

US EPA ARCHIVE DOCUMENT

approving a revision request unless USEPA is assured that the revision will not interfere with attainment, RFP, or any other requirements of the Act. In addition, the State has not provided for equivalent reductions to compensate for the relaxation that the State request proposes. Since the State is providing that these four sources will not be subject to existing RACT requirements, the State is relaxing the RACT limits and providing for increased emissions of ozone precursors. Section 193 of the Clean Air Act provides:

No control requirement in effect, or required to be adopted by an order, settlement agreement, or plan in effect before the date of the enactment of the CAAA of 1990 in any area which is a nonattainment area for any air pollutant may be modified after such enactment in any manner unless the modification insures equivalent or greater emission reductions of such air pollutant.

For nonattainment areas, the State must demonstrate that the SIP revision provides for offsetting emission reductions. These revision requests contain no plans for emission offsets or equivalent emission reductions. Therefore, no relaxation from the SIP requirements can be approved.

Final Action

USEPA is disapproving, in final, these four SIP revision requests because: (1) The State did not demonstrate that the relaxations from the emission limit requirements contained in OAC Rule(s) 3745-21-09(U), 3745-21-09(H), and 3745-21-07(E) will not interfere with the attainment and maintenance of the ozone standard; (2) RFP toward attainment has not been demonstrated; and (3) a relaxation of SIP requirements, in ozone nonattainment areas, is prohibited by the CAAA of 1990 without offsetting emission reductions.

Because USEPA considers today's action as noncontroversial and routine, we are approving it without prior proposal. The action will become effective on December 4, 1992. However, if we receive notice by November 4, 1992 that someone wishes to submit adverse or critical comments, then USEPA will publish: (1) a notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a

Table Two action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989, (54 FR 2214-2225). On January 6, 1988, the Office of Management and Budget waived Tables Two and Three SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of 2 years. USEPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on USEPA's request.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

USEPA's disapproval of the State request under section 110 and subchapter I, part D of the CAA does not affect any existing requirements applicable to small entities. Any pre-existing Federal requirements remain in place after this disapproval. Federal disapproval of the State submittal does not affect its State-enforceability. Moreover, USEPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, USEPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it impose any new Federal requirements.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 4, 1992. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Intergovernmental relations, Ozone, Reporting and record keeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401-7671q.

Dated: September 19, 1992.

Valdas V. Adamkus,
Regional Administrator.

[FR Doc. 92-24095 Filed 10-2-92; 8:45 am]

BILLING CODE 6560-60-M

40 CFR Part 271

[FRL-4517-6]

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). The Environmental Protection Agency (EPA) has reviewed the State of New Mexico's application and has made a decision, subject to public review and comment, that New Mexico hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve New Mexico's hazardous waste program revisions, subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984. New Mexico's application for program revision is available for public review and comment.

DATES: This final authorization for the State of New Mexico shall be effective on December 4, 1992 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 on November 4, 1992.

ADDRESSES: Copies of the New Mexico's 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, 525 Camino De Los Marquez Place, Suite 4, Santa Fe, New Mexico, 87502, phone (505) 827-4308, or the U.S. EPA, Region 6 Library, 12th Floor, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 665-6444. Written comments, referring to Docket Number NM-92-1, should be sent to Janie Hernandez, New Mexico Authorization Lead, Grants and

Authorization Section (6H-HS), RCRA Programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655-8533.

FOR FURTHER INFORMATION CONTACT: Janie Hernandez, Grants and Authorization Section, RCRA programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (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 260-266, 268, 124, and 270.

B. New Mexico

New Mexico initially received final authorization on January 25, 1985, (See 50 FR 1515) to implement its base hazardous waste management program. New Mexico received authorization for revision to its program on April 10, 1990, (See 55 FR 4604), and July 25, 1990, (See 55 FR 28397). On July 23, 1992, 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 § 271.21(b)(3).

EPA has reviewed the State of New Mexico's application, and has 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 November 4, 1992. 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 notice.

Approval of New Mexico's program revision shall become effective in 60 days unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse comment is received, EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverse the decision.

The New Mexico 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, 264-266, 268, and 270 that were published in the Federal Register (FR) through May 4, 1990. This proposed approval includes the provisions that are listed in the chart below. This chart lists the State analogs that are being recognized as equivalent to the appropriate Federal requirements.

Federal citation	State analog
40 1. List (Phase 1) of Hazardous Constituents for Ground-Water Monitoring, July 9, 1987 [52 FR 25942-25953].	New Mexico Statutes Annotated (NMSA), 1978 § 74-4-3.1, 74-4-4(1)(4)(5) and (6) and 74-4-4.2. (Replacement Pamphlet 1992 ((Repl. Pam.)), and New Mexico Laws 1991, Chapter 25, § 6, and the Hazardous Waste Management Regulations (HWMR)-6, as amended February 1991, §§ 501 and 901.
41 2. Identification and Listing of Hazardous Waste, July 10, 1987 [52 FR 26012].....	NMSA §§ 74-4-4A(1) and 74-4-4D, 1978 (Repl. Pam. 1992), and HWMR-6 as amended February 1991, § 201.
43 3. Liability Requirements for Hazardous Waste Facilities; November 18, 1987 [52 FR 44314-44321].	NMSA §§ 74-4-4A(5)(6) and 74-4-4D, 1978 (Repl. Pam. 1992) and New Mexico Laws 1991, Chapter 25, § 6, and HWMR-6 as amended February 1991, §§ 501 and 601.
46 4. Technical Corrections; Identification and Listing of Hazardous Waste, April 22, 1988 [53 FR 13382-13393].	NMSA §§ 74-4-4A(1) and 74-4-4D, 1978 (Repl. Pam. 1992), and HWMR-6 as amended February 1991, § 201.
49 5. Identification and Listing of Hazardous Waste; Treatability Studies Sample Exemption, July 19, 1988 [53 FR 27290-27302].	NMSA §§ 74-4-4A and 74-4-4D, 1978 (Repl. Pam. 1992), and HWMR-6 as amended February 1991, §§ 101 and 201.
52 6. Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems, September 2, 1988 [53 FR 34079-34087].	NMSA, 1978, § 74-4-3.1, 74-4-4A and D, and 74-4-4.2 (Repl. Pam. 1992), and NM Laws 1991, Chapter 25, § 6, and HWMR-6, as amended February 1991, §§ 101, 201, 301, 501, 601, and 901.
53 7. Identification and Listing of Hazardous Waste; and Designation Reportable Quantities, and Notification, September 13, 1988 [53 FR 35412-35421].	NMSA §§ 74-4-4A(1) and 74-4-4D, 1978 (Repl. Pam. 1992), and HWMR-6 as amended February 1991, § 201.
55 8. Statistical Methods for Evaluating Ground-Water Monitoring Data from Hazardous Waste Facilities, October 11, 1988 [53 FR 39720-39731].	NMSA, 1978, § 74-4-3.1, 74-4-4A(5)(6) and 74-4-4.2 (Repl. Pam. 1992), and NM Laws 1991, Chapter 25, § 6, and HWMR-6, as amended February 1991, § 501.
56 9. Identification and Listing of Hazardous Waste; Removal of Iron Dextran from the List of Hazardous Waste, October 31, 1988 [53 FR 43878-43881].	NMSA §§ 74-4-4A(1) and 74-4-4D, 1978 (Repl. Pam. 1992), and HWMR-6 as amended February 1991, § 201.
57 10. Identification and Listing of Hazardous Waste; Removal of Strontium Sulfide from the List of Hazardous Wastes, October 31, 1988 [53 FR 43881-43884].	NMSA §§ 74-4-4A(1) and 74-4-4D, 1978 (Repl. Pam. 1992), and HWMR-6 as amended February 1991, § 201.
58 11. Standards for Generators of Hazardous Waste, November 8, 1988 [53 FR 45089-45093].	NMSA, 1978, § 74-4-4A(2)(3) and 74-4-4D (Repl. Pam. 1992), and NM Laws 1991, Chapter 25, § 6, and HWMR-6, as amended February 1991, § 301.
59 12. Hazardous Waste Miscellaneous Units: Standards Applicable to Owners and Operators, January 9, 1989 [54 FR 615-617].	NMSA, 1978, §§ 74-4-4, 74-4-4.2 (Repl. Pam. 1992), and HWMR-6, as amended February 1991, §§ 501, and 901.
60 13. Amendment to Requirements for Hazardous Waste Incinerator Permits, January 30, 1989 [54 FR 4286-4288].	NMSA, 1978, §§ 74-4-4, 74-4-4.2 (Repl. Pam. 1992), and HWMR-6, as amended February 1991, § 901.
61 14. Changes to Interim Status Facilities for Hazardous Waste Management Permits; Procedures for Post-Closure Permitting, March 7, 1989 [54 FR 9596-9609].	NMSA, 1978, §§ 74-4-4, 74-4-4.2, 74-4-9, (Repl. Pam. 1992), NM Laws 1991, Chapter 25, § 6, and HWMR-6, as amended February 1991, § 901.
64 15. Delay of Closure Period for Hazardous Waste Management Facilities, August 14, 1989 [54 FR 33376-33398].	NMSA, 1978, §§ 74-4-3.1, 74-4-4A and 74-4-4D (Repl. Pam. 1992), and NM Laws 1991, Chapter 25, § 6, and HWMR-6, as amended February 1991, §§ 501 and 601.
65 16. Mining Waste Exclusion I, September 1, 1989 [54 FR 36592-36642].....	NMSA §§ 74-4-4A and 74-4-4D, 1978 (Repl. Pam. 1992), and HWMR-6 as amended February 1991, § 201.
67 17. Testing and Monitoring Activities, September 29, 1989 [54 40260-40269].....	NMSA §§ 74-4-4A and 74-4-4D, 1978 (Repl. Pam. 1992), and HWMR-6 as amended February 1991, § 101 and § 201.

Federal citation	State analog
18. Changes to Part 124 Not Accounted for by 48 FR 14148-14295, April 1, 1983; 48 FR 30113-30115, June 30, 1983; 53 FR 28118-28157, July 26, 1988; 53 FR 37396-37414, September 26, 1988; and 54 FR 246-258, January 4, 1989.	NMSA, 1978, § 74-4-4.2, (Repl. Pamph. 1992); HWMR-6, as amended February 1991, §§ 901, 902 and 1003.
71 19. Mining Waste Exclusion II, January 23, 1990 [55 FR 2322-2354].....	NMSA, 1978, § 74-4-4A & § 74-4-4D (Repl. Pamph. 1992), HWMR-6, as amended February 1991, §§ 101, 201, & 301.
72 20. Modification of F019 Listing, February 14, 1990 [55 FR 5340-5342].....	NMSA, 1978, § 74-4-4A(1), § 74-4-4D (Repl. Pamph. 1992), HWMR-6, as amended February 1991, § 201.
73 21. Testing and Monitoring Activities; Technical Corrections, March 9, 1990 [55 FR 8948-8950].	NMSA §§ 74-4-4A and 74-4-4D, 1978 (Repl. Pamph. 1992), and HWMR-6 as amended February 1991, §§ 101 and 201.
76 22. Criteria for Listing Toxic Wastes; Technical Amendment, May 4, 1990 [55 FR 18726].	NMSA, 1978, § 74-4-4A(1), § 74-4-4D (Repl. Pamph. 1992), HWMR-6, as amended February 1991, § 201.

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

D. Decision

I conclude that the New Mexico application for program revision meets all of 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. 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 section 3008, 3013 and 7003 of RCRA.

E. Codification in Part 272

EPA uses 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 section 3008, 3013, and 7003 of RCRA. EPA is reserving amendment of part 272, subpart E, until a later date.

Compliance with Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

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.

Lists of Subjects in 40 CFR Part 271

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. 6928, 6974(b).

Dated: September 25, 1992.
Philip A. Charles,
Acting Regional Administrator.
[FR Doc. 92-24089 Filed 10-2-92; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 271

[FRL-4517-5]

Texas: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: The State of Texas has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act. The Environmental Protection Agency (EPA) has reviewed Texas' application and has made a decision, subject to public review and comment, that Texas' hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Texas' hazardous waste program revisions, subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste

Amendments of 1984. Texas' application for program revision is available for public review and comment.

DATES: This final authorization for the State of Texas shall be effective December 4, 1992 unless EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on Texas' program revision application must be received by the close of business on November 4, 1992.

ADDRESSES: Copies of the Texas 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: Texas Water Commission, Library, Fifth Floor, Stephen F. Austin State Office Building, 1700 North Congress Avenue, Austin, Texas 78711, phone (512) 463-7834; and U.S. EPA, 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 TX-82-1, should be sent to Dick Thomas, Regional Authorization Coordinator, Grants and Authorization Section (6H-HS), RCRA Programs Branch, U.S. EPA, Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655-8528.

FOR FURTHER INFORMATION CONTACT: Dick Thomas, Regional Authorization Coordinator, Grants and Authorization Section (6H-HS), RCRA Programs Branch, U.S. EPA, Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas, 75202, phone (214) 655-8528.

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

