

US EPA ARCHIVE DOCUMENT

INDIANA—SO₂

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Lake County	*	*	*	X

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-7974-3]

North Dakota: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: North Dakota has applied to EPA for Final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements for Final authorization and is authorizing the State's changes through this immediate Final action. EPA is publishing this rule to authorize the changes without a prior proposed rule because we believe this action is not controversial. Unless we get written comments opposing this authorization during the comment period, the decision to authorize North Dakota's changes to their hazardous waste program will take effect as provided below. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect. A separate document in the proposed rules section of this **Federal Register** will serve as the proposal to authorize the State's changes.

DATES: We must receive your comments by October 26, 2005. Unless EPA receives comments that oppose this action, this Final authorization approval will become effective without further notice on November 25, 2005.

ADDRESSES: Submit your comments by one of the following methods: 1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments. 2.

E-mail: shurr.kris@epa.gov. 3. Mail: Kris Shurr, 8P-HW, U.S. EPA, Region 8, 999 18th St, Ste. 300, Denver, Colorado 80202-2466, phone number: (303) 312-6139. 4. Hand Delivery or Courier: to Kris Shurr, 8P-HW, U.S. EPA, Region 8, 999 18th St, Ste 300, Denver, Colorado 80202-2466, phone number: (303) 312-6139.

Instructions: Do not submit information that you consider to be CBI or otherwise protected through regulations.gov, or e-mail. The Federal regulations.gov website 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 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, any form of encryption, and be free of any defects or viruses.

You can view and copy North Dakota's application at the following addresses: NDDH from 9 a.m. to 4 p.m., 1200 Missouri Ave, Bismarck, ND 58504-5264, contact: Curt Erickson, phone number (701) 328-5166 and EPA Region 8, from 8 a.m. to 3 p.m., 999 18th Street, Suite 300, Denver, CO 80202-2466, contact: Kris Shurr, phone number: (303) 312-6139, e-mail: shurr.kris@epa.gov.

FOR FURTHER INFORMATION CONTACT: Kris Shurr, EPA Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202-2466, phone number: (303) 312-6139, e-mail: shurr.kris@epa.gov.

SUPPLEMENTARY INFORMATION:

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 today's 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 today's 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 EPA receives comments opposing 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. What has North Dakota previously been authorized for?

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), and January 19, 2000, effective March 20, 2000 (65 FR 02897).

G. What changes are we authorizing with today's 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.

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 (the Federal Citation followed by the analog from the North Dakota Administrative Code (NDAC), Article 33-24, as revised December 1, 2003, unless otherwise indicated: Delisting—(54 FR 27114, 06/27/89)(Checklist 17B.1)/changes to 40 CFR 260.22(b) only at 33-24-01.08.2 (ND was previously authorized for Checklist 17B (excluding 40 CFR 260.22(b)) on 06/25/90, effective 08/24/1990 at 55 FR 25836); Consolidated Checklist for the Burning of Hazardous Waste in Boilers and Industrial Furnaces (as of June 30, 2000) (56 FR 7134, 02/21/91)(Checklist 85); 56 FR 32688, 07/17/91(Checklist 94); 56 FR 42504, 08/27/91(Checklist 96); 56 FR 43874, 09/05/91(Checklist 98); 57 FR 38558, 08/25/92(Checklist 111); 57 FR 44999, 09/30/02(Checklist 114); 58 FR 59598, 11/09/93(Checklist 127))/33-24-01-04/intro, 33-24-01-04.11, 33-24-01-04.56.a and .b, 33-24-01-04.59, 33-24-01-04.59.l and .m, 33-24-01-04.60, 33-24-01-04.95, 33-24-01-04.107, 33-24-01-05.1, 33-24-01-06.1, 33-24-02-02.4.b and .c, 33-24-02-02.5.b.(4), 33-24-02-03.3.b.(2)(b), 33-24-02-04.1.j, 33-24-02-04.2.d, 2.g and 2.h, 33-24-02-06.1.b, 33-24-02-06.1.b.(2), 33-24-02-06.1.c.(4) and c.(5), 33-24-02-17, 33-24-02/Appendix IV, 33-24-05-01.6.b, 33-24-05-61.4.a, 33-24-05-144.1, 33-24-05-220.3 and 220.4, 33-24-05-525.1 through 525.6, 33-24-05-526.1 through 526.3, 33-24-05-527.1.a, 33-24-05-526.1.b through 526.1.b.(9), 33-24-05-527.2.a and 2.b, 33-24-05-527.3, 33-24-05-527.4.a through 527.4.d.(4), 33-24-05-527.5.a through 527.5.k, 33-24-05-528.1.a.(1) through 528.1.a.(3), 33-24-05-528.1.b through 528.12, 33-24-05-529.1.a through

529.9, 33-24-05-530.1 through 530.3, 33-24-05-531.1 through 531.9, 33-24-05-532.1 through 532.8, 33-24-05-533.1 through 533.5, 33-24-05-534.1 through 534.2.b, 33-24-05-535 through 535.6.d, 33-24-05-536.1 through 536.5.f, 33-24-05-537 through 537.3.b.(2), 33-24-05/Appendix XVI/table I-A through table I-E, 33-24-05/Appendices XVII through XXVII, 33-24-06-14.3.a.(4), 33-24-06-14.7 through 14.7.a.(5), 33-24-06-14/Appendix I, 33-24-06-16.5, 33-24-06-17.2.ff, and 33-24-06-19.4; Consolidated Checklist for Recycled Used Oil Management Standards (as of June 30, 2000) (57 FR 41566, 09/10/92)(Checklist 112); 58 FR 26420, 05/03/93 and 58 FR 33341, 06/17/93(Checklist 122 and 122.1); 59 FR 10550, 03/04/94(Checklist 130); 63 FR 24963, 05/06/98 and 63 FR 37780, 07/14/98(Checklist 166))/33-24-01-04.137, 33-24-02-03.1.b.(5), 33-24-02-04.2.m through 2.o, 33-24-02-05.10, 33-24-02-06.1.b.(3) and b.(4), 33-24-02-06.1.c.(2) through 1.d, 33-24-05-01.6.b, 33-24-05-220 through 224 (reserved), 33-24-05-600 through 600.20, 33-24-05-610 through 610.9, 33-24-05-611, 33-24-05-611/table 1 and table 1 note, 33-24-05-612.1 through 612.3.c, 33-24-05-620.1 through 620.2.e, 33-24-05-621.1 and 621.2, 33-24-05-622 through 622.4.d, 33-24-05-623 through 623.3, 33-24-05-624 through 624.3.c, 33-24-05-630.1 and 630.2, 33-24-05-631.1 and 631.2, 33-24-05-632.1 and 632.2, 33-24-05-640.1 through 640.4.e, 33-24-05-641.1 through 641.3, 33-24-05-642.1 and 642.2, 33-24-05-643.1 through 643.3.e, 33-24-05-644.1 through 644.4, 33-24-05-645 through 645.8.d, 33-24-05-646.1 through 646.4, 33-24-05-647, 33-24-05-650.1 and 650.2, 33-24-05-651.1 and 651.2, 33-24-05-652.1 and 652.2, 33-24-05-653.1 through 653.3, 33-24-05-654 through 654.8, 33-24-05-655 through 655.2, 33-24-05-656.1 through 656.3, 33-24-05-657 through 657.2, 33-24-05-658 and 659, 33-24-05-660.1 through 660.3, 33-24-05-661.1 and 661.2, 33-24-05-662.1 and 662.2, 33-24-05-663.1 through 663.4, 33-24-05-664 through 664.7, 33-24-05-665.1 and 665.2, 33-24-05-666.1 and 666.2, 33-24-05-667, 33-24-05-670.1 through 670.3, 33-24-05-671 through 671.2, 33-24-05-672.1 and 672.2, 33-24-05-673.1 and 673.2, 33-24-05-674.1 through 674.3, 33-24-05-675.1 and 675.2, 33-24-05-680, 33-24-05-681.1 and 681.2, and 33-24-06-16.5; Recycled Coke By-Product Exclusion (57 FR 27880, 06/22/92)(Checklist 105))/33-24-02-04.1.j, and 33-24-05-525.1; Coke By-Products Listings (57 FR 37284, 08/18/

92)(Checklist 110)/33-24-02-04.1.j, 33-24-02-17, and 33-24-02/Appendix IV; Boilers and Industrial Furnaces: Changes for Consistency with New Air Regulations (58 FR 38816, 07/20/93)(Checklist 125)/33-24-01.05.1.1, 33-24-05-529.5.c, 33-24-05-531.8, and 33-24-05/Appendix XXV (reserved); Testing and Monitoring Activities (58 FR 46040, 08/31/93 and 59 FR 47980, 09/19/94)(Checklists 126 and 126.1)/33-24-01-05.1, 33-24-01-08.4.a.(1), 33-24-02-12.1.a and 12.1.b, 33-24-02-14.1, 33-24-02/Appendices II, III, V, and VII, 33-24-05-103.1, 33-24-05-183.3, 33-24-05-256.1, 33-24-05-280.1, 33-24-05-281.1, 33-24-06-16.5, 33-24-06-17.2.w.(3)(a)[3] and 17.2.w.(3)(a)[4], 33-24-06-19.2.b.(2)(a)[3] and 19.2.b.(2)(a)[4], 33-24-06-19.4.c.(2)(a) and 19.4.c.(2)(b); Wastes From the Use of Chlorophenolic Formulations in Wood Surface Protection (59 FR 458, 01/04/94)(Checklist 128)/33-24-01-05.1 and 33-24-02 Appendix V; Revision of Conditional Exemption for Small Scale Treatability Studies (59 FR 8362, 02/18/94)(Checklist 129)/33-24-02-04.5.b.(1) and (2), 33-24-02-04.5.c. through c.3(e), and 33-24-02-04.6.c. through .e; Recordkeeping Instructions; Technical Amendment (59 FR 13891, 03/24/94)(Checklist 131)/33-24-05 Appendix 1/Tables 1 and 2, and 33-24-06-16.5; Wood Surface Protection; Correction (59 FR 28484, 06/02/94)(Checklist 132)/33-24-01-05.1; Letter of Credit Revision (59 FR 29958, 06/10/04)(Checklist 133)/33-24-05-81.4, and 33-24-05-81.11; Correction of Beryllium Powder (P015) Listing (59 FR 31551, 06/20/94) Checklist 134)/33-24-02-18.5, 33-24-02/Appendix V, and 33-24-05-282.1/ Table 2; Recovered Oil Exclusion (59 FR 38536, 07/28/94) (Checklist 135)/33-24-02-03.3.b.(2)(b), 33-24-02-04.1.1, 33-24-02-06.1.c.(4) through (6), and 33-24-05-525.2.c; Removal of the Conditional Exemption for Certain Slag Residues (59 FR 43496, 08/24/94)(Checklist 136)/33-24-05-201.3, 33-24-05-281.1/ Table CCWE; Testing and Monitoring Activities Amendment I (60 FR 3089, 01/13/95)(Checklist 139)/33-24-01-05.1; Carbamate Production Identification and Listing of Hazardous Waste (60 FR 7824, 02/09/95; 60 FR 19165, 04/17/95; 60 FR 25619, 05/12/95)(Checklists 140 through 140.2)/33-24-02-03.1.b.(4)(e) through (g), 33-24-02-03.3.b.(2)(d), 33-24-02-17, 33-24-02-18.5 and .6, and 33-24-02/ Appendices IV and V; Testing and Monitoring Activities Amendment II (60 FR 17001, 04/04/95)(Checklist 141)/33-24-01-05.1.(k); Universal Waste: General Provisions (60 FR 25492, 05/11/95)(Checklist 142A)/33-24-01-04, 33-24-01-04.23, 33-24-01-04.47, 33-24-01-04.86, 33-24-01-04.121, 33-24-01-04.132 through 134, 33-24-02-05.3, 33-24-02-05.6.c through .c(4), 33-24-02-05.6.c.(6) and (7), 33-24-02-05.7.c through .c(4), 33-24-02-05.7.c.(6) and (7), 33-24-02-06.5., 33-24-03-01.1. through 5, 33-24-03-02.4, 33-24-05-01.6.j, 33-24-05-250.6, 33-24-05-701.1 and .2, 33-24-05-708.1 and .2, 33-24-05-709 introductory paragraph, 33-24-05-709.2 and .3, 33-24-05-710, 33-24-05-711, 33-24-05-712, 33-24-05-714 introductory paragraph, 33-24-05-715.1 through .3, 33-24-05-716, 33-24-05-717, 33-24-05-718.1 through .8., 33-24-05-719 and 720, 33-24-05-730 and 731, 33-24-05-732.1.a and .b, 33-24-05-732.2, 33-24-05-734 introductory paragraph, 33-24-05-735, 33-24-05-736, 33-24-05-737, 33-24-05-738, 33-24-05-739.1 through .3, 33-24-05-740, 33-24-05-750, 33-24-05-751, 33-24-05-752.1 through .3, 33-24-05-753.1 and 2, 33-24-05-753.3 and .4, 33-24-05-754, 33-24-05-755, 33-24-05-756, 33-24-05-760, 33-24-05-761, 33-24-05-762, 33-24-05-770, 33-24-06-01.2.b.(8), and 33-24-06-16.5; Universal Waste Rule: Specific Provisions for Batteries (60 FR 25492, 05/11/95)(Checklist 142B)/33-24-01-04.9, 33-24-01-04.132, 33-24-02-06.1.c(2) through (4), 33-24-02-06.5.a, 33-24-05-01.6.j.(1), 33-24-05-235.1 and .2, 33-24-05-250.6.a, 33-24-05-701.1.a., 33-24-05-702, 33-24-05-709 introductory paragraph, 33-24-05-713.1, through .c.(2), 33-24-05-714.1, 33-24-05-733.1 through c.(2), 33-24-05-734.1, 33-24-06-01.2.b.(8)(a), 33-24-06-16.5; Universal Waste Rule: Specific Provisions for Pesticides (60 FR 25492, 05/11/95)(Checklist 142C)/33-24-01-04.93., 33-24-01-04.132, 33-24-02-06.5.b, 33-24-05-01.6.j.(2), 33-24-05-250.6.b, 33-24-05-701.1.b, 33-24-05-703.1 through .4, 33-24-05-709 introductory paragraph, 33-24-05-709.1, 33-24-05-713.2, 33-24-05-714.2 and .3, 33-24-05-732.1.a. and .c, 33-24-05-733.2, 33-24-05-734.2, 33-24-05-734.3, 33-24-06-01.2.b.(8)(b), and 33-24-06-16.5; Universal Waste Rule: Specific Provisions for Thermostats (60 FR 25492, 05/11/95)(Checklist 142D)/33-24-01-04.77, 33-24-01-04.132, 33-24-02-06.5.c, 33-24-05-01.6.j.(3), 33-24-05-250.6.c, 33-24-05-701.1.c, 33-24-05-704.1, 33-24-05-704.2, 33-24-05-704.3, 33-24-05-709 introductory paragraph, 33-24-05-713.3 through 3.c.(3), 33-24-05-714.4., 33-24-05-733.3 through 3.c.(3), 33-24-05-734.4, 33-24-06-01.2.b.(8)(c), and 33-24-06-16.5; Universal Waste Rule: Petition Provisions (60 FR 25492, 05/11/95)(Checklist 142E)/33-24-01-06.1, 33-24-01-08.13 through .16, 33-24-05-780.1 through .3., and 33-24-05-781.1 through .8; Removal of Legally Obsolete Rules (60 FR 33912, 06/29/95)(Checklist 144)/33-24-02-16.1, 33-24-05-528.3.e, 33-24-05-529.6 through .8, and 33-24-06-01.7.a.(4), 33-24-06-01.7.b.(2), and 33-24-06-01.8.a; Liquids in Landfills III (60 FR 35703, 07/11/95)(Checklist 145)/33-24-05-183.5.b.(2) and (3), 33-24-06-16.5; RCRA Expanded Public Participation (60 FR 63417, 12/11/95)(Checklist 148)/33-24-01-04.35, 33-24-06-04.13, 33-24-06-17.2.gg., 33-24-06-19.1.e., 33-24-06-19.2.b.(6) through (11), 33-24-06-19.2.d, 33-24-06-19.4.d.(3) through (6), 33-24-06-19.4.g, 33-24-07-25.1 through .4, 33-24-07-26.1 through .3, and 33-24-07-27.1 through .6; Amendments to the Definition of Solid Waste; Amendment II (61 FR 13103, 03/26/96) (Checklist 150)/33-24-02-04.1.1; Land Disposal Restriction Phase III: Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners (61 FR 15566, 04/08/96; 61 FR 15660, 04/08/96; 61FR19117, 04/30/96; 61 FR 33680, 06/28/96; 61 FR 36419, 07/10/96; 61 FR 43924, 08/26/96; 62 FR 7502, 02/19/97;) (Checklist 151 through 151.6)/33-24-05-250.3.c and .d, 33-24-05-250.5.c through .e, 33-24-05-251.5, 33-24-05-251.10 and .11, 33-24-05-252.1 through .3, 33-24-05-256.1, 33-24-05-256.1.a.(2), 33-24-05-256.1.a.(4) through (6), 33-24-05-256.1.b.(1)(b), 33-24-05-256.1.c.(2), 33-24-05-256.2.d.(2), 33-24-05-256.2.e.(4) and (5), 33-24-05-257., 33-24-05-258.1, 33-24-05-258.4, 33-24-05-258.4.a.(1) and (2), 33-24-05-258.4.c, 33-24-05-258.5 through .7, 33-24-05-279.1 through .7, 33-24-05-280.1, 33-24-05-280.5, 33-24-05-280.7, 33-24-05-280/Table, 33-24-05-282/Table 1, 33-24-05-284.1, 33-24-05-288/Table UTS, 33-24-05/Appendix XXIX; Conditionally Exempt Small Quantity Generator Disposal Options under Subtitle D (61 FR 34252, 07/01/96)(Checklist 153)/33-24-02-05.6.c and 33-24-02-05.7.c; Consolidated Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers (59 FR 62896, 12/06/94; 60 FR 26828, 05/19/95; 60 FR 50426, 09/29/95; 60 FR 56952, 11/13/95; 61 FR 4903, 02/09/96; 61 FR 28508, 06/05/96; 61 FR 59932, 11/25/96)(Checklists 154 through 154.6)/33-24-01-05.1.n and 1.o, 33-24-01-05.2, 33-24-02-06.3.a, 33-24-03-12.1.a, 33-24-03-12.4.b, 33-24-05-04.2.f and h, 33-24-05-06.2.d, 33-24-05-40.2.c and f, 33-24-05-44.3, 33-24-05-98, 33-24-05-115, 33-24-05-128, 33-24-05-301, 33-24-05-400.2, 33-24-05-403.1.b.(1), 33-24-05-403.6.b.(6)(b),

33-24-05-403.11 through 15, 33-24-05-404.2, 33-24-05-405.3.i and j, 33-24-05-405.4, 33-24-05-420.2, 33-24-05-420.6, 33-24-05-425.1 through 425.3, 33-24-05-428.5, 33-24-05-434.7.f, 33-24-05-450 through 460, 33-24-06-10.1.b through d, 33-24-06-16.5, 33-24-06-17.2.e, 33-24-06-17.2.s.(5), 33-24-06-17.2.t.(11), 33-24-06-17.2.u.(10), and 33-24-06-17.2.hh; Land Disposal Restrictions Phase III—Emergency Extension of the K088 Capacity Variance (62 FR 1992, 01/14/97)(Checklist 155)/33-24-05-279.3; Military Munitions Rule: Hazardous Waste Identification and Management; Explosive Emergencies; Manifest Exemption for Transport of Hazardous Waste on Right-of-Ways on Contiguous Properties (62 FR 6622, 02/12/97)(Checklist 156)/33-24-01-04.35 through 37, 33-24-01-04.78, 33-24-02-02.1.b.(3) and (4), 33-24-03-01.7, 33-24-03-04.6, 33-24-04-01.5 and 6, 33-24-05-01.6.g.(1)(d), 33-24-05-01.6.g.(4), 33-24-05-01.9, 33-24-05-37, 33-24-06-800, 33-24-05-801.1 through 801.6, 33-24-05-802.1 and 2, 33-24-05-820.1 through 821.7, 33-24-05-822 through 826, and 33-24-06-16.5; Land Disposal Restrictions Phase IV—Treatment Standards for Wood Preserving Wastes, Paperwork Reduction and Streamlining; Exemptions from RCRA for Certain Processed Materials; and Miscellaneous Hazardous Waste Provisions (62 FR 25998, 05/12/97) (Checklist 157)/33-24-02-01.3.i through fig 1, 33-24-02-02/table, 33-24-02-04.1.m and n, 33-24-02-06.1.c.(2), 33-24-05-250.5, 33-24-05-253.1.b.(4), 33-24-05-253.1.d, 33-24-05-256.1 through 256.3.b, 33-24-05-258.1, 33-24-05-258.4.a.(2), 33-24-05-270.1 through 270.5, 33-24-05-280/table, 33-24-05-282/table, and 33-24-05/Appendices VII, X, XI, XIII, XIV, and XV; Testing and Monitoring Activities Amendment III (62 FR 32452, 06/13/97)(Checklist 158)/33-24-01.05.1, 33-24-05-404.4.a.(3), 33-24-05-404.6, 33-24-05-433.4.b, 33-24-05/Appendix XII/footnote 5, 33-24-05-529.5.a, 33-24-05-531.7.a and b, 33-24-532.6, and 33-24-05/Appendix XXIV, 33-24-06-16.5; Conformance With the Carbamate Vacatur (62 FR 32974, 06/17/97)(Checklist 159)/33-24-02-17/table, 33-24-02-18.6, 33-24-02/Appendices IV and V, 33-24-05-279.1, 33-24-05-279.4, and 33-24-05-280/table; Land Disposal Restrictions Phase III—Emergency Extension of the K088 National Capacity Variance, Amendment (62 FR 37694, 07/14/97)(Checklist 160)/33-24-05-279.3; Emergency Revision of the Carbamate Land Disposal Restrictions (62 FR 45568, 08/28/97)(Checklist 161)/33-24-05-280.7, and 33-24-05-288.1/table; Clarification of Standards for Hazardous Waste LDR Treatment Variances (62 FR 64504, 12/05/97) (Checklist 162)/33-24-05-284.1, 33-24-05-284.8, 33-24-05-284.13, and 33-24-05-284.16; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers; Clarification and Technical Amendment (62 FR 64636, 12/08/97)(Checklist 163)/33-24-05-06.2.d, 33-24-05-40.2.f, 33-24-05-400.2.c, 33-24-05-400.3 and 5, 33-24-05-401.21, 33-24-05-403.1.b, 33-24-05-420.2.c, 33-24-05-420.3 and 6, 33-24-05-430.1 and 2, 33-24-05-432.2.b and c, 33-24-05-434.7.f, 33-24-05-434.13, 33-24-05-450.2.a, 33-24-05-450.3, 33-24-05-452.2, 33-24-05-452.3.b.(9)(a), 33-24-05-452.3.c, 33-24-05-452.3.d.(2), 33-24-05-453.1.b, 33-24-05-453.2.a, 33-24-05-454.3.b.(3), 33-24-05-454.5.d, 33-24-05-454.6.c.(1)(d)(4), 33-24-05-454.6.c.(3), 33-24-05-454.6.d, 33-24-05-454.10.b.(3), 33-24-05-455.2.b, 33-24-05-455.4.a.(3), 33-24-05-455.4.b.(1)(b), 33-24-05-455.5.b.(3), 33-24-05-456.3.b, 33-24-05-456.3.d.(1), 33-24-05-456.4.b, 33-24-05-456.4.d.(1), 33-24-05-456.7, 33-24-05-457.3.c.(2), 33-24-05-457.3.g, 33-24-05-459.1, 33-24-05-459.2.a.(2)(b), 33-24-05-459.6.a, 33-24-05-459.10, 33-24-05/Appendix VI, 33-24-06-16.5, and 33-24-06-17.2.e; Treatment Standards for Metal Wastes and Mineral Processing Wastes (63 FR 28556, 05/26/98)(Checklist 167A)/33-24-05-251.10, 33-24-05-252.4, 33-24-05-274.1 through 5, 33-24-05-280.5, 33-24-05-280.8, 33-24-05-280/table/Treatment Standards for Hazardous Wastes, and 33-24-05-288/table/UTS; Land Disposal Restrictions Phase IV—Hazardous Soils Treatment Standards and Exclusions (63 FR 28556, 05/26/98)(Checklist 167B)/33-24-05-251.9, 33-24-05-256.1.a through f, 33-24-05-256.2.a through d, 33-24-05-256.5, 33-24-05-284.8.c through e, and 33-24-05-289.1 through 5; Land Disposal Restrictions Phase IV—Corrections (63 FR 28556, 05/26/98)(Checklist 167C)/33-24-05-253.1.b.(2) and (3), 33-24-05-256.1.g, 33-24-05-256.2.c(2)/table, 33-24-05-256.2.d.(4) and (5), 33-24-05-256.2.e and f, 33-24-05-280.5, 33-24-05-280/table/Treatment Standards for Hazardous Wastes, 33-24-05-282.1, 33-24-05-285.1, 33-24-05-285.4.c and d, 33-24-05-288.1/table/UTS, and 33-24-05/Appendix XI/Tables 1 and 2, and 33-24-05/Appendix XIII; Mineral Processing Secondary Materials Exclusion (63 FR 28556, 05/26/98)(Checklist 167D)/33-24-02-02.3.c, 33-24-02-02.3.d/Chart 1, 33-24-02-02.5.a.(3), and 33-24-02-04.1.q through 04.1.q.(6); Bevill Exclusion Revisions and Clarifications (63 FR 28556, 05/26/98)(Checklist 167E)/33-24-02-03.1.b.(1) and (3), and 33-24-02-04.2.g; Exclusion of Recycled Wood Preserving Wastewaters (63 FR 28556, 05/26/98)(Checklist 167F)/33-24-02-04.1.i.(3); Hazardous Waste Combustors; Revised Standards (63 FR 33782, 06/19/98)(Checklist 168)/33-24-02-04.1.p, 33-24-02-22.1, 33-24-02-22.2 through 22.2(e), 33-24-02-22/Table 1; 33-24-02-22.3; 33-24-06-14.10, 33-24-06-14/Appendix I, and 33-24-06-16.5; Petroleum Refining Process Wastes (63 FR 42110, 08/06/98 and 63 FR 54356, 10/09/98)(Checklists 169 and 169.1)/33-24-02-03.1.b.(4)(c), 33-24-02-03.3.b.(2)(b), 33-24-02-03.3.b.(2)(e), 33-24-02-04.1.l.(1) and (2), 33-24-02-04.1.r through 04.1.r.(2), 33-24-02-04.1.s, 33-24-02-06.1.c.(4)(c), 33-24-02-06.1.c.(5), 33-24-02-16.1, 33-24-02-17, 33-24-02 Appendix IV, 33-24-05-525.2.c, 33-24-05-275.1 through 275.3, and 33-24-05-280/table; Land Disposal Restrictions Phase IV—Zinc Micronutrient Fertilizers, Amendment (63 FR 46332, 08/31/98)(Checklist 170)/33-24-05-280.9; Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes from Carbamate Production (63 FR 47410, 09/04/98)(Checklist 171)/33-24-05-280.7, 33-24-05-280.10, 33-24-05-280/table, and 33-24-05-288.1/table; Land Disposal Restrictions Phase IV—Extension of Compliance Date for Characteristic Slags (63 FR 48124, 09/09/98)(Checklist 172)/33-24-05-274.2 through .5; Land Disposal Restrictions; Treatment Standards for Spent Potliners from Primary Aluminum Reduction (K088); Final Rule (63 FR 51254, 09/24/98) (Checklist 173)/33-24-05-279.3, 33-24-05-280/table; HWIR-Media (63 FR 65874, 11/30/98)(Checklist 175)/33-24-01-04, 33-24-01-04.20, 33-24-01-04.38.c; 33-24-01-04.80, 33-24-01-04.99, 33-24-01-04.100, 33-24-01-04.111, 33-24-02-04.8, 33-24-05-01.10, 33-24-05-40.2.q, 33-24-05-58.4, 33-24-05-251.6, 33-24-05-290.7, 33-24-05-552.1, 33-24-05-553.1, 33-24-05-554.1 through 554.13, 33-24-06-03.4, 33-24-06-14/Appendix I, 33-24-06-16.5, 33-24-06-16.6.a, 33-24-06-19.5, 33-24-06-30.1, 33-24-06-30.2; 33-24-06-30.3, 33-24-06-31.1 through 31.7, 33-24-06-32.1 through 32.8, 33-24-06-33.1 through 33.8, 33-24-06-34.1 through 34.4, and 33-24-06-35.1; Universal Waste Rule—Technical Amendments (63 FR 71225, 12/24/98)(Checklist 176)/33-24-05-235.1, 33-24-05-235.1/table, 33-24-05-235.2,

and 33-24-05-709.3; Organic Air Emission Standards: Clarification and Technical Amendments (64 FR 3382, 01/21/99)(Checklist 177)/33-24-03-12.1.a.(1) and (2), 33-24-05-401.12, 33-24-05-401.25, 33-24-05-401.30, 33-24-05-450.2.e, 33-24-05-453.1.a.(1) and (2), 33-24-05-454.2.a.(1) and (2), 33-24-05-454.8.c, 33-24-05-456.5.f, and 33-24-06-16.5; Petroleum Refining Process Wastes—Leachate Exemption (64 FR 06806, 02/11/99)(Checklist 178)/33-24-02-04.2.o; Land Disposal Restrictions Phase IV—Technical Corrections (64 FR 25408, 05/11/99)(Checklist 179)/33-24-02-02.3.c, 33-24-02-02.3.d/table, 33-24-02-02.5.a.(3), 33-24-02-04.1.p and 04.1.q, 33-24-02-04.1.q.(5), 33-24-02-04.2.g.(3) and (3)(a), 33-24-03-12.4.d., 33-24-05-251.4, 33-24-05-251.9, 33-24-05-256.1.d/table, 33-24-05-256.c.(2)/table, 33-24-05-256.2.d.(4), 33-24-05-258.4.b and b.(1), 33-24-05-280.9 and 280.10, 33-24-05-280/table, 33-24-05-288.1/table, 33-24-05-289.3.c, and 33-24-05-289.3.c.(1 and 2); Test Procedures for the Analysis of Oil and Grease and Non-Polar Material (64 FR 26315, 05/14/99)(Checklist 180)/33-24-01.05.1.k and 33-24-01-05.1.p; Universal Waste Rule: Specific Provisions for Hazardous Waste Lamps (64 FR 36466, 07/06/99)(Checklist 181)/33-24-01-04.66, 33-24-01-04.132, 33-24-02-06.5.b through 5.d, 33-24-05-01.6.j.(2) through j.(4), 33-24-05-250.6.b through 6.d, 33-24-05-701.1.b through 1.d, 33-24-05-702.1.a, 33-24-05-702.2.b and 2.c, 33-24-05-703.1, 33-24-05-704.1, 33-24-05-705.1 through 705.3, 33-24-05-706 through 708, 33-24-05-709.2 and 709.3, 33-24-05-710, 33-24-05-713.4, 33-24-05-713.4.a and 4.b, 33-24-05-714.5, 33-24-05-730, 33-24-05-732.d and 2.e, 33-24-05-733.4, 33-24-05-733.4.a and 4.b, 33-24-05-734.5, 33-24-05-750, 33-24-05-760.1, 33-24-05-781.1, 33-24-06-01.2.b.(8)(b) through (8)(d), and 33-24-06-16.5; Hazardous Air Pollutant Standards for Combustors (64 FR 52828, 09/30/99 and 64 FR 63209, 11/19/99)(Checklists 182 and 182.1)/33-24-01-04.25, 33-24-01-04.120, 33-24-02-22/Table 1, 33-24-05-144.2 through 144.5, 33-24-05-301, 33-24-05-525.2 through 525.8, 33-24-05-526.3 and 526.3.a, 33-24-05-530.3 through 530.4, 33-24-05-537.2.a, 33-24-05-537.2.b.(1) and 537.2.b(1)/Note, 33-24-05 Appendix XXIII, 33-24-06-16.5, 33-24-06-17.2.w and 17.2.w.(5), 33-24-06-17.2.ff, 33-24-06 Appendix I, 33-24-06-19.2, and 33-24-06-19.4; Land Disposal Restrictions Phase IV—Technical Corrections (64 FR 56469, 10/20/99)(Checklist 183)/33-24-02-17, 33-

24-03-12.1.d, 33-24-05-256.1.c.(3), 33-24-05-280.10, 33-24-05-280/table, and 33-24-05-289.3.a.(1) and a.(2); Accumulation Time for Waste Water Treatment Sludges (65 FR 12378, 03/08/00)(Checklist 184)/33-24-03-12.1.d and 33-24-03-12.7 through 12.9; Petroleum Refining Process Wastes—Clarification (65 FR 36365, 06/08/00)(Checklist 187)/33-24-02-16.1/table and 33-24-05/Appendix XI; Hazardous Air Pollutant Standards; Technical Corrections (65 FR 42292, 07/10/00)(Checklist 188)/33-24-02-22.3.b.(4), 33-24-05-144.2.a and 2.c, and 33-24-06-14.10.a; Chlorinated Aliphatics Listing and LDRs for Newly Identified Wastes (65 FR 67068, 11/08/00)(Checklist 189)/33-24-02-17, 33-24-02/Appendices IV and V, 33-24-05-273.1 through 273.4, 33-24-05-280/table, and 33-24-05-288/table; Land Disposal Restrictions Phase IV—Deferral for PCBs in Soil (65 FR 81373, 12/26/00)(Checklist 190)/33-24-05-272.1 and 272.2, 33-24-05-288/table, 33-24-05-289.4, and 33-24-05/Appendix VII; Mixed Waste Rule (66 FR 27218, 05/16/01)(Checklist 191)/33-24-05-850, 33-24-05-855 through 857, 33-24-05-860, 33-24-05-865.1 and 865.2, 33-24-05-866.1 and 866.2, 33-24-05-870.1 and 870.2, 33-24-05-875.1 and 875.2, 33-24-05-880, 33-24-05-885, 33-24-05-890, 33-24-05-895 through 900, 33-24-05-905.1 and 905.2, 33-24-05-910, 33-24-05-915.1 and 915.2, and 33-24-05-916.1 and 916.2; Mixture and Derived-From Rules Revisions (66 FR 27266, 05/16/01)(Checklist 192A)/33-24-02-03.1.b.(3) and b.(4), 33-24-02-03.3.b.(1), and 33-24-02-03.7 and 03.8; Land Disposal Restrictions Correction (66 FR 27266, 05/16/01)(Checklist 192B)/33-24-05/Appendix XI/Table 1; Change of Official EPA Mailing Address (66 FR 34374, 06/28/01)(Checklist 193)/33-24-01-05.1.k; Mixture and Derived-From Rules Revision II (66 FR 50332, 10/03/01)(Checklist 194)/33-24-02-03.1.b.(4) and 33-24-02-03.7.c; Inorganic Chemical Manufacturing Wastes Identification and Listing (66 FR 58258, 11/20/01 and 67 FR 17119, 04/09/02)(Checklist 195)/33-24-02-04.2.o, 33-24-02-17, 33-24-02/Appendix IV, 33-24-05-276.1 through 276.3, and 33-24-05-280/table; Hazardous Air Pollutant Standards for Combustors: Interim Standards (67 FR 6792, 02/13/02)(Checklist 197)/33-24-05-144.2.a and 2.d, 33-24-05-525.2.b.(1) through b.(5), 33-24-06-16.5, 33-24-06-17.2.w.(5), 33-24-06-17.2.ff, 33-24-06-19.2, 33-24-06-19.4, and 33-24-06-100.1 and 100.2; Hazardous Air Pollutant Standards for Combustors: Corrections (67 FR 06968, 02/14/02)(Checklist 198)/33-24-05-525.1, 33-

24-05-525.2.a, 33-24-05-525.4.a.(1)(b), 33-24-05-525.4.b.(1) and b.(2), 33-24-05-525.4.c, 33-24-05-525.4.c.(1) and c.(1)(d), and 33-24-06-14.10.a; Vactor of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCPL Use with MGP Waste (67 FR 11251, 03/13/02)(Checklist 199)/33-24-02-02.3.c, 33-24-02-04.1.q, and 33-24-02-14.1; Zinc Fertilizer Rule (67 FR 48393, 07/24/02)(Checklist 200)/33-24-02.04.1.t and 1.u, 33-24-05-201.4, and 33-24-05-280.9 (reserved); Treatment Variance for Radioactivity Contaminated Batteries (67 FR 62618, 10/07/02)(Checklist 201)/33-24-05-280/table/Treatment Standards for Hazardous Wastes; Hazardous Air Pollutant Standards for Combustors—Corrections 2 (67 FR 77687, 12/19/2002)(Checklist 202)/33-24-06-17.2.w.(5), 33-24-06-17.2.ff, 33-24-06-19.2, and 33-24-06-19.4.

H. Where are the revised state rules different from the Federal rules?

We consider the following State requirements to be more stringent than the Federal requirements: 33-24-01-04.27, because the State does not allow a closed or closing unit to be designated as a corrective action management unit; 33-24-02-04.2.i, because the State excludes only discarded wood or wood products that fail for the Toxic Characteristic Leaching Procedure for arsenic while Federal rules exclude discarded wood or wood products that fail for Hazardous Waste Codes D004 through D017; 33-24-03-12.1.a(1), because North Dakota subjects containers to full status rather than interim status standards; 33-24-03-12.1.a(2), because North Dakota subjects tanks to full status rather than interim status standards; 33-24-03-12.1.a(1), because North Dakota subjects containment buildings to full status rather than interim status standards; 33-24-03-12.1.d, because the State requires that facilities be designed, constructed, maintained, and operated to minimize the potential for fires, explosions, or any unplanned releases and because the State requires that the facility demonstrate that a particular kind of equipment will not be required; 33-24-05-01.2, because the State does not allow for interim status facilities; 33-24-05-04.1.a, because the State does not allow owners/operators of closed landfills to accept non-hazardous waste under certain conditions; 33-24-05-256.2.e.(3), because the State does not allow a treatment facility with interim status units to treat hazardous waste; 33-24-05-281.2, because the State does not differentiate between high and low zinc non-wastewater (K061 wastes); 33-

24-05-282.1.b and 33-24-05-282.1, Table 1, because the State does not allow a treatment facility with interim status units to treat hazardous waste; 33-24-05-282.3.a, because the State does not allow a treatment facility with interim status units to treat hazardous waste; 33-24-05-282.3.c, because the State does not allow lab packs eligible for land disposal to be disposed at interim status landfills; 33-24-05-283.3.a, because the State does not allow a treatment facility with interim status units to treat hazardous waste; 33-24-05-552.2.a.1 and 2.b, because the State does not have an analog to 40 CFR 265.113 for interim facilities; 33-24-05-739.3.c, because the state automatically extends the record retention period during any unresolved enforcement action; 33-24-05-752.3 because the state requires universal waste transporters to comply with the solid waste transporter permit requirements of 33-20-02.1-01; 33-24-05-753.3 and .4, because the state has record keeping and retention requirements; 33-24-06-33.6, because the State requires any facility with an effective remedial action plan to submit a new application at least 180 days before expiration date of the current plan; North Dakota does not have an equivalent to 40 CFR 145(f)(9) making the State more stringent. Nevertheless, these requirements are part of North Dakota's authorized program and are Federally enforceable.

We also consider the following State requirements to be broader-in-scope than the Federal program at 33-24-06-14.7.a.(3), because the State has requirements for newly regulated wastes and units that are not required by Federal rules. Broader-in-scope requirements are not part of the authorized program, and EPA cannot enforce them. Although a facility must comply with these requirements in accordance with State law, they are not RCRA requirements.

EPA cannot delegate the Federal requirements at 40 CFR 268.5, 268.6, 268.42(b), and 268.44. EPA will continue to implement these requirements.

I. Who handles permits after this 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 the Table 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 today's 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.

K. What is codification and is EPA codifying North Dakota's hazardous waste program as authorized in this rule?

Codification is the process of placing the State's authorized hazardous waste program statutes and regulations 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 JJ for this authorization of North Dakota's program until a later date.

L. 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. 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. 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 November 25, 2005.

List of Subjects in 40 CFR Part 271

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: September 19, 2005.

Robert E. Roberts,

Regional Administrator, Region 8.

[FR Doc. 05-19136 Filed 9-23-05; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041126333-5040-02; I.D. 092105A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Areas 620 and 630 of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; modification of a closure.

SUMMARY: NMFS is opening directed fishing for pollock in Statistical Area 630 of the Gulf of Alaska (GOA) for 24 hours and opening directed fishing for pollock in Statistical Area 620 of the GOA. This action is necessary to fully use the C season allowance of the 2005 total allowable catch (TAC) of pollock specified for Statistical Areas 620 and 630.

DATES: Opening directed fishing for pollock in Statistical area 630 of the Gulf of Alaska: Effective 1200 hrs, Alaska local time (A.l.t.), September 22, 2005, through 1200 hrs, A.l.t., September 23, 2005. Opening directed fishing for pollock in Statistical area 620 of the Gulf of Alaska: Effective 1200 hrs, A.l.t., September 22, 2005, through 1200 hrs, A.l.t., October 1, 2005.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS closed the directed fishery for pollock in Statistical Area 630 of the GOA under § 679.20(d)(1)(iii) on August 27, 2005 (70 FR 51300, August 30, 2005). NMFS opened directed fishing for pollock in Statistical Area 630 of the GOA for 48 hrs on September 8, 2005 (70 FR 53971, September 13, 2005) and for 24 hrs on September 15, 2005 (70 FR 55305, September 21, 2005).

NMFS has determined that approximately 1,550 mt of pollock remain in the directed fishing allowance for Statistical Area 630 of the GOA. Therefore, in accordance with 679.25(a)(1)(i), (a)(2)(i)(C) and (a)(2)(iii)(D), and to fully utilize the C season allowance of the 2005 TAC of pollock in Statistical area 630, NMFS is terminating the previous closure and is reopening directed fishing for pollock in Statistical Area 630 of the GOA. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will be reached after 24 hours. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 630 of the

GOA effective 1200 hrs, A.l.t., September 23, 2005.

NMFS closed the directed fishery for pollock in Statistical Area 620 of the GOA under § 679.20(d)(1)(iii) on August 29, 2005 (70 FR 51300, August 30, 2005). NMFS opened directed fishing for pollock in Statistical Area 620 of the GOA for 96 hrs on September 8, 2005 (70 FR 53971, September 13, 2005) and for 96 hrs on September 15, 2005 (70 FR 55305, September 21, 2005).

NMFS has determined that approximately 3,900 mt of pollock remain in the directed fishing allowance for Statistical Area 620 of the GOA. Therefore, in accordance with 679.25(a)(1)(i), (a)(2)(i)(C) and (a)(2)(iii)(D), and to fully utilize the C season allowance of the 2005 TAC of pollock in Statistical area 620, NMFS is terminating the previous closure and is reopening directed fishing for pollock in Statistical Area 620 of the GOA.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of pollock in Statistical Areas 620 and 630 of the GOA. NMFS was unable to publish an action providing time for public comment because the most recent, relevant data only became available as of September 19, 2005.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by §§ 679.20 and 679.25 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 21, 2005.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 05-19168 Filed 9-21-05; 2:17 pm]

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