



COLORADO

Solid & Hazardous
Waste Commission

Department of Public Health & Environment

NOTICE OF PROPOSED RULEMAKING HEARING BEFORE THE COLORADO SOLID AND HAZARDOUS WASTE COMMISSION

SUBJECT:

For consideration of the amendment of 6 CCR 1007-3, Parts 260 and 273, along with the accompanying Statement of Basis and Purpose, the following will be considered:

Amendment of 6 CCR 1007-3, Parts 260 and 273 - Regulations Pertaining to Hazardous Waste - Modification of Universal Waste Regulations Regarding Aerosol Cans

These modifications are made pursuant to the authority granted to the Solid and Hazardous Waste Commission in Section 25-15-302(2) C.R.S.

On December 9, 2019, the Environmental Protection Agency (EPA) issued a final rule adding aerosol cans to the federal list of universal wastes regulated under the standards for universal waste management found at 40 CFR Part 273. The adoption of these amendments to Colorado's Hazardous Waste Regulations Parts 260 and Part 273 (Universal Waste Management Standards) are minor conforming changes necessary to maintain state equivalency to and provide consistency with the federal requirements.

Any information that is incorporated by reference in these proposed rules is available for review at the Colorado Department of Public Health and Environment, Hazardous Materials and Waste Management Division and any state publications depository library.

Pursuant to Section 24-4-103(3), C.R.S., a notice of proposed rulemaking was submitted to the Secretary of State on October 14, 2021. Copies of the proposed rulemaking will be mailed to all persons on the Solid and Hazardous Waste Commission's mailing list on or before the date of publication of the notice of proposed rulemaking in the Colorado Register on October 25, 2021.

The proposed rulemaking materials may also be accessed at <https://cdphe.colorado.gov/shwc-rulemaking-hearings>

WRITTEN TESTIMONY

Any alternative proposals for rules or written comments relating to the proposed amendment of the regulation will be considered. The Solid and Hazardous Waste Commission will accept written testimony and materials regarding the proposed alternatives. **The commission**




strongly encourages interested parties to submit written testimony or materials to the Solid and Hazardous Waste Commission Office, via email to cdphe.hwcrequests@state.co.us by Wednesday, November 3, 2021, at 11:59 p.m. Written materials submitted in advance will be distributed to the commission members prior to the day of the hearing. Submittal of written testimony and materials on the day of the hearing will be accepted, but is strongly discouraged.

HEARING SCHEDULE:

DATE: Tuesday, November 16, 2021
TIME: 9:00 a.m.
PLACE: Due to COVID-19, the meeting will be held online only at:

https://us02web.zoom.us/meeting/register/tZUpcuyhrjgiGNWDruLdJHfSuK67Q-_zkh-b

Oral testimony at the hearing regarding the proposed amendments may be limited.



Brandy Valdez Murphy, Administrator



1 **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

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4 **Solid and Hazardous Waste Commission/Hazardous Materials and**
5 **Waste Management Division**

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8 **6 CCR 1007-3**

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11 **HAZARDOUS WASTE**

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14 **Modification of Universal Waste Regulations Regarding Aerosol Cans**

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16
17 **1) Section 260.10 is amended by revising the definitions of “Aerosol can”, and “Universal**
18 **Waste Handler” to read as follows:**

19
20
21 **§ 260.10 Definitions**

22
23 *****

24
25 **"Aerosol can"** means a ~~container in which gas under pressure is used to aerate and dispense any~~
26 ~~material through a valve in the form of a spray or foam.~~ non-refillable receptacle containing a gas
27 compressed, liquefied, or dissolved under pressure, the sole purpose of which is to expel a liquid, paste,
28 or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas.

29
30 *****

31
32 **"Universal Waste Handler":**

33
34 (1) Means:

35 (i) A generator (as defined in this section) of universal waste; or

36 (ii) The owner or operator of a facility, including all contiguous property, that receives universal
37 waste from other universal waste handlers, accumulates universal waste, and sends universal
38 waste to another universal waste handler, to a destination facility, or to a foreign destination.

39
40
41
42 (2) Does not mean:

44 (i) A person who treats (except under the provisions of § 273.13(a), (c), (d), (e), or (f), or §
45 273.33(a), (c), (d), (e), or (f)), disposes of, or recycles except under the provisions of § 273.13(d)
46 or § 273.33(d) universal waste; or

47
48 (ii) A person engaged in the off-site transportation of universal waste by air, rail, highway, or
49 water, including a universal waste transfer facility.

50
51 *****

52
53
54 **2) Section 273.2 is amended by revising paragraph (b)(2)(ii) to read as follows:**

55
56 **§ 273.2 Applicability.**

57
58 *****

59
60 **(b) Applicability -- pesticides.**

61
62 *****

63
64 **(2) Pesticides not covered under Part 273.**

65
66 The requirements of this part do not apply to persons managing the following pesticides:

67
68 *****

69
70 (ii) Pesticides not meeting the conditions set forth in paragraph (b)(1) of this section. These
71 pesticides must be managed in compliance with the hazardous waste regulations in Parts 260
72 through 268, and Parts 99 and 100 of these regulations except that aerosol cans as defined in §
73 273.9 that contain pesticides may be managed as aerosol can universal waste under §
74 273.13(d) or § 273.33(d);

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76 *****

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78 *****

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80
81 **3) Section 273.2 is amended by adding paragraph (d)(2)(iii) and revising paragraph**
82 **(d)(3)(i) to read as follows:**

83
84 **(d) Applicability -- Aerosol cans.**

85
86 (1) Aerosol cans covered under Part 273. The requirements of this part apply to persons managing
87 aerosol cans as described in § 273.9 of this part, except those listed in paragraph (d)(2) of this
88 section.

90 (2) Aerosol cans not covered under Part 273. The requirements of this part do not apply to persons
91 managing the following aerosol cans:

92
93 (i) Aerosol cans, as described in § 273.9, that are not yet wastes under Part 261 of these
94 regulations, including those that do not meet the criteria for waste generation in paragraph
95 (d)(3) of this section.

96
97 (ii) Aerosol cans, as described in § 273.9, that are not hazardous waste. An aerosol can must
98 be managed as a hazardous waste if its contents exhibit one or more of the characteristics
99 identified in Part 261, Subpart C of these regulations, or if its contents are listed in Part 261,
100 Subpart D of these regulations.

101
102 (iii) Aerosol cans that meet the standard for empty containers under § 261.7 of these
103 regulations.

104
105 (3) Generation of waste aerosol cans.

106
107 (i) A ~~used~~ aerosol can becomes a waste on the date it is discarded or is no longer useable.
108 For purposes of these regulations, an aerosol can is considered to be no longer useable when:
109 the can is as empty as proper work practices allow; the spray mechanism no longer operates as
110 designed; the propellant is spent; or the product is no longer used.

111
112 (ii) An unused aerosol can becomes a waste on the date the handler decides to discard it.

113
114
115 **4) Section 273.9 is amended by revising the definitions of “Aerosol can” and “Universal**
116 **Waste Handler” to read as follows:**

117
118 **§ 273.9 Definitions**

119
120 "Aerosol can" means a ~~container in which gas under pressure is used to aerate and dispense any~~
121 ~~material through a valve in the form of a spray or foam; non-refillable receptacle containing a gas~~
122 ~~compressed, liquefied, or dissolved under pressure, the sole purpose of which is to expel a liquid, paste,~~
123 ~~or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas.~~

124
125 *****

126
127 Universal Waste Handler:

128
129 (a) Means:

130
131 (1) A generator (as defined in this section) of universal waste; or

132
133 (2) The owner or operator of a facility, including all contiguous property, that receives universal waste
134 from other universal waste handlers, accumulates universal waste, and sends universal waste to
135 another universal waste handler, to a destination facility, or to a foreign destination.

136
137 (b) Does not mean:

138
139 (1) A person who treats (except under the provisions of § 273.13(a), (c), (d), (e), or (f), or § 273.33(a),
140 (c), (d), (e), or (f)), disposes of, or recycles (except under the provisions of § 273.13(d) or § 273.33(d))
141 universal waste; or
142

143 (2) A person engaged in the off-site transportation of universal waste by air, rail, highway, or water,
144 including a universal waste transfer facility.
145

146 *****
147

148
149 **5) Section 273.13 is amended by revising paragraphs (c)(2)(iii) and (iv) to read as follows:**
150

151 (c) **Universal waste mercury-containing devices:** A small quantity handler of universal waste must
152 manage universal waste mercury-containing devices in a way that prevents releases of any universal
153 waste or component of a universal waste to the environment, as follows:
154

155 *****
156

157 (2) A small quantity handler of universal waste may remove mercury-containing ampules from
158 universal waste mercury-containing devices provided the handler:
159

160 *****
161

162 (iii) Ensures that a mercury clean-up system is readily available to immediately transfer any
163 mercury resulting from spills or leaks from broken ampules, from ~~the~~that containment device to a
164 container that ~~meets the requirements of Part 262, Subpart A~~ is subject to all applicable
165 requirements of Parts 260 through 268 and Parts 99 and 100 of these regulations;
166

167 (iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the
168 containment device to a container that ~~meets the requirements of Part 262, Subpart A~~ is subject
169 to all applicable requirements of Parts 260 through 268 and Parts 99 and 100 of these
170 regulations;
171

172 *****
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174 *****
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176
177 **6) Section 273.13(d) is amended to read as follows:**
178

179 **§ 273.13 Waste management.**
180

181 *****
182

183 (d) **Universal Waste Aerosol Cans.** A small quantity handler of universal waste must manage universal
184 waste aerosol cans in a way that prevents releases of any universal waste or component of a universal
185 waste to the environment, as follows:

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~~(1) A small quantity 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. Universal waste aerosol cans must be accumulated in a container that is structurally sound, compatible with the contents of the aerosol cans, lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and is protected from sources of heat.~~

~~(2) A small quantity handler of universal waste may accumulate universal waste aerosol cans in a specially designated 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. Universal waste aerosol cans that show evidence of leakage must be packaged in a separate closed container or overpacked with absorbents, or immediately punctured and drained in accordance with the requirements of paragraph (d)(4) of this section.~~

~~(3) A small quantity handler of universal waste may puncture universal waste aerosol cans to remove and collect the contents of the aerosol can provided the handler: A small quantity handler of universal waste may conduct the following activities as long as each individual aerosol can is not breached and remains intact:~~

- ~~(i) Sorting aerosol cans by type;~~
- ~~(ii) Mixing intact cans in one container; and~~
- ~~(iii) Removing actuators to reduce the risk of accidental release.~~

~~(4) A small quantity handler of universal waste who punctures and drains their aerosol cans must recycle the empty punctured aerosol cans and meet the following requirements while puncturing and draining universal waste aerosol cans:~~

- ~~(i) Ensures 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; Conduct puncturing and draining activities using a device specifically designed to safely puncture aerosol cans and effectively contain the residual contents and any emissions thereof.~~
- ~~(ii) Ensures that the puncturing operations are performed safely by developing and implementing a written procedure maintained on site, detailing how to safely puncture universal waste aerosol cans. This procedure must include: the type of equipment to be used to puncture the universal waste aerosol cans safely; operation and maintenance of the unit; segregation of incompatible wastes; proper waste management practices, (i.e., ensuring that flammable wastes are stored away from heat or open flames); and waste characterization; Establish and follow a written procedure detailing how to safely puncture and drain the universal waste aerosol can (including~~

234 proper assembly, operation and maintenance of the unit, segregation of incompatible wastes, and
235 proper waste management practices to prevent fires or releases); maintain a copy of the
236 manufacturer's specification and instruction on site; and ensure employees operating the device
237 are trained in the proper procedures.

238
239 ~~(iii) Ensures that a spill clean-up kit is readily available to immediately clean up spills or leaks of~~
240 ~~the contents of the universal waste aerosol can which may occur during the can puncturing~~
241 ~~operation; Ensure that puncturing of the can is done in a manner designed to prevent fires and to~~
242 ~~prevent the release of any component of universal waste to the environment. This manner~~
243 ~~includes, but is not limited to, locating the equipment on a solid, flat surface in a well-ventilated~~
244 ~~area.~~

245
246 ~~(iv) Immediately transfers the contents of the universal waste aerosol can, or puncturing device if~~
247 ~~applicable, to a container that meets the requirements of Part 262, Subpart A;~~
248 ~~Immediately transfer the contents from the waste aerosol can or puncturing device, if applicable,~~
249 ~~to a container or tank that meets the applicable requirements of § 262.14, § 262.15, § 262.16, or~~
250 ~~§ 262.17 of these regulations.~~

251
252 ~~(v) Ensures that the area in which the universal waste aerosol cans are punctured is well~~
253 ~~ventilated; and Conduct a hazardous waste determination on the contents of the emptied aerosol~~
254 ~~can per § 262.11 of these regulations. Any hazardous waste generated as a result of puncturing~~
255 ~~and draining the aerosol can is subject to all applicable requirements of Parts 260 through 268~~
256 ~~and Parts 99 and 100 of these regulations. The handler is considered the generator of the~~
257 ~~hazardous waste and is subject to Part 262 of these regulations.~~

258
259 ~~(vi) Ensures that employees are thoroughly familiar with the procedure for sorting and puncturing~~
260 ~~universal waste aerosol cans, and proper waste handling and emergency procedures, relevant to~~
261 ~~their responsibilities during normal facility operations and emergencies. If the contents are~~
262 ~~determined to be nonhazardous, the handler may manage the waste in any way that is in~~
263 ~~compliance with applicable Federal, state, or local solid waste regulations.~~

264
265 ~~(vii) A written procedure must be in place in the event of a spill or leak and a spill clean-up kit~~
266 ~~must be provided. All spills or leaks of the contents of the aerosol cans must be cleaned up~~
267 ~~promptly.~~

268
269 ~~(4)(i) A small quantity handler of universal waste who punctures universal waste aerosol cans to~~
270 ~~remove the contents of the aerosol can, or who generates other solid waste as a result of the activities~~
271 ~~listed above, must determine whether the contents of the universal waste aerosol can, residues and/or~~
272 ~~other solid wastes exhibit a characteristic of hazardous waste identified in Part 261, Subpart C of~~
273 ~~these regulations, or are listed as a hazardous waste identified in Part 261, Subpart D of these~~
274 ~~regulations.~~

275
276 ~~(ii) If the contents of the universal waste aerosol can, residues and/or other solid waste exhibit a~~
277 ~~characteristic of hazardous waste or are listed hazardous wastes, they must be managed in~~
278 ~~compliance with all applicable requirements of Parts 260 through 268, and Parts 99 and 100 of~~
279 ~~these regulations. The handler is considered the generator of the contents of the universal waste~~
280 ~~aerosol can, residues, and/or other waste and is subject to the requirements of Part 262 of these~~
281 ~~regulations. In addition to the Part 262 labeling requirements, the container used to accumulate,~~

282 ~~store, or transport the hazardous waste contents removed from the punctured universal waste~~
283 ~~aerosol can must be labeled with all applicable EPA Hazardous Waste Codes found in Subpart C~~
284 ~~and Subpart D of Part 261 of these regulations.~~

285
286 ~~(iii) If the contents of the universal waste aerosol can, residues, and/or other solid waste are not~~
287 ~~hazardous, the handler may manage the waste in a way that is in compliance with applicable~~
288 ~~federal, state or local solid waste regulations.~~

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292
293 **7) Section 273.14 is amended by revising paragraph (e) to read as follows:**

294
295 **§ 273.14 Labeling/marking.**

296
297 A small quantity handler of universal waste must label or mark the universal waste to identify the type of
298 universal waste as specified below:

299
300 *****

301
302 (e) Universal waste aerosol cans (i.e., each aerosol can), or a container in which the universal waste
303 aerosol cans are contained or accumulated, must be labeled or marked clearly with any one of the
304 following phrases: "Universal Waste-Aerosol Can(s)", ~~or~~ "Waste Aerosol Can(s)" or "Used Aerosol
305 Can(s)".

306
307 *****

308
309
310 **8) Section 273.33 is amended by revising paragraphs (c)(2)(iii) and (iv) to read as follows:**

311
312 **(c) Universal waste mercury-containing devices:** A large quantity handler of universal waste must
313 manage universal waste mercury-containing devices in a way that prevents releases of any universal
314 waste or component of a universal waste to the environment, as follows:

315
316 *****

317
318 (2) A large quantity handler of universal waste may remove mercury-containing ampules from
319 universal waste mercury-containing devices provided the handler:

320
321 *****

322
323 (iii) ensures that a mercury clean-up system is readily available to immediately transfer any
324 mercury resulting from spills or leaks from broken ampules, from ~~the~~that containment device to a
325 container that ~~meets the requirements of Part 262, Subpart A~~ is subject to all applicable
326 requirements of Parts 260 through 268 and Parts 99 and 100 of these regulations;

327
328 (iv) immediately transfers any mercury resulting from spills or leaks from broken ampules from the
329 containment device to a container that ~~meets the requirements of Part 262, Subpart A~~ is subject

330 to all applicable requirements of Parts 260 through 268 and Parts 99 and 100 of these
331 regulations;

332 *****

334 .
335 *****

337
338 **9) Section 273.33(d) is amended to read as follows:**

339
340 **§ 273.33 Waste management.**

341 *****
342
343
344 **(d) Universal Waste Aerosol Cans.** A large quantity handler of universal waste must manage universal
345 waste aerosol cans in a way that prevents releases of any universal waste or component of a universal
346 waste to the environment, as follows:

347
348 ~~(1) A large quantity handler of universal waste must immediately contain any universal waste aerosol~~
349 ~~can that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably~~
350 ~~foreseeable conditions in a separate individual container. The individual container must be closed,~~
351 ~~structurally sound, compatible with the contents of the universal waste aerosol can, and must lack~~
352 ~~evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable~~
353 ~~conditions. Universal waste aerosol cans must be accumulated in a container that is structurally sound,~~
354 ~~compatible with the contents of the aerosol cans, lacks evidence of leakage, spillage, or damage that~~
355 ~~could cause leakage under reasonably foreseeable conditions, and is protected from sources of heat.~~

356
357 ~~(2) A large quantity handler of universal waste may accumulate universal waste aerosol cans in a~~
358 ~~specially designated accumulation container provided it is clearly marked for such use. The~~
359 ~~accumulation container must be closed, structurally sound, compatible with the contents of the~~
360 ~~universal waste aerosol can, and must lack evidence of leakage, spillage, or damage that could cause~~
361 ~~leakage under reasonably foreseeable conditions. The universal waste aerosol cans must be sorted~~
362 ~~by type and compatibility of contents to ensure that incompatible materials are segregated and~~
363 ~~managed appropriately in separate accumulation containers. Universal waste aerosol cans that show~~
364 ~~evidence of leakage must be packaged in a separate closed container or overpacked with absorbents,~~
365 ~~or immediately punctured and drained in accordance with the requirements of paragraph (d)(4) of this~~
366 ~~section.~~

367
368 ~~(3) A large quantity handler of universal waste may puncture universal waste aerosol cans to remove~~
369 ~~and collect the contents of the aerosol can provided the handler: A large quantity handler of universal~~
370 ~~waste may conduct the following activities as long as each individual aerosol can is not breached and~~
371 ~~remains intact:~~

372
373 (i) Sorting aerosol cans by type;

374
375 (ii) Mixing intact cans in one container; and

376
377 (iii) Removing actuators to reduce the risk of accidental release.

378
379 (4) A large quantity handler of universal waste who punctures and drains their aerosol cans must
380 recycle the empty punctured aerosol cans and meet the following requirements while puncturing and
381 draining universal waste aerosol cans:
382

383 (i) Ensures that the universal waste aerosol can is punctured in a manner designed to prevent the
384 release of any universal waste or component of universal waste to the environment; Conduct
385 puncturing and draining activities using a device specifically designed to safely puncture aerosol
386 cans and effectively contain the residual contents and any emissions thereof.
387

388 (ii) Ensures that the puncturing operations are performed safely by developing and implementing
389 a written procedure detailing how to safely puncture universal waste aerosol cans. This
390 procedure must include: the type of equipment to be used to puncture the universal waste aerosol
391 cans safely; operation and maintenance of the unit; segregation of incompatible wastes; proper
392 waste management practices, (i.e., ensuring that flammable wastes are stored away from heat or
393 open flames); and waste characterization; Establish and follow a written procedure detailing how
394 to safely puncture and drain the universal waste aerosol can (including proper assembly,
395 operation and maintenance of the unit, segregation of incompatible wastes, and proper waste
396 management practices to prevent fires or releases); maintain a copy of the manufacturer's
397 specification and instruction on site; and ensure employees operating the device are trained in the
398 proper procedures.
399

400 (iii) Ensures that a spill clean-up kit is readily available to immediately clean up spills or leaks of
401 the contents of the universal waste aerosol can which may occur during the can-puncturing
402 operation; Ensure that puncturing of the can is done in a manner designed to prevent fires and to
403 prevent the release of any component of universal waste to the environment. This manner
404 includes, but is not limited to, locating the equipment on a solid, flat surface in a well-ventilated
405 area.
406

407 (iv) Immediately transfers the contents of the universal waste aerosol can, or puncturing device if
408 applicable, to a container that meets the requirements of Part 262, Subpart A; Immediately
409 transfer the contents from the waste aerosol can or puncturing device, if applicable, to a container
410 or tank that meets the applicable requirements of § 262.14, § 262.15, § 262.16, or § 262.17 of
411 these regulations.
412

413 (v) Ensures that the area in which the universal waste aerosol cans are punctured is well
414 ventilated; and Conduct a hazardous waste determination on the contents of the emptied aerosol
415 can per § 262.11 of these regulations. Any hazardous waste generated as a result of puncturing
416 and draining the aerosol can is subject to all applicable requirements of Parts 260 through 268
417 and Parts 99 and 100 of these regulations. The handler is considered the generator of the
418 hazardous waste and is subject to Part 262 of these regulations.
419

420 (vi) Ensures that employees are thoroughly familiar with the procedure for sorting and puncturing
421 universal waste aerosol cans, and proper waste handling and emergency procedures, relevant to
422 their responsibilities during normal facility operations and emergencies. If the contents are
423 determined to be nonhazardous, the handler may manage the waste in any way that is in
424 compliance with applicable Federal, state, or local solid waste regulations.
425

426 (vii) A written procedure must be in place in the event of a spill or leak and a spill clean-up kit
427 must be provided. All spills or leaks of the contents of the aerosol cans must be cleaned up
428 promptly.

429
430 ~~(4)(i) A large quantity handler of universal waste who punctures universal waste aerosol cans to~~
431 ~~remove the contents of the aerosol can, or who generates other solid waste as a result of the activities~~
432 ~~listed above, must determine whether the contents of the universal waste aerosol can, residues and/or~~
433 ~~other solid wastes exhibit a characteristic of hazardous waste identified in Part 261, Subpart C of~~
434 ~~these regulations, or are listed as a hazardous waste identified in Part 261, Subpart D of these~~
435 ~~regulations.~~

436
437 ~~(ii) If the contents of the universal waste aerosol can, residues and/or other solid waste exhibit a~~
438 ~~characteristic of hazardous waste or are listed hazardous wastes, they must be managed in~~
439 ~~compliance with all applicable requirements of Parts 260 through 268, and Parts 99 and 100 of~~
440 ~~these regulations. The handler is considered the generator of the contents of the universal waste~~
441 ~~aerosol can, residues, and/or other waste and is subject to the requirements of Part 262 of these~~
442 ~~regulations. In addition to the Part 262 labeling requirements, the container used to accumulate,~~
443 ~~store, or transport the hazardous waste contents removed from the punctured universal waste~~
444 ~~aerosol can must be labeled with all applicable EPA Hazardous Waste Codes found in Subpart C~~
445 ~~and Subpart D of Part 261 of these regulations.~~

446
447 ~~(iii) If the contents of the universal waste aerosol can, residues, and/or other solid waste are not~~
448 ~~hazardous, the handler may manage the waste in a way that is in compliance with applicable~~
449 ~~federal, state or local solid waste regulations.~~

450
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453
454 **10) Section 273.34 is amended by revising paragraph (e) to read as follows:**

455
456 **§ 273.34 Labeling/markings.**

457
458 A large quantity handler of universal waste must label or mark the universal waste to identify the type of
459 universal waste as specified below:

460
461 *****

462
463 (e) Universal waste aerosol cans (i.e., each aerosol can), or a container in which the universal waste
464 aerosol cans are contained or accumulated, must be labeled or marked clearly with any one of the
465 following phrases: "Universal Waste-Aerosol Can(s)", ~~or~~ "Waste Aerosol Can(s)" or "Used Aerosol
466 Can(s)".

467
468 *****

473 **11) Section 8.98 (Statement of Basis for the Rulemaking Hearing of November 16, 2021) is**
474 **added to Part 8 of the Regulations to read as follows:**

475
476
477 **Statement of Basis and Purpose**
478 **Rulemaking Hearing of November 16, 2021**

479
480 **8.98 Basis and Purpose.**

481
482 These amendments to 6 CCR 1007-3, Parts 260 and 273 are made pursuant to the authority granted to
483 the Solid and Hazardous Waste Commission in § 25-15-302(2), C.R.S.
484

485 **Amendment of Universal Waste Regulations Regarding Aerosol Cans**

486
487 On January 16, 1996, Colorado adopted state regulations for the management of aerosol cans as
488 universal waste under Part 273 of the Colorado Hazardous Waste Regulations (6 CCCR 1007-3).
489

490 On December 9, 2019, the Environmental Protection Agency (EPA) issued a final rule adding aerosol
491 cans to the federal list of universal wastes regulated under the standards for universal waste
492 management found at 40 CFR Part 273.
493

494 The adoption of these amendments to Colorado's Hazardous Waste Regulations and Part 273 Universal
495 Waste Management Standards are minor conforming changes necessary to maintain state equivalency to
496 and provide consistency with the federal requirements.
497

498 The amendments being adopted as part of this rulemaking include the following:
499

- 500 a. Revision of the definitions of "Aerosol can" and "Universal Waste Handler" in § 260.10 and §
501 273.9: The definition of "Aerosol can" is being revised to be consistent with the Department of
502 Transportation (DOT) regulations. As revised, "Aerosol can" means a non-refillable receptacle
503 containing a gas compressed, liquefied, or dissolved under pressure, the sole purpose of which is
504 to expel a liquid, paste, or powder and fitted with a self-closing release device allowing the
505 contents to be ejected by the gas. The definition of "Universal Waste Handler" is being modified
506 to clarify that a universal waste handler does not apply to a person who recycles universal waste
507 aerosol cans, except under the waste management standards of § 273.13(d) for small quantity
508 handlers (SQHs) of universal waste aerosol cans and the waste management standards of §
509 273.33(d) for large quantity handlers (LQHs) of universal waste aerosol cans.
510
- 511 b. Revision of the § 273.2(b) applicability standards for pesticides: § 273.2(b)(2)(ii) is being
512 amended to clarify that aerosol cans as defined in § 273.9 that contain pesticides may be
513 managed as aerosol can universal waste under § 273.13(d) or § 273.33(d).
514
- 515 c. Revision of the § 273.2(d) applicability standards for aerosol cans: § 273.2(d)(2)(iii) is being
516 added to specify that the requirements of Part 273 do not apply to aerosol cans that meet the
517 standard for empty containers under § 261.7 of the regulations. § 273.2(d)(3)(i) is being revised to
518 state that a "used" aerosol can becomes a waste on the date it is discarded.

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- d. Revision of § 273.13(c)(2)(iii) and (iv): The waste management standards for small quantity handlers of universal waste mercury-containing devices at § 273.13(c)(2)(iii) and (iv) of the regulations are being revised to require that mercury from broken ampules be transferred to a container subject to all applicable requirements of Parts 260 through 268 and Part 99 and 100 of the regulations.
 - e. Revision of § 273.13(d): The waste management standards at § 273.13(d) for SQHs of universal waste aerosol cans are being re-organized and revised to align with the federal requirements of 40 CFR § 273.13(e).
 - f. Revision of § 273.14(e): The labeling/marketing requirements § 273.14(e) for SQHs of universal waste aerosol cans are being revised to allow the SQH to label the aerosol can or the container in which aerosol cans are contained or accumulated to be labeled as “Used Aerosol Can(s)”.
 - g. Revision of § 273.33(c)(2)(iii) and (iv): The waste management standards for large quantity handlers of universal waste mercury-containing devices at § 273.33(c)(2)(iii) and (iv) of the regulations are being revised to require that mercury from broken ampules be transferred to a container subject to all applicable requirements of Parts 260 through 268 and Part 99 and 100 of the regulations.
 - h. Revision of § 273.33(d): The waste management standards at § 273.33(d) for LQHs of universal waste aerosol cans are being re-organized and revised to align with the federal requirements of 40 CFR § 273.33(e).
 - i. Revision of § 273.34(e): The labeling/marketing requirements § 273.34(e) for LQHs of universal waste aerosol cans are being revised to allow the LQH to label the aerosol can or the container in which aerosol cans are contained or accumulated to be labeled as “Used Aerosol Can(s)”.
- This Basis and Purpose incorporates by reference the applicable portions of the preamble language for the EPA regulations as published in the Federal Register at 84 FR 67202-67220, December 9, 2019.