Personnel Records. Submit Standard Forms 135 proposing the transfer of permanent microforms to the appropriate center. (See 36 CFR 1230.22 for inspection requirements for microforms transferred to a Federal records center.)

(4) Agencies shall prepare an original and two copies of the Standard Form 135, retain one copy for filing purposes, and send the original and one copy to the Federal records center to arrive at least 10 workdays before the desired date of the records shipment. The records center will review the Standard Form 135 for completeness to determine the appropriateness of the transfer. If the transfer is approved, the records center may annotate block 6J of the Standard Form 135 with Federal records center shelf location where each accession will be stored. The Federal records center returns a copy of the Standard Form 135 to the agency indicating that the records may be transferred. This copy shall be placed in the first carton of the shipment when the records are shipped to the center.

* * * * *

Dated: October 24, 1990.

Claudine J. Weiher,

Acting Archivist of the United States.

[FR Doc. 90-26292 Filed 11-6-90; 8:45 am]

BILLING CODE 7515-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3858-4]

Approval and Promulgation of Implementation Plans, Federal Assistance Limitations; State of Illinois

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Proposed rule; withdrawal.

SUMMARY: USEPA is withdrawing its November 2, 1989, (54 FR 46271) proposal to impose Federal highway assistance limitations in Illinois pursuant to section 176(a) of the Clean Air Act (Act). USEPA originally proposed this action because of the State's failure to adopt and submit to USEPA an enhanced vehicle inspection and maintenance (I/M) program commensurate with the severity of the ozone problem in the Chicago area. On September 12, 1990, the Governor of Illinois signed legislation authorizing enhancements to the State's current I/M program.

ADDRESSES: Copies of all materials related to this action are available at the following address for review: (It is recommended that you telephone Randolph O. Cano, at (312) 886-6036, before visiting the Region V Office.) U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Cheryl Newton, (312) 886-6081.

SUPPLEMENTARY INFORMATION: On November 2, 1989, (54 FR 46271), USEPA proposed to restrict highway funding assistance for Cook, Lake, Kane, and DePage Counties, Illinois. USEPA believed that, given the severity of the ozone problem in the Chicago area, an enhancement of the State's current I/M provisions [1] was a critical component of the "reasonable efforts" Illinois needed to make under section 176(a) of the Act to bring the Chicago area into attainment of the ozone National Ambient Air Quality Standards.

On September 12, 1990, the Governor of Illinois signed legislation establishing rules which enhance the State's current I/M program.[2] USEPA believes that the State's action in adopting these enhancements to its I/M program showed "good faith" in meeting the requirement of "reasonable efforts" under section 176(a) of the Act. USEPA is, therefore, withdrawing its November 2, 1989, proposal of Federal highway funding restrictions. Upon Illinois' submission of its enhanced I/M program, USEPA will rulemake in future **Federal Register** notice(s) on all provisions established by the September 12, 1990, legislation.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Environmental protection, Hydrocarbons, Intergovernmental relations, Ozone.

Authority: 42 U.S.C. 7401-7642.

[1] On October 4, 1990, (54 FR 40568), USEPA approved the provisions of Illinois' current I/M program, which were submitted by Illinois as part of its 1982 ozone and carbon monoxide State Implementation Plan. USEPA determined that those I/M emissions testing provisions satisfied all of the then current policy requirements required under section 172(b)(1)(B) of the Act.

[2] The legislation expands the geographic coverage of the I/M program to cover all of Cook and DuPage Counties and a substantial portion of Lake, Kane, and Will Counties. It adds to the program an anti-tampering inspection of the catalytic converter, fuel inlet restrictor, and gas cap of each subject vehicle. The anti-tampering program begins in July 1991 within the existing I/M program area, and both emissions testing and the anti-tampering inspection of vehicles in the expanded areas begin in January 1992. The legislation also modifies the original I/M program by exempting new vehicles from the program for 3 years. It then requires biennial inspections until a vehicle is older than 7 years. At this point, an annual inspection is required.

Dated: October 29, 1990.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 90-26317 Filed 11-6-90; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[FRL-3858-3]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking; withdrawal.

SUMMARY: On July 28, 1982, (47 FR 32742), USEPA proposed to conditionally approve Minnesota Rule APC-41, Offset Rule, as a revision to the Minnesota State Implementation Plan (SIP). This action was based on a revision request submitted by Minnesota on December 22, 1981. Minnesota subsequently revised this rule. Therefore, on August 21, 1990, the State withdrew the December 22, 1981, version of the rule from further Federal rulemaking. Based on the State's withdrawal, USEPA today is withdrawing its July 28, 1982, proposed action on the revision.

FOR FURTHER INFORMATION CONTACT: Anne E. Tenner, Minnesota Regulatory Specialist (312) 353-3849.

Authority: 42 U.S.C. 7401-7642.

Dated: October 30, 1990.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 90-26316 Filed 11-6-90; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 261

[EPA/OSW-FR-90-FFF SWH-FRL-3858-2]

RIN 2050-AA78

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristic

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On March 29, 1990, EPA promulgated revisions to the toxicity characteristic, one of the methods used to identify waste requlated as hazardous under subtitle C of the Resource Conservation and Recovery Act (RCRA). Since the promulgation of the Toxicity Characteristic (TC), the Agency

has received information that immediate application of the rule, under certain circumstances, may prevent continued operation of hydrocarbon recovery activities currently being conducted at a number of petroleum refineries, marketing terminals or bulk plants handling crude petroleum and immediate products of petroleum refining. These operations recover free-floating hydrocarbons from a contaminated aquifer directly below the facility and, as part of the recovery, return the contaminated ground water via underground injection wells or infiltration galleries into the same aquifer from which it was withdrawn. Under ground injection control (UIC) wells are classified and regulated by EPA and States which have been granted primacy under authorities of the Safe Drinking Water Act (SDWA). Immediate application or requirements imposed by the TC for these operations could substantially change the regulatory status of the operations under both RCRA and the Safe Drinking Water Act (SDWA), causing, at a minimum, disruption of the recovery operations discussed above due to lack of necessary authorizations to operate under the (SDWA) and the Resource Conservation and Recovery Act (RCRA). Of particular concern to the Agency is that cessation of these activities may pose a substantially greater risk to human health and the environment than continued operation under the regulatory authority which existed prior to the promulgation of the TC. As a result of this new information and to allow for careful consideration of all available information (including information not yet before the Agency) and regulatory options, the Agency is proposing to extend the compliance dates for TC requirements for these combined petroleum product recovery and ground water reinjection operations at petroleum refining facilities, marketing terminals or bulk plants for two years beyond the current January 25, 1991 date. In a recent **Federal Register** notice, EPA promulgated an interim final rule to extend the date for compliance with TC requirements for the operations specified for 120 days beyond the effective date of the TC for other facilities, making January 25, 1991 the relevant compliance date for these facilities. The interim final rule was promulgated to ensure that such operations were not required to cease before all available information could be solicited and evaluated via this notice. This proposed rule solicits additional information on all combined petroleum product recovery and ground water reinjection operations, and asks for public comment on the desirability of a continued deferral of the TC for two years in order to allow sufficient time to consider all of the relevant issues arising from these operations and options for their resolution. In addition, EPA solicits comments on ways of integrating the dual regulatory schemes imposed under the SDWA and RCRA for combined petroleum product recovery and ground water reinjection operations.

DATES: Comments must be submitted on or before December 24, 1990.

ADDRESSES: The public docket for this rulemaking is located at room M2427, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. The docket number assigned to this notice is F-90-PRAS-FFFFF. Persons who wish to comment on the notice should place the docket number on their comments and provide an original and two copies. The EPA RCRA docket is open from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. To review docket materials, the public must make an appointment by calling (202) 475-9372. A maximum of 50 pages may be copied from any regulatory docket at no cost. Additional copies cost $0.20 per page.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact the RCRA/Superfund Hotline at (800) 424-9346 toll free, or (202) 382-3000 in Washington, DC metropolitan area. For information on specific aspects of this notice, contact David Topping, Waste Identification Branch, Office of Solid Waste (OS-333), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-4770.

SUPPLEMENTARY INFORMATION:

Outline of Today's Notice

I. Background

On March 29, 1990 (55 FR 11798), the Environmental Protection Agency (EPA) promulgated the Toxicity Characteristic to revise the existing EP toxicity characteristic. The Toxicity Characteristic (TC) is used to identify wastes which are defined as hazardous based on the waste's propensity to leach toxic constituents. If wastes exhibit the toxicity characteristic they are subject to the subtitle C (hazardous waste) requirements of the Resource Conservation and Recovery Act (RCRA).

In today's notice, the Agency is proposing to extend the compliance date required for wastes which exhibit the toxicity characteristic for two years for certain operations. These operations involve contaminated ground water reinjected or infiltrated during free product recovery operations at petroleum refining facilities, marketing terminals or bulk plants handling crude petroleum and immediate products of petroleum refining. EPA believes these operations are environmentally beneficial. Immediate application of the TC could, however, contribute to temporary or permanent cessation of such operations by reclassifying the status of the reinjected or infiltrated ground water as hazardous waste and the injection well or infiltration gallery as hazardous waste disposal units. The current regulatory scheme for authorizations under SDWA and RCRA will require time for authorizing actions under EPA and State authorities. If finalized as proposed, today's action would delay the compliance date for subtitle C requirements imposed as a result of the TC until January 25, 1993. The reinjected ground water would not be a Federal hazardous waste during the interim period.

This proposed extension of the compliance date for reinjected waters stems from new information that was brought to the attention of the Agency after the promulgation of the TC final rule. EPA is proposing an extended compliance date for the TC requirements for two years to allow time to solicit and evaluate all pertinent information and to develop and evaluate regulatory options. The Agency is seeking public comment on the issues raised in this notice and desirability of the extended compliance date.

A. Hydrocarbon Recovery Operations

Since the promulgation of the TC, the Agency has learned of potentially significant impacts of the rule on hydrocarbon recovery operations currently being conducted at a number of petroleum refineries, marketing terminals or bulk plants handling crude petroleum and immediate products of

petroleum refining. Due to past onsite spills or other releases, large quantities of free-floating and dissolved hydrocarbons are contained in the shallow aquifers beneath a number of facilities. Preliminary information available to the Agency suggests that at least 100 facilities are currently recovering free-floating petroleum hydrocarbons from aquifers. As discussed in more detail below, at least four of these facilities currently reinject contaminated ground water to facilitate recovery of usable petroleum products and one other has made commitments to begin doing so. Such facilities are the subject of today's notice. At one site, estimates indicate that between two and six million barrels of free-floating hydrocarbons rest on an aquifer beneath the property.

As a result of the discovery of aquifer contamination many of these facilities have taken action, in cooperation with State regulatory agencies, to remove the recoverable free-floating hydrocarbon product. While the individual operations differ in various ways, the operations of concern may have as many as three distinct phases. In such cases the first phase is removal/recovery of the free floating hydricarbons. The second and third phases, when present, address subsurface soil and ground water contamination respectively. It is the product recovery operation, as detailed below, that is of immediate concern to the Agency.

Free product recovery operations consist of pumping the free-floating hydrocarbon from the aquifer beneath the facility. Extensive recovery systems have been developed and built to implement the operation. Some of the operations involve two pumping systems. One pumping system is used to bring free product to the surface while the second reinjects contaminated ground water to facilitate the pumping of free product and prevent further migration of the contaminants in the aquifer. In five cases known to the Agency, ground water is (or will be) pumped from the aquifer to create a cone of depression in the ground water in which free hyrocarbon pools, facilitating recovery of the hydrocarbon and preventing further migration of contaminants. This pumped ground water, which contains high concentrations of dissolved hydrocarbon (particularly benzene) is returned to the aquifer via an injection well or through an infiltration gallery to contain the contamination and maintain the water table for purposes of the hydrocarbon recovery. The injection well would have been a SDWA Class V well prior to the effective date of the TC.

Due to the high quantities of dissolved hydrocarbon in the ground water, it may exhibit TC toxicity; therefore, its reinjection may be considered injection of a hazardous waste once such facilities are required to comply with the TC. In such a scenario, the current UIC Class V non-hazardous well may no longer be authorized, and the well's status may automatically become that of a Class IV well (injection of hazardous waste into or above an underground source of drinking water (USDW)). Operation of Class IV wells is restricted by statute and SDWA regulations; among other things, section 3020 of RCRA prohibits the injection of hazardous waste into or above an underground source of drinking water unless such injection is part of a cleanup under RCRA or the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Such injection would also require RCRA and SDWA authorization.

The Agency recognizes that the use of infiltration galleries to contain the contamination plume is not exactly analogous to the use of an injection well for plume containment. However, the Agency currently lacks sufficient site-specific information on both the configuration and operational parameters of these infiltration galleries to enable it to distinguish between these galleries and reinjection wells and thus has decided to include both kinds of operations in today's proposed extension of the TC compliance date. The Agency is soliciting comment on both the configuration and operation of these infiltration galleries as well as information on whether they should be viewed as similar to reinjection systems.

II. Application of Existing Regulatory Framework

As described above, the operations of concern involve reinjection/infiltration of contaminated ground water into the aquifer. Under the current hazardous waste requirements which would be imposed via the TC, these activities (reinjection and/or infiltration of contaminated ground water) may constitute disposal of wastes exceeding the relevant regulatory level for benzene. Absent some measure providing relief, the materials may become hazardous wastes on January 25, 1991.

A. Regulatory Requirements of Concern

As described above, on January 25, 1991, the reinjection of ground water may be subject to the dual mandates of SDWA and RCRA (assuming the ground water exhibits the toxicity characteristic). If these facilities are to continue their current reinjection and infiltration operations with a hazardous waste, they will need to satisfy several regulatory requirements. First, to satisfy RCRA section 3020 and 40 CFR 144.13, the operations must be pursuant to a response action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) or part of a corrective action under RCRA. Second, the injection operation must be authorized to operate as a hazardous waste management facility pursuant to either RCRA interim status or a RCRA permit. Finally, the injection well must be authorized under the SDWA. EPA is considering whether a Class IV UIC permit should be required, or whether the current part 144 regulations should be modified to explicitly authorize injection by rule.

RCRA section 3020 and SDWA regulations at 40 CFR 144.13 prohibit the injection of any hazardous waste into or above an USDW. One narrow exception to this general prohibition involves injections which are part of a remedial action pursuant to RCRA or CERCLA to clean up an aquifer. Such wells may operate only pursuant to a permit or other authorization under the SDWA or RCRA. Section 3020 requires that (1) There be substantial treatment of the hazardous constituents prior to the reinjection under this exception; (2) upon completion, the action is sufficient to protect human health and the environment, and (3) the cleanup must be undertaken pursuant to CERCLA or as part of a cleanup under RCRA authorities.

As the TC rule is a HSWA requirement, under section 3006(g) of RCRA, the new requirements take effect in authorized States at the same time that they take effect in unauthorized States. Until States are authorized to implement the TC, EPA will administer this portion of the hazardous waste program in both categories of States. In most cases these facilities would be managing a hazardous waste for the first time. Therefore, these newly regulated facilities would need to apply for interim status by notifying EPA under RCRA section 3010 and submitting Part A of their permit application. Such wells would also require either an authorization-by-rule or a UIC permit to satisfy 40 CFR 144.11.

Combined petroleum product recovery and ground water reinjection operations which inject hazardous waste directly into or above an USDW are also subject to requirements under the SDWA. To

minimize regulatory burdens arising from dual regulation under the SDWA and RCRA, 40 CFR 270.60(b) provides that if a unit has a UIC permit issued under Part 144 or 145 and meets other specified requirements, the facility is deemed to have a RCRA Subtitle C permit.

III. Issues Arising From Application of Regulatory Requirements

A. Environmental Considerations

According to comments received from potentially affected facilities, the immediate applicability of the TC to these operations could prohibit temporarily (if not permanently) the reinjection of ground water which, according to information submitted by facilities conducting the operations, is integral to the recovery operation.

Reinjection of the ground water serves several purposes, including causing the free-floating hydrocarbon to collect, thereby containing the source of contamination to faciliate pumping, and restricting the further migration of the contaminants within the aquifer. Without reinjection, the recovery process will take longer to complete, and there is a risk of further soil and ground water contamination.

According to facilities conducting the operations, it is not practicable or useful to introduce separate treatment of the contaminated ground water prior to reinjection during a recovery operation because once the ground water is returned to the aquifer it mixes and equilibrates with the remaining ground water and free-floating product. Thus any benefit of separate treatment of the contaminated ground water would be nullified as the reinjected ground water would quickly attain the same concentration of benzene that it had before pumping. The ground water will continue to seek equilibrium, resulting in the same high levels of benzene once returned to the aquifer, unless the source of contamination (*i.e.*, the free-floating product) is removed. Industry representatives have asserted that an additional effect of separate treatment prior to reinjection is that reinjecting treated ground water will gradually deplete the benzene and other hydrocarbon constituents present in the remaining hydrocarbons resulting in reduced quantities of product which may be recovered.

More generally and irrespective of the use of separate treatment of the contaminated ground water prior to reinjection, EPA believes that these hydrocarbon recovery systems (as the first phase of an overall remediation) can provide substantial treatment, within the meaning of RCRA section 3020, for the areas of contamination by effectively reducing the amount of free-floating hydrocarbons that can continue to contaminate ground water aquifers or surrounding soils. EPA solicits comments on this regulatory approach. EPA is also seeking comments on industry's assertion that separately treating the ground water prior to reinjecting it could result in reduced quantities of hydrocarbons available for recovery.

B. Regulatory and Timing Considerations

As discussed above, the paramount concern to the Agency is mitigating the potential for adverse environmental impacts while ensuring compliance with applicable regulatory requirements. These hydrocarbon recovery operations and the potential impacts of the TC on their continuation were not raised in comments to EPA during the public comment period on the proposed TC. If they had been, the Agency might have deferred application of the TC to these operations to provide additional time for such facilities as required to undertake activities necessary to achieve compliance with the TC.

After promulgation of the TC, industry raised its specific concern that the time required to apply for the necessary permits and obtain EPA approval for such activities would require cessation of combined petroleum product recovery and ground water reinjection operations until the regulatory requirements are clarified and in compliance with such requirements is achievable. EPA's initial evaluation of such arguments suggests that shutting down recovery operations for as little as four months may have four results: (1) Hydrocarbon recovery rates will be reduced significantly, thereby increasing total cleanup time; (2) off-site migration of free-floating hydrocarbons and soluble constitutents is more likely to occur; (3) "smearing" might occur, making hydrocarbon material more difficult to recover in the future; and (4) cessation of operations could force noncompliance with State orders to keep pumping.

As mentioned previously, at many of these sites, the recovery operation is being undertaken under State orders. These orders generally recognize the need for removal of recoverable hydrocarbons prior to beginning ground water remediation; immediate application of the TC to these operations could result in industry actions contrary to carefully negotiated actions required by States with little apparent environemtal benefit. Furthermore, industry has asserted that designation of the ground water as a hazardous waste would trigger other State requirements that have a greater potential to cause delay than those imposed by Federal requirements. EPA is soliciting examples of such requirements and comment on this assertion.

Even with rules which seek to minimize the effects of dual regulation in place, issuance of needed SDWA and RCRA permits and/or orders under the current scheme may be both time consuming and potentially involve actions at both the State and Federal levels. Regardless of the route chosen, the permitting process is expected to take from six months to two years. Furthermore, if EPA determines it appropriate to modify rules governing permit procedures for these sites, that action would also require additional time for facilities to seek proper authorization. Finally, EPA does not currently have definitive information as to the number of recovery facilities affected by the TC and thus the number of permits/orders that may be required to allow continued operation; the 2-year extension is designed to address this additional unknown.

IV. Request for Comments

As a result of this new information, and to allow for careful consideration of all the relevant information, issues, and regulatory options, the Agency is proposing to extend the compliance date for requirements imposed as a result of promulgation of the TC for two years for petroleum refining facilities, marketing terminals, or bulk plants handling crude petroleum and immediate products of petroleum refining which are engaged in combined petroleum product recovery and ground water reinjection/infiltration systems. The interim final rule published in a recent **Federal Register** notice will allow continuation of such operations already in existence until January 25, 1991. This proposed rule will provide time for individuals to submit comments on the various issues raised in this proposal, and for the Agency to consider all available information and alternatives concerning these operations. Specifically, the Agency is seeking public comment on: (1) The regulatory interface between RCRA and SDWA; (2) the potential effects and time required to comply with the regulatory requirements newly imposed by promulgation of the TC and the potential reclassification of the contaminated ground water as a hazardous waste; and (3) all other issues raised in or presented by this notice.

Of particular importance to the Agency is information regarding the

scope of the universe of facilities which may fall within the extension proposed today. Identification of specific facilities, as well as types and any concentration of locations of facilities which are conducting hydrocarbon recovery operations or which plan to do so in the future will be helpful to the Agency in assessing the best long term solution for the issues presented by the operations. Further information regarding technical details of hydrocarbon recovery operations, how they differ from each other, and which elements are critical to such operations would also be of value in assessing whether to finalize today's proposed extension of the TC compliance date for affected facilities, as well as whether this extension is justifiable on environmental grounds.

V. State Authorization

A. Applicability of Rules in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. Following authorization, EPA retains enforcement authority under sections 3008, 3013, and 7003 of RCRA, although authorized States have primary enforcement responsibility. The standards and requirements for authorization are found in 40 CFR part 271.

Prior to HSWA, a State with final authorization administered its hazardous waste progam in lieu of EPA administering the Federal program in that State. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities that the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obliged to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law. In contrast, under RCRA section 3006(g) (42 U.S.C. 6926(g)), new requirements and prohibitions imposed by HSWA take effect in authorized States at the same time that they take effect in nonauthorized States. EPA is directed to carry out these requirements and prohibitons in authorized States, including the issuance of permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorization, HSWA applies in authorized States in the interim.

B. Effect on State Authorizations

If today's proposed rule is finalized, EPA will implement its provisions in authorized States until their programs are modified to adopt the final toxicity characteristic and the modification is approved by EPA. Implementation of today's proposed rule, if finalized, beyond the date of a State's receiving final authorization for the toxicity characteristic depends upon actions taken by the State, as discussed below. EPA will implement the provisions of today's proposal (if finalized) in unauthorized States.

Today's proposed rule would extend the compliance date for requirements imposed in the final Toxicity Characteristic regulation (*see* 55 FR 11798, March 29, 1990) for certain hydrocarbon recovery operations. The Toxicity Characteristic was promulgated pursuant to a HSWA provision and must be adopted by States which intend to retain final authorization. However, today's rule proposes to provide, for a limited period of time, a less stringent standard for certain hydrocarbon recovery operations than would be imposed in the final Toxicity Characteristic. In order to promote environmentally beneficial hydrocarbon recovery operations, today's proposal provides that these wastes would not be hazardous wastes under the Federal regulations until January 25, 1993, and States would not be required to mandate their management as such in order to retain their RCRA authorization. However, Section 3009 of RCRA provides that States may impose more stringent requirements than those imposed under Federal regulations. States, whether using RCRA authorities (*e.g.*, authorities under State law where States have received final authorization to implement the toxicity characteristic provisions in lieu of their implementation by EPA), or other State authorities under other statues, may impose hazardous waste requirements on such operations, or may require other more stringent conditions upon management of these wastes.

VI. Regulatory Requirements

A. Regulatory Impact Analysis

Under Executive Order 12291, EPA must determine whether a regulation is "major," and therefore subject to the requirement of a Regulatory Impact Analysis. The overall effect of today's rule, if finalized, would be to extend the compliance date for requirements imposed by the final Toxicity Characteristic rule for certain limited hydrocarbon recovery operations. No sampling or analysis requirements are proposed in today's rule. The net effect of this proposal, if finalized, would be to extend cost savings to certain segments of the regulated community. Consequently, no regulatory impact analysis is required.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a General Notice of Rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the head of the Agency certified that the rule will not have a significant impact on a substantial number of small entities.

The extenstion of the compliance date for the Toxicity Characteristic requirements proposed for certain limited hydrocarbon recovery activities in this rule is deregulatory in nature and thus will only provide beneficial opportunities for entities that may be affected by the rule. Accordingly, I hereby certify that this regulation will not have a significant economic impact of substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

C. Paperwork Reduction Act

There are no reporting, notification, or recordkeeping (information) provisions proposed in this rule. Such provisions, were they included, would be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 261

Hazardous Waste.

Dated: October 31, 1990.

William K. Reilly,

Administrator.

For reasons set out in the preamble, it is proposed to amend chapter I of title 40 of the CFR as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. It is proposed to amend § 261.4 by revising paragraph (b)(11) to read as follows:

§ 261.4 Exclusions.

* * * * *

(b) * * *

(11) Ground water that exhibits the Toxicity Characteristic in § 261.24 of this part that is reinjected or infiltrated pursuant to hydrocarbon recovery operations undertaken at petroleum refineries, and marketing terminals or bulk plants handling crude petroleum and immediate products of petroleum refining until January 25, 1993.

* * * * *

[FR Doc. 90-26319 Filed 11-6-90; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 90

[PR Docket No. 90-481, RM-6910, FCC 90-344]

Construction, Licensing, and Operation of Private Land Mobile Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to modify several compliance and licensing rules in the Private Land Mobile Radio Services. First, the Commission proposes to reduce the period in which a licensee can reinstate an expired license. Second, the Commission would establish a finder's preference to provide an incentive for individuals to provide information that leads to channel recovery. Finally, the Commission proposes to clarify rules concerning automatic cancellation of licenses. The Commission expects its proposed rule changes to ensure the accuracy of the licensing data base, to expedite reassignment of channels for which the license has expired, and to make more channels available to applicants wishing to be licensed on scarce frequencies.

DATES: Comments must be submitted on or before December 24, 1990 and reply comment on or before January 8, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Irene Bleiweiss, Land Mobile and Microwave Division, Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, PR Docket No. 90-481 adopted on October 11, 1990 and released November 1, 1990. The full text of the Notice is available for inspection and copying during normal business hours in the FCC Private Radio Bureau, Land Mobile and Microwave Division, Rules Branch (room 5202), 2025 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's copy contractor, International Transcription Service, 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857-3800.

The collection of information requirement contained in proposed rule 90.173(k) has been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act. Copies of the submission may be purchased from the Commission's copy contractor, International Transcription Service, 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857-3800. Persons wishing to comment on this information collection should contact Bruce McConnell, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-3785. A copy of any comments should also be sent to the Federal Communications Commission, Office of the Managing Director, Washington, DC 20554. For further information contact Judy Boley, Federal Communications Commission, (202) 632-7513.

OMB number: None.

Title: Proposed 47 CFR 90.173(k), Construction, Licensing and Operation of Private Land Mobile Radio Stations (Notice of Proposed Rule Making in PR Docket No. 90-481).

Action: New collection.

Respondents: Businesses (including small businesses), non-profit institutions, local governments.

Frequency of response: On occasion.

Estimated annual burden: 200 responses; 4.5 hours average burden per response; 900 hours total.

Needs and Uses: Persons who provide the Commission with information that a current licensee is violating certain Rules would be granted a licensing preference for any channels recovered as a result of that information. This will aid the Commission's compliance program and make effective use of scarce radio spectrum.

Summary of Notice of Proposed Rule Making

The Commission proposes to modify several compliance and licensing rules in the Private Land Mobile Radio Services. First, the Commission proposes to reduce the period in which a licensee can reinstate an expired license. The current reinstatement period of six months would be reduced to 90 days or less. To make it easier for licensees to reinstate, the Commission proposes to permit licensees to file for reinstatement on the Forms 574-R and 405-A, as well as the Form 574 which is currently required. These proposals aim to make channels available for reassignment quicker, when the license has expired. Second, the Commission would establish a finder's preference. Under this preference, persons who provide sufficient information to the Private Radio Bureau's Compliance Branch would be first in line for any channels recovered. The Notice of Proposed Rule Making contains explicit standards that the finder's preference request must meet. The preference would be available only on channels that can be licensed on an exclusive basis and only for reported violations of construction, loading, slow-growth, and continued operation rules. The purpose of the finder's preference is to uncover violations of which the Commission may not have learned, to recover and reassign these channels, and to give the public an incentive to provide the Commission with compliance information. Finally, the Commission proposed to clarify its rules concerning automatic cancellation of licenses. Licenses cancel automatically if the licensee permanently discontinues operations, *i.e.*, ceases operations for a period of one year. Licenses also cancel automatically if the licensee constructs but does not place the station in operation by the construction deadline.

List of Subjects

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 90

Construction, loading, Assignment of frequencies, License renewal, License reinstatement, Radio.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Proposed Rules

PART 1—[AMENDED]

A. 47 CFR part 1 is proposed to be amended as follows:

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

Authority: Sections 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303; Implement, 5 U.S.C. 552, unless otherwise noted.

2. 47 CFR 1.926 is amended by adding a new paragraph (c) to read as follows:

§ 1.926 Application for renewal of license.

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