

US EPA ARCHIVE DOCUMENT

provide to the Office of Management and Budget (OMB) 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."

Today's rule does not create an unfunded federal mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled Consultation and Coordination with Indian Tribal Governments (63 FR 27655, May 19, 1998), 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. If the mandate is unfunded, EPA must provide OMB, 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 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."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

VIII. Submission to Congress and the Comptroller General

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 rule 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 of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 23, 1998.

Marcia E. Mulkey,
Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180 — [AMENDED]

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

Authority: 21 U.S.C. 346a and 371.

2. Section 180.515 is revised to read as follows:

§ 180.515 Carfentrazone-ethyl; tolerances for residues

(a) *General.* Tolerances are established for combined residues of the herbicide Carfentrazone-ethyl (ethyl-alpha-2-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]-4-fluorobenzene-propanoate) and its metabolite: Carfentrazone-ethyl chloropropionic acid (alpha, 2-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]-4-fluorobenzenepropanoic acid) in or on the following raw agricultural commodities:

Commodity	Parts per million
Corn, field	0.1
Corn, field, fodder	0.1
Corn, field, forage	0.1
Soybean seed	0.1

Commodity	Parts per million
Wheat forage	1.0
Wheat grain	0.1
Wheat hay	0.3
Wheat straw	0.2

(b) *Section 18 emergency exemptions.*

[Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.*
[Reserved]

[FR Doc. 98-26162 Filed 9-29-98; 8:45 am]

BILLING CODE 6560-50-F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-6167-9]

Massachusetts: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The Commonwealth of Massachusetts has applied for Final Authorization of a revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). Massachusetts' revision addresses the Satellite Accumulation Rule contained in Non-HSWA Cluster I. This optional rule was promulgated on December 20, 1984 and amended the hazardous waste rules to allow accumulation of waste at satellite areas at the generator's facility. The specific provisions relating to the Satellite Accumulation Rule for which Massachusetts is seeking authorization are listed in the table in section B of this document. The EPA has reviewed The Commonwealth of Massachusetts' application and determined that its hazardous waste program revisions relating to the Satellite Accumulation Rule satisfy all of the requirements necessary to qualify for final authorization. Unless adverse written comments are received during the review and comment period, EPA's decision to authorize Massachusetts' hazardous waste program revision will take effect as provided below.

DATES: This Immediate Final Rule will become effective on November 30, 1998 without further notice, unless EPA receives relevant adverse comments by October 30, 1998. Should EPA receive

such comments, it will publish a timely document withdrawing this rule.

ADDRESSES: Copies of the Massachusetts' program revision application and the materials which EPA used in evaluating the revision are available for inspection and copying at the following addresses: Massachusetts Department of Environmental Protection Library, One Winter Street—2nd Floor, Boston, MA 02108, business hours: 9 a.m. to 5 p.m., Telephone: (617) 292-5802 and EPA Region I Library, One Congress Street—11th Floor, Boston, MA 02203-0001, business hours: 8:30 a.m. to 5 p.m., Telephone: (617) 565-3300. Send written comments to Robin Biscaia, at the address below.

FOR FURTHER INFORMATION CONTACT: Robin Biscaia, EPA Region I, JFK Federal Bldg. (CHW), Boston, MA 02203-0001; Telephone: (617) 565-3265.

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 complete program revision application relating to the

Satellite Accumulation Rule, seeking authorization of its program revision in accordance with 40 CFR 271.21. The EPA reviewed Massachusetts' application, and now makes an immediate final decision, subject to receipt of adverse written comment, that Massachusetts' hazardous waste program revision relating to the Satellite Accumulation Rule satisfies all of the requirements necessary to qualify for Final Authorization. Consequently, EPA intends to grant The Commonwealth of Massachusetts Final Authorization for the program modifications contained in the revision.

Today's action does not address portions of The Commonwealth of Massachusetts' application seeking authorization of the Toxicity Characteristics Rule and Universal Waste Rule. The EPA is attempting to resolve with Massachusetts an issue that has delayed final approval of these rules. Comments related to the Toxicity Characteristics Rule and Universal Waste Rule portions of Massachusetts' application need not be filed in response to today's action which relates only to EPA's intent to grant Final Authorization to Massachusetts for the Satellite Accumulation Rule.

The public may submit written comments on EPA's final decision regarding the Satellite Accumulation Rule until October 30, 1998. Copies of Massachusetts' application for program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this document.

If EPA does not receive adverse written comment pertaining to Massachusetts' program revision by the end of the comment period, the authorization of Massachusetts' revision will become effective in 60 days from the date this document is published. If the Agency does receive adverse written comment, it will publish a document withdrawing this immediate final rule before its effective date. EPA will then address the comments in a later final rule based on the companion document appearing in the Proposed Rules section of today's **Federal Register**. EPA may not provide additional opportunity for

comment. Any parties interested in commenting should do so at this time.

Upon review of Massachusetts regulations submitted in this revision application regarding the Satellite Accumulation Rule, EPA has determined that they are equivalent to, no less stringent than and consistent with the Federal program. To be considered equivalent to the Federal program, a state is required to control all hazardous waste identified under 40 CFR part 261 at least as stringently as the Federal program; and, according to section 3009 of the Resource Conservation and Recovery Act (RCRA), states are entitled to be more stringent than the Federal program. This does not mean a state's program must be identical, as exemplified below.

On December 20, 1984 (49 FR 49568), EPA promulgated the Satellite Accumulation Rule which allows generators to accumulate up to 55 gallons of hazardous waste or one quart of acutely hazardous waste in satellite areas at a generator's facility so long as specified requirements are met. The Massachusetts program allows one 55-gallon of hazardous waste or one quart of acutely hazardous waste *per waste stream* to be accumulated at its point of generation. Although this is not necessarily allowed under the federal regulation, the Massachusetts program subjects the satellite area to more stringent requirements than would be required under the federal rule, such as aisle space requirements (310 CMR 30.685(3) and (4)) and weekly inspections (310 CMR 30.686). Thus, the state regulations affecting a satellite accumulation area are overall equivalent to the federal regulation.

The specific RCRA program revisions for which the Commonwealth of Massachusetts is authorized today 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.

Checklist	Description	Federal Register date and page	Analogous State authority
12	Satellite Accumulation	12/29/84, 49 FR 49568	MGL c 21C §§4 and 6, 11/9/79; 310 CMR 30.340(4) and 30.351(4), 2/19/88.

Status of Federal Permits

The Commonwealth of Massachusetts is not being authorized now for any requirement implementing HSWA. As

such, 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.

C. Decision

I conclude that the Massachusetts application for program revision authorization meets all of the statutory and regulatory requirements established by RCRA. Accordingly, EPA grants the Commonwealth of Massachusetts final authorization to operate its hazardous waste program as revised. The Commonwealth of Massachusetts has responsibility for permitting treatment, storage, and disposal facilities 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 HSWA. The Commonwealth of Massachusetts also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA, and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA.

D. Codification in Part 272

The EPA uses 40 CFR part 272 for codification of the decision to authorize The Commonwealth of Massachusetts' program and for incorporation by reference of those provisions of its statutes and regulations that EPA will enforce under sections 3008, 3013 and 7003 of RCRA. EPA reserves amendment of 40 CFR part 272, subpart W until a later date.

E. 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 certain regulatory actions on State, local, and tribal governments and the private sector. Under sections 202 and 205 of the UMRA, EPA generally must prepare a written statement of economic and regulatory alternatives analyses for proposed and final rules with Federal mandates, as defined by the UMRA, 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. 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 and/or tribal governments already exist under the Massachusetts 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 include duties arising from participation in a voluntary federal program.

The requirements of section 203 of UMRA also do not apply to today's action. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, section 203 of the UMRA requires EPA to develop a small government agency plan. 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, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

F. 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), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it 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 certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The EPA has determined that this authorization 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. The EPA's authorization 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 authorization approves regulatory requirements under existing State law to which small entities are already subject. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

G. Submission to Congress and the Comptroller General

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. The EPA submitted a report containing this rule 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 of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

H. Compliance With Executive Order 12866

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

I. Compliance With Executive Order 13045

Executive Order 13045 applies to any rule that the Office of Management and Budget determines is "economically significant" as defined under Executive Order 12866, and that EPA determines that the environmental health or safety risk addressed by the rule has 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.

The Agency has determined that the final rule is not a covered regulatory action as defined in the Executive Order because it is not economically significant and does not address environmental health and safety risks which have a disproportionate effect on children. As such, the final rule is not subject to the requirements of Executive Order 13045.

J. 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.

K. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Pub L. 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 that are 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, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This document 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: August 25, 1998.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 98-25887 Filed 9-29-98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[OPPTS-400133; FRL-6033-5]

RIN 2070-AC71

Clarification of Combustion for Energy Recovery; Toxic Chemical Release Reporting; Community Right-to-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Clarification of final rule.

SUMMARY: EPA is providing clarification regarding the combustion for energy recovery of chemicals covered by section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA).

FOR FURTHER INFORMATION CONTACT: Sara Hisel McCoy, 202-260-7937 or e-mail: hisel-mccoy.sara@epamail.epa.gov, for specific information regarding this document or for further information on EPCRA section 313, the Emergency Planning and Community Right-to-Know Information Hotline, Environmental Protection Agency, Mail code 5101, 401 M St., SW., Washington, DC 20460, Toll free: 1-800-535-0202, in Virginia and Alaska: 703-412-9877, or Toll free TDD: 1-800-553-7672.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Document Apply To Me?

You may be potentially affected by this document if you combust EPCRA section 313 toxic chemicals in waste for energy recovery on-site or transfer these toxic chemicals off-site for this purpose. Potentially affected categories and entities may include, but are not limited to the following:

Category	Examples of Potentially Interested Entities
Industry; facilities that manufacture, process, or otherwise use certain chemicals	Manufacturing, Metal mining, Coal mining, Electric utilities, Commercial hazardous waste treatment, Chemicals and allied products-wholesale, Petroleum bulk terminals and plants wholesale, and Solvent Recovery services

Category	Examples of Potentially Interested Entities
Facilities with hazardous waste boilers and industrial furnaces	Cement kilns

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be interested in this document. Other types of entities not listed in this table may also be interested in this document. Additional businesses that may be interested in this document are those covered under 40 CFR part 372, subpart B. If you have any questions regarding whether a particular entity is covered by this section of the CFR, consult the technical person listed in the "FOR FURTHER INFORMATION CONTACT" section.

B. How Can I Get Additional Information or Copies of This Document or Other Support Documents?

1. *Electronically.* You may obtain electronic copies of this document from the EPA Internet Home Page at <http://www.epa.gov/>. On the Home Page select "Laws and Regulations" and then look up the entry for this document under the "Federal Register - Environmental Documents". You can also go directly to the "Federal Register" listings at <http://www.epa.gov/homepage/fedrgstr/>. You may also obtain electronic copies of related documents at <http://www.epa.gov/opptintr/tri/industry.htm>.

2. *In person or by phone.* If you have any questions or need additional information about this action, please contact the technical person identified in the "FOR FURTHER INFORMATION CONTACT" section. In addition, the official record for this document, including the public version, has been established under docket control number OPPTS-400133. A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located in the TSCA Nonconfidential Information Center, Rm. NE-B607, 401 M St., SW., Washington, DC. The TSCA Nonconfidential Information Center telephone number is 202-260-7099.

II. Background

In the **Federal Register** of May 1, 1997 (62 FR 23834) (FRL-5578-3), EPA issued a final rule entitled "Addition of