



William Cass, P.E.
Commissioner

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION

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David Rodrigue, P.E.
Assistant Commissioner

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Deputy Commissioner

Bureau of Environment
May 1, 2023

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

In accordance with the requirements approved by Governor and Executive Council on April 20, 2022 (Item #40), authorize the Department of Transportation (DOT) to continue to make payments to the Department of Environmental Services (DES) Waste Management Division (RIMS) (Vendor 177894) for payment of quarterly hazardous waste generator fees established in RSA 147-B:8 for deposit into the hazardous waste cleanup fund, effective upon Governor and Council approval through June 30, 2025.

Funding for this request is contingent upon the availability and continued appropriation of funds in FY 2024 and FY 2025.

EXPLANATION

Pursuant to RSA 147-B:8, I. "*Each hazardous waste generator that generates in a 3-month period 660 pounds or more of unrecycled hazardous waste shall pay a quarterly fee of \$0.06 per pound or a minimum of \$100, to the department [of environmental services].*" Administrative Rule Env-Hw 512.02 Quarterly Reporting further clarifies the timing and method of payment.

During construction and maintenance of DOT projects and properties, contaminated materials are occasionally required to be removed and disposed of at licensed facilities (landfills, e.g.). The unavoidable generation (excavation and management) of these materials requires quarterly reporting and payment in accordance with RSA 147-B:8, I.

Having the flexibility for these payments is crucial to the nature of the work performed and completed by DOT.

In addition, and as approved by the Governor and Executive Council on April 20, 2022 (Item #40), at the conclusion of FY 2023 an informational item will be provided identifying the NHB payments made during FY 2023, and the future years approved under this memorandum.

Your approval of this resolution is respectfully requested.

Sincerely,

A handwritten signature in black ink that reads "William J. Cass". The signature is written in a cursive style with a large, prominent initial "W".

William J. Cass
Commissioner

WJC/ktn
Attachments

1-May-23

RSA 147-B Payments Summary

FY	147-B Project \$
2023	\$0.00
2022	\$3,250.80
Total	\$3,250.80

TITLE X PUBLIC HEALTH

CHAPTER 147-B HAZARDOUS WASTE CLEANUP FUND

Section 147-B:8

147-B:8 Hazardous Waste Cleanup Fund Fees. –

I. Each hazardous waste generator that generates in a 3-month period 660 pounds or more of unrecycled hazardous waste shall pay a quarterly fee of \$0.06 per pound or a minimum of \$100, to the department.

I-a. [Repealed.]

II. In computing the amount of hazardous waste generated in a 3-month period, a generator may deduct from the amount of hazardous waste generated the amount of hazardous waste recycled, in a manner approved by the department.

III. A quarterly fee shall be assessed on each hazardous waste facility located in New Hampshire that receives hazardous waste from out-of-state for the purpose of treating, storing, or disposing of such waste. Said fee shall be based solely on hazardous waste received by the facility from out-of-state sources. The fee on such waste shall be no more than \$.007 per kilogram (\$.003 per pound). The facility's owner or operator shall make the appropriate quarterly fee payments to the department.

IV. The department shall deposit fees collected under this section into the cleanup fund.

V. Failure to pay fees within 60 days of the date due shall result in the assessment of interest at a rate established by the commissioner. The commissioner may waive all or any portion of interest for good cause. The department shall deposit interest collected under this section into the cleanup fund.

Source. 1981, 413:3. 1983, 137:14; 227:6. 1986, 202:6, I(e). 1990, 3:78. 1992, 178:3. 1994, 364:14, III. 1996, 228:107. 1999, 232:1, eff. Jan. 1, 2000. 2007, 219:4, 5, eff. July 1, 2007.

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(c) Manifests may be retained on electronic media provided the records are available during an inspection by the department.

(d) Except as specified in (e) and (f), below, a generator may rely on the electronic manifest system to satisfy manifest recordkeeping requirements in (a)(1), above, only if the generator has registered in the electronic manifest system and has established access to manifest records stored therein.

(e) For shipments of waste using an electronic manifest that was printed for the generator's signature, the generator shall retain the paper copy of the electronic manifest with the generator's signature for 3 years from the date of signature by the generator.

(f) For shipments of waste using a paper manifest, a generator who has registered in the electronic manifest system shall retain the original generator copy of the manifest as specified in (a)(1), above, until such time as the generator verifies, in the electronic manifest system, receipt of the shipment by the receiving facility.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; amd by #7578, eff 10-13-01; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 500) ss by #9367, eff 1-28-09; ss by #12347, eff 8-14-17; ss by #12922, eff 11-23-19

Env-Hw 512.02 Quarterly Reporting.

(a) The department shall compile a hazardous waste quarterly activity report summarizing hazardous waste manifest information from the electronic manifest system and mail or email the report to each generator who ships hazardous waste off-site using a manifest.

(b) If a generator ships hazardous waste off-site using a manifest and has not received a quarterly activity report within 45 days following the last day of the previous quarter, the generator shall ask the department to send a new report.

(c) Unless exempt under (d), below, a generator who receives a hazardous waste quarterly activity report from the department shall return a certified copy of the report to the department.

(d) Political subdivisions that generate less than 660 pounds of hazardous waste in a 3-month period shall be exempt from submitting a quarterly report pursuant to (c), above.

(e) A generator who generates equal to or greater than 660 pounds of hazardous waste in a 3-month period shall pay the quarterly hazardous waste generator fee established in RSA 147-B:8, subject to the exemptions established in RSA 147-B:9, to the department for deposit into the hazardous waste cleanup fund.

(f) The reporting quarters shall be as follows:

- (1) 1st Quarter - January 1 to March 31;
- (2) 2nd Quarter - April 1 to June 30;
- (3) 3rd Quarter - July 1 to September 30; and
- (4) 4th Quarter - October 1 to December 31.

(g) Quarterly activity reports shall include the following:

- (1) Reporting quarter;

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- (2) Name, mailing address, site location, and EPA identification number of the generator;
 - (3) Weight in pounds of the hazardous waste manifested during the reporting quarter, summarized by manifest tracking number and EPA or NH hazardous waste number;
 - (4) Weight in pounds of the quarter's manifested hazardous waste that is exempt from fees pursuant to RSA 147-B:9; and
 - (5) Fee due to the state of New Hampshire.
- (h) The generator shall:
- (1) Review the reports for accuracy;
 - (2) Correct any errors;
 - (3) Notify the department of any needed corrections within 30 days of receipt of the report; and
 - (4) Certify, as specified in Env-Hw 207, the report.
- (i) The generator shall submit to the department each quarterly activity report along with the appropriate fee within 30 days of receipt.
- (j) Fees required by RSA 147-B:8 shall be assessed based on the weight of hazardous wastes calculated from information from the electronic manifest system, as follows:
- (1) The assessed weight of hazardous wastes shall be calculated from information from the electronic manifest system; and
 - (2) If the generator inadvertently omits an exemption code in manifest item-13 as required by Env-Hw 510.03(b)(1), the hazardous waste shall not be exempt from the fee unless the generator corrects the error by:
 - a. For exemption code "NHX1", having the receiving facility submit a certification to the department that the waste was or will be recycled; or
 - b. For exemption codes "NHX2" through "NHX6", submitting documentation that demonstrates eligibility for the exemption.
- (k) Failure to submit the fees due as specified in (j), above, within 60 days of the due date shall result in the assessment of interest pursuant to RSA 147-B:8, at the rate established by RSA 336:1, II.
- (l) Fees paid by check or money order shall be:
- (1) Made payable to "Treasurer, State of New Hampshire"; and
 - (2) Delivered or mailed to the department.

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(m) For credit card payments, the generator shall provide such information as is needed by the department to process the transaction and the mailing or email address to which the receipt is to be sent.

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00; amd by #7578, eff 10-13-01; amd by #8714, INTERIM, eff 9-5-06, EXPIRES: 3-4-07; amd by #8790, eff 1-5-07; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 500) ss by #9367, eff 1-28-09; amd by #10205, eff 10-19-12; ss by #12347, eff 8-14-17; ss by #12922, eff 11-23-19

Env-Hw 512.03 Export and Import Recordkeeping and Reporting.

(a) An exporter shall:

- (1) Meet the recordkeeping requirements of 40 CFR 262.83(i);
- (2) File an annual report with the administrator of EPA, by March 1 of each year, that is based on exports made during the previous calendar year, as specified in 40 CFR 262.83(g); and
- (3) In lieu of the requirements of 40 CFR 262.42, if applicable, meet the exception reporting requirements of 40 CFR 262.83(h).

(b) An importer shall meet the recordkeeping requirements of 40 CFR 262.84(h).

Source. #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #7207-B, eff 2-26-00; ss by #7333, eff 8-1-00; ss by #9215, INTERIM, eff 8-1-08; (See Revision Note at chapter heading for Env-Hw 500) ss by #9367, eff 1-28-09; ss by #12347, eff 8-14-17; ss by #12922, eff 11-23-19

Env-Hw 512.04 Biennial Reporting.

(a) On even-numbered years, the department shall prepare a biennial report as required in 40 CFR 262.41 on behalf of each generator that is required to report biennially, based on information provided on notification forms, manifest information in the electronic manifest system, and quarterly reports.

(b) If a generator is subject to biennial reporting requirements and has not received a biennial report from the department by February 1 of an even-numbered year, the generator shall ask the department to send a new biennial report.

(c) The generator shall:

- (1) Review the biennial report for accuracy;
- (2) Correct any errors;
- (3) Notify the department of any needed corrections by March 1 of that year;
- (4) Provide the department with any additional information necessary to complete the biennial report as required in 40 CFR 262.41; and