

US EPA ARCHIVE DOCUMENT

ATTORNEY GENERAL'S STATEMENT FOR FINAL
AUTHORIZATION FOR CHANGES TO THE FEDERAL
RCRA PROGRAM FROM JANUARY 1983 THROUGH JUNE 1994

I hereby certify, pursuant to my authority as Assistant Attorney General set forth in NMSA 1978, §§8-5-2D and 8-5-5A (Repl. Pamp. 1994) and in accordance with Section 3006(b) of the Resource Conservation and Recovery Act ("RCRA"), as amended by the Hazardous and Solid Waste Amendments of 1984 (42 U.S.C. 6901 et seq.), and 40 CFR 271 that in my opinion the laws of the State of New Mexico provide adequate authority to carry out the revised program set forth in the revised "Program Description" submitted by the New Mexico Environment Department. The specific authorities provided are contained in statutes or regulations lawfully adopted at the time this Statement is signed and which are in effect now, as specified below. These authorities and this certification supplement the previously certified authorities described in my and my predecessors certifications of January 1985, April 1988, July 1989, September 1992, February 1994, July 1994, November 1994, and August 1995.

I. IDENTIFICATION AND LISTING

A. State statutes and regulations contain lists of hazardous waste which encompass all wastes controlled under the following Federal regulations as indicated in the designated Revision Checklists:

(27) Listing of three chemicals from wood surface protection processes, 40 CFR 261 Appendix VIII, as amended January 4, 1994 [59 FR 458], Revision Checklist 128.

Federal Authority: RCRA §3001(b).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §§74-4-4A(1) and 74-4-4E (Repl. Pamp. 1993). Hazardous Waste Management Regulations, New Mexico Environmental Improvement Board, 20 NMAC 4.1.200 (effective November 1, 1995) (40 CFR Part 261).

Remarks of the Attorney General

On September 27, 1995, New Mexico promulgated 20 NMAC 4.1 which adopts the July 1, 1994 version of 40 CFR Part 261. 20 NMAC 4.1 incorporates by reference 40 CFR Part 261 at 20 NMAC 4.1.200. This is the version that is referred to in this Attorney General's Statement. 20 NMAC 4.1 became effective on November 1, 1995. 20 NMAC 4.1.200 is inclusive of the identification and listing amendments to 40 CFR Part 261 promulgated January 4, 1994 at 59 FR

458. NMSA 1978, §§74-4-4A(1) and 74-4-4E (Repl. Pamp. 1993) provide New Mexico with authority to adopt federal regulations by reference including the sections on identification and listing.

(28) Listing of Beryllium (P015) is amended to read "Beryllium powder," 40 CFR 261.33 and Part 261, Appendix VIII, as amended June 20, 1994 [59 FR 31551], Revision Checklist 134.

Federal Authority: RCRA §3001(b).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §§74-4-4A(1) and 74-4-4E (Repl. Pamp. 1993). 20 NMAC 4.1.200 (effective November 1, 1995) (40 CFR Part 261).

Remarks of the Attorney General

New Mexico incorporates 40 CFR Part 261 by reference at 20 NMAC 4.1.200, effective November 1, 1995. 20 NMAC 4.1.200 is inclusive of the identification and listing amendments to 40 CFR Part 261 promulgated June 20, 1994 at 59 FR 31551. NMSA 1978, §§74-4-4A(1) and 74-4-4E (Repl. Pamp. 1993) provide New Mexico with authority to adopt federal regulations by reference including the sections on identification and listing.

F. State statutes and regulations incorporate the second edition and updates to "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW-846) as indicated in Revision Checklists 11, 35, and 126.

Federal Authority: RCRA §§2002, 3001; 40 CFR 260.11, 260.21 and 270.6(a) as amended December 4, 1984 (49 FR 47390), March 16, 1987 (52 FR 8072) and August 31, 1993 (58 FR 46040).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §§74-4-4A(1) and 74-4-4E (Repl. Pamp. 1993). 20 NMAC 4.1.101, .102, and .900 (effective November 1, 1995) (40 CFR Parts 260 and 270).

Remarks of the Attorney General

New Mexico incorporates 40 CFR Parts 260 and 270 by reference, with a few exceptions, at 20 NMAC 4.1.101, .102 and .900, effective November 1, 1995. 20 NMAC 4.1.101, .102 and .900 are inclusive of the identification and listing amendments to 40 CFR Parts 260 and 270 promulgated December 4, 1984 at 49 FR 47390, March 16, 1987 at 52 FR 8072, and August 31, 1993 at 58 FR 46040. NMSA 1978, §§74-4-4A(1) and 74-4-4E (Repl. Pamp. 1993) provide New Mexico with authority to adopt federal regulations by reference including the sections on identification and listing.

BB. State statutes and regulations replace the current Second Edition (including Updates I and II) of the "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, by incorporating by reference the Third Edition (and its first update) of this test methods manual. Throughout the State's code, references to test methods directly refer to the methods as they are found in SW-846, as indicated in Revision Checklist 126.

Federal Authority: RCRA §§1006; 2002, 3001, 3002, 3004, 3005, 3006, 3010, and 3014; 40 CFR 260.11(a); 260.22(d)(1)(i); 261.22(a)(1)&(2); 261.24(a); 261 Appendices II, III, and X; 264.190(a); 264.314(c); 265.190(a); 265.314(d); 268.7(a); 268.40(a); 268.41(a); 268 Appendices I & IX; 270.6(a); 270.19(c)(1)(iii)&(iv); 270.62(b)(2)(i)(C)&(D); and 270.66(c)(2)(i)&(ii) as amended August 31, 1993 (58 FR 46040).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §§74-4-4A(1) and 74-4-4E (Repl. Pamp. 1993). 20 NMAC 4.1.101, .102, .200, .500, .501, .600, .601, .800, and .900 (effective November 1, 1995) (40 CFR Parts 260, 261, 264, 265, 268, and 270).

Remarks of the Attorney General

New Mexico incorporates 40 CFR Parts 260, 261, 264, 265, 268, and 270 by reference, with a few exceptions, at 20 NMAC 4.1.101, .102, .200, .500, .501, .600, .601, .800, and .900, effective November 1, 1995. 20 NMAC 4.1.101, .102, .200, .500, .501, .600, .601, .800, and .900 are inclusive of the identification and listing amendments to 40 CFR Parts 260, 261, 264, 265, 268, and 270 promulgated August 31, 1993 at 58 FR 46040. NMSA 1978, §§74-4-4A(1) and 74-4-4E (Repl. Pamp. 1993) provide New Mexico with authority to adopt federal regulations by reference including the sections on identification and listing.

CC. State statutes and regulations incorporate by reference "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, the Third Edition (November 1986), as amended by Updates I, II and IIA, as indicated in Revision Checklists 128 and 132.

Federal Authority: RCRA §§2002(a), 3001(b), and 3001(e)(1); 40 CFR 260.11(a) as amended January 4, 1994 (59 FR 458) and June 2, 1994 (59 FR 28484).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §§74-4-4A(1) and 74-4-4E (Repl. Pamp. 1993). 20 NMAC 4.1.101 and .102 (effective November 1, 1995) (40 CFR Part 260).

Remarks of the Attorney General

New Mexico incorporates 40 CFR Part 260 by reference, with a few exceptions, at 20 NMAC 4.1.101 and .102, effective November 1, 1995. 20 NMAC 4.1.101 and .102 are inclusive of the identification and listing amendments to 40 CFR Part 260 promulgated January 4, 1994 at 59 FR 458 and June 2, 1994 at 59 FR 28484. NMSA 1978, §§74-4-4A(1) and 74-4-4E (Repl. Pamp. 1993) provide New Mexico with authority to adopt federal regulations by reference including the sections on identification and listing.

VII. NATIONAL UNIFORM MANIFEST SYSTEM AND RECORDKEEPING

F. State statutes and regulations incorporate updates to the recordkeeping instructions so that the codes used by hazardous waste treatment, storage and disposal facilities to maintain records on-site match the codes used by these facilities on the Part A Permit Application Form as indicated on Revision Checklist 131. The new handling codes for Miscellaneous Units and Boilers and Industrial Furnaces, addressed by Checklist 131, are also incorporated into the statutes and regulations.

Federal Authority: RCRA §§3004 and 3005; 40 CFR 264 Appendix I, 265 Appendix I as amended March 24, 1994 (59 FR 13891).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §§74-4-4A and 74-4-4E (Repl. Pamp. 1993). 20 NMAC 4.1.500, .501, .600 and .601 (effective November 1, 1995) (40 CFR Parts 264 and 265).

Remarks of the Attorney General

New Mexico incorporates 40 CFR Parts 264 and 265 by reference, with a few exceptions, at 20 NMAC 4.1.500, .501, .600 and .601, effective November 1, 1995. 20 NMAC 4.1.500, .501, .600, and .601 are inclusive of the amendments to 40 CFR Parts 264 and 265 promulgated March 24, 1994 at 50 FR 13891. NMSA 1978, §§74-4-4A and 74-4-4E (Repl. Pamp. 1993) provide New Mexico with authority to adopt federal regulations by reference.

XX. STANDARDS FOR THE MANAGEMENT OF WASTE FUEL AND USED OIL AND FOR THE BURNING OF THESE MATERIALS IN BOILERS AND INDUSTRIAL FURNACES

F. State statutes and regulations are amended such that the procedures for conducting air quality modeling and screening for boilers and industrial furnaces burning hazardous wastes reference the method recommended in Appendix W of 40 CFR Part 51. State regulations and statutes also incorporate by reference the October 1992 edition of "Screening Procedures for Estimating the Air

Quality Impact of Stationary Sources" as indicted in Revision Checklist 125.

Federal Authority: §§1006, 2002, 3001 through 3007, 3010 and 7004; 40 CFR 260.11(a), 266.104(e)(3), 266.106(h) and Part 266 Appendix X, as amended July 20, 1993 (58 FR 38816).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §§74-4-4A and 74-4-4E (Repl. Pamp. 1993). 20 NMAC 4.1.101, .102, and .700 (effective November 1, 1995) (40 CFR Parts 260 and 266).

Remarks of the Attorney General

New Mexico incorporates 40 CFR Parts 260 and 266 by reference, with a few exceptions, at 20 NMAC 4.1.101, .102, and .700, effective November 1, 1995. 20 NMAC 4.1.101, .102, and .700 are inclusive of amendments to 40 CFR Parts 260 and 266 promulgated July 20, 1993 at 58 FR 38816. NMSA 1978, §§74-4-4A and 74-4-4E (Repl. Pamp. 1993) provide New Mexico with authority to adopt federal regulations by reference.

XXI. LAND DISPOSAL RESTRICTIONS

P. State statutes and regulations include a revision to P015 listing in the land disposal restrictions technology-based treatment standards as indicated on Revision Checklist 134.

Federal Authority: RCRA §3004(d)-(k) and (m); 40 CFR 268.42(a)/Table 2, as amended June 20, 1994 (59 FR 31551).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §§74-4-4A and 74-4-4E (Repl. Pamp. 1993). 20 NMAC 4.1.800 (effective November 1, 1995) (40 CFR Part 268).

Remarks of the Attorney General

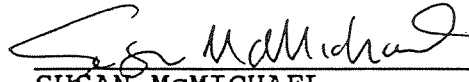
New Mexico incorporates 40 CFR Part 268 by reference at 20 NMAC 4.1.800, effective November 1, 1995. 20 NMAC 4.1.800 is inclusive of amendments to 40 CFR Part 268 promulgated June 20, 1994 at 59 FR 31551. NMSA 1978, §§74-4-4A and 74-4-4E (Repl. Pamp. 1993) provide New Mexico with authority to adopt federal regulations by reference.

THE HONORABLE TOM UDALL
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