Readopt with amendments Env-Hw 303.02, eff. 8-14-17 (doc. #12345), to read as follows:

Env-Hw 303.02 Exemptions.

(a) The operator of a transfer facility shall be exempt from the prohibitions of Env-Hw 304.09(d) and (e)(6).

(b) A generator managing hazardous waste in accordance with Env-Hw 500 shall be exempt from facility permit requirements.

(c) The operator of a facility that meets the requirements of Env-Hw 701.02(a)(6), (a)(8), and (a)(9) shall be exempt from facility permit requirements.

(d) A farmer who disposes of hazardous waste pesticides from the farmer’s own use in accordance with Env-Hw 501.02(a) shall be exempt from facility permit requirements.

(e) A generator who has obtained a storage permit only for hazardous waste generated on site shall be exempt from any siting requirements of Env-Hw 304.09 that are more stringent than federal requirements, provided that all hazardous waste is stored in an enclosed area.

(f) An applicant for a transfer facility permit who provides technical documentation to demonstrate the facility meets the following conditions shall be exempt from Env-Hw 304.11(a)(8):

   (1) The facility is operated so that all waste handling occurs in an enclosed building with an impervious floor designed in accordance with the criteria specified in 40 CFR Part 264, Subpart I and Subpart J;

   (2) No hazardous waste containers, tanks, and transport vehicles are located or stored at any time outside of the transfer facility building; and

   (3) The location of the transfer facility does not contravene the siting requirements of Env-Hw 304.09.

(g) A full quantity generator who receives small quantity generator waste in accordance with Env-Hw 501.02(c)(1) shall be exempt from facility permitting requirements.

(h) A government entity that sponsors a household hazardous waste collection project that receives hazardous waste from small quantity generators shall be exempt from facility permitting requirements, provided that the hazardous waste is:

   (1) Manifested in accordance with Env-Hw 510;

   (2) Received only during a one-day household hazardous waste collection event; and

   (3) Given directly by the small quantity generator to a New Hampshire registered hazardous waste transporter during a one-day collection event.

(i) Env-Hw 304 shall not apply to universal waste handlers and universal waste transporters handling universal waste, provided the waste is managed in accordance with Env-Hw 1100.

(j) A government entity that receives household hazardous waste from another government entity shall be exempt from facility permitting requirements provided it ships the household hazardous waste off site within 90 days after receipt.
(k) Subject to (l), below, and for the duration of the emergency response only, 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;

(3) A discharge of a material that, when discharged, becomes a hazardous waste; or

(4) 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 explosives or munitions emergency response specialist.

(l) In the case of (k), above:

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

(2) In the case of emergency responses involving military munitions, the requirements of 40 CFR 270.1(c)(3)(iii) shall apply.

(m) The owner and operator of a totally enclosed treatment facility as defined in Env-Hw 104 shall be exempt from the facility permit requirements of Env-Hw 304.

(n) A reverse distributor who accumulates potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals in accordance with Env-Hw 1300 shall be exempt from facility permit requirements.

Readopt with amendments Env-Hw 304.16, eff. 8-14-17 (doc. #12345), to read as follows:

Env-Hw 304.16 Notification Upon Receipt of Completed Applications.

(a) Upon determining that a standard permit application is complete according to the criteria set forth in Env-Hw 304.15, the department shall:

(1) Send a letter to the applicant informing the applicant that the application is considered to be complete and will undergo the review process specified in Env-Hw 304.17;

(2) Send written notification to the local governing body of the receipt of the completed application so that a municipal review committee can be appointed in accordance with RSA 147-C:2; and

(3) For new facilities, send notification to the siting board along with the application for its review pursuant to RSA 147-A:4-a; and

(4) Within 15 days of determining that an application is complete, notify the general public as specified in Env-Hw 304.21 that the completed application is available for review.

(b) If the department determines that a transfer facility permit application is complete, a notification of the department’s completeness determination shall be sent to:

(1) The applicant;

(2) The local governing body for the town in which the facility is proposed to be located; and
(3) The general public in accordance with Env-Hw 304.21.

Readopt with amendments Env-Hw 304.17, eff. 8-14-17 (doc. #12345), to read as follows:

Env-Hw 304.17 Evaluation of Complete Standard Permit Application.

(a) After the application is deemed complete in accordance with Env-Hw 304.15, the commissioner or designee shall assign a staff engineer to conduct a complete technical review of the application, including a determination as to whether the proposed facility could be sited or operated, or a proposed activity could be conducted, such that human health, safety, and the environment will be protected.

(b) The engineer assigned pursuant to (a), above, shall evaluate all information submitted with the application, all facility requirements, and all information submitted during the public comment period and public hearings conducted in accordance with Env-Hw 304.21, and all information provided by the siting board pursuant to RSA 147-A:4-a.

Readopt with amendments Env-Hw 304.22, eff. 8-14-17 (doc. #12345), to read as follows:

Env-Hw 304.22 Permit Issuance.

(a) Prior to making a decision on an application, the department shall evaluate all duly-submitted information, including the completed application, all public comments received, all hearing testimony, and the draft permit if one was prepared.

(b) The department shall issue the permit in whole or in part or deny the application either in its entirety or only as to the active life of the facility based upon whether the information demonstrates compliance with the requirements of Env-Hw 700, RSA 147-A:4, II-a, RSA 147-A:4, II-d, and any other applicable provisions.

(c) The department shall not issue a standard permit unless the location has been approved by a siting board pursuant to RSA 147-A:4-a.

(d) The department shall inform the applicant of its decision no later than 90 days after the final date that the public may submit comments.

(e) Any permittee may seek renewal of a permit pursuant to Env-Hw 304.31.

(f) Issuance or denial of a standard permit or transfer facility permit shall terminate any interim status held by the facility.

(g) If an applicant is issued a standard permit or transfer facility permit, the owner or operator may begin construction of the facility in accordance with conditions of the permit.

(h) An owner or operator shall not commence operation of a new facility or any modified portion of an existing facility before:

(1) Construction has been completed;

(2) The department has received a letter signed by the owner or operator and a New Hampshire registered professional engineer certifying, as specified in Env-Hw 207, that the
facility has been constructed in compliance with the standard permit or transfer facility permit conditions; and

(3) The department has verified the facility’s compliance and has notified the owner or operator in writing that operation of the facility may begin.

**Readopt with amendments Env-Hw 401.03, eff. 8-14-17 (doc. #12346), as amended eff. 11-23-19 (doc. #12922), to read as follows:**

- **Env-Hw 401.03 Exemptions.**

  (a) The following materials shall not be hazardous wastes under the hazardous waste rules provided any conditions or prohibitions specified below are met:

  (1) Domestic sewage;

  (2) Wastewater discharges that are industrial point source discharges in compliance with applicable New Hampshire permits and rules and federal permits and regulations under section 402 of the Clean Water Act, as amended;

  (3) Irrigation return waters;

  (4) Source, special nuclear, or nuclear by-product material as defined by the Atomic Energy Act of 1954 as amended, 42 USC 2011 et seq.;

  (5) Material subjected to in-situ mining techniques that are not removed from the ground as part of the extraction process;

  (6) Pulping liquors, also known as black liquors, that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process and not accumulated speculatively as defined in Env-Hw 811.01;

  (7) Spent sulfuric acid used as a feedstock in an industrial furnace to produce virgin sulfuric acid, provided that the spent sulfuric acid is not accumulated speculatively as defined in Env-Hw 811.01;

  (8) Secondary materials, as defined in Env-Hw 104, provided:

    a. Only tank storage is involved and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

    b. Reclamation does not involve controlled flame combustion such as occurs in boilers, industrial furnaces, or incinerators;

    c. The secondary materials are never accumulated in such tanks for over 12 months without being reclaimed; and

    d. The reclaimed material is not used to produce a fuel or to produce products that are used in a manner constituting disposal;

  (9) Excluded scrap metal, as defined in Env-Hw 103, provided it is being recycled;

  (10) Shredded circuit boards being recycled, provided they are:

    a. Stored in containers sufficient to prevent a release to the environment prior to recovery; and
b. Free of mercury switches, mercury relays, and nickel-cadmium batteries and lithium batteries;

(11) Solvent-contaminated wipes, that are cleaned for reuse, provided:
   a. The generator either launders or dry cleans the solvent-contaminated wipes on site or sends the solvent-contaminated wipes to be cleaned by a laundry or dry cleaner:
      1. That is located in New Hampshire, or in a state that has adopted the exclusion at 40 CFR 261.4(a)(26); and
      2. Whose discharge, if any, is regulated under sections 301 and 402 or section 307 of the Clean Water Act;
   b. The generator maintains at its site the following documentation:
      1. The name and address of the laundry or dry cleaner that is receiving the solvent-contaminated wipes;
      2. Documentation of compliance with (g)(2), below; and
      3. A written description of the process the generator uses to ensure that solvent-contaminated wipes contain no free liquids when laundered or dry cleaned on site or transported off site for laundering or dry cleaning; and
   c. The requirements of (g), below, are met;

(12) Spent wood preserving solutions that have been reclaimed and are being reused for their original intended purpose and wastewaters from the wood preserving process that have been reclaimed and are being reused to treat wood, provided the requirements of 40 CFR 261.4(a)(9)(iii) are satisfied;

(13) Non-wastewater splash condenser dross residue from the treatment of K061 waste in high temperature metals recovery units, provided the residue is shipped in drums if shipped off site for recovery and is not land disposed before or after recovery;

(14) When recycled in the manner and under the conditions as described in 40 CFR 261.4(a)(12)(i):
   a. Oil-bearing hazardous secondary materials that are generated at a petroleum refinery and are inserted into the petroleum refining process, as those terms are defined in 40 CFR 261.4(a)(12)(i), unless the material is placed on the land or speculatively accumulated before being recycled; and
   b. Recovered oil, as defined in 40 CFR 261.4(a)(12)(ii);

(15) Petrochemical-recovered oil from an associated organic chemical manufacturing facility, as defined in 40 CFR 261.4(a)(18), where the recovered oil will be inserted into the petroleum refining process along with normal petroleum refinery process streams, provided that the requirements of 40 CFR 261.4(a)(18) are met; and

(16) Spent caustic solutions from petroleum-refining liquid treating processes that are used as a feedstock to produce cresylic or naphthenic acid, unless the material is placed on the land or accumulated speculatively as described in Env-Hw 811.01.

(b) The following materials shall be exempt from regulation under the hazardous waste rules, subject to any conditions, prohibitions, or other limitations specified:
(1) Household wastes, subject to (b)(2), below;

(2) Household hazardous wastes, until such time as they are collected, whether as part of a household hazardous waste collection project or otherwise;

(3) Agricultural wastes that are returned to the soil as fertilizers for growing agricultural crops and raising animals;

(4) Mining overburden returned to the mine site;

(5) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or fossil fuels;

(6) Wastes that fail the test for the toxicity characteristic because chromium is present, or that are listed in Env-Hw 402 due to the presence of chromium, and meet the criteria of 40 CFR 261.4(b)(6)(i), and are:
   a. Listed in 40 CFR 261.4(b)(6)(ii); or
   b. Subject to a waiver obtained by the generator in accordance with Env-Hw 202;

(7) Subject to (c), below, solid waste from the extraction, beneficiation, and processing of ores and minerals including coal, phosphate rock, and overburden from the mining of uranium ore;

(8) Cement kiln dust waste;

(9) Waste that consists of discarded arsenical-treated wood or wood products that fail the test for the toxicity characteristic for EPA hazardous waste numbers D004 through D017 and that is not a hazardous waste for any other reason, provided the waste is generated by persons who use the arsenical-treated wood and wood products for these materials’ intended end use;

(10) Used chlorofluorocarbon (CFC) refrigerants from totally-enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems that use CFCs as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use;

(11) Non-terne-plated used oil filters that are not mixed with wastes listed in Env-Hw 402, provided the oil filters have been gravity hot-drained using one of the following methods:
   a. Puncturing the filter anti-drainback valve or the filter dome end and hot-draining;
   b. Hot-draining and crushing;
   c. Dismantling and hot-draining; or
   d. Any other equivalent hot-draining method that will remove the used oil from the filter;

(12) Hazardous waste generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or a manufacturing process unit or an associated non-waste-treatment manufacturing unit before it exits the unit in which it was generated, unless:
   a. The unit is a surface impoundment; or
b. The hazardous waste remains in the unit for greater than 90 days after the unit ceases to be operated for manufacturing or for storage or transportation of product or raw materials;

(13) Samples of solid or hazardous wastes, water, soil, or air that are collected for the sole purpose of testing to determine its characteristics or composition, provided the samples are being stored or transported in accordance with 40 CFR 261.4(d);

(14) Treatability study samples and samples undergoing treatability studies at laboratories and testing facilities of up to 250 kg of non-acute hazardous waste and up to 1 kg of acute hazardous waste and as set forth in 40 CFR 261.4(e) and (f);

(15) Materials that are reclaimed from wastes and that are used beneficially, unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal;

(16) Waste pickle liquor sludges generated by lime stabilization of spent pickle liquor from the iron and steel industry Standard Industry Classification, Codes 331 and 332, or compatible North American Industry Classification System (NAICS) codes, even though they are generated from the treatment, storage, or disposal of a hazardous waste, provided they do not exhibit a hazardous waste characteristic specified in Env-Hw 403;

(17) The following wastes, provided that they do not exhibit a hazardous waste characteristic specified in Env-Hw 403:

\[ \text{a. Used oil sludges derived from collection, storage, treatment, or processing of used oils, provided the sludges are sent to a facility authorized to receive them; and} \]

\[ \text{b. Waters separated from used oil by gravity separation or other physical or chemical means, unless the waters contain greater than 5 percent oil;} \]

(18) Spill absorbent materials, soil, and debris from the cleanup of spills of virgin fuel oil and virgin lubricating products, provided that the spill absorbent materials, soil, and debris do not exhibit a hazardous waste characteristic specified Env-Hw 403;

(19) Spill absorbent materials, soil, and debris from the cleanup of used oil spills, provided:

\[ \text{a. The used oil was not previously mixed with any other hazardous waste listed in Env-Hw 402; and} \]

\[ \text{b. No hazardous waste characteristic specified in Env-Hw 403 is exhibited by the spill absorbent materials, soil, or debris;} \]

(20) Spill absorbent materials, soil, and debris from the cleanup of spills of virgin gasoline, provided that the spill absorbent materials, soil, and debris do not exhibit a hazardous waste characteristic as set forth in Env-Hw 403;

(21) Containers and inner liners from containers of hazardous waste, provided that the containers and inner liners are empty pursuant to (d), below;

(22) Petroleum-contaminated media and debris that:

\[ \text{a. Fail the test for the toxicity characteristic of EPA hazardous waste numbers D018 through D043 only, as set forth in Env-Hw 403.06;} \]

\[ \text{b. Are generated from releases of underground storage tanks subject to Env-Or 400; and} \]

\[ \text{c. Are managed in accordance with Env-Or 600;} \]
(23) Manufactured gas plant contaminated media and debris that:
   a. Fail the test for the toxicity characteristic of EPA hazardous waste number D018 only, as set forth in Env-Hw 403.06; and
   b. Are treated in an incinerator or a thermal desorption unit that is authorized under the destination state’s rules;

(24) Wood ash from the burning of wood products that is only hazardous due to the corrosivity characteristic as set forth in Env-Hw 403.04(b)(3);

(25) Nitroglycerine, listed as P081, provided that it:
   a. Was to be used for medicinal purposes; and
   b. Does not exhibit a hazardous waste characteristic as set forth in Env-Hw 403;

(26) Used oil di-electric fluid containing PCBs in concentrations of 50 parts per million or greater, provided that the used oil di-electric fluid:
   a. Would only have been identified because it is listed as NH01 or because it fails the test for the toxicity characteristic of EPA hazardous waste numbers D018 through D043 specified in Env-Hw 403.06; and
   b. Is managed in compliance with all applicable requirements of 40 CFR Part 761;

(27) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products;

(28) Solvent-contaminated wipes, that are sent for disposal, provided:
   a. The solvent-contaminated wipes are not hazardous waste due to the presence of trichloroethylene;
   b. The generator maintains at its site the following documentation:
      1. The name and address of the disposal facility that is receiving the solvent-contaminated wipes;
      2. Documentation of compliance with (g)(2), below; and
      3. A written description of the process the generator uses to ensure that solvent-contaminated wipes contain no free liquids, when being transported for disposal;
   c. The generator sends the solvent-contaminated wipes for disposal to an authorized out-of-state facility where the exclusion at 40 CFR 261.4(b)(18) has been adopted or to one of the following facilities in New Hampshire:
      1. A municipal waste combustor or other combustion facility that is regulated under section 129 of the Clean Air Act;
      2. A hazardous waste combustor, boiler, or industrial furnace that is regulated under Env-Hw 707, Env-Hw 708 or 40 CFR part 266 subpart H; or
      3. A hazardous waste landfill that is regulated under Env-Hw 707 or Env-Hw 708; and
   d. The requirements of (g), below, are met;
(29) Wipes contaminated with used oil, provided the used oil was not previously mixed with and does not otherwise contain any other hazardous wastes listed in Env-Hw 402, and provided the wipes do not exhibit any hazardous waste characteristic specified in Env-Hw 403;

(30) Waste derived from burning any of the materials exempt from regulation under (b)(38), below, even though it is generated from the treatment, storage, or disposal of a hazardous waste, provided it does not exhibit any hazardous waste characteristic specified in Env-Hw 403;

(31) Subject to (h), below, non-wastewater residues, such as slag, resulting from high temperature metals recovery (HTMR) processing of K061, K062, or F006 waste, provided the conditions of 40 CFR 261.3(c)(2)(ii)(C)(1) and (2) are met, even though the residues are generated from the treatment, storage, or disposal of a hazardous waste, provided the residues do not exhibit any hazardous waste characteristic specified in Env-Hw 403;

(32) Biological treatment sludge from the treatment of any of the following wastes listed in Env-Hw 402.07, provided the sludge does not exhibit any hazardous waste characteristic specified in Env-Hw 403:

   a. Organic waste, including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates, from the production of carbamates and carbamoyl oximes, listed as K156; or

   b. Wastewaters from the production of carbamates and carbamoyl oximes, listed as K157;

(33) Catalyst inert support media separated from one of the following wastes listed in Env-Hw 402.07, provided they do not exhibit any hazardous waste characteristic specified in Env-Hw 403:

   a. Spent hydrotreating catalyst, listed as K171; or

   b. Spent hydrorefining catalyst, listed as K172;

(34) The following materials, provided they do not exhibit any hazardous waste characteristic specified in Env-Hw 403:

   a. Subject to (h), below, hazardous debris as defined in 40 CFR 268, 71-16 edition, that has been treated using one of the required extraction or destruction technologies specified in Table 1 of 40 CFR 268.45, 71-16 edition; and

   b. Debris as defined in 40 CFR 268, 71-16 edition, that is not regulated under Env-Hw 401.01(b)(2);

(35) Subject to (i), below, leachate or gas condensate collected from landfills where certain solid wastes have been disposed, provided that:

   a. The solid wastes disposed would meet one or more of the listing descriptions for EPA hazardous waste numbers K169, K170, K171, K172, K174, K175, K176, K177, K178, and K181 if the wastes had been generated after the effective date of the listing;

   b. The solid wastes described in a., above, were disposed prior to the effective date of the listing;

   c. The leachate or gas condensate does not exhibit any hazardous waste characteristic specified in Env-Hw 403 and is not derived from any other listed hazardous waste in Env-Hw 402; and
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Text deleted from existing rules shown **struck through**

Text that is all new (introduced with **Adopt** in plain font

Explanatory comments in **bracketed blue italics**

d. Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is in compliance with §307(b) or §402 of the Clean Water Act;

(36) Industrial ethyl alcohol that is reclaimed, except that exports and imports of such recyclable materials shall comply with the requirements of 40 CFR 262 Subpart H;

(37) Scrap metal being recycled that is not otherwise exempt under (a)(9), above;

(38) Fuels produced from the refining of oil-bearing hazardous wastes along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, or transportation practices;

(39) Coke and coal tar from the iron and steel industry that contains EPA hazardous waste number K087 from the iron and steel production process; and

(40) Mercury-containing dental amalgam waste generated by small quantity generators, provided the waste is being recycled and the generator meets the requirements of Env-Wq 306.

(c) The exemption at (b)(7), above, shall not include spent potliners from primary aluminum reduction, which shall be regulated as K088 hazardous wastes.

(d) For the purposes of (b)(21), above, containers and inner liners shall be deemed empty under the following conditions:

(1) For those containers or inner liners that have held hazardous waste other than compressed gas, acutely hazardous waste identified in Env-Hw 402.04 or Env-Hw 402.06, or hazardous waste pharmaceuticals, when all wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container, such as pouring, pumping, or aspirating, and:

a. No more than one inch of residue remains on the bottom of the container or inner liner; or

b. The amount or residue remaining in the container or inner liner is:

1. No more than 3 percent by weight of the total capacity of the container if the container is less than or equal to 119 gallons in size; or

2. No more than 0.3 percent by weight of the total capacity of the container if the container is greater than 119 gallons in size;

(2) For those containers that have held a hazardous waste that is a compressed gas, when the pressure in the container approaches atmospheric pressure; and

(3) For those containers or inner liners that have held acutely hazardous waste, when:

a. The container or inner liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate;

b. The container or inner liner has been cleansed by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal; or

c. In the case of a container, the inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container has been removed; and
(4) For those containers that have held hazardous waste pharmaceuticals, when the criteria in 40 CFR 266.507, as amended by Env-Hw 1302.02(h), have been met.

(e) Residues removed from empty containers shall be subject to regulation under the hazardous waste rules as set forth in Env-Hw 404.04.

(f) The following listed hazardous wastes shall be exempt from regulation under the hazardous waste rules, except that wastes exempt under this paragraph are subject to the land disposal restrictions of Env-Hw 1200, as applicable, even if the wastes no longer exhibit a characteristic at the point of land disposal:

1. A hazardous waste that is listed in Env-Hw 402.04(b), Env-Hw 402.05(b), Env-Hw 402.06(a) or Env-Hw 402.07(a) solely because it exhibits one or more characteristics of ignitability, corrosivity, or reactivity as specified in Env-Hw 403.03 through 403.05, respectively, if the waste no longer exhibits any characteristic of hazardous waste specified in Env-Hw 403;

2. A waste or material mixed with any hazardous waste that is listed in Env-Hw 402.04(b), Env-Hw 402.05(b), Env-Hw 402.06(a) or Env-Hw 402.07(a) solely because it exhibits one or more characteristics of ignitability, corrosivity, or reactivity, as regulated under Env-Hw 401.01(b)(2), if the mixture no longer exhibits any characteristic of hazardous waste identified in Env-Hw 403;

3. Any waste generated from treating, storing, or disposing of a hazardous waste that is listed in Env-Hw 402.04(b), Env-Hw 402.05(b), Env-Hw 402.06(a) or Env-Hw 402.07(a) solely because it exhibits one or more characteristics of ignitability, corrosivity, or reactivity, as regulated under Env-Hw 401.01(c)(2) and Env-Hw 404.03, if the waste no longer exhibits any characteristic of hazardous waste specified in Env-Hw 403; and

4. Any mixture of a waste exempt from regulation under Env-Hw 401.03(b)(7) and a hazardous waste listed in Env-Hw 402.04(b), Env-Hw 402.05(b), Env-Hw 402.06(a) or Env-Hw 402.07(a) solely because it exhibits one or more characteristics of ignitability, corrosivity or reactivity, as regulated under Env-Hw 401.01(b)(2), if the mixture no longer exhibits any characteristic of hazardous waste specified in Env-Hw 403 for which the hazardous waste was listed in Env-Hw 402.04(b), Env-Hw 402.05(b), Env-Hw 402.06(a) or Env-Hw 402.07(a).

(g) For the purposes of (a)(11) and (b)(28), above, solvent-contaminated wipes shall be exempt from regulation under the hazardous waste rules, from the point of generation, provided that:

1. Solvent-contaminated wipes and any containers in which they are stored contain only those solvents that were absorbed during use of such wipes in a cleaning or degreasing process;

2. No more than 180 days after the date on which a generator begins to accumulate solvent-contaminated wipes in any container, all solvent-contaminated wipes in that container are removed and sent for cleaning or disposal;

3. Solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers;

4. Any container in which solvent-contaminated wipes are accumulated, stored, or transported is able to contain free liquids;
(5) Containers in which solvent-contaminated wipes are accumulated or stored are closed at all times except when it is necessary to add or remove solvent-contaminated wipes;

(6) Containers in which solvent-contaminated wipes are accumulated, stored, or transported are clearly labeled or marked with the words “Excluded Solvent-Contaminated Wipes”;

(7) When the container is full, or when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container is sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;

(8) At the point of being sent for cleaning on site or of being transported off site for cleaning or disposal, the solvent-contaminated wipes contain no free liquids; and

(9) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes are managed in accordance with the hazardous waste rules.

(h) A person claiming the exemption in (b)(31) or (b)(34)a., above, shall document the claim in accordance with (j), below, and prove, by clear and convincing evidence, that the material meets all of the exemption requirements.

(i) With regard to the exemption in (b)(35), above, leachate or gas condensate shall not be exempt if it is stored or managed in a surface impoundment prior to discharge, except as provided in 40 CFR 261.4(b)(15)(v).

(j) A person who claims that a certain material is not a hazardous waste or is exempt from regulation under the hazardous waste rules, including Env-Hw 803.05, shall provide, upon request, the documentation specified in 40 CFR 261.2(f).

(k) Subject to (l), below, airbag waste at an airbag waste handler or during transport to an airbag waste collection facility or designated facility shall be exempt from regulation under the hazardous waste rules provided that:

(1) The airbag waste is accumulated in a quantity of no more than 250 airbag modules or airbag inflators, for no longer than 180 days;

(2) The airbag waste is packaged in a container designed to address the risk posed by the airbag waste and labeled “Airbag Waste – Do Not Reuse”;

(3) The airbag waste is sent directly to either:
   a. An airbag waste collection facility in the United States under the control of:
      1. A vehicle manufacturer or its authorized representative; or
      2. An authorized party administering a remedy program in response to a recall under the National Highway Traffic Safety Administration; or
   b. A designated facility;

(4) The transport of the airbag waste complies with all applicable US DOT regulations in 49 CFR Parts 171 through 180 during transit; and

(5) The airbag waste handler maintains at the handler facility, for no less than 3 years, records of all off-site shipments of airbag waste and all confirmations of receipt from the receiving facility.
(l) For the purposes of (k), above:

(1) The recordkeeping requirements of (k)(5) shall be as follows:

a. Records of off-site shipments shall contain at a minimum for each shipment:
   1. The name of the transporter;
   2. The date of the shipment;
   3. The name and address of the receiving facility; and
   4. The quantities of airbag modules and airbag inflators, as applicable, in the shipment;

b. Confirmations of receipt shall include:
   1. The name and address of the receiving facility;
   2. The quantities of airbag modules and airbag inflators, as applicable, received; and
   3. The date of receipt; and

c. Shipping records and confirmations of receipt shall be made available for inspection upon request and may be satisfied by routine business records, including but not limited to:
   1. Electronic or paper financial records;
   2. Bills of lading;
   3. Copies of US DOT shipping papers; or
   4. Electronic confirmations of receipt;

(2) Upon arrival at an airbag waste collection facility or designated facility:

a. Airbag waste shall be subject to all applicable hazardous waste rules; and

b. The facility receiving airbag waste shall be considered the hazardous waste generator for the purposes of the hazardous waste rules and shall comply with the requirements of Env-Hw 500; and

(3) Reuse in vehicles of defective airbag modules or defective airbag inflators subject to a recall under the National Highway Traffic Safety Administration shall be prohibited.

Readopt with amendments Env-Hw 402.03, eff. 8-14-17 (doc. #12346), to read as follows:

Env-Hw 402.03 Lists of Hazardous Wastes.

(a) The materials or items specified in Env-Hw 402 shall be considered hazardous wastes:

(1) When they are discarded or intended to be discarded as defined in Env-Hw 103;

(2) When they are mixed with discarded oil or used oil or other material and applied to the land for dust suppression or road treatment;

(3) When they are otherwise applied to the land in lieu of their original intended use or when they are contained in products that are applied to the land in lieu of their original intended use; or
(4) When, in lieu of their original intended use, they are produced for use as a fuel, or as a component of a fuel, distributed for use as a fuel, or burned as a fuel.

(b) For the purposes of dust suppression and road treatment, “discarded oil” means virgin oil that has been discarded prior to being used.

(c) For the purposes of the lists of hazardous waste in Env-Hw 402.04 and Env-Hw 402.05, the phrase “commercial chemical product or manufacturing chemical intermediate, having the generic name listed in . . .’’ shall refer to a chemical substance that is manufactured or formulated for commercial or manufacturing use that consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient. The phrase shall not refer to a material, such as a manufacturing process waste, that contains any of the substances listed in Env-Hw 402.04 or Env-Hw 402.05.

(d) When a material, such as a manufacturing process waste, is deemed to be a hazardous waste because it contains a substance listed in either Env-Hw 402.06 or Env-Hw 402.07 or shall be identified as a hazardous waste by the characteristics set forth in Env-Hw 403.

Readopt with amendments Env-Hw 402.04, eff. 8-14-17 (doc. #12346), as amended eff. 11-23-19 (doc. #12922), to read as follows:

Env-Hw 402.04 Acutely Hazardous Wastes.

(a) The following materials, when waste, shall be considered acutely hazardous waste:

(1) Any commercial chemical product or manufacturing chemical intermediate, having the generic name listed in (b) or (d), below, or any off-specification chemical product or intermediate that, if it met specifications, would have the generic name listed in (b) or (d), below;

(2) Any residue remaining in a container or in an inner liner removed from a container that has held any material having the generic name listed in (b) and (d), below, unless the container is empty as defined in Env-Hw 401.03(d); or

(3) Any material listed in Env-Hw 402.06 that is identified with the symbol "H".

(b) EPA-listed acutely hazardous wastes shall be as listed in Table 4.1, below, subject to the note in (c), below:

Table 4.1 EPA Acutely Hazardous Wastes

<table>
<thead>
<tr>
<th>EPA Hazardous Waste Number</th>
<th>Chemical Abstracts Number</th>
<th>Hazardous Waste</th>
</tr>
</thead>
<tbody>
<tr>
<td>P023</td>
<td>107-20-0</td>
<td>Acetaldehyde, chloro-</td>
</tr>
<tr>
<td>P002</td>
<td>591-08-2</td>
<td>Acetamide,N-(aminothioxomethyl)-</td>
</tr>
<tr>
<td>P057</td>
<td>640-19-7</td>
<td>Acetamide, 2-fluoro-</td>
</tr>
<tr>
<td>P058</td>
<td>62-74-8</td>
<td>Acetic acid, fluoro-, sodium salt</td>
</tr>
<tr>
<td>P002</td>
<td>591-08-2</td>
<td>1-Acetyl-2-thiourea</td>
</tr>
<tr>
<td>P003</td>
<td>107-02-8</td>
<td>Acrolein</td>
</tr>
<tr>
<td>P070</td>
<td>116-06-3</td>
<td>Aldicarb</td>
</tr>
</tbody>
</table>
Explanatory comments in **bold italics**

Initial Proposal  02-17-22  15

Text added to existing rules in **bold italics**

Text deleted from existing rules shown **struck through**

Text that is all new (introduced with **Adopt** in plain font

Explanatory comments in **bracketed blue italics**

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<thead>
<tr>
<th>EPA Hazardous Waste Number</th>
<th>Chemical Abstracts Number</th>
<th>Hazardous Waste</th>
</tr>
</thead>
<tbody>
<tr>
<td>P003</td>
<td>1646-88-4</td>
<td>Aldicarb sulfone</td>
</tr>
<tr>
<td>P004</td>
<td>309-00-2</td>
<td>Aldrin</td>
</tr>
<tr>
<td>P005</td>
<td>107-18-6</td>
<td>Allyl alcohol</td>
</tr>
<tr>
<td>P006</td>
<td>20859-73-8</td>
<td>Aluminum phosphide (R,T)</td>
</tr>
<tr>
<td>P007</td>
<td>2763-96-4</td>
<td>5-(Aminomethyl)-3-isoxazol</td>
</tr>
<tr>
<td>P008</td>
<td>504-24-5</td>
<td>4-Aminopyridine</td>
</tr>
<tr>
<td>P009</td>
<td>131-74-8</td>
<td>Ammonium picrate (R)</td>
</tr>
<tr>
<td>P119</td>
<td>7803-55-6</td>
<td>Ammonium vanadate</td>
</tr>
<tr>
<td>P099</td>
<td>506-61-6</td>
<td>Argentate(1-),bis(cyano-C)-,potassium</td>
</tr>
<tr>
<td>P100</td>
<td>7778-39-4</td>
<td>Arsenic acid H$_2$AsO$_4$</td>
</tr>
<tr>
<td>P102</td>
<td>1327-53-3</td>
<td>Arsenic oxide As$_2$O$_3$</td>
</tr>
<tr>
<td>P101</td>
<td>1303-28-2</td>
<td>Arsenic oxide As$_2$O$_5$</td>
</tr>
<tr>
<td>P103</td>
<td>1303-28-2</td>
<td>Arsenic pentoxide</td>
</tr>
<tr>
<td>P104</td>
<td>1327-53-3</td>
<td>Arsenic trioxide</td>
</tr>
</tbody>
</table>
| P038                       | 692-42-2                 | Arsenic, methyl-
| P036                       | 696-28-6                 | Arsenous dichloride, phenyl-
| P054                       | 151-56-4                 | Aziridine |
| P067                       | 75-55-8                  | Aziridine, 2-methyl-
| P013                       | 542-62-1                 | Barium cyanide |
| P024                       | 106-47-8                 | Benzenamine, 4-chloro-
| P077                       | 100-01-6                 | Benzenamine, 4-nitro-
| P028                       | 100-44-7                 | Benzene, (chloromethyl)-
| P042                       | 51-43-4                  | 1,2-Benzenediol, 4-[1-hydroxy-2-methylamino]ethyl]-, (R)-
| P046                       | 122-09-8                 | Benzeneethanamine, alpha,alpha-dimethyl |
| P014                       | 108-98-5                 | Benzenethiol |
| P127                       | 1563-66-2                | 7-Benzo-furanol, 2,3-dihydro-2,2-dimethyl-, methylcarbamate |
| P188                       | 57-64-7                  | Benzoic acid, 2-hydroxy-, compd. with (3aS-cis)-1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethylpyrrolo[2,3-b]indol-5-yl methylcarbamate ester (1:1) |
| P001                       | 81-81-2                  | 2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-, & salts, when present at concentrations greater than 0.3% |
| P028                       | 100-44-7                 | Benzyl chloride |
| P015                       | 7440-41-7                | Beryllium powder |
| P017                       | 598-31-2                 | Bromoacetone |
| P018                       | 357-57-3                 | Brucine |
| P045                       | 39196-18-4               | 2-Butanone, 3,3-dimethyl-1-(methylthio)-, O-[(methylamino) carbonyl]oxime |
| P021                       | 592-01-8                 | Calcium cyanide |
| P021                       | 592-01-8                 | Calcium cyanide Ca(CN)$_2$ |
| P189                       | 55285-14-8               | Carbamic acid, [(dibutylamino)-thio]methyl-, 2,3-dihydro-2,2-dimethyl-7-benzofuranyl ester |
| P191                       | 644-64-4                 | Carbamic acid, dimethyl-, 1-[(dimethyl-amino)carbonyl]-5-methyl-1H- pyrazol-3-yl ester |
| P192                       | 119-38-0                 | Carbamic acid, dimethyl-, 3-methyl-1- (1-methylene)-1H- pyrazol-5-yl ester |
Text added to existing rules in **bold italics**

Initial Proposal 02-17-22 16

Text deleted from existing rules shown **struck through**

Text that is all new (introduced with **Adopt** in plain font

Explanatory comments in (bracketed blue italics)

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<thead>
<tr>
<th>EPA Hazardous Waste Number</th>
<th>Chemical Abstracts Number</th>
<th>Hazardous Waste</th>
</tr>
</thead>
<tbody>
<tr>
<td>P190</td>
<td>1129-41-5</td>
<td>Carboxylic acid, methyl-, 3-methylphenyl ester</td>
</tr>
<tr>
<td>P127</td>
<td>1563-66-2</td>
<td>Carbofuran</td>
</tr>
<tr>
<td>P022</td>
<td>75-15-0</td>
<td>Carbon disulfide</td>
</tr>
<tr>
<td>P095</td>
<td>75-44-5</td>
<td>Carbolic dichloride</td>
</tr>
<tr>
<td>P189</td>
<td>55285-14-8</td>
<td>Carboxosulfan</td>
</tr>
<tr>
<td>P023</td>
<td>107-20-0</td>
<td>Chloroacetaldehyde</td>
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<tr>
<td>P024</td>
<td>106-47-8</td>
<td>p-Chloroaniline</td>
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<td>P026</td>
<td>534-82-1</td>
<td>1-(o-Chlorophenyl) thiourea</td>
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<tr>
<td>P027</td>
<td>542-76-7</td>
<td>3-Chloropropionitrile</td>
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<tr>
<td>P029</td>
<td>544-92-3</td>
<td>Copper cyanide</td>
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<tr>
<td>P029</td>
<td>544-92-3</td>
<td>Copper cyanide Cu(CN)</td>
</tr>
<tr>
<td>P022</td>
<td>64-00-6</td>
<td>m-Cumenyl methylcarbamate</td>
</tr>
<tr>
<td>P030</td>
<td>------</td>
<td>Cyanides (soluble cyanide salts), not otherwise specified</td>
</tr>
<tr>
<td>P031</td>
<td>460-19-5</td>
<td>Cyanogen</td>
</tr>
<tr>
<td>P033</td>
<td>506-77-4</td>
<td>Cyanogen chloride</td>
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<tr>
<td>P033</td>
<td>506-77-4</td>
<td>Cyanogen chloride (CN)Cl</td>
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<td>P034</td>
<td>131-89-5</td>
<td>2-Cyclohexyl-4,6- dinitrophenol</td>
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<td>P016</td>
<td>542-88-1</td>
<td>Dichloromethyl ether</td>
</tr>
<tr>
<td>P036</td>
<td>696-28-6</td>
<td>Dichlorophenylarsine</td>
</tr>
<tr>
<td>P037</td>
<td>60-57-1</td>
<td>Dieldrin</td>
</tr>
<tr>
<td>P038</td>
<td>692-42-2</td>
<td>Diethylarsine</td>
</tr>
<tr>
<td>P041</td>
<td>311-45-5</td>
<td>Diethyl-p-nitrophenyl phosphate</td>
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<tr>
<td>P040</td>
<td>297-97-2</td>
<td>O, O-Diethyl O-pyrazinyl phosphorothioate</td>
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<td>P043</td>
<td>55-91-4</td>
<td>Diisopropylfluorophosphate (DFP)</td>
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<tr>
<td>P004</td>
<td>309-00-2</td>
<td>1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1, 4,4a,5,8,8 a, hexahydro-(1alpha,4alpha,4beta,5 alpha,8alpha,8beta)-</td>
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<tr>
<td>P060</td>
<td>465-73-6</td>
<td>1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a, hexahydro-(1alpha,4alpha,4beta,5beta,8beta,8beta)-</td>
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<td>P037</td>
<td>60-57-1</td>
<td>2,7,3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2a,3,6,6a, 7,7a-octahydro-(1alpha,2beta,2alpha,3beta,6beta,6alpha,7alpha,7beta)-</td>
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<tr>
<td>P051</td>
<td>172-20-8</td>
<td>2,7,3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2a,3,6,6a, 7,7a-octahydro-(1alpha,2beta,2alpha,3alpha,6alpha,6alpha,7alpha,7beta,7alpha)- &amp; metabolites</td>
</tr>
<tr>
<td>P044</td>
<td>60-51-5</td>
<td>Dimethoate</td>
</tr>
<tr>
<td>P046</td>
<td>122-09-8</td>
<td>alpha,alpha-Dimethylphenethylamine</td>
</tr>
<tr>
<td>P191</td>
<td>644-64-4</td>
<td>Dimetilan</td>
</tr>
<tr>
<td>P047</td>
<td>534-52-1</td>
<td>4,6-Dinitro-o-cresol, &amp; salts</td>
</tr>
<tr>
<td>P048</td>
<td>51-28-5</td>
<td>2,4-Dinitrophenol</td>
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<tr>
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<td>88-85-7</td>
<td>Dinoeb</td>
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<tr>
<td>P085</td>
<td>152-16-9</td>
<td>Diphosphoramid, octamethyl-</td>
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<tr>
<td>P111</td>
<td>107-49-3</td>
<td>Diphosphoric acid, tetraethyl ester</td>
</tr>
</tbody>
</table>
Text added to existing rules in **bold italics** initial proposal.

Text deleted from existing rules shown **struck through**.

Text that is all new (introduced with **adopt**) in plain font.

Explanatory comments in **bracketed blue italics**.

<table>
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<tr>
<th>EPA Hazardous Waste Number</th>
<th>Chemical Abstracts Number</th>
<th>Hazardous Waste</th>
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<tbody>
<tr>
<td>P039</td>
<td>298-04-4</td>
<td>Disulfoton</td>
</tr>
<tr>
<td>P049</td>
<td>541-53-7</td>
<td>Dithiobutyl ether</td>
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<tr>
<td>P185</td>
<td>26419-73-8</td>
<td>1,3-Dithiolane-2-carboxaldehyde, 2,4-dimethyl-, O-[(methylamino)carbonyl]oxime</td>
</tr>
<tr>
<td>P050</td>
<td>115-29-7</td>
<td>Endosulfan</td>
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<tr>
<td>P088</td>
<td>145-73-3</td>
<td>Endothall</td>
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<tr>
<td>P051</td>
<td>72-20-8</td>
<td>Endrin</td>
</tr>
<tr>
<td>P051</td>
<td>72-20-8</td>
<td>Endrin, &amp; metabolites</td>
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<td>P042</td>
<td>51-43-4</td>
<td>Epinephrine</td>
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<td>P031</td>
<td>460-19-5</td>
<td>Ethanedinitrile</td>
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<td>P194</td>
<td>23135-22-0</td>
<td>Ethanimidithioic acid, 2-(dimethylamino)-N-[[((methylamino)carbonyl)oxy]-2-oxo-, methyl ester</td>
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<td>P066</td>
<td>16752-77-5</td>
<td>Ethanimidithioic acid, N-[[((methylamino)carbonyl)oxy]-, methyl ester</td>
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<td>107-12-0</td>
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<td>Ethyleneimine</td>
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<td>Famphur</td>
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<td>Fluorine</td>
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<td>P057</td>
<td>640-19-7</td>
<td>Fluoroacetamide</td>
</tr>
<tr>
<td>P058</td>
<td>62-74-8</td>
<td>Fluoroacetic acid, sodium salt</td>
</tr>
<tr>
<td>P198</td>
<td>23422-53-9</td>
<td>Formetanate hydrochloride</td>
</tr>
<tr>
<td>P197</td>
<td>17702-57-7</td>
<td>Formparanate</td>
</tr>
<tr>
<td>P065</td>
<td>628-86-4</td>
<td>Fulminic acid, mercury(2+) salt (R,T)</td>
</tr>
<tr>
<td>P059</td>
<td>76-44-8</td>
<td>Heptachlor</td>
</tr>
<tr>
<td>P062</td>
<td>757-58-4</td>
<td>Hexaethyl tetraphosphate</td>
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<td>P116</td>
<td>79-19-6</td>
<td>Hydrazinecarbothioamide</td>
</tr>
<tr>
<td>P068</td>
<td>60-34-4</td>
<td>Hydrazine, methyl-</td>
</tr>
<tr>
<td>P063</td>
<td>74-90-8</td>
<td>Hydrocyanic acid</td>
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<tr>
<td>P063</td>
<td>74-90-8</td>
<td>Hydrogen cyanide</td>
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<td>119-38-0</td>
<td>Isolan</td>
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<td>3-Isopropylphenyl N-methylcarbamate</td>
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<td>P007</td>
<td>2763-96-4</td>
<td>3(2H)-Isoxazolone, 5-(aminomethyl)-</td>
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<td>P196</td>
<td>15339-36-3</td>
<td>Manganese, bis(dimethylcarbamidithioato-S,S')-</td>
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<tr>
<td>P196</td>
<td>15339-36-3</td>
<td>Manganese dimethylmethiocarbamidate</td>
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<tr>
<td>P092</td>
<td>62-38-4</td>
<td>Mercury, (acetato-O)phenyl-</td>
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<td>P065</td>
<td>628-86-4</td>
<td>Mercury fulminate (R,T)</td>
</tr>
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<td>P082</td>
<td>62-75-9</td>
<td>Methanamine, N-methyl-N-nitroso-</td>
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<td>P064</td>
<td>624-83-9</td>
<td>Methane, isocyanoato-</td>
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<tr>
<td>P016</td>
<td>542-88-1</td>
<td>Methane, oxybis[chloro-</td>
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<td>509-14-8</td>
<td>Methane, tetranitro- (R)</td>
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<td>P118</td>
<td>75-70-7</td>
<td>Methanethiol, trichloro-</td>
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<td>P198</td>
<td>23422-53-9</td>
<td>Methanimidamide, N,N-dimethyl-N'-[3-[[((methylamino)carbonyl)oxy]phenyl]-, monohydrochloride</td>
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<td>P197</td>
<td>17702-57-7</td>
<td>Methanimidamide, N,N-dimethyl-N'-[2-methyl-4-[(methylamino)carbonyl]oxy]phenyl]-</td>
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<tr>
<td>P050</td>
<td>115-29-7</td>
<td>6,9-Methano-2,4,3-benzodioxathiepin, 6,7,8,9,10,10-hexachloro-1,5,5a,6, 9,9a-hexahydro-5, 3-oxide</td>
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<tr>
<td>P059</td>
<td>76-44-8</td>
<td>4,7-Methano-1H-indene, 1,4,5,6,7,8,8- heptachloro-3a,4,7,7a-tetrahydro-</td>
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<tr>
<td>P199</td>
<td>2032-65-7</td>
<td>Methiocarb</td>
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<tr>
<td>P066</td>
<td>16752-77-5</td>
<td>Methomyl</td>
</tr>
<tr>
<td>P068</td>
<td>60-34-4</td>
<td>Methyl hydrazine</td>
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<tr>
<td>P064</td>
<td>824-83-9</td>
<td>Methyl isocyanate</td>
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<tr>
<td>P069</td>
<td>75-86-5</td>
<td>2-Methylactonitrile</td>
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<td>P071</td>
<td>298-00-0</td>
<td>Methyl parathion</td>
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<td>1129-41-5</td>
<td>Metolcarb</td>
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<td>315-18-4</td>
<td>Mexacarbate</td>
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<td>86-88-4</td>
<td>alpha Naphthylthiourea</td>
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<tr>
<td>P073</td>
<td>13463-39-3</td>
<td>Nickel carbonyl</td>
</tr>
<tr>
<td>P073</td>
<td>13463-39-3</td>
<td>Nickel carbonyl Ni(CO)₄, (T-4)-</td>
</tr>
<tr>
<td>P074</td>
<td>557-19-7</td>
<td>Nickel cyanide</td>
</tr>
<tr>
<td>P074</td>
<td>557-19-7</td>
<td>Nickel cyanide Ni(CN)₂</td>
</tr>
<tr>
<td>P075</td>
<td>154-11-5</td>
<td>Nicotine &amp; salts (This listing does not include patches, gums, and lozenges that are FDA-approved over-the-counter nicotine replacement therapies.)</td>
</tr>
<tr>
<td>P075</td>
<td>154-11-5</td>
<td>Pyridine, 3-(1-methyl-3pyrrolidinyl)-, (S)-, &amp; salts (This listing does not include patches, gums, and lozenges that are FDA-approved over-the-counter nicotine replacement therapies.)</td>
</tr>
<tr>
<td>P076</td>
<td>10102-43-9</td>
<td>Nitric oxide</td>
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<tr>
<td>P077</td>
<td>100-01-6</td>
<td>p-Nitroaniline</td>
</tr>
<tr>
<td>P078</td>
<td>10102-44-0</td>
<td>Nitrogen dioxide</td>
</tr>
<tr>
<td>P076</td>
<td>10102-43-9</td>
<td>Nitrogen oxide N0</td>
</tr>
<tr>
<td>P078</td>
<td>10102-44-0</td>
<td>Nitrogen oxide N0;</td>
</tr>
<tr>
<td>P081</td>
<td>55-63-0</td>
<td>Nitroglycerine (R)</td>
</tr>
<tr>
<td>P082</td>
<td>62-75-9</td>
<td>N-Nitrosodimethyamine</td>
</tr>
<tr>
<td>P084</td>
<td>4549-40-0</td>
<td>N-Nitrosomethylvinylamine</td>
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<td>152-16-9</td>
<td>Octamethylpyrophosphoramide</td>
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<td>P087</td>
<td>20816-12-0</td>
<td>Osmium oxide OsO₄, (T-4)-</td>
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<tr>
<td>P087</td>
<td>20816-12-0</td>
<td>Osmium tetroxide</td>
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<td>P088</td>
<td>145-73-3</td>
<td>7-Oxabicyclo[2.2.1]heptane-2,3- dicarboxylic acid</td>
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<tr>
<td>P194</td>
<td>23135-22-0</td>
<td>Oxamyl</td>
</tr>
<tr>
<td>P089</td>
<td>56-38-2</td>
<td>Parathion</td>
</tr>
<tr>
<td>P034</td>
<td>131-89-5</td>
<td>Phenol, 2-cyclohexyl-4,6-dinitro-</td>
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<tr>
<td>P048</td>
<td>51-28-5</td>
<td>Phenol, 2,4-dinitro-</td>
</tr>
<tr>
<td>P047</td>
<td>534-52-1</td>
<td>Phenol, 2-methyl-4,6-dinitro-, &amp; salts</td>
</tr>
<tr>
<td>P020</td>
<td>88-85-7</td>
<td>Phenol, 2-(1-methylpropyl)-4,6-dinitro-</td>
</tr>
<tr>
<td>P009</td>
<td>131-74-8</td>
<td>Phenol, 2,4,6-trinitro-, ammonium salt (R)</td>
</tr>
<tr>
<td>P128</td>
<td>315-18-4</td>
<td>Phenol, 4-(dimethylamino)-3,5-dimethyl-, methylcarbamate (ester)</td>
</tr>
<tr>
<td>P199</td>
<td>2032-65-7</td>
<td>Phenol, (3,5-dimethyl-4-(methylthio)-, methylcarbamate</td>
</tr>
</tbody>
</table>

Text added to existing rules in **bold italics**

Text deleted from existing rules shown in **struck through**

Text that is all new (introduced with **Adopt**) in plain font

Explanatory comments in *bracketed blue italics*
### Text added to existing rules in **bold italics**
### Initial Proposal

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Explanatory comments in **bracketed blue italics**

<table>
<thead>
<tr>
<th>EPA Hazardous Waste Number</th>
<th>Chemical Abstracts Number</th>
<th>Hazardous Waste</th>
</tr>
</thead>
<tbody>
<tr>
<td>P202</td>
<td>64-00-6</td>
<td>Phenol, 3-(1-methylethyl)-, methyl carbamate</td>
</tr>
<tr>
<td>P201</td>
<td>2631-37-0</td>
<td>Phenol, 3-methyl-5-(1-methylethyl)-, methyl carbamate</td>
</tr>
<tr>
<td>P092</td>
<td>62-38-4</td>
<td>Phenylmercury acetate</td>
</tr>
<tr>
<td>P093</td>
<td>103-85-5</td>
<td>Phenylthiourea</td>
</tr>
<tr>
<td>P094</td>
<td>298-02-2</td>
<td>Phorate</td>
</tr>
<tr>
<td>P095</td>
<td>75-44-5</td>
<td>Phosgene</td>
</tr>
<tr>
<td>P096</td>
<td>7803-51-2</td>
<td>Phosphine</td>
</tr>
<tr>
<td>P041</td>
<td>311-45-5</td>
<td>Phosphoric acid, diethyl 4-nitrophenyl ester</td>
</tr>
<tr>
<td>P039</td>
<td>298-04-4</td>
<td>Phosphorodithioic acid, O,O-diethyl S-[2-(ethylthio)ethyl] ester</td>
</tr>
<tr>
<td>P094</td>
<td>298-02-2</td>
<td>Phosphorodithioic acid, O,O-diethyl S-[ethylthio]methyl] ester</td>
</tr>
<tr>
<td>P044</td>
<td>60-51-5</td>
<td>Phosphorodithioic acid, O,O-dimethyl-[2-methylamino]-2-oxoethyl ester</td>
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<tr>
<td>P043</td>
<td>55-91-4</td>
<td>Phosphorofluoridic acid, bis(1-methylethyl) ester</td>
</tr>
<tr>
<td>P089</td>
<td>56-38-2</td>
<td>Phosphorothioic acid, O,O-diethyl O-(4-nitrophenyl) ester</td>
</tr>
<tr>
<td>P040</td>
<td>297-97-2</td>
<td>Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester</td>
</tr>
<tr>
<td>P097</td>
<td>52-85-7</td>
<td>Phosphorothioic acid, O-[4-[(dimethylamino)sulfonyl]phenyl] O,O-dimethyl ester</td>
</tr>
<tr>
<td>P071</td>
<td>298-00-0</td>
<td>Phosphorothioic acid, O,O-dimethyl O-(4-nitrophenyl) ester</td>
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<tr>
<td>P204</td>
<td>57-47-6</td>
<td>Physostigmine</td>
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<tr>
<td>P188</td>
<td>57-64-7</td>
<td>Physostigmine salicylate</td>
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<tr>
<td>P110</td>
<td>78-00-2</td>
<td>Plumbane, tetraethyl-</td>
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<td>P098</td>
<td>151-50-8</td>
<td>Potassium cyanide</td>
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<td>151-50-8</td>
<td>Potassium cyanide K(CN)</td>
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<td>P099</td>
<td>506-61-6</td>
<td>Potassium silver cyanide</td>
</tr>
<tr>
<td>P201</td>
<td>2631-37-0</td>
<td>Promecarb</td>
</tr>
<tr>
<td>P070</td>
<td>116-06-3</td>
<td>Propanal, 2-methyl-2(methylthio)-, O-[(methylamino)carbonyl]oxime</td>
</tr>
<tr>
<td>P203</td>
<td>1646-88-4</td>
<td>Propanal, 2-methyl-2-(methyl-sulfonyl)-, O-[(methylamino)carbonyl] oxime</td>
</tr>
<tr>
<td>P101</td>
<td>107-12-0</td>
<td>Propanenitrile</td>
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<tr>
<td>P027</td>
<td>542-76-7</td>
<td>Propanenitrile, 3-chloro-</td>
</tr>
<tr>
<td>P069</td>
<td>75-86-5</td>
<td>Propanenitrile, 2-hydroxy-2-methyl-</td>
</tr>
<tr>
<td>P081</td>
<td>55-63-0</td>
<td>1,2,3-Propanetriol, trinitrate (R)</td>
</tr>
<tr>
<td>P017</td>
<td>598-31-2</td>
<td>2-Propanone, 1-bromo-</td>
</tr>
<tr>
<td>P102</td>
<td>107-19-7</td>
<td>Propargyl alcohol</td>
</tr>
<tr>
<td>P003</td>
<td>107-02-8</td>
<td>2-Propenal</td>
</tr>
<tr>
<td>P005</td>
<td>107-18-6</td>
<td>2-Propen-1-ol</td>
</tr>
<tr>
<td>P067</td>
<td>75-55-8</td>
<td>1,2-Propyleneimine</td>
</tr>
<tr>
<td>P102</td>
<td>107-19-7</td>
<td>2-Propyn-1-ol</td>
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<tr>
<td>P008</td>
<td>504-24-5</td>
<td>4-Pyridinamine</td>
</tr>
<tr>
<td>P075</td>
<td>154-11-5</td>
<td>Pyridine, 3-(1-methyl-3pyrrolidinyl)-, (S)-, &amp; salts</td>
</tr>
<tr>
<td>P204</td>
<td>57-47-6</td>
<td>Pyrrolo[2,3-b]indol-5-ol, 1,2,3,3a,8,8a-hexahydro-1,3a,8- trimethyl-, methylcarbamate (ester), (3aS-cis)-</td>
</tr>
<tr>
<td>P114</td>
<td>12039-52-0</td>
<td>Selenious acid, dithallium(1+) salt</td>
</tr>
<tr>
<td>P103</td>
<td>630-10-4</td>
<td>Selenourea</td>
</tr>
<tr>
<td>P104</td>
<td>506-64-9</td>
<td>Silver cyanide</td>
</tr>
</tbody>
</table>
Text added to existing rules in **bold italics**

Initial Proposal 02-17-22

Text deleted from existing rules shown **struck through**

Text that is all new (introduced with **Adopt**) in plain font

Explanatory comments in **bracketed blue italics**

<table>
<thead>
<tr>
<th>EPA Hazardous Waste Number</th>
<th>Chemical Abstracts Number</th>
<th>Hazardous Waste</th>
</tr>
</thead>
<tbody>
<tr>
<td>P104</td>
<td>506-64-9</td>
<td>Silver cyanide Ag(CN)</td>
</tr>
<tr>
<td>P105</td>
<td>26628-22-8</td>
<td>Sodium azide</td>
</tr>
<tr>
<td>P106</td>
<td>143-33-9</td>
<td>Sodium cyanide</td>
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<tr>
<td>P106</td>
<td>143-33-9</td>
<td>Sodium cyanide Na(CN)</td>
</tr>
<tr>
<td>P108</td>
<td>57-24-9</td>
<td>Strychnidin-10-one, &amp; salts</td>
</tr>
<tr>
<td>P018</td>
<td>357-57-3</td>
<td>Strychnidin-10-one, 2,3-dimethoxy-</td>
</tr>
<tr>
<td>P108</td>
<td>57-24-9</td>
<td>Strychnine, &amp; salts</td>
</tr>
<tr>
<td>P115</td>
<td>7446-18-6</td>
<td>Sulfuric acid, dithallium(1+) salt</td>
</tr>
<tr>
<td>P109</td>
<td>3689-24-5</td>
<td>Tetraethylidithiopyrophosphate</td>
</tr>
<tr>
<td>P110</td>
<td>78-00-2</td>
<td>Tetraethyl lead</td>
</tr>
<tr>
<td>P111</td>
<td>107-49-3</td>
<td>Tetraethyl pyrophosphate</td>
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<tr>
<td>P112</td>
<td>509-14-8</td>
<td>Tetraniotromethane (R)</td>
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<td>P062</td>
<td>757-58-4</td>
<td>Tetraphosphoric acid, hexaethyl ester</td>
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<td>P113</td>
<td>1314-32-5</td>
<td>Thallic oxide</td>
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<tr>
<td>P113</td>
<td>1314-32-5</td>
<td>Thallium oxide Tl₂O₃</td>
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<tr>
<td>P114</td>
<td>12039-52-0</td>
<td>Thallium(1) selenite</td>
</tr>
<tr>
<td>P115</td>
<td>7446-18-6</td>
<td>Thallium(1) sulfate</td>
</tr>
<tr>
<td>P109</td>
<td>3689-24-5</td>
<td>Thiodiphosphoric acid, tetraethyl ester</td>
</tr>
<tr>
<td>P045</td>
<td>39196-18-4</td>
<td>Thiofanox</td>
</tr>
<tr>
<td>P049</td>
<td>541-53-7</td>
<td>Thioimidodicarbonic diamide [(H₂N)C(S)]₂NH</td>
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<tr>
<td>P014</td>
<td>108-98-5</td>
<td>Thiophenol</td>
</tr>
<tr>
<td>P116</td>
<td>79-19-6</td>
<td>Thiosemicarbazide</td>
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<tr>
<td>P026</td>
<td>5344-82-1</td>
<td>Thiourea, (2-chlorophenyl)-</td>
</tr>
<tr>
<td>P072</td>
<td>86-88-4</td>
<td>Thiourea, 1-naphthalenyl-</td>
</tr>
<tr>
<td>P093</td>
<td>103-85-5</td>
<td>Thiourea, phenyl-</td>
</tr>
<tr>
<td>P185</td>
<td>26419-73-8</td>
<td>Tirpate</td>
</tr>
<tr>
<td>P123</td>
<td>8001-35-2</td>
<td>Toxaphene</td>
</tr>
<tr>
<td>P118</td>
<td>75-70-7</td>
<td>Trichloromethanethiol</td>
</tr>
<tr>
<td>P119</td>
<td>7803-55-6</td>
<td>Vanadic acid, ammonium salt</td>
</tr>
<tr>
<td>P120</td>
<td>1314-62-1</td>
<td>Vanadium oxide V₂O₅</td>
</tr>
<tr>
<td>P120</td>
<td>1314-62-1</td>
<td>Vanadium pentoxide</td>
</tr>
<tr>
<td>P084</td>
<td>4549-40-0</td>
<td>Vinylamine, N-methyl-N-nitroso-</td>
</tr>
<tr>
<td>P001</td>
<td>81-81-2</td>
<td>Warfarin, &amp; salts, when present at concentrations greater than 0.3%</td>
</tr>
<tr>
<td>P205</td>
<td>137-30-4</td>
<td>Zinc, bis(dimethylcarbamidithioato-S,S')-</td>
</tr>
<tr>
<td>P121</td>
<td>557-21-1</td>
<td>Zinc cyanide</td>
</tr>
<tr>
<td>P121</td>
<td>557-21-1</td>
<td>Zinc cyanide Zn(CN)₂</td>
</tr>
<tr>
<td>P122</td>
<td>1314-84-7</td>
<td>Zinc phosphide Zn₂P₂, when present at concentrations greater than 10% (R,T)</td>
</tr>
<tr>
<td>P205</td>
<td>137-30-4</td>
<td>Ziram</td>
</tr>
</tbody>
</table>

(c) In Table 4.1, the superscript number "1" shall indicate that the chemical abstracts number is given for the parent compound only.

(d) New Hampshire-listed acutely hazardous wastes shall be as listed in Table 4.2 below:

**Table 4.2 New Hampshire Acutely Hazardous Wastes**

<table>
<thead>
<tr>
<th>NH Hazardous Waste Number</th>
<th>Hazardous Waste</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Adopt with amendments Env-Hw 403.05, eff. 8-14-17 (doc. #12346), to read as follows:

Env-Hw 403.05 Reactivity.

(a) A waste that exhibits the characteristic of reactivity shall be assigned the EPA hazardous waste number of D003.

(b) A waste shall be considered reactive if a representative sample has any of the following characteristics:

(1) It is unstable and readily undergoes violent change without detonation under standard conditions of temperature and pressure;

(2) It reacts violently with water or air;

(3) It forms potentially explosive mixtures with water or air;

(4) If mixed with water or exposed to air, it generates toxic gases, fumes, or vapors in a quantity sufficient to present a danger to human health or the environment;

(5) It is a cyanide- or sulfide-bearing waste that, when exposed to pH conditions between 2 and 12.5, can generate toxic gases, fumes, or vapors in a quantity sufficient to present a danger to human health or the environment;

(6) It is capable of detonation or explosive reaction if it is subjected to an initiating force, or if heated in confinement;

(7) It is capable of detonation or an explosive decomposition or reaction at standard temperature and pressure; or

(8) It is a forbidden explosive as defined by 49 CFR 173.54, or a division 1.1 explosive as defined by 49 CFR 173.50(b)(1), or a division 1.2 explosive as defined by 49 CFR 173.50(b)(2), or a division 1.3 explosive as defined by 49 CFR 173.50(b)(3) and 49 CFR 173.53.

Readopt with amendments Env-Hw 501.01, eff. 11-23-19 (doc. #12922), to read as follows:

Env-Hw 501.01 Applicability.

(a) Unless specifically exempted under Env-Hw 501.02, this chapter shall apply to any person who generates hazardous wastes, including:

(1) The owner or operator of any permitted facility that initiates a shipment of hazardous waste or waste residues;

(2) Any person who imports hazardous waste into the United States; and

(3) Any person who generates or accumulates any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any hazardous waste, as identified in Env-Hw 404.

(b) With respect to household hazardous waste collected or accumulated at a household hazardous waste collection project, as specified in Env-Hw 401.03(b)(2), or by curbside collection, the owner,
operator, or person so designated in a contractual agreement shall be the generator. Unacceptable wastes shall either be returned to the household that generated them or held by the operator until the generating household can make alternative disposal arrangements.

(c) Any person who exports or imports hazardous waste shall:

1. Notify the department as required in Env-Hw 504; and shall
2. Comply with Env-Hw 510.06.

(d) A healthcare facility shall determine the applicability of this chapter to the management of its hazardous waste pharmaceuticals by counting all of the hazardous waste it generates in a calendar month, including both its hazardous waste pharmaceuticals and its hazardous waste that is not pharmaceutical hazardous waste.

(e) Except as provided in Env-Hw 501.02(k) and (l), a healthcare facility that is a small quantity generator when counting all of its hazardous waste, including both its hazardous waste pharmaceuticals and its hazardous waste that is not pharmaceutical hazardous waste, may comply with the optional provisions of 40 CFR 266.504, as amended by Env-Hw 1302.02(e), and shall be subject to:

1. This chapter;
2. The sewer prohibition of 40 CFR 266.505, as amended by Env-Hw 1302.02(f); and
3. The empty container provisions of 40 CFR 266.507, as amended by Env-Hw 1302.02(h).

Readopt with amendments Env-Hw 501.02, eff. 8-14-17 (doc. #12347), as amended eff. 11-23-19 (doc. #12922), to read as follows:

Env-Hw 501.02 Exemptions.

(a) Farmers who dispose of hazardous waste pesticide residues from their own use shall be exempt from this chapter provided they triple rinse each emptied pesticide container in accordance with Env-Hw 401.03(d)(3) and dispose of the pesticide residues on their own farm in a manner consistent with the disposal instructions on the pesticide label.

(b) The packaging, manifest, and delivery requirements of Env-Hw 507.04(a), Env-Hw 510, and Env-Hw 511, respectively, shall not apply to government entities transporting household hazardous wastes to a household hazardous waste collection project, a permitted transfer facility, or a permitted treatment, storage or disposal facility, provided:

1. The government entity has obtained prior approval from the household hazardous waste collection project, transfer facility, or treatment, storage or disposal facility receiving the wastes;
2. The household hazardous wastes being managed have been separated by US DOT hazard class, as specified in 49 CFR 177.848 (b), (c), (d), and (e), prior to transport;
3. The household hazardous wastes being managed have been:
   a. Loose-packed or over-packed in containers meeting US DOT specifications for hazardous materials, as defined in 49 CFR 178; or
   b. Packaged in strong outside containers, as defined in 49 CFR 171.8, if the waste is in its original container and less than 8 gallons;
(4) The containers or strong outside containers required by (3), above, have been labeled with the following information:

   a. US DOT hazard classes as specified in 49 CFR 173.2;
   b. Date the waste was collected; and
   c. Name of the original government entity that collected the waste;

(5) Each container has been sealed and secured for transport in a manner that prevents leakage, spillage, and releases to the environment;

(6) The wastes are transported only in a vehicle that is:

   a. Owned and registered by a government entity; and
   b. Operated by a government entity employee;

(7) During transport, the government employee transporting the wastes retains a bill of lading describing the contents of the vehicle;

(8) Each individual who transports 55 gallons or more of household hazardous wastes has had a minimum of 24 hours of initial training in function-specific hazardous waste handling, safety, hazard communication, and emergency procedures and 8 hours of annual refresher training; and

(9) The receiving facility counts the waste toward its generator status in accordance with Env-Hw 503.

(c) Env-Hw 510 shall not apply to:

(1) Small quantity generators transporting their own hazardous waste in accordance with Env-Hw 601.02(b)(1) and (b)(3) to another facility in New Hampshire, provided that:

   (a) The receiving facility:
       a. Is under the control of the same person as the small quantity generator site;
       b. Has notified the department of this activity in accordance with Env-Hw 504;
       c. Counts the waste received towards its generator status in accordance with Env-Hw 503;
       d. Is a full quantity generator; and
       e. Complies with the biennial reporting requirements of Env-Hw 512.04; and

(2) In addition to the container labeling requirements of Env-Hw 508.02 and Env-Hw 508.03, as applicable, the small quantity generator labels or marks the containers with an indication of the hazards of the contents, including but not limited to:

   a. The following word(s) as applicable to the hazardous waste characteristic(s) of the waste:
       1. “Ignitable”;
       2. “Corrosive”;
       3. “Reactive”; and
4.(iv) “Toxic”;

b.2. Hazard communication consistent with US DOT requirements for labeling or placarding at 49 CFR 172 Subpart E or F, respectively;

c.3. A hazard statement or pictogram consistent with the United States Occupational Safety and Health Administration hazard communication standard at 29 CFR 1910.1200; or

d.4. A chemical hazard label consistent with the National Fire Protection Association Code 704; and

(2) A healthcare facility that is a small quantity generator when counting all of its hazardous waste and transports hazardous waste pharmaceuticals in accordance with Env-Hw 511.01(g).

(d) Env-Hw 507, Env-Hw 508, Env-Hw 509, Env-Hw 511, and Env-Hw 513 shall not apply to transporters while they are collecting only curbside household hazardous wastes.

(e) This chapter, except for Env-Hw 502.01, shall not apply to universal waste handlers and universal waste transporters handling universal waste, provided that the waste is managed in accordance with Env-Hw 1100.

(f) Env-Hw 515 shall not apply to a generator operating under a temporary EPA identification number pursuant to Env-Hw 504.04.

(g) This chapter shall not apply to any person responding to an explosives or munitions emergency 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.

(h) A generator who manages all hazardous waste in accordance with Env-Hw 503.03, and as a result generates no waste that counts toward generator classification, shall not be subject to the requirements in Env-Hw 500 except those specified in Env-Hw 501, Env-Hw 502, and Env-Hw 503.03.

(i) Except as otherwise specified in Env-Hw 1300, this chapter shall not apply to a reverse distributor who complies with Env-Hw 1300 for the management of hazardous waste pharmaceuticals.

(j) Except as otherwise specified in Env-Hw 1300, this chapter shall not apply to the management of hazardous waste pharmaceuticals by a healthcare facility that:

(1) Is a full quantity generator based on the total hazardous waste it generates per calendar month, including both hazardous waste pharmaceuticals and hazardous waste that is not pharmaceutical hazardous waste; and

(2) Manages hazardous waste pharmaceuticals in accordance with Env-Hw 1300.

(k) A healthcare facility that is a small quantity generator when counting all of its hazardous waste, including both its hazardous waste pharmaceuticals and its hazardous waste that is not pharmaceutical hazardous waste, shall manage its hazardous waste pharmaceuticals in compliance with either:

(1) The provisions of 40 CFR 266.501(d), as amended by Env-Hw 1302.02(b); or

(2) The provisions of:
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### a. Env-Hw 507, accumulation requirements;

### b. Env-Hw 508, small quantity generator requirements;

### c. Env-Hw 510, manifest requirements, except as specified in (c), above;

### d. Env-Hw 511, delivery of hazardous waste;

### e. Env-Hw 512, recordkeeping and reporting requirements; and

### f. Env-Hw 514, small quantity generator self-certification.

(l) A healthcare facility that is a small quantity generator and chooses to comply with (k)(1), above, shall not be eligible for the optional provisions of 40 CFR 266.504, as amended by Env-Hw 1302.02(e).

Readopt with amendments Env-Hw 503.03, eff. 8-14-17 (doc. #12347), as amended eff. 11-23-19 (doc. #12922), to read as follows:

Env-Hw 503.03 Classification Calculation.

(a) In determining the quantity of hazardous waste generated, a generator may exclude:

(1) Hazardous waste that is exempt from the hazardous waste rules pursuant to Env-Hw 401.03;

(2) Subject to (b), below, hazardous waste that is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in Env-Hw 103 or Env-Hw 104, as applicable;

(3) Subject to (c), below, hazardous waste that is recycled on-site by a process regulated under Env-Hw 804.01(b)(4), without prior storage or accumulation;

(4) Used oil, as defined in Env-Hw 104, that is recycled in accordance with Env-Hw 807;

(5) Spent lead acid batteries managed in accordance with Env-Hw 809;

(6) Hazardous waste when it is removed from on-site accumulation, so long as the hazardous waste was counted once;

(7) Hazardous waste produced by on-site treatment, including reclamation, of a hazardous waste, so long as the hazardous waste that is treated was counted once;

(8) Spent materials that are generated, reclaimed, and subsequently reused on-site, so long as such spent materials have been counted once;

(9) Universal waste managed in accordance with Env-Hw 1100; and

(10) The weight of a container or inner liner from a container of hazardous waste, including a container or inner liner that is not deemed empty as specified in Env-Hw 401.03(d), provided that:

a. The weight of the hazardous waste, including any residue remaining in a non-empty container or inner liner, is counted; and

b. The non-empty container and inner liner are managed as hazardous waste; and

(11) A hazardous waste pharmaceutical that is:
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*a. Subject to or managed in accordance with Env-Hw 1300; or*

*b. Regulated as a United States drug enforcement administration controlled substance and is conditionally exempt pursuant to 40 CFR 266.506, as amended by Env-Hw 1302.02(g).*

(b) For purposes of (a)(2), above, “managed immediately upon generation” means that treatment begins within 24 hours after the hazardous waste is generated and:

1. Treatment is conducted in the tank, tank system, or container in which the hazardous waste was generated;
2. The hazardous waste is conveyed via permanent piping directly from the tank in which it was generated to the treatment unit without intermediate accumulation of the hazardous waste; or
3. The hazardous waste is transferred directly from the container in which it was generated into the treatment unit without intermediate accumulation of the hazardous waste.

(c) For purposes of (a)(3), above, “without prior storage or accumulation” means that the recycling process begins within 24 hours after the hazardous waste is generated and:

1. The recycling process is conducted in the tank, tank system, or container in which the hazardous waste was generated;
2. The hazardous waste is conveyed via permanent piping directly from the tank in which it was generated to the recycling unit without intermediate accumulation of the hazardous waste; or
3. The hazardous waste is transferred directly from the container in which it was generated into the recycling unit without intermediate accumulation of the hazardous waste.

(d) Wastes with EPA hazardous waste numbers F020, F021, F022, F023, F026, and F027, listed in Env-Hw 402.06, shall be counted as acutely hazardous wastes when calculating generator classification.

**Readopt with amendments Env-Hw 504.01, eff. 11-23-19 (doc. #12922), to read as follows:**

*Env-Hw 504.01 EPA Identification Number Required.*

(a) A generator shall notify the department in accordance with Env-Hw 504.02 prior to conducting any activities regulated by the hazardous waste rules.

(b) Subject to (c), below, a generator shall notify the department in accordance with Env-Hw 504.02 within 30 days of the effective date of any statutory or regulatory amendment requiring a new or updated notification.

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

(d) A generator shall not generate, treat, store, dispose, transport, or offer a hazardous waste for transportation without having received an EPA identification number from the department.

(e) Subject to Env-Hw 504.02(c), an EPA identification number issued to a generator shall be valid for activities regulated by the hazardous waste rules only at the specific site for which the number was issued.
(f) In the case of a full quantity generator who intends to receive small quantity generator waste pursuant to Env-Hw 501.02(c)(1), the notification required by (a), above, shall be provided to the department at least 30 days prior to receiving the first shipment.

(g) A recognized trader shall not arrange for import or export of hazardous waste without having received an EPA identification number from the department.

Readopt with amendments Env-Hw 504.02, eff. 8-14-17 (doc. #12347), as amended eff. 11-23-19 (doc. #12922), to read as follows:

Env-Hw 504.02 Notification Requirements for an EPA Identification Number.

(a) Except as otherwise provided in Env-Hw 504.04, Env-Hw 505.01(a), Env-Hw 505.02, Env-Hw 505.04, or (c), below, a generator shall provide the notification required by Env-Hw 504.01 by submitting the following, as applicable, to the department on a notification form obtained from the department:

(1) Site name;
(2) Site mailing address;
(3) Street address of the site;
(4) EPA identification number;
(5) The effective date of the commencement or change in hazardous waste activity;
(6) Whether the notification is an initial notification required by this part or subsequent notification required by Env-Hw 505;
(7) Name, title, telephone number, and, if available, email address of a contact person;
(8) The name, address, and telephone number of the legal owner of the site property and the date on which that person or entity became the owner;
(9) The name, address, and telephone number of the operator of the site and the date on which that person or entity became the operator;
(10) Whether the property owner and, if different from the property owner, the operator, is a(n):
   a. Private person or entity;
   b. Federal or state agency;
   c. State political subdivision; or
   d. Other category of property owner;
(11) Generator classification, as determined in accordance with Env-Hw 503;
(12) Type and description of regulated activity, including the applicable North American Industry Classification System (NAICS) codes;
(13) For each waste stream, a narrative description, estimated quantity of hazardous waste generated per month, and all applicable EPA and NH hazardous waste numbers;
(14) For full quantity generators, the name and certificate number of the certified hazardous waste coordinator, as defined in Env-Hw 515.03(b), who is the primary contact for the facility; and

(15) For full quantity generators who intend to receive small quantity generator waste pursuant to Env-Hw 501.02(c)(1), the following information for each small quantity generator:
   a. Site name;
   b. Street address;
   c. EPA identification number; and
   d. Name, telephone number, and, if available, email address of a contact person;

(16) Activities for the management of hazardous waste pharmaceuticals under Env-Hw 1300; and

(16)17 A statement signed by the generator’s authorized representative, certifying, as specified in Env-Hw 207, the information provided on the notification form and that all attachments were prepared under the direction or supervision of the generator’s authorized representative in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted.

(b) A generator shall submit a separate notification for each site where activities regulated by the hazardous waste rules are conducted.

(c) A transporter who becomes a generator as specified in Env-Hw 501.01(b), by collecting curbside household hazardous waste, shall obtain an EPA identification number that is non-site specific by submitting to the department at least 30 days prior to the collection, the following information:

   (1) Generator name;
   (2) Generator mailing address;
   (3) A contact person—The name, title, telephone number, and, if available, email address of a contact person;
   (4) A description of the regulated activity;
   (5) A description of the area(s) to be serviced;
   (6) The start date and expected completion date of the collection; and
   (7) The waste handling instructions provided by the generator to the household specifying how the household should handle its waste prior to acceptance by the generator.

(d) The following shall constitute a change in ownership of the generator and so requires the generator to file a new initial notification:

   (1) For a partnership, a change in the majority 50% or more 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
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(4) For an individual, transfer of control to another individual or entity.

(e) **Pursuant to RSA 147-A:6-a, I, e** Each initial notification of hazardous waste activity filed by a new generator shall be accompanied by a non-refundable fee of $150. 

(f) **Pursuant to RSA 147-A:6-a, II, political subdivisions of the state shall be exempt from paying the fee in (e), above.**

(g) A recognized trader shall provide the notification required by Env-Hw 504.01(g) by submitting to the department, on a notification form obtained from the department, the applicable information listed in (a), above, and an indication of the recognized trader’s intent to be an importer, an exporter, or both.

**Readopt with amendments Env-Hw 505.01, eff. 11-23-19 (doc. #12922), to read as follows:**

Env-Hw 505.01 **Subsequent Notification.**

(a) A generator shall notify the department orally or in writing of any changes to the information provided pursuant to Env-Hw 504.02(a)(1), (2), (7), (11), (12), (13), (14), or any combination thereof, within 30 days of the effective date of any change.

(b) A generator shall notify the department, on a notification form obtained from the department, of any changes to the information required in Env-Hw 504.02(a)(3), (8), (9), (10), (15), (16), Env-Hw 504.02(g), or any combination thereof, within 30 days of the effective date of any change.

**Readopt with amendments Env-Hw 507.01, eff. 8-14-17 (doc. #12347), to read as follows:**

Env-Hw 507.01 **Accumulation Requirements.**

(a) Except as provided in (b) and (c), below, all hazardous waste shall be accumulated in containers or tanks, in accordance with Env-Hw 507.02 through Env-Hw 507.04.

(b) Full quantity generators using drip pads as specified in Env-Hw 503.02(g) shall comply with Env-Hw 507.03 and Env-Hw 509.02(a)(8) **and (e).**

(c) Full quantity generators using containment buildings as specified in Env-Hw 503.02(h) shall comply with Env-Hw 507.03 and Env-Hw 509.02(a)(9) **and (f).**

**Readopt with amendments Env-Hw 507.03, eff. 8-14-17 (doc. #12347), as amended eff. 11-23-19 (doc. #12922), to read as follows:**

Env-Hw 507.03 **Accumulation Time.**

(a) Except as provided in Env-Hw 508.02, Env-Hw 508.03, Env-Hw 509.03, and (c), below, a generator shall not be required to obtain a storage permit to accumulate hazardous waste that is generated on-site so long as the waste is shipped off-site within 90 days of the date on which accumulation of the waste begins.

(b) Except as provided in Env-Hw 508.02, Env-Hw 508.03, Env-Hw 509.03, and (c), below, a generator who accumulates hazardous waste for greater than 90 days shall be deemed an operator of a storage facility and so subject to all facility requirements in Env-Hw 300 and Env-Hw 700 unless the generator has requested and the department has granted:

(1) A waiver of the 90-day period as provided in Env-Hw 202; or
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(2) An extension of the 90-day period, as provided in (e) through (g), below.

(c) A generator of wastewater treatment sludges from electroplating operations that meet the EPA hazardous waste number F006 pursuant to Env-Hw 401-02.402.06(a) may accumulate F006 waste for more than 90 days, but not more than 180 days, provided the criteria of 40 CFR 262.34(g), 7-1-16 edition, are met.

(d) A generator who accumulates F006 waste on-site for greater than 180 days or who accumulates more than 20,000 kilograms of F006 waste on-site shall be deemed an operator of a storage facility and be subject to all facility requirements in Env-Hw 300 and Env-Hw 700 unless the generator has requested and the department has granted:

   (1) A waiver, as provided in Env-Hw 202, of the 20,000 kilograms limit if the limit will be exceeded due to unforeseen, temporary, and uncontrollable circumstances; or

   (2) An extension of the 180 day period, as provided in (e) through (g), below.

(e) A generator who wishes to obtain an extension pursuant to (b)(2) or (d)(2), above, shall submit a written request for an extension that explains the circumstances warranting such an extension.

(f) The department shall grant the requested extension if hazardous wastes will remain on-site due to unforeseen, temporary, and uncontrollable circumstances.

(g) An extension granted by the department pursuant to (b)(2) or (d)(2), above, shall be limited to 30 days.

**Readopt with amendments Env-Hw 509.02, eff. 8-14-17 (doc. #12347), as amended eff. 11-23-19 (doc. #12922), to read as follows:**

**Env-Hw 509.02 Full Quantity Generator Accumulation Requirements.**

(a) Full quantity generators shall comply with the following standards:

   (1) 40 CFR 265.15, general inspection requirements;

   (2) Subject to (g) through (i), below, 40 CFR 265.16, personnel training;

   (3) 40 CFR 265.17, general requirements for ignitable, reactive or incompatible wastes;

   (4) Subject to (j) and (k), below, 40 CFR 265, Subpart C, preparedness and prevention;

   (5) 40 CFR 265, Subpart D, contingency plan and emergency procedures;

   (6) 40 CFR 265, Subpart I, use and management of containers;

   (7) 40 CFR 265, Subpart J, tanks, except 40 CFR 265.197(c) and 40 CFR 265.200;

   (8) 40 CFR 265, Subpart W, drip pads; and

   (9) 40 CFR 265, Subpart DD, containment buildings.

(b) A full quantity generator shall post a list of the steps to take if an emergency occurs and the following information at the nearest telephone to each central accumulation area:

   (1) The names and emergency telephone numbers of the emergency coordinators;

   (2) The telephone numbers of the:
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a. Fire department;
b. Police department;
c. Hospital(s); and
d. State of New Hampshire and local emergency response teams that may be called upon to provide emergency services, unless the facility has a 24 hour response team designated to provide emergency services whose telephone number is posted, *at the telephone numbers listed in Appendix E*;
e. The generator’s emergency response contractor(s), if applicable; and
f. The generator’s in-house emergency response team, if applicable; and

(3) The location of fire extinguishers and spill control material, and, if present, fire and internal emergency alarms.

(c) A full quantity generator shall provide the following security measures at all outdoor central accumulation areas:

(1) An artificial or natural barrier, such as a fence in good repair, that completely surrounds the central accumulation area to prevent the unauthorized or unknowing entry of individuals or livestock;

(2) A means to control entry, at all times, through gates or other entrances to the central accumulation area such as an attendant, television monitor, locked entrance, or controlled roadway access to the area; and

(3) A sign stating “Danger - Unauthorized Personnel Keep Out” at each entrance to the central accumulation area. Existing signs with other than the aforementioned words may be used if the sign clearly indicates that only authorized personnel are allowed to enter the area and that entry can be dangerous.

(d) A full quantity generator shall clearly label or mark containers and tanks used for the accumulation of hazardous wastes with the following information at the time they are first used to accumulate wastes:

(1) The beginning accumulation date;

(2) The words “hazardous waste”;

(3) Words that identify the contents; and

(4) All applicable EPA and NH hazardous waste numbers.

(e) A full quantity generator shall not be required to obtain a storage permit to use a drip pad to accumulate and convey hazardous wood preserving wastes that are generated on site provided that:

(1) The wastes are shipped off site within 90 days of the date when accumulation of the waste first began, unless the generator requests and the department grants an extension of the 90-day period as provided in Env-Hw 507.03(e) through (g); and

(2) The generator maintains the following records at the facility:
a. A written description of procedures the generator will follow to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days; and

b. Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal.

(f) A full quantity generator shall not be required to obtain a storage permit to accumulate, in a containment building, hazardous waste that is generated on site provided that:

(1) Prior to operation of the containment building, the generator obtains a professional certification from a licensed NH professional engineer that the building is constructed in accordance with the design standards specified in 40 CFR 265.1101 and is fit to operate as intended;

(2) The generator maintains the professional engineer certification described in (f)(1), above, in the generator's operating record;

(3) The waste is shipped off site within 90 days of the date the accumulation begins, unless the generator requests and the department grants an extension of the 90-day period as provided in Env-Hw 507.03(e) through (g); and

(4) The generator maintains the following records at the facility:

a. All of the following:
   1. A written description of procedures the generator will follow to ensure that each waste volume remains in the unit for no more than 90 days;
   2. A written description of the facility’s waste generation and management practices showing that they are consistent with meeting the 90-day accumulation limit; and
   3. Documentation that the procedures are complied with; or

b. Documentation that the containment building is emptied at least once every 90 days.

(g) As incorporated by reference in (a)(2), above, and used in 40 CFR 265.16(a)(2), “a person trained in hazardous waste management procedures” means:

(1) An outside hazardous waste management trainer;

(2) An in-house employee who has completed a hazardous waste management course or who provides documentation to demonstrate his/her own capabilities as in-house trainer; or

(3) A trainer who teaches a basic course or module offered by the department pursuant to Env-Hw 515.

(h) As incorporated by reference in (a)(2), above, and used in 40 CFR 265.16(c), “an annual review of the initial training” means review training that is received each year no more than 90 days prior to and no more than 90 days after the anniversary date of the initial training, such that training is received every 12 months on average, subject to (i), below.

(i) Provided that an annual review of initial training meets the requirements of 40 CFR 265.16(c), if such review training is received more than 90 days prior to the anniversary date of the initial training, the anniversary date for purposes of future compliance with paragraph (h), above, shall be the date on which such review training is received.
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(j) As incorporated by reference in (a)(4), above, and used in 40 CFR Part 265.35, “required aisle space” means not less than 2 feet to allow for inspection of at least one side of each container.

(k) As incorporated by reference in (a)(4), above, and used in 40 CFR Part 265.32, “required equipment” means the equipment required at each central accumulation area, not more than 100 feet from each area and accessible along a path unobstructed by any obstacles other than doors, which shall be unlocked at all times.

(l) A full quantity generator who receives hazardous waste from a small quantity generator pursuant to Env-Hw 501.02(c)(1) shall:

1. Maintain the following records for each shipment received:
   a. The name, site address, and contact information for the small quantity generator;
   b. A description of the waste received, including the quantity; and
   c. The date of receipt;
2. Manage the hazardous waste in accordance with the requirements of Env-Hw 509.01; and
3. Label or mark containers and tanks storing wastes received from small quantity generators:
   a. With an indication of the hazards of the contents, as specified in Env-Hw 501.02(c)(2)(1)b.;
   b. For purposes of Env-Hw 509.02(d)(1), with:
      1. The date the hazardous waste was received from the small quantity generator; or
      2. The earliest date any hazardous waste in the container was accumulated on site, if the full quantity generator is consolidating incoming hazardous waste from a small quantity generator either with its own hazardous waste or with hazardous waste from other small quantity generators; and
   c. In accordance with Env-Hw 509.02(d)(2) through (d)(4).

Readopt with amendments Env-Hw 511.01, eff. 11-23-19 (doc. #12922), to read as follows:

Env-Hw 511.01  Delivery.

(a) A generator shall not deliver or offer hazardous waste to:

1. A facility that has not obtained an EPA identification number; or
2. A transporter that does not possess an EPA identification number and a current and valid New Hampshire hazardous waste transporter registration.

(b) Except as provided in (f) and (g), below, a generator shall deliver hazardous waste only to a facility authorized under the destination state’s rules to handle the hazardous waste.

(c) Except as provided in (f) and (g), below, the generator shall contact the operator of the designated facility, or the transporter if unable to contact the operator, to determine the status of a hazardous waste shipment if:

1. Waste was shipped using a paper manifest and the generator does not receive a copy of the manifest from the operator within 35 days of shipment;
(2) Waste was shipped using an electronic manifest that was printed for the generator’s signature and either:

   a. The generator has not received a copy of the manifest from the operator within 35 days of shipment; or

   b. The generator subsequently accesses the electronic manifest system, and the electronic manifest system indicates that the shipment has not been received by the facility within 35 days of shipment; or

(3) Waste was shipped using an electronic manifest and the electronic manifest system indicates that the shipment has not been received by the facility within 35 days of shipment.

(d) The generator shall submit an exception report to the department within 45 days of shipment if:

   (1) The generator does not receive a copy of the manifest with the hand-written signature of the operator of the designated facility; or

   (2) The electronic manifest system indicates that the shipment has not been received by the facility.

(e) Exception reports submitted pursuant to (d), above, shall include:

   (1) A legible copy of the manifest for which the generator does not have confirmation of delivery; and

   (2) A cover letter signed by the generator or his authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.

(f) A small quantity generator shall not be required to register as a hazardous waste transporter to transport 55 gallons or less of hazardous waste generated at its site to the following locations, provided the requirements of Env-Hw 601.02(b)(1) through (4) are satisfied:

   (1) A site that meets the conditions of Env-Hw 501.02(c)(I);

   (2) A one-day household hazardous waste collection event sponsored by a government entity if:

      a. A hazardous waste manifest, identifying the small quantity generator as both the generator and the first transporter, accompanies the waste at all times;

      b. The waste is given directly to a New Hampshire registered hazardous waste transporter during the collection event; and

      c. Permission is obtained in advance from the government entity sponsoring the collection event; or

   (3) A facility authorized under the destination state’s rules to handle the waste.

(g) A healthcare facility that is a small quantity generator shall not be required to register as a hazardous waste transporter to transport the following:

   (1) A potentially creditable hazardous waste pharmaceutical to a reverse distributor; and
(2) A non-creditable hazardous waste pharmaceutical or a potentially creditable hazardous waste pharmaceutical to:

a. A healthcare facility that meets the applicable conditions of 40 CFR 266.502(l) and 40 CFR 266.503(b), as amended by Env-Hw 1302.02(c) and (d), respectively, to accept such wastes from an off-site healthcare facility; or

b. A site that meets the conditions of Env-Hw 501.02(c)(1)a., provided all conditions of Env-Hw 501.02(c)(1) are satisfied.

Readopt with amendments Env-Hw 511.02, eff. 11-23-19 (doc. #12922), to read as follows:

Env-Hw 511.02 Inability to Deliver.

(a) If a transporter is unable to deliver all or part of a hazardous waste shipment, or if a facility rejects all or part of a hazardous waste shipment, the generator shall either designate an alternate authorized facility or instruct the transporter or operator to return the waste to the generator.

(b) If a waste shipment is, or container residues contained in non-empty containers are, returned to the generator, the generator shall:

(1) Ensure that the paper or electronic manifest is completed in accordance with 40 CFR 264.72(f) and 40 CFR 265.72(f), as applicable;

(2) Sign:

a. Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

b. Item 20 of the manifest, if the transporter returned the shipment using a new manifest;

(3) Provide a copy of the manifest to the transporter; and

(4) Comply with the applicable accumulation requirements of this chapter.

(c) If a paper manifest or an electronic manifest that was printed for the generator’s signature accompanies a returned shipment or returned container residues contained in non-empty containers is accompanied by a paper manifest or an electronic manifest that was printed for the generator’s signature, the generator shall submit a copy of the manifest, signed as specified in (b)(2), above, to the department within 5 days of receipt of the returned shipment or residues.

(d) Within 30 days of receipt of If a paper manifest accompanies a returned shipment or returned container residues contained in non-empty containers, accompanied by a paper manifest, the generator shall send a copy of the manifest to the designated facility that returned the shipment or residues to the generator within 30 days of receipt of the returned shipment or residues.

(e) If the designated facility uses a new manifest to forward a waste shipment to an alternate facility as specified in (a), above, the generator shall comply with the shipment tracking requirements of Env-Hw 511.01(c) and (d) by:

(1) Ensuring that the manifest copy received by the generator has the signature of the owner or operator of the alternate facility in place of the signature of the owner or operator of the designated facility; and
(2) Starting the 35- and 45-day timeframes on the date the waste was accepted by the initial transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.

Readopt with amendments Env-Hw 601.02, eff. 8-14-17 (doc. #12348), to read as follows:

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)(I), all manifest requirements of Env-Hw 510 and Env-Hw 604 are met;

(3) The generator has a mechanism for financial responsibility in not less than 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.

(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.

(f) This chapter shall not apply to healthcare facilities that are small quantity generators who self-transport hazardous waste pharmaceuticals as specified in Env-Hw 511.01(g).

Readopt with amendments Env-Hw 701.01, eff. 11-23-19 (doc. #12922), to read as follows:

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.

Readopt with amendments Env-Hw 701.02, eff. 8-14-17 (doc. #12349), to read as follows:

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:

   a. The wastes are en route to the facility designated on the manifest, and that

   b. All wastes remain on the registered vehicle; and

   c. 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 his/her own farm in a manner consistent with the disposal instructions on the pesticide label;
(8) Subject to (c), below, a person engaged in treatment or containment activities during immediate response to:

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

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

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

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

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

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

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

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

(15) A reverse distributor who accumulates potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals in compliance with Env-Hw 1300.

(b) Env-Hw 705.01(b)(1) through (63), and (b)(96) through (4610), and (c), Env-Hw 705.02, Env-Hw 705.03, Env-Hw 707.03(a)(2) and (10), and Env-Hw 708.02(a)(2) shall not apply to transfer facilities.

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

(1) A facility owner and operator shall comply with Env-Hw 708.02(a)(9) and Env-Hw 708.02(a)(10), except that the owner and operator of an existing facility shall comply with 40 CFR 265.54 instead of 40 CFR 264.54;
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(2) A person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over shall be subject to Env-Hw 300 and this chapter; and

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

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

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

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

Readopt with amendments Env-Hw 705.01, eff. 8-14-17 (doc. #12349), as amended eff. 11-23-19 (doc. #12922), to read as follows:

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) Except as specified in (b)(6) and (10), below, The following information shall be recorded by the operator as it becomes available and maintained in the operating record for 3 years, unless requirements specify they must be kept for a longer period of time:

(1) A copy of each shipping document and manifest, including:

   a. Movement documents for shipments subject to 40 CFR 262, Subpart H, for at least 3 years from the date of delivery;
   
   b. Manifest discrepancy reports; and
   
   c. Unmanifested waste reports;

   (2) moved, renumbered as (c)(1))

(3) A copy of each quarterly and biennial activity report for 3 years;

(3) Records and results of waste analyses, hazardous waste determinations, and trial tests as required by Env-Hw 707, Env-Hw 708, and Env-Hw 1200, as applicable;

   (4) moved, renumbered as (c)(2))
   (5) moved, renumbered as (c)(3))
   (6) moved, renumbered as (6), below)
   (7) moved, renumbered as (5), below)

(84) Records of all abnormal events, including:

   a. Actions Summary reports and details of all incidents requiring contingency plan implementation;
   
   b. Explanations of manifest discrepancies; [now at (b)(1)b.]
   
   c. Description of unmanifested wastes received; and [now at (b)(1)c.]
   
   d. Any unplanned releases of hazardous waste to the environment—{deleted}

(75) An operating log, for 3 years, that specifies Records and results of inspections, as required by Env-Hw 707 and Env-Hw 708, as applicable, including:

   a. The time and date of facility inspections;
b. The inspector's name;
c. Notation of observation(s);
d. Dates and nature of maintenance; and
e. Remedial action(s) taken;

(6) Monitoring data, testing data, and analytical data, and corrective action(s) as required by Env-Hw 707 and Env-Hw 708, *except that records and results pertaining to groundwater monitoring and cleanup shall be maintained until facility closure* and for the post-closure care period for disposal facilities;

(9) Adjustments to plans submitted; *(deleted)*

{(10) moved, renumbered as (c)(4)}

(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; *(deleted)*

{(12) moved, renumbered as (c)(5)}

(13) Records of corrective action as required by Env-Hw 708.02(a)(11) and for disposal facilities, for the full post-closure period; *(incorporated into (6), above)*

{(14) moved, renumbered as (c)(5)}

(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, *as specified in 40 CFR 264.73(b)(9), as applicable*;

(15) The information required by 40 CFR 264.73(b)(11) through (16) and 40 CFR 265.73(b)(9) through (14), as applicable, for 3 years; *and*

(16) Records of monitoring, testing, or analytical data as required by 40 CFR 264.73(b)(18), for 5 years;

{(17) moved, renumbered as (c)(6)}

{(18) moved, renumbered as (8), above}

(c) Except as specified in (b)(1), (3), (7), (15), and (16), *The following* information required by (b), above, shall be recorded by the operator as it becomes available and maintained in the operating record until closure of the facility, unless requirements specify they must be kept for a longer period of time.

(21) 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 state hazardous waste number or 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;

(42) The method, location, and date of treatment, storage, and disposal;

(53) 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;

(44) 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);

(45) 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; and

(46) The information required by 40 CFR 264.73(b)(19) and 40 CFR 265.73(b)(15), as applicable;

(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)(74) and (85), above, and maintain the operating record in accordance with (c) and (d), above.

Readopt with amendments Env-Hw 1101.03, eff. 8-14-17 (doc. #12353), to read as follows:

Env-Hw 1101.03 Definitions.

(a) “Ampule” means an airtight vial made of glass, plastic, metal, or any combination of these materials.

(b) “Destination facility” means a facility that treats, disposes of, or recycles universal waste. The term does not include a facility at which universal waste is only accumulated or at which the management activities described in Env-Hw 1109 through Env-Hw 1114 occur.

(bc) “Large quantity handler” means a universal waste handler who accumulates greater than or equal to 5,000 but less than 20,000 combined total kilograms of universal waste listed in the definition of “universal waste” in Env-Hw 104, on-site at any one time.
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(d) **“Open original housing”** means a container that holds mercury while the mercury performs its function within a mercury-containing device and that is open at one end, such as in a barometer or manometer.

(ee) **“Small quantity handler”** means a universal waste handler who accumulates less than 5,000 combined total kilograms of universal waste listed in the definition of “universal waste” in Env-Hw 104, on-site at any one time.

(df) **“Very large quantity handler”** means a universal waste handler who accumulates greater than or equal to 20,000 combined total kilograms of universal waste listed in the definition of “universal waste” in Env-Hw 104, on-site at any one time.

**Readopt with amendments Env-Hw 1102.03, eff. 8-14-17 (doc. #12353), to read as follows:**

Env-Hw 1102.03 Waste Management Requirements.

(a) A universal waste handler shall manage:

(1) Universal waste batteries in accordance with Env-Hw 1109;

(2) Universal waste pesticides in accordance with Env-Hw 1110;

(3) Universal waste mercury-containing devices in accordance with Env-Hw 1111;

(4) Universal waste lamps in accordance with Env-Hw 1112;

(5) Universal waste cathode ray tubes in accordance with Env-Hw 1113; and

(6) Universal waste antifreeze in accordance with Env-Hw 1114; and

(7) **Universal waste aerosol cans in accordance with Env-Hw 1115.**

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

(c) When containment of a particular type of universal waste is required by Env-Hw 1109.03(a), Env-Hw 1110.04, Env-Hw 1111.03(a), Env-Hw 1111.03(b)(2), Env-Hw 1112.03(a), Env-Hw 1113.03(a), Env-Hw 1113.03(b)(4), or -Env-Hw 1114.03, Env-Hw 1115.03(a)(1), Env-Hw 1115.03(b)(1), or Env-Hw 1115.03(b)(2), the containers shall be:

(1) Closed, except when universal waste is being added to or removed from the container;

(2) Compatible with the universal waste and its contents; and

(3) Free of defects, design characteristics, or damage that could result in leakage, spillage, or other environmental releases.

**Readopt with amendments Env-Hw 1102.06, eff. 8-14-17 (doc. #12353), to read as follows:**

Env-Hw 1102.06 Response to Releases.

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

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

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

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

(2) To local emergency officials and to:

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

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

(c) The handler shall:

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

(2) Manage the hazardous waste in accordance with Env-Hw 400 through Env-Hw 800 and Env-Hw 1200.

Readopt with amendments Env-Hw 1102.07, eff. 8-14-17 (doc. #12353), to read as follows:

Env-Hw 1102.07 Off-site Shipments.

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

(b) If a handler self-transports universal waste off-site, the handler shall comply with Env-Hw 1106 while transporting the universal waste.

(c) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR 171 through 49 CFR 180, the handler shall comply with the applicable US DOT regulations under 49 CFR 172 through 180.

(d) Prior to shipping universal waste to another universal waste handler or to a destination facility, the handler who originated the shipment shall obtain approval from the receiving handler or destination facility.

(e) If a transporter is unable to deliver all or part of a universal waste shipment or if a receiving handler or destination facility rejects all or part of a universal waste shipment, the handler who originated the shipment shall either:

(1) Receive the waste back when notified that the shipment has been rejected; or

(2) Designate an alternate destination facility to which the shipment will be sent and ensure the rejected universal waste is shipped to the designated destination facility.

(f) A universal waste handler who rejects a shipment or a portion of a shipment shall notify the handler who originated the shipment that the shipment has been rejected, and either:

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

(g) If a universal waste handler receives a shipment containing hazardous waste that is not a universal waste, the handler shall:

(1) Immediately notify the department of the shipment;

(2) Provide the name, address, and phone number of the originating shipper; and

(3) Comply with the applicable requirements of Env-Hw 400 through Env-Hw 800 and Env-Hw 1200 for managing the hazardous waste.

Readopt with amendments Env-Hw 1106.05, eff. 8-14-17 (doc. #12353), to read as follows:

Env-Hw 1106.05  Response to Releases.

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

(1) Immediately containing and cleaning up, within 24 hours, all releases of universal wastes and other residues from universal wastes; and

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

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

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

(2) To local emergency officials and to:

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

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

(c) The universal waste transporter shall:

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

(2) Manage the hazardous waste in accordance with all applicable requirements of Env-Hw 400 through Env-Hw 800 and Env-Hw 1200.

Readopt with amendments Env-Hw 1107.02, eff. 8-14-17 (doc#12353), to read as follows:

Env-Hw 1107.02  Off-site Shipments.

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

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

(2) Send the shipment to another destination facility designated by the handler who originated the shipment.

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

   (1) Immediately notify the department of the shipment;
   (2) Provide the name, address, and phone number of the shipper; and
   (3) Comply with the applicable requirements of Env-Hw 400 through Env-Hw 800 and Env-Hw 1200 for managing the hazardous waste.

Readopt with amendments Env-Hw 1107.04, eff. 8-14-17 (doc. #12353), to read as follows:

Env-Hw 1107.04 Response to Releases.

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

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

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

   (1) Immediately, not to exceed one hour from the discovery of the release; and
   (2) To local emergency officials and to:

      a. The department’s emergency response team at the telephone number listed in Appendix E, Monday through Friday, 8 a.m. to 4 p.m.; or
      b. The New Hampshire state police headquarters communications unit at the telephone number listed in Appendix E, 24 hours per day.

(c) The owner or operator of a destination facility shall:

   (1) Be considered the generator of any hazardous waste resulting from a release of universal waste; and
   (2) Manage the hazardous waste in accordance with all applicable requirements of Env-Hw 400 through Env-Hw 800 and Env-Hw 1200.

Readopt with amendments Env-Hw 1108.01, eff. 8-14-17 (doc. #12353), to read as follows:

Env-Hw 1108.01 Universal Waste Petition Information Requirements.

(a) Except as provided in (c), below, any person seeking to add a hazardous waste or a category of hazardous waste to this chapter shall petition for an amendment to Env-Hw 1100 in accordance with:

   (1) This part;
(2) Env-Hw 206; and
(3) 40 CFR 273 Subpart G.

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

(c) Hazardous waste pharmaceuticals regulated under Env-Hw 1300 shall not be added as a category of hazardous waste for management under this chapter.

Readopt with amendments Env-Hw 1109.03, eff. 8-14-17 (doc. #12353), to read as follows:

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

   (a) A universal waste handler shall contain, using a container that complies with Env-Hw 1102.03(c), any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage.

   (b) A universal waste handler shall not conduct the following activities unless the requirements of (c), below, are met:

      (1) Sorting batteries by type;
      (2) Mixing battery types in one container;
      (3) Discharging batteries so as to remove the electric charge;
      (4) Regenerating used batteries;
      (5) Disassembling batteries or battery packs into individual batteries or cells;
      (6) Removing batteries from consumer products; or
      (7) Removing electrolyte from batteries.

   (c) A universal waste handler who conducts the activities listed in (b), above, shall:

      (1) Ensure the casing of each individual battery cell is:
          a. Not breached;
          b. Intact;
c. Closed except to remove electrolyte; and  
d. Immediately closed after electrolyte removal; and  

(2) Determine whether the following exhibit a characteristic of hazardous waste as identified in Env-Hw 403:  
a. Electrolyte removed from batteries; and  
b. Other waste generated as a result of the removal of electrolyte, such as battery pack materials and discarded consumer products.  

(d) If the electrolyte or other waste or both described in (c)(2), above, exhibits a characteristic of hazardous waste, the handler shall:  

(1) Be considered the generator of the electrolyte or other waste or both; and  

(2) Comply with all applicable requirements of Env-Hw 400 through Env-Hw 800 and Env-Hw 1200.

Readopt with amendments Env-Hw 1110.01, eff. 8-14-17 (doc. #12353), to read as follows:  

Env-Hw 1110.01 Applicability.  

(a) This part shall apply to persons managing the following pesticides:  

(1) Recalled pesticides that are:  

a. Suspended and canceled pesticides that are part of a voluntary or mandatory recall under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 - 136y (FIFRA) Section 19(b), including, but not limited to, those owned by the registrant responsible for conducting the recall; or  

b. Suspended or canceled pesticides, or pesticides that are not in compliance with FIFRA, that are part of a voluntary recall by the registrant; and  

(2) Other unused pesticides that are collected and managed as part of a waste pesticide collection program administered or recognized by the department or the New Hampshire department of agriculture, markets, and food.  

(b) This part shall not apply to persons managing pesticides that do not meet the criteria in (a), above, but these persons shall be subject to the applicable requirements of Env-Hw 300 through Env-Hw 800 and Env-Hw 1200, except that aerosol cans that contain pesticides may be managed as universal waste aerosol cans under Env-Hw 1102 through Env-Hw 1105.

Readopt with amendments Env-Hw 1111.03, eff. 11-23-19 (doc. #12922), to read as follows:  

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

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

(b) A universal waste handler shall not remove mercury-containing ampules from universal waste mercury-containing devices unless the handler complies with 40 CFR 273.33(c)(2), as reprinted in Appendix D, except that:
Containers of mercury resulting from spills or leaks from broken ampules shall meet the requirements of Env-Hw 507; and

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

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

A universal waste handler shall not remove open original housings from universal waste mercury-containing devices unless the handler:

(1) Immediately seals the open original housing holding the mercury with an airtight seal to prevent the release of any mercury to the environment; and

(2) Removes and manages all open original housings in accordance with the requirements for removing and managing ampules specified in (b), above.

An open original housing that has been removed and sealed in accordance with (d), above, may be handled as a universal waste.

A universal waste handler who removes mercury-containing ampules from mercury-containing devices or seals mercury from mercury-containing devices in its original housing shall determine whether the following materials exhibit a characteristic of hazardous waste identified in Env-Hw 403:

(1) Mercury cleanup residues or other wastes resulting from spills or leaks; and

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

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

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

(2) Comply with all applicable requirements of Env-Hw 400 through Env-Hw 800 and Env-Hw 1200.

Readopt with amendments Env-Hw 1113.03, eff. 8-14-17 (doc. #12353), to read as follows:

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

(a) A cathode ray tube that shows evidence of breakage, spillage, or damage that could cause release of glass particles shall be contained using a container that complies with Env-Hw 1102.03(c).

(b) A universal waste handler of cathode ray tubes shall not intentionally break or shred universal waste cathode ray tubes unless the handler:

(1) Installs and maintains systems designed to minimize releases via wind dispersal, run-off, and direct-releases to the soil;

(2) Uses breaking, shredding, and storage practices that do not pose a hazard to human health or the environment;
Text added to existing rules in **bold italics**

Text deleted from existing rules shown **struck through**

Text that is all new (introduced with **Adopt** in plain font

Explanatory comments in **bracketed blue italics**

(3) Prevents exposure of humans or the environment to harmful quantities of lead or and other hazardous constituents;

(4) Stores shredded and broken cathode ray tubes or components or both in closed, non-leaking containers that meet the requirements of Env-Hw 1102.03(c);

(5) Before transporting or offering shredded cathode ray tubes or components or both for transport, packages the shredded cathode ray tubes or components or both in containers that are:
   a. Impermeable;
   b. Closed; and
   c. Designed to prevent releases to the environment.

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

(1) Cleanup residues resulting from spills or leaks; and

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

(d) If the residues, other waste, or both described in (c), above, exhibit a characteristic of hazardous waste, the handler shall be considered the generator of the residues, other waste, or both and manage them in accordance with applicable requirements of Env-Hw 400 through Env-Hw 800 and Env-Hw 1200.

**Adopt Env-Hw 1115 to read as follows:**

PART Env-Hw 1115 UNIVERSAL WASTE AEROSOL CANS

Env-Hw 1115.01 **Applicability.** This part shall apply to all universal waste handlers of aerosol cans.

Env-Hw 1115.02 **Generation of Waste Aerosol Cans.**

(a) A used aerosol can shall become a waste on the date it is discarded.

(b) An unused aerosol can shall become a waste as specified in 40 CFR 273.6(c)(2), reprinted in Appendix D.

Env-Hw 1115.03 **Requirements for Management of Universal Waste Aerosol Cans.**

(a) A universal waste handler shall store all universal waste aerosol cans in containers that:

(1) Meet the requirements of Env-Hw 1102.03(c)(2) and (3); and
Text added to existing rules in **bold italics**

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Text deleted from existing rules shown in **struck through**

Text that is all new (introduced with **Adopt**) in plain font

Explanatory comments in **bracketed blue italics**

(2) Are protected from sources of heat.

(b) Immediately, not to exceed one hour from discovery, aerosol cans that show evidence of leakage shall be:

1. Packaged in a separate container that meets the requirements of Env-Hw 1102.03(c);
2. Overpacked with absorbents in a container that meets the requirements of Env-Hw 1102.03(c); or
3. Punctured and drained in accordance with (d), below.

(c) A universal waste handler may conduct the following activities as long as each individual aerosol can is not breached and remains intact:

1. Sorting aerosol cans by type;
2. Mixing intact cans in one container; and
3. Removing actuators to reduce the risk of accidental release.

(d) A universal waste handler shall not puncture and drain aerosol cans unless the handler:

1. Recycles the empty punctured aerosol cans;
2. Conducts puncturing and draining activities using a device that satisfies the requirements of 40 CFR 273.13(e)(4)(i);
3. Establishes and follows a written procedure detailing how to safely puncture and drain the aerosol can, including:
   a. Proper assembly, operation, and maintenance of the unit;
   b. Segregation of incompatible wastes; and
   c. Waste management practices to prevent fires and releases;
4. Ensures employees operating the unit are trained on the procedure;
5. Maintains a copy of the manufacturer’s specifications and instructions for the unit on site;
6. Ensures the puncturing of the can is done in a manner designed to prevent fires and to prevent the release of any component of universal waste to the environment, including, but not limited to, locating the puncturing unit:
   a. On a solid, flat surface; and
   b. In a well-ventilated area;
7. Immediately transfers the contents from the waste aerosol can or puncturing device, if applicable, to a container that meets the applicable requirements of Env-Hw 500;
8. Conducts a hazardous waste determination pursuant to Env-Hw 502 on:
   a. The material removed from the aerosol can; and
   b. Any filters, media, and residue from the puncturing device’s vapor recovery system;
9. Establishes and follows a written procedure in the event of a spill or release; and
(10) Provides and maintains a spill cleanup kit.

(e) If the contents of the emptied aerosol cans described in (d)(8), above, are hazardous waste, the handler shall:

(1) Be considered the generator of the hazardous waste; and

(2) Comply with all applicable requirements of Env-Hw 400 through Env-Hw 800 and Env-Hw 1200.

Env-Hw 1115.04 Labeling/Marking of Aerosol Cans. A universal waste handler of aerosol cans shall clearly label or mark each universal waste aerosol can or container holding universal waste aerosol cans with at least one of the following:

(a) “Universal Waste – Aerosol Can(s)”;

(b) “Waste Aerosol Can(s)”;

(c) “Used Aerosol Can(s).”

Readopt with amendments Env-Hw 1201.02 and Env-Hw 1201.03, eff. 11-23-19 (doc. #12922), to read as follows:

Env-Hw 1201.02 Applicability. This chapter shall apply to any person who generates or transports hazardous waste and to any owner or operator of hazardous waste treatment, storage, and disposal facilities, except as provided in Env-Hw 1201.03 or in 40 CFR Part 268, 7-1-16 edition, as incorporated by reference in Env-Hw 1202.01.

Env-Hw 1201.03 Exemptions. This chapter shall not apply to:

(a) NH-only wastes; or

(b) Wastes generated by small quantity generators, as defined in Env-Hw 104.

Readopt with amendments Env-Hw 1202.01, eff. 11-23-19 (doc. #12922), to read as follows:

Env-Hw 1202.01 Federal Requirements Incorporated. Except as specified in Env-Hw 1202.02, the federal land disposal requirements in 40 CFR Part 268, 7-1-16 edition, are incorporated by reference.

Readopt with amendments Env-Hw 1202.02, eff. 8-14-17 (doc. #12354), to read as follows:

Env-Hw 1202.02 Amendments, Exceptions, and Modifications to Incorporated Federal Requirements. The following amendments, exceptions, and modifications shall apply to the incorporated requirements:

(a) Delete the following provisions of 40 CFR 268, which are administered and enforced by EPA, not by the department:

(1) 40 CFR 268.5, 268.6, 268.42(b) and 268.44(a) through (g), relative to case by case extensions, exemptions, alternative treatment methods and variances;

(2) “Effective dates” referenced within 40 CFR 268.20 through 40 CFR 268.50 that are earlier than the 2017 effective dates of these state rules; and
Text added to existing rules in **bold italics**

Text deleted from existing rules shown **struck through**

Text that is all new (introduced with **Adopt** in plain font

Explanatory comments in **bracketed blue italics**

(3) “Effective dates” listed within Appendices VII and VIII that are earlier than the 2017 effective dates of these state rules;

(b) Delete the following provisions of 40 CFR 268, because Env-Hw 701.03(a) prohibits the use of underground injection wells as a means of disposal of hazardous waste within the state:

(1) All of 40 CFR 268.1(c)(3);

(2) In 40 CFR 268.7(a)(7), the phrase “or are managed in an underground injection well regulated by the SDWA”;

(3) In 40 CFR 268.37(a), the phrase “or that inject in Class I deep wells regulated under the Safe Drinking Water Act (SDWA).”;

(4) All of 40 CFR 268.37(b);

(5) In 40 CFR 268.38(a), the phrase “or that are injected in Class I deep wells regulated under the Safe Drinking Water Act (SDWA).”;

(6) In 40 CFR 268.38(b) and 40 CFR 268.39(b), the phrase “or that inject in Class I deep wells regulated under the Safe Drinking Water Act (SDWA).”;

(7) In 40 CFR 268.40(e), the phrase “or that is injected into a Class I nonhazardous deep injection well,”; and

(8) In 40 CFR 268.40/Table “Treatment Standards for Hazardous Wastes”, footnote 9;

(c) Amend 40 CFR 268.1(e)(1) by deleting the words “small quantity generators of less than 100 kilograms of non-acute hazardous waste or less than 1 kilogram of acute hazardous waste per month, as defined in §261.5” replacing “very small quantity generators, as defined in §260.10 of this chapter” and replacing them with “small quantity generators, as defined in Env-Hw 104, managing waste in compliance with Env-Hw 500”;

(d) Amend 40 CFR 268.1(f) to read as follows: “Universal waste handlers and universal waste transporters who manage universal waste in compliance with Env-Hw 1100 are exempt from the requirements of 40 CFR 268.7 and 268.50.”;

(e) Amend 40 CFR 268.3(a) by adding the following: “Any deliberate mixing of one or more prohibited hazardous wastes with debris that changes its treatment classification from waste to hazardous debris or hazardous debris shall be prohibited.”;

(f) Delete 40 CFR 268.3(b), regarding exceptions to the dilution prohibition;

(g) **Amend 40 CFR 268.7(a)(5) by replacing “40 CFR 262.15, 262.16, and 262.17” with “Env-Hw 500”**;

(gh) Amend 40 CFR 268.7(a)(8) by changing the last sentence to read as follows: “The requirements of this paragraph apply to wastes even when the hazardous characteristic is removed prior to disposal or when the waste is exempt from regulation subsequent to the point of generation.”;

(hi) Amend 40 CFR 268.7(a)(9)(iii) by deleting the words replacing “D001-D043” and replacing them with “D001-D008 and D010-D043”;

(ij) Delete 40 CFR 268.7(a)(10), regarding the exemption for tolling agreements; and
(k) Amend 40 CFR 268.50(a)(1) by replacing “§§262.16 and 262.17 and parts 264 and 265 of this chapter” with “Env-Hw 500 and Env-Hw 700”; and

(j) Delete 40 CFR 268.50(g), regarding hazardous remediation wastes stored in a staging pile.
Text added to existing rules in **bold italics** Initial Proposal 02-17-22 54
Text deleted from existing rules shown **struck through**
Text that is all new (introduced with **Adopt**) in plain font
Explanatory comments in **(bracketed blue italics)**

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

<table>
<thead>
<tr>
<th>Rule Section(s)</th>
<th>State Statute Implemented</th>
<th>Federal Statute/Regulation Implemented</th>
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<tbody>
<tr>
<td>Env-Hw 304.16; 304.17; 304.22</td>
<td>RSA 147-A:3, III, IV, VII-XI, XIII, XXV; RSA 147-A:4; RSA 147-A:4-b; RSA 147-A:5; RSA 147-A:15; RSA 147-C:2; RSA 541-A:30</td>
<td>40 CFR 124; 40 CFR 264.1; 40 CFR 265.1; 40 CFR 270</td>
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<tr>
<td>Env-Hw 401.03; 402.03; 402.04; 403.05</td>
<td>RSA 147-A:3, I, II, IV, VI</td>
<td>40 CFR 261</td>
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<td>Env-Hw 501.01; 501.02</td>
<td>RSA 147-A:3, IV, VI; RSA 147-A:5, III, IV</td>
<td>40 CFR 261.9; 40 CFR 262.10; 40 CFR 262.70</td>
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<td>Env-Hw 503.03</td>
<td>RSA 147-A:3, IV, VI</td>
<td>40 CFR 262.13</td>
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<tr>
<td>Env-Hw 504.01; 504.02</td>
<td>RSA 147-A:3, VI, XXVIII; RSA 147-A:5, III, IV; RSA 147-A:6-a</td>
<td>40 CFR 262.10; 40 CFR 262.17; 40 CFR 262.18</td>
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<td>Env-Hw 505.01</td>
<td>RSA 147-A:3, VI</td>
<td>40 CFR 262.18</td>
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<td>Env-Hw 507.01; 507.03</td>
<td>RSA 147-A:3, III, IV, XIII</td>
<td>40 CFR 262.16; 40 CFR 262.17; 40 CFR 262 Subpart C</td>
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<td>Env-Hw 509.02</td>
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<td>Env-Hw 511.01; 511.02</td>
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<td>40 CFR 262.17; 40 CFR 262.18; 40 CFR 262 Subpart B</td>
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<td>RSA 147-A:3, XXV; RSA 147-A:6</td>
<td>40 CFR 263.10</td>
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<tr>
<td>Env-Hw 701.01; 701.02</td>
<td>RSA 147-A:3, III, IV, XXV</td>
<td>40 CFR 264; 40 CFR 265</td>
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<td>Env-Hw 705.01</td>
<td>RSA 147-A:3, V, VI; RSA 147-B:8</td>
<td>40 CFR 264 Subpart E; 40 CFR 265 Subpart E</td>
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<td>RSA 147-A:3, IV</td>
<td>40 CFR 273</td>
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<td>Env-Hw 1102.03; 1102.06; 1102.07</td>
<td>RSA 147-A:3, IV, VI, VII</td>
<td>40 CFR 273</td>
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<td>RSA 147-A:3, IV, VI, VII</td>
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<td>40 CFR 273</td>
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<td>RSA 147-A:3, IV</td>
<td>40 CFR 273</td>
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<td>RSA 147-A:3, IV</td>
<td>40 CFR 273</td>
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<tr>
<td>Env-Hw 1201.02; 1201.03; 1202.01; 1202.02</td>
<td>RSA 147-A:3, IV, VI</td>
<td>40 CFR 268</td>
</tr>
</tbody>
</table>

**(No changes to Appendices B & C)**
40 CFR 260.10
Aerosol can means a non-refillable receptacle containing a gas compressed, liquefied, or dissolved under pressure, the sole purpose of which is to expel a liquid, paste, or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas.

40 CFR 266.500
Evaluated hazardous waste pharmaceutical means a prescription hazardous waste pharmaceutical that has been evaluated by a reverse distributor in accordance with § 266.510(a)(3) and will not be sent to another reverse distributor for further evaluation or verification of manufacture credit.

Hazardous waste pharmaceutical means a pharmaceutical that is a solid waste, as defined in § 261.2, and exhibits one or more characteristics identified in part 261 subpart C or is listed in part 261 subpart D. A pharmaceutical is not a solid waste, as defined in § 261.2, and therefore not a hazardous waste pharmaceutical, if it is legitimately used/reused (e.g., lawfully donated for its intended purpose) or reclaimed. An over-the-counter pharmaceutical, dietary supplement, or homeopathic drug is not a solid waste, as defined in § 261.2, and therefore not a hazardous waste pharmaceutical, if it has a reasonable expectation of being legitimately used/reused (e.g., lawfully redistributed for its intended purpose) or reclaimed.

Healthcare facility means any person that is lawfully authorized to—

(1) Provide preventative, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, and counseling, service, assessment or procedure with respect to the physical or mental condition, or functional status, of a human or animal or that affects the structure or function of the human or animal body; or

(2) Distribute, sell, or dispense pharmaceuticals, including over-the-counter pharmaceuticals, dietary supplements, homeopathic drugs, or prescription pharmaceuticals. This definition includes, but is not limited to, wholesale distributors, third-party logistics providers that serve as forward distributors, military medical logistics facilities, hospitals, psychiatric hospitals, ambulatory surgical centers, health clinics, physicians’ offices, optical and dental providers, chiropractors, long-term care facilities, ambulance services, pharmacies, long-term care pharmacies, mail-order pharmacies, retailers of pharmaceuticals, veterinary clinics, and veterinary hospitals. This definition does not include pharmaceutical manufacturers, reverse distributors, or reverse logistics centers.

Long-term care facility means a licensed entity that provides assistance with activities of daily living, including managing and administering pharmaceuticals to one or more individuals at the facility. This definition includes, but is not limited to, hospice facilities, nursing facilities, skilled nursing facilities, and the nursing and skilled nursing care portions of continuing care retirement communities. Not included within the scope of this definition are group homes, independent living communities, assisted living facilities, and the independent and assisted living portions of continuing care retirement communities.

Non-creditable hazardous waste pharmaceutical means a prescription hazardous waste pharmaceutical that does not have a reasonable expectation to be eligible for manufacturer credit or a nonprescription hazardous waste pharmaceutical that does not have a reasonable expectation to be legitimately used/reused or reclaimed. This includes but is not limited to, investigational drugs, free samples of pharmaceuticals received by healthcare facilities, residues of pharmaceuticals remaining in empty containers, contaminated personal protective equipment, floor sweepings, and clean-up material from the spills of pharmaceuticals.
Pharmaceutical means any drug or dietary supplement for use by humans or other animals; any electronic nicotine delivery system (e.g., electronic cigarette or vaping pen); or any liquid nicotine (e-liquid) packaged for retail sale for use in electronic nicotine delivery systems (e.g., pre-filled cartridges or vials). This definition includes, but is not limited to, dietary supplements, as defined by the Federal Food, Drug and Cosmetic Act; prescription drugs, as defined by 21 CFR 203.3(y); over-the-counter drugs; homeopathic drugs; compounded drugs; investigational new drugs; pharmaceuticals remaining in non-empty containers; personal protective equipment contaminated with pharmaceuticals; and clean-up material from spills of pharmaceuticals. This definition does not include dental amalgam or sharps.

Potentially creditable hazardous waste pharmaceutical means a prescription hazardous waste pharmaceutical that has a reasonable expectation to receive manufacturer credit and is—

1. In original manufacturer packaging (except pharmaceuticals that were subject to a recall);

2. Undispensed; and

3. Unexpired or less than one year past expiration date. The term does not include evaluated hazardous waste pharmaceuticals or nonprescription pharmaceuticals including, but not limited to, over-the-counter drugs, homeopathic drugs, and dietary supplements.

Reverse distributor means any person that receives and accumulates prescription pharmaceuticals that are potentially creditable hazardous waste pharmaceuticals for the purpose of facilitating or verifying manufacturer credit. Any person, including forward distributors, third-party logistics providers, and pharmaceutical manufacturers, that processes prescription pharmaceuticals for the facilitation or verification of manufacturer credit is considered a reverse distributor.

40 CFR 268.2(c) [Updating to 7-1-2020 edition of CFR]

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 273.6(c)(2)

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

40 CFR 273.33(c)(2) [Updating to reflect EPA’s revisions to (iii) and (iv)]

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 is subject to all applicable requirements of 40 CFR parts 260 through 272;

(iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container is subject to all applicable requirements of 40 CFR parts 260 through 272;

(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**

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