

ENVIRONMENTAL PROTECTION AGENCY

[FRL 3562-8]

Intent to Form an Advisory Committee to Negotiate a New Approach for Control of Volatile Organic Chemical Equipment Leaks

SUMMARY: EPA is considering establishing an Advisory Committee under the Federal Advisory Committee Act (FACA). The Committee's purpose would be to negotiate issues leading to a new approach for regulation of equipment leaks under Sections 111 and 112 of the Clean Air Act as amended. The Committee would consist of representatives of parties that are substantially affected by the outcome of the proposed rule.

EPA requests public comment on whether:

- It should establish a Federal Advisory Committee;
- It has properly identified interests it believes are affected by the key issues listed above;
- Regulatory negotiation is appropriate for this rulemaking, and the extent to which the issues, and procedures are adequate and appropriate.

This notice also announces that an informational meeting will be held on May 15 from 10 am to 4 pm at the Hall of States, 444 N. Capitol St., room 337, Washington, DC to discuss the issues involved in the regulation of equipment leaks, and whether the Committee should be formed and negotiations proceed.

This meeting is open and any parties interested in the negotiation are encouraged to attend.

DATE: EPA must receive comments and suggestions by May 10, 1989.

ADDRESS: Comments should be submitted (in duplicate, if possible) to Air Docket (LE-131) Room M-1500, Environmental Protection Agency, Attention Docket #A89-10, 401 M Street, SW., Washington, DC 20460. A copy should also be sent to Bob Ajax, MD-13, U.S. EPA, Research Triangle Park, NC 27711. Docket #A89-10, containing materials relevant to this rulemaking may be inspected at U.S. EPA between 8 a.m. and 4 p.m. on weekdays, and a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT:

For information pertaining to the establishment of the negotiation committee and associated administrative matters contact: Deborah Dalton, Deputy Director, Regulatory Negotiation Project, Information and Regulatory System Division, U.S. EPA

(PM-223), 401 M Street SW., Washington, DC, 20460 (202) 382-5495.

For information pertaining to the regulation of equipment leaks and the regulatory issues to be addressed in the negotiation, contact: Bob Ajax, MD-13, U.S. EPA, Research Triangle Park, NC 27711 (919) 541-5579.

SUPPLEMENTARY INFORMATION:

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I. EPA's Regulatory Negotiation Project

EPA established the Regulatory Negotiation Project in 1983 to explore and demonstrate the value of negotiation and other consensus-building techniques for developing better regulations which could be implemented in a less adversarial setting.

Negotiations are conducted through Advisory Committees chartered under the Federal Advisory Committee Act (FACA). The goal of the Committee is to reach consensus on the language or issues involved in a rule. If consensus is reached, it is used as the basis of the Agency's proposal. All procedural requirements of the Administrative Procedure Act and other applicable statutes continue to apply.

EPA has developed criteria for evaluation of potential items for negotiation. To qualify under EPA's selection criteria, an item must:

- Be planned for proposal;
- Have a relatively small number of identifiable parties, in an appropriate balance and mix, who have a good faith interest in negotiating;
- Present a limited number of related issues, for which sufficient information is available for resolution; and
- Have a time factor that lends some urgency to reaching consensus.

The seven negotiations conducted to

date have aided the Agency in better defining the issues and in crafting better approaches. The seven regulatory negotiations were:

- Nonconformance Penalties under the Clean Air Act, as amended; Final rule: August 30, 1985
- Emergency Pesticide Exemptions under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA); Final rule: January 15, 1986
- Farmworker Protection Standards for Agricultural Pesticides under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA); Proposed rule: July 8, 1988
- Asbestos Containing Materials in Schools under the Asbestos Hazard Emergency Responsibility Act of 1986 (AHERA); Final rule: October 30, 1987
- New Source Performance Standards for Woodburning Stoves under the Clean Air Act; Final rule: February 28, 1988
- Underground Injection of Hazardous Waste under the Hazardous and Solid Waste Amendments of 1984. Final rule: July 26, 1988
- Minor Permit Modifications under the Resource Conservation and Recovery Act (RCRA); Final rule: September 28, 1988

In December 1988, the Program Evaluation Division of EPA's Office of Policy Planning and Evaluation completed an assessment of the regulatory negotiations program. The study confirmed that negotiation is especially appropriate in situations which involve the resolution of a limited number of related issues, none of which involve fundamental questions of value or extremely controversial national policy. The study further concluded that:

- Negotiated rulemaking can produce rules that are more pragmatic with better environmental results while still meeting statutory requirements.
- Negotiated rules are also more likely to be acceptable to the affected industries, the public interest sector, and state and local governments involved in developing them.
- Negotiation may also result in earlier implementation of a rule by reducing the time it takes to proceed from proposed to final rulemaking.

EPA believes that the benefits to all parties of regulatory negotiation are substantial, and is committed to continued use of regulatory negotiation and other consensus-based processes for rulemaking when appropriate.

II. Volatile Organic Chemical Equipment Leak Fugitive Emissions

A. Need for Rule Revision

Fugitive emissions of volatile organic compounds (VOCs) from equipment leaks (valves, etc.) contribute significantly to air quality problems. Current regulations adopted under sections 111 and 112 of the Clean Air Act and in State Implementation Plans (SIPs) have been effective in heightening awareness of the significance of this source and in stimulating control efforts. The rules basically require that equipment in place be inspected quarterly for leaks with a portable hydrocarbon detector. If concentrations in excess of 10,000 ppm are found, the component is identified as a leaker and maintenance is required. EPA studies in the early 1980s showed that typical refineries and chemical plants have an uncontrolled leak frequency of 11 to 12 percent. Maintenance studies indicate this can be reduced by about 60-70 percent with the current leak detection and repair program. However, the actual frequency rate, and associated emissions in particular, vary widely and are believed to be a function of original design (e.g., number of valves) and age of the process unit, equipment selected, quality of maintenance, standard operating procedures used by the company, training provided to employees, and motivation. Recent data for highly toxic chemicals demonstrate that frequencies in the 0.3 to 2 percent range can be achieved in some situations. However, no one is sure what combination of factors guarantees such results nor how to require them through enforceable regulations.

More importantly, regulatory approaches currently being used do not provide for quantification of emissions. Specified quantified emission estimates levels are necessary to establish a baseline and EPA needs residual emissions and risk assessments to make regulatory decisions. For example, the analyses of EPA proposed rules that would limit benzene emissions (FR Vol. 53, No. 145, July 28, 1988) are based on emission estimates from leak frequencies typical of the refinery industry. These may significantly overestimate emissions of benzene.

EPA sees the need for a new regulatory approach, based on performance and/or emissions, that will result in quantifiable emission levels, give credit for original plant design and motivate innovation. Developing such an approach using EPA's traditional data gathering and analysis approach would be very difficult, costly, time consuming and controversial. Initial contacts

suggest that the major industrial organizations, environmental groups and state government associations will be receptive, and there is good potential for identifying new approaches through negotiation that are compatible with our needs and the complexity of the problems.

The negotiation would address primarily technical issues and would not be policy oriented. The specific goal of the negotiation would be to develop a new regulatory approach that could be an alternative to or replacement for the current 40 CFR 61, Subpart V equipment leak rules. The negotiation would address the form of the approach and the relationship between it and actual emissions but would not address stringency. Depending upon the timing and degree of success, the results could be used to implement the Agency's upcoming decision on benzene equipment leaks. If this is not possible, the results would be used in the next equipment leak standard, which will probably be the hazardous organic National Emission Standards for Hazardous Air Pollutants (NESHAPs).

B. Selection as a Negotiation Item

EPA believes that the equipment leak regulations may be appropriate for development through the regulatory negotiation process. EPA has made a preliminary inquiry of potential parties and representatives of identified interests to determine if this item satisfies EPA's selection criteria for negotiated rulemaking. On the basis of this preliminary inquiry, EPA believes that this item meets its selection criteria and that negotiations can be successful. Affected interests are small in number, and EPA's initial contacts indicate that an appropriate balance and mix of groups will be willing to participate in good faith. EPA's lead program office has identified a number of basic issues for which sufficient information is in hand (or will be developed during the negotiations) for resolution.

C. Key Issues for Negotiation

EPA anticipates the key negotiation questions will focus on how to establish a regulatory approach that will:

1. Achieve predictable, quantifiable emission results
2. Result in the application of the best available technology
3. Be enforceable
4. Exhibit maximum regulatory consistency (e.g., with state permitting requirements; SARA reporting requirements)
5. Provide incentives for better designs (e.g., designs that involve fewer

components that have the potential to leak)

6. Provide maximum flexibility in achieving specified results
7. Minimize administrative burdens
8. Provide for predictable compliance
9. Provide time that may be needed to identify, assess, and implement work practices, equipment and designs that will meet emission goals.

EPA expects to address the following specific questions:

1. Is leak detection and repair an appropriate approach? If so, how can the results be quantified? Should the definition of a leak be lowered?
2. Should leak detection and repair be required for flanges and, if so, what frequency and leak definition should be applied?
3. Is an emission limit (or a limit on the number of leaking components) an appropriate approach? How should such an approach be implemented?
4. Is an emission limit on a per component basis (or a limit on percent leaking components) an appropriate approach? How should such an approach be implemented?
5. Is there an effective approach that is a combination of the above?

D. Potential Interests and Participants

EPA has tentatively identified the following list of possible interests and parties:

- Chemical manufacturing industry
- Petroleum refining industry
- Industries that handle organic chemicals in equipment that includes valves, pumps, compressions, flanges or open-ended lines
- Environmental Interest Groups
- State and local air pollution control agencies
- Manufacturers of pumps and valves
- Consulting firms involved in plant design and equipment specification
- Contractors involved in construction of chemical plants and petroleum refineries
- Labor unions
- Other Federal agencies

III. Formation of the Negotiating Committee

A. Procedure for Establishing an Advisory Committee

As a general rule, an agency of the Federal government is required to comply with the requirements of FACA when it establishes or uses a group which includes non-Federal members as a source of advice. Under FACA, an Advisory Committee is established only after both consultation with GSA and receipt of a charter. EPA has prepared a

charter and has initiated the requisite consultation process. Only upon the successful completion of this process and the receipt of the approved charter will EPA form the Committee and commence negotiations.

B. Participants

The number of participants in the group is estimated to be about 15 and should not exceed 25 participants. A number larger than this could make it difficult to conduct effective negotiations. One purpose of this notice is to help determine whether the standard that EPA is developing would substantially affect interests not adequately represented by the proposed participants. We do not believe that each potentially affected organization or individual must necessarily have its own representative. However, we firmly believe that each interest must be adequately represented. Moreover, we must be satisfied that the group as a whole reflects a proper balance and mix of interests.

C. Requests for Representation

If, in response to this Notice, an additional individual or representative of an interest requests membership or representation in the negotiating group, the Agency, in consultation with the facilitator, will determine whether that individual or representative should be added to the group. EPA will make that decision based on whether the individual or interest:

- Would be substantially affected by the rule;
- Is already adequately represented in the negotiating group.

D. Final Notice

After evaluating the results of the informational and organizational meetings, and reviewing any comments on this Notice and requests for representation, EPA will issue a final notice. That notice will announce the establishment of a Federal Advisory Committee and the date of the first meeting, unless (1) EPA decides, based on comments and other relevant considerations, that such action is inappropriate, or (2) in the event EPA's charter request is disapproved. The negotiation process will begin once the Committee is appropriately chartered and notice is published in the Federal Register.

E. Tentative Schedule

EPA will hold an informational meeting on May 15, 1989 (10 am) until completion, at The Hall of States, 444 N. Capitol St., Washington, DC. This

meeting is open, and potential participants are encouraged to attend.

The purpose of this meeting is to: discuss whether negotiations should proceed, and if so, consider what issues and topics should and should not be covered, answer questions, and address any other procedural issues which may arise.

If an adequate mix and balance of parties attending the informational meeting are interested in participating in a negotiation, EPA will host an organizational meeting within two weeks to discuss how the negotiations would proceed and how the Committee would function. If the organizational meeting is successful and charter approved, EPA would hold the first meeting of the Advisory Committee within three weeks of the organizational meeting. At this meeting, participants would complete action on any procedural matters outstanding from the organizational meeting, determine how best to address the principal issues, and begin to address them.

Subsequent meetings of the Committee would be held once or twice a month either in Washington, DC, or in Research Triangle Park, NC, as determined by the Committee.

Though EPA has not set a final deadline for completion of the negotiation, it expects the negotiations may last up to six months. The Agency intends to terminate the activities of the Committee if it does not appear likely to reach consensus on a schedule that is consistent with Agency rulemaking needs.

IV. Negotiation Procedures

The following procedures and guidelines will apply to the Committee, if formed, unless they are modified as a result of comments received on this Notice or during the negotiating process.

A. Facilitator

EPA will use a neutral facilitator. The facilitator will not be involved with the substantive development or enforcement of the regulation. The facilitator's role is to:

- Chair negotiating sessions;
- Help the negotiation process run smoothly; and
- Help participants define and reach consensus.

B. Good Faith Negotiation

Since participants must be willing to negotiate in good faith and be authorized to do so, each organization must designate a senior official to represent its interests. This applies to EPA as well, and Bob Ajax, Chief,

Standards Development Branch, Office of Air Quality Planning and Standards, will be EPA's representative.

C. Administrative Support and Meetings

EPA's Information and Regulatory Systems Division will supply logistical, administrative and management support. Meetings will be held in the Washington area or in Research Triangle Park, NC, at the convenience of the Committee. To support the negotiations, EPA has pledged funds to a resource pool which the National Institute for Dispute Resolution will administer. EPA expects that funds from private foundations might also be available. The parties may use the funds for such activities as training, technical support, and other assistance which the Committee deems useful. To give committee members maximum freedom, subject to any applicable legal constraints, they will determine the procedures under which requests for funds will be made and approved.

D. Committee Procedures

Under the general guidance and direction of the facilitator, and subject to any applicable legal requirements, the members will establish the detailed procedures for Committee meeting which they consider most appropriate.

E. Defining Consensus

The goal of the negotiating process is consensus. In the negotiations completed to date, consensus has meant that each interest concurs in the result. We expect the participants to fashion their own working definition of this term.

F. Failure of Advisory Committee to Reach Consensus

In the event the Committee is unable to reach consensus, EPA will proceed to develop its own approach. Parties to the negotiation may withdraw at any time. If this happens, the remaining Committee should continue.

G. Record of Meetings

In accordance with FACA's requirements, EPA will keep a record of all Advisory Committee meetings. This record will be placed in the public docket for this rulemaking. EPA will announce Committee meetings in the Federal Register. Such meetings will be open to the public.

Dated: April 21, 1989.

Robert H. Wayland,
Acting Assistant Administrator, Office of
Policy, Planning and Evaluation.
[FR Doc. 89-10063 Filed 4-24-89; 10:17 am]
BILLING CODE 6560-50-M

EIS No. 890102, Draft, IBR, CO, Uncompahgre Valley Reclamation Project, AB Lateral Hydropower Facility Construction and Operation, Leasing, Delta and Montrose Counties, CO. Due: June 22, 1989. Contact: Wayne Deason (303) 238-9336.

EIS No. 890103, Final, FHW, CA, Ventura County Routes 23 and 118 Freeway Gap Closure, Rt-23 Freeway at New Los Angeles Avenue to Rt-118 Freeway at College View Avenue, Funding, 404 Permit, Moorpark City, Ventura County, CA. Due: May 30, 1989. Contact: Glenn Clinton (916) 551-1310.

EIS No. 890104, FSuppl, NRC, MT, Rare Earths Permanent Waste Disposal Facility Decommissioning, Alternative Site Analysis, License, DuPage County, IL. Due: May 30, 1989. Contact: Ginny Tharpe (202) 492-0610.

Amended Notices

EIS No. 890090, DSuppl, DOE, NM, Waste Isolation Pilot Plant Construction, Updated Geological and Hydrological Information, Eddy County, NM. Due: June 20, 1989. Contact: W. John Arthur III (505) 889-3038.

Published FR 04-21-89—Incorrect due date.

Dated: April 25, 1989.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 89-10295 Filed 4-27-89; 8:45 am]

BILLING CODE 6560-50-M

Memorandum
(AD-FRL-3560-7) *memo*

(National Air Pollution Control Techniques Advisory Committee; Open Meeting)

ACTION: Notice of open meeting.

SUMMARY: A meeting of the National Air Pollution Control Techniques Advisory Committee will be held at the Sheraton Imperial Hotel and Towers, Royal Ballroom, I-40 Exit 282 at Page Road, Research Triangle Park, North Carolina 27709. The commercial telephone number is (919) 941-5050.

DATES: June 7 and 8, 1989.

FOR FURTHER INFORMATION CONTACT: All meetings are open to the public. Anyone wishing to make a presentation should contact Ms. Mary Jane Clark at the Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, by May 26, 1989. The commercial telephone number is (919) 541-5571, and the FTS number is 629-5571.

SUPPLEMENTARY INFORMATION: The agenda for the meeting is as follows:

June 7 (Wednesday)—9:00 a.m.

[Municipal Waste Combustion] Status Report to the Committee on the Development of Standards and Guidelines under Sections 111(b) and (d) of the Clean Air Act.

[Municipal Solid Waste Landfills.] Status Report to the Committee on Regulatory Development (Section 111 of the Clean Air Act).

Source Category Ranking System. Review of a New Method Being Developed to Prioritize Sources of Air Toxics Emissions for Regulatory Analysis.

[Equipment Leaks] Status Report to the Committee on the Use of Regulatory Negotiation to Improve the Current Leak Detection and Repair Regulations for Emissions from Equipment Leaks (Section 111 and 112 of the Clean Air Act).

Industrial Wastewater Facilities. Review of a Draft Control Technology Document.

Solvent Cleaners. Review of a Draft Alternative Control Technology Document.

June 8 (Thursday)—9:00 a.m.

Continuation of June 7—As Required

The dockets containing material relevant to municipal waste combustion (A-89-08) and municipal solid waste landfills (A-88-09) are located in the U.S. Environmental Protection Agency, Air Docket, Room M1500, 1st floor, Waterside Mail, 401 M Street SW., Washington, DC 20460. The dockets may be inspected between 8:30 a.m. and 3:30 p.m. on weekdays, and a reasonable fee may be charged for copying. (Pub. L. 92-463).

Date: April 18, 1989.

Don R. Clay,

Assistant Administrator for Air and Radiation.

[FR Doc. 89-9879 Filed 4-27-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review.

April 21, 1989.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact Eyvette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-3785.

OMB Number: 3060-0355

Title: Rate of Return Report

Form Number: FCC 492

Action: Extension

Respondents: Businesses (including small businesses)

Frequency of Responses: Quarterly.

Estimated Annual Burden: 126

Responses: 4,032 Hours.

Needs and Uses: The FCC Form 492 is filed by each local exchange carrier (LEC) or group of carriers who file individual access tariffs. The form contains rate of return information on a quarterly and cumulative basis for monitoring the access tariffs and for monitoring the maximum rate of return prescriptions. The FCC 492 is needed to enable the Commission to fulfill its regulatory responsibilities.

Federal Communications Commission

Donna R. Searcy,

Secretary.

[FR Doc. 10156 Filed 4-27-89; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

(FEMA-823-DR)

Major Disaster and Related Determinations; Texas

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Texas (FEMA-823-DR), dated April 23, 1989, and related determinations.

DATED: April 23, 1989.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3614.

NOTICE: Notice is hereby given that, in a letter dated April 23, 1989, the President declared a major disaster under the authority of the Robert T. Stafford

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