NOTICE AND CONCISE EXPLANATORY STATEMENT OF THE ENVIRONMENTAL IMPROVEMENT BOARD'S DECISION TO AMEND 20.4.1 NMAC CASE NO. EIB 25-81(R)

Pursuant to the Environmental Improvement Act, NMSA 1978, Sections 74-1-1 to -18, and the New Mexico Hazardous Waste Act, NMSA 1978, Section 74-4-1 to -14, the EIB is authorized to adopt the amendments to 20.4.1 NMAC.

The amendments to 20.4.1 NMAC 1) amend the hazardous waste regulations by classifying AFFF as a hazardous waste under New Mexico law, and 2) amend the hazardous waste regulations to make them consistent with the federal hazardous waste regulations as required by the federal Resource Conservation and Recovery Act and the New Mexico Hazardous Waste Act.

Petitioners brought the proposed amendments before the EIB in a petition for public hearing. Notice of Hearing was published at least 60 days prior to the hearing in accordance with 20.1.1.301 NMAC. A public hearing was docketed at EIB 25-1(R) was held on March 13, 2026. The EIB deliberated on March 13, 2026. After deliberating, the EIB unanimously voted to adopt the amendments to 20.4.1 NMAC. In adopting the amendments to 20.4.1 NMAC, the EIB considered all the facts and circumstances and concluded that the Petitioners' proposed regulatory revisions will protect the wealth, welfare, animal and plant life, property and the environment and serve the purposes of the Environmental Improvement Act and the Hazardous Waste Act. The EIB provided its reasons for the action taken in the Statemen of Reasons and Final order dated June 8, 2026.

Adoption of the new rule occurred upon the signature of the Statement of Reasons and Final Order. 20.1.1.407(C) NMAC. The new rule adopted by the EIB shall become effective no less than thirty days after its filing in accordance with the provisions of the State Rules Act. NMSA 1978, § 74-1-9(G). In accordance with the State Rules Act, no rule shall be valid and enforceable until it is filed with the Administrative Law Division and published in the *New Mexico Register*. NMSA 1978, § 14-4-5. To ensure these requirements have been met, this rule will be effective no earlier than its publication in the *New Mexico Register* or thirty days from filing with the Administrative Law Division, whichever comes later.

A copy of the new rule is published along with this notice.

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This is an amendment to 20.4.1 NMAC, Sections 5, 101, 201, 301, 401, 501, 601, 801, 901, 902, 1001, and 1103, effective 12/01/2026

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20.4.1.5 EFFECTIVE DATE: December 1, [~~2018~~] 2026 unless a later date is cited in the history note at the end of a section.
[20.4.1.5 NMAC - Rp, 20 NMAC 4.1.5, 12/1/2018, A, 12/01/2026]

20.4.1.101 MODIFICATIONS, EXCEPTIONS AND OMISSIONS: Except as otherwise provided, the following modifications, exceptions, and omissions are made to the incorporated federal regulations:

A. The following terms defined in 40 CFR Sections 260.10 and 270.2 have the meanings set forth herein, in lieu of the meanings set forth in 40 CFR Sections 260.10 and 270.2:

(1) "administrator" or "regional administrator" means the secretary of the New Mexico environment department or his/her designee;

(2) "act" or "RCRA" (Resource Conservation and Recovery Act, as amended) means the New Mexico Hazardous Waste Act, Sections 74-4-1 through 74-4-14, NMSA 1978 (as amended).

B. The following terms not defined in 40 CFR Sections 260.10 and 270.2 have the meanings set forth herein when the terms are used in this part:

(1) "appropriate act or regulation" means the New Mexico Hazardous Waste Act or 20.4.1 NMAC;

(2) "board" means the environmental improvement board;

(3) "CFR" means the Code of Federal Regulations;

(4) "department" means the New Mexico environment department;

(5) "environmental protection agency" or "EPA" shall be construed to mean the New Mexico environment department except when used in the phrases "EPA hazardous waste number," EPA identification number," "EPA region," "EPA acknowledgment of consent," "EPA test methods," and in the definitions set forth in 40 CFR Sections 260.10 and 270.2;

(6) "Freedom of Information Act" or "FOIA" means Sections 14-2-1 through 14-2-12, 14-3A-1 through 14-3A-2, and 74-4-4.3D, NMSA 1978 (as amended);

(7) "hazardous substance incident" means any emergency incident involving a chemical or chemicals, including but not limited to transportation wrecks, accidental spills or leaks, fires or explosions, which incident creates the reasonable probability of injury to human health or property;

(8) "secretary" means the secretary of the New Mexico environment department or his/her designee; and

(9) "Subtitle C of RCRA" means the New Mexico Hazardous Waste Act, Sections 74-4-1 through 74-4-14, NMSA 1978 (as amended).

C. The following provisions of 40 CFR Part 260 are omitted from Section 20.4.1.100 NMAC:

(1) Section 260.1(b)(6);

(2) Section 260.2;

[~~(2)~~] **(3)** Section 260.20;

[~~(3)~~] **(4)** Section 260.22;

[~~(4)~~] **(5)** Section 260.30;

[~~(5)~~] **(6)** Section 260.31;

[~~(6)~~] **(7)** Section 260.32;

[~~(7)~~] **(8)** Section 260.33; and

[~~(8)~~] **(9)** Reference to 40 CFR Part 267.

D. Wherever there is any requirement in any of the federal regulations incorporated into this part to report an emergency situation, the requirement shall be construed to mean that the party required to report shall report the incident to the department via the New Mexico 24-hour emergency response number at (505) 827-9329 or such other number designated by the department.
[20.4.1.101 NMAC - Rp, 20 NMAC 4.1.101, 12/1/2018, A, 12/01/2026]

20.4.1.201 MODIFICATIONS, EXCEPTIONS AND OMISSIONS: Except as otherwise provided, the following modifications, exceptions and modifications are made to the incorporated federal regulations:

A. The substitution of "department" for the terms "EPA" or "Environmental Protection Agency" does not apply to the export of CRTs in 40 CFR Sections 261.39(a)(5) and 261.41, as adopted in this section.

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B. "qualified professional engineer" as provided for in 40 CFR Sections 261.43(h)(4), 261.143(i), 261.147(e), 261.191(a), 261.191(b)(5)(ii) and 261.196(f) shall mean an independent New Mexico licensed professional engineer in accordance with the New Mexico Engineering and Surveying Practice Act, Sections 61-23-1 through 32, NMSA 1978 (as amended)

C. Addition of used Aqueous Film-Forming Foam ("AFFF") containing Per- and Polyfluoroalkyl Substances ("PFAS") to the list of hazardous wastes from non-specific sources. In addition to the list of hazardous wastes from non-specific sources incorporated from 40 CFR Part 261.31(a), the following hazardous waste listing is established within the State of New Mexico:

Industry and EPA hazardous waste No.	Hazardous Waste	Waste Code
NMF1	Spent Aqueous Film-Forming Foam containing Per- and Polyfluoroalkyl Substances that are expended for the purpose of fire suppression and for training activities.	(T)

D. Addition of unused AFFF containing PFAS to the list of hazardous waste discarded commercial chemical products, off-specification species, container residues, and spill residues thereof. In addition to the list of commercial chemical products, off-specification species, container residues, and spill residues thereof incorporated from 40 CFR Part 261.33(f), the following hazardous waste listing is established within the State of New Mexico:

Industry and EPA hazardous waste No.	Chemical Abstracts No.	Substance
NMU1		Aqueous Film-Forming Foam products containing as a sole active ingredient any mixture or combination of the following Per- and Poly-fluoroalkyl Substances:
	335-67-1	Perfluorooctanoic acid
	1763-23-1	Perfluorooctane sulphonic acid
	375-92-8	Perfluoroheptane sulfonic acid
	355-46-4	Perfluorohexane sulphonic acid
	375-73-5	Perfluorobutane sulphonic acid
	335-77-3	Perfluorodecane sulphonic acid
	2706-91-4	Perfluoropentane sulphonic acid
	307-24-4	Perfluorohexanoic acid
	375-85-9	Perfluoroheptanoic acid
	2706-90-3	Perfluoropentanoic acid
	375-95-1	Perfluorononanoic Acid
	335-76-2	Perfluorodecanoic acid
	307-55-1	Perfluorododecanoic acid
	72629-94-8	Perfluorotridecanoic acid
	376-06-7	Perfluorotetradecanoic acid
	757124-72-4	Fluorotelomer sulfonic acid 4:2
	27619-97-2	Fluorotelomer Sulfonate 6:2
	39108-34-4	Fluorotelomer Sulfonate 8:2
	2355-31-9	N-methyl perfluorooctane sulfonamido acetic acid
	2991-50-6	N-ethyl perfluorooctane sulfonamido acetic acid
	31506-32-8	N-methylperfluorooctane sulfonamide
	754-91-6	Perfluorooctane sulfonamide

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E. Addition of hazardous constituents related to hazardous waste used AFFF to Appendix VII of 40 CFR Part 261. In addition to the Basis for Listing Hazardous Waste incorporated from 40 CFR Part 261 Appendix VII, the following addition is made to this Appendix:

EPA hazardous waste No.	Hazardous constituents for which listed
NMF1	Perfluorooctanoic acid, Perfluorooctane sulphonic acid, Perfluorohexane sulfonate, Perfluoro butane sulfonate, Perfluorodecane sulfonate, Perfluoropentane sulfonate, Perfluoroheptane sulfonic acid, Perfluorohexanoic acid, Perfluoroheptanoic acid, Perfluoropentanoic acid, Perfluorononanoic Acid, Perfluorodecanoic acid, Perfluorododecanoic acid, Perfluorotridecanoic acid, Perfluorotetradecanoic acid, Fluorotelomer sulfonic acid 4:2, Fluorotelomer sulfonate 6:2, Fluorotelomer sulfonate 8:2, Perfluorotelomer sulfonate 10:2, N-methyl perfluorooctane sulfonamido acetic acid, N-ethyl perfluorooctane sulfonamido acetic acid, N-methylperfluorooctane sulfonamide, Perfluorooctane sulfonamide

F. Addition of hazardous constituents related to hazardous waste unused AFFF to Appendix VIII of 40 CFR Part 261. In addition to the Hazardous Constituents incorporated from 40 CFR Part 261 Appendix VIII, the following addition is made to this Appendix:

Common Name	Chemical abstracts Name	Chemical Abstracts No.	Hazardous Waste No.
PFAS	Perfluorooctanoic acid	335-67-1	NMU1
PFAS	Perfluorooctane sulfonic acid	1763-23-1	NMU1
PFAS	Perfluoroheptane sulfonic acid	375-92-8	NMU1
PFAS	Perfluorohexane sulfonic acid	355-46-4	NMU1
PFAS	Perfluorobutane sulfonic acid	375-73-5	NMU1
PFAS	Perfluorodecane sulfonic acid	335-77-3	NMU1
PFAS	Perfluoropentane sulfonic acid	2706-91-4	NMU1
PFAS	Perfluorohexanoic acid	307-24-4	NMU1
PFAS	Perfluoroheptanoic acid	375-85-9	NMU1
PFAS	Perfluoropentanoic acid	2706-90-3	NMU1
PFAS	Perfluorononanoic Acid	375-95-1	NMU1
PFAS	Perfluorodecanoic acid	335-76-2	NMU1
PFAS	Perfluorododecanoic acid	307-55-1	NMU1
PFAS	Perfluorotridecanoic acid	72629-94-8	NMU1
PFAS	Perfluorotetradecanoic acid	376-06-7	NMU1
PFAS	Fluorotelomer sulfonic acid 4:2	757124-72-4	NMU1
PFAS	Fluorotelomer Sulfonate 6:2	27619-97-2	NMU1
PFAS	Fluorotelomer Sulfonate 8:2	39108-34-4	NMU1
PFAS	N-methyl perfluorooctane sulfonamido acetic acid	2355-31-9	NMU1
PFAS	N-ethyl perfluorooctane sulfonamido acetic acid	2991-50-6	NMU1
PFAS	N-methylperfluorooctane sulfonamide	31506-32-8	NMU1
PFAS	Perfluorooctane sulfonamide	754-91-6	NMU1

[20.4.1.201 – Rp. 20 NMAC 4.1.201, 12/1/2026, A, 08/01/2026]

[~~20.4.1.201~~] 20.4.1.202 - 20.4.1.299 [RESERVED]
[20.4.1.202 - 20.4.1.299 NMAC - Rp, 20 NMAC 4.1.202 - 4.1.299, 12/1/2018, A, 12/01/2026]

20.4.1.301 MODIFICATIONS, EXCEPTIONS AND OMISSIONS: Except as otherwise provided, the following modifications, exceptions and modifications are made to the incorporated federal regulations.

A. The substitution of the following terms in Subparts E, F and H of 40 CFR Part 262, addressing export notification functions, does not apply to Section 20.4.1.300 NMAC: "administrator" and "regional administrator" for the term "secretary" and "EPA" or "environmental protection agency" for the term "department."

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B. The substitution of "department" for "EPA" in 20.4.1.101 NMAC does not apply to the manifest registry and electronic manifest functions set forth in 40 CFR 262.21, 262.24(a)(3) and 262.25.

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[20.4.1.301 - Rp, 20 NMAC 4.1.301, 12/1/2018, A, 12/01/2026]

20.4.1.401 MODIFICATIONS, EXCEPTIONS AND OMISSIONS: Except as otherwise provided, the following modifications, exceptions and omissions are made to incorporate the federal regulations.

A. The following provision of 40 CFR Part 263 is omitted from Section 20.4.1.400 NMAC: Section 263.20(e).

B. A transfer facility, which stores manifested shipments of hazardous waste for more than 24 hours but 10 days or less shall notify the New Mexico Environment Department using form 8700-12, as it may be modified by EPA, and obtain an EPA identification number for each transfer facility located in New Mexico. New transfer facilities shall provide a notification 30 days prior to operating. Existing transfer facilities shall provide a notification no more than 90 days after the effective date of the regulations.

C. The substitution of "department" for "EPA" in 20.4.1.101 NMAC does not apply to the electronic manifest and export notification functions set forth in 40 CFR 263.20, as adopted in this section.

[20.4.1.401 NMAC - Rp, 20 NMAC 4.1.401, 12/1/2018, A, 12/01/2026]

20.4.1.501 MODIFICATIONS, EXCEPTIONS AND OMISSIONS: Except as otherwise provided, the following modifications, exceptions and omissions are made to incorporate the federal regulations.

A. The following provisions of 40 CFR Part 264 are modified in 20.4.1.500 NMAC:

(1) the substitution of [~~"secretary"~~] "department" for the term [~~"regional administrator"~~] "EPA" in 20.4.1.101 NMAC does not apply to the required [~~notice~~]notices set forth in 40 CFR Section 264.12(a), as adopted in this section; the owner or operator of a facility that has arranged to receive hazardous waste from a foreign source must provide [~~a copy~~] copies of the [~~notice~~] notices required in 40 CFR Section 264.12(a) to the [~~secretary~~] department at the time that [~~notice is~~] notices are provided to the [~~regional administrator~~] EPA;

(2) [~~the owner or operator proposing a class 1 permit modification pursuant to 40 CFR 264.15(b)(5) shall submit the request to the director as required in 40 CFR Sections 264.15(b)(5)(i) and 270.42(a);~~] the substitution of "department" for the term "EPA" does not apply to the electronic manifest functions set forth in 40 CFR Section 264.71.

(3) the owner and operator shall submit the reports in 40 CFR Section 264.100(g) on a semi-annual basis to the secretary;

(4) "qualified professional engineer" as provided for in 40 CFR Sections 264.115, 264.120, 264.143(i), 264.145(i), 264.147(e), 264.191(a), 264.191(b)(5)(ii), 264.192(a), 264.192(b), 264.193(i)(2), 264.196(f), 264.280(b), 264.554(c)(2), 264.571(a-c), 264.573(a)(4)(ii), 264.573(g), 264.574(a) and 264.1101(c)(2) shall mean an independent New Mexico licensed professional engineer in accordance with the New Mexico Engineering and Surveying Practice Act, Sections 61-23-1 through 32, NMSA 1978 (as amended).

(5) the requirements of 40 CFR Section 264.73(b) shall be maintained in the operating record by the owner and operator at his facility until closure, except for 40 CFR Sections 264.73(b)(7) and 264.73(b)(9) which shall be kept in the operating record for no less than 3 years;

(6) the requirements of 40 CFR Section 264.347(d) shall be maintained in the operating record by the owner and operator at his facility until closure.

(7) the substitution of "department" for the term "EPA" does not apply to the second occurrence of the term "EPA" in 40 CFR Section 264.1082(c)(4)(ii).

B. The following provisions of 40 CFR Part 264 are omitted from Section 20.4.1.500 NMAC:

(1) Section 264.1(f);
(2) Section 264.149;
(3) Section 264.150;
(4) Section 264.301(1);
(5) Section 264.1030(d);
(6) Section 264.1050(g); and
(7) Sections 264.1080(e), 264.1080(f), 264.1080(g).

[20.4.1.501 NMAC - Rp, 20 NMAC 4.1.501, 12/1/2018, A, 12/01/2026]

20.4.1.601 MODIFICATIONS, EXCEPTIONS AND OMISSIONS: Except as otherwise provided, the following modifications, exceptions and omissions are made to the incorporated federal regulations:

A. The following provisions of 40 CFR Part 265 are modified in 20.4.1.600 NMAC:

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(1) the substitution of [~~"secretary"~~] "department" for the term [~~"regional administrator"~~] "EPA" in 20.4.1.101 NMAC does not apply to the required [~~notice~~]notices set forth in 40 CFR Section 264.12(a), as adopted in this section; the owner or operator of a facility that has arranged to receive hazardous waste from a foreign source must provide [~~a copy~~] copies of the [~~notice~~] notices required in 40 CFR Section 264.12(a) to the [~~secretary~~] department at the time that [~~notice is~~] notices are provided to the [~~regional administrator~~] EPA;

(2) at 40 CFR Section 265.121(a)(3), the owner and operator shall submit the reports in 40 CFR Section 264.100(g) on a semi-annual basis to the secretary;

(3) "qualified professional engineer" as provided for in 40 CFR Sections 265.115, 265.120, 265.143(h), 265.145(h), 265.147(e), 265.191(a), 265.191(b)(5)(ii), 265.192(a), 265.192(b), 265.193(i)(2), 264.196(f), 265.280(e), 265.441(a) through (c), 265.443(a)(4)(ii), 265.443(g), 265.444(a) and 264.1101(c)(2) shall mean an independent New Mexico licensed professional engineer in accordance with the New Mexico Engineering and Surveying Practice Act, Sections 61-23-1 through 32, NMSA 1978 (as amended);

(4) the requirements of 40 CFR 265.73(b) shall be maintained in the operating record by the owner and operator at his facility until closure;

(5) the requirements of 40 CFR Section 264.347(d) shall be maintained in the operating record by the owner and operator at his facility until closure.

(6) the substitution of "department" for the term "EPA" does not apply to the second occurrence of the term "EPA" in 40 CFR Section 265.1083(c)(4)(ii).

(7) the substitution of "department" for the term "EPA" does not apply to the electronic manifest functions set forth in 40 CFR 265.71.

B. The following provisions of 40 CFR Part 265 are omitted from Section 20.4.1.600 NMAC:

(1) Section 265.1(c)(4);

(2) Section 265.149;

(3) Section 265.150;

(4) Section 265.1030(c);

(5) Section 265.1050(f); and

(6) Sections 265.1080(e), 265.1080(f), 265.1080(g).

[20.4.1.601 NMAC - Rp, 20 NMAC 4.1.601, 12/1/2018, A, 12/01/2026]

20.4.1.801 MODIFICATIONS, EXCEPTIONS AND OMISSIONS: Except as otherwise provided, the following modifications, exceptions and omissions are made to the incorporated federal regulations.

A. The substitution of "department" for the term "EPA" in 20.4.1.101 NMAC does not apply to 40 CFR Section 268.1(e)(3), as adopted in this section.

B. The following provisions of 40 CFR Part 268 are omitted from Section 20.4.1.800 NMAC:

(1) Section 268.5;

(2) Section 268.6;

(3) Section 268.42(b); and

(4) Section 268.44(a) through 264.44(g).

C. Addition of treatment standards for used and unused "AFFF" containing PFAS to the Treatment Standards for Hazardous Wastes. In addition to the list of treatment standards for hazardous waste incorporated from 40 CFR Part 268.40, the following additions are made to the table of treatment standards within the State of New Mexico:

Waste Code.	Waste Description and treatment/ regulatory subcategory[1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common Name	CAS[2] No.	Concentration[3] in mg/L; or technology code[4]	Concentration[3] in mg/kg unless noted as "mg/L TCLP";; or technology code[4]
NMF1	Spent Aqueous Film-Forming Foam containing Per- and Poly-fluoroalkyl Substances that	Perfluorooctanoic acid	335-67-1	0.000004; or CARBN, CMBST, or INCIN	0.000004; or CMBST, or INCIN
		Perfluorooctane sulphonic acid	1763-23-1	0.000004; or CARBN,	0.000004; or CMBST, or INCIN

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	are expended for the purpose of fire suppression and for training activities.			CMBST, or INCIN	
		Perfluoroheptane sulfonic acid	375-92-8	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Perfluorohexane sulfonic acid	355-46-4	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Perfluoro butane sulfonic acid	375-73-5	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Perfluorodecane sulfonic acid	335-77-3	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Perfluoropentane sulfonic acid	2706-91-4	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Perfluorohexanoic acid	307-24-4	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Perfluoroheptanoic acid	375-85-9	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Perfluoropentanoic acid	2706-90-3	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Perfluorononanoic Acid	375-95-1	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Perfluorodecanoic acid	335-76-2	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Perfluorododecanoic acid	307-55-1	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Perfluorotridecanoic acid	72629-94-8	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Perfluorotetradecanoic acid	376-06-7	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN

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		Fluorotelomer sulfonic acid 4:2	757124-72-4	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Fluorotelomer Sulfonate 6:2	27619-97-2	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Fluorotelomer Sulfonate 8:2	39108-34-4	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		N-methyl perfluorooctane sulfonamido acetic acid	2355-31-9	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
NMF1 (cont.)	Spent Aqueous Film-Forming Foam containing Per- and Poly-fluoroalkyl Substances that are expended for the purpose of fire suppression and for training activities.	Perfluorooctane sulfonamide	754-91-6	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		N-ethyl perfluorooctane sulfonamido acetic acid	2991-50-6	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		N-methylperfluorooctane sulfonamide	31506-32-8	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
NMU1	Aqueous Film-Forming Foam products containing as a sole active ingredient any mixture or combination of Per- and Poly-fluoroalkyl Substances.	Perfluorooctanoic acid	335-67-1	0.000004; or CARBN, CMBST, or INCIN	0.000004; or CMBST, or INCIN
		Perfluorooctane sulphonic acid	1763-23-1	0.000004; or CARBN, CMBST, or INCIN	0.000004; or CMBST, or INCIN
		Perfluoroheptane sulfonic acid	375-92-8	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Perfluorohexane sulfonate	355-46-4	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Perfluoro butane sulfonate	375-73-5	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Perfluorodecane sulfonate	335-77-3	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN

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		Perfluoropentane sulfonate	2706-91-4	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Perfluorohexanoic acid	307-24-4	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Perfluoroheptanoic acid	375-85-9	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Perfluoropentanoic acid	2706-90-3	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Perfluorononanoic Acid	375-95-1	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Perfluorodecanoic acid	335-76-2	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Perfluorododecanoic acid	307-55-1	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Perfluorotridecanoic acid	72629-94-8	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Perfluorotetradecanoic acid	376-06-7	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Fluorotelomer sulfonic acid 4:2	757124-72-4	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Fluorotelomer Sulfonate 6:2	27619-97-2	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Fluorotelomer Sulfonate 8:2	39108-34-4	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		N-methyl perfluorooctane sulfonamido acetic acid	2355-31-9	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		N-ethyl perfluorooctane sulfonamido acetic acid	2991-50-6	Non-detect[13]; or CARBN,	Non-detect[13]; or CMBST, or INCIN

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				CMBST, or INCIN	
		N-methylperfluorooctane sulfonamide	31506-32-8	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN
		Perfluorooctane sulfonamide	754-91-6	Non-detect[13]; or CARBN, CMBST, or INCIN	Non-detect[13]; or CMBST, or INCIN

[13] "Non-detect" for purposes of compliance with this part means that the analyte was not reported by the analytical laboratory as exceeding the Method Detection Limit for that analyte per the most current version of EPA Method 1633.

[20.4.1.801 NMAC - Rp, 20 NMAC 4.1.801, 12/1/2018, A, 12/01/2026]

20.4.1.901 PERMITTING PROCEDURES:

A. Permit issuance or denial.

(1) Once an application is determined to be administratively and technically complete, the secretary shall prepare and issue either a draft permit or a notice of intent to deny.

(a) A draft permit shall contain all conditions, compliance schedules, monitoring requirements and technical standards for treatment, storage, and/or disposal provided for in 40 CFR Part 270.

(b) A notice of intent to deny shall state the secretary's reasons for the intended denial.

(2) Any draft permit or notice of intent to deny prepared by the department under Paragraph one of this subsection shall be accompanied by a fact sheet and shall be based on the administrative file. Copies of the fact sheet shall be sent to the applicant; to any state or federal agency, as applicable; and, upon request, to any other person.

(3) The secretary shall give public notice that a draft permit or a notice of intent to deny has been prepared, and shall allow 45 days for review and public comment, including requests for public hearing.

(4) If the secretary issues a draft permit, and a timely written notice of opposition to the draft permit and a request for a public hearing is received, the department, acting in conjunction with the applicant, will respond to the request in an attempt to resolve the issues giving rise to the opposition. If such issues are resolved to the satisfaction of the opponent, the opponent may withdraw the request for a public hearing.

(5) No ruling shall be made on permit issuance or denial without an opportunity for a public hearing, at which all interested persons shall be given a reasonable chance to submit significant data, views or arguments orally or in writing and to examine witnesses testifying at the public hearing. A public hearing shall be scheduled if:

(a) the secretary issues a notice of intent to deny, and a timely request for public hearing is received from the applicant;

(b) the secretary issues a draft permit, a timely request for public hearing is received from any person opposed to the granting of a permit, and such person does not subsequently withdraw the request pursuant to Paragraph four of this subsection; or

(c) the secretary determines, no later than five days following the end of the comment period specified in Paragraph four of this subsection, that a public hearing should be held notwithstanding the absence of a timely request for public hearing.

(6) The comment period specified in Paragraph three of this subsection shall automatically be extended to the close of any public hearing.

(7) The secretary shall give due consideration and the weight he/she deems appropriate to all comments received during a public comment period and to all relevant facts and circumstances presented at a public hearing.

(8) When ruling on permit issuance or denial, the secretary may disapprove in whole or in part, or make reasonable conditions to any permit, if it appears that the permit applied for will not meet the requirements of these regulations.

(9) At the time that any final permit decision is issued, the secretary shall issue a response to comments. This response shall:

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(a) specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change;

(b) briefly describe and respond to all comments on the draft permit or the permit application raised during the public comment period, or during any hearing, and

(c) be available to the public.

(10) A final permit decision shall become effective 30 days after notice of the decision has been served on the applicant, or such later time as the secretary may specify. This provision shall not be construed to extend the time for appeal of a permit decision as provided by the Hazardous Waste Act.

(11) The approval of a permit does not relieve any person from the responsibility of complying with applicable state or federal laws and regulations.

(12) The secretary shall notify the applicant by certified mail of any impending permit action and of any scheduled public hearing date.

B. Permit Modifications, Suspension and Revocation.

(1) The secretary may modify, suspend, or revoke a permit issued pursuant to Subsection A of this section for cause set forth in 40 CFR Part 270 and the act.

(2) The secretary may modify, suspend, revoke any permit upon his/her initiative, or if, after the department's investigation of the facts and circumstances, pursuant to the request of any interested person, such permit action is deemed warranted.

(3) Requests for permit modification, suspension, revocation shall be in writing and shall contain facts or reasons supporting the request.

(4) If the secretary decides that the request is not justified, the permittee will be notified in writing explaining the reason for denial. Denial of request of modification, revocation, and reissuance, or termination are not subject to public notice, comment, or hearings.

(5) If the secretary decides to modify or revoke and reissue a permit under 40 CFR section 270.41 or 40 CFR section 270.42(c), considered a major modification under the act, a draft permit shall be prepared incorporating the proposed changes. The secretary may request additional information and, in the case of a modified permit, may require the submission of an updated application. In the case of a revoked and reissued permit the secretary shall require the submission of a new application.

(6) Class 1 and 2 modifications under 40 CFR 270.42(a) and (b) shall be considered minor permit modifications under the act.

(7) In a permit modification under this section, only those conditions to be modified shall be reopened. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this section, the entire permit is reopened just as if the permit had expired and were being reissued. During any revocation and reissuance proceeding the permittee shall comply with all conditions of the exiting permit until a new final permit is reissued.

(8) If the secretary decides to terminate a permit under 40 CFR section 270.43, a notice of intent to terminate shall be issued. The secretary shall follow the applicable procedures as required for a draft permit under Section 20.4.1.901 NMAC.

C. Public Notices.

(1) Pre-application public meeting and notice. Except as otherwise provided, the regulation of the EPA set forth in 40 CFR Section 124.31 [~~through July 1, 2008~~] as it may be modified or amended is hereby incorporated by reference.

(2) Public notice requirements at the application stage. Except as otherwise provided, the regulation of the EPA set forth in 40 CFR section 124.32 [~~through July 1, 2008~~] as it may be modified or amended is hereby incorporated by reference.

(3) Public notice of issuance of a draft permit or a notice of intent to deny, and of any public hearing scheduled, shall be given by publication of a notice in a newspaper of general circulation in the area affected, broadcasts over local radio stations and by mailing a copy of the notice to the permit applicant, those individuals on the department mailing list of persons interested in hazardous waste permit actions, and to any unit of local, state and federal government as may be applicable.

(4) All public notices issued shall contain the following minimum information:

(a) the subject, the time and place of any scheduled hearing and the manner in which interested persons may present their views;

(b) a brief description of the procedures by which requests for hearings may be made, unless already scheduled;

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(c) the name and address of the office processing the permit action for which notice is being given;

(d) the name and address of the permittee or permit applicant, and, if different, of the facility or activity regulated by the permit;

(e) a brief description of the business conducted at the facility or activity described in the permit application or the draft permit;

(f) the name, address and telephone number of a person from whom interested persons may obtain further information;

(g) in addition, public notice of a scheduled public hearing shall also contain references to the dates of previous public notices relating to the permit;

(h) the notice shall state where interested persons may secure copies of any proposed draft permit or notice of intent to deny.

D. Fact Sheet.

(1) A fact sheet shall be prepared for every draft permit for a hazardous waste management facility or activity. The fact sheet shall briefly set forth the principal facts and the significant factual legal, methodological and policy questions considered in preparing the draft permit.

(2) The fact sheet shall include, when applicable:

(a) a brief description of the type of facility or activity which is the subject of the draft permit;

(b) the type and quantity of wastes which are proposed to be or are being treated, stored, disposed, injected, emitted, or discharged;

(c) a brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions;

(d) reasons why any request for variance or alternative to require standards do or do not appear justified;

(e) a description of the procedures for reaching a final decision on the draft permit, including: the beginning and ending dates of the comment period, the address where comments will be received, procedures for requesting a hearing, the nature of that hearing, any other procedures by which the public may participate in the final decision, and the name and telephone number of a person to contact for additional information.

(3) The fact sheet shall be available at the time the public notice is published.

E. Information repository. Except as otherwise provided, the regulation of the EPA set forth in 40 CFR section 124.33 [~~through July 1, 2008~~] as it may be modified or amended is hereby incorporated by reference.

F. Hearings.

(1) Public notice of any public hearing shall be given at least 30 days prior to the scheduled date of the hearing and shall state the subject.

(2) Hearings shall be held in Santa Fe or within any area of the state substantially affected by the proceedings as specified by the secretary.

(3) The secretary may designate a hearing officer to take evidence at the hearing.

(4) All hearings shall be recorded by a certified court reporter. A transcript will be furnished to all persons for review at the department's main office. Costs of a copy of a transcript will be borne by those requesting such copies.

(5) In hearings, the rules of civil procedure and the technical rules of evidence shall not apply, but the hearings shall be conducted so that all relevant views, arguments, and testimony are amply and fairly received without undue repetition.

(a) Testimony for hearings on permit issuance or modification shall be presented in the following order: testimony by the applicant (such testimony is a prerequisite to the granting of the requested permit or modification), testimony by other persons (except the department) supporting issuance or modification of the permit, in any reasonable order, testimony by persons (except the department) opposed to issuance or modification of the permit, in any reasonable order, testimony by the department, and rebuttal testimony, as appropriate.

(b) Testimony for hearings on permit suspension or revocation shall be as follows: testimony by the department, testimony by other persons supporting suspension or revocation of the permit, in any reasonable order, testimony by the permittee, testimony by other persons opposed to suspension or revocation of the permit, in any reasonable order, and rebuttal testimony, as appropriate.

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(c) In all hearings, cross examination of each witness shall be conducted by interested persons, in any reasonable order, immediately after that witness has testified.

(7) The burden of proof at hearings shall be as follows:

(a) for hearings on permit issuance or modifications, the burden of proof shall be on the applicant or permittee;

(b) for hearings on permit suspension or revocation, the burden of proof shall be on the department.

G. Secretary's decision.

(1) Any person heard or represented at the hearing shall be given written notice of the action of the secretary.

(2) The secretary shall notify the applicant or permittee of his/her decision and the reasons therefore by certified mail.

H. Appeals. Appeals of the secretary's decision shall be as provided by the Hazardous Waste Act.

(1) The filing of an appeal does not act as a stay of any action required by the secretary's decision.

(2) The record on appeal shall include the transcript of the hearing, all related correspondence, any responses to comments, and all other information relied upon by the secretary in deciding upon the permit action.

[20.4.1.901 NMAC - Rp, 20 NMAC 4.1.901, 12/1/2018, A, 12/01/2026]

20.4.1.902 MODIFICATIONS, EXCEPTIONS AND OMISSIONS: Except as otherwise provided, the following modifications, exceptions and omissions are made to the incorporated federal regulations.

A. "Qualified professional engineer" as provided for in 40 CFR Sections 270.14(a), 270.16(a), and 270.26(c)(15) shall mean an independent New Mexico licensed professional engineer. A professional engineer shall abide by all requirements of the New Mexico Engineering and Surveying Practice Act, Sections 61-23-1 through 32, NMSA 1978 (as amended) and applicable regulations.

B. The substitution of the terms "EPA," "regional administrator" and "administrator" in 20.4.1.101 NMAC does not apply to 40 CFR Sections 270.5, 270.10(f)(2) & (3), 270.10 (g)(1)(i), 270.11 (a) (3), 270.32(c), 270.72(a)(5), and 270.72(b)(5), as adopted in this section.

C. The following provisions of 40 CFR Part 270 are omitted from 20.4.1.900 NMAC:

(1) statement in Section 270.1(b), "treatment, storage, and disposal facilities (TSDs) that are otherwise subject to permitting under RCRA and that meet the criteria in paragraph (b)(1), or paragraph (b)(2) of this section, may be eligible for a standardized permit under subpart J of this part.";

(2) Sections 270.1(b)(1) and 270.1(b)(2);

(3) "and standardized permit (subpart J of this part)" in the definition of "permit" in Section 270.2;

(4) definition of "standardized permit" in Section 270.2;

(5) Section 270.10(a)(6);

(6) Section 270.10(h)(2);

(7) portion of the first sentence stating, "or as a routine change with prior approval under 40 CFR 124.213" of Section 270.40(b);

(8) Section 270.41 referencing 270.320 and 40 CFR part 124, subpart G;

(9) Section 270.41(b)(3);

(10) Section 270.51(e); and

(11) Section 270, subpart J.

D. Addition of specific inclusions to 40 CFR 270.1(c)(1) for on-site treatment of AFFF containing PFAS. In addition to the list of specific inclusions for facilities that require permits under the Hazardous Waste Act, a Permit is required for generators and any other Facilities that perform on-site treatment of AFFF containing PFAS. However, a person is not required to obtain a Permit for treatment or containment activities taken during an immediate cleanup response as defined in 40 CFR 270.1(3)(i).

[20.4.1.902 NMAC - Rp, 20 NMAC 4.1.902, 12/1/2018, A, 12/01/2026]

20.4.1.1001 MODIFICATIONS, EXCEPTIONS AND OMISSIONS: Except as otherwise provided, the following modifications, exceptions and omissions are made to the incorporated federal regulations.

A. [~~The following terms have the meanings set forth herein.~~

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~~(1) "Aerosol can" means a container in which gas under pressure is used to aerate and dispense any material through a valve in the form of a spray or foam.~~

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~~(2)~~] "Regional administrator" and "EPA" as used in 40 CFR sections 273.12 and 273.32 shall mean, as applicable to handlers of universal waste pesticides under this part, notification to the secretary of the New Mexico department of agriculture.

~~[(3) "Universal waste" means, in addition to the hazardous wastes listed in 40 CFR Section 273.9, aerosol cans as described in this subsection.~~]

B. Alternative universal waste labeling. As an alternative to the labeling requirements for universal waste in 40 CFR sections 273.14 and 273.34, universal waste handlers may use other words that accurately identify the universal waste material, for example, "spent bulbs", "spent aerosol can(s)" or "batteries for recycling." Note that the labeling must be either on the individual piece of universal waste, on the container in which the universal waste is stored, or on a pallet of banded or otherwise bound universal waste being readied for shipment.

C. Breaking and crushing universal waste lamps. In addition to the requirements for universal waste lamps contained in Subparts B and C of 40 CFR Part 273, the following requirements shall apply.

(1) A handler of universal waste may intentionally break or crush lamps generated on-site to reduce their volume to facilitate management or transport to destination facilities. However, breaking and crushing of lamps and subsequent management of the resulting waste must occur in a safe and controlled manner that minimizes the release of hazardous constituents to the workplace and the environment, and steps must be taken to minimize exposures of children, pregnant women, and other sensitive individuals to mercury releases from these activities. Universal waste destination facilities as defined in 40 CFR Section 273.9 may not intentionally break or crush lamps under this subsection.

(2) A handler of universal waste who intentionally breaks or crushes mercury-containing universal waste lamps under this subsection shall comply with the following provisions.

(a) Use a mechanical unit specifically designed for the process that results in the breaking or crushing operation to take place in a container or while the lamps are being added to the container, for example, a drum-top lamp crusher. The unit must also incorporate air pollution controls that capture both particulate and vapor phase mercury. At a minimum, these controls must include, or must be equivalent to, the protection provided by a high efficiency particulate air (HEPA) filter, activated charcoal, and a negative air flow (vacuum) through the unit. The unit must have documentation from the manufacturer that demonstrates that the unit is capable of achieving the occupational safety and health administration (OSHA) permissible exposure limit for mercury.

(b) Develop and implement a written procedure specifying how to safely break or crush universal waste lamps. This procedure must include: type of equipment to be used to break or crush the lamps, operation and maintenance of the unit in accordance with written procedures developed by the manufacturer of the equipment, safe work practices, decontamination and spill response practices, and proper waste management practices. The handler must document maintenance activities and keep records of maintenance. In addition, the unit operator(s) and assistant(s) must receive training applicable to their duties relating to breaking and crushing operations, waste handling, area and equipment decontamination, spill response, and emergency procedures; this training must be documented.

(c) Ensure that the area in which the lamps are broken or crushed is well ventilated and monitored to ensure compliance with applicable OSHA permissible exposure levels for mercury.

(d) Ensure that spills of the contents of the universal waste lamps that may occur during breaking or crushing operations are cleaned up in accordance with 40 CFR sections 273.13 or 273.33. A spill clean-up kit must be readily available to immediately clean up spills or leaks of the contents of the universal waste lamps which may occur during lamp breaking or crushing operations.

(e) Store the broken and crushed lamps and other solid waste generated as part of the breaking or crushing operation that are being reclaimed for mercury in closed, non-leaking containers that are in good condition. Transfer of the broken or crushed lamps to other containers is not permitted unless the area is well ventilated and monitored to ensure compliance with applicable OSHA permissible exposure levels for mercury.

(f) Label drums or containers used for storage of broken or crushed lamps and other solid waste generated as part of the breaking or crushing operation that are being reclaimed for mercury with the words "universal waste-lamps," "waste lamps," "used lamps," or other words that accurately identify the contents, for example, "crushed bulbs."

(g) Manage residues, filter media, or other solid waste generated as part of the breaking or crushing operation that are not being reclaimed and that exhibit any characteristics of a hazardous waste identified in Subpart C of 40 CFR Part 261 in accordance with all applicable requirements of this part.

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(3) The owner or operator of a unit that breaks or crushes mercury-containing universal waste lamps must notify the department's hazardous waste bureau of its intent to operate the unit. The notification shall include the owner and operator name(s), address(es), and phone number(s); manufacturer's documentation describing the unit; documentation that demonstrates that the unit is capable of achieving the occupational safety and health administration (OSHA) permissible exposure limit for mercury; and a description of how and where the unit will be operated.

(a) For units in operation before the requirements in this subsection became effective, the owner or operator must submit such notification within 90 days of the effective date of this requirement.

(b) For units not in operation before the effective date of the requirements in this subsection, the owner or operator must submit such notification before operating the unit.

~~[D. Universal waste aerosol cans. In addition to the requirements for universal waste contained in 40 CFR Part 273, the following requirements shall apply.~~

~~(1) Applicability. The requirements of this part apply to persons managing aerosol cans as described in Subsection A of this section, except persons managing the following aerosol cans.~~

~~(a) Aerosol cans that are not yet wastes under this part, including those that do not meet the criteria for waste generation in Subparagraph (c) of Paragraph (1) of this subsection.~~

~~(b) Aerosol cans that are not hazardous waste. An aerosol can must be managed as a hazardous waste if its contents exhibit one or more of the characteristics identified in Subpart C of 40 CFR Part 261 or if its contents are listed in Subpart D of 40 CFR Part 261.~~

~~(c) Generation of waste aerosol cans. An aerosol can becomes a waste on the date it is discarded or is no longer useable. For purposes of this part, an aerosol can is considered to be no longer useable when the can is as empty as proper work practices allow, the spray mechanism no longer operates as designed, the propellant is spent, or the product is no longer used. An unused aerosol can becomes a waste on the date the handler decides to discard it. This section does not apply to aerosol cans, including punctured aerosol cans, that are empty as defined in 40 CFR 261.7(b).~~

~~(2) Waste management. A handler of universal waste must manage universal waste aerosol cans in a way that prevents release of any universal waste or component of a universal waste to the environment as follows.~~

~~(a) A handler of universal waste must immediately contain any universal waste aerosol can that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a separate individual container. The individual container must be closed, structurally sound, compatible with the contents of the universal waste aerosol can, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.~~

~~(b) A handler of universal waste may accumulate universal waste aerosol cans in an accumulation container provided it is clearly marked for such use. The accumulation container must be closed, structurally sound, compatible with the contents of the universal waste aerosol can, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The universal waste aerosol cans must be sorted by type and compatibility of contents to ensure that incompatible materials are segregated and managed appropriately in separate accumulation containers.~~

~~(3) Puncturing universal waste aerosol cans. A handler of universal waste may puncture aerosol cans containing hazardous waste under this part to remove and collect the contents of the aerosol cans provided the handler complies with the following provisions.~~

~~(a) Ensure that the universal waste aerosol can is punctured in a manner designed to prevent the release of any universal waste or component of universal waste to the environment.~~

~~(b) Ensure that the puncturing operations are performed safely by developing and implementing a written procedure detailing how to safely puncture aerosol cans. This procedure must include the type of equipment to be used to puncture the aerosol cans, operation and maintenance of the unit, safe work practices, and proper waste management practices.~~

~~(c) Ensure that a spill clean-up kit is readily available to immediately clean up spills or leaks of the contents of the aerosol can which may occur during the can puncturing operation.~~

~~(d) Immediately transfers the contents of the aerosol can, or puncturing device if applicable, to a container that meets the requirements of 40 CFR Section 262.34.~~

~~(e) Ensure that the area in which the aerosol cans are punctured is well ventilated.~~

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~~(f) Ensure that employees are thoroughly familiar with the procedure for sorting and puncturing aerosol cans, and proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies.~~

~~(g) Determine whether the contents of the aerosol can, residues, and other solid wastes generated from the aerosol can puncturing activities are a hazardous waste identified in this part.~~

~~(h) Manage the contents of the universal waste aerosol can, residues, and other solid waste generated from the aerosol can puncturing activities in accordance with all applicable hazardous waste management requirements if they exhibit one or more of the characteristics identified in Subpart C of 40 CFR Part 261 or if its contents are listed in Subpart D of 40 CFR Part 261. The handler is considered the generator of the contents of the universal waste aerosol can and other solid waste generated from the aerosol can puncturing activities. If the contents of the universal waste aerosol can, residues, or other solid waste are not hazardous, the handler may manage the waste in a way that is in compliance with applicable federal, state or local solid waste regulations.~~

~~(4) Labeling or marking. Each universal waste aerosol can, or each container in which universal waste aerosol cans are contained or accumulated, must be labeled or marked clearly with any one of the following phrases: "universal waste aerosol can(s)", "waste aerosol can(s)," or other words that accurately identify the contents, for example, "spent aerosol can(s).~~"]

[20.4.1.1001 NMAC - Rp, 20 NMAC 4.1.1001, 12/1/2018, A, 12/01/2026]

20.4.1.1103 REFERENCE TO 40 CFR PART 280: Reference to any provisions of 40 CFR Part 280 within the text of any other provision of 40 CFR as adopted by this Part shall be construed to mean the New Mexico Underground Storage Tank Regulations, [~~20.5.1 through 20.5.17~~] 20.5.101 through 20.5.125 NMAC.

[20.4.1.1103 NMAC - Rp, 20 NMAC 4.1.1103, 12/1/2018, A, 12/01/2026]