

CHAPTER Env-Hw 700 REQUIREMENTS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE FACILITIES/HAZARDOUS WASTE TRANSFER FACILITIES

Statutory Authority: RSA 147-A:3; RSA 147-B:7

PART Env-Hw 701 APPLICABILITY, EXEMPTIONS AND PROHIBITIONS

Env-Hw 701.01 Applicability. This chapter shall apply to:

- (a) Owners and operators of all facilities, unless exempt under Env-Hw 800 or Env-Hw 701.02;
- (b) A person disposing of hazardous waste by means of ocean disposal pursuant to a permit issued under the Marine Protection, Research, and Sanctuaries Act only to the extent the person is deemed to have a permit-by-rule under Env-Hw 300;
- (c) An operator of a POTW that treats, stores, or disposes of hazardous waste only to the extent the operator is deemed to have a permit-by-rule under Env-Hw 300;
- (d) An owner and operator of a facility that treats, stores, or disposes of hazardous wastes in accordance with 40 CFR Part 268, as incorporated by reference in Env-Hw 1200; and
- (e) The storage of military munitions classified as solid waste pursuant to 40 CFR 266.202 only to the extent identified in 40 CFR 266.205, but this chapter shall apply to the treatment and disposal of hazardous waste military munitions.

Env-Hw 701.02 Exemptions.

- (a) This chapter shall not apply to:
  - (1) A full quantity generator who accumulates hazardous waste on-site for 90 days or less, except as provided in Env-Hw 507.03 and Env-Hw 509.03, and who does not dispose of hazardous waste on-site;
  - (2) A small quantity generator who accumulates waste in accordance with Env-Hw 507.03 and Env-Hw 508;
  - (3) The owner or operator of a solid waste facility, as defined in RSA 149-M:4, IX and permitted by the department pursuant to RSA 149-M to manage non-hazardous solid waste, provided that:
    - a. The facility does not accept hazardous waste for transfer, treatment, storage, or disposal and does not transfer, treat, store, or dispose of hazardous waste; and
    - b. If the facility recovers energy from the combustion of solid waste from any source other than a household, it does not combust any hazardous waste, including but not limited to ash and baghouse filters, produced from the operation of the facility;
  - (4) The owner or operator of an elementary neutralization unit or wastewater treatment unit that meets the requirements of Env-Hw 304.04;
  - (5) A New Hampshire registered transporter who stores manifested shipments of hazardous waste in containers meeting the requirements of 40 CFR 262.30 for a period of less than 10 days, provided that the wastes are en route to the facility designated on the manifest, and that all wastes remain on the registered vehicle and wastes are not transferred or removed from the vehicle;
  - (6) The owner or operator of a facility managing recyclable materials described in Env-Hw 401.03(b)(36) - (39) and Env-Hw 804.02 except to the extent that Env-Hw 700 requirements are referred to in Env-Hw 804 through Env-Hw 809;
  - (7) A farmer who disposes of hazardous waste pesticide residues from his/her own use, provided he/she triple rinses each emptied pesticide container in accordance with Env-Hw

401.03(d)(3), and disposes of the pesticide residues on their own farm in a manner consistent with the disposal instructions on the pesticide label;

(8) Subject to (c), below, a person engaged in treatment or containment activities during immediate response to:

- a. A discharge of hazardous waste;
- b. An imminent and substantial threat of a discharge of hazardous waste;
- c. A discharge of a material that, when discharged, becomes a hazardous waste; or
- d. An immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist;

(9) The addition of absorbent to waste in a container provided that the absorbent does not change the chemical properties of the waste and the requirements of 40 CFR 264.1(g)(10) are met;

(10) A generator who receives small quantity generator waste in accordance with Env-Hw 501.02(c);

(11) A household hazardous waste collection project that receives hazardous waste from small quantity generators, provided that:

- a. The project is a one-day household hazardous waste collection event;
- b. The waste is accompanied by a manifest in accordance with Env-Hw 510; and
- c. The small quantity generator gives the waste directly to a New Hampshire registered hazardous waste transporter during the one day collection event;

(12) A government entity that receives household hazardous waste from another government entity provided the receiving entity manages the waste in accordance with the applicable generator requirements of Env-Hw 500 and ships the waste off-site within 90 days after receipt;

(13) A universal waste handler or a universal waste transporter who handles universal waste, provided that the waste is managed in accordance with Env-Hw 1100; and

(14) The owner or operator of a totally enclosed treatment facility as defined in Env-Hw 104.

(b) Env-Hw 705.01(b)(1) through (6) and (9) through (16), Env-Hw 705.02, Env-Hw 705.03, Env-Hw 707.03(a)(2) and (10), and Env-Hw 708.02(a)(2) shall not apply to transfer facilities.

(c) In the case of treatment or containment activities during immediate response to a situation specified in (a)(8), above:

(1) A facility owner and operator shall comply with Env-Hw 708.02(a)(9) and Env-Hw 708.02(a)(10), except that the owner and operator of an existing facility shall comply with 40 CFR 265.54 instead of 40 CFR 264.54;

(2) A person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over shall be subject to Env-Hw 300 and this chapter; and

(3) In the case of an explosives or munitions emergency response, including emergencies involving military munitions, the requirements of 40 CFR 264.1(g)(8)(iv), 40 CFR 265.1(c)(11)(iv), and 40 CFR 270.1(c)(3)(iii) shall apply.

(d) Env-Hw 703 and Env-Hw 704 shall not apply to owners and operators of:

(1) On-site facilities that do not receive any hazardous waste from off-site sources; or

(2) Off-site facilities with respect to waste military munitions that are exempt from manifest requirements under 40 CFR 266.203(a).

Env-Hw 701.03 Prohibitions.

- (a) Underground injection of hazardous waste shall be prohibited.
- (b) Wastes with EPA Hazardous Waste Numbers F020, F021, F022, F023, F026, and F027 shall not be managed at facilities subject to Env-Hw 707, unless:
- (1) The wastewater treatment sludge is generated in a surface impoundment as a part of the plant's wastewater treatment system;
  - (2) The waste is stored in tanks or containers;
  - (3) The waste is stored or treated in waste piles that meet the requirements of Env-Hw 707.04(e);
  - (4) The waste is burned in an incinerator that is certified pursuant to the standards and procedures in Env-Hw 707.04(h); or
  - (5) The waste is burned in a facility that thermally treats the waste in a device other than an incinerator and that is certified pursuant to the standards and procedures in Env-Hw 707.04(i).

PART Env-Hw 702 GENERAL REQUIREMENTS FOR FACILITY OPERATORS

Env-Hw 702.01 Notification.

- (a) An operator of a facility shall notify the department prior to conducting any hazardous waste activities that are subject to the hazardous waste rules.
- (b) An operator of an existing facility shall notify the department within 30 days of the effective date of any statutory or regulatory amendment that requires the facility to have a hazardous waste permit.

Env-Hw 702.02 Notification Information Requirements.

- (a) The notification required by Env-Hw 702.01 shall be given by completing and submitting to the department a notification form obtained from the department that includes the following:
- (1) The information specified in Env-Hw 504.02(a), as applicable; and
  - (2) A statement signed by the facility's authorized representative certifying, as specified in Env-Hw 207, the information provided on the notification form.
- (b) The operator shall notify the department, on a notification form obtained from the department, of any changes to the information required by (a), above, within 30 days of the effective date of any change.

Env-Hw 702.03 Notification Determination.

- (a) If the department, upon examination of a notification submitted as specified in Env-Hw 702.02, determines that the operator has not provided all of the information required by Env-Hw 702.02, the department shall notify the operator in writing of each deficiency.
- (b) The operator shall, no later than 30 days from receipt of the notice of deficiency, explain or correct the alleged deficiency.
- (d) If the operator does not respond within 30 days, the operator shall submit a new notification.

Env-Hw 702.04 EPA Identification Number.

(a) An operator of a facility or transfer facility shall not generate, receive, transfer, treat, store, or dispose of hazardous waste without having received an EPA identification number. If a notification from a facility or transfer facility is deemed complete, the department shall assign an EPA identification number to the facility or transfer facility.

(b) A separate number shall be obtained for each site location.

Env-Hw 702.05 Facility Permits. The operator of a new or existing facility shall comply with the permitting requirements of Env-Hw 300.

Env-Hw 702.06 Public Notification Plan. The operator of a facility or transfer facility shall develop and follow a plan describing methods to inform the public of the status of the activities undertaken at the facility or transfer facility.

Env-Hw 702.07 Transfer of Ownership/Relinquishment of Property Rights. The operator of a facility seeking to have its permit transferred to a new operator shall comply with 40 CFR 270.40, 7-1-05 edition, and RSA 147-A:4, IV.

Env-Hw 702.08 Environmental and Health Requirements. Notwithstanding any provisions in this chapter, the operator of a facility shall:

(a) Meet all surface water standards as specified in the Federal Clean Water Act and New Hampshire statutes according to RSA 485-A, and groundwater criteria established by the Federal Safe Drinking Water Act and Env-Or 600;

(b) Meet all air emission limits specified in the Federal Clean Air Act, RSA 125-C, and state implementation plans;

(c) Prevent exposure of facility workers to chemicals in violation of Occupational Safety and Health Administration regulations; and

(d) Prevent exposure of humans or the environment to harmful quantities of hazardous waste or its constituents.

Env-Hw 702.09 General Design Requirements. A facility shall:

(a) Be designed and operated to minimize the possibility of any unplanned releases of hazardous waste or constituents;

(b) Have diversion structures capable of diverting all surface water run-off and run-on from the active portions of the facility for a 24-hour, 100-year storm;

(c) Be located above the 100-year flood level, unless it is an existing facility:

(1) That is designed, constructed, operated and maintained to prevent washout of any hazardous waste by a 100-year flood; or

(2) Whose operator ensures that all waste can be removed safely before floodwaters can reach the facility to a location where the wastes will not be vulnerable to flood waters; and

(d) Be designed so that all surface run-off from active portions of the facility is collected and contained before it is discharged from a point source, and is handled in accordance with the Federal Clean Water Act and New Hampshire RSA 485-A.

Env-Hw 702.10 Groundwater Monitoring.

(a) An operator of a facility with a surface impoundment, landfill, or land treatment operation shall install and operate a groundwater monitoring/release detection system capable of detecting the potential migration in groundwater of hazardous waste or waste constituents outside the boundaries of the facility, as specified below:

- (1) Facilities that were in existence on July 1, 1980, shall implement a groundwater monitoring/release detection program in accordance with 40 CFR 265 Subpart F;
- (2) Facilities that become subject to this chapter due to statutory or regulatory amendments shall implement a groundwater monitoring/release detection program in accordance with 40 CFR 265 Subpart F within one year of the effective date of the statutory or regulatory amendments; and
- (3) New facilities shall implement a groundwater monitoring/release detection program in accordance with 40 CFR 264 Subpart F.

(b) Groundwater monitoring/release detection shall comply with RSA 485-C:13, Env-Or 700, and either 40 CFR 264 Subpart F or 40 CFR 265 Subpart F, as specified in (a), above, provided that in the case of a conflict, the more protective requirement shall apply.

(c) Unless a release detection permit is required pursuant to RSA 485-C:13, the department shall waive any of the requirements of (b), above, if:

- (1) The operator requests such a waiver in writing as specified in Env-Hw 202; and
- (2) The operator provides documentation that the criteria for granting a waiver as specified in Env-Hw 202 are satisfied.

Env-Hw 702.11 Other Monitoring.

(a) The department shall review the groundwater monitoring/release detection plan proposed pursuant to Env-Hw 702.10(b) and all resulting data.

(b) The department shall review the design and operations of all hazardous waste facilities and transfer facilities other than those specified in Env-Hw 702.10(a) to determine whether the design and operation might allow any hazardous waste or constituent to migrate off-site.

(c) The department shall require the installation and operation of a monitoring system, including monitoring of air emissions, groundwater contamination, and leachate detection as appropriate to the migration vectors identified by the department, for:

- (1) A facility identified in Env-Hw 702.10(a), if the groundwater monitoring/release detection plan proposed pursuant to Env-Hw 702.10(b) is not adequate to detect the off-site migration of all hazardous wastes or constituents; or
- (2) A facility or transfer facility not identified in Env-Hw 702.10(a) whose design and/or operation might allow a hazardous waste or constituent to migrate off site.

(d) For a monitoring system specified in (c), above, the department shall specify in writing:

- (1) The monitoring system required;
- (2) The frequency of analysis required; and
- (3) The sampling and evaluation procedures and criteria to be used.

Env-Hw 702.12 Alternate Monitoring Plan. If the department requires a monitoring system pursuant to Env-Hw 702.11(c), the owner or operator may apply for a waiver or may submit for approval an alternate monitoring plan.

Env-Hw 702.13 Monitoring Response.

- (a) Upon detection of contamination of any groundwater, surface water, air, or soil, the owner or operator of a facility shall immediately notify the department's emergency response team at the telephone number listed in Appendix E, Monday through Friday, from 8 a.m. to 4 p.m., and the New Hampshire state police headquarters communications unit at the telephone number listed in Appendix E at all other times.
- (b) Within 10 days of notification, the operator shall:
- (1) Collect and evaluate samples on a more frequent basis;
  - (2) Take preventive actions, such as requiring more stringent operational procedures;
  - (3) Take remedial actions, including on-site relocation of wastes;
  - (4) File a report, within 30 days of notification, identifying the causes of contamination and delineating if they are accidental, due to operating or design failures, or of unknown cause;
  - (5) Provide evidence that the contamination can be mitigated by actions not previously mentioned; and
  - (6) Temporarily cease operations so that the causes can be found and corrected.

PART Env-Hw 703 RECEIPT OF WASTE

Env-Hw 703.01 General Manifest Requirements.

- (a) Upon receipt of a hazardous waste accompanied by a manifest, the owner, operator or responsible agent of the designated facility shall comply with 40 CFR 264.71(a) and 40 CFR 265.71(a), as applicable.
- (b) An owner, operator, or responsible agent of a designated facility shall determine whether:
- (1) The destination state for a shipment regulates any additional wastes as hazardous wastes beyond those regulated federally; and
  - (2) The destination state or the generator state requires the facility to submit any copies of the manifest to these states.
- (c) If New Hampshire is the destination state or the generator state, an owner, operator, or responsible agent of a designated facility shall submit a copy of the manifest to the department.
- (d) Within 30 days of signing the manifest, an owner, operator, or responsible agent shall send a copy of the manifest to the generator and to the generator state and the destination state if required by these states.

Env-Hw 703.02 Manifest Errors/Discrepancies.

- (a) An owner, operator, or responsible agent shall:
- (1) Initial and date any corrections to the manifest or, in the case of water or rail shipments in which the manifest has not been received, to the shipping paper, ensuring that any corrections are legible on each copy; and
  - (2) Comply with the manifest discrepancy requirements of 40 CFR 264.72(a) - (c) and 40 CFR 265.72(a) - (c) as applicable.
- (b) An owner, operator, or responsible agent shall correct the following discrepancies:
- (1) Significant differences, as that term is defined in 40 CFR 264.72(b) and 40 CFR 265.72(b), as applicable;
  - (2) Incorrect or missing EPA identification numbers, generator names and addresses; and

(3) Missing fee exemption codes as provided in Env-Hw 510.03(b).

(c) An owner or operator shall notify the department in writing of any discrepancies not previously corrected on the manifest. Such notice shall include a copy of the manifest or a reference to the generator name, date of shipment and manifest tracking number.

Env-Hw 703.03 Rail or Water Shipments. If a facility receives from a rail or bulk shipment water transporter hazardous waste accompanied by a shipping document in accordance with Env-Hw 604.03, the operator, or the operator's agent, shall:

(a) Inspect the shipment and compare it with the description on the manifest or shipping paper;

(b) Note any discrepancies on the manifest or shipping paper on each copy in accordance with Env-Hw 703.02;

(c) Sign and date each copy of the manifest or shipping paper to certify that the hazardous waste covered by the manifest or shipping paper was received;

(d) Immediately give the rail or water transporter one copy of the manifest or shipping paper; and

(e) Within 30 days after the delivery, send to the generator a copy of the signed and dated manifest or, if the manifest has not been received within 30 days after delivery, a signed and dated copy of the shipping paper; and

(f) If the manifest has not been received within 30 days after delivery, the operator, or operator's agent, shall sign, date and return the manifest to the generator upon receipt.

Env-Hw 703.04 International Shipments.

(a) Notwithstanding any other provisions of the hazardous waste rules, a facility that imports or exports hazardous waste, except state-only waste, shall comply with 40 CFR 262 Subparts E and F, 40 CFR 264.71(a)(3), and 40 CFR 265.71(a)(3), as applicable, except as provided in (b), below.

(b) A facility that exports or imports hazardous waste shall comply with 40 CFR 262 Subpart H if the hazardous waste is:

(1) Exported to or imported from any of the countries listed in 40 CFR 262.58(a)(1) for purposes of recovery;

(2) Not a state-only waste; and

(3) Subject to:

a. The manifesting requirements of Env-Hw 510;

b. The universal waste management requirements of Env-Hw 1100; or

c. The export requirements in the spent lead-acid battery management standards of 40 CFR 266, Subpart G.

(c) Within 3 business days of receiving a shipment subject to 40 CFR 262, Subpart H, the owner or operator shall provide copies of the movement document to the parties specified in 40 CFR 264.71(d) and 40 CFR 265.71(d), as applicable.

Env-Hw 703.05 Unmanifested Waste Report.

(a) If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or shipping paper for water or rail shipments, and if the waste is not excluded from the manifest requirement by the hazardous waste rules, the operator shall submit an unmanifested waste report to the department within 15 days of such acceptance.

- (b) The unmanifested waste report shall contain the following information:
  - (1) The name, address and EPA identification number of the facility;
  - (2) The name, address and EPA identification number of the generator and transporter, if available;
  - (3) The date of receipt;
  - (4) For each unmanifested hazardous waste, its quantity and a description by type and source;
  - (5) For each unmanifested hazardous waste, the method of treatment, storage, or disposal;
  - (6) A full explanation of why the waste was unmanifested; and
  - (7) A statement signed by the operator or a responsible agent certifying, as specified in Env-Hw 207, the information in the report.

#### PART Env-Hw 704 REJECTED SHIPMENTS

Env-Hw 704.01 Rejected Shipments. If an operator rejects all or part of a hazardous waste shipment or identifies a container residue that exceeds the quantity limits for empty containers set forth in Env-Hw 401.03(d), the operator shall:

- (a) Contact the generator;
- (b) Comply with the manifest discrepancy requirements of 40 CFR 264.72(d) through (g) and 40 CFR 265.72(d) through (g), as applicable; and
- (c) Send a copy of the new, amended, and original manifests, as applicable, with a brief explanation to the department within 30 days of the rejection.

#### PART Env-Hw 705 RECORDKEEPING AND REPORTING

Env-Hw 705.01 Recordkeeping.

- (a) The operator of a facility other than a transfer facility shall keep a written operating record at the facility as set forth in (b) through (d), below.
- (b) The following information shall be recorded by the operator as it becomes available:
  - (1) A copy of each shipping document and manifest, including movement documents for shipments subject to 40 CFR 262, Subpart H, for at least 3 years from the date of delivery;
  - (2) A description and the quantity of each hazardous waste shipment received, treated, stored, or disposed of at the facility, including:
    - a. The waste's common name;
    - b. If listed in Env-Hw 402 or a characteristic waste under Env-Hw 403, the waste's hazardous waste number or numbers;
    - c. The waste's physical form, such as liquid, sludge, solid, or contained gas;
    - d. If not listed in Env-Hw 402, the process that produced the waste;
    - e. The estimated or manifest-reported weight, or volume and density, where applicable, in one of the units of measure specified in 40 CFR 264 Appendix I, Table 1; and
    - f. The method, by handling code as specified in 40 CFR 264 Appendix I, Table 2, and date of treatment, storage, or disposal;

- (3) A copy of each quarterly and annual activity report for 3 years;
- (4) The method, location, and date of treatment, storage, and disposal;
- (5) The location of each hazardous waste within the facility and the quantity at each location, including:
  - a. For disposal facilities, the location and quantity of each hazardous waste, recorded on a map or diagram of each cell or disposal area; and
  - b. For all facilities, cross-references to specific manifest tracking numbers, if the waste was accompanied by a manifest;
- (6) Monitoring, testing and analytical data as required by Env-Hw 707 and Env-Hw 708, and for the post-closure care period for disposal facilities;
- (7) An operating log, for 3 years, that specifies:
  - a. The time and date of facility inspections;
  - b. The inspector's name;
  - c. Notation of observation;
  - d. Dates and nature of maintenance; and
  - e. Remedial actions taken;
- (8) Records of all abnormal events, including:
  - a. Actions requiring contingency plan implementation;
  - b. Explanations of manifest discrepancies;
  - c. Description of unmanifested wastes received; and
  - d. Any unplanned releases of hazardous waste to the environment;
- (9) Adjustments to plans submitted;
- (10) Adjustments and calculations of closure and for disposal facilities, post-closure cost estimates prepared in accordance with Env-Hw 707.03(a)(11) or Env-Hw 708.02(a)(12);
- (11) Records of the dates and designation of all hazardous wastes or those wastes rendered not hazardous that are shipped off-site for further treatment, storage, or disposal;
- (12) For off-site facilities, notices to generators as required by Env-Hw 708.02(a)(1);
- (13) Records of corrective action as required by Env-Hw 708.02(a)(11) and for disposal facilities, for the full post-closure period;
- (14) Records of the quantities and date of placement of each shipment of hazardous waste placed in land disposal units as required by 40 CFR 264.73(b)(10) and 40 CFR 265.73(b)(8), as applicable;
- (15) The information required by 40 CFR 264.73(b)(11) through (16) and 40 CFR 265.73(b)(9) through (14), as applicable, for 3 years; and
- (16) A statement obtained from the permittee, at least annually, certifying, as specified in Env-Hw 207, that the permittee has a program in place to reduce the volume and toxicity of hazardous waste generated by the permittee to the degree determined by the permittee to be economically practicable, and the proposed method of treatment, storage, or disposal is that practicable method currently available to the permittee that minimizes the present and future threat to human health and the environment.

(c) Except as specified in (b)(1), (b)(3), (b)(7) and (b)(15), the information required by (b), above, shall be maintained in the operating record until closure of the facility, unless requirements specify they must be kept for a longer period of time.

(d) Any specified retention period shall be automatically extended while any enforcement action is pending.

(e) The operator of a transfer facility shall keep a written operating record at the transfer facility as set forth in (b)(7) and (8), above, and maintain the operating record in accordance with (c) and (d), above.

Env-Hw 705.02 Quarterly Reporting.

(a) For the purposes of quarterly reporting, the term “facility” does not include hazardous waste transfer facilities.

(b) An operator of a hazardous waste facility located in New Hampshire that receives hazardous waste from out-of-state for the purpose of treating, storing, or disposing of such waste shall pay a fee based on the quantity of said out-of-state wastes.

(c) For each facility that meets the criteria in (b), above, the department shall compile a hazardous waste quarterly activity report summarizing the facility’s hazardous waste manifest information and then mail or email the report to the facility. If a facility meets the criteria of (b), above, and has not received a quarterly activity report within 45 days following the last day of the previous quarter, the facility shall contact the department and the department shall send a new report.

(d) The reporting quarters shall be as follows:

- (1) 1st Quarter - January 1 to March 31;
- (2) 2nd Quarter - April 1 to June 30;
- (3) 3rd Quarter - July 1 to September 30; and
- (4) 4th Quarter - October 1 to December 31.

(e) A facility quarterly report shall include the following information:

- (1) Reporting quarter;
- (2) Name, address, telephone number, and EPA identification number of the reporting facility;
- (3) Weight in pounds of the hazardous waste received by the facility from out-of-state sources;
- (4) The EPA/State waste number for each waste received by the facility from out-of-state sources; and
- (5) The amount of the fee payment due the state of New Hampshire.

(f) The operator shall:

- (1) Review the quarterly report for accuracy;
- (2) Correct any errors;
- (3) Notify the department of any needed corrections within 30 days of receipt of the report; and
- (4) Provide a statement signed by a responsible company official certifying, as specified in Env-Hw 207, the report.

(g) The operator shall submit each quarterly activity report to the department, together with the fee due to the state of New Hampshire, within 30 days from receipt.

(h) A quarterly fee payment shall be made by the hazardous waste facility's operator.

(i) As authorized by RSA 147-B:8, III, the fee shall be \$0.007 per kilogram, or \$0.003 per pound, on hazardous wastes received by the facility from out-of-state sources during the reporting quarter.

(j) Fees paid by check or money order shall be made payable to "Treasurer, State of New Hampshire."

Env-Hw 705.03 Biennial Reporting.

(a) On even-numbered years, the department shall prepare a biennial report as required by 40 CFR 264.75 or 40 CFR 265.75, as applicable, on behalf of each facility, other than a transfer facility, based on information provided on notification forms, manifests, and quarterly reports. Transfer facilities shall not be subject to biennial reporting requirements.

(b) If a facility has not received a biennial report from the department by February 1 of an even-numbered year, the facility shall ask the department to send a new biennial report.

(c) The operator shall:

(1) Review the biennial report for accuracy;

(2) Correct any errors;

(3) Notify the department of any needed corrections by March 1 of that year;

(4) Provide the department with any additional information necessary to complete the biennial report as required in 40 CFR 264.75 or 40 CFR 265.75, as applicable, including:

a. The method of treatment, storage, or disposal for each hazardous waste;

b. For interim status facilities, monitoring data required by Env-Hw 707.03(a)(10) and, for permitted facilities, monitoring data required by Env-Hw 708.02(a)(11); and

c. The most recent closure cost estimate and, for disposal facilities, post-closure cost estimates as required by Env-Hw 707.03(a)(11) and Env-Hw 708.02(a)(12); and

(5) Submit to the department a complete copy of the biennial report by March 1 of that year, including a signed statement by the operator certifying, as specified in Env-Hw 207, the information in the report.

Env-Hw 705.04 Additional Reporting and Recordkeeping Requirements.

(a) The operator of a facility shall report in writing to the department any instances of non-compliance that threaten public health or the environment, any planned changes to the facility, and any relevant facts that were not provided in the permit application of the facility.

(b) The operator shall comply with the reporting and recordkeeping requirements of Env-Hw 304.13, and 40 CFR 264.74, 40 CFR 265.74, 40 CFR 264.77 and 40 CFR 265.77, including requirements for saving application records, certifying facility closure, and complying with land disposal data standards and other reporting and recordkeeping duties.

(c) The operator shall submit any additional reports, for example, monitoring data, specified on the facility's permit.

(d) All reports required by permits shall be signed and certified, as specified in Env-Hw 207, by a person described in 40 CFR 270.11.

## PART Env-Hw 706 EMERGENCY ACTIONS; REMEDIAL ACTIONS

Env-Hw 706.01 Immediate Action After Any Discharge.

(a) In the event of any discharge of hazardous waste or of a material that when discharged becomes a hazardous 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 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.

(b) The owner and operator also shall comply with the emergency procedures as specified in 40 CFR 265.56.

Env-Hw 706.02 Discharge Cleanup.

(a) The owner and operator shall immediately contain and clean up, within 24 hours, any discharge of hazardous waste or material that, when discharged, becomes a hazardous waste.

(b) If the hazardous waste discharge cannot be or is not cleaned up within 24 hours of the occurrence the owner or operator shall submit within 5 days of the discharge a clean-up plan to the department for approval prior to implementation, except as provided in (f), below.

(c) The clean-up plan shall:

- (1) Provide for the protection of human health and the environment;
- (2) Provide for the removal and proper disposal of the contamination source;
- (3) Provide for confirmatory analysis of the potentially affected media, for example, soil, groundwater, or surface water, to demonstrate the clean up is successful; and
- (4) Include a time table for completion.

(d) The department shall review the proposed clean-up plan and approve it if the department determines that the plan meets the criteria set forth in (c), above.

(e) The owner and operator shall implement the clean-up plan as approved by the department pursuant to (d), above.

(f) To minimize contamination, reduce risk of exposure, or promote more timely response actions, the owner or operator may begin discharge response actions before the clean-up plan is submitted to or approved by the department, provided the owner or operator:

- (1) Incorporates the self-initiated response measures into the report submitted to the department pursuant to (g), below; and
- (2) Complies with all other applicable local, state, and federal requirements.

(g) Within 30 days of completion of the cleanup, the owner or operator shall submit a report to the department detailing the actions taken.

(h) If the complete clean up cannot be accomplished in accordance with (b) through (g), above, the owner or operator shall submit a scope of work proposal for site investigations pursuant to Env-Or 600 to evaluate the potential impacts of the release on soil and groundwater.

Env-Hw 706.03 Waiver of Manifest and Permit Requirements for Emergency Response.

(a) In the event of an accidental discharge during generation, transportation, treatment, storage, or disposal of a hazardous waste or material that becomes a hazardous waste when discharged, the department shall, during the response to the event, waive any of the manifest and permit requirements if the waiver:

- (1) Is necessary to facilitate a prompt response; and
- (2) Will protect human health and the environment.

(b) A person shall not be required to obtain a permit for treatment or containment activities taken during immediate response to any of the following situations:

- (1) An unplanned discharge of a hazardous waste;
- (2) An imminent and substantial threat of a discharge of hazardous waste; or
- (3) A discharge of a material that, when discharged, becomes a hazardous waste.

(c) A person who continues or initiates hazardous waste treatment or containment activities after the emergency response is over shall be subject to all applicable permitting requirements for those activities.

PART Env-Hw 707 REQUIREMENTS FOR EXISTING FACILITIES

Env-Hw 707.01 Applicability. This part shall apply to:

(a) A facility that qualifies for interim status until a standard permit is issued under Env-Hw 300 or until applicable closure and post-closure requirements of Env-Hw 707.03(a)(11) are met;

(b) The owner and operator of a facility in existence on July 1, 1980 who failed to provide timely notification as first required under He-P 1905; and

(c) The owner and operator of a facility in existence on July 1, 1980 who failed to file a permit application as first required by He-P 1905.

Env-Hw 707.02 General Requirements. To obtain and maintain interim status, as described under Env-Hw 304.02(e), the operator of an existing facility shall comply with this part, unless exempt pursuant to Env-Hw 701.02.

Env-Hw 707.03 Operation Requirements.

(a) Operators of existing facilities shall comply with the following operation requirements:

- (1) 40 CFR 265.12, required notices;
- (2) 40 CFR 265.13, general waste analysis;
- (3) 40 CFR 265.14, security;
- (4) 40 CFR 265.15, general inspection requirements;
- (5) 40 CFR 265.16, personnel training;
- (6) 40 CFR 265.17, general requirements for ignitable, reactive, or incompatible wastes, including those wastes or materials listed in 40 CFR 265 Appendix V;
- (7) 40 CFR 265.19, construction quality assurance program;

- (8) 40 CFR 265, Subpart C, preparedness and prevention,;
- (9) 40 CFR 265, Subpart D, contingency plan and emergency procedures;
- (10) 40 CFR 265, Subpart F, groundwater monitoring;
- (11) 40 CFR 265, Subpart G, closure and post-closure; and
- (12) Subject to (b), below, 40 CFR 265, Subpart H, financial requirements.

(b) The liability insurance required pursuant to 40 CFR 265.147(b)(1), identified in (a)(12), above, shall be as specified in 40 CFR 264.147(b)(1)(i) and (ii).

Env-Hw 707.04 Technical Requirements. An operator of an existing facility shall comply with the following technical requirements:

- (a) 40 CFR Part 265.1(d);
- (b) 40 CFR Part 265, Subpart I - use and management of containers;
- (c) 40 CFR Part 265, Subpart J - tanks;
- (d) 40 CFR Part 265, Subpart K - surface impoundments;
- (e) 40 CFR Part 265, Subpart L - waste piles;
- (f) 40 CFR Part 265, Subpart M - land treatment;
- (g) 40 CFR Part 265, Subpart N - landfills;
- (h) 40 CFR Part 265, Subpart O - incinerators;
- (i) 40 CFR Part 265, Subpart P - thermal treatment;
- (j) 40 CFR Part 265, Subpart Q - chemical, physical, and biological treatment;
- (k) 40 CFR Part 265, Subpart W - drip pads;
- (l) 40 CFR Part 265, Subpart DD - containment buildings; and
- (m) 40 CFR Part 265, Subpart EE - hazardous waste munitions and explosives storage.

Env-Hw 707.05 Land Disposal Restrictions. Operators of existing facilities shall comply with Env-Hw 1200 relative to restrictions on land disposal of hazardous wastes.

#### PART Env-Hw 708 REQUIREMENTS FOR FACILITIES WITH A STANDARD PERMIT AND/OR A TRANSFER FACILITY PERMIT

Env-Hw 708.01 General Operation Requirements. To maintain a standard permit or a transfer facility permit, the operator of a facility or transfer facility shall comply with this part.

Env-Hw 708.02 Operation Requirements.

- (a) An operator of a facility shall comply with the following operation requirements:
  - (1) 40 CFR 264.12, required notices;
  - (2) 40 CFR 264.13, general waste analysis;
  - (3) 40 CFR 264.14, security;
  - (4) 40 CFR 264.15, general inspection requirements;
  - (5) 40 CFR 264.16, personnel training;

- (6) 40 CFR 264.17, general requirements for ignitable, reactive, or incompatible wastes, including those wastes or materials listed in 40 CFR 264 Appendix V;
- (7) 40 CFR 264.18, location standards, except that the provisions of Env-Hw 304.09(b) shall be applied in lieu of all flood mitigation provisions set forth in 40 CFR 264.18(b);
- (8) 40 CFR 264.19, construction quality assurance program;
- (9) 40 CFR 264, Subpart C, preparedness and prevention, except that for a transfer facility, aisle space requirements shall not apply to waste containers stored on a vehicle used to transport that waste;
- (10) 40 CFR 264, Subpart D, contingency plan and emergency procedures;
- (11) 40 CFR 264, Subpart F, releases from solid waste management units;
- (12) 40 CFR 264, Subpart G, closure and Post-Closure; and
- (13) Subject to (b) through (d), below, 40 CFR 264, Subpart H, financial Requirements.

(b) Documents required by (a)(13), above, may be submitted in unsigned or signed form with the operator's standard permit or transfer facility permit application.

(c) If the documents required by (a)(13), above, are submitted unsigned with a permit application, the operator shall submit the documents signed:

- (1) Before a permit will be issued by the department for an existing facility; or
- (2) For a new facility, at least 60 days before hazardous waste is first received at the facility.

Env-Hw 708.03 Technical Requirements. The operator of a facility shall:

(a) Treat, store, or dispose of wastes according to best engineering judgment and with the best available technology;

(b) Design and operate the facility so as to minimize the quantity and impact of planned and non-planned releases of hazardous waste or waste constituents into the environment;

(c) Use the best available solution for managing the hazardous wastes received; and

(d) Comply with the following requirements and standards:

- (1) 40 CFR Part 264, Subpart I - use and management of containers;
- (2) 40 CFR Part 264, Subpart J - tanks;
- (3) 40 CFR Part 264, Subpart K - surface impoundments;
- (4) 40 CFR Part 264, Subpart L - waste piles;
- (5) 40 CFR Part 264, Subpart M - land treatment;
- (6) 40 CFR Part 264, Subpart N - landfills;
- (7) 40 CFR Part 264, Subpart O - incinerators;
- (8) 40 CFR 264, Subpart W - drip pads;
- (9) 40 CFR 264, Subpart X - miscellaneous units;
- (10) 40 CFR 264, Subpart DD - containment buildings; and
- (11) 40 CFR 264, Subpart EE - hazardous waste munitions and explosives storage.

Env-Hw 708.04 Land Disposal Restrictions. Operators of facilities shall comply with Env-Hw 1200 relative to restrictions on land disposal of hazardous wastes.

**PART Env-Hw 709 STANDARDS FOR THE MANAGEMENT OF CERTAIN HAZARDOUS WASTES AND TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES**

Env-Hw 709.01 Standards. An owner and operator shall comply with the following standards as applicable to the specific hazardous wastes and facility types:

- (a) Env-Hw 805 - recyclable materials used in a manner constituting disposal;
- (b) Env-Hw 806 - hazardous waste burned for energy recovery;
- (c) Env-Hw 808 - recyclable materials used for precious metal recovery;
- (d) Env-Hw 809 - spent lead-acid batteries being reclaimed; and
- (e) 40 CFR 266, Subpart M - military munitions.

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

<b>Rule Section(s)</b>	<b>State Statute(s) Implemented</b>	<b>Federal Regulations Implemented</b>
Env-Hw 701	RSA 147-A:3, III, IV, XXV	40 CFR 264; 40 CFR 265
Env-Hw 702	RSA 147-A:3, III, IV, VI, VII; RSA 147-A:4	40 CFR 264; 40 CFR 265
Env-Hw 703-704	RSA 147-A:3, V, VI	40 CFR 264 Subpart E; 40 CFR 265 Subpart E
Env-Hw 705	RSA 147-A:3, V, VI; RSA 147-B:8	40 CFR 264 Subpart E; 40 CFR 265 Subpart E
Env-Hw	RSA 147-A:3, III, IV, VI, VII, XXV; RSA 147-A:11	40 CFR 264.56; 40 CFR 265.56
Env-Hw 707	RSA 147-A:3, III, IV, VII, XIII	40 CFR 265
Env-Hw 708	RSA 147-A:3, III, IV, VII, XIII	40 CFR 264
Env-Hw 709	RSA 147-A:3, IV	40 CFR 266

**APPENDIX B: INCORPORATION BY REFERENCE INFORMATION**

[none for this chapter]

**APPENDIX C: STATE STATUTORY DEFINITIONS**

[none for this chapter]

**APPENDIX D: FEDERAL DEFINITIONS AND REGULATIONS**

[none for this chapter]

**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