

US EPA ARCHIVE DOCUMENT

assessment of the costs and benefits of the rule, including the effect of the mandate on health, safety, the environment, and the federal resources available to defray the costs, (3) where feasible, estimates of future compliance costs and disproportionate impacts upon particular geographic or social segments of the nation or industry, (4) where relevant, an estimate of the effect on the national economy, and (5) a description of EPA's prior consultation with State, local, and tribal officials.

The amendments to the NESHAP that the Administrator is proposing today will not cause State, local, or tribal governments, or the private sector to incur costs that will be \$100 million or more in any one year. Rather, the costs involved in this rulemaking are relatively insignificant in comparison to the \$100 million threshold of the Unfunded Mandates Act. Therefore, the requirements of the Unfunded Mandates Act are not applicable to this rulemaking.

D. Regulatory Flexibility Analysis

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. This rule will reduce regulatory burdens on small businesses because it will allow small businesses that own or operate those few transfer machines installed after December 9, 1991, but before September 22, 1993, to keep these machines in use rather than requiring such businesses to replace these machines or stop operations. EPA has determined that this rule will not have an significant adverse economic impact on a substantial number of small businesses.

E. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: September 11, 1996.
Carol M. Browner,
Administrator.

Title 40, chapter I, part 63, of the Code of Federal Regulations is amended to read as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart M—National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities

2. Section 63.320 is amended by revising paragraphs (c), (d), (e), and (f) to read as follows:

§ 63.320 Applicability.

* * * * *

(c) Each dry cleaning system that commenced construction or reconstruction before December 9, 1991, and each new transfer machine system and its ancillary equipment that commenced construction or reconstruction on or after December 9, 1991 and before September 22, 1993, shall comply with §§ 63.322 (c), (d), (i), (j), (k), (l), and (m), 63.323(d), and 63.324 (a), (b), (d)(1), (d)(2), (d)(3), (d)(4), and (e) beginning on December 20, 1993, and shall comply with other provisions of this subpart by September 23, 1996.

(d) Each existing dry-to-dry machine and its ancillary equipment located in a dry cleaning facility that includes only dry-to-dry machines, and each existing transfer machine system and its ancillary equipment and each new transfer machine system and its ancillary equipment installed between December 9, 1991 and September 22, 1993, as well as each existing dry-to-dry machine and its ancillary equipment, located in a dry cleaning facility that includes both transfer machine system(s) and dry-to-dry machine(s) is exempt from § 63.322, § 63.323, and § 63.324, except paragraphs 63.322 (c), (d), (i), (j), (k), (l), and (m), 63.323(d), and 63.324 (a), (b), (d)(1), (d)(2), (d)(3), (d)(4), and (e) if the total perchloroethylene consumption of the dry cleaning facility is less than 530 liters (140 gallons) per year. Consumption is determined according to § 63.323(d).

(e) Each existing transfer machine system and its ancillary equipment, and each new transfer machine system and its ancillary equipment installed between December 9, 1991 and

September 22, 1993, located in a dry cleaning facility that includes only transfer machine system(s) is exempt from § 63.322, § 63.323, and § 63.324, except paragraphs 63.322 (c), (d), (i), (j), (k), (l), and (m), 63.323(d), and 63.324 (a), (b), (d)(1), (d)(2), (d)(3), (d)(4), and (e) if the perchloroethylene consumption of the dry cleaning facility is less than 760 liters (200 gallons) per year. Consumption is determined according to § 63.323(d).

(f) If the total yearly perchloroethylene consumption of a dry cleaning facility determined according to § 63.323(d) is initially less than the amounts specified in paragraph (d) or (e) of this section, but later exceeds those amounts, the existing dry cleaning system(s) and new transfer machine system(s) and its (their) ancillary equipment installed between December 9, 1991 and September 22, 1993 in the dry cleaning facility must comply with § 63.322, § 63.323, and § 63.324 by 180 calendar days from the date that the facility determines it has exceeded the amounts specified, or by September 23, 1996, whichever is later.

* * * * *

3. Section 63.322 is amended by revising paragraphs (a) introductory text and (b) introductory text to read as follows:

§ 63.322 Standards.

(a) The owner or operator of each existing dry cleaning system and of each new transfer machine system and its ancillary equipment installed between December 9, 1991 and September 22, 1993 shall comply with either paragraph (a)(1) or (a)(2) of this section and shall comply with paragraph (a)(3) of this section if applicable.

* * * * *

(b) The owner or operator of each new dry-to-dry machine and its ancillary equipment and of each new transfer machine system and its ancillary equipment installed after September 22, 1993:

* * * * *

[FR Doc. 96-23911 Filed 9-18-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 272

[FRL-5601-5]

Hazardous Waste Management Program: Incorporation by Reference of Approved State Hazardous Waste Program for New Mexico

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Under the Resource Conservation and Recovery Act of 1976, as amended (RCRA), the United States Environmental Protection Agency (EPA) may grant Final Authorization to States to operate their hazardous waste management programs in lieu of the Federal program. The EPA uses part 272 of Title 40 Code of Federal Regulations (CFR) to provide notice of the authorization status of State programs, and to incorporate by reference those provisions of the State statutes and regulations that EPA will enforce under RCRA Sections 3008, 3013 and 7003. Thus, EPA intends to codify the New Mexico authorized State program in 40 CFR Part 272. The purpose of this action is to incorporate by reference EPA's approval of recent revisions to New Mexico's program.

DATES: This document will be effective November 18, 1996 unless EPA publishes a prior Federal Register (FR) action withdrawing this immediate final rule. All comments on this action must be received by the close of business October 21, 1996. The incorporation by reference of certain New Mexico statutes and regulations was approved by the Director of the Federal Register as of November 18, 1996 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Written comments should be sent to Alima Patterson, Authorization Coordinator for Region 6, Grants and Authorization Section (6PD-G), Multimedia Planning and Permitting Division, EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202, Phone number: 214-665-8533.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, Authorization Coordinator for Region 6, Grants and Authorization Section (6PD-G), Multimedia Planning and Permitting Division, EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202, Phone number: 214-665-8533.

SUPPLEMENTARY INFORMATION:

Background

Section 3006 of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), 42 U.S.C. 6926 *et seq.*, allows the Environmental Protection Agency (EPA) to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program. The purpose of today's Federal Register document is to incorporate by reference EPA's approval of recent revisions to New Mexico's program.

Effective December 13, 1993 and August 21, 1995, Environmental

Protection Agency incorporated by reference New Mexico's then authorized hazardous waste program (see 58 FR 52677 and 60 FR 32113). Effective July 10, 1995 and January 2, 1996 (see 60 FR 20238 and 60 FR 53708, respectively), Environmental Protection Agency granted authorization to New Mexico for additional program revisions. In this document, EPA is incorporating the currently authorized State hazardous waste program in New Mexico.

The Environmental Protection Agency provides both notice of its approval of State programs in 40 CFR part 272 and incorporates by reference therein the State statutes and regulations that EPA will enforce under sections 3008, 3013 and 7003 of RCRA. This effort will provide clearer notice to the public of the scope of the authorized program in New Mexico. Such notice is particularly important in light of the Hazardous and Solid Waste Act Amendments of 1984 (HSWA), Public Law 98-616. Revisions to State hazardous waste programs are necessary when Federal statutory or regulatory authority is modified. Because HSWA extensively amended RCRA, State programs must be modified to reflect those amendments. By incorporating by reference the authorized New Mexico program and by amending the Code of Federal Regulations whenever a new or different set of requirements is authorized in New Mexico, the status of Federally approved requirements of the New Mexico program will be readily discernible.

The Agency will only enforce those provisions of the New Mexico hazardous waste management program for which authorization approval has been granted by EPA. This document incorporates by reference provisions of State hazardous waste statutes and regulations and clarifies which of these provisions are included in the authorized and Federally enforceable program. Concerning HSWA, some State requirements may be similar to HSWA requirements that are in effect under Federal statutory authority in that State. However, a State's HSWA-type requirements are not authorized and will not be codified into the CFR until the Regional Administrator publishes his final decision to authorize the State for specific HSWA requirements. Until such time, EPA will enforce the HSWA requirements and not the State analogues.

New Mexico Authorized Hazardous Waste Program

The Environmental Protection Agency is incorporating by reference the New Mexico authorized hazardous waste

program in subpart GG of 40 CFR part 272. The State statutes and regulations are incorporated by reference at § 272.1601(b)(1) and the Memorandum of Agreement, the Attorney General's Statement and the Program Description are referenced at § 272.1601(b)(5), (b)(6) and (b)(7), respectively.

The Agency retains the authority under sections 3007, 3008, 3013 and 7003 of RCRA to undertake enforcement actions in authorized States. With respect to such an enforcement action, the Agency will rely on Federal sanctions, Federal inspection authorities, and the Federal Administrative Procedure Act rather than the authorized State analogues to these requirements. Therefore, the Agency does not intend to incorporate by reference for purposes of enforcement such particular, authorized New Mexico enforcement authorities. Section 272.1601(b)(2) of 40 CFR lists those authorized New Mexico authorities that are part of the authorized program but are not incorporated by reference.

The public also needs to be aware that some provisions of the State's hazardous waste management program are not part of the Federally authorized State program. These non-authorized provisions include:

- (1) Provisions that are not part of the RCRA Subtitle C program because they are "broader in scope" than RCRA Subtitle C (see 40 CFR 271.1(i)); and
- (2) Federal rules for which New Mexico is not authorized, but which have been incorporated into the State regulations because of the way the State adopted Federal regulations by reference.

State provisions which are "broader in scope" than the Federal program are not incorporated by reference for purposes of enforcement in 40 CFR part 272. Section 272.1601(b)(3) of 40 CFR lists, for reference and clarity the New Mexico provisions which are "broader in scope" than the Federal program and which are not, therefore, part of the authorized program being incorporated by reference. "Broader in scope" provisions will not be enforced by EPA; the State, however, will continue to enforce such provisions.

New Mexico has adopted but is not authorized for the Federal rules published in the Federal Register from January 28, 1983 through March 20, 1984 (48 FR 3977, 48 FR 39611, 48 FR 52718, 49 FR 5308, and 49 FR 10490); amendments to the Toxicity Characteristic rule as published on October 5, 1990 (55 FR 40834), February 1, 1991 (56 FR 3978), February 13, 1991 (56 FR 5910) and April 2, 1991 (56 FR

13406); amendments to the F037 and F038 listings as published on May 13, 1991 (56 FR 21955) and amendments to 40 CFR Parts 260, 261, 264, 265 and 266 relative to the Recycled Used Oil Management Standards, as published on September 10, 1992 (57 FR 41566) and May 3, 1993 (58 FR 26420). Therefore, these Federal amendments included in New Mexico's adoption by reference of Federal code at Title 20, Chapter 4, Part 1, New Mexico Administrative Code (20 NMAC 4.1), Subparts I, II, III, V, VI, and IX are not Federally enforceable.

Since EPA cannot enforce a State's requirements which have not been reviewed and approved according to the Agency's authorization standards, it is important that EPA clarify any limitations on the scope of a State's approved hazardous waste program. Thus, in those instances where a State's method of adopting Federal law by reference has the effect of including unauthorized requirements, EPA will provide this clarification by: (1) incorporating by reference the relevant State legal authorities according to the requirements of the Office of Federal Register; and (2) subsequently identifying in 272.1601(b)(4) any requirements which while adopted and incorporated by reference, are not authorized by EPA, and therefore are not Federally enforceable. Thus, notwithstanding the language in the New Mexico hazardous waste regulations incorporated by reference at 272.1601(b)(1), EPA would only enforce the State provisions that are actually authorized by EPA. With respect to HSWA requirements for which the State has not yet been authorized, EPA will continue to enforce the Federal HSWA standards until the State receives specific HSWA authorization from EPA.

HSWA Provisions

As noted above, the Agency is not amending part 272 to include HSWA requirements and prohibitions that are immediately effective in New Mexico and other States. Section 3006(g) of RCRA provides that any requirement or prohibition of HSWA (including implementing regulations) takes effect in authorized States at the same time that it takes effect in nonauthorized States. Thus, Environmental Protection Agency has immediate authority to implement a HSWA requirement or prohibition once it is effective. A HSWA requirement or prohibition supersedes any less stringent or inconsistent State provision which may have been previously authorized by EPA (see 50 FR 28702, July 15, 1985).

Because of the vast number of HSWA statutory and regulatory requirements

taking effect over the next few years, the Environmental Protection Agency expects that many previously authorized and incorporated by reference State provisions will be affected. The States are required to revise their programs to adopt the HSWA requirements and prohibitions by the deadlines set forth in 40 CFR 271.21, and then to seek authorization for those revisions pursuant to part 271. The Environmental Protection Agency expects that the States will be modifying their programs substantially and repeatedly. Instead of amending the part 272 every time a new HSWA provision takes effect under the authority of RCRA 3006(g), Environmental Protection Agency will wait until the State receives authorization for its analog to the new HSWA provision before amending the State's part 272 incorporation by reference. In the interim, persons wanting to know whether a HSWA requirement or prohibition is in effect should refer to 40 CFR 271.1(j), as amended, which lists each such provision.

The incorporation by reference of State authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the authorized State program and clarify the extent of Federal enforcement authority. This will be particularly true as more State program revisions to adopt HSWA provisions are authorized.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an Environmental Protection Agency rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least

costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the Environmental Protection Agency establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of Environmental Protection Agency regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. The Environmental Protection Agency has determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The EPA does not anticipate that the approval of New Mexico's hazardous waste program referenced in today's notice will result in annual costs of \$100 million or more.

Today's rule contains no Federal mandates for State, local or tribal governments or the private sector. The Act excludes from the definition of a "Federal mandate" duties that arise from participation in a voluntary Federal program, except in certain cases where a "federal intergovernmental mandate" affects an annual federal entitlement program of \$500 million or more that are not applicable here. New Mexico's request for approval of a hazardous waste program is voluntary; if a state chooses not to seek authorization for administration of a hazardous waste program under RCRA Subtitle C, RCRA regulation is left to EPA.

In any event, the Environmental Protection Agency has determined that this rule does not contain a Federal mandate that may result in expenditures \$100 million or more for state, local, and tribal governments in the aggregate, or the private sector in any one year. The Environmental Protection Agency does not anticipate that the approval of New Mexico's hazardous waste program referenced in today's notice will result in annual costs of \$100 million or more. The Environmental Protection Agency's approval of state programs generally may reduce, not increase, compliance costs for the private sector since the State, by virtue of the approval, may

now administer the program in lieu of Environmental Protection Agency and exercise primary enforcement. Hence, owners and operators of treatment, storage, or disposal facilities (TSDFs) generally no longer face dual federal and state compliance requirements, thereby reducing overall compliance costs. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

The Environmental Protection Agency has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency recognizes that small governments may own and/or operate TSDFs that will become subject to the requirements of an approved state hazardous waste program. However, such small governments which own and/or operate TSDFs are already subject to the requirements in 40 CFR parts 264, 265, and 270 and are not subject to any additional significant or unique requirements by virtue of this program approval. Once the Environmental Protection Agency authorizes a State to administer its own hazardous waste program and any revisions to that program, these same small governments will be able to own and operate their TSDFs under the approved state program, in lieu of the Federal program.

Certification Under the Regulatory Flexibility Act

The Environmental Protection Agency has determined that this authorization will not have a significant economic impact on a substantial number of small entities. The Environmental Protection Agency recognizes that small entities may own and/or operate TSDFs that will become subject to the requirements of an approved state hazardous waste program. However, since such small entities which own and/or operate TSDFs are already subject to the requirements in 40 CFR Parts 264, 265 and 270, this authorization does not impose any additional burdens on these small entities. This is because EPA's authorization would result in an administrative change (i.e., whether the Environmental Protection Agency or the state administers the RCRA Subtitle C program in that state), rather than result in a change in the substantive requirements imposed on small entities. Once EPA authorizes a state to administer its own hazardous waste program and any revisions to that program, these same small entities will be able to own and operate their TSDFs under the approved state program, in lieu of the federal program. Moreover, this authorization, in approving a state

program to operate in lieu of the federal program, eliminates duplicative requirements for owners and operators of TSDFs in that particular state.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provisions of 5 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. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Environmental Protection Agency submitted a report containing this rule and other required information to the U.S. Senate, the U. S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

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.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects In 40 CFR Part 272

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

Dated: August 19, 1996.

Allyn M. Davis,

Acting Regional Administrator.

For the reasons set forth in the preamble, subpart GG of 40 CFR part 272 is amended as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

1. The authority for part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

2. 40 CFR part 272, subpart GG is amended by revising § 272.1601 to read as follows:

§ 272.1601 New Mexico State-Administered Program: Final Authorization.

(a) Pursuant to Section 3006(b) of RCRA, 42 U.S.C. 6926(b), New Mexico has final authorization for the following elements as submitted to EPA in New Mexico's base program application for final authorization which was approved by EPA effective on January 25, 1985. Subsequent program revision applications were approved effective on April 10, 1990, July 25, 1990, December 4, 1992, August 23, 1994, December 21, 1994, July 10, 1995, and January 2, 1996.

(b) *State Statutes and Regulations.*

(1) The New Mexico statutes and regulations cited in this paragraph are incorporated by reference as part of the hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(i) EPA Approved New Mexico Statutory Requirements Applicable to the Hazardous Waste Management Program, dated April, 1996.

(ii) EPA Approved New Mexico Regulatory Requirements Applicable to the Hazardous Waste Management Program, dated April, 1996.

(2) The following statutes and regulations concerning State enforcement, although not incorporated by reference, are part of the authorized State program:

(i) New Mexico Statutes 1978 Annotated, Inspection of Public Records Act, Chapter 14, Article 2, (1994 Cumulative Supplement), Sections 14-2-1 *et seq.*

(ii) New Mexico Statutes 1978 Annotated, Hazardous Waste Act, Chapter 74, Article 4, (1993 Replacement Pamphlet), Sections 74-4-4 (except 74-4-4C), 74-4-4.1, 74-4-4.2C through 74-4-4.2F, 74-4-4.2G(1), 74-4-4.2H, 74-4-4.2I, 74-4-4.3 (except

74-4-4.3A(2) and 74-4-4.3F), 74-4-4.7B, 74-4-4.7C, 74-4-5, 74-4-7, 74-4-10, 74-4-10.1 (except 74-4-10.1C), 74-4-11 through 74-4-14.

(iii) Title 20, Chapter 4, Part 1, New Mexico Administrative Code (20 NMAC 4.1), effective September, 23, 1994, Subpart IX, Section 902 (except 902.B.1

through 902.B.6); and Subpart XI, Sections 1101, 1105, and 1106.

(3)(i) The following statutory provisions are broader in scope than the Federal program, are not part of the authorized program, and are not incorporated by reference:

(ii) New Mexico Statutes 1978 Annotated, Hazardous Waste Act,

Chapter 74, Article 4, (1993 Replacement Pamphlet), Sections 74-4-3.3 and 74-4-4.2].

(4) *Unauthorized State Provisions:* The State's adoption of the Federal rules listed below is not approved by EPA and are, therefore, not enforceable:

Federal requirement	Federal Register reference	Publication date
Biennial Report	48 FR 3977	01/28/83
Permit Rules; Settlement Agreement	48 FR 39611	09/01/83
Interim Status Standards; Applicability	48 FR 52718	11/22/83
Chlorinated Aliphatic Hydrocarbon Listing (F024)	49 FR 5308	02/10/84
National Uniform Manifest	49 FR 10490	03/20/84
Recycled Used Oil	57 FR 41566: Amendments to 40 CFR Parts 260, 261 and 266	09/10/92
Management Standards	58 FR 26420: Amendments to 40 CFR Parts 261, 264 and 265	05/03/93

Additionally, New Mexico has adopted but is not authorized to implement the HSWA rules that are listed below in lieu

of EPA. EPA will continue to enforce the Federal HSWA standards for which New Mexico is not authorized until the

State receives specific authorization from EPA.

Federal requirement	Federal Register reference	Publication date
Toxicity Characteristic;	55 FR 40834	10/05/90
Hydrocarbon Recovery	56 FR 3978	02/01/91
Operations	56 FR 13406	04/02/91
Toxicity Characteristic; Chlorofluorocarbon Refrigerants	56 FR 5910	02/13/91
Revisions to the Petroleum Refining Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 and F038).	56 FR 21955	05/13/91

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 6 and the State of New Mexico signed by the EPA Regional Administrator on December 18, 1995 is referenced as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) *Statement of Legal Authority.* "Attorney General's Statement for Final Authorization", signed by the Attorney General of New Mexico on January, 1985, and revisions, supplements and addenda to that Statement dated April 13, 1988, September 14, 1988, July 19, 1989, July 23, 1992, February 14, 1994, July 18, 1994, July 20, 1994, August 11, 1994, November 28, 1994, and August 24, 1995, are referenced as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) *Program Description.* The Program Description and any other materials submitted as part of the original application or as supplements thereto are referenced as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

Appendix A to Part 272—[Amended]

3. Appendix A to part 272, State Requirements, is amended by revising the listing for "New Mexico" to read as follows:

New Mexico

The statutory provisions include:

New Mexico Statutes 1978 Annotated, Hazardous Waste Act, Chapter 74, Article 4 (1993 Replacement Pamphlet), Sections 74-4-2, 74-4-3 (except 74-4-3L, 74-4-3O and 74-4-3R), 74-4-3.1, 74-4-4.2A, 74-4-4.2B, 74-4-4.2G introductory paragraph, 74-4-4.2G(2), 74-4-4.3F, 74-4-4.7 (except 74-4-4.7B and 74-4-4.7C), 74-4-9 and 74-4-10.1C, as published by the Michie Company, Law Publishers, 1 Town Hall Square, Charlottesville, Virginia 22906-7587.

The regulatory provisions include:

Title 20, Chapter 4, Part 1, New Mexico Annotated Code (20 NMAC 4.1), Subparts I through Subpart VIII; Subpart IX, Sections 901, 902.B.1 through 902.B.6; and Subpart XI, Section 1103. Copies of the New Mexico regulations can be obtained from the New Mexico Commission of Public Records, State Records Center and Archives, State Rules Division, 404 Montezuma, Santa Fe, NM 87501.

[FR Doc. 96-23910 Filed 9-18-96; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 401 and 405

[BPD-869-F]

Medicare Program; Waiver of Recovery of Overpayments

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule duplicates in HCFA's regulations the content of two sections of the Social Security Administration's regulations concerning waiver of recovery of overpayments. In the past, regulations in 20 CFR part 404 were applicable to both the Federal Old-Age, Survivors and Disability Insurance program (OASDI), which provides monthly Social Security checks directly to beneficiaries or their representatives, and the Medicare program. Since the Social Security Administration (SSA) is now independent of HHS, and SSA is restructuring its regulations to apply only to the OASDI program, we are establishing the content of these sections in 42 CFR part 405 to preserve