

of the departing U.S. Navy aircraft or Helicopter Carrier as it transits the Port of New York and New Jersey from its mooring at the Intrepid Sea, Air and Space Museum, Manhattan, to the COLREGS Demarcation line at Ambrose Channel Entrance Lighted Bell Buoy 2 (LLNR 34805).

(ii) *Enforcement period.* Paragraph (a)(5)(i) of this section enforced annually on the Wednesday following Memorial Day. Departure time is dependent on tide, weather, and granting of authority for departure by the Captain of the Port, New York.

(b) *Effective period.* This section is effective annually from 8 a.m. on the Wednesday before Memorial Day until 4 p.m. on the Wednesday following Memorial Day.

(c) *Regulations.*

(1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: February 11, 1999.

R.E. Bennis,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 99-4590 Filed 2-23-99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-6303-9]

Massachusetts: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to grant final authorization to the Commonwealth of Massachusetts for revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). Massachusetts' program revisions address two rules promulgated by the Environmental Protection Agency: the Toxicity Characteristics (TC) Rule of March 29, 1990 (55 FR 11748) which was promulgated under the authority of

the Hazardous and Solid Waste Amendments (HSWA) to RCRA and subsequent revisions to that rule which are contained in HSWA Cluster II, RCRA Cluster I and RCRA Cluster III; and the Universal Waste Rule (UWR) of May 11, 1995 (60 FR 25492) which is contained in RCRA Cluster V. The EPA has reviewed The Commonwealth of Massachusetts' application and has made a decision, subject to public review and comment. The Agency finds that the State's hazardous waste program revisions, except for a provision which relates to the Toxicity Rule and exempts intact Cathode Ray Tubes (CRTs) from hazardous waste regulation, satisfy all of the requirements necessary to qualify for final authorization. Thus, the EPA is proposing to approve the authorization of Massachusetts for the TC Rule for all wastes other than CRTs, and disapprove the rule as it applies to or gives the state federally delegated authority over CRTs. The EPA also is proposing to approve the authorization of Massachusetts for the UWR. The rationale and specific provisions for which EPA is recommending Massachusetts be authorized are provided in Section B of this notice. Massachusetts' application for program revision is available for public review. EPA will respond to public comments in a later final rule based upon this proposal. EPA may not provide further opportunity for comment. Any parties interested in commenting on this action should do so at this time. The proposal approvals (and partial disapproval) of Massachusetts' program revisions shall become effective as specified when the Regional Administrator's final decisions are published in the **Federal Register**.

DATES: Written comments must be received by March 26, 1999.

ADDRESSES: Copies of the Commonwealth of Massachusetts' revision application and the materials which EPA used in evaluating the revision (the "Administrative Record") are available for inspection and copying during normal business hours at the following addresses: Massachusetts Department of Environmental Protection Library, One Winter Street—2nd Floor, Boston, MA 02108, business hours: 9:00 a.m. to 5:00 p.m., Telephone: (617) 292-5802 and EPA Region I Library, One Congress Street—11th Floor, Boston, MA 02114-2023, business hours: 8:30 a.m. to 5:00 p.m., Telephone: (617) 918-1990. Send written comments to Robin Biscaia at the address below.

FOR FURTHER INFORMATION CONTACT: Robin Biscaia, EPA Region I, One Congress Street, Suite 1100 (CHW),

Boston, MA 02114-2023; Telephone: (617) 918-1642.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under Section 3006(b) of the RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. As the Federal hazardous waste program changes, the States must revise their programs and apply for authorization of the revisions. Revisions to State hazardous waste programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must revise 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. Massachusetts

The Commonwealth of Massachusetts initially received Final Authorization on January 24, 1985, effective February 7, 1985 (50 FR 3344) to implement its base hazardous waste management program. On January 8, 1998, Massachusetts submitted a final program revision application relating to the Satellite Accumulation Rule, UWR and TC Rule seeking authorization of its program revision in accordance with 40 CFR 271.21. The EPA reviewed Massachusetts' application, and on September 30, 1998 authorized Massachusetts to implement the Satellite Accumulation Rule as part of its hazardous waste management program, effective November 30, 1998 (63 FR 52180). In that notice, EPA noted that it was deferring a decision on the TC Rule and the UWR pending resolution of an issue. The issue relates to EPA's concerns regarding the way in which CRTs are presently regulated by Massachusetts as a result of a recent amendment to its hazardous waste regulations. Although EPA and the State have not agreed upon a mutually satisfactory regulatory approach to CRTs, the EPA is now proposing to authorize the State for the UWR and for the TC Rule except as it relates to CRTs.

The TC Rule was promulgated on March 29, 1990 (55 FR 11748) and refines and expands EPA's Extraction Procedure (EP) Toxicity Characteristics Rule promulgated on May 19, 1980 (49 FR 33084). On May 11, 1995 (60 FR 25492) EPA promulgated the UWR which contains new streamlined hazardous waste management regulations governing the collection and

management of certain widely generated wastes (batteries, pesticides and thermostats) known as universal wastes. In addition, the regulation contains a provision for a petition process through which additional wastes can be added.

Upon initial review of Massachusetts' regulations submitted in this revision application regarding the TC Rule and UWR on January 8, 1998 (see "Analogous State Authority" in the table below), EPA had determined that the State's regulations analogous to the

TC Rule and UWR were equivalent to, no less stringent than and consistent with the Federal program. The reasons for these determinations are set forth in the EPA's Administrative Record, which is available for public review. However, the State later proposed and adopted a rule which amends the way in which it regulates CRTs. See 310 CMR 30.104(21). For the reasons also set forth in EPA's Administrative Record and summarized later below, the EPA has determined that this provision is not

equivalent to, and is less stringent than, the Federal program.

The specific RCRA program revisions for which EPA intends to authorize the Commonwealth of Massachusetts are listed in the table below. The Federal requirements in the table are identified by their checklist numbers and rule descriptions. The following abbreviations are used in defining analogous state authority: MGL = Massachusetts General Laws; CMR = Code of Massachusetts Regulations.

Description of Federal requirement and checklist reference No.	Analogous State authority ¹
<p>Consolidated Checklist for the Toxicity Characteristic Revisions as of June 30, 1994</p> <p>(74) Toxicity Characteristic Revisions: 55 FR 11798, 3/29/90 as amended on 6/29/90 55 FR 26986;</p> <p>(80) Hydrocarbon Recovery Operations: 55 FR 40834, 10/5/90 as amended on 2/1/91, 56 FR 3978 as amended on 4/2/91, 56 FR 13406, optional rule (MA is not seeking authorization for this provision);</p> <p>(84) Chlorofluoro Refrigerants: 56 FR 5910, 2/13/91, optional rule, (MA is not seeking authorization for this provision);</p> <p>(108) Toxicity Characteristics Revision; Technical Correction: 57 FR 30657, 7/10/92;</p> <p>(117B) Toxicity Characteristic Revision: 57 FR 23062, 6/1/92, (correction not applicable; MA is not seeking authorization for this provision);</p> <p>(119) Toxicity Characteristic Revision, TCLP: 57 FR 55114, 11/24/92, optional rule (MA is not seeking authorization for this provision).</p> <p>Universal Waste Rule Checklists 142 A-E</p> <p>(142A) Universal Waste Rule: General Provisions, 60 FR 25492-25551, 5/11/95;</p> <p>(142B) Universal Waste Rule: Specific Provisions for Batteries, 60 FR 25492-25551, 5/11/95;</p> <p>(142C) Universal Waste Rule: Specific Provisions for Pesticides, 60 FR 25492-25551, 5/11/95;</p> <p>(142D) Universal Waste Rule: Specific Provisions for Thermostats, 60 FR 25492-25551, 5/11/95;</p> <p>(143E) Universal Waste Rule: Petition Provisions to Add a New Universal Waste, 60 FR 25492 25492-25551, 5/11/95;</p>	<p>MGL c 21C §§4 and 6, enacted 11/9/79; 310 CMR 30.099(25) adopted 11/9/90, 30.104(13) adopted 10/17/97, 30.105 adopted 11/17/95, 30.125B adopted 11/9/90, 30.130 adopted 11/9/90, and 30.155B adopted 11/9/90 and amended 10/17/97.</p> <p>(The Massachusetts regulatory citations above are proposed for approval except as they relate to CRTs.)</p> <p>MGL c 21C §§4 and 6, enacted 11/9/79 and MGL c 21E §6, enacted July 20, 1992; 310 CMR 30.010, 30.130, 30.143(2), 30.340(1), 30.351(2)(b)6 and 30.351(3), 30.353(2)(b)5 and 30.353(3), 30.392(8), 30.393(6), 30.501(2)(e), 30.601(2)(e), 30.801(14), and 30.1000 adopted on 10/17/97.</p>

¹ The Commonwealth of Massachusetts' provisions are from the Code of Massachusetts Regulations, 310 CMR 30.000, Hazardous Waste Regulations, adopted October 17, 1997.

The specific State regulation for which EPA intends *not* to authorize the Commonwealth of Massachusetts falls under 310 CMR 30.104, "Wastes Not Subject 310 CMR 30.000." Specifically, EPA is proposing to disapprove 310 CMR 30.104(21) which identifies intact CRTs as a waste not subject to Massachusetts' hazardous waste regulations. EPA is also proposing to limit its approval of the State's TC Rule regulations to all wastes except CRTs.

There are aspects of Massachusetts' program which are more stringent or broader in scope than the federal program as noted below.

With regard to the TCLP test under the TC Rule (40 CFR Part 261, Appendix II, 8.2, 8.4 and 8.5), the quality assurance/quality control procedures in the State's TCLP test are more stringent than the analogous federal procedures (310 CMR 30.155B(10)(b), (d) and (e)).

With regard to the UWR, under the provisions of the State's UWR program, there are several differences related to the way in which universal wastes are regulated. First, as allowed by EPA's UWR (40 CFR part 273, Subpart G), the State program includes additional waste streams; i.e., mercury-containing devices and mercury containing lamps are included as universal wastes (310 CMR 30.1081). The inclusion of these additional wastes, however, is viewed as equivalent to the federal rule rather than broader in scope (or less stringent) as the federal rule allows a petition process by which additional wastes may be added. Massachusetts has adopted a rulemaking process rather than a petition process to include additional wastes under its universal waste program, a provision the EPA also considers equivalent.

Another difference between the federal and State UWR programs is the

state closure requirement (310 CMR 30.1033(4), 30.1043(5) and 30.1061). The state includes a provision which specifies that handlers who cease operations shall comply with state closure requirements at 310 CMR 30.689, which require removal of waste and site decontamination. This provision covers all of the State's universal wastes (including batteries).

Related to the coverage of batteries under the UWR, Massachusetts, as required by The Mercury-Containing and Rechargeable Battery Management Act of May 13, 1996 ("The Battery Act"), (Pub L. 104-142), has implemented state requirements governing the collection, storage and transportation of batteries which are identical to EPA's UWR requirements. There are differences from the federal requirements regarding how Massachusetts regulates batteries, but the EPA has determined that they do not

concern the "collection, storage or transportation" of batteries, where the State is required to be identical. For example, the EPA has determined that the State's requirement regarding site closure (described above) is not within what is preempted by the Battery Act. The differences, and the reasons why the EPA has determined that there is no preemption, are set forth in the EPA's Administrative Record, which is available for public review.

For universal wastes other than batteries, the State has adopted requirements more stringent than the federal program. For example, 310 CMR 30.1043(a) (b) requires large quantity handlers of universal waste to notify the State of their universal waste activity even though they may have previously provided notification for hazardous waste activity; the federal requirement does not require such re-notification. Also, 310 CMR 30.1033(3) requires small quantity generators to submit a change of status request in anticipation of accumulating 5,000 kg or more of universal waste; there is no such federal requirement. Also, Massachusetts regulations do not allow transfer facilities (except for batteries) as defined in 40 CFR 273.6. Also, under the federal UWR program, ampules removed from thermostats are subject to the less restrictive UWR management standards unless they are leaking and exhibit a characteristic of hazardous waste, in which case they must be managed in accordance with EPA's hazardous waste requirements (40 CFR Part 273, §§ 273.13(c)(3) and 273.33(c)(3)). Massachusetts requires that ampules, once removed from thermostats be fully regulated as a hazardous waste (310 CMR 30.1034(3)(b)(7)).

There are also aspects of Massachusetts' UWR program which are considered broader in scope when compared to the federal program, such as the State provision which requires dismantling/crushing operations of small and large quantity generators who recycle crushed fluorescent bulbs to obtain a State recycling permit (310 CMR 30.1034(5)(c)(2) and 30.1044(5)). There is no federal permitting requirement for recycling activities per se, although storage prior to recycling could trigger the federal Part B permit requirements of 40 CFR Part 264.

The State UWR program also has a provision regarding the household hazardous waste collection events in which universal wastes may be collected (310 CMR 30.392(8) and 30.393(6)). The regulation of this event is a broader-in-scope provision as there is no analogous federal component. However, the EPA also has determined

that these State provisions (insofar as they cover universal wastes) do not result in the State program being non-equivalent to the federal program under RCRA or non-identical under The Battery Act.

Cathode Ray Tubes (CRTs)

As noted above, the EPA is proposing to disapprove 310 CMR 30.104(21), which excludes intact Cathode Ray Tubes (CRTs) from all hazardous waste regulation under the Massachusetts RCRA program. Pursuant to 40 CFR 271.1(g), Massachusetts is required to operate a state RCRA program that "at all times [is] conducted in accordance with the requirements of this subpart." As Massachusetts has adopted a regulation which does not meet the requirements of 40 CFR part 271, subpart A, the EPA is proposing to disapprove that regulation. In addition, the EPA is proposing to limit its approval of the State's TC Rule to all wastes other than CRTs. The TC Rule is the rule which gives States regulatory authority over "TC wastes" (i.e., wastes which passed the earlier EP Toxicity hazardous waste test but which now fail the TC Rule's TCLP test), such as many CRTs. See 55 FR 11793 (March 29, 1990). By limiting its approval of the Massachusetts TC rule to all wastes other than CRTs, the EPA will make clear that it is not granting Massachusetts any federal regulatory authority with respect to CRTs that are "TC" wastes. By also disapproving the State CRT regulation itself, the EPA will make clear that the Massachusetts' approach is not federally authorized for any CRTs (whether they are considered a "TC" waste or a waste that was hazardous even prior to the "TC" Rule).

The reasons for the proposed disapprovals are that the Massachusetts regulation is not equivalent to or as stringent as the corresponding federal requirements. That is, under 310 CMR 30.104(21), intact CRTs are not considered a hazardous waste and are not subject to any hazardous waste requirements even if they fail the TCLP test. CRTs which have become wastes (e.g., by being discarded or by being sent for recycling) and which fail the TCLP test are federal hazardous wastes under 40 CFR part 261. Thus, the Massachusetts regulation violates the requirement of 40 CFR 271.9(a) that "[t]he State program must control all the hazardous wastes controlled under 40 CFR part 261. * * *" EPA's further legal analysis including responses to arguments advanced by the State as to how its regulation is "equivalent" are set forth in the Administrative Record, which is available for public review.

The EPA also has identified environmental problems raised by the Massachusetts regulation, which are further discussed in the Administrative Record. In particular, the EPA is concerned that Massachusetts has exempted intact CRTs from all hazardous waste requirements whether or not they are sent for recycling. EPA approval of the Massachusetts regulation could create loopholes, eliminating any federal RCRA enforcement authority regarding intact CRTs, even if an entity engaged in activities such as unauthorized shipments to third world countries or midnight dumping.

The effect of the proposed disapprovals will be that full federal RCRA requirements will remain in effect in Massachusetts with respect to CRTs (intact or otherwise) which are hazardous wastes under the federal TC Rule. The federal requirements will be federally enforceable notwithstanding the existence under State law of less stringent State requirements. The proposed disapproval is unfortunate in that the EPA agrees that partial deregulation of CRTs being sent for bona-fide recycling may well be appropriate under RCRA. The EPA stands ready to consider partial deregulation approaches in Massachusetts such as a conditional exemption of CRTs being sent for recycling or inclusion of CRTs under the State's Universal Waste Rule. Given the current choice of either full RCRA regulation or total deregulation of intact CRTs, however, disapproval of the State's approach is the EPA's only legal option.

Finally, the EPA has determined that it may at this time limit its disapproval to only the State CRT requirements and nevertheless approve the Universal Waste Rule and the rest of the TC Rule. The State meets the federal requirements with respect to wastes other than CRTs, and there are significant environmental advantages in updating the State's program. In particular, the State's Universal Waste Rule contains important measures which will encourage the recycling of other "TC" wastes such as fluorescent bulbs. The EPA recognizes that "[p]artial State programs are not allowed for [State] programs operating under RCRA final authorization." 40 CFR 271.1(h). However, the EPA does not interpret its regulation as ruling out approvals of some parts of a State program before others. At this time, the EPA believes the best course of action is to approve the parts of the Massachusetts program not affected by the CRT issue while continuing to work

with the State to achieve a State approach equivalent to federal requirements with respect to CRTs.

Status of Federal Permits

EPA will suspend the further issuance of RCRA and HSWA permits in the Commonwealth of Massachusetts for those provisions for which the State receives final authorization on the effective date of this authorization.

EPA will retain lead responsibility for the issuance, administration, and enforcement of HSWA provisions in the Commonwealth of Massachusetts for which the State has not received authorization. In addition, EPA will continue to administer and enforce any RCRA and HSWA permits, or portions of permits, it has issued in Massachusetts until the State, after receiving authorization for those provisions, issues permits for these facilities which are equivalent to the federal permits, or until the State incorporates the terms and conditions of the federal permits into the State RCRA permits in accordance with its authorized program.

Massachusetts has not sought the authority to operate the RCRA program in any Indian country and is not authorized by the Federal government to operate the RCRA program in Indian country.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 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, 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 an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt 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 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. Before 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, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that section 202 and 205 requirements do not apply to today's action because this 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 Commonwealth of Massachusetts' program (or with respect to regulation of CRTs, under the federal program), and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of State programs generally may reduce, not increase, compliance costs for the private sector. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because UMRA does not cover duties arising from voluntary participation in a federal program.

The requirements of section 203 of UMRA also do not apply to today's action because this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may be hazardous waste generators, transporters, or own and/or operate TSDFs, they are already subject to the regulatory requirements under the existing State laws that are being authorized by EPA, and already are subject to direct federal regulation of CRTs, thus, they will not be subject to any additional significant or unique requirements by virtue of this action.

Certification Under the Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996), when an agency is required to publish a notice of rulemaking for any proposed or final rule, it generally must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small

entities (i.e., small businesses, small organizations, and small governmental jurisdictions). This analysis is unnecessary, however, if the agency's administrator (or her delegate) certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The EPA has determined that this action will not have a significant economic impact on a substantial number of small entities. Such small entities which are hazardous waste generators, transporters, or which own and/or operate TSDFs are already subject to the regulatory requirements under the existing State laws that are now being authorized by EPA (and to the federal laws with respect to CRTs). The EPA's action does not impose any significant additional burdens on these small entities. This is because EPA's authorization would simply result in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Pursuant to the provision at 5 U.S.C. 605(b), the Agency hereby certifies that this authorization will not have a significant economic impact on a substantial number of small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Executive Order 12866.

Compliance With Executive Order 12875

Under Executive Order 12875, EPA must follow certain procedures before issuing a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies with consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of

regulatory proposals containing significant unfunded mandates.”

This rule does not create any mandate on State, local or tribal governments beyond those required by the RCRA and Battery Act statutes. The State administers its hazardous waste program voluntarily, and any duties on other State, local or tribal governmental entities arise from that program, not from today's action. Accordingly, the requirements of Executive Order 12875 do not apply to this rule.

Compliance With Executive Order 13045

Executive Order 13045, “Protection of Children from Environmental Health Risks and Safety Risks,” applies to any rule that: (1) the Office of Management and Budget determines is “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that 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 E.O. 13045 because it is not an economically significant rule as defined by E.O. 12866, and because it does not concern environmental health or safety risks that the EPA has reason to believe may have a disproportionate effect on children. Rather, this rule simply applies previously established health and safety requirements with respect to the Massachusetts state RCRA program.

Compliance With Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies with consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to

issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments “to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.”

This rule is not subject to E.O. 13084 because it does not significantly or uniquely affect the communities of Indian tribal governments.

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 a final rule. This rule will not impose any information requirements upon the regulated community beyond what is already required under Massachusetts or federal law.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Pub L. No. 104–113, section 12(d) (15 U.S.C. 272 note) directs 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 EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

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

List of Subjects in 40 CFR Part 272

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation by reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice 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: February 2, 1999.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 99–3995 Filed 2–23–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 107, 171, 172, 173, 177, 178 and 180

[Docket No. RSPA–98–3684(HM–220)]

RIN 2137–AA92

Hazardous Materials: Requirements for DOT Specification Cylinders; Announcement of Public Working Meetings

AGENCY: Research and Special Programs Administration (RSPA) DOT.

ACTION: Proposed rule; notice of meetings.

SUMMARY: RSPA wishes to advise the interested public that a series of meetings will be held to discuss proposals contained in a notice of proposed rulemaking (NPRM) to revise the cylinder requirements contained in the Hazardous Materials Regulations (HRM). The NPRM was published in the **Federal Register** of October 30, 1998, under RSPA Docket No. 3684 (HM–220).

DATES: The dates for these meetings are April 13, 14 and 15. The meetings will be held from 9:00 a.m. to 4:00 p.m. but may end earlier.

ADDRESSES: All meetings will be held in Room 3200–3204 at the U.S. Department of Transportation's Nassif Building, 400 7th Street SW, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Cheryl Freeman, telephone number (202) 366–4545, Office of Hazardous Materials Technology, or Hattie Mitchell, telephone number (202) 366–8553, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: On October 30, 1998 (63 FR 58460), RSPA published an NPRM in the **Federal Register** under RSPA Docket No. 3684 (HM–220). RSPA proposes in the NPRM to amend the HMR (49 CFR Parts 171–180) to establish four new DOT cylinder specifications and to revise the requirements for maintenance, requalification, and repair of all DOT specification cylinders. In addition, RSPA proposes to revise the