

Text added to existing rules in bold italics  
Text deleted from existing rules shown ~~struck through~~  
Text that is all new (introduced with Adopt) in regular font

**Readopt with amendment Env-Sw 301 and Env-Sw 302, effective 7-1-14 (Document #10595), cited and to read as follows:**

CHAPTER Env-Sw 300 SOLID WASTE PROGRAM: PERMITS

Statutory Authority: RSA 149-M:7

PART Env-Sw 301 PURPOSE AND APPLICABILITY

Env-Sw 301.01 Purpose. The purpose of the rules in this chapter is to establish provisions for administering a solid waste management facility permit system pursuant to RSA 149-M.

Env-Sw 301.02 Applicability. The rules in this chapter shall apply to solid waste management activities regulated under RSA 149-M.

PART Env-Sw 302 SOLID WASTE FACILITY PERMITS

Env-Sw 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.

Env-Sw 302.02 Solid Waste Permit Required. Except as provided in Env-Sw 302.03, a facility at which solid waste is collected, stored, transferred, processed, treated 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.

Env-Sw 302.03 Solid Waste Permit Exemptions.

(a) Pursuant to RSA 149-M:9, I and subject to the provisions of Env-Sw 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-Sw 305.04(b), no permit shall be required to:

- (1) Collect, store, and transfer a waste as specified in Env-Sw 408;
- (2) Process or treat a waste, for reuse or other purposes, as specified in Env-Sw 508, Env-Sw 608, and Env-Sw 708;
- (3) Landfill a waste as specified in Env-Sw 810;
- (4) Land spread ash from the combustion of virgin wood as specified in Env-Sw 1704;
- (5) Manage a waste that has been formally declared by the generator, in accordance with Env-Hw 502.01(c)(2), to be a hazardous waste ***or for which the generator has elected to manage the waste as a hazardous waste***, provided that the waste is managed in accordance with the requirements of RSA 147-A and the hazardous waste rules;
- (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-Sw 1000;
  - c. Stockpiles conform to the requirements in Env-Sw 404.05;

- 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, the facility complies with all provisions of Env-A 1000;
- (7) Conduct bench scale research and development projects *or teaching activities* within a building or other location used for research *or academic* studies, provided that practices comply with the universal facility requirements in Env-Sw 1000;
- (8) 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-Sw 1000;
- (9) Collect, store, transfer, process, treat, or dispose of waste concrete, cement, brick, other inert masonry materials, ~~or~~ bituminous concrete, *or asphalt pavement*, provided that:
- a. The waste is actively managed;
  - b. Management practices comply with the universal facility requirements in Env-Sw 1000;
  - c. ~~The materials comprising the waste are derived from virgin materials only~~ *consist only of asphalt pavement or bituminous concrete, clay bricks, and attached mortar normally used in construction, and cement or concrete that may contain rebar;*
  - d. The materials comprising the waste are fully cured;
  - e. The waste is *not painted, coated, or impregnated with any substance;*
  - f. *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;
  - g. *The waste is not mixed with or contaminated by any other wastes or debris;*
  - h. If landfilled, ~~the bituminous concrete or asphalt pavement waste is not~~ *that has been ground or pulverized is stabilized with a binding agent;*
  - i. *If landfilled, rebar is not left exposed at the ground surface;* and
  - gj. The activity occurs after March 30, 1999;
- (10) 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-Sw 1500 and accordingly managed;
  - b. The pallets and crates are actively managed;
  - c. Management practices comply with the universal facility requirements in Env-Sw 1000;
  - d. The pallets and crates comply with the toxics in packaging requirements in RSA 149-M:32 - 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-Sw 404.05;
- 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 requirements; ~~and~~

(11) Manage on-site animal mortalities that pose a risk to public health under the direction of the state veterinarian; **and**

***(12) Collect, store, and manage manure for the production of compost.***

Env-Sw 302.04 Solid Waste Permit Types. ~~The solid waste rules shall establish a permit system established pursuant to RSA 149-M:6, III shall be~~ comprised of the following permit types:

(a) Standard permit, ~~pursuant to Env-Sw 314~~, for a facility meeting ~~each of the following criteria:~~

(1) The facility is not:

***a. a permit-exempt facility in Env-Sw 302.03; and***

~~(2) The facility is not~~ ***b. eligible for a permit-by-notification pursuant to Env-Sw 407, Env-Sw 507, Env-Sw 607, or Env-Sw 707;***

***(2) The facility is deemed to hold a standard permit pursuant to Env-Sw 307; or***

~~(3) The facility is not eligible for a research and development permit pursuant to Env-Sw 312~~ ***The facility does not hold another type of solid waste facility permit identified in (b) through (f) below;***

~~(4) The facility is not eligible for an emergency permit pursuant to Env-Sw 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 and ***either have closed under the provisions of that temporary permit or*** continue to operate under such status, ***as identified in Env-Sw 307;***

(c) Permit-by-notification, ~~pursuant to Env-Sw 311~~, for certain limited waste management activities, as specified in Env-Sw 407, Env-Sw 507, Env-Sw 607, and Env-Sw 707 based on the functional classification of the facility;

(d) Research and development facility permit, ~~pursuant to Env-Sw 312~~, for research and development projects as defined ~~by~~ ***in*** Env-Sw 104 ***or as identified in Env-Sw 307;***

(e) Emergency permit, ~~pursuant to Env-Sw 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; and

(f) General permit, ~~issued pursuant to Env-Sw 308~~, for facilities that are eligible for a general permit in lieu of a standard permit, as authorized by RSA 149-M:6, III and RSA 149-M:9, I-a and I-b.

Env-Sw 302.05 Solid Waste Facility Types ***by Functional Classification***. 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 in Env-Sw 103.32;
- (b) Processing/treatment facilities, as defined in Env-Sw 104.13, including:
  - (1) Composting facilities; and
  - (2) Incineration facilities; and
- (c) Collection, storage and transfer facilities, as defined in Env-Sw 102.35, including:
  - (1) Transfer stations; and
  - (2) Recycling centers.

Env-Sw 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 ***quantity and*** type of waste handled by the facility.

**Readopt Env-Sw 303.01, effective 7-1-14 (Document #10595), cited and to read as follows:**

PART Env-Sw 303 FILING PROVISIONS FOR APPLICATIONS, REGISTRATIONS, AND REPORTS

Env-Sw 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.

**Readopt with amendment Env-Sw 303.02 through Env-Sw 303.12, effective 7-1-14 (Document #10595), to read as follows:**

Env-Sw 303.02 Applicability.

- (a) The rules in this part shall apply to all persons filing the following applications:
  - (1) New permits, pursuant to Env-Sw 311 through Env-Sw 314;
  - (2) Modification of existing permits, pursuant to Env-Sw 315, ~~including permit transfer and permit renewal applications;~~ and
  - (3) Waivers of any requirement of the solid waste rules, pursuant to Env-Sw 202.
- (b) The rules in Env-Sw 303.03 and Env-Sw 303.04 shall ~~also~~ apply to persons filing:
  - (1) ***A general permit registration pursuant to Env-Sw 308; and***
  - (2) ***A pre-1981 landfill registrations pursuant to Env-Sw 309.***
- (c) The rules in Env-Sw 303.03 and Env-Sw 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, ***incident and*** compliance reports, and other facility reportings ~~data and information specified~~ ***required*** by ***RSA 149-M***, the solid waste rules, ***or the facility permit***.

Env-Sw 303.03 Basic Filing Requirements.

- (a) Applications, registrations, ***notifications***, ~~and~~ reports, ***and other submittals*** 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, ***registrant, or permittee*** 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~~ ***document*** being filed.
- (b) Applications, registrations, ***notifications***, and reports shall be signed as specified in Env-Sw 303.04.
- (c) Subject to (d) ***and (e)***, below, applications, registrations, ***notifications***, and reports shall be submitted to the department ~~in triplicate~~ ***electronically, or, in cases where the only means of submittal is on paper, a single paper copy shall be submitted to the department.***
- (d) ~~If the A~~ applications, registrations, ***notifications***, and reports ~~may be~~ submitted to the department electronically. ~~If an applicant chooses to submit an application, registration, or report electronically, a single paper copy of the application, registration, or report shall also be submitted to the department~~ ***include plans larger than 11 inches by 17 inches, plans that do not represent a scaled version of any required plans, or plans that are otherwise not legible in electronic format, a single paper copy of such plans shall be submitted.***
- (e) ~~All applications shall be submitted with~~ The fee specified in Env-Sw 310, if any, ***shall be submitted to the department under separate cover with:***
- (1) ***The applicant, registrant, or permittee name, mailing address, telephone number, and email address; and***
  - (2) ***The facility name, location by street address and municipality, permit number if available, and type of application or registration submitted.***
- (f) Applications shall be submitted with the compliance information required by Env-Sw 303.13.
- (g) Except as provided in (e) ***above and*** (h) below, all components ~~and copies~~ of an application, registration, ***notification***, and report shall be submitted together at the same time.
- (h) 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-Sw 316, the applicant shall:
- (1) Submit the information as specified in Env-Sw 316 directly to the New Hampshire department of justice, office of attorney general, environmental protection bureau (NHDOJ) 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.

Env-Sw 303.04 Signature Requirements.

- (a) Each application, registration, ***notification***, 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, **registration, notification, or report** shall be signed by the ~~person~~**individual**(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 **true, correct and complete, and not misleading** 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 or incomplete information shall be subject to revocation or suspension pursuant to Env-Sw 306, and civil or criminal penalties;

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

(4) For applications not subject to Env-Sw 1400, **a certification of that the applicant has adequate funds, in an amount calculated pursuant to Env-Sw 1403.02, that are readily available to cover the cost of facility closure**~~financial responsibility~~ pursuant to Env-Sw 1005.08(b); **and**

(5) **An agreement to operate the facility in accordance with Env-Sw 1105.04(a).**

(d) Each application **and registration** shall be signed by the **facility** owner and ~~land~~**property** owner, if different than the applicant **or registrant**.

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

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

(1) The applicant, **registrant, or permittee** has, or shall be granted, the legal right to occupy and use the property ~~on which~~**where** the facility is or will be located for the purposes specified in the application **or registration**; 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 **and RSA 149-M**.

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

Env-Sw 303.05 ~~Notices of Filing to Abutters~~.

(a) If the application **or registration** ~~content and format~~ requirements, as provided in **Env-Sw 308, Env-Sw 309**, Env-Sw 311 through Env-Sw 315, **and Env-Sw 202**, require the applicant **or registrant** to provide a notice of filing ~~to abutters~~, the applicant **or registrant** shall:

(1) Provide notice **to the entities identified in Env-Sw 303.06 through Env-Sw 303.12, as applicable**;

(2) **Provide notice** as specified by (b) through (ed) below; and

(23) Place a copy of the application at a publicly-accessible location, for example the public library or town hall, for public review **on or before the date the application is filed and** 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 before that date.
- (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;~~
    - ~~e. Street address; and~~
    - ~~d. Municipality as defined in Env-Sw 103;~~
  - (3) The name(s) ~~and~~, mailing address(es), **and authorized email 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 processed or treated at the facility;**
    - ~~de.~~ The quantity and type(s) of waste to be disposed at the facility;
    - ~~ef.~~ The facility service area;
    - ~~fg.~~ The facility service type;
    - ~~gh.~~ The facility life expectancy;
    - hi.** Other information required to accurately describe the scope and nature of the proposed activity(s); and
    - ij.** The estimated dates of facility construction and operation;
- (5) Identification of the locally accessible place where the application **is or** will be available for public review;

(6) Name, title, mailing address~~and~~, telephone number **and email address** 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 **and email address** of the ~~agency~~ **department** 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 will accept written comments from the abutters for a period of 30 days following the date the application is filed; and~~

~~(109)~~ If the application includes a request for a waiver to any rule, a statement so indicating and specifically citing the rule(s).

Env-Sw 303.06 ~~Additional Filing Requirements~~ **Notice of Filing to Abutters.**

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

~~(1) Env-Sw 303.07; and~~

~~(2) Env-Sw 303.08 through Env-Sw 303.12, if applicable;~~ **pursuant to Env-Sw 314, a type I-A permit modification or a type IV permit modification pursuant to Env-Sw 315, or a waiver pursuant to Env-Sw 202 shall provide to each abutter a notice of filing in accordance with Env-Sw 303.05 and (b) and (d) below.**

(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.~~ **The notice of filing shall include the following statement: "Please share this information with all tenants of the property (for example, people in apartments, nursing homes, schools and businesses). You can do this by posting this notice in a public place or distributing copies by hand, by mail or by email. If you require additional copies of this notice, please contact me/us."**

~~(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 before that date.~~ **Following a written request by an abutter for additional copies of the notice of filing in accordance with (b) above, the applicant shall provide such copies within 5 business days.**

**(d) If the application is for approval to transfer a permit, a statement that the department will accept written comments from abutters for a period of 30 days following the date the application is filed pursuant to RSA 149-M:9, XII(b).**

*(e) If the applicant, facility owner, facility operator, property owner, or an affiliate 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, facility owner, facility operator, property owner, or affiliate.*

Env-Sw 303.07 **Notice of Filing to Municipality and District.**

(a) *The applicant or registrant for the following shall make notification to the host municipality and district:*

- (1) An application for a new permit pursuant to Env-Sw 311 through Env-Sw 314-~~or~~;*
- (2) ~~a~~An application for a type I, ~~type III~~ and/or type IV permit modification pursuant to Env-Sw 315;*
- (3) An application for a waiver pursuant to Env-Sw 202; or*
- (4) A registration pursuant to Env-Sw 308 or Env-Sw 309.*

*(b) ~~The applicant or registrant~~ 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-Sw 303.05(e) and, if applicable, ~~(e)~~ below. **For the purposes of this section:***

*(1) ~~The~~ A host municipality and other affected municipalities as specified by (b) below, which in the case of shall be notified by sending a copy of the notice of filing to each of the following individuals:*

- a. For Aa town, shall be sent to the town clerk and, **chair of the selectmen board, and town administrator or manager;***
- b. For Aa city, shall be sent to the city clerk and, mayor and city council, **and city administrator or manager;** and*
- c. For Aan unincorporated town or place, shall be sent to the county commissioners; and*

*(2) ~~The~~ chairperson of the host **A solid waste management district and other affected districts as specified by (b) below** shall be notified by sending a copy of the notice of filing to the chairperson.*

*(~~b~~c) The applicant or registrant shall provide to each of the following entities a notice of filing in accordance with Env-Sw 303.05 and, if applicable, (e) below*

*(1) The host municipality and host district;*

*(2) If the requested approval directly affects a service provided by a specific ~~m~~Municipality(s) ~~or~~and district(s) besides**other than** the host municipality and host solid waste management district **directly affected by the requested approval**, 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 district so affected;~~ **and***

*(3) Municipality(s) and district(s) in which abutters are required to be notified.*

*(d) The notice of filing sent to the clerk or the chair of the county commissioners and the chair of the district in accordance with (b) and (c) above shall each include a single copy of the application or registration and a statement that additional copies are available upon written request.*

(~~ee~~) 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-Sw 303.08(**b**).

Env-Sw 303.08 Notice for GAA and GA-1 Groundwater Protection Areas. The applicant **or registrant** 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**in RSA 485-C:2, X:

- (a) A copy of the complete application; and
- (b) A notice of filing **shall be provided in accordance with Env-Sw 303.05 and** containing:
  - ~~(1) The information specified in Env-Sw 303.05(e); and~~
  - ~~(2) A~~ **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.

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

(a) The applicant **or registrant** 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 **natural and cultural** resources ~~and economic development, national~~ **natural** heritage ~~inventory program~~ **bureau**.

(b) The notice of filing shall **be provided in accordance with Env-Sw 303.05 and** ~~contain the following information:~~

- ~~(1) The information specified in Env-Sw 303.05(e); and~~
- ~~(2) A~~ **a** request for the recipient(s) of the notice to submit to the department, within 30 days following **receipt of** the notice of filing, written comments concerning the adequacy of the application relative to protecting threatened or endangered species ~~pursuant to Env-Sw 1002.03~~.

Env-Sw 303.10 Notices for Airport Proximity.

(a) The applicant **or registrant** for approval to manage putrescible waste within the protective radius of certain airports as specified in Env-Sw 1002.04(c) shall provide the following information to the **affected airport, the** federal aviation administration (FAA) **and the New Hampshire department of transportation, bureau of aeronautics (NHDOT)**:

- ~~(a)(1)~~ A copy of the complete application;
- ~~(b)(2)~~ A notice of filing **provided in accordance with Env-Sw 303.05 and** containing:
  - ~~(1) The information specified in Env-Sw 303.05(e); and~~
  - ~~(2) A~~ **a** request for the **affected airport, the** FAA **and NHDOT** to submit to the department, within 30 days following **receipt of** the notice of filing, written comments concerning the adequacy of the application relative to satisfying the requirements of Env-Sw 1002.04(c);

***(b) The applicant for a new municipal solid waste landfill approval proposed to be located within a six-mile radius of a public airport shall provide the following information to the affected airport, the FAA, and NHDOT:***

***(1) A copy of the complete application; and***

***(2) A request for the affected airport(s), the FAA and NHDOT to submit to the department within 30 days following receipt of the notice of filing, written comments concerning the adequacy of the application relative to satisfying the requirements of Env-Sw 1002.04(c) and 40 C.F.R. 258.10, and the applicability of 49 U.S.C. 44718.***

Env-Sw 303.11 Notices for Designated River Areas.

(a) The applicant ***or registrant*** for approval of a proposed activity affecting any river or segment designated under RSA 483 ***or occurring within the designated river corridor defined pursuant to 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 ***be provided in accordance with Env-Sw 303.05 and*** contain

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

~~(2) A~~ ***request for the recipient(s) of the notice to submit to the department, within 30 days following receipt of the notice of filing, written comments concerning the adequacy of the application relative to satisfying the requirements of RSA 483.***

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

**Readopt with amendment Env-Sw 303.13, effective 10-21-17 (Document #12404), to read as follows:**

Env-Sw 303.13 Compliance Status and History.

(a) All applicants, except ~~emergency permit applicants~~ ***as provided in (d) below***, shall submit compliance ***status and performance history*** information with the application, as specified by (b) and (c), below.

(b) Applicants for a permit-by-notification shall submit compliance certification in accordance with Env-Sw 303.14.

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

(1) Compliance certification pursuant to Env-Sw 303.14; or

(2) If unable to certify compliance pursuant to Env-Sw 303.14, a compliance report pursuant to Env-Sw 303.15.

***(d) Applicants for an emergency permit pursuant to Env-Sw 313 shall not be required to submit compliance status and performance history information with the application.***

**Readopt with amendment Env-Sw 303.14 and Env-Sw 303.15, effective 7-1-14 (Document #10595), to**

**read as follows:**

Env-Sw 303.14 Compliance Certification.

(a) The applicant shall certify that each of the statements listed in (b) below are true, ***complete, and not misleading to the applicant's knowledge and belief*** for each of the following individuals and entities:

- (1) The applicant;
- (2) The ***facility*** 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;
- (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, ***complete, and not misleading to the applicant's knowledge and belief***:

- (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;
- (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.

Env-Sw 303.15 Compliance Report.

(a) Applicants unable to certify compliance pursuant to Env-Sw 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-Sw 303.14(b)(1) through (b)(8) to be untrue;

(2) For each circumstance which causes a statement in Env-Sw 303.14(b)(1) through (b)(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-Sw 303.14(b)(5) through (b)(8) to be untrue, a plan and schedule by which the applicant proposes to achieve full compliance.

***(c) The rules in this section shall not apply to applicants for a permit-by-notification or modification of a permit-by-notification, such applicants being ineligible pursuant to Env-Sw 305.03(b)(7) and Env-Sw 1202.05(c) to hold a permit-by-notification.***

**Adopt Env-Sw 303.16 to read as follows:**

Env-Sw 303.16 Professional Engineer. Plans, specifications, calculations, operating plans, closure plans and other documents requiring the practice of engineering as defined in RSA 310-A:2, III shall be sealed by a qualified professional engineer.

**Adopt Env-Sw 303.17 to read as follows:**

Env-Sw 303.17 Professional Geologist. Plans, calculations, and other documents requiring the practice of geology as defined in RSA 310-A:118, III shall be sealed by a qualified professional geologist.

**Readopt with amendment Env-Sw 304, effective 7-1-14 (Document #10595), to read as follows:**

PART Env-Sw 304 APPLICATION ***PROCEDURES AND REVIEW***

Env-Sw 304.01 Applicability. The rules in this part shall apply to all persons filing applications for the following approvals:

(a) New permits pursuant to Env-Sw 311 through Env-Sw 314;

(b) Modification of existing permits, pursuant to Env-Sw 315, ~~including permit transfer and permit renewal applications;~~

(c) Waivers of any requirement of the solid waste rules, pursuant to Env-Sw 202; and

(d) Applications to certify the distribution and use of wood ash pursuant to Env-Sw 1700.

***Env-Sw 304.02 Pre-application Meeting***

*(a) Not less than 30 days or more than 120 days prior to filing an application for a standard permit, research and development permit, or Type I-A permit modification, the applicant shall attend a pre-application meeting with the department to discuss the proposed facility, proposed project, or proposed facility changes.*

*(b) The applicant shall provide the following information about the proposed facility, project or changes at or prior to the meeting:*

*(1) Name of the applicant, facility owner, property owner, and facility operator;*

*(2) Location of the proposed or existing facility or project, including a site plan showing proposed setback distances;*

*(3) Functional classification pursuant to Env-Sw 302.02;*

*(4) Service area and service type;*

*(5) Types and quantities of wastes;*

*(6) For landfills, footprint and life expectancy;*

*(7) A description of the proposed facility, project or changes, including a process flow diagram as applicable;*

*(8) A synopsis of hydrogeologic, geologic and soils information that the applicant has researched and intends to use to support its application;*

*(9) Anticipated schedule for permitting, construction and operations; and*

*(10) Other information as needed to inform the department of the proposed facility, project or changes.*

Env-Sw 304.023 Application Receipt.

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

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

(c) Except as provided in (d) **and** (e) below, an application filed contrary to Env-Sw 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-Sw 311 or for a type III permit modification pursuant to Env-Sw 315, if filed contrary to Env-Sw 303, shall not be held as described in (c) above and shall be ~~denied in accordance with Env Sw 305.03(c) and (d)~~ **returned, with a written explanation as to the reason(s) for returning the application and a copy of the application with deficiencies highlighted. If the application is accompanied by a waiver request, such request shall also be returned unprocessed.**

***(e) Return of an application due to improperly filing or completing the application shall not preclude the applicant from later obtaining an approval by submitting an application that meets the application filing requirements of Env-Sw 303.***

Env-Sw 304.034 Application Completeness Determination.

(a) Within 60 days~~;~~ after the date an application is filed in accordance with Env-Sw 303, ***or by an alternative date established by prior written agreement with the applicant pursuant to RSA 541-A***, the department shall determine that the application is complete if 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-Sw 304.045 and Env-Sw 304.056 shall apply.

(d) If the application is complete, the provisions of Env-Sw 304.067 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 spent processing the application.

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

***(e) An application for a permit-by-notification pursuant to Env-Sw 311 or a type III permit modification pursuant to Env-Sw 315 that is accompanied by a waiver request pursuant to Env-Sw 202 shall be processed in accordance with the time limits for a waiver request.***

***(f) The department may enter into a written agreement with the applicant for the department to retain, at the applicant's expense, an independent licensed professional engineer or hydrogeologist (PEG) to assist the department in determining whether an application is complete in accordance with RSA 149-M:9, XV.***

Env-Sw 304.045 Incomplete Applications.

(a) Except as provided in (c) through (f) 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 ***application*** deficiencies ***and the additional information needed*** shall be identified;

(3) Instructions shall be provided for completing the application~~;~~;

~~(4) including the~~ ***(4) including the name, title, mailing address and, telephone number and email address of the agency-department official or employee who may can be contacted regarding the application shall be provided; and***

(45) The applicant shall be alerted to the application dormancy provisions specified in Env-Sw 304.056(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~~ **notice of filing, except abutters**, pursuant to Env-Sw 303.

(c) If 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-Sw 305, the department shall deny the requested approval and send written notice thereof in accordance with Env-Sw 305, in lieu of deeming the application incomplete.

(d) Applications for permits-by-notification pursuant to Env-Sw 311 and type III permit modifications pursuant to Env-Sw 315, if incomplete upon initial submittal, shall be ~~denied pursuant to Env-Sw 305.03(e) through (e)~~ **returned in accordance with Env-Sw 304.02(d)**.

(e) The department shall notify the applicant by telephone in lieu of providing a written notice of incompleteness if:

- (1) The missing information is incidental to the substance of the application, such as missing certified mail receipts ~~or missing pre-addressed envelopes~~;
- (2) The anticipated time required of the applicant to correct the deficiency is less than the anticipated time required of the department to notify the applicant in writing; and
- (3) The department is able to contact the applicant by telephone.

(f) If the department provides notice of incompleteness pursuant to (e) above, the department shall specify in the verbal notice:

- (1) A reasonable time period for correcting the deficiency, after which time written notice will be sent by the department in accordance with (a) and (b) above, if no response by the applicant is received by the department; and
- (2) That the applicant is 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-Sw 303, **other than abutters**, to whom the applicant was required to provide a ~~copy of the initial application~~ **notice of filing**.

(g) 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.

(h) 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.

#### Env-Sw 304.06 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-Sw 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-Sw 303 to whom the applicant was required to provide a copy of the initial application;

(2) ***Add a copy of all information submitted to complete an incomplete application to the publicly-accessible application identified in Env-Sw 303.05(a)(3) when such publicly-accessible application is required;*** and

(23) Provide to the department a written and signed statement attesting to ~~the same~~ ***that the requirements of (1) and (2) above have been met.***

(c) Information received to complete an incomplete application shall be reviewed by the department in accordance with Env-Sw 304.023 and Env-Sw 304.034.

(d) The applicant shall submit all information required to complete an incomplete application within one year from the date the application is initially ~~deemed~~ ***determined*** incomplete ***in writing to the applicant by the department.*** An incomplete application that becomes a dormant application as defined by Env-Sw 102 shall be deemed denied without further action by the department.

#### Env-Sw 304.067 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 are identified;

(2) ***A statement identifying that the application is deemed complete is included;***

(3) The ~~dates and arrangements~~ ***requirements*** for a public hearing pursuant to Env-Sw 304.089, ***as applicable,*** are identified, ~~if known by the time notice of completeness is given;~~ and

(4) The name, title, mailing address ~~and~~, telephone number ***and email address*** of the department official or employee who ~~may~~ ***can*** be contacted regarding the application ***and coordination of a hearing, if required,*** is 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~~ ***notice of filing, except abutters,*** pursuant to Env-Sw 303.

(c) A notice of completeness and a notice of decision pursuant to Env-Sw 305 shall be combined, if a public hearing will not be held and the department has completed a ~~technical review~~ of the application as required by Env-Sw 304.078.

(d) ***An application for a permit-by-notification pursuant to Env-Sw 311 and a type III permit modification pursuant to Env-Sw 315 shall be approved in accordance with Env-Sw 305 upon determining the application is complete, unless such application is accompanied by a waiver, in which case review of the application shall proceed in accordance with Env-Sw 304.08.***

(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.

#### Env-Sw 304.078 Technical Application Review.

(a) ~~Except as provided in (c) below, a complete application shall undergo a technical review by t~~The department ***shall review complete applications*** to determine:

(1) Whether the ***application provides sufficient information to conclude that the*** proposed activity meets all applicable ~~criteria~~ ***requirements*** for issuance as specified in the solid waste rules ~~of an approval~~; or

(2) Whether a condition for denial, as specified in Env-Sw 305, exists.

***(b) The department may enter into a written agreement with the applicant for the department to retain, at the applicant's expense, an independent licensed (PEG) to assist the department in determining whether an application meets the requirements of RSA 149-M and the rules in accordance with RSA 149-M:9, XV.***

~~(bc)~~ 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-Sw 303;

(3) Persons participating in a ~~public~~-hearing pursuant to Env-Sw 304.089, if held; ~~and~~

(4) The NHDOJ pursuant to the provisions of Env-Sw 316; ***and***

***(5) Independent licensed professional engineer(s) or hydrogeologist(s) retained in accordance with (b) above, if any.***

***(d) If the department identifies during review of an application that additional information is required to make a determination in accordance with (a) above, it shall:***

***(1) Notify the applicant in writing; and***

***(2) Request the applicant submit the additional information as soon as practicable but not later than 30 days after such request.***

~~(ee)~~ ***Except when required by (f) below***, For applications for a permit-by-notification pursuant to Env-Sw 311 and a type III permit modification pursuant to Env-Sw 315, ~~the department~~ shall not ***be*** independently assessed ***by the department as to*** whether the proposed activity meets all requirements of the solid waste rules and shall ***instead*** rely on the applicant's certification attesting to the same as specified by Env-Sw 311 and Env-Sw 315.

***(f) Application for a permit-by-notification pursuant to Env-Sw 311 and a type III permit modification pursuant to Env-Sw 315 that are accompanied by a waiver request shall be reviewed in accordance with (a) through (c) above.***

#### Env-Sw 304.09 Public Hearing.

(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-Sw 407, Env-Sw 507, Env-Sw 607, and Env-Sw 707;
  - (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-Sw 315;
  - (7) Construction approvals pursuant to Env-Sw 1100, ~~including approvals to construct landfill capping systems~~; and
  - (8) Operating approvals pursuant to Env-Sw 1100.
- (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) A hearing to accept written testimony shall be required for type IV permit modification applications pursuant to Env-Sw 315.***

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

~~***(g)***~~ Notice to the public shall be by:

~~***(1)***~~ ***Publication in a newspaper of general circulation in the host municipality and host solid waste management district;***

***(2) Publication on the department's website; and***

***(3) For unlimited service area facilities, publication in a newspaper of general daily statewide circulation.***

~~***(g)***~~ Notice to the applicant, host municipality, host ~~solid waste management~~ district and other affected entities, excluding abutters receiving notice pursuant to ~~***(j)***~~ 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, ***facility*** type and, if applicable, permit number;

~~(2) State the date, time and location of the hearing;~~

(32) Identify the location(s) where a copy of the complete application is available for public review;

(43) ***In the case of a public hearing to receive written and oral testimony:***

***a. State the date, time, and location of the hearing; and***

***b. State that testimony may be submitted in writing to the department at any time before the close of the hearing ~~notice period~~ record in lieu of attending or providing oral testimony at the public hearing;***

(4) ***In the case of a public hearing to receive written testimony:***

***a. State the date and time the hearing record is scheduled to close; and***

***b. State that only written testimony will be accepted and may be submitted to the department at any time before the close of the hearing record.***

(5) Request disabled persons planning to attend the hearing ***or to review the application*** and requiring special assistance under the provisions of the Americans with Disabilities Act to contact the department ***as soon as practicable, and*** in advance of the hearing, ***if scheduled,*** to identify the type of assistance required; and

(6) Provide the name, title, mailing address ~~and~~, telephone number ***and email address*** of the department official or employee who ~~may~~***can*** be contacted regarding the application and hearing, and to whom written ~~public hearing~~ testimony may be submitted.

(~~j~~) Pursuant to RSA 149-M:9, VIII, the applicant shall provide a notice of public hearing, as specified in (~~hi~~) above, to all abutters by certified mail, return receipt requested. If the applicant ~~or the~~, facility site owner, ***facility operator, property owner, or affiliate*** 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, ***facility operator, property owner, or affiliate.***

(~~k~~) The applicant shall make a copy of the complete application available at a locally accessible place for public review from the date the 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 (~~lm~~) below.

(~~lm~~) 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 ***pursuant to RSA 149-M:11, IV(a);***

(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-Sw 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 applicant shall provide proofs of notification by providing a copy of the handwritten acknowledgements of receipt and/or the return receipts to the department prior to the public hearing, or, in cases where delivery with return receipt failed, proof of multiple delivery attempts.*

~~(p)~~ The department shall conduct the hearing in accordance with the provisions of *RSA 541-A, Env-Sw 200, and Env-C 200* applicable to non-adjudicative hearings.

**Readopt Env-Sw 305.01, effective 7-1-14 (Document #10595), cited and to read as follows:**

PART Env-Sw 305 APPLICATION DECISIONS

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

**Readopt with amendment Env-Sw 305.02, effective 7-1-14 (Document #10595), to read as follows:**

Env-Sw 305.02 Decision on Application.

~~(a) Following completion of the review procedures in Env-Sw 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-Sw 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.~~ *Pursuant to RSA 149-M:9, VIII, for each application determined complete and reviewed in accordance with Env-Sw 304, the department shall issue a written decision to either issue or deny the requested approval:*

- (1) For applications not subject to a public hearing, within 120 days following the department's determination that the application is complete;*
  - (2) For applications subject to a public hearing pursuant to Env-Sw 304.08, within 180 days following the department's determination that the application is complete but not sooner than 30 days following close of the hearing record pursuant to RSA 149-M:12, III, whichever is later; or*
  - (3) By an alternative date established by prior written agreement with the applicant.*
- (b) A decision for denial shall be made pursuant to the provisions of Env-Sw 305.03.
- (c) A decision for issuance shall be made pursuant to:
- (1) Env-Sw 305.04;
  - (2) Env-Sw 305.05, if for a permit; ~~and~~
  - (3) Env-Sw 305.06, if for a permit modification; *and*

*(4) Env-Sw 202, if for a waiver.*

(d) The applicant and all persons and entities to whom the applicant was required to provide a ~~copy of the application~~ ***notice of filing, except abutters***, pursuant to Env-Sw 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.

**Readopt with amendment Env-Sw 305.03, effective 7-1-14 (Document #10595), as amended effective 10-21-17 (Document #12404), to read as follows:**

Env-Sw 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-Sw 304.045(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, ***and email address*** of the department official or employee who ~~may~~***can*** 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 and the applicant is unable to provide compliance certification pursuant to Env-Sw 303.14 ***or documentation pursuant to Env-Sw 311.06***; ~~or~~
- (8) ***The applicant is not requesting the permit under their legal name and is not registered with the New Hampshire secretary of state to do business in New Hampshire;***

***(9) The applicant fails to complete the following actions and the department has insufficient or ambiguous information pursuant to (b)(2) above:***

***a. Enter into a written agreement for the services of a licensed professional when requested to so in accordance with RSA 149-M:9, XV; or***

***b. Provide the information requested in accordance with Env-Sw 304.08(c);***

***(10) The application is for a permit modification and:***

***a. The applicant is unable to certify compliance pursuant to Env-Sw 303.14, unless the applicant:***

***1. Demonstrates in the compliance report that the circumstance(s) for non-compliance are not cause for the department to deny the requested approval pursuant to the provisions of RSA 149-M:9, IX or X; and***

***2. Agrees to comply with a plan and schedule for achieving compliance;***

***b. The modification constitutes a change in the facility's functional classification as described in Env-Sw 302, which otherwise requires a new facility permit; or***

***c. The modification constitutes an expansion of facility operations under the provisions of a temporary permit;***

***(11) The application is for a type V permit modification to destroy records, and the department determines that:***

***a. There is benefit to requiring the records to be retained, for instance by assisting in development of a closure or post-closure monitoring plan or otherwise to assist future studies to determine compliance with state or federal regulations; or***

***b. The facility is the subject of any pending investigation or enforcement action; or***

***(12) 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 Sw 311 or a type III permit modification pursuant to Env Sw 315 shall be denied based on (b)(2) above if the application is filed contrary to the requirements in Env Sw 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.~~

**Readopt with amendment Env-Sw 305.04 through Env-Sw 305.06, effective 7-1-14 (Document #10595), to read as follows:**

Env-Sw 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 is authorized, including:
  - a. The date the approval will be effective;
  - b. The expiration date, if any, and provisions for renewal as applicable; ~~and~~
  - c. The information specified in:
    1. Env-Sw 305.05, if a facility permit; ~~and~~
    2. Env-Sw 305.06, if a facility permit modification; and
    3. *Env-Sw 202, if a waiver; and*
  - d. *Compensating terms and conditions to ensure compliance with the solid waste rules.*

(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.

Env-Sw 305.05 Issuance of Permits.

(a) A standard permit, emergency permit, permit-by-notification, or research and development facility permit shall:

- (1) Be issued in conformance with Env-Sw 305.04;
- (2) Specify the functional classification of the facility pursuant to Env-Sw 302;
- (3) Specify that the facility must be constructed, operated and closed, *including post-closure care*, 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-Sw 400 through Env-Sw 1200 and Env-Sw 1400, for the following:
  - a. *Facility name;*

- ~~b.~~ Facility location;
- ~~bc.~~ Facility design;
- ~~ed.~~ Facility construction;
- ~~de.~~ Facility operation, including:
  - 1. Operating restrictions including:
    - (i) Facility function;
    - (ii) ~~Design~~ **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. **Inspection**, ~~Maintenance~~, and monitoring requirements; and
  - 4. Reporting requirements;
- ~~ef.~~ Financial assurance for guaranteeing the cost of facility closure; ~~and~~
- ~~fg.~~ Facility closure, including post-closure **care** requirements.

(b) Except for a permit-by-notification, emergency permit not exempt pursuant to Env-Sw 313.02(b) or research and development permit not exempt pursuant to Env-Sw 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-Sw 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-Sw 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 **care** period, except as provided by (e) below and Env-Sw 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-Sw 314 for a new facility shall, ***unless the permit specifically exempts the facility from the below requirements on the basis of a demonstration of public benefit that accounted for a later date than that required below:***

***a. 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-Sw 1104, 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; or***

***b. If construction is not required, expire one year from the date of issuance if the permittee has not obtained approval to operate the facility pursuant to the provisions of Env-Sw 1105;***

(2) A permit-by-notification issued pursuant to Env-Sw 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, ***or one year from the date of issuance if construction is not required and operations have 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-Sw 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) Any proposed change to the ***name***, location, design, operation or closure, ***including post-closure care and use, and financial responsibility*** of a facility as permitted by the department shall require approval pursuant to Env-Sw 315 and Env-Sw 305.06, except as noted in ~~(g) below~~ ***Env-Sw 311 and Env-Sw 315.01***.

~~(g) A permit by notification issued pursuant to Env Sw 311 shall not be modified, except if the modification is a type III or type V modification pursuant to Env Sw 315 or a permit transfer pursuant to Env Sw 1202.06(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.~~

#### Env-Sw 305.06 Issuance of Permit Modifications.

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

(1) Be issued in conformance with Env-Sw 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 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 and regulations, and other 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-Sw 315 shall be issued by:~~

~~(1) Having the form imprinted and prepared to include all of the information specified by Env Sw 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.~~

~~(db)~~ 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.

~~(ec)~~ In the case of a ~~type V~~ permit modification issued pursuant to Env-Sw 315 ~~for the purpose of recording~~**that includes** a name change, ~~the approval shall expire unless the permittee shall:~~

(1) Publishes a notice of the name change in a newspaper of general circulation in the host municipality and host solid waste district, **and for unlimited service area facilities, in a newspaper of statewide circulation**, within 10 days after the effective date of the modification; and

(2) ~~Sends~~**Submit** a copy of the published notice to the department within 10 days following publication.

***(d) Pursuant to the provisions of RSA 149-M:11, XI, a type I-A permit modification issued pursuant to Env-Sw 315 shall expire, unless the permit specifically exempts the facility from the below requirements on the basis of a demonstration of public benefit that accounted for a later date than that required below, as follows:***

***(1) Two years from the date of issuance if the permittee has not obtained approval to construct the approved changes pursuant to the provisions of Env-Sw 1104; or***

***(2) If construction is not required, one year from the date of issuance if the approved change has not been implemented.***

***(e) A permit modification approval shall expire one year from the date of issuance if the permittee has not obtained approval to construct pursuant to the provisions of Env-Sw 1104 or, if construction is not required, one year from the date of issuance if the permittee has not obtained approval to operate pursuant to the provisions of Env-Sw 1105.***

**Adopt Env-Sw 305.07 to read as follows:**

Env-Sw 305.07 Permit Termination.

(a) A permittee may voluntarily request its facility permit be terminated or retired following completion of permanent closure in accordance with Env-Sw 1106.

(b) The request for permit termination shall include:

(1) Facility identification;

(2) Permittee identification;

(3) Notification of closure completion as required in Env-Sw 1106.06;

(c) If the department determines that all requirements for closure have been completed, it shall issue notice of permit termination to the former permittee and the host municipality and host district.

(d) A permit shall be deemed terminated under the following circumstances:

(1) When the department issues a new individual permit to replace another individual permit for the same facility, such as may occur when a new permit-by-notification is issued to replace a prior version or a standard permit is issued to replace a permit-by-notification; and

(2) When the department issues confirmation of authorization to construct, operate and close a facility under a general permit in accordance with Env-Sw 308 to replace an individual permit for the same facility.

(e) A terminated or retired permit shall not be eligible for use.

**Readopt with amendment Env-Sw 306 and Env-Sw 307, effective 7-1-14 (Document #10595), to read as follows:**

#### PART Env-Sw 306 REVOCATION AND SUSPENSION

Env-Sw 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 issued pursuant to RSA 149-M and the solid waste rules.

Env-Sw 306.02 Applicability.

(a) The rules in this part shall apply to actions by the department to revoke, suspend, or modify a permit issued pursuant to RSA 149-M and the solid waste rules.

(b) As used in this part:

(1) "Permit" means any permit, ***permit modification***, license, registration, ***waiver***, or other approval issued by the department under RSA 149-M and the solid waste rules; and

(2) "Permittee" means the person to whom the permit was issued.

Env-Sw 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-Sw 2000, the department determines there may be good cause for revocation, suspension, or modification, as specified in Env-Sw 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 ***number, and email address*** of the department official or employee who ~~may~~***can*** 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. If 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 the provisions of Env-C 200 applicable to adjudicative proceedings.

Env-Sw 306.04 Decision.

(a) A permit shall be revoked if the department determines, following the procedures in Env-Sw 306.03, that:

(1) Good cause as provided in Env-Sw 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-Sw 306.03, that:

(1) Good cause as provided in Env-Sw 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-Sw 306.03, that:

(1) Good cause as provided in Env-Sw 306.05 exists; and

(2) The underlying problem can be corrected or eliminated by changing a condition(s) of the permit.

Env-Sw 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; or

(c) The permittee or the facility meets any other criteria for permit denial as specified in Env-Sw 305.

PART Env-Sw 307 STATUS OF EXISTING PERMITS

Env-Sw 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-Sw 302 so as to clearly identify how the existing permits will be administered by the department; 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.

Env-Sw 307.02 Applicability. The rules in this part shall apply to those permits granted under the authority of RSA 149-M prior to October 29, 1997 that remain in effect.

Env-Sw 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, ***including facilities existing on December 10, 1982 deemed to have a permit in accordance with He-P 1901.04(f)***, shall be titled and administratively classified as a “standard permit” under the solid waste rules, except as provided in Env-Sw 307.10.

(b) The terms and conditions of the permit shall remain unchanged until such time as the permit is modified, retired, ***suspended***, or otherwise terminated in accordance with the rules in this chapter.

Env-Sw 307.04 Status of Permits Issued Between ~~June 30~~**July 1**, 1991 and October 29, 1997.

(a) Each of the following types of permits issued pursuant to RSA 149-M between ~~June 30~~**July 1**, 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-Sw 307.10:

- (1) Standard permit;
- (2) Limited permit for existing facility; and
- (3) Limited permit for new facility.

(b) A research and development permit issued pursuant to RSA 149-M between ~~June 30~~**July 1**, 1991, and October 29, 1997, shall remain titled and administratively classified as a “research and development permit” except as provided in Env-Sw 307.10.

(c) For each permit identified in (a) or (b) above, the terms and conditions of the permit shall remain unchanged until such time as the permit is modified, retired, or otherwise terminated in accordance with the rules in this chapter.

Env-Sw 307.05 Status of Temporary Permits.

(a) A temporary permit issued pursuant to RSA 149-M between ~~June 30~~**July 1**, 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-Sw 307.10.

(b) Temporary permits shall be administered as specified in Env-Sw 307.06 through Env-Sw 307.09.

Env-Sw 307.06 Administration of Temporary Permits.

(a) Temporary permits shall be subject to call by the department pursuant to the provisions of Env-Sw 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 as provided in Env-Sw 1106.057.

(c) Until required to close pursuant to Env-Sw 307.08 or Env-Sw 307.09, an operating facility with a temporary permit may continue operating under its temporary permit provided that the facility complies with the terms and conditions of the temporary permit, Env-Sw 1000, Env-Sw 1105, and the provisions of Env-Sw 405, Env-Sw 505, Env-Sw 605, Env-Sw 705, or Env-Sw 806 as applicable based on the functional classification of the facility, except:

(1) There shall be no requirement to ~~provide~~ ***submit*** a written operating plan ***for approval by the department***; and

(2) The operating requirements applicable to liners and leachate collection and removal systems shall not apply to unlined landfills.

Env-Sw 307.07 Call of Temporary Permits.

(a) The department shall determine the priority for call of all temporary permits not called on October 29, 1997, 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.

(b) The department shall call temporary permits in order of the facility's assigned priority by notifying the permittee in writing.

(c) Written notice provided pursuant to (b) above shall instruct the permittee to comply with Env-Sw 307.08 or Env-Sw 307.09, as applicable.

Env-Sw 307.08 Landfills with Temporary Permits.

(a) A landfill holding a temporary permit shall close in accordance with Env-Sw 1006, Env-Sw 1106, and Env-Sw 807.

(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 a facility closure plan as specified in Env-Sw 1106 ***pursuant to Env-Sw 315***; and

(3) Implement facility closure in accordance with the closure plan and schedule approved by the department pursuant to Env-Sw 1106.

(c) A temporary landfill permit shall remain in effect for the duration of the required closure and post-closure ***care*** period.

Env-Sw 307.09 Non-Landfill Facilities with Temporary Permits.

(a) Following call of a temporary permit for an inactive non-landfill facility pursuant to Env-Sw 307.07(a)(1), the permittee shall either:

- (1) Implement facility closure in accordance with the requirements of Env-Sw 1106; or
  - (2) Submit documentation demonstrating that the facility is already closed in accordance with the requirements of Env-Sw 1106.
- (b) Following call of a temporary permit for an active non-landfill facility pursuant to Env-Sw 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-Sw 314 or a permit-by-notification pursuant to Env-Sw 311; or
  - (2) Implement facility closure in accordance with the requirements of Env-Sw 1106.
- (c) ~~If, pursuant to Env-Sw 307.07(a)(2), the permit is called due to inability to certify compliance pursuant to Env-Sw 307.06(c), the facility shall either:~~
- ~~(1) Cease operations and implement facility closure in accordance with the requirements of Env-Sw 1106; or~~
  - ~~(2) Obtain a waiver pursuant to Env-Sw 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-Sw 1106 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-Sw 1006 exists.
- (e) A temporary permit for a non-landfill facility shall be retired ***or terminated***:
- (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.

Env-Sw 307.10 Exceptions to Designated Permit Titles and Classifications.

(a) Any person holding a permit identified in Env-Sw 307.02 through Env-Sw 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-Sw 101.03, Env-Sw 302.03, Env-Sw 408, Env-Sw 508, Env-Sw 608, Env-Sw 708, or Env-Sw 808, 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) Within 120 days of receipt of a request pursuant to (a) above, the department shall review the terms and conditions of the permit to determine whether the ~~facility~~**activity(s)** meets the requirements of a permit-exempt**facility**~~ion~~.

(c) If the department determines that the ~~facility~~**activity(ies)** meets the requirements of a permit-exempt**facility**~~ion~~, the original permittee shall be **may request the permit be retired *or terminated in accordance with Env-Sw 305.07.***

~~(d) The department shall notify the permittee in writing of its decision within 30 days of making the decision~~ ***determination.***

Env-Sw 307.11 Provisions for Reissuing an Existing Permit.

~~(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~~ ***when there is an administrative benefit for doing so as specified in (d) below.***

***(b) Reissuance of a permit or permit modification under this section shall be limited to rewording the terms and conditions of the permit to clarify but not modify requirements applicable to the facility under RSA 149-M, the solid waste rules, and the permit in effect at the time of reissuance.***

~~(bc)~~ A ***permittee's*** request pursuant to (a) above shall be made in writing, to include:

(1) Facility identification, ~~including name, location by street and municipality, and permit~~ ***as defined in Env-Sw 103;***

(2) Permittee identification, ~~including name, mailing address and, telephone number~~ ***as defined in Env-Sw 104;***

(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.

~~(ed)~~ Within 120 days of receipt of a request as specified by ~~(bc)~~ 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 ~~(de)~~ below.

~~(de)~~ There shall be an administrative benefit to reissuing a permit if:

(1) The permit was originally issued by ~~the~~ predecessor agency to the department, ~~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; or

b. A plain reading of the terms and conditions to be an incorrect legal meaning; ***or***

***(3) The permit, permit modification, or waiver was deemed approved by effect of RSA 541-A:29-a.***

~~(ef)~~ 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 ***request*** comment(s) ***be provided*** within 60 days of ~~determining that there is an administrative benefit.~~

~~(fg)~~ ~~Within 60 days of~~ ***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 ~~(gh)~~ below.

~~(gh) Within 60 days following receipt of a proposed final draft of the rewritten permit, the permittee shall notify the department within 60 days as to which of the following actions shall be taken~~***whether:***

~~(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 Sw 306, the department shall proceed to reissue the permit in the form presented by the proposed final draft~~***The permittee consents to reissuance of the permit as presented in the final draft;*** or

~~(2) Because the permittee disagrees that the proposed final draft permit meets the objective for reissuance, namely clarification, 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 Sw 306, including the opportunity for an adjudicative hearing pursuant to RSA 541-A:30~~***The permittee does not consent to reissuance of the permit as presented in the final draft because it constitutes a modification of the permit that is subject to the proceedings in Env-Sw 306.***

~~(hi)~~ The department shall proceed in accordance with the permittee's response provided pursuant to ~~(gh)~~ above.

~~(j)~~ If the permittee does not respond within the specified time, the department shall notify the permittee that the existing permit remains in effect.

### **Adopt Env-Sw 308 to read as follows:**

#### PART Env-Sw 308 SOLID WASTE GENERAL PERMITS

##### Env-Sw 308.01 Purpose & Applicability.

(a) The purpose of the rules in this part is to establish a general permit program pursuant to RSA 149-M:6, III and specify requirements for registering to use a general permit.

(b) The general permit program shall apply to the owner of a facility seeking authorization to construct, operate, and close a category specific solid waste facility under a general permit in lieu of an individual permit issued pursuant to Env-Sw 311 through Env-Sw 314.

##### Env-Sw 308.02 Establishment Criteria for Facility Categories & General Permits.

(a) The department may establish a facility category and an associated general permit, if the proposed facility category meets the following criteria:

(1) The proposed facility category meets the criteria for a solid waste permit as outlined in Env-Sw 302.02 and would not meet the criteria for an exemption under Env-Sw 302.03;

(2) More than one facility would be covered by the proposed facility category; and

(3) Facilities covered by the proposed facility category and the associated general permit would:

a. Involve the same or substantially similar types of operations;

- b. Handle the same types of wastes and regulated substances;
- c. Require the same operating limitations or conditions; and
- d. Be more appropriately controlled under a general permit than under individual permits.

Env-Sw 308.03 Facility Categories for General Permits. The following facility categories meet the criteria in Env-Sw 308.02 and shall be eligible for a general permit:

- (a) motor vehicle crushers as defined in Env-Sw 103.
- (b) motor vehicle recycling facilities as defined in Env-Sw 103.

Env-Sw 308.04 Procedure for Establishing General Permits.

(a) A facility category shall be established by the department and listed in Env-Sw 308.03 prior to or concurrent with proposing an associated general permit.

(b) The department shall hold a public hearing in accordance with Env-Sw 308.06 for each proposed general permit.

(c) The department shall render a decision on the establishment of a general permit in accordance with Env-Sw 308.07.

Env-Sw 308.05 Procedures for Modification, Revocation, or Suspension of a General Permit.

(a) A general permit may be revoked or suspended in accordance with Env-Sw 306.

(b) The terms and conditions in a general permit may be modified by the department if one or more of the following conditions exist:

- (1) A statute or rule change occurs impacting the terms and conditions of a general permit;
- (2) The terms and conditions of the permit are less protective of public health, safety, and the environment than industry standards or best management practices;
- (3) An inconsistency exists between industry standards or best management practices and the general permit that creates a hardship on permittees and provides no benefit to the public, and such hardship may be remedied by a modification of the permit, provided the proposed modification will:
  - a. Not result in an adverse impact on the environment or natural resources of the state, public health, or public safety;
  - b. Not result in an impact on abutting properties that is more significant than that which would result from complying with the permit as it is; and
  - c. Be in keeping with the intent and purpose of the general permit and RSA 149-M; or
- (4) A permit condition needs to be revised, added, or deleted to ensure compliance with any applicable federal or state statute, rule, or regulation.

(c) The department shall hold a public hearing in accordance with Env-Sw 308.06 for each proposed general permit modification, except for modifications identified in (d) below.

(d) The department shall not hold a public hearing for modifications to a general permit if the proposed change(s):

- (1) Are clerical in nature and do not constitute a material change in the permit;
- (2) Are deemed to have an insignificant effect on environmental quality; or
- (3) Do not impact facility capacity limits.

(e) When a permit is modified pursuant to this section, only the terms and conditions subject to modification shall be considered.

(f) An existing general permit shall remain in effect while undergoing the modification process.

(g) The department shall render a decision on modification of a general permit in accordance with Env-Sw 308.07.

Env-Sw 308.06 Public Hearing During the Establishment or Modification of a General Permit.

(a) The department shall hold a public hearing for each proposed general permit and modification, except for modifications meeting the requirements in Env-Sw 308.05(d).

(b) The department shall notify the following entities at least 30 days prior to the hearing:

- (1) The public by publishing notice in a newspaper of general daily statewide circulation, and on the department's website;
- (2) Permittees and potential registrants through membership organizations, if such organizations exist; and
- (3) Existing registrants and permittees, if any, via email or first class mail.

(c) The notice required by (b) above shall identify:

- (1) The date, time and location of the hearing;
- (2) A statement of the department's intent to establish or modify a general permit;
- (3) The facility specific category of the proposed or existing general permit and a brief description of the proposed permit or modification(s);
- (4) The location(s) where the proposed general permit or modification(s) is available for public review;
- (5) That testimony may be submitted in writing to the department at any time before close the hearing record in lieu of attending or providing oral testimony at the public hearing and the deadline by which such testimony must be sent to the department;
- (6) That disabled persons planning to attend the hearing or to review the proposed permit or modification(s) and requiring special assistance under the provisions of the American with Disabilities Act contact the department as soon as practicable and in advance of the hearing to identify the type of assistance required; and
- (7) The name, title, mailing address, telephone number, and email address of the department official or employee who may be contacted regarding the proposal and hearing, and to whom written testimony may be submitted.

(d) The department shall conduct the hearing in accordance with Env-C 205 applicable to non-adjudicatory hearings.

Env-Sw 308.07 Decision on Establishment or Modification of a General Permit.

(a) Within 60 days after close of the hearing record, the department shall:

- (1) Issue a decision on the proposed general permit or modification(s); or
- (2) Withdraw the proposed general permit or modification(s).

(b) In making the decision, the department shall consider the proposed general permit or modification(s), and all testimony received during the public hearing.

Env-Sw 308.08 General Permit Appeals. In accordance with RSA 149-M:8, the waste management council shall hear any administrative appeals under RSA 21-O:9, V.

Env-Sw 308.09 General Permit Terms & Conditions. The general permits established in accordance with this part shall contain terms and conditions for design, construction, operation, public benefit, facility maintenance and monitoring, reporting, financial responsibility and closure, as applicable.

Env-Sw 308.10 Registration Required. The owner of a facility general permit seeking authorization to construct, operate, and close a facility under the provisions of a general permit shall register with the department to use a general permit by filing a registration in accordance with Env-Sw 308.11 and Env-Sw 308.12.

Env-Sw 308.11 Registration Content and Format. The registration required pursuant to Env-Sw 308.10 shall be submitted as follows:

(a) The owner of a facility seeking authorization to construct, operate, and close a motor vehicle recycling facility, including motor vehicle recycling facilities where a stationary crusher is located, shall complete a "General Permit Registration for Motor Vehicle Recycling Facility", NHDES-S-05-069, Date, available at: X.

(b) The owner of a facility seeking authorization to construct, operate, and close a mobile motor vehicle crusher shall complete a "Registration for Mobile Motor Vehicle Crusher", NHDES-S-05-068, Date, available at: X.

Env-Sw 308.12 Registration Filing.

(a) General Permit registrations completed in accordance with Env-Sw 308.11 shall be filed in accordance with Env-Sw 303.

(b) All registrations filed for a General Permit shall be signed by the registrant and the property owner, if other than the registrant, in accordance with Env-Sw 303.04.

(c) The registrant shall complete and file a registration in accordance with Env-Sw 308.10 within 10 days of any change in the information provided in a previously filed registration.

Env-Sw 308.13 Registration Processing.

(a) Upon receipt of a registration filed in accordance with Env-Sw 308.10 and Env-Sw 308.11, the department shall determine whether the filing requirements in Env-Sw 303 have been met.

(b) A registration filed contrary to Env-Sw 303 shall be returned, with a written explanation as to the reason(s) for returning the registration, and a copy of the registration with deficiencies highlighted.

(c) Return of a registration due to improperly filing or completing the registration shall not preclude the applicant from later obtaining an approval by submitting a registration that meets the registration filing requirements of Env-Sw 303 and this part.

Env-Sw 308.14 Decision on Registration.

(a) A decision to authorize coverage under a general permit shall be issued in accordance with Env-Sw 308.15.

(b) A decision for denial of coverage under a general permit shall be issued in accordance with Env-Sw 308.16.

(c) A registrant and all persons and entities to whom the registrant was required to provide a copy of the registration pursuant to Env-Sw 303, shall be notified of the decision in writing by the department.

Env-Sw 308.15 Confirmation of Registration.

(a) The department shall issue a written confirmation of registration to the permittee which shall constitute authorization to construct, operate, and close the facility under the applicable category-specific general permit.

(b) Written confirmation shall include:

- (1) Identification of the facility name, permittee name, and location, if not a mobile facility;
- (2) The general permit for which authorization is being confirmed; and
- (3) A copy of the general permit.

(c) The authorization issued pursuant to Env-Sw 308.15(a) to construct, operate, and close a facility under a general permit shall not affect the permittee's obligation to:

- (1) Obtain any other applicable permit, license, or approval, whether federal, state, or local; and
- (2) Comply with all applicable federal, state, district, or local permits, ordinances, laws, approvals, or conditions pertaining to the approved facility or activity.

(d) As provided in RSA 149-M:9, XI, an authorization shall be continuous in duration, subject to modification, revocation, or suspension pursuant to Env-Sw 308.05, until:

- (1) The permittee certifies to the department, in writing, that the facility has been closed in accordance with the terms and conditions in the applicable general permit; or
- (2) The permittee obtains an individual permit pursuant to Env-Sw 311 through Env-Sw 314.

(e) The authorization shall:

- (1) Be specific to the facility and location, if not a mobile facility, identified in the registration; and
- (2) Not be transferable.

Env-Sw 308.16 Denial, Suspension, or Revocation of Authorization to Operate Under a General Permit.

(a) A written decision to deny, suspend, or revoke authorization to operate under a general permit

shall:

- (1) Identify the registrant, the general permit category, and all documents that form the basis of the decision;
  - (2) State the specific reason(s) for the denial, suspension, or revocation based on (b) below;
  - (3) Identify the applicable provisions for appeal pursuant to RSA 149-M:8;
  - (4) Provide the name, title, mailing address, telephone number, and email address of the department official or employee who can be contacted regarding the decision; and
  - (5) Be signed by the director or a person so authorized by the director.
- (b) Grounds for denying, revoking, or suspending authorization to operate under a general permit shall include:
- (1) The facility, proposed facility or facility operations do not meet the requirements of the applicable general permit(s);
  - (2) The registrant or permittee and the associated facility are not in compliance with the terms and conditions of the applicable general permit(s);
  - (3) The department determines that the registrant or permittee meets the criteria for denial pursuant to RSA 149-M:9, IX;
  - (4) The registrant or permittee is a chronic non-complier as defined by Env-C 209.01(b);
  - (5) The registrant or permittee has not demonstrated its legal right to occupy the property where the facility is located;
  - (6) The department has denied, suspended, or revoked registration for the same facility and the grounds for doing so have not been cured;
  - (7) The registrant is not requesting the permit under their legal name and is not registered with the New Hampshire secretary of state to do business in New Hampshire; and
  - (8) The registration meets any other provision for denial as specified in the solid waste rules or RSA 149-M.

**Readopt with amendment Env-Sw 309 and Env-Sw 310, effective 7-1-14 (Document #10595), to read as follows:**

#### PART Env-Sw 309 PRE-1981 LANDFILL REGISTRATIONS

Env-Sw 309.01 Purpose. The purpose of registration of landfills that stopped receiving waste before July 10, 1981, is to provide the department with:

- (a) Documentation demonstrating that the criteria for exemption in Env-Sw 101.04 applies; and
- (b) 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.

Env-Sw 309.02 Applicability. The rules in this part shall apply to all 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-Sw 101.04.

Env-Sw 309.03 Registration Requirement.

(a) Persons identified in Env-Sw 309.02 shall register ***by completing a “Pre-1981 Landfill Registration”, NHDES-S-05-037, Date, available at: X*** ~~in accordance with (b) below.~~

(b) ~~The following registration information shall be filed with the department in accordance with Env-Sw 303;~~

~~(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, ***and email address***;~~

~~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 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;~~

~~f. Landfilling; or~~

~~g. A combination of a. through f., above;~~

~~(6) Type of service provided by the facility, as defined in Env Sw 102-104, 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 inactive landfills, an estimated volume of waste at the facility;~~

~~(10) For inactive landfills, a description of the type and depth of cover material placed over landfilled waste;~~

- ~~(11) If the facility is active, the days and hours of operation; and~~  
~~(12) A report of any environmental assessment done of the facility.~~

(c) Notification provided to the department in accordance with Env-Sw ~~Wm~~<sup>003</sup> 315 of the rules adopted under RSA 149-M effective July 1, 1991, shall constitute registration under this part.

Env-Sw 309.04 Registration Processing.

(a) Within 120 days of receipt of registration from the owner of a landfill that stopped receiving waste before July 10, 1981, the department shall:

- (1) Review the information submitted; and
- (2) ***Determine whether the information provided is sufficient to support a claim of exemption.***

***(b) A registration that is filed contrary to Env-Sw 303 or that provides insufficient information to make a determination as to exemption status, shall be returned, with a written explanation as to the reason(s) for returning the registration and a copy of the registration with deficiencies highlighted.***

***(c) Return of a registration due to improperly filing or completing the registration shall not preclude the registrant from later obtaining an approval by submitting a registration that meets the registration filing requirements of Env-Sw 303.***

***(d) If the registration is complete, and the department determines:***

***(1) That the facility is exempt pursuant to Env-Sw 101.04, it shall ~~N~~otify the facility owner and host municipality of such status and:***

***a. The requirements of RSA 485 if it determines that the landfill is a known or suspected source of groundwater or surface water contamination;***

***b. The requirements for site closure and post-closure care in compliance with RSA 147-A, RSA 141-E, Env-Sw 2100, 40 CFR Part 61, 29 CFR Part 1910, and 29 CFR Part 1926 if it determines that the landfill is a known or suspected asbestos disposal site that stopped receiving waste before July 10, 1981; and***

***c. The requirements of (d) through (f) below; or***

***(2) That the facility is not exempt pursuant to Env-Sw 101.04, it shall notify the facility owner and host municipality of such status and provide instructions on next steps.***

~~(be) Within 120 days of 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, Env-Sw 2100, 40 CFR Part 61, 29 CFR Part 1910, and 29 CFR Part 1926.~~ ***If the facility is exempt, the owner shall attach the department's notification issued pursuant to (c)(1) above to the property deed and cause the notification to be recorded at the registry of deeds in the county where the property is located.***

***(f) Unless otherwise documented in a legally enforceable written agreement, the owner of the property on which the landfill is located shall be the owner of the landfill.***

***(g) Re-registration is not required when landfill ownership is transferred.***

Env-Sw 310.01 Applicability. The rules in this part shall apply to persons filing applications for permits ~~and~~, permit modifications, ***waivers, registrations, and applications to certify for distribution and use a waste-derived product or wood ash.***

Env-Sw 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 (BIF) pursuant to Env-Sw 316, plus the cost of public notice and hearing (PNH) pursuant to Env-Sw 304, ***plus the cost of hiring an independent licensed (PEG) pursuant to Env-Sw 304.04(f) or Env-Sw 304.08(b),*** as illustrated in the following equation:

$$\text{PAF} = \text{MBF} + (\text{CF})(\text{LI}) + \text{BIF} + \text{PNH} + \text{PEG}$$

(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 ***Design*** Capacity

Facility <b><i>Design</i></b> 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
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Env-Sw 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.

Env-Sw 310.04 Permit-by-Notification Fees. There shall be no fee for filing an application for a permit-by-notification.

Env-Sw 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-Sw 310.02 using the following substitute values:

(a) The MBF shall equal \$1,000; 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.

Env-Sw 310.06 Emergency Permit Application Fees. There shall be no ~~permit application~~ fee for ***filing an application for*** an emergency permit.

Env-Sw 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-Sw 315.02 shall be the greater of the following:

(1) \$1,500; or

(2) If the modification will increase the capacity of the facility, the PAF calculated in accordance with Env-Sw 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; ***and***

(3) ***The cost of public notice and hearing (PNH) pursuant to Env-Sw 304, plus hiring an independent licensed (PEG) pursuant to Env-Sw 304.04(f) and Env-Sw 304.08(b).***

(b) The fee for filing an application for a type I-B permit modification as specified in Env-Sw 315.02 shall be \$100, ***plus the cost of hiring an independent licensed (PEG) pursuant to Env-Sw 304.04(f) and Env-Sw 304.08(b).***

Env-Sw 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-Sw 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; ***and***

(c) ***If the application requires review by an independent professional engineer or hydrogeologist pursuant to Env-Sw 304.04(f) and Env-Sw 304.08(b), the fee shall include the cost of hiring the independent licensed engineer or hydrogeologist.***

Env-Sw 310.09 Type III Permit Modification Fee. There shall be no fee for filing an application for a type III modification.

Env-Sw 310.10 Type IV Permit Modification Fee. The fee for filing an application for a type IV modification shall equal \$1,000 plus the cost of completing a background investigation (BIF) pursuant to Env-Sw 316 plus the cost of public notice and hearing (PNH) pursuant to Env-Sw 304.

Env-Sw 310.11 Type V Permit Modification Fees. There shall be no fee for *filing an application for a* type V permit modification.

*Env-Sw 310.12 Waiver Fees. There shall be no fee for filing an application for a waiver.*

*Env-Sw 310.13 Registration Fees. There shall be no fee for filing a registration.*

*Env-Sw 310.14 Certification of Waste-Derived Products Fees. There shall be no fee for filing an application to certify a waste-derived product for distribution and use.*

*Env-Sw 310.15 Certification of Wood Ash Fees. There shall be no fee for filing an application to certify wood ash for distribution and use.*

Env-Sw 310.12~~16~~ Payment of ~~Permit~~-Application *and Registration Fees*.

(a) Fees shall be paid at the time of filing the application *or registration*, except for the BIF~~and~~, PNH, *and PEG* 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."

**Readopt with amendment Env-Sw 311 through Env-Sw 314, effective 7-1-14 (Document #10595), to read as follows:**

#### PART Env-Sw 311 PERMIT-BY-NOTIFICATION REQUIREMENTS

Env-Sw 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-Sw 407, Env-Sw 507, Env-Sw 607, and Env-Sw 707.

Env-Sw 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-Sw 1200;

(2) Env-Sw 1000;

(3) Env-Sw 1100, for facilities having an active life longer than 90 days;

(4) Env-Sw 407, Env-Sw 507, Env-Sw 607, or Env-Sw 707 depending on the type of facility; and

(5) Env-Sw 900, 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-Sw 1202.06(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.

Env-Sw 311.03 *Permit-by-Notification Application Content and Format*. The applicant for a permit-by-notification shall submit the *application form as provided in (a) through (j) below* following information in the permit application:

(a) ~~Identification of parties;~~ *A person seeking a Permit-by-Notification for a limited public transfer station as specified in Env-Sw 407.02 shall complete a "Permit-by-Notification Application for Limited Public Solid Waste Transfer Station", NHDES-S-05-008, Date, available at: X.*

(b) ~~Facility identification;~~ *A person seeking a Permit-by-Notification for a collection center for select recyclable materials as specified in Env-Sw 407.03 shall complete a "Permit-by-Notification Application for Collection Center for Select Recyclable Materials", NHDES-S-05-006, Date, available at: X.*

(c) ~~Facility type, as specified in Env-Sw 407, Env-Sw 507, Env-Sw 607, and Env-Sw 707;~~ *A person seeking a Permit-by-Notification for a scrap metal collection and recycling center as specified in Env-Sw 407.04 shall complete a "Permit-by-Notification Application for Scrap Metal Collection and Recycling Centers", NHDES-S-05-009, Date, available at: X.*

(d) ~~Dates facility construction and operation are scheduled to commence;~~ *A person seeking a Permit-by-Notification for a truck transfer station as specified in Env-Sw 407.05 shall complete a "Permit-by-Notification Application for Truck Transfer Station", NHDES-S-05-011, Date, available at: X.*

(e) ~~Active life expectancy of the facility;~~ *A person seeking a Permit-by-Notification for an asbestos waste holding facility for abatement entities as specified in Env-Sw 407.06 shall complete a "Permit-by-Notification Application for Asbestos Waste Holding Facility for Abatement Entities", NHDES-S-05-005, Date, available at: X.*

(f) ~~A certification signed by the applicant stating that the facility meets the requirements of Env-Sw 1203;~~ *A person seeking a Permit-by-Notification for a facility producing certified waste-derived products using processed non-select recyclable materials as specified in Env-Sw 507.04 shall complete a "Permit-by-Notification Application for Processing/Treatment Facilities Producing Certified Waste-Derived Products Using Processed Non-Select Recyclable Materials", NHDES-S-05-007, Date, available at: X.*

(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-Sw 1203.01(f); and~~ *A person seeking a Permit-by-Notification for a facility for small food waste composting as specified in Env-Sw 607.02 shall complete a "Permit-by-Notification Application for Small Food Waste Composting Facility", NHDES-S-05-010, Date, available at: X.*

(h) ~~Certification, in addition to that required by Env-Sw 303.04, signed by the applicant attesting to the following;~~ *A person seeking a Permit-by-Notification for an infectious waste treatment facility as specified in Env-Sw 507.02 shall complete a "Permit-by-Notification Application for Infectious Waste Treatment Facility", NHDES-S-05-021, Date, available at: X.*

~~(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-Sw 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-Sw 1105.11 and Env-Sw 1106.045 respectively, have been prepared and shall be available and maintained as specified by Env-Sw 1202.02(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-Sw 303;~~

~~(4) That the applicant and all persons identified in Env-Sw 303.14(a) meet the compliance criteria specified in Env-Sw 303.14(b); and~~

~~(5) That the applicant understands and agrees to comply with the provisions for verification of permit information required by Env-Sw 311.06.~~

***(i) A person seeking a Permit-by-Notification for an asbestos waste holding facility for asbestos disposal site contractors as specified in Env-Sw 407.06 shall complete a "Permit-by-Notification Application for Asbestos Waste Holding Facility for Asbestos Disposal Site Contractors", NHDES-S-05-017, Date, available at: X.***

***(j) A person seeking a Permit-by-Notification for a collection center for non-select recyclable materials as specified in Env-Sw 407.07 shall complete a "Permit-by-Notification Application for Collection Center for Non-Select Recyclable Materials", NHDES-S-05-016, Date, available at: X.***

Env-Sw 311.04 ***Permit-by-Notification Application Filing.*** The applicant shall file an application ***pursuant to Env-Sw 311.03(a) through (j)*** ~~for a permit by notification~~ in accordance with Env-Sw 303, as follows:

~~(a) All information required by Env-Sw 311.03 shall be compiled into one comprehensive submittal;~~

~~(b) The applicant shall sign and file the application with the department in accordance with Env-Sw 303.03; and~~

~~(eb) The applicant shall concurrently ***provide notice to and*** file a copy of the application with the host municipality and host solid waste management district ***in accordance with Env-Sw 303.07; and***~~

***(c) The applicant shall concurrently provide notice to and file a copy of the application with the entities identified in Env-Sw 308 through Env-Sw 312, if applicable.***

Env-Sw 311.05 ***Permit-by-Notification Application Review and Decision.*** The application shall be processed in accordance with Env-Sw 304 and Env-Sw 305.

Env-Sw 311.06 ***Verification of Permit Information.***

(a) All facilities operating under a permit-by-notification or seeking a permit-by-notification in accordance with this part shall submit the following documentation to the department no later than 30 days after receipt of a request from the department for such documentation:

(1) The written operating plan required by Env-Sw 1202.02(a)(2)a.;

- (2) The written closure plan required by Env-Sw 1202.02(a)(3)a.;
- (3) Any operator certifications required by Env-Sw 1202.05(d);
- (4) Proof of compliance with the siting criteria set forth in Env-Sw 1203;
- (5) ***Proof of notification in accordance with Env-Sw 311.04(b) and (c); and***
- (6) ***Proof 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.***
- (7) Any additional documentation required by Env-Sw 407~~;~~, Env-Sw 507~~;~~, Env-Sw 607~~;~~, and Env-Sw 707, as applicable.

## PART Env-Sw 312 RESEARCH AND DEVELOPMENT PROJECTS PERMITTING PROVISIONS

### Env-Sw 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-Sw 104, except no permit shall be required for research and development facilities identified in Env-Sw 302.03(b)(7).

### Env-Sw 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-Sw 1000;
    - b. Env-Sw 1100, as applicable based on active life expectancy;
    - c. Env-Sw 400 through Env-Sw 800 based on the functional classification of project activity(s);
    - d. Env-Sw 900 depending on the type(s) of waste involved by the project; and
    - e. Env-Sw 1400.
- (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-Sw 1000.
- (c) A research and development facility permit shall be subject to the provisions of Env-Sw 315 for modification, ~~including renewal and transfer.~~

(d) A research and development facility permit shall be ~~issued~~ ***effective*** for a ~~limited~~ ***the*** 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.

Env-Sw 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 listed below:~~

(a) ~~Identification of parties;~~ ***Complete a “Research and Development Facility Permit Application”, NHDES-S-05-013, Date, available at: X.***

(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;~~ ***Provide the following if unable to submit the compliance certification pursuant to Env-Sw 303.14:***

***(1) Personal and/or Business disclosure forms for the applicant, lead investigator, and facility operator via certified mail directly to the NHDOJ, Environmental Protection Bureau, 1 Granite Place South, Concord, NH 03301;***

***(2) A copy of the cover letter submitted to the NHDOJ; and***

***(3) The signed certified mail returned receipt card(s).***

(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 and address of each person providing funding for the project in accordance with Env-Sw 312.02(a);~~

(e) ~~Identification of:~~

~~(1) The government agency or research institution, such as a public or private university *i* that will conduct or supervise the project pursuant to Env-Sw 312.02(a); and~~

~~(2) The name, address and qualifications of each investigator 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-Sw 1006:~~

- ~~(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;~~
- ~~(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-Sw 312.02; and~~
- ~~(j) Completed personal and business disclosure forms pursuant to Env-Sw 316, for the applicant, lead investigator, and facility operator, if unable to provide compliance certification pursuant to Env-Sw 303.14.~~

Env-Sw 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-Sw 303, with the fee specified in Env-Sw 310.

Env-Sw 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-Sw 304 and Env-Sw 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.

## PART Env-Sw 313 EMERGENCY FACILITY PERMIT PROVISIONS

Env-Sw 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.

Env-Sw 313.02 Applicable Requirements and Limitations.

(a) An emergency facility permit shall be issued for facilities identified in Env-Sw 313.01(b) meeting the following requirements:

- (1) Env-Sw 1000;
- (2) Env-Sw 1100, as applicable based on active life expectancy;

(3) Env-Sw 400 through Env-Sw 500, as applicable based on the functional classification of the facility; and

(4) Env-Sw 900, 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-Sw 315 for modification, ~~including permit transfer and renewal.~~

***(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.***

Env-Sw 313.03 Pre-application Contact.

(a) Prior to filing an application for ***an*** 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-Sw 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-Sw 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-Sw 313.02(b), and shall so advise the applicant.

Env-Sw 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:~~ ***complete an "Emergency Facility Permit Application", NHDES-05-058, Date, available at: X.***

~~(a) Identification of parties;~~ ***As part of the application, the applicant shall provide a***

~~(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 of threat, in addition to that required by Env-Sw 303.04, from signed by 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.~~

Env-Sw 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-Sw 303.

Env-Sw 313.06 Emergency Facility Permit Application Processing. Applications for an emergency facility permit shall be processed by the department in accordance with Env-Sw 304 and Env-Sw 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-Sw 313.01(b) and Env-Sw 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.~~

#### PART Env-Sw 314 STANDARD FACILITY PERMITTING PROVISIONS

Env-Sw 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-Sw 302.03;

(2) Is not eligible for a permit-by-notification pursuant to Env-Sw 407, Env-Sw 507, Env-Sw 607, or Env-Sw 707;

(3) Is not eligible for a research and development permit pursuant to Env-Sw 312;

(4) Is not eligible for an emergency permit pursuant to Env-Sw 313;

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

(6) Does not elect to operate under a general permit pursuant to Env-Sw 308.

Env-Sw 314.02 Applicable Requirements and Limitations.

(a) A standard permit facility shall comply with:

(1) Env-Sw 1000;

- (2) Env-Sw 1100, if the facility has an active life longer than 90 days;
- (3) Env-Sw 400 through Env-Sw 800, as applicable based on the functional classification of the facility;
- (4) Env-Sw 900, as applicable based on the type of waste managed by the facility; and
- (5) Env-Sw 1400.

(b) A standard permit shall be subject to the provisions in Env-Sw 315 for permit modification ~~including permit transfer and renewal.~~

Env-Sw 314.03 Standard Facility Permit Application Content and Format.

(a) ***An applicant shall file a standard permit application shall be organized and prepared by the applicant that includes the applicable form, including attachments,*** as follows:

- (1) ~~Section 1, “identification”, shall include the information required by Env Sw 314.04 and Env Sw 314.05;~~ ***An applicant seeking to operate a collection, storage, and transfer facility shall complete a “Standard Permit Application for Solid Waste Collection/Storage/Transfer Facility, NHDES-S-05-039, Date, available at: X.***
- (2) ~~Section 2, “facility description”, shall include the information required by Env Sw 314.06;~~ ***An applicant seeking to operate a processing and treatment facility shall complete a “Standard Permit Application for Solid Waste Processing/Treatment Facility, NHDES-S-05-041, Date, available at: X.***
- (3) ~~Section 3, “other permits”, shall include the information required by Env Sw 314.07;~~ ***An applicant seeking to operate a landfill shall complete a “Standard Permit Application for Solid Waste Landfill Facility, NHDES-S-05-040, Date, available at: X.***
- (4) ~~Section 4, “legal notifications and agreements”, shall include the information required by Env Sw 314.08 and Env Sw 314.09;~~ ***An applicant seeking to close an unpermitted landfill shall complete a “Standard Permit Application for Solid Waste Landfill Closure,” NHDES-S-05-026, Date, available at: X***
- (5) ~~Section 5, “site report”, shall include the information required by Env Sw 314.10;~~
- (6) ~~Section 6, “plans and specifications”, shall include the information required by Env Sw 314.11;~~
- (7) ~~Section 7, “operating plan”, shall be:~~
  - a. ~~Prepared in accordance with Env Sw 1105.11; 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 Sw 1106.04;~~
- (9) ~~Section 9, “financial report”, shall include the information required by Env Sw 314.12;~~
- (10) ~~Section 10, “performance history”, shall include:~~
  - a. ~~The information required by Env Sw 303.13 and Env Sw 303.14; and~~
  - b. ~~Certification that the information required by Env Sw 316 has been submitted to the NHDOJ, if applicable;~~

~~(11) Section 11, “public benefit”, shall include the information required by RSA 149 M:11 in conformance with the provisions of Env Sw 1005.05;~~

~~(12) Section 12, “signature”, shall include the signatures required by Env Sw 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 Sw 310.~~

~~Env Sw 314.04 Facility Identification. The applicant shall identify the facility, by providing the following information:~~

~~(a) Facility identification, as specified in Env Sw 103.02; 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.~~

~~Env Sw 314.05 Identification of Parties. The applicant shall identify parties, as specified by Env Sw 103.22.~~

~~Env Sw 314.06 Facility Description. The applicant shall describe the facility, including the following information:~~

~~(a) Facility functional classification as identified in Env Sw 302.05;~~

~~(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) or generator(s), or both, to be served by the facility; and~~

~~(2) For an unlimited service area facility, shall be specified by identifying the geographic area(s) or generators, or both, most likely to be served by the facility.~~

~~Env Sw 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~~

~~(3) If a permit or approval has been issued, the date of issuance and the expiration date, if any.~~

~~Env Sw 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 Sw 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.~~

~~Env Sw 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 Sw 1003.03 shall be obtained prior to the effective date of a permit, if issued, and shall include copies of all relevant legal agreements.~~

~~Env Sw 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 Sw 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 Sw 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 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 Or 700;~~
- ~~(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.~~

~~Env Sw 314.11 ***Plans and Specifications***. The applicant shall provide plans and specifications prepared in accordance with Env Sw 1103.05, 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 Sw 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.~~

~~Env Sw 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, including post closure monitoring, based on the requirements set forth in Env-Sw 1400; and~~

~~(f) A financial assurance plan in accordance with Env-Sw 1400.~~

Env-Sw 314.1304 Other Information. If 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.

Env-Sw 314.1405 Application Filing. Standard facility permit applications shall be signed and filed by the applicant as specified in Env-Sw 303, with the fee as specified in Env-Sw 310.

Env-Sw 314.1506 Application Review and Decision. Standard facility permit applications shall be reviewed in accordance with Env-Sw 304 and Env-Sw 305.

**Readopt with amendment Env-Sw 315.01, effective 10-21-17 (Document #12404), cited and to read as follows:**

#### PART Env-Sw 315 PERMIT MODIFICATION

Env-Sw 315.01 Applicability.

(a) Except as specified in (b) *and* (c), below, 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) This part shall not apply to:

- (1) Transferring a permit-by-notification, as specified by Env-Sw 311.02(c);
- (2) Permit modifications initiated by the department pursuant to Env-Sw 306; or
- (3) General permits established ~~in~~*pursuant to* Env-Sw 308.

*(c) A permit-by-notification shall not be modified, except if the modification is a type III or type V modification pursuant to (d) below or a permit transfer pursuant to Env-Sw 1202.06(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.*

*(d) Only the following types of modifications are applicable to a permit-by-notification:*

- (1) Type III modifications identified in Env-Sw 315.02(e)(2), (6), (8), (9) and (10); and*
- (2) Type V modifications identified in Env-Sw 315.02(g).*

**Readopt with amendment Env-Sw 315.02, effective 7-1-14 (Document #10595), as amended effective 10-21-17 (Document #12404), to read as follows:**

Env-Sw 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, including but 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, *such* 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.

(d) “Type II modification” means an amendment to the terms and conditions of a permit to approve and incorporate by reference final or ~~revised~~***updated*** 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, including but not limited to:

- (1) Approving final plans for construction, operation, financial assurance or closure of a facility based on ***previously approved*** preliminary plans ~~provided in the application~~, as required to satisfy prerequisites for construction or operation pursuant to Env-Sw 1100, and Env-Sw 305.05(b) and (c); ~~and~~

***(2) Approving updated final plans for construction, operation, financial assurance or closure of a facility that is merely a change to improve the same within the limits specified in the permit and do not:***

- a. Alter the permitted facility’s functional classification;***
- b. Change the basis of the approved facility design;***
- c. Alter the post-closure use of the facility; or***
- d. Increase the potential for nuisance conditions; and***

- (23) Approving preliminary plans for closure of a landfill under the provisions of a temporary permit pursuant to Env-Sw 307.08(b).

(e) “Type III modification” means an amendment to the terms and conditions of a permit to effect one of the following minor changes:

(1) A change in facility operating hours ~~within the limits specified in Env-Sw 1105.08(a) or within alternative limits specified in the permit pursuant to Env-Sw 1105.08(b);~~

(2) ***A change in the facility street address that does not constitute relocation of the facility;***

(3) A change in an ~~key~~ above-ground site feature, including a facility structure or appurtenance, that:

a. Is made subsequent to filing record drawings in accordance with Env-Sw 1104.07;

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;

(~~34~~) A change in facility operations to separately collect, store and transfer ~~source-separated~~ ***the type of*** select recyclable materials not previously ~~managed separately~~ ***authorized*** by the ~~facility permit~~, to the extent that the activity:

a. Does not increase either the ~~approved design~~ ***capacity*** or ***design*** storage capacity of the facility; and

b. Does not require a change in the approved financial assurance plan of record for the facility;

(5) ***Changes in the approved operating plan of record or approved closure plan of record that are corrections of typographical or clerical errors, or updates to contact information that do not constitute changes required to be made pursuant to a type IV permit modification;***

(6) ***Changes in the following activities:***

***a. Activities not regulated by the solid waste rules but involving a waste listed in Env-Sw 101.03; and***

***b. Activities that are permit-exempt pursuant to Env-Sw 302.03;***

(7) ***For a permit-by-notification, a change in the authorized wastes consistent with the requirements and limitations in Env-Sw 1200 and Env-Sw 407, Env-Sw 507, Env-Sw 607 or Env-Sw 707 as applicable;***

(48) For landfills,:

***a. A proposed alternative cover material demonstration pursuant to Env-Sw 806.03(f)(1);***

***b. A change in the type of cover material to be used at the facility, pursuant to Env-Sw 806.03(e)a., b., c. or e.; or***

***c. Expansion of an existing decomposition gas management system within the landfill footprint that is designed based on previously approved preliminary plans;***

~~(59)~~ A name change for the permittee or facility that does not constitute a type IV modification; and

~~(610)~~ *For a permit-by-notification, Aa* change in ~~organizational structure, officers, directors, or partners, or key employees identified pursuant to Env-Sw 303.14(a)~~ that does not constitute a type IV modification;

*(11) A change in organizational structure that does not constitute a type IV modification; and*

*(12) A change in the property ownership 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. *A change in officers, directors, partners, or individuals or entities having managerial, supervisory, or substantial decision-making authority and responsibility identified pursuant to Env-Sw 303.14(a);*

b. For a partnership, a change in the majority of general partners;

~~bc.~~ For a corporation, a transfer of all *the majority of* corporate assets or of a majority of voting shares to a new individual or entity;

~~ed.~~ For other organizations, a transfer of the control of the organization to a new individual or entity; and

~~ee.~~ 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-Sw 1105.06(b) to allow facility records to be stored at off-site locations *or electronically*, or to be destroyed.

**Readopt with amendment Env-Sw 315.03, effective 7-1-14 (Document #10595), to read as follows:**

Env-Sw 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 *by filing* as follows:

~~(1) For a type I modification, the permittee shall submit an application that provides the information specified in Env-Sw 315.05;~~ *The applicable form as specified in Env-Sw 315.05 to Env-Sw 315.09; and*

~~(2) For a type II modification, the permittee shall submit an application that provides the information specified in Env-Sw 315.06;~~ *The applicable attachments specified in Env-Sw 315.04.*

~~(3) For a type III modification, the permittee shall submit an application in the form of a notification that provides information specified in Env-Sw 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-Sw 315.08; and~~

~~(5) For a type V modification, the permittee shall submit an application that provides information as specified in Env-Sw 315.09.~~

**Readopt with amendment Env-Sw 315.04 and Env-Sw 315.05, effective 7-1-14 (Document #10595), as amended effective 10-21-17 (Document #12404), to read as follows:**

Env-Sw 315.04 Permit Modification Application Filing Procedures.

(a) All applications to modify a permit shall be:

~~(1) Signed and filed~~ by the permittee, ***facility owner(s), and property owner(s)*** in accordance with Env-Sw 303.04.; ***and***

***(2) Submitted by the permittee as the applicant in accordance with Env-Sw 303;***

(b) Applications for a type IV modification shall be signed and ~~filed~~ ***submitted*** 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~~ ***signed statement by the permittee***, in addition to the requirements specified in Env-Sw 303, certifying that:

~~(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-Sw 315.02; and~~

~~b. (2) The proposed change shall not cause the facility to ~~contravene~~ ***violate*** any applicable requirement in Env-Sw 1000 or violate any other condition of the permit;~~

~~(2) If the permittee is not the property owner, a signed statement by the property owner to certify acceptance of the modification; and~~

***(d) An application for permit modification in which changes to the facility design plan(s), operating plan, closure plan, financial assurance plan or other plan(s) are required shall be submitted with draft amendments for each document prepared as follows:***

***(1) 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-Sw 1103.05;***

***(2) 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-Sw 1105 and, subject to (6) 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 proposed changes and date of revision;***

***(3) 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-Sw 1106 and, subject to (6) 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 proposed changes and date of revision;***

*(4) 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-Sw 1400 and shall include all related draft financial assurance documents required to effect the proposed modification;*

*(5) If the proposed modification requires changes to the last approved plan of record for any other type of plan, the proposed revisions shall be presented in the form of a complete plan and shall be clearly marked to show the proposed changes;*

*(6) If there is no last approved plan of record for any of (1) through (5) above, or the approved plan of record does not conform to the applicable plan requirements in Env-Sw 1105 or Env-Sw 1106, a plan shall be provided as specified in Env-Sw 1103.05, Env-Sw 1105, Env-Sw 1106 and Env-Sw 1400, as applicable, based on the proposed modified facility.*

*(e) An application for permit modification shall be submitted with all calculations required to support and verify the adequacy of the proposed changes.*

Env-Sw 315.05 Application Content and Format, Type I Modifications. For a type I permit modification, *as defined in Env-Sw 315.02(a)*, the permittee shall ~~provide the information and materials, compiled in the order listed below:~~ *file the application as specified in (a) through (d) below, and the information specified in Env-Sw 315.04(d) and (e), as applicable.*

~~(a) Facility identification;~~ *A permittee seeking a Type I-A modification as defined in Env-Sw 315.02(b), for a collection, storage, and transfer facility shall complete a “Type I-A Permit Modification Application for Collection/Storage/Transfer Facility”, NHDES-S-05-046-A, Date, available at: X.*

~~(b) Identification of parties;~~ *A permittee seeking a Type I-A modification as defined Env-Sw 315.02(b) for a solid waste landfill shall complete a “Type I-A Permit Modification Application for Landfill Facility”, NHDES-S-05-046-B, Date, available at: X.*

~~(c) A complete description of the proposed modification, including:~~

~~(1) The type of modification as specified by Env Sw 315.02;~~

~~(2) Identification of each written permit condition that requires 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 (32) 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 Sw 1103.05;~~

~~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 Sw 1105 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;~~

~~e. 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 Sw 1106 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 Sw 1400 and shall include all related draft financial assurance documents required to effect the proposed modification; and~~

~~e. If there is no last approved plan of record for any of a. through d. above, a plan shall be provided as specified in Env Sw 1103.05, Env Sw 1105, Env Sw 1106 and Env Sw 1400, as applicable, based on the proposed modified facility; and~~

~~(5) Information that the proposed modified facility meets all requirements of the solid waste rules; ***A permittee seeking a Type I-A modification as defined in Env-Sw 315.02(b) for a processing and treatment facility shall complete a "Type I-A Permit Modification Application", NHDES-S-05-046-C, Date, available at: X.***~~

~~(d) A proposed schedule for implementing the modification; ***A permittee seeking a Type I-B modification as defined in Env-Sw 315.02(c) shall complete a "Type I-B Permit Modification Application", NHDES-S-05-046-D, Date, available at: X.***~~

~~(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) The compliance information required by Env Sw 303.13;~~

~~(h) For a type I A modification, the personal and business disclosure information and performance history information required by Env Sw 316;~~

~~(i) 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 Sw 1005.05;~~

~~(j) Identification and status of all other permits or approvals necessary to effect the proposed modification;~~

~~(k) 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 Sw 303; and~~

~~(l) For a type I A modification, proof that notification of abutters has been made in accordance with Env Sw 303.~~

**Readopt with amendment Env-Sw 315.06, effective 7-1-14 (Document #10595), to read as follows:**

Env-Sw 315.06 Application Content and Format, Type II Modifications. For a type II permit modification, the permittee shall ~~provide:~~ *complete* a “*Type II Permit Modification Application*”, *NHDES-S-05-047, Date, available at: X, and the information specified in Env-Sw 315.04(d) and (e), as applicable.*

~~(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 Sw 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 Sw 1103.05;~~

~~b. Operating plans shall be prepared in accordance with Env Sw 1105 and, subject to (d) below, may be presented in the form of replacement pages ready for substitution into the last approved plan of record, each page being clearly marked to show the date of revision;~~

~~c. Closure plans shall be prepared in accordance with Env Sw 1106 and, subject to (d) below, may be presented in the form of replacement pages ready for substitution into the last approved plan of record, each page being clearly marked to show the date of revision; and~~

~~d. Financial assurance plans shall be prepared in accordance with Env Sw 1400;~~

~~(3) Identification of the preliminary plans incorporated by reference into the permit which provide the basis for the final plans; and~~

~~(4) A proposed schedule for implementing the modification.~~

~~(d) If there is no approved plan of record, as referenced in (c)(2)b. and (c)(2)c. above, or the approved plan of record does not conform to the applicable plan requirements in Env Sw 1105 or Env Sw 1106, a plan shall be provided that meets the applicable requirements and includes all modifications for which approval is being sought.~~

**Readopt with amendment Env-Sw 315.07, effective 7-1-14 (Document #10595), as amended effective 10-21-17 (Document #12404), to read as follows:**

Env-Sw 315.07 Application Content and Format, Type III Modification. For a type III permit modification, the permittee shall ~~provide:~~ *complete the application as specified in (a) through (m) below, the certification statement specified in Env-Sw 315.04(c), and the information specified in Env-Sw 315.04(d) and (e), as applicable.*

~~(a) Facility identification;~~ *A permittee seeking a Type III Modification for a change in facility operating days and/or hours shall complete a “Type III Permit Modification Application for Change in Facility Operating Days and/or Hours”, NHDES-S-05-048-L, Date, available at: X.*

~~(b) Identification of parties;~~ ***A permittee seeking a Type III Modification for a change in a facility street address shall complete a “Type III Permit Modification Application for Change in Facility Street Address”, NHDES-S-05-048-A, Date, available at: X.***

~~(c) A description of the proposed modification, including:~~

~~(1) Identification of the type of modification as specified by Env Sw 315.02; and~~

~~(2) Identification of the proposed changes, as follows:~~

~~a. If for a change in facility operating hours, the days and hours of operation after the modification takes effect;~~

~~b. If for a change in site feature, a description of the changed feature and as site plan showing the changed feature;~~

~~c. If for a change in the type of recyclables collected, identification of the new types being collected and the method for storage;~~

~~d. If for a change in the type of over material to be used at the facility, identification of the type in conformance with the options provided in Env Sw 806.03;~~

~~e. If for a change in permittee or facility name, identification of the new name; and~~

~~f. If for a change in the permittee’s organizational structure, officers, directors, partners, or key employees identified pursuant to Env Sw 303.14(a):~~

~~1. A precise explanation of what is changing~~

~~2. The compliance information required by Env Sw 303.13; and~~

~~3. Proof of operator certification or processed applicant status if the proposed change involves a change in an individual required to hold operator certification pursuant to Env Sw 1600 and Env Sw 1005.07; and ***A permittee seeking a Type III Modification for a change in above-ground site feature(s) shall complete a “Type III Permit Modification Application for Change in Above-Ground Site Feature(s)”, NHDES-S-05-048-K, Date, available at: X.***~~

~~(d) A proposed schedule for implementing the modification.~~ ***A permittee seeking a Type III Modification for a change in type of authorized select recyclable materials shall complete a “Type III Permit Modification Application for Change in Type of Authorized Select Recyclable Materials”, NHDES-S-05-048-B, Date, available at: X.***

~~(e) A permittee seeking a Type III Modification for a change in approved operating plan of record and/or approved closure plan of record shall complete a “Type III Permit Modification Application for Change in Approved Operating Plan of Record and/or Approved Closure Plan of Record”, NHDES-S-05-048-C, Date, available at: X.~~

~~(f) A permittee seeking a Type III Modification for a change in non-solid waste activities or permit exempt activities shall complete a “Type III Permit Modification Application for Change in Non-Solid Waste Activities or Permit Exempt Activities”, NHDES-S-05-048-D, Date, available at: X.~~

*(g) A permittee seeking a Type III Modification for a change in landfill cover shall complete a “Type III Permit Modification Application for Change in Landfill Cover”, NHDES-S-05-048-F, Date, available at: X.*

*(h) A permittee seeking a Type III Modification for a landfill gas management system change shall complete a “Type III Permit Modification Application for Change in Landfill Gas Management System”, NHDES-S-05-048-G, Date, available at: X.*

*(i) A permittee seeking a Type III Modification for a change in permittee or facility name shall complete a “Type III Permit Modification Application for Change in Permittee or Facility Name”, NHDES-S-05-048-H, Date, available at: X.*

*(j) A permittee seeking a Type III Modification for a change in officer, director, or partners for a permit-by-notification facility shall complete a “Type III Permit Modification Application for Change in Officers, Directors, or Partners for Permit-by-Notification Facility”, NHDES-S-05-048-I, Date, available at: X.*

*(k) A permittee seeking a Type III Modification for a change in organizational structure shall complete a “Type III Permit Modification Application for Change in Organization Structure”, NHDES-S-05-048-M, Date, available at: X.*

*(l) A permittee seeking a Type III Modification for a change in property owner shall complete an “Application for Type III Modification to Solid Waste Management Facility Permit - Change in Facility or Property Ownership”, NHDES-S-05-048-J, Date, available at: X.*

*(m) A permittee seeking a Type III Modification for a change in authorized waste types and/or waste quantities being managed for a permit-by-notification facility shall complete an “Application for Type III Modification to Solid Waste Management Facility Permit – Change in Authorized Waste Types and/or Waste Quantities Being Managed for a Permit-by-Notification Facility”, NHDES-S-05-048-E, Date, available at: X.*

**Readopt with amendment Env-Sw 315.08, effective 10-21-17 (Document #12404), to read as follows:**

Env-Sw 315.08 Application Content and Format, Type IV Modifications. For a type IV permit modification, the existing permittee and the proposed permittee, acting as co-applicants, shall ~~provide:~~ **complete a “Type IV Permit Modification Application”, NHDES-S-05-044, Date, available at: X, and the information specified in Env-Sw 315.04(d) and (e), as applicable.**

~~(a) Facility identification;~~

~~(b) Identification of parties, both existing and proposed;~~

~~(c) Identification of the type of change that triggers the need for modification, as specified in Env Sw 315.02(f);~~

~~(d) The compliance information required by Env Sw 303.13 for the proposed new permittee as the applicant;~~

~~(e) The personal and business disclosure information and performance history information required by Env Sw 316 for the proposed new permittee as the applicant;~~

~~(f) Proof of operator certification or processed applicant status if the proposed change involves a change in an individual required to hold operator certification pursuant to Env Sw 1600 and Env Sw 1005.07;~~

~~(g) A financial assurance plan by the proposed new permittee for the cost of closing the facility pursuant to Env Sw 1400;~~

~~(h) A proposed schedule for implementing the modification;~~

~~(i) Identification and status of all other permits or approvals necessary to effect the proposed modification, if any;~~

~~(j) Proof that the host municipality and host solid waste management district have been provided a copy of the application and a notice of filing as specified by Env Sw 303; and~~

~~(k) Proof that notification of abutters has been made in accordance with Env Sw 303.~~

**Readopt with amendments Env-Sw 315.09, effective 7-1-14 (Document #10595), to read as follows:**

Env-Sw 315.09 Application Content and Format, Type V Modification. For a type V permit modification, the permittee shall ~~provide:~~*complete a “Type V Permit Modification Application”, NHDES-S-05-043, Date, available at: X, and the information specified in Env-Sw 315.04(d) and (e), as applicable.*

~~(a) Facility identification;~~

~~(b) Identification of the parties;~~

~~(c) A description of the proposed modification, including:~~

~~(1) Identification of the type of modification as specified by Env Sw 315.02;~~

~~(2) Identification of the contents of the subject record(s), including type of information and time period covered;~~

~~(3) If the proposal is to relocate the records, identification of the following:~~

~~a. The location where the records are proposed to be stored, by street address, municipality and state;~~

~~b. The owner of the proposed storage location;~~

~~c. A description of the measures that shall be taken to protect the records against destruction, and to prevent unauthorized access to the records while in storage; and~~

~~d. A description of how the department shall be provided access to the records pursuant to Env Sw 2000; and~~

~~(4) If the proposal is to destroy the records, an explanation of need; and~~

~~(d) A proposed schedule for implementing the modification.~~

**Readopt with amendment Env-Sw 315.10, effective 7-1-14 (Document #10595), as amended effective 10-21-17 (Document #12404), to read as follows:**

Env-Sw 315.10 Application Review and Decision.

~~(a) All applications to modify a permit shall be reviewed in accordance with Env-Sw 304 and Env-Sw 305.~~

~~(b) In addition to the provisions for denial in Env-Sw 305.03, the department shall deny any application to modify a permit if:~~

~~(1) The applicant is unable to certify compliance pursuant to Env-Sw 303.14, unless the applicant:~~

~~a. Demonstrates in the compliance report that the circumstance(s) for non-compliance are not cause for the department to deny the requested approval pursuant to the provisions of RSA 149-M:9, IX or X; and~~

~~b. Agrees to comply with a plan and schedule for achieving compliance;~~

~~(2) The modification constitutes a change in the facility's functional classification as described in Env-Sw 302, which otherwise requires a new facility permit; or~~

~~(3) The modification constitutes an expansion of facility operations under the provisions of a temporary permit.~~

~~(c) The department shall approve a type V permit modification request to store facility records off-site if the application demonstrates that the records shall be adequately protected against loss or damage and shall remain accessible to the department as required by the solid waste rules.~~

~~(d) The department shall not approve a type V permit modification to destroy records, if:~~

~~(1) Any benefits will be obtained by requiring the records to be retained, for instance by assisting in development of a closure or post-closure monitoring plan or otherwise to assist future studies to determine compliance with state or federal regulations; or~~

~~(2) The facility is the subject of any pending investigation or enforcement action.~~

~~(e) Pursuant to Env-Sw 1104, a type II permit modification granting construction plan approval 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 and regulations, and other terms and conditions of the permit.~~

**Readopt with amendment Env-Sw 316.01, effective 7-1-14 (Document #10595), cited and to read as follows:**

PART Env-Sw 316 PERFORMANCE HISTORY REQUIREMENTS

Env-Sw 316.01 Purpose. The purpose of the rules in this part is to implement RSA 149-M:9, III and IX by identifying the information needed for the department to:

(a) Request a background investigation from the NHDOJ to determine whether an applicant, owner, facility operator, or any of the applicant's officers, directors, partners, ~~key employees~~ ***individuals or entities having managerial, supervisory or substantial decision-making authority and responsibility***, or major debt or equity holders, has been convicted of or pled guilty or no contest to a felony within 5 years of the date of the permit application; and

(b) Determine whether the applicant has demonstrated or failed to demonstrate sufficient reliability, expertise, integrity and competence to operate a solid waste facility.

**Readopt with amendment Env-Sw 316.02, effective 10-21-17 (Document #12404), to read as follows:**

Env-Sw 316.02 Applicability.

(a) Except as noted in (b), below, the rules in this part shall apply to applicants for the following types of permits and approvals:

- (1) Standard facility permit pursuant to Env-Sw 314;
- (2) Research and development facility permit pursuant to Env-Sw 312, whenever the applicant is unable to certify compliance pursuant to Env-Sw 303.14;
- (3) Type IV permit modification to transfer ownership or operational control of the facility; and
- (4) Type I-A permit modification.

(b) The rules in this part shall not apply to an applicant that is a ~~town~~ *municipality*, governmental unit, agency or political subdivision of the state, or combination thereof.

**Readopt Env-Sw 316.03, effective 7-1-14 (Document #10595), to read as follows:**

Env-Sw 316.03 Disclosure Required.

(a) At the same time that an applicant identified in Env-Sw 316.02 submits an application to the department, the applicant shall submit to the NHDOJ all of the personal and business disclosure information specified on the forms required by Env-Sw 316.04 for all individuals and entities, respectively, identified in Env-Sw 316.05.

(b) Applicants shall cooperate fully with the NHDOJ during the background investigation.

**Readopt with amendment Env-Sw 316.04, effective 5-26-22 (Document #13386), to read as follows:**

Env-Sw 316.04 Use of Disclosure Forms; Signatures.

(a) Disclosure of personal information shall be on a “Personal History Disclosure Form” ~~(PDF) dated April 2021, NHDES-S-05-AG1, April 2021, available at:~~ <https://onlineforms.nh.gov/app/#/formversion/c7da0c4e-85ea-4e0f-9bd8-09ea741691cc>.

(b) Disclosure of business information shall be on a “Business Disclosure Form” ~~(BDF) dated April 2021, NHDES-S-05-AG2, April 2021, available at:~~ <https://onlineforms.nh.gov/app/#/formversion/a78b3361-31e5-4467-985a-25521db12fe4>.

(c) ~~Any PDF form~~ *filed pursuant to (a) or (b) above* shall be signed and dated by the individual who is the subject of the ~~PDF disclosure~~.

(d) If a ~~PDF form specified in (a) or (b) above~~ is ~~completed~~ *filed* by someone other than the individual who is the subject of the ~~PDF disclosure~~, the name, address, and telephone number of the individual who completed the ~~PDF form~~ shall be ~~stated~~ *provided* on the ~~PDF form~~.

(e) The signature provided pursuant to (c), above, shall constitute ~~a sworn or affirmed statement that:~~ *agreement to the affirmations and acknowledgements in Env-Sw 303.04.*

~~(1) The signer has made diligent inquiry into all matters addressed in the PDF;~~

~~(2) Based on such inquiry, the submitted information is true, complete, and not misleading to the best of the signer's knowledge and belief; and~~

~~(3) The signer understands that if any of the statements are false, incomplete, or misleading, then:~~

~~a. Processing of the application may be delayed;~~

~~b. The permit sought may be denied or revoked; and~~

~~c. He or she may be subject to prosecution for false swearing under RSA 641:3 or any successor statute.~~

(f) The individual who prepares a ***BDF business disclosure form in accordance with (b) above*** ~~on behalf of an entity~~ shall complete, sign, and have notarized an "Affidavit of Author", which shall constitute ~~an sworn or~~ affirmed statement that: ***the disclosure is being filed on behalf of the entity that is the subject of the disclosure.***

~~(1) The signer is the individual who filled out the attached BDF in the name of the entity that is the subject of the BDF or who directed that the information contained in the BDF be set down therein;~~

~~(2) The signer has made diligent inquiry into all matters addressed in the BDF;~~

~~(3) Based on such inquiry, the submitted information is true, complete, and not misleading to the best of the individual's knowledge and belief; and~~

~~(4) The signer understands that if any of the statements are false, incomplete, or misleading, then:~~

~~a. Processing of the application may be delayed;~~

~~b. The permit sought may be denied or revoked; and~~

~~c. He or she is subject to penalties for false swearing under RSA 641:3 or any successor statute.~~

(g) Any ***BDF business disclosure form*** filed ***in accordance with (b) above*** for an entity shall be signed and dated by the individual(s) identified below, as applicable to the legal form of the entity:

(1) If the entity is a corporation, the:

a. President, chairman of the board, or chief executive officer;

b. Secretary; and

c. Treasurer;

(2) If the entity is any type of partnership, each general partner;

(3) If the entity is a sole proprietorship, the owner; and

(4) If the entity is any other business form, the individuals having positions equivalent to a corporation's chief executive officer, secretary, and treasurer.

(h) The signatures provided pursuant to ***(f) and (g)***, above, shall constitute ~~certification that~~ ***agreement to the affirmations and acknowledgements in Env-Sw 303.04.***

- ~~(1) The signer has examined the BDF;~~
- ~~(2) The BDF contains no statement or information the signer knows to be false, incomplete, or misleading; and~~
- ~~(3) The signer understands that if the certification is false, then:
  - ~~a. Processing of the application may be delayed;~~
  - ~~b. The permit sought may be denied or revoked; and~~
  - ~~c. He or she is subject to penalties for false swearing under RSA 641:3 or successor statute.~~~~

**Readopt with amendment Env-Sw 316.05, effective 7-1-14 (Document #10595), to read as follows:**

Env-Sw 316.05 Entities and Individuals Required to Submit Information.

(a) If the applicant is an individual, the applicant shall ***complete, sign, and*** submit ~~a completed, and signed PDF dated April 2021 and a completed and signed BDF dated April 2021~~ ***the disclosure forms specified in 316.04(a) and (b)*** for himself or herself.

(b) If the applicant is not an individual, the applicant shall ***complete, sign, and*** submit:

(1) ~~A completed and signed BDF dated April 2021~~ ***business disclosure form in accordance with Env-Sw 316.04(b)*** for:

- a. The applicant;
- b. Each entity that is, or is proposed to be:
  - 1. A partner;
  - 2. An entity contracted with the applicant to operate, manage or supervise the facility or activities for which approval is being sought;
  - 3. An entity holding ~~of~~ 10% or more of the applicant's debt; or
  - 4. An entity holding 10% or more of the applicant's equity; and
- c. The parent corporation, holding corporation, and any other entity that exercises control over the facility or activities for which approval is being sought; and

(2) ~~A completed and signed PDF dated April 2021~~ ***personal history disclosure form in accordance with Env-Sw 316.04(a)*** for each individual who has, or who is proposed to have, any of the following relationships with the applicant:

- a. Director;
- b. Partner;
- c. Officer;
- d. Any 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;
- e. Holder of 10% or more of the applicant's debt; or
- f. Holder of 10% or more of the applicant's equity.

(c) If the applicant and the proposed facility operator are not the same, the applicant also shall submit a ~~PDF~~***personal history disclosure form in accordance with Env-Sw 316.04(a)*** and a ~~BDF~~***business disclosure form in accordance with Env-Sw 316.04(b)*** for the facility operator as though the facility operator is the applicant and as described in (a) and (b), above.

**Repeal Env-Sw 316.06, effective 5-26-22 (Document #13386), and renumber the remaining sections, as follows:**

~~Env-Sw 316.06 Scope of Disclosure; Release Authorization.~~

~~(a) Each individual required to submit a disclosure form shall provide the information requested on the PDF, including:~~

- ~~(1) Personal identifying data such as name, address, physical description, date and place of birth, nationality, and residential history;~~
- ~~(2) Marital and family information, including information about relatives in the solid waste industry;~~
- ~~(3) Education, military and professional experience, employment history, public offices, and waste management licenses and experience;~~
- ~~(4) All other business and financial interests; and~~
- ~~(5) Involvement in professional or environmental violations, or civil or criminal proceedings.~~

~~(b) Each entity required to submit a disclosure form shall provide the information requested on the BDF, including:~~

- ~~(1) Business identifying data such as names, date and nature of organization, ownership, principal location and address, and past and present facilities;~~
- ~~(2) Corporate, partnership or business venture history and structure, including information about key employees, officers, directors, partners, and trustees, as applicable;~~
- ~~(3) Information about subsidiaries and affiliated entities;~~
- ~~(4) Experience and credentials in the waste management industry, including waste permits and licenses held;~~
- ~~(5) History of environmental violations, and other administrative, civil or criminal proceedings;~~
- ~~(6) Equity structure and debt liability; and~~
- ~~(7) Financial history.~~

~~(c) Each individual who files a PDF shall sign, date, and have notarized a release to inform courts, probation departments, selective service boards, employers, banks, financial and other such institutions, and all government agencies, whether federal, state, or local without exception both foreign and domestic, that:~~

- ~~(1) The individual is affiliated with an applicant for a solid waste permit;~~
- ~~(2) The recipient of the release is authorized to release any and all information pertaining to the individual, documentary or otherwise, as requested by an appropriate employee, agent, or representative of the New Hampshire attorney general;~~

- ~~(3) The authorization supersedes and countermands any prior request or authorization to the contrary; and~~
- ~~(4) A photostatic or electronic copy of the authorization shall be considered as effective and valid as the original.~~
- (d) Each entity that files a BDF shall duly authorize an individual to sign, date, and have notarized a release to inform courts, probation departments, selective service boards, employers, banks, financial and other such institutions, and all government agencies, whether federal, state, or local without exception both foreign and domestic, that:
- ~~(1) The individual has been duly authorized to authorize the office of the attorney general of New Hampshire to conduct an investigation into the background of the named business for the purpose of determining its suitability to hold a solid waste permit;~~
- ~~(2) The recipient of the release is authorized to release any and all information pertaining to the named business, documentary or otherwise, as requested by an appropriate employee, agent, or representative of the New Hampshire office of the attorney general;~~
- ~~(3) The authorization supersedes and countermands any prior request or authorization to the contrary; and~~
- ~~(4) A photostatic or electronic copy of the authorization shall be considered as effective and valid as the original.~~

**Readopt with amendment and renumber Env-Sw 316.07, effective 7-1-14 (Document #10595), as Env-Sw 316.06, to read as follows:**

Env-Sw 316.076 Filing of Disclosure Forms.

- (a) The applicant shall transmit all original signed disclosure forms by certified mail, return receipt requested or by hand-delivery to the NHDOJ, attn: environmental bureau chief.
- (b) The submittal made pursuant to (a) above shall be accompanied by a notice of filing pursuant to Env-Sw 303.12.

**Readopt with amendment and renumber Env-Sw 316.08, effective 7-1-14 (Document #10595), as Env-Sw 316.07, to read as follows:**

Env-Sw 316.087 Background Investigation Fee. Pursuant to Env-Sw 310 and upon presentation of an accounting and request for payment from the NHDOJ, the applicant shall pay the cost incurred by the NHDOJ to complete the background investigation and prepare a report to the department as required in RSA 149-M:9, III and IX.

Text added to existing rules in bold italics

Text deleted from existing rules shown ~~struck through~~

Text that is all new (introduced with ***Adopt***) in regular font

**APPENDIX A**

<b>Rule Section(s)</b>	<b>Statute(s) Being Implemented</b>
Env-Sw 301	RSA 149-M:6, III; RSA 149-M:7
Env-Sw 302	RSA 149-M:6, III; RSA 149-M:7, V
Env-Sw 303	RSA 149-M:6, III; RSA 149-M:7, III, XVI; RSA 149-M:9; RSA 149-M:10
Env-Sw 304	RSA 149-M:6, III, V; RSA 149-M:7, III, XVI; RSA 149-M:9, VIII, XV; RSA 149-M:11, IV(a)
Env-Sw 305	RSA 149-M:6, III; RSA 149-M:7, III, XVI; RSA 149-M:9; RSA 149-M:11; RSA 149-M:12
Env-Sw 306	RSA 149-M:6, III; RSA 149-M:7; RSA 149-M:12
Env-Sw 307	RSA 149-M:6, III; RSA 149-M:7, III, XVI
Env-Sw 308	RSA 149-M:6, III; RSA 149-M:7; RSA 149-M:9, I-a, I-b; RSA 149-M:59; RSA 149-M:60
Env-Sw 309	RSA 149-M:7, V, XIV, XVI
Env-Sw 310	RSA 149-M:6, III; RSA 149-M:7, IV; RSA 149-M:9, V
Env-Sw 311	RSA 149-M:6, III; RSA 149-M:7; RSA 149-M:9; RSA 149-M:10
Env-Sw 312	RSA 149-M:6, III; RSA 149-M:7; RSA 149-M:9; RSA 149-M:10
Env-Sw 313	RSA 149-M:6, III; RSA 149-M:7; RSA 149-M:9; RSA 149-M:10
Env-Sw 314	RSA 149-M:6, III; RSA 149-M:7; RSA 149-M:9; RSA 149-M:10
Env-Sw 315	RSA 149-M:6, III; RSA 149-M:7; RSA 149-M:9; RSA 149-M:10
Env-Sw 316	RSA 149-M:6, III; RSA 149-M:9, III, IX, XII; RSA 149-M:10