

HOUSE TRANSPORTATION, PUBLIC WORKS AND CAPITAL IMPROVEMENTS
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 310

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

AN ACT

RELATING TO MOTOR VEHICLES; ENACTING THE PROMOTING RESPONSIBLE
END-OF-LIFE MANAGEMENT OF ELECTRIC VEHICLE BATTERIES ACT;
AMENDING DEFINITIONS IN THE HAZARDOUS WASTE ACT; AMENDING THE
DUTIES AND POWERS OF THE ENVIRONMENTAL IMPROVEMENT BOARD.

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

SECTION 1. ~~[NEW MATERIAL]~~ SHORT TITLE.--Sections 1
through 9 of this act may be cited as the "Promoting
Responsible End-of-Life Management of Electric Vehicle
Batteries Act".

SECTION 2. ~~[NEW MATERIAL]~~ DEFINITIONS.--As used in the
Promoting Responsible End-of-Life Management of Electric
Vehicle Batteries Act:

A. "auto recycler" means a person engaged in New
Mexico in an established business that includes acquiring

1 vehicles that are required to be registered pursuant to the
2 Motor Vehicle Code for the purpose of dismantling, wrecking,
3 shredding, compacting, crushing or otherwise destroying
4 vehicles for reclaimable parts or scrap material to sell;

5 B. "battery" means a device consisting of one or
6 more electrically connected electrochemical cells that is
7 designed to receive, store and deliver electric energy;

8 C. "battery management hierarchy" means the
9 preference for auto recyclers, secondary handlers, secondary
10 users or battery providers to first strive to reuse, repair or
11 remanufacture batteries when possible and cost-effective before
12 sending end-of-life batteries for recycling;

13 D. "battery provider" means:

14 (1) a vehicle manufacturer that has a
15 franchise agreement with the entity that initially sells,
16 offers for sale or distributes a propulsion battery or a
17 vehicle containing a propulsion battery in or into New Mexico,
18 including vehicle manufacturers licensed pursuant to applicable
19 state codes or propulsion battery manufacturers that distribute
20 propulsion batteries under their own name or brand;

21 (2) the owner or licensee of a brand or
22 trademark under which a propulsion battery is sold or
23 distributed in or into New Mexico, including a licensee with
24 the exclusive right to use the trademark or brand in connection
25 with the distribution or sale of propulsion batteries;

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1 (3) if no person meets the criteria set forth
2 in Paragraph (1) or (2) of this subsection, a battery provider
3 is the person that imports the propulsion battery into the
4 state for sale, distribution or installation; and

5 (4) if no other person meets the criteria set
6 forth in Paragraph (1), (2) or (3) of this subsection, the
7 distributor, retailer or wholesaler that sells or distributes
8 the new propulsion battery in or into New Mexico.

9 The sale of a propulsion battery is considered to occur in
10 New Mexico if the battery, or the vehicle containing the
11 battery, is delivered to a licensed dealer or directly to the
12 consumer in New Mexico;

13 E. "commercial hauler" means a person transporting
14 solid waste for hire by whatever means for the purpose of
15 transferring, processing, storing or disposing of the solid
16 waste in a solid waste facility, except that "commercial
17 hauler" does not include a person transporting solid waste
18 generated on the person's residential or business premises for
19 the purpose of disposing of it in a solid waste facility;

20 F. "department" means the department of
21 environment;

22 G. "end-of-life" means the stage at which a
23 propulsion battery is removed from its initial application and
24 will be evaluated by a secondary handler or secondary user for
25 reuse, remanufacture, repair, repurpose or recycling;

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1 H. "generator" has the same meaning as set forth in
2 Subsection H of Section 74-4-3 NMSA 1978;

3 I. "propulsion battery" means a battery with the
4 primary intended purpose of supplying power to propel an
5 electric or hybrid vehicle;

6 J. "remanufacture" means a repair or modification
7 to a propulsion battery that results in the complete battery,
8 or any battery modules or battery cells in the propulsion
9 battery, being used for the same purpose or application for
10 which the battery was originally designed;

11 K. "repurpose" means the use of a propulsion
12 battery or any battery modules or battery cells in the
13 propulsion battery to store and supply electricity in a manner
14 other than its primary intended purpose;

15 L. "reuse" means the use of a propulsion battery in
16 another vehicle that does not require modification to the
17 battery;

18 M. "secondary handler" means an entity that takes
19 possession of a propulsion battery:

20 (1) to sort, reuse, repair or remanufacture;

21 or

22 (2) to prepare the battery for:

23 (a) repurposing by a secondary user; or

24 (b) end-of-life management by a

25 specialized battery recycler;

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1 N. "secondary user" means an entity that repurposes
2 a propulsion battery;

3 O. "specialized battery recycler" means an entity
4 or facility that is authorized by the department or an
5 equivalent agency in another state, by an applicable federal
6 regulatory body or by another country to do one or both of the
7 following:

8 (1) extract and separate end-of-life
9 propulsion battery elements that include:

10 (a) intermediate fraction from the
11 thermal or mechanical treatment of waste batteries; and

12 (b) components, including lithium
13 compounds, cobalt, nickel, copper, aluminum, iron, manganese
14 and graphite, and send the material for further processing or
15 refining prior to sending them to another specialized battery
16 recycler; or

17 (2) refine end-of-life propulsion batteries or
18 the materials listed in Paragraph (1) of this subsection to
19 useable battery materials;

20 P. "specialized battery recycler" does not include
21 entities that are only engaged in the collection or logistics
22 of moving materials for recycling or whose primary method of
23 battery recycling is done by smelting;

24 Q. "spent battery" means a propulsion battery for
25 which costs associated with reuse, repurposing, remanufacturing

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1 or recycling the battery present a burden for the secondary
2 handler or secondary user that has removed the battery from the
3 vehicle; and

4 R. "treatment" has the same meaning as set forth in
5 Subsection U of Section 74-4-3 NMSA 1978 but does not include:

- 6 (1) sorting batteries by type;
- 7 (2) mixing battery types in one container;
- 8 (3) discharging batteries to remove the
9 electric charge;
- 10 (4) regenerating used batteries;
- 11 (5) disassembling batteries or battery packs
12 into individual batteries or cells;
- 13 (6) removing batteries from consumer products;
- 14 or
- 15 (7) removing electrolyte from batteries.

16 SECTION 3. [NEW MATERIAL] PROHIBITION ON LANDFILLING.--

17 A. All propulsion batteries in the state shall be
18 managed responsibly at end-of-life in accordance with the
19 battery management hierarchy. Disposal of propulsion batteries
20 through landfilling is prohibited.

21 B. A commercial hauler shall not knowingly collect
22 a propulsion battery, or any module or cell of a propulsion
23 battery, placed for collection and disposal as solid waste. A
24 commercial hauler may refuse to collect a solid waste container
25 containing a propulsion battery or any components of a

underscored material = new
[bracketed material] = delete

1 propulsion battery.

2 C. No solid waste facility in this state shall
3 knowingly accept for disposal a propulsion battery or any
4 components of a propulsion battery or a truckload or roll-off
5 container of solid waste containing a propulsion battery or any
6 components of a propulsion battery. The owner or operator of a
7 solid waste facility may refuse to accept for disposal a
8 propulsion battery or any module or cell of a propulsion
9 battery or any truckload or roll-off container of solid waste
10 containing a propulsion battery or any components of a
11 propulsion battery.

12 D. An entity that attempts to landfill or
13 improperly dispose of a propulsion battery shall be subject to
14 the penalties set forth in Sections 74-4-11 and 74-4-12 NMSA
15 1978.

16 SECTION 4. [NEW MATERIAL] RESPONSIBLE ENTITY FOR SPENT
17 BATTERIES.--The responsible entity for a spent battery shall be
18 the battery provider, unless a secondary handler or secondary
19 user has modified the battery. In that case, the responsible
20 entity shall be the last party that modified the battery. The
21 responsible entity shall be responsible for end-of-life
22 treatment for a spent battery consistent with the provisions of
23 the Promoting Responsible End-of-Life Management of Electric
24 Vehicle Batteries Act. If a spent battery is not in the
25 possession of a person, that person shall not be a responsible

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1 entity until notified of the existence and location of the
2 spent battery.

3 SECTION 5. [NEW MATERIAL] RESPONSIBILITIES OF SECONDARY
4 HANDLERS AND SECONDARY USERS.--

5 A. Upon repurposing or remanufacturing a propulsion
6 battery, secondary users and secondary handlers are responsible
7 for end-of-life battery management of spent batteries.

8 B. If a secondary handler or a secondary user
9 identifies a propulsion battery as a spent battery upon taking
10 initial possession of the battery, the secondary handler or
11 secondary user shall use the labeling to identify the
12 responsible entity for that spent battery, which shall be
13 either the battery provider or the last entity to have modified
14 the battery. The secondary handler or secondary user shall
15 notify the responsible entity, who shall collect the spent
16 battery.

17 C. For propulsion batteries that are unable to be
18 further reused, repurposed or remanufactured, secondary
19 handlers and secondary users shall coordinate with a
20 specialized battery recycler for end-of-life management to
21 ensure compliance with the Promoting Responsible End-of-Life
22 Management of Electric Vehicle Batteries Act. When a battery
23 provider acts as a secondary handler or secondary user, the
24 battery provider shall be subject to the responsibilities of
25 secondary handlers and secondary users pursuant to this

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1 section.

2 D. If a secondary handler or secondary user
3 modifies a propulsion battery, the secondary handler or
4 secondary user shall provide updated labeling that identifies
5 the secondary handler or secondary user as the responsible
6 entity for the modified battery before the battery can be
7 supplied back to market. Secondary handlers and secondary
8 users become responsible for ensuring spent batteries are
9 handled in accordance with the Promoting Responsible End-of-
10 Life Management of Electric Vehicle Batteries Act when the
11 secondary handlers or secondary users modify a propulsion
12 battery.

13 E. On or before January 1, 2028 and by January 1 of
14 each year thereafter, secondary users and secondary handlers
15 shall submit annual reports to the department containing the
16 following information for the prior calendar year, if
17 applicable:

18 (1) the total volume of propulsion batteries
19 each secondary user procured;

20 (2) identification of all auto recyclers
21 involved in propulsion battery collections;

22 (3) a brief overview of methods used to
23 transport used propulsion batteries;

24 (4) the total volume of propulsion batteries
25 reused;

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1 (5) a brief overview of processes used for
2 reuse of propulsion batteries;

3 (6) the total volume of propulsion batteries
4 repurposed;

5 (7) a brief overview of processes used to
6 repurpose propulsion batteries;

7 (8) the total volume of propulsion batteries
8 remanufactured;

9 (9) a brief overview of processes used to
10 remanufacture propulsion batteries;

11 (10) the total volume of propulsion batteries
12 sent to a specialized battery recycler; and

13 (11) the volume of spent batteries that
14 secondary handlers and secondary users contacted battery
15 providers to pick up.

16 F. Upon taking possession of a propulsion battery,
17 secondary handlers and secondary users shall manage propulsion
18 batteries in accordance with the battery management hierarchy.

19 G. Secondary handlers and secondary users that
20 perform treatment of propulsion batteries shall obtain a permit
21 pursuant to the Hazardous Waste Act.

22 SECTION 6. [NEW MATERIAL] RESPONSIBILITIES OF BATTERY
23 PROVIDERS--PROVIDING PENALTIES.--

24 A. A battery provider shall:

25 (1) upon receiving notification from a

1 generator, secondary handler or secondary user regarding a
2 spent battery, be responsible for retrieving the battery in a
3 timely and safe manner;

4 (2) ensure the responsible end-of-life
5 management of a propulsion battery that is:

6 (a) removed from a vehicle still in
7 service while under warranty, in accordance with state and
8 federal laws; or

9 (b) returned directly to the battery
10 provider; and

11 (3) coordinate with specialized battery
12 recyclers for the end-of-life management of propulsion
13 batteries if recycling is the only viable second-life
14 application available for a propulsion battery, to ensure
15 compliance with the Promoting Responsible End-of-Life
16 Management of Electric Vehicle Batteries Act.

17 B. A battery provider ceases to be the responsible
18 entity for remanufactured or repurposed propulsion batteries
19 unless the battery provider has performed the remanufacturing
20 or repurposing or has agreed to accept responsibility for such
21 liability by contract.

22 C. If a vehicle containing a propulsion battery
23 originally sold in New Mexico is retired out of state, it is
24 not subject to the provisions of the Promoting Responsible
25 End-of-Life Management of Electric Vehicle Batteries Act.

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1 D. On or before January 1, 2028 and by January 1 of
2 each year thereafter, battery providers shall submit an annual
3 report to the department containing the following information
4 for the prior calendar year:

5 (1) the total volume of propulsion batteries
6 managed at end-of-life;

7 (2) the total volume of propulsion batteries
8 managed by specialized battery recyclers in accordance with the
9 Promoting Responsible End-of-Life Management of Electric
10 Vehicle Batteries Act; and

11 (3) the total volume of propulsion batteries
12 procured in the following categories:

13 (a) batteries acquired from auto
14 recyclers; and

15 (b) batteries procured from other
16 sources.

17 SECTION 7. [NEW MATERIAL] RESPONSIBILITIES OF SPECIALIZED
18 BATTERY RECYCLERS.--

19 A. On or before January 1, 2028 and by January 1 of
20 each year thereafter, specialized battery recyclers shall
21 submit an annual report to the department containing the
22 following information for the prior calendar year:

23 (1) the total volume of propulsion batteries
24 the specialized battery recycler has procured;

25 (2) the total volume of propulsion batteries

1 recycled; and

2 (3) the recovery rates of lithium, nickel,
3 cobalt, copper, aluminum and graphite, as applicable.

4 B. Specialized battery recyclers that perform
5 treatment of propulsion batteries shall obtain a permit
6 pursuant to the Hazardous Waste Act.

7 SECTION 8. [NEW MATERIAL] RESPONSIBILITIES OF OTHER
8 PERSONS--PROVIDING PENALTIES.--

9 A. A person that is not a battery provider,
10 secondary handler or secondary user seeking to discard a
11 vehicle propulsion battery shall:

12 (1) return the vehicle propulsion battery or
13 the vehicle containing the vehicle propulsion battery to the
14 responsible entity or notify the responsible entity and
15 coordinate timely and safe pickup of the battery to be done by
16 the responsible entity; or

17 (2) sell or transfer the vehicle propulsion
18 battery or the vehicle containing the vehicle propulsion
19 battery to a secondary handler, secondary user or specialized
20 battery recycler.

21 B. Persons that violate the provisions of
22 Subsection A of this section shall be subject to the penalties
23 set forth in the Hazardous Waste Act.

24 SECTION 9. [NEW MATERIAL] RESPONSIBILITIES OF THE
25 DEPARTMENT.--The department shall:

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1 A. notify secondary handlers, secondary users,
2 commercial haulers and solid waste facilities of the
3 prohibition on disposing of propulsion batteries in landfills
4 and that auto recyclers can contact the responsible entity to
5 take responsibility for spent batteries;

6 B. determine how to proceed if the federal
7 government passes laws or publishes regulations pertaining to
8 propulsion batteries that may impact the requirements outlined
9 in the Promoting Responsible End-of-Life Management of Electric
10 Vehicle Batteries Act and review, evaluate and compare the
11 federal requirements to those provided for in that act;

12 C. revise applicable administrative rules to ensure
13 compliance with federal standards and achieve greater
14 efficiency and feasibility; and

15 D. determine and enforce violations, administrative
16 compliance cost recovery and penalties for battery providers,
17 specialized battery recyclers, secondary handlers and secondary
18 users that violate the provisions of the Promoting Responsible
19 End-of-Life Management of Electric Vehicle Batteries Act or
20 fail to meet the requirements outlined in that act, in
21 alignment with those provisions of the New Mexico
22 Administrative Code required by the federal Resource
23 Conservation and Recovery Act of 1976, as amended.

24 **SECTION 10.** Section 74-4-3 NMSA 1978 (being Laws 1977,
25 Chapter 313, Section 3, as amended) is amended to read:

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1 "74-4-3. DEFINITIONS.--As used in the Hazardous Waste
2 Act:

3 A. "above ground storage tank" means a single tank
4 or combination of tanks, including underground pipes connected
5 thereto, that are used to contain petroleum, including crude
6 oil or any fraction thereof that is liquid at standard
7 conditions of temperature and pressure of sixty degrees
8 Fahrenheit and fourteen and seven-tenths pounds per square inch
9 absolute, and the volume of which is more than ninety percent
10 above the surface of the ground. "Above ground storage tank"
11 does not include any:

12 (1) farm, ranch or residential tank used for
13 storing motor fuel for noncommercial purposes;

14 (2) pipeline facility, including gathering
15 lines, that is regulated under Chapter 601 of Title 49 of the
16 United States Code or that is an intrastate pipeline facility
17 regulated under state laws as provided in Chapter 601 of Title
18 49 of the United States Code and that is determined by the
19 United States secretary of transportation to be connected to a
20 pipeline, or to be operated or intended to be capable of
21 operating at pipeline pressure or as an integral part of a
22 pipeline;

23 (3) surface impoundment, pit, pond or lagoon;

24 (4) storm water or wastewater collection
25 system;

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1 (5) flow-through process tank;

2 (6) liquid trap, tank or associated gathering
3 lines or other storage methods or devices related to oil, gas
4 or mining exploration, production, transportation, refining,
5 processing or storage, or to oil field service industry
6 operations;

7 (7) tank used for storing heating oil for
8 consumptive use on the premises where stored;

9 (8) pipes connected to any tank that is
10 described in Paragraphs (1) through (7) of this subsection; or

11 (9) tanks or related pipelines and facilities
12 owned or used by a refinery, natural gas processing plant or
13 pipeline company in the regular course of its refining,
14 processing or pipeline business;

15 B. "board" means the environmental improvement
16 board;

17 C. "corrective action" means an action taken in
18 accordance with rules of the board to investigate, minimize,
19 eliminate or clean up a release to protect the public health,
20 safety and welfare or the environment;

21 D. "director" or "secretary" means the secretary of
22 environment;

23 E. "disposal" means the discharge, deposit,
24 injection, dumping, spilling, leaking or placing of any solid
25 waste or hazardous waste into or on any land or water so that

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1 the solid waste or hazardous waste or constituent thereof may
2 enter the environment or be emitted into the air or discharged
3 into any waters, including ground waters;

4 F. "division" or "department" means the department
5 of environment;

6 G. "federal agency" means any department, agency or
7 other instrumentality of the federal government and any
8 independent agency or establishment of that government,
9 including any government corporation and the government
10 publishing office;

11 H. "generator" means any person producing hazardous
12 waste; provided that for propulsion batteries, as defined in
13 Section 2 of the Promoting Responsible End-of-Life Management
14 of Electric Vehicle Batteries Act, used in vehicles,
15 "generator" means the entity that initially removes the
16 propulsion battery from the vehicle;

17 I. "hazardous agricultural waste" means hazardous
18 waste generated as part of the licensed activity by any person
19 licensed pursuant to the Pesticide Control Act or hazardous
20 waste designated as hazardous agricultural waste by the board,
21 but does not include animal excrement in connection with farm,
22 ranch or feedlot operations;

23 J. "hazardous substance incident" means any
24 emergency incident involving a chemical or chemicals, including
25 transportation wrecks, accidental spills or leaks, fires or

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1 explosions, which incident creates the reasonable probability
2 of injury to human health or property;

3 K. "hazardous waste" means any solid waste or
4 combination of solid wastes that because of their quantity,
5 concentration or physical, chemical or infectious
6 characteristics may:

7 (1) cause or significantly contribute to an
8 increase in mortality or an increase in serious irreversible or
9 incapacitating reversible illness; or

10 (2) pose a substantial present or potential
11 hazard to human health or the environment when improperly
12 treated, stored, transported, disposed of or otherwise managed.
13 "Hazardous waste" does not include any of the following, until
14 the board determines that they are subject to Subtitle C of the
15 federal Resource Conservation and Recovery Act of 1976, as
16 amended, 42 U.S.C. 6901 et seq.:

17 (a) drilling fluids, produced waters and
18 other wastes associated with the exploration, development or
19 production of crude oil or natural gas or geothermal energy;

20 (b) fly ash waste;

21 (c) bottom ash waste;

22 (d) slag waste;

23 (e) flue gas emission control waste

24 generated primarily from the combustion of coal or other fossil
25 fuels;

1 (f) solid waste from the extraction,
2 beneficiation or processing of ores and minerals, including
3 phosphate rock and overburden from the mining of uranium ore;
4 or

5 (g) cement kiln dust waste;

6 L. "manifest" means the form used for identifying
7 the quantity, composition, origin, routing and destination of
8 hazardous waste during transportation from point of generation
9 to point of disposal, treatment or storage;

10 M. "person" means an individual, trust, firm, joint
11 stock company, federal agency, corporation, including a
12 government corporation, partnership, association, state,
13 municipality, commission, political subdivision of a state or
14 any interstate body;

15 N. "regulated substance" means:

16 (1) a substance defined in Section 101(14) of
17 the federal Comprehensive Environmental Response, Compensation,
18 and Liability Act of 1980, but not including a substance
19 regulated as a hazardous waste under Subtitle C of the federal
20 Resource Conservation and Recovery Act of 1976, as amended; and

21 (2) petroleum, including crude oil or any
22 fraction thereof that is liquid at standard conditions of
23 temperature and pressure of sixty degrees Fahrenheit and
24 fourteen and seven-tenths pounds per square inch absolute;

25 O. "solid waste" means any garbage, refuse, sludge

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1 from a waste treatment plant, water supply treatment plant or
2 air pollution control facility and other discarded material,
3 including solid, liquid, semisolid or contained gaseous
4 material resulting from industrial, commercial, mining and
5 agricultural operations, and from community activities, but
6 does not include solid or dissolved materials in domestic
7 sewage or solid or dissolved materials in irrigation return
8 flows or industrial discharges that are point sources subject
9 to permits under Section 402 of the Federal Water Pollution
10 Control Act, as amended, 86 Stat. 880, or source, special
11 nuclear or byproduct material as defined by the federal Atomic
12 Energy Act of 1954, as amended, 68 Stat. 923;

13 P. "storage" means the containment of hazardous
14 waste, either on a temporary basis or for a period of years, in
15 such a manner as not to constitute disposal of such hazardous
16 waste;

17 Q. "storage tank" means an above ground storage
18 tank or an underground storage tank;

19 R. "tank installer" means any individual who
20 installs or repairs a storage tank;

21 S. "tank tester" means any individual who tests
22 storage tanks;

23 T. "transporter" means a person engaged in the
24 movement of hazardous waste, not including movement at the site
25 of generation, disposal, treatment or storage;

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1 U. "treatment" means any method, technique or
2 process, including neutralization, designed to change the
3 physical, chemical or biological character or composition of a
4 hazardous waste so as to neutralize the waste or so as to
5 render the waste nonhazardous, safer for transport, amenable to
6 recovery, amenable to storage or reduced in volume.

7 "Treatment" includes any activity or processing designed to
8 change the physical form or chemical composition of hazardous
9 waste so as to render it nonhazardous;

10 V. "underground storage tank" means a single tank
11 or a combination of tanks, including underground pipes
12 connected thereto, that is used to contain an accumulation of
13 regulated substances and the volume of which, including the
14 volume of the underground pipes connected thereto, is ten
15 percent or more beneath the surface of the ground.

16 "Underground storage tank" does not include any:

17 (1) farm, ranch or residential tank of one
18 thousand one hundred gallons or less capacity used for storing
19 motor fuel for noncommercial purposes;

20 (2) septic tank;

21 (3) pipeline facility, including gathering
22 lines, that is regulated under Chapter 601 of Title 49 of the
23 United States Code or that is an intrastate pipeline facility
24 regulated under state laws as provided in Chapter 601 of Title
25 49 of the United States Code and that is determined by the

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1 United States secretary of transportation to be connected to a
2 pipeline, or to be operated or intended to be capable of
3 operating at pipeline pressure or as an integral part of a
4 pipeline;

5 (4) surface impoundment, pit, pond or lagoon;

6 (5) storm water or wastewater collection
7 system;

8 (6) flow-through process tank;

9 (7) liquid trap, tank or associated gathering
10 lines directly related to oil or gas production and gathering
11 operations;

12 (8) storage tank situated in an underground
13 area, such as a basement, cellar, mineworking drift, shaft or
14 tunnel, if the storage tank is situated upon or above the
15 surface of the undesignated floor;

16 (9) tank used for storing heating oil for
17 consumptive use on the premises where stored;

18 (10) tank exempted by rule of the board after
19 finding that the type of tank is adequately regulated under
20 another federal or state law; or

21 (11) pipes connected to any tank that is
22 described in Paragraphs (1) through (10) of this subsection;

23 and

24 W. "used oil" means any oil that has been refined
25 from crude oil, or any synthetic oil, that has been used and as

1 a result of such use is contaminated by physical or chemical
2 impurities."

3 SECTION 11. Section 74-4-4 NMSA 1978 (being Laws 1977,
4 Chapter 313, Section 4, as amended) is amended to read:

5 "74-4-4. DUTIES AND POWERS OF THE BOARD.--

6 A. The board shall adopt rules for the management
7 of hazardous waste, as may be necessary to protect public
8 health and the environment, that are equivalent to and at least
9 as stringent as federal regulations adopted by the federal
10 environmental protection agency pursuant to the federal
11 Resource Conservation and Recovery Act of 1976, as amended:

12 (1) for the identification and listing of
13 hazardous wastes, taking into account toxicity, persistence and
14 degradability, potential for accumulation in tissue and other
15 related factors, including flammability, corrosiveness and
16 other hazardous characteristics [~~provided that, except as~~
17 ~~authorized by Sections 74-4-3.3 and 74-8-2 NMSA 1978, the board~~
18 ~~shall not identify or list any solid waste or combination of~~
19 ~~solid wastes as a hazardous waste that has not been listed and~~
20 ~~designated as a hazardous waste by the federal environmental~~
21 ~~protection agency pursuant to the federal Resource Conservation~~
22 ~~and Recovery Act of 1976, as amended];~~

23 (2) establishing standards applicable to
24 generators identified or listed under this subsection,
25 including requirements for:

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1 (a) furnishing information on the
2 location and description of the generator's facility and on the
3 production or energy recovery activity occurring at that
4 facility;

5 (b) recordkeeping practices that
6 accurately identify the quantities of hazardous waste
7 generated, the constituents of the waste that are significant
8 in quantity or in potential harm to human health or the
9 environment and the disposition of the waste;

10 (c) labeling practices for any
11 containers used for the storage, transport or disposal of the
12 hazardous waste that will identify accurately the waste;

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

15 (e) furnishing the information on the
16 general chemical composition of the hazardous waste to persons
17 transporting, treating, storing or disposing of the waste;

18 (f) implementation of programs to reduce
19 the volume or quantity and toxicity of the hazardous waste
20 generated;

21 (g) submission of reports to the
22 secretary at such times as the secretary deems necessary,
23 setting out the quantities of hazardous waste identified or
24 listed pursuant to the Hazardous Waste Act that the generator
25 has generated during a particular time period and the

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1 disposition of all hazardous waste reported, the efforts
2 undertaken during a particular time period to reduce the volume
3 and toxicity of waste generated and the changes in volume and
4 toxicity of waste actually achieved during a particular time
5 period in comparison with previous time periods; and

6 (h) the use of a manifest system and any
7 other reasonable means necessary to ensure that all hazardous
8 waste generated is designated for treatment, storage or
9 disposal in, and arrives at, treatment, storage or disposal
10 facilities, other than facilities on the premises where the
11 waste is generated, for which a permit has been issued pursuant
12 to the Hazardous Waste Act; that the generator of hazardous
13 waste has a program in place to reduce the volume or quality
14 and toxicity of waste to the degree determined by the generator
15 to be economically practicable; and that the proposed method of
16 treatment, storage or disposal is that practicable method
17 currently available to the generator that minimizes the present
18 and future threat to human health and the environment;

19 (3) establishing standards applicable to
20 transporters of hazardous waste identified or listed under this
21 subsection or of fuel produced from any such hazardous waste or
22 of fuel from such waste and any other material, as may be
23 necessary to protect human health and the environment,
24 including requirements for:

25 (a) recordkeeping concerning the

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1 hazardous waste transported and its source and delivery points;

2 (b) transportation of the hazardous
3 waste only if properly labeled;

4 (c) compliance with the manifest system
5 referred to in Subparagraph (h) of Paragraph (2) of this
6 subsection; and

7 (d) transportation of all the hazardous
8 waste only to the hazardous waste treatment, storage or
9 disposal facility that the shipper designates on the manifest
10 form to be a facility holding a permit issued pursuant to the
11 Hazardous Waste Act or the federal Resource Conservation and
12 Recovery Act of 1976, as amended;

13 (4) establishing standards applicable to
14 distributors or marketers of any fuel produced from hazardous
15 waste, or any fuel that contains hazardous waste, for:

16 (a) furnishing the information stating
17 the location and general description of the facility; and

18 (b) furnishing the information
19 describing the production or energy recovery activity carried
20 out at the facility;

21 (5) establishing performance standards as may
22 be necessary to protect human health and the environment
23 applicable to owners and operators of facilities for the
24 treatment, storage or disposal of hazardous waste identified or
25 listed under this section, distinguishing, where appropriate,

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1 between new facilities and facilities in existence on the date
2 of promulgation, including requirements for:

3 (a) maintaining the records of all
4 hazardous waste identified or listed under this subsection that
5 is treated, stored or disposed of, as the case may be, and the
6 manner in which the waste was treated, stored or disposed of;

7 (b) satisfactory reporting, monitoring,
8 inspection and compliance with the manifest system referred to
9 in Subparagraph (h) of Paragraph (2) of this subsection;

10 (c) treatment, storage or disposal of
11 all such waste and any liquid that is not a hazardous waste,
12 except with respect to underground injection control into deep
13 injection wells, received by the facility pursuant to such
14 operating methods, techniques and practices as may be
15 satisfactory to the secretary;

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

18 (e) contingency plans for effective
19 action to minimize unanticipated damage from any treatment,
20 storage or disposal of any hazardous waste;

21 (f) maintenance and operation of the
22 facilities and requiring any additional qualifications as to
23 ownership, continuity of operation, training for personnel and
24 financial responsibility, including financial responsibility
25 for corrective action, as may be necessary or desirable;

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1 (g) compliance with the requirements of
2 Paragraph (6) of this subsection respecting permits for
3 treatment, storage or disposal;

4 (h) the taking of corrective action for
5 all releases of hazardous waste or constituents from a solid
6 waste management unit at a treatment, storage or disposal
7 facility, regardless of the time at which waste was placed in
8 the unit; and

9 (i) the taking of corrective action
10 beyond a facility's boundaries where necessary to protect human
11 health and the environment unless the owner or operator of that
12 facility demonstrates to the satisfaction of the secretary
13 that, despite the owner's or operator's best efforts, the owner
14 or operator was unable to obtain the necessary permission to
15 undertake such action. Rules adopted and promulgated under
16 this subparagraph shall take effect immediately and shall apply
17 to all facilities operating under permits issued under
18 Paragraph (6) of this subsection and to all landfills, surface
19 impoundments and waste pile units, including any new units,
20 replacements of existing units or lateral expansions of
21 existing units, that receive hazardous waste after July 26,
22 1982. No private entity shall be precluded by reason of
23 criteria established under Subparagraph (f) of this paragraph
24 from the ownership or operation of facilities providing
25 hazardous waste treatment, storage or disposal services where

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1 the entity can provide assurance of financial responsibility
2 and continuity of operation consistent with the degree and
3 duration of risks associated with the treatment, storage or
4 disposal of specified hazardous waste;

5 (6) requiring each person owning or operating,
6 or both, an existing facility or planning to construct a new
7 facility for the treatment, storage or disposal of hazardous
8 waste identified or listed under this subsection to have a
9 permit issued pursuant to requirements established by the
10 board;

11 (7) establishing procedures for the issuance,
12 suspension, revocation and modification of permits issued under
13 Paragraph (6) of this subsection, which rules shall provide for
14 public notice, public comment and an opportunity for a hearing
15 prior to the issuance, suspension, revocation or major
16 modification of any permit unless otherwise provided in the
17 Hazardous Waste Act;

18 (8) defining major and minor modifications;
19 and

20 (9) establishing procedures for the inspection
21 of facilities for the treatment, storage and disposal of
22 hazardous waste that govern the minimum frequency and manner of
23 the inspections, the manner in which records of the inspections
24 shall be maintained and the manner in which reports of the
25 inspections shall be filed; provided, however, that inspections

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1 of permitted facilities shall occur no less often than every
2 two years.

3 B. The board shall adopt rules:

4 (1) concerning hazardous substance incidents;
5 and

6 (2) requiring notification to the department
7 of any hazardous substance incidents.

8 C. The board shall adopt rules concerning storage
9 tanks as may be necessary to protect public health and the
10 environment and that, in the case of underground storage tanks,
11 are equivalent to and at least as stringent as federal
12 regulations adopted by the federal environmental protection
13 agency pursuant to the federal Resource Conservation and
14 Recovery Act of 1976, as amended.

15 D. The board shall adopt rules concerning storage
16 tanks that implement the federal Energy Policy Act of 2005,
17 Pub. L. 109-58, as amended, and that are equivalent to and at
18 least as stringent as the Energy Policy Act and its grant
19 guidelines and regulations.

20 E. Rules adopted pursuant to this section shall
21 include:

22 (1) standards for the installation, operation,
23 maintenance, repair and replacement of storage tanks;

24 (2) requirements for financial responsibility;

25 (3) standards for inventory control;

1 (4) standards for the detection of leaks from
2 and the integrity-testing and monitoring of storage tanks;

3 (5) standards for the closure and dismantling
4 of storage tanks;

5 (6) requirements for recordkeeping;

6 (7) requirements for the reporting,
7 containment and remediation of all leaks from any storage
8 tanks; and

9 (8) criteria and procedures for classifying a
10 storage tank facility as ineligible, and reclassifying a
11 storage tank facility as eligible, for the delivery, deposit,
12 acceptance or sale of petroleum products.

13 F. The criteria and procedures adopted by the board
14 pursuant to this section shall require the department to
15 classify a storage tank facility as ineligible for delivery,
16 deposit, acceptance or sale of petroleum products if the
17 storage tank facility has not installed required equipment for
18 spill prevention, overfill protection, leak detection or
19 corrosion protection, including required corrosion protection
20 equipment for a buried metal flexible connector.

21 G. The criteria and procedures adopted by the board
22 pursuant to this section may allow the department to classify a
23 storage tank facility as ineligible for delivery, deposit,
24 acceptance or sale of petroleum products when the owner or
25 operator has failed to comply with a written warning within a

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1 reasonable period of time and the warning concerns:

2 (1) improper operation or maintenance of
3 required equipment for spill prevention, overfill protection,
4 leak detection or corrosion protection;

5 (2) failure to maintain required financial
6 responsibility for corrective action; or

7 (3) operation of the storage tank facility in
8 a manner that creates an imminent threat to the public health
9 and the environment.

10 H. Rules adopted by the board pursuant to this
11 section shall defer classifying a storage tank facility as
12 ineligible for delivery, deposit, acceptance or sale of
13 petroleum products if the ineligible classification would
14 jeopardize the availability of, or access to, motor fuel in any
15 rural and remote areas.

16 I. Rules adopted by the board pursuant to this
17 section shall allow the department to authorize delivery or
18 deposit of petroleum products to:

19 (1) an emergency generator tank that is
20 otherwise ineligible for delivery or deposit if a commercial
21 power failure or other declared state of emergency exists and
22 the emergency generator tank provides power supply, stores
23 petroleum and is used solely in connection with an emergency
24 system, legally required standby system or optional standby
25 system; or

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1 (2) a storage tank facility that is otherwise
2 ineligible for delivery or deposit if the delivery or deposit
3 is necessary to test or calibrate a tank.

4 J. The board shall adopt rules concerning the
5 management of used oil that are equivalent to and at least as
6 stringent as federal regulations adopted by the federal
7 environmental protection agency pursuant to the federal
8 Resource Conservation and Recovery Act of 1976, as amended.

9 K. In the event the board wishes to adopt rules
10 that are identical with regulations adopted by an agency of the
11 federal government, the board, after notice and hearing, may
12 adopt such rules by reference to the federal regulations
13 without setting forth the provisions of the federal
14 regulations.

15 L. Before the board adopts a rule for the
16 management of hazardous waste, concerning storage tanks or
17 concerning used oil, that is more stringent than the federal
18 regulations, the board shall make a determination, based on
19 substantial evidence and after notice and public hearing, that
20 the proposed rule will be more protective of public health and
21 the environment."

22 SECTION 12. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is January 1, 2027.