

spongiform encephalopathy (BSE) into the United States. The introductory text in § 94.27 indicates that beef meeting the conditions of that section is eligible for importation into the United States, notwithstanding any other provisions of part 94. Interpreted literally, that wording would supersede the prohibitions being imposed by this interim rule with regard to FMD. However, that is not our intent. When § 94.27 was added to the regulations in 2005, the intent behind the “notwithstanding” wording was to reflect our determination that qualifying beef from Japan could be safely imported into the United States with regard to BSE, even though Japan was listed in § 94.18 as a country in which BSE exists. To clarify that intent, we are revising the introductory text of § 94.27 to indicate that section is applicable notwithstanding any provisions of § 94.18. However, any other applicable restrictions set forth in part 94 still apply and the importation of any fresh beef from Japan is prohibited as long as Japan is not listed as a country free of FMD.

Although we are removing Japan from the list of regions considered free of rinderpest and FMD, we recognize that the Ministry of Agriculture, Forestry, and Fisheries of Japan has responded to the detection of FMD by imposing restrictions on the movement of ruminants, swine, and ruminant and swine products from FMD-affected areas; by conducting heightened surveillance activities; and by initiating measures to eradicate the disease. As noted above, no new cases of FMD have been diagnosed in Japan since July 4, 2010. We intend to reassess this situation at a future date in accordance with the standards of the OIE. As part of that reassessment process, we will consider all comments received on this interim rule. The future reassessment will determine whether we can restore Japan to the list of regions in which FMD is not known to exist.

#### Emergency Action

This rulemaking is necessary on an emergency basis to prevent the introduction of FMD into the United States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (*see DATES* above). After the comment period closes, we

will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

#### Executive Order 12866 and Regulatory Flexibility Act

This interim rule is subject to Executive Order 12866. However, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. This interim rule is not expected to have an immediate or significant economic impact on small entities producing beef and swine products in the United States. As cattle and swine in Japan are culled due to the FMD outbreak there and supplies of beef and pork products become tighter in Japan, there may be an increase in the demand for U.S. beef and pork products. With regard to imports, beef imported from Japan is a unique product that serves a high-priced specialty market. Although entities that purchase beef from Japan will be affected by this rule, farms in the United States that raise cattle for this type of beef may benefit from the prohibition on imports of beef from Japan. We invite comment on our full economic analysis, which is posted with this interim rule on the Regulations.gov Web site (*see ADDRESSES* above for instructions for accessing Regulations.gov) and may also be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

#### Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has retroactive effect to April 20, 2010; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

■ Accordingly, we are amending 9 CFR part 94 as follows:

### PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, CLASSICAL SWINE FEVER, SWINE VESICULAR DISEASE, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

■ 1. The authority citation for part 94 continues to read as follows:

**Authority:** 7 U.S.C. 450, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

#### 94.1 [Amended]

■ 2. Section 94.1 is amended as follows:

- a. In paragraph (a)(2), by removing the word “Japan.”
- b. In paragraph (a)(3), by adding the word “Japan,” immediately before the word “Namibia.”

#### 94.11 [Amended]

■ 3. In § 94.11, paragraph (a) is amended by removing the word “Japan.”

#### § 94.27 [Amended]

■ 4. In § 94.27, the introductory text is amended by removing the words “Notwithstanding any other provisions of this part,” and adding in their place the words “Notwithstanding the provisions of § 94.18.”

Done in Washington, DC, this 19th day of October 2010.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2010–26849 Filed 10–22–10; 8:45 am]

**BILLING CODE 3410–34–P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 271

[EPA–R06–RCRA–2009–0343 FRL–9217–2]

#### 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 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 December 27, 2010 unless the EPA receives adverse written comment by November 24, 2010. 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 online 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.

5. *Instructions:* Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://www.regulations.gov), or e-mail. The Federal [regulations.gov](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 [regulations.gov](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. 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 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 New Mexico 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 and (72 FR 46165) effective October 16, 2007. 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); effective October 27, 2003, and March 25, 2009, (74 FR 12625); effective May 26, 2009. On May 21, 2009 New Mexico submitted a final complete program revision application seeking authorization of its program revision in accordance with 40 CFR 271.21.

New Mexico statutes provide authority for the NMED to administer the provisions of the State Hazardous Waste Management Program (HWMP). The New Mexico Environmental Improvement Act (EIA), NMSA 1978, Sections 74-1-1 through 74-1-14 and the New Mexico Hazardous Waste Act (HWA) provide this authority. No amendments have been made to the EIA or HWA that affect the ability of the NMED to administer the HWMP. The

NMED is the sole agency responsible for the HWMP.

The NMED petitioned the New Mexico Environmental Improvement Board (EIB) to amend the HWMR, 20.4.1 for the EPA Federal rules promulgated from July 1, 2002, through July 1, 2008. The EIB adopted the amendments to the Hazardous Waste Management Regulations (HWMR) on November 3, 2008, and these amendments became permanent rules effective March 1, 2009.

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, 2008. This is the version that is referred to in the Attorney General's Statement and Certification submitted with this program revision. The 20 NMAC 4.1 became effective on March 1, 2009. 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, coverage, and processes have not materially changed.

New Mexico, through the HWMR, has incorporated by reference the following federal RCRA regulations as amended through July 1, 2008: 40 CFR parts 260-270, 40 CFR part 270; 40 CFR part 273; and 40 CFR part 279 with the exception of 40 CFR 260.1(b)(6), 260.20, 260.22, 260.30, 260.31, 260.32, 260.33, 263.20(e), 264.1(f), 264.149, 264.150, 264.301(l), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f), 264.1080(g), 265.1(c)(4), 265.149, 265.150, 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), 265.1080(g); 268.5, 268.6, 268.42(b), 268.44(a) through (g). New Mexico has incorporated by reference 40 CFR part 124, sections 124.31, 124.32, and 124.33 with exception to 40 CFR parts 124.1 and 124.2. Also, it has adopted regulations at 20.4.1.901 NMAC, Permitting Procedures, that are equivalent to and no less stringent than the procedures of 40 CFR part 124 and required by 40 CFR 271.14.

The State of New Mexico has added regulations 20.4.1.1001.A(1), A(3), & .D requirements for aerosol cans as universal waste. An EPA memo dated February 13, 1997 (from Mike Shapiro to Senior RCRA Policy Managers in the EPA Regions), indicates that States that are already authorized for the universal waste rule may add additional wastes that meet the criteria for universal waste to their program. Such state-only wastes may be recognized as part of the State's authorized program; therefore, EPA

Region 6 has determined that the State's aerosol can provisions can be recognized as part of the State's authorized program.

20.4.1.1001.C—New Mexico has adopted an extensive revision to their universal waste program which would allow the intentional breaking and crushing of universal waste lamps in order to reduce their volume to facilitate management or transport to destination facilities. The State's regulations also include specific requirements with which the regulated community must comply. Further analysis will be performed to determine if the breaking and crushing of universal waste lamps will be authorized as part of the State's authorized program. Therefore, the EPA has determined that these requirements are not part of the State's authorized program. The lamp crushing provisions are excluded from this authorization.

Performance Track (Non-HSWA) (Revision Checklist 204; 69 FR 21737, 4/24/04, as amended at 69 FR 62217, 10/24/04). In New Mexico's Program Revision Application package for RCRA Clusters XIII through XVIII, the State indicates that it is seeking authorization for the Performance Track program, as addressed by Revision Checklist 204. However, on March 16, 2009, EPA announced its intention to halt and review the National Performance Track Program. Therefore, EPA Region 6 has decided to exclude this rule from this authorization document. The EPA is also excluding from this authorization document, the specific Performance Track provisions addressed by the Burden Reduction Initiative Rule (71 FR 16862; 04/04/06; Revision Checklist 213).

#### **G. What changes are we authorizing with today's action?**

On May 21, 2009, 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 Federal Hazardous Waste revisions promulgated from July 1, 2002 through July 1, 2008 (RCRA Clusters XIII-XVIII). The State of New Mexico requirements are included in a chart with this document.

Description of Federal requirement (include checklist number, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous State authority
1. Zinc Fertilizer Rule. (Checklist 200) .....	67 FR 48393–48415, July 24, 2002 .....	New Mexico Statute Annotated (NMSA) 1978, Section 74–4–1. Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC, 20.4.1.200, 20.4.1.700, and 20.4.1.800 as amended November 3, 2008, effective March 1, 2009.
2. Treatment Variance for Radioactively Contaminated Batteries. (Checklist 201).	67 FR 62618–62624, October 7, 2002 .....	New Mexico Statute Annotated (NMSA) 1978, Section 74–4–1. Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC, 20.4.1.800, as amended November 3, 2008, effective March 1, 2009.
3. Hazardous Air Pollutant Standards for Combustors-Corrections 2. (Checklist 202).	67 FR 77687–77692, December 19, 2002 .....	New Mexico Statute Annotated (NMSA) 1978, Section 74–4–1. Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC, 20.4.1.900, as amended November 3, 2008, effective March 1, 2009.
4. Recycled Used Oil Management Standards; Clarification. (Checklist 203).	68 FR 44659–44665, July 30, 2003 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74–4–1. Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC, 20.4.1.200 and 20.4.1.1002, as amended November 3, 2008, effective March 1, 2009.
5. NESHAP: Surface Coating of Automobiles and Light-Duty Trucks. (Checklist 205).	69 FR 22601–22661, April 26, 2004 .....	New Mexico Statute Annotated (NMSA) 1978, Section 74–4–1. Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC, 20.4.1.500 and 20.4.1.600, as amended November 3, 2008, effective March 1, 2009.
6. Nonwastewaters from Dyes and Pigments. (Checklist 206).	70 FR 9138–9180, February 24, 2005 .....	New Mexico Statute Annotated (NMSA) 1978, Section 74–4–1. Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC, 20.4.1.200 and 20.4.1.800, as amended November 3, 2008, effective March 1, 2009.
7. Uniform Hazardous Waste Manifest Rule. (Checklist 207).	70 FR 10776–10825, March 4, 2005 .....	New Mexico Statute Annotated (NMSA) 1978, Section 74–4–1. Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC, 20.4.1.100, 20.4.1.200, 20.4.1.300, 20.4.1.400, 20.4.1.500, and 20.4.1.600, as amended November 3, 2008, effective March 1, 2009.
8. Methods Innovation Rule and SW–846 Final Update IIIB. (Checklist 208).	70 FR 34538–34592, June 14, 2005 .....	New Mexico Statute Annotated (NMSA) 1978, Section 74–4–1. Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC, 20.4.1.100, 20.4.1.200, 20.4.1.500, 20.4.1.600, 20.4.1.700, 20.4.1.800, 20.4.1.900 and 20.4.1.1002, as amended November 3, 2008, effective March 1, 2009.
9. Universal Waste Rule: Specific Provisions for Mercury Containing Equipment. (Checklist 209).	70 FR 45508–45522, August 5, 2005 .....	New Mexico Statute Annotated (NMSA) 1978, Section 74–4–1. Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC, 20.4.1.100, 20.4.1.200, 20.4.1.500, 20.4.1.600, 20.4.1.800, 20.4.1.900, and 20.4.1.1000, as amended November 3, 2008, effective March 1, 2009.
10. Revisions of Wastewater Treatment Exemptions for Hazardous Waste Mixture (“Headworks exemptions”). (Checklist 211).	70 FR 57769–57785, October 4, 2005 .....	New Mexico Statute Annotated (NMSA) 1978, Section 74–4–1. Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC, 20.4.1.200, as amended November 3, 2008, effective March 1, 2009.
11. NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II). (Checklist 212).	70 FR 59402–59579, October 12, 2005 .....	New Mexico Statute Annotated (NMSA) 1978, Section 74–4–1. Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC, 20.4.1.100, 20.4.1.500, 20.4.1.600, 20.4.1.700, and 20.4.1.900, as amended November 3, 2008, effective March 1, 2009.

Description of Federal requirement (include checklist number, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous State authority
12. Burden Reduction Initiative. (Checklist 213)	71 FR 16862–16915, April 4, 2006 .....	New Mexico Statute Annotated (NMSA) 1978, Section 74–4–1. Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC, 20.4.1.100, 20.4.1.200, 20.4.1.500, 20.4.1.501 (except .501.A(2)), 20.4.1.600, 20.4.1.601, 20.4.1.700, 20.4.1.701, 20.4.1.800, and 20.4.1.902, as amended November 3, 2008, effective March 1, 2009. <b>Note:</b> As discussed in Section F, the EPA is excluding from this authorization the Performance Track provisions addressed by this final rule.
13. Corrections to Errors in the Code of Federal Regulations. (Checklist 214).	71 FR 40254–40280, July 14, 2006 .....	New Mexico Statute Annotated (NMSA) 1978, Sections 74–4–1. Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC, 20.4.1.100, 20.4.1.200, 20.4.1.300, 20.4.1.500, 20.4.1.600, 20.4.1.601, 20.4.1.700, 20.4.1.800, 20.4.1.900 20.4.1.1000, and 20.4.1.1002 as amended November 3, 2008, effective March 1, 2009.
14. Cathode Ray Tubes Rule. (Checklist 215)	71 FR 42928–42949, July 28, 2006 .....	New Mexico Statute Annotated (NMSA) 1978, Section 74–4–1. Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC, 20.4.1.100, and 20.4.1.200, as amended November 3, 2008, effective March 1, 2009.
15. Exclusion of Oil-Bearing Secondary Materials Processed in a Gasification System to Produce Synthesis. (Checklist 216).	73 FR 57–72, January 2, 2008 .....	New Mexico Statute Annotated (NMSA) 1978, Section 74–4–1. Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC, 20.4.1.100, and 20.4.1.200, as amended November 3, 2008, effective March 1, 2009.
16. NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II) Amendments. (Checklist 217).	73 FR 18970–18984, April 8, 2008 .....	New Mexico Statute Annotated (NMSA) 1978, Section 74–4–1. Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC, 20.4.1.500, as amended November 3, 2008, effective March 1, 2009.
17. F019 Exemption for Wastewater Treatment Sludges from Auto Manufacturing Zinc Phosphating Processes. (Checklist 218).	73 FR 31756–31769, June 4, 2008 .....	New Mexico Statute Annotated (NMSA) 1978, Section 74–4–1. Hazardous Waste Regulations (HWMR), New Mexico Environmental Improvement Board, 20 NMAC, 20.4.1.200, as amended November 3, 2008, effective March 1, 2009.

**H. Where are the revised state rules different from the Federal rules?**

The State of New Mexico more stringent regulations are at Sections 20.4.1.701 and 20.4.1.902. The State’s more stringent regulations corresponds to Federal regulations 40 CFR 266.102(e)(10) and 270.14(a). There are no broader in scope provisions in this authorization document.

**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 we 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 GG 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 may take effect, the agency promulgating the rule a rule must submit a 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 December 27, 2010.

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

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian 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: October 12, 2010.

**Al Armendariz,**

*Regional Administrator, Region 6.*

[FR Doc. 2010-26962 Filed 10-22-10; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Parts 212, 247, and 252

**RIN 0750-AG81**

#### Defense Federal Acquisition Regulation Supplement; Defense Cargo Riding Gang Members (DFARS Case 2007-D002)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Interim rule with request for comments.

**SUMMARY:** DoD is issuing an interim rule to amend the Defense Federal

Acquisition Regulation Supplement (DFARS) to implement section 3504 of the National Defense Authorization Act for Fiscal Year 2009. Section 3504 addresses requirements that apply to riding gang members and DoD-exempted individuals who perform work on U.S.-flag vessels under DoD contracts for transportation services. Section 3504 amended section 1018 of the National Defense Authorization Act for Fiscal Year 2007.

**DATES:** *Effective date:* October 25, 2010.

*Comment date:* Comments on this interim rule should be submitted in writing to the address shown below on or before December 27, 2010 to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2007-D002, using any of the following methods:

○ *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

○ *E-mail:* [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2007-D002 in the subject line of the message.

○ *Fax:* 703-602-0350.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Mary Overstreet, OUSD (AT&L) DPAP/DARS, 3060 Defense Pentagon, Room 3B855, Washington, DC 20301-3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

To confirm receipt of your comment(s), please check <http://www.regulations.gov> approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**FOR FURTHER INFORMATION CONTACT:** Ms. Mary Overstreet, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), 3060 Defense Pentagon, Room 3B855, Washington, DC 20301-3060. Telephone 703-602-0311; facsimile 703-602-0350. Please cite DFARS Case 2007-D002.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

This interim rule implements section 3504 of the National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110-417). Section 3504 amended section 1018 of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109-364).

Section 3504 addresses requirements that apply to riding gang members and DoD-exempted individuals who perform work on U.S.-flag vessels under DoD contracts for transportation services