

US EPA ARCHIVE DOCUMENT

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 271**

[FRL-7150-7]

North Carolina: Final Authorization of State Hazardous Waste Management Program Revisions**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: North Carolina has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to North Carolina. In the "Rules and Regulations" section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by April 1, 2002.**ADDRESSES:** Send written comments to Narindar Kumar, Chief RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW Atlanta, GA, 30303-3104; (404) 562-8440. You can examine copies of the materials submitted by North Carolina during normal business hours at the following locations: EPA Region IV Library, Atlanta Federal Center, Library, 61 Forsyth Street, S.W., Atlanta, Georgia 30303; phone number: (404) 562-8190, or the North Carolina Department of Environment, Health and Natural Resources, P.O. Box 27687, Raleigh, North Carolina 29201, (919) 733-2178.**FOR FURTHER INFORMATION CONTACT:** Narindar Kumar, Chief RCRA Programs Branch, Waste Management Division,

U.S. Environmental Protection Agency, 61 Forsyth Street, SW Atlanta, GA, 30303-3104; (404) 562-8440.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the "Rules and Regulations" section of this **Federal Register**.

Dated: September 18, 2001.

A. Stanley Meiburg,*Acting Regional Administrator, Region IV.*

[FR Doc. 02-4645 Filed 2-27-02; 8:45 am]

BILLING CODE 6560-50-P**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 271**

[FRL-7151-3]

Michigan: Proposed Authorization of State Hazardous Waste Management Program Revision**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: Michigan has applied to EPA for final authorization of certain changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed Michigan's application and has determined that these changes satisfy all requirements needed to qualify for final authorization, and is proposing to authorize the State's changes.

DATES: If you have comments on Michigan's application for authorization for changes to its hazardous waste management program, you must submit them by April 15, 2002.**ADDRESSES:** Send written comments to Ms. Judy Feigler, Michigan Regulatory Specialist, U.S. Environmental Protection Agency, Waste, Pesticides and Toxics Division (DM-7J), 77 W. Jackson Blvd., Chicago, Illinois 60604. You can view and copy Michigan's application during normal business hours at the following addresses: EPA Region 5, 77 W. Jackson Blvd., Chicago, Illinois, contact: Ms. Judy Feigler, phone number: (312) 886-4179; or Michigan Department of Environmental Quality, 608 W. Allegan, Hannah Building, Lansing, Michigan, contact: Ms. Kimberly Tyson, phone number: (517) 373-2487.**FOR FURTHER INFORMATION CONTACT:** Ms. Judy Feigler, Michigan Regulatory Specialist, U.S. Environmental Protection Agency, Waste, Pesticides and Toxics Division (DM-7J), 77 W.

Jackson Blvd., Chicago, Illinois 60604, phone number: (312) 886-4179; or Ms. Kimberly Tyson, Michigan Department of Environmental Quality, 608 W. Allegan, Hannah Building, Lansing, Michigan, phone number: (517) 373-2487.

SUPPLEMENTARY INFORMATION:**A. Why Are Revisions to State Programs Necessary?**

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the federal program. As the federal program changes, states must change their programs and ask EPA to authorize the changes. Changes to state programs may be necessary when federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, states must change their programs because of changes to 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?

EPA has determined that Michigan's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we are proposing to grant Michigan final authorization to operate its hazardous waste program with the changes described in the authorization application. Michigan will have responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New federal requirements and prohibitions imposed by federal regulations that EPA promulgates under the authority of HSWA take effect in authorized states before the states are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Michigan, including issuing permits, until the State is granted authorization to do so.

C. What Will Be the Effect if Michigan Is Authorized for These Changes?

If Michigan is authorized for these changes, a facility in Michigan subject to RCRA will have to comply with the authorized State requirements in lieu of the corresponding federal requirements in order to comply with RCRA.

Additionally, such persons will have to comply with any applicable federally-issued requirements, such as, for example, HSWA regulations issued by EPA for which the State has not received authorization, and RCRA requirements that are not supplanted by authorized State-issued requirements. Michigan continues to have enforcement responsibilities under its State law to pursue violations of its hazardous waste management program. EPA continues to have independent authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, the authority to:

- Do inspections, and require monitoring, tests, analyses or reports,
- Enforce RCRA requirements (including State-issued statutes and regulations that are authorized by EPA and any applicable federally-issued statutes and regulations) and suspend or revoke permits, and
- Take enforcement actions regardless of whether the State has taken its own actions.

The action to approve these revisions would not impose additional

requirements on the regulated community because the regulations for which Michigan will be authorized are already effective under State law and are not changed by the act of authorization.

D. What Happens if EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will address those comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

E. What Has Michigan Previously Been Authorized for?

Michigan initially received final authorization on October 16, 1986, effective October 30, 1986 (51 FR 36804–36805) to implement the RCRA hazardous waste management program. We granted authorization for changes to Michigan’s program effective January 23, 1990 (54 FR 48608, November 24, 1989); effective June 24, 1991 (56 FR 18517, January 24, 1991); effective

November 30, 1993 (58 FR 51244, October 1, 1993); effective January 13, 1995 (60 FR 3095, January 13, 1995); effective April 8, 1996 (61 FR 4742, February 8, 1996); effective November 14, 1997 (62 FR 61775, November 14, 1997); and effective June 1, 1999 (64 FR 10111, March 2, 1999).

F. What Changes Are We Proposing?

On March 3, 2000, and April 3, 2001, Michigan submitted complete program revision applications, seeking authorization of its changes in accordance with 40 CFR 271.21. We have determined that Michigan’s hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization.

Michigan’s program revisions are based on changes to the federal program and modifications initiated by the State. The federal and analogous State provisions involved in this proposed decision and the relevant corresponding checklists (if applicable) are listed in the following tables:

PROGRAM REVISIONS BASED ON FEDERAL RCRA CHANGES

Federal requirement	Analogous state authority		
	Check #	Federal Register citation and date	Description of state authority ¹ and effective date
99	Amendments to interim status standards for downgradient ground-water monitoring well locations at hazardous waste facilities.	56 FR 66365, December 23, 1991.	R 299.9601(3) and (9); and R 299.11003(1)(p) and (2).
140	Carbamate production identification and listing of hazardous waste; and CERCLA hazardous substance designation and reportable quantities; correction.	60 FR 19165, April 17, 1995, as amended at 60 FR 25619, May 12, 1995.	R 299.9224; R 299.9225; and R299.11003(1)(j) and (2).
154	Organic air emission standards for tanks, surface impoundments, and containers.	59 FR 62896, December 6, 1994; as amended at 60 FR 26828, May 19, 1995; 60 FR 50426, September 29, 1995; 60 FR 56952, November 13, 1995; 61 FR 4903, February 9, 1996; 61 FR 28508, June 5, 1996; and 61 FR 59932, November 25, 1996.	R 299.9206(1)(b); R 299.9306(1)(a)(i) and (ii) and (7); R 299.9502(2)(a); R 299.9504(1)(c), (2), (3), (6)(a), (16) and (20); R 299.9508(1)(b); R 299.9516(6), effective October 15, 1996; R 299.9601(1)–(3) and (9); R 299.9605(1) and (4); R 299.9609(1)(a) and (5), effective November 19, 1991; R 299.9614, effective December 28, 1985; R 299.9615 and R 299.9616(1) and (4), effective September 22, 1998; R 299.9628(1) and (4), effective November 19, 1991; R 299.9630 and R 299.9631, effective June 21, 1994; R 299.9634, effective September 22, 1998; R 299.11001(1)(p), (2) and (5); and R 299.11003(1)(a), and (m), (n), (p), (q) and (v) and (2).
148	RCRA expanded public participation.	60 FR 63417, December 11, 1995.	R 299.9103(f); R 299.9501(3)(c); R 299.9504(1)(c), (4)(a) and (b), (15), (19) and (20); R 299.9508(1)(b); R 299.9511(1)–(7), effective September 22, 1998; R 299.9521(1)(a) and (6), effective October 15, 1996; R 299.9626(1), (2), (4), (5), (6), and (8); R 299.9808(7) and (9); R 299.11003(1)(c), (1)(v) and (2).

PROGRAM REVISIONS BASED ON FEDERAL RCRA CHANGES—Continued

Federal require- ment	Analogous state authority		
	Check #	Federal Register citation and date	Description of state authority ¹ and effective date
151	Land disposal restrictions phase III; decharacterized wastewaters, carbamate wastes, and spent potliners.	61 FR 15565, April 8, 1996; as amended at 61 FR 15660 April 8, 1996; 61 FR 19117, April 30, 1996; 61 FR 33680, June 28, 1996; 61 FR 36419, July 10, 1996; 61 FR 43923, August 26, 1996; and 62 FR 7502, February 19, 1997.	R 299.9311; R 299.9413; R 299.9627; and R 299.11003(1)(u) and (2).
152	Imports and exports of hazardous waste: implementation of OECD Council Decision.	61 FR 16290, April 12, 1996	Michigan Compiled Laws, § 324.11151, effective March 23, 1999. R 299.9204(3)(b); R 299.9206(6); R 299.9228(4)(a), (5)(b), (6)(a), (10), (10)(e), and (11); R 299.9301(5) and (7); R 299.9309(1) and (5), effective April 20, 1988; R 299.9312(1), (2), and (3), effective September 22, 1998; R 299.9401(1), (5), (6), and (9); R 299.9409(1) and (5); R 299.9503(1)(c), October 15, 1996; R 299.9601(1), (2)(c), (3), and (9); R 299.9605(1) and (4); R 299.9608(6); R 299.9803(2)(c), (d), and (e); and R 299.11003(1)(k), (l), (m), (p), and (w) and (2).
153	Conditionally exempt small quantity generator disposal options under Subtitle D.	61 FR 34252, July 1, 1996	R 299.9205(2)(b), (2)(b)(i)–(iv), and (vi)–(xi), effective September 22, 1998.
155	Land disposal restrictions phase III—emergency extension of the K088 capacity variance.	62 FR 1992, January 14, 1997	R 299.9311; R 299.9413; R 299.9627; and R 299.11003(1)(u) and (2).
156	Military munitions rule: hazardous waste identification and management; explosives emergencies; manifest exemption for transport of hazardous waste on right-of-ways on contiguous properties.	62 FR 6622, February 12, 1997	R 299.9101(n); R 299.9102(e) and (v); R 299.9103(n), (o), and (p); R 299.9104(n); R 299.9105(m), (n), and (o); R 299.9109(c); R 299.9202(1)(c); R 299.9301(8); R 299.9304(8); R 299.9401(7); R 299.9502(11); R 299.9503(1) and (2); R 299.9601(2), (3), and (6); R 299.9608(7); R 299.9637; R 299.9817; R 299.9818; R 299.9819; R 299.9820; R 299.9821; and R 299.11003(1)(m) and (s) and (2).
157	Land disposal restrictions—phase IV: treatment standards for wood preserving wastes, paperwork reduction and streamlining, exceptions from RCRA for certain processed materials, and miscellaneous hazardous waste provisions.	62 FR 25998, May 12, 1997	R 299.9103(j); R 299.9104(i); R 299.9106(s) and (u); R 299.9202(2)(c); R 299.9204(1)(p) and (q); R 299.9206(3)(b); R 299.9311; R 299.9413; R 299.9627; and R 299.11003(1)(u) and (2).
158	Hazardous waste management system; testing and monitoring activities.	62 FR 32452, June 13, 1997 ...	R 299.9601(1), (3) and (9); R 299.9612(2); R 299.9630, effective June 21, 1994; R 299.9808(7) and (9); R 299.11001(1)(a), (k), (l), (m), (p), (r), (v), (w) and (x); R 299.11001(3) and (4); R 299.11002(1); R 299.11003(1)(m), (p) and (t) and (2); and R 299.11005.
159	Hazardous waste management system; carbamate production, identification and listing of hazardous waste; land disposal restrictions.	62 FR 32974, June 17, 1997 ...	R 299.9216, effective April 20, 1988; R 299.9222; R 299.9225; and R 299.11003(1)(j) and (2).
160	Land disposal restrictions Phase III—emergency extension of the K088 national capacity variance, amendment.	62 FR 37694, July 14, 1997	R 299.9311; R 299.9413; R 299.9627; and R 299.11003(1)(u) and (2).
161	Emergency revision of the carbamate land disposal restrictions.	62 FR 45568, August 28, 1997.	R 299.9311; R 299.9413; R 299.9627; and R 299.11003(1)(u) and (2).
162	Clarification of standards for hazardous waste land disposal restriction treatment variances.	62 FR 64504, December 5, 1997.	R 299.9311; R 299.9413; R 299.9627; and R 299.11003(1)(u) and (2).

PROGRAM REVISIONS BASED ON FEDERAL RCRA CHANGES—Continued

Federal require- ment	Analogous state authority		
	Check #	Federal Register citation and date	Description of state authority ¹ and effective date
163	Organic air emission standards for tanks surface impoundments and containers; clarification and technical amendment.	62 FR 64636, December 8, 1997.	R 299.9504(1)(c) and (20); R 299.9508(1)(b); R 299.9601(2)(d), (3) and (9); R 299.9605(1) and (3); R 299.9609(1)(a) and (5), effective November 19, 1991; R 299.9630 and R 299.9631, effective June 21, 1994; R 299.9634, effective September 22, 1998; and R 299.11003(1)(n), (p), (q) and (v) and (2).
164	Kraft Mill steam stripper condensate exclusion.	63 FR 18504, April 15, 1998	R299.9204(1)(r).
166	Recycled used oil management standards; technical correction and clarification.	63 FR 24963, May 6, 1998; as amended at 63 FR 37780, July 14, 1998.	R 299.9206(3)(d)–(f); R 299.9809(1)(h); R 299.9810(3) and (5), R 299.9812(3) and (7), R 299.9813(3) and (7), R 299.9814(4) and (8), and R 299.9815(3)(f), effective October 15, 1996; and R 299.11003(1)(x) and (2).
167A	Land disposal restrictions phase IV—Treatment standards for metal wastes and mineral processing wastes.	63 FR 28556, May 26, 1998	R 299.9311; R 299.9413; R 299.9627; and R 299.11003(1)(u) and (2).
167B	Land disposal restrictions phase IV—Hazardous soil treatment standards and exclusions.	63 FR 28556, May 26, 1998	R 299.9311; R 299.9413; R 299.9627; and R 299.11003(1)(u) and (2).
167C	Land disposal restrictions phase IV—Corrections.	63 FR 28556, May 26, 1998; as amended at 63 FR 31266, June 8, 1998.	R 299.9311; R 299.9413; R 299.9627; and R 299.11003(1)(u) and (2).
167E	Bevill exclusion revisions and clarifications.	63 FR 28556, May 26, 1998	R 299.9204(2)(h).
167F	Exclusion of recycled wood preserving wastewaters.	63 FR 28556, May 26, 1998	R 299.9204(1)(u)
168	Hazardous waste combustors, revised standards.	63 FR 33782, June 19, 1998 ...	R 299.9204(1)(w); R 299.9230; R 299.9519(5)(j)(v); and R 299.11003(1)(i) and (2).
169	Petroleum refining process wastes.	63 FR 42110, August 6, 1998, as amended at 63 FR 54356, October 22, 1998.	R 299.9101(s); R 299.9106(l); R 299.9203(1)(c)(iii)(A)–(E), (4)(b), (4)(e)(i) and (ii); R 299.9204(1)(l), (m), (s), (t); R 299.9206(3)(f); R 299.9220; R 299.9222; R 299.9311; R 299.9413; R 299.9627; R 299.9808(2)(c); and R 299.11003(1)(j) and (u) and (2).
170	Land disposal restrictions phase IV—Zinc micronutrient fertilizers, amendment.	63 FR 46332, August 31, 1998.	R 299.9311; R 299.9413; R 299.9627; and R 299.11003(1)(u) and (2).
171	Emergency revision of the land disposal restrictions treatment standards for listed hazardous wastes from carbamate production.	63 FR 47409, September 4, 1998.	R 299.9311; R 299.9413; R 299.9627; and R 299.11003(1)(u) and (2).
172	Land disposal restrictions phase IV—Extension of compliance date for characteristic slags.	R 299.9311; R 299.9413; R 299.9627; and R 299.11003(1)(u) and (2).
173	Land disposal restrictions, treatment standards for spent potliners from primary aluminum reduction (K088).	63 FR 51254, September 24, 1998.	R 299.9311; R 299.9413; R 299.9627; and R 299.11003(1)(u) and (2).
174	Post-closure permit requirement and closure process.	63 FR 46710, October 22, 1998.	R 299.9103(d); R 299.9502(12); R 299.9508(1), (3) and (4); R 299.9601(1), (3) and (9); R 299.9612(1) and (2); R 299.9613(1) and (7); R 299.9703(8); R 299.9710(17); and R 299.11003(1)(m) and (p) and (2).

PROGRAM REVISIONS BASED ON FEDERAL RCRA CHANGES—Continued

Federal requirement	Analogous state authority		
	Check #	Federal Register citation and date	Description of state authority ¹ and effective date
175	Hazardous Remediation Waste Management Requirements (HWIR-media).	63 FR 65874, November 30, 1998.	Michigan Combined Laws §§ 324.1101, 24.291 and 24.292, as amended effective January 1, 1997. R 299.9102(q); R 299.9103(q); R 299.9105(q); R 299.9107(j); R 299.9107(i), (k) and (aa); R 299.9204(12); R 299.9311; R 299.9413; R 299.9501; R 299.9502; R 299.9504(17) and (20); R 299.9515, effective April 20, 1988; R 299.9516, effective October 15, 1996; R 299.9517, effective September 22, 1998; R 299.9519; R 299.9520, effective September 22, 1998; R 299.9524; R 299.9601(1) and (2)(k), (l) and (n); R 299.9605(1), (3) and (4); R 299.9606(1) and (2); R 299.9607(1), (3) and (4); R 299.9609(1)(a) and (5), effective November 19, 1991; R 299.9613(1), (3) and (7); R 299.9627; R 299.9629(1) and (11); R 299.9635(1), (8) and (9); R 299.9636(1), R 299.9638(1), (3), (4) and (8); and R 299.11003(1)(n), (p), (u) and (v) and (2).
176	Universal waste rule—technical amendments.	63 FR 71225, December 24, 1998.	R 299.9109(j); and R 299.9804.
177	Organic air emission standards: clarification technical amendments.	64 FR 3382, January 21, 1999.	R 299.9306(1)(a)(i) and (ii); R 299.9601(3) and (9); R 299.9630, effective June 21, 1994; R 299.9634, effective September 22, 1998; and R 299.11003(1)(m) and (p) and (2).
178	Petroleum refining process wastes—leachate exemption.	64 FR 6806, February 11, 1999.	R 299.9204(2)(o)(i)-(v).
179	Land disposal restrictions phase IV—technical corrections and clarifications to treatment standards.	64 FR 25408, May 11, 1999	R 299.9202(1)(b)(iii) and (3); R 299.9204(1)(v), (1)(v)(v), (2)(h)(iii) and (2)(h)(iii)(A); R 299.9306(4)(e); R 299.9311; R 299.9413; R 299.9627; and R 299.11003(1)(u) and (2).
180	Test procedures for the analysis of oil and grease and non-polar material.	64 FR 26315, May 14, 1999	R 299.11005(1), (2) and (6).
181	Universal waste rule	64 FR 36466, July 6, 1999	R 299.9103(a); R 299.9109(g), (i) and (j); R 299.9228; R 299.9229(2)(e)(i), effective October 15, 1996; R 299.9311; R 299.9413; R 299.9503(1)(j); R 299.9601(6); R 299.9627; and R 299.11003(1)(u) and (2).
182	Hazardous air pollutant standards for combusters.	64 FR 52828, September 30, 1999, as amended at 64 FR 63209, November 19, 1999.	R 299.9102(v); R 299.9108(c); R 299.9230(1)(a)(iii) and (3); R 299.9504(4), (15) and (20); R 299.9508(1)(b); R 299.9515(5)(a)(viii) and (j)(v), effective April 20, 1988; R 299.9601(1), (2), (3), (7) and (9); R 299.9623(2); R 299.9626(7); R 299.9628(1) and (4); R 299.9808; and R 299.11003(1)(i), (m), (p), (r), (t) and (v) and (2).
183	Land disposal restrictions phase IV—technical corrections.	64 FR 56469, October 20, 1999.	R 299.9222; R 299.9306(1)(d); R 299.9311; R 299.9413; R 299.9627; and R 299.11003(1)(u) and (2).

¹ The Michigan provisions are from the Michigan Administrative Code, effective September 11, 2000, unless otherwise stated.

STATE-INITIATED MODIFICATIONS

State citation and action	Effective date	Federal analog
R 299.9101(c) (definition of "Act 138" added) and (c)-(i) renumbered as (d)-(j).	September 11, 2000	40 CFR 260.10 (no federal analog to R 299.9101(c)).
R 299.9204(1)(n) (more stringent State provision removed).	September 11, 2000	None.
R 299.9206(5) (more stringent State provision removed).	September 22, 1998	None.
R 299.9209(2)(a) (broader in scope State provision removed).	September 11, 2000	None.
R 299.9212(4) and (6)(a) (more stringent State provision amended).	September 22, 1998	None.
R 299.9218 (more stringent State provision rescinded).	September 22, 1998	None.
R 299.9220 (rule title amended)	September 22, 1998	40 CFR 261.31(a).
R 299.9226 (broader in scope State provision—rule title amended).	September 11, 2000	None.
R 299.9228(4)(c)(iv) (amended)	September 11, 2000	40 CFR 273.14(e).
R 299.9228(4)(d) and (5)(e) (added)	September 22, 1998	40 CFR 262.20.

STATE-INITIATED MODIFICATIONS—Continued

State citation and action	Effective date	Federal analog
R 299.9304(1)(c) and (d) (amended), (4)(f), and (7) (added).	September 11, 2000	40 CFR 262.20.
R 299.9306(2) (amended)	September 22, 1998	40 CFR 262.34(b).
R 299.9308(1) (amended)	September 22, 1998, and September 11, 2000.	40 CFR 262.41(a).
R 299.9401(1), (5), and (6) (removed)	September 11, 2000	40 CFR 263.10.
R 299.9403(1) (more stringent State provision amended) and (2)–(7) (more stringent State provision removed).	September 11, 2000	None.
R 299.9404(2)(b) (amended)	September 22, 1998	40 CFR 263.12.
R 299.9405(3)(b) and (b)(iv) (broader in scope State provisions amended).	September 22, 1998	None.
R 299.9406(1), (2)–(4), and (7) (more stringent State provisions amended).	September 11, 2000	None.
R 299.9407(1)–(3) (more stringent State provisions amended).	September 11, 2000	None.
R 299.9408(1) (more stringent State provisions amended) and (2) (more stringent State provisions removed).	September 11, 2000	None.
R 299.9409(1)–(3) (amended)	September 11, 2000	40 CFR 263.21.
R 299.9410(2) (amended)	September 11, 2000	40 CFR 263.30(b).
R 299.9411 (more stringent State provisions rescinded).	September 11, 2000	None.
R 299.9412 (more stringent State provisions rescinded).	September 11, 2000	None.
R 299.9503(4)(c) (more stringent State provisions amended).	September 11, 2000	None.
R 299.9504(1) (amended)	September 22, 1998	40 CFR 270.13 and 270.14(b) and (d).
R 299.9505(1)(a)(ii), (b)(v) and (vi), (d)(iii), (e)(i), (v) and (vi), and (f) (amended).	September 11, 2000	40 CFR 270.17(b), 270.18(b), and 270.21(b).
R 299.9506(2)(a)(v) and (b) (more stringent State provisions amended).	September 11, 2000	None.
R 299.9512 (amended)	September 22, 1998	40 CFR 124.8.
R 299.9525 (more stringent State provisions added).	September 11, 2000	None.
R 299.9601(3)(b) (amended) and R 299.9701(2) (removed).	September 11, 2000	40 CFR 270.70.
R 299.9608(5) (more stringent State provisions added).	September 11, 2000	None.
R 299.9610(1) and (1)(a)–(i) (amended)	September 11, 2000	40 CFR 264.75(a)–(j).
R 299.9612(1)(b) (more stringent State provisions amended).	September 11, 2000	None.
R 299.9613(6) (more stringent State provisions added).	September 11, 2000	40 CFR Part 264 Subpart G.
R 299.9619(4), (4)(a), and (6)(a), (a)(ii) and (iv), and (b) (more stringent State provisions amended).	September 11, 2000	None.
R 299.9620(3)(c) (amended), (4) (amended), and (5) (added).	September 11, 2000	40 CFR 264.221, 264.251, and 264.301.
R 299.9621(1)(a)(i); (1)(c)(iv), (v), and (vii); (1)(d)(i)(D) and (3) (more stringent State provisions amended).	September 11, 2000	None.
R 299.9626(2)(a), (b), and (d) (amended)	September 22, 1998	40 CFR 270.62(b)(2) and (d).
R 299.9629(6) (amended)	September 11, 2000	40 CFR 264.100(d).
R 299.9703(7) (amended)	September 22, 1998	40 CFR 264.148(b).
R 299.9706(2) (removed) and (3) (amended)	September 11, 2000	40 CFR 264.143(d)(4) and (6) and 264.145(d)(4) and (6).
R 299.9708(3), (3)(a)–(c), and (9)(a) (amended).	September 11, 2000	40 CFR 264.143(e)(1) and (8).
R 299.9709(1)(a)(ii) and (iv), (1)(b)(i), (ii), and (iv), (2) and (3)(c) (amended); (3)(c)(i) and (ii) (removed), and (10)(d) (added).	September 11, 2000	40 CFR 264.143(f)(1)(i)(B) and (D), (f)(1)(ii)(A), (B), and (D), (f)(3)(iii); and 264.145(f)(1)(i)(B) and (D), (f)(1)(ii)(A), (B), and (D), (f)(3)(iii).
R 299.9709(9)(a) and (b) (amended)	September 22, 1998	40 CFR 264.143(f)(9)(i) and (ii) and 264.145(f)(10)(i) and (ii).
R 299.9710(8)(a)(i)–(iv) (amended)	September 11, 2000	40 CFR 264.147(a)(2) and (b)(2).
R 299.9711 (more stringent State provisions amended).	September 11, 2000	None.
R 299.9803(2)(b) (more stringent State provisions amended).	September 11, 2000	None.
R 299.11001 (amended)	September 11, 2000	40 CFR 260.11(a)(1)–(9) and (11)–(16).
R 299.11002(2) (amended)	September 11, 2000	40 CFR 260.11(a)(10).

STATE-INITIATED MODIFICATIONS—Continued

State citation and action	Effective date	Federal analog
R 299.11005(2) (amended)	September 11, 2000	40 CFR 260.11(11).

G. Where Are the Revised State Rules Different From the Federal Rules?

The following table lists the program revisions (which are based on federal

RCRA program changes) for which the State is seeking authorization which are more stringent than similar federal requirements:

State citation	Federal citation	Topic
R 299.9306(2)	40 CFR 262.34(c)(1)	Generator satellite accumulation.
R 299.9404(2)(b)	40 CFR 263.12	Transfer facility requirements.
R 299.9405(3)(b)	Not applicable	Consolidation and commingling of hazardous waste.
R 299.9403, R 299.9406, R 299.9407, R 299.9408, and R 299.9410.	Not applicable	Transporter permitting and registration.
R 299.9505(1)(d)(iii), (e)(1)(v) and (vi), and (f)	40 CFR 270.17(b), 270.18(c), and 270.21(b) ..	Information to be included in an engineering report.
R 299.9525(1) and (2)	Not applicable	Deed notices.
R 299.9619(6)(a)(iv) and (v)	40 CFR 264.310(a)	Final cover specifications.
R 299.9619(6)(b)	40 CFR 264.310(a) and (b)(1)	Soil erosion limits for final cover.
R 299.9621(1)(c)(vii)	40 CFR 264.310(a) and (b)(1)	Liner thickness and subgrade slope verification.
R 299.9635(6)(d)(ii)	40 CFR 264.552(e)(4)(ii)(B)	Minimum flexible membrane liner thickness.
R 299.9708(3)(c)	40 CFR 264.143(e)(1), 264.145(e)(1), 265.143(d)(1), and 265.145(d)(1).	Captive insurers.
R 299.9709(1)(a)(ii) and (iv) and (b)(ii) and (2)	40 CFR 264.143(f)(1) and (2), 264.145(f)(1) and (2), 265.143(e)(1) and (2), and 265.145(e)(1) and (2).	Obligations covered by a financial test.

These requirements are part of Michigan's authorized program and are federally enforceable.

H. Who Handles Permits After the Authorization Takes Effect?

Michigan will issue permits for all the provisions for which it is authorized and will administer the permits it issues. All permits issued by EPA prior to EPA authorizing Michigan for these revisions will continue in force until the effective date of the State's issuance or denial of a State RCRA permit, or the permit otherwise expires or is revoked. Michigan will administer any RCRA hazardous waste permits or portions of permits which EPA issued prior to the effective date of this authorization until such time as Michigan has issued a corresponding State permit. EPA will not issue any more new permits or new portions of permits for provisions for which Michigan is authorized after the effective date of this authorization. EPA will retain responsibility to issue permits needed for HSWA requirements for which Michigan is not yet authorized.

I. What Is Codification and Is EPA Codifying Michigan's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that

comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart P for this authorization of Michigan's program changes until a later date.

J. How Would Authorizing Michigan for These Revisions Affect Indian Country (18 U.S.C. 115) in Michigan?

Michigan is not authorized to carry out its hazardous waste program in Indian country within the State, as defined in 18 U.S.C. 1151. This includes:

1. All lands within the exterior boundaries of Indian reservations within or abutting the State of Michigan;
2. Any land held in trust by the U.S. for an Indian tribe; and
3. Any other land, whether on or off an Indian reservation that qualifies as Indian country.

Therefore, this action has no effect on Indian country. EPA will continue to implement and administer the RCRA program in Indian country. It is EPA's long-standing position that the term "Indian lands" used in past Michigan hazardous waste approvals is synonymous with the term "Indian country." *Washington Department of Ecology v. EPA*, 752 F.2d 1465, 1467,

n.1 (9th Cir. 1985). See 40 CFR 144.3 and 258.2.

K. Administrative Requirements

The Office of Management and Budget 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 pre-existing 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), 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 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, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. 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.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and record keeping requirements.

Authority: This proposed 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: February 7, 2002.

Elissa Speizman,

Acting Regional Administrator, Region 5.

[FR Doc. 02-4788 Filed 2-27-02; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[CC Docket No. 02-33, CC Docket No. 95-20, CC Docket No. 98-10; FCC 02-42]

Appropriate Framework for Broadband Access to the Internet Over Wireline Facilities

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document initiates a thorough examination of the appropriate legal and policy framework under the Communications Act of 1934, as amended (the Act), for broadband access to the Internet provided over domestic wireline facilities. In particular, it seeks comment on the appropriate statutory classification and regulatory framework for wireline broadband Internet access services. It also seeks comment on whether facilities-based providers of broadband Internet access services provided over wireline and other platforms, including cable, wireless and satellite, should be required to contribute to universal service. For purposes of this Notice of Proposed Rulemaking, the Commission uses the term "facilities-based" to refer to providers of broadband Internet access services that furnish their own last-mile connection, irrespective of transmission medium, to the customer. Through this proceeding, the Commission intends to further its goals of encouraging the ubiquitous availability of broadband to all Americans, promoting the development and deployment of multiple broadband platforms, fostering investment and innovation in a competitive broadband market, and developing an analytical framework for regulating broadband that is consistent, to the extent possible, across multiple platforms.

DATES: Comments are due April 15, 2002 and reply comments are due May 14, 2002.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in CC Docket Nos. 02-33, 95-20 and 98-10, FCC 02-42, adopted February 14, 2002, and released February 15, 2002. The complete text of this NPRM is available

for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com. It is also available on the Commission's website at <http://www.fcc.gov>.

Synopsis of the Notice of Proposed Rulemaking (NPRM)

1. *Background.* In this proceeding, the Commission initiates an examination of the legal and policy framework under the Act for broadband access to the Internet provided over domestic wireline facilities. The widespread deployment of broadband infrastructure has become a central communications policy objective and it is believed that widespread ubiquitous broadband deployment will bring valuable new services to consumers, stimulate economic activity and advance economic opportunity. The Commission has also initiated three other proceedings that focus on the regulatory treatment of broadband. These proceedings, together with this NPRM, build the foundation for a comprehensive and consistent national broadband policy. First, near the end of 2000, the Commission launched the *Cable Modem NOI*. (65 FR 60441, October 11, 2000) This considers, among other issues, the appropriate regulatory classification for cable modem service, which is used to provide high-speed Internet access. Second, in the *Incumbent LEC Broadband Notice*, (67 FR 1945, January 15, 2002) the Commission examines whether incumbent local exchange carriers (LECs) that are dominant in the provision of traditional local exchange and exchange access service should also be considered dominant when they provide broadband telecommunications services. Third, in the *Triennial UNE Review Notice*, (67 FR 1947, January 15, 2002) the Commission addresses, among other things, the incumbent LECs' wholesale obligations under section 251 of the Act to make their facilities available as unbundled network elements to competitive LECs for the provision of broadband services. These latter two proceedings thus investigate how Title II regulation under the Act applies to broadband service provided as telecommunications services and whether facilities that can be used to provide broadband services should be