

ATTACHMENT 15 CLEANUP LEVELS

GROUNDWATER, SOIL AND SURFACE WATER CLEANUP LEVELS

The Permittee shall attain the cleanup levels as specified in this Attachment (15) when implementing the closure and corrective action requirements of this Permit.

15.1 GROUNDWATER CLEANUP LEVELS

1. The Permittee shall attain the following cleanup levels for all hazardous waste and hazardous constituents in groundwater:
 - a. For any contaminant for which EPA has adopted a maximum contaminant level (MCL) for drinking water under 40 CFR parts 141 and 143, the MCL shall be the cleanup level;
 - b. For any contaminant for which the N.M. Water Quality Control Commission (WQCC) has adopted numeric standards for ground water listed in 20.6.2.3103 NMAC, the ground water standard shall be the cleanup level; and
 - c. For any contaminant that the WQCC has identified as a toxic pollutant listed in 20.6.2.7.WW NMAC, the level developed and approved by NMED under paragraph 2 or 3 below shall be the cleanup level.

For any contaminant for which more than one of the cleanup levels set forth in subparagraphs a, b, and c above would apply, the lowest (or otherwise most protective) level shall be the applicable cleanup level.

2. If a cleanup level under Item 1 above does not exist for a carcinogenic hazardous waste or hazardous constituent, then the Permittee shall use the most recent version of the EPA *Regional Screening Levels for Chemical Contaminants at Superfund Sites* (RSLs) for tap water and a target excess cancer risk level of 10^{-5} to develop a proposed cleanup level for NMED approval. The Permittee may use other scientific or regulatory information currently available to the public to develop and propose a cleanup level for NMED approval provided that the level is lower (or otherwise more protective) than the RSL.
3. If a cleanup level under Item 1 above does not exist for a noncarcinogenic hazardous waste or hazardous constituent, then the Permittee shall use the most recent version of the EPA RSLs for tap water and a Hazard Index (HI) of one (1.0) to develop a proposed cleanup level for NMED approval. The Permittee may use other scientific or regulatory information currently available to the public to develop and propose a cleanup level for NMED approval provided that the level is lower (or otherwise more protective) than the RSL.

15.2 SOIL CLEANUP LEVELS

1. The Permittee shall attain the following cleanup levels for hazardous waste and hazardous constituents in soil: For all individual hazardous constituents for which NMED has specified a soil screening level in NMED's Technical Background Document for Development of Soil Screening Levels, the residential or industrial land use scenario cleanup level shall be the screening level specified in the most recent version of that document. The method for determining cleanup levels for sites with multiple hazardous constituents shall follow NMED's Technical Background Document for Development of Soil Screening Levels (as updated) and paragraphs 2 and 3 below, as applicable. The Permittee may use other scientific or regulatory information currently available to the public to develop and propose a cleanup level for NMED approval provided that the level is lower (or otherwise more protective) than the NM SSL.
2. The Permittee shall propose a soil cleanup level for PCBs based on NMED's Position Paper Risk-based Remediation of Polychlorinated Biphenyls at RCRA Corrective Action Sites (March 2000 as updated).
3. If a NMED soil screening level has not been established for a hazardous waste or hazardous constituent, the Permittee shall propose for NMED approval, a cleanup level based on the most recent version of the EPA RSL (based on an HI of one (1.0) for compounds designated as "n" (noncarcinogen effects), "max" (maximum concentration), and "sat" (soil saturation concentration), or ten times the EPA RSL for hazardous constituent designated "c" (carcinogen effects) (i.e., a target excess cancer risk level of 10^{-5}). The Permittee may use other scientific or regulatory information currently available to the public to develop and propose a cleanup level for NMED approval provided that the level is lower (or otherwise more protective) than the RSL

15.3 LAND USE DETERMINATION

All soil cleanup levels shall be based on a residential land use scenario unless the Secretary determines that an alternate land use is appropriate (e.g., subsistence farming, cultural, or industrial). The Permittee may only propose an alternate land use with less stringent cleanup levels (e.g., industrial) if NMED or EPA can legally and practicably enforce the institutional controls limiting the land use against the Permittee and all subsequent purchasers or other transferees of the property. If an alternate land use for which NMED or EPA has not established soil cleanup levels is determined to be the current and reasonably foreseeable future land use, then the Permittee may propose cleanup levels based on a risk assessment using a target excess cancer risk level of 10^{-5} for carcinogenic hazardous waste or hazardous constituent or, for noncarcinogenic hazardous waste or hazardous constituent, an HI of one (1.0).

15.4 SURFACE WATER CLEANUP LEVELS

The Permittee shall comply with the surface water quality standards set forth in the Clean Water Act (33 U.S.C. §§ 1251 to 1387), the New Mexico WQCC Regulations (20.6.2 NMAC), the

State of New Mexico Standards for Interstate and Intrastate Surface Waters (20.6.4 NMAC) and the procedures for alternative abatement standards (20.6.2.4103 NMAC).

15.5 ECOLOGICAL RISK CLEANUP LEVELS

The Permittee shall derive cleanup levels for each hazardous waste and hazardous constituent for each ecological zone at the Facility using the methodology in NMED's *Guidance for Assessing Ecological Risks Posed by Chemicals: Screening-Level Ecological Risk Assessment* (July 2008, as updated). If the ecological risk evaluation indicates that a lower cleanup level for a hazardous waste or hazardous constituent in groundwater, soil, or surface water is necessary to protect environmental receptors, NMED may establish cleanup levels based on ecological risk for hazardous waste or hazardous constituents in groundwater, soil, or surface water that are lower than levels that are solely protective of human health. The Permittee may use other scientific or regulatory information currently available to the public to develop and propose a cleanup level for NMED approval provided that the level is lower (or otherwise more protective) than the ecological screening level calculated using NMED's guidance.

15.6 BACKGROUND CONCENTRATIONS

If the naturally occurring (background) concentration of a hazardous waste or hazardous constituent in ground water, soil, or surface water exceeds the standards specified above, then the cleanup level shall be the background concentration. To use background concentration as a cleanup level, the Permittee must obtain a written determination of background concentration from NMED.

15.7 VARIANCE FROM CLEANUP LEVELS

The Permittee may seek a variance from a cleanup level for soil or ground water as follows:

15.7.1 WQCC Standards

The Permittee may seek an alternative abatement standard with respect to a cleanup level specified in 15.1.1 of this Attachment (15) in accordance with 20.6.2.4103.E or F NMAC.

15.7.2 Soil Standards and Non-WQCC Ground water Standards

The Permittee may seek a variance from any cleanup level for soil or for ground water (other than a WQCC standard) by submitting a written request to NMED for a determination that attainment of the cleanup level is technically infeasible or otherwise impracticable due to conflict with other environmental laws or requirements for the preservation of cultural resources. If based on technical infeasibility, the request shall include a demonstration of technical or physical impossibility of attaining the cleanup level using potential corrective action remedies. If based on conflict with other environmental laws, the request shall include documentation showing that the Permittee has attempted to resolve the conflict or mitigate the impact on natural resources and shall explain why mitigating measures cannot resolve the conflict or adequately protect the cultural or natural resource (e.g., consultation and a determination of incidental taking or reasonable and prudent measures to minimize the impact under 16 U.S.C. §1536). All requests shall include a discussion of the effectiveness of potential corrective action remedies, whether

the proposed variance will allow a present or future hazard to public health or the environment, and any other information required by the NMED. In addition, the request shall propose alternate cleanup levels for NMED approval, based on the effectiveness of potential corrective action remedies and a site-specific risk assessment based on NMED's guidance, *Technical Background Document for Development of Soil Screening Levels* (June 2006, as updated), *Assessing Human Health Risks Posed by Chemicals: Screening Level Risk Assessment* (March 2000, as updated), and *Guidance for Assessing Ecological Risks Posed by Chemicals: Screening-Level Ecological Risk Assessment* (July 2008, as updated).