

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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REVISION NOTE 1:

Document #9367, effective 1-28-09, readopted with amendments and redesignated the former Chapter Env-Wm 600 as Env-Hw 600. 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 600. 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.

REVISION NOTE 2:

Document #12348, effective 8-14-17, readopted, readopted with amendments, or repealed all of the rules in Chapter Env-Hw 600. Document #12347 replaced all prior filings for hazardous waste rules formerly in Chapter Env-Hw 600.

Document #12348 made extensive changes to the existing rules in the former Part Env-Hw 603. These included the amendment of paragraphs (a) and (b) in Env-Hw 603.04 titled "EPA Identification Number" and insertion, respectively, as paragraph (d) in Env-Hw 602.02 titled "Notification; EPA Identification Number" and paragraph (d) in Env-Hw 602.04 titled "Notification Determination". The former Env-Hw 603.07 titled "Department of Safety Rules" was repealed and inserted as subparagraph (b)(4) in Env-Hw 601.01 titled "Applicability." Document #12348 also extensively renumbered rules in the former Part Env-Hw 603, including renumbering of certain rules from Env-Hw 603 as rules in Env-Hw 602. The former rule numbers are indicated in the source notes for rules in Env-Hw 602 and Env-Hw 603.

The filings for the former rules Env-Hw 603.04 and Env-Hw 603.07 prior to Document #12348 include the following documents:

- | | |
|--------------------|------------------------|
| #5053, eff 1-24-91 | #9215, INT, eff 8-1-08 |
| #5886, eff 8-26-94 | #9367, eff 1-28-09 |
| #7333, eff 8-1-00 | |

See Revision Note 1, above, explaining the history of the former rules under the subtitle Env-Wm prior to Document #9367, effective 1-28-09. The existing rules in Env-Hw 600 that were last affected by Document #9367 did not expire on 1-28-17 but were extended pursuant to RSA 541-A:14-a until replaced by the rules in Document #12348, effective 8-14-17.

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CHAPTER Env-Hw 600 REQUIREMENTS FOR HAZARDOUS WASTE TRANSPORTERS

Statutory Authority: RSA 147-A:3

PART Env-Hw 601 APPLICABILITY AND EXEMPTIONS

Env-Hw 601.01 Applicability.

(a) This chapter shall apply to all persons transporting hazardous wastes within or through New Hampshire, including hazardous waste destined for recycling.

(b) A transporter also shall comply with:

(1) Generator requirements of Env-Hw 500, if the transporter:

a. Transports hazardous waste into the United States from abroad; or

b. Mixes hazardous wastes of different US DOT shipping descriptions by placing them into a single container;

(2) Transfer facility requirements of Env-Hw 300 and Env-Hw 700, if the transporter operates a transfer facility as defined in Env-Hw 104;

(3) Storage facility requirements of Env-Hw 300 and Env-Hw 700, if the transporter stores hazardous waste in excess of 10 days; and

(4) Applicable rules adopted by the New Hampshire department of safety.

(c) This chapter shall apply to the transportation of military munitions classified as solid waste under 40 CFR 266.202 only to the extent specified in 40 CFR 266.203.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #9215, INTERIM [INT], eff 8-1-08; (See Revision Note 1 [RN1] at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17

Env-Hw 601.02 Exemptions.

(a) This chapter shall not apply to the on-site transportation of hazardous wastes by generators or by owners or operators of permitted hazardous waste facilities.

(b) This chapter shall not apply to small quantity generators who self-transport 55 gallons or less of their own hazardous waste provided that:

(1) The waste is transported in:

a. Containers meeting the US DOT specifications for hazardous materials; and

b. Full, sealed, labeled containers that are compatible with the waste;

(2) Except as provided in Env-Hw 501.02(c), all manifest requirements of Env-Hw 510 and Env-Hw 604 are met;

(3) The generator has a mechanism for financial responsibility in the following amounts:

a. For bodily injury or death of each person in any one accident, \$50,000; and

b. For loss or damage in any one accident to the property of others, \$50,000; and

(4) Except as provided in Env-Hw 511.01(f), the waste is transported to a facility authorized under the destination state's rules to handle the hazardous waste.

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(c) This chapter shall not apply to government entities that accumulate household hazardous waste and transport this waste in accordance with Env-Hw 501.02(b).

(d) This chapter shall not apply to universal waste handlers and universal waste transporters transporting universal waste, provided that the waste is managed in accordance with Env-Hw 1100.

(e) This chapter shall not apply to transportation during an explosives or munitions emergency response conducted in accordance with 40 CFR 264.1(g)(8)(i)(D) or (iv), 40 CFR 265.1(c)(11)(i)(D) or (iv), and 40 CFR 270.1(c)(3)(i)(D) or (iii), as applicable.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7208, eff 2-26-00; ss by #7333, eff 8-1-00; amd by #7578, eff 10-13-01; ss by #9215, INT, eff 8-1-08; (See RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17

PART Env-Hw 602 TRANSPORTER REGISTRATION AND NOTIFICATION

Env-Hw 602.01 Transporter Registration Requirements.

(a) No person shall transport hazardous waste into or within the state of New Hampshire without having a transporter registration issued by the department in accordance with Env-Hw 609.

(b) A copy of the transporter's valid registration or registration confirmation letter shall be displayed or surrendered for examination upon request of any peace officer or authorized employee of the department.

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 RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17

Env-Hw 602.02 Notification; EPA Identification Number.

(a) A hazardous waste transporter who operates from a New Hampshire location shall notify the department prior to conducting any hazardous waste activities covered under the hazardous waste rules.

(b) Subject to (c), below, a transporter that has not previously notified the department shall do so within 30 days of the effective date of any statutory or regulatory amendments that require the transporter to be registered as a New Hampshire hazardous waste transporter.

(c) If a statute sets a different deadline for notification, the statutory deadline shall control.

(d) A transporter shall not transport hazardous wastes without having received an EPA identification number from the department, another state, or EPA.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #9215, INT, eff 8-1-08; (See RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17 (formerly Env-Hw 603.01) (See RN2 at p. ii)

Env-Hw 602.03 Notification Requirements.

(a) The notification required by Env-Hw 602.02 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;
- (2) Whether the transporter proposes to operate a transfer facility at the site; and
- (3) A statement signed by the transporter's authorized representative certifying, as specified in Env-Hw 207, the information provided on the notification form.

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(b) A transporter shall notify the department in writing of any changes to the information required by (a), above, within 30 days of such a 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 RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17 (formerly Env-Hw 603.02) (See RN2 at p. ii)

Env-Hw 602.04 Notification Determination.

(a) If the department, upon examination of a notification submitted as specified in Env-Hw 602.03, determines that the transporter has not provided all of the information required by Env-Hw 602.03, the department shall notify the transporter in writing of each deficiency.

(b) The transporter shall, no later than 30 days from receipt of the notice of deficiency, explain or correct the alleged deficiency.

(c) If the transporter does not respond within 30 days, the transporter shall submit a new notification prior to engaging in any regulated hazardous waste activities.

(d) If a transporter's notification is deemed complete, the department shall assign an EPA identification number to the transporter.

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 RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17 (formerly Env-Hw 603.03) (See RN2 at p. ii)

PART Env-Hw 603 REQUIREMENTS FOR SAFETY AND FOR IDENTIFYING WASTES AND VEHICLES

Env-Hw 603.01 Packaging, Labeling, and Placarding.

(a) A transporter shall package and label all hazardous waste before and during shipment in accordance with (c) and (d), below, and Saf-C 600.

(b) A transporter shall comply with the packaging standards in Saf-C 600 if:

- (1) A hazardous waste is removed from its container and placed in another container; or
- (2) Additional hazardous waste is added to a container.

(c) Prior to and during transportation, the transporter shall ensure that each container is labeled and clearly marked with:

- (1) The words "Hazardous Waste";
- (2) The applicable New Hampshire or EPA waste number(s); and
- (3) All applicable US DOT required information as set forth in 49 CFR Part 172.

(d) If a label is destroyed or mutilated, if hazardous waste is removed from its container, or if additional hazardous waste is added to the containers, the transporter shall remove or obliterate all previous labels and, as appropriate:

- (1) Replace the label with a duplicate label; or
- (2) Attach a label stating information pertaining to the hazardous waste now contained in that container.

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(e) A transporter shall placard each vehicle with an appropriate warning of the hazardous waste contained therein as set forth in Saf-C 600.

(f) A tank, barrel, drum, or other packaging of hazardous waste that is not a part of a vehicle shall be secured against movement within the vehicle on which it is being transported.

(g) A transporter shall ensure that all containers of hazardous waste are sealed prior to and during transport.

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 RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17 (formerly Env-Hw 603.05) (See RN2 at p. ii)

Env-Hw 603.02 Vehicle Identification.

(a) A transporter shall display the following on both sides of each power or waste carrying unit used to transport hazardous waste:

- (1) The name of the transporter's company, corporation, association, or proprietorship;
- (2) The city and state where the transporter's business office is located; and
- (3) The transporter's registration number.

(b) The information required by (a), above, shall be in lettering that:

- (1) Is permanent and legible; and
- (2) Contrasts with the background.

(c) For (a)(1) and (3), above, the lettering shall be a minimum of 3 inches high.

(d) When a vessel or vehicle that has been registered and marked changes ownership, the registrant shall permanently remove the name and transporter registration number from both sides of all power and waste carrying units being transferred prior to or upon transfer.

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 RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17 (formerly Env-Hw 603.06) (See RN2 at p. ii)

Env-Hw 603.03 Security.

(a) A transporter shall secure all loads of hazardous waste when left unattended so as to minimize access by unauthorized individuals.

(b) Vehicles on which the cargo carrying portion can be closed and locked shall be closed and locked whenever the vehicle is left unattended.

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 RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17 (formerly Env-Hw 603.08) (See RN2 at p. ii)

Env-Hw 603.04 Personnel Training. A transporter shall comply with the training requirements specified in 49 CFR Part 172 Subpart H.

Source. #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17 (formerly Env-Hw 603.09) (See RN2 at p. ii)

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Env-Hw 603.05 Contingency Plan and Emergency Procedures.

(a) A transporter shall maintain a written current contingency plan and emergency procedures, as specified in (b), below, in each transport vehicle.

(b) The contingency plan and emergency procedures shall include the following information:

(1) A brief description of the actions the transporter will take in the event of a fire, explosion, or discharge of hazardous waste to the air, soil, or surface water;

(2) Names, addresses, and home and office telephone numbers of all persons employed by the transporter who are qualified to act as emergency coordinator;

(3) Telephone number of the department's emergency response team, as listed in Appendix E, Monday through Friday, 8:00 a.m. to 4:00 p.m.; and

(4) Telephone number of the New Hampshire state police headquarters communications unit, as listed in Appendix E, 24 hours per day.

Source. #7333, eff 8-1-00; amd by #7578, eff 10-13-01; ss by #9215, INT, eff 8-1-08; (See RN1 at p. ii) ss by #9367, eff 1-28-09; amd by #10205, eff 10-19-12; ss by #12348, eff 8-14-17 (formerly Env-Hw 603.10) (See RN2 at p. ii)

Env-Hw 603.06 Preparedness and Prevention. A transporter shall:

(a) Comply with the preparedness and prevention requirements specified in 40 CFR Part 265 Subpart C if hazardous waste is stored in New Hampshire by the transporter for more than 24 hours; and

(b) Notify local emergency officials that hazardous waste is being stored in New Hampshire for greater than 24 hours.

Source. #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17 (formerly Env-Hw 603.11) (See RN2 at p. ii)

Env-Hw 603.07 Financial Responsibility. A transporter shall meet the financial responsibility requirements of 49 CFR 387.9.

Source. #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17 (formerly Env-Hw 603.12) (See RN2 at p. ii)

Env-Hw 603.08 Vehicle and Vessel Requirements. A transporter shall carry in each vehicle and with each vessel:

(a) A copy of the transporter's valid registration or registration confirmation letter, which shall be displayed and surrendered for examination upon request of any peace officer or department official or employee;

(b) A copy of the contingency plan and emergency procedures specified in Env-Hw 603.05; and

(c) Spill control equipment such as absorbent granular product or absorbent rags.

Source. #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17 (formerly Env-Hw 609.06) (See RN2 at p. ii)

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PART Env-Hw 604 MANIFESTS

Env-Hw 604.01 General Manifest Requirements.

(a) Except as provided in Env-Hw 510.01(b) and subject to (h), below, a transporter shall not accept hazardous waste without a manifest signed and completed by the generator in accordance with Env-Hw 510.01(a), Env-Hw 510.02, and Env-Hw 510.03.

(b) A transporter shall verify that the generator EPA identification number on the manifest is valid for the transportation of the hazardous waste listed on the manifest.

(c) A transporter shall sign and date all manifests.

(d) An initial transporter shall return a signed and dated copy of the manifest to the generator before leaving the generator's property.

(e) A transporter shall ensure that 5 copies of the manifest accompany the waste at all times during transit.

(f) A transporter who delivers a hazardous waste to another transporter shall:

- (1) Obtain the date of delivery and the handwritten signature of that transporter on the manifest;
- (2) Duplicate one copy of the manifest and retain the duplicate in accordance with Env-Hw 607.01; and
- (3) Give the remaining copies of the manifest to the accepting transporter.

(g) Upon delivery to the designated or alternate facility, a transporter shall:

- (1) Obtain the date of delivery and the handwritten signature of the operator of the designated or alternate facility on the manifest;
- (2) Retain one copy of the signed manifest in accordance with Env-Hw 607.01; and
- (3) Give the remaining copies of the signed manifest to the operator of the facility.

(h) When transporting hazardous waste as authorized by Env-Hw 510.01(b), a transporter shall comply with the immediate response actions and discharge cleanup requirements of Env-Hw 608.01 and Env-Hw 608.02 in the event of a discharge of hazardous waste on a public or private right-of-way.

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 8-1-08; (See RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #10205, eff 10-19-12; ss by #12348, eff 8-14-17

Env-Hw 604.02 Changes to Manifests. A transporter shall initial and date any changes to the manifest made by the transporter.

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 RN1 at p. ii); ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17

Env-Hw 604.03 Rail and Water Shipments.

(a) Each rail and water shipment shall comply with US DOT regulations.

(b) A shipping paper containing all the information required on the manifest, excluding the generator certification and signatures, and, for exports, an EPA acknowledgment of consent, shall accompany the hazardous waste at all times.

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(c) A transporter of a rail or water shipment shall carry either a manifest or shipping paper and retain the manifest or shipping paper in accordance with Env-Hw 607.03.

(d) Env-Hw 604.01(e), (f) and (g) shall not apply to a transporter of bulk shipments delivered by water to the designated facility if:

- (1) The transporter delivering the hazardous waste to the initial bulk shipment water transporter:
 - a. Obtains the date of delivery and signature of the water transporter on the manifest;
 - b. Forwards the manifest to the designated facility; and
 - c. Retains a copy of the signed manifest in accordance with Env-Hw 607.01;
- (2) The final water transporter delivering the hazardous waste to the designated facility obtains the date of delivery and handwritten signature of the operator of the designated facility on either the manifest or the shipping paper; and
- (3) Each water transporter retains a copy of the manifest or shipping paper in accordance with Env-Hw 607.03.

(e) For rail shipments, a transporter shall comply with Env-Hw 604.01(e), (f) and (g) or the following requirements:

- (1) When accepting hazardous waste from a non-rail transporter, the initial rail transporter shall:
 - a. Sign and date the manifest or shipping paper, acknowledging acceptance of the hazardous waste;
 - b. Return a copy to the delivering non-rail transporter; and
 - c. Forward the remaining copies to:
 1. The next non-rail transporter, if any;
 2. The designated facility, if the shipment is delivered to that facility by rail; or
 3. The last rail transporter designated to handle the hazardous waste in the United States;
- (2) When delivering hazardous waste to a non-rail transporter, a rail transporter shall obtain the date of delivery and handwritten signature of the non-rail transporter on the manifest;
- (3) Before accepting hazardous waste from a rail transporter, a non-rail transporter shall sign and date the manifest and provide a copy to the rail transporter;
- (4) The final rail transporter delivering the hazardous waste to the designated facility shall obtain the date of delivery and handwritten signature of the operator on the manifest, or on the shipping paper if the manifest has not been received by the facility; and
- (5) Each rail transporter shall retain a copy of the manifest and the shipping paper, as applicable, as specified in Env-Hw 607.03.

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 RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17

Env-Hw 604.04 International Shipments.

(a) A transporter shall comply with 40 CFR 262 Subpart H, including but not limited to 40 CFR 262.84 for movement documents, if the hazardous waste is:

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- (1) Exported to or imported from designated member countries of the Organization for Economic Cooperation and Development (OECD), as defined 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 standards of Env-Hw 1100; or
 - c. The export requirements in the spent lead-acid battery management standards of 40 CFR 266, Subpart G.
- (b) For exports that are not subject to 40 CFR 262 Subpart H, a transporter shall:
- (1) Ensure that the hazardous waste is accompanied by an EPA acknowledgment of consent attached to the manifest or shipping paper in accordance with 40 CFR 263.20(a)(2); and
 - (2) Not accept hazardous waste intended for export if the transporter knows the shipment does not conform to the EPA acknowledgment of consent.
- (c) A transporter who transports hazardous waste out of the United States shall:
- (1) Sign and date the manifest in the international shipments block to indicate the date the hazardous waste left the United States;
 - (2) Retain one copy of the manifest in accordance with Env-Hw 607.04;
 - (3) Return a signed copy of the manifest to the generator; and
 - (4) Give a copy of the manifest to a U.S. customs official at the point of departure from the United States.

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; ss by #9215, INT, eff 8-1-08; (See RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17

PART Env-Hw 605 RECEIPT OF LIQUID HAZARDOUS WASTE

Env-Hw 605.01 Requirements for Receipt of Liquid Hazardous Waste. Notwithstanding any other requirements of this chapter, when liquid hazardous waste is transferred to a tank on a transport vehicle, the transporter shall:

- (a) Measure, by metering, sticking, or weighing, the amount of liquid hazardous waste collected and transferred to the tank; and
- (b) Record the amount of hazardous waste measured on the accompanying manifest.

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 RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17

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PART Env-Hw 606 DELIVERY

Env-Hw 606.01 Requirements for Delivery.

(a) A transporter shall deliver the entire quantity of hazardous waste that the transporter has accepted from a generator or a transporter to:

- (1) A continuing transporter;
- (2) The designated facility on the manifest, including a facility outside the United States; or
- (3) The alternate facility designated by the generator, including a facility outside the United States, if the hazardous waste cannot be delivered to the designated facility because an emergency prevents delivery.

(b) A transporter shall deliver hazardous waste as described in (a), above, within 10 days of the time the hazardous waste leaves the generator's facility.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #7208, eff 2-26-00; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17

Env-Hw 606.02 Inability to Deliver. If a transporter is unable to deliver all or part of a hazardous waste shipment, the transporter shall:

- (a) Contact the generator;
- (b) Return the hazardous waste to the generator or deliver the hazardous waste to an alternate authorized facility designated by the generator; and
- (c) Comply with 40 CFR 263.21(b).

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 RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17

PART Env-Hw 607 RECORDKEEPING AND REPORTING

Env-Hw 607.01 Recordkeeping.

(a) A transporter shall keep a copy of each manifest signed by the generator, any prior transporters, themselves, and the next designated transporter or operator of the authorized facility for a period of 3 years from the date the hazardous waste was accepted by the initial transporter.

(b) Manifests may be retained on electronic media if available during inspection by the department.

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 RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17

Env-Hw 607.02 Annual Reporting for Transporting Used Oil. A registered transporter who transports used oil pursuant to Env-Hw 807.07 shall meet the annual reporting requirements of Env-Hw 807.07(e) through (h) for the used oil transportation activities.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #6385-B, eff 11-26-96; ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17

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Env-Hw 607.03 Rail and Water Shipments.

(a) In the case of bulk shipments delivered by water to a designated facility, a water transporter shall retain a copy of the manifest or shipping paper signed by the next transporter or designated facility for a period of 3 years from the date of acceptance by the initial transporter.

(b) In the case of rail shipments, a rail transporter shall retain documents for 3 years from the date the hazardous waste was accepted by the initial transporter, as follows:

- (1) The initial rail transporter shall retain a copy of the manifest and the shipping paper;
- (2) Intermediate rail transporters shall retain a copy of the manifest or the shipping paper; and
- (3) The final rail transporter shall retain a copy of the signed manifest or the shipping paper if signed by the designated facility in lieu of the manifest.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; moved by #6385-B, eff 11-26-96 (from Env-Wm 607.02); ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17

Env-Hw 607.04 Export Shipments. A transporter who transports hazardous waste out of the United States shall keep a copy of the manifest indicating that the hazardous waste left the United States for a period of 3 years from the date the hazardous waste was accepted by the initial transporter.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; moved by #6385-B, eff 11-26-96 (from Env-Wm 607.03); ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17

Env-Hw 607.05 Retention of Records During Enforcement Actions. The periods of retention specified in this part shall be extended automatically while any enforcement action regarding the regulated activities is pending.

Source. #6385-B, eff 11-26-96 (from Env-Wm 607.04, originally #5886, eff 8-26-94); ss by #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17

PART Env-Hw 608 EMERGENCY ACTION/REMEDIAL ACTION

Env-Hw 608.01 Immediate Discharge Response Actions.

(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 transporter shall report the discharge:

- (1) Immediately, not to exceed one hour from the discovery of the release; and
- (2) To local emergency officials and to:
 - a. The department's emergency response team at the telephone number listed in Appendix E, Monday through Friday, 8:00 a.m. to 4:00 p.m.; or
 - b. The New Hampshire state police headquarters communications unit at the telephone number listed in Appendix E, 24 hours per day.

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(b) A transporter who has discharged hazardous waste also shall comply with all other applicable requirements of 40 CFR 263.30(c) or (d), including providing any required reports and notifications.

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 RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #10205, eff 10-19-12; ss by #12348, eff 8-14-17

Env-Hw 608.02 Discharge Cleanup.

(a) A transporter shall immediately contain and clean up, within 24 hours, any discharge of hazardous waste or material that when discharged becomes a hazardous waste, if that discharge occurs while the hazardous waste or material is under the control of the transporter.

(b) If the hazardous waste discharge cannot be or is not cleaned up within 24 hours, the transporter shall submit within 5 days of the discharge a cleanup plan to the department for approval prior to implementation, except as provided in (e), 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 it determines that the cleanup plan meets the criteria set forth in (c), above.

(e) The transporter shall implement the cleanup plan as approved by the department pursuant to (d), above.

(f) To minimize contamination, reduce risk of exposure, and promote more timely response actions, the transporter may begin discharge response actions before the cleanup plan is submitted to or approved by the department, provided the transporter:

- (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 transporter 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 transporter shall submit a scope of work proposal for a site investigation 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 #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17

Env-Hw 608.03 Waiver of Manifest, Permit, and Registration Requirements for Emergency Response.

(a) In the event of a discharge during generation, transportation, treatment, storage, or disposal of a hazardous waste or of a material that becomes hazardous waste when discharged, the department shall, during

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the response to the event, waive any of the manifest, permit, registration, or other such 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 manifest, permit, registration, and other applicable requirements for those activities.

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 RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17

PART Env-Hw 609 REGISTRATION OF HAZARDOUS WASTE TRANSPORTERS

Env-Hw 609.01 Registration Process.

(a) An applicant for a transporter registration shall provide the following information on a “Hazardous Waste Transporter Annual Registration Form” obtained from the department:

- (1) The name, mailing address, and telephone number of the transporter;
- (2) The name, title, and, if available, email address of the contact person;
- (3) The transporter’s US DOT motor carrier census number or the interstate commerce commission number, and the transporter's EPA identification number;
- (4) Subject to (b), below, the transporter’s U.S. Research and Special Programs Administration “(RSPA)” registration number, if applicable; and
- (5) A statement signed by the transporter certifying, as specified in Env-Hw 207, that the transporter:
 - a. Complies with the financial responsibility requirements of 49 CFR 387.9; and
 - b. Has not demonstrated cause for suspension, revocation, refusal to renew, or denial of registration as specified in Env-Hw 610.02 or 610.03, as applicable.

(b) In lieu of (a)(4), above, a transporter may provide the hazardous materials registration number as assigned by the Pipelines and Hazardous Materials Safety Administration of the US DOT.

(c) A transporter seeking to renew a transporter registration shall submit the application on or before May 15 of the year for which registration is sought.

(d) If a registration application is incomplete, the department shall return the application to the applicant and notify the applicant in writing of each deficiency.

(e) Except as provided in Env-Hw 609.05, the department shall issue a transporter registration or a registration confirmation letter if a transporter has met the requirements of (a) through (c), above.

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- (f) A transporter shall provide, upon request of the department, the following:
- (1) The name, address, EPA identification number, and phone number of the transporter's principal place of business and any regional offices, if applicable;
 - (2) The names, addresses, titles, and dates of birth of all corporate officers and all stockholders owning greater than 10% of the transporter's outstanding shares or debt equity;
 - (3) The names of all individuals or business firms that contract to perform part or all of the transportation of hazardous waste under the transporter's registration;
 - (4) For all transportation services provided to New Hampshire customers in any requested time period in the previous 3 years, a summary report on a searchable electronic document or other machine readable file that includes, but is not limited to, the following information for each shipment of hazardous waste regulated under the hazardous waste rules:
 - a. Generator name, site address, city, zip code, and EPA identification number, if applicable, regardless of generator classification;
 - b. Manifest tracking number;
 - c. Each transporter EPA identification number and state identification number;
 - d. Designated facility EPA identification number, site address, city, state, zip code;
 - e. For each waste stream, number and type of containers, total quantity, unit of measure, hazardous waste number and handling code;
 - f. Generator certification date, transporter signature date, continuing transporter signature date as applicable, and designated facility signature date;
 - g. Special handling instructions; and
 - h. Discrepancy indication.
 - (5) A description of the transporter's introductory and continuing personnel training programs as required by 49 CFR 172 Subpart H;
 - (6) A contingency plan and emergency procedures plan as required by Env-Hw 603.05;
 - (7) A copy of the certificate of insurance or other proof of financial responsibility as required by (a)(5), above;
 - (8) A list of currently valid hazardous waste transporter permits or registrations from other states, including the state, expiration date, and the years held;
 - (9) Copies of any letters of commendation received by the transporter;
 - (10) A list of any other names under which the company has been known or done business within the past 5 years;
 - (11) Copies of any notices of violation, administrative orders, notices of suspension or denial, and civil or criminal actions completed or pending from or before state or federal agencies;
 - (12) A list of any pending suits, including any civil suits in which the company is presently involved as a plaintiff or defendant;
 - (13) A list of any environmental permits held by the transporter that have been revoked or suspended;
 - (14) Information regarding any convictions or pleas of guilty or no contest to a felony committed by the transporter or, in the case of a corporation or business entity, of any of its officers, directors, partners, or persons or business entities holding 10 percent or more of its equity or debt liability

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who has pled guilty or no contest to a felony in any state or federal court during the 5 years before the date of the registration by the transporter; and

(15) A signed statement certifying, as specified in Env-Hw 207, the information provided in (1) through (14).

Source. #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN1 at p. ii) ss by #9367, eff 1-28-09; amd by #10205, eff 10-19-12; ss by #12348, eff 8-14-17

Env-Hw 609.02 Transporter Registration.

(a) A transporter registration shall:

- (1) Not be transferable; and
- (2) Expire on the date specified on the registration.

(b) Upon a change in ownership or operational control of a transporter, the transporter registration shall not be transferred to the entity or individual gaining ownership or operational control.

(c) For purposes of (b), above, the following events shall constitute a change in ownership or operational control, as applicable:

- (1) For a partnership, a change in the majority of general partners;
- (2) For a corporation, a transfer of all corporate assets or of a majority of voting shares to a new individual or entity;
- (3) For other organizations, a transfer of the control of the organization to a new individual or entity; and
- (4) For an individual, transfer of control to another individual or entity.

Source. #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #10205, eff 10-19-12; ss by #12348, eff 8-14-17

Env-Hw 609.03 Registration Modification. A transporter shall notify the department by providing updated information in writing within 15 days of any of the following:

- (a) A name change for the transporter;
- (b) A change in physical location or mailing address of the transporter;
- (c) A change of company contact of the transporter;
- (d) A change in telephone number of the transporter; and
- (e) A change in the EPA identification number of the transporter.

Source. #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #10205, eff 10-19-12; ss by #12348, eff 8-14-17

Env-Hw 609.04 Registration Suspension and Revocation.

(a) The department shall suspend, revoke, or refuse to renew a transporter's registration if the transporter does not demonstrate reliability, expertise, integrity and competence as specified in Env-Hw 610.02.

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(b) Within 30 days of receiving a notice of the department's intent to suspend or revoke a transporter's registration, the person identified on the registration may request an oral hearing before the department. The oral hearing shall be conducted as an adjudicative proceeding in accordance with the applicable provisions of RSA 541-A and Env-C 200.

(c) Within 30 days of receipt of a notice of decision by the hearing officer regarding the suspension or revocation of the transporter's registration, the transporter may appeal the decision to the waste management council as specified in RSA 21-O:14.

(d) Within 5 days of suspension or revocation, the transporter shall return all original copies of the registration confirmation letter to the department.

(e) Within 15 days of suspension or revocation, the transporter shall:

(1) Notify all New Hampshire customers served during the prior year that it is not authorized to transport hazardous waste; and

(2) Publish a notice of suspension or revocation, as applicable, in a newspaper with statewide circulation.

Source. #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17

Env-Hw 609.05 Registration Denial.

(a) If an applicant or registrant meets any of the criteria in RSA 147-A:6, V(d), Env-Hw 610.02, or Env-Hw 610.03, the department shall deny registration.

(b) If the applicant or registrant wishes to appeal a denial of registration, the appeal shall be filed with the waste management council as specified in RSA 21-O:14.

Source. #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN1 at p. ii) ss by #9367, eff 1-28-09; amd by #10205, eff 10-19-12; ss by #12348, eff 8-14-17

PART Env-Hw 610 STANDARDS FOR HAZARDOUS WASTE TRANSPORTERS AND APPLICANTS FOR TRANSPORTER REGISTRATION

Env-Hw 610.01 Background Investigations. The department shall conduct a background investigation of a registrant or applicant to determine whether the registrant or applicant has sufficient reliability, expertise, integrity, and competence to transport hazardous waste in and through New Hampshire.

Source. #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #12348, eff 8-14-17

Env-Hw 610.02 Registrant Integrity and Competence. The department shall suspend, revoke, or refuse to renew a transporter registration if the registrant does not have sufficient reliability, expertise, integrity, and competence to transport hazardous waste, as demonstrated by any of the following:

(a) The registrant transported hazardous waste without possessing a transporter registration that was current and in good standing;

(b) The registrant fails to demonstrate compliance with the financial responsibility requirements of 49 CFR 387.9;

(c) Issuance of the registration was based on material false or misleading information;

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(d) The registrant's activities covered by the registration present an immediate and substantial threat to human health or the environment;

(e) The registrant failed to comply with an order issued by the department or by any state relative to hazardous waste transportation, including an order to undertake corrective measures, unless the registrant is complying with the order in accordance with a compliance schedule and is current with all items;

(f) The registrant failed to comply with an order issued by the department or by any state relative to a violation of any other statute administered by the department or by any state, unless the registrant is complying with the order in accordance with a compliance schedule and is current with all items;

(g) The registrant owes any administrative fines to the department or to any state, unless the fines are being paid in accordance with a payment schedule and the registrant is current with all payments;

(h) The registrant owes any fees to the department or to any state, unless the fees are being paid in accordance with a payment schedule and the registrant is current with all payments;

(i) The registrant owes any civil or criminal penalties imposed as a result of a judicial action taken to enforce any statute or rule implemented by the department or by any state, unless the penalties are being paid in accordance with a payment schedule and the registrant is current with all payments;

(j) The registrant failed to comply with any civil or criminal restoration or restitution order imposed as a result of a judicial action taken to enforce any statute or rule implemented by the department or by any state, unless the registrant is complying in accordance with a compliance schedule and is current with all items; or

(k) Within 5 years of the renewal registration application date, the registrant has been the subject of 2 or more administrative or civil enforcement actions or one criminal enforcement action, that have not been overturned on appeal, for any violation of:

- (1) Any registration or permit issued by the department or by any state; or
- (2) Any statute or rule implemented by the department or by any state.

Source. #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #10205, eff 10-19-12; ss by #12348, eff 8-14-17

Env-Hw 610.03 Applicant Integrity and Competence. The department shall deny a transporter registration if the applicant does not have sufficient reliability, expertise, integrity, and competence to transport hazardous waste, as demonstrated by any of the following:

(a) The applicant transported hazardous waste without possessing a transporter registration that was current and in good standing;

(b) The applicant fails to demonstrate compliance with the financial responsibility requirements of 49 CFR 387.9;

(c) The applicant failed to comply with an order issued by the department or by any state relative to hazardous waste transportation, including an order to undertake corrective measures, unless the applicant is complying with the order in accordance with a compliance schedule and is current with all items;

(d) The applicant failed to comply with an order issued by the department or by any state relative to a violation of any other statute administered by the department or any state, unless the applicant is complying with the order in accordance with a compliance schedule and is current with all items;

(e) The applicant owes any administrative fines to the department or to any state, unless the fines are being paid in accordance with a payment schedule and the applicant is current with all payments;

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(f) The applicant owes any fees to the department or to any state, unless the fees are being paid in accordance with a payment schedule and the applicant is current with all payments;

(g) The applicant owes any civil or criminal penalties imposed as a result of a judicial action taken to enforce any statute or rule implemented by the department or by any state, unless the penalties are being paid in accordance with a payment schedule and the applicant is current with all payments;

(h) The applicant failed to comply with any civil or criminal restoration or restitution order imposed as a result of a judicial action taken to enforce any statute or rule implemented by the department or by any state, unless the applicant is complying with the order in accordance with a compliance schedule and is current with all items; or

(i) Within 5 years of the application date, the applicant has been the subject of 2 or more administrative or civil enforcement actions or one criminal enforcement action, that have not been overturned on appeal, for any violation of:

- (1) Any registration or permit issued by the department or by any state; or
- (2) Any statute or rule implemented by the department or by any state.

Source. #7333, eff 8-1-00; ss by #9215, INT, eff 8-1-08; (See RN1 at p. ii) ss by #9367, eff 1-28-09; ss by #10205, eff 10-19-12; ss by #12348, eff 8-14-17

APPENDIX A: STATE STATUTES, FEDERAL REGULATIONS IMPLEMENTED

Rule Section(s)	State Statute(s)	Federal Regulation(s)
Env-Hw 600	RSA 147-A:3, IV-VIII; RSA 147-A:6	40 CFR 261; 40 CFR 263
Env-Hw 601	RSA 147-A:3, XXV; RSA 147-A:6	40 CFR 263.10
Env-Hw 602	RSA 147-A:3, VIII; RSA 147-A:6	40 CFR 263.11
Env-Hw 603	RSA 147-A:3, IV	40 CFR 263.10
Env-Hw 604	RSA 147-A:3, V	40 CFR 263 Subpart B
Env-Hw 605	RSA 147-A:3, IV	
Env-Hw 606	RSA 147-A:3, IV, V	40 CFR 263 Subpart B
Env-Hw 607	RSA 147-A:3, VI	40 CFR 263 Subpart B
Env-Hw 608	RSA 147-A:3, VII, XXV	40 CFR 263 Subpart C
Env-Hw 609	RSA 147-A:3, VIII, IX; RSA 147-A:6	
Env-Hw 610	RSA 147-A:3, IX; RSA 147-A:6	

**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.

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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.

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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 FFDCA 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 FFDCA 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

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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

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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;

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- (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

Organization	Telephone Number	Days/Hours
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