

and by approving it certifies that this rule will not have a significant economic impact upon a substantial number of small entities. This rule pertains to agency management, and its economic impact is limited to the agency's appropriated funds.

#### *Unfunded Mandates Reform Act of 1995*

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, the Director of CSOSA has determined that no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### *Small Business Regulatory Enforcement Fairness Act of 1996*

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

#### *Plain Language Instructions*

If you have suggestions on how to improve the clarity of these regulations, write, e-mail, or call the Records Manager (Roy Nanovic) at the address or telephone number given above in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** captions.

#### **List of Subjects in 28 CFR Part 812**

Probation and parole.

■ Accordingly, CSOSA adopts the interim rule published at 67 FR 54098 which added part 812 to chapter VIII, title 28 of the Code of Federal Regulations as a final rule with the following editorial amendments.

**Paul A. Quander, Jr.,**  
*Director.*

#### **PART 812—COLLECTION AND USE OF DNA INFORMATION**

■ 1. The authority citation for part 812 continues to read as follows:

**Authority:** 5 U.S.C. 301; Pub. L. 106–546 (114 Stat. 2726).

#### **§ 812.4 [Amended]**

■ 2. In paragraph (b)(3) of § 812.4, remove the word “provided” and insert the word “provide” in its place.

#### **Appendix A to Part 812 [Amended]**

■ 3. In item (9) of Table 1 of Appendix A to part 812, remove the word “act” and insert the word “Act” in its place.

[FR Doc. 03–9931 Filed 4–21–03; 8:45 am]

**BILLING CODE 3129–01–P**

### **DEPARTMENT OF THE INTERIOR**

#### **Office of Surface Mining Reclamation and Enforcement**

#### **30 CFR Part 938**

**[PA–139–FOR]**

#### **Pennsylvania Regulatory Program**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** We are announcing the removal of a required amendment to the Pennsylvania regulatory program (the “Pennsylvania program”) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). We are removing the required amendment because the Federal regulation upon which the required amendment was based no longer exists.

**EFFECTIVE DATE:** April 22, 2003.

**FOR FURTHER INFORMATION CONTACT:** George Rieger, Telephone: (717) 782–4036. Email: [grieger@osmre.gov](mailto:grieger@osmre.gov).

#### **SUPPLEMENTARY INFORMATION:**

- I. Background on the Pennsylvania Program
- II. Submission of the Proposed Amendment
- III. OSM's Findings
- IV. Summary and Disposition of Comments
- V. OSM's Decision
- VI. Procedural Determinations

#### **I. Background on the Pennsylvania Program**

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, “a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act \* \* \*; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.” See 30 U.S.C.

1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Pennsylvania program on July 30, 1982. You can find background information on the Pennsylvania program, including the Secretary's findings, the disposition of comments, and conditions of approval in the July 30, 1982, **Federal Register** (47 FR 33050). You can also find later actions concerning Pennsylvania's program and program amendments at 30 CFR 938.11, 938.12, 938.15 and 938.16.

#### **II. Submission of the Proposed Amendment**

In the January 7, 2003, **Federal Register** (68 FR 721), we announced our proposal to remove the required amendment to Pennsylvania's program found at 30 CFR 938.16(ss). OSM proposed to remove the required amendment because the Federal regulation upon which the required amendment was based no longer exists. In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendments adequacy. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on February 6, 2003. We did not receive any comments.

#### **III. OSM's Findings**

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment.

At 30 CFR 938.16(ss), OSM required Pennsylvania to submit a change to its regulations under the ownership and control provisions concerning an applicant's eligibility for receiving a permit when outstanding violations are present. Specifically, it mandates that Pennsylvania amend 25 Pa. Code 86.37(a)(8) and (11) to require a permit applicant to submit proof that a violation has been corrected or is in the process of being satisfactorily corrected within 30 days of the initial judicial review affirming the violation.

The Federal provision corresponding to the required amendment at 938.16(ss) was formerly located at 30 CFR 773.15(b)(1)(ii). However, on December 19, 2000, we made changes to the Federal rules regarding ownership and control that eliminated this provision (65 FR 79582). In discussing the rule change at 30 CFR 773.15(b)(1)(ii), we noted:

Under the previous rule at § 773.15(b)(1)(ii), the permittee had 30 days from the date that the initial judicial review

decision affirmed the validity of the violation to submit proof that the violation was being corrected to the satisfaction of the agency with jurisdiction over the violation. In contrast, final § 773.14(c) requires that the regulatory authority initiate action to suspend or revoke the permit as improvidently issued if the disposition of challenges or administrative or judicial appeals affirms the violation or ownership or control listing or finding. We made this change to ensure prompt implementation of the section 510(c) permit block sanction once the validity of a violation or ownership or control listing or finding is affirmed on appeal. (The previous rule did not specify what action the regulatory authority must take if the permittee did not submit the required proof within 30 days.) 65 FR at 79623.

Because the required amendment at 30 CFR 938.16(ss) required the State to comply with the previous regulations found at 30 CFR 773.15(b)(1)(ii) rather than new Federal regulations found at 30 CFR 773.14(c), it is now unnecessary and we are therefore removing it.

#### IV. Summary and Disposition of Comments

##### *Public Comments*

We asked for public comments on the amendment in a January 7, 2003, **Federal Register** notice (68 FR 721) but did not receive any.

##### *Federal Agency Comments*

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Pennsylvania program (Administrative Record No. 844.06).

##### *Environmental Protection Agency (EPA) Concurrence*

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). We did not seek EPA concurrence on this amendment because we determined that it contains no such provisions.

##### *State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)*

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On March 1, 2002, we requested comments on Pennsylvania's amendment (Administrative Record No.

844.06), but neither the SHPO nor the ACHP responded to our request.

#### V. OSM's Decision

Based on the above findings, we are removing the required amendment. To implement this decision, we are amending the Federal regulations at 30 CFR part 938, which codify decisions concerning the Pennsylvania program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the Pennsylvania program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

#### VI. Procedural Determinations

##### *Executive Order 12630—Takings*

This rule does not have takings implications because we have removed the counterpart Federal regulation upon which the required amendment was based. Therefore, we are requiring no action by the State.

##### *Executive Order 12866—Regulatory Planning and Review*

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

##### *Executive Order 12988—Civil Justice Reform*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

##### *Executive Order 13132—Federalism*

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the

regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

##### *Executive Order 13175—Consultation and Coordination With Indian Tribal Governments*

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. The basis for this determination is that our decision is on a State regulatory program and does not involve a Federal program involving Indian tribes.

##### *Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy*

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

##### *National Environmental Policy Act*

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

##### *Paperwork Reduction Act*

This rule does not contain information collection requirements that

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).

[FR Doc. 03-9841 Filed 4-21-03; 8:45 am]

**BILLING CODE 4310-05-P**

## **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.