

LFC Requester:	Davidson
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**AGENCY BILL ANALYSIS
2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

Analysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date 1/29/2025
Bill No: HB140

Sponsor: Chandler

Agency Name and Code NMED - 667
Number: _____

Short Title: HAZARDOUS WASTE ACT CHANGES

Person Writing Analysis: Rick Shean (Director, EPD)
Email rick.shean@env.nm.go
Phone: 505-629-6494 : v

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
0	0		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
0	0	0		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0	\$0	\$0	\$0		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

House Bill 140 authorizes the Environmental Improvement Board (EIB) to adopt rules to address certain toxic wastes to protect human health, the environment, and taxpayer funds. House Bill 140 is consistent with legislative action taken in 21 other states to protect the state from costly litigation and cleanup from such waste. HB140 will allow the New Mexico Environment Department (NMED) to petition the EIB to adopt rules to address and clarify that discarded chemicals like polychlorinated biphenyls (PCBs) and per- and polyfluoroalkyl (PFAS) are hazardous and must be managed as such per state law and state rule. Specifically, HB 140 will allow NMED to implement federal law governing hazardous waste in lieu of the U.S. Environmental Protection Agency (EPA) while adopting more stringent requirements for the types of hazardous wastes that impact New Mexicans. HB140 will also provide clear regulatory authority to require the cleanup of hazardous wastes when the U.S. EPA finalizes a national rule.

FISCAL IMPLICATIONS

As an example, the U.S. EPA has not yet finalized a national rule listing discarded PFAS as a hazardous waste despite its toxicity and impacts to community drinking water and agriculture. As a result, NMED has sought funding from the New Mexico Legislature while using its own permitting funds and emergency response funds to address PFAS impacting communities. In total, NMED estimates it has spent over \$12M to establish the extent of the contamination that the U.S. Department of Defense has avoided paying. In contrast, in the State of Texas, the U.S. Department of Defense has agreed amicably agreed to address PFAS contamination around one such U.S. Air Force Base as the Texas Commission on Environmental Quality has broader authority than NMED. HB 140 will correct this inequity that puts New Mexicans at greater risk than Texans.

NMED does not anticipate any costs to the general fund and its hazardous waste permitting fees will cover the costs of rulemaking. It is likely the passage of this bill will save money once rules are adopted.

SIGNIFICANT ISSUES

Under a primacy agreement between the U.S. EPA and the State of New Mexico, NMED implements the Hazardous Waste Act (NMSA 1978, § 74-4-1). States that receive final

authorization from EPA, must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal Hazardous Waste Program. This means that HB140 will not grant NMED the authority to regulate any waste inconsistent with laws and rules. Such wastes currently excluded from federal hazardous waste regulation and therefore state hazardous waste regulations include: scrap metals, agricultural wastes, mining wastes, oil and gas wastes, etc.

PERFORMANCE IMPLICATIONS

HB140 will provide regulatory certainty as national rulemakings on certain toxic or hazardous waste may take years to develop and finalize. As a result, communities' impacts exacerbate resulting in greater medical, monitoring, and clean-up costs.

ADMINISTRATIVE IMPLICATIONS

HB140 does not provide direct authority to NMED to enforce cleanup of additional hazardous constituents and substances that meet the definition as a toxic pollutant, such as methyl tertiary-butyl ether, perchlorate, polychlorinated biphenyls (PCBs), or dioxins and furans, or substances listed as hazardous constituents, such as PFAS, but still requires NMED to petition the EIB to add them to the list of enforceable contaminants as part of a corrective action.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Not applicable at this time.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Not enacting this bill will result in a lack of clarity for industry, increased litigation, and greater expense for New Mexicans in terms of medical costs, clean-up costs, loss of property values, and potentially shorter lifespans from acute and chronic conditions, etc.

AMENDMENTS

None.