

**§ 702.9037-1T Transfer of amounts to the Presidential Primary Matching Payment Account (temporary).**

(a) *In general.* The Secretary will deposit amounts into the Presidential Primary Matching Payment Account (Primary Account) only to the extent that there are amounts in the Presidential Election Campaign Fund (Fund) after the transfers prescribed by § 701.9006-1(c) and (d). The Secretary will make this deposit promptly from amounts that have actually been transferred to the Fund under § 701.9006-1(a). Any amounts in the Primary Account after October 31 following a presidential election will be returned to the Fund for the purpose of making the transfers prescribed by § 701.9006-1(c), (d), and (f) for the next presidential election.

(b) *Effective/applicability date.* (1) These regulations apply to the Primary Account on or after February 2, 1996.

(2) *Expiration Date.* This section expires on February 11, 2011.

■ **Par. 4.** Section 702.9037-2 is amended by adding paragraph (e) to read as follows:

**§ 702.9037-2 Payments from the Presidential Primary Matching Payment Account.**

\* \* \* \* \*

(e) *Effective/applicability date.* These regulations apply to the Primary Account before February 2, 1996.

■ **Par. 5.** Section 702.9037-2T is added to read as follows:

**§ 702.9037-2T Payments from the Presidential Primary Matching Payment Account (temporary).**

(a) *In general.* Pursuant to section 9036, the Federal Election Commission (Commission) will certify to the Secretary the full amount of payment to which a candidate is entitled under section 9034. The Secretary will pay promptly, but not before the start of the matching payment period under section 9032(6), the amounts certified by the Commission from the Presidential Primary Matching Payment Account (Primary Account) to the candidate.

(b) *Additional guidance.* The Internal Revenue Service may publish guidance in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii)(b) of this chapter) prescribing additional rules and procedures for the Primary Account.

(c) *Effective/applicability date.* (1) These regulations apply to the Primary Account on or after February 2, 1996.

(2) *Expiration Date.* This section expires on February 11, 2011.

**Linda E. Stiff,**  
*Deputy Commissioner for Services and Enforcement.*

Approved: February 1, 2008.

**Eric Solomon,**  
*Assistant Secretary of the Treasury (Tax Policy).*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 271 and 272**

[EPA-R08-RCRA-2006-0501; FRL-8524-7]

**North Dakota: Final Authorization of State Hazardous Waste Management Program Revisions and Incorporation by Reference of Approved Hazardous Waste Program**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Immediate final rule.

**SUMMARY:** The Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act (RCRA), allows the Environmental Protection Agency (EPA) to authorize States to operate their hazardous waste management programs in lieu of the federal program. EPA uses the regulations entitled "Approved State Hazardous Waste Management Programs" to provide notice of the authorization status of State programs and to incorporate by reference those provisions of the State regulations that will be subject to EPA's inspection and enforcement. This rule codifies in the regulations the prior approval of North Dakota's hazardous waste management program and incorporates by reference authorized provisions of the State's regulations. In addition, this document corrects errors made in the **Federal Register** authorization documents for North Dakota published on June 25, 1990 and September 26, 2005.

**DATES:** This final authorization will become effective on April 14, 2008, unless the EPA receives adverse written comment by March 17, 2008. If adverse comment is received, EPA will publish a timely withdrawal of the immediate final rule in the **Federal Register** informing the public that the rule will not take effect. The incorporation by reference of authorized provisions in the North Dakota statutes and regulations contained in this rule is approved by the Director of the Federal Register as of April 14, 2008.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R08-RCRA-2006-0501, by one of the following methods:

• *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

• *E-mail:* [daly.carl@epa.gov](mailto:daly.carl@epa.gov).

• *Fax:* (303) 312-6341.

• *Mail:* Send written comments to Carl Daly, Solid and Hazardous Waste Program, EPA Region 8, Mailcode 8P-HW, 1595 Wynkoop Street, Denver, Colorado 80202-1129.

• *Hand Delivery or Courier:* Deliver your comments to Carl Daly, Solid and Hazardous Waste Program, EPA Region 8, Mailcode 8P-HW, 1595 Wynkoop Street, Denver, Colorado 80202-1129. Such deliveries are only accepted during the Regional Office's normal hours of operation. The public is advised to call in advance to verify the business hours. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R08-RCRA-2006-0501. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov>, or e-mail. The federal web site, (<http://www.regulations.gov>) is an "anonymous access" system, which means 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 EPA without going through <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, 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 EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters or any form of encryption, and be free of any defects or viruses. (For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>).

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at: EPA Region 8, from 9 a.m. to 4 p.m., 1595 Wynkoop Street, Denver, Colorado, contact: Carl Daly, phone number (303) 312-6416, or, the North Dakota Department of Health (NDDH) from 9 a.m. to 4 p.m., 1200 Missouri Ave., Bismarck, ND 58504-5264, contact: Curt Erickson, phone number (701) 328-5166. The public is advised to call in advance to verify the business hours.

**FOR FURTHER INFORMATION CONTACT:** Carl Daly, Solid and Hazardous Waste Program, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202, (303) 312-6416, [daly.carl@epa.gov](mailto:daly.carl@epa.gov).

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**I. Authorization of Revisions to North Dakota's Hazardous Waste Program**

*A. Why Are Revisions to State Programs Necessary?*

States that have received final authorization from EPA under RCRA Section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program equivalent to, consistent with, and no less stringent than the federal program. As the federal program changes, States must change their programs and ask EPA to authorize their changes. Changes to state programs may be necessary when federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273, and 279.

*B. What Decisions Have We Made in This Rule?*

We conclude that North Dakota's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant North Dakota final authorization to operate its hazardous waste program with the changes described in the authorization application. North Dakota has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders, except in Indian country, and for carrying out those portions 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 EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in North Dakota, including issuing permits, until North Dakota is authorized to do so.

*C. What Is the Effect of This Authorization Decision?*

The effect of this decision is that facilities in North Dakota subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent federal requirements. North Dakota has primary enforcement responsibility under its State hazardous waste program for violations of the program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, the authority to conduct inspections and

require monitoring, tests, analyses, or reports; and enforce RCRA requirements and suspend or revoke permits.

This action does not impose additional requirements on the regulated community because the regulations for which North Dakota is being authorized are already effective and are not changed by today's action.

*D. Why Wasn't There a Proposed Rule Before This Rule?*

EPA did not publish a proposal before today's rule because this action is a routine program change, and we do not expect comments opposing this approval. We are providing an opportunity for public comment at this time. In addition, in the proposed rules section of today's **Federal Register**, there is a separate document that proposes to authorize the State program changes. If we receive comments opposing this authorization, that document will serve as a proposal to authorize the changes.

*E. What Happens if the EPA Receives Comments That Oppose This Action?*

If EPA receives comments opposing this authorization, we will withdraw this rule by publishing a notice in the **Federal Register** before the rule becomes effective. We then will address all public comments in a later **Federal Register**. You may not have another opportunity to comment. If you want to comment on this action, you must do so at this time.

If we receive comments opposing authorization of only a particular change to the State hazardous waste program, we will withdraw that part of the rule. However, the authorization of program changes that are not opposed by any comments 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 North Dakota Previously Been Authorized?*

North Dakota initially received final authorization on October 5, 1984, effective October 19, 1984 (49 FR 39328) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on June 25, 1990, effective August 24, 1990 (55 FR 25836), May 4, 1992, effective July 6, 1992 (57 FR 19087), April 7, 1994, effective June 6, 1994 (59 FR 16566), January 19, 2000, effective March 20, 2000 (65 FR 02897), and September 26, 2005, effective November 25, 2005 (70 FR 56132).

*G. What Changes Are We Authorizing With This Action?*

On June 2, 2004, September 2, 2004, and October 26, 2004, North Dakota submitted final revision applications, seeking authorization of program changes in accordance with 40 CFR 271.21. During the approval of the revisions in the September 26, 2005 **Federal Register**, we inadvertently missed the rules being approved in this **Federal Register**. We now make an immediate final decision, subject to receipt of written comments opposing this action, that North Dakota's hazardous waste program revision satisfies all of the requirements necessary for final authorization. Therefore, we propose to grant North Dakota final authorization for the following program changes:

1. Program Revision Changes for Federal Rules

North Dakota seeks authority to administer the federal requirements that are listed below (the Federal Citation is followed by the analog from the North Dakota Administrative Code (NDAC), Article 33-24, as revised December 1, 2003): Universal Treatment Standards and Treatment Standards for Organic Toxicity Characteristic Wastes and Newly Listed Wastes (59 FR 47982, 09/19/94 and 60 FR 00242, 01/03/95) (Checklists 137 and 137.1)/33-24-01-09 introductory paragraph, 33-24-01-09.2, 33-24-01-10.1 and 10.2, 33-24-01-11 introductory paragraph, 33-24-01-12 introductory paragraph, 33-24-01-12.1 and 12.2, 33-24-02-02.5.a.(3), 33-24-05-01.6.f, 33-24-05/Appendices VIII, and XXVIII, 33-24-05-204.1, 33-24-05-250.3.c.(2), 33-24-05-250.5.d, 33-24-05-251.1, 33-24-05-251.10, 33-24-05-256.1.a, 33-24-05-256.1.b introductory paragraph, 33-24-05-256.1.c introductory paragraph, 33-24-05-256.1.e thru 256.1.j, 33-24-05-256.2.c.(2), 33-24-05-256.2.d.(4), 33-24-05-256.4 and .4.a, 33-24-05-258.1, 33-24-05-258.4.a.(1) and (2), 33-24-05-258.4.b.(1), 33-24-05-278.1 thru .5, 33-24-05-280.1 thru 280.6, 33-24-05-280/Table, 33-24-05-281, 33-24-05-282.1, 33-24-05-282.1/Tables 1, 33-24-05-282.3.b, 33-24-05-282.4, 33-24-05-283, 33-24-05-283/Table CCW, 33-24-05-285.2.b, 33-24-05-286, 33-24-05-288, 33-24-05-288/Table UTS, 33-24-05-525.4.a, 33-24-05-525.4.c, 33-24-05-525.4.c.(1), 33-24-05-525.4.c.(1)(a), 33-24-05-525.4.c.(2), 33-24-06-16.5; Kraft Mill Steam Stripper Condensate Exclusion (63 FR 18504, 04/15/98) (Checklist 164)/33-24-02-04.1.o; CAMU Amendments (67 FR 02962, 01/22/02) (Checklist 196)/33-24-01-04,

33-24-01-04.99, 33-24-05-550.1 and .2, 33-24-05-551.1, 33-24-05-552.1 thru 552.1.e, 33-24-05-552.2.a thru 33-24-05-552.11, 33-24-05-554.1.a and .b, 33-24-05-555.1 thru 555.7; Recycled Used Oil Management Standards; Clarification (68 FR 44659, 07/30/03) (Checklist 203)/33-24-02-05.10, 33-24-05-610.9, 33-24-05-674, 33-24-05-674.2 thru 674.2.d.

2. State-Initiated Changes

North Dakota has made amendments to its regulations that are not directly related to any of the federal rules addressed in Item G.1 above. These State-initiated changes are either conforming changes made to existing authorized provisions, or the adoption of provisions that clarify and make the State's regulations internally consistent. The State's regulations, as amended by these provisions, provide authority which remains equivalent to and no less stringent than the federal laws and regulations. These State-initiated changes are submitted under the requirements of 40 CFR 271.21(a) and include the following provisions from the North Dakota Administrative Code (NDAC), Article 33-24, as revised December 1, 2003, (unless otherwise indicated): 33-24-01-03; 33-24-01-04.5 "Administrator" or "regional administrator"; 33-24-01-07; 33-24-01-13 introductory paragraph and .1 through .4; 33-24-01-13.5; 33-24-01-14; 33-24-01-15; 33-24-02-01.1.b through .d; 33-24-02-04.1 introductory paragraph and .1.a through .e; 33-24-02-04.2 introductory paragraph; 33-24-02-04.2.i; 33-24-02-04.3 and .4.a introductory paragraph; 33-24-02-05.5.b; 33-24-02-05.7.b; 33-24-02-18.1 through .2; 33-24-02-18.4; 33-24-02-19.2.b(3)(a); 33-24-03-02.1 and .2; 33-24-03-02.3.c; 33-24-03-07.1.a and .b; 33-24-03-13.2, (except the phrase "March first of each even-numbered year"); 33-24-03-14.1 introductory paragraph; 33-24-03-14.1.a and .b; 33-24-03-14.2; 33-24-03-14.3; 33-24-03-15.2 introductory paragraph; 33-24-03-16.1; 33-24-03-17; 33-24-03-20; 33-24-03-40; 33-24-04-04.4.a and .b; 33-24-04-04.6.a(3)(c) and .6.a(4); 33-24-04-04.6.c(1) and (2); 33-24-04-04.6.d(1) and (2); 33-24-04-04.7.a and .b; 33-24-04-04.8.b(3); 33-24-04-06.3.a; 33-24-05-01.5; 33-24-05-01.8; 33-24-05-29.6; 33-24-05-40.2.j through .n; 33-24-05-40.2.o and .p; 33-24-05-42 introductory paragraph; 33-24-05-44 introductory paragraph; 33-24-05-50; 33-24-05-51, (except Table 1); 33-24-05-61.1 introductory paragraph and .1.a; 33-24-05-63; 33-24-05-64; 33-24-05-67.1 through .2 introductory paragraph; 33-24-05-

67.4.c and .d; 33-24-05-74.1 and .2 introductory paragraph; 33-24-05-77.6.a introductory paragraph; 33-24-05-77.6.a(1) introductory paragraph and (a); 33-24-05-77.6.a(1)(c); 33-24-05-77.6.a(2) introductory paragraph and (a); 33-24-05-77.6.a(2)(c); 33-24-05-77.6.b through .i; 33-24-05-77.6.k; 33-24-05-79.1.a(1) and (2); 33-24-05-79.2.a(1) and (2); 33-24-05-79.6.a and .b; 33-24-05-79.6.c introductory paragraph; 33-24-05-79.6.c(2) and (3); 33-24-05-79.6.d and .e; 33-24-05-79.6.g; 33-24-05-80.1; 33-24-05-81.1; 33-24-05-81.9; 33-24-05-81.10; 33-24-05-93; 33-24-05-105; 33-24-05-108.2.a; 33-24-05-118; 33-24-05-119.1 introductory paragraph; 33-24-05-119.1.a through .c; 33-24-05-119.2; 33-24-05-119.5; 33-24-05-120.1 through .3; 33-24-05-121; 33-24-05-122.1 through .2.a; 33-24-05-122.2.c and .d; 33-24-05-122.3; 33-24-05-123.1 through .3; 33-24-05-124; 33-24-05-125; 33-24-05-131.1 introductory paragraph; 33-24-05-131.1.a and .b; 33-24-05-132.1; 33-24-05-165.1.a; 33-24-05-177.1 introductory paragraph through .2.c; 33-24-05-177.5 introductory paragraph; 33-24-05-177.5.b; 33-24-05-178.1; 33-24-05-182; 33-24-05-183.1 introductory paragraph; 33-24-05-183.4, (except .4.a(2)); 33-24-05-271.1; 33-24-05-406.1.a; 33-24-05-435; 33-24-05-476; 33-24-05-501; 33-24-05-504.2.a and .b; 33-24-05, Appendices III and IV; 33-24-06-01.2.b(9), (except .2.b(9)(a)(4) and .2.b(9)(c)); 33-24-06-01.2.c; 33-24-06-01.10; 33-24-06-03.2 and .3; 33-24-06-04.10.c; 33-24-06-04.12.f and .j; 33-24-06-06.1; 33-24-06-08.2; 33-24-06-14.5.b(1)(a); 33-24-06-14.5.c(2)(b); 33-24-06-14.6; 33-24-06-17.2.u(2)(a); 33-24-06-17.2.v(2); 33-24-06-17.3, (except .d(2)); 33-24-06-18.2 introductory paragraph through .2.c(6); 33-24-07-05.2.b; 33-24-07-06.3.a(5) and (6).

Since the base program, North Dakota has removed certain provisions from the authorized program regulations which resulted in the clarification of the State's program. These provisions have been reviewed and we have determined that it is appropriate for the State to remove them and that their removal has no impact on the equivalency or consistency with the federal program. The provisions removed were NDAC sections 33-24-05-116.1.b, .c, and .e, and 33-24-05-251.2, as found in the December 1, 1988 version of the regulations; and 33-24-06-17.2.v.(3)(b) and (c), 33-24-06-17.2.z, and 33-24-06-20, as found in the January 1, 1984 version of the regulations.

#### H. Why Are the Revised State Rules Different From the Federal Rules?

We consider the following State requirements to be more stringent than the federal requirements: 33–24–03–12.1.a(1) and (2), because North Dakota subjects generators to full status rather than interim status standards; 33–24–05–108.2.a., because North Dakota requires facilities to perform daily inspections of overfill and spill control equipment rather than allowing the facility to determine the inspection frequency.

There are no requirements that are broader-in-scope than the federal program in these revisions.

North Dakota's rules, promulgated pursuant to this application, contain several errors which may create confusion within the regulated community. EPA has determined that the errors associated with the issues do not pose implementation or enforcement problems. Therefore, EPA will approve this application with the understanding that the State will correct these items during its next rulemaking. These errors are at the following citations within the North Dakota Administrative Code (NDAC), revised December 1, 2003: 33–24–05–278.1, 33–24–05–552.5.d.(4)(a), 33–24–05–552.5.d.(4)(e).

#### I. Who Handles Permits After the Authorization Takes Effect?

North Dakota will issue and administer permits for all the provisions for which it is authorized. EPA will continue to administer any RCRA hazardous waste permits or portions of permits that we issued prior to the effective date of this authorization. EPA will transfer any pending permit applications, completed permits, or pertinent file information to North Dakota within 30 days of this approval. We will not issue any more new permits or new portions of permits for the provisions listed in section G. above after the effective date of this authorization. EPA and North Dakota have agreed to joint permitting and enforcement for those HSWA requirements for which North Dakota is not yet authorized.

#### J. How Does This Action Affect Indian Country (18 U.S.C. 1151) in North Dakota?

North Dakota is not authorized to carry out its hazardous waste program in Indian country, as defined in 18 U.S.C. 1151. This includes, but is not limited to:

1. Lands within the exterior boundaries of the following Indian

Reservations located within or abutting the State of North Dakota:

- a. Fort Totten Indian Reservation
  - b. Fort Berthold Indian Reservation
  - c. Standing Rock Indian Reservation
  - e. Turtle Mountain Indian Reservation
2. Any land held in trust by the U.S. for an Indian tribe, and
3. Any other land, whether on or off a reservation that qualifies as Indian country within the meaning of 18 U.S.C. 1151.

Therefore, this program revision does not extend to Indian country where EPA will continue to implement and administer the RCRA program in these lands.

#### II. Corrections

##### A. Corrections to June 25, 1990 (55 FR 25836) Authorization Document

There were four sections of the North Dakota Administrative Code (NDAC) that were incorrectly authorized as part of the authorization notice published June 25, 1990 (55 FR 25836). The State provisions 33–24–05–254, 33–24–05–255, 33–24–05–282.2, and 33–24–05–284.1 through .7 should have been excluded from the authorized program as non-delegable provisions. These State provisions are analogous to the following Part 268 sections for which States are not authorized because decisions made pursuant to the sections require examination of national concerns: 268.5 (case-by-case effective date extensions), 268.42(b) (application for alternate treatment method) and 268.44(a)–(g) (general treatment standard variances). “No migration” petitions under 268.6 are also handled by EPA.

##### B. Corrections to September 26, 2005 (70 FR 56132) Authorization Document

There were typographical errors and omissions published as part of the September 26, 2005 (70 FR 56132) authorization notice for North Dakota. The corrections for the affected entries are as follows (the corrections have been italicized):

1. In the entry for Checklist 156, “33–24–06–800” should be “33–24–05–800”; and the citations 33–24–06–01.2.b(9)(a)(4) and .2.b(9)(c) were omitted;
2. In the entry for Checklist 157, “33–24–02–01.3.i through fig. 1” should be “33–24–02–01.3.i through .3.l”;
3. In the entry for Checklist 158, “33–24–532.6” should be “33–24–05–532.6”;
4. In the entry for Checklist 167D, “33–24–02–02.3.d/Chart 1” should be “33–24–02–02/Table 1”; and
5. In the entry for the Consolidated Checklist addressing Boilers and

Industrial Furnaces, “33–24–05–529.1.a through 529.9” should be “33–24–05–529.1.a through 529.8”.

#### III. Incorporation by Reference

##### A. What is Codification?

Codification is the process of including the statutes and regulations that comprise the State's authorized hazardous waste management program into the CFR. Section 3006(b) of RCRA, as amended, allows the Environmental Protection Agency (EPA) to authorize State hazardous waste management programs. The State regulations authorized by EPA supplant the federal regulations concerning the same matter with the result that after authorization EPA enforces the authorized regulations. Infrequently, State statutory language which acts to regulate a matter is also authorized by EPA with the consequence that EPA enforces the authorized statutory provision. EPA does not authorize State enforcement authorities and does not authorize State procedural requirements. EPA codifies the authorized State program in 40 CFR part 272 and incorporates by reference State statutes and regulations that make up the approved program which is federally enforceable in accordance with Sections 3007, 3008, 3013, and 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934 and 6973, and any other applicable statutory and regulatory provisions.

##### B. What Decisions Have We Made in This Action?

Today's action codifies EPA's authorization of North Dakota's base hazardous waste management program and its revisions to that program. This codification reflects the State program that will be in effect when EPA's authorized revisions to the North Dakota hazardous waste management program addressed in this final rule become final. Except as discussed above in sections I.G. and II, this action does not reopen any decision EPA previously made concerning the authorization of the State's hazardous waste management program. EPA is not requesting comments on its decisions published in the **Federal Register** notices referenced in section I.F. of this document concerning previous revisions to the authorized program in North Dakota.

EPA is incorporating by reference EPA's approval of North Dakota's hazardous waste management program by amending Subpart JJ to 40 CFR part 272. This action amends § 272.1751 and incorporates by reference North Dakota's authorized hazardous waste statutes and regulations. Section

272.1751 also references the demonstration of adequate enforcement authority, including procedural and enforcement provisions, which provide the legal basis for the State's implementation of the hazardous waste management program. In addition, § 272.1751 references the Memorandum of Agreement, the Attorney General's Statements and the Program Description, which are evaluated as part of the approval process of the hazardous waste management program under Subtitle C of RCRA.

#### C. What is the Effect of North Dakota's Codification on Enforcement?

EPA retains the authority under statutory provisions, including but not limited to, RCRA sections 3007, 3008, 3013, and 7003, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions and to issue orders in all authorized States. With respect to enforcement actions, EPA will rely on federal sanctions, federal inspection authorities, and federal procedures rather than the State analogs to these provisions. Therefore, the EPA is not incorporating by reference North Dakota's inspection and enforcement authorities nor are those authorities part of North Dakota's approved State program which operates in lieu of the federal program. 40 CFR 272.1751(c)(2) lists these authorities for informational purposes, and also because EPA considered them in determining the adequacy of North Dakota's procedural and enforcement authorities. North Dakota's authority to inspect and enforce the State's hazardous waste management program requirements continues to operate independently under State law.

#### D. What State Provisions Are Not Part of the Codification?

The public is reminded that some provisions of North Dakota's hazardous waste management program are not part of the federally authorized State program. These non-authorized provisions include:

(1) Provisions that are not part of the RCRA subtitle C program because they are "broader in scope" than RCRA subtitle C (see 40 CFR 271.1(i));

(2) Unauthorized amendments to authorized State provisions;

(3) New unauthorized State requirements; and

(4) State procedural and enforcement authorities which are necessary to establish the ability of the State's program to enforce compliance but which do not supplant the federal

statutory enforcement and procedural authorities.

State provisions that are "broader-in-scope" than the federal program are not incorporated by reference in 40 CFR part 272. For reference and clarity, 40 CFR 272.1751(c)(3) lists the North Dakota statutory and regulatory provisions which are "broader-in-scope" than the federal program and which are not part of the authorized program being incorporated by reference. While "broader-in-scope" provisions are not part of the authorized program and cannot be enforced by EPA; the State may enforce such provisions under State law.

Additionally, North Dakota's hazardous waste regulations include amendments which have not been authorized by EPA. Since EPA cannot enforce State requirements which have not been reviewed and authorized in accordance with RCRA section 3006 and 40 CFR part 271, it is important to be precise in delineating the scope of a State's authorized hazardous waste program. Regulatory provisions that have not been authorized by EPA include amendments to previously authorized State regulations as well as new State requirements.

In those instances where North Dakota has made unauthorized amendments to previously authorized sections of State code, EPA is identifying in 40 CFR 272.1751(c)(4) any regulations which, while adopted by the State and incorporated by reference, include language not authorized by EPA. Those unauthorized portions of the State regulations are not federally enforceable. Thus, notwithstanding the language in the North Dakota hazardous waste regulations incorporated by reference at 40 CFR 272.1751(c)(1), EPA will only enforce those portions of the State regulations that are actually authorized by EPA. For the convenience of the regulated community, the actual State regulatory text authorized by EPA for the citations listed at 272.1751(c)(4) (i.e., without the unauthorized amendments) is compiled as a separate document, *Addendum to the EPA Approved North Dakota Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program, July 2006*. This document is available from EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202.

State provisions that are not incorporated by reference in today's rule at 40 CFR 272.1751(c)(1), or that are not listed in 40 CFR 272.1751(c)(2) ("procedural and enforcement"), 40 CFR 272.1751(c)(3) ("broader in scope") or 40 CFR 272.1751(c)(4) ("unauthorized

amendments to authorized State provisions"), are considered new unauthorized State requirements. These requirements are not federally enforceable.

#### E. What Will be the Effect of Federal HSWA Requirements on the Codification?

With respect to any requirement(s) pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) for which the State has not yet been authorized and which EPA has identified as taking effect immediately in States with authorized hazardous waste management programs, EPA will enforce those federal HSWA standards until the State is authorized for those provisions.

The codification does not affect federal HSWA requirements for which the State is not authorized. EPA has authority to implement HSWA requirements in all States, including States with authorized hazardous waste management programs, until the States become authorized for such requirements or prohibitions, unless EPA has identified the HSWA requirement(s) as an optional or as a less stringent requirement of the federal program. A HSWA requirement or prohibition, unless identified by EPA as optional or as less stringent, supersedes any less stringent or inconsistent State provision which may have been previously authorized by EPA (50 FR 28702, July 15, 1985).

Some existing State requirements may be similar to the HSWA requirements implemented by EPA. However, until EPA authorizes those State requirements, EPA enforces the HSWA requirements and not the State analogs.

#### IV. 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 a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of 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 April 14, 2008.

#### List of Subjects in 40 CFR Parts 271 and 272

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation by reference, 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: January 22, 2008.

**Carol Rushin,**

*Acting Regional Administrator, Region 8.*

■ For the reasons set forth in the preamble, under the authority at 42 U.S.C. 6912(a), 6926, and 6974(b), EPA is granting final authorization under part 271 to the State of North Dakota for revisions to its hazardous waste program under the Resource Conservation and Recovery Act and is amending 40 CFR part 272 as follows:

#### PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

■ 1. The authority citation for part 272 continues to read as follows:

**Authority:** Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

#### Subpart JJ—[Amended]

■ 2. Subpart JJ is amended by adding § 272.1751 to read as follows:

#### § 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 incorporated 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": Sections 32-40-03; 32-40-04; 32-40-05; 32-40-06; 32-40-07;

32-40-08; 32-40-09; 32-40-10; and 32-40-11.

(vii) North Dakota Century Code, Volume 9A, 2001 Replacement, as amended by the 2003 Pocket Supplement. Chapter 44-04 "Duties, Records, and Meetings": Sections 44-04-18; 44-04-18.1; 44-04-18.2; 44-04-18.3; 44-04-18.4; 44-04-18.5; 44-04-18.6; 44-04-18.7; 44-04-18.8; 44-04-19; and 44-04-19.1.

(viii) North Dakota Administrative Code (NDAC), Article 33-24, Hazardous Waste Management, as amended through December 1, 2003: sections 33-24-01-15; 33-24-01-16; 33-24-06-05, (except .1.c); 33-24-06-06.2 and .3; 33-24-06-09; 33-24-06-15, (except introductory paragraph through .1.a); 33-24-07-03.4; 33-24-07-04 through 33-24-07-14; and 33-24-07-25 through 33-24-07-27.

(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) North Dakota Century Code, 2002 Replacement, Volume 4A, Chapter 23-01: "Department of Health", "Rulemaking Authority and Procedure" Section 23-01-04.1(6).

(ii) North Dakota Century Code, Volume 4A, 2002 Replacement, as

amended by the 2005 Pocket Supplement. Chapter 23-20.3 "Hazardous Waste": Sections 23-20.3-02 (1); 23-20.3-05.1; 23-20.3-05.2; and 23-20.3-05.3.

(iii) North Dakota Administrative Code (NDAC), Article 33-24, "Hazardous Waste Management", as amended through December 1, 2003, sections 33-24-04-02.3, 33-24-06-14.3.a(4) and 33-24-06-21.

(iv) North Dakota's hazardous waste regulations set forth additional transporter requirements including permit requirements at 33-24-04-02. The transporter permit requirements are broader in scope than the federal program.

(4) *Unauthorized State Amendments.*  
 (i) The authorized provisions at sections of the NDAC Article 33:24, as amended through December 1, 2003 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 North Dakota hazardous waste regulations incorporated by reference at paragraph (c)(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.

NORTH DAKOTA ADMINISTRATIVE CODE (NDAC), ARTICLE 33-24

State citation	Description	Effective date
33-24-02-07.4 introductory paragraph	Residues of Hazardous Waste in Empty Containers	10/1/86
33-24-03-12.2	Accumulation Time	1/1/84
33-24-05-421	Applicability of Definitions	12/1/91
33-24-06-17.2.y(8)	Contents of Permit Application	1/1/84

(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 North Dakota Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program, July 2006*. This document is available from EPA Region 8, from 9 a.m. to 4 p.m., 1595 Wynkoop Street, Denver, Colorado 80202.

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 8 and the State of North Dakota, signed by the State of North Dakota State Department of Health on June 6, 2003, and by the EPA Regional Administrator on August 29, 2003, although 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: Hazardous Waste Management Program" signed by the Attorney General of North Dakota on June 8, 1984, and revisions, supplements, and addenda to that Statement dated February 22, 1989, February 11, 1994, October 13, 1999, April 23, 2004, and August 19, 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.*

(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.*

■ 3. Appendix A to part 272 is amended by adding in alphabetical order, "North Dakota" and its listing to read as follows:

**Appendix A to Part 272—State Requirements**

\* \* \* \* \*

**North Dakota**

(a) The statutory provisions include: North Dakota Century Code, Volume 4A, 2002 Replacement. Chapter 23-20.3 "Hazardous Waste": Sections 23-20.3-05(1), (2), (4), (7), and (9). Copies of the North Dakota statutes that are incorporated by reference are available from the Matthew Bender & Company Inc., P.O. Box 7587, Charlottesville, VA 22906-7587, phone number: (800) 833-9844.

(b) The regulatory provisions include: North Dakota Administrative Code (NDAC), Article 33-24, Hazardous Waste Management, as amended through December 1, 2003.

Please note the following:

For a few regulations, the authorized regulation is an earlier version of the North Dakota State regulation. For these regulations, EPA authorized the version of the regulations that appear in the North Dakota Administrative Code dated July 1, 1997. North Dakota made later changes to these regulations, but these changes have not been authorized by EPA. The regulations where the authorized regulation is an earlier version of the regulation are noted below by inclusion in parentheses of July 1, 1997 after the regulatory citations.

Chapter 33-24-01—General Provisions: Sections 33-24-01-01 through 33-24-01-14.

Chapter 33-24-02—Identification and Listing of Hazardous Waste; 33-24-02-01; 33-24-02-02; 33-24-02-03 except .1.b(3) and (6); 33-24-02-04 through 33-24-02-06; 33-24-02-07; 33-24-02-08 through 33-24-02-19; 33-24-02-22; and Appendices I through V.

Chapter 33-24-03—Standards for Generators: Sections 33-24-03-01; 33-24-03-02; 33-24-03-03.1 and .2; 33-24-03-03.3, (except the phrases “and a transporter permit” and “and applied for a permit”); 33-24-03-03.4; 33-24-03-04 through 33-24-03-12; 33-24-03-13, (except the phrase “March first of each even-numbered year” in .2); 33-24-03-14 through 33-24-03-24; 33-24-03-30; 33-24-03-40; and Appendix I.

Chapter 33-24-04—Standards for Transporters: Sections 33-24-04-01, (except .4); 33-24-04-02.1, (except the phrase “, a transporter permit, and a registration certificate”); 33-24-04-02.2, (except the phrases “and a registration certificate, or a transporter permit,” and “and issue a registration certificate”); and 33-24-04-03 through 33-24-04-08.

Chapter 33-24-05—Standards for Treatment, Storage, and Disposal Facilities and for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities: Sections 33-24-05-01; 33-24-05-02, (except the second sentence); 33-24-05-03 through 33-24-05-10; 33-24-05-15 through 33-24-05-20; 33-24-05-26 through 33-24-05-31; 33-24-05-37 through 33-24-05-44; 33-24-05-47 through 33-24-05-50; 33-24-05-51, (except Table 1); 33-24-05-51, Table 1 (July 1, 1997); 33-24-05-52 through 33-24-05-55; 33-24-05-56, (except .11); 33-24-05-57 through 33-24-05-69; 33-24-05-74 through 33-24-05-81; 33-24-05-89 through 33-24-05-93; 33-24-05-94, (except .4.b); 33-24-05-95 through 33-24-05-98; 33-24-05-103 through 33-24-05-115; 33-24-05-118 through 33-24-05-128; 33-24-05-130 through 33-24-05-138; 33-24-05-144 through 33-24-05-151; 33-24-05-160 through 33-24-05-170; 33-24-05-176 through 33-24-05-188; 33-24-05-201 through 33-24-05-204; 33-24-05-230; 33-24-05-235; 33-24-05-250 through 33-24-05-252; 33-24-05-253, (except .3); 33-24-05-256, (except .1.b(2)); 33-24-05-258, (except .4.b(2)); 33-24-05-265; 33-24-05-270 through 33-24-05-279; 33-24-05-280, (except .9); 33-24-05-281; 33-24-05-282, (except .2); 33-24-05-283; 33-24-05-284.8 through .13; 33-24-05-285; 33-24-05-286; 33-24-05-288 through 33-24-05-290; 33-

24-05-300 through 33-24-05-303; 33-24-05-400, (except .4); 33-24-05-401 through 33-24-05-406; 33-24-05-420 through 33-24-05-435; 33-24-05-450 through 33-24-05-460; 33-24-05-475 through 33-24-05-477; 33-24-05-501 through 33-24-05-506; 33-24-05-525 through 33-24-05-537; 33-24-05-550 through 33-24-05-553; 33-24-05-554, (except .1.b); 33-24-05-555; 33-24-05-600; 33-24-05-610 through 33-24-05-612; 33-24-05-620 through 33-24-05-624; 33-24-05-630 through 33-24-05-632; 33-24-05-640 through 33-24-05-647; 33-24-05-650 through 33-24-05-667; 33-24-05-670 through 33-24-05-675; 33-24-05-680; 33-24-05-681; 33-24-05-701 through 33-24-05-705; 33-24-05-708 through 33-24-05-720; 33-24-05-730 through 33-24-05-740; 33-24-05-750 through 33-24-05-756; 33-24-05-760 through 33-24-05-762; 33-24-05-770; 33-24-05-780; 33-24-05-781; 33-24-05-800 through 33-24-05-802; 33-24-05-820 through 33-24-05-826; 33-24-05-850; 33-24-05-855 through 33-24-05-857; 33-24-05-860; 33-24-05-865; 33-24-05-866; 33-24-05-870; 33-24-05-875; 33-24-05-880; 33-24-05-885; 33-24-05-890; 33-24-05-895 through 33-24-05-900; 33-24-05-905; 33-24-05-910; 33-24-05-915; 33-24-05-916; and Appendices I through VIII, X through XIII, XVI through XXIV; and XXVI through XXIX.

Chapter 33-24-06—Permits: Sections 33-24-06-01, (except .2.a); 33-24-06-01.2.a (July 1, 1997); 33-24-06-02 through 33-24-06-04; 33-24-06-05.1.c; 33-24-06-06, (except .2 and .3); 33-24-06-07; 33-24-06-08; 33-24-06-10 through 33-24-06-13; 33-24-06-14, (except .3.a(4)); 33-24-06-14, Appendix I; 33-24-06-15 introductory paragraph through .1.a; 33-24-06-16.5 through .7; 33-24-06-17, (except .2.k and .2.z); 33-24-06-18 through 33-24-06-20; 33-24-06-30 through 33-24-06-35; and 33-24-06-100.

Chapter 33-24-07—Permitting Procedures: Sections 33-24-07-01; 33-24-07-02; and 33-24-07-03, (except .4).

Copies of the North Dakota regulations that are incorporated by reference are available from North Dakota Legislative Counsel, Second Floor, State Capitol, 600 E Boulevard, Bismarck, ND 58505, phone number: (701) 328-2916.

\* \* \* \* \*

[FR Doc. E8-2160 Filed 2-13-08; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 20

[PS Docket No. 07-114; CC Docket No. 94-102; WC Docket No. 05-196; FCC 07-166]

### Wireless E911 Location Accuracy Requirements

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) amends its rules in order to require wireless Enhanced 911 (E911) Phase II location accuracy and reliability standards at a geographical level defined by the coverage area of a Public Safety Answering Point (PSAP). The Commission takes this step in order to ensure an appropriate and consistent compliance methodology with respect to location accuracy standards.

**DATES:** The rules in 47 CFR 20.18(h) contain information collection requirements that have not been approved by the Office of Management and Budget (OMB). The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date.

**FOR FURTHER INFORMATION CONTACT:** Carol Simpson, Policy Division, Public Safety and Homeland Security Bureau, (202) 418-2391.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Report and Order* (Order) in PS Docket No. 07-114, CC Docket No. 94-102, WC Docket No. 05-196, FCC 07-166, adopted September 11, 2007, and released November 20, 2007. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY-A257, 445 12th Street, SW., Washington, DC 20554. This document may also be obtained from the Commission's duplicating contractor, Best Copy and Printing, Inc., in person at 445 12th Street, SW., Room CY-B402, Washington, DC 20554, via telephone at (202) 488-5300, via facsimile at (202) 488-5563, or via e-mail at [FCC@BCPIWEB.COM](mailto:FCC@BCPIWEB.COM). Alternative formats (computer diskette, large print, audio cassette, and Braille) are available to persons with disabilities by sending an e-mail to [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or calling the Consumer and Governmental Affairs Bureau at (202) 418-0530, TTY (202) 418-0432. This document is also available on the Commission's Web site at <http://www.fcc.gov>.

1. On June 1, 2007, we released a *Notice of Proposed Rulemaking* (NPRM) seeking comment on how to improve 911 location accuracy and reliability. We found that although measuring location accuracy at the PSAP level may present challenges, the public interest demands that carriers and technology providers strive to ensure that when wireless callers dial 911, emergency responders are provided location information that enables them to reach the site of the emergency as quickly as possible. In recognition of the fact that