

require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

#### *Regulatory Flexibility Act*

The Department of the Interior certifies that this rule 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.*). The removal of the required amendment, which is the subject of this rule, will have no significant economic impact upon a substantial number of small entities. We made this determination because we are not requiring action by the State but removing a required amendment concerning the counterpart Federal regulation which no longer exists.

#### *Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. We made this determination because we are not requiring action by the State but removing a required amendment concerning the counterpart Federal regulation which no longer exists.

#### *Unfunded Mandates*

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. We made this determination because we are not requiring action by the State but removing a required amendment concerning the counterpart Federal regulation which no longer exists.

#### **List of Subjects in 30 CFR Part 938**

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 11, 2003.

**Brent Wahlquist,**

*Regional Director, Appalachian Regional Coordinating Center.*

■ For the reasons set out in the preamble, 30 CFR part 938 is amended as set forth below:

### **PART 938—PENNSYLVANIA**

■ 1. The authority citation for part 938 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

#### **§ 938.16 [Amended]**

■ 2. Section 938.16 is amended by removing and reserving paragraph (ss).

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### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 271**

[FRL-7486-4]

#### **Minnesota: Final Authorization of State Hazardous Waste Management Program Revision**

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is granting Minnesota final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). Minnesota has submitted these changes so that it may implement the EPA approved U.S. Filter Recovery Services (USFRS) XL project. The Agency published a proposed rule on September 9, 2002, and provided for public comment. The public comment period ended on October 9, 2002. We received no comments. No further opportunity for comment will be provided. EPA has determined that Minnesota's revisions satisfy all the requirements needed to qualify for final authorization, and is authorizing the State's changes through this final action.

**EFFECTIVE DATES:** This final authorization will be effective on April 22, 2003, and will expire automatically 5 years after the State of Minnesota modifies its USFRS RCRA hazardous waste permit to incorporate the requirements necessary to implement this project.

**FOR FURTHER INFORMATION CONTACT:** Gary Westefer, Minnesota Regulatory Specialist, U.S. EPA Region 5, DM-7J, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone number (312) 886-7450, or Nathan Cooley, Minnesota Pollution Control Agency, 520 Lafayette Road, North, St. Paul, Minnesota 55155, telephone number (651) 297-7544.

**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?**

We conclude that Minnesota's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we propose to grant Minnesota final authorization to operate its hazardous waste program with the changes described in the authorization application. Minnesota has 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 they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Minnesota, including issuing permits, until the state is granted authorization to do so.

#### **C. What Is the Effect of Today's Authorization Decision?**

The effect of this decision is to allow Minnesota to carry out the requirements outlined in the U.S. Filter Recovery Services XL Project promulgated in the May 22, 2001 **Federal Register** (66 FR 28066). On May 23, 1995 (60 FR 27282), U.S. EPA issued guidance for XL projects, with the goal of reducing regulatory burden and promoting economic growth, while achieving better environmental and public health protection. XL Projects are required to provide alternative pollution reduction strategies pursuant to eight criteria.

These criteria were met and approved in the May 22, 2001 **Federal Register**. This action merely allows Minnesota to carry out the requirements approved in the May 22, 2001 **Federal Register**.

Minnesota has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses or reports
- Enforce RCRA requirements and suspend or revoke permits

This action does not impose additional requirements on the regulated community. U.S. EPA believes that this project will result in cost savings and a reduction in the paperwork burden for generators. For more details please see the May 22, 2001 **Federal Register** (66 FR 28066).

#### D. Proposed Rule

On September 9, 2002 (67 FR 57191) EPA published a proposed rule. In that rule we proposed granting authorization of changes to Minnesota's hazardous waste program and opened our decision to public comment. The Agency received no comments on this proposal.

#### E. What Has Minnesota Previously Been Authorized for?

Minnesota initially received final authorization on January 28, 1985, effective February 11, 1985 (50 FR 3756) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on July 20, 1987, effective September 18, 1987 (52 FR 27199); on April 24, 1989, effective June 23, 1989 (54 FR 16361) amended June 28, 1989 (54 FR 27170); on June 15, 1990, effective August 14, 1990 (55 FR 24232);

on June 24, 1991, effective August 23, 1991 (56 FR 28709); on March 19, 1992, effective May 18, 1992 (57 FR 9501); on March 17, 1993, effective May 17, 1993 (58 FR 14321); on January 20, 1994, effective March 21, 1994 (59 FR 2998); and on May 25, 2000, effective August 23, 2000 (65 FR 33774).

#### F. What Changes Are We Authorizing With Today's Action?

On April 17, 2002, Minnesota submitted a final complete program revision application, seeking authorization of its changes in accordance with 40 CFR 271.21. We now make a final decision, that Minnesota's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, we propose to grant Minnesota final authorization for the following program changes:

Description of Federal requirement (include checklist #, if relevant)	FEDERAL REGISTER date and page (and/or RCRA statutory authority)	Analogous State authority
Project XL Site-Specific Rulemaking for U.S. Filter Recovery Services, Roseville, Minnesota and Generators and Transporters of USFRS XL Waste.	May 22, 2001, 66 FR 28066	Minnesota Statutes sections 114C.10 through 114C.14 Effective 1996; and USFRS permit, and MPCA generator and transporter standards based on these Statutes.

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

In the changes currently being made to Minnesota's program, there are no regulations more stringent than the Federal requirements. There are no broader-in-scope provisions in these changes, either. These changes are unique to Minnesota due to the nature of Project XL as a site specific program. The changes are found in 40 CFR part 266, subpart O (§§ 266.400 through 266.422).

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

Minnesota will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to implement and issue permits for HSWA requirements for which Minnesota is not yet authorized. As the XL project involves new permits, Minnesota will issue any new permits or new portions of permits for the provisions listed in the Table above. EPA or Minnesota may enforce compliance with those permits.

#### I. How Does Today's Action Affect Indian Country (18 U.S.C. 1151) in Minnesota?

Minnesota is not authorized to carry out its hazardous waste program in

Indian country, 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 Minnesota, including:
  - a. Bois Forte Indian Reservation
  - b. Fond Du Lac Indian Reservation
  - c. Grand Portage Indian Reservation
  - d. Leech Lake Indian Reservation
  - e. Lower Sioux Indian Reservation
  - f. Mille Lacs Indian Reservation
  - g. Prairie Island Indian Reservation
  - h. Red Lake Indian Reservation
  - i. Shakopee Mdewankanton Indian Reservation
  - j. Upper Sioux Indian Reservation
  - k. White Earth 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.

Therefore, this action has no effect on Indian country. EPA will continue to implement and administer the RCRA program in these lands.

#### J. What Is Codification and Is EPA Codifying Minnesota'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 Y for this authorization of Minnesota's program changes until a later date.

#### 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 section 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). This action also does not have Tribal implications within the

meaning of 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. This action does not include environmental justice issues that require consideration under Executive Order 12898 (59 FR 7629, February 16, 1994).

Under RCRA section 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) 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 final 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).

#### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indians-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: April 4, 2003.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

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**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 15

[ET Docket No. 98-153; FCC 03-33]

### Ultra-Wideband Transmission Systems

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document responds to fourteen petitions for reconsideration that were filed in response to the regulations for unlicensed ultra-wideband ("UWB") operation. In general, this document does not make any significant changes to the existing UWB parameters.

**DATES:** Effective May 22, 2003 except § 15.525 which contains information collection requirements that have not been approved by OMB. The FCC will publish a document in the **Federal Register** announcing the effective date for that section. Written comments by the public on the new and/or modified information collection(s) are due June 23, 2003.

**ADDRESSES:** A copy of any comments on the information collection(s) contained herein should be submitted to Les Smith, Federal Communications Commission, Room 1-A804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to [Leslie.Smith@fcc.gov](mailto:Leslie.Smith@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** John Reed (202) 418-2455, Policy and Rules Division, Office of Engineering and Technology. For additional information concerning the information collection(s) contained in this document, contact Les Smith at (202) 418-0217, or via the Internet at [Leslie.Smith@fcc.gov](mailto:Leslie.Smith@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Memorandum Opinion and Order portion of the Commission's *Memorandum Opinion and Order and Further Notice of Proposed Rule Making*, FCC 03-33, adopted February 13, 2003, and released March 12, 2003. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room, CY-B402, Washington, DC 20554. The full text may also be downloaded at: <http://www.fcc.gov>. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 or TTY (202) 418-7365.

### Summary of Memorandum Opinion and Order

1. On February 14, 2002, the Commission adopted a *First Report and Order* implementing regulations to permit the unlicensed operation of ultra-wideband transmission systems. Fourteen petitions for reconsideration were filed in response to that Order. In general, this Memorandum Opinion and Order ("MO&O") does not make any significant changes to the existing UWB technical parameters as the Commission is reluctant to do so until it has more experience with UWB devices. The Commission also believes that any major changes to the rules for existing UWB product categories at this early stage would be disruptive to current industry product development efforts.

2. The Commission reviewed the requests from the petitioners and granted those that will not increase the interference potential of UWB devices. It denied those requests that sought, without factual support, further restrictions on UWB operations. The Commission believes that the next 12 to 18 months should allow the