

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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CHAPTER Env-Sw 1700 REQUIREMENTS FOR LAND APPLICATION OF WOOD ASH

Statutory Authority: RSA 149-M:7

REVISION NOTE:

Document #8459, effective 10-28-05, readopted with amendments, renumbered, and redesignated former Chapter Env-Wm 3400 as Env-Sw 1700, pursuant to a rules reorganization plan for Department rules approved by the Director of the Office of Legislative Services on 9-7-05. The source notes for each section of Env-Sw 1700 identify the former subtitle Env-Wm and number for the respective rule prior to Document #8459.

PART Env-Sw 1701 PURPOSE AND APPLICABILITY

Env-Sw 1701.01 Purpose. The purpose of the rules in this chapter is to establish criteria and procedures by which ash generated from the combustion of clean wood shall be certified for distribution and beneficial use in agricultural land applications.

Source. #6619-B, eff 10-29-97; (See Revision Note at chapter heading for Env-Sw 1700); ss by #8459, eff 10-28-05 (formerly Env-Wm 3401.01); ss by #10601, eff 7-1-14

Env-Sw 1701.02 Applicability; Exemptions.

(a) Except as provided in (b), below, the rules in this chapter shall apply to any person distributing and using wood ash for agricultural land application in New Hampshire.

(b) The rules in this chapter shall not apply to:

(1) Persons using wood ash from their household wood stove(s) for agricultural land application in New Hampshire;

(2) Persons generating 500 or fewer tons per year of wood ash from the combustion of clean wood as defined by RSA 125-R:1, provided that the ash is actively managed and beneficially used in agricultural land applications; and

(3) Persons distributing and using 500 or fewer tons per year of wood ash obtained from generators described in (2) above, provided that the ash is actively managed and beneficially used in agricultural land applications.

Source. #6619-B, eff 10-29-97; (See Revision Note at chapter heading for Env-Sw 1700); ss by #8459, eff 10-28-05 (formerly Env-Wm 3401.02); ss by #10521, EMERGENCY RULE, eff 2-11-14, EXPIRES: 8-11-14; ss by #10601, eff 7-1-14

PART Env-Sw 1702 LAND APPLICATION REQUIREMENTS

Env-Sw 1702.01 Certification Required. No person shall distribute, receive, store or use wood ash that is subject to this chapter for land application in New Hampshire unless the wood ash is:

(a) Certified for distribution and use in accordance with this chapter;

(b) Actively managed; and

(c) Managed as required by the certification.

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Source. #6619-B, eff 10-29-97; (See Revision Note at chapter heading for Env-Sw 1700); ss by #8459, eff 10-28-05 (formerly Env-Wm 3402.01); ss by #10601, eff 7-1-14

Env-Sw 1702.02 General Provisions for Obtaining Certification.

(a) Any person who wishes to obtain certification for wood ash shall:

(1) File an application in accordance with Env-Sw 1705; and

(2) Demonstrate in the application that the wood ash meets the criteria for land application in Env-Sw 1703.

(b) Certification to distribute and use wood ash in excess of 500 tons per year from a single source shall be obtained and held by the wood ash generator.

(c) Certification to distribute and use wood ash in excess of 500 tons per year from sources that individually generate 500 or fewer tons per year shall be obtained and held by the broker or other person responsible for distributing the wood ash.

Source. #6619-B, eff 10-29-97; (See Revision Note at chapter heading for Env-Sw 1700); ss by #8459, eff 10-28-05 (formerly Env-Wm 3402.02); ss by #10601, eff 7-1-14

PART Env-Sw 1703 CRITERIA FOR LAND APPLICATION

Env-Sw 1703.01 Source of Ash. Only ash generated from the combustion of clean wood as defined by RSA 125-R:1, shall be land applied.

Source. #6619-B, eff 10-29-97; (See Revision Note at chapter heading for Env-Sw 1700); ss by #8459, eff 10-28-05 (formerly Env-Wm 3403.01); ss by #10601, eff 7-1-14

Env-Sw 1703.02 Quality of Ash.

(a) Wood ash that is land applied shall not contain heavy metals in excess of the following concentrations, as determined on a dry weight basis in accordance with Env-Sw 1706:

(1) For arsenic, 41 milligrams per kilogram (mg/kg);

(2) For cadmium, 39 mg/kg;

(3) For chromium, 1,200 mg/kg;

(4) For copper, 1,500 mg/kg;

(5) For lead, 300 mg/kg;

(6) For mercury, 17 mg/kg;

(7) For molybdenum, 75 mg/kg;

(8) For nickel, 420 mg/kg;

(9) For selenium, 100 mg/kg;

(10) For zinc, 2,800 mg/kg; and

(b) Wood ash that is land applied shall be substantially free of uncombusted material.

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Source. #6619-B, eff 10-29-97; (See Revision Note at chapter heading for Env-Sw 1700); ss by #8459, eff 10-28-05 (formerly Env-Wm 3403.02); ss by #10601, eff 7-1-14

Env-Sw 1703.03 Use of Ash. Wood ash certified pursuant to this chapter shall be land applied only at sites for which a site-specific management plan has been prepared as specified in Env-Sw 1704.04.

Source. #6619-B, eff 10-29-97; (See Revision Note at chapter heading for Env-Sw 1700); ss by #8459, eff 10-28-05 (formerly Env-Wm 3403.03); ss by #10601, eff 7-1-14

PART Env-Sw 1704 PERMIT-EXEMPT LAND APPLICATION SITES

Env-Sw 1704.01 Land Application Sites. Wood ash land application sites shall be exempt from obtaining a solid waste facility permit pursuant to RSA 149-M:9 for the management and spreading of wood ash provided the site meets the requirements in Env-Sw 1704.02 through Env-Sw 1704.05.

Source. #6619-B, eff 10-29-97; (See Revision Note at chapter heading for Env-Sw 1700); ss by #8459, eff 10-28-05 (formerly Env-Wm 3404.01); ss by #10601

Env-Sw 1704.02 Limitations on Land Application Sites. A permit-exempt land application site shall only receive and use wood ash that:

- (a) Has been certified for distribution and use in accordance with this chapter; or
- (b) Is exempt from this chapter under Env-Sw 1701.02(b) .

Source. #6619-B, eff 10-29-97; (See Revision Note at chapter heading for Env-Sw 1700); ss by #8459, eff 10-28-05 (formerly Env-Wm 3404.02); ss by #10601

Env-Sw 1704.03 Management Plan Required. The owner of a permit-exempt land application site shall use wood ash received in conformance with a site-specific management plan developed by the certificate holder for that specific site pursuant to Env-Sw 1704.04.

Source. #6619-B, eff 10-29-97; (See Revision Note at chapter heading for Env-Sw 1700); ss by #8459, eff 10-28-05 (formerly Env-Wm 3404.03); ss by #10601

Env-Sw 1704.04 Site-Specific Management Plans.

(a) Prior to distributing any certified wood ash for use in land application, the certificate holder shall develop a site-specific management plan for each site where the certified wood ash will be land applied.

(b) The site-specific management plan shall include provisions for:

- (1) Storing the wood ash in conformance with the universal environmental performance standards established in Env-Sw 1002;
- (2) Testing the wood ash as required by Env-Sw 1706.02;
- (3) Application rates, supported by site soil testing to assure that use of wood ash at the site satisfies an agronomic need; and
- (4) Actively managing the wood ash.

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Source. #6619-B, eff 10-29-97; (See Revision Note at chapter heading for Env-Sw 1700); ss by #8459, eff 10-28-05 (formerly Env-Wm 3404.04); ss by #10601

Env-Sw 1704.05 Universal Environmental Performance Requirements. Wood ash land application practices shall not violate the universal environmental performance requirements in Env-Sw 1002.

Source. #6619-B, eff 10-29-97; (See Revision Note at chapter heading for Env-Sw 1700); ss by #8459, eff 10-28-05 (formerly Env-Wm 3404.05); ss by #10601

PART Env-Sw 1705 APPLICATION AND APPROVAL

Env-Sw 1705.01 Application Content and Format.

(a) An applicant for wood ash certification pursuant to this chapter shall provide the following in writing to the department:

- (1) The name, address and telephone number of the applicant, and whether the applicant is the wood ash generator or another person;
- (2) If the applicant is not the generator or is not the sole generator, the name and location of each generator of the wood ash for which certification is sought;
- (3) For each generator identified pursuant to (1) or (2), above, the estimated quantity in tons of wood ash to be managed under the requested certification;
- (4) A statement signed by each generator identified in (1) or (2), above, certifying that the generator combusts only clean wood as defined by RSA 125-R:1; and
- (5) Analytical test results of representative samples of the wood ash pursuant to Env-Sw 1706.02.

(b) The applicant shall sign and date the document that conveys the information required by (a), above.

(c) The signature of the applicant shall constitute certification that:

- (1) The information provided in the application is true, complete, and not misleading to the applicant's knowledge and belief; and
- (2) The applicant understands that the applicant is:
  - a. Subject to penalties of law for false swearing if the information submitted is not true, complete, and not misleading; and
  - b. Required to comply with all applicable requirements of RSA 149-M and the solid waste rules.

Source. #6619-B, eff 10-29-97; (See Revision Note at chapter heading for Env-Sw 1700); ss by #8459, eff 10-28-05 (formerly Env-Wm 3405.01); ss by #10601

Env-Sw 1705.02 Application Filing. The applicant shall file an application to certify wood ash for distribution and use with the department as specified in Env-Sw 303.03.

Source. #6619-B, eff 10-29-97; (See Revision Note at chapter heading for Env-Sw 1700); ss by #8459, eff 10-28-05 (formerly Env-Wm 3405.02); ss by #10601

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Env-Sw 1705.03 Application Review. The department shall review applications to certify wood ash for distribution and use as specified in Env-Sw 304.

Source. #6619-B, eff 10-29-97; (See Revision Note at chapter heading for Env-Sw 1700); ss by #8459, eff 10-28-05 (formerly Env-Wm 3405.03); ss by #10601

Env-Sw 1705.04 Application Decision.

(a) If the criteria for certification in Env-Sw 1703 are met, the department shall issue a certificate authorizing the distribution and use of the wood ash pursuant to (d) below.

(b) If the criteria for certification in Env-Sw 1703 are not met, the department shall deny the requested approval and shall so notify the applicant in writing.

(c) The notice of denial shall:

(1) Identify the applicant, type of application, and all documents that constitute the complete application or, if the decision for denial is made without a complete application pursuant to Env-Sw 304.04(c), all documents submitted by the applicant that form the basis of the decision;

(2) State the specific reasons for the denial;

(3) Provide the name, title, mailing address and telephone number of the department official or employee who may be contacted regarding the application and denial;

(4) Identify the applicable provisions for appeal pursuant to RSA 21-O:14; and

(5) Be signed by the director or a department employee authorized by the director.

(d) The certification to distribute and use wood ash shall:

(1) Identify the certificate holder;

(2) Identify the type of approval and authority for issuance;

(3) Identify all documents that constitute the complete application;

(4) Identify the specific source(s) of the wood ash to which the certification exclusively applies, including the name of the generator and location of the wood ash generating facility;

(5) Specify the terms and conditions under which the approved activity is authorized, including:

a. The effective date of the certification;

b. The expiration date of the certification, if any, and provisions for renewal as applicable; and

c. The requirements established in Env-Sw 1706; and

(6) Be signed by the director or a department employee authorized by the director.

(e) A certificate issued to a non-generator shall authorize the certificate holder to manage ash from generators not identified in the original application for certification, provided the certificate holder notifies the department in writing of the change and provides the information specified in Env-Sw 1705.01(a)(2)-(5).

(f) Any decision by the department to issue certification shall not affect the applicant's obligation to obtain all requisite federal, state or local permits, licenses or approvals, or to comply with all other applicable

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federal, state, district or local permits, ordinances, laws or approvals or conditions pertaining to the approved activity.

Source. #6619-B, eff 10-29-97; (See Revision Note at chapter heading for Env-Sw 1700); ss by #8459, eff 10-28-05 (formerly Env-Wm 3405.04); ss by #10601

PART Env-Sw 1706 SAMPLING, TESTING, RECORDKEEPING, AND REPORTING REQUIREMENTS

Env-Sw 1706.01 Wood Ash Sampling.

(a) Each certificate holder shall obtain representative composite samples of wood ash destined for land application and submit the samples for testing in accordance with Env-Sw 1706.02.

(b) Ash samples composited to create representative composite samples shall be taken not less than monthly.

Source. #6619-B, eff 10-29-97; amd by #7225, eff 3-31-00; (See Revision Note at chapter heading for Env-Sw 1700); ss by #8459, eff 10-28-05 (formerly Env-Wm 3406.01); ss by #10601

Env-Sw 1706.02 Wood Ash Testing.

(a) Each certificate holder shall test representative composite samples of the wood ash:

- (1) On at least a quarterly basis for wood ash that is distributed regularly; or
- (2) On a batch basis if the ash is distributed on a batch basis.

(b) Analyses of representative composite samples of wood ash shall be as follows:

- (1) The analyses shall use EPA test procedures in EPA manual SW 846;
- (2) The analyses shall include testing for the following constituents:
  - a. Cadmium;
  - b. Chromium;
  - c. Copper;
  - d. Lead;
  - e. Mercury;
  - f. Nickel;
  - g. Zinc;
  - h. Potassium;
  - i. Molybdenum;
  - j. Selenium;
  - k. Calcium;
  - l. Magnesium;
  - m. Arsenic;

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- n. Phosphorus; and
  - o. Lime equivalence; and
- (3) The test for the metals listed in (2), above, shall be for total metals.

Source. #6619-B, eff 10-29-97; (See Revision Note at chapter heading for Env-Sw 1700); ss by #8459, eff 10-28-05 (formerly Env-Wm 3406.02); ss by #10601

Env-Sw 1706.03 Recordkeeping.

(a) Certificate holders shall maintain records that document the following:

- (1) Each source of the wood ash, by generator and location;
- (2) Location of each wood ash land application sites;
- (3) Quantity of wood ash distributed at each land application site;
- (4) Analytical results for the testing required by Env-Sw 1706.02;
- (5) Date and location of each wood ash delivery; and
- (6) A copy of the site-specific management plan for each land application site where the wood ash is used.

(b) The certificate holder shall make available to the department records and site-specific management plans pursuant to Env-Sw 2000.

(c) The certificate holder shall keep all records required by this section for a period of not less than 3 years.

Source. #10601, eff 7-1-14

Env-Sw 1706.04 Reporting Requirements. Analytical data for wood ash that does not meet the requirements specified in Env-Sw 1703.02 shall be reported to the department in accordance with Env-Sw 1005.09.

Source. #10601, eff 7-1-14

PART Env-Sw 1707 STATUS OF APPROVALS GRANTED BEFORE THE 2014 EFFECTIVE DATE OF THIS CHAPTER

Env-Sw 1707.01 Applicability. The rules in this part shall apply to any person holding a written certification or approval to distribute and use wood ash for agricultural land application granted by the department prior to the 2014 effective date of this chapter and signed by the director or the director's authorized designee, who continues to operate under the certification or approval.

Source. #6619-B, eff 10-29-97; (See Revision Note at chapter heading for Env-Sw 1700); ss by #8459, eff 10-28-05 (formerly Env-Wm 3407.01); ss by #10601, eff 7-1-14

Env-Sw 1707.02 Status of Approval.

(a) A written certification or approval identified in Env-Sw 1707.01 shall remain valid provided the holder of the certification or approval complies with the terms of the written certification or approval and with Env-Sw 1000.

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(b) The terms and conditions of the certification or approval shall remain unchanged unless modified pursuant to applicable provisions of Env-Sw 300.

(c) If required for administrative purposes, the department shall:

- (1) Assign a new number to the certification or approval granted prior to the 2014 effective date of this chapter; and
- (2) Send written notice thereof to the person holding the certification or approval.

Source. #6619-B, eff 10-29-97; (See Revision Note at chapter heading for Env-Sw 1700); ss by #8459, eff 10-28-05 (formerly Env-Wm 3407.02); ss by #10601, eff 7-1-14

APPENDIX

| <b>Rule Sections</b> | <b>Statute(s) Being Implemented</b>       |
|----------------------|---|
| Env-Sw 1700          | RSA 149-M:6, XIV; RSA 149-M:7, II and III |