1. Agency Name & Address:

Department of Environmental Services
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095

2. RSA Authority: RSA 147-A:3


4. Type of Action:

<table>
<thead>
<tr>
<th>Action</th>
<th>X</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adoption</td>
<td></td>
</tr>
<tr>
<td>Repeal</td>
<td>X</td>
</tr>
<tr>
<td>Readoption</td>
<td></td>
</tr>
<tr>
<td>Readoption w/amendment</td>
<td>X</td>
</tr>
</tbody>
</table>

5. Short Title: Hazardous Waste Definitions and Applicable Federal Regulations

6. (a) Summary of what the rule says and of any proposed amendments:

The existing rule Env-Hw 101.04 specifies the correct references to federal regulations that apply throughout the subtitle Env-Hw. The existing rules in Env-Hw 103 and Env-Hw 104 specify the definitions that apply throughout the subtitle Env-Hw. Certain sections of the rules are proposed to be adopted, repealed, or readopted with amendments as follows to:

--Update in Env-Hw 101.04 the edition of the Code of Federal Regulations (CFR) cited in the rules throughout the subtitle unless otherwise noted;

--Repeal the definition of the term board in Env-Hw 103.12;

--Readopt with amendments the definitions of the terms:

- Facility in Env-Hw 103.56 (renumbered as Env-Hw 103.57) to make editorial corrections,
- Land disposal in Env-Hw 104.02 to cite the updated CFR edition,
- Mercury-containing device in Env-Hw 104.11 (renumbered as Env-Hw 104.12) to make federal revisions,
- Notification form in Env-Hw 104.18 (renumbered as Env-Hw 104.20) to provide the form number and date,
- Pharmaceutical in Env-Hw 104.28 (renumbered as Env-Hw 104.30) to adopt the federal definition, and
- Universal waste in Env-Hw 104.72 (renumbered as Env-Hw 104.76) to add aerosol cans; and

--Adopt definitions for the terms: aerosol can; evaluated hazardous waste pharmaceutical; hazardous waste pharmaceutical; healthcare facility; long-term care facility; non-credible hazardous waste pharmaceutical; potentially credible hazardous waste pharmaceutical; and reverse distributor. The numbers of these new definitions are indicated as “(new)” in the table in Item #6(c) below.

Due to the repeal of Env-Hw 103.12 and adoption of new definitions, this proposal also renumbers other existing definitions in Env-Hw 103 and Env-Hw 104. This rulemaking is a companion rulemaking to substantive changes proposed in separate rulemakings.

6. (b) Brief description of the groups affected:

The rules affect any individual or entity that generates, stores, treats, recycles, transports, or disposes of hazardous waste.
6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

<table>
<thead>
<tr>
<th>Rule Section(s)</th>
<th>State Statute Implemented</th>
<th>Federal Statute/Regulation Implemented</th>
</tr>
</thead>
<tbody>
<tr>
<td>Env-Hw 101.04</td>
<td>RSA 147-A:3</td>
<td>40 CFR 260.3</td>
</tr>
<tr>
<td>Env-Hw 103.07 (new), 103.12 (repeal), 103.49 (new), 103.57, 103.67 (new), 103.69 (new)</td>
<td>RSA 147-A:2 &amp; 3, I; RSA 147-B: 2, III</td>
<td>40 CFR 260.10; 40 CFR 261.1(c); 40 CFR 262.81; 40 CFR 266.500; 40 CFR 273.9</td>
</tr>
<tr>
<td>Env-Hw 104.02; 104.08 (new), 104.12, 104.19 (new), 104.20, 104.30, 104.33 (new), 104.43 (new), 104.76</td>
<td>RSA 147-A:2 &amp; 3, I</td>
<td>40 CFR 260.10; 40 CFR 261.1(c); 40 CFR 266.500; 40 CFR 268.2(c); 40 CFR 270.2; 40 CFR 273.9</td>
</tr>
</tbody>
</table>

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: Wendy Bonner  
Title: Regulatory Manager  
Department of Environmental Services  
29 Hazen Drive  
P.O. Box 95  
Concord, NH 03302-0095  
Phone #: (603) 271-2937  
Fax#: (603) 271-2456  
E-mail: Wendy.S.Bonner@des.nh.gov

The rules also can be viewed in PDF in the Public Comment Opportunities section of the NHDES website at https://www.des.nh.gov/public-comment-opportunities and selecting “Rulemaking”

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: 4:00 p.m. on Friday, April 15, 2022

☐ Fax  ☑ E-mail  ☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: Friday, April 8, 2022 at 11:00 a.m.

Place: Room 208C, DES Offices, 29 Hazen Drive, Concord NH

NOTE: NHDES security procedures require all visitors to sign in and present photo identification (such as a driver’s license). If you plan to attend the public hearing in person, please bring photo identification with you.

The public may also attend the hearing via GoToWebinar, which can be accessed through the following link: https://attendee.gotowebinar.com/register/8580869539956104462

After registering using this link, interested participants will be provided a confirmation email with information about joining the hearing remotely.

You also may join the meeting by phone:

Call in Number: 1 (562) 247-8422  
Access Code: 872-463-431  
Webinar ID: 853-426-339

If you have any questions or technical issues connecting to the hearing, contact Tara Albert at Tara.M.Albert@des.nh.gov or (603) 271-3713.
10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant):

   FIS # 22:033    dated: 03/02/2022

   1. Comparison of the costs of the proposed rule(s) to the existing rule(s):
      There is no difference in cost between the proposed rule and the existing rule.

   2. Cite the Federal mandate. Identify the impact on state funds:
      Federal regulation 40 CFR 271 specifies the requirements that must be met by a state’s hazardous
      waste program (including adoption of requirements promulgated by EPA under the authority of
      RCRA, the Hazardous and Solid Waste Amendments of 1984, or the Hazardous Waste Electronic
      Manifest Establishment Act) in order to receive and maintain final authorization from EPA. No
      impact on state funds.

   3. Cost and benefits of the proposed rule(s):

      A. To State general or State special funds:
         None.

      B. To State citizens and political subdivisions:
         None.

      C. To independently owned businesses:
         None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

      There are no costs associated with the rules. The rules thus do not mandate or assign any new,
      expanded, or modified programs or responsibilities to political subdivisions of the state in such a
      way as to necessitate additional local expenditures, and so do not violate Part I, Article 28-a of the
      New Hampshire Constitution.