

US EPA ARCHIVE DOCUMENT

ATTACHMENT A

**New Mexico Hazardous Waste Act
NMSA 1978, Section §§ 74-4-1 through 74-4-14, as amended**

ARTICLE 4 HAZARDOUS WASTES

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74-4-1. Short title. (1983)

Chapter 74, Article 4 NMSA 1978 may be cited as the "Hazardous Waste Act".

History: 1953 Comp., § 12-9B-1, enacted by Laws 1977, ch. 313, § 1; 1983, ch. 302, § 1.

74-4-2. Purpose. (1977)

The purpose of the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978] is to help ensure the maintenance of the quality of the state's environment; to confer optimum health, safety, comfort and economic and social well-being on its inhabitants; and to protect the proper utilization of its lands.

History: 1953 Comp., § 12-9B-2, enacted by Laws 1977, ch. 313, § 2.

74-4-3. Definitions. (2002)

As used in the Hazardous Waste Act [Chapter 74, Article 1 NMSA 1978]:

A. "above ground storage tank" means a single tank or combination of tanks, including underground pipes connected thereto, that are used to contain petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure of sixty degrees Fahrenheit and fourteen and seven-tenths pounds per square inch absolute, and the volume of which is more than ninety percent above the surface of the ground. "Above ground storage tank" does not include any:

- (1) farm, ranch or residential tank used for storing motor fuel or heating oil for noncommercial purposes;
- (2) pipeline facility, including gathering lines regulated under the federal Natural Gas Pipeline Safety Act of 1968 or the federal Hazardous Liquid Pipeline Safety Act of 1979, or that is an intrastate pipeline facility regulated under state laws comparable to either act;
- (3) surface impoundment, pit, pond or lagoon;
- (4) storm water or wastewater collection system;
- (5) flow-through process tank;

(6) liquid trap, tank or associated gathering lines or other storage methods or devices related to oil, gas or mining exploration, production, transportation, refining, processing or storage, or to the oil field service industry operations;

(7) tank associated with an emergency generator system;

(8) pipes connected to any tank that is described in Paragraphs (1) through (7) of this subsection;

(9) tanks or related pipelines and facilities owned or used by a refinery, natural gas processing plant or pipeline company in the regular course of their refining, processing or pipeline business;

B. "board" means the environmental improvement board;

C. "corrective action" means an action taken in accordance with rules of the board to investigate, minimize, eliminate or clean up a release to protect the public health, safety and welfare or the environment;

D. "director" or "secretary" means the secretary of environment;

E. "disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters;

F. "division" or "department" means the department of environment;

G. "federal agency" means any department, agency or other instrumentality of the federal government and any independent agency or establishment of that government, including any government corporation and the government printing office;

H. "generator" means any person producing hazardous waste;

I. "hazardous agricultural waste" means hazardous waste generated as part of his licensed activity by any person licensed pursuant to the Pesticide Control Act [76-4-1 NMSA 1978] or any hazardous waste designated as hazardous agricultural waste by the board, but does not include animal excrement in connection with farm, ranch or feedlot operations;

J. "hazardous substance incident" means any emergency incident involving a chemical or chemicals, including but not limited to transportation wrecks, accidental spills or leaks, fires or explosions, which incident creates the reasonable probability of injury to human health or property;

K. "hazardous waste" means any solid waste or combination of solid wastes that because of their quantity, concentration or physical, chemical or infectious characteristics may:

(1) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed. "Hazardous waste" does not include any of the following, until the board determines that they are subject to Subtitle C of the federal Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6901 et seq.: drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil or natural gas or geothermal energy; fly ash waste; bottom ash waste; slag waste; flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels; solid waste from the extraction, beneficiation or processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore; or cement kiln dust waste;

L. "manifest" means the form used for identifying the quantity, composition, origin, routing and destination of hazardous waste during transportation from point of generation to point of disposal, treatment or storage;

M. "person" means any individual, trust, firm, joint stock company, federal agency, corporation, including a government corporation, partnership, association, state, municipality, commission, political subdivision of a state or any interstate body;

N. "regulated substance" means:

(1) any substance defined in Section 101(14) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, but not including any substance regulated as a hazardous waste under Subtitle C of the federal Resource Conservation and Recovery Act of 1976, as amended; and

(2) petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure of sixty degrees Fahrenheit and fourteen and seven-tenths pounds per square inch absolute;

O. "solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permits under Section 402 of the federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear or byproduct material as defined by the federal Atomic Energy Act of 1954, as amended (68 Stat. 923);

R. "storage" means the containment of hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste;

Q. "storage tank" means an above ground storage tank or an underground storage tank;

R. "tank installer" means any individual who installs or repairs a storage tank;

S. "transporter" means a person engaged in the movement of hazardous waste, not including movement at the site of generation, disposal, treatment or storage;

T. "treatment" means any method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable to recovery, amenable to storage or reduced in volume. "Treatment" includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous;

U. "underground storage tank" means a single tank or combination of tanks, including underground pipes connected thereto, that are used to contain an accumulation of regulated substances and the volume of which, including the volume of the underground pipes connected thereto, is ten percent or more beneath the surface of the ground. "Underground storage tank" does not include any:

(1) farm, ranch or residential tank of one thousand one hundred gallons or less capacity used for storing motor fuel or heating oil for noncommercial purposes;

(2) septic tank;

(3) pipeline facility, including gathering lines that are regulated under the federal Natural Gas Pipeline Safety Act of 1968 or the federal Hazardous Liquid Pipeline Safety Act of 1979, or that is an intrastate pipeline facility regulated under state laws comparable to either act;

(4) surface impoundment, pit, pond or lagoon;

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- (5) storm water or wastewater collection system;
- (6) flow-through process tank;
- (7) liquid trap, tank or associated gathering lines directly related to oil or gas production and gathering operations;
- (8) storage tank situated in an underground area, such as a basement, cellar, mineworking drift, shaft or tunnel, if the storage tank is situated upon or above the surface of the undesignated floor;
- (9) tank associated with an emergency generator system;
- (10) tank exempted by rule of the board after finding that the type of tank is adequately regulated under another federal or state law; or
- (11) pipes connected to any tank that is described in Paragraphs (1) through (10) of this subsection; and

V. "used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

History: 1953 Comp., § 12-9B-3, enacted by Laws 1977, ch. 313, § 3; 1981 (1st S.S.), ch. 8, § 2; 1987, ch. 179, § 1; 1989, ch. 322, § 1; 1991, ch. 25, § 33; 1992, ch. 43, § 1; 2001, ch. 323, § 1; 2001, ch. 325, § 2; 2002, ch. 47, § 1.

74-4-3.1. Application of act. (1981)

Nothing in the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978] shall be construed to apply to any activity or substance which is subject to the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et seq.), the Safe Drinking Water Act, as amended, (42 U.S.C. 300f et seq.) or the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2011 et seq.) except to the extent that such application or regulation is not inconsistent with the requirements of such acts; nor shall the Hazardous Waste Act apply to the treatment, storage or disposal of wastes under a permit issued pursuant to the Surface Mining Act [Chapter 69, Article 25A NMSA 1978] or the federal Surface Mining Control and Reclamation Act of 1977, as amended, or to any farmer disposing of waste pesticides from his own use, provided he triple rinses each emptied pesticide container and disposes of the pesticide residues on his own farm in a manner consistent with the disposal instructions on the pesticide label.

History: 1978 Comp., § 74-4-3.1, enacted by Laws 1981 (1st S.S.), ch. 8, § 3.

74-4-3.2. Repealed. (1989)

74-4-3.3. Hazardous wastes of other states. (1989)

In addition to the meaning of hazardous waste as defined in Section 74-4-3 NMSA 1978, the term "hazardous waste" as used in the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978] may include any material imported into the state of New Mexico for the purpose of disposal which is defined or classified as hazardous waste in the state of origin.

History: 1978 Comp., § 74-4-3.3, enacted by Laws 1989, ch. 255, § 1.

74-4-4. Duties and powers of the board. (2002)

A. The board shall adopt rules for the management of hazardous waste as may be necessary to protect public health and the environment, that are equivalent to and no more stringent than federal regulations adopted by the federal environmental protection agency pursuant to the federal Resource Conservation and Recovery Act of 1976, as amended:

(1) for the identification and listing of hazardous wastes, taking into account toxicity, persistence and degradability, potential for accumulation in tissue and other related factors, including flammability, corrosiveness and other hazardous characteristics; provided that, except as authorized by Sections 74-4-3.3 and 74-8-2 NMSA 1978, the board shall not identify or list any solid waste or combination of solid wastes as a hazardous waste that has not been listed and designated as a hazardous waste by the federal environmental protection agency pursuant to the federal Resource Conservation and Recovery Act of 1976, as amended;

(2) establishing standards applicable to generators identified or listed under this subsection, including requirements for:

(a) furnishing information on the location and description of the generator's facility and on the production or energy recovery activity occurring at that facility;

(b) record keeping practices that accurately identify the quantities of hazardous waste generated, the constituents of the waste that are significant in quantity or in potential harm to human health or the environment and the disposition of the waste;

(c) labeling practices for any containers used for the storage, transport or disposal of the hazardous waste that will identify accurately the waste;

(d) use of safe containers tested for safe storage and transportation of the hazardous waste;

(e) furnishing the information on the general chemical composition of the hazardous waste to persons transporting, treating, storing or disposing of the waste;

(f) implementation of programs to reduce the volume or quantity and toxicity of the hazardous waste generated;

(g) submission of reports to the secretary at such times as the secretary deems necessary, setting out the quantities of hazardous waste identified or listed pursuant to the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978] that the generator has generated during a particular time period and the disposition of all hazardous waste reported, the efforts undertaken during a particular time period to reduce the volume and toxicity of waste generated and the changes in volume and toxicity of waste actually achieved during a particular time period in comparison with previous time periods; and

(h) the use of a manifest system and any other reasonable means necessary to assure that all hazardous waste generated is designated for treatment, storage or disposal in, and arrives at, treatment, storage or disposal facilities, other than facilities on the premises where the waste is generated, for which a permit has been issued pursuant to the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978] and that the generator of hazardous waste has a program in place to reduce the volume or quality and toxicity of waste to the degree determined by the generator to be economically practicable and that the proposed method of treatment, storage or disposal is that practicable method currently available to the generator that minimizes the present and future threat to human health and the environment;

(3) establishing standards applicable to transporters of hazardous waste identified or listed under this subsection or of fuel produced from any such hazardous waste or of fuel from such waste and any other material, as may be necessary to protect human health and the environment, including but not limited to requirements for:

(a) record keeping concerning the hazardous waste transported and its source and delivery points;

(b) transportation of the hazardous waste only if properly labeled;

(c) compliance with the manifest system referred to in Subparagraph (h) of Paragraph (2) of this subsection; and

(d) transportation of all the hazardous waste only to the hazardous waste treatment, storage or disposal facilities that the shipper designates on the manifest form to be a facility holding a permit issued pursuant to the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978] or the federal Resource Conservation and Recovery Act of 1976, as amended;

(4) establishing standards applicable to distributors or marketers of any fuel produced from hazardous waste, or any fuel that contains hazardous waste, for:

(a) furnishing the information stating the location and general description of the facility; and

(b) furnishing the information describing the production or energy recovery activity carried out at the facility;

(5) establishing performance standards as may be necessary to protect human health and the environment applicable to owners and operators of facilities for the treatment, storage or disposal of hazardous waste identified or listed under this section, distinguishing, where appropriate, between new facilities and facilities in existence on the date of promulgation, including requirements for:

(a) maintaining the records of all hazardous waste identified or listed under this subsection that is treated, stored or disposed of, as the case may be, and the manner in which such waste was treated, stored or disposed of;

(b) satisfactory reporting, monitoring, inspection and compliance with the manifest system referred to in Subparagraph (h) of Paragraph (2) of this subsection;

(c) treatment, storage or disposal of all such waste and any liquid that is not a hazardous waste, except with respect to underground injection control into deep injection wells, received by the facility pursuant to such operating methods, techniques and practices as may be satisfactory to the secretary;

(d) location, design and construction of hazardous waste treatment, disposal or storage facilities;

(e) contingency plans for effective action to minimize unanticipated damage from any treatment, storage or disposal of any hazardous waste;

(f) maintenance and operation of the facilities and requiring any additional qualifications as to ownership, continuity of operation, training for personnel and financial responsibility, including financial responsibility for corrective action, as may be necessary or desirable;

(g) compliance with the requirements of Paragraph (6) of this subsection respecting permits for treatment, storage or disposal;

(h) the taking of corrective action for all releases of hazardous waste or constituents from any solid waste management unit at a treatment, storage or disposal facility, regardless of the time at which waste was placed in the unit; and

(i) the taking of corrective action beyond a facility's boundaries where necessary to protect human health and the environment unless the owner or operator of that facility demonstrates to the satisfaction of the secretary that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such action. Rules adopted and promulgated under this subparagraph shall take effect immediately and shall apply to all facilities operating under permits issued under Paragraph (6) of this subsection and to all landfills, surface impoundments and waste pile units, including any new units, replacements of existing units or lateral expansions of existing units, that receive hazardous waste after July 26, 1982. No private entity shall be precluded by reason of criteria established under Subparagraph (f) of this paragraph from the ownership or operation of facilities providing hazardous waste treatment, storage or disposal services where the entity can provide assurance of financial

responsibility and continuity of operation consistent with the degree and duration of risks associated with the treatment, storage or disposal of specified hazardous waste;

(6) requiring each person owning or operating or both an existing facility or planning to construct a new facility for the treatment, storage or disposal of hazardous waste identified or listed under this subsection to have a permit issued pursuant to requirements established by the board;

(7) establishing procedures for the issuance, suspension, revocation and modification of permits issued under Paragraph (6) of this subsection, which rules shall provide for public notice, public comment and an opportunity for a hearing prior to the issuance, suspension, revocation or major modification of any permit unless otherwise provided in the Hazardous Waste Act;

(8) defining major and minor modifications; and

(9) establishing procedures for the inspection of facilities for the treatment, storage and disposal of hazardous waste that govern the minimum frequency and manner of the inspections, the manner in which records of the inspections shall be maintained and the manner in which reports of the inspections shall be filed; provided, however, that inspections of permitted facilities shall occur no less often than every two years.

B. The board shall adopt rules:

(1) concerning hazardous substance incidents; and

(2) requiring notification to the department of any hazardous substance incidents.

C. The board shall adopt rules concerning storage tanks as may be necessary to protect public health and the environment and that, in the case of underground storage tanks, are equivalent to and no more stringent than federal regulations adopted by the federal environmental protection agency pursuant to the federal Resource Conservation and Recovery Act of 1976, as amended. Rules adopted pursuant to this subsection shall include:

(1) standards for the installation, operation and maintenance of storage tanks;

(2) requirements for financial responsibility;

(3) standards for inventory control;

(4) standards for the detection of leaks from and the integrity-testing and monitoring of storage tanks;

(5) standards for the closure and dismantling of storage tanks;

(6) requirements for record keeping; and

(7) requirements for the reporting, containment and remediation of all leaks from any storage tanks.

D. Notwithstanding the provisions of Subsection A of this section, the board may adopt rules for the management of hazardous waste and hazardous waste transformation that are more stringent than federal regulations adopted by the federal environmental protection agency pursuant to the federal Resource Conservation and Recovery Act of 1976, as amended, if the board determines, after notice and public hearing, that such federal regulations are not sufficient to protect public health and the environment. As used in this subsection, "transformation" means incineration, pyrolysis, distillation, gasification or biological conversion other than composting.

E. The board shall adopt rules concerning the management of used oil that are equivalent to and no more stringent than federal regulations adopted by the federal environmental protection agency pursuant to the federal Resource Conservation and Recovery Act of 1976, as amended.

F. In the event the board wishes to adopt rules that are identical with regulations adopted by an agency of the federal government, the board, after notice and hearing, may adopt such rules

by reference to the federal regulations without setting forth the provisions of the federal regulations.

History: 1953 Comp., § 12-9B-4, enacted by Laws 1977, ch. 313, § 4; 1981 (1st S.S.), ch. 8, § 4; 1987, ch. 179, § 3; 1989, ch. 322, § 2; 1992, ch. 43, § 2; 1993, ch. 127, § 1; 2001, ch. 323, § 2; 2001, ch. 325, § 3; 2002, ch. 47, § 2.

74-4-4.1. Hazardous agricultural waste; duties and responsibilities of the department of agriculture. (1989)

A. The department of agriculture shall be responsible for the enforcement of all board regulations adopted pursuant to the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978] regarding generators of hazardous agricultural waste. The division shall enforce those board regulations pertaining to transporters, treaters, storers and disposers of hazardous agricultural waste.

B. In the exercise of the responsibility prescribed in Subsection A of this section, the department of agriculture shall have the same authority as that delegated to the division, including the director.

C. In the adoption of regulations pertaining to hazardous agricultural waste, the board shall make a reasonable effort to consult with the department of agriculture prior to the adoption of the regulations. The department of agriculture shall serve as the technical consultant to the board on matters concerning hazardous agricultural waste.

History: 1978 Comp., § 74-4-4.1, enacted by Laws 1981 (1st S.S.), ch. 8, § 5; 1989, ch. 322, § 3.

74-4-4.2. Permits; issuance; denial; modification; suspension; revocation. (2003)

A. An application for a permit pursuant to the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978] shall contain information required pursuant to Section 74-4-4.7 NMSA 1978 or to regulations promulgated by the board and shall include:

(1) estimates of the composition, quantity and concentration of any hazardous waste identified or listed under Subsection A of Section 74-4-4 NMSA 1978 or combinations of any hazardous waste and other solid waste proposed to be disposed of, treated, transported or stored and the time, frequency or rate at which the waste is proposed to be disposed of, treated, transported or stored; and

(2) an identification and description of, and other pertinent information about, the site where hazardous waste or the products of treatment of hazardous waste will be disposed of, treated, transported to or stored.

B. Hazardous waste permits shall require corrective action for all releases of hazardous waste or constituents from any solid waste management unit at a treatment, storage or disposal facility seeking a permit under this section.

C. The department shall provide timely review on all permit applications. Upon a determination by the secretary that the applicant has met the requirements adopted pursuant to Section 74-4-4 NMSA 1978, the secretary may issue a permit or a permit subject to any conditions necessary to protect human health and the environment for the facility.

D. The secretary may deny any permit application or modify, suspend or revoke any permit issued pursuant to the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978] if the applicant or permittee has:

(1) knowingly and willfully misrepresented a material fact in the application for a permit;

(2) refused to disclose the information required under the provisions of Section 74-4-4.7 NMSA 1978;

(3) been convicted in any court, within ten years immediately preceding the date of submission of the permit application, of:

(a) a felony or other crime involving moral turpitude; or

(b) a crime defined by state or federal statutes as involving or being in restraint of trade, price-fixing, bribery or fraud;

(4) exhibited a history of willful disregard for environmental laws of any state or the United States;

(5) had any permit revoked or permanently suspended for cause under the environmental laws of any state or the United States; or

(6) violated any provision of the Hazardous Waste Act, any regulation adopted and promulgated pursuant to that act or any condition of a permit issued under that act.

E. In making a finding under Subsection D of this section, the secretary may consider aggravating and mitigating factors.

F. If an applicant or permittee whose permit is being considered for denial or revocation, respectively, on any basis provided by Subsection D of this section has submitted an action plan that has been approved in writing by the secretary, and plan approval includes a period of operation under a conditional permit that will allow the applicant or permittee a reasonable opportunity to demonstrate its rehabilitation, the secretary may issue a conditional permit for a reasonable period of time. In approving an action plan intended to demonstrate rehabilitation, the secretary may consider:

(1) implementation by the applicant or permittee of formal policies;

(2) training programs and management control to minimize and prevent the occurrence of future violations;

(3) installation by the applicant or permittee of internal environmental auditing programs;

(4) the applicant's release or the permittee's release subsequent to serving a period of incarceration or paying a fine, or both, after conviction of any crime listed in Subsection D of this section; and

(5) any other factors the secretary deems relevant.

G. Notwithstanding the provisions of Subsection D of this section:

(1) a research, development and demonstration permit may be terminated upon the determination by the secretary that termination is necessary to protect human health or the environment; and

(2) a permit may be modified at the request of the permittee for just cause as demonstrated by the permittee.

H. No ruling shall be made on permit issuance, major modification, suspension or revocation without an opportunity for a public hearing at which all interested persons shall be given a reasonable chance to submit data, views or arguments orally or in writing and to examine witnesses testifying at the hearing; provided, however, that the secretary may, pursuant to Section 74-4-10 NMSA 1978, order the immediate termination of a research development and demonstration permit whenever the secretary determines that termination is necessary to protect human health or the environment and may order the immediate suspension or revocation of a permit for a facility that has been ordered to take corrective action or other response measures for releases of hazardous waste into the environment.

I. The secretary shall hold a public hearing on a minor permit modification if the secretary determines that there is significant public interest in the minor modification.

J. The board shall provide a schedule of fees for businesses generating hazardous waste, conducting permitted hazardous waste management activities or seeking a permit for the management of hazardous waste, to be deposited to the credit of the hazardous waste fund, including but not limited to:

(1) a hazardous waste business fee applicable to any business engaged in a regulated hazardous waste activity, which shall be an annual flat fee based on the type of activity;

(2) a hazardous waste generation fee applicable to any business generating hazardous waste, which shall be based on the quantity of hazardous waste generated annually; however, when any material listed in Paragraph (2) of Subsection K of Section 74-4-3 NMSA 1978 is determined by the board to be subject to regulation under Subtitle C of the federal Resource Conservation and Recovery Act of 1976, the board may set a generation fee under this paragraph for that waste based on its volume, toxicity, mobility and economic impact on the regulated entity;

(3) a hazardous waste permit application fee, not exceeding the estimated cost of investigating the application and issuing the permit, to be paid at the time the secretary notifies the applicant by certified mail that the application has been deemed administratively complete and a technical review is scheduled; and

(4) an annual hazardous waste permit management fee based on and not exceeding the estimated cost of conducting regulatory oversight of permitted activities.

History: 1978 Comp., § 74-4-4.2, enacted by Laws 1981 (1st S.S.), ch. 8, § 6; 1987, ch. 179, § 4; 1989, ch. 322, § 4; 1992, ch. 43, § 3; 2003, ch. 41, § 1.

74-4-4.3. Entry; availability of records. (2001)

A. For purposes of developing or assisting in the development of any rules, conducting any study, taking any corrective action or enforcing the provisions of the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978], upon request of the secretary or his authorized representative:

(1) any person who generates, stores, treats, transports, disposes of or otherwise handles or has handled hazardous wastes shall furnish information relating to such hazardous wastes and permit the secretary or his authorized representatives:

(a) to enter at reasonable times any establishment or other place maintained by any person where hazardous wastes are or have been generated, stored, treated, disposed of or transported from or where a storage tank is located; and

(b) to inspect and obtain samples from any person of any hazardous wastes and samples of any containers or labeling for the wastes; and

(2) any person who owns or operates a storage tank, or any tank subject to study under Section 9009 of the [federal] Resource Conservation and Recovery Act of 1976 that is used for storing regulated substances, shall furnish information relating to such tanks, including their associated equipment and their contents, conduct monitoring or testing, permit the secretary or his authorized representative at all reasonable times to have access to and to copy all records relating to such tanks and permit the secretary or his authorized representative to have access for corrective action. For the purposes of developing or assisting in the development of any rule, conducting any study, taking corrective action or enforcing the provisions of the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978], the secretary or his authorized representative is authorized to:

(a) enter at reasonable times any establishment or other place where a storage tank is located;

(b) inspect or obtain samples from any person of any regulated substance in such tank;

(c) conduct monitoring or testing of the tanks, associated equipment, contents or surrounding soils, air, surface water or ground water; and

(d) take corrective action.

B. Any person owning property to which access is necessary in order to investigate or clean up a facility where hazardous waste is generated, stored, treated or disposed of, or where storage tanks are located, shall:

(1) permit the secretary or his authorized representative to obtain samples of soil or ground water, or both, at reasonable times; and

(2) provide access to such property for structures or equipment necessary to monitoring or cleanup of hazardous wastes or leaking from storage tanks; provided that:

(a) such structures or equipment do not unreasonably interfere with the owner's use of the property; or

(b) the owner is adequately compensated for activities that unreasonably interfere with his use or enjoyment of such property.

C. Each inspection shall be commenced and completed with reasonable promptness. If the secretary or his representative obtains any samples, prior to leaving the premises he shall give to the owner, operator or agent in charge a receipt describing the sample obtained and, if requested, a portion of each sample equal in volume or weight to the portion retained. If any analysis is made of the samples, a copy of the results of the analysis shall be furnished promptly to the owner, operator or agent in charge.

D. Any records, reports or information obtained by the department under this section shall be available to the public, except that upon a showing satisfactory to the department that records, reports or information, or a particular part thereof, to which the secretary or his authorized representatives have access under this section, if made public, would divulge information entitled to protection under Section 1905 of Title 18 of the United States Code, such information or particular portion thereof shall be considered confidential, except that such record, report, document or information may be disclosed to officers, employees or authorized representatives of the United States concerned with carrying out the Resource Conservation and Recovery Act of 1976, or when relevant in any proceedings under the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978].

E. Any person not subject to the provisions of Section 1905 of Title 18 of the United States Code who knowingly and willfully divulges or discloses any information entitled to protection under this subsection shall, upon conviction, be subject to a fine of not more than five thousand dollars (\$5,000) or to imprisonment not to exceed one year or both.

F. In submitting data under the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978], a person required to provide such data may:

(1) designate the data the person believes is entitled to protection under this subsection; and

(2) submit such designated data separately from other data submitted under the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978]. A designation under this paragraph shall be made in writing and in such manner as the secretary may prescribe.

History: 1978 Comp., § 74-4-4.3, enacted by Laws 1981 (1st S.S.), ch. 8, § 7; 1987, ch. 179, § 5; 1989, ch. 322, § 5; 2001, ch. 325, § 4.

74-4-4.4. Storage tanks; registration; installer certification; fees. (2001)

A. By rule, the board shall require an owner of a storage tank to register the tank with the department and impose reasonable conditions for registration, including the submission of plans, specifications and other relevant information relating to the tank. For purposes of this subsection only, the term "owner" means: in the case of a storage tank in use on November 8, 1984 or brought into use after that date, any person who owns the storage tank; and in the case of a storage tank in use before November 8, 1984 but no longer in use on that date, any person who owned the tank immediately before the discontinuation of its use. The owner of a tank taken out of operation on or before January 1, 1974 shall not be required to notify under this subsection. The owner of a tank taken out of operation after January 1, 1974 and removed from the ground prior to November 8, 1984 shall not be required to notify under this subsection. Evidence of current registration pursuant to this subsection shall be available for inspection at the site of the storage tank.

B. By rule, the board shall require any person who, beginning thirty days after the United States environmental protection agency administrator prescribes the form of notice pursuant to Section 9002(a)(5) of the Resource Conservation and Recovery Act of 1976 and for eighteen months thereafter, deposits a regulated substance into a storage tank to give notice of the registration requirements of Subsection A of this section to the owner and operator of the tank.

C. By rule, the board may require tank installers to obtain certification from the department and develop procedures for certification that will ensure that storage tanks are installed and repaired in a manner that will not encourage or facilitate leaking. If the board requires certification, it is unlawful for a person to install or repair a storage tank unless he is a certified tank installer. In accordance with the Uniform Licensing Act [61-1-1 NMSA 1978], the department may suspend or revoke the certification for a tank installer upon grounds that he:

- (1) exercised fraud, misrepresentation or deception in obtaining his certification;
- (2) exhibited gross incompetence in the installation or repair of a storage tank; or
- (3) was derelict in the performance of a duty as a certified tank installer.

D. By rule, the board shall provide a schedule of fees sufficient to defray the reasonable and necessary costs of:

- (1) reviewing and acting upon applications for the registration of storage tanks;
- (2) reviewing and acting upon applications for the certification of tank installers; and
- (3) implementing and enforcing any provision of the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978] applicable to storage tanks and tank installers, including standards for the installation, operation and maintenance of storage tanks and for the certification of tank installers.

History: 1978 Comp., § 74-4-4.4, enacted by Laws 1987, ch. 179, § 6; 1989, ch. 322, § 6; 2001, ch. 325, § 5.

74-4-4.5. Hazardous waste fund created; appropriation. (1990)

A. There is created in the state treasury the "hazardous waste fund" which shall be administered by the division. All balances in the fund are appropriated to the division for the sole purpose of meeting necessary expenses in the administration and operation of the hazardous waste program.

B. All fees collected pursuant to Subsection F of Section 74-4-4.2 NMSA 1978 shall be transmitted to the state treasurer for credit to the hazardous waste fund.

History: 1978 Comp., § 74-4-4.5, enacted by Laws 1987, ch. 179, § 7; 1989, ch. 322, § 7; 1989, ch. 324, § 36; 1990, ch. 124, § 20.

74-4-4.6. Repealed. (1989)

74-4-4.7. Permit applicant disclosure. (1992)

A. Every applicant for a permit pursuant to the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978] shall file a disclosure statement with the department with the information required by, and on a form developed by, the department in cooperation with the department of public safety, at the same time the applicant files the application for a permit with the secretary.

B. Upon the request of the secretary, the department of public safety shall prepare and transmit to the secretary an investigative report on the applicant based in part upon the disclosure statement. The report shall be prepared and transmitted within ninety days after the receipt of a copy of an applicant's disclosure statement from the department. Upon good cause, the ninety days may be extended for a reasonable period of time by the secretary.

C. In preparing the investigative report, the department of public safety may request and receive criminal history information on the applicant from the federal bureau of investigation or any other law enforcement agency or organization. While the investigative report is being prepared by the department of public safety, the secretary may also request information regarding any person who will be or could reasonably be expected to be involved in management activities of the hazardous waste facility or any person who has a controlling interest in any permittee. The department of public safety shall maintain confidentiality regarding the information received from a law enforcement agency as may be imposed by that agency as a condition for providing that information to the department of public safety.

D. All persons required to file a disclosure shall provide any assistance or information requested by the department of public safety or the secretary and shall cooperate in any inquiry or investigation conducted by the department of public safety or any inquiry, investigation or hearing conducted by the secretary. Nothing in this section shall be construed to waive a person's constitutional right against self-incrimination.

E. If any of the information required to be included in the disclosure statement changes, or if any information is added after filing the statement, the person required to file it shall provide that information in writing to the secretary within thirty days after the change or addition. Failure to provide the information within thirty days may constitute the basis for the revocation of, or denial of an application for, any permit issued or applied for in accordance with Section 74-4-4.2 NMSA 1978, but only if, prior to any denial or revocation, the secretary notifies the applicant or permittee of the secretary's intention to do so and gives the applicant or permittee fourteen days from the date of the notice to explain why the information was not provided within the required thirty-day period. The secretary shall consider this information when determining whether to revoke or deny the permit.

F. No person shall be required to submit the disclosure statement required by this section if the person is:

- (1) the United States or any agency or instrumentality of the United States;
- (2) a state or any agency or political subdivision of a state; or
- (3) a corporation or an officer, director or shareholder of that corporation and that corporation:

(a) has on file and in effect with the federal securities and exchange commission a registration statement required under Section 5, Chapter 38, Title 1 of the federal Securities Act of 1933, as amended;

(b) submits to the secretary with the application for a permit evidence of the registration described in Subparagraph (a) of this paragraph and a copy of the corporation's most recent annual form 10-K or an equivalent report; and

(c) submits to the secretary on the annual anniversary of the date of the issuance of any permit it holds pursuant to the Hazardous Waste Act evidence of registration described in Subparagraph (a) of this paragraph and a copy of the corporation's most recent annual form 10-K or an equivalent report.

History: 1978 Comp., § 74-4-4.7, enacted by Laws 1992, ch. 43, § 4.

74-4-4.8. Storage tank fund created; appropriation. (2001)

A. There is created in the state treasury the "storage tank fund", which shall be administered by the department. All balances in the fund are appropriated to the department for the sole purpose of meeting necessary expenses in the administration and operation of the storage tank program.

B. All fees collected pursuant to Subsection D of Section 74-4-4.4 NMSA 1978 shall be transmitted to the state treasurer for credit to the storage tank fund.

C. Balances remaining in the storage tank fund at the end of a fiscal year shall not revert to the general fund.

History: Laws 1993, ch. 298, § 2; 2001, ch. 325, § 6.

74-4-5. Adoption of regulations; notice and hearing. (1992)

A. No regulation shall be adopted, amended or repealed until after a public hearing by the board. Hearings on regulations shall be held in Santa Fe or in an area of the state substantially affected by the regulations. In making its regulations, the board shall give the weight it deems appropriate to all relevant facts and circumstances presented at the public hearing, including but not limited to:

(1) the character and degree of injury to or interference with the environment or public health; and

(2) the technical practicability and economic reasonableness of the regulation.

B. Notice of the hearing shall be given at least thirty days prior to the hearing date and shall state the subject, the time and the place of the hearing and the manner in which interested persons may present their views. The notice shall also state where interested persons may secure copies of any proposed regulation. The notice shall be published in a newspaper of general circulation in the area affected. Reasonable effort shall be made to give notice to all persons who have made a written request to the board for advance notice of hearings.

C. At the hearing, the board shall allow all interested persons reasonable opportunity to submit data, views or arguments orally or in writing and to examine witnesses testifying at the hearing. Any person heard or represented at the hearing shall be given written notice of the action of the board.

D. The board may designate a hearing officer to take evidence in the hearing. A transcript shall be made of the entire hearing proceedings.

E. No regulation or amendment or repeal of a regulation adopted by the board shall become effective until thirty days after its filing under the State Rules Act [Chapter 14, Article 4 NMSA 1978].

History: 1953 Comp., § 12-9B-5, enacted by Laws 1977, ch. 313, § 5; 1992, ch. 43, § 5.

74-4-6. Repealed. (1981)

74-4-7. Containment and cleanup of hazardous substance incidents; division powers. (1989)

The division may:

A. take any action necessary or appropriate to protect persons from injury or other harm which might arise from hazardous substance incidents, including but not limited to providing for cleanup and disposal, coordinating the activities of other public officials and any other action the division deems necessary or appropriate;

B. notify any person who may have incurred or may incur physical injury from a hazardous substance incident that he should undergo medical examination; and

C. assess charges against persons responsible for hazardous substance incidents for costs the division incurs in cleanup of hazardous substance incidents, disposal of hazardous substances and for damage to state property. Amounts received in payment of such assessments shall be deposited in the hazardous waste emergency fund. Any person who is assessed charges pursuant to this subsection may appeal the assessment to the district court within thirty days of receipt of notice of the assessment.

History: 1953 Comp., § 12-9B-7, enacted by Laws 1977, ch. 313, § 7; 1989, ch. 322, § 9.

74-4-8. Emergency fund. (1989)

The "hazardous waste emergency fund" is created in the state treasury. This fund shall be used for cleanup of hazardous substance incidents, disposal of hazardous substances and necessary repairs to or replacement of state property and may be used for the state's share of any response action taken under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sections 9601 et seq. The administrative and technical expenses of maintaining an emergency response program within the division shall be reimbursable on a quarterly basis from this fund. Any penalties collected by the division shall be credited to this fund. Amounts in the fund shall be deposited with the state treasurer and then disbursed pursuant to vouchers signed by the director or his authorized representative upon warrants drawn by the secretary of finance and administration.

History: 1953 Comp., § 12-9B-8, enacted by Laws 1977, ch. 313, § 8; 1983, ch. 301, § 81; 1983, ch. 302, § 2; 1989, ch. 322, § 10.

74-4-9. Existing hazardous waste facilities; interim status. (1989)

Any person owning or operating a hazardous waste facility who has met the requirements for interim status under 42 U.S.C. 6925 shall be deemed to have interim status under the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978].

History: 1978 Comp., § 74-4-9, enacted by Laws 1989, ch. 322, § 11.

74-4-10. Enforcement; compliance orders; civil penalties. (2001)

A. Whenever on the basis of any information the secretary determines that any person has violated, is violating or threatens to violate any requirement of the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978], any rule adopted and promulgated pursuant to that act or any condition of a permit issued pursuant to that act, the secretary may:

(1) issue a compliance order stating with reasonable specificity the nature of the violation or threatened violation and requiring compliance immediately or within a specified time period or assessing a civil penalty for any past or current violation, or both; or

(2) commence a civil action in district court for appropriate relief, including a temporary or permanent injunction.

B. Any order issued pursuant to Subsection A of this section may include a suspension or revocation of any permit issued by the secretary. Any penalty assessed in the order shall not exceed ten thousand dollars (\$10,000) per day of noncompliance for each violation. In assessing the penalty, the secretary shall take into account the seriousness of the violation and any good-faith efforts to comply with the applicable requirements. For violations related to storage tanks, "per violation" means per tank.

C. If a violator fails to take corrective actions within the time specified in a compliance order, the secretary may:

(1) assess a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each day of continued noncompliance with the order; and

(2) suspend or revoke any permit issued to the violator pursuant to the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978].

D. Whenever on the basis of any information the secretary determines that the immediate termination of a research, development and demonstration permit is necessary to protect human health or the environment, the secretary may order an immediate termination of all research, development and demonstration operations permitted pursuant to the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978] at the facility.

E. Whenever on the basis of any information the secretary determines that there is or has been a release of hazardous waste into the environment from a facility authorized to operate under Section 74-4-9 NMSA 1978, the secretary may issue an order requiring corrective action, including corrective action beyond a facility's boundaries or other response measure as he deems necessary to protect human health or the environment or may commence an action in district court in the district in which the facility is located for appropriate relief, including a temporary or permanent injunction.

F. Any order issued under Subsection E of this section may include a suspension or revocation of authorization to operate under Section 74-4-9 NMSA 1978 and shall state with reasonable specificity the nature of the required corrective action or other response measure and shall specify a time for compliance. If any person named in an order fails to comply with the order, the secretary may assess, and the person shall be liable to the state for, a civil penalty in an amount not to exceed ten thousand dollars (\$10,000) for each day of noncompliance with the order.

G. Any order issued pursuant to this section, any other enforcement proceeding initiated pursuant to this section or any claim for personal or property injury arising from any conduct for which evidence of financial responsibility must be provided may be issued to or taken against the insurer or guarantor of an owner or operator of a treatment, storage or disposal facility or storage tank if:

(1) the owner or operator is in bankruptcy, reorganization or arrangement pursuant to the federal Bankruptcy Code; or

(2) jurisdiction in any state or federal court cannot with reasonable diligence be obtained over an owner or operator likely to be solvent at the time of judgment.

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H. Any order issued pursuant to this section shall become final unless, no later than thirty days after the order is served, the person named in the order submits a written request to the secretary for a public hearing. Upon such request, the secretary shall promptly conduct a public hearing. The secretary shall appoint an independent hearing officer to preside over the public hearing. The hearing officer shall make and preserve a complete record of the proceedings and forward his recommendation based on the record to the secretary, who shall make the final decision.

I. In connection with any proceeding under this section, the secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books and documents and may promulgate rules for discovery procedures.

J. Penalties collected pursuant to an administrative order shall be deposited in the state treasury to be credited to the hazardous waste emergency fund.

History: 1953 Comp., § 12-9B-10, enacted by Laws 1977, ch. 313, § 10; reenacted by 1981 (1st S.S.), ch. 8, § 9; 1987, ch. 179, § 8; 1989, ch. 322, § 12; 1992, ch. 43, § 7; 2001, ch. 325, § 7.

74-4-10.1. Hazardous waste monitoring, analysis and testing. (1989)

A. If the director determines, upon receipt of any information, that:

(1) the presence of any hazardous waste at a facility or site at which hazardous waste is or has been stored, treated or disposed of; or

(2) the release of any such waste from such facility or site may present a substantial hazard to human health or the environment, he may issue an order requiring the owner or operator of such facility to conduct such monitoring, testing, analysis and reporting with respect to such facility or site as the director deems reasonable to ascertain the nature and extent of such hazard.

B. In the case of any facility or site not in operation at the time a determination is made under Subsection A of this section with respect to the facility or site, if the director finds that the owner of such facility or site could not reasonably be expected to have actual knowledge of the presence of hazardous waste at such facility or site and of its potential for release, the director may issue an order requiring the most recent previous owner or operator of such facility or site who could reasonably be expected to have actual knowledge to carry out the provisions referred to in Subsection A of this section.

C. Any order under Subsection A or B of this section shall require the person to whom such order is issued to submit to the director, within thirty days from the issuance of such order, a proposal for carrying out the required monitoring, testing, analysis and reporting. The director may, after providing such person with an opportunity to confer with the director respecting such proposal, require such person to carry out such monitoring, testing, analysis and reporting in accordance with such proposal and such modifications in such proposal as the director deems reasonable to ascertain the nature and extent of the hazard.

D. (1) If the director determines that no owner or operator referred to in Subsection A or B of this section is able to conduct monitoring, testing, analysis or reporting satisfactory to the director, if the director deems any such action carried out by an owner or operator to be unsatisfactory or if the director cannot initially determine that there is an owner or operator referred to in Subsection A or B of this section who is able to conduct such monitoring, testing, analysis or reporting, the division may:

(a) conduct monitoring, testing or analysis, or any combination thereof, which he deems reasonable to ascertain the nature and extent of the hazard associated with the site concerned; or

(b) authorize a local authority or other person to carry out any such action; and

(c) in either event the director may require, by order, the owner or operator referred to in Subsection A or B of this section to reimburse the division or other authority or person for the costs of such activity. Any reimbursement to the division pursuant to this subparagraph shall be deposited to the credit of the hazardous waste fund.

(2) No order may be issued under this subsection requiring reimbursement of the costs of any action carried out by the division which confirms the results of an order issued under Subsection A or B of this section.

(3) For purposes of carrying out this subsection, the director or any authority or other person authorized under Paragraph (1) of this subsection may exercise the authorities set forth in Section 74-4-4.3 NMSA 1978.

E. The director may commence a civil action against any person who fails or refuses to comply with an order issued under this section. Such action shall be brought in the district court of the county in which the defendant is located, resides or is doing business. Such court shall have jurisdiction to require compliance with such order and to assess a civil penalty not to exceed five thousand dollars (\$5,000) for each day during which such failure or refusal occurs.

History: 1978 Comp., § 74-4-10.1, enacted by Laws 1989, ch. 322, § 13.

74-4-11. Penalty; criminal. (2001)

A. No person:

(1) shall knowingly transport or cause to be transported any hazardous waste identified or listed pursuant to the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978] to a facility that does not have a permit under that act or the federal Resource Conservation and Recovery Act;

(2) shall knowingly treat, store or dispose of any hazardous waste identified or listed pursuant to the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978]:

(a) without having obtained a hazardous waste permit pursuant to that act or the federal Resource Conservation and Recovery Act;

(b) in knowing violation of any material condition or requirement of a hazardous waste permit; or

(c) in knowing violation of any material condition or requirement of any applicable interim status rules or standards;

(3) shall knowingly omit material information or make any false statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained or used for purposes of compliance with the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978];

(4) who knowingly generates, stores, treats, transports, disposes of, exports or otherwise handles any hazardous waste shall knowingly destroy, alter, conceal or fail to file any record, application, manifest, report or other document required to be maintained or filed for purposes of compliance with rules adopted and promulgated pursuant to the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978];

(5) shall knowingly transport without a manifest or cause to be transported without a manifest any hazardous waste required by rules adopted and promulgated pursuant to the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978] to be accompanied by a manifest; or

(6) shall knowingly export hazardous waste identified or listed pursuant to the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978]:

(a) without the consent of the receiving country; or

(b) where there exists an international agreement between the United States and the government of the receiving country establishing notice, export and enforcement procedures for the transportation, treatment, storage and disposal of hazardous wastes, in a manner that is not in conformance with such agreement.

B. Any person who violates any of the provisions of Paragraphs (1) through (6) of Subsection A of this section is guilty of a fourth degree felony and upon conviction shall be punished by a fine of not more than ten thousand dollars (\$10,000) per violation per day or by imprisonment for a definite term of not more than eighteen months or both. For a second or subsequent violation of the provisions of Paragraphs (1) through (6) of Subsection A of this section, the person is guilty of a third degree felony and shall be punished by a fine of not more than twenty-five thousand dollars (\$25,000) per violation per day or by imprisonment for not more than three years or both.

C. Any person who knowingly violates any rule adopted and promulgated pursuant to Subsection C of Section 74-4-4 or 74-4-4.4 NMSA 1978 is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five thousand dollars (\$5,000) per violation per day or by imprisonment for a definite term of one year or both. For violations related to storage tanks, "per violation" means per tank.

D. Any person who knowingly transports, treats, stores, disposes of or exports any hazardous waste in violation of Subsection A of this section and who knows at the time of the violation that he creates a substantial danger of a substantial adverse environmental impact is guilty of a third degree felony if the violation causes a substantial adverse environmental impact.

E. As used in this section, a "substantial adverse environmental impact" exists when an act or omission of a person causes harm or damage:

(1) to human beings; or

(2) to flora, wildlife, fish or other aquatic life or water fowl; to the habitats of wildlife, fish, other aquatic life, water fowl or livestock; to agricultural crops; to any ground water or surface water; or to the lands or waters of this state where such harm or damage amounts to more than ten thousand dollars (\$10,000).

F. Any person who knowingly transports, treats, stores, disposes of or exports any hazardous waste in violation of Subsection A of this section and who knows at the time of the violation that he creates a substantial danger of death or serious bodily injury to another person is guilty of a second degree felony and shall be sentenced to a term of imprisonment not to exceed nine years or a fine not to exceed one hundred thousand dollars (\$100,000), or both. Any person, other than an individual, that knowingly transports, treats, stores, disposes of or exports any hazardous waste in violation of Subsection A of this section and knows at that time that it places an individual in imminent danger of death or serious bodily injury is guilty of a second degree felony and shall be fined in an amount not to exceed two hundred fifty thousand dollars (\$250,000).

History: 1953 Comp., § 12-9B-11, enacted by Laws 1977, ch. 313, § 11; 1981 (1st S.S.), ch. 8, § 10; 1987, ch. 179, § 9; 1989, ch. 322, § 14; 1992, ch. 43, § 8; 2001, ch. 325, § 8.

74-4-12. Penalty; civil. (2001)

Any person who violates any provision of the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978], any rule made pursuant to that act or any compliance order issued by the director pursuant to Section 74-4-10 NMSA 1978 may be assessed a civil penalty not to exceed ten

thousand dollars (\$10,000) for each day during any portion of which a violation occurs. For violations related to storage tanks, "per violation" means per tank.

History: 1953 Comp., § 12-9B-12, enacted by Laws 1977, ch. 313, § 12; 1981 (1st S.S.), ch. 8, § 11; 1987, ch. 179, § 10; 1989, ch. 322, § 15; 2001, ch. 325, § 9.

74-4-13. Imminent hazards; authority of director; penalties. (2001)

A. Notwithstanding any other provision of the Hazardous Waste Act [Chapter 74, Article 4 NMSA 1978], whenever the secretary is in receipt of evidence that the past or current handling, storage, treatment, transportation or disposal of solid waste or hazardous waste or the condition or maintenance of a storage tank may present an imminent and substantial endangerment to health or the environment, he may bring suit in the appropriate district court to immediately restrain any person, including any past or present generator, past or present transporter or past or present owner or operator of a treatment, storage or disposal facility, who has contributed or is contributing to such activity, to take such other action as may be necessary or both. A transporter shall not be deemed to have contributed or to be contributing to such handling, storage, treatment or disposal taking place after such solid waste or hazardous waste has left the possession or control of such transporter if the transportation of such waste was under a sole contractual arrangement arising from a published tariff and acceptance for carriage by common carrier by rail and such transporter has exercised due care in the past or present handling, storage, treatment, transportation and disposal of such waste. The secretary may also take other action, including but not limited to issuing such orders as may be necessary to protect health and the environment.

B. Any person who willfully violates or fails or refuses to comply with any order of the secretary under Subsection A of this section may in an action brought in the appropriate district court to enforce such order be fined not more than five thousand dollars (\$5,000) for each day in which the violation occurs or the failure to comply continues.

C. Upon receipt of information that there is hazardous waste at any site which has presented an imminent and substantial endangerment to human health or the environment, the secretary shall provide immediate notice to the appropriate local government agencies. In addition, the director shall require notice of such endangerment to be promptly posted at the site where the waste is located.

History: Laws 1983, ch. 302, § 3; 1987, ch. 179, § 11; 1989, ch. 322, § 16; 2001, ch. 325, § 10.

74-4-14. Administrative actions; judicial review. (1992)

A. Any person who is or may be affected by any final administrative action of the board or the secretary may appeal to the court of appeals for further relief within thirty days after the action. All appeals shall be upon the record before the board or the secretary.

B. For appeals of regulations, the date of the action shall be the date of filing of the regulation under the State Rules Act [Chapter 14, Article 4 NMSA 1978].

C. Upon appeal, the court of appeals shall set aside the action only if it is found to be:

- (1) arbitrary, capricious or an abuse of discretion;
- (2) not supported by substantial evidence in the record; or
- (3) otherwise not in accordance with law.

D. A stay of enforcement of the action being appealed may be granted after hearing and upon good cause shown:

- (1) by the board or the secretary, whichever took the action being appealed; or
- (2) by the court of appeals if the board or the secretary denies a stay or fails to act upon an application for a stay within sixty days after receipt.

History: 1978 Comp., § 74-4-14, enacted by Laws 1992, ch. 43, § 6.

ATTACHMENT B

**New Mexico Hazardous Waste Management Regulations
20.4.1 NMAC**

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 4 HAZARDOUS WASTE
PART 1 HAZARDOUS WASTE MANAGEMENT

20.4.1.1 ISSUING AGENCY: Environmental Improvement Board.
[20.4.1.1 NMAC - Rp 20 NMAC 4.1.1, 6/14/2000]

20.4.1.2 SCOPE: All persons that generate, store, transport, or dispose of hazardous waste.
[20.4.1.2 NMAC - Rp 20 NMAC 4.1.2, 6/14/2000]

20.4.1.3 STATUTORY AUTHORITY: NMSA 1978, Sections 74-1-8 and 74-4-4 (as amended).
[20.4.1.3 NMAC - Rp 20 NMAC 4.1.3, 6/14/2000]

20.4.1.4 DURATION: Permanent
[20.4.1.4 NMAC - Rp 20 NMAC 4.1.4, 6/14/2000]

20.4.1.5 EFFECTIVE DATE: June 14, 2000 unless a later date is cited in the history note at the end of a section.
[20.4.1.5 NMAC - Rp 20 NMAC 4.1.5, 6/14/2000; A, 10/01/2003]

20.4.1.6 OBJECTIVE: The objective of Part 1 of Chapter 4 is to establish regulations for the management of hazardous waste, including standards for the identification and listing of hazardous waste, for generators and transporters of hazardous waste, for owners and operators of hazardous waste treatment, storage, and disposal facilities, for specific wastes and such facilities, for land disposal restrictions, and for issuing, suspending, revoking, or modifying permits.
[20.4.1.6 NMAC - Rp 20 NMAC 4.1.6, 6/14/2000]

20.4.1.7 DEFINITIONS [Reserved]
[20.4.1.7 NMAC - Rp 20 NMAC 4.1.7, 6/14/2000]

20.4.1.8– 20.4.1.99 [Reserved]
[20.4.1.8 – 20.4.1.99 NMAC - Rp 20 NMAC 4.1.7 - 4.1.100, 6/ 14/2000]

20.4.1.100 ADOPTION OF 40 CFR PART 260. Except as otherwise provided, the regulations of the United States Environmental Protection Agency ("EPA") set forth in 40 CFR Part 260 through July 1, 2002 are hereby incorporated by reference.
[20.4.1.100 NMAC - Rp 20 NMAC 4.1.101, 6/14/2000; A, 10/01/2003]

20.4.1.101 MODIFICATIONS AND EXCEPTIONS. Except as otherwise provided, the following modifications and exceptions are made to the incorporated federal regulations:

A. The following terms defined in 40 CFR Sections 260.10 and 270.2 have the meanings set forth herein, in lieu of the meanings set forth in 40 CFR Sections 260.10 and 270.2:

(1) "Administrator" or "Regional Administrator" means the Secretary of the New Mexico Environment Department or his/her designee;

(2) "Act" or "RCRA" (Resource Conservation and Recovery Act, as amended) means the New Mexico Hazardous Waste Act, NMSA 1978, Sections 74-4-1 through 74-4-14 (as amended).

B. The following terms not defined in 40 CFR Sections 260.10 and 270.2 have the meanings set forth herein when the terms are used in this Part:

(1) "Appropriate act or regulation" means the New Mexico Hazardous Waste Act or 20.4.1 NMAC;

(2) "Board" means the Environmental Improvement Board;

(3) "CFR" means the Code of Federal Regulations;

(4) "Department" means the New Mexico Environment Department;

(5) "Environmental Protection Agency" or "EPA" shall be construed to mean the New Mexico Environment Department except when used in the phrases "EPA hazardous waste number," EPA identification

number," "EPA Region," "EPA Acknowledgment of Consent," "EPA Test Methods," and in the definitions set forth in 40 CFR Sections 260.10 and 270.2;

(6) "Freedom of Information Act" or "FOIA" means NMSA 1978, Sections 14-2-1 through 14-2-12, 14-3A-1 through 14-3A-2, and 74-4-4.3D (as amended);

(7) "Hazardous substance incident" means any emergency incident involving a chemical or chemicals, including but not limited to transportation wrecks, accidental spills or leaks, fires or explosions, which incident creates the reasonable probability of injury to human health or property;

(8) "Secretary" means the Secretary of the New Mexico Environment Department or his/her designee; and

(9) "Subtitle C of RCRA" means the New Mexico Hazardous Waste Act, NMSA 1978, Sections 74-4-1 through 74-4-14 (as amended).

C. The following provisions of 40 CFR Part 260 are omitted from Section 20.4.1.100 NMAC:

(1) Section 260.1(b)(6);

(2) Section 260.20;

(3) Section 260.22;

(4) Section 260.30;

(5) Section 260.31;

(6) Section 260.32; and

(7) Section 260.33.

D. Wherever there is any requirement in any of the federal regulations incorporated into this Part to report an emergency situation, the requirement shall be construed to mean that the party required to report shall report the incident to the Department via the New Mexico 24-hour emergency response number at (505) 827-9329 or such other number designated by the Department.

[20.4.1.101 NMAC - Rp 20 NMAC 4.1.102, 6/14/2000; A, 10/01/2003]

20.4.1.102 – 20.4.1.199 [Reserved]

[20.4.1.102 - 20.4.1.199 NMAC - Rp 20 NMAC 4.1.103 - 4.1.199, 6/14/2000]

20.4.1.200 ADOPTION OF 40 CFR PART 261. Except as otherwise provided, the regulations of the EPA set forth in 40 CFR Part 261 through July 1, 2002 are hereby incorporated by reference.

[20.4.1.200 NMAC - Rp 20 NMAC 4.1.200, 6/14/2000; A, 10/01/2003]

20.4.1.201 - 20.4.1.299 [Reserved]

[20.4.1.201 - 20.4.1.299 NMAC - Rp 20 NMAC 4.1.201 - 4.1.299, 6/14/2000]

20.4.1.300 ADOPTION OF 40 CFR PART 262. Except as otherwise provided, the regulations of the EPA set forth in 40 CFR Part 262 through July 1, 2002 are hereby incorporated by reference. The substitution of the following terms in Subparts E, F and H of 40 CFR Part 262 does not apply to Section 20.4.1.300 NMAC:

“Administrator” and “Regional Administrator” for the term “Secretary” and “EPA” or “Environmental Protection Agency” for the term “Department.”

[20.4.1.300 NMAC - Rp 20 NMAC 4.1.300, 6/14/2000; A, 10/01/2003]

20.4.1.301 - 20.4.1.399 [Reserved]

[20.4.1.301 - 20.4.1.399 NMAC - Rp 20 NMAC 4.1.301 - 4.1.399, 6/14/2000]

20.4.1.400 ADOPTION OF 40 CFR PART 263. Except as otherwise provided, the regulations of the EPA set forth in 40 CFR Part 263 through July 1, 2002 are hereby incorporated by reference.

[20.4.1.400 NMAC - Rp 20 NMAC 4.1.400, 6/14/2000; A, 10/01/2003]

20.4.1.401 OMISSIONS. The following provision of 40 CFR Part 263 is omitted from Section 20.4.1.400 NMAC: Section 263.20(e).

[20.4.1.401 NMAC - Rp 20 NMAC 4.1.401, 6/14/2000; A, 10/01/2003]

20.4.1.402 - 20.4.1.499 [Reserved]

[20.4.1.402 – 20.4.1.499 NMAC – Rp 20 NMAC 4.1.402 – 4.1.499, 6/14/2000]

20.4.1.500 ADOPTION OF 40 CFR PART 264. Except as otherwise provided, the regulations of the EPA set forth in 40 CFR Part 264 through July 1, 2002 are hereby incorporated by reference. The substitution of "Secretary" for the term "Regional Administrator" in Section 20.4.1.101 NMAC does not apply to the required notice set forth in 40 CFR Section 264.12(a), as adopted in this section. The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source must provide a copy of the notice required in 40 CFR Section 264.12(a) to the Secretary at the time that notice is provided to the Regional Administrator. The substitution of "Department" for the term "EPA" does not apply to the second occurrence of the term "EPA" in 40 CFR Section 264.1082(c)(4)(ii).

[20.4.1.500 NMAC - Rp 20 NMAC 4.1.500, 6/14/2000; A, 10/01/2003]

20.4.1.501 OMISSIONS. The following provisions of 40 CFR Part 264 are omitted from Section 20.4.1.500 NMAC:

- A. Section 264.1(f);
- B. Section 264.149;
- C. Section 264.150;
- D. Section 264.301(1);
- E. Section 264.1030(d);
- F. Section 264.1050(g); and
- G. Sections 264.1080(e), 264.1080(f), 264.1080(g).

[20.4.1.501 NMAC - Rp 20 NMAC 4.1.501, 6/14/2000; A, 10/01/2003]

20.4.1.502 - 20.4.1.599 [Reserved]

[20.4.1.502 - 20.4.1.599 NMAC - Rp 20 NMAC 4.1.502 - 4.1.599, 6/14/2000]

20.4.1.600 ADOPTION OF 40 CFR PART 265. Except as otherwise provided, the regulations of the EPA set forth in 40 CFR Part 265 through July 1, 2002 are hereby incorporated by reference. The substitution of "Secretary" for the term "Regional Administrator" in Section 20.4.1.101 NMAC does not apply to the required notice set forth in 40 CFR Section 265.12(a), as adopted in this section. The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source must provide a copy of the notice required in 40 CFR Section 264.12(a) to the Secretary at the time that notice is provided to the Regional Administrator. The substitution of "Department" for the term "EPA" does not apply to the second occurrence of the term "EPA" in 40 CFR Section 265.1083(c)(4)(ii).

[20.4.1.600 NMAC - Rp 20 NMAC 4.1.600, 6/14/2000; A, 10/01/2003]

20.4.1.601 OMISSIONS. The following provisions of 40 CFR Part 265 are omitted from Section 20.4.1.600 NMAC:

- A. Section 265.1(c)(4);
- B. Section 265.149;
- C. Section 265.150;
- D. Section 265.1030(c);
- E. Section 265.1050(f); and
- F. Sections 265.1080(e), 265.1080(f), 265.1080(g).

[20.4.1.601 NMAC - Rp 20 NMAC 4.1.601, 6/14/2000; A, 10/01/2003]

20.4.1.602 - 20.4.1.699 [Reserved]

[20.4.1.602 - 20.4.1.699 NMAC - Rp 20 NMAC 4.1.602 - 4.1.699, 6/14/2000]

20.4.1.700 ADOPTION OF 40 CFR PART 266. Except as otherwise provided, the regulations of the EPA set forth in 40 CFR Part 266 through July 1, 2002 are hereby incorporated by reference.

[20.4.1.700 NMAC - Rp 20 NMAC 4.1.700, 6/14/2000; A, 10/01/2003]

20.4.1.701 - 20.4.1.799 [Reserved]

[20.4.1.701 - 20.4.1.799 NMAC - Rp 20 NMAC 4.1.701 - 4.1.799, 6/14/2000]

20.4.1.800 ADOPTION OF 40 CFR PART 268. Except as otherwise provided, the regulations of the EPA set forth in 40 CFR Part 268 through July 1, 2002 are hereby incorporated by reference. The substitution of "Department" for the term "EPA" in Section 20.4.1.101 NMAC does not apply to 40 CFR Section 268.1(e)(3), as adopted in this section.

[20.4.1.800 NMAC - Rp 20 NMAC 4.1.800, 6/14/2000; A, 10/01/2003]

20.4.1.801 OMISSIONS. The following provisions of 40 CFR Part 268 are omitted from Section 20.4.1.800 NMAC:

- A. Section 268.5;
- B. Section 268.6;
- C. Section 268.42(b); and
- D. Section 268.44(a) through 264.44(g).

[20.4.1.801 NMAC - Rp20 NMAC 4.1.801, 6/14/2000; A, 10/01/2003]

20.4.1.802 – 20.4.1.899 [Reserved]

[20.4.1.802 – 20.4.1.899 NMAC – Rp 20 NMAC 4.1.801 – 4.1.899, 6/14/2000]

20.4.1.900 ADOPTION OF 40 CFR PART 270. Except as otherwise provided, the regulations of the EPA set forth in 40 CFR Part 270 through July 1, 2002 are hereby incorporated by reference. The substitution of the terms "EPA," "Regional Administrator" and "Administrator" in Section 20.4.1.101 NMAC does not apply to 40 CFR Sections 270.5, 270.10(f)(2)&(3), 270.10 (g)(1)(i), 270.11 (a) (3), 270.32(c), 270.72(a)(5), and 270.72(b)(5), as adopted in this section.

[20.4.1.900 NMAC - Rp 20 NMAC 4.1.900, 6/14/2000; A, 10/01/2003]

20.4.1.901 PERMITTING PROCEDURES

A. Permit Issuance or Denial.

(1) Once an application is determined to be administratively and technically complete, the Secretary shall prepare and issue either a Draft Permit or a Notice of Intent to Deny.

(a) A Draft Permit shall contain all conditions, compliance schedules, monitoring requirements and technical standards for treatment, storage, and/or disposal provided for in 40 CFR Part 270.

(b) A Notice of Intent to Deny shall state the Secretary's reasons for the intended denial.

(2) Any Draft Permit or Notice of Intent to Deny prepared by the Department under Paragraph (1) of this subsection shall be accompanied by a fact sheet and shall be based on the administrative file. Copies of the fact sheet shall be sent to the applicant; to any state or federal agency, as applicable; and, upon request, to any other person.

(3) The Secretary shall give public notice that a Draft Permit or a Notice of Intent to Deny has been prepared, and shall allow forty-five (45) days for review and public comment, including requests for public hearing.

(4) If the Secretary issues a Draft Permit, and a timely written notice of opposition to the Draft Permit and a request for a public hearing is received, the Department, acting in conjunction with the applicant, will respond to the request in an attempt to resolve the issues giving rise to the opposition. If such issues are resolved to the satisfaction of the opponent, the opponent may withdraw the request for a public hearing.

(5) No ruling shall be made on permit issuance or denial without an opportunity for a public hearing, at which all interested persons shall be given a reasonable chance to submit significant data, views or arguments orally or in writing and to examine witnesses testifying at the public hearing. A public hearing shall be scheduled if:

(a) the Secretary issues a Notice of Intent to Deny, and a timely request for public hearing is received from the applicant;

(b) the Secretary issues a Draft Permit, a timely request for public hearing is received from any person opposed to the granting of a permit, and such person does not subsequently withdraw the request pursuant to Paragraph (4) of this subsection; or

(c) the Secretary determines, no later than five (5) days following the end of the comment period specified in Paragraph (4) of this subsection, that a public hearing should be held notwithstanding the absence of a timely request for public hearing.

(6) The comment period specified in Paragraph (3) of this subsection shall automatically be extended to the close of any public hearing.

(7) The Secretary shall give due consideration and the weight he/she deems appropriate to all comments received during a public comment period and to all relevant facts and circumstances presented at a public hearing.

(8) When ruling on permit issuance or denial, the Secretary may disapprove in whole or in part, or make reasonable conditions to any permit, if it appears that the permit applied for will not meet the requirements of these regulations.

(9) At the time that any final permit decision is issued, the Secretary shall issue a response to comments. This response shall:

(a) specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change;

(b) briefly describe and respond to all comments on the draft permit or the permit application raised during the public comment period, or during any hearing, and

(c) be available to the public.

(10) A final permit decision shall become effective thirty (30) days after notice of the decision has been served on the applicant, or such later time as the Secretary may specify. This provision shall not be construed to extend the time for appeal of a permit decision as provided by the Hazardous Waste Act.

(11) The approval of a permit does not relieve any person from the responsibility of complying with applicable state or federal laws and regulations.

(12) The Secretary shall notify the applicant by certified mail of any impending permit action and of any scheduled public hearing date.

B. Permit Modifications, Suspension and Revocation.

(1) The Secretary may modify, suspend, or revoke a permit issued pursuant to Subsection A of this section for cause set forth in 40 CFR Part 270 and the Act.

(2) The Secretary may modify, suspend, revoke any permit upon his/her initiative, or if, after the Department's investigation of the facts and circumstances, pursuant to the request of any interested person, such permit action is deemed warranted.

(3) Requests for permit modification, suspension, revocation shall be in writing and shall contain facts or reasons supporting the request.

(4) If the Secretary decides that the request is not justified, the permittee will be notified in writing explaining the reason for denial. Denial of request of modification, revocation, and reissuance, or termination are not subject to public notice, comment, or hearings.

(5) If the Secretary decides to modify or revoke and reissue a permit under 40 CFR section 270.41 or 40 CFR section 270.42(c), a draft permit shall be prepared incorporating the proposed changes. The Secretary may request additional information and, in the case of a modified permit, may require the submission of an updated application. In the case of a revoked and reissued permit the Secretary shall require the submission of a new application.

(6) In a permit modification under this section, only those conditions to be modified shall be reopened. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this section, the entire permit is reopened just as if the permit had expired and were being reissued. During any revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

(7) If the Secretary decides to terminate a permit under 40 CFR section 270.43, a notice of intent to terminate shall be issued. The Secretary shall follow the applicable procedures as required for a Draft Permit under Section 20.4.1.901 NMAC.

C. Public Notices.

(1) Pre-application public meeting and notice. Except as otherwise provided, the regulation of the EPA set forth in 40 CFR Section 124.31 through July 1, 2002 is hereby incorporated by reference.

(2) Public notice requirements at the application stage. Except as otherwise provided, the regulation of the EPA set forth in 40 CFR section 124.32 through July 1, 2002 is hereby incorporated by reference.

(3) Public notice of issuance of a Draft Permit or a Notice of Intent to Deny, and of any public hearing scheduled, shall be given by publication of a notice in a newspaper of general circulation in the area affected, broadcasts over local radio stations and by mailing a copy of the notice to the permit applicant, those individuals on the Department mailing list of persons interested in hazardous waste permit actions, and to any unit of local, state and federal government as may be applicable.

(4) All public notices issued shall contain the following minimum information:

- (a) The subject, the time and place of any scheduled hearing and the manner in which interested persons may present their views;
- (b) A brief description of the procedures by which requests for hearings may be made, unless already scheduled;
- (c) The name and address of the office processing the permit action for which notice is being given;
- (d) The name and address of the permittee or permit applicant, and, if different, of the facility or activity regulated by the permit;
- (e) A brief description of the business conducted at the facility or activity described in the permit application or the draft permit;
- (f) The name, address and telephone number of a person from whom interested persons may obtain further information;
- (g) In addition, public notice of a scheduled public hearing shall also contain references to the dates of previous public notices relating to the permit;
- (h) The notice shall state where interested persons may secure copies of any proposed Draft Permit or Notice of Intent to Deny.

D. Fact Sheet.

(1) A fact sheet shall be prepared for every Draft Permit for a hazardous waste management facility or activity. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the Draft Permit.

(2) The fact sheet shall include, when applicable:

- (a) A brief description of the type of facility or activity which is the subject of the Draft Permit;
- (b) The type and quantity of wastes which are proposed to be or are being treated, stored, disposed, injected, emitted, or discharged.
- (c) A brief summary of the basis for the Draft Permit conditions including references to applicable statutory or regulatory provisions.
- (d) Reasons why any request for variance or alternative to require standards do or do not appear justified.
- (e) A description of the procedures for reaching a final decision on the Draft Permit including:
 - (i) The beginning and ending dates of the comment period and the address where comments will be received;
 - (ii) Procedures for requesting a hearing and the nature of that hearing; and
 - (iii) Any other procedures by which the public may participate in the final decision.
 - (iv) Name and telephone number of a person to contact for additional information.

(3) The fact sheet shall be available at the time the public notice is published.

E. Information repository. Except as otherwise provided, the regulation of the EPA set forth in 40 CFR section 124.33 through July 1, 2002 is hereby incorporated by reference.

F. Hearings.

- (1) Public notice of any public hearing shall be given at least thirty (30) days prior to the scheduled date of the hearing and shall state the subject.
- (2) Hearings shall be held in Santa Fe or within any area of the state substantially affected by the proceedings as specified by the Secretary.
- (3) The Secretary may designate a hearing officer to take evidence at the hearing.
- (4) All hearings shall be recorded by a certified court reporter. A transcript will be furnished to all persons for review at the Department's main office. Costs of a copy of a transcript will be borne by those requesting such copies.
- (5) In hearings, the rules of civil procedure and the technical rules of evidence shall not apply, but the hearings shall be conducted so that all relevant views, arguments, and testimony are amply and fairly received without undue repetition.
 - (a) Testimony for hearings on permit issuance or modification shall be presented in the following order:
 - (i) testimony by the applicant (such testimony is a prerequisite to the granting of the requested permit or modification);

- (ii) testimony by other persons (except the Department) supporting issuance or modification of the permit, in any reasonable order;
 - (iii) testimony by persons (except the Department) opposed to issuance or modification of the permit, in any reasonable order;
 - (iv) testimony by the Department; and
 - (v) rebuttal testimony, as appropriate.
- (b) Testimony for hearings on permit suspension or revocation shall be as follows:
- (i) testimony by the Department;
 - (ii) testimony by other persons supporting suspension or revocation of the permit, in any reasonable order;
 - (iii) testimony by the permittee;
 - (iv) testimony by other persons opposed to suspension or revocation of the permit, in any reasonable order; and
 - (v) rebuttal testimony, as appropriate.
- (c) In all hearings, cross examination of each witness shall be conducted by interested persons, in any reasonable order, immediately after that witness has testified.
- (7) The burden of proof at hearings shall be as follows:
- (a) For hearings on permit issuance or modifications, the burden of proof shall be on the applicant or permittee.
 - (b) For hearings on permit suspension or revocation, the burden of proof shall be on the Department.

G. Secretary's Decision.

- (1) Any person heard or represented at the hearing shall be given written notice of the action of the Secretary.
- (2) The Secretary shall notify the applicant or permittee of his/her decision and the reasons therefore by certified mail.

H. Appeals. Appeals of the Secretary's decision shall be as provided by the Hazardous Waste Act.

- (1) The filing of an appeal does not act as a stay of any action required by the Secretary's decision.
- (2) The record on appeal shall include the transcript of the hearing, all related correspondence, any responses to comments, and all other information relied upon by the Secretary in deciding upon the permit action. [20.4.1.901 NMAC – Rp 20 NMAC 4.1.901, 6/14/2000; A, 10/01/2003]

20.4.1.902 – 20.4.1.999 [Reserved]
[20.4.1.902 -20.4.1.999 - Rp 20 NMAC 4.1.902 - 4.1.999, 6/14/2000]

20.4.1.1000 ADOPTION OF 40 CFR PART 273. Except as otherwise provided, the regulations of the EPA set forth in 40 CFR Part 273 through July 1, 2002 are hereby incorporated by reference.
[20.4.1.1000 NMAC - Rp 20 NMAC 4.1.1000, 6/14/2000; A, 10/01/2003]

20.4.1.1001 MODIFICATIONS AND EXCEPTIONS. The term "Regional Administrator" and "EPA" as used in 40 CFR sections 273.12 and 273.32 shall mean, as applicable to generators of universal waste pesticides under this Part, notification to the Secretary of the New Mexico Department of Agriculture.
[20.4.1.1001 NMAC - Rp 20 NMAC 4.1.1001, 6/14/2000]

20.4.1.1002 ADOPTION OF 40 CFR PART 279. Except as otherwise provided, the regulations of the United States Environmental Protection Agency set forth in 40 CFR Part 279 through July 1, 2002 are hereby incorporated by reference.
[20.4.1.1002 NMAC – N, 10/01/2003]

20.4.1.1003 - 20.4.1.1099 [Reserved]
[20.4.1.1002 - 20.4.1.1099 - Rp 20 NMAC 4.1.1002 - 4.1.1100, 6/14/2000; A, 10/01/2003]

20.4.1.1100 COMPLIANCE WITH OTHER REGULATIONS. Compliance with this Part does not relieve a person of the obligation to comply with all other applicable state and federal regulations. If the EPA should suspend any federal hazardous waste regulation having a direct counterpart to these regulations, the counterpart in

these regulations shall be deemed suspended without any further action being taken.
[20.4.1.1100 NMAC - Rp 20 NMAC 4.1.1001, 6/14/2000]

20.4.1.1101 CONSTRUCTION. This Part shall be liberally construed to effectuate the purpose of the Act.
[20.4.1.1101 NMAC - Rp 20 NMAC 4.1.1102, 6/14/2000]

20.4.1.1102 REFERENCE TO 40 CFR PART 124. Reference to any provisions of 40 CFR Part 124 within the text of any other provision of 40 CFR as adopted by this Part shall be construed to mean the corresponding provision of section 901 of this Part with the exception of any reference to 40 CFR sections 124.31 through 124.33 and any reference to any section of 40 CFR Part 124 that is contained within 40 CFR sections 124.31 through 124.33.
[20.4.1.1102 NMAC - Rp 20 NMAC 4.1.1103, 6/14/2000]

20.4.1.1103 REFERENCE TO 40 CFR PART 280. Reference to any provisions of 40 CFR Part 280 within the text of any other provision of 40 CFR as adopted by this Part shall be construed to mean the New Mexico Underground Storage Tank Regulations, 20.5.1 through 20.5.17 NMAC.
[20.4.1.1103 NMAC - Rp 20 NMAC 4.1.1104, 6/14/2000; A, 10/01/2003]

20.4.1.1104 SEVERABILITY. If any provision or application of this Part is held invalid, the remainder, or its application to other situations or persons, shall not be affected.
[20.4.1.1104 NMAC - Rp 20 NMAC 4.1.1105, 6/14/2000]

20.4.1.1105 EFFECT OF STAY OR INVALIDATION OF INCORPORATED FEDERAL REGULATION. If any federal regulation incorporated by reference in this Part is stayed, invalidated, or otherwise rendered unenforceable by EPA, in whole or in part, by action of a federal court or by the EPA, such incorporated federal regulation shall be enforceable by the Department only to the extent it is enforceable by EPA.
[20.4.1.1105 NMAC - Rp 20 NMAC 4.1.1106, 6/14/2000]

20.4.1.1106 SAVING CLAUSE. Amendment and supersession of EIB/HWMR7 and this Part shall not affect any administrative or judicial enforcement action pending on the effective date of such amendment nor the validity of any permit issued pursuant to EIB/HWMR-7 or this Part.
[20.4.1.1106 NMAC - Rp 20 NMAC 4.1.1108, 6/14/2000]

20.4.1.1107 AVAILABILITY OF MATERIALS INCORPORATED BY REFERENCE. Materials incorporated by reference into this Part may be reviewed at the New Mexico Hazardous Waste Bureau, 2905 Rodeo Park Drive East, Bldg. 1, Santa Fe, New Mexico 87505.
[20.4.1.1107 NMAC - Rp 20 NMAC 4.1.1109, 6/14/2000; A, 10/01/2003]

HISTORY OF 20.4.1 NMAC:

Pre-NMAC History:

EIB 78-3 Hazardous Waste Regulations, filed 10/5/78;
EIB/HWMR 1 Hazardous Waste Management Regulations, filed 12/6/82;
EIB/HWMR 2 Hazardous Waste Management Regulations, filed 1/5/84;
EIB/HWMR 3 Hazardous Waste Management Regulations, filed 7/23/86;
EIB/HWMR 4 Hazardous Waste Management Regulations, filed 12/16/87;
EIB/HWMR 5 Hazardous Waste Management Regulations, filed 9/30/88;
EIB/HWMR 6 Hazardous Waste Management Regulations, filed 2/11/91;
EIB/HWMR 7 Hazardous Waste Management Regulations, filed 10/21/92.

History of Repealed Material:

20 NMAC 4.1 Hazardous Waste Management (filed 9/27/95) - Repealed 6/14/2000.

Other History:

EIB/HWMR 7, Hazardous Waste Management Regulations (filed 10/21/92) replaced by 20 NMAC 4.1 Hazardous Waste Management, effective 9/23/94;

20 NMAC 4.1, Hazardous Waste Management (filed 8/24/94) replaced by 20 NMAC 4.1, Hazardous Waste Management, effective 11/1/95.

20 NMAC 4.1, Hazardous Waste Management (filed 9/27/95) replaced by 20.4.1 NMAC, 20 NMAC 4.1, Hazardous Waste Management, effective 6/14/2000.

ATTACHMENT C

General Correspondence Between State Regulations and Federal Regulations

State Regulations New Mexico Administrative Code (NMAC)	EPA Regulations Code of Federal Regulations (CFR)	Description
20.4.1.100	Part 260	Hazardous Waste Management System: General
20.4.1.200	Part 261	Identification and Listing of Hazardous Waste
20.4.1.300	Part 262	Standards Applicable to Generators of Hazardous Waste
20.4.1.400	Part 263	Standards Applicable to Transporters of Hazardous Waste
20.4.1.500	Part 264	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
20.4.1.600	Part 265	Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
20.4.1.700	Part 266	Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities
20.4.1.800	Part 268	Land Disposal Restrictions (LDR)
20.4.1.900, 20.4.1.901 and 20.4.1.1102	Part 270 and Part 124	The Hazardous Waste Permit Program
20.4.1.1000	Part 273	Standards for Universal Waste Management
20.4.1.1002	Part 279	Standards for the Management of Used Oil

ATTACHMENT D

**Overview of Differences from the
Hazardous Waste Management Regulations, 20.4.1 NMAC and the
RCRA Code of Federal Regulations**

ATTACHMENT D

Overview of Differences from the Hazardous Waste Management Regulations, 20.4.1 NMAC, and the RCRA CFRs

Provisions of 40 CFR:	Omitted from Section:
40 CFR 260 Hazardous Waste Management System: General	20.4.1.100 NMAC
260.1(b)(6) General; Purpose, scope, and applicability. Section 260.22 establishes procedures for petitioning EPA to amend Subpart D of Part 261 to exclude a waste from a particular facility.	
260.20 Rulemaking Petitions – General	
260.22 Rulemaking Petitions – Petitions to amend Part 261 to exclude a waste produced at a particular facility.	
260.30 Rulemaking Petitions – Variances from classification as a solid waste.	
260.31 Rulemaking Petitions – Standards and criteria for variances from classification as a solid waste.	
260.32 Rulemaking Petitions – Variances to be classified as a boiler.	
260.33 Rulemaking Petitions – Procedures for variances from classification as a solid waste or to be classified as a boiler.	
40 CFR 263 Standards Applicable to Transporters of Hazardous Waste	20.4.1.400 NMAC
263.20(e) Compliance With the Manifest System and Recordkeeping - The manifest system. The requirements of paragraphs (c), (d) and (f) of this section do not apply to water (bulk shipment) transporters if: (1) The hazardous waste is delivered by water (bulk shipment) to the designated facility; and (2) A shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) and, for exports, an EPA Acknowledgement of Consent accompanies the hazardous waste; and (3) The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator of the designated facility on either the manifest or the shipping paper; and (4) The person delivering the hazardous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and (5) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with 263.22.	
40 CFR 264 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities	20.4.1.500 NMAC
264.1(f) General; Purpose, scope, and applicability. The requirements of this part do not apply to a person who treats, stores or disposes of hazardous waste in a State with a RCRA hazardous waste program authorized under Subpart A or B of Part 271 of this chapter for the component or components of Phase II interim authorization which correspond to the person's treatment, storage or disposal processes; except that this part will apply: (1) As stated in paragraph (d) of this section, if the authorized State RCRA program does not cover disposal of hazardous waste by means of UIC; and (2) To a person who treats, stores or disposes of hazardous waste in a State authorized under Subpart A of Part 271 of this chapter, at a facility which was not covered by standards under this part when the State obtained authorization, and for which EPA promulgates standards under this part after the State is authorized. This paragraph will only apply until the State is authorized to permit such facilities under Subpart A of Part 271 of this chapter. (3) To a person who treats, stores or disposes of hazardous waste in a State which is authorized under Subpart A or B of Part 271 of this chapter is the State has not been authorized to carry out the requirements and prohibitions applicable to the treatment, storage or disposal of hazardous waste at his facility which are imposed pursuant to the HSWA of 1984. The requirements and prohibitions that are applicable until a State receives authorization to carry them out include all Federal program requirements identified in 271.1(j).	
264.149 Financial Requirements – Use of State-required mechanism.	
264.150 Financial Requirements – State assumption of responsibility.	

264.301(l) Landfills; Design and operating requirements. Any permit under RCRA 3005(c) which is issued for a landfill located within the State of Alabama shall require the installation of two or more liners and a leachate collection system above and between such liners, notwithstanding any other provision of RCRA.		20.4.1.500 NMAC (continued)
264.1030(d)	AA, BB and CC Air Emission Standards; Applicability. Requirements do not apply to the pharmaceutical (Stonewall)	
264.1050(g)	plant in Elkton, Virginia.	
264.1080(e)		
264.1080(f)	Requirements that apply only to the Osi Specialties Plant in Sistersville, West Virginia	
264.1080(g)		
40 CFR 265 Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities		20.4.1.600 NMAC
265.1(c)(4) Purpose, scope, and applicability. The requirements of this part do not apply to a person who treats, stores or disposes of hazardous waste in a State with a RCRA hazardous waste program authorized under Subpart A or B of Part 271 of this chapter, except that the requirements of this part will continue to apply: (i) as stated in paragraph (c)(2) of this section, if the authorized State program does not cover disposal of hazardous waste by means of UIC; or (ii) to a person who treats, stores or disposes of hazardous waste in a State authorized under Subpart A or B of Part 271 of this chapter if the State has not been authorized to carry out the requirements and prohibitions applicable to the treatment, storage, or disposal of hazardous waste at his facility which are imposed pursuant to the HSWA of 1984. The requirements and prohibitions that are applicable until a State receives authorization to carry them out include all Federal program requirements identified in 271.1(j).		
265.149 Financial Requirements – Use of State-required mechanism.		
265.150 Financial Requirements – State assumption of responsibility.		
265.1030(c)	AA, BB and CC Air Emission Standards; Applicability. Requirements do not apply to the pharmaceutical (Stonewall)	
265.1050(f)	plant in Elkton, Virginia.	
265.1080(e)		
265.1080(f)	Requirements that apply only to the Osi Specialties Plant in Sistersville, West Virginia	
265.1080(g)		
40 CFR 268 Land Disposal Restrictions		
268.5 General; Procedures for case-by-case extensions to an effective date.		
268.6 General; Petitions to allow land disposal of a waste prohibited under Subpart C of Part 268.		
268.42(b) Treatment Standards; Treatment standards expressed as specified technologies. Any person may submit an application to the Administrator demonstrating that an alternative treatment method can achieve a measure of performance equivalent to that achieved by methods specified in paragraphs (a), (c), and (d) of this section for wastes or specified in Table 1 of 268.45 for hazardous debris. The applicant must submit information demonstrating that his treatment method is in compliance with federal, state, and local requirements and is protective of human health and the environment. On the basis such information and any other available information, the Administrator may approve the use of the alternative treatment method if he finds that the alternative treatment method provides a measure of performance equivalent to that achieved by methods specified in paragraphs (a), (c), and (d) of this section for wastes or in Table 1 of 268.45 for hazardous debris. Any approval must be stated in writing and may contain such provisions and conditions as the Administrator deems appropriate. The person to whom such approval is issued must comply with all limitations contained in such a determination.		

<p>268.44(a) Treatment Standards; Variance from a treatment standard. Based on a petition filed by a generator or treater of hazardous waste, the Administrator may approve a variance from an applicable treatment standard if: (1) It is not physically possible to treat the waste to the level specified in the treatment standard, or by the method specified as the treatment standard. To show that this is the case, the petitioner must demonstrate that because the physical or chemical properties of the waste differ significantly from waste analyzed in developing the treatment standard, the waste cannot be treated to the specified level or by the specified method; or (2) It is inappropriate to require the waste to be treated to the level specified in the treatment standard or by the method specified as the treatment standard, even though such treatment is technically possible. To show that this is the case, the petitioner must either demonstrate that: (i) Treatment to the specified level or by the specified method is technically inappropriate (for example, resulting in combustion of large amounts of mildly contaminated environmental media); or (ii) For remediation waste only, treatment to the specified level or by the specified method is environmentally inappropriate because it would likely discourage aggressive remediation.</p>	<p>20.4.1.800 NMAC (continued)</p>
<p>268.44(b) Treatment Standards; Variance from a treatment standard. Each petition must be submitted in accordance with the procedures in 260.22.</p>	
<p>268.44(c) Treatment Standards; Variance from a treatment standard. Each petition must include the following statement signed by the petitioner or an authorized representative: <i>I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.</i></p>	
<p>268.44(d) Treatment Standards; Variance from a treatment standard. After receiving a petition for variance from a treatment standard, the Administrator may request additional information or sample which he may require evaluate the petition. Additional copies of the complete petition may be requested as needed to send to affected states and Regional Offices.</p>	
<p>268.44(e) Treatment Standards; Variance from a treatment standard. The Administrator will give public notice in the <i>Federal Register</i> of the intent to approve or deny the petition and provide an opportunity for public comment. The final decision on a variance from a treatment standard will be published in the <i>Federal Register</i>.</p>	
<p>268.44(f) Treatment Standards; Variance from a treatment standard. A generator, treatment facility, or disposal facility that is managing a waste covered by a variance from the treatment standards must comply with the waste analysis requirements for restricted wastes found under 268.7.</p>	
<p>268.44(g) Treatment Standards; Variance from a treatment standard. During the petition review process, the applicant is required to comply with all restrictions on land disposal under this part once the effective date for the waste has been reached.</p>	

References to:	Shall construe to mean:
40 CFR Part 124	20.4.1.901 NMAC
With the exception of:	
124.31 Pre-application public meeting and notice	20.4.1.901.C(1) NMAC
124.32 Public notice requirements at the application stage	20.4.1.901.C(2) NMAC
124.33 Information repository	20.4.1.901.E NMAC
“Administrator” or “Regional Administrator”	Secretary of the New Mexico Environment Department
Except when used in:	
40 CFR 262, Subparts E, F and H	
40 CFR 264.12(a)	
40 CFR 265.12(a)	
40 CFR 270.5	
40 CFR 270.10(f)(2) and (3)	
40 CFR 270.10(g)(1)(i)	
40 CFR 270.11(a)(3)	
40 CFR 270.32(c)	
40 CFR 270.72(a)(5)	
40 CFR 270.72(b)(5)	
40 CFR 273.12 applicable to generators of universal waste pesticides	Secretary of the New Mexico Department of Agriculture
40 CFR 273.32 applicable to generators of universal waste pesticides	
“Act” or “RCRA”	New Mexico Hazardous Waste Act, NMSA 1978, Sections 74-4-1 through 74-4-14 (as amended)
“Environmental Protection Agency” or “EPA”	New Mexico Environment Department
Except when used in:	
“EPA hazardous waste number”	
“EPA identification number”	
“EPA Region”	
“EPA Acknowledgement of Consent”	
“EPA Test Methods”	
Definitions set forth in 260.10 and 270.2	
40 CFR Parts 262, Subpart E, F and H	
40 CFR 264.1082(c)(4)(ii) for the second occurrence of the term “EPA”	
40 CFR 265.1083(c)(4)(ii) for the second occurrence of the term “EPA”	
40 CFR 268.1(e)(3)	
40 CFR 270.5	
40 CFR 270.10(f)(2) and (3)	
40 CFR 270.10(g)(1)(i)	
40 CFR 270.11(a)(3)	
40 CFR 270.32(c)	
40 CFR 270.72(a)(5)	
40 CFR 270.72(b)(5)	
40 CFR 273.12	Secretary of the New Mexico Department of Agriculture
40 CFR 273.32	
Reporting an emergency situation	Report to the Environment Department via the 24-hour emergency response number (505) 827-9392 or other such number designated by the Department

Terms not defined in 40 CFR 260.10 and 270.2:	Mean:
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ATTACHMENT E

**Rule Authorization Status for New Mexico Hazardous Waste Management Program
(October 2005)**

Federal Rules	Checklist	Reference (HWSA or FR)	Promulgation or HWSA Date	NM State Authorization Effective Dates
Base Program				
• Identification and Listing (Part 261)	I A		11/11/1981	1/25/1985
• Hazardous Waste Lists	I B		11/11/1981	1/25/1985
• Characteristics of Hazardous Waste	I C		11/11/1981	1/25/1985
• Generator Requirements (Part 262)	II		11/11/1981	1/25/1985
• Transporter Requirements (Part 263)	III		11/11/1981	1/25/1985
• Facility Requirements (Part 264)	IV A		11/11/1981	1/25/1985
• Facility Interim Status Requirements (Part 265)	IV B		11/11/1981	1/25/1985
• Permitting Requirements (Parts 270 & 124)	V		11/11/1981	1/25/1985
Non-HSWA Requirements Prior to Non-HSWA I (January 26, 1983 to June 30, 1984)				
• Biennial Report	1	48 FR 3977	1/28/1983	1/25/1985
• Permit Rules; Settlement Agreement	2	48 FR 39611	9/1/1983	1/25/1985
• Interim Status Standards; Applicability	3	48 FR 52718	11/23/1983	1/25/1985
• Chlorinated Aliphatic Hydrocarbon Listing (F024)	4	49 FR 5308	2/10/1984	1/25/1985
• National Uniform Manifest	5	49 FR 10490	3/20/1984	1/25/1985
• Permit Rules; Settlement Agreement	6*	49 FR 17716	4/24/1984	7/25/1990
• Warfarin & Zinc Phosphide Listing	7*	49 FR 19922	5/10/1984	4/10/1990
• Lime Stabilized Pickle Liquor Sludge	8*	49 FR 23284	6/5/1984	4/10/1990
Non-HSWA I (July 1, 1984 to June 30, 1985)				
• State Availability of Info	AI	HWSA 3006(f)	11/8/1984	12/21/1994
• Household Waste	9*	49 FR 44978	11/13/1984	4/10/1990

• Interim Status Standards; Applicability	10	49 FR 46094	11/21/1984	4/10/1990
• Corrections to Test Methods Manual	11	49 FR 47390	12/4/1984	4/10/1990
• Satellite Accumulation	12*	49 FR 49568	12/20/1984	4/10/1990
• Definition of Solid Waste	13	50 FR 614	1/4/1985	4/10/1990
• Definition of Solid Waste (Correction 1)	13.1	50 FR 14216	4/11/1985	4/10/1990
• Interim Status Standards for Treatment, Storage, and Disposal Facilities	15	50 FR 16044	4/23/1985	4/10/1990
Non-HSWA II (July 1, 1985 to June 30, 1986)				
• Definition of Solid Waste (Correction 2)	13.2	50 FR 33541	8/20/1985	4/10/1990
• Financial Responsibility: Settlement Agreement	24	51 FR 16422	5/2/1986	7/25/1990
• Listing of Spent Pickle Liquor (K062)	26*	51 FR 19320	5/28/1986	4/10/1990
Non-HSWA III (July 1, 1986 to June 30, 1987)				
• Radioactive Mixed Waste	MW	51 FR 24504	7/3/1986	7/25/1990
• Listing of Spent Pickle Liquor (K062) (Correction 1)	26.1*	51 FR 33612	9/22/1986	4/10/1990
• Liability Coverage; Corporate Guarantee	27*	51 FR 25350	7/11/1986	4/10/1990
• Standards for Hazardous Waste Storage and Treatment Tank Systems	28N	51 FR 25422	7/14/1986	7/25/1990
• Standards for Hazardous Waste Storage and Treatment Tank Systems (Correction 1)	28N.1	51 FR 29430	8/15/1986	7/25/1990
• Correction to Listing of Commercial Chemical Products and Appendix VIII Constituents	29	51 FR 28296	8/6/1986	4/10/1990
• Revised Manual SW-846; Amended Incorporation by Reference	35	52 FR 8072	3/16/1987	4/10/1990
• Closure/Post-closure Care for Interim Status Surface Impoundments	36	52 FR 8704	3/19/1987	4/10/1990
• Definition of Solid Waste; Technical Corrections	37	52 FR 21306	6/5/1987	4/10/1990
• Amendments to Part B Information Requirements for Land Disposal Facilities	38	52 FR 23447	6/22/1987	7/25/1990

Non-HSWA IV (July 1, 1987 to June 30, 1988)				
• Closure/Post Closure and Financial Responsibility Requirements (Correction 1)	24.1	53 FR 7740	3/10/1988	7/25/1990
• Listing of Spent Pickle Liquor (K062) (Correction 2)	26.2*	52 FR 28697	8/3/1987	1
• Development of Corrective Action Programs After Permitting Hazardous Waste Land Disposal Facilities; (Correction 1)	38.1	52 FR 33936	9/9/1987	7/25/1990
• List (Phase 1) of Hazardous Constituents for Ground-Water Monitoring	40	52 FR 25942	7/9/1987	12/4/1992
• Identification and Listing of Hazardous Waste (Container/Inner Liner Correction)	41	52 FR 26012	7/10/1987	12/4/1992
• Liability Requirements for Hazardous Waste Facilities; Corporate Guarantee	43*	52 FR 44314	11/18/1987	12/4/1992
• Hazardous Waste Miscellaneous Units	45	52 FR 46946	12/10/1987	7/25/1990
• Technical Correction; Identification and Listing of Hazardous Waste	46	53 FR 13382	4/22/1988	12/4/1992
Non-HSWA V (July 1, 1988 to June 30, 1989)				
• Identification and Listing of Hazardous Waste; Treatability Studies Sample Exemption	49*	53 FR 27290	7/19/1988	12/4/1992
• Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities; Liability Coverage	51	53 FR 33938	9/1/1988	Authorized through Revision Checklist 113
• Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems	52N	53 FR 34079	9/2/1988	12/4/1992
• Identification and Listing of Hazardous Waste; and Designation, Reportable Quantities, and Notification (Amendment to the Bevill Exclusion)	53	53 FR 35412	9/13/1988	12/4/1992
• Permit Modification for Hazardous Waste Management Facilities	54*	53 FR 37912	9/28/1988	1
• Permit Modification for Hazardous Waste Management Facilities (Correction 1)	54.1*	53 FR 41649	10/24/1988	1
• Statistical Methods for Evaluation Ground-Water Monitoring Data from Hazardous Waste Facilities	55	53 FR 39720	11/10/1988	12/4/1992
• Identification and Listing of Hazardous Waste; Removal of Iron Dextran from the List of Hazardous Wastes	56*	53 FR 43878	10/31/1988	12/4/1992
• Identification and Listing of Hazardous Waste; Removal of Strontium Sulfide from the List of Hazardous Wastes	57*	53 FR 43881	10/31/1988	12/4/1992

• Standards for Generators of Hazardous Waste; Manifest Renewal	58*	53 FR 45089	11/8/1988	12/4/1992
• Hazardous Waste Miscellaneous Units; Standards Applicable to Owners and Operators	59	54 FR 615	1/9/1989	12/4/1992
• Amendment to Requirements for Hazardous Waste Incinerator Permits	60	54 FR 4286	1/30/1989	12/4/1992
• Changes to Interim Status Facilities for Hazardous Waste Management Permits; Procedures for Post-Closure Permitting	61*	54 FR 9596	3/7/1989	12/4/1992
Non-HSWA VI (July 1, 1989 to June 30, 1990)				
• Financial Responsibility; Settlement Agreement (Amendment to Checklist 24's Optional Designation of 264.113 & 265.113)	24A	55 FR 25976	6/26/1990	7/25/1990
• Delay of Closure Period for Hazardous Waste Management Facilities	64*	54 FR 33376	8/14/1989	12/4/1992
• Mining Waste Exclusion I	65	54 FR 36592	9/1/1989	12/4/1992
• Testing and Monitoring Activities	67	54 FR 40260	9/29/1989	12/4/1992
• Changes to Part 124 Not Accounted for by Present Checklists	70	Various	Various	12/4/1992
• Mining Waste Exclusion II	71	55 FR 2322	1/23/1990	12/4/1992
• Modification of F019 Listing	72*	55 FR 5340	2/14/1990	12/4/1992
• Testing and Monitoring Activities; Technical Corrections	73	55 FR 8948	3/9/1990	12/4/1992
• Criteria for Listing Toxic Wastes; Technical Amendment	76*	55 FR 18726	5/4/1990	12/4/1992
• Land Disposal Restrictions for Third Third Schedules Wastes	78N	55 FR 22520	6/1/1990	12/21/1994
HSWA I (November 8, 1984 to June 30, 1987)				
• Existing and Newly Regulated Surface Impoundment Requirements	SR1	HSWA §3005(j)(1) & (6), §3004(d)	11/8/1984	12/21/1994
• Surface Impoundment Variance under §3005(j)(2)-(9) and (13)	SR2*	HSWA §3005(j)(2)-(9) & (13)	11/8/1984	2
• Exceptions to the Burning and Blending of Hazardous Waste	BB*	HSWA §3004(q)(2)(A), §3004(r)(2) & (3)	11/8/1984	2

• Hazardous and Used Oil Fuel Criminal Penalties	CP*	HSWA §3006(h), §3008(d), §3014	11/8/1984	2
• Direct Actions Against Insurers	NOT DELEGABLE	HSWA §3004(t)	11/8/1984	3
• Sharing of Information with the Agency for Toxic Substances and Disease Registry	SI	HSWA §3019(b)	7/15/1985	12/21/1994
• Dioxin Waste Listing and Management Standards	14	50 FR 1978	1/14/1985	12/21/1994
• Paint Filter Test	16	50 FR 18370	4/30/1985	12/21/1994
• HSWA Codification Rule; Small Quantity Generators	17 A	50 FR 28702	7/15/1985	12/21/1994
• HSWA Codification Rule; Delisting	17 B*	50 FR 28702	7/15/1985	2
• HSWA Codification Rule; Delisting (Correction 1)	17 B.1*	54 FR 27114	6/27/1989	2
• HSWA Codification Rule; Household Waste (Resource Recovery Facilities)	17 C*	50 FR 28702	7/15/1985	12/21/1994
• HSWA Codification Rule; Waste Minimization	17 D	50 FR 28702	7/15/1985	12/21/1994
• HSWA Codification Rule; Location Standards for Salt Domes, Salt Beds, Underground Mines & Caves	17 E	50 FR 28702	7/15/1985	12/21/1994
• HSWA Codification Rule; Liquids in Landfills	17 F	50 FR 28702	7/15/1985	12/21/1994
• HSWA Codification Rule; Dust Suppression	17 G	50 FR 28702	7/15/1985	12/21/1994
• HSWA Codification Rule; Double Liners	17 H	50 FR 28702	7/15/1985	12/21/1994
• HSWA Codification Rule; Ground Water Monitoring	17 I	50 FR 28702	7/15/1985	12/21/1994
• HSWA Codification Rule; Cement Kilns	17 J	50 FR 28702	7/15/1985	12/21/1994
• HSWA Codification Rule; Fuel Labeling	17 K	50 FR 28702	7/15/1985	12/21/1994
• HSWA Codification Rule; Corrective Action	17 L	50 FR 28702	7/15/1985	1/2/1996

• HSWA Codification Rule; Pre-construction Ban	17 M	50 FR 27802	7/15/1985	12/21/1994
• HSWA Codification Rule; Permit Life	17 N	50 FR 28702	7/15/1985	12/21/1994
• HSWA Codification Rule; Omnibus Provision	17 O	50 FR 28702	7/15/1985	12/21/1994
• HSWA Codification Rule; Interim Status	17 P	50 FR 28702	7/15/1985	12/21/1994
• HSWA Codification Rule; Research and Development Permits	17 Q*	50 FR 28702	7/15/1985	7/25/1990
• HSWA Codification Rule; Hazardous Waste Exports	17 R	50 FR 28702	7/15/1985	12/21/1994
• HSWA Codification Rule; Exposure Information	17 S	50 FR 28702	7/15/1985	12/21/1994
• Listing of TDI, TDA, and DNT Wastes	18	50 FR 42936	10/23/1985	12/21/1994
• Burning of Waste Fuel and Used Oil Fuel in Boilers and Industrial Furnaces	19	50 FR 49164	11/29/1985	12/21/1994
• Burning of Waste Fuel and Used Oil Fuel in Boilers and Industrial Furnaces (Correction 1)	19.1	52 FR 11819	4/13/1987	12/21/1994
• Listing of Spent Solvents	20	50 FR 53315	12/31/1985	12/21/1994
• Listing of Spent Solvents (Correction 1)	20.1	51 FR 2702	1/21/1986	12/21/1994
• Listing of EDB Waste	21	51 FR 5327	2/13/1986	12/21/1994
• Listing of Four Spent Solvents	22	51 FR 6537	2/25/1986	12/21/1994
• Generators of 100 to 1000 kg Hazardous Waste	23	51 FR 10146	3/24/1986	12/21/1994
• Codification Rule; Technical Corrective (Paint Filter Test)	25	51 FR 19176	5/28/1986	12/21/1994
• Standards for Hazardous Waste Storage and Treatment Tank Systems	28H	51 FR 25422	7/14/1986	12/21/1994
• Standards for Hazardous Waste Storage and Treatment Tank Systems (Correction 1)	28H.1	51 FR 29430	8/15/1986	12/21/1994
• Biennial Report; Correction (Waste Minimization, Technical Correction)	30	51 FR 28556	8/8/1986	12/21/1994
• Exports of Hazardous Waste	31	51 FR 28664	8/8/1986	12/21/1994

• Standards for Generators; Waste Minimization Certifications	32	51 FR 35190	10/1/1986	12/21/1994
• Listing of EBDC	33	51 FR 37725	10/24/1986	12/21/1994
• Land Disposal Restrictions (Solvents and Dioxins)	34	51 FR 40572	11/7/1986	12/21/1994
• Land Disposal Restrictions (Solvents and Dioxins) (Correction 1)	34.1	52 FR 21010	6/4/1987	12/21/1994
HSWA II (July 1, 1987 to June 30, 1990)				
• California List Waste Land Disposal Restrictions	39	52 FR 25760	7/8/1987	12/21/1994
• California List Waste Land Disposal Restrictions (Correction 1)	39.1	52 FR 41295	10/27/1987	12/21/1994
• Exception Reporting for Small Quantity Generators of Hazardous Waste	42	52 FR 35894	9/23/1987	12/21/1994
• HSWA Codification Rule 2; Permit Application Requirement Regarding Corrective Action	44 A	52 FR 45788	12/1/1987	1/2/1996
• HSWA Codification Rule 2; Corrective Action Beyond Facility Boundary	44 B	52 FR 45788	12/1/1987	1/2/1996
• HSWA Codification Rule 2; Corrective Action for Injection Wells	44 C	52 FR 45788	12/1/1987	1/2/1996
• HSWA Codification Rule 2; Permit Modification	44 D	52 FR 45788	12/1/1987	12/21/1994
• HSWA Codification Rule 2; Permit as a Shield Provision	44 E	52 FR 45788	12/1/1987	12/21/1994
• HSWA Codification Rule 2; Permit Conditions to Protect Human Health and the Environment	44 F	52 FR 45788	12/1/1987	12/21/1994
• HSWA Codification Rule 2; Post-Closure Permits	44 G	52 FR 45788	12/1/1987	12/21/1994
• Technical Correction to Checklist 23, Small Quantity Generators	47	53 FR 27162	7/19/1988	12/21/1994
• Farmer Exemptions; Technical Corrections	48	53 FR 27164	7/19/1988	12/21/1994
• Land Disposal Restriction for First Third Scheduled Wastes	50	53 FR 31138	8/17/1988	12/21/1994
• Land Disposal Restriction for First Third Scheduled Wastes (Correction 1)	50.1	54 FR 8264	2/27/1989	12/21/1994
• Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems	52H	53 FR 34079	9/2/1988	12/21/1994

• Land Disposal Restriction Amendment to First Third Scheduled Wastes	62	54 FR 18836	5/2/1989	12/21/1994
• Land Disposal Restrictions for Second Third Scheduled Wastes	63	54 FR 26594	6/23/1989	12/21/1994
• Land Disposal Restrictions; Correction to the First Third Scheduled Wastes	66	54 FR 36967	9/6/1989	12/21/1994
• Land Disposal Restrictions; Correction to the First Third Scheduled Wastes (Correction 1)	66.1	55 FR 23935	6/13/1990	12/21/1994
• Reportable Quantity Adjustment Methyl Bromide Production Wastes	68	54 FR 41402	10/6/1989	12/21/1994
• Reportable Quantity Adjustment (F024 & F025)	69	54 FR 50986	12/11/1989	12/21/1994
• Toxicity Characteristics Revisions	74	55 FR 11798	3/29/1990	12/21/1994
• Toxicity Characteristics Revisions (Correction 1)	74.1	55 FR 26986	6/29/1990	12/21/1994
• Listing of 1,1- Dimethylhydrazine Production Wastes	75	55 FR 18496	5/2/1990	12/21/1994
• HSWA Codification Rule: Double Liners; Corrections	77	55 FR 19262	5/9/1990	12/21/1994
• Land Disposal Restriction for Third Third Scheduled Waste	78H	55 FR 22520	6/1/1990	12/21/1994
• Organic Air Emission Standards for Process Vents and Equipment Leaks	79	55 FR 25454	6/21/1990	12/21/1994
RCRA I (July 1, 1990 to June 30, 1991)				
• Toxicity Characteristics; Hydrocarbon Recovery Operations	80*	55 FR 40834	10/5/1990	1
• Toxicity Characteristics; Hydrocarbon Recovery Operations (Correction 1)	80.1*	56 FR 3978	2/1/1991	1
• Toxicity Characteristics; Hydrocarbon Recovery Operations (Correction 2)	80.2*	56 FR 13406	4/2/1991	1
• Petroleum Refinery Primary and Secondary Oil/Waste/Solids Separation Sludge Listings (F037 and F038)	81	55 FR 46354	11/2/1990	8/23/1994
• Petroleum Refinery Primary and Secondary Oil/Waste/Solids Separation Sludge Listings (F037 and F038) (Correction 1)	81.1	55 FR 51707	12/17/1990	8/23/1994
• Wood Preserving Listings	82	55 FR 50450	12/6/1990	8/23/1994
• Land Disposal Restrictions for Third Third Schedules Wastes; Technical Amendment	83	56 FR 3864	1/31/1991	8/23/1994

• Toxicity Characteristic; Chlorofluorocarbon Refrigerants	84*	56 FR 5910	2/13/1991	1
• Burning of Hazardous Waste in Boilers and Industrial Furnaces	85	56 FR 7134	2/21/1991	8/23/1994
• Removal of Strontium Sulfide from the List of Hazardous Waste; Technical Amendment	86	56 FR 7567	2/25/1991	8/23/1994
• Organic Air Emission Standards for Process Vents and Equipment Leaks; Technical Amendment	87	56 FR 19290	4/26/1991	8/23/1994
• Administrative Stay for K069 Listing	88*	56 FR 19951	5/1/1991	8/23/1994
• Revision to F037 and F038 Listing	89*	56 FR 21955	5/13/1991	1
• Mining Exclusion III	90	56 FR 27300	6/13/1991	8/23/1994
• Administrative Stay for F032, F034, and F035 Listings	91*	56 FR 27332	6/13/1991	8/23/1994
RCRA II (July 1, 1991 to June 30, 1992)				
• Wood Preserving Listing; Technical Correction	92	56 FR 30192	7/1/1991	12/21/1994
• Burning of Hazardous Waste in Boilers and Industrial Furnaces; Corrections and Technical Amendments I	94	56 FR 32688	7/17/1991	12/21/1994
• Land Disposal Restrictions for Electric Arc Furnace Dust (K061)	95	56 FR 41164	8/19/1991	12/21/1994
• Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendments II	96	56 FR 42504	8/27/1991	12/21/1994
• Exports of Hazardous Waste; Technical Correction	97	56 FR 43704	9/4/1991	12/21/1994
• Coke Ovens Administrative Stay	98*	56 FR 43754	9/5/1991	12/21/1994
• Amendments to Interim Status Standards for Downgradient Ground-Water Monitoring Well Locations at Hazardous Waste Facilities	99*	56 FR 66365	12/23/1991	12/21/1994
• Liners and Leak Detection Systems for Hazardous Waste Land Disposal Units	100	57 FR 3462	1/29/1992	12/21/1994
• Administrative Stay for the Requirement that Existing Drip Pads be Impermeable	101*	57 FR 5859	2/18/1992	12/21/1994
• Second Correction to the Third Third Land Disposal Restrictions	102	57 FR 8086	3/6/1992	12/21/1994
• Hazardous Debris Case-by-Case Capacity Variance	103	57 FR 20766	5/15/1992	12/21/1994
• Used Oil Filter Exclusion	104*	57 FR 21524	5/20/1992	12/21/1994

• Coke by-product Exclusion	105*	57 FR 27880	6/22/1992	12/21/1994
• Lead-Bearing Hazardous Materials Case-by-Case Capacity Variance	106	57 FR 28628	6/26/1992	12/21/1994
RCRA III (July 1, 1992 to June 30, 1993)				
• Used Oil Filter Exclusion; Technical Correction	107*	57 FR 29220	7/1/1992	1
• Toxicity Characteristics Revision; Technical Corrections	108	57 FR 30657	7/10/1992	7/10/1995
• Land Disposal Restrictions for Newly Listed Waste and Hazardous Debris	109	57 FR 37194	8/18/1992	7/10/1995
• Coke By-Product Listings	110	57 FR 37284	8/18/1992	7/10/1995
• Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendments III	111	57 FR 38558	8/25/1992	7/10/1995
• Recycled Used Oil Management Standards	112	57 FR 41566	9/10/1992	2
• Financial Responsibility for Third-Party Liability, Closure and Post-Closure	113	57 FR 42832	9/16/1992	7/10/1995
• Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities; Liability Coverage	113.1	53 FR 33938	9/1/1988	7/10/1995
• Liability Requirements; Technical Amendment (Non-HSWA)	113.2	56 FR 30200	7/1/1991	7/10/1995
• Burning of Hazardous Waste in Boilers and Industrial Furnaces; Amendment IV	114	57 FR 44999	9/30/1992	7/10/1995
• Chlorinated Toluene Production Waste Listing	115	57 FR 47376	10/15/1992	7/10/1995
• Hazardous Soil Case-By- Case Capacity Variance	116	57 FR 47772	10/20/1992	7/10/1995
• "Mixture" and "Derived- From" Rules; Response to Court Remand	117A*	57 FR 7628	3/3/1992	1
• "Mixture" and "Derived-From" Rules; Technical Correction	117A.1*	57 FR 23062	6/1/1992	1
• "Mixture" and "Derived-From" Rules; Final Rule	117A.2*	57 FR 49278	10/20/1992	1
• Toxicity Characteristic Revision	117B	57 FR 23062	6/1/1992	7/10/1995
• Liquids in Landfills II	118	57 FR 54452	11/18/1992	7/10/1995

• Toxicity Characteristic Revision; TCLP	119*	57 FR 55114	11/24/1992	1
• Toxicity Characteristic Revision; TCLP Correction	119.1*	58 FR 6854	2/2/1993	1
• Wood Preserving; Amendments to Listings and Technical Requirements	120	57 FR 61492	12/24/1992	7/10/1995
• Corrective Action Management Units and Temporary Units; Corrective Actino Provisions Under Subtitle C	121*	58 FR 8658	2/16/1993	10/9/2001
• Recycled Used Oil Management Standards; Technical Amendments and Corrections	122	58 FR 26420	5/3/1993	2
• Recycled Used Oil Management Standards; Correction	122.1	58 FR 33341	6/17/1993	2
• Land Disposal Restrictions; Renewal of the Hazardous Waste Debris Case-by-Case Capacity Variance	123	58 FR 28506	5/14/1993	7/10/1995
• Land Disposal Restrictions for Ignitable and Corrosive Characteristic Wastes whose Treatment Standards were Vacated	124	58 FR 29860	5/24/1993	7/10/1995
RCRA IV (July 1, 1993 to June 30, 1994)				
• Requirements for Preparation, Adoption, and Submittal of Implementation Plans	125	58 FR 38816	7/20/1993	3/10/1997
• Testing and Monitoring Activities	126	58 FR 46040	8/31/1993	3/10/1997
• Burning of Hazardous Waste in Boilers and Industrial Furnaces	127*	58 FR 59598	11/9/1993	1
• Hazardous Waste Management System; Standards for Hazardous Waste; Waste from Wood Surface Protection	128	59 FR 458	1/4/1994	3/10/1997
• Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Treatability Studies Sample Exclusion	129*	59 FR 8362	2/18/1994	1
• Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards	130	59 FR 10550	3/4/1994	2
• Recordkeeping Instructions	131	59 FR 13891	3/24/1994	3/10/1997
• Hazardous Waste Management System; Identification and Listing of Hazardous Wastes; Wastes from Wood Surface Protection; Correction	132	59 FR 28484	6/2/1994	3/10/1997
• Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities and Underground Injection Control Systems; Financial Assurance; Letter of Credit	133*	59 FR 29958	6/10/1994	1
• Hazardous Waste Management System; Correction of Listing of P015-Beryllium Powder	134	59 FR 31551	6/20/1994	3/10/1997

RCRA V (July 1, 1994 to June 30, 1995)				
• Hazardous Waste Management System; Testing and Monitoring Activities, Land Disposal Restrictions Correction	126.1	59 FR 47980	9/19/1994	1
• Identification and Listing of Hazardous Waste; Amendments to Definition of Solid Waste	135*	59 FR 38536	7/28/1994	10/9/2001
• Standards for the Management of Specific Hazardous Waste; Amendment to Subpart C -- Recyclable Materials Used in a Manner Constituting Disposal	136	59 FR 43496	8/24/1994	10/9/2001
• Land Disposal Restrictions Phase II -- Universal Treatment Standards, and Treatment Standards for Organic Toxicity Characteristic Wastes and Newly Listed Waste	137	59 FR 47982	9/19/1994	10/9/2001
• Technical Amendment to the Universal Treatment Standards and Treatment Standards for Organic Toxicity Characteristic Wastes and Newly Listed Waste	137.1	60 FR 242	1/3/1995	10/9/2001
• Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators; Organic Air Emissions Standards for Tanks, Surface Impoundments, and Containers	138	59 FR 62896	12/6/1994	Authorized through Revision Checklist 154
• Hazardous Waste Management System; Testing and Monitoring Activities	139	60 FR 3089	1/13/1995	10/9/2001
• Hazardous Waste Management System; Carbamate Production Identification and Listing of Hazardous Waste; and CERCLA Hazardous Substance Designation and Reportable Quantities	140	60 FR 7824	2/9/1995	10/9/2001
• Hazardous Waste Management System; Carbamate Production Identification and Listing of Hazardous Waste; and CERCLA Hazardous Substance Designation and Reportable Quantities; Correction	140.1	60 FR 19165	4/17/1995	10/9/2001
• Hazardous Waste Management System; Carbamate Production Identification and Listing of Hazardous Waste; and CERCLA Hazardous Substance Designation and Reportable Quantities; Correction	140.2	60 FR 25619	5/12/1995	10/9/2001
• Hazardous Waste Management System; Testing and Monitoring Activities	141	60 FR 17001	4/4/1995	10/9/2001
• Universal Waste Rule (Hazardous Waste Management System; Modification of Hazardous Waste Recycling Regulatory Program)	142A*	60 FR 25492	5/11/1995	10/9/2001
• Universal Waste Rule (Hazardous Waste Management System; Modification of Hazardous Waste Recycling Regulatory Program)	142B*	60 FR 25492	5/11/1995	10/9/2001
• Universal Waste Rule (Hazardous Waste Management System; Modification of Hazardous Waste Recycling Regulatory Program)	142C*	60 FR 25492	5/11/1995	10/9/2001
• Universal Waste Rule (Hazardous Waste Management System; Modification of Hazardous Waste Recycling Regulatory Program)	142D*	60 FR 25492	5/11/1995	10/9/2001
• Universal Waste Rule (Hazardous Waste Management System; Modification of Hazardous Waste Recycling Regulatory Program)	142E*	60 FR 25492	5/11/1995	1

• Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks Surface Impoundments, and Containers	143*	60 FR 26828	5/19/1995	Authorized through Revision Checklist 154
• Solid Waste, Hazardous Waste, Oil Discharge and Superfund Programs; Removal of Legally Obsolete Rules	144	60 FR 33912	6/29/1995	10/9/2001
RCRA VI (July 1, 1995 to June 30, 1996)				
• Hazardous Waste Management: Liquids in Landfills	145	60 FR 35703	7/11/1995	10/9/2001
• RCRA Expanded Public Participation	148	60 FR 63417	12/11/1995	10/9/2001
• Identification and Listing of Hazardous Waste; Amendments to Definition of Solid Waste	150	61 FR 13103	3/26/1996	1
• Land Disposal Restrictions Phase III-Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners	151	61 FR 15566	4/8/1996	10/9/2001
• Land Disposal Restrictions Phase III-Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners	151.1	61 FR 15660	4/8/1996	10/9/2001
• Land Disposal Restrictions Phase III-Decharacterized Wastewaters, Carbamate Wastes. And Spent Potliners	151.2	61 FR 139117	4/30/1996	10/9/2001
• Land Disposal Restrictions Phase III-Decharacterized Wastewater, Carbamate Wastes, Spent Potliners -Technical Corrections	151.3	61 FR 33680	6/28/1996	10/9/2001
• Land Disposal Restrictions Phase III-Decharacterized Wastewater, Carbamate Wastes, Spent Potliners	151.4	61 FR 36419	7/10/1996	10/9/2001
• Emergency Revision of the Land Disposal Restrictions (LDR) Phase III Treatment Standards for Listed Hazardous Waste From Carbamate Production	151.5	61 FR 43924	8/26/1996	10/9/2001
• Land Disposal Restrictions Correction of Tables; Treatment Standards for Hazardous Wastes and Universal Treatment Standards	151.6	62 FR 7502	2/19/1997	10/9/2001
• Imports and Exports of Hazardous Waste Implementation of OECD Council Decision (Not delegable to States)	152*	61 FR 16289	4/12/1996	3
RCRA VII (July 1, 1996 to June 30, 1997)				
• Criteria for Classification of Solid Waste Disposal Facilities and Practices; Identification and Listing of Hazardous Waste; Requirements for Authorization of State Hazardous Waste Programs	153	61 FR 34252	07/0196	10/9/2001
• Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers	154	61 FR 59931	11/25/1996	10/9/2001

• Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks Surface Impoundments, and Containers	154.1	59 FR 62896	12/6/1994	10/9/2001
• Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers	154.2	60 FR 26828	5/19/1995	10/9/2001
• Hazardous Waste Treatment, Storage, Disposal Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers	154.3	60 FR 50426	9/29/1995	10/9/2001
• Hazardous Waste Treatment, Storage, Disposal Facilities and Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers	154.4	60 FR 56952	11/13/1995	10/9/2001
• Hazardous Waste Treatment, Storage, Disposal Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers	154.5	61 FR 4903	2/9/1996	10/9/2001
• Hazardous Waste Treatment, Storage, Disposal facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers	154.6	61 FR 28508	6/5/1996	10/9/2001
• Land Disposal Restrictions Phase III-Emergency Extension of the K088 Capacity Variance	155	62 FR 1992	1/14/1997	10/9/2001
• Military Munitions Rule; Hazardous Waste Identification and Management; Explosives Emergencies; Manifest Exemption for Transport of Hazardous Waste on Right-of Ways on Contiguous Properties	156	62 FR 6622	2/12/1997	10/9/2001
• Land Disposal Restrictions-Phase IV: Treatment Standards for Wood Preserving Wastes, Paperwork Reduction and Streamlining, Exemptions From RCRA for Certain Processed Materials; and Miscellaneous Hazardous Waste Provisions	157	62 FR 25998	5/12/1997	10/9/2001
• Hazardous Waste Management System; Testing and Monitoring Activities	158	62 FR 32452	6/13/1997	10/9/2001
• Hazardous Waste Management System; carbamate Production, Identification and Listing of Hazardous Waste; Land Disposal Restrictions	159*	62 FR 32974	6/17/1997	10/9/2001
RCRA VIII (July 1, 1997 to June 30, 1998)				
• Land Disposal Restrictions Phase III-Emergency Extension of the K088 National Capacity Variance	160	62 FR 37694	7/14/1997	10/9/2001
• Second Emergency Revisions of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes From Carbamate Production	161	62 FR 45568	8/28/1997	10/9/2001
• Clarification of Standards for Hazardous Waste LDR Treatment Variance	162*	62 FR 64504	12/5/1997	10/9/2001
• Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers, Clarification and Technical Amendment	163	62 FR 64636	12/8/1997	10/9/2001
• Kraft Mill Steam Stripper Condensate Exclusion	164*	63 FR 18594	4/15/1998	10/9/2001
• Recycled Used Oil Management Standards; Technical Correction and Clarification	166*	63 FR 24963	5/6/1998	2

• Hazardous Waste Management System; Identification and Listing	166.1*	63 FR 37780	7/14/1998	2
• Land disposal Restrictions Phase IV - Treatment Standards for Metal Waste and mineral Processing Waste	167 A	63 FR 28556	5/26/1998	10/9/2001
• Land Disposal Restrictions Phase IV- hazardous Soil Treatment Standards and Exclusions	167 B*	63 FR 28556	5/26/1998	10/9/2001
• Land Disposal Restrictions Phase IV-Technical Corrections	167 C	63 FR 28556	5/26/1998	10/9/2001
• Land Disposal Restrictions Phase IV-Corrections	167 C.1	63 FR 31266	6/8/1998	10/9/2001
• Mineral Processing Secondary Materials Exclusion	167 D*	63 FR 28556	5/26/1998	4
• Bevill Exclusion Revision and Clarification	167 E	63 FR 28556	5/26/1998	10/9/2001
• Exclusion of Recycled Wood preserving Wastewaters	167 F*	63 FR 28556	5/26/1998	10/9/2001
• Hazardous Waste Combustors Revised Standards	168*	63 FR 33782	6/19/1998	10/9/2001
• Petroleum Refining Process	169	63 FR 42110	8/6/1998	10/9/2001
• Land Disposal Restrictions - Phase IV	170*	63 FR 46332	8/31/1998	10/9/2001
RCRA IX (July 1, 1998 to June 30, 1999)				
• Emergency Revisions of LDR Treatment Standards	171	63 FR 47409	9/4/1998	10/9/2001
• Emergency Emergency Revisions of LDR Treatment Standards	172*	63 FR 48124	9/9/1998	10/9/2001
• Land Disposal Restrictions Treatment Standards (Spent Potliners)	173	63 FR 51254	9/24/1998	10/9/2001
• Standards of Applicable to Owners and Operators of Closed/closing Facilities	174*	63 FR 56710	10/22/1998	10/9/2001
• Hazardous Remediation Waste Management Requirements (HWIR-Media)	175*	63 FR 65874	11/30/1998	1
• Universal Waste Rule; Technical amendment (Conditionally Optional)	176*	63FR 71225	12/24/1998	10/9/2001
• Organic Air Emission Standards	177	64 FR 3381	1/21/1999	10/9/2001
• Petroleum Refining Process Waste	178	64 FR 6806	2/11/1999	10/9/2001

• Land Disposal Restrictions Phase IV-Technical Corrections and Clarifications to Treatment Standards	179	64 FR 25408	5/11/1999	10/9/2001
• Test Procedures for the Analysis of Oil and Grease and Non-Polar Material	180	64FR 26315	5/14/1999	10/9/2001
RCRA X (July 1, 1999 to June 30, 2000)				
• Universal Waste Rule	181	64 FR 36466	7/6/1999	1
• NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (MACT Rule)	182	64 FR 52827	9/30/1999	1
• NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors ; final Rule, technical Correction	182.1	64 FR 63209	11/19/1999	1
• Land disposal Restrictions ; Wood Preserving Waste, Metal Wastes, Zinc Micronutrients Fertilizer, etc.	183	64 FR 56469	10/20/1999	1
• Waste Water Treatment Sluges from Metal Finishing Industry; 180-day Accumulation Time	184*	65 FR 12378	3/8/2000	1
• Organobromine Production Waste	185*	65 FR 14472	3/17/2000	1
• Amendments to Streamline the National Pollutant Discharge Elimination System Program Regulations: Round Two	186	65 FR 30886	5/15/2000	3
• Organobromine Production Waste and Petroleum Refining Process Waste: Technical Correction	187*	65 FR 36365	6/8/2000	1
RCRA XI (July 1, 2000 to June 30, 2001)				
• NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors	188*	65 FR 42292	7/10/2000	1
• NESHAPS: Second Technical Correction, Vacatur	188.1*	66 FR 24270	5/14/2001	1
• NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors: Direct Final	188.2*	66 FR 35087	7/3/2001	1
• Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Chlorinated Aliphatics Productions Wastes; Land Disposal Restrictions for Newly Idenitifed Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities	189	65 FR 67068	11/8/2000	1
• Deferral of Phase IV Standards for PCBs as a Constituent Subject to Treatment in Soil	190*	65 FR 81373	12/26/2000	1
• Storage, Treatment, Transportation and Disposal of Mixed Waste	191*	66 FR 27218	5/16/2001	2
• Mixed and Derived-From Rules Revisions	192A	66 FR 27266	5/16/2001	1

• Land Disposal Restrictions Correction	192B	66 FR 27266	5/16/2001	1
• Change of EPA Mailing Address; Additional Technical Amendments and Correction	193	66 FR 34374	6/28/2001	1
RCRA XII (July 1, 2000 to June 30, 2001)				
• Mixture and Derived-From Rules Revision II	194*	66 FR 50334	10/3/2001	1
• Inorganic Chemical Manufacturing Waste Identification and Listing	195	67 FR 17119	11/20/2001	1
• Corrective Action Management Unit(CAMU)	196*	67 FR 2962	1/22/2002	1
• Interim Standards for Hazardous Air Pollutants for Hazardous Waste Combustors	197*	67 FR 6792	2/13/2002	1
• Hazardous Air Pollutant Standards for Hazardous Waste Combustors	198	67 FR 6968	2/14/2002	1
• Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Use with MGP Waste	199	67 FR 11251	3/13/2002	1

NOTES:

* Option Rule. Optional rules are not mandatory, however, EPA encourages States to adopt optional rules because they provide benefits to environmental protection.

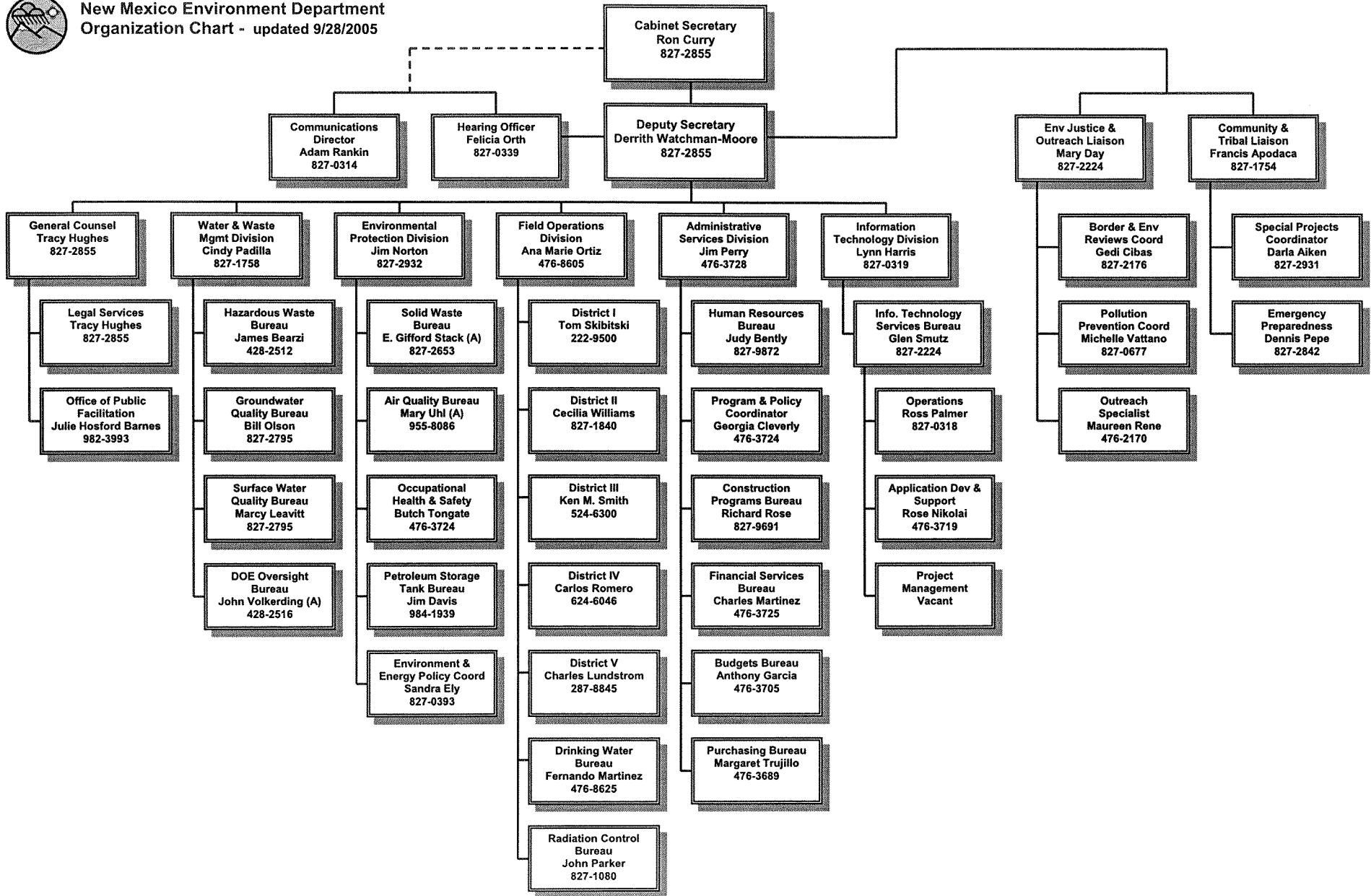
- 1 New Mexico is seeking authorization for this rule.
- 2 New Mexico is not seeking authorization for this rule.
- 3 Not delegable by EPA or applicable to the State Program.
- 4 Checklist Removed.

ATTACHMENT F

New Mexico Environment Department Organizational Chart



New Mexico Environment Department
 Organization Chart - updated 9/28/2005



ATTACHMENT G

Hazardous Waste Bureau Organization Chart



NEW MEXICO ENVIRONMENT DEPARTMENT
 HAZARDOUS WASTE BUREAU
 ORGANIZATIONAL STRUCTURE
 October 2005

James P. Bearzi
 Bureau Chief

COMPLIANCE & TECHNICAL ASSISTANCE PROGRAM

Art Vollmer
 Program Manager

Priscilla Salazar; Secretary

SANTA FE GROUP
 Anna Maestas Hydrologist
 Robert Atencio; Environmental Sci & Specialist
 Vacant; Environmental Sci & Specialist
 Chris Serazio; Environmental Sci & Specialist

ALBUQUERQUE GROUP
 Sandra Y. Martin; Environmental Sci & Specialist
 Barry Birch; Environmental Sci & Specialist
 Mark Coffman; Environmental Sci & Specialist
 Paul Puckett; Environmental Sci & Specialist
 Don Meyer; Environmental Sci & Specialis

SPILL RESPONSE
 Frank Rodarte; Environmental Sci & Specialist

PERMITS MANAGEMENT PROGRAM

John E. Kieling
 Program Manager

Cynthia Martinez; Secretary

SANTA FE GROUP
 David Cobrain; Staff Manager
 Steve Pullen; Environmental Sci & Specialist
 Kate Lynnes; Environmental Sci & Specialist
 Cheryl Frischkorn; Environmental Sci & Specialist
 Tammy Diaz; Environmental Sci & Specialist
 Vacant; Environmental Sci & Specialist

John Young; Environmental Sci & Specialist
 Vacant; Hydrologist
 Hope Monzeglio; Environmental Sci & Specialist

Neelam Dhawan; Environmental Sci & Specialist
 Rosilee Winn; Environmental Sci & Specialist
 Pat Stewart; Environmental Sci & Specialistialist
 Julie Jacobs; Environmental Sci & Specialist

Darlene Goering; Environmental Sci & Specialist
 Kathryn Chamberlain; Environmental Sci & Specialist
 Swarna Latha Vonteddu; Environmental Sci & Specialist

WIPP GROUP
 Steve Zappe; Staff Manager
 Vacant; Environmental Sci & Specialist
 Vacant; Environmental Sci & Specialist
 Vacant; Environmental Sci & Specialist
 Steve Holmes; Environmental Sci & Specialist

FINANCIAL & DATA MANAGEMENT PROGRAM

Bryon Pippin
 Program Manager

Vanessa Baros; Office Clerk

Linda Montoya; Management Analyst
 Charlotte Duran; Financial Specialist

Pamela Allen; Information Records/Clerk

Cathy Herrera; Financial Specialist
 Gloria Lopez; Financial Specialist

Vacant: IT Comp Systems Analyst

ALBUQUERQUE GROUP
 William Moats; Staff Manager

Bill McDonald; Environmental Sci & Specialist
 Brian Salem; Environmental Sci & Specialist

Cornelius Amindyas; Hydrologist
 Carolyn Cooper; Environmental Sci & Specialist
 David Strasser; Environmental Sci & Specialist

ATTACHMENT H

New Mexico's Treatment, Storage, and Disposal Facility Summary

**New Mexico's Treatment, Storage, and Disposal Facility Summary
October 2005**

EPA ID #	NM ID #	Facility Name	Treatment	Storage	Disposal	Post-Closure	Corrective Action
NMD047140256	2426	General Electric Co Apparatus Ser Shop					■
NMD089416416	2441	Giant Refining Company – Bloomfield	■				■
NMD000333211	2401	Giant Refining Company – Ciniza				■	■
NMD048918817	2427	Navajo Refining Company			■		■
NMD00070982	2413	Philips Semiconductors					■
NMT360010342	2498	PNM Person Generating Station				■	■
NMD002208627	2420	Rinchem Company		■			
NMD000804294	2344	Safety-Kleen 7-008-01 – Albuquerque		■			
NMD980698849	2504	Safety-Kleen 7-008-21 – Farmington		■			
NMD083212332	2438	Sparton Technology Inc				■	■
NMD986676955	1656	Transwestern Pipeline Co Sta 9 Roswell			■		■
NM0001002484	2052	Gandy Marley Inc Triassic Park	■	■	■		
NM4213720101	2393	US AADACEN & Ft. Bliss	■				■
NM7572124454	2398	US Air Force Cannon AFB		■			■
NM6572124422	0392	US Air Force Holloman AFB	■	■			■
NM9570024423	2400	US Air Force Kirtland AFB	■	■			■
NM5572124456	2395	US Air Force Melrose Range					■
NM6213820974	2397	US Army Fort Wingate Depot Activity	■	■			■
NM2750211235	2392	US Army White Sands Missile Range	■	■	■	■	■
NM0890010515	2390	US DOE Los Alamos Scientific Laboratory	■	■	■		■
NM5890110518	2396	US DOE Sandia National Laboratories	■	■	■		■
NM8800019434	2399	US NASA White Sands Test Facility	■	■		■	■
NM4890139088	2394	Waste Isolation Pilot Plant		■	■		■

ATTACHMENT I
2003 Biennial Report

NEW MEXICO

2003 WASTE GENERATION

- 1 Number of Generators Contributing to the Hazardous Waste Generated: 39
- 2 Quantity of RCRA Hazardous Waste Generated: 727,272 Tons
- 3 Fifty Largest RCRA Hazardous Waste Generators in the State, 2003

Rank	EPA ID	Site Name	City	Total Generated (Tons)
1	NMD048918817	NAVAJO REFINING COMPANY	ARTESIA	724,501
2	NMD000609339	INTEL CORPORATION	RIO RANCHO	735
3	NM5890110518	SANDIA NATIONAL LAB FOR THE U.S. D.O.E.	ALBUQUERQUE	401
4	NM0890010515	U.S. NNSA/DOE LOS ALAMOS NATIONAL LABORATORY	LOS ALAMOS	277
5	NM6213820974	FORT WINGATE DEPOT ACTIVITY	GALLUP	267
6	NMD000709782	PHILIPS SEMICONDUCTORS	ALBUQUERQUE	120
7	NMD986670305	XYNATECH, INC.	RIO RANCHO	115
8	NMD980744551	CTS WIRELESS COMPONENTS	ALBUQUERQUE	114
9	NMR000000216	TPL, INC.	FT WINGATE	93
10	NMD000804294	SAFETY-KLEEN SYSTEMS, INC.	ALBUQUERQUE	93
11	NM6572124422	HOLLOMAN AIR FORCE BASE	HOLLOMAN AIR FORCE BASE	67
12	NMR000002816	EMCORE CORPORATION	ALBUQUERQUE	63
13	NM8800019434	NASA JSC WHITE SANDS TEST FACILITY	LAS CRUCES	59
14	NM9570024423	KIRTLAND AFB	ALBUQUERQUE	55
15	NMD000333211	GIANT REFINING CO. - CINIZA REFINERY	JAMESTOWN	33
16	NMD000247791	CHRISTMAS BY KREBS	ROSWELL	31
17	NM7572124454	CANNON AIR FORCE BASE NEW MEXICO	CANNON AIR FORCE BASE	30
18	NMD075088252	NEW MEXICO STATE UNIVERSITY	LAS CRUCES	28
19	NMD000610303	HONEYWELL DEFENSE AVIONICS SYSTEMS ABQ	ALBUQUERQUE	26
20	NMR000002394	REA MAGNET WIRE CO. INC.	LAS CRUCES	22
21	NMD035806405	PHELPS DODGE TYRONE, INC.	TYRONE	17
22	NMD052684578	GE AIRCRAFT ENGINES	ALBUQUERQUE	17
23	NMD089416416	GIANT REFINING COMPANY - BLOOMFIELD	BLOOMFIELD	13
24	NMD980698849	SAFETY-KLEEN SYSTEMS, INC.	FARMINGTON	13
25	NMD360010367	LEA REFINING COMPANY	LOVINGTON	11
26	NMD980621197	UNIVERSITY OF NEW MEXICO	ALBUQUERQUE	11
27	NMD061268819	THOMAS & BETTS	ALBUQUERQUE	10
28	NMD041358904	NEW MEXICO INSTITUTE OF MINING AND TECH	SOCORRO	9
29	NM4890139088	US DOE WASTE ISOLATION PILOT PLANT	CARLSBAD	9
30	NMD982552945	CARDINAL HEALTH PTS LLC	ALBUQUERQUE	8
31	NMD360010292	PNM ALBUQUERQUE ELECTRIC SERVICE CENTER	ALBUQUERQUE	8
32	NMD986684207	ALBUQUERQUE REFINED PRODUCTS TERMINAL	ALBUQUERQUE	5
33	NMP360010227	EPNG-JAL WAREHOUSE	JAL	5
34	NMP360011141	EPNG-WASHINGTON RANCH STORAGE FACILITY	WHITE CITY	2
35	NM0000562645	SUMCO PHOENIX-ALBUQUERQUE	ALBUQUERQUE	2
36	NMP360011130	EPNG-PECOS RIVER COMPRESSOR STATION	MALAGA	1
37	NMP360011142	EPNG- STATION #4	GAGE	1
38	NMD030434567	SAN JUAN REGIONAL MEDICAL CENTER	FARMINGTON	1
39	NM4213720101	USAADACENFB	MCGREGOR RANGE CAMP	1
Total				727,272

Note: State may have fewer than fifty generators that contributed to the hazardous waste generated.

Reporting requirement changes for the 2003 National Biennial Report will make cursory comparisons of the 2003 National Biennial Report to National Biennial Reports developed prior to 2001 misleading. Refer to the Introduction for a complete explanation.

NEW MEXICO

2003 WASTE GENERATION, CONTINUED

4 Quantities of Waste Generated in 2003 That Were Reported with Only Characteristic Waste Codes, Only Listed Waste Codes, or Both Characteristic and Listed Waste Codes

Waste Has Only Characteristic Codes	Tons of Waste Generated	Waste Has Only Listed Codes	Tons of Waste Generated	Waste Has Both Characteristic And Listed Codes	Tons of Waste Generated
ONLY IGNITABLE	69	ONLY AN F CODE	33		
ONLY CORROSIVE	162	ONLY A K CODE	403		
ONLY REACTIVE	104	ONLY A P CODE	0		
ONLY D004-17	459	ONLY A U CODE	1		
ONLY D018-43	721,869				
HAS MORE THAN ONE CHARACTERISTIC CODE	2,255	HAS MORE THAN ONE LISTED CODE	525		
TOTAL	724,918	TOTAL	963	Both Characteristic and Listed	1,382

5 Quantities of Waste Generated in 2003 That Were Multiply Coded

Waste Has Only Characteristic Codes But More Than One Applies	Tons of Waste Generated	Only Listed Codes But Has More Than One	Tons of Waste Generated	Both Characteristic And Listed Codes	Tons of Waste Generated
HAS IGNITABLE CODE	168			IGN. W/ AT LEAST 1 LSTD	991
HAS CORROSIVE CODE	64			CORR. W/ AT LEAST 1 LSTD	36
HAS REACTIVE CODE	26			REACT. W/ AT LEAST 1 LSTD	40
HAS D004-D017 CODE	2,143			D004-17 W/ AT LEAST 1 LSTD	441
HAS D018-D043 CODE	2,163			D018-43 W/ AT LEAST 1 LSTD	436
		HAS AN F CODE	252	F WASTE W/ AT LEAST 1 CHAR	1,370
		HAS A K CODE	252	K WASTE W/ AT LEAST 1 CHAR	0
		HAS A P CODE	272	P WASTE W/ AT LEAST 1 CHAR	1
		HAS A U CODE	272	U WASTE W/ AT LEAST 1 CHAR	48
TOTAL	2,255	TOTAL	525	TOTAL	1,382

Note: Columns may not sum to total because a waste code may apply to more than one waste. Mixtures with ignitable, corrosive, reactive, D004-17, and D018-43 characteristic codes may also contain other characteristic waste codes. Similarly, wastes with F, K, P, and U listed codes may have other listed waste codes.

6 Top Ten Wastes Generated*: D001, D008, D002, D007, D003, D006, F003, D011, D009, F005

*Based on the Federal hazardous waste codes most frequently reported, not the quantity generated.

7 Top Ten Quantities of Waste Generated in 2003, by NAICS Code

Rank	NAICS	Description	Tons Generated
1	3241	Petroleum and Coal Products Manufacturing	724,558
2	9281	National Security and International Affairs	1,097
3	3344	Semiconductor and Other Electronic Component Manufacturing	1,033
4	3328	Coating, Engraving, Heat Treating, and Allied Activities	115
5	5621	Waste Collection	105
6	3259	Other Chemical Product and Preparation Manufacturing	93
7	9271	Space Research and Technology	59
8	3359	Other Electrical Equipment and Component Manufacturing	58
9	6113	Colleges, Universities, and Professional Schools	48
10	3399	Other Miscellaneous Manufacturing	31
Total			727,198

Reporting requirement changes for the 2003 National Biennial Report will make cursory comparisons of the 2003 National Biennial Report to National Biennial Reports developed prior to 2001 misleading. Refer to the Introduction for a complete explanation.

NEW MEXICO

2003 WASTE MANAGEMENT

8 Number of RCRA Facilities Contributing to the Hazardous Waste Managed: 11

9 Quantity of RCRA Hazardous Waste Managed: 723,140 Tons

10 Fifty Largest RCRA Hazardous Waste Management Facilities in the State, 2003

Rank	EPA ID	Site Name	City	Tons of Waste Managed
1	NMD048918817	NAVAJO REFINING COMPANY	ARTESIA	721,684
2	NM4890139088	US DOE WASTE ISOLATION PILOT PLANT	CARLSBAD	1,276
3	NMD980744551	CTS WIRELESS COMPONENTS	ALBUQUERQUE	112
4	NM8800019434	NASA JSC WHITE SANDS TEST FACILITY	LAS CRUCES	46
5	NM9570024423	KIRTLAND AFB	ALBUQUERQUE	7
6	NM0890010515	U.S. NNSA/DOE LOS ALAMOS NATIONAL LABORATORY	LOS ALAMOS	5
7	NM7572124454	CANNON AIR FORCE BASE NEW MEXICO	CANNON AIR FORCE BASE	3
8	NMD000247791	CHRISTMAS BY KREBS	ROSWELL	3
9	NM5890110518	SANDIA NATIONAL LAB FOR THE U.S. D.O.E.	ALBUQUERQUE	2
10	NM6572124422	HOLLOMAN AIR FORCE BASE	HOLLOMAN AIR FORCE BASE	1
11	NM4213720101	USAADACENFB	MCGREGOR RANGE CAMP	0
Total				723,140

Note: Column may not sum to total due to rounding.
 State may have fewer than fifty RCRA facilities contributing to the hazardous waste managed.
 Facilities reporting storage only and their quantity managed are excluded.

US EPA ARCHIVE DOCUMENT

Reporting requirement changes for the 2003 National Biennial Report will make cursory comparisons of the 2003 National Biennial Report to National Biennial Reports developed prior to 2001 misleading. Refer to the Introduction for a complete explanation.

NEW MEXICO

2003 WASTE MANAGEMENT, CONTINUED

11 Quantity of RCRA Hazardous Waste Managed by Management Method, 2003

Management Method	Quantity Managed (tons)	Percentage of Quantity	Number of Facilities	Percentage of Facilities
DEEPWELL OR UNDERGROUND INJECTION	697,730	96.5	1	9.1
INCINERATION	1	0.0	1	9.1
LANDFILL/SURFACE IMPOUNDMENT	1,276	0.2	1	9.1
OTHER DISPOSAL	23,954	3.3	1	9.1
OTHER RECOVERY	3	0.0	2	18.2
OTHER TREATMENT	57	0.0	6	54.5
SOLVENTS RECOVERY	3	0.0	1	9.1
STABILIZATION	116	0.0	3	27.3
	723,140	100.0	11	

12 Management Method by Quantity of RCRA Hazardous Waste Managed, 2003

Management Method	Quantity Managed (tons)	Percentage of Quantity	Number of Facilities	Percentage of Facilities
DEEPWELL OR UNDERGROUND INJECTION	697,730	96.5	1	9.1
OTHER DISPOSAL	23,954	3.3	1	9.1
LANDFILL/SURFACE IMPOUNDMENT	1,276	0.2	1	9.1
STABILIZATION	116	0.0	3	27.3
OTHER TREATMENT	57	0.0	6	54.5
OTHER RECOVERY	3	0.0	2	18.2
SOLVENTS RECOVERY	3	0.0	1	9.1
INCINERATION	1	0.0	1	9.1
	723,140	100.0	11	

13 Management Method and Quantity of RCRA Hazardous Waste Managed by Number of Facilities, 2003

Management Method	Quantity Managed (tons)	Percentage of Quantity	Number of Facilities	Percentage of Facilities
OTHER TREATMENT	57	0.0	6	54.5
STABILIZATION	116	0.0	3	27.3
OTHER RECOVERY	3	0.0	2	18.2
DEEPWELL OR UNDERGROUND INJECTION	697,730	96.5	1	9.1
INCINERATION	1	0.0	1	9.1
SOLVENTS RECOVERY	3	0.0	1	9.1
LANDFILL/SURFACE IMPOUNDMENT	1,276	0.2	1	9.1
OTHER DISPOSAL	23,954	3.3	1	9.1
	723,140	100.0	11	

Note: Columns may not sum to total due to rounding.
 Number of Facilities column may not sum to total because facilities may have multiple handling methods.
 Facilities reporting storage only and their quantity managed are excluded.

14 Top Ten Wastes Managed*: D008, D006, F002, F005, D003, D005, F001, D007, D011, D009

*Based on the Federal hazardous waste codes most frequently reported, not the quantity managed.

US EPA ARCHIVE DOCUMENT

Reporting requirement changes for the 2003 National Biennial Report will make cursory comparisons of the 2003 National Biennial Report to National Biennial Reports developed prior to 2001 misleading. Refer to the Introduction for a complete explanation.

NEW MEXICO

2003 WASTE SHIPMENTS

15 Number of RCRA Hazardous Waste Shippers: 39

16 Quantity of RCRA Hazardous Waste Shipped: 5,611

17 Fifty Largest RCRA Hazardous Waste Shippers in the State, 2003

Rank	EPA ID	Site Name	City	Quantity Shipped (Tons)
1	NMD048918817	NAVAJO REFINING COMPANY	ARTESIA	2,866
2	NMD000609339	INTEL CORPORATION	RIO RANCHO	735
3	NM5890110518	SANDIA NATIONAL LAB FOR THE U.S. D.O.E.	ALBUQUERQUE	396
4	NMD000804294	SAFETY-KLEEN SYSTEMS, INC.	ALBUQUERQUE	364
5	NM6213820974	FORT WINGATE DEPOT ACTIVITY	GALLUP	268
6	NMD000709782	PHILIPS SEMICONDUCTORS	ALBUQUERQUE	121
7	NMD986670305	XYNATECH, INC.	RIO RANCHO	115
8	NM0890010515	U.S. NNSA/DOE LOS ALAMOS NATIONAL LABORATORY	LOS ALAMOS	87
9	NMD980698849	SAFETY-KLEEN SYSTEMS, INC.	FARMINGTON	87
10	NMR000000216	TPL, INC.	FT WINGATE	80
11	NMR000002816	EMCORE CORPORATION	ALBUQUERQUE	63
12	NM9570024423	KIRTLAND AFB	ALBUQUERQUE	55
13	NM6572124422	HOLLOMAN AIR FORCE BASE	HOLLOMAN AIR FORCE BASE	48
14	NMD000333211	GIANT REFINING CO. - CINIZA REFINERY	JAMESTOWN	33
15	NMD000247791	CHRISTMAS BY KREBS	ROSWELL	31
16	NMD075088252	NEW MEXICO STATE UNIVERSITY	LAS CRUCES	28
17	NM7572124454	CANNON AIR FORCE BASE NEW MEXICO	CANNON AIR FORCE BASE	27
18	NMD000610303	HONEYWELL DEFENSE AVIONICS SYSTEMS ABQ	ALBUQUERQUE	26
19	NMR000002394	REA MAGNET WIRE CO. INC.	LAS CRUCES	20
20	NMD035806405	PHELPS DODGE TYRONE, INC.	TYRONE	17
21	NMD052684578	GE AIRCRAFT ENGINES	ALBUQUERQUE	17
22	NMD030434567	SAN JUAN REGIONAL MEDICAL CENTER	FARMINGTON	13
23	NMD089416416	GIANT REFINING COMPANY - BLOOMFIELD	BLOOMFIELD	13
24	NMD360010367	LEA REFINING COMPANY	LOVINGTON	11
25	NMD980621197	UNIVERSITY OF NEW MEXICO	ALBUQUERQUE	11
26	NM8800019434	NASA JSC WHITE SANDS TEST FACILITY	LAS CRUCES	10
27	NM0000562645	SUMCO PHOENIX-ALBUQUERQUE	ALBUQUERQUE	10
28	NMD061268819	THOMAS & BETTS	ALBUQUERQUE	10
29	NMD041358904	NEW MEXICO INSTITUTE OF MINING AND TECH	SOCORRO	9
30	NM4890139088	US DOE WASTE ISOLATION PILOT PLANT	CARLSBAD	9
31	NMD982552945	CARDINAL HEALTH PTS LLC	ALBUQUERQUE	8
32	NMD360010292	PNM ALBUQUERQUE ELECTRIC SERVICE CENTER	ALBUQUERQUE	8
33	NMD986684207	ALBUQUERQUE REFINED PRODUCTS TERMINAL	ALBUQUERQUE	5
34	NMP360010227	EPNG-JAL WAREHOUSE	JAL	5
35	NMP360011141	EPNG-WASHINGTON RANCH STORAGE FACILITY	WHITE CITY	2
36	NMD980744551	CTS WIRELESS COMPONENTS	ALBUQUERQUE	2
37	NMP360011130	EPNG-PECOS RIVER COMPRESSOR STATION	MALAGA	1
38	NMP360011142	EPNG- STATION #4	GAGE	1
39	NM4213720101	USAADACENFB	MCGREGOR RANGE CAMP	1
Total				5,611

Note: Column may not sum to total due to rounding.
State may have fewer than fifty shippers.

Reporting requirement changes for the 2003 National Biennial Report will make cursory comparisons of the 2003 National Biennial Report to National Biennial Reports developed prior to 2001 misleading. Refer to the Introduction for a complete explanation.

NEW MEXICO

2003 WASTE RECEIPTS

18 Number of RCRA Hazardous Waste Receivers: 6

19 Quantity of RCRA Hazardous Waste Received: 1,629 Tons

20 Fifty Largest RCRA Hazardous Waste Receivers in the State, 2003

Rank	EPA ID	Site Name	City	Quantity Received (Tons)
1	NM4890139088	US DOE WASTE ISOLATION PILOT PLANT	CARLSBAD	1,276
2	NMD000804294	SAFETY-KLEEN SYSTEMS, INC.	ALBUQUERQUE	256
3	NMD980698849	SAFETY-KLEEN SYSTEMS, INC.	FARMINGTON	88
4	NM9570024423	KIRTLAND AFB	ALBUQUERQUE	7
5	NM5890110518	SANDIA NATIONAL LAB FOR THE U.S. D.O.E.	ALBUQUERQUE	1
6	NM0890010515	U.S. NNSA/DOE LOS ALAMOS NATIONAL LABORA	LOS ALAMOS	0
Total				1,629

Note: Column may not sum to total due to rounding.
State may have fewer than fifty facilities that received waste.

US EPA ARCHIVE DOCUMENT

NEW MEXICO

2003 WASTE RECEIPTS, CONTINUED

21 Quantity of RCRA Hazardous Waste Managed by Management Method
Limited to Waste Received from Offsite, 2003

Management Method	Quantity Managed (tons)	Percentage of Quantity	Number of Facilities	Percentage of Facilities
LANDFILL/SURFACE IMPOUNDMENT	1,276	78.4	1	16.7
OTHER TREATMENT	7	0.4	1	16.7
STORAGE AND/OR TRANSFER	345	21.2	4	66.7
	1,629	100.0	6	

22 Management Method by Quantity of RCRA Hazardous Waste Managed
Limited to Waste Received from Offsite, 2003

Management Method	Quantity Managed (tons)	Percentage of Quantity	Number of Facilities	Percentage of Facilities
LANDFILL/SURFACE IMPOUNDMENT	1,276	78.4	1	16.7
STORAGE AND/OR TRANSFER	345	21.2	4	66.7
OTHER TREATMENT	7	0.4	1	16.7
	1,629	100.0	6	

23 Management Method and Quantity of RCRA Hazardous Waste Managed by Number of Facilities
Limited to Waste Received from Offsite, 2003

Management Method	Quantity Managed (tons)	Percentage of Quantity	Number of Facilities	Percentage of Facilities
STORAGE AND/OR TRANSFER	345	21.2	4	66.7
LANDFILL/SURFACE IMPOUNDMENT	1,276	78.4	1	16.7
OTHER TREATMENT	7	0.4	1	16.7
	1,629	100.0	6	

Note: Columns may not sum to total due to rounding.
Number of Facilities column may not sum to total because facilities may have multiple handling methods.

NEW MEXICO

2003 INTERSTATE SHIPMENTS AND RECEIPTS

24 Quantity of RCRA Hazardous Waste Interstate Shipments: 5,414 Tons

25 Quantity of RCRA Hazardous Waste Interstate Receipts: 1,230 Tons

26 New Mexico Interstate Shipment / Receipts (As reported by New Mexico):

The State to which New Mexico shipped the largest quantity of waste was Texas (2,855 tons).

The State that shipped the largest quantity of waste to New Mexico was Colorado (613 tons).

ATTACHMENT J

Hazardous Waste Bureau FY2006 Budget

ATTACHMENT J

Hazardous Waste Bureau FY2006 Budget

EPA Federal RCRA Grant w/NMED				HWB General Fund	HWB Fund 339 Other State Funds	Total Federal Funding	Total State Funding
6. OBJECT CLASS CATEGORIES	(A) Federal	(B) Non-Federal	(C) Total	(D)	(E)	=A	=B, D, E
a. Personnel	\$ 609,935	\$ 203,312	\$ 813,247	\$ 229,600	\$ 1,025,500	\$ 609,935	\$ 1,458,412
b. Fringe Benefits	\$ 195,179	\$ 65,060	\$ 260,239	\$ 123,700	\$ 552,200	\$ 195,179	\$ 740,960
c. Travel	\$ 12,000	\$ 4,000	\$ 16,000	\$ 8,000	\$ 25,000	\$ 12,000	\$ 37,000
d. Equipment	\$ -	\$ -	\$ -	\$ 2,000	\$ 15,000	\$ -	\$ 17,000
e. Supplies	\$ 5,250	\$ 1,750	\$ 7,000	\$ 3,500	\$ 6,500	\$ 5,250	\$ 11,750
f. Contractual	\$ 71,100	\$ 23,700	\$ 94,800	\$ -	\$ 497,600	\$ 71,100	\$ 521,300
g. Construction	\$ -	\$ -	\$ -			\$ -	\$ -
h. Other	\$ 72,043	\$ 24,013	\$ 96,056	\$ 34,000	\$ 428,900	\$ 72,043	\$ 486,913
i. Total Direct Charges (sum of 6a-h)	\$ 965,507	\$ 321,835	\$ 1,287,342	\$ 400,800	\$ 2,550,700	\$ 965,507	\$ 3,273,335
j. Indirect Charges @ 19.81%	\$ 159,493	\$ 53,164	\$ 212,658	\$ -	\$ 312,542	\$ 159,493	\$ 365,707
k. TOTALS (sum of 6i and 6j)	\$ 1,125,000	\$ 375,000	\$ 1,500,000	\$ 400,800	\$ 2,863,242	\$ 1,125,000	\$ 3,639,042

ATTACHMENT K
NMED Records Policy



NEW MEXICO ENVIRONMENT DEPARTMENT

Office of the Secretary

POLICY AND PROCEDURE 25-09

SUBJECT: Inspection of Public Records Policy

PURPOSE: To establish a uniform procedure for responding to requests for making public records of the New Mexico Environment Department (Department) available for public inspection.

APPLICABILITY: All divisions of the Department.

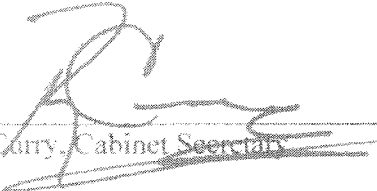
POLICY: The Department shall implement the provisions of the Inspection of Public Records Act to provide access by the public to Department public records in accordance with the Inspection of Public Records Act.

REFERENCES: Inspection of Public Records Act, NMSA 1978, §§14-2-1 *et seq.*

PROCEDURES:

- I. Scope
- II. Definitions
- III. Public Records Custodians
- IV. Public Records Requests
- V. Responding to Requests
- VI. Exempt Records or Information
- VII. Denial and Referral of Requests
- VIII. Copying Fees

APPROVAL:


Ron Curry, Cabinet Secretary

DATE:

8/25/04

I. SCOPE:

This policy prescribes procedures for making Department public records available to the public for inspection and copying pursuant to the provisions of the Inspection of Public Records Act (NMSA 1978, Sections 14-2-1 *et seq.*, hereinafter the "Act"). The Department shall treat all Freedom of Information Requests as requests under the Inspection of Public Records Act.

II. DEFINITIONS: As used in this policy:

A. "Department public records" or "public records" are all documents, papers, letters, books, maps, tapes, photographs, recordings, e-mail, computer data bases and other materials, regardless of physical form or characteristics, that are used, created, received, maintained or held by or on behalf of the Department and that relate to Department business, whether or not the records are required by law to be created or maintained. Department public records do not include records such as:

1. Notes, including field notes, and other materials prepared or collected by public employees solely for their own use that are preliminary and are not intended to perpetuate, formalize or communicate information for or on behalf of the public agency. Disclosure of such materials could unnecessarily hamper a public employee's ability to do his/her job by discouraging or tempering the employee's taking of notes, keeping research materials or experimenting with creative ideas in preliminary drafts of memoranda and letters;

2. Draft documents or draft versions of documents that are circulated for comments that are turned into a final document;

3. Records that do not relate to a public body's business and are voluntarily kept by employees for their personal use;

4. Publicly available books, periodicals or other publications that are owned, distributed or copyrighted by non-Department sources; or

5. Any records that are exempt, as provided in Section VI, below.

B. "Public Records Custodian" or "Records Custodian" means the Department Public Records Custodian or the Bureau/District Public Records Custodian.

C. "Uncommon requests" means any request to inspect public records that differs from those requests normally received. This includes requests from the media involving sensitive issues as defined in the Department's Communications (Media Inquires, Press Releases) Policy 25-08; requests from non-parties concerning ongoing litigation in which NMED is involved; requests for non-final contracts; requests for non-confidential personnel information such as salaries when the request is made for purposes other than to verify employment or for a credit check; requests for draft documents not intended for public circulation; requests for exempt records; and requests that require a significant expenditure of resources.

D. "Unusual circumstances" means:

1. The need to search for and collect the requested public records from field facilities or offices that are separate from the office processing the request;

2. The need to search for, collect and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request;

3. The need for consultation with one or more bureau/district office having a substantial interest in the request; or

4. Other unusual circumstances beyond the control of the custodian that could cause delay.

III. PUBLIC RECORDS CUSTODIANS

A. Department Public Records Custodian

1. The Cabinet Secretary shall, upon the recommendation of the General Counsel, appoint the Department Public Records Custodian, who shall be an employee of the Office of General Counsel.

2. If the Department Public Records Custodian receives a request for public records, he/she shall immediately upon receiving the request assign it to the appropriate Bureau or District Records Custodian(s).

B. Bureau or District Records Custodians

1. Each bureau and each district office shall designate an employee from that bureau/district office to be the Records Custodian for the bureau/district, who shall ensure the bureau/district responds to requests it receives to inspect public records.

2. The Bureau/District Records Custodian, with the assistance of the employee in the bureau/district responsible for or in possession of the requested public records, shall:

a. receive and respond to requests to inspect public records received directly from the public or by referral from the Department Public Records Custodian;

b. make the public records available for inspection; and

c. provide reasonable facilities to make or furnish copies of the public records during usual business hours.

3. If a Bureau/District Records Custodian receives a public records request that pertains to another bureau/district, he/she shall immediately forward the request to that Bureau's/District's Records Custodian, with a copy to the Department Public Records Custodian indicating the bureau(s) the request has been forwarded.

IV. PUBLIC RECORDS REQUESTS

A. Any person may request orally or in writing to inspect the Department's public records. Requests to inspect public records shall be directed either to the Department Public Records Custodian or Bureau/District Records Custodian. If the request is directed to the Department Public Records Custodian, the Department Public Records Custodian shall assign the request to the appropriate Bureau/District Records Custodian(s).

B. The request must describe the public records sought with reasonable particularity or identified in sufficient detail to enable Department personnel to reasonably identify and locate the records. A request for a specific category of public records shall be regarded as fulfilling this requirement if it enables records to be identified.

1. All written requests must provide the name, address and telephone number of the person seeking access to the public records. The request does not need to state the reason for the request.

2. Whenever possible, a request shall include specific information about each public record sought, such as the date, title or name, author, recipient and subject matter of the record. In addition, if the request seeks non-exempt records pertaining to pending litigation, the request should, if possible, indicate the title of the case, the court in which the case was filed and the nature or subject matter of the case.

3. If the Department determines that a request does not describe the public records sought with reasonable particularity, the Department shall advise the requestor why the request is insufficient. The Department also shall extend to the requestor an opportunity to confer with Department personnel in order to reformulate the request in a manner that will meet this requirement.

C. Public Information Request Form is attached.

V. RESPONDING TO REQUESTS

A. Department employees receiving requests to inspect public records shall promptly forward the request to the Bureau/District Records Custodian and send a copy to the Department Public Records Custodian.

1. The Department Public Records Custodian shall prepare the 3-day letter, unless the request is satisfied in less than 3 days.

2. If there is more than one bureau involved in the document request, the Department Public Records Custodian shall coordinate the response.

B. The Bureau/District Records Custodian shall as soon as practicable under the circumstances ensure non-exempt Department public records are provided for inspection.

1. The Bureau/District Records Custodian shall respond directly to the requestor and shall provide the Department Public Records Custodian with a copy of the response if the response was in writing. The written response shall either provide a copy of the documents or set out the time, location and manner for inspection of the identified public records.

2. Unless unusual circumstances exist, as defined in this policy, the Bureau/District Records Custodian shall ensure the requested non-exempt public records are provided for inspection no later than fifteen (15) days after receiving the request.

3. The inspection may take place at the location within the Department where the records are actually maintained or, at the discretion of the Bureau/District Records Custodian, in any other location within the Department that is reasonable and responsive to the needs of the Department or the person making the written request. A person making a written request for copies of public information, after following the fee payment procedures, may have a copy of the requested public records provided by mail or other reasonable delivery method, without first inspecting the records.

C. If a written request seeks an unusually voluminous amount of documents or is excessively burdensome or broad or where other unusual circumstances exist, the Bureau/District Records Custodian shall promptly notify the requestor in writing that additional time beyond the 15-day period for inspection will be needed to respond. The Bureau/District Records Custodian shall describe the circumstances that cause the request to be excessively burdensome or broad, and may suggest possible modifications to the request that would decrease the burdensome or broad nature of the request on the Department. The Bureau/District Records Custodian shall ensure that the request is responded to within a reasonable period of time under the circumstances.

D. If the Department does not have possession of the records sought, or cannot respond to the written request without consultation with another public entity, the Department Public Records Custodian shall promptly forward the request to the appropriate public entity. Upon forwarding the request to another public entity, the Public Records Custodian shall ensure the requestor is notified in writing and that the notification states the reason for the absence of the records sought and the location where the Public Records Custodian believes the records may be found, including the name and address of that public entity's Public Records Custodian.

E. The Bureau/ District Public Records Custodian shall keep a Public Information Log to track all requests received. The Public Information Log form is attached.

F. The Bureau/District Public Records Custodian shall document on the Public Information Log and ensure that oral requests for non-exempt Department public records are responded to

immediately, if the records are determined to be public records and are readily available, or as soon as practicable under the circumstances.

G. The Bureau/District Records Custodian shall identify or designate reasonable facilities to make or furnish copies of the public records requested during usual business hours. This may include a private copy company where the documents may be taken and picked-up by the private copy company or the Department staff, but copied at the requestor's expense. Custody of original documents may not be released to the requestor, but may only be released to a private copy facility, with instructions to that facility to release the records back only to the Department. Payment for copies should be made directly from the requestor to the copy facility.

VI. EXEMPT RECORDS OR INFORMATION

A. Upon receiving a request, whether oral or written, a Bureau/District Records Custodian shall first determine whether any records sought are exempt from disclosure as defined in this section. Where a request seeks records that contain exempt documents or information, the Public Records Custodian shall, prior to the release of the records, (1) separate and retain exempt documents or (2) redact or delete exempt information from documents that are otherwise nonexempt. Where a request seeks information from a computer database, which cannot practically be released in its entirety, or which contains confidential or exempt information, the Public Records Custodian may release a partial printout of the database.

B. The following public records or information are exempt, and shall not be released:

1. All health or medical information that identifies specific individuals or patients, including medical records pertaining to physical or mental examinations or treatment, and including records that are submitted for insurance payment for medical expenses;

2. Documents maintained for purposes of the Americans with Disabilities Act;

3. Letters of reference concerning employment, licensing or permits;

4. Personnel records containing subjective (nonfactual) matters of opinion, other documents concerning employee infractions and disciplinary actions, employee performance appraisals and opinions as to whether a person should be reemployed, and the employee's college transcripts; lab reports or test results concerning an employee; information on the race, color, religion, national origin, ancestry, political affiliation, sexual orientation or disability of an employee; military discharge of an employee, if other than honorable;

5. Tactical response plans or procedures prepared for or by the state, the publication of which could reveal specific vulnerabilities, risk assessments or tactical emergency security procedures that could be used to facilitate the planning or execution of a terrorist attack;

6. Law enforcement records that reveal confidential sources, methods, or information or identify individuals who are accused but not charged with a crime;

7. Records that are maintained by the Department under a promise of confidentiality, as provided by the Confidential Materials Act, NMSA 1978, Sections 14-3A-1 to -2;

8. Legal opinions, advice or work-product protected by the attorney-client privilege or attorney work product;

9. The Occupational Health and Safety Act protects (a) names of complainants who request that their names not be revealed (NMSA 1978, §50-9-10.B); (b) reports of occupational injuries and illnesses filed by employers, as well as the names of such employers (NMSA 1978, §50-9-19.B); (c) information obtained or received in connection with an OHSA investigation (NMSA 1978, §§50-9-21(B) and 50-9-6(B)); (d) information obtained under the consultation program, except for statistical purposes if the employer is not identified (NMSA 1978, §50-9-21); and trade secrets defined as any scientific technical information, design, process, procedure, formula or improvement which is secret and of value (NMSA 1978, §§50-9-21 (C) and 50-9-24 (M)); and

10. Any other records that are deemed exempt under federal or state law and for which a sufficient countervailing public policy to justify denying public access to records under Newsome v. Alarid, 90 N.M. 790, 568 P.2d 1236 (1977) exists. Some categories that may apply to NMED include the following:

- a. Executive privilege: Communications between members of an executive agency to safeguard the decision-making process of government by fostering candid expression of recommendations and advice.
- b. Personal privacy: Social security numbers and dates of birth shall be redacted in public documents that are disclosed. Information on race, color, religion, sex, national origin, political affiliation, age and disability of employees shall not be disclosed.
- c. Settlement documents: Correspondence or other documents prepared in negotiating a settlement, which the parties have agreed to maintain as confidential. Once all parties have approved a settlement agreement, that agreement and related final documents must be made available to the public upon request.
- d. Business information: Records, reports or information shall be held confidential if the following guidelines are satisfied, (see the Air Quality Control Act, NMSA 1978, §74-2-11; the Hazardous Waste Act, NMSA 1978, §74-4-4.3; the Solid Waste Act, NMSA 1978, §74-9-33; and the Water Quality Act, NMSA 1978, §74-6-15):
 1. The business has asserted a claim of confidentiality, which has not been waived or withdrawn;
 2. The business has satisfactorily shown that disclosure of the information would divulge confidential business records or methods or

processes entitled to protection as confidential information or trade secrets.¹

- e. Requests for Proposals: The contents of proposals submitted in response to Requests for Proposals shall not be made available to the public and shall be confidential until the contract is awarded and signed by the successful offeror. NMSA 1978, §13-1-116.
- f. Superfund Hazard Ranking System Scores and Evaluations: Superfund Hazard Ranking System scores and evaluations shall be kept confidential at the request of EPA.

VII. DENIAL AND REFERRAL OF REQUESTS

A. Except as provided in paragraph B of this section, if as a result of the review of a request, the Public Records Custodian determines that disclosure of the Department records should be denied in whole or in part, or if the request is uncommon, as defined by this policy, the Public Records Custodian shall submit that determination to a Department attorney, who will make an independent determination whether the disclosure of the Department public records should be denied in whole or in part. If the request is for the name of complainants or information contained in on-going investigation files, then the Records Custodian shall submit the determination to a Department attorney. If the Department attorney determines that the Department records sought are exempt from disclosure, the Department attorney shall notify the requestor of the determination in the manner provided in Section VII(C) below.

B. For Department records located in a Department attorney's possession, a Department attorney shall make the initial determination of whether to deny Department records in whole or in part. If the Department attorney determines that the Department records sought are exempt from disclosure or are not public information, the Department attorney shall notify the requestor of the determination in the manner provided in Section VII(C) below.

C. If a written request is denied, the Public Records Custodian or Department attorney shall provide the requestor with a written denial. The written denial shall:

1. Describe the records sought;
2. List the records withheld and explain the reason for denial;
3. Set forth the names and titles or positions of each person responsible for the denial; and

¹ The AQCA, HWA, SWA and WQA refer to 18 U.S.C. 1905, which precludes the disclosure of trade secrets, processes, operations, style of work, or apparatus, or to identity confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof.

4. Be delivered or mailed to the person requesting the records within 15 days after the request for inspection was received, unless the requestor was notified additional time was needed.

VIII. COPYING FEES

The Public Records Custodian may charge reasonable fees for copying public records, payable in advance, and, upon request, shall provide a receipt. Unless a different fee is otherwise prescribed by law or regulation, the following apply.

- A. Where redacting is not required for paper photocopies:
- (1) 8 1/2" x 11" (1 to 99 copies) - \$0.25 per page
 - (2) 8 1/2" x 11" (100 to 499 copies) - \$0.40 per page in excess of 99
 - (3) 8 1/2" x 11" (500 or more copies) - \$0.55 per page in excess of 499
 - (4) 8 1/2" x 14" (1 to 99 copies) - \$0.30 per page
 - (5) 8 1/2" x 14" (100 to 499 copies) - \$0.45 per page in excess of 99
 - (6) 8 1/2" x 14" (500 or more copies) - \$0.60 per page in excess of 499
 - (7) 11" x 17" (1 to 99 copies) - \$0.35 per page
 - (8) 11" x 17" (100 to 499 copies) - \$0.50 per page in excess of 99
 - (9) 11" x 17" (500 or more copies) - \$0.65 per page in excess of 499
- B. Audio tape reproduction - \$2.00 per tape.
- C. Electronic copies of public records - for electronic or digital copies of computer data, five dollars (\$5.00) for each standard 3 1/2- inch floppy disk or CD-ROM required. If query of a database is necessary to narrow the public information contained in the database, an additional fee of fifteen dollars (\$15) applies.
- D. Prints from digital images: 5" x 7" or 8" x 10" - \$12.00.
- E. Where redacting is required, one dollar (\$1.00) per page regardless of the number or size of copies and regardless of the medium.
- F. No copies will be provided by digital transfer methods, other than by transfer to a disk or CD-ROM from Department computers, unless, in the discretion of the custodian or bureau contact, in consultation with Department IT staff, such copying is technically safe, may be reasonably and efficiently accomplished with existing and available software and hardware, and with available Department personnel, and is cost effective. In such case the fee is the same as for digital copies using disks or CD-ROM.

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**NEW MEXICO ENVIRONMENT DEPARTMENT
INSPECTION OF PUBLIC RECORD REQUEST FORM**

Please fill out the following information:

1. Date: _____
2. Requestor's Name: _____
3. Requestor's Address: _____

4. Phone No.: (____) _____
5. Company Being Represented: _____

6. Address: _____

7. Document/File being requested to be reviewed or copied (please describe the records in sufficient detail to enable Department personnel to reasonably identify and locate the records): _____

8. NMED Bureau where Document/File can be found (if known): _____

Signature

The cost of requestor copying is .25 cents per page for 8 1/2 x 11, for all other sized or redacted documents consult NMED Policy 25-09.

Please send this request to:
Julia Jarvis
Inspection of Public Records Officer
1190 St. Francis Drive, Ste. N-4050
Santa Fe, New Mexico 87505
or fax: (505) 827-1628

New Mexico Environment Department
Inspection of Public Records Log

BUREAU: _____

Request Received Date	Request Date	Requester's Name	Description of Requested Information	Response Date

ATTACHMENT L

Revision Checklists (Non-Express and Express)

RCRA REVISION CHECKLIST 26

Listing of Spent Pickle Liquor (K062)
 51 FR 19320-19322
 May 28, 1986
 as amended on September 22, 1986, at 51 FR 33612
 (Non-HSWA Cluster II)

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE

PART 261 - IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

SUBPART D - LISTS OF HAZARDOUS WASTE

† HAZARDOUS WASTE FROM SPECIFIC SOURCES

list of "K" waste	261.32	20.4.1.200	x
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¹ §261.32 - Hazardous waste from specific sources

Industry and EPA Hazardous Waste No:	Hazardous Waste	Hazard Code
Iron and Steel: K062.....	Spent pickle liquor generated by steel finishing operations of facilities within the iron and steel industry (SIC Codes 331 and 332).	(C,T)

¹ Note that the August 3, 1987 Federal Register (52 FR 28697) addressing this listing was a clarification of the September 22, 1986 (51 FR 33612) amendment to this listing. As such, it does not need a separate checklist.

REVISION CHECKLIST 51

Revision Checklist 51 continues to be withheld. Due to the settlement agreement reached on the litigation surrounding the September 1, 1988 (53 FR 33938) final rule, EPA will be promulgating amendments to this rule in the near future. States are strongly encouraged not to adopt the provisions addressed by this final rule until these amendments have been promulgated. Revision Checklist 51 may be moved to a later cluster due to the delay in issuing this checklist caused by the litigation and the resulting settlement agreement.

RCRA REVISION CHECKLIST 54

Permit Modifications for Hazardous Waste Management Facilities
 53 FR 37912-37942
 September 28, 1988
 as amended on October 24, 1988, at 53 FR 41649
 (Non-HSWA Cluster V)

Note: The standards addressed by this checklist are less stringent than existing Federal requirements; thus, authorized States are not required to adopt them. However, EPA strongly encourages States to adopt this permit modification rule as promulgated. If preferred, States may amend their programs to incorporate only selected portions of the rule. See 53 FR 37933-37934 for a discussion of this option.

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIVALENT	LESS STRINGENT	MORE STRINGENT	BROADER IN SCOPE

PART 124 - PROCEDURES FOR DECISIONMAKING

SUBPART A - GENERAL PROGRAM REQUIREMENTS

† MODIFICATION, REVOCATION AND REISSUANCE, OR TERMINATION OF PERMITS

add reference "or
270.42(c)"

124.5(c)(1)

add references to
"Classes 1 and 2
modifications as
defined in §270.42
(a) and (b)"

124.5(c)(3)

PART 264 - STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS
 WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

SUBPART D - CONTINGENCY PLAN AND EMERGENCY PROCEDURES

† AMENDMENT OF CONTINGENCY PLAN

remove the comment

264.54(e)

20.4.1.500 NMAC

x

SUBPART G - CLOSURE AND POST-CLOSURE

† CLOSURE PLAN; AMENDMENT OF PLAN

add wording on
"notification" and
"review" to text

264.112(c)

20.4.1.500 NMAC

x

insert "notification
or" prior to
"request"

264.112(c)(1)

20.4.1.500 NMAC

x

insert "notification

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of or" prior to "request"	264.112(c)(2)	20.4.1.500 NMAC	x
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† POST-CLOSURE PLAN; AMENDMENT OF PLAN

add wording on "notification" and "review" to text	264.118(d)	20.4.1.500 NMAC	x
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insert "notification or" prior to "request"	264.118(d)(1)	20.4.1.500 NMAC	x
---	---------------	-----------------	---

insert "notification of or" prior to "request"	264.118(d)(2)	20.4.1.500 NMAC	x
--	---------------	-----------------	---

PART 265 - INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS
OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

SUBPART G - CLOSURE AND POST-CLOSURE

† CLOSURE PLAN; AMENDMENT OF PLAN

revise last sentence of paragraph by deleting "major" and inserting "Class 2 or 3" preceding "modifi- cation" and delete reference to "\$270.41."	265.112(c)(3)	20.4.1.600 NMAC	x
--	---------------	-----------------	---

revise last sentence of paragraph by deleting "major" and inserting "Class 2 or 3" preceding "modifi- cation" and delete reference to "\$270.41."	265.112(c)(4)	20.4.1.600 NMAC	x
--	---------------	-----------------	---

replace "major modification" with "Class 2 or 3 modification" and delete reference to "\$270.41"	265.118(d)(3)	20.4.1.600 NMAC	x
---	---------------	-----------------	---

replace "major modification" with "Class 2 or 3 modification" and delete reference "\$270.41."	265.118(d)(4)	20.4.1.600 NMAC	x
---	---------------	-----------------	---

PART 270 - EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS

WASTE PERMIT PROGRAM

SUBPART A - GENERAL INFORMATION

† DEFINITIONS

add "Component"270.2

add "Facility
mailing list"

270.2 20.4.1.900 NMAC x

add "Functionally
equivalent
component"

270.2 20.4.1.900 NMAC x

† EFFECT OF A PERMIT

modification under
270.42

270.4(a) 20.4.1.900 NMAC x

SUBPART C - PERMIT CONDITIONS

† CONDITIONS APPLICABLE TO ALL PERMITS

add provision for
270.42

270.30(l)(2) 20.4.1.900 NMAC x

SUBPART D - CHANGES TO PERMITS

† TRANSFER OF PERMITS

renumber old 270.40
as 270.40(a); change
parenthetical clauses

270.40(a) 20.4.1.900 NMAC x

ownership change
procedures as Class
1 modifications

270.40(b) 20.4.1.900 NMAC x

† MODIFICATION OR REVOCATION AND REISSUANCE OF PERMITS

remove "Major" from
section heading;
remove reference to
270.42; request of
permittee, approval/
denial under 270.42

270.41 20.4.1.900 NMAC x

insert "by statute,
through" before
"promulgation";
insert "new or"
before "amended"

270.41(a)(3) 20.4.1.900 NMAC x

remove 270.41(a)(3)(i)-
(iii)

270.41(a)(3)(i)-(iii) 20.4.1.900 NMAC x

remove (a)(5) and

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redesignate existing (a)(6) as (a)(5)	270.41(a)(5)	20.4.1.900 NMAC	x
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† PERMIT MODIFICATION AT THE REQUEST OF THE PERMITTEE

revise section heading; remove introductory material	270.42	20.4.1.900 NMAC	x
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Class 1 modifications as listed in Appendix I	270.42(a)(1)	20.4.1.900 NMAC	x
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notification of Director by permittee	270.42(a)(1)(i)	20.4.1.900 NMAC	x
---------------------------------------	-----------------	-----------------	---

to whom notice of modification must be sent and when	270.42(a)(1)(ii)	20.4.1.900 NMAC	x
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rejection of modification by Director	270.42(a)(1)(iii)	20.4.1.900 NMAC	x
---------------------------------------	-------------------	-----------------	---

modifications requiring prior written approval	270.42(a)(2)	20.4.1.900 NMAC	x
--	--------------	-----------------	---

Class 2 procedures instead of Class 1 procedures	270.42(a)(3)	20.4.1.900 NMAC	x
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heading for "Class 2 modifications"	270.42(b)	20.4.1.900 NMAC	x
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Class 2 modifications as listed in Appendix I	270.42(b)(1)	20.4.1.900 NMAC	x
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description of exact changes	270.42(b)(1)(i)	20.4.1.900 NMAC	x
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identification of Class 2 modification	270.42(b)(1)(ii)	20.4.1.900 NMAC	x
--	------------------	-----------------	---

why modification is needed	270.42(b)(1)(iii)	20.4.1.900 NMAC	x
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provision of applicable information	270.42(b)(1)(iv)	20.4.1.900 NMAC	x
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to whom notice must be sent and when	270.42(b)(2)	20.4.1.900 NMAC	x
--------------------------------------	--------------	-----------------	---

announcement of a 60-day comment period	270.42(b)(2)(i)	20.4.1.900 NMAC	x
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announcement of where and when public meeting will be held	270.42(b)(2)(ii)	20.4.1.900 NMAC	x
--	------------------	-----------------	---

name and phone number of permittee's contact person	270.42(b)(2)(iii)	20.4.1.900 NMAC	x
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name and phone number of Agency contact person	270.42(b)(2)(iv)	20.4.1.900 NMAC	x
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location for viewing modification request	270.42(b)(2)(v)	20.4.1.900 NMAC	x
availability of			

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permittee's compliance history	270.42(b)(2)(vi)	20.4.1.900 NMAC	x
placement of modification request copy in vicinity of facility for public accessibility	270.42(b)(3)	20.4.1.900 NMAC	x
when and where permittee must hold a public meeting	270.42(b)(4)	20.4.1.900 NMAC	x
public comment period	270.42(b)(5)	20.4.1.900 NMAC	x
requirements after receipt of modification request	270.42(b)(6)(i)	20.4.1.900 NMAC	x
approve request, with or without changes	270.42(b)(6)(i)(A)	20.4.1.900 NMAC	x
deny request	270.42(b)(6)(i)(B)	20.4.1.900 NMAC	x
determine if Class 3 modification procedures are needed:	270.42(b)(6)(i)(C)	20.4.1.900 NMAC	x
significant public concern	270.42(b)(6)(i)(C)(1)	20.4.1.900 NMAC	x
complex nature of changes	270.42(b)(6)(i)(C)(2)	20.4.1.900 NMAC	x
approve as temporary authorization	270.42(b)(6)(i)(D)	20.4.1.900 NMAC	x
notify permittee that decision will be made in 30 days	270.42(b)(6)(i)(E)	20.4.1.900 NMAC	x
requirements if decision is extended for 30 days:	270.42(b)(6)(ii)	20.4.1.900 NMAC	x
approve request, with or without changes	270.42(b)(6)(ii)(A)	20.4.1.900 NMAC	x
deny request	270.42(b)(6)(ii)(B)	20.4.1.900 NMAC	x
determine if Class 3 modification procedures are needed:	270.42(b)(6)(ii)(C)	20.4.1.900 NMAC	x
significant public concern (1)	270.42(b)(6)(ii)(C)	20.4.1.900 NMAC	x
complex nature of changes (2)	270.42(b)(6)(ii)(C)	20.4.1.900 NMAC	x
approve as temporary authorization	270.42(b)(6)(ii)(D)	20.4.1.900 NMAC	x
temporary or automatic authorization following failure to make decision	270.42(b)(6)(iii)	20.4.1.900 NMAC	x
requirements of permittee under			

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temporary or automatic authorization	270.42(b)(6)(iv)(A)	20.4.1.900 NMAC	x
temporary authorization to conduct activities as in modification request (1)	270.42(b)(6)(iv)(A)	20.4.1.900 NMAC	x
unless final approval or denial, authorization for life of permit (2)	270.42(b)(6)(iv)(A)	20.4.1.900 NMAC	x
deferment of permanent authorization if failure to notify public	270.42(b)(6)(iv)(B)	20.4.1.900 NMAC	x
if no final approval or denial or reclassification, authority to conduct activities as described in modification request for life of permit unless later modification	270.42(b)(6)(v)	20.4.1.900 NMAC	x
consideration and response to all significant comments	270.42(b)(6)(vi)	20.4.1.900 NMAC	x
extension of time periods for final approval, denial or reclassification as Class 3	270.42(b)(6)(vii)	20.4.1.900 NMAC	x
reasons to deny or change Class 2 permit modification terms	270.42(b)(7)	20.4.1.900 NMAC	x
request is incomplete	270.42(b)(7)(i)	20.4.1.900 NMAC	x
noncompliance with appropriate requirements	270.42(b)(7)(ii)	20.4.1.900 NMAC	x
failure to protect human health and environment	270.42(b)(7)(iii)	20.4.1.900 NMAC	x
commencement of construction under Class 2	270.42(b)(8)	20.4.1.900 NMAC	x
heading for "Class 3 modifications"	270.42(c)	20.4.1.900 NMAC	x
requirements for Class 3 modifications listed Appendix I	270.42(c)(1)	20.4.1.900 NMAC	x
description of exact changes	270.42(c)(1)(i)	20.4.1.900 NMAC	x
identification of Class 3			

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Modification	270.42(c)(1)(ii)	20.4.1.900 NMAC	x
why modification is needed	270.42(c)(1)(iii)	20.4.1.900 NMAC	x
provision of applicable information	270.42(c)(1)(iv)	20.4.1.900 NMAC	x
to whom and when notice must be sent	270.42(c)(2)	20.4.1.900 NMAC	x
announcement of a 60-day comment period	270.42(c)(2)(i)	20.4.1.900 NMAC	x
announcement of when and where public meeting will be held	270.42(c)(2)(ii)	20.4.1.900 NMAC	x
name and phone number of permittee's contact person	270.42(c)(2)(iii)	20.4.1.900 NMAC	x
name and phone number of Agency contact person	270.42(c)(2)(iv)	20.4.1.900 NMAC	x
location for viewing modification request	270.42(c)(2)(v)	20.4.1.900 NMAC	x
availability of permittee's compliance history	270.42(c)(2)(vi)	20.4.1.900 NMAC	x
placement of modification request copy in vicinity of facility for public accessibility	270.42(c)(3)	20.4.1.900 NMAC	x
when and where permittee must hold a public meeting	270.42(c)(4)	20.4.1.900 NMAC	x
public comment period	270.42(c)(5)	20.4.1.900 NMAC	x
grant or deny modification request after public comment period; consider and respond to all significant written comments	270.42(c)(6)	20.4.1.900 NMAC	x
heading for "Other modifications"	270.42(d)	20.4.1.900 NMAC	x
other modifications not explicitly listed in Appendix I	270.42(d)(1)	20.4.1.900 NMAC	x
determination of appropriate class:	270.42(d)(2)	20.4.1.900 NMAC	x
changes that necessitate Class I modifications	270.42(d)(2)(i)	20.4.1.900 NMAC	x
changes that necessitate Class 2			

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modifications	270.42(d)(2)(ii)	20.4.1.900 NMAC	x
variations in types and quantities of wastes managed	270.42(d)(2)(ii)(A)	20.4.1.900 NMAC	x
technological advancements	270.42(d)(2)(ii)(B)	20.4.1.900 NMAC	x
changes necessary to comply with new regulations	270.42(d)(2)(ii)(C)	20.4.1.900 NMAC	x
Class 3 modifications description	270.42(d)(2)(iii)	20.4.1.900 NMAC	x
heading for "Temporary authorizations"	270.42(e)	20.4.1.900 NMAC	x
granting of temporary authorizations	270.42(e)(1)	20.4.1.900 NMAC	x
request for temporary authorization:	270.42(e)(2)(i)	20.4.1.900 NMAC	x
Class 2 modification meeting criteria	270.42(e)(2)(i)(A)	20.4.1.900 NMAC	x
Class 3 modification meeting criteria and providing improved management or treatment	270.42(e)(2)(i)(B)	20.4.1.900 NMAC	x
what temporary authorization request must include	270.42(e)(2)(ii)	20.4.1.900 NMAC	x
description of activities	270.42(e)(2)(ii)(A)	20.4.1.900 NMAC	x
why temporary authorization is necessary	270.42(e)(2)(ii)(B)	20.4.1.900 NMAC	x
sufficient information to ensure compliance	270.42(e)(2)(ii)(C)	20.4.1.900 NMAC	x
to whom notice must be sent	270.42(e)(2)(iii)	20.4.1.900 NMAC	x
approve or deny temporary authorization quickly:	270.42(e)(3)	20.4.1.900 NMAC	x
authorized activities in compliance with Part 264	270.42(e)(3)(i)	20.4.1.900 NMAC	x
necessity of temporary authorization to achieve an objective:	270.42(e)(3)(ii)	20.4.1.900 NMAC	x
facilitate closure or corrective action activities	270.42(e)(3)(ii)(A)	20.4.1.900 NMAC	x
allow treatment or storage in tanks or containers of restricted wastes	270.42(e)(3)(ii)(B)	20.4.1.900 NMAC	x
prevent disruption of			

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ongoing activities	270.42(e)(3)(ii)(C)	20.4.1.900 NMAC	x
respond to sudden changes in types or quantities of wastes managed	270.42(e)(3)(ii)(D)	20.4.1.900 NMAC	x
protection of human health and environment	270.42(e)(3)(ii)(E)	20.4.1.900 NMAC	x
reissuance of temporary authorization for Class 2 or 3	270.42(e)(4)	20.4.1.900 NMAC	x
reissuance of Class 2 in accordance with specific paragraphs	270.42(e)(4)(i)	20.4.1.900 NMAC	x
reissuance of Class 3 in accordance with specific paragraph	270.42(e)(4)(ii)	20.4.1.900 NMAC	x
heading for "Public notice and appeals of permit modification decisions"	270.42(f)	20.4.1.900 NMAC	x
when and to whom notification of grant, denial or automatic authorization decisions must be sent	270.42(f)(1)	20.4.1.900 NMAC	x
appeal of grant or denial decision	270.42(f)(2)	20.4.1.900 NMAC	x
appeal of automatic authorization	270.42(f)(3)	20.4.1.900 NMAC	x
heading for "Newly listed or identified wastes"	270.42(g)	20.4.1.900 NMAC	x
continued authority to manage wastes listed in Part 261:	270.42(g)(1)	20.4.1.900 NMAC	x
in existence as a hazardous waste facility on effective date of final rule listing or identifying waste	270.42(g)(1)(i)	20.4.1.900 NMAC	x
submit Class 1 modification request	270.42(g)(1)(ii)	20.4.1.900 NMAC	x
in compliance with 265 standards	270.42(g)(1)(iii)	20.4.1.900 NMAC	x
for Class 2 or 3 modifications, submit complete modification request within 180 days	270.42(g)(1)(iv)	20.4.1.900 NMAC	x

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certification that land disposal units are in compliance within 12 months	270.42(g)(1)(v)	20.4.1.900 NMAC	x
expansions are not under 25 percent capacity limit for Class 2 modifications	270.42(g)(2)	20.4.1.900 NMAC	x
maintenance and notice of updated list of permit modifications	270.42(h)	20.4.1.900 NMAC	x
remove 270.42(i) through 270.42(p)	270.42(i)-(p)	20.4.1.900 NMAC	x
add Appendix I; classification of modifications	270.42	20.4.1.900 NMAC	x

SUBPART F - SPECIAL FORMS OF PERMITS

† HAZARDOUS WASTE INCINERATOR PERMITS

revise last sentence by omitting parenthetical phrase	270.62(a)	20.4.1.900 NMAC	x
revise last sentence by omitting "as a minor modification"	270.62(b)(10)	20.4.1.900 NMAC	x

† PERMITS FOR LAND TREATMENT DEMONSTRATIONS USING FIELD TEST OR LABORATORY ANALYSES

remove "as a minor modification"; add a new sentence on second phase of permit	270.63(d)(1)	20.4.1.900 NMAC	x
remove phrase on minor modifications	270.63(d)(2)	20.4.1.900 NMAC	x
remove paragraph	270.63(d)(3)	20.4.1.900 NMAC	x

RCRA REVISION CHECKLIST 80

Toxicity Characteristic; Hydrocarbon Recovery Operations
55 FR 40834-40837
October 5, 1990
as amended on February 1, 1991, at 56 FR 3978
and April 2, 1991, at 56 FR 13406-13411
(RCRA Cluster I, HSWA Rule)

This revision checklist addresses an interim final rule which extended, for 120 days (until January 25, 1991), the compliance date for requirements imposed in the Toxicity Characteristic final rule (see 55 FR 11798; March 29, 1990; Revision Checklist 74) for groundwater that is reinjected or reinfiltated during existing hydrocarbon recovery operations at petroleum refining facilities, marketing terminals, and bulk plants engaged in hydrocarbon recovery and remediation operations. A second interim final rule on February 1, 1991 further extended the compliance date to March 25, 1991. A final rule on April 2, 1991 broadened the scope of the facilities affected by this extension to also include free hydrocarbon recovery operations at petroleum pipeline and transportation sector spill sites as well as at petroleum refineries, marketing terminals and bulk plants. Free phase hydrocarbon recovery operations involving infiltration galleries were excluded from the scope of the extension. The April final rule further extended the compliance date to January 25, 1993 for all included operations existing on or before March 25, 1991. New operations with injection wells qualify for this compliance extension only if they meet certain criteria.

Until January 25, 1993, a less stringent standard than that imposed by the Toxicity Characteristic rule is in effect for certain hydrocarbon recovery and remediation operations. Thus, States will not be required to mandate this less stringent standard in order to retain RCRA authorization. Under Section 3009 of RCRA, States may impose more stringent requirements than those imposed under Federal regulations.

RCRA REVISION CHECKLIST 117 A

Reissuance of the "Mixture" and "Derived-From" Rules
 57 FR 7628-7633
 March 3, 1992
 as amended on June 1, 1992 at 57 FR 23062-23063
 and on October 30, 1992 at 57 FR 49278-49279
 (RCRA Cluster III, HSWA/Non-HSWA provisions)

Note: 1) This optional checklist has been developed for those States who feel it necessary to adopt the reissued "mixture" and "derived-from" rule promulgated on March 3, 1992 (57 FR 7628), and subsequently amended on June 1, 1992 (57 FR 23062), and on October 30, 1992 (57 FR 49278). This checklist consolidates these rules into one checklist except for a change made to 261.3(a)(2)(i) by the June 1, 1992 rule. That change is addressed by a separate checklist (Revision Checklist 117 B) because it corrects an omission made by the Toxicity Characteristic rule by replacing "Extraction Procedure Toxicity Characteristics" with "Toxicity Characteristic" in 261.3(a)(2)(i). This change makes the code more stringent and is, therefore, required.

2) The "mixture" and "derived-from" rules were reissued because the U.S. Court of Appeals for the District of Columbia Circuit in *Shell Oil Company v. EPA*, 950 F.2d 741 DC Cir. 1991, determined that adequate notice and comment had not been provided at initial promulgation of the "mixture" and "derived-from" rules, remanded them to the agency, and suggested EPA reinstate the rules on an interim basis and solicit comment. The March 3, 1992 interim final rule simultaneously removed and reissued 40 CFR 261.3. The October 30, 1992 (57 FR 49278) final rule removes the April 28, 1993 expiration date of the March 3, 1992 (57 FR 7628) interim final rule. EPA intends to promulgate revisions to the "mixture" and "derived-from" rules within 12-24 months of the October 30, 1992 final rule.

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIVALENT	LESS STRINGENT	MORE STRINGENT	BROADER IN SCOPE
PART 261 - IDENTIFICATION AND LISTING OF HAZARDOUS WASTE						
SUBPART A - GENERAL						

† DEFINITION OF HAZARDOUS WASTE

a solid waste as defined in 261.2 is a hazardous waste if:	261.3(a)	20.4.1.200 NMAC	x			
it is not excluded under 261.4(b)	261.3(a)(1)	20.4.1.200 NMAC	x			
it meets any of the following criteria:	261.3(a)(2)	20.4.1.200 NMAC	x			

it exhibits any of the 261 subpart C characteristics of hazardous waste with exceptions for specific mixtures; mixture is hazardous waste if it exceeds the maximum concentration for any 261.24 table 1 contaminant in specific circumstances	261.3(a)(2)(i)	20.4.1.200 NMAC	x			
it is listed in 261 subpart D and has not been excluded from those listings by use of the procedures of 260.20 and 260.22	261.3(a)(2)(ii)	20.4.1.200 NMAC	x			
it is a mixture of solid waste and a hazardous waste listed in 261 subpart D solely because it exhibits one or more 261 subpart C characteristics of hazardous waste; exceptions	261.3(a)(2)(iii)	20.4.1.200 NMAC	x			

it is a mixture of solid waste and one or more hazardous wastes listed in 261 subpart D and has not been excluded from listings by use of the procedures of 260.20 and 260.22; mixture is not hazardous waste if the generator can demonstrate mixture is wastewater regulated under § 402 or § 307(b) of the Clean Water Act and:	261.3(a)(2)(iv)	20.4.1.200 NMAC	x			
solvent carbon tetrachloride, tetrachloroethylene, and/or trichloroethylene if maximum total weekly usage divided by average weekly flow into the headworks of the facility's treatment or pretreatment system is ≤ 1 ppm; or	261.3(a)(2)(iv)(A)	20.4.1.200 NMAC	x			
one or more of specified spent solvents if maximum total weekly usage divided by average weekly flow into the headworks of the facility's treatment or pretreatment system is ≤ 25 ppm; or	261.3(a)(2)(iv)(B)	20.4.1.200 NMAC	x			

heat exchanger bundle cleaning sludge from the petroleum refining industry (EPA Hazardous Waste No. K050); or	261.3(a)(2)(iv)(C)	20.4.1.200 NMAC	x			
a discarded commercial chemical product or chemical intermediate listed in 261.33 arising from <i>de minimis</i> losses from manufacturing operations in which these materials are used as raw materials or are produced in the manufacturing process; examples of <i>de minimis</i> losses; or	261.3(a)(2)(iv)(D)	20.4.1.200 NMAC	x			

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIVALENT	LESS STRINGENT	MORE STRINGENT	BROADER IN SCOPE

 PART 261 - IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

 SUBPART A - GENERAL

 †, 1 EXCLUSIONS

until January 25, 1993, exclusion for injected groundwater exhibiting the 261.24 Toxicity Characteristic that is infiltrated or re-injected pursuant to specified hydrocarbon recovery operations existing on or before March 25, 1991; extension only until six months after final rule publication for groundwater returned through infiltration galleries; conditions for new operations involving injection to qualify for date extension

operations are performed pursuant to a written state agreement that includes a provision to assess the groundwater and the need for further remediation once the free phase recovery is completed

261.4(b)(11) 20.4.1.200 NMAC x

261.4(b)(11)(i) 20.4.1.200 NMAC x

2 copy of written

agreement has been submitted to Characteristics Section, U.S. Environmental Protection Agency

261.4(b)(11)(ii) 20.4.1.200 NMAC x

-
- ¹ The October 5, 1990 interim final rule extended the compliance date to January 25, 1991 (see 55 FR 40834). The compliance date was further extended to March 25, 1991 by the February 1, 1991 interim final rule (see 56 FR 3978) and then to January 25, 1993 by the April 2, 1991 final rule (see 56 FR 13406).
- ² A copy of the agreement should be sent to the U.S. Environmental Protection Agency, Office of Solid Waste, Characterization and Assessment Division, Waste Identification Branch, Characteristics Section (OS-333); thus, the reference to the Characteristics Section found at 261.4(b)(11)(ii) should remain in a state's code. A copy of the written agreement may also be sent to the State, if the State chooses to include this requirement.

RCRA REVISION CHECKLIST 84

Toxicity Characteristic; Chlorofluorocarbon Refrigerants
 56 FR 5910-5915
 February 13, 1991
 (RCRA Cluster I, HSWA Rule)

Note: This Revision Checklist addresses an interim final rule which suspends the Toxicity Characteristic (TC) rule (see 55 FR 11798, March 29, 1990, Revision Checklist 74) for certain used chlorofluorocarbon refrigerants which exhibit the toxicity characteristic and which are recycled. The exemption only applies if the refrigerants are reclaimed for reuse. This interim final rule provides for a standard which is narrower in scope than would be imposed in the final TC rule. Thus, States are not required to mandate this narrower-in-scope standard ¹, and the affected citation is designated as optional. Section 3009 of RCRA, however, provides that States may impose requirements that are broader in scope or more stringent than those imposed under Federal regulations.

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE

PART 261 - IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

SUBPART A - GENERAL

† EXCLUSIONS

used chlorofluoro-
 carbon refrigerants
 from totally enclosed
 heat transfer equip-
 ment, provided the
 refrigerant is
 reclaimed for further
 use

261.4(b)(12)

20.4.1.200 NMAC

x

¹ This rule is considered "narrower-in-scope" because it narrows the wastes which are regulated, by excluding from regulation certain chlorofluorocarbon refrigerants as specified at 261.4(b)(12).

RCRA REVISION CHECKLIST 89

Revision to the Petroleum Refining Primary and Secondary
 Oil/Water/Solids Separation Sludge Listings (F037 and F038)
 56 FR 21955-21960
 May 13, 1991
 (RCRA Cluster I, HSWA Rule)

Note: This checklist amends the listings of F037 and F038 which were made at 55 FR 46354 (November 2, 1990; Revision Checklist 81). This rule revises and narrows these listings by 1) excluding non-contact, once-through cooling water from F037 and F038 listings and 2) not including, within the scope of the F038 listing, floats generated in or after aggressive biological treatment units. States wishing to adopt this optional change are strongly encouraged to adopt this change at the same time the Revision Checklist 81 provisions are adopted.

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIV- ALENT	LESS STRIN- GENT	MORE STRIN- GENT	BROADER IN SCOPE

PART 261 - IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

SUBPART D - LISTS OF HAZARDOUS WASTES

† HAZARDOUS WASTES FROM NON-SPECIFIC SOURCES

revise description of
 F037 and F038

261.31(a)

20.4.1.200 NMAC

x

RCRA REVISION CHECKLIST 107

Used Oil Filter Exclusion; Technical Corrections
 57 FR 29220
 July 1, 1992
 (RCRA Cluster III, HSWA provisions)

Note: 1) This revision checklist corrects typographical errors in the May 20, 1992 (57 FR 21524; Revision Checklist 104) final rule. This checklist is considered "conditionally optional" because it is linked to whether a State chooses to adopt the optional oil filter exclusion addressed by Revision Checklist 104. If a State does adopt this exclusion, it must also adopt the technical corrections addressed by Revision Checklist 107. If the State does not adopt this exemption (i.e., Revision Checklist 104), the State should not adopt Revision Checklist 107. States that adopt the Revision Checklist 104 provisions are encouraged to make the corrections addressed by this checklist at the same time.

2) Because no revisions were made to 261.4(b)(15)(i) - (iv) in the Federal Register, these citations are not included in this checklist.

FEDERAL REQUIREMENTS	FEDERAL RCRA CITATION	ANALOGOUS STATE CITATION	STATE ANALOG IS:			
			EQUIVALENT	LESS STRINGENT	MORE STRINGENT	BROADER IN SCOPE

PART 261 - IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

SUBPART A - GENERAL

† EXCLUSIONS

change "waste" to "wastes"; replace "Subpart C" with "Subpart D"; change "which" to "that"	261.4(b)(15)	20.4.1.200 NMAC	x			
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