

Readopt Pes 801 through Pes 804.07, effective 11-5-14 (Document #107112), to read as follows:

CHAPTER Pes 800 DISPOSAL AND STORAGE OF PESTICIDES AND PESTICIDE CONTAINERS

PART Pes 801 DISPOSAL OF PESTICIDES AND PESTICIDE CONTAINERS

Pes 801.01 Pesticide and Pesticide Container Disposal. No person shall dispose of, discard, store or transport any pesticides or pesticide containers in a manner inconsistent with requirements of the department of environmental services pursuant to Env-Hw 500, the U.S. Environmental Protection Agency pursuant to 40 CFR 261-262, the division, or as stated upon the pesticide label.

Pes 801.02 Storage of Pesticides and Pesticide Containers Prior to Disposal. Unused or unwanted pesticides being stored prior to disposal, whether in sealed or previously opened containers, and all pesticide containers that have not been or cannot be rinsed shall be:

- (a) Kept in a secure enclosure;
- (b) Maintained so as to prevent:
 - (1) Deterioration of containers;
 - (2) Unauthorized use;
 - (3) Mishandling;
 - (4) Loss;
 - (5) Contamination of the environment; and
 - (6) Risk to the public health.

Pes 801.03 Unusable Pesticides. Pesticides which are obsolete, banned, unregistered, physically altered or which otherwise cannot be used for the intended labeled uses shall be:

(a) Returned to the manufacturers, supplier or formulator for recycling, destruction or disposal in accordance with requirements of the department of environmental services pursuant to Env-Hw 511 "Delivery of Hazardous Waste" and the U.S. Environmental Protection Agency pursuant to 40 CFR 262;

(b) Disposed of in an authorized solid waste or hazardous waste treatment storage disposal facility in accordance with the requirements of the department of environmental services pursuant to Env-Hw 511 "Delivery of Hazardous Waste" and the U.S. Environmental Protection Agency pursuant to 40 CFR 262; or

(c) Disposed of in accordance with manufacturers' label directions for the specific pesticides, provided such directions comply with the requirements of the department of environmental services pursuant to Env-Hw 501.02 "Exemptions" and the U.S. Environmental Protection Agency pursuant to 40 CFR 261.7.

Pes 801.04 Pesticide Containers. All pesticide containers shall be triple rinsed with an appropriate solvent, which shall include but not be limited to the diluent as prescribed by the pesticide label. The rinsate, and container shall be disposed of in a manner consistent with instructions found upon the pesticide label

and in accordance with the requirements of the department of environmental services pursuant to Env-Hw 501.02 "Exemptions," Env-Hw 511 "Delivery of Hazardous Waste" and the U.S. Environmental Protection Agency pursuant to 40 CFR 261.7.

Pes 801.05 Reuse of Pesticide Containers. No pesticide container shall be re-used for any other purpose except as provided on the manufacturers label.

PART Pes 802 PESTICIDE AND PESTICIDE CONTAINER STORAGE BY PRIVATE AND COMMERCIAL APPLICATORS

Pes 802.01 Statement of Purpose. The purpose of these rules is to list the requirements for storing pesticides and pesticide containers by private and commercial applicators.

Pes 802.02 Catch-Basin.

(a) "Catch-basin" means a low point of a storage room floor designed for recovering pesticide discharges, washwater, or rinsate.

(b) Catch-basins shall be:

(1) A watertight part of the floor that does not connect to below-floor, or below-ground piping, containment, or storage; and

(2) Constructed of non-corrodible materials with easy access for cleaning.

(c) Pumps and piping used to remove pesticide discharges, washwater or rinsate from the catch-basin shall be above ground.

(d) There shall be a mechanism for removal of pesticide discharge, wash water or rinsate from the catch-basin into above-ground storage within a one hour period of the event of a spill or discharge.

Pes 802.03 Storage Requirements. The storage of pesticides and pesticide containers by private and commercial applicators of pesticides shall comply with the following requirements:

(a) Pesticides shall be stored in accordance with requirements and precautionary storage instructions contained on the product label;

(b) Pesticide containers shall have legible labeling indicating the contents of the container, pursuant to Pes 502.02 and Pes 504.01;

(c) Pesticides and pesticide containers that have not been triple rinsed shall be stored in a separate room and in such a manner as to prevent contamination to food, feed, seed, livestock remedies, drugs, plants, and other products or materials from the volatilization of pesticides, the leakage or breakage of pesticide containers, or other causes;

(d) Pesticide storage rooms shall be protected and secured in such a manner that they are not readily accessible to children and the general public;

(e) The floor surface of the pesticide storage room shall be smooth, facilitating the complete recovery of spills. Floor surfaces may include, but shall not be limited to, sealed concrete and plastic. Earthen floors shall be prohibited for pesticide storage rooms;

(f) The pesticide storage room shall be identified by legible signage clearly indicating that pesticides are in storage, as follows:

(1) Sign(s) shall include the word "Warning," "Danger," or "Pesticides" followed by wording that indicates pesticides are in storage; and

(2) Lettering of the words "Warning," "Danger," or "Pesticides" shall be a minimum of one and 1/2 inches in height;

(g) Pesticide storage rooms shall be vented to the outdoors;

(h) Pesticides shall be stored in a dry place and in accordance with temperature requirements on the label. If fire suppression systems are used or required by local government, such systems shall be in compliance with state fire code RSA 153:1,VI-a.

(i) Notwithstanding (h) above, in the situation where the storage room is unheated, storage of those pesticides where the label has precautions against freezing, during the months of the year when temperature is at freezing or below, shall not be prohibited provided that:

(1) The pesticides are in secondary containers so as to facilitate complete recovery if spillage or leakage occurs;

(2) The secondary container is identified as containing pesticides;

(3) The pesticides are stored in facilities that meet the requirements of Pes 802.03 before and after the period of freezing temperature;

(4) The pesticides are stored in such a manner that they are not readily accessible to children and the general public;

(5) The pesticides are stored in such a manner as to prevent contamination to food, feed, seed, livestock remedies, drugs, plants, and other products or materials from the volatilization of pesticides, the leakage or breakage of pesticide containers, or other causes; and

(6) The pesticides are stored in compliance with Pes 802.03 (a), (b), (j), (o), (q), (r)(2), (t) and (u);

(j) Pesticides shall be stored in tightly sealed containment free from leakage, corrosion, breaks, or tears. Containment used for pesticide storage and handling shall be of materials and construction compatible with the pesticide stored and the conditions of storage and maintained in a manner as to minimize the possibility of a spill. Defective containers, if not fully repaired, shall be destroyed or disposed of in accordance with Pes 801.04.

(k) Pesticides shall be stored:

(1) At a minimum distance of 400 feet from public wells;

(2) Unless storage complies with (1)(1) or (2), at least 75 feet from:

a. Private water wells; and

b. The high water mark of surface waters; and

(3) Wherever possible, down gradient from water wells and surface water.

(l) Pesticide storage facilities installed prior to April 13, 1993 shall be allowed within the 75 foot distance requirement specified in (k) if one of the following conditions existed prior to April 13, 1993:

(1) The storage of pesticides is in conjunction with a Natural Resources Conservation Service approved containment facility where a containment mechanism has been installed under the storage room and becomes a part of the overall containment facility; or

(2) The storage room floor can hold 110% of the volume of the largest container in storage and contains a concrete floor that has a hydraulic conductivity of less than 1×10^{-7} centimeters per second or a concrete floor that can be treated to have a hydraulic conductivity of less than 1×10^{-7} centimeters per second;

(m) In conjunction with pesticide storage, ambulance and fire department phone numbers or the 911 number shall be displayed at a central location where all persons have access.

(n) The local fire department shall be notified that pesticides are in storage and be informed of the general location of the storage room;

(o) Pesticide storage rooms shall maintain sufficient lighting to allow the observation of containers and their labeling;

(p) All empty pesticide containers that have not been triple rinsed pursuant to Pes 801.04 shall be stored in the pesticide storage room prior to disposal;

(q) Storage of pesticides in bulk shall be in compliance with bulk storage rules under Pes 804;

(r) Cabinets, storage bins, lockers, or similar type storage facilities shall be considered a storage room provided that:

(1) The storage facility complies with Pes 802.03(a)-(f), (h), (i), (j)-(q), (s), (t) and (u); and

(2) If the single or aggregate area exceeds 15 cubic feet or 25,920 cubic inches, the facility shall be vented according to Pes 802.03(g);

(s) Floor drains not used in conjunction with catch basins shall be prohibited in pesticide storage rooms;

(t) Pesticide storage room floors may be equipped with a catch basin, provided that:

(1) There are no pipes attached;

(2) It is constructed for complete recovery of a spill; and

(3) It is located within the floor where liquids can be transferred to an above ground container in the event of a spill or discharge onto the floor;

(u) Areas used for storage of pesticides shall be maintained in a clean condition;

(v) At a minimum, spills and leaks shall be cleaned up by the end of the day during which the pesticides have been spilled or leaked;

(w) The storage of dormant oil formulated as a pesticide and containing no other pesticides, shall be exempt from the requirements of Pes 802.03 (c)-(h), (m)-(p), (r), and (s); and

(x) Pesticide containers having the capacity for holding greater than 55 gallons but less than 300 gallons of bulk pesticides, known as mini-bulk containers, shall be exempt from Pes 802.03 (c)-(i), (m)-(p), (r), (s) provided that:

(1) The container is identified with pesticide labeling that is affixed to the mini-bulk container by the dealer or person who sold or distributed the product;

(2) Within 90 days of receipt of the pesticide in the mini-bulk container, the container is:

- a. Returned to the dealer;
- b. Disposed; and
- c. Emptied and triple rinsed; and

(3) There is a mechanism attached to the container for the purpose of securing the dispensing apparatus.

PART Pes 803 DEALER STORAGE OF PESTICIDES AND CONTAINERS

Pes 803.01 Storage Requirements. Dealers storing prohibited, prohibited-limited use and state restricted use pesticides shall comply with the following:

(a) Pesticides shall be stored in accordance with requirements and precautionary storage instructions contained on the product label;

(b) Pesticide containers shall have legible labeling indicating the contents of the containers, pursuant to Pes 502.02 and Pes 504.01;

(c) Pesticides and pesticide containers that have not been triple rinsed shall be stored in a separate room and in such a manner as to prevent contamination to food, feed, seed, livestock remedies, drugs, plants, and other products or materials from the volatilization of pesticides, the leakage or breakage of pesticide containers, or other causes;

(d) Pesticide storage rooms shall be protected and locked in such a manner that they are not readily accessible to children and the general public;

(e) The floor surface of the pesticide storage room shall be smooth and impervious, facilitating the complete recovery of spills. Floor surfaces may include, but are not limited to, sealed concrete and plastic. Earthen floors shall be prohibited for pesticide storage rooms;

(f) The pesticide storage room shall be identified by legible signage clearly indicating that pesticides are in storage, as follows:

- (1) Sign(s) shall include the word "Warning," "Danger," or "Pesticides" followed by wording that indicates pesticides are in storage; and
 - (2) Lettering of the words "Warning," "Danger," or "Pesticides shall be a minimum of one and 1/2 inches in height;
- (g) Pesticide storage room shall be vented to the outdoors;
- (h) Pesticides shall be stored in a dry place and in accordance with the temperature requirements on the label;
- (i) Pesticides shall be stored in tightly sealed containment free from leakage, corrosion, breaks, or tears. Containers used for pesticide storage and handling shall be of materials and construction compatible with the pesticide stored and the conditions of storage and maintained in a manner as to minimize the possibility of a spill. Defective containers, if not fully repaired, shall be destroyed or disposed of in accordance with Pes 801.04;
- (j) In conjunction with pesticide storage, ambulance and fire department phone numbers or the 911 number shall be displayed at a central location where all persons have access;
- (k) The local fire department shall be notified that pesticides are in storage;
- (l) Notification to the fire department shall include the following:
- (1) The general location of the storage room; and
 - (2) General precautions as described on the labels of the pesticides in storage concerning the water solubility, the significance to methods of combating a fire and the possibility of reacting with fire suppression chemicals;
- (m) Pesticide storage rooms shall have sufficient lighting to allow the observation of containers and their labeling;
- (n) Storage of pesticides in bulk shall be in compliance with bulk storage rules under Pes 804;
- (o) Cabinets, storage bins, lockers, or similar type storage facilities shall be considered a storage room provided that:
- (1) If the single or aggregate area exceeds 15 cubic feet or 25,920 cubic inches, the facility shall be vented according to Pes 803.01(g); and
 - (2) The storage facility complies with Pes 803.01(a)-(f), (h), (j), (k) - (r);
- (p) Floor drains not used in conjunction with catch basins shall be prohibited in pesticide storage rooms;
- (q) Pesticide storage room floors may be equipped with a catch basin as defined in Pes 802.02, provided that:
- (1) There are no pipes attached; and

- (2) It is constructed for complete recovery of a spill;
- (r) Areas used for storage of pesticides shall be maintained in a clean condition; and
- (s) At a minimum, spills and leaks shall be cleaned up within a one hour period of becoming aware of a spill, leak or discharge.

PART Pes 804 STORAGE AND DISTRIBUTION OF BULK PESTICIDES AND CONTAINMENT OF OPERATIONS THAT DISPENSE PESTICIDES

Pes 804.01 Definitions. The following definitions shall apply to Pes 804:

(a) "Appurtenance" means any equipment which is connected to a container or pesticide application equipment for purposes of transferring pesticides, and includes:

- (1) Hoses;
- (2) Fittings;
- (3) Plumbing;
- (4) Valves;
- (5) Gauges;
- (6) Pumps; and
- (7) Metering devices;

(b) "Closed system for applicators" means a pesticide container that is designed to allow removal of a pesticide from the original container to be mixed with a diluent for application and allow rinsing of the empty container, without the handler contacting the pesticide so as to reduce worker and environmental exposure;

(c) "Containment pad" means any structure or system that is designed and constructed to intercept and contain pesticides, rinsates and equipment wash water and prevent them from running off or leaching from a pesticide dispensing area;

(d) "Containment structure" means either a secondary containment area or a containment pad;

(e) "Container" means any package, can, bottle, bag, barrel, drum, tank, film, box, or other device, excluding pesticide application equipment, used to enclose a pesticide;

(f) "Distribution" means to import, consign, sell, offer for sale or otherwise supply pesticides for use in New Hampshire;

(g) "Dry bulk container" means a container that is designed and constructed to hold only dry pesticide and has the capacity to hold undivided quantities of greater than 100 pounds (45.5 kilograms);

(h) "Dry pesticide" means a pesticide that is in solid form, that has not been combined with liquids, and includes formulations such as dusts, wettable powders, dry flowable powders, and granules;

(i) "Filling establishment" means an operation dispensing pesticide for the purpose of distribution or sale from appurtenances to containers or pesticide application equipment;

(j) "Liquid bulk container" means a container designed and constructed to hold liquid pesticide and has the capacity to hold undivided quantities of greater than 55 gallons (208.2 liters);

(k) "Non-bulk" means pesticide containers with a capacity to hold 55 gallons (208.2 liters) or less of liquid pesticides or 100 pounds (45.5 kilograms) or less of dry pesticides;

(l) "Pesticide dispensing area" means an area within the boundaries of which any of the following operations are conducted:

(1) The dispensing of pesticide from a stationary bulk container for any purpose, including, but not limited to:

- a. Filling containers;
- b. Filling service containers or application equipment; and
- c. Emptying containers prior to cleaning; or

(2) The transfer of pesticide from the appurtenance of a non-bulk container, the tank of a transportation vehicle, or other source for the purpose of distribution or sale by entities or individuals, other than applicators, or application firms;

(m) "Refillable container" means a container that is intended to be filled with pesticide more than once for sale or distribution.

(n) "Secondary containment area" means any structure or system that is designed and constructed to intercept and contain pesticide spills and leaks and prevent runoff or leaching from stationary bulk containers and their appurtenances;

(o) "Stationary bulk container" means a bulk container for either dry or liquid pesticide formulations that is fixed at a single facility or establishment or, if not fixed, remains at the facility or establishment for 14 consecutive days or longer, during all of which time the container holds a pesticide; and

(p) "Twenty-five year, 24 hour rainfall event" means a rainfall event with a probable recurrence interval of once in 25 years, as established by the United States Department of Agriculture Natural Resources Conservation Service in Technical Release Number 55, "Urban Hydrology for Small Watersheds," Second Ed., June 1986.

Pes 804.02 Requirements For Secondary Containment of Stationary Bulk Containers and Containment Pads For Pesticide Dispensing Areas. Any stationary bulk container and any pesticide dispensing area shall be protected by a containment structure if located on:

- (a) The facilities or property of a filling establishment;

- (b) The facilities or property of a pesticide dealer who blends pesticides for sale in bulk; or
- (c) Any other place where pesticides are stored and handled in bulk quantities and where operations involve the filling of containers and pesticide application equipment for distribution and sale.

Pes 804.03 Pesticide Dispensing Area and Stationary Bulk Container Exceptions.

- (a) Each of the following shall not be considered a pesticide dispensing area:
 - (1) An area where pesticides are transferred from containers holding 300 gallons or less of liquid pesticide for the purpose of end use application by private applicators in accordance with label recommendations;
 - (2) An area where pesticides are handled and labeled for application as a gas; and
 - (3) An area where dormant oil is being dispensed into containers holding 55 gallons or less.
- (b) Each of the following shall not be considered a stationary bulk container:
 - (1) A container holding only a pesticide which has been diluted to or below application strength, such as rinsates or washwaters, and which is so labeled;
 - (2) A container holding only pesticides which are intended to be applied as a gas; or
 - (3) A container holding 300 gallons or less of liquid pesticide for the purpose of end use application by private applicators in accordance with label recommendations.

Pes 804.04 Construction Materials for Containment Structure.

- (a) The containment structure shall be constructed of reinforced concrete or other rigid material which provides sufficient strength to withstand the full dynamic or static hydrostatic head, load and impact of any pesticides, precipitation, other substances, equipment, and appurtenances placed within the structure. The containment structure shall not be constructed of natural earthen material, unfired clay, or asphalt.
- (b) The entire area of the containment structure over which liquids can flow or accumulate shall have a hydraulic conductivity of less than 1×10^{-7} centimeters per second. This standard may be satisfied by the use, singly or in combination, of structural materials, surface sealants or coatings, or a continuous liner at the bottom of the containment structure, which have a hydraulic conductivity of less than 1×10^{-7} centimeters per second.
- (c) All components of the containment structure which might reasonably be expected to contact the pesticide during normal operating conditions or during a catastrophic spill inside the containment structure, shall be composed of materials that are compatible with the pesticide.

Pes 804.05 Design and Construction of Containment Structures.

- (a) The containment structure shall be adequate to prevent water and other liquids from seeping into or flowing onto it from surrounding surfaces, including land surfaces and adjacent roofs. Any containment structure in use shall, at a minimum, be adequate to prevent run-in or seepage during a 25 year, 24 hour rainfall event.

(b) Appurtenances and containers shall be protected against breakage or damage from operating personnel and moving equipment. Means of protection shall include but are not limited to supports to prevent sagging, flexible connections, the use of guard rails, barriers, and cages.

(c) No containment structure shall have a discharge outlet or gravity drain through the base, nor shall a containment structure have appurtenances installed through a wall, except for direct interconnections between adjacent containment structures which meet the requirements of this part. Appurtenances shall be configured in such a way that spills or leaks can readily be observed.

(d) The containment structure shall be located at a minimum distance of 400 feet from public wells and public surface water supplies and at a minimum distance of 75 feet from private water wells and the high water mark of other surface waters.

Pes 804.06 Operation of Containment Structures.

(a) The containment structure shall be operated in a manner that prevents pesticides or materials containing pesticides from leaving the containment structure and contacting the soil, surface water or ground water beneath or adjacent to it. This shall include pesticide residues washed off the containment structure by rainfall or liquids used for cleaning the area within the containment structure. All spills or leaks shall be addressed pursuant to Pes 804.12. All materials containing pesticides, including water, shall be handled in accordance with label directions and applicable federal, state and local regulations.

(b) Transfers of pesticides within or between containment structures shall be attended at all times by a person who is familiar with proper transfer procedures and who is familiar with procedures that are used to control and recover pesticide releases in accordance with requirements of U.S. Environmental Protection Agency pursuant to 40 CFR 265.16.

(c) Refillable containers shall be cleaned or rinsed on a containment structure.

Pes 804.07 Inspection and Maintenance of Containment Structures.

(a) The containment structure shall be inspected and maintained to assure continued compliance with the requirements of Pes 804.04, Pes 804.05, Pes 804.06 and Pes 804.07.

(b) All stationary bulk containers and their appurtenances shall be inspected for wetting, discoloration, blistering, bulging, corrosion, cracks or other signs of damage or leakage at least weekly unless the container is empty.

(c) The containment structure shall be inspected for wetting, discoloration, blistering, corrosion, erosion, cracks, or other signs of damage at least monthly during periods when pesticide is being stored or handled within the containment structure. Cracks and gaps in the containment structure and appurtenances shall be sealed with material that is compatible with the pesticide being stored and handled and which meets or exceeds the standard for hydraulic conductivity set forth in Pes 804.04(b).

(d) Except for the removal of material in order to effect repairs, no pesticide shall be handled or stored within the boundaries of a containment structure which fails to meet the requirements of Pes 804.07(a) until suitable repairs have been made.

Readopt with amendment, Pes 804.08, effective 11-5-14 (Document #107112), to read as follows:

Pes 804.08 Secondary Containment Areas For Liquid Pesticides.

(a) Any stationary liquid bulk container shall be protected by a secondary containment area which meets the provisions of Pes 804.04, Pes 804.05, Pes 804.06 and Pes 804.07 and the requirements of this section.

(b) A secondary containment area shall have, at a minimum, the following capacity, compensating for any volume displaced by containers and appurtenances:

(1) At least 125 percent of the capacity of the largest stationary bulk container within a secondary containment area that is not protected from precipitation; or

(2) At least 110 percent of the capacity of the largest stationary bulk container within a secondary containment area that is protected from precipitation.

(c) The secondary containment area shall allow for the observation of leakage from the base of any enclosed stationary bulk container. This requirement may be achieved by elevating the stationary bulk container on structures such as legs, skids, or by other methods, provided that leaked material can be observed readily and the integrity of the containment structure is preserved.

(d) The owner or operator of the secondary containment area shall ensure that each lockable valve on any stationary liquid bulk container is closed and locked or that the facility is locked whenever the facility is unattended.

(e) Each stationary container of liquid pesticides with a capacity greater than 300 gallons protected by an existing secondary containment unit shall be anchored or elevated to prevent flotation in the event that the secondary containment unit fills with liquid.

Readopt Pes 804.09 through Pes 805.02, effective 11-5-14 (Document #107112), to read as follows:

Pes 804.09 Secondary Containment Areas For Dry Pesticides. Any stationary dry bulk container that holds dry pesticide shall be:

(a) Protected by a secondary containment area which is sufficient to contain 100% of the volume of the largest stationary dry bulk container within the secondary containment area;

(b) Protected from wind and precipitation; and

(c) Placed on pallets or raised concrete platforms.

Pes 804.10 Pesticide Containment Pads.

(a) Each pesticide dispensing area shall be protected by a pesticide containment pad which meets the requirements of Pes 804.04, Pes 804.05, Pes 804.06, and Pes 804.07 and the requirements of this section.

(b) The pesticide containment pad shall have a containment capacity equal to or greater than volume of the largest container or pesticide-holding equipment on the pad.

(c) The area covered by the pesticide containment pad shall be sufficient to intercept leaks and spills of pesticides which might occur in the pesticide dispensing area.

(d) The base of the pesticide containment pad shall be sloped toward a liquid-tight sump where liquids can be collected for removal.

(e) The containment pad shall have a means of removing and recovering spilled, leaked, or discharged material and rainfall such as by a manually activated pump, or an automatically-activated pump, provided that the pump is equipped with an automatic overflow cutoff switch. Automatically-activated pumps lacking automatic overflow cutoff switches shall be prohibited.

(f) During dispensing of pesticides from transportation vehicles into containers, the portion of the vehicle where the delivery hose or device couples to the pesticide tank of the vehicle shall be positioned over the containment pad.

Pes 804.11 Combined Systems. Containment structures may be combined into integrated systems provided the requirements of Pes 804.04, Pes 804.05, Pes 804.06, Pes 804.07 and, as applicable, Pes 804.08, Pes 804.09, and Pes 804.10 are satisfied. If more than one stationary bulk container exists at a facility, the requirements for secondary containment areas may be applied individually to each stationary bulk container or collectively, at the option of the facility.

Pes 804.12 Duty to Clean Up Spills or Leaks.

(a) Spills and leaks of pesticides on or in any containment structure shall be collected, and recovered in a manner that provides protection of human health and the environment, including surface water and ground water. The maximum possible recovery of the pesticide spilled or leaked shall be required, and such recovery shall comply with this section.

(b) All spills or leaks occurring on the surface of any containment structure and spills or leaks that could travel off the containment structure shall be cleaned up immediately. Spills or leaks that could travel off the containment structure as a result of cracks or gaps shall be cleaned up immediately. All cracks or gaps in containment structures shall be sealed pursuant to Pes 804.07(c).

(c) All materials resulting from the recovery of spills and leaks shall be managed in accordance with label instructions, local regulations, and requirements of the department of environmental services pursuant to Env-Hw 404.02.

Pes 804.13 Record Keeping Requirements.

(a) The following records shall be kept in permanent form:

(1) Records of inspection and maintenance for each containment structure and for each stationary bulk container and its appurtenances, including the:

- a. Name of the person conducting the inspection or maintenance;
- b. Date;
- c. Conditions noted; and
- d. Maintenance performed;

(2) Records of inventory and reconciliation, including for each applicable stationary bulk container:

- a. Name of the product stored;
- b. Quantity measured at previous inventory;
- c. Quantities dispensed from or added to container; and
- d. Reconciliation with quantity measured at the most recent inventory; and

(3) Records of the duration over which undiluted pesticide remains in any bulk container that is not protected by a secondary containment structure that satisfies the requirements of this part.

(b) The records included in (a) above shall be kept and made available for inspection for at least 3 years at the facility or the nearest office from which the facility is administered.

Pes 804.14 Exemptions. The use of closed systems, as defined under Pes 804.01(b), greater than 55 gallons but less than 300 gallons in capacity shall be exempt from Pes 804.02.

PART Pes 805 MIXING AND LOADING OF PESTICIDES

Pes 805.01 Mixing and Loading Requirements. Any person engaged in the mixing or loading of pesticides shall comply with the following provisions:

- (a) The pesticide label recommendations shall be followed;
- (b) Mixing or loading of pesticides shall not be performed within 400 feet of gravel packed wells used for public water supply or within 250 feet of other wells so used;
- (c) Mixing or loading of pesticides shall not be performed within 75 feet of surface water or private water wells;
- (d) Backflow prevention shall be maintained by an anti-siphoning device on the fill hose or water supply line;
- (e) The fill hose shall be kept above the surface of the water/chemical solution in the tank at all times; and
- (f) Spills shall be cleaned up immediately to prevent pesticides from soaking into the ground.

Pes 805.02 Exemption.

(a) Mixing or loading for chemigation shall be exempt from Pes 805.01(b) and (c) provided that:

- (1) The total capacity of pesticide(s) at the chemigation mixing and loading site is 5 gallons or less of liquid pesticide, or 50 pounds or less of dry pesticide; and
- (2) Secondary containment shall be provided that:

- a. Is constructed of material compatible with the pesticide being applied;

b. Has an outside edge that is at least 10 feet from the water supply including any well head or surface water source; and

c. Is capable of containing at least 110% of the volume of the pesticide container.

(b) Mixing or loading on a containment facility approved by the Natural Resources Conservation Service, installed prior to April 13, 1993, shall be exempt from Pes 805.01(c).

APPENDIX

Rule	Specific State Statute the Rule Implements
Pes 801.01 - Pes 805.02	RSA 430:31,IV(j)