

that otherwise satisfies the provisions of the Clean Air Act. 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, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. 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.*).

B. Submission to Congress and the Comptroller General

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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for four named sources.

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 24, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action approving the Commonwealth's source-specific RACT requirements to control VOC and NO_x from four individual sources in Pennsylvania may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Nitrogen Oxides, Ozone, Reporting and record keeping requirements.

Dated: August 3, 2001.

Thomas C. Voltaggio,

Deputy Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(166) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(166) Revisions pertaining to VOC and NO_x RACT for Ashland Chemical Company; Hercules, Incorporated; and Neville Chemical Company located in the Pittsburgh-Beaver Valley ozone nonattainment area, submitted by the Pennsylvania Department of Environmental Protection on July 1, 1997 and April 19, 2001.

(i) Incorporation by reference.

(A) Letters dated July 1, 1997 and April 19, 2001, submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and NO_x RACT determinations.

(B) Plan Approval and Agreement Upon Consent Orders (COs) and an Enforcement Order (EO) for the following sources:

(1) Ashland Chemical Company, CO 227, effective December 30, 1996, except for condition 2.5.

(2) Hercules, Incorporated, EO 216, effective March 8, 1996.

(3) Hercules, Incorporated, CO 257, except for condition 2.5, effective January 14, 1997, including amendments to CO 257, effective November 1, 1999.

(4) Neville Chemical Company, CO 230, effective December 13, 1996, except for condition 2.5.

(ii) Additional Materials—Other materials submitted by the

Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations submitted for the sources listed in (i) (B), above.

[FR Doc. 01-20241 Filed 8-9-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-7026-1]

New Mexico: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The State of New Mexico has applied for Final authorization of its revisions to its Hazardous Waste Program under the Resource Conservation and Recovery Act (RCRA). The EPA has determined that these revisions satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's revisions through this immediate final action. The EPA is publishing this rule to authorize the revisions without a prior proposal because we believe this action is not controversial and do not expect adverse comments. Unless we get adverse comments which oppose this authorization during the comment period, the decision to authorize the New Mexico Environment Department's (NMED) revisions to their hazardous waste program will take effect. If adverse comments are received, we will publish a document in the **Federal Register** either: A withdrawal of the immediate Final decision and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes, or a document containing a response to comments and which either affirms that the immediate Final decision takes effect or reverses the decision.

DATES: This immediate final rule is effective on October 9, 2001 unless EPA receives adverse written comments by September 10, 2001. Should EPA receive such comments, it will publish a timely document either: Withdrawing the immediate final publication or affirming the publication and responding to comments.

ADDRESSES: Written comments, referring to Docket Number NM-00-1, should be sent to Alima Patterson, Region 6 Regional Authorization Coordinator, Grants and Authorization Section (6PD-

G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733. Copies of New Mexico program revision application and the materials which EPA used in evaluating the revision are available for inspection and copying from 8:30 a.m. to 4 p.m. Monday through Friday at the following addresses: New Mexico Environment Department, 2044 Galisteo, Santa Fe, New Mexico 87505, phone (505) 827-1561 and EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 665-6444.

FOR FURTHER INFORMATION CONTACT:
Alima Patterson (214) 665-8533.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States that receive final authorization from 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 Hazardous Waste Program. As the Federal program changes, states must change their programs and ask 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 EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260-266, 268, 270, 273.

B. 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 have to comply with the authorized state requirements (in RCRA Clusters V-IX listed in this document) 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 EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to: (1) Do

inspections, and require monitoring, tests, analyses or reports, (2) enforce RCRA requirements and suspend or revoke permits, and (3) 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, and are not changed by today's action.

C. What Is the History of New Mexico's Final Authorization and Its Revisions?

The State of New Mexico received authorization 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; 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; October 17, 1995 (61 FR 2450) effective January 2, 1996 and December 23, 1996 (61 FR 67474) effective March 10, 1997. 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) and July 13, 1998 (63 FR 23221). On October 11, 2000, New Mexico submitted a final complete program revision application, seeking authorization of its program revision in accordance with 40 § CFR 271.21. The State of New Mexico also has adopted the regulations for Import and Export of Hazardous Waste. However, the requirements of the Import and Export regulations will be administered by EPA and not the State because the exercise of foreign relations and international commerce powers is reserved to the Federal government under the United States Constitution. Therefore, the State of New Mexico is not seeking authorization for this rule.

On April 14, 2000, New Mexico promulgated 20 New Mexico Administrative Code (NMAC) 4.1 which adopts the July 1, 1999, version of 40 CFR parts 260-273 and part 124. Specifically, 20 NMAC 4.1 incorporates by reference 40 CFR parts 260-273 and part 124 at 20 NMAC 4.1.100-1000 and 20 NMAC 1102. This is the version that is referred to in the Attorney

General's Statement submitted with this program revision. 20 NMAC 4.1. became effective on June 14, 2000. New Mexico Statutes Annotated (NMAC) 1978 sections 74-4-4A(1) and 74-4-4E (Replacement Pamphlet 1993) provides New Mexico with authority to adopt federal regulations by reference with exception of federal rules that are not delegable to the State of New Mexico.

D. What Changes Are We Authorizing With Today's Action?

On October 11, 2000, the State of New Mexico submitted a final complete program revisions application, seeking authorization of their revisions in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of adverse comments, that the State of New Mexico's hazardous waste program revision satisfies all the requirements necessary to qualify for final authorization. New Mexico's revisions consist of regulations which specifically govern Federal Hazardous Waste promulgated from July 1, 1994 through June 30, 1999 (RCRA Clusters V-IX). New Mexico requirements are included in a chart with this document. In addition, as a result of today's final authorization of New Mexico for the February 16, 1993; Corrective Action Management Unit (CAMU) rule, the State will be eligible for interim authorization-by-rule for the proposed amendments to the CAMU rule, which also proposed the interim authorization-by-rule process (see August 22, 2000, 65 FR 51080). New Mexico will also become eligible for conditional authorization if that alternative is chosen by EPA in the final CAMU amendments rule.

| Federal citation | State analog |
|--|---|
| 1. Corrective Action Management Units and Temporary Units; Corrective Action Provisions Under Subtitle C, [58 FR 8658] February 16, 1993. (Checklist 121). | New Mexico Statute Annotated (NMSA) 1978, §§74-4-4A and 74-4-4E (Replacement (Repl.) 1993). Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC 4.1.100, 101, 500, 501, 600, 601, 801, 900 and 901, as amended effective June 14, 2000. |
| 2. Identification and Listing of Hazardous Waste; Amendments to Definitions of Solid Waste, [59 FR 38536] July 28, 1994. (Checklist 135). | NMSA 1978, §§74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.200, as amended effective June 14, 2000. |

| Federal citation | State analog |
|---|---|
| 3. Standards for the Management of Specific Hazardous Wastes Amendment to Subpart C—Recyclable Materials Used in a Manner Constituting Disposal Final Rule, [59 FR 43496] August 24, 1994. (Checklist 136). | NMSA 1978 §§ 74–4–4A and 74–4–4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.500, 501, 600 and 601, as amended effective June 14, 2000. |
| 4. Land Disposal Restrictions Phase II—Universal Treatment Standards, and Treatment Standards for Organic Toxicity Characteristic Wastes and Newly Listed Waste, [59 FR 47982] September 19, 1994. (Checklist 137). | NMSA 1978 §§ 74–4–4A and 74–4–4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.700, 800 and 801 as amended effective June 14, 2000. |
| 5. Technical Amendment to the Universal Treatment Standards and Treatment Standards for Organic Toxicity Characteristic Wastes and Newly Listed Waste, [60 FR 242], January 3, 1995. (Checklist 137.1). | NMSA 1978, §§ 74–4–4A and 74–4–4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.700, 800 and 801 as amended effective June 14, 2000. |
| 6. Hazardous Waste Management System: Testing and Monitoring Activities—Amendment I, [60 FR 3089] January 13, 1995. (Checklist 139). | NMSA 1978, §§ 74–4–4A and 74–4–4E (Repl. 1993.) HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.100, 101, as amended effective June 14, 2000. |
| 7. Hazardous Waste Management System; Carbamate Production Identification Listing of Hazardous Waste and CERCLA Hazardous Substance Designation and Reportable Quantities, [60 FR 7824] February 9, 1995. (Checklist 140). | NMSA 1978, §§ 74–4–4A and 74–4–4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.200, as amended effective June 14, 2000. |
| 8. Hazardous Waste Management Systems; Carbamate Production Identification and Listing of Hazardous Waste; and CERCLA Hazardous Substance Designation and Reportable Quantities; Correction, [60 FR 19165] April 17, 1995. (Checklist 140.1). | NMSA 1978, §§ 74–4–4A and 74–4–4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.200, as amended effective June 14, 2000. |
| 9. Hazardous Waste Management Systems; Carbamate Production Identification and Listing of Hazardous Waste; and CERCLA Hazardous Substance Designation and Reportable Quantities; Correction, [60 FR 25619] May 12, 1995. (Checklist 140.2). | NMSA 1978, §§ 74–4–4A and 74–4–4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.200, as amended effective June 14, 2000. |
| 10. Hazardous Waste Management System; Testing Monitoring Activities—Amendment 2, [60 FR 17001] April 4, 1995. (Checklist 141). | NMSA 1978, §§ 74–4–4A and 74–4–4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.100, 101, as amended effective June 14, 2000. |
| 11. Universal Waste Rule (Hazardous Waste Management System: Modification of the Hazardous Waste Recycling Regulatory Program); Final Rule, [60 FR 25492] May 11, 1995. (Checklist 142 A). | NMSA 1978, §§ 74–4–4A and 74–4–4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.100, 101, 200, 300, 500, 501, 600, 601, 800, 801, 900, 901, 1000, and 1001, as amended effective June 14, 2000. |
| 12. Universal Waste Rule (Hazardous Waste Management System: Modification of the Hazardous Waste Recycling Regulatory Program); Final Rule, [60 FR 25492] May 11, 1995. (Checklist 142 B). | NMSA 1978, §§ 74–4–4A and 74–4–4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.100, 200, 500, 600, 700, 800, and 1000, as amended effective June 14, 2000. |
| 13. Universal Waste Rule (Hazardous Waste Management System: Modification of the Hazardous Waste Recycling Regulatory Program); Final Rule, [60 FR 25492] May 11, 1995. (Checklist 142 C). | NMSA 1978, §§ 74–4–4A and 74–4–4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.100, 101, 200, 500, 501, 600, 601, 700, 800, 801, 1000, and 1001, as amended effective June 14, 2000. |
| 14. Universal Waste Rule (Hazardous Waste Management System: Modification of the Hazardous Waste Recycling Regulatory Program); Final Rule, [60 FR 25492] May 11, 1995. (Checklist 142 D). | NMSA 1978, §§ 74–4–4A and 74–4–4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.100, 101, 200, 500, 501, 600, 601, 800, 801, 1000, and 1001, as amended effective June 14, 2000. |
| 15. Solid Waste, Hazardous Waste, Oil Discharge and Superfund Programs: Removal of Legally Obsolete Rules, [60 FR 33912] June 29, 1995. (Checklist 144). | NMSA 1978, §§ 74–4–4A and 74–4–4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.200, 700, 701, 900, and 901, as amended effective June 14, 2000. |
| 16. Hazardous Waste Management: Liquids in Landfills, [60 FR 35703] July 11, 1995. (Checklist 145). | NMSA 1978, §§ 74–4–4A and 74–4–4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.500, 501, 600, and 601, as amended effective June 14, 2000. |
| 17. RCRA Expanded Public Participation, [60 FR 63417] December 11, 1995. (Checklist 148). | NMSA 1978, §§ 74–4–4A and 74–4–4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.1102, 900, and 901, as amended effective June 14, 2000. |
| 18. Land Disposal Restrictions Phase III—Decharacterized; Wastewater, Carbamate Wastes, and Spent Potliners, [61 FR 15566] April 8, 1996. (Checklist 151). | NMSA 1978, §§ 74–4–4A and 74–4–4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.800 and 801, as amended effective June 14, 2000. |
| 19. Land Disposal Restrictions Phase III—Decharacterized; Wastewater, Carbamate Wastes, and Spent Potliners, [61 FR 15660] April 8, 1996. (Checklist 151.1). | NMSA 1978, §§ 74–4–4A and 74–4–4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.800 and 801, as amended effective June 14, 2000. |
| 20. Land Disposal Restrictions Phase III—Decharacterized; Wastewater, Carbamate Wastes, and Spent Potliners, [61 FR 19117] April 30, 1996. (Checklist 151.2). | NMSA 1978, §§ 74–4–4A and 74–4–4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.800 and 801, as amended effective June 14, 2000. |
| 21. Land Disposal Restrictions Phase III—Decharacterized; Wastewater, Carbamate Wastes, and Spent Potliners Technical Correction, [61 FR 33680] June 28, 1996. (Checklist 151.3). | NMSA 1978, §§ 74–4–4A and 74–4–4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.800 and 801, as amended effective June 14, 2000. |
| 22. Land Disposal Restrictions Phase III—Decharacterized; Wastewater, Carbamate Wastes, and Spent Potliners, [61 FR 36419] July 10, 1996. (Checklist 151.4). | NMSA 1978, §§ 74–4–4A and 74–4–4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.800 and 801, as amended effective June 14, 2000. |
| 23. Land Disposal Restrictions Phase III—Treatment Standards for Listed Hazardous Waste From Carbamate Production, [61 FR 43924] August 26, 1996. (Checklist 151.5). | NMSA 1978, §§ 74–4–4A and 74–4–4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.800 and 801, as amended effective June 14, 2000. |

| Federal citation | State analog |
|---|---|
| 24. Land Disposal Restrictions; Correction of Tables; Treatment Standards for Hazardous Wastes and Universal Treatment Standards, [62 FR 7502] February 19, 1997. (Checklist 151.6). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.800 and 801, as amended effective June 14, 2000. |
| 25. Criteria Classification of Solid Waste Disposal Facilities and Practices; Identification and Listing of Hazardous Waste, Requirements for Authorization of State Hazardous Waste Programs, [61 FR 34252] July 1, 1996. (Checklist 153). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.200, as amended effective June 14, 2000. |
| 26. Hazardous Waste Treatment, Storage and Disposal, Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers, [61 FR 59931] November 25, 1996. (Checklist 154). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.200, 300, 500, 501, 600, 601, 900 and 901, as amended effective June 14, 2000. |
| 27. Hazardous Waste Treatment, Storage and Disposal, Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers, [61 FR 62896] December 6, 1994. (Checklist 154.1). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.200, 300, 500, 501, 600, 601, 900 and 901, as amended effective June 14, 2000. |
| 28. Hazardous Waste Treatment, Storage and Disposal, Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers, [60 FR 26828] May 19, 1994. (Checklist 154.2). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.200, 300, 500, 501, 600, 601, 900 and 901, as amended effective June 14, 2000. |
| 29. Hazardous Waste Treatment, Storage and Disposal, Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers, [60 FR 50426] September 29, 1995. (Checklist 154.3). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.200, 300, 500, 501, 600, 601, 900 and 901, as amended effective June 14, 2000. |
| 30. Hazardous Waste Treatment, Storage and Disposal, Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers, [60 FR 56952] November 13, 1995. (Checklist 154.4). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.200, 300, 500, 501, 600, 601, 900 and 901, as amended effective June 14, 2000. |
| 31. Hazardous Waste Treatment, Storage and Disposal, Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers, [61 FR 4903] February 9, 1996. (Checklist 154.5). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.200, 300, 500, 501, 600, 601, 900 and 901, as amended effective June 14, 2000. |
| 32. Hazardous Waste Treatment, Storage and Disposal, Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers, [61 FR 28508] June 5, 1996. (Checklist 154.6). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.200, 300, 500, 501, 600, 601, 900 and 901, as amended effective June 14, 2000. |
| 33. Land Disposal Restrictions Phase III—Emergency Extension of the K088 Capacity Variance, [62 FR 1992] January 14, 1997. (Checklist 155). | NMSA 1978, § 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.800 and 801, as amended effective June 14, 2000. |
| 34. Military Munitions Rule; Hazardous Waste Identification and Management; Explosives Emergencies; Manifest Exemption for Transport of Hazardous Waste on Right-of-Ways on Contiguous Properties, [62 FR 6622] February 12, 1997. (Checklist 156). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.100, 101, 200, 300, 400, 500, 501, 600, 601, and 700, as amended effective June 14, 2000. |
| 35. Land Disposal Restrictions—Phase IV; Treatment Standards for Wood Preserving Wastes, Paperwork Reduction Streamlining, Exemptions From RCRA for Certain Processed Materials; and Miscellaneous Hazardous Waste Provisions, [62 FR 25998] May 12, 1997. (Checklist 157). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.800 and 801, as amended effective June 14, 2000. |
| 36. Hazardous Waste Management System; Testing and Monitoring Activities, [62 FR 32452] June 13, 1997. (Checklist 158). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.100, 101, 500, 600, 601, and 700 as amended effective June 14, 2000. |
| 37. Hazardous Waste Management System; Carbamate Production; Identification and Listing of Hazardous Waste; Land Disposal Restrictions, [62 FR 32974] June 17, 1997. (Checklist 159). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.800 and 801, as amended effective June 14, 2000. |
| 38. Land Disposal Restrictions Phase III—Emergency Extension of the K088 National Capacity Variance, [62 FR 37694] July 14, 1997. (Checklist 160). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.800, and 801, as amended effective June 14, 2000. |
| 39. Second Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes From Carbamate Production, [62 FR 45568] August 28, 1997 (Checklist 161). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.800, and 801, as amended effective June 14, 2000. |
| 40. Clarification of Standards for Hazardous Waste LDR Treatment Variance, [62 FR 64504] December 5, 1997. (Checklist 162). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.800, and 801, as amended effective June 14, 2000. |
| 41. Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers; Clarification and Technical Amendment, [62 FR 64636] December 8, 1997. (Checklist 163). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.200, 300, 500, 501, 600, 601, 900, and 901, as amended effective June 14, 2000. |
| 42. Kraft Mill Steam Stripper Condensate Exclusion, [64 FR 18504] April 15, 1998. (Checklist 164). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.200, as amended effective June 14, 2000. |
| 43. Land Disposal Restrictions Phase IV—Treatment Standards for Metal Wastes and Mineral Processing Wastes, [63 FR 28556] May 26, 1998. (Checklist 167 A). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.800, and 801, as amended effective June 14, 2000. |

| Federal citation | State analog |
|---|---|
| 44. Land Disposal Restrictions Phase IV—Hazardous Soils Treatment Standards and Exclusions, [63 FR 28556] May 26, 1998. (Checklist 167 B). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.300, 301, 800, and 801, as amended effective June 14, 2000. |
| 45. Land Disposal Restrictions Phase IV—Corrections, [63 FR 28556] May 26, 1998. (Checklist 167 C). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.800 and 801, as amended effective June 14, 2000. |
| 46. Land Disposal Restrictions Phase IV—Corrections, [63 FR 31266] June 9, 1998. (Checklist 167 C.1). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.800 and 801, as amended effective June 14, 2000. |
| 47. Bevill Exclusion Revisions and Clarification, [63 FR 28556] May 26, 1998. (Checklist 167 E). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.200, as amended effective June 14, 2000. |
| 48. Exclusion of Recycled Wood Preserving Wastewaters, [63 FR 28556] May 26, 1998. (Checklist 167 F). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.200, as amended effective June 14, 2000. |
| 49. Hazardous Waste Combustors Revised Standards, [63 FR 33782] June 19, 1998. (Checklist 168). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.200, as amended effective June 14, 2000. |
| 50. Petroleum Refining Process, [63 FR 42110] August 6, 1998. (Checklist 169). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.200, 700, 800, and 801, as amended effective June 14, 2000. |
| 51. Petroleum Refining Waste Process, [63 FR 54356] October 9, 1998. (Checklist 169.1). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.200, 700, 800, and 801, as amended effective June 14, 2000. |
| 52. Land Disposal Restrictions—Phase IV, [63 FR 46332] August 31, 1998. (Checklist 170). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.800, and 801, as amended effective June 14, 2000. |
| 53. Emergency Revisions of LDR Treatment Standards, [63 FR 47409] September 4, 1998. (Checklist 171). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.800, and 801, as amended effective June 14, 2000. |
| 54. Emergency Revisions of LDR Treatment Standards, [63 FR 47124] September 9, 1998. (Checklist 172). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.800, and 801, as amended effective June 14, 2000. |
| 55. Land Disposal Restrictions Treatment Standards Spent Potliners from Primary Aluminum Reduction (K088); Final Rule, [63 FR 51254] September 24, 1998. (Checklist 173). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.800, and 801, as amended effective June 14, 2000. |
| 56. Standards Applicable to Owners and Operators of Closed/Closing Facilities, [63 FR 56710] October 22, 1998. (Checklist 174). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.500, 501, 600, 601, 900 and 901, as amended effective June 14, 2000. |
| 57. Universal Waste Rule; Technical Amendment (Conditionally Optional), [63 FR 71225] December 24, 1998. (Checklist 176). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.100, 101, 200, 300, 500, 501, 600, 601, 800, 801, 900, 901, 1000 and, 1001, as amended effective June 14, 2000. |
| 58. Organic Air Emission Standards, [64 FR 3381] January 21, 1999. (Checklist 177). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.200, 300, 500, 501, 600, 601, 900, and 901, as amended effective June 14, 2000. |
| 59. Petroleum Refining Process Wastes, [64 FR 6806] February 11, 1999. (Checklist 178). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.200, as amended effective June 14, 2000. |
| 60. Land Disposal Restrictions Phase IV—Treatment Corrections and Clarifications to Treatment Standards, [64 FR 25408] May 11, 1999. (Checklist 179). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1.300, 301, 800 and 801, as amended June 14, 2000. |
| 61. Test Procedures for the Analysis of Oil and Grease and Non-Polar Material, [64 FR 26315] May 14, 1999. (Checklist 180). | NMSA 1978, §§ 74-4-4A and 74-4-4E (Repl. 1993). HWMR, New Mexico Environmental Improvement Board, 20 NMAC 4.1100 and 101, as amended effective June 14, 2000. |

E. What Is the Relationship Between the Resource Conservation and Recovery Act and the Hazardous Waste Combustor MACT? How Does This Affect Delegation of This Standard to NMED's Authorization?

In this authorization document, the State of New Mexico is also seeking authorization for the Post-Closure Permit Requirement and Closure Process, (Checklist 174). On September 30, 1999, the EPA finalized the National Emission Standards for Hazardous Air

Pollutants (NESHAP) for three categories of hazardous waste combustors (HWCs): incinerators, cement kilns and light-weight aggregate kilns (64 FR 52828). The EPA promulgated this rule under joint authority of the Clean Air Act (CAA) and RCRA. Before this rule went into effect, the air emissions from these three types of HWCs was primarily regulated under the authority of RCRA (see 40 CFR parts 264, 265, 266, and 270). However, with the release of the final

HWC NESHAP (see 40 CFR part 63, subpart EEE), the air emissions from these sources is now regulated under RCRA and the CAA. Even though both statutes give us the authority to regulate these emissions, we determined that having emission standards and permitting requirements in both sets of implementing regulations would be duplicative. For this reason, using the authority provided by section 1006(b) of RCRA, we deferred the RCRA requirements for HWC emission

controls to the CAA requirements of 40 CFR part 63, subpart EEE.

Therefore, with today's authorization of the State of New Mexico for the RCRA provisions of the September 30, 1999, HWC NESHAP rule, the RCRA waste management standards for air emissions from these units will no longer apply after the facility has demonstrated compliance with 40 CFR part 63, subpart EEE. One notable exception concerns section 3005(c)(3) of RCRA, which requires that each RCRA permit contain the terms and conditions necessary to protect human health and the environment. Under this provision of RCRA, if a regulatory authority determines that more stringent conditions than the HWC NESHAP are necessary to protect human health and environment for a particular facility, then the regulatory authority may impose those conditions in the facility's RCRA permit. (See the HWC MACT rule preamble discussion on the interrelationship of the MACT rule with the RCRA Omnibus provision and site specific risk assessment at 64 FR 52828, 52839-52843, September 30, 1999, and RCRA Site-Specific Risk Assessment Policy for Hazardous Waste Combustion Facilities dated June 2000 for more information).

F. What Decisions Has EPA Made?

We conclude that New Mexico's application for program revision 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 is responsible 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 Solid Waste Amendments of 1984 (HSWA). New federal requirements and prohibitions imposed by federal regulations that EPA promulgates under the authority of HSWA take effect in authorized states before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in New Mexico, including issuing permits, until the State is granted authorization to do so.

G. How Do The Revised State Rules Differ From The Federal Rules?

In this authorization of the State of New Mexico's program revisions for RCRA Clusters V-IX, 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.

H. Who Handles Permits After This Authorization Takes Effect?

The State of 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 we issued prior to the effective date of this authorization. We will not issue any more permits or new portions of permits for the provisions listed in that 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.

I. Why Wasn't There a Proposed Rule Before Today's Action?

The EPA did not publish a proposal before today's rule because EPA believes the revisions are not controversial and expects no adverse comments. The EPA is 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 changes.

J. Where Do I Send My Comments and When Are They Due?

You should send written comments to Alima Patterson, Regional Authorization Coordinator, Grants and Authorization Section (6PD-G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 665-8533. Please refer to Docket Number NM-00-1. We must receive your comments by September 10, 2001. You may not have an opportunity to comment again. If you want to comment on this action, you must do so at this time.

K. What Happens if EPA Receives Comments Opposing This Action?

If EPA receives comments that oppose this authorization, EPA may withdraw this rule (see 40 CFR 271.21(b)(3)(c)(iii) by publishing a document in the **Federal Register** before the rule becomes effective or publish a document containing a response to comments and either affirms this immediate final decision or reverses the decision.

L. When Will This Approval Take Effect?

Unless EPA receives comments opposing this action, this final authorization approval will become effective without further notice on October 9, 2001.

M. Where Can I Review The State's Application?

You can review and copy the State of New Mexico's application from 8:30 a.m. to 4 p.m. Monday through Friday at the following addresses: New Mexico Environment Department, 2044 Galisteo, Santa Fe, New Mexico 87505, phone (505) 827-1561 and EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 665-8533. For further information contact Alima Patterson, Regional Authorization Coordinator, Grants and Authorization Section (6PD-G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 665-8533.

N. Does Today's Action Affect Indian Country in New Mexico?

New Mexico is not authorized to carry out its Hazardous Waste Program in Indian Country within the State. This authority remains with EPA. Therefore, this action has no effect on Indian Country.

O. What Is Codification?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. The EPA does this by referencing the authorized State rules in 40 CFR part 272. The EPA reserves the amendment of 40 CFR part 272, subpart GG for this codification of New Mexico's program changes until a later date.

Administrative Requirements

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 requirement for the purpose of RCRA 3006 and impose 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 pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded Mandates Reform

Act of 1995 (Public Law 104-4). This action will not have substantial direct effects on 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.

Under RCRA 3006(b), 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 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, 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 compiled with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney Generals' Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under 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 Representative, 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).

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 document 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: May 18, 2001.

Jerry Clifford,

Acting Regional Administrator, Region 6.

[FR Doc. 01-19601 Filed 8-9-01; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1-% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, 500 C Street

SW., Washington, DC 20472, (202) 646-3461, or (e-mail) matt.miller@fema.gov.

SUPPLEMENTARY INFORMATION: FEMA makes final determinations listed below of BFEs and modified BFEs for each community listed. The proposed BFEs and proposed modified BFEs were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed BFEs and proposed modified BFEs were also published in the **Federal Register**.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Administrator, Federal Insurance and Mitigation Administration certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.