

CHAPTER Env-Hw 1200 LAND DISPOSAL RESTRICTIONS

Statutory Authority: RSA 147-A:3

PART 1201 PURPOSE, APPLICABILITY, AND EXEMPTIONS

Env-Hw 1201.01 Purpose. The purpose of this chapter is to establish requirements for land disposal of hazardous wastes.

Env-Hw 1201.02 Applicability. This chapter shall apply to any person who generates or transports hazardous waste and to any owner or operator of hazardous waste treatment, storage, and disposal facilities, except as provided in Env-Hw 1201.03 or in 40 CFR Part 268 as incorporated by reference in Env-Hw 1202.01.

Env-Hw 1201.03 Exemptions. This chapter shall not apply to:

- (a) State-only wastes; or
- (b) Wastes generated by small quantity generators, as defined in Env-Hw 104.

PART 1202 LAND DISPOSAL RESTRICTIONS

Env-Hw 1202.01 Federal Requirements Incorporated. Except as specified in Env-Hw 1202.02, the federal land disposal requirements in 40 CFR Part 268 and its appendices are incorporated by reference.

Env-Hw 1202.02 Amendments, Exceptions, and Modifications to Incorporated Federal Requirements. The following amendment, exceptions, and modifications shall apply to the incorporated requirements:

(a) Delete the following provisions of 40 CFR 268, which are administered and enforced by EPA, not by the department:

- (1) 40 CFR 268.5, 268.6, 268.42(b) and 268.44(a) through (g), relative to case by case extensions, exemptions, alternative treatment methods and variances;
- (2) “Effective dates” referenced within 40 CFR 268.20 through 40 CFR 268.50 that are earlier than the 2017 effective dates of these state rules; and
- (3) “Effective dates” listed within Appendices VII and VIII that are earlier than the 2017 effective dates of these state rules;

(b) Delete the following provisions of 40 CFR 268, because Env-Hw 701.03(a) prohibits the use of underground injection wells as a means of disposal of hazardous waste within the state:

- (1) All of 40 CFR 268.1(c)(3);
- (2) In 40 CFR 268.7(a)(7), the phrase “or are managed in an underground injection well regulated by the SDWA”;
- (3) In 40 CFR 268.37(a), the phrase “or that inject in Class I deep wells regulated under the Safe Drinking Water Act (SDWA),”;
- (4) All of 40 CFR 268.37(b);
- (5) In 40 CFR 268.38(a), the phrase “or that are injected in Class I deep wells regulated under the Safe Drinking Water Act (SDWA),”;
- (6) In 40 CFR 268.38(b) and 40 CFR 268.39(b), the phrase “or that inject in Class I deep wells regulated under the Safe Drinking Water Act (SDWA),”;
- (7) In 40 CFR 268.40(e), the phrase “or that is injected into a Class I nonhazardous deep injection well,”; and
- (8) In 40 CFR 268.40/Table “Treatment Standards for Hazardous Wastes”, footnote 9;

(c) Amend 40 CFR 268.1(e)(1) by deleting the words “small quantity generators of less than 100 kilograms of non-acute hazardous waste or less than 1 kilogram of acute hazardous waste per month, as defined in §261.5 of this chapter” and replacing them with “small quantity generators, as defined in Env-Hw 104, managing waste in compliance with Env-Hw 500”;

(d) Amend 40 CFR 268.1(f) to read as follows: “Universal waste handlers and universal waste transporters who manage universal waste in compliance with Env-Hw 1100 are exempt from the requirements of 40 CFR 268.7 and 268.50.”;

(e) Amend 40 CFR 268.3(a) by adding the following: “Any deliberate mixing of one or more prohibited hazardous wastes with debris that changes its treatment classification from waste to hazardous debris or debris shall be prohibited.”;

(f) Delete 40 CFR 268.3(b), regarding exceptions to the dilution prohibition;

(g) Amend 40 CFR 268.7(a)(8) by changing the last sentence to read as follows: “The requirements of this paragraph apply to wastes even when the hazardous characteristic is removed prior to disposal or when the waste is exempt from regulation subsequent to the point of generation”;

(h) Amend 40 CFR 268.7(a)(9)(iii) by deleting the words “D001-D043” and replacing them with “D001-D008 and D010-D043”;

(i) Delete 40 CFR 268.7(a)(10), regarding the exemption for tolling agreements; and

(j) Delete 40 CFR 268.50(g), regarding hazardous remediation wastes stored in a staging pile.

Env-Hw 1202.03 Requirement to Obtain Permit. Treatment of hazardous waste to achieve compliance with the land disposal restrictions of this chapter shall be subject to the permitting requirements of Env-Hw 300 and Env-Hw 700.

Env-Hw 1202.04 Management and Disposal of Hazardous Debris and Contaminated Soil. Hazardous debris or contaminated soil that has been treated to comply with this chapter such that it is no longer regulated as hazardous waste shall instead be managed and disposed of in accordance with Env-Or 611 and Env-Sw 903, as applicable.

APPENDIX A: STATE STATUTES, FEDERAL REGULATIONS IMPLEMENTED

Rule Section(s)	State Statute(s)	Federal Regulation(s)
Env-Hw 1200	RSA 147-A:3, IV & VI	40 CFR 268