

Effective November 23, 2019, Env-Hw 101.04 reads as follows:Env-Hw 101.04 References to Federal Regulations.

(a) Unless otherwise specified, references to federal regulations within this subtitle shall be as follows:

- (1) All references to “Title 29 of the Code of Federal Regulations” or “29 CFR” shall be to the edition in effect on July 1, 2019;
- (2) All references to “Title 40 of the Code of Federal Regulations” or “40 CFR” shall be to the edition in effect on July 1, 2019; and
- (3) All references to “Title 49 of the Code of Federal Regulations” or “49 CFR” shall be to the edition in effect on October 1, 2019.

(b) References to other federal statutes and regulations contained in the text of the federal regulations incorporated by reference that are not specifically adopted by reference, including, but not limited to, references to the Clean Water Act, the Clean Air Act, and the Safe Drinking Water Act, shall be used to assist in interpreting the federal regulations only, but the authority and power of the analogous or related portions of New Hampshire statutes and rules shall apply in lieu of the cited federal statutes and regulations.

Effective November 23, 2019, Env-Hw 101.05 reads as follows:Env-Hw 101.05 Applicability of Manifest Requirements.

(a) The manifest requirements of 40 CFR 260.4, reprinted in Appendix D, shall apply in any case in which the state in which waste is generated, or the state in which waste will be transported to a designated facility, requires the waste to be tracked on a hazardous waste manifest.

(b) The manifest requirements of 40 CFR 260.5, reprinted in Appendix D, shall apply in any case in which a state requires a RCRA manifest to be used under state law to track the shipment and transportation of a state-only regulated waste, as such term is defined in 40 CFR 260.5(a), to a receiving facility.

Effective November 23, 2019, Env-Hw 102.02 reads as follows:

Env-Hw 102.02 Modifications to Federal Hazardous Waste Definitions. The following terms, when used in federal regulations incorporated by reference, shall be substituted with the analogous New Hampshire terms as follows:

(a) Any reference to the “Regional Administrator” or “Administrator” in federal rules adopted by reference shall be deemed to mean the “commissioner, or designee,” except when used in 40 CFR 262 Subpart H, 264.12(a), 265.12(a), 268.5, 268.6, 268.13, 268.40(b), 268.42(b), 268.44(a) through (g), 270.11(a)(3), 270.14(b)(20), 270.32(b)(2), and 270.51;

(b) Any reference to the “U.S. Environmental Protection Agency,” “Agency,” “United States Environmental Protection Agency,” “EPA Headquarters,” “EPA Region(s)” or “EPA” in federal rules adopted by reference shall be deemed to mean the “department,” except when used in:

- (1) 40 CFR 260.2(c) and (d), 261.39(a)(5), 261.41, 262 Subpart H, 264.12(a)(2), 265.12(a)(2), 268.1(e)(3), 268.2(j), 268.5(g), 268.44(a) through (g), 270.11(a)(3), 270.32(a), 270.32(c), 270.51, 270.72(a)(5), and 270.72(b)(5); or

- (2) Any reference to EPA identification numbers, EPA hazardous waste numbers, EPA test methods, EPA forms, any EPA acknowledgment of consent, any EPA publications, manuals, or guidance, and EPA’s electronic manifest system; and

(c) Any reference to any provision of RCRA in federal rules incorporated by reference shall be deemed to be a reference to the comparable New Hampshire statutory provision, except in 40 CFR

270.72(a)(5) and (b)(5) and 40 CFR 270.51(d) relative to EPA-issued RCRA permits, as listed in Table 1.1 Comparison of Federal and State Statutory Provisions, below:

Table 1.1 Comparison of Federal and State Statutory Provisions

RCRA (P.L. 94-580)	U.S.C.	NH RSA
1004(5)	42 U.S.C. 6903(5)	147-A:2, VII
1004(27)	42 U.S.C. 6903(27)	147-A:2, XVIII
3004	42 U.S.C. 6924	147-A:3, IV
3005	42 U.S.C. 6925	147-A:3, IX & 4
3006	42 U.S.C. 6926	91-A
3007	42 U.S.C. 6927	147-A:7; 91-A
3008	42 U.S.C. 6928	147-A:14, 16, 16-a, & 16-b
3010	42 U.S.C. 6930	147-A:3, IV & 3, VI
RCRA (P.L. 89-272)		
3013	42 U.S.C. 6934	147-A:3, VI & 3, VII
3019	42 U.S.C. 6939(a)	147-A:5
7003	42 U.S.C. 6973	147-A:13

Effective November 23, 2019, Env-Hw 103.39 and Env-Hw 103.40 read as follows:

Env-Hw 103.39 “Electronic manifest” means “electronic manifest (or e-Manifest)” as defined in 40 CFR 260.10, reprinted in Appendix D.

Env-Hw 103.40 “Electronic manifest system” means “electronic manifest system (or e-Manifest system)” as defined in 40 CFR 260.10, reprinted in Appendix D.

Effective November 23, 2019, Env-Hw 103.45 reads as follows:

Env-Hw 103.45 “EPA acknowledgment of consent” means “EPA acknowledgment of consent” as defined in 40 CFR 262.81, as reprinted in Appendix D.

Effective November 23, 2019, Env-Hw 103.55 reads as follows:

Env-Hw 103.55 “Exporter” means “exporter” as defined in 40 CFR 262.81, as-reprinted in Appendix D.

Effective November 23, 2019, Env-Hw 103.56 is repealed:

~~Env-Hw 103.56 “Foreign consignee” means “consignee” as defined in 40 CFR 262.51, as reprinted in Appendix D.~~

Effective November 23, 2019, Env-Hw 103.72 reads as follows:

Env-Hw 103.72 “Importer” means “importer” as defined in 40 CFR 262.81, as-reprinted in Appendix D.

Effective November 23, 2019, Env-Hw 104.02 reads as follows:

Env-Hw 104.02 “Land disposal” means “land disposal” as defined in 40 CFR 268.2(c), 7-1-16 edition, as-reprinted in Appendix D.

Effective November 23, 2019, Env-Hw 104.17 reads as follows:

Env-Hw 104.17 “NH-only waste” means waste that is regulated under the hazardous waste rules but not regulated by EPA.

Effective November 23, 2019, Env-Hw 104.18 reads as follows:

Env-Hw 104.18 “Notification form” means the “RCRA C Site Identification Form” used to notify the department of hazardous waste, used oil, universal waste management activities, and electronic manifest activities.

APPENDIX A: STATE STATUTES, FEDERAL REGULATIONS IMPLEMENTED

Rule Section(s)	State Statute(s) Implemented	Federal Regulation(s) Implemented
Env-Hw 101.04	RSA 147-A:3	40 CFR 260.3
Env-Hw 101.05	RSA 147-A:3, V	40 CFR 260.4; 40 CFR 260.5
Env-Hw 102.02	RSA 147-A:2 & 3, I	40 CFR 260.10
Env-Hw 103.39, 103.40, 103.45, 103.55, 103.56 (repealed), 103.72	RSA 147-A:2 & 3, I	40 CFR 260.10; 40 CFR 262.81
Env-Hw 104.02, 104.17, 104.18	RSA 147-A:2 & 3, I	40 CFR 260.10; 40 CFR 268.2(c)

{No changes to Appendix B or Appendix C}

APPENDIX D: FEDERAL DEFINITIONS AND REGULATIONS**40 CFR 260.4**

(a) In any case in which the state in which waste is generated, or the state in which waste will be transported to a designated facility, requires that the waste be regulated as a hazardous waste or otherwise be tracked through a hazardous waste manifest, the designated facility that receives the waste shall, regardless of the state in which the facility is located:

- (1) Complete the facility portion of the applicable manifest;
- (2) Sign and date the facility certification;
- (3) Submit to the e-Manifest system a final copy of the manifest for data processing purposes; and
- (4) Pay the appropriate per manifest fee to EPA for each manifest submitted to the e-Manifest system, subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and other fee requirements specified in subpart FF of part 264 of this chapter.

40 CFR 260.5

(a) For purposes of this section, “state-only regulated waste” means:

- (1) A non-RCRA waste that a state regulates more broadly under its state regulatory program, or
- (2) A RCRA hazardous waste that is federally exempt from manifest requirements, but not exempt from manifest requirements under state law.

(b) In any case in which a state requires a RCRA manifest to be used under state law to track the shipment and transportation of a state-only regulated waste to a receiving facility, the facility receiving such a waste shipment for management shall:

- (1) Comply with the provisions of §§ 264.71 (use of the manifest) and 264.72 (manifest discrepancies) of this chapter; and
- (2) Pay the appropriate per manifest fee to EPA for each manifest submitted to the e-Manifest system, subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and other fee requirements specified in subpart FF of part 264 of this chapter.

40 CFR 260.10

Electronic manifest (or e-Manifest) means the electronic format of the hazardous waste manifest that is obtained from EPA's national e-Manifest system and transmitted electronically to the system, and that is the legal equivalent of EPA Forms 8700-22 (Manifest) and 8700-22A (Continuation Sheet).

Electronic Manifest System (or e-Manifest System) means EPA's national information technology system through which the electronic manifest may be obtained, completed, transmitted, and distributed to users of the electronic manifest and to regulatory agencies.

Recognized trader means a person domiciled in the United States, by site of business, who acts to arrange and facilitate transboundary movements of wastes destined for recovery or disposal operations, either by purchasing from and subsequently selling to United States and foreign facilities, or by acting under arrangements with a United States waste facility to arrange for the export or import of the wastes.

40 CFR 262.81

EPA Acknowledgment of Consent (AOC) means the letter EPA sends to the exporter documenting the specific terms of the country of import's consent and the country(ies) of transit's consent(s). The AOC meets the definition of an export license in U.S. Census Bureau regulations 15 CFR 30.1.

Exporter, also known as primary exporter on the RCRA hazardous waste manifest, means the person domiciled in the United States who is required to originate the movement document in accordance with § 262.83(d) or the manifest for a shipment of hazardous waste in accordance with subpart B of this part, or equivalent State provision, which specifies a foreign receiving facility as the facility to which the hazardous wastes will be sent, or any recognized trader who proposes export of the hazardous wastes for recovery or disposal operations in the country of import.

Importer means the person to whom possession or other form of legal control of the hazardous waste is assigned at the time the imported hazardous waste is received in the United States.

40 CFR 268.2(c), 7-1-16 edition

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.