

US EPA ARCHIVE DOCUMENT

CHAPTER 127

AN ACT

RELATING TO HAZARDOUS WASTE; AMENDING A SECTION OF THE HAZARDOUS WASTE ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 74-4-4 NMSA 1978 (being Laws 1977, Chapter 313, Section 4, as amended) is amended to read:

"74-4-4. DUTIES AND POWERS OF THE BOARD.--

74-4-4

A. The board shall adopt regulations for the management of hazardous waste as may be necessary to protect public health and the environment, that are equivalent to and no more stringent than federal regulations adopted by the federal environmental protection agency pursuant to the federal Resource Conservation and Recovery Act of 1976, as amended:

(1) for the identification and listing of hazardous wastes, taking into account toxicity, persistence and degradability, potential for accumulation in tissue and other related factors, including flammability, corrosiveness and other hazardous characteristics; provided that, except as authorized by Sections 74-4-3.3 and 74-8-2 NMSA 1978, the board shall not identify or list any solid waste or combination of solid wastes as a hazardous waste that has not been listed and designated as a hazardous waste by the federal environmental protection agency pursuant to the

Senate Bill 549, aa, wo/ec
Approved March 31, 1993

the insurer for at least three years from the
the date the policy was first used.
Persons who market long-term care insurance
policies or riders in this state shall not
issue policies or certificates unless:
(1) the issuer of the policy certificate or
the superintendent with a copy of the
superintendent has reviewed and
approved the policy.

1 federal Resource Conservation and Recovery Act of 1976, as
2 amended;

3 (2) establishing standards applicable to
4 generators identified or listed under this subsection,
5 including requirements for:

6 (a) furnishing information on the
7 location and description of the generator's facility and on
8 the production or energy recovery activity occurring at that
9 facility;

10 (b) record-keeping practices that
11 accurately identify the quantities of hazardous waste
12 generated, the constituents of the waste that are significant
13 in quantity or in potential harm to human health or the
14 environment and the disposition of the waste;

15 (c) labeling practices for any
16 containers used for the storage, transport or disposal of the
17 hazardous waste that will identify accurately the waste;

18 (d) use of safe containers tested for
19 safe storage and transportation of the hazardous waste;

20 (e) furnishing the information on the
21 general chemical composition of the hazardous waste to
22 persons transporting, treating, storing or disposing of the
23 waste;

24 (f) implementation of programs to reduce
25 the volume or quantity and toxicity of the hazardous waste

the Conservation and Recovery Act of 1976, as

(2) establishing standards applicable to identified or listed under this subsection, requirements for:

(a) furnishing information on the location of the generator's facility and on any recovery activity occurring at that

(b) record-keeping practices that identify the quantities of hazardous waste constituents of the waste that are significant in potential harm to human health or the the disposition of the waste;

(c) labeling practices for any for the storage, transport or disposal of the that will identify accurately the waste;

(d) use of safe containers tested for transportation of the hazardous waste;

(e) furnishing the information on the composition of the hazardous waste to tting, treating, storing or disposing of the

(f) implementation of programs to reduce ncity and toxicity of the hazardous waste

1 generated;

2 (g) submission of reports to the
3 secretary at such times as the secretary deems necessary,
4 setting out the quantities of hazardous waste identified or
5 listed pursuant to the Hazardous Waste Act that the generator
6 has generated during a particular time period and the
7 disposition of all hazardous waste reported, the efforts
8 undertaken during a particular time period to reduce the
9 volume and toxicity of waste generated and the changes in
10 volume and toxicity of waste actually achieved during a
11 particular time period in comparison with previous time
12 periods; and

13 (h) the use of a manifest system and any
14 other reasonable means necessary to assure that all hazardous
15 waste generated is designated for treatment, storage or
16 disposal in, and arrives at, treatment, storage or disposal
17 facilities, other than facilities on the premises where the
18 waste is generated, for which a permit has been issued
19 pursuant to the Hazardous Waste Act; and that the generator
20 of hazardous waste has a program in place to reduce the
21 volume or quality and toxicity of waste to the degree
22 determined by the generator to be economically practicable;
23 and that the proposed method of treatment, storage or
24 disposal is that practicable method currently available to
25 the generator that minimizes the present and future threat to

1	human health and the environment;	1	
2	(3) establishing standards applicable to	2	ch
3	transporters of hazardous waste identified or listed under	3	
4	this subsection or of fuel produced from any such hazardous	4	de
5	waste or of fuel from such waste and any other material, as	5	or
6	may be necessary to protect human health and the environment,	6	de-
7	including but not limited to requirements for:	7	
8	(a) record-keeping concerning the	8	
9	hazardous waste transported and its source and delivery	9	t
10	points;	10	c
11	(b) transportation of the hazardous	11	a
12	waste only if properly labeled;	12	
13	(c) compliance with the manifest system	13	
14	referred to in Subparagraph (h) of Paragraph (2) of this	14	
15	subsection; and	15	
16	(d) transportation of all the hazardous	16	
17	waste only to the hazardous waste treatment, storage or	17	
18	disposal facilities that the shipper designates on the	18	
19	manifest form to be a facility holding a permit issued	19	
20	pursuant to the Hazardous Waste Act or the federal Resource	20	
21	Conservation and Recovery Act of 1976, as amended, 42 U.S.C.	21	
22	6901 et seq.;	22	
23	(4) establishing standards applicable to	23	
24	distributors or marketers of any fuel produced from hazardous	24	
25	waste, or any fuel that contains hazardous waste, for:	25	

the environment;

3) establishing standards applicable to hazardous waste identified or listed under or of fuel produced from any such hazardous from such waste and any other material, as to protect human health and the environment, limited to requirements for:

(a) record-keeping concerning the transported and its source and delivery

(b) transportation of the hazardous properly labeled;

(c) compliance with the manifest system paragraph (h) of Paragraph (2) of this

(d) transportation of all the hazardous hazardous waste treatment, storage or that the shipper designates on the e a facility holding a permit issued ards Waste Act or the federal Resource ecovery Act of 1976, as amended, 42 U.S.C.

establishing standards applicable to keters of any fuel produced from hazardous hat contains hazardous waste, for:

- 1 (a) furnishing the information stating
- 2 the location and general description of the facility; and
- 3 (b) furnishing the information
- 4 describing the production or energy recovery activity carried
- 5 out at the facility;
- 6 (5) establishing performance standards as may
- 7 be necessary to protect human health and the environment
- 8 applicable to owners and operators of facilities for the
- 9 treatment, storage or disposal of hazardous waste identified
- 10 or listed under this section, distinguishing, where
- 11 appropriate, between new facilities and facilities in
- 12 existence on the date of promulgation, including but not
- 13 limited to requirements for:
- 14 (a) maintaining the records of all
- 15 hazardous waste identified or listed under this subsection
- 16 that is treated, stored or disposed of, as the case may be,
- 17 and the manner in which such waste was treated, stored or
- 18 disposed of;
- 19 (b) satisfactory reporting, monitoring,
- 20 inspection and compliance with the manifest system referred
- 21 to in Subparagraph (h) of Paragraph (2) of this subsection;
- 22 (c) treatment, storage or disposal of
- 23 all such waste and any liquid that is not a hazardous waste,
- 24 except with respect to underground injection control into
- 25 deep injection wells, received by the facility pursuant to

1 such operating methods, techniques and practices as may be
2 satisfactory to the secretary;

3 (d) location, design and construction of
4 hazardous waste treatment, disposal or storage facilities;

5 (e) contingency plans for effective
6 action to minimize unanticipated damage from any treatment,
7 storage or disposal of any hazardous waste;

8 (f) maintenance and operation of the
9 facilities and requiring any additional qualifications as to
10 ownership, continuity of operation, training for personnel
11 and financial responsibility, including financial
12 responsibility for corrective action, as may be necessary or
13 desirable;

14 (g) compliance with the requirements of
15 Paragraph (6) of this subsection respecting permits for
16 treatment, storage or disposal;

17 (h) the taking of corrective action for
18 all releases of hazardous waste or constituents from any
19 solid waste management unit at a treatment, storage or
20 disposal facility, regardless of the time at which waste was
21 placed in the unit; and

22 (i) the taking of corrective action
23 beyond a facility's boundaries where necessary to protect
24 human health and the environment unless the owner or operator
25 of the facility concerned demonstrates to the satisfaction of

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methods, techniques and practices as may be the secretary;

(d) location, design and construction of treatment, disposal or storage facilities;

(e) contingency plans for effective prevention of any hazardous waste;

(f) maintenance and operation of the facility, including any additional qualifications as to the competency of operation, training for personnel, financial responsibility, including financial audits, and corrective action, as may be necessary or

(g) compliance with the requirements of this subsection respecting permits for treatment, storage or disposal;

(h) the taking of corrective action for any hazardous waste or constituents from any treatment, storage or disposal unit at a treatment, storage or disposal unit regardless of the time at which waste was disposed; and

(i) the taking of corrective action for any hazardous waste or constituents at boundaries where necessary to protect the environment unless the owner or operator can demonstrate to the satisfaction of

1 the secretary that, despite the owner's or operator's best
2 efforts, the owner or operator was unable to obtain the
3 necessary permission to undertake such action. Regulations
4 adopted and promulgated under this subparagraph shall take
5 effect immediately and shall apply to all facilities
6 operating under permits issued under Paragraph (6) of this
7 subsection and to all landfills, surface impoundments and
8 waste pile units, including any new units, replacements of
9 existing units or lateral expansions of existing units, that
10 receive hazardous waste after July 26, 1982. No private
11 entity shall be precluded by reason of criteria established
12 under Subparagraph (f) of this paragraph from the ownership
13 or operation of facilities providing hazardous waste
14 treatment, storage or disposal services where the entity can
15 provide assurance of financial responsibility and continuity
16 of operation consistent with the degree and duration of risks
17 associated with the treatment, storage or disposal of
18 specified hazardous waste;

19 (6) requiring each person owning or operating
20 either both an existing facility or planning to construct a new
21 facility for the treatment, storage or disposal of hazardous
22 waste identified or listed under this subsection to have a
23 permit issued pursuant to requirements established by the
24 board;

25 (7) establishing procedures for the issuance,

1	suspension, revocation and modification of permits issued	1	federal an
2	under Paragraph (6) of this subsection, which regulations	2	federal Re
3	shall provide for public notice, public comment and an	3	amended, c
4	opportunity for a hearing prior to the issuance, suspension,	4	
5	revocation or major modification of any permit unless	5	and maint
6	otherwise provided in the Hazardous Waste Act;	6	
7	(8) defining major and minor modifications;	7	respor by
8	and	8	'ce as
9	(9) establishing procedures for the	9	
10	inspection of facilities for the treatment, storage and	10	and the
11	disposal of hazardous waste that govern the minimum frequency	11	storage
12	and manner of the inspections, the manner in which records of	12	
13	the inspections shall be maintained and the manner in which	13	of under
14	reports of the inspections shall be filed; provided, however,	14	
15	that inspections of permitted facilities shall occur no less	15	
16	often than every two years.	16	contain
17	B. The board shall adopt regulations:	17	storage
18	(1) concerning hazardous substance incidents;	18	
19	and	19	of this
20	(2) requiring notification to the department	20	manage
21	of any hazardous substance incidents.	21	transf
22	C. The board shall adopt regulations concerning	22	regula
23	underground storage tanks as may be necessary to protect	23	agency
24	public health and the environment that are equivalent to and	24	Recove
25	no more stringent than federal regulations adopted by the	25	after

vocation and modification of permits issued
 b (6) of this subsection, which regulations
 for public notice, public comment and an
 r a hearing prior to the issuance, suspension,
 major modification of any permit unless
 ted in the Hazardous Waste Act;

(c) defining major and minor modifications;
 (d), establishing procedures for the
 facilities for the treatment, storage and
 arduous waste that govern the minimum frequency
 he inspections, the manner in which records of
 shall be maintained and the manner in which
 inspections shall be filed; provided, however,
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 two years.

the board shall adopt regulations:
 1) concerning hazardous substance incidents;
 2) requiring notification to the department
 substance incidents.
 e board shall adopt regulations concerning
 ge tanks as may be necessary to protect
 the environment that are equivalent to and
 than federal regulations adopted by the

1 federal environmental protection agency pursuant to the
 2 federal Resource Conservation and Recovery Act of 1976, as
 3 amended, and that shall include:
 4 (1) standards for the installation, operation
 5 and maintenance of underground storage tanks;
 6 (2) requirements for financial
 7 responsibility;
 8 (3) standards for inventory control;
 9 (4) standards for the detection of leaks from
 10 and the integrity testing and monitoring of underground
 11 storage tanks;
 12 (5) standards for the closure and dismantling
 13 of underground storage tanks;
 14 (6) requirements for record-keeping; and
 15 (7) requirements for the reporting,
 16 containment and remediation of all leaks from any underground
 17 storage tanks.

18 D. Notwithstanding the provisions of Subsection A
 19 of this section, the board may adopt regulations for the
 20 management of hazardous waste and hazardous waste
 21 transformation that are more stringent than federal
 22 regulations adopted by the federal environmental protection
 23 agency pursuant to the federal Resource Conservation and
 24 Recovery Act of 1976, as amended, if the board determines,
 25 after notice and public hearing, that such federal

