

Suite 350, 1099 14<sup>th</sup> St., NW.,  
Washington, DC 20005.

## PART 180—[AMENDED]

■ 26. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 27. In § 180.33, revise the second sentence of paragraph (l) and the fourth sentence of paragraph (m) to read as follows:

### § 180.33 Fees.

\* \* \* \* \*

(l) \* \* \* A request for waiver or refund of a fee shall be submitted to the Office of Pesticide Programs' Document Processing Desk at the appropriate address as set forth in 40 CFR 150.17(a) or (b). \* \* \*

(m) \* \* \* The actual letter or petition, along with supporting data, shall be forwarded within 30 days of payment to the Office of Pesticide Programs' Document Processing Desk at the appropriate address as set forth in 40 CFR 150.17(a) or (b). \* \* \*

\* \* \* \* \*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 262

[EPA-R01-RCRA-2006-0391; FRL-8186-3]

### Extension of Site-Specific Regulations for University Laboratories XL Project

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is taking direct final action to extend the expiration date of the New England University Laboratories XL Project (Labs XL Project) rule that EPA previously promulgated under the eXcellence and Leadership program (Project XL), allowing laboratories at certain universities in Massachusetts and Vermont to follow certain alternative RCRA generator requirements. In this action, EPA is extending the expiration date from September 30, 2006 to a new date of April 15, 2009. EPA is making no further changes to the Labs XL Project regulations other than the change in expiration date.

**DATES:** This direct final rule will be effective on August 21, 2006, without further notice, unless EPA receives adverse written comments by July 21, 2006. If EPA receives adverse

comments, EPA will publish a timely withdrawal notice in the **Federal Register** indicating that this direct final rule has been withdrawn due to adverse comment.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R01-RCRA-2006-0391, by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *E-mail*: [biscaia.robin@epa.gov](mailto:biscaia.robin@epa.gov).
- **Mail**: Robin Biscaia, Hazardous Waste Unit, Office of Ecosystems Protection, EPA Region I, One Congress Street, Suite 1100 (Mail Code: CHW), Boston, MA 02114-2023.
- **Hand Delivery**: Robin Biscaia, Hazardous Waste Unit, Office of Ecosystems Protection, EPA Region I, One Congress Street, Suite 1100 (Mail Code: CHW), Boston, MA 02114-2023. Such deliveries are only accepted during the EPA's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R01-RCRA-2006-0391. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site 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 *www.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.

**Docket:** EPA has established a docket for this action under Docket ID No. EPA-R01-RCRA-2006-0391. All documents in the docket are listed on the *www.regulations.gov* web site. Although listed in the index, some information may not be publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the EPA New England Library, One Congress Street—11th Floor, Boston, MA 02114-2023, business hours Monday through Thursday 10 a.m. to 3 p.m., telephone: (617) 918-1990. Records in these dockets are available for inspection and copying during normal business hours.

#### FOR FURTHER INFORMATION CONTACT:

Robin Biscaia, Hazardous Waste Unit, EPA New England, One Congress Street, Suite 1100 (Mail Code: CHW), Boston, MA 02114-2023, telephone: (617) 918-1642, e-mail: [biscaia.robin@epa.gov](mailto:biscaia.robin@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Previously, on October 21, 2003, the EPA proposed an extension of the original expiration date of the Labs XL Project. EPA received no negative public comments in response to the proposal, and published a final rule on March 12, 2004. EPA is again extending the expiration date, this time as a direct final rule, without prior proposal, because the Agency views the extension as non-controversial and anticipates no adverse comments.

Unless the EPA gets written comments which oppose this action during the comment period, the decision will take effect as provided below. If EPA gets comments that oppose this action, EPA will withdraw this direct final rule and it will not take effect. EPA will then address the public comments in a later final rule, but may not provide any further opportunity for comment beyond what is being provided for in this document. Any parties interested in commenting on this action should do so during the comment period being provided for in this action.

##### A. Why Is the EPA Extending the Expiration Date of Its XL Project Regulations?

As indicated above, EPA is extending the expiration date of September 30, 2006 set forth in 40 CFR 262.108 of the Labs XL Project regulations until April

15, 2009. The original rule implementing the Labs XL Project took effect on September 28, 1999 and allowed four years for the colleges to demonstrate the beneficial aspects of the new management system expiring on September 30, 2003. *See* 40 CFR 262.108. EPA later determined that an extension was appropriate, and published a **Federal Register** on October 21, 2003 (68 FR 60060) proposing a three-year extension (until September 30, 2006) of the Labs XL Project regulations. EPA received no negative public comments in response to the proposal, and finalized the extension on March 12, 2004 (69 FR 11801). In the meantime, EPA has been developing a national set of alternative regulations for academic laboratories that are similar to the Labs XL Project regulations. However, since these alternative regulations for academic laboratories will not be in place prior to the expiration of the current September 30, 2006 Labs XL Project regulations, if the Labs XL Project was not extended, there would be a period of time in which labs participating in the Labs XL Project would have to terminate their participation in the program and would not be able to benefit from alternative generator regulations, either under the Labs XL Project (since this would have expired) or under the National Labs Rule that EPA is developing (since this would not have been finalized). For this reason, EPA has decided to extend the expiration date of the Labs XL Project to allow time for a national set of alternative regulations to be promulgated and for equivalent regulations to be adopted by the States. EPA is proposing an extension of approximately two and a half years because the Agency believes that this would be a reasonable period of time for EPA to promulgate its National Labs Rule, and for the States to adopt equivalent regulations. Of course, nothing in this rule pre-judges what general Federal and State regulations ultimately will be adopted—rather, it simply gives an opportunity for alternative general regulations to be adopted before the expiration of the Labs XL Project.

Also, EPA Region I recently has done an analysis of the Labs XL Project, which is available in the Docket. Based on this analysis, and other oversight of the project, the EPA believes that the continuation of the project should provide a superior level of environmental protection in comparison to an immediate return by the three covered institutions to standard RCRA regulation.

EPA is publishing this rule without prior proposal because the Agency views it as a non-controversial action. The Agency anticipates no adverse comments, since none were received during the previous comment period to extend the original expiration date. However, in the “Proposed Rules” section of this **Federal Register** publication, EPA is publishing a separate, parallel document that will serve as a proposal to extend the current expiration date if the Agency receives adverse comments.

#### *B. What Is the University Labs XL Project?*

EPA announced Project XL—“eXcellence and Leadership” in May 1995 as a part of the National Performance Review and the EPA’s effort to reinvent environmental protection. *See* 60 FR 27282 (May 23, 1995). Project XL provides a limited number of private and public regulated entities an opportunity to develop pilot projects to provide regulatory flexibility that would result in environmental protection that is superior to what would be achieved through compliance with current standard regulations and reasonably anticipated future regulations.

One of the projects that EPA approved under Project XL was the Labs XL project. This project was intended to provide certain flexibility under RCRA for: (1) The University of Massachusetts—Boston, Boston, MA; (2) Boston College, Chestnut Hill, MA; and (3) the University of Vermont, Burlington, VT (the “participating universities”). On September 28, 1999, EPA, the participating universities, the Massachusetts Department of Environmental Protection and the Vermont Department of Environmental Conservation signed the Final Project Agreement for the project. That agreement and the related specially adopted Federal and State regulations allow the participating universities to comply with the terms of their Environmental Management Plans (EMPs) for their laboratories in place of certain standard requirements for hazardous waste generators, during a trial period. In order to allow this experiment, the EPA promulgated certain regulations in 1999 which are set forth in 40 CFR 262.10(j) and 40 CFR 262.100—108. *See* 64 FR 52380 (September 28, 1999) (final rulemaking) and 64 FR 40696 (July 27, 1999) (proposed rulemaking). The reasons for promulgating these particular EPA regulations are fully set forth in those previous rulemaking notices and will not be repeated here. These EPA

regulations were designed to enable the EPA to authorize as part of a State’s RCRA authorized program State regulations that were different from the standard EPA regulations, in order to implement the Labs XL project.

After EPA promulgated its Labs XL Project regulations, both Massachusetts and Vermont promulgated their own state regulations establishing equivalent alternative standards for laboratories at the participating universities. The Vermont regulations were authorized by the EPA and became part of the federally enforceable Vermont RCRA program on October 26, 2000. *See* 65 FR 64164. The Massachusetts regulations were authorized by the EPA and became part of the federally enforceable Massachusetts RCRA program on March 12, 2004. *See* 69 FR 11801.

#### *C. What Is the Federal Regulation Change in This Rule?*

The Federal regulation change in this direct final rule is to extend the expiration date in 40 CFR 262.108 from September 30, 2006 to April 15, 2009. EPA is making no further changes to the Labs XL Project regulations. The regulation change is set out at the end of this document.

## **II. Statutory and Executive Order Reviews**

The EPA has examined the effects of the change to the Federal regulations and reached the conclusions set out below.

#### *A. Executive Order 12866: Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is “significant” and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines “significant regulatory action” as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely effect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof;
- (4) Raise novel legal or policy issues arising out of legal mandates, the

President's priorities, or the principles set forth in the Executive Order.

Because the annualized cost of these actions will be significantly less than \$100 million and because these actions will not meet any of the other criteria specified in the Executive Order, it has been determined that this rule is not a "significant regulatory action" under the terms of the Executive Order and is therefore not subject to OMB review.

#### B. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or final rule. The Labs XL Project applies to only three universities, and any reporting obligations for nine or fewer sources are not subject to the Paperwork Reduction Act. Therefore, no information collection request (ICR) was submitted to OMB for review under the Paperwork Reduction Act.

#### C. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking under the Administrative Procedure Act or other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

In determining whether a rule has a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, the impact of concern is any significant adverse economic impact, since the primary purpose of any regulatory flexibility analysis would be to identify and address regulatory alternatives "which minimize any significant economic impact of the proposed rule on small entities." 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. The Labs XL Project applies to only three universities. Also, the rule increases flexibility—thus relieving the regulatory burden. Accordingly, the EPA hereby certifies 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.*). Thus a regulatory

flexibility analysis is not required to be prepared under that Act.

#### D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating a EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopts the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. In addition, before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments about the regulatory requirements, enabling officials of affected small governments to have meaningful and timely input in the development of the EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the section 202 and 205 requirements do not apply to this action because the rule does not contain a Federal mandate that may result in annual expenditures of \$100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local or tribal governments and the private sector already exist under the State program, and the actions will not impose any additional obligations on regulated entities. Thus the requirements of section 203 that the

EPA develop a small government agency plan will not apply to this rule.

#### E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires the EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications." "Policies that have Federalism implications" is defined in the Executive Order to include regulations that 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."

This rule does not have federalism implications. It 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. This rule does not create a mandate on State, local, or tribal governments and does not impose any enforceable duties on these entities. Thus, Executive Order 13132 does not apply to this rule.

#### F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires the EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and the Indian tribes."

The actions will not have tribal implications, as defined by the Executive Order, because they will have no direct effect in Indian Country. None of the three universities participating in the XL project are located in Indian Country; therefore, this rule does not significantly or uniquely affect the communities of Indian tribal governments. Thus, Executive Order 13175 does not apply to this rule.

*G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks," applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that the EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866. In addition, it does not concern environmental health or safety risks that the EPA has reason to believe may have a disproportionate effect on children.

*H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not subject to Executive Order 13211 because that Executive Order applies only to rules that are "significant" under Executive Order 12866, and this rule is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rule does not involve technical standards covered by voluntary consensus standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

*J. Congressional Review Act*

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 is submitting 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**. In addition, 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 in 5 U.S.C. 804(2). However, it nevertheless will take effect in 60 days in accordance with the procedures applicable to direct final rules.

**List of Subjects in 40 CFR Part 262**

Environmental protection, Hazardous waste, Reporting and recordkeeping requirements.

**Authority:** The Federal regulation change is being made under the authority of the Resource Conservation and Recovery Act (RCRA) sections 2002 and 3002, 42 U.S.C. 6912 and 6922.

Dated: June 12, 2006.

**Robert W. Varney,**  
Regional Administrator, EPA New England.

■ For the reasons set forth in the preamble, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

**PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE**

■ 1. The authority citation for part 262 continues to read as follows:

**Authority:** 42 U.S.C. 6906, 6912, 6922–6925, 6937, and 6938.

**Subpart J—University Laboratories XL Project—Laboratory Environmental Management Standard**

■ 2. Section 262.108 is revised to read as follows:

**§ 262.108 When will this subpart expire?**

This subpart will expire on April 15, 2009.

[FR Doc. E6–9754 Filed 6–20–06; 8:45 am]

**BILLING CODE 6560–50–P**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 2, 25, and 87**

[ET Docket No. 02–305, FCC 06–62]

**World Radiocommunication Conferences Concerning Frequency Bands above 28 MHz**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document denies a Petition for Partial Reconsideration filed by AirTV Limited in response to the Commission's *S-Band Allocation Order*, which, *inter alia*, deleted the unused Broadcasting Satellite Service (BSS) allocation from the band 2500–2690 MHz and removed a related footnote from the Table of Frequency Allocations (Table). We continue to believe that the decision in the *S-Band Allocation Order* serves the public interest because it will prevent terrestrial licensees in the band 2500–2690 MHz from incurring the costs of mitigating the interference expected from BSS systems, such as the one proposed by AirTV.

**DATES:** Effective July 21, 2006.

**FOR FURTHER INFORMATION CONTACT:** Patrick Forster, Office of Engineering and Technology, Policy and Rules Division, (202) 418–7061, e-mail: [Patrick.Foster@fcc.gov](mailto:Patrick.Foster@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Order on Reconsideration*, ET Docket No. 02–305, FCC 06–62, adopted May 3, 2006 and released May 8, 2006. The full text of this document is available on the Commission's Internet site at <http://www.fcc.gov>. It is also 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 full text of this document also may be purchased from the Commission's duplication contractor, Best Copy and Printing Inc., Portals II, 445 12th St., SW., Room CY–B402, Washington, DC 20554; telephone (202) 488–5300; fax (202) 488–5563; e-mail [FCC@BCPIWEB.COM](mailto:FCC@BCPIWEB.COM).

**Summary of the Order on Reconsideration**

1. In the *Order on Reconsideration*, the Commission denies a Petition for Partial Reconsideration (Petition) filed by AirTV Limited (AirTV) in response to the Commission's *S-Band Allocation Order*, which, *inter alia*, deleted the unused Broadcasting Satellite Service (BSS) allocation from the band 2500–