based on a more appropriate horizon year for this area. 74 FR 41818–41823.

Second, CARB did not provide base year modeling evaluations for the six areas in the State that are subject to the enhanced I/M requirements in 40 CFR part 51, subpart S. The six areas are the South Coast Air Basin, San Joaquin Valley, Western Mojave Desert, Sacramento Metro, Coachella Valley, and Ventura County. We noted that a base year modeling run is required to allow for a more definitive conclusion that the California enhanced I/M program obtained the same or lower emission levels as the EPA model program by January 1, 2002, and that the program will maintain this level of emission reduction (or better) through the applicable 8-hour ozone attainment deadlines, as required by 40 CFR 51.351(f). Based on our preliminary modeling analyses and evaluation of the data provided in CARB's submittal, however, we noted that we expect these revised modeling evaluations will satisfy the regulatory requirements. 74 FR 41818–41823. In our proposed rule, we indicated that we would notify the public of any additional information that is provided to address these issues. Publication of this NODA is intended to serve this purpose.

On October 28, 2009, CARB submitted the revised enhanced I/M performance modeling analyses described above. We placed the analyses in the docket on October 29, 2009. Specifically, CARB submitted (1) revised enhanced program performance standard evaluations for the Western Mojave Desert area based on a horizon year of 2018, and (2) 2002 base year performance modeling evaluations for the six areas in the State that are subject to the enhanced I/M requirements in 40 CFR part 51, subpart S (the South Coast Air Basin, San Joaquin Valley, Western Mojave Desert, Sacramento Metro, Coachella Valley, and Ventura County). We find that selection of year 2018 by California as the ''year before the attainment year'' for Western Mojave Desert for enhanced performance modeling purposes is acceptable on the presumption that CARB will amend its voluntary reclassification request from ''severe-17'' to ''severe-15.'' We interpret section 181(b)(3) to allow for voluntary reclassification by a state to the latter, but not the former.

We have also reviewed the submitted modeling data and find that the inputs to the MOBILE6.2 model accurately reflect the California I/M program. Based on the modeling results for Western Mojave Desert submitted on October 28, 2009, together with the performance standard modeling results contained in the 2009 I/M Revision, we believe that California has now demonstrated that the California I/M program would achieve greater percent emissions reductions (relative to the no I/M scenario) for VOC and NO_X in each of the six areas in the year before the attainment year than would the EPA model enhanced I/M program in 2002.

Moreover, the modeling results for the California I/M program in 2002 show that the California program achieved greater percent emissions reductions (relative to the no I/M scenario) for VOC and NO_X in each of the six areas than the EPA model enhanced I/M program in 2002. Thus, in view of the results of both the base year and horizon year modeling results, we believe that the analyses submitted by CARB on October 28, 2009 support the conclusion that the California I/M program will maintain a greater percent emissions reduction in all six subject areas (relative to the no I/M scenario) than would the Federal I/M program in the base year, thereby meeting the enhanced I/M performance standard in 40 CFR 51.351(f) and supporting full approval of the 2009 I/M Revision. EPA is today providing notice and opportunity to comment on these revised modeling evaluations, which are available in the docket for the proposed action.

Dated: October 30, 2009.

Enrique Manzanilla,

Acting Regional Administrator, Region IX.

[FR Doc. E9–27669 Filed 11–17–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R–10–RCRA–2009–0766; FRL–8977–2]

Oregon: Proposed Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Oregon has applied to EPA for final authorization of certain changes to its hazardous waste program under the Resource Conservation and Recovery Act, as amended (RCRA). EPA has reviewed Oregon's application and has preliminarily determined that these changes satisfy all requirements needed to qualify for final authorization, and is proposing to authorize the State's changes.

DATES: Comments on this proposed rule must be received by December 18, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–RCRA–2009–0766, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: Kocourek.Nina@epa.gov.*
- *Mail:* Nina Kocourek, U.S. Environmental Protection Agency, Region 10, Office of Air, Waste & Toxics (AWT–122), 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101.

Instructions: Direct your comments to Docket ID No. EPA–R10–RCRA–2009–0766. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://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 *http://www.regulations.gov*, or e-mail. The *http://www.regulations.gov* website 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 *http://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 or any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard

copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the U.S. Environmental Protection Agency, Region 10, Office of Air, Waste & Toxics, Mailstop AWT–122, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101, contact: Nina Kocourek, phone number: (206) 553–6502; or the Oregon Department of Environmental Quality, 811 SW Sixth Avenue, Portland, Oregon, 97204, contact: Scott Latham, phone number: (503) 229–5953.

FOR FURTHER INFORMATION CONTACT: Nina Kocourek, U.S. Environmental Protection Agency, Region 10, Office of Air, Waste & Toxics (AWT–122), 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101, phone number: (206) 553–6502, e-mail: *kocourek.nina@epa.gov.*

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 codified in Title 40 of the Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273, and 279.

B. What Decisions Have We Made in This Proposed Rule?

EPA has preliminarily determined that Oregon's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we are proposing to grant Oregon final authorization to operate its hazardous waste program with the changes described in the authorization application. Oregon will have responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders, except in Indian country (18 U.S.C. 1151), 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, and which are not less stringent than existing requirements, take effect in authorized States before the States are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Oregon, including issuing permits, until the State is granted authorization to do so.

C. What Will Be the Effect if Oregon Is Authorized for These Changes?

If Oregon is authorized for these changes, a facility in Oregon subject to RCRA will have to comply with the authorized State requirements in lieu of the corresponding Federal requirements in order to comply with RCRA. Additionally, such persons will have to comply with any applicable Federal requirements, such as, for example, HSWA regulations issued by EPA for which the State has not received authorization, and RCRA requirements that are not supplanted by authorized State-issued requirements. Oregon continues to have enforcement responsibilities under its State hazardous waste management program for violations of this program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which includes, among others, the authority to:

- Conduct inspections; require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements; suspend, terminate, modify or revoke permits; and
- Take enforcement actions regardless of whether the State has taken its own actions.

The action to approve these revisions would not impose additional requirements on the regulated community because the regulations for which Oregon will be authorized are already effective under State law and are not changed by the act of authorization.

D. What Happens if EPA Receives Comments on This Action?

If EPA receives comments on this action, we will address those comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

E. What Has Oregon Previously Been Authorized for?

Oregon initially received final authorization on January 30, 1986, effective January 31, 1986 (51 FR 3779), to implement the RCRA hazardous waste management program. EPA granted authorization for changes to Oregon's program on March 30, 1990, effective on May 29, 1990 (55 FR 11909); August 5, 1994, effective October 4, 1994 (59 FR 39967); June 16, 1995, effective August 15, 1995 (60 FR 31642); October 10, 1995, effective December 7, 1995 (60 FR 52629); September 10, 2002, effective September 10, 2002 (67 FR 57337); and June 26, 2006 effective June 26, 2006 (71 FR 36216) .

F. What Changes Are We Proposing?

EPA is proposing to authorize revisions to Oregon's authorized program described in Oregon's official program revision application, submitted to EPA on October 21, 2009 and deemed complete by EPA on October 26, 2009. EPA has made a preliminary determination that Oregon's hazardous waste program revisions, as described in this proposed rule, satisfy the requirements necessary to qualify for final authorization. The following table identifies equivalent and more stringent State regulatory analogues to the Federal regulations for those regulatory revisions for which Oregon is seeking authorization. The referenced analogous State authorities were legally adopted and effective as of June 25, 2009.

Description of Federal requirements CL [1]	**Federal Register** reference	Analogous state authority (Oregon Administrative Rules (OAR 340–* * *)
Land Disposal Restrictions: Treatment Variance for Radioactively Contaminated Batteries, CL 201.	67 FR 62618, 11/21/2002 ..	–100–0002.
NESHAP: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors—Corrections, CL 202.	67 FR 77687, 12/19/2002 ..	–100–0002.
Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Used Oil Management Standards, CL 203.	68 FR 44659, 7/30/2003	–100–0002.
NESHAP: Surface Coating of Automobiles and Light-Duty Trucks, CL 205	69 FR 22601, 4/26/2004	–100–0002.

Description of federal requirements CL [1]	Federal Register reference	Analogous state authority (Oregon Administrative Rules (OAR 340–* * *)
Non-wastewaters from Dyes and Pigments, CL 206	70 FR 9138, 2/24/2005	–100–0002.
Non-wastewaters from Dyes and Pigments Correction, CL 206.1	70 FR 35032, 6/13/2005	–100–0002.
Uniform Hazardous Waste Manifest, CL 207 [2]	70 FR 10776, 3/4/2005	–100–0002.
Uniform Hazardous Waste Manifest Correction, CL 207.1 [3]	70 FR 35034, 6/16/2005	–100–0002.
Methods Innovation; SW–846, CL 208	70 FR 34538, 6/14/2005	–100–0002.
Methods Innovation; SW–846 Correction, CL 208.1	70 FR 44150, 8/1/2005	–100–0002.
Mercury Containing Equipment, CL 209	70 FR 45508, 8/5/2005	–100–0002.
Headworks Exemption, CL 211	70 FR 57769, 10/4/2005	–100–0002.
NESHAP: Phase I Final Replacement Standards, CL 212	70 FR 59402, 10/12/2005	–100–0002.
Burden Reduction Rule, CL 213 [3]	71 FR 16862, 4/4/2006	–100–0002; –104–0021(1), (2) and (3); –105–0140(1), (2), (3), (4) and (5).
CFR Corrections Rule 1, CL 214	71 FR 40254, 7/14/2006	–100–0002.
CRT Exclusion, CL 215	71 FR 42928, 7/28/2006	–100–0002.

[1] CL (Checklist) is a document that addresses the specific changes made to the Federal regulations by one or more related final rules published in the **Federal Register**. EPA develops these checklists as tools to assist States in developing their authorization application and in documenting specific State regulations analogous to the Federal regulations. For more information see EPA's RCRA State Authorization Web page at *http://www.epa.gov/epawaste/osw/laws-regs/state/index.htm*.

[2] Concurrent with the incorporation by reference of this rule package on June 18, 2009, the Environmental Quality Commission repealed a State-only hazardous waste manifest rule (OAR 340–102–0060) that had previously been authorized by EPA. The State took this action to avoid any potential conflict with the Federal Uniform Hazardous Waste Manifest Rules (CL 207 and 207.1) which are incorporated by reference into Oregon's hazardous waste rules and effective State law as of June 25, 2009.

[3] State rule contains some more stringent provisions. For identification of the more stringent State provisions refer to the authorization revision application and the Attorney General's statement for this proposed rule, as well as see discussion below in Section G of this rule.

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

This section discusses differences between the revisions Oregon proposed to its authorized program and the Federal regulations. EPA's preliminary determination is that the State does have more stringent requirements related to the Federal Burden Reduction Rule (70 FR 16862, April 4, 2006).

In 1999, EPA initiated a new Federal program, National Environmental Performance Track. This was a voluntary program designed to recognize facilities that had a sustained record of compliance and implemented high quality environmental management systems. EPA provided exclusive regulatory and administrative benefits to the Performance Track member facilities. The State of Oregon did not participate in the Federal National Environmental Performance Track Program. In May 2009, EPA terminated the Federal National Performance Track Program (74 FR 22742, May 14, 2009); therefore there are no current Federal Performance Track member facilities. However, EPA did not remove the Federal rules applicable to the Performance Track member facilities from its regulations, and if EPA's Performance Track Program were reinstated these Federal rules would continue to be applicable to future member facilities.

The State incorporated by reference the Federal Burden Reduction Rule (70 FR 16862, April 4, 2006), which included special allowances to lower priorities on routine inspections for Performance Track member facilities. The State also adopted rules which deleted those portions of the rule that referenced Federal Performance Track member facilities. The effect of deleting those references is that the State's rules do not allow any special or administrative benefits for Performance Track member facilities. Therefore, the State's rules found at OAR 340–104–0021(1), (2) and (3); OAR 340–105–0140(1), (2), (3), (4) and (5) are more stringent than those corresponding Federal counterparts found at 40 CFR 264.15(b)(4) and (5); 40 CFR 264.174; 40 CFR 264.195(e)(1); 40 CFR 265.15(b)(4) and (5); 40 CFR 265.174; 40 CFR 265.195(d); and 40 CFR 265.201(e).

H. Who Handles Permits After the Authorization Takes Effect?

Oregon will continue to issue permits for all the provisions for which it is authorized and administer the permits it issues. If EPA issued permits prior to authorizing Oregon for these revisions, these permits would continue in force until the effective date of the State's issuance or denial of a State hazardous waste permit, at which time EPA would modify the existing EPA permit to expire at an earlier date, terminate the existing EPA permit for cause, or allow the existing EPA permit to otherwise expire by its terms, except for those facilities located in Indian Country. EPA will not issue new permits or new portions of permits for provisions for which Oregon is authorized after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Oregon is not yet authorized.

I. What Is Codification and Is EPA Codifying Oregon's Hazardous Waste Program as Authorized in This Proposed Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. This is done by referencing the authorized State rules in 40 CFR part 272. EPA is reserving the amendment of 40 CFR part 272, Subpart MM for codification to a later date.

J. How Would Authorizing Oregon for These Revisions Affect Indian Country (18 U.S.C. 1151) in Oregon?

Oregon is not authorized to carry out its hazardous waste program in Indian country, as defined in 18 U.S.C. 1151. Indian country includes: (1) All lands within the exterior boundaries of Indian reservations within or abutting the State of Oregon; (2) Any land held in trust by the U.S. for an Indian tribe; and (3) Any other land, whether on or off an Indian reservation, that qualifies as Indian country. Therefore, this action has no effect on Indian country. EPA will continue to implement and administer the RCRA program on these lands.

K. Statutory and Executive Order Reviews

This proposed rule seeks to revise the State of Oregon's authorized hazardous waste program pursuant to section 3006

of RCRA and imposes no requirements other than those currently imposed by State law. This proposed rule complies with applicable executive orders and statutory provisions as follows:

1. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'', and therefore subject to OMB review and the requirements of the Executive Order. The Executive 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 affect 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 entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (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. EPA has determined that this proposed rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

2. Paperwork Reduction Act

This proposed action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, because this proposed rule does not establish or modify any information or recordkeeping requirements for the regulated community and only seeks to authorize the pre-existing requirements under State law and imposes no additional requirements beyond those imposed by State law.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing, and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in Title 40 of the CFR are listed in 40 CFR part 9.

3. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires Federal agencies to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any 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. For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as: (1) A small business defined by the Small Business Administration's size regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. As part of the State's rule development process, the State of Oregon prepared a ''Department of Environmental Quality (DEQ) Chapter 340, Proposed Rulemaking Statement of Need and Fiscal and Economic Impact'' which included an analysis on impacts to small businesses. The State concluded that there are no economic or fiscal impacts resulting from DEQ's proposed rulemaking. See the Oregon Environmental Quality Commission Agenda, dated June 19, 2009, Action Item N—Hazardous Waste Omnibus Rulemaking, Attachment E, for the DEQ ''Impact to Small Business Analysis'' *http://www.deq.state.or.us/about/eqc/agendas/2009/2009juneEQCagenda.htm*. I certify that this proposed rule will not have a significant economic impact on a substantial number of small entities because the proposed rule will only have the effect of authorizing pre-existing requirements under State law and imposes no additional requirements beyond those imposed by State law. EPA continues to be interested in the potential impacts of the proposed rule on small entities and welcomes comments on issues related to such impacts.

4. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act (UMRA) of 1995 (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 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 rule an explanation why the 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. Today's proposed rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. It imposes no new enforceable duty on any State, local or tribal governments or the private sector. Similarly, EPA has also determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small government entities. Thus, today's proposed rule is not subject to the

requirements of sections 202 and 203 of the UMRA.

5. Executive Order 13132: Federalism

This proposed 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 various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule proposes to authorize pre-existing State rules. Thus, Executive Order 13132 does not apply to this proposed rule. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (59 FR 22951, November 9, 2000), requires 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.'' This proposed rule does not have tribal implications, as specified in Executive Order 13175 because EPA retains its authority over Indian Country. Thus, Executive Order 13175 does not apply to this proposed rule. EPA specifically solicits additional comment on this proposed rule from tribal officials.

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

EPA interprets EO 13045 (62 F.R. 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it approves a State program.

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

This proposed rule is not subject to Executive Order 13211, ''Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a ''significant regulatory action'' as defined under Executive Order 12866.

9. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272), 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 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 proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

10. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low Income Populations

Executive Order (EO) 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations. This proposed rule does not affect the level of protection provided to human health or the environment because this rule proposes to authorize pre-existing State rules which are equivalent to, and no less stringent than existing Federal requirements.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians—lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This proposed action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: October 27, 2009.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

[FR Doc. E9–27615 Filed 11–17–09; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 84

[Docket Number NIOSH–0137]

RIN 0920–AA33

Total Inward Leakage Requirements for Respirators

AGENCY: National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking; notice of public meeting.

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), will hold a public meeting concerning the proposed rule that was published in the **Federal Register** on Friday, October 30, 2009. The proposed rule proposes to establish total inward leakage (TIL) requirements for half-mask air-purifying particulate respirators approved by NIOSH. The proposed new requirements specify TIL minimum performance requirements and testing to be conducted by NIOSH and respirator manufacturers to demonstrate that these respirators, when selected and used correctly, provide effective respiratory protection to intended users against toxic dusts, mists, fumes, fibers, and biological and infectious aerosols (e.g. influenza A(H5N1), severe acute respiratory syndrome (SARS) coronavirus, and Mycobacterium tuberculosis).

DATES: *Meeting:* A public meeting on the proposed rule will be held on December 3, 2009. Details concerning those meetings are in the **SUPPLEMENTARY INFORMATION** section below.

Comments: As established in the proposed rule of October 30, 2009 (74 FR 56141), all written comments must be received on or before December 29, 2009.

ADDRESSES: You may submit comments, identified by RIN: 0920–AA33, by any of the following methods: