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ENVIRONMENTAL PROTECTION AGENCY
40 CFR Part 271

[FRL-4894-6]

New Mexico: Final Authorization of State Hazardous Waste
Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: The State of New Mexico has applied for final authorization of revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA), and the Environmental Protection Agency (EPA) has reviewed New Mexico's application and decided that its hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Unless adverse written comments are received during the review and comment period provided for public participation in this process, EPA intends to approve New Mexico's hazardous waste program revision subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984. New Mexico's application for the program revision is available for public review and comment.

DATES: This final authorization for New Mexico shall be effective August 23, 1994, unless EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on New Mexico's program revision application must be received by the close of business July 25, 1994.

ADDRESSES: Copies of the New Mexico program revision application and the materials which EPA used in evaluating the revision are available from 8:30 a.m. to 4 p.m., Monday through Friday at the following addresses for inspection and copying: New Mexico Environment Department, 1190 St. Francis Drive, Santa Fe, New Mexico 87502 and USEPA, Region 6 Library, 12th Floor, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655-6444. Written comments, referring to Docket Number NM-94-1, should be sent to Alima Patterson, Region 6 AR-NM Authorization Coordinator, Grants and Authorization Section (6H-HS), RCRA Programs Branch, USEPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, (214) 655-8533.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, Region 6 AR-NM

Authorization Coordinator, Grants and Authorization Section (6H-HS), RCRA Programs Branch, USEPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, (214) 655-8533.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ('RCRA' or the 'Act'), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 124, 260 through 268, and 270.

B. New Mexico

New Mexico received final authorization January 25, 1985 (see 50 FR 1515), to implement its base hazardous waste management program. New Mexico received authorization for revisions to its program on April 10, 1990 (see 55 FR 4604), July 25, 1990 (see 55 FR 28397), and December 4, 1992 (see 57 FR 45717). The authorized New Mexico RCRA program was incorporated by reference into the Code of Federal Regulations (CFR), effective December 13, 1993 (see 58 FR 52677). New Mexico submitted a final complete program revision application for additional program approvals. Today, New Mexico is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

EPA reviewed New Mexico's application, and made an immediate final decision that New Mexico's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to New Mexico. The public may submit written comments on EPA's final decision until July 25, 1994. Copies of New Mexico's application for program revision are available for inspection and copying at the locations indicated in the ADDRESSES section of this document.

Approval of New Mexico's program revision shall become effective 75 days from the date this notice is published, unless an adverse written comment pertaining to the State's revision discussed in this document is received by the end of the comment period. If an adverse written comment is received, EPA will publish either: (1) A withdrawal of the immediate final decision; or (2) a document containing a response to the comment that either affirms that the immediate final decision takes effect or reverses the decision.

New Mexico's program revision application includes State regulatory changes that are equivalent to the rules promulgated in the Federal RCRA implementing regulations in 40 CFR parts 124, 260-262, 264, 265, 266 and 270 that were published in the Federal Register through December 4, 1992. This proposed approval includes the provisions that are listed in the chart below. This chart also lists the State analogs that are being recognized as equivalent to the appropriate Federal requirements.

Federal citation	State analog
1. Petroleum Refinery Primary and Secondary Oil/Water/Solids separation Sludge Listings (F037 and F038), November 2, 1990 (55 FR 46354-46397), as amended on	New Mexico Statutes Annotated (NMSA) 1978, Sections 74-4-4A(1) and 74-4-4E (Replacement Pamphlet 1993); New Mexico Hazardous Waste Management Regulations (HWMR),

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| December 17, 1990 (55 FR 51707).
(Checklists 81 and 81.1). | HWMR-7; Part II, Section 201, as
amended November 20, 1992. |
| 2. Wood Preserving Listings, (55 FR
50450-50490), December 6, 1990.
(Checklist 82). | NMSA 1978, Sections 74-4-4A(1) and
74-4-4E (Repl. Pamp. 1993); HWMR-
7; PART I, PART II, PART III, PART
V, PART VI and PART IX, Sections
101, 102, 201, 301, 501 & 502(A)
601, 602(A)(B), 901, and 902, as
amended November 20, 1992. |
| 3. Land Disposal Restrictions for
Third Third Scheduled Wastes;
Technical Amendments, (56 FR 3864-
3928), January 31, 1991.
(Checklist 83). | NMSA 1978, Sections 74-4-4A and 74-
4-4E (Repl. Pamp. 1993); HWMR-7
PART I, PART II, PART V, and PART
VI, and PART VII, Sections 101,
102, 201, 501, 502, 601, 602, and
701, as amended November 20, 1992. |
| 4. Burning of Hazardous Waste in
Boilers and Industrial Furnaces,
February 21, 1991 (56 FR 7134-
7240). (Checklist 85). | NMSA 1978, Sections 74-4-4E (Repl.
Pamp. 1993); HWMR-7; PART I, PART
II, PART V, PART VI, and PART VII.
Sections 101, 102, 201, 501, 502,
601, 602 and 701, as amended
November 20, 1992. |
| 5. Removal of Strontium Sulfide
from the List of Hazardous Wastes;
Technical Amendment, (56 FR 7567-
7568), February 25, 1991.
(Checklist 86). | NMSA 1978, Sections 74-4-4A(1) and
74-4-4E (Repl. Pamp. 1993); HWMR-
7; PART II, Section 201, as
amended November 20, 1992. |
| 6. Organic Air Emission Standards
for process Vents and Equipment
Leaks; Technical Amendment, April
26, 1991 (56 FR 19290). (Checklist
87). | NMSA 1978, Section 74-4-4A and 74-4-
4E (Repl. Pamp. 1993); HWMR-7 PART
II, PART V, PART VI and PART IX.
Sections 201, 501, 502, 601, 602,
and 901, as amended November 20,
1992. |
| 7. Administrative Stay for K069
Listing, May 1, 1991 (56 FR
19951). (Checklist 88). | NMSA 1978, Sections 74-4-4A(1) and
74-4-4E (Repl. Pamp. 1993); HWMR-7
PART II, Section 201, as amended
November 20, 1992. |
| 8. Mining Waste Exclusion III, June
13, 1991 (56 FR 27300). (Checklist
90). | NMSA 1978, Sections 74-4-4A(1) and
74-4-4E (Repl. Pamp. 1993); HWMR-7
PART II, Section 201, as amended
November 20, 1992. |
| 9. Wood Preserving Listings, June
13, 1991 (56 FR 27332). (Checklist
91). | NMSA 1978, Sections 74-4-4A(1) and
74-4-4E (Repl. Pamp. 1993); HWMR-7
PART II Section 201, as amended
November 20, 1992. |

New Mexico is not authorized to operate the Federal program on
Indian lands. This authority remains with EPA.

C. Decision

I conclude that New Mexico's application for a program revision
meets the statutory and regulatory requirements established by RCRA.
Accordingly, New Mexico is granted final authorization to operate its
hazardous waste program as revised. New Mexico now has responsibility
for permitting treatment, storage, and disposal facilities within its
borders and for carrying out the aspects of the RCRA program described
in its revised program application, subject to the limitations of the
HSWA. New Mexico also has primary enforcement responsibilities,
although EPA retains the right to conduct inspections under section
3007 of RCRA, and to take enforcement actions under sections 3008, 3013
and 7003 of RCRA.

D. Codification in Part 272

EPA uses 40 CFR part 272 for codification of the decision to authorize New Mexico's program and for incorporation by reference of those provisions of New Mexico's Statutes and regulations that EPA will enforce under sections 3008, 3013, and 7003 of RCRA. Therefore, EPA is reserving amendment of 40 CFR part 272, subpart GG until a later date.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of New Mexico's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. This authorization does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: May 11, 1994.

Allyn M. Davis,
Acting Regional Administrator.
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