



PUBLIC NOTICE NO. 25-08

**NEW MEXICO ENVIRONMENT DEPARTMENT
HAZARDOUS WASTE BUREAU
SANTA FE, NEW MEXICO
October 31, 2025**

**NOTICE OF PUBLIC COMMENT PERIOD FOR PROPOSED RULES RELATING TO THE
LISTING AND IDENTIFICATION OF AQUEOUS FILM-FORMING FOAM (“AFFF”) CONTAINING
PER- AND POLY-FLUOROALKYL SUBSTANCES (“PFAS”) UNDER THE
NEW MEXICO HAZARDOUS WASTE MANAGEMENT REGULATIONS,
20.4.1 NMAC, PURSUANT TO NEW MEXICO HOUSE BILL 140 OF THE 2025 LEGISLATIVE
SESSION**

The New Mexico Environment Department (NMED) is planning to petition the Environmental Improvement Board (EIB) to adopt rules implementing changes to the New Mexico Hazardous Waste Act (NMSA § 74-4 1978) that became effective June 20, 2025.

Background

PFAS is a class of synthetic organic chemicals that are present in many household products and consumables, and are used due to their resistance to degradation and ability to repel oils. Recent health studies show that exposure to PFAS in drinking water is associated with the increase of the likelihood of kidney cancer, testicular cancer, pregnancy-induced hypertension, and other toxic health effects.

One of the common applications of PFAS has been as an ingredient in certain firefighting foam materials known as aqueous film-forming foam (AFFF). AFFF usage in firefighting efforts was mainly restricted to control of very hot-burning petroleum fires, such as aircraft fires. AFFF was also routinely used at many aviation facilities, and especially at U.S. Air Force Bases. As a result, groundwater is known to have become contaminated by the discarded AFFF containing PFAS that were discharged during training activities and emergency responses in the vicinity of several U.S. Air Force bases around the country, including New Mexico.

The Hazardous Waste Act, NMSA 74-4 1978 as amended, requires the Environmental Improvement Board (“EIB”) to “adopt rules for the management of hazardous waste, as may be necessary to protect human health and the environment,” including “for the identification and listing of hazardous waste, taking into account toxicity.” House Bill 140 amended state law to specifically include AFFF containing PFAS in the definition of hazardous waste. This change to state law reflects the harm that PFAS contamination from the use of AFFF has caused to communities and its nature as a toxic waste.

The regulations concerning the management of hazardous waste are found in Chapter 20.4.1 of the New Mexico Administrative Code (“HWMR”) and include all adoptions of the federal hazardous waste regulations and state-specific regulations. The HWMR identifies hazardous wastes, how they must be handled, and requirements for cleanup and abatement. In light of the amendment of the Hazardous Waste Act to include discarded AFFF containing intentionally added PFAS in its definition of hazardous waste, NMED plans to petition the EIB to adopt rules regarding the handling, cleanup, and abatement of discarded AFFF.

The proposed amendments to the Hazardous Waste Management Regulations are included on the fact sheet associated with this public notice and includes the following changes:

- Designation of used and/or discarded AFFF containing PFAS as listed hazardous wastes, ensuring proper management and ensuring cleanup under state law.
- The addition of the waste code NMF1 that must be used for shipments of remediation wastes from AFFF PFAS cleanup sites.
- The addition of the waste code NMU1 that must be used for shipments of waste unused AFFF containing PFAS.
- Listing of the hazardous constituents present in hazardous waste AFFF containing PFAS.
- Treatment standards for AFFF PFAS wastes for use by Treatment and Disposal Facilities.

How to participate

Comments will be accepted via mail, email, and NMED’s Smart Comment Portal at <https://nmed.commentinput.com/comment/search>. The public review draft and all other related information will be available on NMED’s website through the Smart Comment Portal.

A copy of the Public Notice and a Fact Sheet providing further details on the proposed regulatory changes are available electronically on the NMED website at:

www.env.nm.gov/hazardous-waste/hazardous-waste-regulation-and-authorization/

Any person seeking additional information regarding this notice or the Hazardous Waste Management Regulations may contact:

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Members of the public and other interested parties may submit comment on NMED’s action. NMED will now receive public comment through **5:00 p.m. MDT, November 30, 2025**. Only comments and/or requests received on or before 5:00 p.m. MDT, November 30, 2025, will be considered.

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All written comments submitted on House Bill 140 will become part of the Administrative Record, and will be considered. NMED will respond in writing to all significant public comment. This response will also be posted on the NMED website in addition to NMED notifying all persons providing written comments.

ARRANGEMENTS FOR PERSONS WITH DISABILITIES

Any person with a disability requiring assistance or auxiliary aid should contact Kate Cardenas, Non-Discrimination Coordinator, by phone at (505) 469-0732, or via email at: nd.coordinator@env.nm.gov. Toll-free numbers are available for TDD or TDY users to access the New Mexico Relay Network at 1-800-659-1779 (voice); TTY users: 1-800-659-8331.

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