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**REVISION NOTE:**

Document #9367, effective 1-28-09, readopted with amendments and redesignated the former Chapter Env-Wm 700 as Env-Hw 700. The redesignation from subtitle Env-Wm to Env-Hw was done pursuant to a rules reorganization plan for Department rules approved by the Director of the Office of Legislative Services on 9-7-05. Document #9367 replaces all prior filings for hazardous waste rules formerly in Chapter Env-Wm 700. The numerals of the rules remained unchanged, and the source note information for the rules under Document #9367 refer to those same numbers under the subtitle Env-Wm.

## 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, 7-1-16 edition, 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.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #7207-B, eff 2-26-00; ss by #7333, eff 8-1-00; ss by #9215, INTERIM [INT], eff 8-1-08; (See Revision Note [RN] at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17; *rwa eff. 11-23-19*

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) - (40) 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 discharge of hazardous waste;
  - An imminent and substantial threat of a discharge of hazardous waste;
  - A discharge of a material that, when discharged, becomes a hazardous waste; or
  - 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:
- The project is a one-day household hazardous waste collection event;
  - The waste is accompanied by a manifest in accordance with Env-Hw 510; and
  - 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:
- 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;
  - 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).

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #7207-B, eff 2-26-00; ss by #7333, eff 8-1-00; amd by #7578, eff 10-13-01; amd by #8790, eff 1-5-07; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17

#### 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).

Source. #5886, eff 8-26-94; ss by #7207-B, eff 2-26-00; ss by #7333, eff 8-1-00; ss by #7578, eff 10-13-01; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17; ***rwa eff. 11-23-19***

### 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.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17

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.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17

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.

(c) If the operator does not respond within 30 days, the operator shall submit a new notification.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17

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.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17

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

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17

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.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17

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.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7207-B, eff 2-26-00; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17

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.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17

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.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17

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.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #7207-B, eff 2-26-00; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17

#### 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.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17



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.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17

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.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; amd by #10205, eff 10-19-12; ss by #12349, eff 8-14-17

## 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), (b), and (d) through (k) and 40 CFR 265.71(a), (b), and (d) through (k), as applicable.

(b) The export and import requirements of 40 CFR 264.71(a)(3) and (d) and 40 CFR 265.71(a)(3) and (d) shall not apply to a NH-only waste.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #7207-B, eff 2-26-00; ss by #7333, eff 8-1-00; ss by 8714, INT, eff 9-5-06, EXP: 3-4-07; ss by #8790, eff 1-5-07; (See Revision Note at chapter heading for Env-Hw 700) ss by #9367, eff 1-28-09; ss by #10205, eff 10-19-12; ss by #12349, eff 8-14-17; *rwa eff. 11-23-19*

Env-Hw 703.02 Manifest Errors/Discrepancies.

(a) An owner, operator, or responsible agent shall comply with the manifest discrepancy requirements of 40 CFR 264.72(a) through (c) and 40 CFR 265.72(a) through (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.
- (c) Post-receipt manifest data corrections shall be made in accordance with 40 CFR 264.71(l) and 40 CFR 265.71(l), as applicable.
- (d) If a post-receipt manifest data correction pertains to a shipment that was accompanied by a paper manifest or a manifest that was printed for the generator's signature, the owner, operator, or responsible agent shall notify the generator of the correction.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; amd by #8714, INT, eff 9-5-06, EXP: 3-4-07; amd by #8790, eff 1-5-07; ss by #9215, INT, eff 8-1-0 (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17; *rwa eff. 11-23-19*

Env-Hw 703.03 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.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17; *renumbered from 703.05 eff. 11-23-19*

## 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 comply with the manifest discrepancy requirements of 40 CFR 264.72(d) through (g) and 40 CFR 265.72(d) through (g), as applicable.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #8714, INT, eff 9-5-06, EXP: 3-4-07; ss by #8790, eff 1-5-07; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17; *rwa eff. 11-23-19*

## 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 EPA and NH hazardous waste numbers, as applicable;
  - 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 biennial 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;
- (16) Records of monitoring, testing, or analytical data as required by 40 CFR 264.73(b)(18), for 5 years;
- (17) The information required by 40 CFR 264.73(b)(19) and 40 CFR 265.73(b)(15), as applicable; and
- (18) 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), (3), (7), (15), and (16), 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.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; amd by #7207-B, eff 2-26-00; ss

by #7333, eff 8-1-00; amd by #8714, INT, eff 9-5-06, EXP: 3-4-07; amd by #8790, eff 1-5-07; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17; **amd eff. 11-23-19**

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 from the electronic manifest system 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 and NH hazardous waste numbers, as applicable, 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.”

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17; *amd eff. 11-23-19*

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, manifest information in the electronic manifest system, 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; 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.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #7207-B, eff 2-26-00; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17; *rwa eff. 11-23-19*

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 304.12, 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.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #7207-B, eff 2-26-00; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; amd by #10205, eff 10-19-12; ss by #12349, eff 8-14-17

## 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.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #10205, eff 10-19-12; ss by #12349, eff 8-14-17

Env-Hw 706.02 Discharge Cleanup.

(a) The owner and operator shall immediately contain and cleanup, 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 cleanup plan to the department for approval prior to implementation, except as provided in (f), below.

(c) The cleanup 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 cleanup is successful; and
- (4) Include a time table for completion.

(d) The department shall review the proposed cleanup 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 cleanup 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 cleanup 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 cleanup 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.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17

Env-Hw 706.03 Waiver of Permit Requirements for Emergency Response. Subject to Env-Hw 701.02(c), a person shall not be required to obtain a permit for treatment or containment activities taken during immediate response to the situations described in Env-Hw 701.02(a)(8).

Source. #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17; *rwa eff. 11-23-19*

## 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.

Source. #12349, eff 8-14-17

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.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17 (formerly Env-Hw 707.01)

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).

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7207-B, eff 2-26-00; ss by #7333, eff 8-1-00; ss by #7578, eff 10-13-01; (See RN at p. ii) ss by #9367, eff 1-28-09; amd by #10205, eff 10-19-12; ss by #12349, eff 8-14-17 (formerly Env-Hw 707.02)

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

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

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #7207-B, eff 2-26-00; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; amd by #10739, eff 12-2-14; ss by #12349, eff 8-14-17 (formerly Env-Hw 707.03)

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.

Source. #12349, eff 8-14-17

## 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.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17

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 304.08(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) and (c), 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.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7207-B, eff 2-26-00; ss by #7333, eff 8-1-00; ss by #7578, eff 10-13-01; (See RN at p. ii) ss by #9367, eff 1-28-09; amd by #10205, eff 10-19-12; ss by #12349, eff 8-14-17

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 264, Subpart I - use and management of containers;
  - (2) 40 CFR 264, Subpart J - tanks;
  - (3) 40 CFR 264, Subpart K - surface impoundments;
  - (4) 40 CFR 264, Subpart L - waste piles;
  - (5) 40 CFR 264, Subpart M - land treatment;
  - (6) 40 CFR 264, Subpart N - landfills;
  - (7) 40 CFR 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.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #7207-B, eff 2-26-00; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17

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.

Source. #12349, eff 8-14-17

#### 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.

Source. #5053, eff 1-24-91, EXP: 1-24-97

New. #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN at p. ii) ss by #9367, eff 1-28-09; ss by #12349, eff 8-14-17

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

Rule Section(s)	State Statute(s)	Federal Regulation(s)
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 706	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 IN THIS CHAPTER]

#### APPENDIX C: STATE STATUTORY DEFINITIONS

##### RSA 147-A:2

III. “Disposal” means the discharge, deposit, incineration, injection, dumping, spilling, leaking or placing of any waste into or onto any land or water so that the waste or any constituent of the waste may enter the environment, be emitted into the air, or be discharged into any waters, including groundwaters.

IV. “Facility” means a location at which hazardous waste is subjected to treatment, storage or disposal and may include a facility where hazardous waste has been generated.

VI. “Generator” means any person who owns or operates a facility where hazardous waste is generated.

VII. “Hazardous waste” means a solid, semi-solid, liquid or contained gaseous waste, or any combination of these wastes:

(a) Which, because of either quantity, concentration, or physical, chemical, or infectious characteristics may:

- (1) Cause or contribute to an increase in mortality or an increase in irreversible or incapacitating reversible illness; or
- (2) Pose a present or potential threat to human health or the environment when improperly treated, stored, transported, disposed of or otherwise mismanaged.

(b) Or which has been identified as a hazardous waste by the department using the criteria established under RSA 147-A:3, I or as listed under RSA 147-A:3, II. Such wastes include, but are not limited to, those which are reactive, toxic, corrosive, ignitable, irritants, strong sensitizers or which generate pressure through decomposition, heat or other means. Such wastes do not include radioactive

substances that are regulated by the Atomic Energy Act of 1954, as amended, or household pharmaceutical wastes collected pursuant to RSA 318-E.

VIII. "Hazardous waste management" means the systematic control of the generation, collection, sorting, storage, processing, treatment, recovery and disposal of hazardous waste.

X. "Manifest" means the form used for identifying the origin, quantity, composition, routing and destination of hazardous waste.

XI. "Operator" means any person who, either directly or indirectly, operates or otherwise controls or directs activities at a facility.

XI-a. "Owner" means any person who, either directly or indirectly owns a facility. The term "owner" does not include a person who, without participation in the management or actual operation of a facility, holds indicia of ownership primarily to protect a mortgage on real property on which a facility is located or a security interest in personal property located at the facility.

XII. "Person" means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, United States government or any agency thereof, political subdivision of the state, or any interstate body.

XII-a. "Spent material" means any material that has been used and, as a result of contamination, can no longer serve the purpose for which it was produced without processing.

XIII. "Storage" means the containment of hazardous wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of the hazardous wastes.

XIV. "Trade secret" means any confidential formula, pattern, device or compilation of information which is used in the employer's business and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. A trade secret is known to the employer and those employees to whom it is necessary to confide it.

XV. "Transport" means the movement of hazardous wastes from the point of generation to any intermediate points and, finally, to the point of ultimate storage or disposal.

XVI. "Transporter" means any person who transports hazardous waste.

XVII. "Treatment" means any process, including neutralization, designed to change the physical, chemical or biological character or composition of any hazardous waste so as to neutralize the waste or to render the waste not hazardous, safer for transport, amenable to recovery, amenable to storage or reduced in volume.

XVIII. "Waste" means any matter consisting of: garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other spent, discarded or abandoned material including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include domestic sewage, irrigation return waters, wastewater discharges in compliance with applicable state or federal permits, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

### **RSA 147-B:2**

III. "Facility" means any site, area or location where hazardous waste or hazardous materials are or have been treated, stored, generated, disposed of, or otherwise come to be located.

## **APPENDIX D: FEDERAL DEFINITIONS AND REGULATIONS**

### **40 CFR 260.10**

*Act* or *RCRA* means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. section 6901 *et seq.*

*Administrator* means the Administrator of the Environmental Protection Agency, or his designee.

*Aquifer* means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.

*Authorized representative* means the person responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent or person of equivalent responsibility.

*Battery* means a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

*Boiler* means an enclosed device using controlled flame combustion and having the following characteristics:

(1)(i) The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

(ii) The unit's combustion chamber and primary energy recovery sections(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and

(iii) While in operation, the unit must maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

(iv) The unit must export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or

(2) The unit is one which the Regional Administrator has determined, on a case-by-case basis, to be a boiler, after considering the standards in § 260.32.

*Certification* means a statement of professional opinion based upon knowledge and belief.

*Confined aquifer* means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined ground water.

*Container* means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

*Containment building* means a hazardous waste management unit that is used to store or treat hazardous waste under the provisions of subpart DD of parts 264 or 265 of this chapter.

*Contingency plan* means a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

*Dike* means an embankment or ridge of either natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other materials.

*Drip pad* is an engineered structure consisting of a curbed, free-draining base, constructed of non-earth materials and designed to convey preservative kick-back or drippage from treated wood, precipitation, and surface water run-on to an associated collection system at wood preserving plants.

*Explosives or munitions emergency* means a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Such situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

*Explosives or munitions emergency response* means all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in place render-safe procedures, treatment or destruction of the explosives or munitions and/or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities.

*Explosives or munitions emergency response specialist* means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include Department of Defense (DOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), and DOD-certified civilian or contractor personnel; and other Federal, State, or local government, or civilian personnel similarly trained in explosives or munitions emergency responses.

*Free liquids* means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

*Ground water* means water below the land surface in a zone of saturation.

*Incompatible waste* means a hazardous waste which is unsuitable for:

- (1) Placement in a particular device or facility because it may cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or
- (2) Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes, or gases, or flammable fumes or gases.

(See appendix V of parts 264 and 265 of this chapter for examples.)

*Injection well* means a well into which fluids are injected. (See also “underground injection”.)

*Inner liner* means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste.

*International shipment* means the transportation of hazardous waste into or out of the jurisdiction of the United States.

*Lamp*, also referred to as “universal waste lamp”, is defined as the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of common universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

*Land treatment facility* means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

*Leachate* means any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste.

*Liner* means a continuous layer of natural or man-made materials, beneath or on the sides of a surface impoundment, landfill, or landfill cell, which restricts the downward or lateral escape of hazardous waste, hazardous waste constituents, or leachate.

*Military munitions* means all ammunition products and components produced or used by or for the U.S. Department of Defense or the U.S. Armed Services for national defense and security, including military munitions under the control of the Department of Defense, the U.S. Coast Guard, the U.S. Department of Energy (DOE), and National Guard personnel. The term military munitions includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers,

demolition charges, and devices and components thereof. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components thereof. However, the term does include non-nuclear components of nuclear devices, managed under DOE's nuclear weapons program after all required sanitization operations under the Atomic Energy Act of 1954, as amended, have been completed.

*Mining overburden returned to the mine site* means any material overlying an economic mineral deposit which is removed to gain access to that deposit and is then used for reclamation of a surface mine.

*On-site* means the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along, the right-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access, is also considered on-site property.

*Pesticide* means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

- (1) Is a new animal drug under FFDCFA section 201(w), or
- (2) Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug, or
- (3) Is an animal feed under FFDCFA section 201(x) that bears or contains any substances described by paragraph (1) or (2) of this definition.

*Pile* means any non-containerized accumulation of solid, nonflowing hazardous waste that is used for treatment or storage and that is not a containment building.

*Point source* means any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

*Representative sample* means a sample of a universe or whole (e.g., waste pile, lagoon, ground water) which can be expected to exhibit the average properties of the universe or whole.

*Run-off* means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

*Run-on* means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

*Sludge* means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.

*State* means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

*Surface impoundment* or *impoundment* means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

*Tank* means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

*Tank system* means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

*Totally enclosed treatment facility* means a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized.

*Transport vehicle* means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.



*Transportation* means the movement of hazardous waste by air, rail, highway, or water.

*Treatability Study* means a study in which a hazardous waste is subjected to a treatment process to determine: (1) Whether the waste is amenable to the treatment process, (2) what pretreatment (if any) is required, (3) the optimal process conditions needed to achieve the desired treatment, (4) the efficiency of a treatment process for a specific waste or wastes, or (5) the characteristics and volumes of residuals from a particular treatment process. Also included in this definition for the purpose of the § 261.4 (e) and (f) exemptions are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies. A “treatability study” is not a means to commercially treat or dispose of hazardous waste.

*United States* means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

*Universal Waste Transporter* means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

*Vessel* includes every description of watercraft, used or capable of being used as a means of transportation on the water.

*Wipe* means a woven or non-woven shop towel, rag, pad, or swab made of wood pulp, fabric, cotton, polyester blends, or other material.

**40 CFR 261.1(c)(3)**

A “by-product” is a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a co-product that is produced for the general public’s use and is ordinarily used in the form it is produced by the process.

**40 CFR 261.1(c)(6)**

“Scrap metal” is bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled.

**40 CFR 261.1(c)(9)**

“Excluded scrap metal” is processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.

**40 CFR 261.1(c)(10)**

“Processed scrap metal” is scrap metal which has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to scrap metal which has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type (i.e., sorted), and, fines, drosses and related materials which have been agglomerated. (Note: shredded circuit boards being sent for recycling are not considered processed scrap metal. They are covered under the exclusion from the definition of solid waste for shredded circuit boards being recycled (§ 261.4(a)(14)).

**40 CFR 261.1(c)(11)**

“Home scrap metal” is scrap metal as generated by steel mills, foundries, and refineries such as turnings, cuttings, punchings, and borings.

**40 CFR 261.1(c)(12)**

“Prompt scrap metal” is scrap metal as generated by the metal working/fabrication industries and includes such scrap metal as turnings, cuttings, punchings, and borings. Prompt scrap is also known as industrial or new scrap metal.

**40 CFR 261.4(a)(1)(ii)**

“Domestic Sewage” means untreated sanitary wastes that pass through a sewer system.

**40 CFR 262.51**

*Consignee* means the ultimate treatment, storage or disposal facility in a receiving country to which the hazardous waste will be sent.

*EPA Acknowledgement of Consent* means the cable sent to EPA from the U.S. Embassy in a receiving country that acknowledges the written consent of the receiving country to accept the hazardous waste and describes the terms and conditions of the receiving country's consent to the shipment.

**40 CFR 268.2(c)**

*Land disposal* means placement in or on the land, except in a corrective action management unit or staging pile, and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave, or placement in a concrete vault, or bunker intended for disposal purposes.

**40 CFR 270.2**

*Site* means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

**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