

**ENVIRONMENTAL PROTECTION  
AGENCY****40 CFR Part 271**

[FRL-8455-6]

**New Mexico: Final Authorization of  
State Hazardous Waste Management  
Program Revision****AGENCY:** Environmental Protection  
Agency (EPA).**ACTION:** Immediate final rule.

**SUMMARY:** The State of New Mexico has applied to the EPA for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the State's changes through this immediate final action. The EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we receive written comments which oppose this authorization during the comment period, the decision to authorize New Mexico's changes to its hazardous waste program will take effect. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect, and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

**DATES:** This final authorization will become effective on October 16, 2007 unless the EPA receives adverse written comment by September 17, 2007. If the EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

**ADDRESSES:** Submit your comments by one of the following methods:

1. *Federal eRulemaking Portal:*  
<http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. *E-mail:* [patterson.alima@epa.gov](mailto:patterson.alima@epa.gov).

3. *Mail:* Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD-O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733.

4. *Hand Delivery or Courier:* Deliver your comments to Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight

Section (6PD-O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733.

*Instructions:* Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://regulations.gov), or e-mail. The Federal [regulations.gov](http://regulations.gov) Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to the EPA without going through [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. You can view and copy New Mexico's application and associated publicly available materials from 8:30 a.m. to 4 p.m. Monday through Friday at the following locations: New Mexico Environment Department, 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico 87505-6303, phone number (505) 476-6035 and EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, phone number (214) 665-8533. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

**FOR FURTHER INFORMATION CONTACT:**

Alima Patterson Region 6 Regional Authorization Coordinator, State/Tribal Oversight Section (6PD-O), Multimedia Planning and Permitting Division, (214) 665-8533, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, and e-mail address [patterson.alima@epa.gov](mailto:patterson.alima@epa.gov).

**SUPPLEMENTARY INFORMATION:****A. Why Are Revisions to State  
Programs Necessary?**

States which have received final authorization from the EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program

changes, States must change their programs and ask the EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to the EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273, and 279.

**B. What Decisions Have We Made in  
This Rule?**

We conclude that New Mexico's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant New Mexico final authorization to operate its hazardous waste program with the changes described in the authorization application. New Mexico has responsibility for permitting treatment, storage, and disposal facilities within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that the EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, the EPA will implement those requirements and prohibitions in New Mexico including issuing permits, until the State is granted authorization to do so.

**C. What Is the Effect of Today's  
Authorization Decision?**

The effect of this decision is that a facility in New Mexico subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. New Mexico has enforcement responsibilities under its State hazardous waste program for violations of such program, but the EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements and suspend or revoke permits; and
- Take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the

regulations for which New Mexico is being authorized by today's action are already effective under State law, and are not changed by today's action.

#### **D. Why Wasn't There a Proposed Rule Before Today's Rule?**

The EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State program changes.

#### **E. What Happens if the EPA Receives Comments That Oppose This Action?**

If the EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. The EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time. If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw only that part of this rule, but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

#### **F. For What Has New Mexico Previously Been Authorized?**

The State of New Mexico initially received final authorization on January 25, 1985, (50 FR 1515) to implement its base hazardous waste management program. New Mexico received authorization for revisions to its program on February 9, 1990 (55 FR 4604) effective April 10, 1990; March 19, 1990 (55 FR 10076); July 11, 1990 (55 FR 28397) effective July 25, 1990; October 5, 1992 (57 FR 45717) effective December 4, 1992; June 9, 1994 (59 FR 29734) effective August 23, 1994; October 7, 1994 (59 FR 51122) effective December 21, 1994; April 25, 1995 (60 FR 20238) effective July 10, 1995; (61 FR 2450) January 2, 1996; December 23, 1996 (61 FR 67474) effective March 10, 1997 and August 10, 2001 (66 FR 42140) effective October 9, 2001. The authorized New Mexico RCRA program was incorporated by reference to the CFR, effective December 13, 1993 (58 FR 52677); November 18, 1996 (61 FR 49265); July 13, 1998 (63 FR 23221) and effective October 27, 2003. On August 4, 2006, New Mexico applied for approval of its program revisions for RCRA Clusters X through XII, including Rule Checklists 26.2, 54, 54.1, 80.1, 80.2, 84, 89, 107, 117A, 117A.1, 117A.2, 119.1, 127, 129, 126.1, 133, and 142E listed in this document in accordance with 40 CFR 271.21.

On August 5, 2003, the New Mexico Environmental Improvement Board (EIB) adopted the amendments to Hazardous Waste Management Regulations (HWMR) as permanent rules. The HWMR amendments became effective on October 1, 2003. Thus, 20.4.1 NMAC provides equivalent and no less stringent authority than the adoption of Federal RCRA Subtitle C program in effect through July 1, 2002. This is the version that is referred to in the Attorney General's Statement and

Certification for RCRA Clusters X, XI, XII and Checklists 26.2, 54, 54.1, 80.1, 80.2, 84, 89, 107, 117A, 117A.1, 117A.2, 119.1, 127, 129, 126.1, 113, and 142E submitted with this program revision. The 20 NMAC 4.1. became effective on October 1, 2003. New Mexico Statutes Annotated (NMAC) 1978 Sections 74-4-4A(1) and 74-4-4F (2002) provides New Mexico with authority to adopt Federal regulations by reference with exceptions to federal rules that are not delegated to the State of New Mexico. Since the latest authorization the scope, structure, coverages, and processes have not materially changed with the exception of the Used Oil program. The Used Oil program has been adopted within the Hazardous Waste Management Program but New Mexico does not have statutory authority for criminal penalties as required by EPA for program authorization. Therefore, we are not authorizing the State of New Mexico for the Used Oil regulations in this **Federal Register** document.

#### **G. What Changes Are We Authorizing With Today's Action?**

On August 4, 2006, New Mexico submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that New Mexico's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant the State of New Mexico Final authorization for the following changes: The State of New Mexico's program revisions consist of regulations which specifically govern RCRA Clusters X through XII and also Checklists 26, 54, 80, 84, 89, 107, 117A, 126, 129, 133, and 142E as documented below:

Description of federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
1. Listing of Spent Pickle Liquor (KO62). (Checklist 26).	51 FR 19320-19322, May 28, 1986 .....	New Mexico Statute Annotated (NSA) 1978, Sections 74-4-4A(1) and 74-4-4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC, 20.4.1. 200, as adopted August 5, 2003, effective October 1, 2003.
2. Permit Modification for Hazardous Waste Management Facilities. (Checklist 54).	53 FR 37912-37942, September 28, 1988 .....	New Mexico Statute Annotated (NSA) 1978, Sections 74-4-4A(1) and 74-4-4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC, 20.4.1. 1102, .500, .600, and .900, as adopted August 5, 2003, effective October 1, 2003.

Description of federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
3. Permit Modification for Hazardous Waste Management Facilities (Correction 1). (Checklist 54.1).	53 FR 41649 October 24, 1988 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74-4-4A(1) and 74-4-4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC, 20.4.1. 1102, .500, .600, and .900, as adopted August 5, 2003, effective October 1, 2003.
4. Toxicity Characteristics Hydrocarbon Recovery Operations. (Checklist 80).	55 FR 40834-40837 October 5, 1990 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74-4-4A(1) and 74-4-4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC, 20.4.1. 200, as adopted August 5, 2003, effective October 1, 2003.
5. Toxicity Characteristics Hydrocarbon Recovery Operations (Correction 1). (Checklist 80.1).	56 FR 3978 February 1, 1991 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74-4-4A(1) and 74-4-4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC, 20.4.1. 200, as adopted August 5, 2003, effective October 1, 2003.
6. Toxicity Characteristics Hydrocarbon Recovery Operations (Correction 2). (Checklist 80.2).	56 FR 13406 April 2, 1991 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74-4-4A(1) and 74-4-4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC, 20.4.1. 200, as adopted August 5, 2003, effective October 1, 2003.
7. Toxicity Characteristic; Chloroflourocarbon Refrigerants. (Checklist 84).	56 FR 5910-5915 February 13, 1991 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74-4-4A(1) and 74-4-4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1.200, adopted August 5, 2003, effective October 1, 2003.
8. Revision to the Petroleum Refining Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 and F038). (Checklists 89).	56 FR 21955-21960 May 13, 1991 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74-4-4A(1) and 74-4-4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1.200, as adopted August 5, 2003, effective October 1, 2003.
9. Used, Oil Filter Exclusion; Technical Corrections. (Checklists 107).	57 FR 29220, July 1, 1992 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74-4-4A(1) and 74-4-4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1.200, as adopted August 5, 2003, effective October 1, 2003.
10. Reissuance of the "Mixture and Derived-From" Rule. (Checklists 117A, 117A.1, 117A.2).	57 FR 7628; 57 FR 23062; 57 FR 49278; March 3, 1992; June 1, 1992; October 30, 1992.	New Mexico Statute Annotated (NMSA) 1978, Sections 74-4-4A(1) and 74-4-4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1.200, as adopted August 5, 2003, effective October 1, 2003.
11. Testing and Monitoring Activities. (Checklist 126).	58 FR 46040-46051 August 31, 1993; 59 FR 47980-47982 September 19, 1994.	New Mexico Statute Annotated (NMSA) 1978, Sections 74-4-4A(1) and 74-4-4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1.100, as adopted August 5, 2003, effective October 1, 2003.
12. Testing and Monitoring Activities. (Checklists 126 and 126.1).	58 FR 46040-46051 August 31, 1993 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74-4-4A(1) and 74-4-4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1.100, as adopted August 5, 2003, effective October 1, 2003.
13. Toxicity Characteristic Revision; TCLP Correction. (Checklists 119).	57 FR 55114-5517, November 24, 1992 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74-4-4A(1) and 74-4-4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1.200, as adopted August 5, 2003, effective October 1, 2003.

Description of federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
14. Toxicity Characteristic Revision; TCLP Correction. (Checklists 119.1).	57 FR 55114, 58 FR 6854 November 24, 1992; February 2, 1993.	New Mexico Statute Annotated (NMSA) 1978, Sections 74-4-4A(1) and 74-4-4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1.200, as adopted August 5, 2003, effective October 1, 2003.
15. Boilers and Industrial Furnaces; Administrative Stay and Interim Standards for Bevill Residues. (Checklists 127).	58 FR 59598-59603 November 9, 1993 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74-4-4A(1) and 74-4-4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1.700, as adopted August 5, 2003, effective October 1, 2003.
16. Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Treatability Studies Sample Exclusion (Checklist 129).	59 FR 8362-8366 February 18, 1994 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74-4-4A(1) and 74-4-4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1.200, as adopted August 5, 2003, effective October 1, 2003.
17. Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, Underground Storage Tanks, and Underground Injection Control Systems; Financial Assurance; Letter of Credit. (Checklist 133).	59 FR 29958-29960 June 10, 1994 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74-4-4A(1) and 74-4-4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1.500 and .501, as adopted August 5, 2003, effective October 1, 2003.
18. Universal Waste Rule (Hazardous Waste Management System; Modification of the Hazardous Waste Recycling Regulatory Program); Final Rule (Checklist 142E).	60 FR 25492 May 11, 1995 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74-4-4A(1) and 74-4-4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1.1000, as adopted August 5, 2003, effective October 1, 2003.
19. Amendments to the Definition of Solid Waste; Amendment II. (Checklist 150).	61 FR 13103-13106 March 26, 1996 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74-4-4A(1) and 74-4-4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1.200, as adopted August 5, 2003, effective October 1, 2003.
20. Hazardous Remediation Waste Management Requirements (HWIR-Media). (Checklist 175).	63 FR 65874-65947 November 30, 1998 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74-4-4A(1) and 74-4-4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1.100, .200, .500, .600, .800 and .900, as adopted August 5, 2003, effective October 1, 2003.
21. Universal Hazardous Waste Management System; Modification of the Hazardous Waste Program; Hazardous Waste Lamps. (Checklist 181).	64 FR 36466-36490 July 6, 1999 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74-4-4A(1) and 74-4-4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1 100, .500, .600, .800, .900, and 1000, as adopted August 5, 2003, effective October 1, 2003.
22. NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustor. (Checklist 182).	64 FR 52828; 64 FR 63209 September 30, 1999; and November 19, 1999.	Annotated (NMSA) 1978, Sections 74-4-4A(1) and 74-4-4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1 100, .200, .500, .600, .700, and .900, as adopted August 5, 2003, effective October 1, 2003.
23. Land Disposal Restrictions Phase IV: Final Rule Promulgating Treatment Standards for Metal Wastes and Mineral Processing Wastes; Mineral Processing Secondary Materials and Bevill Exclusion Issues; Treatment Standards for Hazardous Soils, and Exclusion of Recycled Wood Preserving (Checklist 183).	64 FR 56469 October 20, 1999 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74-4-4A(1) and 74-4-4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1 .200, .300 and .800, as adopted August 5, 2003, effective October 1, 2003.
24. Waste Water Treatment Sludges From the Metal Finishing Industry; 180-day Accumulation Time. (Checklist 184).	65 FR 12378-12398 March 8, 2000 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74-4-4A(1) and 74-4-4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1 .300, as adopted August 5, 2003, effective October 1, 2003.

Description of federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
25. Organobromine Production Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Listing of CERCLA Hazardous Substances, Reportable Quantities; Final Rule. (Checklist 185).	65 FR 14472–14475 March 17, 2000 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74–4–4A(1) and 74–4–4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1 .200, as adopted August 5, 2003, effective October 1, 2003.
26. Organobromines Production Wastes; Petroleum Refining Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Final Rule and Correcting Amendments. (Checklist 187).	64 FR 36365–36367 June 8, 2000 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74–4–4A(1) and 74–4–4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1 .200, and .800, as adopted August 5, 2003, effective October 1, 2003.
27. NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustor. (Checklist 188).	65 FR 42292–42302 July 10, 2000 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74–4–4A(1) and 74–4–4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1 .200, .500 and .900, as adopted August 5, 2003, effective October 1, 2003.
28. NESHAPS: Second Technical Correction Vacatur. (Checklist 188.1).	66 FR 24270–42302 May 14, 2001 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74–4–4A(1) and 74–4–4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1 .200, .500 and .900, as adopted August 5, 2003, effective October 1, 2003.
29. NESHAPS: Second Technical Correction Vacatur. (Checklist 188.2).	66 FR 35087 October 16, 2001 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74–4–4A(1) and 74–4–4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1 .200, .500 and .900, as adopted August 5, 2003, effective October 1, 2003.
30. Hazardous Waste Management System; Identification and Listing of Hazardous Waste Chlorinated Aliphatics Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities. (Checklist 189).	65 FR 81373 December 26, 2000 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74–4–4A(1) and 74–4–4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1.200, .500, and .800, as adopted August 5, 2003, effective October 1, 2003.
31. Land Disposal Restrictions Phase IV—Deferral for PCBs in Soil. (Checklist 190).	65 FR 81373–81381 December 26, 2000 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74–4–4A(1) and 74–4–4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1.800, as adopted August 5, 2003, effective October 1, 2003.
32. Land Disposal Restrictions Correction. (Checklist 192B).	66 FR 27266–2727 May 16, 2001 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74–4–4A(1) and 74–4–4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1.800, as adopted June 14, 2000, effective October 1, 2003.
33. Change of Official Mailing Address. (Checklist 193).	66 FR 34374–34376 June 28, 2001 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74–4–4A(1) and 74–4–4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1.100, as adopted August 5, 2003, effective October 1, 2003.
34. Mixture and Derived—From Rules Revision II. (Checklist 194).	66 FR 50332–50334 October 3, 2001 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74–4–4A(1) and 74–4–4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1.200, as adopted August 5, 2003, effective October 1, 2003.
35. Inorganic Chemical Manufacturing Waste Identification and Listing. (Checklist 195).	66 FR 58258–58300 November 20, 2001; April 9, 2002.	New Mexico Statute Annotated (NMSA) 1978, Sections 74–4–4A(1) and 74–4–4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1.200, and .800, as adopted August 5, 2003, effective October 1, 2003.

Description of federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
36. Corrective Action Management Units. (Checklist 196).	67 FR 2962–2002 January 22, 2002 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74–4–4A(1) and 74–4–4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.1.100, and .500, as adopted June 14, 2000, effective October 1, 2003.
37. Hazardous Air Pollutant Standards for Combustors: Interim Standards. (Checklist 197).	67 FR 6792–6818 February 13, 2002 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74–4–4A(1) and 74–4–4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.500, .600, .700, and .900, as adopted August 5, 2003, effective October 1, 2003.
38. Hazardous Air Pollutant Standards for Combustor: Correction. (Checklist 198).	67 FR 6968–6996 February 14, 2002 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74–4–4A(1) and 74–4–4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.700, as adopted August 5, 2003, effective October 1, 2003.
39. Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Waste and TCLP Use with MGP Wastes. (Checklist 199).	67 FR 11251–11254 March 13, 2002 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74–4–4A(1) and 74–4–4F (2002). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 20.4.200, as adopted August 5, 2003, effective October 1, 2003.

#### H. Where Are the Revised State Rules Different From the Federal Rules?

In this authorization of the State of New Mexico's program revisions for RCRA Clusters X, XI, XII, Checklists 26, 54, 80, 84, 89, 107, 117A, 126, 129, 133, and 142E), there are no provisions that are more stringent or broader in scope. Broader in scope requirements are not part of the authorized program and EPA can not enforce them.

#### I. Who Handles Permits After the Authorization Takes Effect?

New Mexico will issue permits for all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer any RCRA hazardous waste permits or portions of permits which were issued prior to the effective date of this authorization. We will not issue any more new permits or new portions of permits for the provisions listed in the Table in this document after the effective date of this authorization. The EPA will continue to implement and issue permits for HSWA requirements for which New Mexico is not yet authorized.

#### J. What Is Codification and Is the EPA Codifying New Mexico's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. We do this by referencing the

authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart T for this authorization of New Mexico's program changes until a later date. In this authorization application the EPA is not codifying the rules documented in this Federal Register notice.

#### K. Statutory and Executive Order Reviews

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this action authorizes preexisting requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not

have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), the EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C.

272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action will be effective October 16, 2007.

#### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: July 25, 2007.

**Lawrence E. Starfield,**

*Acting Regional Administrator, Region 6.*

[FR Doc. E7-16244 Filed 8-16-07; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[FRL-8456-1]

#### National Oil and Hazardous Substance Pollution Contingency Plan National Priorities List Update

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final notice for partial deletion of the RSR Corporation Superfund Site, Operable Unit No. 4 and Subarea 1 of Operable Unit No. 5 from the National Priorities List.

**SUMMARY:** The United States Environmental Protection Agency (EPA) Region 6 is publishing a direct final notice for partial deletion of the RSR Corporation Superfund Site (RSR Site), Operable Unit (OU) No. 4 and Subarea 1 of Operable Unit (OU) No. 5, located in Dallas, Dallas County, Texas, from the National Priorities List (NPL). This partial deletion does not include OU No. 1, OU No. 2, OU No. 3 or Subareas 2, 3, and 4 of OU NO. 5. The partial deletion for OU No. 4 and Subarea 1 of OU No. 5 came at the request of a developer to help facilitate the purchase of these properties. The EPA plans to delete the other operable units and areas of the RSR Superfund Site in 2008. The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR Part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final notice for partial deletion is being published by the EPA with the concurrence of the State of Texas, through the Texas Commission on Environmental Quality (TCEQ), because the EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate for OU No. 4 and Subarea 1 of OU No. 5.

**DATES:** This direct final notice for partial deletion will be effective October 16, 2007 unless the EPA receives adverse comments by September 17, 2007. If adverse comments are received, the EPA will publish a timely withdrawal of the direct final notice of partial deletion in the **Federal Register** informing the public that the partial deletion will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-

SFUND-1995-0005, Notice Phase-1, by one of the following methods:

*http://www.regulations.gov:* Follow the on-line instruction for submitting comments.

*E-mail:* mail to [coates.janetta@epa.gov](mailto:coates.janetta@epa.gov).

*Fax:* 214-665-6660

*Mail:* Janetta Coates, Community Involvement Coordinator, U.S. EPA Region 6 (6SF-PO), 1445 Ross Avenue, Dallas, TX 75202-2733, (214) 665-7308 or 1-800-533-3508.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-SFUND-1995-0005, Notice Phase-1. The EPA's policy is that all comments received will be included in the public docket without change and may be available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to the EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the information repositories.