

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 9 SOLID WASTE
PART 8 SPECIAL WASTE REQUIREMENTS

20.9.8.1 ISSUING AGENCY. New Mexico Environmental Improvement Board.
[20.9.8.1 NMAC - Rp, 20 NMAC 9.1.I.001, 8/2/2007]

20.9.8.2 SCOPE. This part applies to the transportation, storage, transfer, processing, transformation, recycling, composting, nuisance abatement and disposal of solid waste.
[20.9.8.2 NMAC - Rp, 20 NMAC 9.1.I.002, 8/2/2007]

20.9.8.3 STATUTORY AUTHORITY. NMSA 1978, Sections 74-1-1 to 74-1-15, NMSA 1978, Sections 74-9-1 to 74-9-43, and NMSA 1978 Sections 74-13-1 to 74-13-20.
[20.9.8.3 NMAC - Rp, 20 NMAC 9.1.I.003, 8/2/2007]

20.9.8.4 DURATION. Permanent.
[20.9.8.4 NMAC - Rp, 20 NMAC 9.1.I.004, 8/2/2007]

20.9.8.5 EFFECTIVE DATE. August 2, 2007, unless a later date is cited at the end of a section.
[20.9.8.5 NMAC - Rp, 20 NMAC 9.1.I.005, 8/2/2007]

20.9.8.6 OBJECTIVE. The objective of Part 8 of Chapter 9 is to establish regulations governing the management of special waste, including manifest requirements for the transportation of special waste.
[20.9.8.6 NMAC - Rp, 20 NMAC 9.1.I.006, 8/2/2007]

20.9.8.7 DEFINITIONS. [RESERVED]
[See 20.9.2.7 NMAC for Definitions.]

20.9.8.8 GENERAL. The generator of a special waste shall assure that the special waste is disposed of in a solid waste facility permitted to accept the special waste or treated at a permitted facility, prior to disposal, to render it a non-special waste.
[20.9.8.8 NMAC - Rp, 20 NMAC 9.1.VII.701, 8/2/2007]

20.9.8.9 RESTRICTIONS.

- A. No solid waste facility shall accept special waste unless the facility owner or operator has been issued a permit to accept that type of special waste for disposal, transfer, processing, or transformation.
- B. No person may incinerate infectious waste except in an infectious waste incinerator permitted under 20.9.2 - 20.9.10 NMAC.
- C. A hauler of special waste shall not deliver special waste to any place or person except to a facility that has been issued a permit to accept that type of special waste for disposal, transfer, processing or transformation.
[20.9.8.9 NMAC - Rp, 20 NMAC 9.1.VII.702, 8/2/2007]

20.9.8.10 GENERAL REQUIREMENTS FOR SPECIAL WASTE.

- A. Any person who stores a special waste shall assure that the special waste is stored at designated special waste storage areas meeting the requirements of 20.9.8 NMAC.
- B. No person who stores special waste shall store the waste for longer than 90 days from the date the waste is placed in storage awaiting transportation, processing, or final disposal, unless otherwise approved by the department, except no person other than the generator shall store infectious waste for over seven days without refrigeration at or below 45 degrees fahrenheit.
- C. A generator of special waste shall assure that all containers of special waste when deemed full and placed in storage are clearly labeled or marked, indicating the name and address of the generator, contents, date placed in storage and potential health, safety, and environmental hazards associated with the waste.
- D. A generator of special waste shall assure that all containers of special waste that are prepared for transportation are clearly labeled or marked, indicating the name and address of the generator, contents, and potential health, safety, and environmental hazards associated with the waste.

E. A hauler of special waste shall assure that all containers of special waste are clearly labeled or marked prior to transportation, indicating the name and address of the generator, contents, date transported, and potential health, safety, and environmental hazards associated with the waste.

F. Any generator or hauler of special waste shall assure that a manifest in accordance with 20.9.8.19 NMAC accompanies each load of special waste originating in or to be disposed in New Mexico;

G. A hauler of special waste shall carry an appropriate clean-up kit in each vehicle used for hauling. [20.9.8.10 NMAC - Rp, 20 NMAC 9.1.VII.703, 8/2/2007]

20.9.8.11 REQUIRED ANALYSIS.

A. The generator of a special waste shall document the physical and chemical characteristics of all special wastes for storage, transportation or disposal, by means of:

- (1) records of the results of analyses performed in accordance with this section as applicable; or
- (2) detailed descriptions of the generator's knowledge of specific wastes, including process, source and chemical and physical properties;
- (3) or both.

B. All laboratory analyses shall be performed by a laboratory that follows U.S. EPA quality assurance and quality control procedures in accordance with U.S. EPA approved analytical methods or such other methods acceptable to the department.

C. Representative sample(s) shall be analyzed in conformance with the following parameters as appropriate:

- (1) ignitability characteristic as defined in 40 CFR Part 261;
- (2) corrosivity characteristic as defined in 40 CFR Part 261;
- (3) reactivity characteristic as defined in 40 CFR Part 261;
- (4) toxicity characteristic as defined by U.S. EPA test method 1311: toxicity characteristic leaching procedure (TCLP);
- (5) paint filter liquids test as defined by U.S. EPA Test Method 9095;
- (6) additional parameters as identified by the department;
- (7) RCRA Subtitle C listed wastes as defined in 40 CFR Part 261; and
- (8) Toxic Substance Control Act (TSCA), Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), or other applicable statutes.

[20.9.8.11 NMAC - Rp, 20 NMAC 9.1.VII.704, 8/2/2007]

20.9.8.12 ASBESTOS WASTE.

A. The generator of asbestos waste shall prevent public access to asbestos wastes at the point of generation. Haulers of asbestos waste shall prevent public access to asbestos waste during transportation.

B. Generators of asbestos waste shall determine whether the asbestos waste is regulated asbestos waste. If it is not regulated asbestos waste, and it is to be disposed as non-regulated asbestos waste, the generator shall assure that the asbestos waste is handled in a manner to prevent the asbestos waste from becoming regulated asbestos waste. The handling of non-regulated asbestos waste shall include measures to assure that any category I non-friable asbestos containing material is not subjected to sanding, grinding, cutting or abrading and that any category II non-friable asbestos containing material is not subjected to forces expected to break, crumble, pulverize or reduce the material to powder during the course of excavation, renovation, demolition, or storage, and that it is disposed at a permitted landfill. If the waste is regulated asbestos waste it shall be disposed at a landfill permitted to accept regulated asbestos waste and shall be handled accordingly.

C. If non-regulated asbestos waste is to be disposed as non-regulated asbestos waste, the hauler of non-regulated asbestos waste shall handle the waste in a manner to prevent the asbestos waste from becoming regulated asbestos waste. The handling of non-regulated asbestos waste by a hauler shall include measures to assure that any category I non-friable asbestos containing material is not subjected to abrading and that any category II non-friable asbestos containing material is not subjected to forces expected to break, crumble, pulverize or reduce the material to powder during the course of storage, transportation, or while exposed during disposal operations. The hauler shall notify the landfill operator that the load contains non-regulated asbestos waste that must be disposed of in a manner to prevent breakage and release of fibers while exposed during disposal operations.

D. A landfill that accepts non-regulated asbestos waste shall assure that the asbestos containing material is not broken, abraded, crumbled, pulverized or reduced to powder while exposed during disposal operations. The non-regulated asbestos waste shall be covered with at least six inches of non-waste containing material prior to compaction.

E. The generator of regulated asbestos waste shall properly wet and containerize the waste. No hauler shall accept or transport regulated asbestos waste unless the waste has been properly wetted and containerized.

(1) Regulated asbestos waste is properly wetted when its moisture content prevents fiber release.

(2) Regulated asbestos waste is properly containerized when it is placed in a plastic bag of 6-mil or thicker, sealed in such a way to be leak-proof, and the amount of void space or air in the bag is minimized. Asbestos waste slurries shall be packaged in leak-proof drums if they are too heavy for the plastic bag containers. Regulated asbestos waste may also be containerized by double bagging, using plastic-lined cardboard containers, plastic-lined metal containers, or the use of vacuum trucks for the transport of slurry.

(a) Pipes or other facility components that are removed as sections without first removing the asbestos shall be wrapped in a minimum of 6-mil plastic sufficient to prevent asbestos fibers from escaping.

(b) The hauler shall ensure that regulated asbestos waste is properly contained in a manner to prevent asbestos fibers from escaping and with appropriate labels, and that the outsides of the containers are not contaminated with asbestos debris adhering to the containers. The transporter shall not accept nor transport regulated asbestos waste if there is a reason to believe that the condition of the asbestos waste may allow fiber release.

(3) The hauler shall ensure that the regulated asbestos waste containers are loaded into the transport vehicle in a manner which prevents the breaking of the containers. The hauler shall ensure that the asbestos waste containers are transferred at the disposal site in such a manner to prevent fiber release.

(a) If the hauler discovers that the regulated asbestos waste is not properly containerized in conformance with Paragraph (2) of this subsection, the hauler shall immediately clean up the contaminated area and repair or reseal the container by appropriate methods. The department shall be notified of any release within 24 hours. The transporter shall ensure that all containers in his possession are of adequate design and condition to prevent the release of fibers during transport.

(b) Vehicles used for transport of containerized regulated asbestos waste shall have an enclosed carrying compartment or utilize a canvas or plastic lined covering sufficient to contain the transported waste, prevent damage to containers, and prevent fiber release. All surfaces of vehicles and other asbestos handling equipment and facilities shall be maintained free from the accumulation of dusts and waste containing asbestos and shall have a smooth, non-absorbent finish. No vehicle which uses compactors to reduce waste volume may be used to transport asbestos waste. Vacuum trucks used to transport waste slurry shall be inspected to ensure that liquid is not leaking from the truck.

(c) The hauler of the regulated asbestos waste shall notify the landfill operator that the load contains regulated asbestos waste.

F. All regulated asbestos containers, to include individually wrapped facility components or pipes, shall have a warning label specified by the U.S. EPA or the occupational safety and health administration (OSHA). Labels shall be printed in both English and Spanish.

G. The operator of a landfill permitted to accept regulated asbestos waste shall:

(1) inspect the loads at the time of disposal at the landfill to verify that the regulated asbestos waste is properly contained and labeled;

(2) if the wastes are not properly containerized and the landfill operator accepts the load, thoroughly soak the asbestos with a water spray prior to unloading, rinse out the truck, and immediately cover the wastes with non-waste containing material to prevent fiber release, prior to compacting the waste in the landfill;

(3) prepare a separate excavation to receive only regulated asbestos wastes; the excavation shall be as narrow as possible while complying with all occupational safety and health administration (OSHA) regulations and standards;

(4) align the excavation perpendicular to the prevailing winds;

(5) off-load asbestos containers within the excavation with sufficient care to avoid breaking the containers;

(6) completely cover the containerized waste within 18 hours with a minimum of six inches of non-waste containing material;

(7) completely cover improperly containerized regulated asbestos waste with six inches of non-waste containing material immediately; and

(8) not compact the regulated asbestos waste until it is completely covered with six inches of non-waste containing material.

H. If, at any time during the generation or transportation of non-regulated asbestos waste the waste material is subjected to handling that renders it to be regulated asbestos waste, the generator or hauler shall

immediately begin handling the regulated asbestos waste according the requirements of this part, and shall dispose of the regulated asbestos waste in a landfill or monofill permitted to accept such waste.

I. When closing a cell containing regulated asbestos waste, the landfill operator shall:

(1) cover with an additional 30 inches of compacted non-waste containing material to provide a 36-inch final cover to the original grade; and

(2) implement measures as necessary to control erosion and rodent intrusion.

J. The operator of a landfill that accepts regulated asbestos shall provide barriers adequate to control public access. At a minimum, the owner or operator shall:

(1) limit access to the regulated asbestos management site to no more than two entrances by gates that can be locked when left unattended and by fencing adequate to deter access by the general public; and

(2) place warning signs at the entrance and at intervals no greater than 100 feet along the perimeter of the sections where regulated asbestos waste is deposited. The sign shall read as follows in English and other languages as approved by the department:

ASBESTOS WASTE DISPOSAL SITE
DO NOT CREATE DUST
BREATHING ASBESTOS IS HAZARDOUS
TO YOUR HEALTH

the signs shall be posted in such a manner and location that a person can easily read the legend and conform to the requirements of 20 inches by 14 inches upright format signs specified in 29 CFR 1910.145(d)(4) (or equivalent regulation adopted by the board under the Occupational Health and Safety Act); spacing between any two lines shall be at least equal to the height of the upper of the two lines; and

(3) have at least one employee who has received at least 32 hours of course work in a U.S. EPA certified training course which deals with the identification, hazards and management of asbestos wastes. An employee with this training shall be present at all times when asbestos wastes are being disposed.

[20.9.8.12 NMAC - Rp, 20 NMAC 9.1.VII.705, 8/2/2007]

20.9.8.13 INFECTIOUS WASTE.

A. This section applies:

(1) without regard to the quantity of infectious waste generated, to any generator of infectious waste including, but not limited to:

- (a) general acute care hospitals;
- (b) skilled nursing facility or convalescent hospitals;
- (c) intermediate care facilities;
- (d) in-patient care facilities for the developmentally disabled;
- (e) dialysis clinics;
- (f) free clinics;
- (g) community clinics;
- (h) employee clinics;
- (i) health maintenance organizations;
- (j) home health agencies;
- (k) surgical clinics;
- (l) urgent care clinics;
- (m) acute psychiatric hospitals;
- (n) blood/plasma centers;
- (o) laboratories;
- (p) medical buildings;
- (q) physicians offices;
- (r) veterinarians;
- (s) dental offices;
- (t) acupuncturists;
- (u) funeral homes;
- (v) eye clinics; and
- (w) tattoo parlors and body-piercing establishments; and

(2) to all infectious waste storage areas, processing, transformation, transfer and disposal facilities, other than sewage treatment systems that provide secondary treatment of waste.

B. All material that has been rendered non-infectious is not subject to the handling requirements of this section, provided:

(1) if it is an otherwise regulated, hazardous, special, or radioactive waste, it shall be handled according to regulations applicable to that type of waste;

(2) any person that processes or transforms infectious waste shall certify in writing on at least an annual basis, or upon any change that could affect the efficacy of the treatment that the waste has been rendered non-infectious by sterilization, incineration or another method approved by the secretary; a certification that the waste has been rendered non-infectious shall be provided to the generator, transporter, and disposal facility; the generator, processing or transformation facility, and disposal facility shall maintain copies of certifications for a period of three years and the records shall be made available to the department upon request; and

(3) the operator of the disposal facility applies daily cover as required in 20.9.5.9 NMAC prior to any compaction of the sharps.

C. The following storage and containment requirements apply to all infectious waste.

(1) Containment shall be in a manner and location which affords protection from animal intrusion, does not provide a breeding place or a food source for insects and rodents, and minimizes exposure to the public.

(2) Infectious waste shall be segregated by separate containment from other waste at the point of origin.

(3) Except for sharps, infectious waste shall be contained in plastic bags inside rigid containers. The bags shall meet the testing requirements specified by 40 CFR 173.197. All bags used for containment purposes shall be red or orange and clearly identified as specified in 29 CFR 1910.145(f). The bags shall be securely tied to prevent leakage or expulsion of solid or liquid wastes during storage, handling or transport.

(4) Sharps shall be contained for storage, transportation, transfer, processing, transformation, and disposal in leak-proof, rigid, puncture-resistant containers which are manufactured for the purpose of sharps containment and are taped closed or tightly lidded to preclude loss of contents.

(5) Rigid containers shall be labeled "biomedical waste", or otherwise conspicuously labeled as holding infectious waste, or placed in disposable bags used for other infectious waste. Rigid containers shall meet or exceed the requirements of 49 CFR 173.197 including that the containers be:

(a) rigid;

(b) leak resistant;

(c) impervious to moisture;

(d) of sufficient strength to prevent tearing or bursting under normal conditions of use;

(e) sealed to prevent leakage during transport; and

(f) puncture resistant for sharps and sharps with residual fluids.

(6) If other waste is placed in the same container as regulated infectious waste, then the generator shall package, label and mark the container and its entire contents as infectious waste.

(7) Rigid infectious waste containers may be reused for infectious or non-infectious waste if they are thoroughly washed and decontaminated each time they are emptied or the surfaces of the containers have been completely protected from contamination by disposable, unpunctured or undamaged liners, bags, or other devices that are removed with the infectious waste, and the surface of the containers have not been damaged or punctured.

(8) Storage and containment areas shall protect infectious waste from the elements, be ventilated to the outdoors (unless refrigerated), provide refrigeration as necessary, be only accessible to authorized persons, and be marked with prominent warning signs on, or adjacent to, the exterior doors or gates. The warning signs shall be easily read during daylight from a distance of 25 feet.

(9) Generators of infectious waste, shall place sufficient absorbent material inside the rigid container or liner of the rigid container sufficient to absorb the entire amount of liquid present in the event of an unintentional release of contents, as specified in 49 CFR 173.197.

(10) Compactors, grinders or similar devices shall not be used to reduce the volume of infectious waste before the waste has been rendered non-infectious unless prior approval has been obtained from the department.

D. All generators of infectious waste shall dispose of the infectious waste at a facility permitted to process, store or dispose of infectious waste.

E. All infectious waste generation, processing, transformation, transfer, storage and disposal facilities subject to this section shall comply with the following operational requirements.

(1) Every person who generates, transports, stores, processes, or disposes of infectious waste shall prepare and maintain on file a management plan for the waste that identifies the type of waste the person generates or handles, the segregation, packaging, labeling, collection, storage, method of storage, and transportation

procedures to be implemented, the processing, transformation or disposal methods that will be used, the transporter and disposal facility that will be used, and the person responsible for the management of the infectious waste.

(2) All infectious waste management facilities may only accept infectious waste that is accompanied by a manifest that contains the information required by 20.9.8.19 NMAC.

(3) Report to the secretary any delivery of unauthorized waste, contamination of any person, or other emergencies immediately upon recognition.

(4) Human fetal remains, as defined by the state medical investigator, when measured to be 500 grams or greater, shall be disposed by incineration or interment.

(5) Infectious waste consisting of recognizable human anatomical remains shall be disposed by incineration or interment, unless such remains are subject to different treatment or disposal standards due to contamination by a hazardous or radioactive substance. Recognizable human anatomical remains may be released to the patient, proper governmental authority, or designated family member for interment or incineration, as long as all forensic needs of the facility have been met and the release is not in violation of any other law.

F. Processing, transformation and disposal of infectious waste shall be by one of the following methods:

(1) incineration in a controlled air multi-chambered incinerator which provides complete combustion of the waste to carbonized or mineralized ash:

(a) ash from the incinerator shall be sampled in accordance with Subsection B of 20.9.8.11 NMAC;

(b) the sample shall be analyzed by the U.S. EPA test method 1311: toxic characteristics leaching procedure (TCLP) to determine if it is a hazardous waste; if hazardous, it shall be managed by applicable state regulations;

(c) the retention times and temperatures for each chamber shall be continuously measured and recorded, or other equivalent tests approved by the department to determine if it is still infectious shall be performed; if infectious, it shall be re-incinerated in accordance with this section; and

(d) charge rates shall be maintained and recorded;

(2) sterilization by heating in a steam sterilizer so as to render the waste non-infectious:

(a) the operator shall have available and shall certify in writing that she or he understands written operating procedures for each steam sterilizer including time, temperature, pressure, type of waste, type of container(s), closure on container(s), pattern of loading, water content, and maximum load quantity;

(b) infectious waste shall be subjected to sufficient temperature, pressure and time to kill *Geobacillus stearothermophilus* spores or induce a complete color change in an approved steam sterilization integrator when either indicator is located in the center of the waste load being decontaminated;

(c) unless a steam sterilizer is equipped to continuously monitor and generate a printed paper record of time, temperature and pressure during the entire length of each sterilization cycle, a chemical indicator shall be attached to each package of infectious waste that will visually demonstrate at the end of the autoclave cycle that each package was exposed to a temperature of at least 250 degrees fahrenheit or 121 degrees celsius in the presence of steam under pressure was reached during the process; the original printed record generated by the autoclave must be maintained for three years;

(d) each sterilization unit shall be evaluated for effectiveness with spores of *Geobacillus stearothermophilus* or approved steam sterilization integrator at least once each 40 hours of operation; and

(e) a written log shall be maintained for each sterilization unit which contains:

(i) date, time and load number for each load;

(ii) amount per load;

(iii) duration of the cycle; and

(iv) the operator's name;

(3) discharge to a sewage treatment system that provides secondary treatment of waste, if the waste is liquid or semi-solid and approved in writing by the operator of the sewage treatment system; or

(4) other products or methods may be approved by order of the secretary which provide:

(a) a 6Log₁₀ reduction in *mycobacteria* of *Mycobacterium phlei* or *Mycobacterium bovis* (BCG) or if specifically approved, other *Mycobacterium* species;

(b) a 4Log₁₀ reduction in bacterial spores of *Geobacillus stearothermophilus*, *Bacillus atrophaeus* or if specifically approved, other species of spore-forming bacterium; and

(c) verification that the species used in Subparagraphs (a) and (b) of Paragraph (4) of this subsection are the species indicated and that the strain used is appropriate for the proposed method.

G. The following requirements and condition shall apply to any person seeking approval from the secretary for a treatment method under Paragraph (4) of Subsection F of this section:

- (1) the person shall provide any information requested by the secretary within the time period specified by the secretary;
- (2) the request for approval shall be approved, approved with terms and conditions, or denied by the secretary;
- (3) within 45 days from the end of each calendar year, manufacturers of on-site treatment or processing products approved by the secretary shall submit an annual report to the department that includes:
 - (i) current manufacturer's company name, contact names, addresses, and telephone numbers;
 - (ii) a current list of product consumers or clients in New Mexico identified as generators of infectious waste under Subsection A of 20.9.8.13 NMAC, with contact names, addresses, and telephone numbers;
 - (iii) proof of current registration with the U.S. EPA, if required under the Federal Insecticide, Fungicide, and Rodenticide Act;
 - (iv) a current material safety data sheet for any materials used in the treatment method;
 - (v) a current copy of the manufacturer's instructions as printed on the product and a copy of the most recent operator's manual, if not previously submitted; and
 - (vi) proof of current registration with the New Mexico department of agriculture, if required under the New Mexico Pesticide Control Act;
- (4) the secretary may withdraw the approval of an on-site processing product if the product fails to properly treat infectious waste as claimed, or if the on-site processing product or method is altered in any manner; to withdraw the approval, the secretary shall issue an order withdrawing the approval; the interested person may appeal the secretary's order by filing a request for hearing within 30 days of the date of the secretary's order; the procedures set forth in Adjudicatory Procedures - Environment Department, 20.1.5 NMAC shall apply to the appeal. [20.9.8.13 NMAC - Rp, 20 NMAC 9.1.VII.706, 8/2/2007]

20.9.8.14 ASH.

- A. Transporters of ash shall:
 - (1) not accept or transport ash unless it has been treated or is securely covered or containerized to prevent release of fugitive dust;
 - (2) cover vehicles to prevent fugitive dust loss during transport; and
 - (3) line or seal vehicles in a manner to prevent any leakage of liquids or fugitive dust during transport.
- B. The landfill owner or operator that accepts ash shall:
 - (1) prepare an excavation to receive non-hazardous ash;
 - (2) provide a ground water monitoring system and a leachate collection system unless an adequate demonstration is made to the secretary that such systems are not necessary;
 - (3) keep the ash wetted to prevent fugitive emissions prior to covering;
 - (4) unload transport vehicles at the bottom of the excavations; and
 - (5) completely cover the ash within 24 hours with a minimum of six inches of clean non-waste containing material, or other material approved by the secretary; if the ash is containerized, an alternate frequency may be specifically approved.
- C. The landfill owner or operator that accepts ash shall provide barriers adequate to control public access and shall:
 - (1) limit access to the ash site to no more than two entrances, by:
 - (a) gates that can be locked when left unattended; and
 - (b) fencing adequate to deter access by the general public; or
 - (2) when excavations are used at a landfill, isolate such excavations from the rest of the facility in a manner to deter access by the general public.
- D. Ash that is temporarily stored at a generation site awaiting transportation shall be stored in a manner so as to prevent fugitive dust emissions. [20.9.8.14 NMAC - Rp, 20 NMAC 9.1.VII.707, 8/2/2007]

20.9.8.15 PETROLEUM CONTAMINATED SOILS.

A. The generator of petroleum contaminated soil shall assure that all petroleum contaminated soils to be disposed, processed, composted, or transformed at a solid waste facility shall be tested under the requirements of 20.9.8.11 NMAC.

(1) All soils that are suspected to be contaminated with petroleum products shall be tested for total petroleum hydrocarbons (TPH) and other contaminants as required by the disposal management plan to determine the contaminants of the soil.

(2) The frequency of sampling shall be one representative sample per 100 cubic yards of contaminated soil, unless an alternate frequency is permitted or specifically approved by the secretary upon a demonstration that the contaminated soil is homogeneous.

(3) Copies of the results from the laboratory analyses shall be placed in the operating record.

B. Petroleum contaminated soils containing free liquid shall not be accepted at a solid waste facility. When the soil can pass the paint filter liquids test, the test results shall be placed in the daily operating record and made available to the secretary upon request.

C. Petroleum contaminated soil may be stored temporarily or remediated at a solid waste facility in a bermed area on an impermeable liner or in a manner that does not contaminate ground water, surface water, or uncontaminated soil above regulatory limits. The method of storage, remediation, and testing shall be described in the disposal management plan. Remediation shall be complete when the following conditions are met in a soil sample:

(1) the sum of benzene, toluene, ethylbenzene, and xylene isomer concentrations is less than 500 mg/Kg, with benzene individually less than 10 mg/Kg; and

(2) the TPH concentration is less than 1,000 mg/Kg.

D. Remediated petroleum contaminated soil may be disposed at a landfill authorized to accept petroleum contaminated soils. Petroleum contaminated soils that have been remediated at the landfill may be removed only if the soil complies with applicable environmental laws. Remediated petroleum contaminated soil may not be removed from the facility for beneficial use as clean fill, as the soil does not constitute clean fill as defined in Paragraph (4) of Subsection C of 20.9.2.7 NMAC.

E. Uncontaminated or remediated soils shall not be mixed with contaminated soils.

F. The owner or operator shall provide a written report to the department documenting remediation.

G. Permitted facilities not otherwise authorized to accept petroleum contaminated soil for remediation may remediate petroleum contaminated soil generated at the facility, provided the volume of contaminated soil does not exceed 50 cubic yards and the area where the petroleum contaminated soil is remediated is restricted from public access. Remediation shall be complete when the soil meets the standards in 20.5.12.1202 NMAC or other applicable standards.

[20.9.8.15 NMAC - Rp, 20 NMAC 9.1.VII.708, 8/2/2007]

20.9.8.16 SLUDGE.

A. The owner or operator of a landfill may dispose or use sludge as an amendment to intermediate or final cover material provided:

(1) the landfill owner or operator has been issued a permit to dispose of sludge or has received specific approval from the secretary to use sludge as an amendment to intermediate or final cover material, respectively;

(2) the sludge does not exceed the test parameters specified in Subsection D of this section; and

(3) the sludge contains no free liquids as determined by the paint filter liquids Test (U.S. EPA test method 9095), unless permitted to do otherwise under 20.9.4.17 NMAC.

B. The owner or operator of a solid waste facility that is authorized to accept sludge shall have an approved disposal management plan that shall, at a minimum:

(1) describe the methods used to:

(a) obtain representative samples of sludge for analysis; and

(b) analyze the sludge for the parameters specified in Subsection D of this section to

demonstrate the sludge is non-hazardous and passes the paint filter liquids test, unless otherwise permitted under 20.9.4.17 NMAC;

(2) identify the laboratory used to analyze the sludge and include a certification that, to the best of the preparer's knowledge and belief, the laboratory follows quality assurance and quality control procedures in accordance with U.S. EPA approved methods;

(3) describe the transport method, indicate transportation routes that will be used by the transport vehicles, and demonstrate that the transport method will prevent leaks and litter;

- (4) describe the anticipated volumes to be transported and total time period for disposal of any sludges;
- (5) describe any plans for continuation of landfill disposal of the sludge, including how often sludge will be tested and transported to the landfill and how long the sludge will be stored at the landfill prior to disposal;
- (6) provide a site map indicating the solid waste facility boundaries, the location of the sludge disposal area, and the routes of the disposal vehicles once they enter the facility; and
- (7) include the portion of the facility's contingency plan a section describing methods for clean-up if an accident should occur during transport or disposal;

C. In addition to the requirements of Subsection A of this section, all owners or operators that dispose of sewage sludge or use sewage sludge as an amendment to cover material at a landfill shall meet the following requirements prior to disposal or use as a cover material amendment:

- (1) obtain at least one representative sample per 100 cubic yards of sludge for analysis of the parameters listed in Subsection D of this section, but an alternate frequency may be permitted or specifically approved by the secretary if a demonstration is made that the sludge is homogeneous;
- (2) cover the sludge with six inches of clean earthen material or other suitable material at the end of the day in order to be excluded from the 40 CFR Part 503 pathogen reduction criteria;
- (3) restrict the treatment area from public access until the sludge is either placed in a disposal cell and covered or until it meets the requirements of 40 CFR Part 503; and
- (4) ensure that all sewage sludge complies with 40 CFR Part 503, Subpart B before it is used as an amendment to intermediate or final cover.

D. Prior to delivery of sludge to a solid waste facility for disposal, the generator shall test a representative sample for the following parameters to determine if it exceeds the specified limits below:

- (1) no free liquids as determined by paint filter liquids test (U.S. EPA test method 9095), unless exempt in accordance with 20.9.4.17 NMAC;
- (2) percent solids (no specified limits);
- (3) pH, within the range of 2.0 to 12.5;
- (4) polychlorinated biphenyls (PCB's), less than 50 mg/Kg; and
- (5) toxicity characteristic leaching procedure (TCLP) (U.S. EPA test method 1311), for the following parameters and maximum allowable concentrations:
 - (a) arsenic, 5.0 mg/L;
 - (b) benzene, 0.5 mg/L;
 - (c) cadmium, 1.0 mg/L;
 - (d) chlordane, 0.03 mg/L;
 - (e) chromium, 5.0 mg/L;
 - (f) 2,4-Dichlorophenoxy-acetic acid, 10.0 mg/L;
 - (g) lead, 5.0 mg/L;
 - (h) lindane, 0.4 mg/L;
 - (i) mercury, 0.2 mg/L;
 - (j) methyl ethyl ketone, 200.0 mg/L; and
 - (k) toxaphene, 0.5 mg/L.

[20.9.8.16 NMAC - Rp, 20 NMAC 9.1.VII.709, 8/2/2007]

20.9.8.17 PACKING HOUSE AND KILLING PLANT OFFAL. The owner or operator of a solid waste facility that is authorized to accept offal shall have an approved disposal management plans for packing house and killing plant offal ensuring that, prior to disposal at the working face of a landfill, the wastes shall:

- A. pass the paint filter liquids test (U.S. EPA test method 9095);
- B. be mixed with soil, in a separate area of the facility, to a consistency that will support compaction and cover material; and
- C. be covered immediately after disposal.

[20.9.8.17 NMAC - Rp, 20 NMAC 9.1.VII.710, 8/2/2007]

20.9.8.18 DISPOSAL OF SPECIAL WASTE NOT OTHERWISE SPECIFIED. Any solid waste facility owner or operator who wishes to be permitted to receive special wastes that do not have specified disposal requirements shall submit a disposal management plan, as specified in Subsection C of 20.9.3.9 NMAC, to the department for approval.

[20.9.8.18 NMAC - Rp, 20 NMAC 9.1.VII.711, 8/2/2007]

20.9.8.19 MANIFEST REQUIREMENTS.

A. Each generator or his authorized agent shall prepare a manifest to accompany each load of special waste, including:

- (1) the name, address and telephone number of the generator and origin of the special waste;
- (2) the name, address and telephone number of all haulers in the order each will be transporting the waste;
- (3) the name, site address, telephone number and identification number of the solid waste facility to which the waste is to be delivered;
- (4) the type and proper name of waste being shipped;
- (5) the total weight or volume of waste prior to shipment from the generator;
- (6) the type and number of containers in the shipment; and
- (7) any special handling instructions.

B. The generator or his authorized agent shall sign the manifest and obtain the signature of the initial transporter and date of acceptance on the manifest, and shall retain a copy of the manifest. Each hauler shall obtain the signature of the individual who accepts the special waste for storage, further transportation or disposal, retain a copy of the manifest, and provide the original manifest to the next hauler or solid waste facility operator who receives the special waste.

C. The manifest shall accurately reflect the required information and shall be signed and dated by the generator and each hauler of the special waste, and by the solid waste facility owner or operator, acknowledging delivery, weight or volume, and receipt of the special waste. All signatories shall be duly authorized agents of their organizations. The generator shall keep a copy of the originating manifest for three years.

D. Upon discovery of any significant discrepancy including, but not limited to, factual misrepresentation on the manifest, irregularities in transportation, discharges, or any unauthorized action in regard to the shipment, delivery, or disposal of the solid waste, the person discovering the discrepancy shall notify the department, the generator, hauler, and the solid waste facility operator in writing within 24 hours.

E. Within 30 days of receipt of a special waste shipment at the solid waste facility, the owner or operator shall send the original signed copy of the manifest to the generator, acknowledging receipt of the shipment. The facility owner or operator shall list any discrepancies on the manifest. Other methods of return of the manifest may be allowed upon specific approval from the secretary.

F. A copy of the manifest shall be retained by each hauler, and solid waste facility operator for their operating records. The generator shall retain for a period of three years both the originating copy and the returned original manifest signed by the solid waste facility owner or operator and all haulers transporting the waste. Haulers shall retain a copy of the manifest for a period of three years.

G. Copies of the manifest shall be retained by the facility owner or operator throughout any post-closure period.

[20.9.8.19 NMAC - Rp, 20 NMAC 9.1.VII.712, 8/2/2007]

HISTORY OF 20.9.8 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the commission of public records - state records center.

EIB 74-1, Solid Waste Management Regulations, filed 5/3/74.

EIB/SWMR-2, Solid Waste Management Regulations, filed 4/14/89.

EIB/SWMR-3, Solid Waste Management Regulations, filed 12/31/91.

EIB/SWMR-4, Solid Waste Management Regulations, filed 7/18/94.

History of Repealed Material: 20 NMAC 9.1, Solid Waste Management Regulations (filed 10/27/95) repealed 8/2/2007.

Other History:

EIB/SWMR-4, Solid Waste Management Regulations (filed 7/18/94) was **renumbered** into first version of the New Mexico Administrative Code as 20 NMAC 9.1, Solid Waste Management Regulations, effective 11/30/95.

That applicable portion of 20 NMAC 9.1, Subpart VII, Special Waste Requirements, (filed 10/27/95), was

renumbered, reformatted and replaced by 20.9.8 NMAC, Special Waste Requirements, effective 8/2/2007.