

## CHAPTER Env-Hw 1100 REQUIREMENTS FOR UNIVERSAL WASTE MANAGEMENT

Statutory Authority: RSA 147-A:3

## PART Env-Hw 1101 PURPOSE, APPLICABILITY, AND DEFINITIONS

Env-Hw 1101.01 Purpose. The purpose of this chapter is to establish requirements that may be used in lieu of Env-Hw 300 through Env-Hw 700 to manage certain types of widely generated hazardous waste defined in Env-Hw 104 as “universal wastes”. These rules are designed to promote and encourage the collection and recycling of universal wastes in a manner that is protective of human health and the environment.

Env-Hw 1101.02 Applicability.

- (a) This chapter shall apply to persons managing universal wastes.
- (b) Persons who manage universal waste that is imported from a foreign country or another state into New Hampshire shall be subject to the following requirements immediately after the waste enters New Hampshire:
  - (1) A universal waste handler shall be subject to Env-Hw 502.01 and Env-Hw 1102 and the applicable requirements of Env-Hw 1103, Env-Hw 1104, Env-Hw 1105, and Env-Hw 1109 through Env-Hw 1114;
  - (2) A universal waste transporter shall be subject to Env-Hw 1106; and
  - (3) An owner or operator of a destination facility shall be subject to Env-Hw 1107.
- (c) A person who manages universal waste that is imported from a designated member country of the Organization for Economic Cooperation and Development (OECD), as specified in 40 CFR 262.58(a)(1), for recovery shall be subject to (b), above, in addition to 40 CFR Part 262, Subpart H.
- (d) Nothing in this chapter shall be construed to mean that a universal waste handler is required to manage universal waste batteries in a manner that differs from the requirements of 40 CFR 273.

Env-Hw 1101.03 Definitions.

- (a) "Destination facility" means a facility that treats, disposes of, or recycles universal waste. The term does not include a facility at which universal waste is only accumulated or at which the management activities described in Env-Hw 1109 through Env-Hw 1114 occur.
- (b) "Large quantity handler" means a universal waste handler who accumulates greater than or equal to 5,000 but less than 20,000 combined total kilograms of universal waste listed in the definition of “universal waste” in Env-Hw 104, on-site at any one time.
- (c) "Small quantity handler" means a universal waste handler who accumulates less than 5,000 combined total kilograms of universal waste listed in the definition of “universal waste” in Env-Hw 104, on-site at any one time.
- (d) "Very large quantity handler" means a universal waste handler who accumulates greater than or equal to 20,000 combined total kilograms of universal waste listed in the definition of “universal waste” in Env-Hw 104, on-site at any one time.

## PART Env-Hw 1102 REQUIREMENTS FOR ALL UNIVERSAL WASTE HANDLERS

Env-Hw 1102.01 Applicability. This part shall apply to all universal waste handlers.

Env-Hw 1102.02 Prohibitions.

- (a) A universal waste handler shall not:
- (1) Dispose of universal waste; or
  - (2) Dilute or treat universal waste, except by:
    - a. Responding to releases as set forth in Env-Hw 1102.06; or
    - b. Managing specific wastes as provided in Env-Hw 1109.03, Env-Hw 1111.03, Env-Hw 1113.03, and Env-Hw 1114.03.

(b) For the purposes of (a)(2), above, intentionally crushing or dismantling lamps shall constitute treatment that cannot legally be undertaken without obtaining a permit in accordance with Env-Hw 300.

Env-Hw 1102.03 Waste Management Requirements.

- (a) A universal waste handler shall manage:
- (1) Universal waste batteries in accordance with Env-Hw 1109;
  - (2) Universal waste pesticides in accordance with Env-Hw 1110;
  - (3) Universal waste mercury-containing devices in accordance with Env-Hw 1111;
  - (4) Universal waste lamps in accordance with Env-Hw 1112;
  - (5) Universal waste cathode ray tubes in accordance with Env-Hw 1113; and
  - (6) Universal waste antifreeze in accordance with Env-Hw 1114.

(b) Universal waste shall be managed in a way that prevents the release of the universal waste, or any component of the universal waste, to the environment.

(c) When containment of a particular type of universal waste is required by Env-Hw 1109.03(a), Env-Hw 1110.04, Env-Hw 1111.03(a), Env-Hw 1111.03(b)(2), Env-Hw 1112.03(a), Env-Hw 1113.03(a), Env-Hw 1113.03(b)(4) or Env-Hw 1114.03, the containers shall be:

- (1) Closed, except when universal waste is being added to or removed from the container;
- (2) Compatible with the universal waste and its contents; and
- (3) Free of defects, design characteristics, or damage that could result in leakage, spillage, or other environmental releases.

Env-Hw 1102.04 Accumulation Time Limits.

- (a) If a universal waste handler accumulates universal waste, the handler shall:
- (1) Not accumulate universal waste for longer than one year from the date the universal waste becomes a waste or is received from another handler, unless the requirements of (b), below, are met; and
  - (2) Demonstrate the length of time that the waste has been accumulated from the date it becomes a waste by:
    - a. Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

- b. Marking or labeling each individual item of universal waste with the date it became a waste or was received;
- c. Maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received;
- d. Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;
- e. Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or
- f. Any other method that clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

(b) A universal waste handler may accumulate universal waste for longer than one year from the date the universal waste becomes a waste or is received only if:

- (1) The sole purpose of accumulation of such quantities of universal waste is to facilitate, as necessary, proper recovery, treatment, or disposal; and
- (2) The handler provides proof thereof, such as a letter or contract from a destination facility, confirming that the longer accumulation period is necessary per (b)(1), above.

Env-Hw 1102.05 Outside Storage. Universal waste stored outside shall be covered to prevent precipitation from coming in contact with the waste or containers in which the waste is stored.

Env-Hw 1102.06 Response to Releases.

(a) A universal waste handler shall respond to releases by:

- (1) Immediately containing and cleaning up, within 24 hours, all releases of universal wastes and other residues from universal wastes; and
- (2) Determining whether any material resulting from the release is hazardous waste.

(b) In the event of any discharge of universal waste that poses a threat to human health or the environment, including but not limited to a discharge into storm drains or sanitary sewers, onto the land or into the air, groundwater, or surface waters, the handler shall report the discharge:

- (1) Immediately, not to exceed one hour from the discovery of the release; and
- (2) To local emergency officials and to:
  - a. The department's emergency response team at the telephone number listed in Appendix E, Monday through Friday, 8 a.m. to 4 p.m.; or
  - b. The New Hampshire state police headquarters communications unit at the telephone number listed in Appendix E, 24 hours per day.

(c) The handler shall:

- (1) Be considered the generator of any hazardous waste resulting from a release of universal waste; and
- (2) Manage the hazardous waste in accordance with Env-Hw 400 through Env-Hw 800.

Env-Hw 1102.07 Off-site Shipments.

- (a) A universal waste handler shall not send or take universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.
- (b) If a handler self-transportes universal waste off-site, the handler shall comply with Env-Hw 1106 while transporting the universal waste.
- (c) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR 171 through 49 CFR 180, the handler shall comply with the applicable US DOT regulations under 49 CFR 172 through 180.
- (d) Prior to shipping universal waste to another universal waste handler or to a destination facility, the handler who originated the shipment shall obtain approval from the receiving handler or destination facility.
- (e) If a transporter is unable to deliver all or part of a universal waste shipment or if a receiving handler or destination facility rejects all or part of a universal waste shipment, the handler who originated the shipment shall either:
- (1) Receive the waste back when notified that the shipment has been rejected; or
  - (2) Designate an alternate destination facility to which the shipment will be sent and ensure the rejected universal waste is shipped to the designated destination facility.
- (f) A universal waste handler who rejects a shipment or a portion of a shipment shall notify the handler who originated the shipment that the shipment has been rejected, and either:
- (1) Send the shipment back to the handler who originated the shipment; or
  - (2) Send the shipment to the destination facility designated by the handler who originated the shipment.
- (g) If a universal waste handler receives a shipment containing hazardous waste that is not a universal waste, the handler shall:
- (1) Immediately notify the department of the shipment;
  - (2) Provide the name, address, and phone number of the originating shipper; and
  - (3) Comply with the applicable requirements of Env-Hw 400 through Env-Hw 800 for managing the hazardous waste.

Env-Hw 1102.08 International Shipments.

- (a) A universal waste handler who exports universal waste to a foreign destination other than to those OECD countries specified in 40 CFR 262.58(a)(1) for recovery shall:
- (1) Comply with the requirements applicable to a primary exporter in 40 CFR 262.53, 40 CFR 262.56(a)(1) through (4), (6), and (b) and 40 CFR 262.57;
  - (2) Export such universal waste only upon consent of the receiving country and in conformance with the EPA acknowledgment of consent; and
  - (3) Provide a copy of the EPA acknowledgment of consent for the shipment to the transporter exporting the universal waste.
- (b) Except as provided in (c), below, a universal waste handler who exports universal waste to an OECD country specified in 40 CFR 262.58(a)(1) for recovery shall comply with 40 CFR Part 262, Subpart H.
- (c) A universal waste handler who exports cathode ray tubes, shredded cathode ray tubes, or cathode ray tube components to a foreign destination shall comply with the applicable requirements of

40 CFR 261.39(a)(5)(i) through (ix), 261.40, and 261.41, but shall not be required to comply with 40 CFR 261.39(a)(1) through (4).

PART Env-Hw 1103 ADDITIONAL REQUIREMENTS FOR SMALL QUANTITY HANDLERS OF UNIVERSAL WASTE

Env-Hw 1103.01 Applicability. This part shall apply to all small quantity handlers, as defined in Env-Hw 1101.03(c).

Env-Hw 1103.02 Notification. A small quantity handler shall not be required to notify the department of universal waste handling activities.

Env-Hw 1103.03 Employee Training. A small quantity handler shall inform all employees who handle or have responsibility for managing universal waste of proper waste handling and emergency procedures appropriate to the type(s) of universal waste handled at the facility.

Env-Hw 1103.04 Tracking Universal Waste Shipments. A small quantity handler shall not be required to keep records of shipments of universal waste.

PART Env-Hw 1104 ADDITIONAL REQUIREMENTS FOR LARGE QUANTITY HANDLERS AND VERY LARGE QUANTITY HANDLERS OF UNIVERSAL WASTE

Env-Hw 1104.01 Applicability. This part shall apply to all large quantity handlers, as defined in Env-Hw 1101.03(b), and all very large quantity handlers, as defined in Env-Hw 1101.03(d).

Env-Hw 1104.02 Exemptions. Env-Hw 1104.03 shall not apply to a large quantity handler of universal waste batteries provided the handler is managing universal waste batteries only.

Env-Hw 1104.03 Notification.

(a) A large quantity handler or a very large quantity handler shall submit to the department a completed New Hampshire notification form before accumulating the following quantities of universal waste:

- (1) For large quantity handlers, 5,000 kilograms or more but less than 20,000 kilograms; or
- (2) For very large quantity handlers, 20,000 kilograms or more.

(b) Notification shall include the following:

- (1) The information specified in Env-Hw 504.02(a), as applicable;
- (2) Universal waste handler classification indicating whether the handler is a large quantity handler or a very large quantity handler; and
- (3) A statement signed by the handler's authorized representative certifying, as specified in Env-Hw 207, the information provided on the notification form.

(c) A large quantity handler or very large quantity handler shall submit a notification form in accordance with (a) and (b), above, for each on-site location where universal waste is accumulated.

(d) Upon receipt of a complete, signed notification, the department shall issue an EPA identification number to the handler if the handler does not already possess an EPA identification number.

(e) The EPA identification number assigned pursuant to (d), above, shall:

- (1) Be site specific; and
- (2) Remain valid until the handler notifies the department in writing that universal waste is no longer being accumulated at the site.

(f) Unless the handler becomes a very large quantity handler, the designation as a large quantity handler shall be retained through the end of the calendar year in which 5,000 kilograms or more total of universal waste is accumulated at any one time.

(g) The designation as a very large quantity handler shall be retained through the end of the calendar year in which greater than or equal to 20,000 kilograms total of universal waste is accumulated at any one time.

Env-Hw 1104.04 Employee Training. A large quantity handler or very large quantity handler shall ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures relative to their responsibilities during normal facility operations and emergencies.

Env-Hw 1104.05 Tracking Universal Waste Shipments Received.

(a) A large quantity handler or very large quantity handler shall keep a record, which may take the form of a log, invoice, manifest, bill of lading, or other shipping document, of each shipment of universal waste received at the accumulation site.

(b) The record for each shipment of universal waste received shall include the following information:

- (1) The name and address of the originating handler or foreign shipper from whom the universal waste was sent;
- (2) The quantity of each type of universal waste received; and
- (3) The date of receipt of the shipment of universal waste.

(c) The records required by (a) and (b), above, shall be retained for at least 3 years from the date the universal waste shipment to which the record relates is received.

Env-Hw 1104.06 Tracking Universal Waste Shipments Shipped Off-site.

(a) A large quantity handler or very large quantity handler shall keep a record, which may take the form of a log, invoice, manifest, bill of lading, or other shipping document, of each shipment of universal waste sent by the handler to another facility.

(b) The record for each shipment of universal waste sent shall include the following information:

- (1) The name and address of the universal waste handler, destination facility, or foreign destination to which the universal waste was sent;
- (2) The quantity of each type of universal waste; and
- (3) The date the shipment of universal waste left the handler's facility.

(c) The records required by (a) and (b), above, shall be retained for at least 3 years from the date the universal waste shipment to which it relates left the handler's facility.

PART Env-Hw 1105 ADDITIONAL REQUIREMENTS APPLICABLE ONLY TO VERY LARGE QUANTITY HANDLERS OF UNIVERSAL WASTE

Env-Hw 1105.01 Applicability. This part shall apply to very large quantity handlers as defined in Env-Hw 1101.03(d).

Env-Hw 1105.02 Exemptions. This part shall not apply to a very large quantity handler that manages universal waste batteries only. Any such handler shall be regulated as a large quantity handler under Env-Hw 1104, provided that the handler shall identify itself as a very large quantity handler on the notification required by Env-Hw 1104.03.

Env-Hw 1105.03 Outside Storage in 100-year Floodplain Prohibited. A very large quantity handler shall not store universal waste outside within a 100-year floodplain as identified based on the latest Flood Insurance Studies or flood hazard boundary maps prepared by the Federal Emergency Management Agency.

Env-Hw 1105.04 Inspections.

(a) A very large quantity handler shall:

- (1) Inspect areas where universal waste is stored at least weekly for leaks and deterioration caused by corrosion and other factors; and
- (2) Record inspections in an inspection log or summary.

(b) The inspection log or summary required by (a)(2), above, shall include the following information:

- (1) The date and time of inspection;
- (2) The name of the inspector;
- (3) A notation of the observations made; and
- (4) The date and nature of any repairs or other remedial actions.

(c) Each record required by (a) and (b), above, shall be retained for at least 3 years from the date of the inspection to which it relates.

Env-Hw 1105.05 Contingency Plans and Emergency Procedures. A very large quantity handler shall have a contingency plan on-site in accordance with 40 CFR 265 Subpart D.

Env-Hw 1105.06 Preparedness and Prevention. A very large quantity handler shall:

(a) Keep the following equipment appropriate for the types and quantities of waste being accumulated on-site at all times:

- (1) Portable fire extinguishers;
- (2) Fire control equipment, including special extinguishing equipment, such as equipment using foam, inert gas, or dry chemicals;
- (3) Spill control equipment; and
- (4) Decontamination equipment;

(b) Maintain a path to and within the universal waste storage area unobstructed by any obstacles other than doors, which shall be unlocked at all times, to allow the unobstructed movement of personnel, fire control equipment, spill control equipment, and decontamination equipment to any area of the universal waste storage area; and

(c) Post the following emergency telephone numbers and information at the nearest telephone to each universal waste pesticide storage area:

- (1) The local fire department's local telephone number or 911 or both;
- (2) The local police department's local telephone number or 911 or both;
- (3) The telephone number of the department's emergency response team as listed in Appendix E, Monday through Friday, 8 a.m. to 4 p.m.;
- (4) The telephone number of the New Hampshire state police headquarters communications unit as listed in Appendix E, 24 hours per day;

- (5) The local response team telephone number; and
- (6) The steps to take in an emergency.

Env-Hw 1105.07 Security. A very large quantity handler shall provide the following security measures at all outdoor universal waste storage areas:

- (a) An artificial or natural barrier that completely surrounds the universal waste storage area to prevent the unauthorized or unknowing entry of persons or livestock;
- (b) An entry to the storage area that is controlled at all times; and
- (c) At each entry to the universal waste storage area, a sign stating, "Danger - Unauthorized Personnel Keep Out," or other words indicating that only authorized personnel are allowed to enter the area and that entry can be dangerous.

Env-Hw 1105.08 Closure. A very large quantity handler shall meet the closure requirements of 40 CFR 265.111 through 40 CFR 265.115.

Env-Hw 1105.09 Financial Assurance. A very large quantity handler shall meet the financial assurance requirements of 40 CFR 265.142 and 265.143 prior to accumulating universal waste.

#### PART Env-Hw 1106 STANDARDS FOR UNIVERSAL WASTE TRANSPORTERS

Env-Hw 1106.01 Applicability. This part shall apply to universal waste transporters.

Env-Hw 1106.02 Prohibitions.

- (a) A universal waste transporter shall not:
  - (1) Dispose of universal waste; or
  - (2) Dilute or treat universal waste, except by responding to releases as set forth in Env-Hw 1106.05.
- (b) For the purposes of (a)(2), above, intentionally crushing or dismantling lamps shall constitute treatment that cannot legally be undertaken without obtaining a permit in accordance with Env-Hw 300.

Env-Hw 1106.03 Universal Waste Management. A universal waste transporter shall comply with all applicable US DOT regulations in 49 CFR 171 through 180 for transport of any universal waste that meets the definition of "hazardous material" in 49 CFR 171.8.

Env-Hw 1106.04 Storage Time Limits. If a universal waste transporter stores universal waste for more than 10 days, the transporter shall comply with the following:

- (a) The universal waste handler requirements of Env-Hw 1102;
- (b) Env-Hw 1103, if a small quantity handler;
- (c) Env-Hw 1104, if a large quantity handler;
- (d) Env-Hw 1104 and Env-Hw 1105, if a very large quantity handler; and
- (e) The waste management requirements of Env-Hw 1109 through Env-Hw 1114, as applicable.

Env-Hw 1106.05 Response to Releases.

- (a) A universal waste transporter shall respond to releases by:
  - (1) Immediately containing and cleaning up, within 24 hours, all releases of universal wastes and other residues from universal wastes; and

(2) Determine whether any material resulting from the release is hazardous waste.

(b) In the event of any discharge of universal waste that poses a threat to human health or the environment, including but not limited to a discharge into storm drains or sanitary sewers, onto the land or into the air, groundwater or surface waters, the transporter shall report the discharge:

(1) Immediately, not to exceed one hour from the discovery of the release; and

(2) To local emergency officials and to:

a. The department's emergency response team at the telephone number listed in Appendix E, Monday through Friday, 8 a.m. to 4 p.m.; or

b. The New Hampshire state police headquarters communications unit at the telephone number listed in Appendix E, 24 hours per day.

(c) The universal waste transporter shall:

(1) Be considered the generator of any hazardous waste resulting from a release of universal waste; and

(2) Manage the hazardous waste in accordance with all applicable requirements of applicable requirements of Env-Hw 400 through Env-Hw 800.

#### Env-Hw 1106.06 Off-site Shipments.

(a) A universal waste transporter shall not transport the universal waste to a place other than a universal waste handler, a destination facility, or a foreign destination.

(b) If the universal waste being shipped off-site meets the US DOT's definition of hazardous materials under 49 CFR 171.8, the shipment shall be properly described on a shipping paper in accordance with the applicable US DOT regulations under 49 CFR 172.

#### Env-Hw 1106.07 International Shipments.

(a) A universal waste transporter transporting a shipment of universal waste to a foreign destination other than to those OECD countries specified in 40 CFR 262.58(a)(1) for recovery shall not accept a shipment if the transporter knows the shipment does not conform to the EPA acknowledgment of consent.

(b) In the case of (a), above, the transporter shall ensure that:

(1) A copy of the EPA acknowledgment of consent accompanies the shipment; and

(2) The shipment is delivered to the facility designated by the handler originating the shipment.

(c) Except as provided in (d), below, a universal waste transporter transporting a shipment of universal waste to an OECD country specified in 40 CFR 262.58(a)(1) for recovery shall be subject to 40 CFR Part 262, Subpart H.

(d) A universal waste transporter who transports cathode ray tubes or shredded cathode ray tubes or components to a foreign destination shall comply with the applicable requirements of 40 CFR 261.39(a)(5), 261.40, and 261.41.

### PART Env-Hw 1107 STANDARDS FOR DESTINATION FACILITIES

#### Env-Hw 1107.01 Applicability.

(a) This part shall apply to owners and operators of universal waste destination facilities.

(b) Except as provided in (c), below, Env-Hw 300 and Env-Hw 700 shall also apply to owners and operators of destination facilities.

(c) Env-Hw 300 and Env-Hw 700 shall not apply to owners and operators of destination facilities that recycle universal waste without storing the waste before it is recycled, provided they comply with:

- (1) The notification requirements in Env-Hw 702; and
- (2) The manifest requirements in Env-Hw 703.

Env-Hw 1107.02 Off-site Shipments.

(a) An owner or operator of a destination facility shall not send or take universal waste to a place other than a universal waste handler, another destination facility, or a foreign destination.

(b) An owner or operator of a destination facility who rejects a shipment or a portion of a shipment shall notify the handler who originated the shipment that the shipment has been rejected, and either:

- (1) Send the shipment back to the handler who originated the shipment; or
- (2) Send the shipment to another destination facility designated by the handler who originated the shipment.

(c) If an owner or operator of a destination facility receives a shipment containing hazardous waste that is not a universal waste, the owner or operator of the destination facility shall:

- (1) Immediately notify the department of the shipment;
- (2) Provide the name, address, and phone number of the shipper; and
- (3) Comply with the applicable requirements of Env-Hw 400 through Env-Hw 800 for managing the hazardous waste.

Env-Hw 1107.03 Tracking Universal Waste Shipments.

(a) The owner or operator of a destination facility shall keep a record, which may take the form of a log, invoice, manifest, bill of lading, or other shipping document, of each shipment of universal waste received at the facility.

(b) The record for each shipment of universal waste received shall include the following information:

- (1) The name and address of the universal waste handler, destination facility, or foreign shipper from whom the universal waste was sent;
- (2) The quantity of each type of universal waste received; and
- (3) The date of receipt of the shipment of universal waste.

(c) The owner or operator of a destination facility shall retain the records described in (a) and (b), above, for at least 3 years from the date of receipt of a shipment of universal waste.

Env-Hw 1107.04 Response to Releases.

(a) An owner or operator of a destination facility shall respond to releases by:

- (1) Immediately containing and cleaning up, within 24 hours, all releases of universal wastes and other residues from universal wastes; and
- (2) Determining whether any material resulting from the release is hazardous waste.

(b) In the event of any discharge of universal waste that poses a threat to human health or the environment, including but not limited to a discharge into storm drains or sanitary sewers, onto the land or into the air, groundwater or surface waters, the owner or operator of a destination facility shall report the discharge:

- (1) Immediately, not to exceed one hour from the discovery of the release; and
- (2) To local emergency officials and to:
  - a. The department's emergency response team at the telephone number listed in Appendix E, Monday through Friday, 8 a.m. to 4 p.m.; or
  - b. The New Hampshire state police headquarters communications unit at the telephone number listed in Appendix, 24 hours per day.
- (c) The owner or operator of a destination facility shall:
  - (1) Be considered the generator of any hazardous waste resulting from a release of universal waste; and
  - (2) Manage the hazardous waste in accordance with all applicable requirements of Env-Hw 400 through Env-Hw 800.

#### PART Env-Hw 1108 PETITION TO INCLUDE OTHER UNIVERSAL WASTES

##### Env-Hw 1108.01 Universal Waste Petition Information Requirements.

(a) Any person seeking to add a hazardous waste or a category of hazardous waste to this chapter shall petition for an amendment to Env-Hw 1100 in accordance with:

- (1) This part;
  - (2) Env-Hw 206; and
  - (3) 40 CFR 273 Subpart G.
- (b) The petitioner shall submit the following information, in writing, to the department:
- (1) The petitioner's name and mailing address and, if available, an e-mail address;
  - (2) A statement explaining why the petitioner believes that the waste is a universal waste;
  - (3) A description of the type of waste proposed to be included as a universal waste;
  - (4) A description of the methods by which the waste can be managed;
  - (5) A statement of the need and justification for adding the proposed waste to this chapter based upon the criteria in Env-Hw 1108.02, including any supporting tests, studies, or other pertinent information;
  - (6) A statement explaining how the proposed universal waste will improve management practices for the waste or category of waste; and
  - (7) A statement explaining how the proposed universal waste will improve implementation of the hazardous waste program.

##### Env-Hw 1108.02 Universal Waste Petition Approval or Denial. The department shall:

- (a) Evaluate petitions using the factors listed in 40 CFR 273.81;
- (b) Grant the petition if listing the waste or category of waste as a universal waste meets the criteria of 40 CFR 273.80(c) and 40 CFR 273.81; and
- (c) If the petition is granted, initiate a rulemaking proceeding in accordance with RSA 541-A.

## PART Env-Hw 1109 UNIVERSAL WASTE BATTERIES

Env-Hw 1109.01 Applicability.

- (a) This part shall apply to all universal waste handlers of batteries, except as provided in (b) below.
- (b) This part shall not apply to persons managing spent lead-acid batteries under Env-Hw 809.04.

Env-Hw 1109.02 Generation of Universal Waste Batteries.

- (a) A used battery that is no longer operable shall become a waste on the date it is removed from service.
- (b) A used battery that is still operable and has been removed from service shall become a waste on the date the handler discards it.
- (c) An unused battery shall become a waste as specified in 40 CFR 273.2(c)(2), as reprinted in Appendix D.

Env-Hw 1109.03 Requirements for Management of Universal Waste Batteries.

- (a) A universal waste handler shall contain, using a container that complies with Env-Hw 1102.03(c), any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage.
- (b) A universal waste handler shall not conduct the following activities unless the requirements of (c), below, are met:
  - (1) Sorting batteries by type;
  - (2) Mixing battery types in one container;
  - (3) Discharging batteries so as to remove the electric charge;
  - (4) Regenerating used batteries;
  - (5) Disassembling batteries or battery packs into individual batteries or cells;
  - (6) Removing batteries from consumer products; or
  - (7) Removing electrolyte from batteries.
- (c) A universal waste handler who conducts the activities listed in (b), above, shall:
  - (1) Ensure the casing of each individual battery cell is:
    - a. Not breached;
    - b. Intact;
    - c. Closed except to remove electrolyte; and
    - d. Immediately closed after electrolyte removal; and
  - (2) Determine whether the following exhibit a characteristic of hazardous waste as identified in Env-Hw 403:
    - a. Electrolyte removed from batteries; and
    - b. Other waste generated as a result of the removal of electrolyte, such as battery pack materials and discarded consumer products.
- (d) If the electrolyte or other waste or both described in (c)(2), above, exhibits a characteristic of hazardous waste, the handler shall:

- (1) Be considered the generator of the electrolyte or other waste or both; and
- (2) Comply with all applicable requirements of Env-Hw 400 through Env-Hw 800.

Env-Hw 1109.04 Labeling/Marking of Batteries. A universal waste handler of batteries shall clearly label or mark each universal waste battery or containers holding batteries with any or all of the following:

- (a) "Universal Waste - Battery(ies)";
- (b) "Waste Battery(ies)"; or
- (c) "Used Battery(ies)."

#### PART Env-Hw 1110 UNIVERSAL WASTE PESTICIDES

##### Env-Hw 1110.01 Applicability.

- (a) This part shall apply to persons managing the following pesticides:
  - (1) Recalled pesticides that are:
    - a. Suspended and canceled pesticides that are part of a voluntary or mandatory recall under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 - 136y (FIFRA) Section 19(b), including, but not limited to, those owned by the registrant responsible for conducting the recall; or
    - b. Suspended or canceled pesticides, or pesticides that are not in compliance with FIFRA, that are part of a voluntary recall by the registrant; and
  - (2) Other unused pesticides that are collected and managed as part of a waste pesticide collection program administered or recognized by the department or the New Hampshire department of agriculture, markets, and food.
- (b) This part shall not apply to persons managing pesticides that do not meet the criteria in (a), above, but these persons shall be subject to the applicable requirements of Env-Hw 300 through Env-Hw 800.

Env-Hw 1110.02 Exemptions. This part shall not apply to pesticides that are managed by farmers in compliance with Env-Hw 501.02.

##### Env-Hw 1110.03 Generation of Waste Pesticides.

- (a) A recalled pesticide described in Env-Hw 1110.01(a)(1) shall become a waste as specified in 40 CFR 273.3(c)(1), as reprinted in Appendix D.
- (b) An unused pesticide described in Env-Hw 1110.01(a)(2) shall become a waste as specified in 40 CFR 273.3(c)(2), as reprinted in Appendix D.
- (c) A pesticide that is not a waste shall remain subject to the requirements of FIFRA.

Env-Hw 1110.04 Requirements for Management of Universal Waste Pesticides. A universal waste handler shall contain universal waste pesticides in one or more of the following:

- (a) A container that complies with Env-Hw 1102.03(c);
- (b) A container that does not comply with Env-Hw 1102.03(c), provided that the non-compliant container is overpacked in a container that complies with Env-Hw 1102.03(c);
- (c) A tank that complies with 40 CFR 265 Subpart J, except for 40 CFR 265.197(c), 40 CFR 265.200, and 40 CFR 265.201; or
- (d) A transport vehicle or vessel that complies with Env-Hw 1102.03(c).

Env-Hw 1110.05 Labeling/Marking of Pesticides.

(a) A container, multiple container package unit, tank, transport vehicle or vessel in which recalled universal waste pesticides described in Env-Hw 1110.01(a)(1) are contained shall be clearly labeled or marked with:

- (1) The label that was on or accompanied the pesticide product as sold or distributed; and
- (2) The words "Universal Waste - Pesticide(s)" or "Waste - Pesticide(s)."

(b) A container, tank, or transport vehicle or vessel in which unused pesticide products as described in Env-Hw 1110.01(a)(2) are contained shall be clearly labeled or marked with the words "Universal Waste - Pesticide(s)" or "Waste - Pesticide(s)" and:

- (1) The label that was on the pesticide product when purchased, if still legible;
- (2) If using the label described in (1), above, is not feasible, the appropriate label as required under the US DOT regulations 49 CFR 172; or
- (3) If using the labels described in (1) and (2), above, is not feasible, another label prescribed or designated by the waste pesticide collection program administered or recognized by the department or the New Hampshire department of agriculture, markets, and food.

Env-Hw 1110.06 Storage of Universal Waste Pesticides.

(a) Universal waste pesticides shall be stored on an impervious surface.

(b) An impervious surface shall:

- (1) Include concrete or asphalt without cracks or holes; and
- (2) Not include earth, wood, or gravel surfaces.

(c) For one-day collections, in lieu of (b)(1), above, plastic sheeting with a minimum thickness of 6 mils may be used as an impervious surface for storing universal waste pesticides on collection day.

(d) Except as provided in (e), below, universal waste pesticides shall not be stored in areas with functional floor drains or manholes present unless secondary containment is provided around all universal waste pesticides container storage areas, capable of containing the volume of the largest capacity universal waste pesticides container present.

(e) The containment system required by (d), above, shall not be required for universal waste pesticides storage areas that store containers holding only wastes that do not contain free liquids provided that:

- (1) The universal waste pesticides storage area is sloped or is otherwise designed to drain and remove liquid resulting from precipitation; or
- (2) The containers are elevated or otherwise protected from contact with accumulated liquid.

Env-Hw 1110.07 Preparedness and Prevention. A universal waste handler of pesticides shall comply with the preparedness and prevention requirements of Env-Hw 1105.06.

Env-Hw 1110.08 Security. A universal waste handler of pesticides shall provide the security measures required by Env-Hw 1105.07 at all outdoor universal waste pesticide storage areas.

Env-Hw 1110.09 Additional Training for Pesticides Handlers. A universal waste handler of pesticides shall comply with the personnel training requirements in 40 CFR 265.16.

Env-Hw 1110.10 Health and Safety. A universal waste handler of pesticides shall comply with the New Hampshire department of labor rules in Lab 1400 "Safety and Health of Employees."

## PART Env-Hw 1111 UNIVERSAL WASTE MERCURY-CONTAINING DEVICES

Env-Hw 1111.01 Applicability. This part shall apply to all universal waste handlers of mercury-containing devices.

Env-Hw 1111.02 Generation of Universal Waste Mercury-Containing Devices.

(a) A used mercury-containing device that is no longer operable shall become a waste on the date it is removed from service.

(b) A used mercury-containing device that is still operable and has been removed from service shall become a waste on the date the handler discards it.

(c) An unused mercury-containing device shall become a waste as specified in 40 CFR 273.4(c)(2), as reprinted in Appendix D.

Env-Hw 1111.03 Requirements for Management of Universal Waste Mercury-Containing Devices.

(a) A universal waste handler shall contain, using a container that meets the requirements of Env-Hw 1102.03(c), any mercury-containing device that shows evidence of leakage, spillage, or damage that could cause leakage.

(b) A universal waste handler shall not remove mercury-containing ampules from universal waste mercury-containing devices unless the handler complies with 40 CFR 273.33(c)(2), as reprinted in Appendix D, except that:

(1) Containers of mercury resulting from spills or leaks from broken ampules shall meet the requirements of Env-Hw 507 instead of 40 CFR 262.34; and

(2) Removed intact ampules shall be stored in containers that meet the requirements of Env-Hw 1102.03(c).

(c) An intact mercury-containing ampule that has been removed in accordance with (b), above, may be handled as a universal waste.

(d) A universal waste handler who removes mercury-containing ampules from mercury-containing devices shall determine whether the following materials exhibit a characteristic of hazardous waste identified in Env-Hw 403:

(1) Mercury clean-up residues or other wastes resulting from spills or leaks; and

(2) Other waste generated as a result of the removal of mercury-containing ampules, such as remaining thermostat units.

(e) If the mercury residues or other waste described in (d), above, or any combination thereof, exhibit a characteristic of hazardous waste, the handler shall:

(1) Be considered the generator of the mercury residues, or other waste, or both; and

(2) Comply with all applicable requirements of Env-Hw 400 through Env-Hw 800.

Env-Hw 1111.04 Labeling/Marking of Mercury-Containing Devices. A universal waste handler of mercury-containing devices shall clearly label or mark each universal waste mercury-containing device or container holding mercury-containing devices with any or all of the following:

(a) "Universal Waste - Mercury-Containing Device(s);

(b) "Waste Mercury-Containing Device(s)"; or

(c) "Used Mercury-Containing Device(s)."

## PART Env-Hw 1112 UNIVERSAL WASTE LAMPS

Env-Hw 1112.01 Applicability. This part shall apply to all universal waste handlers of lamps.

Env-Hw 1112.02 Generation of Universal Waste Lamps.

- (a) A used lamp that is burned out shall become a waste on the date it is removed from service.
- (b) A used lamp that is not burned out and has been removed from service shall become a waste on the date the handler discards it.
- (c) An unused lamp shall become a waste as specified in 40 CFR 273.5(c)(2), as reprinted in Appendix D.

Env-Hw 1112.03 Requirements for Management of Universal Waste Lamps.

- (a) Intact and broken lamps shall be stored in containers that meet the requirements of Env-Hw 1102.03(c).
- (b) A universal waste handler shall not intentionally crush or dismantle universal waste lamps unless a permit has been obtained in accordance with Env-Hw 300.

Env-Hw 1112.04 Labeling/Marking of Lamps. A universal waste handler of lamps shall clearly label or mark each lamp or container holding universal waste lamps with any or all of the following:

- (a) "Universal Waste - Lamps(s);
- (b) "Waste Lamp(s)"; or
- (c) "Used Lamp(s)."

## PART Env-Hw 1113 UNIVERSAL WASTE CATHODE RAY TUBES

Env-Hw 1113.01 Applicability. This part shall apply to all universal waste handlers of cathode ray tubes.

Env-Hw 1113.02 Generation of Universal Waste Cathode Ray Tubes. A used or unused cathode ray tube shall become a waste on the date it is determined to be not repairable or reusable for its originally intended purpose.

Env-Hw 1113.03 Requirements for Management of Universal Waste Cathode Ray Tubes.

- (a) A cathode ray tube that shows evidence of breakage, spillage, or damage that could cause release of glass particles shall be contained using a container that complies with Env-Hw 1102.03(c).
- (b) A universal waste handler of cathode ray tubes shall not intentionally break or shred universal waste cathode ray tubes unless the handler:
  - (1) Installs and maintains systems designed to minimize releases via wind dispersal, run-off, and direct releases to the soil;
  - (2) Uses breaking, shredding, or storage practices that do not pose a hazard to human health or the environment;
  - (3) Prevents exposure of humans or the environment to harmful quantities of lead or other hazardous constituents;
  - (4) Stores shredded and broken cathode ray tubes or components or both in closed, non-leaking containers that meet the requirements of Env-Hw 1102.03(c);

(5) Before transporting or offering shredded cathode ray tubes or components or both for transport, packages the shredded cathode ray tubes or components or both in containers that are:

- a. Impermeable;
- b. Closed; and
- c. Designed to prevent releases to the environment.

(c) A universal waste handler who shreds or intentionally breaks cathode ray tubes shall determine whether the following materials exhibit a characteristic of hazardous waste identified in Env-Hw 400:

- (1) Clean-up residues resulting from spills or leaks; and
- (2) Other waste generated from the shredding or breaking of cathode ray tubes, such as:
  - a. Residual waste from pollution control devices;
  - b. Blast media;
  - c. Cleaning media;
  - d. Floor sweepings; or
  - e. Glass fines.

(d) If the residues, other waste, or both described in (c), above, exhibit a characteristic of hazardous waste, the handler shall be considered the generator of the residues, other waste, or both and manage them in accordance with applicable requirements of Env-Hw 400 through Env-Hw 800.

Env-Hw 1113.04 Labeling/Marking of Cathode Ray Tubes. A universal waste handler of cathode ray tubes shall clearly label or mark each universal waste cathode ray tube, or container holding intact, shredded, or broken universal waste cathode ray tubes with any or all of the following:

- (a) "Universal Waste - Cathode Ray Tube(s)";
- (b) "Waste Cathode Ray Tube(s)"; or
- (c) "Used Cathode Ray Tube(s)."

#### PART Env-Hw 1114 UNIVERSAL WASTE ANTIFREEZE

Env-Hw 1114.01 Applicability. This part shall apply to all universal waste handlers of antifreeze.

Env-Hw 1114.02 Generation of Universal Waste Antifreeze.

(a) Used antifreeze shall become a waste on the date that, through use or handling, the antifreeze has become unsuitable for its original purpose due to the presence of physical or chemical impurities or loss of original properties.

(b) Unused antifreeze shall become a waste on the date the handler discards it.

Env-Hw 1114.03 Requirements for Management of Universal Waste Antifreeze. A universal waste handler shall contain universal waste antifreeze in tanks or containers that meet the requirements of Env-Hw 1102.03(c).

Env-Hw 1114.04 Labeling/Marking of Antifreeze. A universal waste handler of antifreeze shall clearly label or mark the container, and tank holding antifreeze with any or all of the following:

- (a) "Universal Waste - Antifreeze";
- (b) "Waste Antifreeze"; or
- (c) "Used Antifreeze."

**APPENDIX A: STATE STATUTES, FEDERAL REGULATIONS IMPLEMENTED**

<b>Rule Section(s)</b>	<b>State Statute(s)</b>	<b>Federal Regulation(s)</b>
Env-Hw 1101	RSA 147-A:3, IV	40 CFR 273
Env-Hw 1102	RSA 147-A:3, IV, VI, VII	40 CFR 273
Env-Hw 1103	RSA 147-A:3, IV	40 CFR 273
Env-Hw 1104	RSA 147-A:3, IV, VI	40 CFR 273
Env-Hw 1105	RSA 147-A:3, IV, VI	40 CFR 273
Env-Hw 1106	RSA 147-A:3, IV, VI, VII	40 CFR 273
Env-Hw 1107	RSA 147-A:3, IV, VI, VII	40 CFR 273
Env-Hw 1108	RSA 147-A:3, I, II	40 CFR 273
Env-Hw 1109	RSA 147-A:3, IV	40 CFR 273
Env-Hw 1110	RSA 147-A:3, IV, XIII	40 CFR 273
Env-Hw 1111	RSA 147-A:3, IV	40 CFR 273
Env-Hw 1112	RSA 147-A:3, IV	40 CFR 273
Env-Hw 1113	RSA 147-A:3, IV	40 CFR 273
Env-Hw 1114	RSA 147-A:3, IV, XIII	40 CFR 273

**APPENDIX B: INCORPORATION BY REFERENCE INFORMATION**

[none in this chapter]

**APPENDIX C: STATE STATUTORY DEFINITIONS**

[none in this chapter]

**APPENDIX D: FEDERAL DEFINITIONS AND REGULATIONS****40 CFR 273.2(c)(2)**

An unused battery becomes a waste on the date the handler decides to discard it.

**40 CFR 273.3(c)(1)**

A recalled pesticide described in paragraph (a)(1) of this section becomes a waste on the first date on which both of the following conditions apply:

- (i) The generator of the recalled pesticide agrees to participate in the recall; and
- (ii) The person conducting the recall decides to discard (e.g., burn the pesticide for energy recovery).

**40 CFR 273.3(c)(2)**

An unused pesticide product described in paragraph (a)(2) of this section becomes a waste on the date the generator decides to discard it.

**40 CFR 273.4(c)(2)**

Unused mercury-containing equipment becomes a waste on the date the handler decides to discard it.

**40 CFR 273.5(c)(2)**

An unused lamp becomes a waste on the date the handler decides to discard it.

**40 CFR 273.33(c)(2)**

A large quantity handler of universal waste may remove mercury-containing ampules from universal waste mercury-containing equipment provided the handler:

- (i) Removes and manages the ampules in a manner designed to prevent breakage of the ampules;
- (ii) Removes the ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

- (iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks of broken ampules from that containment device to a container that meets the requirements of 40 CFR 262.34;
- (iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 40 CFR 262.34;
- (v) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
- (vi) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;
- (vii) Stores removed ampules in closed, non-leaking containers that are in good condition;
- (viii) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation;

#### APPENDIX E: EMERGENCY TELEPHONE NUMBERS

<b>Organization</b>	<b>Telephone Number</b>	<b>Days/Hours</b>
DES Emergency Response Team	(603) 271-3899	Monday through Friday; 8 a.m. to 4 p.m.
N.H. State Police Headquarters Communications Unit	(603) 223-4381	Every day; 24 hours per day