

COVER SHEET FOR FINAL PROPOSAL

Notice Number 2022-40 Rule Number Env-Hw 300-700, 1100, 1200, various sections

1. Agency Name & Address:

Department of Environmental Services
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

2. RSA Authority: RSA 147-A:3, I-XI, XIII, XXV, XXVI, XXVIII;

RSA 147-B:7, I

42 U.S.C. §§6921 - 6939e;

3. Federal Authority: 40 CFR Parts 260 – 279

4. Type of Action:

☒ Adoption

☐ Repeal

☐ Readoption

☒ Readoption w/amendment

5. Short Title: Hazardous Waste Amendments re: Permits, Identification of Hazardous Waste, Generators, Transporters, Facility Owners/Operators, Universal Waste, Land Disposal Restrictions

6. Contact person for copies and questions:

Name: Wendy Bonner

Title: Regulatory Manager

Address: Department of Environmental Services
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

Phone #: (603) 271-2937

7. Yes ☐ No ☒ Agency requests review by Committee legal staff in the Office of Legislative Services and delayed Committee review pursuant to RSA 541-A:12, I-a

8. The rulemaking notice appeared in the Rulemaking Register on **March 17, 2022**.

SEE THE INSTRUCTIONS--PLEASE SUBMIT 2 COPIES OF THIS COVER SHEET

AND 2 COPIES OF THE FOLLOWING:

(and numbered correspondingly)

9. The "Final Proposal-Fixed Text", including the cross-reference table required by RSA 541-A:3-a, II as an appendix.

10. Yes ☐ N/A ☒ Incorporation by Reference Statement(s) because this rule incorporates a document or Internet content by reference for which an Incorporation by Reference Statement is required pursuant to RSA 541-A:12, III.

11. Yes ☒ N/A ☐ The "Final Proposal-Annotated Text" indicating how the proposed rule was changed because the text of the rule changed from the Initial Proposal pursuant to RSA 541-A:12, II(e).

12. Yes ☐ N/A ☒ The amended fiscal impact statement because the change to the text of the Initial Proposal affects the original fiscal impact statement (FIS) pursuant to RSA 541-A:5, VI.

Notice Number

2022-4~~10~~

Rule Number

**Env-Hw 300-700, 1100,
1200, various sections**

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29 Hazen Drive
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2. RSA Authority:

**RSA 147-A:3, I-XI, XIII,
XXV, XXVI, XXVIII;
RSA 147-B:7, I**

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**42 U.S.C. §§6921 - 6939e;
40 CFR Parts 260 – 279**

4. Type of Action:

Adoption	<u> X </u>
Repeal	<u> </u>
Readoption	<u> </u>
Readoption w/amendment	<u> X </u>

5. Short Title: **Hazardous Waste Amendments re: Permits, Identification of Hazardous Waste, Generators, Transporters, Facility Owners/Operators, Universal Waste, Land Disposal Restrictions**

6. (a) Summary of what the rule says and of any proposed amendments:

The Resource Conservation and Recovery Act (RCRA) Subtitle C establishes federal requirements for the management of hazardous waste (HW) and provides for federal authorization of state programs that are at least as stringent as the federal program. Once authorized, the state program is enforceable in lieu of the federal program. The Department has been authorized by the EPA to implement the RCRA Subtitle C program in New Hampshire.

The existing rules implement RSA 147-A by establishing requirements governing the generation, storage, treatment, transportation, and disposal of HW. The Department is required to adopt or incorporate federal HW regulations on an ongoing basis to maintain authorization to administer RCRA in New Hampshire.

Amendments to definitions in Env-Hw 100 are proposed in a companion rulemaking. The addition of a new chapter, Env-Hw 1300, for the management of HW pharmaceuticals is also being proposed in a companion rulemaking.

The existing rules in Chapters Env-Hw 300 through 700, 1100, and 1200 set forth requirements as follows:

- **Env-Hw 300 sets forth the procedures and requirements for application, issuance and modification of HW management facility permits;**
- **Env-Hw 400 sets forth standards for identifying and listing HW;**
- **Env-Hw 500 sets forth requirements for HW generators, including storage, manifest, delivery, recordkeeping, and emergency action requirements;**
- **Env-Hw 600 sets forth requirements for HW transporters, including manifest, delivery, recordkeeping, emergency action, and registration requirements;**
- **Env-Hw 700 sets forth requirements for owners and operators of HW facilities and HW transfer facilities, including requirements applicable to receipt of shipments, rejected shipments, recordkeeping/ reporting, and emergency action requirements;**
- **Env-Hw 1100 sets forth requirements that may be used in lieu of Env-Hw 300 through Env-Hw 700 for management of certain widely generated “universal wastes”, including batteries, pesticides, mercury-containing devices, lamps, cathode ray tubes, and antifreeze; and**

- Env-Hw 1200 incorporates by reference federal requirements and restrictions applicable to land disposal of HW, pursuant to 40 CFR 268, with some clarifications to conform with state-specific terminology, cross-references, and other requirements in subtitle Env-Hw.

The proposed rules are being readopted with amendments in order to:

- Make conforming changes for the management of HW pharmaceuticals, including:
 - Incorporating the federal permit exemption for reverse distributors of HW pharmaceuticals operating under Env-Hw 1300;
 - Updating requirements for empty containers that previously held HW pharmaceuticals;
 - Determining the applicability of HW generator requirements to healthcare facilities and reverse distributors managing HW pharmaceuticals;
 - Revising the notification requirements for healthcare facilities and reverse distributors managing HW pharmaceuticals;
 - Specifying delivery requirements for Small Quantity Generator (SQG) healthcare facilities shipping HW pharmaceuticals;
 - Providing an exemption for SQG healthcare facilities from HW transporter requirements for self-transport of HW pharmaceuticals; and
 - Excluding HW pharmaceuticals from the definition of universal waste;
- Update requirements for the management of universal waste mercury-containing devices;
- Remove strontium sulfide from the list of New Hampshire-listed acutely HWs;
- Remove references to the HW Facility Siting Board due to the repeal of RSA 147-A:4-a by Chapter 37:4 of the Laws of 2020;
- Clarify existing requirements, including correcting cross-references; and
- Improve alignment with federal requirements.

In addition, the Department is proposing to adopt rules to add aerosol cans to the list of universal wastes.

6. (b) Brief description of the groups affected:

The rules affect any individual or entity that generates, stores, treats, recycles, transports, or disposes of hazardous waste.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule Section(s)	State Statute Implemented	Federal Statute/Regulation Implemented
Env-Hw 303.02	RSA 147-A:3, VIII, IX, IX-a, XI, XXV; RSA 147-A:4; RSA 147-A:4-b; RSA 147-A:5, I	40 CFR 124; 40 CFR 264.1; 40 CFR 265.1; 40 CFR 270
Env-Hw 304.16; 304.17; 304.22	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	40 CFR 124; 40 CFR 264.1; 40 CFR 265.1; 40 CFR 270
Env-Hw 401.03; 402.03; 402.04; 403.05	RSA 147-A:3, I, II, IV, VI	40 CFR 261
Env-Hw 501.01; 501.02	RSA 147-A:3, IV, VI; RSA 147-A:5, III, IV	40 CFR 261.9; 40 CFR 262.10; 40 CFR 262.70
Env-Hw 503.03	RSA 147-A:3, IV, VI	40 CFR 262.13

Env-Hw 504.01; 504.02	RSA 147-A:3, VI, XXVIII; RSA 147-A:5, III, IV; RSA 147-A:6-a	40 CFR 262.10; 40 CFR 262.17; 40 CFR 262.18
Env-Hw 505.01	RSA 147-A:3, VI	40 CFR 262.18
Env-Hw 507.01; 507.03	RSA 147-A:3, III, IV, XIII	40 CFR 262.16; 40 CFR 262.17; 40 CFR 262 Subpart C
Env-Hw 509.02	RSA 147-A:3, III, IV, VI, XIII, XXVI; RSA 147-A:5, III	40 CFR 262
Env-Hw 511.01; 511.02	RSA 147-A:3, III-VI	40 CFR 262.17; 40 CFR 262.18; 40 CFR 262 Subpart B
Env-Hw 601.02	RSA 147-A:3, XXV; RSA 147-A:6	40 CFR 263.10
Env-Hw 701.01; 701.02	RSA 147-A:3, III, IV, XXV	40 CFR 264; 40 CFR 265
Env-Hw 705.01	RSA 147-A:3, V, VI; RSA 147-B:8	40 CFR 264 Subpart E; 40 CFR 265 Subpart E
Env-Hw 1101.03	RSA 147-A:3, IV	40 CFR 273
Env-Hw 1102.03; 1102.06; 1102.07	RSA 147-A:3, IV, VI, VII	40 CFR 273
Env-Hw 1106.05	RSA 147-A:3, IV, VI, VII	40 CFR 273
Env-Hw 1107.02; 1107.04	RSA 147-A:3, IV, VI, VII	40 CFR 273
Env-Hw 1108.01	RSA 147-A:3, I, II	40 CFR 273
Env-Hw 1109.03	RSA 147-A:3, IV	40 CFR 273
Env-Hw 1110.01	RSA 147-A:3, IV, XIII	40 CFR 273
Env-Hw 1111.03	RSA 147-A:3, IV	40 CFR 273
Env-Hw 1113.03	RSA 147-A:3, IV	40 CFR 273
Env-Hw 1115.01; 1115.02; 1115.03; 1115.04	RSA 147-A:3, IV	40 CFR 273
Env-Hw 1201.02; 1201.03; 1202.01; 1202.02	RSA 147-A:3, IV, VI	40 CFR 268

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Wendy Bonner**
Department of Environmental Services
Address: **29 Hazen Drive**
P.O. Box 95
Concord, NH 03302-0095

Title: **Regulatory Manager**
Phone #: **(603) 271-2937**
Fax#: **(603) 271-2456**
E-mail: **Wendy.S.Bonner@des.nh.gov**

The rules also can be viewed in PDF in the Public Comment Opportunities section of the NHDES website at <https://www.des.nh.gov/public-comment-opportunities> and selecting “Rulemaking”

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **4:00 p.m. on Friday, April 15, 2022**

☒ Fax

☒ E-mail

☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Friday, April 8, 2022, at 11:00 a.m.**

Place:	<p>Room 208C, DES Offices, 29 Hazen Drive, Concord NH</p> <p><u>NOTE:</u> NHDES security procedures require all visitors to sign in and present photo identification (such as a driver's license). If you plan to attend the public hearing in person, please bring photo identification with you.</p> <p>You also may attend the hearing via GoToWebinar, which can be accessed through the following link:</p> <p>https://attendee.gotowebinar.com/register/8580869539956104462</p> <p>After registering using this link, interested participants will be provided a confirmation email with information about joining the hearing remotely.</p> <p>You also may join the meeting by phone:</p> <p>Call in Number: 1 (562) 247-8422</p> <p>Access Code: 872-463-431</p> <p>Webinar ID: 853-426-339</p> <p>If you have any questions or technical issues connecting to the hearing, contact Tara Albert at Tara.M.Albert@des.nh.gov or (603) 271-3713.</p>
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10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant):

FIS # **22:031**, dated: **03/03/2022**:

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

The proposed rules may decrease costs to certain independently owned businesses as well as potentially decrease revenue by an indeterminable amount to the state Hazardous Waste Cleanup Fund. Not applicable to Env-HW 1115, as these are new rules.

2. Cite the Federal mandate. Identify the impact on state funds:

Resource Conservation and Recovery Act (RCRA), Subtitle C, establishes federal requirements for the management of hazardous waste and provides for federal authorization of state programs that are at least as stringent as the federal program. Regulation 40 CFR 271 specifies the requirements that must be met by a state's hazardous waste program (including adoption of requirements promulgated by Environmental Protection Agency (EPA) under the authority of RCRA, the Hazardous and Solid Waste Amendments of 1984, or the Hazardous Waste Electronic Manifest Establishment Act) to receive and maintain final authorization from EPA. Once authorized, the state program is enforceable in lieu of the federal program. The Department has been authorized by EPA to implement the RCRA Subtitle C program in New Hampshire and currently receives approximately \$522,000 annually to implement the program. The Department states if rules are not updated and if issues identified during New Hampshire's RCRA authorization application process are not addressed, EPA may initiate

proceedings to revoke the authorization, and the Department will lose the federal funds and the ability to enforce the state program.

3. Cost and benefits of the proposed rule(s):

Any costs associated with the conforming changes in Env-Hw 300-700, 1100, and 1200 are attributable to federal requirements in the federal Resource Conservation and Recovery Act (RCRA), Subtitle C and not the rules. The proposed amendments for management of aerosol cans as universal wastes in Env-Hw 1115, the proposed amendments regarding universal waste mercury-containing devices in Env-Hw 1111.03, may result in cost savings that are attributable to the rules. The potential cost savings are indeterminable due the number and variability of factors involved. Any cost savings from the removal of strontium sulfide from the list of New Hampshire-listed acutely hazardous wastes in Env-Hw 402.04(d) is attributable to the rules. Any such savings cannot be determined; however, no strontium sulfide has been shipped by a New Hampshire hazardous waste generator using the NH03 code since 2013.

A. To State general or State special funds:

The proposal to allow hazardous waste aerosol cans to be managed as universal wastes will likely reduce revenues to the Hazardous Waste Cleanup Fund by an indeterminate amount. The Department does not have reliable data on the quantity of hazardous waste aerosol cans currently generated in New Hampshire, and it is impossible for the Department to determine how many generators will change their business practices and choose to manage their hazardous waste aerosol cans as universal waste. In addition, management of hazardous waste aerosol cans as universal waste may enable some generators to lower their generator classification. If that occurs, the Certified Hazardous Waste Coordinator Program and the Small Quantity Hazardous Waste Generator Self-Certification Program could see a decrease in participation, and therefore revenue. Due to the number and variability of factors involved, an estimate of the cost-share is indeterminable.

No impact on state general fund.

B. To State citizens and political subdivisions:

These rules may decrease costs for a political subdivision, to the extent it generates hazardous waste aerosol cans and chooses to manage them as universal waste. No impact on state citizens.

C. To independently owned businesses:

These rules may decrease costs for certain privately owned businesses which are hazardous waste generators. See 3 above.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

With regard to the management of HW pharmaceuticals, the proposed rules incorporate requirements that are the same as the federal requirements. Thus, any costs are attributable to the federal requirements. The proposed revisions of the rules for universal wastes may result in savings if political subdivisions choose to manage eligible HW under those provisions. The rules thus do not create, modify, or expand any program in such a way as to require political subdivisions to make any expenditures, and so do not violate Part I, Article 28-a of the N.H. Constitution.



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

Robert R. Scott, Commissioner



**FP 2022-40, Env-Hw 300-700, 1100 & 1200 Hazardous Waste Amendments re: Permits,
Identification of Hazardous Waste, Generators, Transporters, Facility Owners/Operators,
Universal Waste, Land Disposal Restrictions
Summary of Comments on Initial Proposal with DES Responses
June 28, 2022**

Introduction

The existing rules in subtitle Env-Hw implement RSA 147-A by establishing requirements governing the generation, storage, treatment, transportation, and disposal of hazardous waste (HW). The New Hampshire Department of Environmental Services (NHDES) is required to adopt or incorporate federal HW regulations on an ongoing basis to maintain authorization to administer the federal Resource Conservation and Recovery Act (RCRA) in New Hampshire. NHDES proposed revisions to (1) adopt or incorporate federal HW regulations and (2) make state-initiated revisions. More detail on proposed changes and additions was provided in the Rulemaking Notice published in the March 17, 2022, Rulemaking Register.

At the public hearing held on April 8, 2022, NHDES received comments on the Initial Proposal (IP) from a representative of the Household & Commercial Products Association (HCPA). Written comments were received from stakeholders, including HCPA. Listed below, in numerical order, are the comments and NHDES' responses for the changes that NHDES is making in the Final Proposal. Written comments also were received from the Office of Legislative Services, Administrative Rules (OLS); those comments and NHDES' responses thereto begin on page 2. Section numbers refer to numbers in the IP unless otherwise noted.

Env-Hw 402.04 Table 4.1 re: entry for P075 Pyridine, 3-(1-methyl-3pyrrolidinyl)-, (S)-, & salts

Comment: It looks like there are two entries in Table 4.1 for P075 Pyridine, one directly beneath the listing for P075 Nicotine & salts that removes patches, gums and lozenges from the listing, and one in alphabetical order that doesn't mention patches, gums and lozenges. Was there a mix-up when the DES adopted the P075 revision?

Response: In rules effective November 23, 2019, NHDES adopted the federal revision to the P075 listing, which removes from the listing patches, gums and lozenges that are FDA-approved over-the-counter nicotine replacement therapies. In the certified rule, there is one entry for P075 Pyridine and it is in alphabetical order. The error was in the Initial Proposal, not in the certified rule, and NHDES regrets the error. Since the Initial Proposal did not include proposed revisions to Table 4.1, NHDES has corrected the error by providing the text of the certified rule without annotations.

Env-Hw 501.01(d) and (e), 501.02(c)(2), (j)(1) and (k) intro, 511.01(g), and 601.02(f) re: calculating applicability of Env-Hw 1300

Comment: New Hampshire's existing rules require a generator to determine their generator category by considering both the quantity of HW they generate in a month and the quantity of HW accumulated at the site at any time. EPA only considers generation rates and not accumulation amounts when determining federal generator categories and when determining the applicability of 40 CFR 266, Subpart P. Please clarify whether these proposed rules require the applicability of Env-Hw 1300 to be determined by considering accumulation amounts in addition to generation rates.

Response: NHDES has revised the rules to clarify that both generation and on-site accumulation be included when determining the applicability of Env-Hw 1300. (A clarifying revision is also proposed in a companion rulemaking for rules in Env-Hw 1300.) This requirement provides internal consistency with New Hampshire's existing generator category classifications and avoids confusion. [Env-Hw 501.02(j) was deleted from the Final Proposal based on a separate comment. As a result, Env-Hw 501.02(k) was renumbered to Env-Hw 501.02(j).]

Env-Hw 501.02(k) re: regulatory options for small quantity generator healthcare facilities

Comment: *Env-Hw 501.02(k) allows healthcare facilities that are New Hampshire small quantity generators (equivalent to federal very small quantity generators) to manage hazardous waste pharmaceuticals in accordance with either 40 CFR 266.501(d) as amended or select parts of Env-Hw 500. It seems unnecessarily confusing and potentially incorrect to refer to those select parts of Env-Hw 500 instead of the entire chapter Env-Hw 500, as applicable. Under EPA's pharmaceuticals rule, federal very small quantity generators can either comply with § 262.14 (plus the optional provisions of § 266.504) or § 266.501(d) for their pharmaceuticals.*

Response: NHDES agrees and has revised the rule as suggested. [This provision was renumbered to Env-Hw 501.02(j) in the Final Proposal.]

Env-Hw 701.02(a)(5) re: exemption for HW containers while in transport

Comment: *The provisions in b. and c. appear to be redundant. The Department should consider consolidating them.*

Response: NHDES has revised the rules as recommended.

Env-Hw 1115.03(d)(2) re: federal requirements for puncturing devices

Comment: *Please provide the federal regulatory text for 40 CFR 273.13(e)(4)(i) in Appendix D for the convenience of the reader.*

Response: NHDES has revised the rules as recommended.

From OLS:

Env-Hw 501.01(d) re: determining applicability to healthcare facilities

Comment: *Unclear:* *And comparing it to what? What amount would make it necessary to comply with this chapter? Perhaps a citation is needed?*

Response: NHDES has revised paragraph (d) to specify the threshold for applicability and has deleted Env-Hw 501.02(j) to remove redundancy.

Env-Hw 504.02(a) and (g), and 505.01(b) re: notification form

Comment: *Unclear/Edit:* *"the RCRA C SITE IDENTIFICATION FORM - Notification of Hazardous Waste Activity" or "a NHDES-S-01-009 form"*

Response: The term "notification form" is a defined term in Env-Hw 104.20.

Env-Hw 504.02(a)(3) re: notification form information

Comment: *Unclear/Edit:* *"and site land type;"*

Response: NHDES has revised the rules as suggested.

Env-Hw 1202.02(a)(2) and (3) re: effective dates of state rules

Comment: ***Edit/Unclear:** The effective date of these rules will no longer be 2022.*

Response: The Department has revised the rules to cite the date, i.e., August 14, 2017, upon which NHDES began administering the federal land disposal requirements on behalf of the Environmental Protection Agency.

Edits made to: 401.03(d)(4); 403.05(b)(8); 501.01(e) intro, (e)(2) and (e)(3); 501.02(k)(1) and (l); 503.03(a)(11); 504.01 heading; 504.02(a)(15)d.; 509.02(a)(3) and (g)(2); 511.01(g)(2)a.; 701.01 heading; 1102.07(c); 1115.04 heading; 1202.02(a)(1).

Explanatory comments in *{bracketed blue italics}*

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:

Explanatory comments in *{bracketed blue italics}*

- (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) 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.

Explanatory comments in *{bracketed blue italics}*

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.

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 inform the applicant of its decision no later than 90 days after the final date that the public may submit comments.

(d) A standard permit, transfer facility permit, or limited permit shall, subject to modification, suspension, or revocation by the department, be valid for 5 years unless a shorter term is requested by the applicant based on the anticipated need for the permit.

(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

Explanatory comments in *{bracketed blue italics}*

(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;

Explanatory comments in *{bracketed blue italics}*

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;

Explanatory comments in *{bracketed blue italics}*

- (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);

Explanatory comments in *{bracketed blue italics}*

- (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:
 - 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
 - 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:
 - a. The used oil was not previously mixed with any other hazardous waste listed in Env-Hw 402; and
 - 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:
 - 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;
 - b. Are generated from releases of underground storage tanks subject to Env-Or 400; and
 - 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:

Explanatory comments in *{bracketed blue italics}*

- 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

Explanatory comments in *{bracketed blue italics}*

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 hydrotreating 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, that has been treated using one of the required extraction or destruction technologies specified in Table 1 of 40 CFR 268.45; and

b. Debris as defined in 40 CFR 268, 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

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;

Explanatory comments in *{bracketed blue italics}*

- (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;
 - (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:

Explanatory comments in *{bracketed blue italics}*

- (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;

Explanatory comments in *{bracketed blue italics}*

(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

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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

Explanatory comments in *{bracketed blue italics}*

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 Env-Hw 402.04 or Env-Hw 402.05, such waste shall be 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

EPA Hazardous Waste Number	Chemical Abstracts Number	Hazardous Waste
P023	107-20-0	Acetaldehyde, chloro-
P002	591-08-2	Acetamide,N-(aminothioxomethyl)-
P057	640-19-7	Acetamide, 2-fluoro-
P058	62-74-8	Acetic acid, fluoro-, sodium salt
P002	591-08-2	1-Acetyl-2-thiourea
P003	107-02-8	Acrolein
P070	116-06-3	Aldicarb
P203	1646-88-4	Aldicarb sulfone
P004	309-00-2	Aldrin
P005	107-18-6	Allyl alcohol
P006	20859-73-8	Aluminum phosphide (R,T)
P007	2763-96-4	5-(Aminomethyl)-3-isoxazolol
P008	504-24-5	4-Aminopyridine
P009	131-74-8	Ammonium picrate (R)
P119	7803-55-6	Ammonium vanadate
P099	506-61-6	Argentate(1-),bis(cyano-C)-,potassium
P010	7778-39-4	Arsenic acid H ₃ AsO ₄
P012	1327-53-3	Arsenic oxide As ₂ O ₃

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EPA Hazardous Waste Number	Chemical Abstracts Number	Hazardous Waste
P011	1303-28-2	Arsenic oxide As ₂ O ₅
P011	1303-28-2	Arsenic pentoxide
P012	1327-53-3	Arsenic trioxide
P038	692-42-2	Arsine, diethyl-
P036	696-28-6	Arsonous 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	Benzenethanamine, alpha,alpha-dimethyl
P014	108-98-5	Benzenethiol
P127	1563-66-2	7-Benzofuranol, 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	¹ 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-methylethyl)-1H- pyrazol-5-yl ester
P190	1129-41-5	Carbamic acid, methyl-, 3-methylphenyl ester
P127	1563-66-2	Carbofuran
P022	75-15-0	Carbon disulfide
P095	75-44-5	Carbonic dichloride
P189	55285-14-8	Carbosulfan
P023	107-20-0	Chloroacetaldehyde
P024	106-47-8	p-Chloroaniline
P026	5344-82-1	1-(o-Chlorophenyl) thiourea
P027	542-76-7	3-Chloropropionitrile
P029	544-92-3	Copper cyanide

Explanatory comments in *{bracketed blue italics}*

EPA Hazardous Waste Number	Chemical Abstracts Number	Hazardous Waste
P029	544-92-3	Copper cyanide Cu(CN)
P202	64-00-6	m-Cumenyl methylcarbamate
P030	-----	Cyanides (soluble cyanide salts), not otherwise specified
P031	460-19-5	Cyanogen
P033	506-77-4	Cyanogen chloride
P033	506-77-4	Cyanogen chloride (CN)Cl
P034	131-89-5	2-Cyclohexyl-4,6- dinitrophenol
P016	542-88-1	Dichloromethyl ether
P036	696-28-6	Dichlorophenylarsine
P037	60-57-1	Dieldrin
P038	692-42-2	Diethylarsine
P041	311-45-5	Diethyl-p-nitrophenyl phosphate
P040	297-97-2	O, O -Diethyl O -pyrazinyl phosphorothioate
P043	55-91-4	Diisopropylfluorophosphate (DFP)
P004	309-00-2	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1, 4,4a,5,8,8a,-hexahydro-, (1alpha,4alpha,4abeta,5 alpha,8alpha,8abeta)-
P060	465-73-6	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro -1,4,4a,5,8,8a,-[hexachloro]hexahydro-(1 alpha,4alpha, 4abeta,5beta,8beta,8abeta)-
P037	60-57-1	2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a, 7,7a-octahydro-(1aalpha,2beta,2aalpha, 3beta,6beta,6aalpha,7beta,7aalpha)-
P051	¹ 72-20-8	2,7:3,6-Dimethanonaphth [2,3-b] oxirene,3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpha,2beta,2abeta,3alpha,6alpha, 6abeta,7beta,7aalpha)-,& metabolites
P044	60-51-5	Dimethoate
P046	122-09-8	alpha,alpha-Dimethylphenethylamine
P191	644-64-4	Dimetilan
P047	¹ 534-52-1	4,6-Dinitro-o-cresol, & salts
P048	51-28-5	2,4-Dinitrophenol
P020	88-85-7	Dinoseb
P085	152-16-9	Diphosphoramidate, octamethyl-
P111	107-49-3	Diphosphoric acid, tetraethyl ester
P039	298-04-4	Disulfoton
P049	541-53-7	Dithiobiuret
P185	26419-73-8	1,3-Dithiolane-2-carboxaldehyde, 2,4-dimethyl-, O- [(methylamino)-carbonyl]oxime
P050	115-29-7	Endosulfan
P088	145-73-3	Endothall
P051	72-20-8	Endrin
P051	72-20-8	Endrin, & metabolites
P042	51-43-4	Epinephrine
P031	460-19-5	Ethanedinitrile

Explanatory comments in *{bracketed blue italics}*

EPA Hazardous Waste Number	Chemical Abstracts Number	Hazardous Waste
P194	23135-22-0	Ethanimidothioic acid, 2-(dimethylamino)-N-[[[(methylamino)carbonyl]oxy]-2-oxo-, methyl ester
P066	16752-77-5	Ethanimidothioic acid, N-[[[(methylamino)carbonyl]oxy]-, methyl ester
P101	107-12-0	Ethyl cyanide
P054	151-56-4	Ethyleneimine
P097	52-85-7	Famphur
P056	7782-41-4	Fluorine
P057	640-19-7	Fluoroacetamide
P058	62-74-8	Fluoroacetic acid, sodium salt
P198	23422-53-9	Formetanate hydrochloride
P197	17702-57-7	Formparanate
P065	628-86-4	Fulminic acid, mercury(2+) salt (R,T)
P059	76-44-8	Heptachlor
P062	757-58-4	Hexaethyl tetraphosphate
P116	79-19-6	Hydrazinecarbothioamide
P068	60-34-4	Hydrazine, methyl-
P063	74-90-8	Hydrocyanic acid
P063	74-90-8	Hydrogen cyanide
P096	7803-51-2	Hydrogen phosphide
P060	465-73-6	Isodrin
P192	119-38-0	Isolan
P202	64-00-6	3-Isopropylphenyl N-methylcarbamate
P007	2763-96-4	3(2H)-Isoxazolone, 5-(aminomethyl)-
P196	15339-36-3	Manganese, bis(dimethylcarbamodithioato-S,S')-,
P196	15339-36-3	Manganese dimethyldithiocarbamate
P092	62-38-4	Mercury, (acetato- O)phenyl-
P065	628-86-4	Mercury fulminate (R,T)
P082	62-75-9	Methanamine, N-methyl-N-nitroso-
P064	624-83-9	Methane, isocyanato-
P016	542-88-1	Methane, oxybis[chloro-
P112	509-14-8	Methane, tetranitro- (R)
P118	75-70-7	Methanethiol, trichloro-
P198	23422-53-9	Methanimidamide, N,N-dimethyl-N'-[3-[[[(methylamino)carbonyl]oxy]phenyl]-, monohydrochloride
P197	17702-57-7	Methanimidamide, N,N-dimethyl-N'-[2-methyl-4-[[[(methylamino)carbonyl]oxy]phenyl]-
P050	115-29-7	6,9-Methano-2,4,3-benzodioxathiepin, 6,7,8,9,10,10-hexachloro-1,5,5a,6, 9,9a-hexahydro-, 3-oxide
P059	76-44-8	4,7-Methano-1H-indene, 1,4,5,6,7,8,8- heptachloro-3a,4,7,7a-tetrahydro-
P199	2032-65-7	Methiocarb
P066	16752-77-5	Methomyl
P068	60-34-4	Methyl hydrazine
P064	824-83-9	Methyl isocyanate
P069	75-86-5	2-Methylactonitrile

Explanatory comments in *{bracketed blue italics}*

EPA Hazardous Waste Number	Chemical Abstracts Number	Hazardous Waste
P071	298-00-0	Methyl parathion
P190	1129-41-5	Metolcarb
P128	315-18-4	Mexacarbate
P072	86-88-4	alpha Naphthylthiourea
P073	13463-39-3	Nickel carbonyl
P073	13463-39-3	Nickel carbonyl Ni(CO) ₄ , (T-4)-
P074	557-19-7	Nickel cyanide
P074	557-19-7	Nickel cyanide Ni(CN) ₂
P075	¹ 54-11-5	Nicotine & salts (This listing does not include patches, gums, and lozenges that are FDA-approved over-the-counter nicotine replacement therapies.)
P076	10102-43-9	Nitric oxide
P077	100-01-6	p-Nitroaniline
P078	10102-44-0	Nitrogen dioxide
P076	10102-43-9	Nitrogen oxide N0
P078	10102-44-0	Nitrogen oxide N0 ₂
P081	55-63-0	Nitroglycerine (R)
P082	62-75-9	N-Nitrosodimethylamine
P084	4549-40-0	N-Nitrosomethylvinylamine
P085	152-16-9	Octamethylpyrophosphoramide
P087	20816-12-0	Osmium oxide OsO ₄ , (T-4)-
P087	20816-12-0	Osmium tetroxide
P088	145-73-3	7-Oxabicyclo[2.2.1]heptane-2,3- dicarboxylic acid
P194	23135-22-0	Oxamyl
P089	56-38-2	Parathion
P034	131-89-5	Phenol, 2-cyclohexyl-4,6-dinitro-
P048	51-28-5	Phenol, 2,4-dinitro-
P047	¹ 534-52-1	Phenol, 2-methyl-4,6-dinitro-, & salts
P020	88-85-7	Phenol, 2-(1-methylpropyl)-4,6-dinitro-
P009	131-74-8	Phenol, 2,4,6-trinitro-, ammonium salt (R)
P128	315-18-4	Phenol, 4-(dimethylamino)-3,5-dimethyl-, methylcarbamate (ester)
P199	2032-65-7	Phenol, (3,5-dimethyl-4-(methylthio)-, methylcarbamate
P202	64-00-6	Phenol, 3-(1-methylethyl)-, methyl carbamate
P201	2631-37-0	Phenol, 3-methyl-5-(1-methylethyl)-, methyl carbamate
P092	62-38-4	Phenylmercury acetate
P093	103-85-5	Phenylthiourea
P094	298-02-2	Phorate
P095	75-44-5	Phosgene
P096	7803-51-2	Phosphine
P041	311-45-5	Phosphoric acid, diethyl 4-nitrophenyl ester
P039	298-04-4	Phosphorodithioic acid, O,O-diethyl S-[2-(ethylthio)ethyl] ester
P094	298-02-2	Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl] ester
P044	60-51-5	Phosphorodithioic acid, O,O-dimethyl-[2-methylamino]-2-oxoethyl] ester
P043	55-91-4	Phosphorofluoridic acid, bis(1-methylethyl) ester
P089	56-38-2	Phosphorothioic acid, O,O-diethyl O-(4-nitrophenyl) ester

Explanatory comments in *{bracketed blue italics}*

EPA Hazardous Waste Number	Chemical Abstracts Number	Hazardous Waste
P040	297-97-2	Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester
P097	52-85-7	Phosphorothioic acid, O-[4-[(dimethylamino)sulfonyl]phenyl] O,O-dimethyl ester
P071	298-00-0	Phosphorothioic acid, O,O,-dimethyl O-(4-nitrophenyl) ester
P204	57-47-6	Physostigmine
P188	57-64-7	Physostigmine salicylate
P110	78-00-2	Plumbane, tetraethyl-
P098	151-50-8	Potassium cyanide
P098	151-50-8	Potassium cyanide K(CN)
P099	506-61-6	Potassium silver cyanide
P201	2631-37-0	Promecarb
P070	116-06-3	Propanal, 2-methyl-2(methylthio)-, O-[(methylamino)carbonyl]oxime
P203	1646-88-4	Propanal, 2-methyl-2-(methyl-sulfonyl)-, O-[(methylamino)carbonyl] oxime
P101	107-12-0	Propanenitrile
P027	542-76-7	Propanenitrile, 3-chloro-
P069	75-86-5	Propanenitrile, 2-hydroxy-2-methyl-
P081	55-63-0	1,2,3-Propanetriol, trinitrate (R)
P017	598-31-2	2-Propanone, 1-bromo-
P102	107-19-7	Propargyl alcohol
P003	107-02-8	2-Propenal
P005	107-18-6	2-Propen-1-ol
P067	75-55-8	1,2-Propylenimine
P102	107-19-7	2-Propyn-1-ol
P008	504-24-5	4-Pyridinamine
P075	¹ 54-11-5	Pyridine, 3-(1-methyl-3pyrrolidinyl)-, (S)-, & salts (This listing does not include patches, gums, and lozenges that are FDA-approved over-the-counter nicotine replacement therapies.)
P204	57-47-6	Pyrrolo[2,3-b]indol-5-ol, 1,2,3,3a,8,8a-hexahydro-1,3a,8- trimethyl-, methylcarbamate (ester), (3aS-cis)-
P114	12039-52-0	Selenious acid, dithallium(1+) salt
P103	630-10-4	Selenourea
P104	506-64-9	Silver cyanide
P104	506-64-9	Silver cyanide Ag(CN)
P105	26628-22-8	Sodium azide
P106	143-33-9	Sodium cyanide
P106	143-33-9	Sodium cyanide Na(CN)
P108	¹ 57-24-9	Strychnidin-10-one, & salts
P018	357-57-3	Strychnidin-10-one, 2,3-dimethoxy-
P108	¹ 57-24-9	Strychnine, & salts
P115	7446-18-6	Sulfuric acid, dithallium(1+) salt
P109	3689-24-5	Tetraethyldithiopyrophosphate
P110	78-00-2	Tetraethyl lead
P111	107-49-3	Tetraethyl pyrophosphate
P112	509-14-8	Tetranitromethane (R)

Explanatory comments in *{bracketed blue italics}*

EPA Hazardous Waste Number	Chemical Abstracts Number	Hazardous Waste
P062	757-58-4	Tetraphosphoric acid, hexaethyl ester
P113	1314-32-5	Thallic oxide
P113	1314-32-5	Thallium oxide Tl_2O_3
P114	12039-52-0	Thallium(1) selenite
P115	7446-18-6	Thallium(1) sulfate
P109	3689-24-5	Thiodiphosphoric acid, tetraethyl ester
P045	39196-18-4	Thiofanox
P049	541-53-7	Thioimidodicarbonic diamide $[(H_2N)C(S)]_2NH$
P014	108-98-5	Thiophenol
P116	79-19-6	Thiosemicarbazide
P026	5344-82-1	Thiourea, (2-chlorophenyl)-
P072	86-88-4	Thiourea, 1-naphthalenyl-
P093	103-85-5	Thiourea, phenyl-
P185	26419-73-8	Tirpate
P123	8001-35-2	Toxaphene
P118	75-70-7	Trichloromethanethiol
P119	7803-55-6	Vanadic acid, ammonium salt
P120	1314-62-1	Vanadium oxide V_2O_5
P120	1314-62-1	Vanadium pentoxide
P084	4549-40-0	Vinylamine, N-methyl-N-nitroso-
P001	¹ 81-81-2	Warfarin, & salts, when present at concentrations greater than 0.3%
P205	137-30-4	Zinc, bis(dimethylcarbamodithioato-S,S')-,
P121	557-21-1	Zinc cyanide
P121	557-21-1	Zinc cyanide $Zn(CN)_2$
P122	1314-84-7	Zinc phosphide Zn_3P_2 , when present at concentrations greater than 10% (R,T)
P205	137-30-4	Ziram

(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

NH Hazardous Waste Number	Hazardous Waste
NH03 to NH11	Reserved

Readopt 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:

Edit: The use of "Reserved" is only for chapters, parts, and sections. Since there is nothing in the Table now, consider deleting (d) entirely until such time as there is a need again. This would not be any more difficult than leaving "reserved" in the Table, since the entire section will need to be readopted with amendment when there is a change.

Explanatory comments in *{bracketed blue italics}*

- (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 in 49 CFR 173.54, or a division 1.1, 1.2, or 1.3 explosive as defined in 49 CFR 173.50 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
- (2) Comply with Env-Hw 510.06.

(d) A healthcare facility that is a full quantity generator based on the total amount of hazardous waste it generates and accumulates in a calendar month, including both its hazardous waste pharmaceuticals and its hazardous waste that is not pharmaceutical hazardous waste, shall manage:

Explanatory comments in *{bracketed blue italics}*

- (1) Its hazardous waste pharmaceuticals in accordance with Env-Hw 1300 in lieu of this chapter; and
 - (2) Its hazardous waste that is not pharmaceutical hazardous waste, if any, in accordance with this chapter.
- (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 the hazardous waste it generates and accumulates in a calendar month, 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:
- Edit:** Avoid multiple rules in intro language. Consider breaking this into 2 paragraphs if possible.
- (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;

Explanatory comments in *{bracketed blue italics}*

- (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:
 - 1. Is under the control of the same person as the small quantity generator site;
 - 2. Has notified the department of this activity in accordance with Env-Hw 504;
 - 3. Counts the waste received towards its generator status in accordance with Env-Hw 503;
 - 4. Is a full quantity generator; and
 - 5. Complies with the biennial reporting requirements of Env-Hw 512.04; and
 - b. 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:
 - 1. The following word(s) as applicable to the hazardous waste characteristic(s) of the waste:
 - (i) “Ignitable”;
 - (ii) “Corrosive”;
 - (iii) “Reactive”; and
 - (iv) “Toxic”;
 - 2. Hazard communication consistent with US DOT requirements for labeling or placarding at 49 CFR 172 Subpart E or F, respectively;
 - 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

Explanatory comments in *{bracketed blue italics}*

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 the hazardous waste it generates and accumulates in a calendar month, including both its hazardous waste pharmaceuticals and its hazardous waste that is not pharmaceutical hazardous waste, and that 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) A healthcare facility that is a small quantity generator when counting all of the hazardous waste it generates and accumulates in a calendar month, 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)(2); or

(2) The provisions of Env-Hw 500, as applicable.

(k) A healthcare facility that is a small quantity generator and chooses to comply with (j)(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;

Explanatory comments in *{bracketed blue italics}*

- (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;
 - (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: Edit: Capitalize
 - 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;

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(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 and site land type;
- (4) EPA identification number;
- (5) The effective date of the commencement or change in hazardous waste activity;

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- (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;
 - (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
 - (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.

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(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) 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 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
- (4) For an individual, transfer of control to another individual or entity.

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"in the amount of \$150."

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

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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
- (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 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.

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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:
 - a. Fire department;
 - b. Police department;
 - c. Hospital(s);
 - d. State emergency response team 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

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- (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

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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 or 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.

(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)(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

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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

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(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.

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(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)(1);
- (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 when counting all of the hazardous waste it generates and accumulates in a calendar month, including both its hazardous waste pharmaceuticals and its hazardous waste that is not pharmaceutical hazardous waste, 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), as amended by Env-Hw 1302.02(c)(7) through (c)(9), and 40 CFR 266.503(b), as amended by Env-Hw 1302.02(d), 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

Explanatory comments in *{bracketed blue italics}*

- 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, 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) If a paper manifest accompanies a returned shipment or returned container residues contained in non-empty containers, 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)(1), 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.

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

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

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

(f) This chapter shall not apply to healthcare facilities that are small quantity generators when counting all of the hazardous waste it generates and accumulates in a calendar month, including both its hazardous waste pharmaceuticals and its hazardous waste that is not pharmaceutical hazardous waste, 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, 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

Explanatory comments in *{bracketed blue italics}*

- 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
 - b. 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 the farmer's own use, provided the farmer triple rinses each emptied pesticide container in accordance with Env-Hw 401.03(d)(3), and disposes of the pesticide residues on the farmer's 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)(1);
- (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

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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;

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

(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 (3), (b)(6) through (10), 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;

(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;

b. Manifest discrepancy reports; and

c. Unmanifested waste reports;

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- (2) A copy of each quarterly and biennial activity report;
 - (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) Summary reports and details of all incidents requiring contingency plan implementation;
 - (5) 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, 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;
 - (7) For off-site facilities, notices to generators as required by Env-Hw 708.02(a)(1);
 - (8) 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, as specified in 40 CFR 264.73(b)(9), as applicable;
 - (9) The information required by 40 CFR 264.73(b)(11) through (16) and 40 CFR 265.73(b)(9) through (14), as applicable; and
 - (10) Records of monitoring, testing, or analytical data as required by 40 CFR 264.73(b)(18), for 5 years.
- (c) The following information 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:
- (1) 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

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- f. The method, by handling code as specified in 40 CFR 264 Appendix I, Table 2, and date of treatment, storage, or disposal;
 - (2) The method, location, and date of treatment, storage, and disposal;
 - (3) 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;
 - (4) 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);
 - (5) 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
 - (6) 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)(4) and (5), above, and maintain the operating record in accordance with (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.
- (c) “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.
- (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.
- (e) “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.

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(f) “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;
- (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), 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:

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- 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-transport 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 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

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- (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;

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- (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;

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- (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

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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:

- (1) Containers of mercury resulting from spills or leaks from broken ampules shall meet the requirements of Env-Hw 507; and
- (2) Removed intact ampules shall be stored in containers that meet the requirements of Env-Hw 1102.03(c).

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

(d) 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.

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

(f) 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 mercury-containing devices.

(g) If the mercury residues or other waste described in (f), 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 releases to the soil;

(2) Uses breaking, shredding, and storage practices that do not pose a hazard to human health or the environment;

(3) Prevents exposure of humans or the environment to harmful quantities of lead 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);

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(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
 - (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);

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- (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), reprinted in Appendix D;
 - (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

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

Env-Hw 1115.04 Labeling or 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 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.

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 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 August 14, 2017; and
- (3) “Effective dates” listed within Appendices VII and VIII that are earlier than August 14, 2017;

(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);

Explanatory comments in *{bracketed blue italics}*

- (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 replacing “very small quantity generators, as defined in §260.10 of this chapter” with “small quantity generators, as defined in Env-Hw 104”;
- (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 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”;
- (h) 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.”;
- (i) Amend 40 CFR 268.7(a)(9)(iii) by replacing “D001-D043” with “D001-D008 and D010-D043”;
- (j) Delete 40 CFR 268.7(a)(10), regarding the exemption for tolling agreements;
- (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
- (l) Delete 40 CFR 268.50(g), regarding hazardous remediation wastes stored in a staging pile.

Explanatory comments in *{bracketed blue italics}***APPENDIX A: STATE STATUTES, FEDERAL STATUTES/REGULATIONS IMPLEMENTED**

Rule Section(s)	State Statute Implemented	Federal Statute/Regulation Implemented
Env-Hw 303.02	RSA 147-A:3, VIII, IX, IX-a, XI, XXV; RSA 147-A:4; RSA 147-A:4-b; RSA 147-A:5, I	40 CFR 124; 40 CFR 264.1; 40 CFR 265.1; 40 CFR 270
Env-Hw 304.16; 304.17; 304.22	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	40 CFR 124; 40 CFR 264.1; 40 CFR 265.1; 40 CFR 270
Env-Hw 401.03; 402.03; 402.04; 403.05	RSA 147-A:3, I, II, IV, VI	40 CFR 261
Env-Hw 501.01; 501.02	RSA 147-A:3, IV, VI; RSA 147-A:5, III, IV	40 CFR 261.9; 40 CFR 262.10; 40 CFR 262.70
Env-Hw 503.03	RSA 147-A:3, IV, VI	40 CFR 262.13
Env-Hw 504.01; 504.02	RSA 147-A:3, VI, XXVIII; RSA 147-A:5, III, IV; RSA 147-A:6-a	40 CFR 262.10; 40 CFR 262.17; 40 CFR 262.18
Env-Hw 505.01	RSA 147-A:3, VI	40 CFR 262.18
Env-Hw 507.01; 507.03	RSA 147-A:3, III, IV, XIII	40 CFR 262.16; 40 CFR 262.17; 40 CFR 262 Subpart C
Env-Hw 509.02	RSA 147-A:3, III, IV, VI, XIII, XXVI; RSA 147-A:5, III	40 CFR 262
Env-Hw 511.01; 511.02	RSA 147-A:3, III-VI	40 CFR 262.17; 40 CFR 262.18; 40 CFR 262 Subpart B
Env-Hw 601.02	RSA 147-A:3, XXV; RSA 147-A:6	40 CFR 263.10
Env-Hw 701.01; 701.02	RSA 147-A:3, III, IV, XXV	40 CFR 264; 40 CFR 265
Env-Hw 705.01	RSA 147-A:3, V, VI; RSA 147-B:8	40 CFR 264 Subpart E; 40 CFR 265 Subpart E
Env-Hw 1101.03	RSA 147-A:3, IV	40 CFR 273
Env-Hw 1102.03; 1102.06; 1102.07	RSA 147-A:3, IV, VI, VII	40 CFR 273
Env-Hw 1106.05	RSA 147-A:3, IV, VI, VII	40 CFR 273
Env-Hw 1107.02; 1107.04	RSA 147-A:3, IV, VI, VII	40 CFR 273
Env-Hw 1108.01	RSA 147-A:3, I, II	40 CFR 273
Env-Hw 1109.03	RSA 147-A:3, IV	40 CFR 273
Env-Hw 1110.01	RSA 147-A:3, IV, XIII	40 CFR 273
Env-Hw 1111.03	RSA 147-A:3, IV	40 CFR 273
Env-Hw 1113.03	RSA 147-A:3, IV	40 CFR 273
Env-Hw 1115.01; 1115.02; 1115.03; 1115.04	RSA 147-A:3, IV	40 CFR 273
Env-Hw 1201.02; 1201.03; 1202.01; 1202.02	RSA 147-A:3, IV, VI	40 CFR 268

*{No changes to Appendices B & C}***Edit:** Please include Appendices B and C.

Explanatory comments in *{bracketed blue italics}*

APPENDIX D: FEDERAL DEFINITIONS AND REGULATIONS
{The following provisions are being added to or revised in Appendix D}

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.

Explanatory comments in *{bracketed blue italics}*

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 273.13(e)(4)(i)

Conduct puncturing and draining activities using a device specifically designed to safely puncture aerosol cans and effectively contain the residual contents and any emissions thereof.

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;

Explanatory comments in *{bracketed blue italics}*

(vi) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(vii) Stores removed ampules in closed, non-leaking containers that are in good condition;

(viii) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation;

APPENDIX E: EMERGENCY TELEPHONE NUMBERS

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