

Federal requirement	Federal Register reference	Publication date
Revision of Conditional Exemption for Small Scale Treatability Studies.	58 FR 33341: Amendments to 40 CFR parts 261, 264 and 265.	06/17/93
	63 FR 24963: Amendments to 40 CFR part 261	05/06/98
	59 FR 8362	02/18/94
Letter of Credit Revision	59 FR 29958	06/10/94
Universal Waste Rule, Petition Provisions to Add a New Universal Waste.	60 FR 25492	05/11/95
Recovered Used Oil Exclusion; Correction	61 FR 13103	03/26/96
Mineral Processing Secondary Materials	63 FR 28556; Amendments to 40 CFR part 261	06/26/98
Hazardous Remediation Waste Requirements (HWIR-Media), except as they apply to the standards for staging piles and to 40 CFR 264.1(j) and 264.101(d).	63 FR 65874	11/30/98

(ii) Additionally, New Mexico has adopted but is not authorized to implement the HSWA rules that are listed in the following table in lieu of EPA. EPA will continue to enforce the Federal

HSWA standards for which New Mexico is not authorized until the State receives specific authorization from EPA:

Federal requirement	Federal Register reference	Publication date
Toxicity Characteristic; Hydrocarbon Recovery Operations.	55 FR 40834	10/05/90
	56 FR 3978	02/01/91
	56 FR 13406	04/02/91
Toxicity Characteristic; Chlorofluorocarbon Refrigerants.	56 FR 5910	02/13/91
	56 FR 21955	05/13/91
Revisions to the Petroleum Refining Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 and F038).	58 FR 59598	11/09/93
Boilers and Industrial Furnaces; Administrative Stay and Interim Standards for Bevill Residues.	63 FR 65874	11/30/98
Hazardous Remediation Waste Requirements (HWIR-Media), to the extent that they apply to the standards for staging piles and to 40 CFR 264.1(j) and 264.101(d).		

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 6 and the State of New Mexico, signed by the EPA Regional Administrator on July 30, 2001, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) *Statement of Legal Authority.* “Attorney General’s Statement for Final Authorization”, signed by the Attorney General of New Mexico January, 1985, and revisions, supplements and addenda to that Statement dated April 13, 1988; September 14, 1988; July 19, 1989; July 23, 1992; February 14, 1994; July 18, 1994; July 20, 1994; August 11, 1994; November 28, 1994; August 24, 1995; and January 12, 1996; and June 14, 2000 are referenced as part of the authorized hazardous waste management program

under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) *Program Description.* The Program Description and any other materials submitted as supplements thereto are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

[68 FR 51487, Aug. 27, 2003]

§§ 272.1602–272.1649 [Reserved]

Subpart HH—New York

§ 272.1650 [Reserved]

§ 272.1651 New York State-Administered Program: final authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), New York has final authorization for the following

elements as submitted to EPA in New York's base program application for final authorization which was approved by EPA effective on May 29, 1986. Subsequent program revision applications were approved effective on July 3, 1989, May 7, 1990, October 29, 1991, May 22, 1992, August 28, 1995, October 14, 1997, January 15, 2002 and March 14, 2005.

(b) The State of New York has primary responsibility for enforcing its hazardous waste management program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) *State Statutes and Regulations.* (1) The New York regulations cited in paragraph (c)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* The Director of FEDERAL REGISTER approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the New York regulations that are incorporated by reference in this paragraph from West Group, 610 Opperman Drive, Eagan, MN 55123, ATTENTION: D3-10 (Phone #: 1-800-328-9352). You may inspect a copy at EPA Region 2 Library, 290 Broadway, 16th Floor, New York, NY 10007 (Phone number: (212) 637-3185), or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(i) The Binder entitled "EPA Approved New York Regulatory Requirements Applicable to the Hazardous Waste Management Program", dated March 2005.

(ii) [Reserved]

(2) EPA considered the following statutes and regulations in evaluating the State program but is not incorporating them herein for enforcement purposes:

(i) Environmental Conservation Laws (ECL), 1997 Replacement Volume, as revised by the 2004 Cumulative Pocket Part: sections 1-0303(18), 3-0301(1) (introductory paragraph); 3-0301(1)(a) and (b); 3-0301(1)(m); 3-0301(1)(o); 3-0301(1)(w); 3-0301(1)(x); 3-0301(1)(cc); 3-0301(2) introductory paragraph; 3-0301(2)(a), (b), (d) through (j), (l), (m) and (q); 3-0301(2)(z); 3-0301(4); 19-0301(1) (except 19-0301(c), (e) and (f)); 19-0303(1) through (3); 19-0304; 27-0105; 27-0701; 27-0703; 27-0705; 27-0707 (except 27-0707(2-c)); 27-0711; 27-0900 through 27-0908; 27-0909 (except 27-0909(5)); 27-0910 through 27-0922; 27-1105; 70-0101; 70-0103; 70-0105 (except 70-0105(3) and 70-0105(6)); 70-0107(1) and (2); 70-0107(3) (except 70-0107(3)(a) through (k), (m) and (n)); 70-0109; 70-0113; 70-0115 (except (2)(c) and (d)); 70-0117; 70-0119; 70-0121; 71-0301; 71-1719; 71-2705; 71-2707; 71-2709 through 71-2715; 71-2717; 71-2720; and 71-2727.

(iii) McKinney's Consolidated Laws of New York, Book 1, Executive Law (EL), Article 6: section 102.

(iv) McKinney's Consolidated Laws of New York, Book 46, Public Officers Law (POL), as amended through 2004: sections 87 and 89 (except the phrase "and one-a" at 89(5)(a)(3), and 89(5)(a)(1-a)).

(v) McKinney's Consolidated Laws of New York, Book 7B, Civil Practice Law and Rules (CPLR), as amended through 2004: sections 1013, 6301; 6311; and 6313.

(vi) Title 6, New York Codes, Rules and Regulations (6 NYCRR), Volume A-2A, Hazardous Waste Management System, as amended through April 10, 2004: sections 372.1(f); 373-1.1(f) and (g); 373-1.4(b); 373-1.4(d) through (f); 373-1.6(c); 621.1 through 621.4; 621.5 (except (d)(5), (d)(6)(i), (d)(7)(i)(a), (d)(7)(i)(c) and (d)(9)); 621.6 (except (b), (d)(4) and (d)(5)); 621.7; 621.8; 621.9 (except (a)(5), (c)(2) and (e)(2)); 621.10; 621.11 (except (d)); 621.12 through 621.15; and 621.16 (except (b), (d) and (e)).

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, are not incorporated by reference and are not federally enforceable:

(i) Environmental Conservation Laws (ECL), 1997 Replacement Volume, as revised by the 2004 Cumulative Pocket Part: sections 27-0301; 27-0303; 27-0305;

27–0307; 27–0909(5); 27–0923; 27–0925 and 27–0926.

(ii) Title 6, New York Codes, Rules and Regulations (6 NYCRR), Volume A–2A, Hazardous Waste Management System, as amended through April 10, 2004: Section 371.4(e); 372.3(a)(1); 372.3(a)(4); 372.3(b)(6)(iv); 372.3(d)(3); 373–1.1(d)(1)(x); 373–1.4(c); 373–2.15(a)(2); and 374–3.4(a)(2).

(iii) Throughout New York’s hazardous waste regulations, the State cross-references Part 364, which sets forth additional transporter requirements including permit and liability requirements (for examples, see 6 NYCRR sections 372.2(b)(8), 373–1.7(h)(3), 374–3.3(i)(1) and (2), 374–3.4(a) and 374–3.6(a)(1)). The transporter permit and liability requirements are broader in scope than the Federal program.

(iv) New York did not adopt an analog to 40 CFR 261.4(g) that excludes certain dredged materials from the State definition of hazardous waste. Instead, the State subjects these materials to full regulation as hazardous wastes.

(v) New York State regulations do not incorporate the Mineral Processing Secondary Materials Exclusion at 40 CFR 261.4(a)(17) and the related changes affecting 40 CFR 261.2(c)(3) and (c)(4)/Table, and 40 CFR 261.2(e)(1)(iii). Since New York did not adopt the exclusion at 40 CFR 261.4(a)(17) the State has a broader in scope program because the effect is to include materials that are not considered solid waste by EPA.

(4) *Unauthorized State Amendments.* (i) The authorized provisions at sections 371.1(c)(7), 373–1.3(d)(3), and 373–2.8(a)(3) of 6 NYCRR, as amended through April 10, 2004, include amendments that are not approved by EPA. Such unauthorized amendments are not part of the State’s authorized program and are, therefore, not Federally enforceable. Thus, notwithstanding the language in the New York hazardous waste regulations incorporated by reference at paragraph (b)(1)(i) of this section, EPA will enforce the State regulations that are actually authorized by EPA. The effective dates of the State’s authorized provisions are listed in the following Table:

TITLE 6—NEW YORK CODES, RULES AND REGULATIONS (6 NYCRR)

State Citation	Description	Effective date
371.1(c)(7)	Definition of Solid Waste. Documentation of claims for exemption	
373–2.8(a)(3)	Submission of applications.	
373–1.3(d)(3)	Financial Requirements. States and Federal government are exempt from the requirements of this section.	

(ii) The actual State regulatory text authorized by EPA (*i.e.*, without the unauthorized amendments) is available as a separate document, *Addendum to the EPA Approved New York Regulatory Requirements Applicable to the Hazardous Waste Management Program, March 2005*. This document is available from EPA Region 2, EPA Region 2 Library, 290 Broadway, 16th Floor, New York, New York 10007, Phone number: (212) 637–3185.

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 2 and the State of New York, signed by the Commissioner of the State of New York Department of Environmental Conservation on July 20, 2001, and by the EPA Regional Administrator on January 16, 2002, al-

though not incorporated by reference, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) *Statement of Legal Authority.* “Attorney General’s Statement for Final Authorization”, signed by the Attorney General of New York in 1985 and revisions, supplements and addenda to that Statement dated August 18, 1988, July 26, 1989, August 15, 1991, October 11, 1991, July 28, 1994, May 30, 1997, February 5, 2001, and April 2, 2004, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

Environmental Protection Agency

§ 272.1751

(7) *Program Description.* The Program Description and any other materials submitted as supplements thereto, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

[72 FR 14047, Mar. 26, 2007]

§§ 272.1652–272.1699 [Reserved]

Subpart II—North Carolina

§§ 272.1700–272.1749 [Reserved]

Subpart JJ—North Dakota

§ 272.1750 [Reserved]

§ 272.1751 **North Dakota State-administered program: Final authorization.**

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), North Dakota has final authorization for the following elements as submitted to EPA in North Dakota's base program application for final authorization which was approved by EPA effective on October 19, 1984. Subsequent program revision applications were approved effective on August 24, 1990, July 6, 1992, June 6, 1994, March 20, 2000, November 25, 2005, and April 14, 2008.

(b) The State of North Dakota has primary responsibility for enforcing its hazardous waste management program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) *State Statutes and Regulations.*

(1) The North Dakota statutes and regulations cited in paragraph (c)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921, *et seq.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the North Dakota statutes that are incor-

porated by reference from the Matthew Bender & Company Inc., P. O. Box 7587, Charlottesville, VA, 22906-7587, phone number: (800) 833-9844. You may obtain copies of the North Dakota regulations that are incorporated by reference in this paragraph from the North Dakota Legislative Counsel, Second Floor, State Capitol, 600 E Boulevard, Bismarck ND 58505, phone: (701) 328-2916. You may inspect a copy at EPA Region 8, from 7 a.m. to 4 p.m., 1595 Wynkoop Street, Denver, CO, 80202, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(i) The Binder entitled "EPA Approved North Dakota Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program", dated July 2006.

(ii) [Reserved]

(2) EPA considered the following statutes and regulations in evaluating the State program but is not incorporating them herein for enforcement purposes:

(i) North Dakota Century Code, 1998 Replacement, Volume 13A, North Dakota Constitution, Article XI: Sections 5 and 6.

(ii) North Dakota Century Code, 2002 Replacement, Volume 4A, Chapter 23-01 "Department of Health" Section 23-01-04.1, (except (6)).

(iii) North Dakota Century Code, Volume 4A, 2002 Replacement, as amended by the 2005 Pocket Supplement, Chapter 23-20.3 "Hazardous Waste": Sections 23-20.3-01, (except (5) and (6)); 23-20.3-02, (except (1), (9), (11), (12), and (17)); 23-20.3-03; 23-20.3-04; 23-20.3-05(3), (5), (6), and (8); 23-20.3-06; 23-20.3-07; 23-20.3-08; 23-20.3-09; and 23-20.3-10.

(iv) North Dakota Century Code, Volume 4A, 2002 Replacement, Chapter 23-29 "Solid Waste Management": Section 23-29-04.

(v) North Dakota Century Code, Volume 5, 1991 Replacement, Chapter 28-32 "Administrative Agencies Practice Act": Section 28-32-21.1.

(vi) North Dakota Century Code, Volume 6, 1996 Replacement, Chapter 32-40 "Environmental Law Enforcement":