

*Adopt Env-Hw 904, previously Env-C 612 effective 2-24-00 (Document #7204), and expired 2-24-08, and INTERIM effective 2-24-08 (Document #9093), and expired 8-22-08, to read as follows:*

PART Env-Hw 904 FINES RELATING TO HAZARDOUS WASTE MANAGEMENT

Env-Hw 904.01 Fines Relating to Hazardous Waste Statutory Violations. For violating any requirement set out in RSA 147-A, the proposed fine shall be \$2,000 per violation, event, unit, requirement, or provision of an administrative order, or any combination thereof.

Env-Hw 904.02 Fines Relating to Limited Permits.

(a) For operating an elementary neutralization unit or wastewater treatment unit without a limited permit in violation of Env-Hw 304.04, or for continuing to operate under a limited permit after its expiration date without requesting to renew the permit in accordance with Env-Hw 304.04(n), the proposed fine shall be \$2,000 per unit in operation.

(b) For failing to conduct inspections of an elementary neutralization unit or wastewater treatment unit that is operating under a limited permit, in accordance with the schedule prepared pursuant to Env-Hw 304.04(f), the proposed fine shall be \$1,750 per inspection not conducted.

(c) For failing to document inspections of an elementary neutralization unit or wastewater treatment unit that is operating under a limited permit, in violation of Env-Hw 304.04(f), referencing 40 CFR 265.15 as reprinted in Appendix D, the proposed fine shall be \$1,250 per record not maintained.

(d) For failing to submit a written report to the department within 15 days after any spill or leakage of hazardous waste from an elementary neutralization unit or wastewater treatment unit, in violation of Env-Hw 304.04(i), the proposed fine shall be \$1,000 per report not timely provided per event.

Env-Hw 904.03 Fines Relating to Hazardous Waste Determinations, Generator Notification, and EPA Identification Numbers.

(a) For failing to determine whether a waste is a hazardous waste in violation of Env-Hw 502.01(a), the proposed fine shall be \$2,000 per determination not made.

(b) For failing to compile a written record of the basis for a determination made in accordance with Env-Hw 502.01(a)(3)b. in violation of Env-Hw 502.01(b), the proposed fine shall be \$250 per record.

(c) For failing to notify the department prior to conducting hazardous waste activities in violation of Env-Hw 504.01(a), the proposed fine shall be \$2,000 for full quantity generators and \$1,000 for small quantity generators.

(d) For failing to obtain an EPA identification number prior to generating, treating, storing, disposing of, transporting, or offering a hazardous waste for transportation in violation of Env-Hw 504.01(d), the proposed fine shall be \$2,000 for full quantity generators and \$1,000 for small quantity generators.

(e) For failing to obtain a temporary EPA identification number when a non-recurrent generator of hazardous waste is required to manifest hazardous waste due to a one-time cleanup in violation of Env-Hw 504.04(a), the proposed fine shall be \$1,000.

(f) For failing to notify the department orally or in writing of any changes to the information required by Env-Hw 504.02(a)(1), (2), (7), (11), (12), (13), or (14) within 30 days of the effective date of the change in violation of Env-Hw 505.01(a), the proposed fine shall be \$250 for full quantity generators and \$100 for small quantity generators.

(g) For failing to complete and submit a New Hampshire notification form to notify the department of changes to the information required in Env-Hw 504.02(a)(3), (8), (9), (10), (15), or (16) within 30 days of the effective date of the change in violation of Env-Hw 505.01(b), the proposed fine shall be \$500 for full quantity generators and \$250 for small quantity generators.

(h) For failing to notify the department within 7 days after ceasing hazardous waste activities in violation of Env-Hw 505.04(a), the proposed fine shall be \$750.

Env-Hw 904.04 Fines Relating to Generator Accumulation of Hazardous Waste.

(a) For using hazardous waste storage practices that pose a hazard to human health or the environment in violation of Env-Hw 506.01, the proposed fine shall be \$2,000 per violation.

(b) For failing to comply with Env-Hw 506.02(a) relative to soil or groundwater contamination, the proposed fine shall be \$2,000 per violation.

(c) For failing to comply with Env-Hw 506.02(b) relative to disposal of hazardous waste or disposal of decontaminating equipment, structures, soils, or any combination thereof due to closure or cessation of operation of the generating facility, the proposed fine shall be \$2,000 per violation.

(d) For failing to continue to appropriately manage hazardous waste after ceasing operations in violation of Env-Hw 506.03, the proposed fine shall be \$2,000 per violation.

(e) For failing to accumulate hazardous waste in containers or tanks in violation of Env-Hw 507.01(a), the proposed fine shall be \$2,000.

(f) For accumulating hazardous waste in a container or tank that does not meet the requirements of Env-Hw 507.02(a), the proposed fine for each requirement not satisfied shall be between \$100 and \$1,000 based on the volume of the container or tank.

(g) For failing to maintain a minimum of 2 feet of aisle space for inspection of at least one side of each hazardous waste container in violation of Env-Hw 507.02(b)(1), the proposed fine shall be \$100 per container.

(h) For failing to position each container so that its hazardous waste label or marking is not hidden by walls or other containers in violation of Env-Hw 507.02(b)(2), the proposed fine shall be \$100 per container.

(i) For storing hazardous waste containers on surfaces that are not impervious in violation of Env-Hw 507.02(c), the proposed fine shall be between \$250 and \$2,000, based upon the volume of hazardous waste stored in each non-conforming storage area.

(j) For storing hazardous waste containers in an area with a functional floor drain or manhole or in or near a sink with a functional drain present without secondary containment capable of containing the volume of the largest capacity hazardous waste container present in violation of Env-Hw 507.02(d), the proposed fine shall be between \$250 and \$2,000, based upon the volume of hazardous waste stored in each non-conforming storage area.

(k) For storing hazardous waste containers outside without being covered to prevent precipitation from coming in contact with the top of the containers in violation of Env-Hw 507.02(f)(1), the proposed fine shall be between \$250 and \$2,000, based upon the volume of hazardous waste stored in each non-conforming storage area.

(l) For storing hazardous waste containers outside without being closed at all times unless actively adding or removing wastes in violation of Env-Hw 507.02(f)(2), the proposed fine shall be between \$250 and \$2,000 per container based on the volume of each container.

(m) For failing to provide adequate secondary containment for hazardous waste containers stored outside in violation of Env-Hw 507.02(f)(3)a., the proposed fine shall be \$1,000 per storage area.

(n) For failing to keep secondary containment covered for hazardous waste containers stored outside in violation of Env-Hw 507.02(f)(3)b., the proposed fine shall be \$500 per secondary containment structure.

(o) For outside storage of hazardous waste containers within any of the setbacks in Env-Hw 507.02(f)(4), the proposed fine shall be between \$250 and \$2,000 per container based on the volume of each container.

(p) For failing to ship hazardous waste off-site within 90 days of the start date of accumulation without obtaining a storage permit to accumulate hazardous waste that is generated on-site in violation of Env-Hw 508.01, Env-Hw 509.01(a), and the condition set out in Env-Hw 507.03(a), the proposed fine shall be between \$50 and \$500 per container or tank, based on the volume of each container or tank.

Env-Hw 904.05 Fines Relating to Small Quantity Generator Requirements.

(a) For failing to maintain spill control equipment within 100 feet of each central accumulation area and accessible along a path unobstructed by any obstacles other than unlocked doors in violation of Env-Hw 508.01 and the condition set out in Env-Hw 508.02(b)(1), the proposed fine shall be \$500 per accumulation area.

(b) For failing to maintain fire control equipment within 100 feet of each central accumulation area and accessible along a path unobstructed by any obstacles other than unlocked doors in violation of Env-Hw 508.01 and the condition set out in Env-Hw 508.02(b)(2), the proposed fine shall be \$500 per accumulation area.

(c) For failing to post "No Smoking" signs at or near each central accumulation area containing ignitable or reactive wastes in violation of Env-Hw 508.01 and the condition set out in Env-Hw 508.02(c), the proposed fine shall be \$500 per accumulation area.

(d) For failing to mark hazardous waste containers or tanks with the words "Hazardous Waste" or with the contents of the container or tank in violation of Env-Hw 508.01 and the conditions set out in Env-Hw 508.02(d), the proposed fine for each requirement not satisfied per container or tank shall be between \$25 and \$150, based on the volume of each container or tank.

(e) For failing to submit the documents required by Env-Hw 514.03(e) by the date specified therein, the proposed fine shall be \$500 per declaration not submitted.

Env-Hw 904.06 Fines Relating to Small Quantity Generator Extended Quantity and Accumulation Requirements.

(a) For failing to maintain spill control equipment within 100 feet of each central accumulation area and accessible along a path unobstructed by any obstacles other than unlocked doors in violation of Env-Hw 508.01 and the condition set out in Env-Hw 508.03(b), referencing Env-Hw 508.02(b) through (e), the proposed fine shall be \$750 per accumulation area.

(b) For failing to maintain fire control equipment within 100 feet of each central accumulation area and accessible along a path unobstructed by any obstacles other than unlocked doors in violation of Env-Hw 508.01 and the condition set out in Env-Hw 508.03(b), referencing Env-Hw 508.02(b) through (e), the proposed fine shall be \$750 per accumulation area.

(c) For failing to post "No Smoking" signs at or near each central accumulation area containing ignitable or reactive wastes in violation of Env-Hw 508.01 and the condition set out in Env-Hw 508.03(b), referencing Env-Hw 508.02(b) through (e), the proposed fine shall be \$750 per accumulation area.

(d) For failing to mark hazardous waste containers or tanks stored in a central accumulation area with the words "Hazardous Waste" or with the contents of the container or tank in violation of Env-Hw 508.01 and the conditions set out in Env-Hw 508.03(b), referencing Env-Hw 508.02(d), the proposed fine for each requirement not satisfied per container or tank shall be between \$25 and \$300 based on the volume of each container or tank.

(e) For failing to conduct weekly inspections of the hazardous waste containers in violation of Env-Hw 508.01 and the condition set out in Env-Hw 508.03(c), the proposed fine shall be \$250 per accumulation area.

(f) For failing to conduct daily inspections of hazardous waste tanks in violation of Env-Hw 508.01 and the condition set out in Env-Hw 508.03(d), the proposed fine shall be \$250 per tank.

(g) For failing to ensure that hazardous waste is under the control of a designated hazardous waste manager or emergency coordinator, or designee, in violation of Env-Hw 508.01 and the condition set out in Env-Hw 508.03(f), the proposed fine shall be \$300.

(h) For failing to have at least one employee designated as the emergency coordinator who is either on the premises or on call, with the responsibility for coordinating all emergency response measures in violation of Env-Hw 508.01 and the condition set out in Env-Hw 508.03(g), the proposed fine shall be \$500.

(i) For failing to post the emergency response information next to the telephone nearest each central accumulation area in violation of Env-Hw 508.01 and the conditions set out in Env-Hw 508.03(h), the proposed fine shall be \$500 per accumulation area.

(j) For failing to ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies in violation of Env-Hw 508.01 and the conditions set out in Env-Hw 508.03(i), the proposed fine shall be \$750.

(k) For failing to maintain an internal communication or alarm system and an external communication system not more than 100 feet from each central accumulation area, and accessible along a path unobstructed by any obstacles other than unlocked doors, in violation of Env-Hw 508.01 and the conditions set out in Env-Hw 508.03(j), the proposed fine shall be \$1,250 for each requirement not satisfied per accumulation area.

(l) For failing to mark hazardous waste containers or tanks with the date the on-site accumulation limit of 1,000 kilograms of non-acute hazardous waste is reached in violation of Env-Hw 508.01 and the condition set out in Env-Hw 508.03(m), the proposed fine shall be between \$25 and \$300 per container or tank based on the volume of each container or tank.

Env-Hw 904.07 Fines Relating to Full Quantity Generator (FQG) Requirements.

(a) For failing to inspect central accumulation areas in violation of Env-Hw 509.01(c) and the conditions set out in Env-Hw 509.02(a)(1), the proposed fine shall be \$350 per inspection per area.

(b) For failing to train personnel who handle hazardous waste in violation of Env-Hw 509.02(a)(2), the proposed fine shall be \$1,750 per individual not trained for initial training and \$1,000 per individual per annual review not provided.

(c) For failing to maintain training documents or records at the facility in violation of Env-Hw 509.01(c) and the conditions set out in Env-Hw 509.02(a)(2), referencing 40 CFR 265.16 as reprinted in Appendix D, the proposed fine shall be \$500 per document or record not maintained.

(d) For failing to comply with the requirements for ignitable, reactive, or incompatible wastes established in Env-Hw 509.02(a)(3), in violation of Env-Hw 509.01(c), the proposed fine shall be \$2,000 per requirement not met.

(e) For failing to maintain adequate preparedness and prevention measures in violation of Env-Hw 509.01(c) and the conditions set out in Env-Hw 509.02(a)(4), the proposed fine shall be \$1,250 per requirement not met per central accumulation area.

(f) For failing to maintain an adequate contingency plan in violation of Env-Hw 509.01(c) and the conditions set out in Env-Hw 509.02(a)(5), the proposed fine shall be \$2,000.

(g) For failing to comply with the tank management standards established in Env-Hw 509.02(a)(7), in violation of Env-Hw 509.01(c), the proposed fine shall be \$2,000 per tank per requirement not met.

(h) For failing to post emergency response information in violation of Env-Hw 509.01(c) and the conditions set out in Env-Hw 509.02(b), the proposed fine shall be \$1,000 per central accumulation area.

(i) For failing to provide security measures at outdoor central accumulation areas in violation of Env-Hw 509.01(c) and the conditions set out in Env-Hw 509.02(c), the proposed fine shall be \$1,750 per area.

(j) For failing to mark hazardous waste containers or tanks with the beginning accumulation date, the words "Hazardous Waste", words that identify the contents of the container or tank, or with the EPA or state waste number in violation of Env-Hw 509.01(c) and the conditions set out in Env-Hw 509.02(d), the proposed fine for each requirement not satisfied per container or tank shall be between \$50 and \$500 based on the volume of each container or tank.

(k) For failing to have a hazardous waste coordinator certified by the department pursuant to Env-Hw 515 on staff and physically at the facility where the hazardous waste is generated for the hours per week specified in Env-Hw 509.04(a), in violation of Env-Hw 509.01(d), the proposed fine shall be \$50 for each week without a coordinator for the specified hours per week.

(l) For failing to have a hazardous waste coordinator certified by the department pursuant to Env-Hw 515 on staff and physically at the facility where the hazardous waste is generated for the time periods specified in Env-Hw 509.04(b), in violation of Env-Hw 509.01(d), the proposed fine shall be \$250 per 30 consecutive days without a coordinator, or \$500 per year in which the facility is without a coordinator for more than 45 total working days.

(m) For failing to make available to the department upon request documentation to demonstrate that the generator is in compliance with the conditions set out in Env-Hw 509.04(a) or (b), or a combination thereof, in violation of Env-Hw 509.01(d) and the condition set out in Env-Hw 509.04(c), the proposed fine shall be \$500 per request not satisfied.

#### Env-Hw 904.08 Fines Relating to FQG Satellite Accumulation Requirements.

(a) For accumulating greater than 55 gallons of hazardous waste or greater than one quart of acutely hazardous waste at a satellite accumulation area in violation of Env-Hw 509.01(c) and the conditions set out in Env-Hw 509.03, the proposed fine shall be \$750 per area.

(b) For failing to locate satellite accumulation areas at or near the point of generation where hazardous wastes initially accumulate or maintain satellite accumulation areas under the control of the operator of the process generating the hazardous waste in violation of Env-Hw 509.01(c) and the conditions set out in Env-Hw 509.03, the proposed fine shall be \$1,250 per area.

(c) For failing to provide hazardous waste training for operators of processes generating hazardous waste being stored at a satellite accumulation area in violation of Env-Hw 509.01(c) and the conditions set out in Env-Hw 509.03(b), the proposed fine shall be \$1,250 per operator not trained for initial training and \$750 per 3-year review not provided per operator.

(d) For using hazardous waste storage practices at a satellite accumulation area that pose a hazard to human health or the environment in violation of Env-Hw 509.01(c) and the condition set out in Env-Hw 509.03(c), the proposed fine shall be \$2,000 per violation.

(e) For storing hazardous waste in satellite storage containers that do not meet the requirements of Env-Hw 507.02(a) in violation of Env-Hw 509.01(c) and the condition set out in Env-Hw 509.03(d), the proposed fine for each requirement not satisfied per container shall be between \$100 and \$200 based on the volume of each container.

(f) For failing to maintain at each satellite accumulation area a minimum of 2 feet of aisle space to allow for inspection of at least one side of each container in violation of Env-Hw 509.01(c) and the condition set out in Env-Hw 509.03(d) and Env-Hw 507.02(b)(1), the proposed fine shall be \$100 per container.

(g) For failing to manage incompatible wastes in a satellite accumulation area pursuant to 40 CFR 265.177 in violation of Env-Hw 509.01(c) and the condition set out in Env-Hw 509.03(e), the proposed fine shall be \$1,750 per area.

(h) For failing to mark satellite storage containers with the words “Hazardous Waste” or with words that identify the contents of the container in violation of Env-Hw 509.01(c) and the conditions set out in Env-Hw 509.03(f), the proposed fine for each requirement not satisfied per container shall be between \$50 and \$100 based on the volume of each container.

(i) For failing to conduct inspections of satellite accumulation areas that have accumulated greater than 10 gallons of hazardous waste in violation of Env-Hw 509.01(c) and the condition set out in Env-Hw 509.03(g), the proposed fine shall be \$250 per area.

(j) For failing to immediately label or mark satellite storage containers with the date the accumulation limit was reached or with the EPA or state waste number when the volume of hazardous waste in a satellite accumulation area reaches the accumulation limit in violation of Env-Hw 509.01(c) and the conditions set out in Env-Hw 509.03(h)(1), the proposed fine for each requirement not satisfied per container shall be between \$50 and \$125 based on the volume of each container.

(k) For failing to move the hazardous waste in a satellite accumulation area to a designated central accumulation area within 3 days of reaching the accumulation limit in violation of Env-Hw 509.01(c) and the conditions set out in Env-Hw 509.03(h)(2), the proposed fine shall be \$100 per satellite accumulation area.

#### Env-Hw 904.09 Fines Relating to Manifest and Delivery Requirements for Generators.

(a) For failing to use a manifest for shipments of hazardous waste in violation of Env-Hw 510.01(a), the proposed fine shall be \$2,000 per shipment.

(b) For failing to forward one legible copy of the manifest, with signatures, to the department within 5 days of shipment in violation of Env-Hw 510.02(a)(5)b. and Env-Hw 510.02(b)(5)b., the proposed fine shall be \$100 per manifest.

(c) For failing to properly complete a manifest for shipments of hazardous waste in violation of Env-Hw 510.03, the proposed fine shall be \$500 per shipment.

(d) For delivering or offering hazardous waste to a facility that has not obtained an EPA identification number in violation of Env-Hw 511.01(a)(1), the proposed fine shall be \$2,000 per load delivered or offered.

(e) For delivering or offering hazardous waste to a transporter that does not possess an EPA identification number or a current and valid New Hampshire hazardous waste transporter registration in violation of Env-Hw 511.01(a)(2), the proposed fine shall be \$2,000 per load delivered or offered.

(f) For delivering hazardous waste to a facility not authorized under the destination state's rules to handle the hazardous waste in violation of Env-Hw 511.01(b), the proposed fine shall be \$2,000 per load delivered to an unauthorized facility.

(g) For failing to submit an exception report to the department within 45 days of shipment in violation of Env-Hw 511.01(d), the proposed fine shall be \$100 per report not submitted.

Env-Hw 904.10 Fines Relating to Recordkeeping and Reporting Requirements for Generators.

(a) For failing to keep the manifest copies identified in Env-Hw 512.01(a)(1) for the period specified, the proposed fine shall be \$750 per copy certified by the designated facility and \$250 per original generator copy.

(b) For failing to keep the records identified in Env-Hw 512.01(a)(2) through (12) for the period specified, the proposed fine shall be \$250 per record.

(c) For failing to submit a certified copy of the quarterly activity report in violation of Env-Hw 512.02(c) and (i), the proposed fine shall be \$750 per certified copy of a quarterly report not submitted.

(d) For failing to notify the department of any needed corrections within 30 days of receipt of a quarterly activity report or failing to certify the report in violation of Env-Hw 512.02(h), the proposed fine shall be \$250 per quarterly report.

Env-Hw 904.11 Fines Relating to Emergency and Remedial Action for Hazardous Waste Generators, Transporters, and Facilities/Transfer Facilities.

(a) For failing to immediately report a discharge of hazardous waste or material in violation of Env-Hw 513.01(a), Env-Hw 608.01(a), or Env-Hw 706.01(a), the proposed fine shall be \$2,000 per discharge.

(b) For failing to submit a cleanup plan to the department within 5 days of a hazardous waste discharge in violation of Env-Hw 513.02(b), Env-Hw 608.02(b), or Env-Hw 706.02(b), the proposed fine shall be \$1,250 per event for which a plan is required.

(c) For failing to submit a written report within 30 days of completion of clean up in violation of Env-Hw 513.02(f), Env-Hw 608.02(g), or Env-Hw 706.02(g), the proposed fine shall be \$1,250 per event for which a report is required.

Env-Hw 904.12 Fines Relating to Hazardous Waste Transporter Requirements.

(a) For transporting hazardous waste into or within the state of New Hampshire without having a transporter registration issued by the department in violation of Env-Hw 602.01, the proposed fine shall be \$2,000 per load transported.

(b) For failing to notify the department prior to conducting hazardous waste activities in violation of Env-Hw 602.02(a), the proposed fine shall be \$2,000.

(c) For transporting hazardous waste without having received an EPA identification number in violation of Env-Hw 602.02(d), the proposed fine shall be \$1,000 per load transported.

(d) For failing to transport hazardous waste in accordance with the manifest requirements of 40 CFR 263.20(a) in violation of Env-Hw 604.01(a), the proposed fine shall be \$2,000 per load transported.

(e) For failing to verify the generator EPA identification number in violation of Env-Hw 604.01(b), the proposed fine shall be \$250 per manifest used without a valid generator EPA identification number.

Env-Hw 904.13 Fines Relating to Hazardous Waste Facilities/Hazardous Waste Transfer Facilities.

(a) For failing to notify the department prior to conducting hazardous waste activities in violation of Env-Hw 702.01, the proposed fine shall be \$2,000.

(b) For failing to notify the department of changes to notification information in violation of Env-Hw 702.02(b), the proposed fine shall be \$500 per event that caused the information to change.

(c) For failing to keep a written operating record for the period required by Env-Hw 705.01(e), the proposed fine shall be \$750 per record not kept.

Env-Hw 904.14 Fines Relating to Recycling of Hazardous Wastes.

(a) For failing to meet the notification requirements for facilities that recycle recyclable materials without storing the materials beforehand in violation of Env-Hw 804.01(b)(4)a., the proposed fine shall be \$2,000.

(b) For failing to meet the manifest requirements for facilities that recycle recyclable materials without storing the materials beforehand in violation of Env-Hw 804.01(b)(4)b., the proposed fine shall be \$1,750 per shipment received.

(c) For failing to store used oil in containers or tanks that meet the requirements of Env-Hw 807.06(b)(1), the proposed fine shall be between \$50 and \$1,000 per container or tank, based on the volume of each container or tank.

(d) For failing to label a container or tank of used oil with the words "Used Oil for Recycle" in violation of Env-Hw 807.06(b)(2), the proposed fine shall be between \$25 and \$250 based on the volume of the container or tank.

(e) For failing to close a container or tank of used oil in violation of Env-Hw 807.06(b)(3), the proposed fine shall be between \$50 and \$500 based on the volume of the container or tank.

(f) For failing to maintain and operate tanks or containers of used oil to prevent spillage, seepage, or other discharge of used oil into storm or sanitary sewers, onto the land, or into groundwater or surface waters in violation of Env-Hw 807.06(b)(4), the proposed fine shall be \$2,000 per violation resulting in a release of used oil, and \$1,000 for violations not resulting in a release of used oil.

(g) For failing to conduct an initial used oil determination in violation of Env-Hw 807.06(b)(5), the proposed fine shall be \$1,750 per determination not made.

(h) For failing to analyze used oil in accordance with Env-Hw 807.06(b)(6), the proposed fine shall be \$1,000 per analysis not conducted.

(i) For mixing used oil with any other hazardous waste in violation of Env-Hw 807.06(b)(8), the proposed fine shall be \$2,000 per violation.



(j) For delivering used oil to a facility not authorized to accept it in violation of Env-Hw 807.06(b)(9), the proposed fine shall be \$2,000 per load delivered.

(k) For transporting used oil without using a duly registered hazardous waste transporter or without using a 3-copy bill of lading in violation of Env-Hw 807.06(b)(10), the proposed fine for each requirement not satisfied shall be \$2,000 per shipment.

(l) For failing to include on a bill of lading the information required by Env-Hw 807.06(b)(11)a.- f., the proposed fine shall be \$250 for each requirement not satisfied.

(m) For failing to use a bill of lading or manifest when transporting used oil in violation of Env-Hw 807.07(c), the proposed fine shall be \$2,000 per load transported.

(n) For failing to notify the department of used oil marketing activities in violation of Env-Hw 807.09(b)(1), the proposed fine shall be \$1,000.

(o) For failing to notify the department of used oil burning activities in violation of Env-Hw 807.10(b)(1), the proposed fine shall be \$1,000.

(p) For failing to keep the records identified in Env-Hw 807.10(b)(9) for the period specified, the proposed fine shall be \$250 per record.

(q) For failing to store spent lead-acid batteries destined for reclamation in a manner designed to ensure that battery housings do not break or leak acid onto the soil or into any groundwaters or surface waters in violation of Env-Hw 809.02, the proposed fine shall be \$250 per storage area.

Env-Hw 904.15 Fines Relating to Requirements for All Universal Waste Handlers.

(a) For failing to manage universal waste in a way that prevents the release of the universal waste, or any component of the universal waste, to the environment in violation of Env-Hw 1102.03(b), the proposed fine shall be \$1,750 per violation.

(b) For failing to keep universal waste containers closed, except to add or remove universal waste, in violation of Env-Hw 1102.03(c)(1), the proposed fine shall be \$15 per container.

(c) For failing to store universal waste in a container that is compatible with the universal waste and its contents in violation of Env-Hw 1102.03(c)(2), the proposed fine shall be \$1,250 per container.

(d) For failing to store universal waste in containers that are free of defects, design characteristics, or damage that could result in leakage, spillage, or other environmental releases in violation of Env-Hw 1102.03(c)(3), the proposed fine shall be \$750 per container.

(e) For accumulating universal waste for longer than one year from the date the universal waste becomes a waste or is received from another handler in violation of Env-Hw 1102.04(a)(1), the proposed fine shall be \$150 per item or per container.

(f) For failing to demonstrate the length of time that universal waste has been accumulated from the date it becomes a waste in violation of Env-Hw 1102.04(a)(2), the proposed fine shall be \$1,750.

(g) For failing to cover universal waste stored outside to prevent precipitation from coming in contact with the waste or containers in which the waste is stored in violation of Env-Hw 1102.05, the proposed fine shall be \$25 per item or per container.

(h) For sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination in violation of Env-Hw 1102.07(a), the proposed fine shall be \$1,750 per shipment.

Env-Hw 904.16 Fines Relating to Requirements for Large Quantity Handlers and Very Large Quantity Handlers of Universal Waste.

(a) For failing to notify the department, before accumulating greater than or equal to 5,000 kilograms of universal waste for large quantity handlers or 20,000 kilograms of universal waste for very large quantity handlers, by submitting a completed notification form in violation of Env-Hw 1104.03, the proposed fine shall be \$1,000 for large quantity handlers and \$2,000 for very large quantity handlers.

(b) For failing to ensure all employees are thoroughly familiar with proper waste handling and emergency procedures relative to their responsibilities during normal operations and emergencies in violation of Env-Hw 1104.04, the proposed fine shall be \$500 per employee for large quantity handlers and \$750 per employee for very large quantity handlers.

(c) For failing to keep a record of each shipment of universal waste received at the accumulation site in violation of Env-Hw 1104.05(a) and (c), the proposed fine shall be \$50 per shipment for large quantity handlers and \$75 per shipment for very large quantity handlers.

(d) For failing to keep a record of each shipment of universal waste sent by the handler to another facility in violation of Env-Hw 1104.06(a) and (c), the proposed fine shall be \$50 per shipment for large quantity handlers and \$75 per shipment for very large quantity handlers.

Env-Hw 904.17 Fines Relating to Requirements for Very Large Quantity Handlers of Universal Waste.

(a) For storing universal waste outside within a 100-year floodplain in violation of Env-Hw 1105.03, the proposed fine shall be \$250 per container.

(b) For failing to conduct weekly inspections of areas where universal waste is stored in violation of Env-Hw 1105.04(a), the proposed fine shall be \$50 per inspection per area.

(c) For failing to have a contingency plan on-site in violation of Env-Hw 1105.05, the proposed fine shall be \$1,000.

(d) For failing to keep preparedness and prevention equipment appropriate for the types and quantities of waste being accumulated on-site at all times in violation of Env-Hw 1105.06(a), the proposed fine shall be \$1,250.

(e) For failing to maintain a path to and within the universal waste storage area to allow the unobstructed movement of personnel, fire control equipment, spill control equipment, and decontamination equipment to any area of the universal waste storage area in violation of Env-Hw 1105.06(b), the proposed fine shall be \$1,250 per storage area.

(f) For failing to post emergency telephone numbers and information at the nearest telephone to each universal waste pesticide storage area in violation of Env-Hw 1105.06(c), the proposed fine shall be \$750 per storage area.

(g) For failing to provide security measures at all outdoor universal waste storage areas in violation of Env-Hw 1105.07(a), (b) and (c), the proposed fine for each requirement not satisfied shall be \$1,000 per storage area.

(h) For failing to meet the closure requirements of Env-Hw 1105.08, the proposed fine shall be \$2,000.

(i) For failing to meet the financial assurance requirements of Env-Hw 1105.09, the proposed fine shall be \$2,000.

Env-Hw 904.18 Fines Relating to Management of Specific Universal Wastes.

(a) For failing to label or mark universal waste batteries or containers holding batteries with the words "Universal Waste - Battery(ies)," "Waste Battery(ies)," or "Used Battery(ies)" in violation of Env-Hw 1109.04, the proposed fine shall be \$10 per battery or \$50 per container.

(b) For failing to label or mark containers holding universal waste pesticides with the words "Universal Waste - Pesticide(s)" or "Waste - Pesticide(s)" in violation of Env-Hw 1110.05(a)(2) and Env-Hw 1110.05(b), the proposed fine shall be \$100 per container.

(c) For failing to label or mark universal waste mercury-containing devices or containers holding mercury-containing devices with the words "Universal Waste - Mercury-Containing Device(s)," "Waste Mercury-Containing Device(s)," or "Used Mercury-Containing Device(s)" in violation of Env-Hw 1111.04, the proposed fine shall be \$100 per device or container.

(d) For failing to place universal waste lamps in containers in violation of Env-Hw 1112.03(a), the proposed fine shall be \$10 per lamp.

(e) For intentionally crushing or dismantling universal waste lamps without obtaining a permit in accordance with Env-Hw 300 in violation of Env-Hw 1112.03(b), the proposed fine shall be \$2,000.

(f) For failing to label or mark containers holding universal waste lamps with the words "Universal Waste - Lamp(s)," "Waste Lamp(s)," or "Used Lamp(s)" in violation of Env-Hw 1112.04, the proposed fine shall be \$50 per container.

(g) For failing to label or mark universal waste cathode ray tubes or containers holding intact, shredded, or broken universal waste cathode ray tubes with the words "Universal Waste - Cathode Ray Tubes," "Waste Cathode Ray Tube(s)," or "Used Cathode Ray Tube(s)" in violation of Env-Hw 1113.04, the proposed fine shall be \$10 per cathode ray tube or \$50 per container.

(h) For failing to label or mark containers or tanks holding universal waste antifreeze with the words "Universal Waste - Antifreeze," "Waste Antifreeze," or "Used Antifreeze" in violation of Env-Hw 1114.04, the proposed fine shall be between \$10 and \$250 per container or tank based on the volume of each container or tank.

(i) For failing to label or mark containers holding universal waste aerosol cans with the words "Universal Waste - Aerosol Can(s)," "Waste Aerosol Can(s)," or "Used Aerosol Can(s)" in violation of Env-Hw 1115.04, the proposed fine shall be \$50 per container.

Env-Hw 904.19 Fines Relating to Hazardous Waste Pharmaceuticals.

(a) If a healthcare facility fails to notify the department that it is operating under Env-Hw 1300 in violation of Env-Hw 1302.02(c)(1), the proposed fine shall be \$1,000.

(b) If a healthcare facility fails to notify the department that it is withdrawing from operating under Env-Hw 1300 in violation of Env-Hw 1302.02(c)(1), the proposed fine shall be \$250.

Env-Hw 904.20 Fines Relating to Violations With No Scheduled Fine.

(a) For the purposes of this section, the following definitions shall apply:

- (1) “Major deviation from requirement” means the violator deviated from a requirement of a statute or rule to such an extent that there is substantial non-compliance;
- (2) “Major potential for harm” means a substantial likelihood of causing harm to human health or the environment;
- (3) “Minor deviation from requirement” means the violator deviated partially from a requirement of a statute or rule such that most of the requirement was met;
- (4) “Minor potential for harm” means a small likelihood of causing harm to human health or the environment;
- (5) “Moderate deviation from requirement” means the violator significantly deviated from a requirement of a statute or rule but some requirements were implemented as intended, such that approximately half the requirements were met; and
- (6) “Moderate potential for harm” means a moderate likelihood of causing harm to human health or the environment.

(b) For violating the requirements of, or refusing to comply with, any of the provisions of Env-Hw 100 et seq. or RSA 147-A not identified in Env-Hw 904.01 through Env-Hw 904.19, the proposed fine for each violation shall be calculated pursuant to Table 9.1 below, based on the potential for harm and the extent of deviation from the requirement.

(c) Env-C 200 shall apply to all administrative fine hearings and adjudication of the total proposed fine shall be in accordance with Env-C 204.24.

Table 9.1: Matrix for Calculated Fines – Maximum Fine \$2,000

	<b>Minor Deviation from Requirement</b>	<b>Moderate Deviation from Requirement</b>	<b>Major Deviation from Requirement</b>
<b>Minor Potential for Harm</b>	range: \$100 to \$500 default: \$250	range: \$500 to \$1,000 default: \$750	range: \$1,000 to \$1,500 default: \$1,250
<b>Moderate Potential for Harm</b>	range: \$500 to \$1,000 default: \$750	range: \$1,000 to \$1,500 default: \$1,250	range: \$1,500 to \$2,000 default: \$1,750
<b>Major Potential for Harm</b>	range: \$1,000 to \$1,500 default: \$1,250	range: \$1,500 to \$2,000 default: \$1,750	\$2,000

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

<b>Rule Section(s)</b>	<b>State Statute(s)</b>
Env-Hw 904	RSA 147-A:17-a, I(a)

**APPENDIX B: INCORPORATION BY REFERENCE INFORMATION  
[NONE IN THIS CHAPTER]**

**APPENDIX C: STATE STATUTORY DEFINITIONS****RSA 147-A:2**

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

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

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

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

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

(1) Cause or contribute to an increase in mortality or an increase in irreversible or incapacitating reversible illness; or

(2) Pose a present or potential threat to human health or the environment when improperly treated, stored, transported, disposed of or otherwise mismanaged.

(b) Or which has been identified as a hazardous waste by the department using the criteria established under RSA 147-A:3, I or as listed under RSA 147-A:3, II. Such wastes include, but are not limited to, those which are reactive, toxic, corrosive, ignitable, irritants, strong sensitizers or which generate pressure through decomposition, heat or other means. Such wastes do not include radioactive substances that are regulated by the Atomic Energy Act of 1954, as amended, or household pharmaceutical wastes collected pursuant to RSA 318-E.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **40 CFR 260.4**

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

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

#### **40 CFR 260.5**

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

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

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

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

#### **40 CFR 260.10**

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

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

*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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

(1) Placement in a particular device or facility because it may cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or

(2) Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes, or gases, or flammable fumes or gases.

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

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

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

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

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

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

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

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

*Military munitions* means all ammunition products and components produced or used by or for the U.S. Department of Defense or the U.S. Armed Services for national defense and security, including military munitions under the control of the Department of Defense, the U.S. Coast Guard, the U.S. Department of Energy (DOE), and National Guard personnel. The term military munitions includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components thereof. However, the term does include non-nuclear components of nuclear devices, managed under DOE’s nuclear weapons program after all required sanitization operations under the Atomic Energy Act of 1954, as amended, have been completed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*Treatability Study* means a study in which a hazardous waste is subjected to a treatment process to determine: (1) Whether the waste is amenable to the treatment process, (2) what pretreatment (if any) is required, (3) the optimal process conditions needed to achieve the desired treatment, (4) the efficiency of a treatment process for

a specific waste or wastes, or (5) the characteristics and volumes of residuals from a particular treatment process. Also included in this definition for the purpose of the § 261.4 (e) and (f) exemptions are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies. A “treatability study” is not a means to commercially treat or dispose of hazardous waste.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**40 CFR 262.81**

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

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

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

**40 CFR 265.15**

(a) The owner or operator must inspect his facility for malfunctions and deterioration, operator errors, and discharges which may be causing—or may lead to:

- (1) Release of hazardous waste constituents to the environment or
- (2) a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

(b)

(1) The owner or operator must develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment (such as dikes and sump pumps) that are important to preventing, detecting, or responding to environmental or human health hazards.

(2) He must keep this schedule at the facility.

(3) The schedule must identify the types of problems (e.g., malfunctions or deterioration) which are to be looked for during the inspection (e.g., inoperative sump pump, leaking fitting, eroding dike, etc.).

(4) The frequency of inspection may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the items and frequencies called for in §§ 265.174, 265.193, 265.195, 265.226, 265.260, 265.278, 265.304, 265.347, 265.377, 265.403, 265.1033, 265.1052, 265.1053, 265.1058, and 265.1084 through 265.1090, where applicable.

(c) The owner or operator must remedy any deterioration or malfunction of equipment or structures which the inspection reveals on a schedule which ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

(d) The owner or operator must record inspections in an inspection log or summary. He must keep these records for at least three years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

**40 CFR 265.16**

(a)

(1) Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this part. The owner or operator must ensure that this program includes all the elements described in the document required under paragraph (d)(3) of this section.

(2) This program must be directed by a person trained in hazardous waste management procedures, and must include instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed.

(3) At a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems, including where applicable:

- (i) Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;
- (ii) Key parameters for automatic waste feed cut-off systems;
- (iii) Communications or alarm systems;
- (iv) Response to fires or explosions;
- (v) Response to ground-water contamination incidents; and
- (vi) Shutdown of operations.

(4) For facility employees that receive emergency response training pursuant to Occupational Safety and Health Administration (OSHA) regulations 29 CFR 1910.120(p)(8) and 1910.120(q), the facility is not required to provide separate emergency response training pursuant to this section, provided that the overall facility training meets all the requirements of this section.

(b) Facility personnel must successfully complete the program required in paragraph (a) of this section within six months after the effective date of these regulations or six months after the date of their employment or assignment to a facility, or to a new position at a facility, whichever is later. Employees hired after the effective date of these regulations must not work in unsupervised positions until they have completed the training requirements of paragraph (a) of this section.

(c) Facility personnel must take part in an annual review of the initial training required in paragraph (a) of this section.

(d) The owner or operator must maintain the following documents and records at the facility:

- (1) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;
- (2) A written job description for each position listed under paragraph (d)(1) of this Section. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position;
- (3) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under paragraph (d)(1) of this section;
- (4) Records that document that the training or job experience required under paragraphs (a), (b), and (c) of this section has been given to, and completed by, facility personnel.

(e) Training records on current personnel must be kept until closure of the facility. Training records on former employees must be kept for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.

#### **40 CFR 266.500**

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

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

*Healthcare facility* means any person that is lawfully authorized to—

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

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

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

*Non-creditable hazardous waste pharmaceutical* means a prescription hazardous waste pharmaceutical that does not have a reasonable expectation to be eligible for manufacturer credit or a nonprescription hazardous waste pharmaceutical that does not have a reasonable expectation to be legitimately used/reused or reclaimed. This includes but is not limited to, investigational drugs, free samples of pharmaceuticals received by healthcare facilities, residues of pharmaceuticals remaining in empty containers, contaminated personal protective equipment, floor sweepings, and clean-up material from the spills of pharmaceuticals.

*Pharmaceutical* means any drug or dietary supplement for use by humans or other animals; any electronic nicotine delivery system (e.g., electronic cigarette or vaping pen); or any liquid nicotine (e-liquid) packaged for retail sale for use in electronic nicotine delivery systems (e.g., pre-filled cartridges or vials). This definition includes, but is not limited to, dietary supplements, as defined by the Federal Food, Drug and Cosmetic Act; prescription drugs, as defined by 21 CFR 203.3(y); over-the-counter drugs; homeopathic drugs; compounded drugs; investigational new drugs; pharmaceuticals remaining in non-empty containers; personal protective equipment contaminated with pharmaceuticals; and clean-up material from spills of pharmaceuticals. This definition does not include dental amalgam or sharps.

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

- (1) In original manufacturer packaging (except pharmaceuticals that were subject to a recall);
- (2) Undispensed; and
- (3) Unexpired or less than one year past expiration date. The term does not include evaluated hazardous waste pharmaceuticals or nonprescription pharmaceuticals including, but not limited to, over-the-counter drugs, homeopathic drugs, and dietary supplements.

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

#### **40 CFR 268.2(c)**

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

#### **40 CFR 270.2**

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

#### **40 CFR 273.2(c)(2)**

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

#### **40 CFR 273.3(c)(1)**

A recalled pesticide described in paragraph (a)(1) of this section becomes a waste on the first date on which both of the following conditions apply:

- (i) The generator of the recalled pesticide agrees to participate in the recall; and
- (ii) The person conducting the recall decides to discard (e.g., burn the pesticide for energy recovery).

#### **40 CFR 273.3(c)(2)**

An unused pesticide product described in paragraph (a)(2) of this section becomes a waste on the date the generator decides to discard it.

#### **40 CFR 273.4(c)(2)**

Unused mercury-containing equipment becomes a waste on the date the handler decides to discard it.

#### **40 CFR 273.5(c)(2)**

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

#### **40 CFR 273.6(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)**

A large quantity handler of universal waste may remove mercury-containing ampules from universal waste mercury-containing equipment provided the handler:

- (i) Removes and manages the ampules in a manner designed to prevent breakage of the ampules;
- (ii) Removes the ampules only over or in a containment device (*e.g.*, tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);
- (iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks of broken ampules from that containment device to a container that is subject to all applicable requirements of 40 CFR parts 260 through 272;
- (iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container is subject to all applicable requirements of 40 CFR parts 260 through 272;
- (v) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
- (vi) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;
- (vii) Stores removed ampules in closed, non-leaking containers that are in good condition;
- (viii) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation;

#### APPENDIX E: EMERGENCY TELEPHONE NUMBERS

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