Risks (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined in Executive Order 12866, and it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13132

This rule does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism'' (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the state and the federal government established in the CAA.

E. Executive Order 13175

This rule does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000).

F. Executive Order 13211

This 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 significantly regulatory action under Executive Order 12866.

G. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements 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 not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because operating permit program approvals under section 502 of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because this approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

H. Unfunded Mandates Reform Act

Under sections 202 of the Unfunded Mandates Reform Act of 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

In reviewing operating permit programs, EPA's role is to approve state choices, provided that they meet the criteria of the CAA and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the state to use VCS, EPA has no authority to disapprove an operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of an operating permit program that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of NTTAA do not apply.

J. Paperwork Reduction Act

This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. 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.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: August 17, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 01–21707 Filed 8–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 247

[SWH–FRL–7043–9]

RIN 2050–AE23

Comprehensive Guideline for Procurement of Products Containing Recovered Materials

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is proposing an amendment to the May 1, 1995, Comprehensive Procurement

Guideline (CPG). EPA is proposing to designate the following 11 new items that are or can be made with recovered materials: Bike racks; blasting grit; cement and concrete containing cenospheres; cement and concrete containing silica fume; modular threshold ramps; nonpressure pipe; nylon carpet and nylon carpet backing; office furniture; rebuilt vehicular parts; roofing materials; and tires. Today's document also proposes to revise EPA's previous designations for polyester carpet and railroad grade crossing surfaces.

The CPG implements the Resource Conservation and Recovery Act (RCRA) and Executive Order 13101, which require EPA to designate items that are or can be made with recovered materials and to recommend practices that procuring agencies can use to procure designated items. Once EPA designates an item, any procuring agency that uses appropriated federal funds to procure that item must purchase the item containing the highest percentage of recovered materials practicable. Today's proposed action will use government purchasing power to stimulate the use of these materials in the manufacture of new products, thereby fostering markets for materials recovered from solid waste.

DATES: EPA will accept public comments on this proposed rule until October 29, 2001.

ADDRESSES: To comment on this proposal, please send an original and two copies of comments to: RCRA Information Center (5305W), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please place the docket number F–2001–CP4P–FFFFF on your comments.

If any information is confidential, it should be identified as such. An original and two copies of Confidential Business Information (CBI) must be submitted under separate cover to: Document Control Officer (5305W), Office of Solid Waste, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

Documents related to today's proposal are available for viewing at the RCRA Information Center (RIC), located at: U.S. Environmental Protection Agency, 1235 Jefferson Davis Highway, Ground Floor, Crystal Gateway One, Arlington, VA 22202. The RIC is open from 9 a.m. to 4 p.m. Monday through Friday, except for federal holidays. The public must make an appointment to review docket materials. Call (703) 603–9230 for appointments. Copies cost $.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA Call Center at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, DC metropolitan area, call (703) 412–9810 or TDD (703) 412–3323. For technical information on individual item designations, contact Terry Grist at (703) 308–7257.

SUPPLEMENTARY INFORMATION:

Regulated Entities

This action may potentially affect those ''procuring agencies''—a term defined in RCRA section 1004(17)—that purchase the following: Bike racks, blasting grit, cement and concrete containing cenospheres, cement and concrete containing silica fume, modular threshold ramps, nonpressure pipe, nylon carpet and nylon carpet backing, office furniture, rebuilt vehicular parts, roofing materials, and tires. For purposes of RCRA section 6002, procuring agencies include the following: (1) Any federal agency; (2) any state or local agencies using appropriated federal funds for a procurement; or (3) any contractors with these agencies (with respect to work performed under the contract). The requirements of section 6002 apply to such procuring agencies only when procuring designated items where the price of the item exceeds $10,000 or the quantity of the item purchased in the previous year exceeded $10,000. Potential regulated entities for this rule are shown in Table 1.

TABLE 1.—ENTITIES POTENTIALLY SUBJECT TO SECTION 6002 REQUIREMENTS TRIGGERED BY CPG AMENDMENTS

Category	Examples of regulated entities
Federal Government	Federal departments or agencies that procure $10,000 or more worth of a designated item in a given year.
State Government	A state agency that uses appropriated federal funds to procure $10,000 or more worth of a designated item in a given year.
Local Government	A local agency that uses appropriated federal funds to procure $10,000 or more worth of a designated item in a given year.
Contractor	A contractor working on a project funded by appropriated federal funds that purchases $10,000 or more worth of a designated item in a given year.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists the types of entities of which EPA is now aware that could potentially be subject to regulatory requirements triggered by this action. To determine whether your procurement practices are affected by this action, you should carefully examine the applicability criteria in 40 CFR 247.2. If you have questions regarding the applicability of this action to a particular entity, consult the individuals listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Preamble Outline

I. What Is the Statutory Authority for This Proposed Amendment?

EPA (''the Agency'') is proposing this amendment to the Comprehensive Procurement Guideline under the authority of sections 2002(a) and 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976; 42 U.S.C. 6912(a) and 6962; in compliance with section 502 of Executive Order 13101 (Executive Order), ''Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition'' (63 FR 49643, September 14, 1998).

II. What Is the Background for This Action?

Section 6002(e) of RCRA requires EPA to designate items that are or can be made with recovered materials and to recommend practices to help procuring agencies meet their obligations for procuring items designated under RCRA section 6002. After EPA designates an item, RCRA requires that each procuring agency, when purchasing a designated item, must purchase that item made of the highest percentage of recovered materials practicable.

Executive Order 13101 establishes the procedure EPA must follow when implementing RCRA section 6002(e). Section 502 of the Executive Order directs EPA to issue a Comprehensive Procurement Guideline (CPG) that designates items that are or can be made with recovered materials. Concurrent with the CPG, EPA must publish recommended procurement practices for purchasing designated items, including recovered material content ranges, in a related Recovered Materials Advisory Notice (RMAN). The Executive Order also directs EPA to update the CPG every 2 years and to issue RMANs periodically to reflect changing market conditions.

The original CPG (CPG I) was published on May 1, 1995 (60 FR 21370). It established eight product categories, designated 19 new items, and consolidated five earlier item designations. At the same time, EPA published the first RMAN (RMAN I) (60 FR 21386). On November 13, 1997, EPA published CPG II (62 FR 60962), which designated an additional 12 items. At the same time, EPA published an RMAN II (62 FR 60975). Paper Products RMANs were issued on May 29, 1996 (61 FR 26985) and June 8, 1998 (63 FR 31214). On January 19, 2000, EPA published CPG III (65 FR 3070), which designated an additional 18 items. At the same time, EPA published an RMAN III (65 FR 3082).

Today, in CPG IV, EPA is proposing to designate the following 11 additional items:

Vehicular Products
- Rebuilt vehicular parts
- Tires

Construction Products
- Cement and concrete containing cenospheres
- Cement and concrete containing silica fume
- Modular threshold ramps
- Nonpressure pipe
- Nylon carpet and nylon carpet backing
- Roofing materials

Non-Paper Office Products
- Office furniture

Miscellaneous Products
- Bike racks
- Blasting grit

Also today in CPG IV, EPA is proposing to revise the previous designations for polyester carpet and railroad grade crossing surfaces.

A. What Criteria Does EPA Use for Selecting Items for Designation?

While not limiting consideration to these criteria, RCRA section 6002(e) requires EPA to consider the following when determining which items it will designate:

(1) Availability of the item;

(2) Potential impact of the procurement of the item by procuring agencies on the solid waste stream;

(3) Economic and technological feasibility of producing the item; and

(4) Other uses for the recovered materials used to produce the item.

EPA consulted with federal procurement and requirement officials to identify other criteria to consider when selecting items for designation. Based on these discussions, the Agency concluded that EPA should also factor the limitations set forth in RCRA section 6002(c) into its selection decisions. This provision requires each procuring agency that procures an item designated by EPA to procure the item composed of the highest percentage of recovered materials practicable, while maintaining a satisfactory level of competition. A procuring agency, however, may decide not to procure an EPA-designated item containing recovered materials if it determines: (1) The item is not available within a reasonable period of time, (2) the item fails to meet the performance standards set forth in the Agency's specification, or (3) the item is available only at an unreasonable price.

EPA recognized that the above criteria limit the conditions under which procuring agencies must purchase EPA-designated items with recovered materials content, and, thereby, could limit the potential impact of an individual item designation. (The limitations of RCRA section 6002(c) also effectively describe the circumstances in which a designated item is ''available'' for purposes of the statute.) For these reasons, EPA is also taking into account the limitations cited in RCRA section 6002(c) in its selection of items for designation in today's proposed CPG IV. Thus, the Agency developed the following criteria for use in selecting items for designation: use of materials found in solid waste, economic and technological feasibility and performance, impact of government procurement, availability and competition, and other uses for recovered materials. These criteria are discussed in detail in Section II of the document entitled, ''Background

Document for Proposed CPG IV and Draft RMAN IV.'' A copy of this document is included in the RCRA public docket for this rule.

EPA has adopted two approaches in its designation of items that are made with recovered materials. For some items, such as paper and paper products, the Agency designates broad categories of items and provides information in the related RMAN as to their appropriate applications or uses. For other items, such as plastic trash bags, EPA designates specific items, and, in some instances, includes in the designation the specific types of recovered materials or applications to which the designation applies. The Agency explained these approaches to designating items in the preamble to CPG I (60 FR 21373, May 1, 1995).

EPA sometimes had information on the availability of a particular item made with a specific recovered material (e.g., plastic), but no information on the availability of the item made from a different recovered material or any indication that it is possible to make the item with a different recovered material. In these instances, EPA concluded that it was appropriate to include the specific material in the item designation in order to provide vital information to procuring agencies as they seek to fulfill their obligations to purchase designated items composed of the highest percentage of recovered materials practicable. This information enables the agencies to focus their efforts on products that are currently available for purchase, reducing their administrative burden. EPA also included information in the proposed CPG, as well as in the draft RMAN that accompanied the proposed CPG, that advised procuring agencies that EPA is not recommending the purchase of an item made from one particular material over a similar item made from another material. For example, EPA included the following statement in the preamble discussion for plastic desktop accessories (59 FR 18879, April 20, 1994): ''This designation does not preclude a procuring agency from purchasing desktop accessories manufactured from another material, such as wood. It simply requires that a procuring agency, when purchasing plastic desktop accessories, purchase these accessories made with recovered materials. * * *''

The Agency has learned that some procuring agencies may erroneously believe that the designation of a broad category of items in a CPG requires them (1) to procure all items included in such category with recovered materials content and (2) to establish an affirmative procurement program for the entire category of items, even where specific items within the category may not meet current performance standards. This is clearly not required under RCRA as implemented through the CPGs and RMANs. RCRA section 6002 does not require a procuring agency to purchase items with recovered materials content that are not available or that do not meet a procuring agency's specifications or reasonable performance standards for the contemplated use. Further, section 6002 does not require a procuring agency to purchase such items if the item with recovered materials content is only available at an unreasonable price or the purchase of such item is inconsistent with maintaining a reasonable level of competition. However, EPA stresses that, when procuring any product for which a recovered materials alternative is available that meets the procuring agency's performance needs, the procuring agency should seek to purchase the product made with the highest percentage of recovered materials practicable.

The items proposed for designation today have all been evaluated with respect to EPA's criteria. Details of these evaluations are discussed in the ''Background Document for Proposed CPG IV and RMAN IV. Sections IV–VII of this preamble provide a summary of EPA's rationale for designating these items.

EPA acknowledges that there are other federal procurement programs that encourage agencies to consider other environmental attributes in addition to recovered materials content. In particular, EPA's Environmentally Preferable Purchasing (EPP) Program supports the consideration of life cycle costs and benefits when making purchasing decisions to determine which products and services would have the most significant environmental impacts. Therefore, EPA encourages agencies to consider other environmental impacts of products, as appropriate, when procuring items designated in the CPG. When purchasing carpets, for example, agencies might want to take into account the volatile organic compounds (VOC) content of the carpet, because a lower VOC content can help improve indoor air quality, which is especially important for sensitive individuals. In addition, the use of some sealants and adhesives used for carpet installations may further contribute to increased VOCs. Similarly, some fiberboard products used in office furniture may contain urea-formaldehyde as a binding agent. Formaldehyde is classified by EPA as a possible human carcinogen. Alternative binders may be available for use during the manufacturing process. EPA is not suggesting that the use of these, or any other materials in products, presents an undue risk. We are merely suggesting that, all other things being equal, agencies may wish to procure the designated item that provides the best overall environmental performance while still meeting all applicable specifications and performance requirements.

For additional information on other environmental purchasing initiatives, agencies are encouraged to visit the following Web sites: *www.epa.gov/oppt/epp, www.epa.gov/energystar, www.eren.doe.gov/femp.*

B. How Can I Comment on EPA's Proposed Rule?

EPA requests comments and information throughout this preamble. In general, the Agency is requesting comments on: (1) the items selected for designation and (2) the accuracy of the information presented in the discussions of the basis of the item designations. Requests for specific comments and information are included in the narrative discussions for each of the designated items, which follow in Sections IV through VII.

EPA also is requesting comments on the draft RMAN IV published in the notice section of today's **Federal Register**. It recommends recovered materials content levels and procurement methods for each of the items EPA is proposing to designate today.

C. Where Can I Find Additional Information on This Proposed Rule?

For additional background information, including information on RCRA requirements, Executive Order directives, and the criteria and methodology for selecting the proposed designated items, please consult ''Background Document for Proposed CPG IV and Draft RMAN IV.'' Information on obtaining this background document is provided in Section X, Supporting Information and Accessing Internet.

III. What Are the Definitions of Terms EPA Used in Today's Proposed Rule?

Today, in § 247.3, EPA is proposing to add terms and definitions for the following new items: Bike racks; blasting grit; cement and concrete containing cenospheres; cement and concrete containing silica fume; modular threshold ramps; nonpressure pipe; nylon carpet and nylon carpet backing; office furniture; rebuilt vehicular parts; and roofing materials. In addition, EPA is also including a definition for polyester carpet because it inadvertently failed to do so in CPG I. These definitions are based on industry definitions, including ASTM or other standard specifications, or represent

descriptions of the scope of items being designated. EPA specifically requests comments on each of these definitions.

For several items being proposed for designation, EPA recommends two-part recovered materials content levels in the draft RMAN IV—a postconsumer recovered content component and a total recovered materials component. In these instances, EPA found that both types of materials were being used to manufacture a product. Recommending only postconsumer content levels would fail to acknowledge the contribution to the reduction in solid waste made by the use by one manufacturer of another manufacturers' byproducts as feedstock.

Because the item designations in today's action use the terms ''postconsumer materials'' and ''recovered materials,'' the definitions for these terms are repeated here as a reference for the convenience of the reader. These definitions can be found in 40 CFR 247.3. The Agency is not proposing to change these definitions and will not consider any comments submitted on these terms.

Postconsumer materials means a material or finished product that has served its intended end use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. Postconsumer material is part of the broader category of recovered materials.

Recovered materials means waste materials and byproducts that have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within an original manufacturing process.

IV. Vehicular Products

A. Rebuilt Vehicular Parts

The information obtained by EPA demonstrates that rebuilt vehicular parts are commercially available. Today, in § 247.11(d), EPA proposes to designate rebuilt vehicular parts as an item whose procurement will carry out the objectives of section 6002 of RCRA.

A final designation would require that a procuring agency, when purchasing vehicular parts, purchase rebuilt parts when they meet applicable specifications and performance requirements. This designation would apply to rebuilt vehicular parts used in passenger vehicles as well as medium- and heavy-duty equipment (*e.g.,* trucks, cranes, off-road vehicles, military vehicles).

1. Background

Rebuilt vehicular parts are vehicle parts that have been remanufactured, reusing parts in their original form. For an automotive product to be considered remanufactured or rebuilt under the Federal Trade Commission (FTC) guides, it must be dismantled; all internal and external parts must be cleaned and made free of rust and corrosion; all impaired, defective, or substantially worn parts must be restored to sound condition or replaced with new or rebuilt parts; and all necessary operations must be performed to put the remanufactured product in sound working condition. (''Guides for the Rebuilt, Reconditioned and Other Used Automotive Parts Industry,'' Federal Trade Commission, 16 CFR Part 20).

2. Rationale for Designation

EPA has concluded that rebuilt vehicular parts meet the statutory criteria for selecting items for designation.

a. *Use of materials in solid waste.* EPA identified five remanufacturers of parts that use between 60 and 95 percent postconsumer materials (i.e., viable components from the used part). One company remanufactures clutches for farm tractors and passenger automobiles with 80 to 85 percent postconsumer materials. Another company rewinds stators and rotors for alternators, and armatures for starters and generators using 60 and 80 percent postconsumer material, respectively. Another company that rebuilds alternators, starters, and generators for cars and trucks uses 80 to 85 percent postconsumer materials. One company remanufactures power and air brakes for passenger, medium-duty, and heavy-duty tractor trailer trucks with 90 to 95 percent postconsumer materials. Still another company remanufactures rack and pinion steering and constant velocity axle units with 85 to 90 percent postconsumer materials. In addition, all automobile manufacturers supply rebuilt parts to their dealerships.

b. *Technically proven uses.* According to the Automotive Parts Rebuilders Association (APRA), rebuilt parts have been routinely used by the general public for more than 50 years. In fact, when a vehicle manufacturer exhausts its supply of new parts for a vehicle, used parts are rebuilt by the original manufacturer itself.

Rebuilt parts are not just cleaned, visually inspected, and resold with little to no repair work done. These parts undergo an extensive remanufacturing and testing process. Rebuilt parts must meet the same industry specifications for performance as new parts. According to APRA, rebuilt parts are comparable in quality to new parts and can be of even better quality than new parts when items are upgraded during the rebuilding process.

c. *Impact of government procurement.* Vehicles are kept for about 3 to 6 years by most government agencies. Some agencies, however, say that vehicles are not usually kept long enough to need many replacement parts. According to APRA, heavy-duty equipment is generally kept longer and is usually almost totally rebuilt.

EPA found that the majority of replacement vehicular parts purchased by the Forest Service are rebuilt parts (for all types of vehicles). Engines for medium- and heavy-duty equipment are always rebuilt. The U.S. Air Force has a written policy stating its preference for rebuilt parts, and the majority of parts for all of their vehicle types are rebuilt.

Many federal agencies use local commercial facilities for maintenance and repair of government-owned or leased vehicles. Many of these agencies simply request the least expensive parts, which usually are rebuilt parts.

During 1999, bills were introduced in California, New York, Connecticut, Missouri, and Texas that would make procurement of remanufactured products by those state governments easier and prevent procurement by them of products that have restrictions on being remanufactured. Bills were ultimately passed and made law in California, Connecticut, and Texas.

B. Tires

The information obtained by EPA demonstrates that tires containing recovered materials are commercially available. Retread tires were one of five original items EPA designated in the late 1980's. EPA included these earlier designations with new designations in CPG I (60 FR 21370). Sec. 403(b) of EO 13149, ''Greening the Government through Federal Fleet and Transportation Efficiency,'' encourages agencies to purchase tires containing 5 to 10 percent recovered rubber.

Today, in § 247.11(b), EPA proposes to revise the designation for tires to include tires containing recovered materials as an item whose procurement will carry out the objectives of section 6002 of RCRA. A final designation would require that a procuring agency, when purchasing tires, either procure retread tires and retreading services or purchase tires containing recovered rubber when they meet applicable specifications and performance requirements. The previous designation for retread tires and services is not changed by today's proposal; the Agency is merely reformatting the designation to differentiate between retread tires and services and tires containing recovered materials.

1. Background

Tires are used on almost all types of vehicles, are available in different sizes, and are designed for specific applications. An average passenger tire weighing about 20 pounds would consist of 10 pounds of elastomers, which are a combination of both synthetic and natural rubber; 5 pounds of carbon black; 3 pounds of fibers such as steel and nylon; and 2 pounds of 40 different kinds of chemicals, waxes, oils, pigments, and binding agents.

2. Rationale for Designation

EPA has concluded that tires containing recovered materials meet the statutory criteria for selecting items for designation.

a. *Use of materials in solid waste.* EPA identified at least five manufacturers that incorporate some percentage of crumb rubber into some of their tire lines. The percentages ranged from .5 to 6 percent. At least one manufacturer is looking into incorporating up to 10 percent recovered material into one of its lines of tires.

Ground or ''crumb rubber'' is the primary material used in recovered material content tires. Crumb rubber is derived from scrap tires that have been shredded into fine pieces of rubber. According to one crumb rubber manufacturer, U.S. tire manufacturers use approximately 110,000 tons of crumb rubber each year. The company speculated that if U.S. tire manufacturers were to use 10 percent recovered materials content in their tires, demand for crumb rubber would increase to 356,400 tons per year.

In 1998, 273 million scrap tires were generated in the United States. Of these, between 12 to 14 million were used to manufacture crumb rubber for use in tires and other products. One crumb rubber manufacturer speculates that if the current annual U.S. crumb rubber consumption rate of 110,000 tons remains consistent, there is no foreseeable shortage of raw materials to produce this product.

b. *Technically proven uses.* Some tire manufacturers expressed concern that the use of recovered rubber could have an adverse affect on tire performance and durability, especially in high-performance tires. Many companies, however, are successfully incorporating some percentage of recovered rubber into their tires without sacrificing performance or durability.

c. *Impact of government procurement.* Vehicular tires are purchased by all levels of government. The U.S. General Services Administration (GSA) currently has 161,000 vehicles that it leases to different government agencies. Most repair work, including tire replacements, are procured on the open market or through a list of 50,000 vendors on contract to GSA. According to the Office of the Federal Environmental Executive, in fiscal year 1997 federal agencies spent $84,050,300 on tires. Assuming an average unit cost of $80 per tire, EPA estimates that federal agencies purchased more than 1,000,000 tires during fiscal year 1997.

V. Construction Products

A. Cement and Concrete Containing Cenospheres

The information obtained by EPA demonstrates that cement and concrete containing cenospheres are commercially available. EPA previously designated cement and concrete containing fly ash and ground granulated blast furnace slag (GGBF) in CPG I. Today, in § 247.12(c), EPA proposes to revise the cement and concrete designation to include cement and concrete containing cenospheres as an item whose procurement will carry out the objectives of section 6002 of RCRA.

1. Background

Cenospheres are very small (10–350 microns), inert, lightweight, hollow, ''glass'' spheres composed of silica and alumina and filled with air or other gases. They are a naturally-occurring component of fly ash, the largest byproduct of coal-fired power plants. Cenospheres are recovered and marketed throughout the world as an aggregate (or ''filler'') material in a wide variety of products. Unlike some aggregates that compete with cenospheres for certain applications, cenospheres are not manufactured; they are recovered only from fly ash.

Concrete containing cenospheres is a high performance concrete used in many construction applications including, but not limited to, specialty cements, mortars, grouts, and stucco. It can be used in construction of roads, bridges, buildings, docks, and dams.

2. Rationale for Designation

EPA has concluded that cement and concrete containing cenospheres meets the statutory criteria for selecting items for designation.

a. *Use of materials in solid waste.* The percentage of cenospheres used in concrete varies depending on the application and desired performance characteristics of the concrete, but according to sources in the industry, the typical content of cenospheres in concrete ranges from 10 percent to 15 percent by weight. Concrete containing cenospheres also often contains fly ash and vice versa, which further increases the recovered materials content percentage of the concrete.

According to data provided by the American Coal Ash Association (ACAA), between 630,000 and 3,150,000 tons of cenospheres were generated in 1998 by metal producers in the United States and 25,000 to 45,000 tons were reclaimed. The total amount of cenospheres reused will be higher because of the cenospheres content of fly ash, which is used as an additive in concrete as well. Cenospheres that are not reused are landfilled with the fly ash from which they are derived. According to ACAA, cenospheres are an inert material that does not leach hazardous pollutants in landfills or during storage. It is estimated that 70 to 80 percent of all cenospheres produced are landfilled.

Assuming a conservative cenosphere production rate of 1 million tons per year, the calculated volume of solid waste this represents is 83 million cubic feet of solid waste based on an average bulk density of 24 pounds per cubic foot. Based on the average U.S. reclamation volume of 35,000 tons annually, this represents a volume reduction of approximately 2.9 million cubic feet per year.

b. *Technically proven uses.* Cenospheres can be added to traditional concrete mixtures to increase strength and decrease shrinkage and weight. According to a cenosphere supplier, concrete containing cenospheres has increased thermal stability and better overall endurance as compared to traditional concrete. Cenospheres are used as fillers or extenders in place of traditional fillers such as manufactured glass spheres, calcium carbonate, clays, talc, and other various silicas. Cenospheres can be used in concrete in conjunction with other recovered materials such as fly ash and silica fume, or by itself. Cenospheres are 75 percent lighter than other minerals currently used as fillers and 30 percent lighter than most resins.

EPA identified the following national specification which can be used by procuring agencies to buy concrete containing cenospheres of a standard quality: ASTM C–618, which covers concrete additives.

c. *Impact of government procurement.* Many government agencies at the federal, state, and local levels purchase cement and concrete for construction-related projects. One vendor indicated that the Tennessee Department of Transportation has used cement containing cenospheres for vertical

overhead patching. This same contact indicated that most procuring agencies would not be aware that cement with cenospheres was being utilized for a particular project because the product is not typically advertised as such. According to one large cenosphere supplier, cenospheres are available throughout the United States and are available worldwide. They have been used in Europe in numerous applications for several decades. In fact, one contact indicated that some suppliers are importing cenospheres from Australia for sale in the United States because Australia's recovery infrastructure is more mature. EPA identified seven domestic suppliers of cenospheres, four of which are major suppliers of this item.

B. Cement and Concrete Containing Silica Fume From Silicon and Ferrosilicon Metal Production

The information obtained by EPA demonstrates that cement and concrete containing silica fume are commercially available. EPA previously designated cement and concrete containing fly ash and ground granulated blast furnace slag (GGBF) in CPG I. Today, in § 247.12(c), EPA proposes to revise the cement and concrete designation to include cement and concrete containing silica fume from silicon and ferrosilicon metal production as an item whose procurement will carry out the objectives of section 6002 of RCRA.

1. Background

Silica fume is a waste material recovered from alloyed metal production—it is the solid waste collected on filters of electric arc furnace stacks. According to the Silica Fume Coalition (SFC), silica fume is a very fine, dust-like material composed primarily of silicon dioxide, the basic component of most rocks and sand. The glassy, spherical particles, approximately 1 micrometer in diameter, are a byproduct resulting from the reduction of high-purity quartz with coal or coke and wood chips in an electric arc furnace (EAF) during the production of silicon metal or ferrosilicon alloys. For comparison purposes, a grain of sand is about 1,000 times larger than a silica fume particle. Although silica content and particle size of fumes will vary according to the source of the fume, the use of silica fume in concrete has been standardized in specifications published by the American Society for Testing Materials (ASTM), the American Concrete Institute (ACI), the American Association of State Highway and Transportation Officials (AASHTO), and several state departments of transportation (DOTs). Hydrogen gas is released from concrete mixtures containing silica fume with a silicon metal production greater than 2 percent, which can result in a potential hazard. ASTM standards require that silica fume used in concrete be derived from only silicon or ferrosilicon metal production, which yields silica fume having a silicon metal content less than 2 percent, thus eliminating these hazards. Based on this information, EPA has concluded that any designation should be limited to silica fume from silicon and ferrosilicon metal production.

Concrete containing silica fume is a high-performance concrete (HPC) used in construction and maintenance projects including, but not limited to, roads, bridges, buildings, docks, and dams. As defined by ACI, HPC is concrete that meets special requirements not achievable through the use of conventional materials and construction practices. Concrete containing silica fume is sold premixed in bags, similar to concrete with other additives.

2. Rationale for Designation

EPA has concluded that cement and concrete containing silica fume meets the statutory criteria for selecting items for designation.

a. *Use of materials in solid waste.* The percentage of silica fume used in HPC varies depending on the application and desired performance characteristics of the concrete, but according to numerous sources in the concrete industry, the typical content of silica fume in concrete ranges from 5 percent to 20 percent on a dry weight basis. HPC containing silica fume also often contains fly ash, which further increases the recovered materials content percentage of the concrete.

According to SFC, approximately 115,000 tons of silica fume were generated in 1999 by metal producers in the United States and approximately 67,200 tons were reused. SFC estimates, however, that due to increased generation of silica fume, reuse will need to increase 93 percent by the year 2000 to eliminate the need to dispose of silica fume. Other than its use in concrete, no other beneficial uses of silica fume are known. Silica fume that is not reused is either landfilled or stored for future reuse. Silica fume is an inert material and does not leach hazardous pollutants in landfills or during storage.

According to SFC, the United States uses more than 500 million tons of concrete a year, which is more than 2 tons for every person in the United States. Using silica fume in only a small percentage of concrete production could greatly reduce the need to dispose of silica fume.

b. *Technically proven uses.* Silica fume can be added to traditional concrete mixtures, which are composed of cement, aggregate, and water. It increases strength, microstructure density, and electrical resistivity; decreases fluid permeability; and improves the overall endurance of the concrete. As a concrete additive, it is used to replace some of the cement added to concrete. Silica fume is not a cementitious agent. It is categorized as an admixture, an aggregate, a filler, a pozzolanic additive, and other synonymous terms in specifications for its use in concrete. Silica fume can also be used in concrete in conjunction with other recovered materials, including fly ash and GGBF slag.

EPA identified the following national specifications and guidelines, which can be used by procuring agencies to buy HPC containing silica fume of a standard quality: ASTM C1240, AASHTO M840, and ACI 234R–96. ACI 234R–96 describes the properties of silica fume; how silica fume interacts with cement; the effects of silica fume on the properties of fresh and cured concrete; typical applications of silica fume concrete; recommendations on proportions, specifications, and handling of silica fume in the field. Silica fume has been used in HPC primarily to enhance strength and endurance properties, not because it is a recovered material.

Silica fume enhances HPC properties because its small particle size fills the microscopic holes in cement, which increases density and strength. The density of silica fume concrete makes it an appropriate material for bridges, parking decks, docks, and dams because of its strength and its impermeability. Concrete containing silica fume significantly reduces the potential damage from freeze and thaw cycles because it is too dense for water to permeate below the surface of the concrete. According to a contact with the New York Department of Transportation (NYDOT), HPC with silica fume and coal fly ash is used on all NYDOT bridge and deck construction projects as well any other structures that are subjected to salts or chlorides (i.e., deicing salts or salt spray from seawater). The contact indicated that the low permeability of the concrete slows the ingress of salt to internal reinforcements, thus delaying corrosion.

Silicosis is a potentially debilitating lung disorder that results from the inhalation of crystalline silica. While

the Occupational Safety and Health Administration (OSHA) has not established specific exposure limits for silica fume, OSHA has established a permissible exposure limit for all inert or nuisance dusts, which includes silica fume, of 5 mg/m^3 based on an 8-hour time weighted average (TWA) (29 CFR 1910.1000, Table Z–3). The American Conference of Governmental Industrial Hygienists (ACGIH), however, has established a threshold limit value for silica fume of 2 mg/m^3 based on an 8-hour TWA. ACGIH's threshold limit values are established so that ''nearly all workers may be repeatedly exposed day after day without adverse health effects.'' Unlike OSHA's permissible exposure limits, ACGIH's threshold limit values are not legal standards; however, they are used by some companies to establish their own permissible limits.

To reduce the potential risks associated with silica fume particles, suppliers typically slurry with water or compact silica fume to reduce workers' potential exposure to the dust.

c. *Impact of government procurement.* Silica fume is available worldwide. It is packaged dry in bags and pressurized cubes, or as a slurry with chemical stabilizers to prevent freezing. There are seven major producers and 10 major suppliers. Distributors are available in all 50 states.

The following state DOTs are known to have used concrete containing silica fume: New York, Ohio, Washington, South Carolina, Pennsylvania, Indiana, and Virginia. A contact with the New York DOT indicated that most states have used concrete containing silica fume at one point or another and that many probably use it routinely.

According to SFC, of the 580,000 bridges in the U.S., approximately 1,900 bridges were built or repaired using concrete containing silica fume by 1999.

C. Modular Threshold Ramps

The information obtained by EPA demonstrates that modular threshold ramps containing recovered materials are commercially available. Today, in § 247.12(k) EPA is proposing to designate modular threshold ramps containing recovered content steel, aluminum, or rubber as an item whose procurement will carry out the objectives of section 6002 of RCRA. A final designation would not preclude a procuring agency from purchasing modular threshold ramps made from another material. It simply requires that a procuring agency, when purchasing steel, aluminum, or rubber modular threshold ramps, purchase these items made with recovered materials when they meet applicable specifications and performance requirements.

1. Background

Threshold ramps are used to modify door thresholds and other small rises to remove barriers that changes in level landing create, particularly with regards to access by people with disabilities. Threshold ramps can be either custom-made and permanent, or can be constructed from modular sections which can be purchased separately. For reasons explained below, EPA's proposed designation is limited to modular threshold ramps, which usually contain recovered metal or rubber.

A change of level landing greater than ½ inch, such as at a door threshold, creates a barrier to access by individuals with disabilities. As a result, products have been developed to retrofit door thresholds. These products are also used to improve access by people with disabilities to outdoor recreation areas, in compliance with the Architectural Barriers Act (ABA) of 1968, the Rehabilitation Act of 1973, the Uniform Federal Accessibility Standards (UFAS) and the Americans with Disabilities Act (ADA) of 1990. These standards also apply to state and local governments and private facilities of public accommodation.

When the change of level landing is greater than 6 inches and where a modular ramp is not suitable, concrete, asphalt, wood, or metal are typically used to create a transition that effectively removes the barrier. A modular rubber ramp for a transition greater than 6 inches becomes very heavy and prohibitively expensive to ship. EPA's proposed designation covers modular threshold ramps only, rather than threshold ramps in general. EPA is limiting the scope of this designation to modular ramps because they are standard items that can be purchased as end products. Custom-built, permanent threshold ramps are not covered under the scope of this designation.

2. Rationale for Designation

EPA has concluded that modular threshold ramps containing recovered materials meet the statutory criteria for selecting items for designation.

a. Use of materials in solid waste. Rubber modular threshold ramps can be manufactured with up to 100 percent postconsumer recovered materials. Metal ramps are manufactured from aluminum, steel, copper, or copper alloy (brass) containing recovered materials. Aluminum ramps can be composed of up to 40 percent secondary aluminum billet. Secondary aluminum billet contains 35 to 40 percent scrap aluminum, with the balance consisting of primary aluminum (ingot) and alloying ingredients. The end product would contain about 15 percent recovered total material. Steel ramps are made from either or a combination of steel made from the Basic Oxygen Furnace (BOF) and Electric Arc Furnace (EAF). A contact at the Steel Recycling Institute, therefore, indicated that steel threshold ramps can contain between 25 and 85 percent recovered content including 16 to 67 percent postconsumer material. However, EPA has concluded that since steel ramps can be made from either type of steel, it is possible to make ramps with up to 100 percent total recovered materials if EAF steel is used.

Since concrete and asphalt threshold ramps require construction, they are not included with the modular threshold ramps under consideration for designation. However, since EPA has already designated cement and concrete containing certain recovered materials, procuring agencies should consider requiring cement and concrete used for constructing threshold ramps to contain these recovered materials.

b. Technically proven uses. EPA is aware of two producers that use postconsumer recovered rubber and three that use recovered aluminum in threshold ramps. The use of recovered steel and copper in threshold ramps is also technically feasible.

Recycled rubber threshold ramps meeting the ADA and UFAS standards have been available since 1996 and are similar in performance and cost to synthetic rubber ramps. According to a contact with a school district in Florida, the recycled rubber ramp provides a greater static coefficient of friction rating, and is therefore more slip-resistant. The rubber threshold ramps can be used anywhere where there is a change of level landing requiring a ramp of 1:12 slope. The ramps are not limited to door thresholds. Therefore, this product has applicability along any access route, indoors or outdoors.

A limitation to the recycled rubber ramp is that it is only suitable for heights up to 6 inches. At this height the ramp becomes very heavy and expensive to ship. (The standard modular ramp weighs 16 to 18 pounds). For changes in level landing greater than 6 inches, modifications generally require re-pouring concrete or using permanent, custom-built rather than modular ramps.

For many years, aluminum, steel, and copper ramps have been used to provide access for people with disabilities and to eliminate barriers at door thresholds

and other changes of level landing. Aluminum threshold ramps generally involve assembling locking pieces and end flanges onsite with a minimum of nine cement anchors installed to fasten the product to the substrata. Aluminum ramps may have a more slippery cross-traffic surface than rubber threshold ramps, and therefore generally require a nonslip treatment that can wear and must be refurbished over time.

c. Impact of government procurement. EPA contacted six manufacturers of modular threshold ramps. Four of these companies manufacture rubber threshold ramps, and two use postconsumer recovered rubber; the other two use virgin (synthetic) rubber. Most have a network of distributors, but one company only sells its rubber threshold ramp to one specific customer.

Three of these suppliers also manufacture aluminum ramps that can contain recovered materials when secondary billet is less expensive than primary billet.

Although exempt from ADA requirements, the federal government is using the 1992 ADA guidelines with regards to accessibility by people with disabilities because they are more current than the much older UFAS. Hence, all government agencies potentially purchase modular threshold ramps. Manufacturers of modular threshold ramps are selling some products to the federal government. Three manufacturers indicated that their distributors have made sales to federal facilities, and, while EPA was not able to quantify purchases of these items, the Agency has concluded that they are purchased in substantial quantities that support the proposed designation of these items.

D. Nonpressure Pipe

The information obtained by EPA demonstrates that nonpressure pipe made with recovered materials is commercially available. Today, in § 247.14(l), EPA proposes to designate nonpressure pipe containing recovered steel, plastic, or concrete as an item whose procurement will carry out the objectives of section 6002 of RCRA.

A final designation would not preclude a procuring agency from purchasing nonpressure pipe made from other materials. It simply requires that a procuring agency, when purchasing steel, plastic, or concrete nonpressure pipe, purchase the item containing recovered materials when they meet applicable specifications and performance requirements.

1. Background

Nonpressure pipe is used throughout the United States as drainage pipe and conduit in construction, communications, municipal, industrial, agricultural, and mining applications. Drainage pipe is used in water distribution systems for surface and subsurface applications (*e.g.,* building foundations, highway construction, and general land drainage) to collect and convey water by gravity flow. It also is used in drain, waste, and vent (DWV) applications where it functions similarly to drainage pipe. In DWV applications, it is used primarily in residential construction and other building projects. It is used in sanitary and storm sewer applications and as conduit and ducts to house electrical and communications wires.

2. Rationale for Designation

EPA has concluded that nonpressure pipe containing recovered materials meets the statutory criteria for selecting items for designation. EPA's designation would be limited to nonpressure pipe used for noncritical applications such as agricultural drainage, drain, waste and vent (DWV), building and construction duct and pipe, road and highway ducts and drainage, and electrical and communications conduit.

a. Use of materials in solid waste. The principal recovered materials investigated by EPA in its research on pipe were plastics (HDPE and PVC), steel, aluminum, and coal fly ash used in cement and concrete. EPA is also aware that cement and concrete containing ground granulated blast furnace slag (GGBF), cenospheres, and silica fume can also be used to make nonpressure pipe.

A 1996 report by the Reason Foundation indicated that because the pipe industry uses minimal amounts of recycled resin in its manufacturing, the industry could potentially absorb additional quantities. Reason estimated that as much as 130,000 additional tons of recovered PVC and 120,000 additional tons of recovered HDPE could be used in the manufacture of pipe.

b. Technically proven uses. Pipe containing recovered material has been used throughout the country for many years. Manufacturers of postconsumer-content plastic pipe report their products are used primarily for agricultural drainage and other applications where specifications do not preclude recovered materials. Several organizations have developed specifications related to pipe. These are referenced in the ''Background Document for Proposed CPG IV and Draft RMAN IV,'' located in the RCRA Docket.

Several contacts expressed concern about some technical performance issues that could present purchasing barriers, particularly with plastic pipe. EPA addresses these concerns in the ''Background Document for Proposed CPG IV and Draft RMAN IV,'' located in the RCRA Docket.

c. Impact of government procurement. Nonpressure pipe is purchased by federal, state, and local government agencies that engage in new construction or renovation projects. EPA was not able to quantify purchases of these items, but EPA has determined that nonpressure pipe is purchased in quantities sufficient enough to support the proposed designations of these items. In most cases, architects, engineers, and contractors are engaged for ''turn-key'' projects that include all design specifications and construction details. With the advent of performance-based contracting, agencies are leaving all details of the design and material specifications to the contractor.

E. Nylon Carpet and Nylon Carpet Backing

The information obtained by EPA demonstrates that nylon carpet and nylon carpet backing made with recovered materials are commercially available. Today, EPA proposes to revise § 247.12(d), to include nylon carpet and nylon carpet backing containing recovered materials as items whose procurement will carry out the objectives of section 6002 of RCRA.

A final designation would not preclude a procuring agency from purchasing carpet or carpet with backing made from other materials. In the case of nylon carpet, the designation simply requires that a procuring agency, when purchasing nylon carpet, purchase this carpet containing recovered materials in the nylon face fiber and/or in the nylon carpet backing when they meet applicable specifications and performance requirements.

When researching nylon carpet backing, EPA identified two companies that use in-house scrap from their own virgin manufacturing practices to make polypropylene (PP) backing. However, EPA is not aware of any company using recovered material as defined in this proposed rule. Therefore, EPA is requesting comments and information on the use of recovered materials in PP carpet backing.

1. Background

Carpet backing is a layer of woven or nonwoven material used to hold carpet fibers in place and provide structural support. The majority of office floors in the United States are covered with nylon-based broadloom carpet, and nylon-based carpet represents 90 to 95 percent of all carpet, the remaining being polypropylene, acrylic, or polyester-based. Typically, with broadloom, or ''roll'' carpet, carpet fibers are inserted into a layer of woven material and glued into place. This layer of woven material, the primary backing, is most often made of polypropylene (PP). Another layer of woven material, the secondary backing, is then applied to the primary backing to provide stability. The secondary backing is also usually made from PP but can also be made of jute. Broadloom carpet is purchased and installed as one large piece that is cut and fitted for a particular office environment.

Carpet tile was introduced to the marketplace about 40 years ago as an alternative to broadloom. In the past 10 years, the popularity of carpet tile has increased and now represents approximately 10 percent of total U.S. commercial carpet dollars in sales, estimated to be $2.8 billion. In the government, carpet tile represents approximately 30 percent of total carpet purchased, estimated to be 3.2 million yards per year at a cost of approximately $57 million.

Carpet tiles are manufactured first as broadloom carpet, but a third layer of polyvinyl chloride (PVC), polyurethane, or other hardback material is applied to the secondary backing for enhanced durability. The carpet is then usually cut into 18 by 18-inch squares. Carpet tiles are used in modular flooring systems, such as office settings, and can offer more flexibility than broadloom carpet. Individual carpet tiles can be replaced when they become worn.

2. Rationale for Designation

EPA has concluded that nylon carpet and nylon carpet backing containing recovered materials meets the statutory criteria for selecting items for designation.

a. Use of materials in solid waste. Today's global carpet industry produces more than 4 billion pounds (2 million tons) of replacement carpet yearly. It is estimated that 5 billion pounds (2.5 million tons) of carpet are disposed of in landfills each year. Of this amount, approximately 1 billion pounds (500,000 tons) is type 6 nylon face yarn, that which is most commonly recovered.

According to information obtained from one carpet company, carpet tiles with recovered content backing weigh approximately 8.4 pounds per square yard. Approximately 22.4 percent of a carpet tile by weight contains recovered material. About 2 pounds of recovered material, therefore, are used in each square yard of its carpet tiles. If a government agency purchased 1,000 square yards of the carpet tiles with recovered content backing, approximately 2,000 pounds (1 ton) of material would be diverted from the waste stream.

In the past, when the carpet was removed, it was largely discarded in landfills. However, many nylon fiber and carpet companies have initiated collection programs to divert used carpet from landfills and use it to make new products. Several manufacturers are producing nylon carpet with up to 100 percent recovered material. The recovered material is usually a combination of postconsumer and postindustrial material, but at least one company has produced caprolactam, the main product of recovery, using 100 percent postconsumer material.

Several companies are manufacturing PVC carpet backing containing recovered materials, with the ratio of postconsumer to postindustrial material dependent on market availability. One company indicated that its recovered content nylon carpet backing is made from 100 percent recovered material, including more than 35 percent postconsumer carpets and less than 65 percent postindustrial material from the carpet-making and automobile manufacturing industries.

Another company is the sole provider of the only carpet renewing program currently on the market. The company super-cleans, retextures, restyles, and recolors modular carpet tiles to look like new. The process creates a product that essentially contains 100 percent postconsumer material.

One company EPA contacted no longer manufactures carpet fiber but does make a polypropylene carpet backing. The company uses a small amount (1 to 2 percent) of postindustrial in-house manufacturing scrap in its backings, but the contact added that they are essentially virgin products.

Another company also has recently started using a small amount (1 percent) of postindustrial manufacturing scrap in its polypropylene backings. The company intends to increase the recovered material content to 5 to 10 percent in the future, possibly including some postconsumer carpet backing material.

b. Technically proven uses. EPA's research indicates that nylon carpet and nylon carpet backing made with recovered materials content is of similar quality to nylon carpet and backing made from virgin materials content.

Most of the companies contacted have collection programs in place for recovering used carpet and other recovered material.

According to a contact at one company, recovered content PVC carpet backing performs as well as virgin PVC backing.

c. Impact of government procurement. Carpet with recovered content is widely available in the marketplace. The Agency determined that many carpet distributors offer nylon carpeting with recovered material content.

As mentioned previously, the popularity of carpet tile has increased and now represents approximately 10 percent of total U.S. commercial carpet dollars in sales, estimated to be $2.8 billion. In the government, carpet tile represents approximately 30 percent of total carpet purchased, estimated to be 3.2 million yards per year at a cost of approximately $57 million.

According to contacts at two companies, several carpets manufactured from their recovered material content yarn systems are available through GSA's schedule. Another company's nylon is the major component in numerous carpet styles offered by carpet mills, dealers, and retailers that are listed in the Floor Coverings section of the Federal Supply Schedule (72 I–A). In addition to other government facilities, the government currently purchases nylon carpeting with recovered material content for military housing.

City, county, state, and federal government agencies currently purchase recovered content carpets, either as part of new building construction or retrofit projects.

F. Roofing Materials

The information obtained by EPA demonstrates that roofing materials containing recovered materials are commercially available. Today, in § 247.12(m), EPA proposes to designate roofing materials made from recovered content steel, aluminum, fiber, rubber, plastic or plastic composites, and cement as items whose procurement will carry out the objectives of section 6002 of RCRA. A final designation would not preclude a procuring agency from purchasing roofing materials manufactured from another material. It simply requires that a procuring agency, when purchasing steel, aluminum, fiber, rubber, plastic or plastic composite, or

cement roofing materials, purchase these items made with recovered materials when these items meet applicable specifications and performance requirements.

1. Background

A building's roof system and its finished roofing materials are the primary means of shielding a structure's interior from the natural elements. According to the Roofing Industry Educational Institute, approximately 30 variables determine the type of roof to use on a building. Variables include the roof structure and decking, its slope, appearance, the weight the structure must support, local building and fire codes, the roofing materials already on the building, and the area's climate and wind zone. For example, while a sloping shingle roof easily sheds water, a flat roof must depend on a continuous waterproof membrane to contain the water while it drains and/or evaporates.

Consequently, roofing systems fall into two general categories: (1) High-sloped or ''pitched'' roofs and (2) low-sloped or flat roofs. Residential structures normally have pitched roofs, although parts (such as garages or some additions) can be low-sloped. Commercial roofs are generally low-sloped. Roofs are generally referred to as ''residential'' or ''commercial,'' but these terms can refer either to the slope of the roof or the use of the building.

2. Rationale for Designation

EPA has concluded that roofing materials containing recovered materials meet the statutory criteria for selecting items for designation.

a. Use of materials in solid waste. Steel containing recovered and postconsumer material content is used in roof decking, shingles, and panels. According to the Steel Recycling Institute, depending on whether the steel is produced by the basic oxygen furnace or electric arc furnace method, the steel used in roofing materials could contain 25 to 100 percent recovered steel, including 16 to 67 percent postconsumer steel. Fiber used in matting (tar paper, underlayment, felt), roll roofing, and organic asphalt shingles normally has some recovered and postconsumer materials content derived from old corrugated containers, old newspapers, mixed office waste, wood chips from used pallets, or recovered used dry felt. A fiber base can also be used in concrete shingles. EPA contacted four manufacturers of organic shingles that each use between 66 and 100 percent postconsumer corrugated containers, kraft paper, mixed paper, and other recovered paper.

Large fiberglass shingle manufacturers contacted by EPA indicated that they do not manufacture the shingles with recovered content material. Likewise, EPA found that asphalt used in matting, roll roofing, shingles, coatings, modified bitumen, and built-up roofing usually does not contain recovered or postconsumer materials. Aluminum shingles and panels can and are being made with recovered and postconsumer materials. One manufacturer uses up to 20 percent postconsumer material from curbside collection programs. Another manufacturer makes 95 percent postconsumer aluminum shingles. Rubber single-plies, shingles, and ''rubberized'' modified bitumen (styrene-butadiene-styrene, known as SBS) can contain some recovered and postconsumer materials, including old tires. One manufacturer of rubber shingles uses 100 percent postconsumer (old) tires. EPA is aware of one other manufacturer that claims to use at least 50 percent postconsumer rubber in its shingles. Plastic single-plies, shingles, and plasticized modified bitumen (atactic polypropylene, known as APP) can contain various types of recovered and postconsumer plastics. One contact was unable to provide a percentage of recovered material content of its plastic. Another manufacturer EPA contacted makes plastic shingles and shakes from 100 percent postconsumer plastic. Wood shakes can contain recovered materials from old pallets, pallet scraps, sawmill waste, and manufacturing waste. EPA contacted one manufacturer that incorporates the company's manufacturing waste into wood shakes and shingles. Another manufacturer makes roofing shingles from 100 percent recovered wood and PVC plastic. Cement-based shingles can include recovered materials. One manufacturer uses 4 percent postconsumer newsprint fibers and 14 percent recovered silica fume in their fiber base concrete shingles, which are made with portland cement.

b. Technically proven uses. Durability is critical in roofing because a failure can mean serious damage, not just to the roofing itself, but to the building and its contents as well. EPA found no performance issues relating to the use of recovered materials in roofing products.

Roofing systems and their components are subject to an array of standards, tests, and codes pertaining to performance and other characteristics. EPA found no building codes or standards that prohibit the use of recovered materials in roofing products.

c. Impact of government procurement. The federal government procures a vast amount of roofing materials annually, although statistics are not kept on this information. The Department of Commerce's ''Commerce Business Daily'' has on online, searchable database, however, and EPA was able to find numerous active and archived notices for construction and renovation projects by federal agencies that involve, among other things, roofing, While most of the information available is for re-roofing projects, it goes without saying that all new building construction projects would include roofing.

Several manufacturers indicated that they sell to federal, state, or local government entities, but did not provide names of specific agencies, contact names, or the amount sold.

G. Polyester Carpet (Revision)

1. Background

On May 1, 1995, EPA issued a final designation for polyester carpet containing recovered materials in CPG I (60 FR 21370). This designation was codified at 40 CFR 247.12(d). Since EPA issued this designation, we have received a number of inquiries from procuring agencies and industry representatives expressing some confusion over the polyester carpet designation, when agencies are ''required'' to buy recycled-content polyester carpeting, and what applications are included in the designation.

The final CPG I designated ''carpet made from polyester fiber for use in low- and medium-wear applications.'' In the background document for the final CPG I, EPA cited the Carpet and Rug Institute's (CRI) guidelines for selecting the quality of carpeting in light-, medium-, and heavy-wear applications. At the time, CRI suggested the following general carpet applications: *light-wear* for bedrooms, dressing rooms, and some dining rooms in private homes; *moderate-wear* for living and dining rooms in private homes, motel and hotel bedrooms, and private offices; *heavy-wear* for commercial-type installations in office buildings, public rooms, motel and hotel lobbies, stairways, and stores; and *severe-wear* for corridors, and other wheeled traffic areas. EPA recommended ''that procuring agencies follow these general guidelines in determining applications that may be suitable for the use of polyester carpet containing recovered materials.'' EPA also recommended ''the use of polyester carpet containing recovered materials for light- and moderate (medium)-wear applications,'' consistent with the types of uses in the CRI guidelines. The CPG

limited the designation to these types of applications.

CRI recently issued new carpet-use classifications which provide a listing of the types of end-use applications recommended for carpet and reclassifies the applications into three new categories: moderate-, heavy-, and severe-wear applications. Most of the applications cited by EPA in the initial polyester designation referred to private homes which, under the new CRI list, would be included in the category of ''single family housing.'' CRI's classifications includes both moderate- and heavy-use applications under the single family housing category. Therefore, EPA proposes to revise the polyester carpet designation to reference the new CRI classifications and specify that the designation be limited to moderate- and heavy-wear applications such as those found in single-family housing units, private offices, and similar applications. EPA requests comments on this proposed revision to the designation for polyester carpet.

EPA notes that some agencies have developed their own specifications for end-use applications. It is not EPA's intent to suggest that these specifications be changed or to recommend the use of polyester carpet where it may not be suitable. EPA's designation of polyester carpet, in effect, applies to those cases where procuring agencies have determined that polyester carpet has suitable characteristics to meet the agencies' particular applications. Where it is determined that polyester carpet is not suitable for a particular application, the agency is not required to purchase this type of carpet. However, where it is determined that polyester carpet is suitable, procuring agencies should purchase this carpet containing recovered materials.

2. Revised Designation

Today, in 40 CFR 247.12(d), EPA proposes to amend the designation for polyester carpet to specify that the designation is limited to moderate- and heavy-wear applications such as those found in single-family housing units, private offices, and similar applications.

H. Railroad Grade Crossings Surfaces (Revision)

1. Background

On January 19, 2000, EPA designated railroad grade crossing surfaces made from cement and concrete containing coal fly ash, recovered rubber, or recovered steel (65 FR 3070). This designation was codified at 40 CFR 247.12 (j). EPA recently received information from two companies, one that manufactures railroad grade crossings made from recovered wood, and another that manufactures railroad grade crossings from a composite plastic material. The information from these companies has been included in the RCRA docket for this proposed rule. One company recovers wood from old railroad ties and uses this material to make new railroad ties and railroad grade crossing surfaces. The wood used to make these products is made from old railroad ties combined with a proprietary plastic binder made from postconsumer plastic. The company claims that the end products contain 90–97% postconsumer materials content. The proposed inclusion of wood railroad grade crossing surfaces in EPA's designation would also include composite wood materials. The other company makes a composite crossing from 100% recovered materials, including auto shredder residue and postconsumer plastic. The company claims that the end product contains 85–95% postconsumer material. EPA requests comments on the inclusion of recovered wood and plastic as materials to be added to the previous designation of railroad grade crossing surfaces containing recovered content cement, rubber, or steel.

2. Revised Designation

Today, in 40 CFR 247.12(j), EPA proposes to amend the existing designation for railroad grade crossing surfaces to include railroad grade crossing surfaces containing recovered wood or composite wood materials and composite plastic materials. EPA has concluded that railroad grade crossing surfaces containing recovered wood and plastic meet the statutory criteria for selecting items for designation, as previously discussed in CPG III (63 FR 45558, August 26, 1998).

VI. Nonpaper Office Products

A. Office Furniture

The information obtained by EPA demonstrates that office furniture made with recovered materials is commercially available. Today, in § 247.16(l), EPA proposes to designate office furniture containing recovered steel, aluminum, wood, agricultural fiber, and plastic as items whose procurement will carry out the objectives of section 6002 of RCRA. A final designation would not preclude a procuring agency from purchasing office furniture manufactured from other materials. It simply requires that a procuring agency, when purchasing steel, aluminum, wood, agricultural fiber, or plastic office furniture, purchase these items made with recovered materials when these items meet applicable specifications and performance requirements.

1. Background

Office furniture includes seating, desks, storage units, file cabinets, tables, and systems furniture (or ''cubicles'') used in virtually all federal offices.

Most office furniture is made of wood, including particleboard and medium-density fiberboard (MDF), or steel. Some companies are making particleboard from recovered agricultural fiber such as straw, kenaf, jute, and soybean hulls. Other materials in office furniture manufacturing include polyethylene terephthalate (PET) in fabrics; plastic, which is integrated in components such as laminated work surfaces and arm rests; and aluminum.

Most companies in the furniture industry do not manufacture and assemble furniture from raw materials. Rather, companies specialize in one aspect of manufacturing and work together. Suppliers, or ''base manufacturers,'' for example, take raw materials, such as plastic, aluminum, wood, agricultural fiber, or steel, and convert them into components (e.g., table tops, rubber edging, metal frames). Furniture manufacturers then purchase the components from suppliers and assemble them to make furniture products. In some instances, however, manufacturers fabricate their own wood and metal components.

In researching office furniture, EPA found that products fall into one of the following categories: new office furniture; reused furniture; refurbished furniture; and remanufactured furniture. For definitions of these categories, refer to the ''Background Document for Proposed CPG IV and Draft RMAN IV,'' located in the RCRA Docket.

2. Rationale for Designation

EPA has concluded that office furniture containing recovered materials meets the statutory criteria for selecting items for designation.

a. *Use of materials in solid waste.* Reused office furniture tends to have the highest postconsumer content because the product is not significantly altered. Refurbished office furniture contains almost as much postconsumer content as reused office furniture, although it usually has virgin materials added due to necessary touch-ups. Remanufactured office furniture tends to contain less postconsumer content than reused or refurbished furniture, but generally conserves the greatest value in the product.

EPA found that new furniture contains varying amounts (from 0 to 98 percent) of recovered materials. Refurbished and remanufactured office furniture typically contains 25 to 75 percent postconsumer materials depending on the condition of the core being refurbished or remanufactured. According to a government consultant with 20 years experience as a federal government sales representative, remanufactured office furniture can contain as much as 60 to 80 percent postconsumer content.

According to Office Furniture Recyclers Forum (OFRF), approximately 3 million tons of office furniture are discarded in landfills each year. Remanufacturing and refurbishing can divert some of this furniture away from landfills by returning it to offices. In fact, remanufacturing just 40 typical work stations diverts one tractor-trailer load of furniture from a landfill. Also, reusing one pound of material through remanufacturing saves five to nine pounds of original materials.

Using recovered materials in manufacturing and remanufacturing also diverts waste from landfills. According to OFRF, when a company manufacturers or remanufacturers one typical work station with fabric made from recovered materials, for example, it uses 240 recovered PET soda bottles. So, if an agency were to purchase 1,000 remanufactured work stations, it would divert 240,000 soda bottles from landfills.

One company estimates it has diverted approximately 48.4 million pounds of workstation materials from landfills since opening for business in 1989.

b. *Technically proven uses.* According to one vendor, furniture made with recovered materials content, remanufactured furniture, and refurbished furniture all perform as well as furniture manufactured with virgin materials. Remanufacturing and refurbishing restores worn office furniture to a condition comparable to new furniture in quality and reliability. In general, upholstery made with recovered PET looks, cuts, and upholsters the same as fabric made with virgin resins.

Office partitions covered with postconsumer content fabric are stain-proof and fabric rated, which means they comply with Boston, New York, and California fire codes (the most stringent state fire codes in the country). Office partitions made from postconsumer content fabric are similar in durability to those made from fabrics with virgin materials.

In many cases, there are advantages to using remanufactured or refurbished furniture. For example, furniture is usually available for delivery on much quicker time frame. In the case of one company, the refinishing can be done on the premises due to the absence of toxic chemicals. As a result, there is very little moving of furniture required and minimal downtime for the client.

c. *Impact of government procurement.* OFRF estimates that the federal government purchased $396.3 million in office furniture in 1996. According to another contact, however, the federal government spent approximately $562 million on office furniture in 1996. According to the Coalition for Government Procurement, over the past 5 years, federal government agencies purchased over $1.9 billion of office furniture including metal filing cabinets, seating, systems furniture and pedestals, office tables (excluding executive type), and executive offices. According to one contact, most federal purchases are made through GSA schedules and some are made via open market contractors.

GSA operates programs to reuse, refurbish, and donate used furniture. Additionally, GSA's National Furniture Center works with agencies interested in incorporating environmental considerations into its selection process. The 1999 GSA consolidated schedule, which is valid for 5 years, includes furniture items in Solicitation No. 3FNO–M1–990001–B, Schedule 71, Part 1. This schedule includes remanufactured furniture as Special Item Number (SIN) 711–92.

UNICOR's Federal Prison Industries, Inc., is a mandatory source provider to the government for office furniture and many other items. According to UNICOR, the government purchases over 15 percent of its furniture from them, which equates to 40 percent of UNICOR's furniture sales. In 1997, UNICOR's office furniture sales to the federal government totaled $80 million.

VII. Miscellaneous Products

A. Bike Racks

The information obtained by EPA demonstrates that bike racks containing recovered materials are commercially available. Today, in § 247.17(h), EPA proposes to designate bike racks containing recovered steel and plastic as an item whose procurement will carry out the objectives of section 6002 of RCRA. A final designation would not preclude a procuring agency from purchasing bike racks manufactured from another material. It simply requires that a procuring agency, when purchasing steel or plastic bike racks, purchase them containing recovered material when they meet applicable specifications and performance requirements. When researching bike racks, EPA obtained information about those manufactured from recovered steel and plastic, but requests comments on other recovered materials such as wood or aluminum that can be or are being used to manufacture bike racks. In addition, although all of the manufacturers of plastic bike racks that EPA contacted use recovered HDPE, EPA sees no technical reason why plastic bike racks could not be made from another type of plastic resin or composite. Therefore, EPA requests comments on whether other types of recovered plastic resins are used in the manufacture of plastic bike racks. In addition, EPA requests comments on whether other recovered materials are used to manufacture bike racks.

1. Background

Bike racks provide a method for cyclists to secure their bicycles safely. Commonly found in public areas and outside office buildings, bike racks can be designed to hold 1 to 50 bicycles and can range from $100 to $1,000 each, depending on type. They can be free standing units, anchored by bolts or cement, or embedded into the ground.

2. Rationale for Designation

EPA has concluded that bike racks containing recovered materials meet the statutory criteria for selecting items for designation.

a. *Use of materials in solid waste.* According to the Steel Recycling Institute, the steel used in bike racks is most likely made using the basic oxygen furnace (BOF) process and would, therefore, contain 25 to 30 percent recovered material including 16 percent postconsumer material.

EPA identified four manufacturers that use 100 percent HDPE plastic lumber to manufacture their bike racks. EPA's research noted that most of these plastic lumber manufacturers use 100 percent postconsumer HDPE for their products.

b. Technically proven uses. Most contacts reported that steel bike racks are very durable and virtually maintenance-free. According to a facilities employee at a university, however, although most steel bike racks are marketed as ''maintenance-free,'' some of them tend to rust. Furthermore, for painted steel bike racks, contact with bikes and bike locks makes them vulnerable to scratches. Applications of paint are sometimes required to maintain their appearance. According to

one manufacturer, plastic lumber bike racks are just as secure as steel bike racks. Furthermore, plastic lumber bike racks do not tend to rust or scratch as easily as steel bike racks.

According to the government agencies EPA contacted that use steel bike racks, there are no specifications or requirements that would preclude the purchase of bike racks with recovered materials.

c. Impact of government procurement. According to the four county governments EPA contacted, purchases for equipment such as bike racks are usually not tracked, but EPA assumes all counties and schools purchase bike racks. EPA also is convinced that all federal agencies purchase bike racks. EPA was not able to quantify purchases of this item but has concluded that they are purchased in quantities sufficient enough to support the proposed designation.

B. Blasting Grit

The information obtained by EPA demonstrates that several types of blasting grit are available containing recovered materials. Today, in § 247.17(i), EPA proposes to designate blasting grit (a type of industrial abrasive) containing recovered steel, coal combustion byproducts (boiler slag and bottom ash), metal slags, glass, plastic, or walnut shells as items whose procurement will carry out the objectives of section 6002 of RCRA. A final designation would not preclude a procuring agency from purchasing blasting grit manufactured from another material. It simply requires that a procuring agency, when purchasing blasting grit containing steel, coal combustion byproducts, metal slags, glass, plastic, or walnut shells, purchase these items made with recovered materials when these items meet applicable specifications and performance requirements. EPA identified only one type of recovered organic material (walnut shells) being used in blasting grit and requests comments on whether other types of organic materials are being used in blasting grit.

1. Background

Blasting grit is a loose form of industrial abrasive that is used to shape, cut, sharpen, or finish a variety of surfaces and materials and to clean engines, prime and clean surfaces, and for corrosion control. It comes in a variety of grades (particle size) dictated by the materials being ground and the finish that is required.

Generally, industrial abrasives can be fashioned for use on metals, ceramics, carbides, composites, glass, and plastics. They can be made from a variety of materials, both virgin (including metal, minerals, and silicon) and recovered (including aluminum oxide, coal and metal slag, glass, plastic, and organic materials such as walnut shells). Industrial abrasives are used in many industries, including construction, automotive, and landscaping.

There are several specific types of industrial abrasives. Bonded abrasives are abrasive materials that have been mixed and hardened with polymer or phenol formaldehyde resins or other types of fixing agents. They are also sometimes affixed to a substrate (most commonly aluminum oxide). Coated abrasives are commonly known as sandpaper, sandpaper discs, and sanding belts, although the term is used somewhat loosely and is occasionally used to include some types of bonded abrasives as well.

Abrasives are also commonly sold in raw or unbonded form for such purposes as blasting grit. These materials are sometimes used with water to help remove contaminants from the substrate, to wet the abrasive, and to reduce dispersion of fine particles (dust). Often containing recovered materials, unbonded abrasives can be made from steel, coal and metal slag, glass, plastic and natural materials such as walnut shells. Superabrasives are abrasives made from only the strongest materials or minerals such as garnet or even diamond. These are highly specialized and expensive products and are used for heavy duty jobs such as compacted rust removal.

2. Rationale for Designation

EPA has concluded that blasting grit containing recovered materials meets the statutory criteria for selecting items for designation.

a. Use of materials in solid waste. EPA's research suggests that the use of recovered materials in blasting grit is already diverting millions of tons of solid waste from the waste stream. For example, according to the American Coal Ash Association, electric utilities produced 2.9 million tons of boiler slag in 1998. Of this amount, 2.1 million tons were re-used as blasting grit and roofing granules.

In addition, the use of postconsumer recovered glass in the manufacture of blasting abrasives has the potential to significantly boost demand for recovered glass. One company that manufactures blasting abrasives from recovered glass, for example, has developed a glass processing system capable of handling 5,000 to 10,000 tons of recovered glass per year. In addition to recovered steel, coal and metal slag, and glass, EPA is aware that blasting grit can be manufactured from other materials that otherwise would be disposed of as part of the municipal solid waste stream, such as plastic and walnut shells.

b. Technically proven uses. EPA identified potential issues associated with the use of some recovered materials in blasting grit and is requesting comments on whether it should proceed with the designation. In particular, there is some evidence that documents dangerously high levels of heavy metals in abrasives containing coal and mineral slag materials that may present risks to workers. For example, a study by NIOSH entitled ''Evaluation of Substitute Materials for Silica Sand in Abrasive Blasting'' reveals high concentrations of heavy metals present in airborne dust from blasting with copper, nickel, and coal slags, as well as several other mineral abrasives.

EPA regulations do not, however, restrict the use of materials of these types or require their management under the RCRA hazardous waste management system. Thus, recently, in EPA's final rule on the Regulatory Determination on Wastes from the Combustion of Fossil Fuels (40 CFR Part 261), issued May 22, 2000, the Agency chose to retain the exemption for fossil fuel combustion wastes from the hazardous waste management system under RCRA section 3001(b)(3)(C). In addition, EPA stated in the final rule that it did not wish to place any unnecessary barriers on the beneficial use of fossil fuel combustion wastes for applications that conserve natural resources and reduce disposal costs. Therefore, EPA is proposing to include blasting grit containing slag materials in this designation but recommends that workers using these types of abrasives exercise OSHA or other required standard practices designed to protect worker health and safety.

Regarding technical feasibility and performance, abrasive blasting grit made from postconsumer recovered glass can be used in most conventional blasting equipment. A variety of industry standards pertain to industrial abrasives, and all blasting grit products containing recovered materials meet these standards. Reference to industry standards can be found in the ''Background Document for Proposed CPG IV and Draft RMAN IV,'' which is located in the RCRA Docket.

c. Impact of government procurement. Federal, state, and local governments purchase large amounts of blasting grit products, but EPA was unable to obtain figures on actual amounts purchased. A

recent search of the ''Commerce Business Daily's'' online database turned up six active awards for contracts for the purchase of industrial abrasives (all military agencies). In addition, a search of the Defense Logistics Agency's Federal Logistics Information System's database (http://www.dlis.dla.mil/online.htm) identified 62 types of abrasive products currently being purchased by the armed services alone. Judging by this information, it is apparent that the federal government in particular procures a vast amount of industrial abrasives, including blasting grit, either directly, or through contracts.

VIII. Where Can Agencies Get More Information on the Availability of EPA-Designated Items?

EPA has identified a number of manufacturers and vendors of the items proposed for designation in today's rule. Once the item designations in today's proposal become final, a list of these companies will be placed in the RCRA docket for this action and will be posted on EPA's Web site. These lists will be updated periodically as new sources are identified and product information changes. Procuring agencies should contact the manufacturers and vendors directly to discuss their specific needs and to obtain detailed information on the availability and price of recycled products meeting those needs.

Other information is available from GSA, DLA, state and local recycling offices, private corporations, and trade associations. In addition, a new Web site has recently been developed that lists all EPA designated items and manufacturers, suppliers, and vendors of these items. The Web site address is <www.greenorder.com>. Refer to Appendix II of the document, ''Background Document for Proposed CPG IV and Draft RMAN IV,'' located in the RCRA public docket, for more detailed information on these sources of information.

IX. Administrative Assessments

A. Executive Order 12866: Regulatory Planning and Review

Executive Order 12866 requires agencies to determine whether a regulatory action is ''significant.'' The Order defines a ''significant'' regulatory action as one that is likely to result in a proposed 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 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; 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.

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review. EPA estimates that the costs associated with today's proposed rule is well below the $100 million threshold. EPA has prepared an Economic Impact Analysis (EIA) to evaluate the potential impact of today's action. The results of the EIA are discussed below. More information on the estimated economic impact of today's proposed rule is included in the Economic Impact Analysis for this proposed rule. A copy of this document is in the RCRA public docket.

1. Summary of Costs

As shown in Table 2 below, EPA estimates that the annualized costs of today's proposed rule will range from $6.5 to $12.8 million, with costs being spread across all procuring agencies (i.e., federal agencies, state and local agencies that use appropriated federal funds to procure designated items, and government contractors). These costs are annualized over a 10-year period at a three percent discount rate. Because there is considerable uncertainty regarding several of the parameters that influence the costs, EPA conducted sensitivity analyses to identify the range of potential costs of today's proposed rule. Thus, high-end and low-end estimates are presented along with the best estimate. The primary parameter affecting the range of cost estimates is the number of products each procuring agency is assumed to procure each year. Details of the costs associated with today's proposed rule are provided in the Economic Impact Analysis for this proposed rule.

TABLE 2.—SUMMARY OF ANNUALIZED COSTS OF PROPOSED CPG IV AMENDMENTS TO ALL PROCESSING AGENCIES

Procuring agency	Total annualized costs ($1000)	Best estimate total annualized costs ($1000)
Federal Agencies	$8,822—$4,411	$8,822
States	$1,085—$542	$1,085
Local Governments	$2,762—$1,556	$2,159
Contractors	$101—$34	$68
Total	$12,770—$6,543	$12,134

As a result of today's proposed rule, procuring agencies will be required to take certain actions pursuant to RCRA section 6002, including rule review and implementation; estimation, certification, and verification of designated item procurement; and for federal agencies, reporting and recordkeeping. The costs shown in Table 2 represent the estimated annualized costs associated with these activities. Table 2 also includes estimates for federal agencies that will incur costs for specification revisions and affirmative procurement program modification. More details of the costs associated with today's proposed rule are included in the Economic Impact Analysis.

There may be both positive and negative impacts to individual businesses, including small businesses. EPA anticipates that today's proposed rule will provide additional opportunities for recycling businesses to begin supplying recovered materials to manufacturers and products made from recovered materials to procuring agencies. In addition, other businesses, including small businesses, that do not directly contract with procuring agencies may be affected positively by the increased demand for recovered materials. These include businesses involved in materials recovery programs and materials recycling. Municipalities

that run recycling programs are also expected to benefit from increased demand for certain materials collected in recycling programs.

EPA is unable to determine the number of businesses, including small businesses, that may be adversely impacted by today's proposed rule. If a business currently supplies products to a procuring agency and those products are made only out of virgin materials, the amendments to the CPG may reduce that company's ability to compete for future contracts. However, the amendments to the CPG will not affect existing purchase orders, nor will it preclude businesses from adapting their product lines to meet new specifications or solicitation requirements for products containing recovered materials. Thus, many businesses, including small businesses, that market to procuring agencies have the option to adapt their product lines to meet specifications.

2. Product Cost

Another potential cost of today's action is the possible price differential between an item made with recovered materials and an equivalent item manufactured using virgin materials. The relative prices of recycled content products compared to prices of comparable virgin products vary. In many cases, recycled content products are less expensive than similar virgin products. In other cases, virgin products have lower prices than recycled content products. Many factors can affect the price of various products. For example, temporary fluctuations in the overall economy can create oversupplies of virgin products, leading to a decrease in prices for these items. Under RCRA section 6002(c), procuring agencies are not required to purchase a product containing recovered materials if it is only available at an unreasonable price. However, the decision to pay more or less for such a product is left up to the procuring agency.

3. Summary of Benefits

EPA anticipates that today's proposed rule will result in increased opportunities for recycling and waste prevention. Waste prevention can reduce the nation's reliance on natural resources by reducing the amount of materials used in making products. Using less raw materials results in a commensurate reduction in energy use and a reduction in the generation and release of air and water pollutants associated with manufacturing. Additionally, waste prevention leads to a reduction in the environmental impacts of mining, harvesting, and other extraction processes.

Recycling can effect the more efficient use of natural resources. For many products, the use of recovered materials in manufacturing can result in significantly lower energy and material input costs than when virgin raw materials are used; reduce the generation and release of air and water pollutants often associated with manufacturing; and reduce the environmental impacts of mining, harvesting, and other extraction of natural resources. For example, according to information published by the Steel Recycling Institute, recycling one ton of steel saves nearly 11 million Btus of energy; 2,500 lbs. of ore; 1,400 lbs. of coal; and 120 lbs. of limestone. Recycling can also reduce greenhouse gas emissions associated with manufacturing new products. When compared to landfilling, recycling one ton of high density polyethylene, low density polyethylene, or polyethylene terephthalate plastic can reduce greenhouse gas emissions by up to 0.64 metric tons of carbon equivalent (MTCE). In addition to conserving non-renewable resources and reducing the environmental impacts associated with resource extraction and processing, recycling can also divert large amounts of materials from landfills, conserving increasingly valuable space for the management of materials that truly require disposal.

By purchasing products made from recovered materials, government agencies can increase opportunities for all of these benefits. On a national and regional level, today's proposed rule can result in expanding and strengthening markets for materials diverted or recovered through public and private collection programs. Also, since many state and local governments, as well as private companies, reference EPA guidelines when purchasing designated items, this rule can result in increased purchase of recycled products, locally, regionally, and nationally and provide opportunities for businesses involved in recycling activities.

B. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency 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 on small entities of today's rule, small entity is defined as: (1) a small business as defined by RFA default definitions for small business (based on Small Business Administration size standards); (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; or (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

EPA evaluated the potential costs of its proposed designations to determine whether its actions would have a significant impact on a substantial number of small entities. In the case of small entities that are small governmental jurisdictions, EPA has concluded that the proposal, if promulgated, will not have a significant economic impact. EPA concluded that no small government with a population of less than 50,000 is likely to incur costs associated with the designation of the 11 items because it is improbable that such jurisdictions will purchase more than $10,000 of any designated item. Consequently, RCRA section 6002 would not apply to their purchases of designated items. Moreover, there is no evidence that complying with the requirements of RCRA section 6002 would impose significant additional costs on the small governmental entity to comply in the event that a small governmental jurisdiction purchased more than $10,000 worth of a designated item. This is the case because in many instances, items with recovered materials content may be less expensive than items produced from virgin material.

Furthermore, EPA similarly concluded that the economic impact on small entities that are small businesses would not be significant. Any costs to small businesses that are ''procuring agencies'' (and subject to RCRA section 6002) are likely to be insubstantial. RCRA section 6002 applies to a contractor with a federal agency (or a state or local agency that is a procuring agency under section 6002) when the contractor is purchasing a designated item, is using federal money to do so, and exceeds the $10,000 threshold. There is an exception for purchases that are ''incidental to'' the purposes of the contract, i.e., not the direct result of the funds disbursement. For example, a courier service contractor is not required to purchase re-refined oil and retread tires for its fleets because purchases of these items are incidental

to the purpose of the contract. Therefore, as a practical matter, there would be very limited circumstances when a contractor's status as a ''procuring agency'' for section 6002 purposes would impose additional costs on the contractor. Thus, for example, if a state or federal agency is contracting with a supplier to obtain a designated item, then the cost of the designated item (any associated costs of meeting section 6002 requirements) to the supplier presumably will be fully recovered in the contract price. Any costs to small businesses that are ''procuring agencies'' (and subject to section 6002) are likely to be insubstantial. Even if a small business is required to purchase other items with recovered materials content, such items may be less expensive than items with virgin content.

After considering the economic impacts of today's proposed rule on small entities, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities.

This rule, therefore, does not require a regulatory flexibility analysis. The basis for EPA's conclusions that today's proposed rule, if adopted, will not have a significant impact on a substantial number of small entities is described in greater detail in the EIA for the proposed rule.

While not a factor relevant to determining whether the proposed rule will have a significant impact for RFA purposes, EPA has concluded that the effect of today's proposed rule would be to provide positive opportunities to businesses engaged in recycling and the manufacture of recycled products. Purchase and use of recycled products by procuring agencies increase demand for these products and result in private sector development of new technologies, creating business and employment opportunities that enhance local, regional, and national economies. Technological innovation associated with the use of recovered materials can translate into economic growth and increased industry competitiveness worldwide, thereby, creating opportunities for small entities.

C. Unfunded Mandates Reform Act of 1995 and Consultation With State, Local, and Tribal Governments

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, EPA generally must prepare a written statement, including cost-benefit analysis, for proposed and final rules with federal mandates that may result in estimated costs to state, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is required for EPA rules, under section 205 of the Act, EPA must identify and consider alternatives, including the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law. Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop under section 203 of the Act a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

EPA has determined that today's proposed rule does not include a federal mandate that may result in estimated annualized costs of $100 million or more to either state or local or tribal governments in the aggregate, or to the private sector. To the extent enforceable duties arise as a result of this proposed rule on state and local governments, they are exempt from inclusion as federal intergovernmental mandates if such duties are conditions of federal assistance. Even if they are not conditions of federal assistance, such enforceable duties do not result in a significant regulatory action being imposed upon state and local governments since the estimated aggregate cost of compliance for them are not expected to exceed, at the maximum, $3.8 million annually. The cost of enforceable duties that may arise as a result of today's proposed rule on the private sector are estimated not to exceed $101,000 annually. Thus, the proposed rule is not subject to the written statement requirement in sections 202 and 205 of the Act.

The designated items included in the proposed CPG IV may give rise to additional obligations under section 6002(I) (requiring procuring agencies to adopt affirmative procurement programs and to amend their specifications) for state and local governments. As noted above, the expense associated with any additional costs is not expected to exceed, at the maximum, $3.8 million annually. In compliance with Executive Order 12875 entitled Enhancing the Intergovernmental Partnership, 58 FR 58093 (October 28, 1993), which requires the involvement of state and local governments in the development of certain federal regulatory actions, EPA conducts a wide outreach effort and actively seeks the input of representatives of state and local governments in the process of developing its guidelines.

When EPA proposes to designate items in a CPG, information about the proposal is distributed to governmental organizations so that they can inform their members about the proposals and solicit their comments. These organizations include the U.S. Conference of Mayors, the National Association of Counties, the National Association of Towns and Townships, the National Association of State Purchasing Officials, and the American Association of State Highway and Transportation Officials. EPA also provides information to potentially affected entities through relevant recycling, solid waste, environmental, and industry publications. In addition, EPA's regional offices sponsor and participate in regional and state meetings at which information about proposed and final designations of items in a CPG is presented. Finally, EPA has sponsored buy-recycled education and outreach activities by organizations such as the U.S. Conference of Mayors, the Northeast Recycling Council, Environmental Defense, Keep America Beautiful, and the California Local Government Commission, whose target audience includes small governmental entities.

The requirements do not significantly affect small governments, because they are subject to the same requirements as other entities whose duties result from today's rule. As discussed above, the expense associated with any additional costs to state and local governments is not expected to exceed, at the maximum, $3.8 million annually. The requirements do not uniquely affect small governments because they have the same ability to purchase these designated items as other entities whose duties result from today's rule. Additionally, use of designated items affects small governments in the same manner as other such entities. Thus, any applicable requirements of section 203 of the Act have been satisfied.

D. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an

accountable process to ensure ''meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.''

This 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 the various levels of government, as specified in Executive Order 13132. The proposed rule will not impose substantial costs on states and localities. A final rule would require procuring agencies to perform certain activities pursuant to RCRA section 6002, including rule review and implementation; estimation, certification, and verification of designated item procurement; and for federal agencies, reporting and record keeping. As noted above, EPA estimates that the total annualized costs of today's proposed rule will range from $6.5—$12.8 million. EPA's estimate reflects the costs of the rule for all procuring agencies (i.e., federal agencies, state and local agencies that use appropriated federal funds to procure designated items, and government contractors), not just states and localities. Thus, the costs to states and localities alone will be even lower and not substantial. Thus, Executive Order 13132 does not apply to this rule.

When EPA proposes to designate items in the CPG, information about the proposal is distributed to governmental organizations so that they can inform their members about the proposals and solicit their comments. These organizations include the U.S. Conference of Mayors, the National Association of Counties, the National Association of Towns and Townships, the National Association of State Purchasing Officials, and the American Association of State Highway and Transportation Officials. 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.

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

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

Today's proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. The proposed rule does not impose any mandate on tribal governments or impose any duties on these entities. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this proposal.

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

Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that EPA determines is (1) ''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.

EPA interprets the E.O. 13045 as encompassing only those regulatory actions that are risk based or health based, such that the analysis required under section 5–501 of the E.O. has the potential to influence the regulation. This proposed rule is not subject to E.O. 13045 because it does not involve decisions regarding environmental health or safety risks.

G. National Technology Transfer and Advancement Act of 1995

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, business practices) that are developed or adopted by voluntary consensus standard bodies. The NTTAA directs EPA to provide Congress explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rule does not establish technical standards. Therefore, the Agency has not conducted a search to identify potentially applicable test methods from voluntary consensus standard bodies. As part of this rulemaking effort, EPA has developed guidance for procuring agencies to use in complying with section 6002's obligation to purchase items with recovered materials content to the maximum extent practicable. These recommendations include minimum recovered materials content standards and, as previously noted, are published today in the companion RMAN for the designated items. In developing these recommendations, EPA did consider current voluntary consensus standards on recovered materials content.

H. Executive Order 13211: Energy Effects

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

X. Supporting Information and Accessing Internet

The index of supporting materials for today's proposed CPG IV is available in the RCRA Information Center (RIC) and on the Internet. The address and telephone number of the RIC are provided in **ADDRESSES** above. The index and the following supporting materials are available in the RIC and on the Internet:

''Background Document for Proposed CPG IV and Draft RMAN IV,'' EPA530–R–01–006, U.S. EPA, Office of Solid Waste and Emergency Response, April 2001

''Economic Impact Analysis for Proposed Comprehensive Procurement Guideline IV,'' EPA530–R–01–008, U.S. EPA, Office of Solid Waste and Emergency Response, March 2001.

Copies of the following supporting materials are available for viewing at the RIC only:

''Recovered Materials Product Research for the Comprehensive Procurement Guideline IV,'' Draft Report, August 2000.

To access information electronically go to the CPG Web site at *www.epa.gov/cpg.*

List of Subjects in 40 CFR Part 247

Environmental protection, Government procurement, Recycling.

Dated: August 21, 2001.

Christine Todd Whitman,

Administrator.

For the reasons discussed in the preamble, EPA proposes to amend 40 CFR part 247 as follows:

PART 247—COMPREHENSIVE PROCUREMENT GUIDELINE FOR PRODUCTS CONTAINING RECOVERED MATERIALS

1. The authority citation for Part 247 continues to read as follows:

Authority: 42 U.S.C. 6912(a) and 6962; E.O. 13101, 58 FR 54911.

2. In § 247.3, the following definitions are added alphabetically:

§ 247.3 Definitions.

* * * * *

Bike racks are free-standing or anchored units that provide a method for cyclists to secure their bicycles safely.

* * * * *

Blasting grit is a type of industrial abrasive used to shape, cut, sharpen, polish, or finish surfaces and materials.

* * * * *

Cenospheres are naturally-occurring waste components of coal fly ash.

* * * * *

Modular threshold ramps are ramps used to modify existing door thresholds and other small rises to remove access barriers created by differentials in landing levels.

Nonpressure pipe is pipe used to drain waste and wastewater, to vent gases, and to channel cable and conduit in various applications.

Nylon carpet is carpet containing nylon fibers inserted into a layer of woven material and glued into place.

Nylon carpet backing is a layer of woven or nonwoven nylon material used to hold carpet fibers in place and provide structural support.

Office furniture is furniture typically used in offices, including seating, desks, storage units, file cabinets, tables, and systems furniture (or ''cubicles'').

* * * * *

Polyester carpet is carpet containing polyester fibers inserted into a layer of woven material and glued into place.

* * * * *

Rebuilt vehicular parts are vehicular parts that have been remanufactured, reusing parts in their original form.

* * * * *

Roofing materials are materials used to construct a protective cover over a structure to shield its interior from the natural elements.

* * * * *

Silica fume is a waste byproduct of alloyed metal production.

* * * * *

3. In § 247.11, revise paragraph (b) and add paragraph (d) to read as follows:

§ 247.11 Vehicular products.

* * * * *

(b) (1) Retread tires, excluding airplane tires.

(2) Tires containing recovered rubber.

* * * * *

(d) Rebuilt vehicular parts.

4. In § 247.12, revise paragraphs (c), (d), and (j) and add paragraphs (k), (l), and (m), to read as follows:

§ 247.12 Construction products.

* * * * *

(c) Cement and concrete, including concrete products such as pipe and block containing:

(1) Coal fly ash.

(2) Ground granulated blast furnace slag (GGBF).

(3) Silica fume from silicon and ferrosilicon metal production.

(4) Cenospheres.

(d)(1) Carpet made from polyester fiber made from recovered materials for use in moderate- and heavy-wear applications such as single-family housing, private offices, and similar wear applications.

(2) Carpet made from nylon fiber facing and/or nylon carpet backing made from recovered materials.

* * * * *

(j) Railroad grade crossing surfaces made from cement and concrete containing fly ash, recovered rubber, recovered steel, recovered wood, or recovered plastic.

(k) Modular threshold ramps containing recovered steel, rubber, or aluminum.

(l) Nonpressure pipe containing recovered steel, plastic, or cement.

(m) Roofing materials containing recovered steel, aluminum, fiber, rubber, plastic or plastic composites, or cement.

5. In § 247.16, add paragraph (l) to read as follows:

§ 247.16 Nonpaper office products.

* * * * *

(l) Office furniture containing recovered steel, aluminum, wood, agricultural fiber, or plastic.

6. In § 247.17, add paragraphs (h) and (i) to read as follows:

§ 247.17 Miscellaneous products.

* * * * *

(h) Bike racks containing recovered steel or plastic.

(i) Blasting grit containing recovered steel, coal and metal slag, glass, plastic, or walnut shells.

[FR Doc. 01–21567 Filed 8–27–01; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

RIN 1018–AI05

Release of Captive-Reared Mallards

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: This document announces the intent of the U.S. Fish and Wildlife Service (hereinafter Service or we) to resume review of all aspects of regulations pertaining to the release and harvest of captive-reared mallards. Recently, all four Flyway Councils and the International Association of Fish and Wildlife Agencies (IAFWA) urged the Service to resume its review of the potential effects of releasing free-flighted mallards on State-licensed shooting preserves, also known as regulated shooting areas (RSA). The Service has agreed to this request and intends to complete its review of the Federal regulations (50 CFR 21.13) as published in the June 1993 Notice of Intent (58 FR 31247).

DATES: You must submit comments pertaining to regulations governing the release of captive-reared mallards by September 27, 2001.

ADDRESSES: Send your comments to the Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, room 634-Arlington Square, 1849 C Street, NW, Washington, DC 20240. All comments received, including names and addresses, will become part of the public record. You may inspect comments during normal business hours in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.