



NEW HAMPSHIRE RULEMAKING REGISTER

OFFICE OF LEGISLATIVE SERVICES

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NOTE: POSSIBLE RULE EXTENSION

If the proposed rules contain existing, regular rules being readopted or readopted with amendments, and are not adopted and effective until after the expiration date(s) of the existing rules(s), then the existing rules will nevertheless continue in effect pursuant to RSA 541-A:14-a until the proposed rules are adopted and effective.

2. COMMITTEE (JLCAR)

CONTINUED MEETING Previously Scheduled for November 7, 2013 Has Been Cancelled

REGULAR MEETING: **Friday, November 22, 2013 9:00 a.m.**
(Changed from Thursday, November 21st)
Rooms 305/307, Legislative Office Building

JLCAR MEETING DATES AND RELATED FILING DEADLINES NOVEMBER-DECEMBER, 2013

The JLCAR has voted to hold its regularly scheduled monthly meetings for November through December, 2013 on the third Thursdays listed below except for the Regular Meeting on Friday, November 22nd. The minimum 14-day “deadline” prior to the regular JLCAR meeting is listed for agencies to file final proposals or proposed interim rules for placement on the JLCAR agenda pursuant to RSA 541-A:12, I and RSA 541-A:19, V. The JLCAR has also scheduled continued meetings as listed below on select Thursdays to address any items postponed from the prior regular meetings.

Regular Meeting Filing Deadline	Regular Meeting Date	Continued Meeting Date
November 8 (Friday)	November 22 (Friday)	December 5
December 5	December 19	None

Notices of Proposed Rules

<u>Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Page No.</u>
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<u>Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Page No.</u>
2013-178	Env-Sw 1700, 1800, & 2000	Department of Environmental Services Solid Waste Programs Requirements for Acceptance of Wood Ash, Reduction of Toxics in Packaging, Inspections.	23

Notice of Expedited Revisions to Agency Forms

<u>Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Page No.</u>
2013-2	Jus 1300	Department of Justice Comprehensive Application for Registration of Subdivided Land; Abbreviated Application for Registration of Subdivided Land.	25
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Notice Number 2013-167

Rule Number

He-W 608

1. Agency Name & Address:

Department of Health and Human Services
Division of Family Assistance
129 Pleasant St, Brown Bldg
Concord, NH 03301

2. RSA Authority:

RSA 167:3-c,I

3. Federal Authority:

4. Type of Action:

Adoption

Amendment

Repeal

Readoption

Readoption w/amendment

5. Short Title: Use of Money Payments in All Categories of Financial Assistance

6. (a) Summary of what the rule says and of any proposed amendments:

He-W 608.01 describes the responsibilities associated with receipt of cash assistance benefits in the Financial Assistance to Needy Families (FANF) and adult categories of financial assistance programs. The Department is proposing to readopt with amendment this rule, and adopt He-W 608.02:

- Because He-W 608.01 is slated to expire in October 2013 (subject to extension pursuant to RSA 541-A:14-a); and
- To incorporate requirements imposed by HB 2, Chapter Law 144:128 (2013 session), which revised RSA 167 by inserting new section RSA 167:7-b prohibiting the use of electronic benefit (EBT) cards, or cash obtained with EBT cards, at liquor stores, gaming establishments, or retail establishments which provide adult-oriented entertainment.

Proposed revisions to the Part heading of He-W 608 and to He-W 608.01(a), and the proposed adoption of He-W 608.02, reflect the new statute which imposes restrictions on the use of cash benefits. No changes were made to He-W 608.01(b)-(c) and current policy regarding these paragraphs remains unchanged.

6. (b) Brief description of the groups affected:

The proposed rule amendments affect applicants and recipients of all categories of cash assistance.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule Number	RSA/Federal Citation
He-W 608.01	RSA 161:2,I; RSA 167:3-c,I; RSA 167:7-b; 42 USC 602(a)(1)(A)(vii); 42 USC 608(a)(12); 42 USC 609(a)(16)
He-W 608.02	RSA 161:2,I; RSA 167:3-c,I; RSA 167:7-b; 42 USC 602(a)(1)(A)(vii); 42 USC 608(a)(12); 42 USC 609(a)(16)

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: Michael Holt

Title: Rules Coordinator

Address: Office of Program Support
Brown Building
129 Pleasant Street
Concord, NH 03301

Phone #: 271-9234

Fax#: 271-5590

E-mail: michael.holt@dhhs.state.nh.us

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

The proposed rules may be viewed and downloaded at:

<http://www.dhhs.nh.gov/oos/aru/comment.htm>

NN 2013-167 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Tuesday, December 3, 2013**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Friday, November 22, 2013, at 1:00 PM**

Place: **DHHS, Brown Bldg, Room 232, 129 Pleasant St., Concord, NH 03301**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 13:177, dated 10/17/13

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

There is no difference in cost when comparing the proposed rule He-W 608.01 to the existing rule. He-W 608.02 is a new rule. Any cost or benefit associated with these changes is attributable to Chapter 144:128, Laws of 2013 (HB2).

2. Cite the Federal mandate. Identify the impact of state funds:

42 USC 602(a)(1)(A)(vii) and 42 USC 608(a)12 require the State to "maintain policies and practices as necessary to prevent assistance provided under the State program under this part from being used in any electronic benefit transfer transaction in any liquor store; any casino, gambling casino, or gaming establishment; or any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment". 42 USC 609(a)(16) imposes a penalty for failure to impose these policies and practices. The State's TANF block grant will be reduced by 5% each year that the federal government finds that the State is out of compliance with these policies. Currently, 5% of the State's federal TANF block grant is \$1,926,063.

3. Cost and benefits of the proposed rule(s):

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To Independently owned businesses:

None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed rule modifies an existing program or responsibility, but does not mandate any fees, duties or expenditures on the political subdivisions of the state and, therefore, does not violate Part I, Article 28-a of the N.H. Constitution.

Notice Number 2013-168

Rule Number Ph 1500

1. Agency Name & Address:
New Hampshire Board of Pharmacy
57 Regional Drive
Concord, New Hampshire 03301

After November 21, 2013:
121 South Fruit Street
Concord, NH 03301

2. RSA Authority: RSA 318-B:37
 3. Federal Authority: _____
 4. Type of Action:
 Adoption X
 Amendment _____
 Repeal _____
 Readoption _____
 Readoption w/amendment _____

5. Short Title: **NEW HAMPSHIRE CONTROLLED DRUG PRESCRIPTION HEALTH AND SAFETY PROGRAM**

6. (a) Summary of what the rule says and of any proposed amendments:

This rule implements SB 286 (Chapter Law 196 of the 2012 session), the New Hampshire Controlled Drug Prescription Health and Safety Program created by RSA 318-B:31-38, which authorizes the Pharmacy Board to establish and contract with a third party for the implementation and operation of an electronic system to facilitate the confidential sharing of information relating to the prescribing and dispensing of schedule II-IV controlled substances by prescribers and dispensers within the state. The purpose is to promote public health and safety through the prevention of and treatment for misuse and abuse of controlled substances and the reduction of the diversion of such substances, without interfering with the legal medical use of these substances. According to RSA 318-B: 37 the Board was required to adopt administrative rules by June 30, 2013. The Board through support of the Advisory Council has worked persistently to adopt rules but the task proved to be more time consuming than intended.

6. (b) Brief description of the groups affected:

Pharmacies licensed in New Hampshire both resident and non-resident, licensed pharmacists in New Hampshire, licensed practitioners (physicians, dentists, nurse practitioners, veterinarians, optometrist and physician assistants), and patients that are prescribed controlled medications.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

RULE	STATE OR FEDERAL STATUTE THE RULE IMPLEMENTS
Ph 1501.01	RSA 318-B:31-38
Ph 1502.01	RSA 318-B:31
Ph 1503.01	RSA 318-B:33, I & II
Ph 1504.01	RSA 318-B:33, III, IV & V
Ph 1504.02	RSA 318-B:33, VI
Ph 1504.03	RSA 318-B:33, VII
Ph 1505.01 – 1505.05	RSA 318-B:35, I
Ph 1506.01 – 1506.02	RSA 318-B:35, II & III

NN 2013-168 Continued

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **James M. Queenan** Title: **Executive Secretary**
Address: **New Hampshire Board of Pharmacy** Phone #: **603-271-2350**
57 Regional Drive Fax#: **603-271-2856**
Concord NH 03301 E-mail: **james.queenan@nh.gov**

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **November 21, 2013 at close of hearing**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **November 21, 2013 at 5:30 P.M.**

Place: **N.H. Board of Pharmacy
(Large Conference Room)
121 South Fruit Street Concord, NH.03301**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 13:143 , dated October 21, 2013

1. **Comparison of the costs of the proposed rule(s) to the existing rule(s):**

Not applicable, these are new rules.

2. **Cite the Federal mandate. Identify the impact on state funds:**

No federal mandate, no impact on state funds

3. **Cost and benefits of the proposed rule(s):**

- A. **To state general or State special funds:**

None

- B. **To State citizens and political subdivisions:**

None

- C. **To independently owned businesses:**

Independently owned businesses will incur costs related to the transmission of patient, prescription and practitioner data to the Controlled Drug Prescription Health and Safety Program. These costs are not known, but the Board anticipates any costs will be nominal.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

This rule and the proposed amendments to the rule do not violate Part I, Article 28-a of the N.H. Constitution. This rule is not a mandate to a political subdivision.

Notice Number 2013-169

Rule Number

Env-Wq 1100

1. Agency Name & Address:

NH Department of Environmental Services
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

2. RSA Authority:

RSA 485-A:6, X

3. Federal Authority:

15 U.S.C. §§8000 - 8008

4. Type of Action:

Adoption _____

Amendment _____

Repeal _____

Readoption _____

Readoption w/amendment X

5. Short Title: Public Bathing Places

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

The existing rules establish the criteria and procedures for approving the installation, operation, and maintenance of public bathing places in New Hampshire; identify the standards that protect water quality and the health and safety of persons using public bathing places; and ensure that public bathing places are located, constructed, maintained, and operated safely for patrons. The rules are scheduled to expire on November 1, 2013, and so are proposed to be readopted with amendments.* The amendments are proposed in order to incorporate current industry standards for public bathing facilities (PBFs, which are public pools and spas) relative to hydraulic design, entrapment avoidance, disinfection methods, and dimensional requirements. Industry standards for PBFs have been revised in the past few years, largely in response to federal anti-entrapment requirements in the Virginia Graeme Baker Pool and Spa Safety Act ("VGBA"). The VGBA was enacted in 2007 after the granddaughter of former Secretary of State James Baker died when the suction from a spa drain entrapped her under water.

*** Pursuant to RSA 541-A:14-a, the existing rules will continue in effect until this rulemaking is completed, subject to the conditions specified therein.**

6. (b) Brief description of the groups affected:

The rules directly affect owners of public bathing places, including beaches, swimming pools, and spas, and indirectly affect anyone who uses a public bathing place.

6. (c) Specific section(s) of state statute or federal statute or regulation which the rule is intended to implement:

Rule Section(s)	State Statute(s) Implemented
Env-Wq 1100 (see also specific section below)	RSA 485-A:26
Env-Wq 1111.01	RSA 541-A:22, IV

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: Richard (Tim) Wilson

Title: PBP Program Manager

Address: NH Dept. of Environmental Services
29 Hazen Drive; P.O. Box 95
Concord, NH 03302-0095

Phone #: (603) 271-7108

Fax#: (603) 271-7894

E-mail: Richard.Wilson@des.nh.gov

The rules also can be viewed in PDF at

<http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

NN 2013-169 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **4:00 PM on Friday, December 13, 2013**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, December 5, 2013 at 1:30 PM**

Place: **Rooms 113-114, DES Offices, 29 Hazen Drive, Concord NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 13:178, dated 10/22/13:

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

When compared to the existing rules, the proposed rules may increase costs by an indeterminable amount to state citizens and independently owned businesses that own a public bathing facility.

2. Cite the Federal mandate. Identify the impact on state funds:

Section 1404 of the Virginia Graeme Baker Pool and Spa Safety Act (PL 110-140; 15 U.S.C. § 8003) requires conformance with ANSI pool and spa drain cover standards. No impact on state funds.

3. Cost and benefits of the proposed rule(s):

The Department states the proposed rules include safety requirements necessitating first aid kits contain certain items such as materials to control bleeding and personal resuscitation mask (may increase cost by \$15 to \$200); to upgrade pool gates (may increase cost by \$20 to \$200); to install stairs, steps or ladders (may increase cost by \$500 to \$3,000) and to meet requirements around dedicated air handling systems (increase in cost indeterminable). To the extent a state citizen or independently owned business owns a public bathing facility they may incur an indeterminable increase in costs in becoming compliant with the safety requirements contained in the proposed rules.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

See 3 above. No impact on political subdivisions.

C. To independently owned businesses:

See 3 above.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed amendments may cause owners of public swimming pools and spas to incur costs to comply with the requirements to have a first aid kit that contains identified items, to have gates that meet the specified safety standards, and to have stairs/steps/ladders that meet the specified standards, and for indoor pools to have dedicated air handling systems that meet the specified standards. The Department anticipates that many pools owned by political subdivisions already comply with the proposed requirements, but has included exemptions from each of them for any political subdivision for which the local legislative body has not voted or does not vote to approve funding for compliance and compliance is not fully funded by the state. The rules thus do not mandate or assign any new, modified, or expanded programs or responsibilities to political subdivisions of the state in such a way as to necessitate additional local expenditures, and so do not violate Part I, Article 28-a of the New Hampshire Constitution.

Notice Number 2013-170 Rule Number Env-Sw 104.61

<p>1. Agency Name & Address:</p> <p>NH Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</p>	<p>2. RSA Authority: <u>RSA 149-M:7, XV</u></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption <u>X</u></p> <p>Amendment _____</p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment _____</p>
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5. Short Title: Solid Waste Rules: Definition of "Vertical Expansion"

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

The existing rules that establish requirements for landfills, Env-Sw 800, are proposed to be readopted with amendment to specify requirements applicable to the vertical expansion of landfills. In conjunction with those proposed amendments, these rules are proposed to adopt a definition of "vertical expansion".

6. (b) Brief description of the groups affected:

The rule will affect owners and operators of solid waste landfills, and those applying for landfill permits, that incorporate vertical expansions.

6. (c) Specific section(s) of state statute or federal statute or regulation which the rule is intended to implement:

Rule	State Or Federal Statute(s) Implemented
Env-Sw 104.61	RSA 149-M:7, XV

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: Michael Guilfooy, P.E. Title: Administrator, Solid Waste Management Bureau

Address: NH Dept. of Environmental Services Phone #: (603) 271-6467
29 Hazen Drive; P.O. Box 95 Fax#: (603) 271-2546
Concord, NH 03302-0095 E-mail: Michael.guilfooy@des.nh.gov

The rules also can be viewed in PDF at <http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm> TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **December 10, 2013 at 4:00 pm**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **December 3, 2013 at 9:00 AM**

Place: **Auditorium, DES Offices, 29 Hazen Drive, Concord, NH**

NN 2013-170 Continued

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 13:179 , dated 10/23/13:

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

Not applicable, these are new rules.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

A. To State general or State special funds:

None

B. To State citizens and political subdivisions:

None

C. To independently owned businesses:

None

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

There are no costs attributable to the proposed rule because the proposed rule is a definition of the term "vertical expansion", which is used in Env-Sw 800. Accordingly, it does not create a new program or responsibility, or expand or modify an existing program or responsibility, and it does not mandate or assign any program or responsibility to any political subdivision.

Notice Number 2013-171

Rule Number

Env-Sw 200

1. Agency Name & Address:

NH Department of Environmental Services
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

2. RSA Authority:

RSA 149-M:7

3. Federal Authority:

4. Type of Action:

Adoption _____

Amendment _____

Repeal _____

Readoption _____ X

Readoption w/amendment _____

5. Short Title: Solid Waste Program Procedural Rules

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

The existing rules establish procedures that apply to Solid Waste program proceedings under RSA 149-M. Env-Sw 201-203 are scheduled to expire on October 28, 2013*, and so are proposed to be readopted along with Env-Sw 204 and 205, which are not scheduled to expire. No changes are proposed.

***Pursuant to RSA 541-A:14-a, Env-Sw 201-203 will continue in effect until this rulemaking is completed, subject to the conditions specified therein.**

6. (b) Brief description of the groups affected:

The proposed rule will directly affect all entities that own and operate a solid waste facility or apply for a solid waste permit.

6. (c) Specific section(s) of state statute or federal statute or regulation which the rule is intended to implement:

Rule Section(s)	State Statute(s) Implemented
Env-Sw 201	RSA 149-M:7; RSA 541-A:16, I(b)
Env-Sw 202	RSA 541-A:16, I(b); RSA 541-A:22, IV
Env-Sw 203	RSA 149-M:7; RSA 541-A:16, I(b)
Env-Sw 204	RSA 149-M:6,V; RSA 149-M:7; RSA 541-A:16, I(b)
Env-Sw 205	RSA 149-M:6,V; RSA 149-M:7; RSA 541-A:16, I(b)

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: Michael Guilfoy, P.E.

Title: Administrator, Solid Waste Management Bureau

Address: NH Dept. of Environmental Services
29 Hazen Drive; P.O. Box 95
Concord, NH 03302-0095

Phone #: (603) 271-6467

Fax#: (603) 271-2546

E-mail: Michael.guilfoy@des.nh.gov

The rules also can be viewed in PDF at

<http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **December 10, 2013 at 4:00 pm** Fax E-mail Other format (specify):

NN 2013-171 Continued

9. Public hearing scheduled for:

Date and Time: **December 3, 2013 at 9:00 AM**Place: **Auditorium, DES Offices, 29 Hazen Drive, Concord NH**10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 13:180 , dated 10/23/2013:**1. Comparison of the costs of the proposed rule(s) to the existing rule(s):**

There is no difference in cost when comparing the proposed rules to the existing rules.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):**A. To State general or State special funds:**

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

There are no costs associated with the proposed rules. The proposed rules readopt existing rules without amendment. Accordingly, the proposed rules do not violate Part I, Article 28-a of the New Hampshire Constitution, because they do not assign any new, modified, or expanded programs or responsibilities to political subdivisions of the state.

Notice Number 2013-172

Rule Number

Env-Sw 300 and Env-Sw 1200

1. Agency Name & Address:

NH Department of Environmental Services
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

2. RSA Authority:

RSA 149-M:7,II, III, IV, VIII, XIV
and XV.

3. Federal Authority:

4. Type of Action:

Adoption _____

Amendment _____

Repeal _____

Readoption _____

Readoption w/amendment _____

X

5. Short Title: Solid Waste Program: Permits; Permits By Notification

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

The existing rules in Env-Sw 300 establish the procedures and requirements for application, issuance and modification of solid waste facility permits. The rules are proposed to be readopted with amendment to allow electronic submission of applications, exempt management of on-site animal mortalities from permitting requirements, and simplify existing requirements for permits-by-notification by eliminating the requirement to submit a facility site plan, which would be replaced by a verification process.

The existing rules in Env-Sw 1200 establish the core requirements applicable to all facilities subject to a permit-by-notification. The rules are proposed to be readopted with amendment in order to clarify that facility siting must conform with groundwater management permit requirements. The proposed rule would also allow permits-by-notification for certain limited use asbestos waste storage and transfer facilities.

The current rules are scheduled to expire on October 28, 2013.

Pursuant to RSA 541-A:14-a, the existing rules will continue in effect until this rulemaking is completed, subject to the conditions specified therein.

6. (b) Brief description of the groups affected:

The proposed rules will affect all entities that own and operate solid waste facilities and those that apply for permits.

6. (c) Specific section(s) of state statute or federal statute or regulation which the rule is intended to implement:

Rule Section(s)	State Statute(s) Being Implemented
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; RSA 149-M:9
Env-Sw 304	RSA 149-M:6,III; RSA 149-M:6, V; RSA 149-M:9, VIII; RSA 149-M:11, IV(a)
Env-Sw 305	RSA 149-M:6,III; RSA 149-M:9, VIII; RSA 149-M:12
Env-Sw 306	RSA 149-M:6,III; RSA 149-M:7
Env-Sw 307	RSA 149-M:6,III; RSA 149-M:7
Env-Sw 308	[Reserved]
Env-Sw 309	RSA 149-M:7,V; RSA 149-M:7,XIV
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
Env-Sw 312	RSA 149-M:6,III; RSA 149-M:7; RSA 149-M:9
Env-Sw 313	RSA 149-M:6,III; RSA 149-M:7; RSA 149-M:9
Env-Sw 314	RSA 149-M:6,III; RSA 149-M:7; RSA 149-M:9
Env-Sw 315	RSA 149-M:6, III; RSA 149-M:7; RSA 149-M:9
Env-Sw 316	RSA 149-M:6,III; RSA 149-M:7; RSA 149-M:9, III and IX
Env-Sw 1200	RSA 149-M:6, III; RSA 149-M:7, II, III, V, XIV; RSA 149-M:9

NN 2013-172 Continued

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name:	Michael Guilfooy, P.E.	Title:	Administrator, Solid Waste Management Bureau
Address:	NH Dept. of Environmental Services 29 Hazen Drive; P.O. Box 95 Concord, NH 03302-0095	Phone #:	(603) 271-6467
		Fax#:	(603) 271-2546
		E-mail:	Michael.guilfooy@des.nh.gov

The rules also can be viewed in PDF at <http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm> TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **December 10, 2013 at 4:00 pm**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **December 3, 2013 at 9:00 AM**
Place: **Auditorium DES Offices, 29 Hazen Drive, Concord NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 13:181 , dated 10/23/2013:1. **Comparison of the costs of the proposed rule(s) to the existing rule(s):**

When compared to the existing rules, the proposed rules may decrease costs to state citizens, political subdivisions and independently owned businesses by an indeterminable amount.

2. **Cite the Federal mandate. Identify the impact on state funds:**

All landfills that received waste after April 9, 1994 or did not complete closure by October 9, 1994 are subject to all the requirements of 40 CFR 258 including financial assurance requirements of 40 CFR 258 subpart G. Env-Sw 314.12(e) contains the federal mandate for financial assurance for closure, post-closure monitoring and maintenance and corrective action.

3. **Cost and benefits of the proposed rule(s):**

To the extent a state citizen or independently owned business no longer needs to obtain a permit to respond to large animal mortalities they may have an indeterminable decrease in costs. Additionally, to the extent independently owned businesses and political subdivisions benefit from filing permit applications electronically and no longer need to file a facility site plan for a permit-by-notification, there may an indeterminable decrease in costs.

A. **To State general or State special funds:**

None.

B. **To State citizens and political subdivisions:**

See 3 above.

C. **To independently owned businesses:**

See 3 above.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed rules modify, but do not expand, the existing solid waste facility permitting program by reducing paperwork and otherwise simplifying existing requirements for obtaining certain types of solid waste facility permits. The change is expected to provide a cost savings for the department and permit applicants, including political subdivisions that elect to but are not required to own and operate their own solid waste facilities. Accordingly, the proposed rules do not violate Part I, Article 28-a of the N.H. Constitution because they do not mandate or assign any new, expanded or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivision.

Notice Number	2013-173	Rule Number	Env-Sw 400 - Env-Sw 700
1. Agency Name & Address: NH Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095		2. RSA Authority: RSA 149-M:7,II, III, V, VIII, XIV, and XV. 3. Federal Authority: 4. Type of Action: Adoption _____ Amendment _____ Repeal _____ Readoption _____ Readoption w/amendment <u> X </u>	

5. Short Title: Collection, Storage, and Transfer Facilities; Processing and Treatment Facilities; Composting Facilities; and Incineration Facilities

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

The existing rules in Env-Sw 400 establish requirements for collection, storage, and transfer facilities (C/S/T), including permitting, siting, design, operating, and closure requirements. The rules are proposed to be readopted with amendment in order to allow C/S/T facilities greater flexibility as to the transfer of putrescible wastes, to allow for municipal facilities to compost source-separated food waste, to allow licensed asbestos abatement contractors to obtain a permit-by-notification to store their asbestos waste prior to disposal, and to clarify the requirements for waste-in-transit storage areas.

The existing rules in Env-Sw 500 establish requirements for processing and treatment facilities, including permitting, siting, design, operating, and closure requirements. The rules are proposed to be readopted in their entirety with the exception of Env-Sw 507.03 that provides a permit-by-notification for concrete processing facilities, which is obsolete because the activity is permit-exempt under Env-Sw 300. In addition, the department has received no notifications for such activity since the permit-by-notification was established in 1997.

The existing rules in Env-Sw 600 establish requirements for composting facilities, including permitting, siting, design, operating, and closure requirements. The rules are proposed to be readopted with amendment in order to eliminate the prohibition against composting of animal carcasses and to allow composting of carcasses in accordance with applicable best management practices.

The existing rules in Env-Sw 700 establish requirements for waste incineration facilities, including permitting, siting, design, operating, and closure requirements. The rules are proposed to be readopted in their entirety with amendments to exempt animal crematoriums from the requirement to obtain a solid waste permit. The amendments would also eliminate rules providing a permit-by-notification option for infectious waste incinerators because those rules are obsolete, i.e., changes in federal air quality requirements have resulted in elimination of these small infectious waste incinerators. The proposed amendments also list items that are prohibited by statute from being incinerated.

The current rules are scheduled to expire on October 28, 2013.

Pursuant to RSA 541-A:14-a, the existing rules will continue in effect until this rulemaking is completed, subject to the conditions specified therein.

6. (b) Brief description of the groups affected:

The proposed rules would affect entities that own, operate or apply for permits for solid waste collection, storage, and transfer facilities; processing and treatment facilities; composting facilities; and incineration facilities

6. (c) Specific section(s) of state statute or federal statute or regulation which the rule is intended to implement:

Rule Sections	State Statute(s) Being Implemented
Env-Sw 400 -Env-Sw 700	RSA 149-M:6, III; RSA 149-M:7, II, III, V, VIII, XIV; RSA 149-M:9

NN 2013-173 Continued

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name:	Michael Guilfooy, P.E.	Title:	Administrator, Solid Waste Management Bureau
Address:	NH Dept. of Environmental Services 29 Hazen Drive; P.O. Box 95 Concord, NH 03302-0095	Phone #:	(603) 271-6467
		Fax#:	(603) 271-2546
		E-mail:	Michael.guilfooy@des.nh.gov

The rules also can be viewed in PDF at

<http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

TTY/TDD Access: Relay NH 1-

800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **December 10, 2013 at 4:00 pm** Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **December 3, 2013 at 9:00 AM**Place: **Auditorium DES Offices, 29 Hazen Drive, Concord NH**10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 13:182, dated 10/23/2013:1. **Comparison of the costs of the proposed rule(s) to the existing rule(s):**

When compared to the existing rules, the proposed rules may decrease costs to state citizens, political subdivisions and independently owned businesses by an indeterminable amount.

2. **Cite the Federal mandate. Identify the impact on state funds:**

No federal mandate, no impact on state funds.

3. **Cost and benefits of the proposed rule(s):**

Political subdivisions may have a decrease in costs as a result of the proposed rules allowing municipal solid waste transfer stations to compost food waste onsite without needing to obtain a new permit to do so and by allowing for the storage of putrescible waste for longer than seven days if the longer period is specified in the facilities operating plan. To the extent a state citizen or independently owned business need[s] to manage animal carcasses they may have a decrease in costs related to allowing for the use of composting as long as best management practices are followed. To the extent an independently owned business is an animal crematorium and exempt from needing to obtain a solid waste permit, the independently owned business will have a decrease in costs. Additionally, independently owned businesses that are licensed asbestos abatement contractors may have a decrease in costs by allowing them to obtain a permit-by-notification to temporarily store asbestos waste until a full load is accumulated before disposing of it at a landfill.

A. **To State general or State special funds:**

None.

B. **To State citizens and political subdivisions:**

See 3 above.

C. **To independently owned businesses:**

See 3 above.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed rules modify, but do not expand, an existing solid waste facility permitting program, by simplifying requirements for obtaining certain types of permits, providing operating flexibility, and eliminating obsolete rules applicable to certain types of permit-exempt and non-existent facilities. The changes are expected to provide a cost savings for the department and permit applicants/permittees, including political subdivisions that choose to but are not required to own or operate their own solid waste facilities. Accordingly, the proposed rules do not violate Part I, Article 28-a of the N.H. Constitution because they do not mandate or assign any new, expanded or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivision.

Notice Number 2013-174 Rule Number Env-Sw 800

<p>1. Agency Name & Address:</p> <p>NH Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</p>	<p>2. RSA Authority: <u>RSA 149-M:7,II, III, V, VIII, XIV, and XV.</u></p> <p>3. Federal Authority: <u>40 CFR 258</u></p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Amendment _____</p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment <u>X</u></p>
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5. Short Title: Landfill Requirements

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

The existing rules establish the design and operating standards for landfills. The rules are proposed to be readopted with amendment in order to update technical design requirements. Specifically, the proposed amendments limit landfill liner slopes to no greater than 3:1, provide that liners may not be punctured by any appurtenances in areas that may cause leachate leakage, and establish standards for vertical expansions. Set-back requirements for new landfills and expansions would be amended to increase the required residential buffer. The proposed amendments would also require that the slope of a capping system must not exceed a 2.5:1 slope. The proposed rule would also clarify the existing requirement that the post-closure period, for purposes of determining financial assurance requirements, is linked to performance standards rather than a fixed 30-year time frame.

The current rules are scheduled to expire on October 28, 2013.

Pursuant to RSA 541-A:14-a, the existing rules will continue in effect until this rulemaking is completed, subject to the conditions specified therein.

6. (b) Brief description of the groups affected:

The proposed rules would affect all entities that own and operate solid waste landfills and those that apply for permits to operate a landfill.

6. (c) Specific section(s) of state statute or federal statute or regulation which the rule is intended to implement:

Rule Sections	State Statute(s) Being Implemented	Federal Regulations Implemented
Env-Sw 800 (see also specific sections listed below)	RSA 149-M:6, III; RSA 149-M:7, II, III, V, XIV; RSA 149-M:9	40 CFR 258
Env-Sw 806.05	RSA 149-M:6, III; RSA 149-M:7, II, III, XIV; RSA 149-M:9	40 CFR 258.4
Env-Sw 806.12	RSA 149-M:27,II, III, IV; RSA 149-M:28,IV; and RSA 149-M:58,I.	

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name:	Michael Guilfooy, P.E.	Title:	Administrator, Solid Waste Management Bureau
Address:	NH Dept. of Environmental Services 29 Hazen Drive; P.O. Box 95 Concord, NH 03302-0095	Phone #:	(603) 271-6467
		Fax#:	(603) 271-2546
		E-mail:	Michael.guilfooy@des.nh.gov

The rules also can be viewed in PDF at <http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

NN 2013-174 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **December 10, 2013 at 4:00 pm**

 Fax E-mail Other format (specify): 10/23/2013

9. Public hearing scheduled for:

Date and Time: **December 3, 2013 at 9:00 AM**

Place: **Auditorium DES Offices, 29 Hazen Drive, Concord NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 13:183, dated 10/23/2013:

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

When compared to the existing rules, the proposed rules may increase costs to independently owned businesses by an indeterminable amount.

2. Cite the Federal mandate. Identify the impact on state funds:

All landfills that received waste after April 9, 1994 or did not complete closure by October 9, 1994 are subject to all the requirements of 40 CFR 258 including financial assurance requirements of 40 CFR 258 subpart G. Env-Sw 807.05 contains the federal mandate for financial assurance for closure, post-closure monitoring and maintenance and corrective action.

3. Cost and benefits of the proposed rule(s):

Changes to the design standards such as the slope requirement changes contained in Env-Sw 805.05 and Env-Sw 805.10 may increase costs to independently owned businesses to the extent they are involved with landfills. Political subdivisions may experience increased costs associated with the design plans only if the governing body votes to approve such costs in connection with an application to modify or expand an existing landfill. No cost to state citizens.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

See 3 above.

C. To independently owned businesses:

See 3 above.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed rules modify, but do not expand, an existing solid waste landfill permitting program, by clarifying existing requirements for determining financial assurance for post-closure monitoring and maintenance, and limiting certain design options applicable to new or expanded landfills, in order to assure protection of the environment, public health, and safety. To the extent there may be costs, the costs are largely attributable to the statute, not the rules. Political subdivisions are not required to own or operate landfills. Therefore, a political subdivision would only incur costs if the governing body chooses to modify or expand an existing landfill, thereby approving any costs associated therewith. Accordingly, the proposed rules do not violate Part I, Article 28-a of the N.H. Constitution because they do not mandate or assign any new, expanded or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivision.

Notice Number	2013-175	Rule Number	Env-Sw 900-Env-Sw 1100
1. Agency Name & Address:		2. RSA Authority:	RSA 149-M:7,II, VIII, XIV, and XV.
NH Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095		3. Federal Authority:	_____
		4. Type of Action:	
		Adoption	_____
		Amendment	_____
		Repeal	_____
		Readoption	_____
		Readoption w/amendment	X

5. Short Title: Management of Certain Wastes; Universal Facility Requirements; Additional Facility Requirements

6. (a) Summary of what the rule says and the effect of the rule on those regulated:
 The existing rules in Env-Sw 900 establish requirements for the management of non-hazardous contaminated soil and absorbent media. The rules are proposed to be readopted with amendment primarily to make technical changes and to improve organization. In addition, the rules would be amended so that absorbent media would no longer be regulated under this chapter.

The existing rules in Env-Sw 1000 require that facilities be located, designed, constructed, operated and closed in a manner that does not endanger public health or adversely affect the environment, thereby minimizing the potential for accidents that could lead to personal injury or property damage. The rules are proposed to be readopted with amendment in order to bring staffing requirements and qualifications into conformance with the new solid waste operator training requirements in Env-Sw 1600.

The existing rules in Env-Sw 1100 establish additional siting, design, construction, operation and closure requirements applicable to facilities having an active life of greater than 90 days. The rules are proposed to be readopted with amendment to (1) allow alternative facility designs provided that the alternative designs are at least as protective as those in common usage in the industry, and (2) require inclusion of a self-certification within the annual report, as well as a signature requirement.

The current rules are scheduled to expire on October 28, 2013.

Pursuant to RSA 541-A:14-a, the existing rules will continue in effect until this rulemaking is completed, subject to the conditions specified therein.

6. (b) Brief description of the groups affected:
 The proposed rules would affect all entities that manage solid waste and operate solid waste facilities. The rules also affect all entities that manage asbestos, ash, non-hazardous contaminated soil, infectious waste, and waste tires.

6. (c) Specific section(s) of state statute or federal statute or regulation which the rule is intended to implement:

Rule Sections	State Statute(s) Being Implemented
Env-Sw 900	RSA 149-M:7;II and VIII, RSA 149-M:9,X;
Env-Sw 1000	RSA 149-M:6, III; RSA 149-M:7, II, III, XIV; RSA 149-M:9, I, III
Env-Sw 1100	RSA 149-M:6, III; RSA 149-M:7, II, III, XIV; RSA 149-M:9, I, III

NN 2013-175 Continued

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: Michael Guilfooy, P.E. Title: Administrator, Solid Waste Management Bureau
Address: NH Dept. of Environmental Services Phone #: (603) 271-6467
29 Hazen Drive; P.O. Box 95 Fax#: (603) 271-2546
Concord, NH 03302-0095 E-mail: Michael.guilfooy@des.nh.gov

The rules also can be viewed in PDF at <http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm> TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **December 10, 2013 at 4:00 pm**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **December 3, 2013 at 9:00 AM**

Place: **Auditorium DES Offices, 29 Hazen Drive, Concord NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 13:184 , dated 10/23/2013:1. **Comparison of the costs of the proposed rule(s) to the existing rule(s):**

When compared to the existing rules, the proposed rules may decrease costs to independently owned businesses by an indeterminable amount.

2. **Cite the Federal mandate. Identify the impact on state funds:**

No federal mandate, no impact on state funds.

3. **Cost and benefits of the proposed rule(s):**A. **To State general or State special funds:**

None.

B. **To State citizens and political subdivisions:**

None.

C. **To independently owned businesses:**

To the extent an independently owned business is involved with solid waste management they may have an indeterminable decrease in costs as it relates to changes in Env-Sw 1003.01 relative to allowing for alternative facility designs, provided the designs are at least as protective as those in common usage in the industry.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

There are no costs attributable to the proposed rules. Accordingly, the proposed rules do not violate Part I, Article 28-a of the N.H. Constitution because they do not mandate or assign any new, expanded or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivision..

Notice Number 2013-176 Rule Number Env-Sw 1300 - Env-Sw 1500

<p>1. Agency Name & Address:</p> <p>NH Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</p>	<p>2. RSA Authority: <u>RSA 149-M:7, II, III, VIII, XII, and XIV</u></p> <p>3. Federal Authority: <u>40 CFR 258</u></p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Amendment _____</p> <p>Repeal _____</p> <p>Readoption <u>X</u></p> <p>Readoption w/amendment <u>X</u></p>
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5. Short Title: Public Grants for Landfill and Incinerator Closure; Financial Assurance; Certification of Waste-Derived Products

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

The existing rules in Env-Sw 1300 specify criteria and procedures for grants to municipalities for the closure of unlined landfills and certain incinerator facilities. The rules are proposed to be readopted because they are scheduled to expire.

The existing rules in Env-Sw 1400 establish requirements and procedures for financial assurance plans necessary to guarantee the cost of closing or providing corrective action for a facility after closure. The rules are proposed to be readopted with amendment in order to simplify the program, make the program more efficient, make technical changes to the program, exempt all municipal non-Subtitle D facilities, clarify that the post-closure period for landfills for purposes of establishing financial assurance requirements is 30 years, add a requirement to provide financial assurance for the replacement of active gas systems at landfills and to provide more clarity to the regulations.

The existing rules in Env-Sw 1500 establish criteria and procedures by which waste-derived products, as defined by Env-Sw 104, are certified for distribution and use. The rules are proposed to be readopted with amendment in order to add criteria and procedures for the use of compost derived from animal carcasses.

The current rules are scheduled to expire on October 28, 2013.

Pursuant to RSA 541-A:14-a, the existing rules will continue in effect until this rulemaking is completed, subject to the conditions specified therein.

6. (b) Brief description of the groups affected:

The proposed rules would affect municipalities closing unlined landfills or incinerators who apply for grants. The proposed rules would also affect all entities that operate solid waste facilities that are required to provide financial assurance, and all entities that produce, market or use certified waste derived products.

6. (c) Specific section(s) of state statute or federal statute or regulation which the rule is intended to implement:

Rule	State Statute(s) Implemented	Federal Regulations Implemented
Env-Sw 1300	RSA 149-M:6, IX; RSA 149-M:7, XII; RSA 149-M:41-50	
Env-Sw 1400	RSA 149-M:7, II, III, XIV and XV; RSA 149-M:9, X	40 CFR 258
Env-Sw 1500	RSA 149-M:7, II, V, and XV; RSA 149-M:9, XIV	

NN 2013-176 Continued

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: Michael Guilfooy, P.E. Title: Administrator, Solid Waste Management Bureau
Address: NH Dept. of Environmental Services Phone #: (603) 271-6467
29 Hazen Drive; P.O. Box 95 Fax#: (603) 271-2546
Concord, NH 03302-0095 E-mail: Michael.guilfooy@des.nh.gov

The rules also can be viewed in PDF at

<http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **December 10, 2013 at 4:00 pm** Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **December 3, 2013 at 9:00 AM**Place: **Auditorium DES Offices, 29 Hazen Drive, Concord NH**10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 13:185, dated 10/23/2013:**1. Comparison of the costs of the proposed rule(s) to the existing rule(s):**

When compared to the existing rules, the proposed rules will have an indeterminable fiscal impact on costs to independently owned businesses, and may decrease costs to state citizens and political subdivisions by an indeterminable amount.

2. Cite the Federal mandate. Identify the impact on state funds:

All landfills that received waste after April 9, 1994 or did not complete closure by October 9, 1994 are subject to all the requirements of 40 CFR 258 including financial assurance requirements of 40 CFR 258 subpart G. Env-Sw 1400 contains the federal mandate for financial assurance for closure, post-closure monitoring and maintenance and corrective action.

3. Cost and benefits of the proposed rule(s):

For independently owned businesses that own or operate facilities the proposed amendments to Env-Sw 1400 may result in an indeterminable decrease in costs associated with the change in the frequency for submitting closure cost updates and may result in an indeterminable increase in costs associated with the need to carry "cost incurred" insurance policies and carrying sufficient financial assurance to cover replacement of active gas systems. For independently owned businesses, or state citizens involved with animal derived composting, Env-Sw 1500 may decrease costs by an indeterminable amount. Political subdivisions may experience a decrease in associated with the proposed rules related to the elimination of financial assurance requirements for non-subtitle D municipal facilities and allowing the political subdivisions to use the local government financial test for the subtitle D landfills.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

See 3 above.

C. To independently owned businesses:

See 3 above.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

There are no costs attributable to the proposed rules and political subdivisions may realize cost savings. Accordingly, the proposed rules do not violate Part I, Article 28-a of the N.H. Constitution because they do not mandate or assign any new, expanded or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivision..

Notice Number	2013-177	Rule Number	Env-Sw 1600
1. Agency Name & Address:		2. RSA Authority:	RSA 149-M:7,VI
		3. Federal Authority:	
NH Department of Environmental Services		4. Type of Action:	
29 Hazen Drive		Adoption	
P.O. Box 95		Amendment	
Concord, NH 03302-0095		Repeal	
		Readoption	
		Readoption w/amendment	X

5. Short Title: Solid Waste Facility Operator Training and Certification

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

The existing rules establish the training and application requirements for issuance of solid waste operator certification. The rules are proposed to be readopted with amendment in order to restructure the program in recognition of current waste management practices, to provide clarity, and to address stakeholder concerns.

Many of the terms and definitions have changed in this section. The terms have changed to reflect the new program changes, as well as to clarify certain concepts in the rules.

The operator and facility levels would be eliminated and replaced with new "step" designations. The proposed rules would create two primary levels of operators - principal operators, who have completed operator training and have passed the examination, and assistant operators, who have completed training but have chosen not to take the exam, or who have failed the exam. Assistant operators would be required to work under a principal operator's direct supervision at all times.

Within these two operator categories are four step designations which are determined by the operator's continuing professional development (continuing education) hours. Principal operators can reach a fifth step to become "senior operators" by attending more than 50 hours of continuing professional development. This step provides an incentive for individuals to become principal operators.

The proposed rules would eliminate reciprocity provisions for operators of incinerators.

The current rules are scheduled to expire on October 28, 2013.

Pursuant to RSA 541-A:14-a, the existing rules will continue in effect until this rulemaking is completed, subject to the conditions specified therein.

6. (b) Brief description of the groups affected:

The proposed rules would affect any individuals who operate or work at permitted solid waste facilities, and any individuals who wish to do so, if such facilities are required to use certified operators.

6. (c) Specific section(s) of state statute or federal statute or regulation which the rule is intended to implement:

Rule Sections	State Statute(s) Implemented
Env-Sw 1600	RSA 149-M:6, XIII; RSA 149-M:7, VI; RSA 149-M:9, VI

NN 2013-177 Continued

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name:	Michael Guilfooy, P.E.	Title:	Administrator, Solid Waste Management Bureau
Address:	NH Dept. of Environmental Services 29 Hazen Drive; P.O. Box 95 Concord, NH 03302-0095	Phone #:	(603) 271-6467
		Fax#:	(603) 271-2546
		E-mail:	Michael.guilfooy@des.nh.gov

The rules also can be viewed in PDF at

<http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **December 10, 2013 at 4:00 pm** Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **December 3, 2013 at 9:00 AM**Place: **Auditorium DES Offices, 29 Hazen Drive, Concord NH**10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 13:186, dated 10/23/2013:**1. Comparison of the costs of the proposed rule(s) to the existing rule(s):**

When compared to the existing rules, the proposed rules may increase costs to state citizens and increase state restricted revenue by an indeterminable amount.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

To the extent that a citizen chooses to seek certification as an assistant operator, they would incur a cost of \$50 for the certification, which is deposited into the dedicated fund established in RSA 21-O:1-a. Overall, the Department does not anticipate a significant change in the number of certifications issued, therefore it is expected this change will have a de minimus, if any, impact on state restricted revenue.

A. To State general or State special funds:

See 3 above.

B. To State citizens and political subdivisions:

See 3 above. No impact on political subdivisions.

C. To independently owned businesses:

None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

There are no costs to political subdivisions because any costs attributable to the rule would be incurred only by persons seeking certification as operators. Accordingly, the proposed rules do not violate Part I, Article 28-a of the N.H. Constitution because they do not mandate or assign any new, expanded or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivision.

Notice Number	2013-178	Rule Number	Env-Sw 1700, 1800, and 2000
1. Agency Name & Address:	2. RSA Authority: <u>RSA 149-M:7, II, VIII, XIII, & XV</u>		
NH Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	3. Federal Authority: _____		
	4. Type of Action:		
	Adoption	_____	
	Amendment	_____	
	Repeal	_____	
	Readoption	<u> X </u>	
	Readoption w/amendment	_____	

5. Short Title: Requirements for Acceptance of Wood Ash, Reduction of Toxics in Packaging, Inspections

6. (a) Summary of what the rule says and the effect of the rule on those regulated:

The existing rules, Env-Sw 1700, implements the wood ash spreading program. This is a voluntary program by which generators of wood ash can distribute wood ash for agricultural use, thereby saving disposal costs. Farmers benefit from the use of wood ash. The rules contain testing and certification requirements. The rules are proposed to be readopted without amendments.

The existing rules, Env-Sw 1800 implement statutory regulation of heavy metals in product packaging. The rules are proposed to be readopted without changes because they are scheduled to expire.

The existing rules, Env-Sw 2000, establish requirements for inspection of solid waste facilities. The rules are proposed to be readopted with no amendments because they are scheduled to expire.

The current rules are scheduled to expire on October 28, 2013.

Pursuant to RSA 541-A:14-a, the existing rules will continue in effect until this rulemaking is completed, subject to the conditions specified therein.

6. (b) Brief description of the groups affected:

The rules apply to all entities that generate, market or use wood ash for land spreading; all retailers or wholesalers that offer products for sale that include packaging; and all owners and operators of solid waste facilities that are subject to inspection.

6. (c) Specific section(s) of state statute or federal statute or regulation which the rule is intended to implement:

Rule Sections	State Statute(s) Being Implemented
Env-Sw 1700	RSA 149-M:6, XIV; RSA 149-M:7, II and III
Env-Sw 1800	RSA 149-M:7, XIII; RSA 149-M:32-40
Env-Sw 2000	RSA 149-M:6, I, IV; RSA 149-M:7, XV

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name:	Michael Guilfooy, P.E.	Title:	Administrator, Solid Waste Management Bureau
Address:	NH Dept. of Environmental Services 29 Hazen Drive; P.O. Box 95 Concord, NH 03302-0095	Phone #:	(603) 271-6467
		Fax#:	(603) 271-2546
		E-mail:	Michael.guilfooy@des.nh.gov

The rules also can be viewed in PDF at
<http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

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8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **December 10, 2013 at 4:00 pm**

 Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **December 3, 2013 at 9:00 AM**

Place: **Auditorium DES Offices, 29 Hazen Drive, Concord NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 13:187 , dated 10/23/2013:

1. **Comparison of the costs of the proposed rule(s) to the existing rule(s):**

There is no difference in cost when comparing the proposed rules to the existing rules.

2. **Cite the Federal mandate. Identify the impact on state funds:**

No federal mandate, no impact on state funds.

3. **Cost and benefits of the proposed rule(s):**

- A. To State general or State special funds:**

None.

- B. To State citizens and political subdivisions:**

None.

- C. To independently owned businesses:**

None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

There are no costs attributable to the proposed rules because they are voluntary (Env-Sw 1700), statutory (Env-Sw 1800), or requirements imposed only on the Department (Env-Sw 2000). Accordingly, the proposed rules do not violate Part I, Article 28-a of the N.H. Constitution because they do not mandate or assign any new, expanded or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivision..

NOTICE FOR EXPEDITED REVISIONS TO AGENCY FORMS

Proposed Expedited Revision Number 2013-2 Form Number CPLS100, CPLS110

1. Agency Name & Address: Department of Justice 33 Capitol Street Concord, New Hampshire 03301	2. RSA Authority: RSA 356-A:2; RSA 356-A:3, II; RSA 541-A:16, I(b) 3. Federal Authority:
4. Short Title: Comprehensive Application for Registration of Subdivided Land; Abbreviated Application for Registration of Subdivided Land	

5. Explanation of the reasons for the proposed readoption with amendment of the form:

Due to statutory revisions, the fees for registration of subdivided lands pursuant to RSA 356-A, the Land Sales Full Disclosure Act, have changed. These forms are being amended to reflect the current statutory fees.

Editorial changes will be made to various paragraphs in Jus 1300 to reflect the new edition dates of the updated forms. Further revisions to Jus 1300 to update the fee amounts and make other amendments will be undertaken in early 2014.

6. Contact person for copies and questions about the proposed form:

Name: **David Rienzo**Title: **Assistant Attorney General**Address: **Consumer Protection and
Antitrust Bureau
33 Capitol Street
Concord, New Hampshire
03301**Phone #: **(603) 271-7987**Fax: **(603) 223-6239**Email: **david.rienzo@doj.nh.gov**

7. Deadline for submission of materials in writing or in the electronic format specified:
- November 7, 2013.

 Fax E-mail Other format (specify):

See attached form CPLS100

See attached form CPLS110

NOTICE FOR EXPEDITED REVISIONS TO AGENCY FORMS

Proposed Expedited Revision Number 2013-3 Form Number CPLC100, CPLC110

1. Agency Name & Address: Department of Justice 33 Capitol Street Concord, New Hampshire 03301	2. RSA Authority: RSA 356-B:49,III; RSA 356-B:48; RSA 541-A:16, I(b) 3. Federal Authority:
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4. Short Title: **Comprehensive Application for Registration of Condominium Units;
Abbreviated Application for Registration of Condominium Units**

5. Explanation of the reasons for the proposed readoption with amendment of the form:

Due to statutory revisions, the fees for registration of condominiums pursuant to RSA 356-B, the Condominium Act, have changed. These forms are being amended to reflect the current statutory fees.

Editorial changes will be made to various paragraphs in Jus 1400, to reflect the new edition dates of the updated forms. Further revisions to Jus 1400 to update the fee amounts and make other amendments will be undertaken in early 2014.

6. Contact person for copies and questions about the proposed form:

Name: **David Rienzo**

Title: **Assistant Attorney General**

Address: **Consumer Protection and
Antitrust Bureau
33 Capitol Street
Concord, New Hampshire
03301**

Phone #: **(603) 271-7987**

Fax: **(603) 223-6239**

Email: **david.rienzo@doj.nh.gov**

7. Deadline for submission of materials in writing or in the electronic format specified: November 7, 2013.

Fax

E-mail

Other format (specify):

See attached form CPLC100

See attached form CPLC110