) Facility identification, ~~including name, location by street and municipality, and permit number~~***as defined in Env-Sw 103.02;***

(2) Description of work completed to date;

(3) An amended construction schedule if the anticipated schedule deviates from the last construction schedule of record;

(4) Design changes implemented pursuant to Env-Sw 1104.05, if any; ~~and~~

(5) Damage and repair information pursuant to (e) below, if any; ~~and~~

(6) A list of all complaints received including: the name of the complainant; the nature of the complaint; the time that the complaint was received; the estimated time of when the subject of the complaint occurred; the method that the complaint was received; and the mitigation measures taken.

(c) Upon completion of each major element of construction involving a waste containment, conveyance, processing or treatment system subject to inspection and testing pursuant to Env-Sw 1104.04(g) ***and Env-Sw 805.16,*** the permittee shall submit a copy of the inspection report, ***testing results,***

~~and certification bearing the~~ ***and engineer's signature and seal certification*** prepared in accordance with Env-Sw 1104.04(h).

(d) The permittee shall maintain, with the facility operating records pursuant to Env-Sw 1105.06, all construction related records required to document permit compliance and to prepare and validate the record drawings.

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

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

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

- (1) Submit in accordance with Env-Sw 303 the applicable facility record drawings, prepared in accordance with Env-Sw 1103.05 and explicitly identifying all features different than the features provided in the approved plans and specifications; ~~and~~
- (2) ***Submit all inspection reports and testing results performed pursuant to Env-Sw 1104.04(g) and Env-Sw 805.16; and***
- (23) Provide written certification that the facility, as-built, meets or exceeds all applicable requirements of the permit including the approved plans and specifications.

Env-Sw 1104.08 Interaction with Department During Construction.

(a) During construction, the permittee shall:

- (1) ~~p~~**P**Provide department personnel with access to the construction site for monitoring and inspection purposes, pursuant to Env-Sw 2000.;
- ~~(b)(2) During construction, the permittee shall p~~**P**Provide department personnel with access to a construction trailer work station, or other appropriate on-site work station, for use in reviewing plans, specifications and other construction-related records.;
- ~~(c)(3) During construction, the permittee shall a~~Allow department personnel to attend scheduled pre-construction meetings and other construction-related meetings with the project engineer or the contractor, or both; ***and***
- ~~(d)(4) The permittee shall a~~Address all issues of concern that the department identifies in writing as a consequence of ***identified during the inspecting inspection*** or monitoring ***of the*** facility construction activities.

~~(e)(b)~~ If an issue of concern pursuant to ~~(d)~~ ***(a)(4)*** above involves a determination by the department that facility construction ~~might~~ ***is*** not be proceeding in accordance with the approved design plans and specifications, the permittee shall ~~either~~:

- ~~(1) Voluntarily~~ halt construction until the issue is resolved. ~~;~~ ***or***
- ~~(2) Proceed with construction on the basis that the department shall only grant approval to operate the facility after the issue of concern is resolved or, if the issue of concern involves the~~

~~construction of a facility closure system, on the basis that the department shall only release the permittee from financial assurance obligations after the issue of concern is resolved.~~

~~(c)~~ Revocation or suspension of the construction approval shall be subject to the provisions in Env-Sw 306.

Env-Sw 1104.09 Temporary Cessation of Construction.

(a) If temporary cessation of construction occurs, the permittee shall submit, with the next biweekly construction progress report as required pursuant to Env-Sw 1104.07(a), notification to the department that the project is temporarily on hold and the reason(s) for such temporary cessation.

(b) Within 30 days of temporary cessation of construction, the permittee shall submit an interim project status report that includes:

- (1) A written certification that the facility built-to-date meets or exceeds all applicable requirements of the permit;*
- (2) The approved plans and specifications;*
- (3) Work completed to date;*
- (4) Actions undertaken to protect the work completed to date; and*
- (5) An anticipated schedule for resuming construction.*

(c) During temporary cessation, biweekly construction progress reports shall not be required.

(d) At least one week prior to resuming construction following a temporary cessation, the permittee shall notify the department of its anticipated construction schedule, and resume submittal of the progress reports required pursuant to Env-Sw 1104.07(a).

(e) A permittee shall be deemed to have abandoned a facility if construction is discontinued for a period of 90 days pursuant to Env-Sw 1106.07.

Readopt with amendment Env-Sw 1105.01 through Env-Sw 1105.07, effective 7-1-14 (Document #10598), cited and to read as follows:

PART Env-Sw 1105 ADDITIONAL OPERATING REQUIREMENTS

Env-Sw 1105.01 Prerequisites for Operations.

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

(1) Obtain operating plan approval, as follows:

a. For a permit-by-notification facility or other facility which is not subject to the provisions of Env-Sw 305.05(b) and (c), the operating plan shall be approved through issuance of the permit and, for a permit-by-notification facility, based solely on representations by the permittee in the application pursuant to Env-Sw 1202.02(a)(2); and

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

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

a. For a permit-by-notification facility or other facility not subject to Env-Sw 1400, financial responsibility shall be assured by having certified responsibility in the permit application pursuant to Env-Sw 303.04; and

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

(3) Complete facility construction in accordance with all applicable construction requirements and submit all construction status reports, including construction inspection reports, as specified in Env-Sw 1104.07;

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

(5) After complying with (1) through (4) above, file a notice of intent to operate as specified in Env-Sw 1105.02.

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

Env-Sw 1105.02 Notice of Intent to Operate.

(a) A notice of intent to operate shall ~~include the following~~ ***be submitted on a "Notice of Intent to Operate", NHDES-S-05-035, December 2023, available at: X*** ~~include the following:~~

~~(1) Facility identification;~~

~~(2) Date permittee intends to commence operations;~~

~~(3) Facility operating hours;~~

~~(4) A statement, signed and stamped by the project engineer for a facility subject to Env-Sw 1104.06 or signed by the permittee for a facility not subject to Env-Sw 1104.06, that to the best of his/her knowledge, the facility has been constructed in accordance with the permit, the solid waste rules and the approved plans and specifications and is fit for operation in accordance therewith;~~

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

~~(6) For a permit by notification facility, reaffirmation of the existence of the operating plan pursuant to the provisions of Env-Sw 1202.02(a)(2) and reaffirmation of financial responsibility for closure pursuant to Env-Sw 1005.08(b);~~

~~(7) The name, certificate number and telephone number of all certified facility operators, in conformance with the requirements of Env-Sw 1005.06 and Env-Sw 1005.07;~~

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

~~(9) Affirmation that all other prerequisite approvals and actions, as specified in Env-Sw 1105.01(a), have been satisfied for the proposed operations.~~

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

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

(1) Filed with the department in ~~duplicate~~ ***accordance with Env-Sw 303***; and

(2) Copied to the host municipality and district.

Env-Sw 1105.03 Operating Approval.

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

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

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

(d) Approval to commence operations shall:

(1) ~~b~~***Be*** subject to terms and conditions as necessary to assure that the facility operates in accordance with the approved plans and specifications, all applicable rules and regulations, and the terms and conditions of the permit.

(2) ***Expire one year from the date of issuance if operations have not commenced, unless notice is provided pursuant to Env-Sw 1106.06; and***

(e) If the permittee has not satisfied all prerequisites for operations, as specified in Env-Sw 1105.01.;

(1) ~~t~~***The*** notice of intent to ~~construct~~ ***operate*** shall not be returned by the department upon receipt; and

(2) ~~a~~***Approval*** to commence operations shall be thereby withheld while permittee is notified and corrects the deficiency.

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

(g) Suspension or revocation of an operating approval shall be subject to Env-Sw 306.

Env-Sw 1105.04 Basic Operating Requirements.

(a) A facility shall operate in compliance with RSA 149-M, all requirements in the solid waste rules, including those noted in Env-Sw 1101.02(c) as applicable and this part, and the terms and conditions of the permit.

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

Env-Sw 1105.05 Signs and Postings.

- (a) Legible signs shall be posted at or near each public entrance to a facility.
- (b) The signs required pursuant to (a) above shall include the following:
 - (1) The facility name and permit number;
 - (2) The name, address and telephone number of the permittee;
 - (3) The days and hours that the facility will be open to receive waste;
 - (4) The types of wastes accepted; and
 - (5) A statement that unlawful dumping will be subject to fine and prosecution.
- (c) A copy of the permit, including a complete copy of the last approved operating plan of record and a complete copy of the last approved closure plan of record, shall be maintained at an ***on-site*** location accessible to ***facilitycertified*** operators.
- (d) A copy of the authorization page of the permit bearing the permit number and the authorization signature, shall be prominently displayed at the facility.
- (e) Current operator certification certificates, obtained pursuant to the provisions of Env-Sw 1600, shall be prominently displayed at the facility.

Env-Sw 1105.06 Facility Operating Records.

- (a) The permittee shall compile and maintain records at the facility which document all phases of facility operations, including the following information:
 - (1) Identification of the facility by name, location by street and municipality and permit number;
 - (2) Identification of the permittee by name, address and telephone number;
 - (3) Identification of all ***facilitycertified*** operator(s) by name, ~~address~~, certificate number, and date(s) of employment at the facility;
 - (4) A copy of the permit and all permit modifications;***
 - ~~(4)~~***(5)*** Quantity, type, source and destination of all waste received by the facility;
 - ~~(5)~~***(6)*** Quantity, type and destination of all waste generated by the facility, if any, including bypass waste and residual waste;
 - ~~(6)~~***(7)*** Quantity, type and destination of all certified waste-derived products produced by the facility, if any;
 - ~~(7)~~***(8)*** Record of inspections, maintenance, and repairs;
 - ~~(8)~~***(9)*** Record of accidents, violations, remedial and emergency event response actions;
 - ~~(9)~~***(10)*** Record of complaints received and related response actions;

~~(10)~~***(11)*** Data from all environmental monitoring performed at or for the facility, whether required by the solid waste rules or the permit or undertaken voluntarily;

~~(11)~~***(12)*** Documentation of contact with the waste management district(s) served by the facility as required by Env-Sw 1105.12;

~~(12)~~***(13)*** If the facility is subject to 40 CFR 258, such information and documentation that the permittee ~~shall be~~ required therein to place into the facility operating records;

~~(13)~~***(14)*** Other recordkeeping information and documentation required by Env-Sw 400 through Env-Sw 800 as applicable based on the functional classification of the facility; and

~~(14)~~***(15)*** Other information and documentation as required by the terms and conditions of the permit.

(b) Upon receipt of solid waste by a disposal facility, the permittee shall obtain a written statement signed by the transporter certifying that the following information is true and correct to the best of the transporter's knowledge and belief:

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

(2) The date of delivery;

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

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

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

~~(c)~~ Operating records shall be made available for department inspection and copies provided to the department pursuant to Env-Sw 2000.

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

Env-Sw 1105.07 Reporting Requirements.

(a) The permittee shall notify the department in writing within 30 calendar days of any ***of the following*** changes: ~~in the~~

(1) Permittee mailing address, day time telephone number, or email address;

(2) Facility mailing address or telephone number;

(3) key eCertified operators; and

(4) Authorized contact person(s).

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

(1) For a facility that received waste during the reporting year, the report shall contain the information required by Env-Sw 1105.13, except as provided by (3) below.

(2) For a facility that did not receive waste during the reporting year and is either undergoing closure or has completed closure excluding completion of all post-closure monitoring and maintenance obligations, the annual report shall contain the information required by Env-Sw 1105.14, except as provided by (3) below.

(3) Except for facility identification information, the permittee shall not be required to submit in the annual report any information specified in Env-Sw 1105.13 or Env-Sw 1105.14 if:

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

~~1a. The nature of the information already submitted;~~

~~2b. The date the information was submitted or the date on the document containing the information;~~

~~3c. The title of the document containing the information, if applicable; and~~

~~4d. The name of the person who submitted the information.; or~~

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

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

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

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

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

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

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

(2) A description of the subject activity;

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

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

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

(6) Certification, signed by the permittee, that the activity ~~shall~~**will** not adversely affect the permitted construction, operation and closure of the facility as required by Env-Sw 1102.02.

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

Readopt Env-Sw 1105.08, effective 7-1-14 (Document #10598), to read as follows:

Env-Sw 1105.08 Hours of Operation.

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

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

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

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

(2) The facility is a limited private facility and receives no waste from off-site locations.

Readopt with amendment Env-Sw 1105.09, effective 7-1-14 (Document #10598), to read as follows:

Env-Sw 1105.09 Receipt and Management of Waste.

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

(b) ***Only authorized wastes generated within the facility's service area, as specified in the permit, shall be accepted by a facility.***

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

(d~~e~~) Unauthorized waste shall be rejected by the facility.

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

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

Readopt Env-Sw 1105.10, effective 7-1-14 (Document #10598), to read as follows:

Env-Sw 1105.10 Management of Residual Waste.

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

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

(c) A residual waste shall not be distributed for use unless certified for distribution and use in accordance with Env-Sw 1500.

Readopt with amendment Env-Sw 1105.11 and Env-Sw 1105.12, effective 7-1-14 (Document #10598), to read as follows:

Env-Sw 1105.11 Operating Plan Content and Format.

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

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

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

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

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

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

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

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

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

- a. Hours of operations;
- b. Facility access control and on-site traffic patterns;
- c. Waste acceptance and rejection procedures, including unloading, sorting and inspection procedures;
- d. The procedure by which the quantity and source(s) of all wastes received by the facility ~~shall~~**will** be determined and recorded;

- e. The procedure by which the quantity and destination of all outgoing waste and certified waste-derived products ~~shall~~**will** be determined and recorded;
 - f. The storage time and capacity limits for all wastes received by the facility and the procedures by which the limits ~~shall~~**will** be monitored to assure compliance therewith;
 - g. All collection, storage, transfer, processing, treatment and disposal methods and procedures employed by the facility for managing waste following receipt, ***described in narrative form and identified in a process flow diagram***; and
 - h. For facilities that process or treat waste, the methods or procedures for managing bypass waste and the quality assurance/quality control procedures relating to the management of processed or treated waste;
- (4) Section 4, titled “residual waste management plan,” shall provide a detailed ***narrative description and a process flow diagram*** of how all residual waste, if any, ~~shall~~**will** be ***generated and*** managed by the facility, including the information specified in a. through d. below, or if the facility will not generate any residual waste, a statement so indicating:
- a. The type and estimated quantity of all residual wastes to be generated by the facility;
 - b. How such wastes ~~shall~~**will** be managed at the facility prior to removal;
 - c. Information to demonstrate how the provisions of Env-Sw 1105.10 shall be met; and
 - d. Quality assurance/quality control provisions, to assure that the wastes to be transferred ~~shall~~**will** be acceptable to the receiving facility;
- (5) Section 5, titled “facility maintenance, inspection and monitoring plan,” shall identify all routine maintenance, inspection and monitoring requirements necessary to assure the integrity of facility operations, including a description of the measures to be undertaken to monitor and inhibit the following:
- a. Spontaneous combustion;
 - b. Other fire hazards;
 - c. Vector production;
 - d. Generation of methane, hazardous, or explosive gases;
 - e. Odors;
 - f. Dust;
 - g. Windblown litter;
 - h. Leachate; and
 - i. Spills;
- (6) Section 6, titled “contingency plan,” shall:
- a. Identify all reasonably foreseeable emergencies, such as ***power outage***, fire, explosion, operator injury, and the like, based on the type of facility and wastes being handled;
 - b. Describe the appropriate response of facility personnel for each emergency identified in a. above; and

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

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

(8) Section 8, titled “recordkeeping and reporting,” shall provide a description of record keeping procedures as necessary to comply with ***Env-Sw 1005.09, Env-Sw 1005.10***, Env-Sw 1105.06 and Env-Sw 1105.07-; ***and***

(9) Section 9, titled “facility site plan,” shall provide a site plan(s) detailing the facility layout, including:

a. All areas where waste is collected, stored, transferred, processed, treated, and disposed of as described in section 3 of the operating plan;

b. All areas where residual waste, if any, is generated and managed, as described in section 4 of the operating plan;

c. Hot load pad; and

d. Traffic pattern(s).

Env-Sw 1105.12 Interactions with ***Host Municipalities, Solid Waste Management Districts and the Public.***

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

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

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

(b) The communication required by (a) above ***shall be sent to:***

(1) The host municipality, which in the case of:

a. A town, shall be ~~sent to~~ the town clerk and select board;

b. A city, shall be ~~sent to~~ the city clerk, ~~and~~ mayor, and city council; or

c. An unincorporated town or place, shall be ~~sent to~~ the county commissioners; and

(2) The chairperson of the host solid waste management district.

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

Readopt with amendment Env-Sw 1105.13, effective 7-1-14 (Document #10598), as amended effective 8-22-2015 (Document #10912), to read as follows:

Env-Sw 1105.13 Annual Report for Active Facilities, Content. For facilities that received waste during the reporting year, the annual report required by Env-Sw 1105.07(b) shall include the following: ***information in the “Annual Facility Report form”, NHDES-S-05-056, March 2024, available at: X.***

- ~~—— (a) Facility name, location by street and municipality, and permit number;~~
- ~~—— (b) Name, address and telephone number of the permittee;~~
- ~~—— (c) Name, address, certificate number and telephone number of all facility operators;~~
- ~~—— (d) Status of the facility, including whether active or inactive and the estimated remaining life and capacity of the facility;~~
- ~~—— (e) Quantity in tons, type and source of all waste received by the facility, with out of state tonnage figures separately listed and totaled;~~
- ~~—— (f) Destination of all wastes received by the facility;~~
- ~~—— (g) Quantity, type and destination of all waste generated by the facility, including bypass and residual waste;~~
- ~~—— (h) For processing and treatment facilities producing certified waste derived products:
 - ~~(1) The quantity, type and market destination of each waste derived product produced and distributed by the facility; and~~
 - ~~(2) Certification that all waste derived products distributed by the facility for use met the applicable standards for distribution and use pursuant to Env Sw 1500 or, if not true, a detailed explanation of the situation and actions taken by the permittee to remedy the problem;~~~~
- ~~—— (i) For non landfill facilities, the estimated quantity of waste stored at the facility, by type, as of the end of the calendar reporting year;~~
- ~~—— (j) A summary and assessment of environmental monitoring performed at the facility, whether required by the solid waste rules or the permit or undertaken voluntarily;~~
- ~~—— (k) Pursuant to the provisions of RSA 149 M:11, XI, a discussion of how facility operations satisfied the public benefit requirements specified in the permit, if any;~~
- ~~—— (l) A certification that the facility is in compliance with:
 - ~~(1) The facility operating plan in accordance with Env Sw 1105.04(b);~~
 - ~~(2) Any applicable requirements of Env Sw 900;~~
 - ~~(3) All terms and conditions of the facility permit;~~
 - ~~(4) The requirements of Env Hw 1100 for the management of universal wastes, if applicable;~~
 - ~~(5) The requirements of Env Hw 807 for the management of used oil, if applicable; and~~
 - ~~(6) The requirements of Env A 1000 for the operation of a burn pile, if applicable;~~~~
- ~~—— (m) If the permittee is unable to certify compliance with (l)(1) through (6), a schedule for achieving compliance;~~
- ~~—— (n) Other information, if any, identified as annual reporting information in:~~

- ~~(1) Env Sw 400 through Env Sw 800 specific to the type of facility, as applicable; and~~
- ~~(2) Env Sw 900 specific to the type(s) of waste managed by the facility, as applicable; and~~
- ~~(e) The signature required by Env Sw 303.04.~~

Readopt with amendment Env-Sw 1105.14, effective 7-1-14 (Document #10598), to read as follows:

Env-Sw 1105.14 Annual Report for Inactive Facilities, Content. For facilities not receiving waste during the reporting year and either undergoing closure or having completed closure except for post-closure monitoring and maintenance obligations, the annual report required by Env-Sw 1105.07 shall include the following: *information in the "Annual Post Closure Report form", NHDES-S-05-057, March 2024, available at: X.*

- ~~(a) Facility name, location by street and municipality, and permit number;~~
- ~~(b) Name and address of the permittee;~~
- ~~(c) Name, address, certificate number and telephone number of all facility operators, if applicable;~~
- ~~(d) Name, address, affiliation and telephone number of the person or persons responsible for managing all post closure activities at the facility;~~
- ~~(e) Facility status, including, as applicable:
 - ~~(1) Date the facility discontinued receipt of waste;~~
 - ~~(2) Commencement and completion dates for all construction activities at the facility related to the approved closure plan; and~~
 - ~~(3) Anticipated or scheduled date for completing all required post closure monitoring and maintenance activities; and~~~~
- ~~(f) A summary and assessment of all environmental monitoring performed at or for the facility, whether required by the solid waste rules or the permit or undertaken voluntarily, specifically including as applicable:
 - ~~(1) Information identified as post closure annual reporting information in Env Sw 400 through Env Sw 800 specific to the type of facility;~~
 - ~~(2) Information identified as post closure annual reporting information in Env Sw 900 specific to the type(s) of waste that were managed by the facility;~~
 - ~~(3) Information concerning emergency events or other unexpected or unusual events at the facility relevant to assessing whether the facility is achieving post closure performance expectations; and~~
 - ~~(4) For a facility having post closure obligations, an evaluation of the available environmental monitoring data and other information pertaining to facility conditions, including a statement by a qualified professional engineer identifying whether the facility is achieving post closure performance expectations and whether adjustments to the approved post closure monitoring and maintenance period or provisions are recommended in light of the performance evaluation.~~~~

Readopt with amendment Env-Sw 1106, effective 7-1-14 (Document #10598), to read as follows:

PART Env-Sw 1106 ADDITIONAL CLOSURE REQUIREMENTS

Env-Sw 1106.01 Commencement of Closure Activities.

(a) Prior to commencing closure of a facility ***and as specified in (b) below***, the permittee shall file a notice of intent to close as described by Env-Sw 1106.02 and, for any closure activity involving construction, shall obtain construction approval pursuant to the provisions of Env-Sw 1104; ***and***

(b) The permittee shall file a notice of intent to close at least:

(1) 30 days prior to commencement of closure activities for transfer stations;

(2) 60 days prior to commencement of closure activities for processing/treatment facilities; and

(3) 120 days prior to commencement of closure activities for landfills.

Env-Sw 1106.02 Notice of Intent to ***Permanently*** Close.

(a) ~~Facility identification;~~ The notice of intent to ***permanently*** close ***a facility*** shall ~~include:~~ ***be submitted on a "Notice of Intent to Permanently Close", NHDES-S-05-036, December 2023, available at: X-include:***

~~(b) Date the facility intends to stop receiving wastes;~~

~~(c) A copy of the facility's approved closure plan or file reference thereto or, if there is no approved closure plan of record, 3 copies of a proposed closure plan prepared in accordance with Env Sw 1106.04 and submitted with an application for a type I-B permit modification pursuant to Env Sw 315;~~

~~(d) If the provisions of the last approved closure plan of record are no longer applicable or no longer conform to the closure requirements of the solid waste rules, identification of such provisions and revisions in accordance with Env Sw 315; and~~

~~(e) The date the facility intends to commence closure activities.~~

Env-Sw 1106.03 Approval to Commence Closure.

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

(b) The permittee shall:

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

(2) Promptly display each at the site.

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

(d) Approval to commence closure shall:

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

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

(e) If the permittee has not satisfied all prerequisites for closure as specified in Env-Sw 1106.01, the notice of intent to closure shall not be returned by the department upon receipt and approval to commence closure shall be thereby withheld while the permittee is notified and corrects the deficiency.

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

Env-Sw 1106.034 Basic Facility Closure Requirements. A facility shall close in conformance with the solid waste rules and the provisions of an approved closure plan in conformance with Env-Sw 1106.045.

Env-Sw 1106.045 Closure Plan, Content and Format.

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

(b) For a landfill closure plan prepared before the facility reaches final grades, the design plans and specifications for the capping system and related appurtenances shall be considered preliminary and need not provide final design detail sufficient to allow third party implementation without further explanation or guidance. However, any closure plan approved on the basis of preliminary plans shall include, in the list of closure tasks, provisions for preparing final design plans and specifications for the capping system and related appurtenances, as specified in Env-Sw 807.

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

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

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

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

a. The facility name, telephone number, mailing address, location by street address and municipality, and permit number;

b. The type of facility; and

c. The name, address, and telephone number of the permittee, property owner, and facility operator.

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

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

- (4) Section 4, titled “notifications,” shall provide a description of how notice ~~shall~~**will** be given to facility users prior to terminating receipt of waste;
- (5) Section 5, titled “closure requirements,” shall provide:
- a. A list of each major closure work task required to implement and complete closure of the facility;
 - b. A description of the procedures for completing all required closure work tasks; and
 - c. Design plans and specifications for construction of required closure systems;
- (6) Section 6, titled “post-closure requirements,” shall ~~identify~~:
- a. Describe all*** required post-closure testing, inspection, maintenance ~~or~~ ***and*** monitoring that will be performed at the facility pursuant to the provisions of the solid waste rules and the permit;
 - b. Identify any activity not regulated by the solid waste rules but involving a waste listed in Env-Sw 101.03, and any activity that is permit-exempt in Env-Sw 302.03; and***
 - c. For a landfill, identify any activity approved in accordance with Env-Sw 807.***
- (7) Section 7, titled “recordkeeping and reporting,” shall identify and describe:
- a. All recordkeeping and reporting obligations required of the facility following completion of the closure work identified in section 5 of the closure plan; and
 - b. Locations and provisions for storing facility records, including the operating records, following facility closure;
- (8) Section 8, titled “other permits ***and approvals***,” shall:
- a. Identify all other existing local, state and federal permits and approvals anticipated to be in effect at the time of closure.***
 - b.*** Identify all other local, state and federal permits and approvals required to implement facility closure, including the implementation of all post-closure monitoring and maintenance requirements;
 - ~~b.c.~~ Identify the status of each permit and approval identified pursuant to a. above; and
 - ~~e.d~~ For a landfill located on property not owned by the permittee, include a copy of the written executed access agreement required by Env-Sw 1003.03; ~~and~~
- (9) Section 9, titled “closure cost estimate,” shall provide a closure cost estimate prepared in accordance with the criteria in Env-Sw 1403.02.

Env-Sw 1106.06 Notification of Closure. Within 30 days of completing all required closure activities at a non-landfill facility, the permittee shall certify in writing to the department that closure has been completed as required by the solid waste rules.

Env-Sw 1106.057 ~~Temporary~~ **Cessation of Facility Construction or Operations.**

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

(b) A facility shall not be deemed abandoned if the permittee provides written notice to the department, ***within 90 days of ceasing construction or operations***, identifying the conditions for the temporary cessation of operation and identifies the provisions for resuming operation or construction of the facility, including the following information:

- (1) ~~Facility name, location by street and municipality, and permit number~~ ***Facility Identification***;
- (2) Activity(s) being temporarily discontinued;
- (3) Reason for the temporary discontinuance of activity(s);
- (4) Date activities are anticipated to resume; and
- (5) Provisions which ~~shall~~ ***will*** be undertaken to protect the environment, public health and safety during the temporary discontinuance;

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

(d) A temporary cessation of activities shall not exceed one year; and

~~(e) Failure by~~ ***If*** the permittee ***fails*** to take action to secure the facility and site as specified, ***or if a temporary cessation exceeds one year, then*** ~~shall require~~ the permittee ***shall will be required*** to implement closure in accordance with the solid waste rules and the permit.

APPENDIX

| Rule Sections | State Statute(s) Being Implemented |
|----------------------|--|
| Env-Sw 1100 | RSA 149-M:6, III; RSA 149-M:7, II, III, XIV; RSA 149-M:9, I, III |