



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA-R01-RCRA-2023-0264; FRL 11231-02-R1]

New Hampshire: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: New Hampshire has applied to the Environmental Protection Agency (EPA) for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended. The EPA has reviewed New Hampshire's application and has determined that these revisions satisfy all requirements needed to qualify for final authorization. Therefore, we are taking direct final action to authorize the State's changes. In the "Proposed Rules" section of this issue of the *Federal Register*, the EPA is also publishing a separate document that serves as the proposal to authorize these revisions. Unless the EPA receives written comments that oppose this authorization during the comment period, the decision to authorize New Hampshire's revisions to its hazardous waste program will take effect.

DATES: This final authorization will become effective on [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless the EPA receives adverse written comments by [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If the EPA receives any such comment, the EPA will publish a timely withdrawal of this direct final rule in the *Federal Register* and inform the public that this authorization will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. **EPA-R01-RCRA-2023-0264**, at <https://www.regulations.gov/>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.regulations.gov. The EPA

may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Tulasi Landes, RCRA Waste Management, and Lead Branch; Land, Chemicals and Redevelopment Division; EPA Region 1, 5 Post Office Square, Suite 100 (Mail code 07-1), Boston, MA 02109-3912; telephone number: (617) 918-1228; e-mail address: landes.tulasi@epa.gov.

SUPPLEMENTARY INFORMATION:

A. Why are revisions to State programs necessary?

States that have received final authorization from the EPA under RCRA Section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, states must change their programs and ask the EPA to authorize the changes. Changes to state programs may be necessary when Federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, states must change their programs because of changes to the EPA's regulations in 40 Code of Federal Regulations (CFR) Parts 124, 260 through 268, 270, 273, and 279.

New federal requirements and prohibitions imposed by Federal regulations that the EPA promulgates pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) take

effect in authorized states at the same time that they take effect in unauthorized states. Thus, the EPA will implement those requirements and prohibitions in New Hampshire, including the issuance of new permits implementing those requirements, until New Hampshire is granted authorization to do so.

B. What decisions has the EPA made in this rule?

On June 9, 2023, New Hampshire submitted a complete program revision application seeking authorization of revisions to its hazardous waste program. The EPA concludes that New Hampshire's application to revise its authorized program meets all the statutory and regulatory requirements established by RCRA, as set forth in RCRA Section 3006(b), 42 U.S.C 6926(b), and 40 CFR Part 271. Therefore, the EPA grants final authorization to New Hampshire to operate its hazardous waste program with the revisions described in its authorization application, and as listed below in Section G of this document.

The New Hampshire Department of Environmental Services (NHDES) has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its application, subject to the limitations of HSWA, as discussed above.

C. What is the effect of this authorization decision?

This decision serves to authorize New Hampshire for the revisions to its authorized hazardous waste program described in its authorization application. These changes will become part of the authorized State hazardous waste program and will therefore be federally enforceable. New Hampshire will continue to have primary enforcement authority and responsibility for its State hazardous waste program. The EPA would maintain its authorities under RCRA Sections 3007, 3008, 3013, and 7003, including its authority to:

- Conduct inspections, and require monitoring, tests, analyses and reports;
- Enforce RCRA requirements, including authorized State program requirements, and suspend or revoke permits; and

- Take enforcement actions regardless of whether the State has taken its own actions.

This action will not impose additional requirements on the regulated community because the regulations for which the EPA is authorizing New Hampshire are already effective under state law and are not changed by this action.

D. Why wasn't there a proposed rule before this rule?

Along with this direct final rule, the EPA is publishing a separate document in the "Proposed Rules" section of this issue of the *Federal Register* that serves as the proposal to authorize New Hampshire's program revisions. The EPA did not publish a proposal before this rule because the EPA views this as a routine program change and does not expect comments that oppose this approval. The EPA is providing an opportunity for public comment now, as described in Section E of this document.

E. What happens if the EPA receives comments that oppose this action?

If the EPA receives comments that oppose this authorization, the EPA will withdraw this direct final rule by publishing a document in the *Federal Register* before the rule becomes effective. The EPA will base any further decision on the authorization of New Hampshire's program revisions on the proposal mentioned in the previous section, after considering all comments received during the comment period. The EPA will then address all such comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If the EPA receives comments that oppose only the authorization of a particular revision to New Hampshire's hazardous waste program, the EPA will withdraw that part of this rule, but the authorization of the program revisions that the comments do not oppose will become effective on the date specified above. The *Federal Register* withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What has New Hampshire previously been authorized for?

The State of New Hampshire initially received final authorization on December 18,

1984, effective January 3, 1985 (49 FR 49,093) to implement the RCRA hazardous waste management program. EPA granted authorization for changes to New Hampshire's program on the following dates: November 14, 1994, effective January 13, 1995 (59 FR 56,397); and February 27, 2006, effective April 28, 2006 (71 FR 9727); and March 1, 2019, effective May 17, 2019 (84 FR 22,378).

G. What revisions is the EPA proposing with this proposed action?

On June 9, 2023, New Hampshire submitted a final complete program revision application, seeking authorization of additional revisions to its program in accordance with 40 CFR § 271.21. New Hampshire seeks authority to administer the federal requirements that are listed in Table 1 below. This table lists New Hampshire's analogous requirements that are being recognized as no less stringent than the analogous federal requirements.

New Hampshire is seeking authorization for updated state regulations addressing most federal requirements and for changes to New Hampshire's base program for which they had been previously authorized. Significant program revisions in this package include the Management Standards for Hazardous Waste Pharmaceuticals, and the e-Manifest rule.

The EPA proposes to determine, subject to public review and comment, that New Hampshire's hazardous waste program revisions are equivalent to, consistent with, and no less stringent than the Federal program, and therefore satisfy all of the requirements necessary to qualify for final authorization. We are proposing to authorize the program changes as provided in each of the following Revision Checklists (RC):

CL086: Removal of Strontium Sulfide from the List of Hazardous Wastes; Technical Amendment

CL125: Boilers and Industrial Furnaces; Changes for Consistency with New Air Regulations

CL144: Removal of Legally Obsolete Rules

CL193: Change of Official EPA Mailing Address

CL209: Universal Waste Rule: Specific Provisions for Mercury Containing Equipment

CL213: Burden Reduction Initiative

CL214: Corrections to Errors in the Code of Federal Regulations

CL223: Hazardous Waste Technical Corrections and Clarification

CL228: Hazardous Waste Technical Corrections and Clarifications Rule

CL236: Imports and Exports of Hazardous Waste

CL238: Confidentiality Determinations for Hazardous Waste Export and Import Documents

CL240: Safe Management of Recalled Airbags

CL241: Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine

CL242: Universal Waste Regulations: Addition of Aerosol Cans

SCC E-Manifest: Special Consolidated Checklist for the Hazardous Waste Electronic Manifest Rules

H. Where are the revised State rules different from the Federal rules?

When revised state rules differ from the Federal rules in the RCRA state authorization process, EPA determines whether the state rules are equivalent to, more stringent than, or broader in scope than the federal program. Pursuant to Section 3009 of RCRA, 42 U.S.C. § 6929, state programs may contain requirements that are more stringent than the federal regulations. Such more stringent requirements can be federally authorized and, once authorized, become federally enforceable. Although the statute does not prevent states from adopting regulations that are broader in scope than the federal program, states cannot receive federal authorization for such regulations, and they are not federally enforceable. The most significant differences between the New Hampshire rules and the federal rules are highlighted and summarized in the Table 1 below. It should be noted that this summary does not describe every difference, nor every detail regarding the differences that are described. Members of the regulated community are advised to read the complete regulations to ensure that they understand their compliance responsibilities.

1. More Stringent Provisions

There are aspects of the New Hampshire program which are more stringent than the federal program. These requirements would become part of New Hampshire's authorized program and would be federally enforceable. All of these more stringent requirements are, or will become, part of the federally enforceable RCRA program when authorized by the EPA and must be complied with in addition to the State requirements which track the minimum federal requirements. These more stringent requirements are identified as MS in the Table 2 below.

2. Broader-In-Scope Provisions

There are aspects of the New Hampshire program that are broader-in-scope than the federal program. These broader-in-scope requirements do not become part of the authorized program and EPA cannot enforce them. Regulated entities must comply with these requirements in accordance with State law. These broader-in-scope requirements are identified as BIS in the Table 2 below.

3. Partially Broader-In-Scope

There are aspects of the New Hampshire program that are partially broader-in-scope than the federal program. These partially broader-in-scope requirements are the result of New Hampshire not adopting certain portions of the regulations. These partially broader-in-scope requirements are not part of the authorized program and EPA cannot enforce them. However, the parts of the regulations which are not partially broader-in-scope are part of the federally enforceable RCRA program. Regulated entities must comply with these requirements in accordance with State law. These broader-in-scope requirements are identified as Partially BIS in the Table 2 below.

4. Different but Equivalent Provisions

New Hampshire also has some regulations that differ from, but have been determined to be equivalent to, the federal regulations. These state regulations will become part of the federally enforceable RCRA program when authorized by the EPA. These different but equivalent requirements are identified as EQ in the Table 2 below.

5. There are certain federal requirements that EPA cannot delegate to the States, although New Hampshire has adopted these requirements by reference, EPA would continue to implement those requirements. These requirements are identified in the Table 2 below.

Table 1. New Hampshire's Equivalent Analogs to the Federal Requirements

Federal Requirements	Description of Checklist Number and Federal Requirement	Analogous State Authority
CL 86: Removal of Strontium Sulfide from the List of Hazardous Wastes; Technical Amendment	56 FR 7567-7568; February 25, 1991	402.04(d); 405.02(b)
CL 125: Boilers and Industrial Furnaces; Changes for Consistency with New Air Regulations	58 FR 38,816-38,884; July 20, 1993	401.06(l)
CL 144: Removal of Legally Obsolete Rules	60 FR 33,912-33,915; June 29, 1995	102.01; 304.02(a)(6); 304.10; 304.10(a); 304.02(f); 304.02(f)(1)
CL193: Change of Official EPA Mailing Address	66 FR 34,374-34,376; June 28, 2001	104.58; 401.06(k); Appendix B
CL 209: Universal Waste Rule: Specific Provisions for Mercury Containing Equipment	70 FR 45,508-45,522; August 5, 2005	104.12; 104.76; 104.76(c); 701.02(a)(13); 1202.02(d); 303.02(i); 1101.02; 1111.01; 401.01; 1111.02(a)-(c); 1101.03(a); 1101.03(c) and (f); 1101.03(e); 1102.03(b); 1111.03; 1102.03(c); 1111.03(a)-(b); 1102.03(c); 1111.03(d)-(e); 1111.03(d)(1)-(2); 1111.03(f); 1111.03(f)(1)-(2); 1111.03(g); 1111.04; 1104.03(b)(1)
CL 213: Burden Reduction Initiative	71 FR 16,862-16,915; April 4, 2006	202.04(a)(4); 401.03(a)(12); 401.03(b)(14); 708.02(a)(4)-(5); 708.02(a)(10); 705.01(b)-(c); 705.01(c)(1)-(6); 705.01(b)(6); 705.01(b)(10); 708.02(a)(11)-(13); 708.03(d)(1)-(2); 708.03(d)(4)-(8);

		708.03(d)(10); 707.03(a)(4)-(5); 707.03(a)(9)-(12);707.04(b)-(g); 707.04(k)-(l);1202.01; 304.11; 202; 304.11(a)(9); 304.25
CL214: Corrections to Errors in the Code of Federal Regulation	71 FR 40,254 – 40,280; July 14, 2006	103.77; 104.28; 104.76; 104.80; 808.06(a)-(b); 803.03(a)(1); 401.01(d)-(e); 401.03(b)(6); 401.03(b)(6)a; 401.03(b)(9); 401.03(b)(14); 804.02(b)-(c); 804.02(e)-(f); 804.01(b)(4); 403.03(b)(3)-(4); 403.06(c)-(d); 402.06(a)-(b); 402.07(a); 402.04(b); 402.05(b); 402.01(b); 405.02(b); 803.03(b)(5)a; 501.02(a); 512.03; 510.06(a); 701.02(a)(6); RSA 147- A:13; 708.02(a)(2); 708.02(a)(6); 302.04; 103.01; 702.10; 708.02(a)(11)-(13); 708.03(d)(1)- (10); 705.01(c)(1)e; 705.01(c)(1)f; 701.02(a)(6); 707.03(a)(1); 707.03(a)(3); 707.03(a)(5); 707.03(a)(7); 707.03(a)(9); 702.10; 707.03(a)(10)-(12); 707.04(b)-(g); 707.04(j)-(l); 707.03(a)(6); 707.04; 801.02(d); 809.01 – 809.04; 102.01; 1202.01; 509.05; 707.05; 708.04; 301; 303; 304; 304.03; 303.02(k); 104.22; 104.37; 304.11(a)(9); 304.10(d); 304.11(a)(1); 304.11; 304.24(d); 304.26(f); 304.25; 304.02(a)(7) & (f)(3); 104.76; 1102.03(b); 1110.04; 1110.06; 1109.04, 102.02(a) and (b)(1); 1202.02(a)(1)-(3) and (b)(8); 304.02(a)
CL223: Hazardous Waste Technical Corrections and Clarifications	75 FR 12,989-13,009, 75 FR 31,716-31,717; March 18, 2010, June 4, 2010	104.34 ; 803.01; 804.02(a); 804.02(c); 401.03(b); 802.02; 804.01(b)(3); 401.03(b)(21); 401.03(d)-(e); 404.04; 401.03(d)(1); 401.03(d)(3); 403.05(b)(8); 402.02; 503.03(d); 402.06(a); 402.07(a); 402.05(b); 402.01(b); 501.02(a); 101.02; 511.02(b); 511.02(b)(1)-(2); 511.02(b)(2)b; 511.02(b)(2)a; 511.02(b)(3); 511.02(d); 512.01(a)(1); 512.04; 511.01(c)-(d); 511.02(e); 511.02(e)(1)-(2); 511.01(e); 104.67; 304.11; 601.01(b)(2)-(3); 701.01(a); 708.02(a)(10); 704.01; 708.03(d)(6); 707.03(a)(9); 707.04(g); 805.01(c)- (d); 808.05; 809.04(b); 1202.01;

		304.06(a); 304.06(a)(1); 304.06(a)(3)-(5)
CL228: Hazardous Waste Technical Corrections and Clarifications	77 FR 22,229-22,232; April 13, 2012	402.07(a); 805.01(d)
CL236: Imports and Exports of Hazardous Waste	81 FR 85,696-85,729, 82 FR 41,015-41,016; November 28, 2016, August 29, 2017	102.01; 501.03(c); 510.06(b); 401.03(b)(13)-(14); 401.03(b)(36); 510.06; 601.01(b)(5); 703.01; 705.01(b)(1); 804; 808.02(e); 808.03(e); 809.03(c); 809.05; 1101.02(c); 1102.08(a); 1106.07(a)-(b); 1102.08(b); 501.01(c); 504.01(g); 504.02(g); 512.03(a)(1)-(3); 512.04(a) and (c)(4); 103.45; 103.56; 103.75; 512.03(b); 601.01(a); 604.01(d); 604.01(a); 703.01; 709.01(c); 804.02(e); 808.01; 808.02(a)-(b); 808.03(a)-(b); 808.04(a)(1)-(3); 804.02(f); 809.01; 809.05; 809.06; 1109.01(b); 1104.05(a)-(b); 1107.03(a)-(b); 1101.02(b)-(c); 1101.02(b)(1)-(3); 708.02(a)(1); 707.03(a)(1); and 1104.06(a)-(b)
CL238: Determinations for Hazardous Waste Export and Import Documents	82 FR 60,894-60901; December 26, 2017	203.02; 203.03(d); 1102.08(b); 1106.07(b); 401.03(b)(36); 510.06; 601.01(b)(5); 705.01(b)(1); 808.02(e); 808.03(e); 808.04(a)(3); 809.03(c); 809.05; 1101.02(c); 1102.08(a); 1106.07(a)
CL240: Safe Management of Recalled Airbags	83 FR 61,552-61,563; November 30, 2018	401.02(a); 401.02(b); 401.02(c); 401.03(k); 401.03(k)(1)-(4); 401.03(k)(5); 401.03(l)(1); 401.03(l)(2)-(3)
CL241: Management Standards for Hazardous Pharmaceuticals and Amendment to the P075 Listing for Nicotine	84 FR 5816-5950; February 22, 2019	401.03(d)(4); 401.03(b)(21) & (d); 402.04(a)(2); 402.05(a)(2); 402.04(b); 501.02(i); 501.01(d); 501.02(j) & (k); 503.03(a)(11); 511.01(g)(1); 511.01(g)(2); 701.02(a)(15); 1302.01; 103.49; 103.67; 103.69; 1302.02(a)(1); 1302.02(a)(2); 104.08; 104.19; 104.30; 104.33; 104.43; 501.01(e); 1302.02(b)(1); 1302.02(b)(2); 1302.02(b)(3); 1302.02(b)(4); 1302.02(c)(1)-(9); 1302.02(d)(1)-(3); 1302.02(e)(1)-(5); 1302.02(f); 1302.02(g); 1302.02(h)(1)-(2); 1302.02(i)(1)-(3);

		1302.02(j)(1)-(10); 1202.01; 303.02(n); 1108.01(a); 1108.01(c)
CL242: Universal Waste Regulations: Addition of Aerosol Cans	84 FR 67,202; December 9, 2019	103.07 ; 104.76(c); 104.76(d); 104.76(g); 104.77; 701.02(a)(13); 1202.02(d); 303.02(i); 1110.01(b); 1115; 1115.01; 401.01; 1115.02; 1115.02(a)-(b); 1101.03(c) and (f); 104.29; 1101.03(e); 1102.03(b); 1115.03(a)-(c); 1115.03(d)(1)-(10); 1115.03(e); 1115.04; 1104.03(b)(1);
Special Consolidated Checklist for the Hazardous Waste Electronic Manifest Rules (Checklists 231 and 239)	79 FR 7518; February 7, 2014, and 83 FR 420; January 3, 2018	203; 203.02; 203.03(c); 101.05(a)- (b); 102.02(b)(2); 103.39; 103.40; 104.10; 102.01; 510.01(a); 510.04(d); 510.02(c)(1); 604.01(a); 606.01; 604.01(e); 703.01(a); 703.02(c)

Table 2. New Hampshire’s More Stringent/Broader in Scope Analogs to the Federal Requirements

Federal Requirements	Description of Checklist Number and Federal Requirement	Analogous State Authority
	70 FR 45,508-45,522; August 5, 2005.	
CL 209: Universal Waste Rule: Specific Provisions for Mercury Containing Equipment	273.9.....	1101.03(c) and (f) – NH requires a UW handler who accumulates 20,000 kg or more to be defined as a “very large quantity handler” and must meet the additional requirements in 1105. (MS)
	273.13(c)(2)(iii) & (iv).....	1111.03(b)(1) –NH requires containers to meet requirements of 507 instead of 40 CFR pts. 260-272. MS provisions include labeling, storage on an impervious surface, secondary containment for wastes with free liquids if floor drains are present, requirements for outside storage, and more (e.g., labeling, inspections, personnel training, accumulation time limits) depending on generator category. In a future rulemaking, NH will clarify that containers must meet applicable requirements of Env-Hw 100-800 and 1200. (MS)
	273.13(c)(2)(vii).....	1102.03(c)

	273.32(b)(5).....	1111.03(b)(2) – NH requires containers to meet requirements of 40 CFR pt. 273.13(c)(1) instead of (c)(2)(vii).(MS)
	273.33(c)(2)(iii) & (iv).....	1104.03(b)(2) – NH requires that a UW handler notify as a very large quantity handler if ≥20,000 kg is accumulated and meet the requirements in 1105, including storage outside the 100-year floodplain, storage area inspections, contingency plans and emergency procedures, preparedness and prevention, security, closure, and financial assurance. (MS)
	273.33(c)(2)(vii).....	1111.03(b)(1) –NH requires containers to meet requirements of 507 instead of 40 CFR pts. 260-272. MS provisions include labeling, storage on an impervious surface, secondary containment for wastes with free liquids if floor drains are present, requirements for outside storage, and more (e.g., labeling, inspections, personnel training, accumulation time limits) depending on generator category. In a future rulemaking, NH will clarify that containers must meet applicable requirements of Env-Hw 100-800 and 1200. (MS)
		1102.03(c) 1111.03(b)(2) – NH requires containers to meet requirements of 40 CFR 273.13(c)(1) instead of (c)(2)(vii). (MS)
71 FR 16,862-16,915; April 4, 2006.		
CL 213: Burden Reduction Initiative	261.4(f)(9).....	401.03(b)(14) – NH’s maximum quantity of non-acute HW is 250 kg. (MS)
	264.56(i).....	706.02 – NH requires cleanup of HW discharges within 24 hours or submittal of a cleanup plan if cleanup takes longer than 24 hours. NH also requires submittal of a cleanup report within 30 days of completion. (MS)
	265.56(i).....	706.02 – NH requires cleanup of HW

		discharges within 24 hours or submittal of a cleanup plan if cleanup takes longer than 24 hours. NH also requires submittal of a cleanup report within 30 days of completion. (MS)
	270.14(a).....	304.11 202 (waivers) 304.11(a)(4) – NH requires a NH registered PE to prepare and stamp plans. (MS)
71 FR 40,254-40,280; July 14, 2006.		
CL 214: Corrections to Errors in the Code of Federal Regulations	260.22(a)(1) and 260.22(d)(1)(ii).....	406 – NH is not seeking authority for delisting of federally listed waste. (BIS)
	261.3(a)(2)(i).....	401.01(b)(3) –NH regulates as characteristic wastes mixtures of HW with materials that are not solid wastes (e.g., soils) if the mixture exhibits a characteristic. (Partially BIS) 401.01(d) – EQ 401.01(e) – EQ
	261.4(e)(2)(vi) and 261.4(e)(3)(i).....	401.03(b)(14) – NH’s max quantity of non-acute HW is 250 kg. (MS)
	261.31(a)/Table.....	402.06(a) and (b) – NH has clarified the F006 and F019 listings by specifying the processes that are included in the listing based on EPA guidance. (EQ) 402.06(c) –NH lists Used Oil as a generic process HW with the NH HW number “NH01.” (Partially BIS)
	261.32/Table “K069” entry.....	402.07(a) – NH has not adopted the administrative stay for the K069 listing. (Partially BIS)
	265.56(b).....	706.02 – NH requires cleanup of HW discharges within 24 hours or submittal of a cleanup plan if cleanup takes longer than 24 hours. NH also requires submittal of a cleanup report within 30 days of completion. (MS)
	268.50(g).....	1202.02(l) – NH did not adopt an analog to this provision. (MS)
		304.11

	270.14(a).....	202 (waivers) – NH requires a NH registered PE to prepare and stamp plans. (MIS)
	273.13(b) introductory paragraph.....	1102.03(b) 1110.04 1110.06 – NH has additional requirements for pesticides: storage on impervious surfaces and away from floor drains and manholes unless secondary containment is provided; preparedness and prevention; security; additional training; and employee health and safety. (MS)
75 FR 12,989-13,009, 75 FR 31,716-31,717; March 18, 2010, June 4, 2010		
CL 223: Hazardous Waste Technical Corrections and Clarifications	260.10.....	104.16 – NH rules and statutes regulate facilities in existence on July 1, 1980, instead of November 19, 1980. (BIS)
	262.42(c).....	511.02(e) – EQ 511.02(c) – NH requires a generator whose shipment was rejected and returned on a paper manifest or on an electronic manifest that was printed for the generator’s signature to submit the completed manifest within 5 days of receipt of the shipment. (MS)
	262.42(c)(2).....	511.02(e)(2) – NH requires all generators to submit exception reports within 45 days. (MS)
	263.12.....	104.67 304.11 601.01(b)(2) & (3) 701.01(a) – NH requires a transfer facility permit. NH has not yet adopted 40 CFR pt. 267. (BIS)
	264.56(d)(2) introductory text.....	706.02 – NH requires cleanup of HW discharges within 24 hours or submittal of a cleanup plan if cleanup takes longer than 24 hours. NH also requires submittal of a cleanup report within 30 days of completion. (MS)
81 FR 85,696; November 28, 2016, as amended August 29, 2017 (82 FR 41,015) and August 6, 2018 (83 FR 38,263).		
CL 236: Imports and	261.4(e)(1) and	401.03(b)(14) – NH’s maximum

Exports of Hazardous Waste	261.4(e)(4).....	quantity of non-acute HW is 250 kg. (MS)
	266.70(b).....	709.01(c), 804.02(e), and 808.01 – (EQ) 808.02(c) –NH generators are subject to certification requirements. (BIS) 808.03(d) – NH’s transporters are subject to registration requirements. (BIS)
83 FR 61,552; November 30, 2018.		
CL240: Safe Management of Recalled Airbags	262.14(a)(5)(xi).....	503.01 508 – NH has not adopted an exemption for generators of <100 kg/mo. (MS)
84 FR 5816; February 22, 2019.		
CL 241: Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine	261.4(a)(1)(ii).....	NH has not adopted this exclusion. (BIS)
	262.14(a)(5)(ix).....	511.01(g)(1) – (EQ) 503.01, 508 – NH has not adopted an exemption for generators of <100 kg/mo. (MS)
	262.14(a)(5)(x).....	511.01(g)(2) – (EQ) 503.01, 508 – NH has not adopted an exemption for generators of <100 kg/mo. (MS)
	266.501(a).....	501.01(e) 1302.02(b)(1) – NH bases generator category on both HW generation and accumulation. (MS)
	266.501(b).....	501.02(j) & (k) 1302.02(b)(1) – NH bases generator category on both HW generation and accumulation. (MS)
	266.502(a)(1)(i)-(ii).....	1302.02(c)(1) –NH requires notification within 60 days. (MS)
	266.502(a)(2).....	1302.02(c)(1) – NH requires VSQGs to notify and provide waste numbers on notification forms. (MS)
	266.502(h).....	1302.02(c)(3) – NH requires healthcare facilities (HFs) to submit a manifest copy within 5 days if rejected shipment involves a paper manifest or an electronic manifest printed for HF’s signature.(MS)

266.502(i)	1302.02(c)(4) – NH requires a quarterly report that includes data required by EPA’s biennial report plus additional info. (MS) NH assesses fees on non-recycled HW shipped offsite. (BIS)
266.502(j)(1).....	1302.02(c)(5) –NH requires HF’s who use a paper manifest to keep both the generator copy and facility copy unless using e-manifest system for recordkeeping. (MS) NH requires that for electronic manifests printed for HF’s signature, HF must keep signed paper copy. For paper manifests, HF with e-manifest system access must keep signed paper copy until receipt by designated facility is verified in the system. (EQ)
266.504(b)(2).....	1302.02(e)(3) – NH requires the receiving FQG to provide the NHSQG’s EPA ID#. (MS)
266.504(d).....	1302.02(e)(6) – NH requires LTCFs with 20 beds or fewer to determine Subpart P applicability by determining their generator category.(MS)
266.508(a)(2).....	1302.02(i)(1) – NH requires HF’s and reverse distributors (RDs) who use a paper manifest or an electronic manifest printed for HF/RD’s signature to submit copy to DES within five days. HF/RDs must keep both the generator copy and facility copy unless using e-manifest system for recordkeeping. (MS) NH requires for electronic manifests printed for HF/RD’s signature, HF/RD must keep signed paper copy. For paper manifests, HF/RD with e-manifest system access must keep signed paper copy until receipt by designated facility is verified in the system. (EQ)
266.510(c)(7).....	1302.02(j)(5) – NH requires RD to submit manifest copy within five

		days if rejected shipment involves a paper manifest or an electronic manifest printed for RD's signature. (MS)
	266.510(c)(9).....	1302.02(j)(7) – NH requires a quarterly report that includes data required by EPA's biennial report plus additional info. (MS) NH assesses fees on non-recycled HW shipped offsite. (BIS)
	266.510(c)(10)(ii).....	1302.02(j)(8) – NH requires RDs using a paper manifest to keep both the generator copy and facility copy unless using e-manifest system for recordkeeping. (MS) NH requires for electronic manifests printed for RD's signature, RD must keep signed paper copy. For paper manifests, RD with e-manifest system access must keep signed paper copy until receipt by designated facility is verified in the system. (EQ)
84 FR 67,202; December 9, 2019		
CL 242: Universal Waste Regulations: Addition of Aerosol Cans	273.9 "Large quantity handler of universal waste".....	1101.03(c) and (f) – In NH a UW handler who accumulates 20,000 kg or more is defined as a "very large quantity handler" and must meet the additional requirements in 1105. NH is applying for authorization for CL 209. (MS)
	273.13(c)(2)(iii)-(iv).....	1111.03(b)(1) – NH requires containers to meet requirements of 507 instead of 40 CFR 260-272. MS provisions include labeling, storage on an impervious surface, secondary containment for wastes with free liquids if floor drains are present, requirements for outside storage, and more (e.g., labeling, inspections, personnel training, accumulation time limits) depending on generator category. In a future rulemaking, NH will clarify that containers must meet applicable requirements of Env-Hw 100-800 and 1200. (MS)
	273.33(c)(2)(iii)-(iv).....	1111.03(b)(1) – NH requires containers to meet requirements of

		507 instead of 40 CFR pts. 260-272. MS provisions include labeling, storage on an impervious surface, secondary containment for wastes with free liquids if floor drains are present, requirements for outside storage, and more (e.g., labeling, inspections, personnel training, accumulation time limits) depending on generator category. In a future rulemaking, NH will clarify that containers must meet applicable requirements of Env-Hw 100-800 and 1200. (MS)
79 FR 7518; February 7, 2014, and 83 FR 420; January 3, 2018.		
Special Consolidated Checklist for the Hazardous Waste Electronic Manifest Rules (Checklists 231 and 239)	263.20(a) intro, (1)-(9).....	604.01(f) – NH requires transporters to notify the generator if post-receipt manifest corrections are made to paper manifests or to electronic manifests that were printed for the generator’s signature. (MS)
	264.71(l) intro, (1)-(5).....	703.02(d) – NH requires facilities to notify the generator if manifest corrections are made to paper manifests or to electronic manifests that were printed for the generator’s signature. (MS)
	265.71(l) intro, (1)-(5).....	703.02(d) – NH requires facilities to notify the generator if manifest corrections are made to paper manifests or to electronic manifests that were printed for the generator’s signature. (MS)

EPA cannot delegate certain federal requirements associated with the federal manifest registry system, the electronic manifest system, and international shipments (i.e., import and export provisions). New Hampshire has adopted these requirements and appropriately preserved the EPA's authority to implement them (See Special Consolidated Checklist for the Hazardous Waste Electronic Manifest Rules: 102.02(b)(2); 103.39-40; 104.10; 102.01; 510.01(a); 510.02(c); 604.01(a); 203.03(c); 703.01(a), CL214 Corrections to Errors in the Code of Federal Regulations: 102.02(a); 102.02(b)(1); 1202.02(a)(1), CL238 Determinations for Hazardous Waste Export and Import Documents: 401.03(b)(36), 510.06, 601.01(b)(5), 705.01(b)(1),

808.02(e), 808.03(e), 808.04(a)(3), 809.03(c), 809.05, 1101.02(c), 1102.08(a), and 1106.07(a), CL236 Imports and Exports of Hazardous Waste).

There are several Federal rules that have been vacated, withdrawn, or superseded. As a result, authorization of these rules may be moot. However, for purposes of completeness, these rule checklists are included here with an explanation as to the rule's status in New Hampshire. These checklists include: CL 216: Exclusion of Oil-Bearing Secondary Materials Processed in a Gasification System to Produce Synthetic Gas (73 FR 57, January 2, 2008); CL 221: Expansion of RCRA Comparable Fuel Exclusion (73 FR 77954, December 19, 2008); CL 224: Withdrawal of the Emission Comparable Fuel Exclusion (75 FR 33712, June 15, 2010); and CL 234: Vacatur of the Comparable Fuels Rule and the Gasification Rule (80 FR 18777, April 8, 2015) – CLs 216, 221, and 224 have been vacated. CL 234 implements the vacatur of these provisions. New Hampshire did not adopt the exclusions contained in CLs 216, 221, or 224; therefore, the adoption of CL 234 in New Hampshire would be inconsequential. New Hampshire's authorized program continues to be equivalent to and no less stringent than the Federal program without having to make any conforming changes pursuant to these rule checklists.

I. Who handles permits after the authorization takes effect

When the final authorization takes effect, New Hampshire will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer and enforce any RCRA and HSWA (Hazardous and Solid Waste Act) permits or portions of permits that it has issued in New Hampshire prior to the effective date of this authorization until the State incorporates the terms and conditions of the federal permits into the State RCRA permits. EPA will not issue any new permits, or new portions of permits, for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement, and issue permits for any HSWA requirements for which New Hampshire is not yet authorized. EPA has the authority to enforce state-issued permits after the State is authorized.

J. What is codification and will the EPA codify New Hampshire’s hazardous waste program as authorized in this rule?

Codification is the process of placing citations and references to the State’s statutes and regulations that comprise the State’s authorized hazardous waste program into the Code of Federal Regulations. EPA does this by adding those citations and references to the authorized State rules in 40 CFR Part 272. EPA is not proposing to codify the authorization of New Hampshire’s changes at this time. However, EPA reserves the ability to amend 40 CFR Part 272, subpart UU for the authorization of New Hampshire’s program at a later date.

K. Statutory and Executive Order Reviews

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51,735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). This action authorizes State requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by State law. Therefore, this action is not subject to review by OMB. This action is not an Executive Order 14094 (88 FR 21879, April 11, 2023) regulatory action because actions such as the authorization of New Hampshire’s revised hazardous waste program under RCRA are exempted under Executive Order 12866. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. § 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538). For the same reason, this action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67,249, November 9, 2000). This action will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among

the various levels of government, as specified in Executive Order 13132 (64 FR 43,255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19,885, April 23, 1997), because it is not economically significant, and it does not make decisions based on environmental health or safety risks. This action is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28,355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA section 3006(b), the EPA grants a state’s application for authorization as long as the state meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a state authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in taking this action, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of this action in accordance with the “Attorney General’s Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings” issued under the executive order. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). “Burden” is defined at 5 CFR 1320.3(b). Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their

mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this action authorizes pre-existing State rules which are at least equivalent to, and no less stringent than existing federal requirements, and imposes no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human health or environmental effects, this rule is not subject to Executive Order 12898.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: August 8, 2023.

David W. Cash
Regional Administrator,
U.S. EPA Region 1.

[FR Doc. 2023-17387 Filed: 8/14/2023 8:45 am; Publication Date: 8/15/2023]