

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraph (c)(103) to read as follows:

§ 52.120 Identification of plan.

(c) (103) The following plan was submitted on February 7, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) Arizona Department of Environmental Quality.

(1) Bullhead City Moderate Area PM₁₀ Maintenance Plan and Request for Redesignation to Attainment, adopted on February 7, 2002.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 81.303 the PM₁₀ table is amended by revising the entry for the Mohave County (part) to read as follows:

§ 81.303 Arizona.**ARIZONA—PM₁₀**

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Mohave County (part): Bullhead City: T21N, R21W, excluding Lake Mead National Recreation Area: T20N, R21–22W; T19N, R22W excluding Fort Mohave Indian Reservation.	August 26, 2002	Attainment.		

¹ This date is November 15, 1990, unless otherwise noted.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 271**

[FRL–7237–2]

Wisconsin: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is granting Wisconsin final authorization of revisions to their hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Agency published a proposed rule on March 1, 2002 at 67 FR 9427 and provided for public comment. The public comment period ended on April 1, 2002. We received two comments, addressed below. The Agency had also published an immediate final rule on March 1, 2002, granting Wisconsin authorization for the revisions to their RCRA Program, subject to public comment; but withdrew that immediate final rule on April 22, 2002, so that it could respond to the comments before the rule went into effect. EPA is authorizing the State's changes through this final action. After reviewing the comments, we hereby determine that Wisconsin's hazardous waste program

revisions satisfies all requirements necessary to qualify for final authorization. No further opportunity for comment will be provided.

EFFECTIVE DATE: Final authorization for the revisions to Wisconsin's hazardous waste management program shall be effective on June 26, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Jean Gromnicki, Wisconsin Regulatory Specialist, U.S. Environmental Protection Agency, Waste, Pesticides and Toxics Division (DM–7J), 77 West Jackson Boulevard, Chicago, Illinois 60604, phone number: (312) 886–6162; or Ms. Patricia Chabot, Wisconsin Department of Natural Resources, 101 North Webster, Madison, Wisconsin, 53707, phone: (608) 264–6015.

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 Were the Comments and Responses to EPA's Proposal?

A commenter from the State of Washington submitted a comment alleging that EPA: (1) Should have hosted a public hearing; and (2) should have reviewed Wisconsin Chapter NR 538 on land application of nonhazardous waste. Noting that RCRA covers both solid and hazardous waste management, the commenter asks EPA to "include a review of Chapter NR 538 for consistency with Wisconsin's statutes prior to approval of Wisconsin's application for final RCRA authorization." For the reasons discussed below, this authorization action is not the appropriate forum for these comments.

1. Public Hearing

EPA is authorizing Wisconsin for a revision to its program, and is not required to hold a hearing for a revision. Wisconsin, which received final authorization for its RCRA program on January 31, 1986, is applying for a revision to its already authorized program to reflect revisions that have been made to the Federal RCRA Subtitle C program. The regulations governing review of program revisions at 40 CFR part 271 do not require a hearing for authorization of revisions. On March 4, 1986, EPA promulgated amendments to 40 CFR 271.21 that eliminated public hearing requirements for revisions. In the preamble, the Agency discussed this change:

As discussed in the proposal, the new procedures do not require public

hearings to be held in conjunction with EPA's authorization decisions. Since there is no legal requirement to provide for hearings on revision decisions and little public interest has been shown to date in attending hearings on initial authorization of State programs, we think the opportunity to provide written comments is adequate. Only one comment was received on the elimination of routine public hearings, and that comment favored the rule change* * *.

51 *FR* 7540 at 7541 (March 4, 1986).

2. Wisconsin Administrative Code Chapter NR 538

The comment regarding Chapter NR 538 of the Wisconsin Administrative Code is not relevant to this action because: (1) EPA is not authorizing Chapter NR 538, which explicitly excludes hazardous wastes from its application; (2) that Chapter does not affect the hazardous waste regulations, and (3) EPA's review of this application does not extend to that Chapter's consistency with Wisconsin law.

This action authorizes certain state hazardous waste regulations under subchapter III of RCRA. The regulations EPA is authorizing in this action do not include Chapter NR 538, which pertains to land application of non-hazardous waste.

Chapter NR 538 does not affect the regulations EPA is authorizing in this action. By its terms, that chapter does not apply to hazardous wastes:

NR 538.02 Applicability. (1) Except as otherwise provided, this chapter governs the beneficial use of industrial byproducts, *except hazardous waste* and metallic mining waste. (*Emphasis added*)

While both solid waste and its subset hazardous waste are regulated under the umbrella of the Resource Conservation and Recovery Act (RCRA), that statute contains different subchapters for governing the content, criteria and administration of hazardous waste programs and solid waste plans. Subchapter III of RCRA governs hazardous waste management. EPA's authority to "authorize" a state to administer and enforce a "hazardous waste program" under subchapter III of RCRA (*see* section 3006 of RCRA, 42 U.S.C. 6926) does not constitute "approval" of either a State solid waste plan (*see* section 4007(a) of RCRA, 42 U.S.C. 6947(a)) or a solid waste management facility permit program (*see* section 4005(c) of RCRA, 42 U.S.C. 6945(c)) under subchapter IV of RCRA. The criteria for authorization of a State hazardous waste program are set forth at section 3006 of RCRA. In reviewing an

application under this section, EPA considers whether the State program (1) is equivalent to the Federal program under subchapter III, which governs hazardous waste; (2) is consistent with Federal or "State programs applicable in other States;" and (3) provides adequate enforcement of compliance with the requirements of subchapter III of RCRA. As part of this review, EPA considers whether the State is imposing requirements less stringent than those authorized under subchapter III respecting the same matter as governed by such regulation. (*See* sections 3006 and 3009 of RCRA, 42 U.S.C. 6926 and 6929.) The commenter's request for EPA to review Wis. Admin. Code Chapter NR 538, which explicitly does not apply to hazardous waste, for consistency with Wisconsin's statutes falls outside the scope of our review of Wisconsin's application for the hazardous rules authorized herein.

For the reasons set forth above the comment on Wisconsin Administrative Code Chapter NR 538 is not relevant to this action.

C. What Decisions Have We Made in This Rule?

We conclude that Wisconsin's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we are granting Wisconsin Final authorization to operate its hazardous waste program with the changes described in the authorization application. Wisconsin 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 Wisconsin, including issuing permits, until the State is granted authorization to do so.

D. What Will Be the Effect of Today's Action?

The effect of this decision is that a facility in Wisconsin subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Additionally, such persons must

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. Wisconsin continues to have enforcement responsibilities under its state hazardous waste program for violation of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include among others, authority to:

A. Do inspections, and require monitoring, tests, analyses or reports.

B. Enforce RCRA requirements and suspend or revoke permits.

C. Take enforcement actions regardless of whether the State has taken its own actions.

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

E. What Has Wisconsin Previously Been Authorized For?

Wisconsin initially received Final Authorization on January 30, 1986, effective January 31, 1986 (51 *FR* 3783), to implement its base hazardous waste management program. Wisconsin received authorizations for revisions to its program on May 23, 1989, effective June 6, 1989 (54 *FR* 15029); on November 22, 1989, effective January 22, 1990 (54 *FR* 48243); on April 24, 1992, effective April 24, 1992 (57 *FR* 15029); on June 2, 1993, effective August 2, 1993 (58 *FR* 31344); on August 4, 1994, effective October 4, 1994 (59 *FR* 39971); and on August 5, 1999, effective October 4, 1999 (64 *FR* 42630).

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

On November 5, 2001, Wisconsin submitted a final complete program revision application seeking authorization of their changes in accordance with 40 CFR 271.21. We now make a final decision, that Wisconsin's hazardous waste program revisions satisfies all of the requirements necessary to qualify for Final authorization. Therefore we grant Wisconsin Final authorization for the following program changes:

Description of Federal requirement (Checklist #)	Federal Register date and page	Analogous State authority
Wastes From the Use of Chlorophenolic Formulations in Wood Surface Protection (Checklist 128).	59 FR 458–469 January 4, 1994	NR 600.10(2) 605 (Appendix IV) Effective June 1, 1998
Revision of Conditional Exemption for Small Scale Treatability Studies (Checklist 129).	59 FR 8362–8366 February 18, 1994	NR 605.05(9)–(11) Effective June 1, 1998
Recycled Used Oil Management Standards; Technical Amendments and Corrections II (Checklist 130).	59 FR 10550–10560 March 4, 1994	NR 590.03(33m), 590.04(1), 590.10(3), 590.11, 590.12(2), 590.36(1), 590.37(1)–(2), 590.50(3) Effective June 1, 1998
Wood Surface Protection; Correction (Checklist 132).	59 FR 28484 June 2, 1994	NR 600.10(2) Effective June 1, 1998
Letter of Credit Revision (Checklist 133)	59 FR 29958–29960 June 10, 1994	NR 685.07(5) Effective June 1, 1998
Correction of Beryllium Powder (PO15) Listing (Checklist 134).	59 FR 31551–31552 June 20, 1994	NR 605.09 (Table IV), 605 Appendix IV, 675.20/Table Effective June 1, 1998
Recovered Oil Exclusion (Checklist 135)	59 FR 38536–38545 July 28, 1994	NR 605.04(1), 605.05(1)–(2), 625.07(2) Effective June 1, 1998
Removal of the Conditional Exemption for Certain Slag Residues (Checklist 136).	59 FR 43496–43500 August 24, 1994	NR 625.05(1), 675.20 Effective June 1, 1998
Universal Treatment Standards and Treatment Standards for Organic Toxicity Characteristic Wastes and Newly Listed Wastes (Checklist 137).	59 FR 47982–48110 September 19, 1994 as amended at 60 FR 242–302 January 3, 1995.	NR 605(2), 630.04(16), 625.05(1), 600.04, 675.03(1m), 675.04(2), 675.03(1), 675.03(7p), 675.07(1)–(2), 675.09(1), (4)–(5), 675.19(1), 675.20(1)–(7), 675.20/Table, 675.21, 675.22, 675.22(1), 675.22 Table1, 675.22(4)–(5), 675.23, 675.25(2), 675.26, 675.28, 675 Appendix III, 675 Appendix VIII Effective June 1, 1998
Testing and Monitoring Activities Amendment I (Checklist 139).	60 FR 3089–3095 January 13, 1995	NR 600.10(2) Effective June 1, 1998
Carbamate Production Identification and Listing of Hazardous Waste (Checklist 140).	60 FR 7824–7859 February 9, 1995	NR 605.04(1), 605.09 Table III, 605.09 Table IV, 605.09 Table V, 605 Appendix III, Appendix IV Effective June 1, 1998
Testing and Monitoring Activities Amendment II (Checklist 141).	60 FR 17001–17004 April 4, 1995	NR 600.10(2) Effective June 1, 1998
Universal Waste: General Provisions (Checklist 142 A).	60 FR 25492–25551 May 11, 1995	NR 600.03, 600.03 (56m), 600.03 (249m), 600.03(249p), 600.03 (249z), 610.07(1m), 610.07(1), 690.01, 690.02, 690.04, 615.04, 615.05, 615.06(6), 630.04(17), 605.05(12), 675.04(3), 680.02, 690.04(1)–(2), 690.08(1), 690.03(2), 690.03(4)–(6), 690.03(8), 690.03(10)–(13), 690.10, 690.11, 690.12(2), 690.14, 690.15(1)–(3), 690.16, 690.17(1)–(2), 690.18(1)–(8), 690.19, 690.20, 690.30, 690.31, 690.32(1)–(2), 690.34, 690.35(1)–(3), 690.36, 690.37(1)–(2), 690.38(1)–(8), 690.39(1)–(3), 690.40, 690.50, 690.51, 690.52(1)–(2), 690.53(1)–(2), 690.54(1)–(2), 690.55(1)–(2), 690.56, 690.60(1)–(2), 690.61(1)–(4), 690.62(1)–(2), 690.70 Effective June 1, 1998
Universal Waste Rule: Specific Provisions for Batteries (Checklist 142 B).	60 FR 25492–25551 May 11, 1995	NR 690.03(1), 690.03(10), 690.02(1), 630.04(17), 625.02, 625.05, 625.12(1), 675.04(3), 690.04(1), 690.05(1)–(3), 690.03, 690.13, 690.14, 690.33, 690.34 Effective June 1, 1998
Universal Waste Rule: Specific Provisions for Pesticides (Checklist 142 C).	60 FR 25492–25551 May 11, 1995	NR 690.03(7), 690.03(10), 605.05(12), 690.04(1), 630.04(17), 675.04(3), 680.02, 690.06(1)–(4), 690.03(3), 690.03(7), 690.03(10), 690.13(2), 690.14(2)–(3), 690.32(1), 690.33(2), 690.34(2)–(3) Effective June 1, 1998
Universal Waste Rule: Specific Provisions for Thermostats (Checklist 142 D).	60 FR 25492–25551 May 11, 1995	NR 605.05(12), 630.04(17), 690.04(1), 675.04(3), 680.02, 690.07, 690.03(9)–(10), 690.13(3), 690.14(4), 690.33(3), 690.34(4) Effective June 1, 1998
Universal Waste Rule: Petition Provisions to Add a New Universal Waste (Checklist 142 E).	60 FR 25492–25551 May 11, 1995	NR 605.10(1)–(2), 605.10(6)–(7), 690.80(1)–(3), 690.81(1)–(8) Effective June 1, 1998
Liquids in Landfills III (Checklist 145)	60 FR 35703–13106 July 11, 1995	NR 660.18(8) Effective June 1, 1998
RCRA Expanded Public Participation (Checklist 148).	60 FR 63417–63434 December 11, 1995	NR 680.06(1m), 680.06(8m), 680.06(15), 600.03(104), 680.03(3m), 680.42(18m), 680.07(7), 665.06(1), 665.07(2), 665.06(4), 665.06(1), 665.02 Effective June 1, 1998

Description of Federal requirement (Checklist #)	Federal Register date and page	Analogous State authority
Amendments to the Definition of Solid Waste: Amendment II (Checklist 150).	61 <i>FR</i> 13103–13106 March 26, 1996	NR 605.05(1) Effective June 1, 1998
Land Disposal Restriction Phase III Decharacterized Wastewaters, Carbamate Wastes and Spent Potliners (Checklist 151).	61 <i>FR</i> 15566–15660 April 8, 1996	NR 600.04(1), 675.05(3), 675.03(1m), 675.03(4m), 675.03(7p), 675.03(8), 675.04(2), 675.06(1)-(3), 675.07(1)-(2), 675.09(1), 675.09(4), 675.19(2), 675.20(1), 675.20(6), 675.20, Table, 675.22/Table 1, 675.24(1), 675.28(a) and Table UTS, 675 Appendix IX Effective June 1, 1998

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

Wisconsin has proposed specific parts of Federal Regulation to be more

stringent than Federal requirements. These requirements are part of Wisconsin's authorized program and are federally enforceable.

Description of Federal requirement	Federal citation number (checklist number)	State citation number
Revision of Conditional Exemption for Small Scale Treatability Studies (Checklist 129).	261.4(e)(3)(iii)(A)	605.05(10)(e)1.
Recovered Oil Exclusion (Checklist 135)	261.4(f)(4)	605.05(11)(d).
Removal of the Conditional Exemption for Certain Slag Residues (Checklist 136).	261.3(c)(2)(ii)(B)	605.04(1)(b)10.
Universal Treatment Standards and Treatment Standards for Organic Toxicity Characteristic Wastes and Newly Listed Wastes (Checklist 137).	261.4(a)(12)	605.05(1)(x).
	266.20(c)	625.05(1).
	260.30 intro	There is no Wisconsin waiver to the definition of Solid Waste.
	260.30(b)	
	260.31(a), 260.31(b)	Wisconsin does not have a provision like 260.31(a). Materials that are speculatively accumulated must be managed as hazardous waste (see 605.05(4)).
	260.32 intro, 260.33 intro, 260.33(a), 260.33(b).	Wisconsin does not have a boiler variance provision.
	266.23(a)	625.05(1).
	268.1(c)(3)(ii), 268.1(c)(3)(iii)	600.04(1).
	268.7(a)(8)	600.04.
	268.7(b)(4)(ii)	675.07(1)(j).
	268.38(a)	675.07(2)(d)b.
	268.38(b)	675.19(1)(a).
Carbamate Production Identification and Listing of Hazardous Waste (Checklist 140).	261.3(a)(2)(iv)(F), 261.3(a)(2)(iv)(G)	675.19(1)(b).
	261.3(c)(2)(ii)(D)	There is no exemption 261.3(a)(2)(iv)(F) or (G) in the Wisconsin Code.
Universal Waste Rule: Petition Provisions to Add New Universal Waste (Checklist 145).	264.314(e)(2)(ii), 264.314(e)(2)(iii), 265.314(f)(2)(ii), 265.314(f)(2)(iii).	There is no Wisconsin citation for 261.3(c)(2)(ii)(D).
Land Disposal Restrictions Phase III—Decharacterized Wastewaters, Carbamate Wastes, Spent Potliners (Checklist 151).	268.1(c)(3), 268.1(c)(3)(i), 268.1(c)(3)(ii), 268.1(c)(3)(iii), 268.1(c)(4), 268.1(c)(4)(i), 268.1(c)(4)(ii), 268.1(c)(4)(iii), 268.1(c)(4)(iv).	660.18(8)(b) Wisconsin does not allow OECD Test 301B, rules are more restrictive in defining a non-biodegradable sorbents.
	268.7(a)(1)(vi)	600.04(1) Note: Underground injection is prohibited.
	268.39(b)	675.07(a)(d).
	268.39(c)	674.19(2)(b).
	268.39(d)	675.19(2)(c).
	2678.39(f)	675.19(2)(e).
	268.40(a)	675.19(2)(g).
	268.40(g)	675.20(1).

H. Who Handles Permits After Authorization Takes Effect?

Wisconsin will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this

authorization until they expire or are terminated. 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 will continue to implement and issue permits for HSWA requirements for which Wisconsin is not yet authorized.

I. How Does Today's Action Affect Indian Country (18 U.S.C. 115) in Wisconsin?

Wisconsin 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 Wisconsin;

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.

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

K. Administrative Requirements

The Office of Management and Budget (OMB) has exempted RCRA authorizations from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore, a decision to authorize Wisconsin for these revisions is not subject to review by OMB. Furthermore, 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 authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. This authorization will effectively suspend the applicability of certain Federal regulations in favor of Wisconsin's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. Authorization will not impose any new burdens on small entities. Accordingly, I certify that these revisions will not have a significant economic impact on a substantial number of small entities under the Regulator 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 (Public Law 104-4). This action 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. A decision to authorize Wisconsin for these revisions 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 action does not include environmental justice related issues that require consideration under Executive Order 12898 (59 FR 7629, February 16, 1994).

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 any Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings issued under the Executive Order. A decision to authorize Wisconsin's revisions will 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, 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: June 12, 2002.

Bharat Mathur,

Acting Regional Administrator, Region 5.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 25 and 101

[ET Docket No. 98-206; RM-9147; RM-9245; FCC 02-116]

Order To Permit Operation of NGSO FSS Systems Co-Frequency With GSO and Terrestrial Systems in the Ku-Band Frequency Range; Authorize Subsidiary Terrestrial Use of the 12.2-12.7 GHz Band by Direct Broadcast Satellite Licensees and Their Affiliates; and in Re Applications of Broadwave USA, PDC Broadband Corporation, and Satellite Receivers, Ltd. in the 2.2-12.7 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission addresses petitions for reconsideration and establishes technical, service and licensing rules for Multichannel Video Distribution and Data Service (MVDDS) in the 12 GHz band. MVDDS will facilitate the delivery of new communications services, such as video and broadband