

US EPA ARCHIVE DOCUMENT

NEW MEXICO
ATTORNEY GENERALS STATEMENT FOR FINAL
AUTHORIZATION FOR CHANGES TO THE FEDERAL
RCRA PROGRAM FROM JANUARY 198 THROUGH JUNE 2000

I hereby certify, pursuant to my authority as Assistant Attorney General set forth in NMSA 1978 §§-5-2D and 8-5-5A and in accordance with Section 3006(b) of the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984 (42 USC 6901 et seq.), and 40 C.F.R. 271 that in my opinion the laws of the State 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 predecessors certifications of January 1985, September 1992, February 1994, July 1994, November 1994, August 1995, January 1996 and June 2000.

This Attorney General's Statement supplements prior Attorney General Statements submitted to the United States Environmental Protection Agency ("EPA").

Authorization History

Since the beginning of the Federal hazardous waste management program, the State of New Mexico has continuously exercised its State powers to participate in the Environmental Protection Agency's authorization program. The State of New Mexico received authorization January 25, 1985, to implement its base hazardous waste management program. It received authorizations for revisions on April 10, 1990 (Non-HSWA Cluster I, II and III); July 25, 1990 (New Mexico received authorization for Radioactive Mixed Waste, and Hazardous Waste Miscellaneous Units (Subpart X)); July 25, 1990 (New Mexico received authorization for non-HSWA Clusters IV and VI); December 4, 1992 (New Mexico received authorization for Non-HSWA Cluster V); August 23, 1994 (RCRA Cluster I); December 21, 1994 (HSWA Cluster I and II without HSWA Corrective Action); July 10, 1995 (RCRA Cluster III); January 2, 1996 (HSWA Corrective Action); March 10, 1997 (New Mexico received RCRA Cluster VI); and October 2001 (RCRA Clusters V through X).

Scope and Coverage

The NMED has rules in place necessary to administer EPA's revisions to the federal hazardous waste program made through June 30, 2000. Completed HSWA, Non-HSWA and RCRA Revision Checklists includes 26 (26.2), 54 (54.1), 80 (80.1 and 80.2), 84, 89, 107, 117A (117A.1 and 117A.2), 119 (119.1), 126.1, 127, 129, 133, 142E, 150, 175, 181, 182 (182.1), 183, 184, 185, and 187 through Cluster X and indicates analogous State citations. The NMED has incorporated by reference the associated Federal rules for each checklist.

I. IDENTIFICATION AND LISTING

(21) Redefinition of F037 and F038 listings to exclude 1) sludges from non-contact once-through cooling waters from both listings and 2) floats generated in aggressive biological treatment units from the F038 listing, 40 CFR 261.31 as amended May 13, 1991 [56 FR 21955] Revision Checklist 89.

(32) Removal of five vacated K-code wastes (K064, K065, K066, K090, and K091) from table at 40 CFR 261.32, as amended October 20, 1999 [4 FR 56469] Revision Checklist 183.

(33) Removal of two vacated wastes (K140 and U408) from tables at 40 CFR 261.32, 261.33(f), and Part 261 Appendices VII and VIII, as amended March 17, 2000 [5 FR 14472] Revision Checklist 185. CFN

Federal Authority: RCRA §3001(b).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference including the sections on identification and listing.

Regulatory Authority: Section 20.4.1.200 NMAC incorporates 40 CFR Part 261 by reference through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

New Mexico incorporates 40 CFR Part 261 by reference, through July 1, 2002, at 20.4.1.200 NMAC. Section 20.4.1.200 NMAC is inclusive of the identification and listing amendments to 40 CFR 261.31 as amended May 13, 1991 [56 FR 21955] 40 CFR 261.32, Part 261 Appendix VII as amended August 6, 1998 [3 FR 42110] 40 CFR 261.32, as amended October 20, 1999 [4 FR 56469] and 40 CFR 261.32, 261.33(f), and Part 261 Appendices VII and VIII, as amended March 17, 2000 [5 FR 14472] NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference including the sections on identification and listing.

O. State statutes and regulations establish January 25, 1993 as the compliance date for the Toxicity Characteristic requirements for produced ground water from free phase hydrocarbon recovery operations at certain petroleum industry sites (refineries, marketing terminals, and bulk plants) as indicated in Revision Checklist 80 (80.1 and 80.2). The extension for infiltration galleries at such operations ended on October 2, 1991.

Federal Authority: 5 U.S.C. §§553 and 705; RCRA §3001; 40 CFR 261.4(b)(11) as amended October 5, 1990 (55 FR 40834), February 1, 1991 (56 FR 3978) and April 2, 1991 (56 FR 13406).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

Regulatory Authority: Section 20.4.1.200 NMAC incorporates 40 CFR Part 261 by reference through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

New Mexico incorporates 40 CFR Part 261 by reference, through October 1, 2002, at 20.4.1.200 NMAC. Section 20.4.1.200 NMAC is inclusive of the identification and listing amendments to 40 CFR §261.4 as amended by the October 5, 1990 interim final rule extending the compliance date to January 25, 1991 (see 55 FR 40834), the further extension to March 25, 1991 by the February 1, 1991 interim final rule (see 56 FR 3978) and the extension to January 25, 1993 by the April 2, 1991 final rule (see 56 FR 13406). NMSA 1978, §4-4-4A (1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

S. State statutes and regulations which exclude from being hazardous used chlorofluorocarbon (CFC) refrigerants from totally enclosed transfer equipment (including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems) that use chlorofluorocarbons as the heat transfer fluid in the refrigeration cycle, provided the refrigerant is reclaimed for further use as indicated in Revision Checklist 84.

Federal Authority: RCRA §3001; 40 CFR 261.4(b)(12) as amended February 13, 1991 (56 FR 5910).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference including the sections on identification and listing.

Regulatory Authority: Section 20.4.1.200 NMAC incorporates 40 CFR Part 261 by reference through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

New Mexico incorporates 40 CFR Part 261 by reference, through October 1, 2002, at 20.4.1.200 NMAC. Section 20.4.1.200 NMAC is inclusive of the identification and listing amendments to 40 CFR §261.4 as amended February 13, 1991 (56 FR 5910). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference including the sections on identification and listing.

X. State statutes and regulations exempt, from the definition of hazardous, used oil filters meeting the 40 CFR 261.4(b)(15) criteria as indicated in Revision Checklists 104 and 107.

Federal Authority: RCRA §§1004, 1006, 2002, 3001 and 3014; 40 CFR 261.4(b)(15) as amended May 20, 1992 (57 FR 21524) and July 1, 1992 (57 FR 29220).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference including the sections on identification and listing.

Regulatory Authority: Section 20.4.1.200 NMAC incorporates 40 CFR Part 261 by reference through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

New Mexico incorporates 40 CFR Part 261 by reference, through October 1, 2002, at 20.4.1.200 NMAC. Section 20.4.1.200 NMAC is inclusive of the identification and listing amendments to 40 CFR §261.4(b)(15) as amended May 20, 1992 (57 FR 21524) and July 1, 1992 (57 FR 29220). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference including the sections on identification and listing.

Z. State statutes and regulations contain reissued mixture and derived-from rules as indicated in Revision Checklist 117A (117A.1 and 117A.2).

Federal Authority: RCRA §§1006, 2002(a), and 3001-3005; 40 CFR 261.3, as amended March 3, 1992 (57 FR 7628), June 1, 1992 (57 FR 23062) and October 30, 1992 (57 FR 49278).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference including the sections on identification and listing.

Regulatory Authority: Section 20.4.1.200 NMAC incorporates 40 CFR Part 261 by reference through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

New Mexico incorporates 40 CFR Part 261 by reference, through October 1, 2002, at 20.4.1.200 NMAC. Section 20.4.1.200 NMAC is inclusive of the identification and listing amendments to 40 CFR §261.3 as amended March 3, 1992 (57 FR 7628), June 1, 1992 (57 FR 23062) and October 30, 1992 (57 FR 49278). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference including the sections on identification and listing.

AA. State statutes and regulations do not require the use of the spike recovery correction as part of the Toxicity Characteristic Leaching Procedure as indicated in Revision Checklist 119 (119.1).

Federal Authority: RCRA §§1006, 2002, 3001, 3002 and 3006; 40 CFR 261, Appendix II, as amended November 24, 1992 (57 FR 55114) and February 2, 1993 (58 FR 6854).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference including the sections on identification and listing.

Regulatory Authority: Section 20.4.1.200 NMAC incorporates 40 CFR Part 261 by reference through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

New Mexico incorporates 40 CFR Part 261 by reference, through October 1, 2002, at 20.4.1.200 NMAC. Section 20.4.1.200 NMAC is inclusive of the identification and listing amendments to 40 CFR 261, Appendix II, as amended November 24, 1992 (57 FR 55114) and February 2, 1993 (58 FR 6854). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) 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 (126.1).

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 ~~& X~~; 270.6(a); 270.19(c)(1)(iii)(~~v~~); 270.62(b)(2)(i)(C)(~~D~~); and 270.66(c)(2)(i)(~~ii~~) as amended August 31, 1993 (58 FR 46040) and September 19, 1994 (59 FR 47980).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference including the sections on identification and listing.

Regulatory Authority: 40 CFR 260.11(a) and 260.22(d)(1)(i) are adopted by reference at 20.4.1.100 NMAC through July 1, 2002 (adopted effective Oct. 1, 2003). 40 CFR 261.22(a)(1) ~~& 2~~; 261.24(a); 261 Appendices II, III, and X are adopted by references at 20.4.1.200 NMAC through July 2002 (adopted effective Oct. 1, 2003). 40 CFR 264.190(a) and 264.314(c) are adopted by reference at 20.4.1.500 NMAC through July 2002 (adopted effective Oct. 1, 2003). 40 CFR 265.190(a) and 265.314(d) are adopted by reference at 20.4.1.600 NMAC through July 2002 (adopted effective Oct. 1, 2003). 40 CFR 268.40(a); 268.41(a) and 268 Appendices I ~~& X~~

are adopted by reference at 20.4.1.800 NMAC through July 2002 (adopted effective Oct. 1, 2003). 40 CFR 270.6(a); 270.19(c)(1)(iii) & (iv); 270.62(b)(2)(i)(C) & (D); and 270.66(c)(2)(i) & (ii) are adopted by reference at 20.4.1.900 NMAC through July 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

The New Mexico Hazardous Waste Management Regulations incorporates 40 CFR Parts 260, 261, 264, 265, and 270 by reference, through October 1, 2002, at 20.4.1.100, .200, .500, .600, and .900 NMAC. These sections of 20.4.1 NMAC are inclusive of the identification and listing amendments as amended August 31, 1993 (58 FR 46040) and September 19, 1994 (59 FR 47980). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference including the sections on identification and listing.

DD. State statutes and regulations increase the quantity and time limits for contaminated media used in treatability studies, as indicated in Revision Checklist 129.

Federal Authority: RCRA §3001; 40 CFR 261.4(e)(2)(i) & (ii), (e)(3), (f)(3), (f)(4), and (f)(5) as amended February 18, 1994 (59 FR 8362).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference including the sections on identification and listing.

Regulatory Authority: Section 20.4.1.200 NMAC incorporates 40 CFR Part 261 by reference through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

New Mexico incorporates 40 CFR Part 261 by reference, through October 1, 2002, at 20.4.1.200 NMAC. Section 20.4.1.200 NMAC is inclusive of the identification and listing amendments to 40 CFR 261.4(e)(2)(i) & (ii), (e)(3), (f)(3), (f)(4), and (f)(5) as amended February 18, 1994 (59 FR 8362). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference including the sections on identification and listing.

SS. State statutes and regulations exclude dredged material from regulation as a hazardous waste provided the material is subject to the requirements of a permit issued under §404 of the Federal Water Pollution Control Act or §103 of the Marine Protection, Research, and Sanctuaries Act as indicated in Revision Checklist 175.

Federal Authority: RCRA §§ 1006(b), 2002(a) and 3001; 40 CFR 261.4(g), as amended November 30, 1998 (63 FR 65874).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference including the sections on identification and listing.

Regulatory Authority: Section 20.4.1.200 NMAC incorporates 40 CFR Part 261 by reference through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

New Mexico incorporates 40 CFR Part 261 by reference, through July 1, 2002 (adopted effective October 1, 2003) at 20.4.1.200 NMAC. Section 20.4.1.200 NMAC is inclusive of the identification and listing amendments to 40 CFR 261.4(g), as amended November 30, 1998 (63 FR 65874). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

II. DEFINITION OF SOLID WASTE

OPTIONAL: This is a reduced requirement.] State statutes and regulations provide that recovered oil excluded from the definition of hazardous waste at 40 CFR 261.4(a)(12) be inserted into the petroleum refining process at or before a point where contaminants are removed as indicated in Revision Checklist 150. Federal Authority: RCRA §002 and 3001; 40 CFR 261.4(a)(12) as amended March 26, 1996 (61 FR 13103).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

Regulatory Authority: 40 CFR 261 is adopted by reference at 20.4.1.200 NMAC through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

Section 20.4.1.200 NMAC incorporates 40 CFR Part 261 by reference through July 1, 2002 (adopted effective Oct. 1, 2003) inclusive of amendments dated March 26, 1996 (61 FR 13103). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

F. OPTIONAL : This is a reduced requirement.] State statutes and regulations exclude from the definition of solid waste fuels which are produced from a hazardous waste, but which are comparable to some currently used fossil fuels, as indicated in Revision Checklists 168 and 182 (182.1).

Federal Authority: RCRA §004, 1006, and 3001; 40 CFR 261.4(a)(16)¹, 261.38, and 261.38 Table 1, as amended June 19, 1998 (63 FR 33782), September 30, 1999 (64 FR 52828), and November 19, 1999 (64 FR 63209).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

Regulatory Authority: 40 CFR 261 is adopted by reference at 20.4.1.200 NMAC through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

Section 20.4.1.200 NMAC incorporates 40 CFR Part 261 by reference through July 1, 2002 (adopted effective Oct. 1, 2003) inclusive of amendments dated June 19, 1998 (63 FR 33782), September 30, 1999 (64 FR 52828), and November 19, 1999 (64 FR 63209). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

G. State statutes and regulations include revisions to the exclusion for certain oil-bearing hazardous secondary materials, as well as new exclusions for petrochemical recovered oil, and spent caustic solutions from petroleum refining processes, and the related revisions to the references to these exclusions as indicated in Revision Checklists 169 and 187.

Federal Authority: RCRA § 3001; 40 CFR 261.3(c)(2)(ii)(B), 261.4(a)(12), 261.4(a)(18) & 19), 261.6(a)(3)(iv)(C), 261.6(a)(3)(v), 261.31(a), and 266.100(b)(3), as amended August 6, 1998 (63 FR 42110), October 9, 1998 (63 FR 54356), and June 8, 2000 (65 FR 36365).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

Regulatory Authority: Section 20.4.1.200 NMAC incorporates 40 CFR Part 261 by reference through July 1, 2002 (adopted effective Oct. 1, 2003). Section 20.4.1.700 NMAC incorporates 40 CFR Part 266 by reference through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

Section 20.4.1.200 NMAC incorporates 40 CFR Part 261 by reference through July 1, 2002 (adopted effective Oct. 1, 2003), and Section 20.4.1.700 NMAC incorporates 40 CFR Part 266 by reference through July 1, 2002 (adopted effective Oct. 1, 2003), and are inclusive of 40 CFR

¹ 63 FR 33782 contains a typographical error. The rule indicates that it is adding 261.4(a)(16), which was previously added by 63 FR 28556 (see Revision Checklist 167). The correct numbering of the added paragraph should be 261.4(a)(17).

261.3(c)(2)(ii)(B), 261.4(a)(12), 261.4(a)(18) &(19), 261.6(a) (3)(iv)(C), 261.6(a)(3)(v), 261.31(a), and 266.100(b)(3), as amended August 6, 1998 (63 FR 42110), October 9, 1998 (63 FR 54356), and June 8, 2000 (65 FR 36365). NMSA 1978, §4-4-4A (1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference

IV. ACCUMULATION

B. State statutes and regulations allow generators who generate 1,000 kilograms or more of hazardous waste per calendar month who also generate wastewater treatment sludges from electroplating operations that meet the F006 listing description, to accumulate F006 waste on-site for up to 180 days (or 270 days in certain circumstances) without a permit or interim status as indicated in Revision Checklist 184.

Federal Authority: RCRA §§2002 and 3002; 40 CFR 262.34(g) - (i), as amended March 8, 2000 (65 FR 12378).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

Regulatory Authority: Section 20.4.1.300 NMAC incorporates 40 CFR Part 262 by reference through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

Section 20.4.1.300 NMAC incorporates 40 CFR Part 262 by reference through July 1, 2002 (adopted effective Oct. 1, 2003) inclusive of 40 CFR 262.34(g) - (i), as amended March 8, 2000 (65 FR 12378). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

XI. GROUND-WATER MONITORING

H. State statutes and regulations contain provisions exempting cleanup only remediation waste management sites from 40 CFR 264.101 facility-wide corrective action as indicated in Revision Checklist 175.

Federal Authority: §§2002(a) and 3004; 40 CFR 264.1(j) in toto, 264.101(d), and 270.230(e)(1) as amended November 30, 1998 (63 FR 65874).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

Regulatory Authority: Section 20.4.1.500 and .501 NMAC incorporate, with certain exceptions, 40 CFR Part 264 by reference through July 1, 2002 (adopted effective Oct. 1, 2003). Section 20.4.1.900 NMAC incorporates 40 CFR Part 270 by reference through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

Section 20.4.1.500 and .501 NMAC incorporate, with certain exceptions, 40 CFR Part 264 by reference through July 1, 2002 (adopted effective Oct. 1, 2003), and Section 20.4.1.900 NMAC incorporates 40 CFR Part 270 by reference through July 1, 2002 (adopted effective Oct. 1, 2003). These provisions are inclusive of amendments at 40 CFR 264.1(j) intro, 264.101(d), and 270.230(e)(1) as amended November 30, 1998 (63 FR 65874). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

XV. STANDARDS FOR FACILITIES

U. State statutes and regulations indicate that the Uniform Customs and Practice for Documentary Credits is a copyrighted document of the International Chamber of Commerce as indicated in Revision Checklist 133.

Federal Authority: RCRA 2002(a), 3004, 3005, and 3006; 40 CFR 264.151(d) &k) as amended June 10, 1994 (59 FR 29958).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

Regulatory Authority: Section 20.4.1.500 and .501 NMAC incorporate, with certain exceptions, 40 CFR Part 264 by reference through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

Section 20.4.1.500 and .501 NMAC incorporate, with certain exceptions, 40 CFR Part 264 by reference through July 1, 2002 (adopted effective Oct. 1, 2003), inclusive of 40 CFR 264.151(d) &k) as amended June 10, 1994 (59 FR 29958). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

CC. State statutes and regulations provide reduced 40 CFR Part 264, Subparts B, C, and D requirements for remediation waste management sites as indicated in Revision Checklist 175.

Federal Authority: RCRA §§ 2002(a), 3004, and 3007; 40 CFR 260.10, 264.1(j), and 264.73(b)(17) as amended November 30, 1998 (63 FR 65874).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

Regulatory Authority: Section 20.4.1.500 and .501 NMAC incorporate, with certain exceptions, 40 CFR Part 264 by reference through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

Section 20.4.1.100 and .101 NMAC incorporates, with certain exceptions, 40 CFR Part 260 by reference through July 1, 2002 (adopted effective Oct. 1, 2003), inclusive of 40 CFR 260.10 as amended November 30, 1998 (63 FR 65874) (but with definitions described in 20.4.1.101). Section 20.4.1.500 and .501 NMAC incorporate, with certain exceptions, 40 CFR Part 264 by reference through July 1, 2002 (adopted effective Oct. 1, 2003), inclusive of 264.73(b)(17) as amended November 30, 1998 (63 FR 65874). NMSA 1978, §4-4-4A (1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

DD. State statutes and regulations contain design criteria as well as management and operating standards for the use of staging piles in storing remediation wastes as indicated in Revision Checklist 175.

Federal Authority: RCRA §§ 2002(a), 3004, 3005, and 7004; 40 CFR 260.10, 264.554, 265.1(b), 268.2(c), and 268.50(g), as amended November 30, 1998 (63 FR 65874).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

Regulatory Authority: Section 20.4.1.100 and .101 NMAC incorporate, with certain exceptions, 40 CFR Part 260 by reference through July 1, 2002 (adopted effective Oct. 1, 2003). Section 20.4.1.500 and .501 NMAC incorporate, with certain exceptions, 40 CFR Part 264 by reference through July 1, 2002 (adopted effective Oct. 1, 2003). Section 20.4.1.600 and .601 NMAC incorporate, with certain exceptions, 40 CFR Part 265 by reference through July 1, 2002 (adopted effective Oct. 1, 2003). Section 20.4.1.800 and .801 NMAC incorporate, with certain exceptions, 40 CFR Part 268 by reference through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

Section 20.4.1.100 and .101 NMAC incorporate, with certain exceptions, 40 CFR Part 260 by reference through July 1, 2002 (adopted effective Oct. 1, 2003). Section 20.4.1.500 and .501 NMAC incorporate, with certain exceptions, 40 CFR Part 264 by reference through July 1, 2002 (adopted effective Oct. 1, 2003). Section 20.4.1.600 and .601 NMAC incorporate, with certain exceptions, 40 CFR Part 265 by reference through July 1, 2002 (adopted effective Oct. 1, 2003). Section 20.4.1.800 and .801 NMAC incorporate, with certain exceptions, 40 CFR Part 268 by reference through July 1, 2002 (adopted effective Oct. 1, 2003). These provisions are inclusive of 40 CFR 260.10 (with the definitions at 20.4.2.101), 264.554, 265.1(b), 268.2(c), and

268.50(g), as amended November 30, 1998 (63 FR 65874). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

EE. State statutes and regulations expand the use of Corrective Action Management Units (CAMUs) and Temporary Units to include implementing remedies at permitted facilities which are not subject to 40 CFR 264.101 as indicated in Revision Checklist 175.

Federal Authority: RCRA §§ 2002(a), 3004, and 3005; 40 CFR 260.10, 264.552(a) and 264.553(a), as amended November 30, 1998 (63 FR 65874).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

Regulatory Authority: Section 20.4.1.100 and .101 NMAC incorporate, with certain exceptions, 40 CFR Part 260 by reference through July 1, 2002 (adopted effective Oct. 1, 2003). Section 20.4.1.500 and .501 NMAC incorporate, with certain exceptions, 40 CFR Part 264 by reference through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

Section 20.4.1.100 and .101 NMAC incorporate, with certain exceptions, 40 CFR Part 260 by reference through July 1, 2002 (adopted effective Oct. 1, 2003). Section 20.4.1.500 and .501 NMAC incorporate, with certain exceptions, 40 CFR Part 264 by reference through July 1, 2002 (adopted effective Oct. 1, 2003). These provisions are inclusive of 40 CFR 260.10 (with the definitions of 20.4.1.101), 264.552(a) and 264.553(a), as amended November 30, 1998 (63 FR 65874). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

FF. State statutes and regulations include an exemption for hazardous waste burning incinerators from the RCRA national stack emission standards when owners or operators demonstrate compliance with the MACT requirements of 40 CFR part 63 subpart EEE by conducting a comprehensive performance test and submitting a Notification of Compliance as indicated in Revision Checklist 182 (182.1). However, after this demonstration, RCRA permit conditions will remain in effect until the permit is modified, terminated, or revoked, unless the permit expressly provides otherwise.

Federal Authority: RCRA §§ 1006(b), 3004(a), and 3005(c)(3); 40 CFR 264.340(b)-(e), 265.340(b)-(c), 270.19 intro, 270.19(e), and 270.62 intro, as amended September 30, 1999 (64 FR 52828).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

Regulatory Authority: Section 20.4.1.500 and .501 NMAC incorporate 40 CFR Part 264 by reference (with certain exceptions) through July 1, 2002 (adopted effective Oct. 1, 2003). Section 20.4.1.600 and .601 NMAC incorporates 40 CFR Part 265 by reference (with certain exceptions) through July 1, 2002 (adopted effective Oct. 1, 2003). Section 20.4.1.900 NMAC incorporates 40 CFR Part 270 by reference through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

Section 20.4.1.500 and .501 NMAC incorporates 40 CFR Part 264 by reference (with certain exceptions) through July 1, 2002 (adopted effective Oct. 1, 2003). Section 20.4.1.600 and .601 NMAC incorporates (with certain exceptions) 40 CFR Part 265 by reference through July 1, 2002 (adopted effective Oct. 1, 2003). Section 20.4.1.900 NMAC incorporates 40 CFR Part 270 by reference through July 1, 2002 (adopted effective Oct. 1, 2003). These provisions are inclusive of 40 CFR 264.340(b)-(e), 265.340(b)-(c), 270.19 intro, 270.19(e), and 270.62 intro, as amended September 30, 1999 (64 FR 52828). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

GG. State statutes and regulations require that permits for miscellaneous units include appropriate terms and conditions from the part 63, subpart EEE standards as indicated in Revision Checklist 182 (182.1).

Federal Authority: RCRA §§ 1006(b), 3004(a), and 3005(c)(3); 40 CFR 264.601 intro, as amended September 30, 1999 (64 FR 52828).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

Regulatory Authority: Section 20.4.1.500 and .501 NMAC incorporate, with certain exceptions, 40 CFR Part 264 by reference through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

Section 20.4.1.500 and .501 NMAC incorporate, with certain exceptions, 40 CFR Part 264 by reference through July 1, 2002 (adopted effective Oct. 1, 2003), inclusive of 40 CFR 264.601 intro, as amended September 30, 1999 (64 FR 52828). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

XVI. REQUIREMENTS FOR PERMITS

P. State statutes and regulations provide owners and operators more flexibility to change specified permit conditions, to expand public notification and participation opportunities, and allow for expedited approval if no public concern exists for a proposed permit modification. Owner/operator permit modifications are categorized into three classes with administrative

procedures for approving modifications established in each class. These changes are as indicated in Revision Checklist 54 (54.1).

Federal Authority: RCRA §§2002(a), 3004, 3005, and 3006; 40 CFR Parts 124, 264, 265, and 270 as amended September 28, 1988 (53 FR 37912) and October 24, 1988 (53 FR 41649).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference, or to promulgate its own regulations that are consistent with, and no more stringent than, federal regulations.

Regulatory Authority: New Mexico has adopted procedural regulations for permitting procedures at 20.4.1.901 that meet these criteria, effective Oct. 1, 2003.

Remarks of the Attorney General

Checklist 54 (54.1) includes amendments to 40 CFR 124.5, 264.54, 264.112, 265.118, 270.2, 270.4, 270.30, and 270.42. 40 CFR 124 was not incorporated by reference; instead, the state has adopted procedural rules at 20.4.1.901, Permitting Procedures, which is equivalent to, and consistent with 40 CFR 124. 40 CFR 264.54 and 264.112 were adopted by reference by 20.4.1.500 NMSA. 40 CFR 265.118 is adopted by reference at 20.4.1.601 NMSA. 40 CFR 270.2, 270.4, 270.30 and 270.42 are adopted by reference at 20.4.1.900 NMSA. NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

BB. State statutes and regulations include requirements for hazardous waste combustion facility permit modifications to meet 40 CFR part 63 MACT standards as indicated in Revision Checklists 168 and 182 (182.1). State statutes and regulations also address such changes during interim status.

Federal Authority: RCRA §§ 1006, 3004, 3005, and 7004; 40 CFR 270.42(j), 270.42 Appendix I (L(9)), and 270.72(b)(8), as amended June 19, 1998 (63 FR 33782) and September 30, 1999 (64 FR 52828).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference, or to promulgate its own regulations that are consistent with, and no more stringent than, federal regulations.

Regulatory Authority: Section 20.4.1.900 NMAC incorporates 40 CFR Part 270 by reference through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

Section 20.4.1.900 NMAC incorporates 40 CFR Part 270 by reference through July 1, 2002 (adopted effective Oct. 1, 2003), and thereby incorporates the amendments of June 19, 1998 (63

FR 33782) and September 30, 1999 (64 FR 52828). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

DD. State statutes and regulations provide for Remedial Action Plans (RAPs) as a special form of RCRA permit for treatment, storage or disposal of hazardous remediation waste at remediation waste management sites, as indicated in Revision Checklist 175.

Federal Authority: RCRA §§ 2002(a), 3005, 3007, and 7004; 40 CFR 270.2, 270.11(d), 270.42, 270.68, 270.73(a), and 270.79-270.230, as amended November 30, 1998 (63 FR 65874).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference, or to promulgate its own regulations that are consistent with, and no more stringent than, federal regulations.

Regulatory Authority: Section 20.4.1.900 NMAC incorporates 40 CFR Part 270 by reference through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

Section 20.4.1.900 NMAC incorporates 40 CFR Part 270 by reference through July 1, 2002 (adopted effective Oct. 1, 2003), and thereby incorporates the amendments of November 30, 1998 (63 FR 65874). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

EE. State statutes and regulations include requirements for permit modifications to remove permit conditions that are no longer applicable as indicated in Revision Checklist 182 (182.1).

Federal Authority: RCRA §§ 1006(b), 3004(a), and 3005(c)(3); 40 CFR 270.42 Appendix I (A(8)), as amended September 30, 1999 (64 FR 52828).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference, or to promulgate its own regulations that are consistent with, and no more stringent than, federal regulations.

Regulatory Authority: Section 20.4.1.900 NMAC incorporates 40 CFR Part 270 by reference through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

Section 20.4.1.900 NMAC incorporates 40 CFR Part 270 by reference through July 1, 2002 (adopted effective Oct. 1, 2003), and thereby incorporates the amendments of September 30, 1999 (64 FR 52828). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) 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

G. State statutes and regulations contain an administrative stay, until further administrative action is taken, that replaces the current limits needed to qualify for the Bevill exemption under test number 2 with the land disposal restriction limits for underlying constituents as indicated in Revision Checklist 127.

Federal Authority: RCRA §§1006, 2002(a), 3004, and 3014; 40 CFR 266.112(b)(2)(i) and Part 266 Appendix VII, as amended November 9, 1993 (58 FR 59598).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference, or to promulgate its own regulations that are consistent with, and no more stringent than, federal regulations.

Regulatory Authority: 40 CFR 266 is incorporated by reference by 20.4.1.700 NMAC through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

New Mexico incorporates 40 CFR 266 by reference at 20.4.1.700 NMAC, including amendments of November 9, 1993 (58 FR 59598). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

I. State statutes and regulations include requirements related to the MACT standards limiting emissions of chlorinated dioxins, furans, other toxic organic compounds, toxic metals, hydrochloric acid, chlorine gas, and particulate matter as indicated in Revision Checklist 182 (182.1).

Federal Authority: RCRA §1006(b), 3004(a) and 3005(c)(3); 40 CFR 260.10, 266.105(c), 266.112(b) and 266, Appendix VIII as amended September 30, 1999 (64 FR 52828) and November 19, 1999 (64 FR 63209).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference, or to promulgate its own regulations that are consistent with, and no more stringent than, federal regulations.

Regulatory Authority: 40 CFR 260.10 and 40 CFR 266 are incorporated by reference by 20.4.1.100 and 700 respectively (with certain minor exceptions) through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

New Mexico incorporates 40 CFR 260.10 at 20.4.1.100 with certain minor exceptions. New Mexico incorporates 40 CFR 266 at 20.4.1.700. These regulations are inclusive of amendments of September 30, 1999 (64 FR 52828) and November 19, 1999 (64 FR 63209). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

J. State statutes and regulations include an exemption for hazardous waste burning cement kilns or aggregate kilns from the RCRA national stack emission standards when owners or operators demonstrate compliance with the MACT requirements of 40 CFR part 63 subpart EEE by conducting a comprehensive performance test and submitting a Notification of Compliance as indicated in Revision Checklist 182 (182.1). However, after this demonstration, RCRA permit conditions will remain in effect until the permit is modified, terminated, or revoked, unless the permit expressly provides otherwise.

Federal Authority: RCRA §§ 1006(b), 3004(a), and 3005(c)(3); 40 CFR 266.100(b), 270.22 intro, and 270.66 intro, as amended September 30, 1999 (64 FR 52828).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference, or to promulgate its own regulations that are consistent with, and no more stringent than, federal regulations.

Regulatory Authority: 40 CFR 266 and 40 CFR 270 are incorporated by reference by 20.4.1.700 and 900 respectively through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

New Mexico has incorporated 40 CFR 266 by reference at 20.4.1.700 NMAC, and 40 CFR 270 at 20.4.1.900, including amendments of September 30, 1999 (64 FR 52828). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

K. State statutes and regulations include an exemption for secondary lead smelters from all provisions of the boilers and industrial furnaces (BIFs) requirements except for 266.101, as indicated in Revision Checklist 182 (182.1). The smelter must provide a one-time notice to the State identifying each hazardous waste burned and stating that the facility claims an exemption from other BIF requirements. Those secondary lead smelters who have already provided notice pursuant to 266.100(c) do not have to renotify.

Federal Authority: RCRA §§ 1006, 3004, and 3005; 40 CFR 266.100(d)(1) intro, 266.100(d)(3) intro, and 266.100(h), as amended September 30, 1999 (64 FR 52828).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference, or to promulgate its own regulations that are consistent with, and no more stringent than, federal regulations.

Regulatory Authority: 40 CFR 266 is incorporated by reference by 20.4.1.700 through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

New Mexico has incorporated 40 CFR 266 by reference at 20.4.1.700 NMAC, including amendments of September 30, 1999 (64 FR 52828). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

L. State statutes and regulations clarify that fuel blending activities that are conducted in units other than 90-day tanks or containers are also subject to regulation as indicated in Revision Checklist 182 (182.1).

Federal Authority: RCRA §§ 3004 and 3005; 40 CFR 266.101(c) intro and 266.101(c)(1) as amended as amended September 30, 1999 (64 FR 52828).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference, or to promulgate its own regulations that are consistent with, and no more stringent than, federal regulations.

Regulatory Authority: 40 CFR 266 is incorporated by reference by 20.4.1.700 through July 1, 2002 (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

New Mexico has incorporated 40 CFR 266 by reference at 20.4.1.700 NMAC, including amendments of September 30, 1999 (64 FR 52828). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

XXI. LAND DISPOSAL RESTRICTIONS

W. State statutes and regulations include revisions of record keeping and paperwork requirements indicated in Revision Checklists 157, 167 C, 179, and 183.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 262.34(a)(4), 262.34(d)(4), 268.4(a)(4), 268.7(a)-(b)(6), 268.7(c)(1), 268.9(d)(2) intro, and 268.9(d)(2)(i) as amended May 12, 1997 (62 FR 25998), May 26, 1998 (63 FR 28556), May 11, 1999 (64 FR 25408), and October 20, 1999 (64 FR 56469).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference, or to promulgate its own regulations that are consistent with, and no more stringent than, federal regulations.

Regulatory Authority: 40 CFR 262 is incorporated by reference by 20.4.1.300 through July 1, 2002 (adopted effective Oct. 1, 2003). 40 CFR 268.4(a)(4), 268.7(a)-(b)(6), 268.7(c)(1), 268.9(d)(2) intro, and 268.9(d)(2)(i) are incorporated by reference by 20.4.1.800 NMAC through July 1, 2002 (adopted effective Oct. 1, 2003). New Mexico's regulations include the amendments of May 12, 1997 (62 FR 25998), May 26, 1998 (63 FR 28556), May 11, 1999 (64 FR 25408), and October 20, 1999 (64 FR 56469).

Remarks of the Attorney General

New Mexico incorporates 40 CFR 262 by reference at 20.4.1.300 NMAC. 40 CFR 268.4(a)(4), 268.7(a)-(b)(6), 268.7(c)(1), 268.9(d)(2) intro, and 268.9(d)(2)(i) are incorporated by reference by 20.4.1.800 NMAC. New Mexico's regulations include the amendments of May 12, 1997 (62 FR 25998), May 26, 1998 (63 FR 28556), May 11, 1999 (64 FR 25408), and October 20, 1999 (64 FR 56469). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

FF. State statutes and regulations include treatment standards for contaminated soils as indicated in Revision Checklists 167 B, 179, and 183.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 268.2(k), 268.7(a)(1)-(6), 268.7(b)(1)-(3), 268.7(b)(4) intro, 268.7(b)(4)(iv), 268.7(e), 268.44(h)(3)-(5), and 268.49 as amended May 26, 1998 (63 FR 28556), May 11, 1999 (64 FR 25408), and October 20, 1999 (64 FR 56469).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference, or to promulgate its own regulations that are consistent with, and no more stringent than, federal regulations.

Regulatory Authority: 40 CFR 268.2(k), 268.7(a)(1)-(6), 268.7(b)(1)-(3), 268.7(b)(4) intro, 268.7(b)(4)(iv), 268.7(e), 268.44(h)(3)-(5), and 268.49) are incorporated by reference by 20.4.1.800 NMAC through July 1, 2002 (adopted effective Oct. 1, 2003). These regulations are inclusive of the amendments dated May 26, 1998 (63 FR 28556), May 11, 1999 (64 FR 25408), and October 20, 1999 (64 FR 56469

Remarks of the Attorney General

New Mexico incorporates 40 CFR 268.2(k), 268.7(a)(1)-(6), 268.7(b)(1)-(3), 268.7(b)(4) intro, 268.7(b)(4)(iv), 268.7(e), 268.44(h)(3)-(5), and 268.49 by reference in 20.4.1.800 NMAC through July 1, 2002 (adopted effective Oct. 1, 2003). New Mexico's regulations are inclusive of the amendments of May 26, 1998 (63 FR 28556), May 11, 1999 (64 FR 25408), and October

20, 1999 (64 FR 56469). NMSA 1978, §4-4-4A(1) and 74- 4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

JJ. State statutes and regulations provide revised treatment standards for seven carbamate wastes and extend indefinitely the temporary treatment standards; remove the treatment standard for one carbamate waste; delete certain carbamate wastes as underlying hazardous constituents; and extend for six months the temporary alternative treatment standards for the other 32 carbamate wastes as indicated in Revision Checklists 171, 179, and 183.

Federal Authority: RCRA § 3004(d)-(k) and (m); 40 CFR 268.40(g)-(j), 268.40/Table, and 268.48(a)/Table as amended September 4, 1998 (63 FR 47410), May 11, 1999 (64 FR 25408), and October 20, 1999 (64 FR 56469).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference, or to promulgate its own regulations that are consistent with, and no more stringent than, federal regulations.

Regulatory Authority: 40 CFR 268.35 and 268.40, as amended August 6, 1998 (63 FR 42110) are incorporated by reference by 20.4.1.800 NMAC, (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

New Mexico incorporates 40 CFR 268.35 and 268.40, as amended August 6, 1998 (63 FR 42110) by reference at 20.4.1.800 NMAC. NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

LL. State statutes and regulations provide for interim replacement standards for spent potliners from primary aluminum reduction (EPA hazardous waste K088) as indicated in Revision Checklists 173, 179, and 183.

Federal Authority: RCRA §3004(d)-(k), and (m); 40 CFR 268.40/Table, as amended September 24, 1998 (63 FR 51254), May 11, 1999 (64 FR 25408), and October 20, 1999 (64 FR 56469).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference, or to promulgate its own regulations that are consistent with, and no more stringent than, federal regulations.

Regulatory Authority: 40 CFR 268.40/Table, as amended September 24, 1998 (63 FR 51254), May 11, 1999 (64 FR 25408), and October 20, 1999 (64 FR 56469) are incorporated by reference by 20.4.1.800 NMAC, (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

New Mexico has incorporated 40 CFR 268.40/Table, as amended September 24, 1998 (63 FR 51254), May 11, 1999 (64 FR 25408), and October 20, 1999 (64 FR 56469) by reference at 20.4.1.800 NMAC. NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

MM. OPTIONAL: This is a reduced requirement.] State statutes and regulations include the removal of a waste-specific prohibition and treatment standards for K140 and U408 wastes under the land disposal restrictions program as indicated in Revision Checklist 185.

Federal Authority: RCRA §004(d)-(k) and (m); 40 CFR 268.33, 268.40, and 268.48(a)/Table as amended March 17, 2000 (65 FR 14472).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference, or to promulgate its own regulations that are consistent with, and no more stringent than, federal regulations.

Regulatory Authority: 40 CFR 268.33, 268.40, and 268.48(a)/Table as amended March 17, 2000 (65 FR 14472) are incorporated by reference at 20.4.1.800 NMAC, (adopted effective Oct. 1, 2003).

Remarks of the Attorney General

New Mexico incorporates 40 CFR 268.33, 268.40, and 268.48(a)/Table as amended March 17, 2000 (65 FR 14472) by reference at 20.4.1.800 NMAC. NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

XXIII. UNIVERSAL WASTES

E. OPTIONAL: This is a reduced requirement. However, this petition process can be authorized only if the State is authorized for the Subsection XXIII A requirements.] State statutes and regulations allow petitions to include other wastes as universal wastes as indicated in Revision Checklist 142 E.

Federal Authority: RCRA §3001, 3002, 3003, 3004, 3005, 3010, and 3013; 40 CFR 260.20(a), 260.23, 273.80, and 273.81 as amended May 11, 1995 (60 FR 25492).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference, or to promulgate its own regulations that are consistent with, and no more stringent than, federal regulations.

Regulatory Authority: 40 CFR 260.20 (delisting process) is not adopted in New Mexico. 40 CFR 260.23 is adopted by reference at 20.4.1.100. 40 CFR 273.80, and 273.81 are incorporated

by reference at 20.4.1.1000 NMAC. These regulations are inclusive of the amendments of May 11, 1995 (60 FR 25492).

Remarks of the Attorney General

New Mexico has not adopted 40 CFR 260.20 (delisting). 40 CFR 260.23 is adopted by reference at 20.4.1.100. 40 CFR 273.80, and 273.81 are incorporated by reference at 20.4.1.1000 NMAC. These regulations are inclusive of the amendments of May 11, 1995 (60 FR 25492). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

F. OPTIONAL: This is a reduced requirement. However, this requirement and the requirements at Subsection XXIII A are necessary for authorization of this requirement.] State statutes and regulations include spent hazardous waste lamps as a universal waste as indicated in Revision Checklist 181.

Federal Authority: RCRA §§3001, 3002, 3003, 3004, 3005, 3010, 3013, 3017, and 7004; 40 CFR 260.10, 261.9(b)-(d), 264.1(g)(11)(ii)-(iv), 265.1(c)(14)(ii)-(iv), 268.1(f)(2)-(4), 270.1(c)(2)(viii)(B)-(D), 273.1(a)(2)-(4), 273.2(a)(1), 273.2(b)(2)&(3), 273.3(a), 273.4(a), 273.5, 273.6, 273.7, 273.8, 273.9, 273.10, 273.13(d), 273.14(e), 273.30, 273.32(b)(4)&(5), 273.33(d), 273.34(e), 273.50, 273.60(a), and 273.81(a) as amended July 6, 1999 (64 FR 36466).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference, or to promulgate its own regulations that are consistent with, and no more stringent than, federal regulations.

Regulatory Authority: 40 CFR 260.10 is adopted by reference at 20.4.1.100 with minor modifications. 40 CFR 261.9(b)-(d) is adopted by reference at 20.4.1.200. 40 CFR 264.1(g)(11)(ii)-(iv) is adopted by reference at 20.4.1.500. 40 CFR 265.1(c)(14)(ii)-(iv) is adopted by reference at 20.4.1.600. 40 CFR 268.1(f)(2)-(4) is adopted by reference at 20.4.1.800. 40 CFR 270.1(c)(2)(viii)(B)-(D) is adopted by reference at 20.4.1.900. 40 CFR 273.1(a)(2)-(4), 273.2(a)(1), 273.2(b)(2)&(3), 273.3(a), 273.4(a), 273.5, 273.6, 273.7, 273.8, 273.9, 273.10, 273.13(d), 273.14(e), 273.30, 273.32(b)(4)&(5), 273.33(d), 273.34(e), 273.50, 273.60(a), and 273.81(a) are adopted by reference at 20.4.1.1000 with certain minor modifications. The New Mexico regulations are inclusive of amendments made July 6, 1999 (64 FR 36466).

Remarks of the Attorney General

New Mexico has adopted 40 CFR 260.10 at 20.4.1.100 NMAC with minor modifications. 40 CFR 261.9(b)-(d) is adopted by reference at 20.4.1.200. 40 CFR 264.1(g)(11)(ii)-(iv) is adopted by reference at 20.4.1.500. 40 CFR 265.1(c)(14)(ii)-(iv) is adopted by reference at 20.4.1.600. 40 CFR 268.1(f)(2)-(4) is adopted by reference at 20.4.1.800. 40 CFR 270.1(c)(2)(viii)(B)-(D) is adopted by reference at 20.4.1.900. 40 CFR 273.1(a)(2)-(4), 273.2(a)(1), 273.2(b)(2)&(3), 273.3(a), 273.4(a), 273.5, 273.6, 273.7, 273.8, 273.9, 273.10, 273.13(d), 273.14(e), 273.30,

273.32(b)(4)(~~5~~), 273.33(d), 273.34(e), 273.50, 273.60(a), and 273.81(a) are adopted by reference at 20.4.1.1000 with certain minor modifications. The New Mexico regulations are inclusive of amendments made July 6, 1999 (64 FR 36466). NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.

XXVI. ADDITIONAL ENFORCEMENT REMEDIES

A. OPTIONAL: This is a reduced requirement.] State statutes and regulations provide authority for enforcement of documents issued in lieu of post-closure permits as provided in 40 CFR 270.1(c)(7), or as a source of alternative requirements for regulated units, as provided under 40 CFR 264.90(f), 264.110(c), 264.140(d), 265.90(d), 265.110(d), and 265.140(d), 40 CFR 270.28 as outlined in 40 CFR 271.16(e).

Federal Authority: RCRA §3006; 40 CFR 271.16(e) as amended October 22, 1998 (63 FR 56710).

Citation of Laws and Regulations; Date of Enactment and Adoption

Statutory Authority: NMSA 1978, §4-4-4A and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference, or to promulgate its own regulations that are consistent with, and no more stringent than, federal regulations.

Regulatory Authority: 40 CFR 270.1(c)(7) is incorporated by reference at 20.1.4.900 NMAC. 40 CFR 264.90(f), 264.110(c), 264.140(d), are incorporated by reference at 20.4.1.500 NMAC. 40 CFR 265.90(d), 265.110(d), and 265.140(d) are incorporated by reference at 20.4.1.600 NMAC. 40 CFR 270.28 is adopted by reference at 20.4.1.900 NMAC.

Remarks of the Attorney General

New Mexico incorporates 40 CFR 270.1(c)(7) by reference at 20.1.4.900 NMAC. 40 CFR 264.90(f), 264.110(c), 264.140(d), are incorporated by reference at 20.4.1.500 NMAC. 40 CFR 265.90(d), 265.110(d), and 265.140(d) are incorporated by reference at 20.4.1.600 NMAC. 40 CFR 270.28 is adopted by reference at 20.4.1.900 NMAC. NMSA 1978, §4-4-4A(1) and 74-4-4F (2002) provide New Mexico with authority to adopt federal regulations by reference.


Signature


Name (Type or Print)

Assistant General Counsel
Title Special Assistant Attorney General

August 3, 2006
Date