PART 260—OUTER CONTINENTAL SHELF OIL AND GAS LEASING

5. The authority citation for 30 CFR part 260 is revised to read as follows:

Authority: 43 U.S.C. 1334.

6. Amend 30 CFR part 260 by removing Subpart D.

[FR Doc. E9–12155 Filed 5–26–09; 8:45 am]

BILLING CODE 4310–MR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2009–0133; FRL–8909–7]

Approval and Promulgation of Air Quality Implementation Plans; California; Finding of Attainment of the 1-Hour Ozone Standard for the Ventura County Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On April 15, 2009 the California Air Resources Board (CARB) requested that EPA find that the Ventura County ozone nonattainment area has attained the revoked 1-hour ozone National Ambient Air Quality Standard (NAAQS). After a review of this submission and of the relevant monitoring data, EPA is proposing to make such a finding.

This finding would relieve the area of the requirement to implement contingency measures for failure to attain the standard by its attainment date, as well as Clean Air Act penalty fee requirements for severe and extreme ozone nonattainment areas that have not attained the 1-hour standard by the applicable attainment date.

DATES: Any comments on this proposal must arrive by June 26, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2009–0133, by one of the following methods:

1. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *E-mail: nudd.gregory@epa.gov.*

3. *Fax:* (415) 947–3579.

4. *Mail or Delivery:* Greg Nudd (AIR–2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: Direct your comments to Docket ID No. EPA–R09–OAR–2009–0133. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., confidential business information). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Greg Nudd, Environmental Engineer, EPA Region IX, (415) 947–4107, *nudd.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

This proposal addresses the California Air Resources Board (CARB) request that EPA find that the Ventura County ozone nonattainment area has attained the revoked 1-hour ozone National Ambient Air Quality Standard (NAAQS). In the Rules and Regulations section of this **Federal Register,** we are making this finding as a direct final rule without prior proposal because we believe this action is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in a subsequent action based on this proposed rule.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: May 14, 2009.

Jane Diamond,

Acting Regional Administrator, Region IX.

[FR Doc. E9–12137 Filed 5–26–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260 and 261

[EPA–HQ–RCRA–2009–0315; FRL–8905–6]

RIN 2050–AG31

Definition of Solid Waste Public Meeting

AGENCY: Environmental Protection Agency.

ACTION: Definition of Solid Waste Notice of Public Meeting and Request for Comments.

SUMMARY: The Environmental Protection Agency (EPA) is announcing a public meeting regarding the Agency's recent regulation on the definition of solid waste under Subtitle C of the Resource Conservation and Recovery Act (RCRA). Specifically, EPA is currently reviewing a petition filed with the Administrator under RCRA section 7004(a) requesting that the Agency reconsider and repeal the recently promulgated revisions to the definition of solid waste for hazardous secondary materials being reclaimed, and is soliciting comments and information to assist the agency in evaluating the petition. EPA does not plan to repeal the rule, but is interested in receiving comments on possible revisions to the rule. Persons may register to speak at the public meeting or may submit written comments to the address below.

DATES: The public meeting will be held on June 30, 2009, from 9 a.m. to 4:30 p.m. The closing date for advance registration is June 23, 2009. Persons may also submit written or electronic comments by July 14, 2009 (*see* **ADDRESSES**). The administrative record

of the meeting will remain open for submissions until July 14, 2009.

ADDRESSES: *Public meeting.* The public meeting will be held at One Potomac Yard, 2777 S. Crystal Drive, Arlington, VA 22202. Advance registration for the meeting is available at *http://www.epa.gov/epawaste/hazard/dsw/publicmeeting.htm.* For further information on registering for the meeting, *see* section IV below. *Written comments.* Submit your written comments, identified by Docket ID No. EPA–HQ–RCRA–2009–0315 by one of the following methods:

- *http://www.regulations.gov:* Follow the online instructions for submitting comments.
- *E-mail:* Comments may be sent by electronic mail (e-mail) to *RCRA-docket@epa.gov*, Attention Docket ID No. EPA–HQ–RCRA–2009–0315.
- *Fax:* Fax comments to: 202–566–9744, Attention Docket ID No. EPA–HQ–RCRA–2009–0315.
- *Mail:* Send comments to: OSWER Docket, EPA Docket Center, Mail Code 2822T, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–RCRA–2009–0315.

Instructions: EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, such as CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the OSWER Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OSWER Docket is 202–566–0270.

FOR FURTHER INFORMATION CONTACT: For more detailed information on the definition of solid waste regulations, contact Tracy Atagi, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, MC 5304P, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, at (703) 308–8672 (*atagi.tracy@epa.gov*). For information on specific aspects of the public meeting, contact Amanda Geldard, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, MC 5304P, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, at (703) 347–8975, (*geldard.amanda@epa.gov*).

SUPPLEMENTARY INFORMATION:

Submitting CBI. Do not submit this information to EPA through *http://www.regulations.gov* or e-mail. Clearly mark part of all information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed, except in accordance with procedures set forth in 40 CFR Part 2.

Outline

I. Background

A. Definition of Solid Waste Final Rule

On October 30, 2008, EPA promulgated a final rule under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901, *et seq.,* regarding regulation of hazardous secondary materials when they are recycled via reclamation (73 FR 64668). The rule excludes from the RCRA definition of solid waste for materials that are:

- Generated and legitimately reclaimed under the control of the generator (''generator-controlled exclusion'');
- Generated and transferred to another company for legitimate reclamation under specific conditions (''transfer-based exclusion''); or
- Determined by EPA or an authorized State to be non-wastes on a case-by-case basis via a petition process.

The rule also contains a provision to determine whether recycling activities are legitimate under the new exclusions and non-waste determinations. In order to be excluded under the revised definition of solid waste, hazardous secondary materials must be legitimately reclaimed and must meet the conditions of the exclusions.

B. Section 7004 Petition Submitted by Sierra Club

On January 29, 2009, the Sierra Club submitted a petition under RCRA section 7004(a), 42 U.S.C. 6974(a),[1] to the Administrator of EPA requesting that the Agency repeal the October 2008 revisions to the definition of solid waste (DSW) rule and stay the implementation of the rule. A copy of the petition is in the docket to this notice. The petition argues that the revised regulations are unlawful and that they increase threats to public health and the environment without producing compensatory

[1] *See Petition for Reconsideration of ''Revisions to the Definition of Solid Waste,''* 73 FR 64668 (Oct. 30, 2008) and *Request for Stay,* from Lisa Gollin Evans and Deborah Goldberg, Earthjustice, Attorneys for Sierra Club, to Lisa Jackson, Administrator, U.S. Environmental Protection Agency, January 29, 2009.

benefits, and therefore, should be repealed. Among other things, the petition singles out the lack of a regulatory definition of ''contained'' and ''significant release'' and disagrees with the Agency's findings that the rule would have no adverse environmental impacts, including no adverse impact to environmental justice communities or to children's health.

C. Industry Coalition Response to Petition

On March 6, 2009, a coalition of industry associations (''industry coalition'') [2] submitted a letter to the Administrator of EPA in response to the Sierra Club petition.[3] This letter requests that EPA deny Sierra Club's petition on the grounds that the DSW final rule comports with court cases construing the scope of EPA's jurisdiction to regulate solid waste under RCRA, and that the DSW final rule achieves significant economic and conservation benefits, while imposing significant controls on the hazardous secondary material recycling industry that are fully protective of the environment. A copy of this letter is in the docket to this notice. The letter also responds to each of the specific points raised by the Sierra Club in its petition.

II. Purpose and Scope of the Public Meeting

After meeting with representatives from both the Sierra Club and the industry coalition,[4] EPA has decided that it would be advisable to hear from a broader range of stakeholders before making a decision on how to best respond to Sierra Club's petition. The Agency has determined that a public meeting, with opportunities to provide comments both verbally and in writing, is an efficient and transparent method for obtaining public input. EPA also notes that a number of other letters were submitted to EPA by various members of the public after the Agency held the meetings with Sierra Club and the industry coalition. These letters are also in the docket to this notice.

The scope of possible changes to the definition of solid waste is governed by the concept of ''discard.'' As discussed in the preamble to the DSW final rule, EPA used the concept of discard as the central organizing idea behind the October 2008 revisions to the definition of solid waste. As stated in RCRA section 1004(27), ''solid waste'' is defined as ''* * * any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and *other discarded material* * * * resulting from industrial, commercial, mining and agricultural activities.'' (emphasis added) Therefore, in the context of the DSW final rule, a key issue relates to the circumstances under which a hazardous secondary material that is recycled by reclamation is or is not discarded (73 FR 64675). In exercising its discretion in the DSW final rule to define what constitutes ''discard'' for hazardous secondary materials reclamation, EPA included an explanation of how each provision of the final rule relates to discard (73 FR 64676–64679).

For example, in the DSW final rule, EPA determined that if the generator maintains control over the recycled hazardous secondary material and if the material is legitimately recycled under the standards established in the final rule and not speculatively accumulated within the meaning of EPA's regulations, then the hazardous secondary material is not discarded. This is because the hazardous secondary material is being treated as a valuable commodity rather than as a waste. By maintaining control over, and potential liability for, the reclamation process, the generator ensures that the hazardous secondary materials are not discarded. *See* 73 FR 64676.

Because the final revisions to the definition of solid waste are closely tied to EPA's interpretation of the concept of ''discard,'' EPA does not plan to repeal the rule in whole or stay its implementation. Such an action could result in hazardous secondary materials that are not discarded being regulated as hazardous waste. In particular, EPA does not expect to repeal either the exclusion for hazardous secondary materials reclaimed under the control of the generator or the non-waste determination petition process.

However, EPA believes that there may be opportunities to revise or clarify the definition of solid waste rule, particularly with respect to the definition of legitimacy and the transfer-based exclusion, in ways that could improve implementation and enforcement of the provisions, thus increasing environmental protection, while still appropriately defining when a hazardous secondary material being reclaimed is a solid waste and subject to hazardous waste regulation.

In section III of this notice, EPA lists several possible issues for discussion. These issues represent areas in which EPA is particularly interested in obtaining public feedback on possible changes to the definition of solid waste revisions. In addition to these issues, commenters may file comments on any other changes to the rule that they deem appropriate.

Section IV of this notice explains how to participate in the upcoming public meeting, while section V explains State adoption and how the final rule is currently implemented.

III. Issues for Discussion

A. Definition of ''Contained''

For both the generator-controlled and the transfer-based exclusions, EPA requires that the hazardous secondary material be ''contained.'' EPA stated in the final rule preamble that whether hazardous secondary materials are contained would be decided on a case-by-case basis, and that such materials are generally contained if they are placed in a unit that controls the movement of the hazardous secondary materials out of the unit. EPA also stated that hazardous secondary materials released to the environment and not immediately recovered are solid wastes; in addition, hazardous secondary materials remaining in the unit may also be a solid waste if they are not managed as a valuable raw material, intermediate, or product, and, as a result, a ''significant'' release of hazardous secondary materials from the unit to the environment were to take place and the materials were not immediately recovered. A release may be ''significant'' even if it is not a large volume, if such a release has the potential of causing significant damage over time (73 FR 64681).

EPA did not include a regulatory definition of ''contained,'' nor did we include specific performance or storage standards. EPA did not believe such an approach was necessary for determining whether hazardous secondary materials were discarded when sent for reclamation and believed that the approach in the DSW final rule, covered the breadth of activities that might take

[2] The industry coalition includes the Metals Industries Recycling Coalition (which includes the American Iron & Steel Institute, the Copper and Brass Fabricator's Council, the Copper Development Association Inc., the International Metals Reclamation Company, Inc., the Specialty Steel Industry of North America, and the Steel Manufacturers Association), the American Chemistry Council, the Alliance of Automobile Manufacturers, the American Coke & Coal Chemicals Institute, the National Paint and Coatings Association, the Treated Wood Council, the American Forest and Paper Association, and the Synthetic Organic Chemical Manufacturers Association.

[3] *See Response to Sierra Club's petition for Reconsideration of ''Revisions to the Definition of Solid Waste,''* 73 FR 64668 (Oct. 30, 2008,) and *Request for Stay,* from John L. Wittenborn, Counsel to Industry-Respondents, to Lisa Jackson, Administrator, U.S. Environmental Protection Agency, March 6, 2009.

[4] *See Memorandum to File from Alan Carpien, Attorney, EPA, Office of General Counsel,* April 28, 2009.

place under the exclusion (73 FR 64729).

However, by using a general performance standard (''contained'') in the regulations to determine whether a material is ''contained,'' the DSW final rule does not include specific requirements. Some commenters asked that more specific requirements be included in the rule. The Agency is considering developing a definition of ''contained'' in the regulations; such a definition would need to apply to a range of hazardous secondary materials and reclamation processes and still remain within the scope of determining whether a hazardous secondary material is ''discarded.'' EPA could also address this issue by setting specific performance or storage standards as a condition of the transfer-based exclusion. Finally, EPA could address this concern by developing more detailed guidance on what might constitute ''contained,'' for different types of units or management practices.

B. Notification

The DSW final rule required persons claiming one of the exclusions to notify the appropriate regulatory agency before operating under the exclusion. EPA explained that the notification requirement under the authority of RCRA section 3007 would not be a condition of the exclusion, and failure to notify, while constituting a violation of the notification regulations, would not affect the excluded status of the hazardous secondary materials. In other words, generators or reclaimers could fail to notify yet still be considered to be legitimately recycling their hazardous secondary materials according to the conditions of the exclusion (73 FR 64682).

EPA took this approach because it believed that the fact of notification was separable from the question of whether a material has been in fact ''discarded.'' At the same time, however, for both the generator-controlled and the transfer-based exclusions, the notification requirement is a key indication of a facility's intent to reclaim a hazardous secondary material and not discard it. Thus, for example, if during an inspection of a large quantity generator of hazardous waste, EPA were to discover a hazardous secondary material that had been stored onsite for more than 90 days without a RCRA permit (an act that would typically be a violation of the hazardous waste regulations), a previously filed notification would be an indication that the facility was planning to reclaim the hazardous secondary material under the conditions of the exclusion. Absent such a notification, it might be difficult for EPA to determine the facility's true intentions for the hazardous secondary material without arranging for follow-up inspections or gathering additional information. If EPA were to restructure the DSW final rule exclusions so that the notification was a condition of the exclusions rather than a 3007 requirement as suggested by commenters, the notification would serve as the first step in the facility's demonstrating that the hazardous secondary material is not being discarded. Such a system might provide a stronger incentive for facilities to notify and make it difficult for a facility to claim, after the fact, that it intended to reclaim a material, when it had no real intention of doing so.

C. Definition of Legitimacy

1. Applicability of Codified Definition

In the October 2008 DSW final rule, EPA codified the definition of ''legitimacy'' as a requirement for both the generator-controlled and transfer-based exclusions in the final rule and for the non-waste determinations, but not for other hazardous secondary material recycling. The purpose of defining legitimacy was to distinguish ''legitimate'' recycling from ''sham'' recycling (*i.e.,* waste treatment and/or disposal conducted in the guise of recycling). To avoid confusion among the regulated community and the States, as well as the other implementing regulatory agencies about the status of recycling exclusions that were in existence prior to the October 2008 DSW final rule, EPA codified the legitimacy factors as specifically applicable to the new exclusions and non-waste determination procedures in that final rule. However, the final rule also explained how the four legitimacy factors codified in the final rule are substantively the same as the existing legitimacy policy (73 FR 64707–64708).

While this approach was intended to make it clear that legitimacy determinations made for the existing exclusions are not affected by the codified language, ultimately there may be greater clarity if there is a single legitimacy standard for all recycling. Applying the regulatory legitimacy factors to all recycling also might ensure that the factors are better known and understood by the regulated community and easier for the States and EPA to monitor and enforce.

2. Legitimacy Factors ''To Be Considered''

In the October 2008 codified definition of legitimacy, EPA included four factors, all of which must be considered. Two of these factors must always be met,[5] while two factors may in some cases not need to be met, depending on such considerations as the protectiveness of the storage methods, exposure from toxics in the product, the bioavailability of the toxics in the product, and other relevant considerations. The Agency took this approach because there were some situations in which a legitimate recycling process did not conform to one or both of these two factors, yet the reclamation activity, in the Agency's judgment, was still legitimate. The two factors to consider are: (1) Whether the hazardous secondary material is managed as a valuable commodity, and (2) whether the product of the recycling process contains hazardous constituents that are significantly elevated in comparison to analogous products (*i.e.,* ''toxics along for the ride'') (73 FR 64701–64705).

EPA believes that most situations where one or both of these two factors are not met would be sham recycling. However, EPA expressed in the final rule that legitimate recycling may sometimes occur in these situations, and provided examples of where this might occur. Consequently, EPA built into the definition of legitimacy the provision that, after considering the factors, the regulated entity making the legitimacy determination can decide, based on considerations such as the protectiveness of the storage methods, exposure from toxics in the product, and the bioavailability of the toxics in the product, that the recycling is still legitimate (73 FR 64743–64744).

Some commenter's have asserted that not having all legitimacy factors be mandatory could mean that materials going for reclamation might be significantly mismanaged, or could lead to recycled products that present significant risks, compared to comparable virgin material products. This certainly was not EPA's intent in the final rule; in such a case EPA expects that regulatory agency would determine that such activity is not legitimate recycling. However, we are looking for comments on a different implementation approach that might require that all four legitimacy factors must be met, unless the implementing agency makes a determination (for example, through a petition process) that the recycling is still legitimate

[5] The two factors which must always be met are (1) whether the hazardous secondary material provides a useful contribution to the recycling process or product, and (2) whether the product or intermediate of the recycling process has value.

despite the fact that one or more of the latter two factors is not met.

D. Transfer-Based Exclusion

As EPA explained in the October 2008 DSW final rule, businesses often ship hazardous secondary materials to be reclaimed by a third party or commercial facility or another manufacturer. In such situations, EPA determined that the generator has relinquished control of the hazardous secondary materials and the entity receiving such materials may not have the same incentives to manage them as a useful product. This conclusion is supported by the results of both the damage case study and the market forces study that were performed in support of the final rulemaking (73 FR 64677–64678).

As a result of this conclusion, EPA developed specific conditions for the transfer-based exclusion in order for the Agency to determine which hazardous secondary materials transferred to another entity are not discarded. In the preamble to the final rule, EPA explained how each of these conditions specifically related to the concept of discard, as evidenced by the rulemaking record (73 FR 64678–64679).

EPA has identified a number of alternative approaches to the transfer-based exclusion that may be used to identify when hazardous secondary materials sent to another entity for reclamation are not discarded, and to appropriately regulate materials subject to RCRA regulation. These alternative approaches could include the following:

- EPA could repeal the transfer-based exclusion, and thus return to regulating most hazardous secondary materials transferred to third parties as discarded materials under traditional RCRA program requirements, while keeping the generator-controlled exclusion and the non-waste determination petition process as the basis for excluding materials which are not discarded;
- EPA could revisit the approach taken in the 2003 DSW proposal and limit the transfer-based exclusion to materials reclaimed in a ''continuous industrial process within the generating industry.'' The 2003 DSW proposal used NAICS codes to define ''within the generating industry.'' However, this approach was criticized by many commenters following its proposal. Thus, commenters supporting this option should address the practical problems involved in using this approach or suggest another approach;
- EPA could limit the transfer-based exclusion to activities where the generator is paid for the hazardous secondary material. However, EPA in the past has rejected this approach on the grounds that costs are subject to market uncertainty and manipulation, making this option difficult to establish and enforce. *See* 50 FR 614, 617 (January 4, 1985), 48 FR 14481, 14478–14481 (April 4, 1983). Thus, commenters supporting this option should address whether it could be practicably implemented and enforced.

In addition, any of the above three options could be combined with developing new more tailored exclusions focusing specifically on reclamation of certain hazardous secondary materials or reclamation performed in specific industries.

Alternatively, EPA could consider focused changes to the transfer-based exclusion. For example, EPA could revisit whether to allow intermediate facilities storing hazardous secondary materials to be eligible for the transfer-based exclusion. The purpose of including such facilities was to provide an opportunity for generators of smaller quantities of hazardous secondary materials to send these materials for reclamation, but it also added another possible step or steps through which the regulatory agencies must monitor materials to ensure that they are being legitimately reclaimed and not discarded. EPA could also explore requiring the equivalent of a ''closure plan'' for reclamation and intermediate facilities (if the Agency decides to continue to allow intermediate facilities to be eligible for the transfer-based exclusion) operating under the exclusion. Such a plan would allow the implementing agency additional upfront oversight to determine that the facility has made provisions to ensure that its hazardous secondary materials will not be abandoned (and therefore discarded). The plan would also provide a further basis for the reclaimers to estimate how much closure would cost, and therefore how much financial assurance is needed. In addition, allowing a public notice and comment step could help address concerns regarding the lack of participation by the potentially affected community in making these determinations, particularly if there are environmental justice concerns.

EPA is interested in comments and information on these issues or other areas that the public believes will assist the agency in evaluating the petition. The public may register to speak at the public meeting or may submit written comments as explained below.

IV. How To Participate in the Public Meeting

Persons who wish to participate in the public meeting (either by making a presentation or as a member of the audience) must register for the meeting (*see* **ADDRESSES** section). Persons requiring special accommodations due to a disability should inform the contact person of their request (*see* **FOR FURTHER INFORMATION CONTACT**). Persons may also submit written comments for the record. (*see* **ADDRESSES** section).

Persons who register in advance of the meeting should check in at the onsite registration desk between 8 a.m. and 9 a.m. We will also accept registrations onsite on a first-come, first-served basis; however, space will be limited and registration will be closed when the maximum seating capacity is reached. Persons who wish to register onsite on the day of the meeting may do so at the registration desk between 8 a.m. and 9 a.m.

We encourage all participants to attend the entire meeting. Because the meeting will be held in a Federal building, meeting participants must present photo identification and plan adequate time to pass through the security system.

Depending on the number of requests received, we may be obliged to limit the time allotted for each presentation (*e.g.,* 5 minutes each). If time permits, we may allow interested persons who attend the meeting, but did not register in advance to make an oral presentation at the conclusion of the meeting. The schedule of speakers will be available at the meeting. After the meeting, the schedule and a list of participants will be placed on file in the docket (*see* **ADDRESSES** section) under the docket number listed in brackets in the heading of this document. We will post all submissions and received comments without change, unless the submissions or comments contain CBI or other information whose disclosure is restricted by statute to *http://www.regulations.gov,* including any personal information provided.

EPA will carefully consider all information, both verbal and written, provided by stakeholders regarding the definition of solid waste as the Agency decides how to respond to the Sierra Club petition. Following review of all comments, EPA will decide how to respond to the petition, which may include proposing to make changes to the DSW rule through a notice of proposed rulemaking.

V. Implementation and State Adoption

The DSW final rule promulgated on October 30, 2008, became effective on December 29, 2008 (73 FR 64668) and remains in effect unless EPA goes through another rulemaking process (proposed and final) to repeal or amend

it. However, because the October 30, 2008 DSW revisions are less stringent than the hazardous waste regulations that applied to the affected hazardous secondary materials before the DSW rule went into effect, States that have been authorized to administer the RCRA Subtitle C hazardous waste program are not required to adopt these revisions. For States who do not adopt these revisions, the State hazardous waste regulations, as authorized by EPA, will remain the standards that apply to hazardous wastes sent to reclamation in that State.

Because the DSW final rule is in effect, States may decide to adopt these provisions (or to adopt a subset of these provisions, such as the generator-controlled exclusion) at any time. States may also decide not to adopt the DSW rule until such time as EPA completes the current process of reviewing the Sierra Club petition. If EPA subsequently decides to revise the rule, such that the revisions are more stringent than the October 30, 2008, rule, then those States who adopted the current version of the DSW rule would need to modify their program to adopt the more stringent provisions (because State RCRA regulations can be no less stringent than the Federal regulations).

Dated: May 11, 2009.

Matt Hale,

Director, Office of Resource Conservation and Recovery.

[FR Doc. E9–12283 Filed 5–26–09; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket Nos. 07–294, 06–121, 02–277, 04–228; MM Docket Nos. 01–235, 01–317, 00–244; FCC 09–33]

Promoting Diversification of Ownership in the Broadcasting Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Fourth Further Notice of Proposed Rulemaking (Fourth FNPRM) seeks comment on whether to modify FCC Form 323–E, the Ownership Report filed by noncommercial educational (NCE) licensees of AM, FM, and TV broadcast stations, to obtain gender, race, and ethnicity data. Obtaining the information, the FCC believes, would further its goal to design policies to advance diversity in the broadcast industry. The Fourth FNPRM also seeks comment on whether to collect gender, race and ethnicity ownership information for low power FM (LPFM) licensees or whether to continue to exempt LPFM licensees from the 323–E filing requirements.

DATES: Submit comments on or before June 26, 2009 and submit reply comment on or before July 13, 2009. Submit written comments on the PRA proposed information collection requirements on or before July 27, 2009.

ADDRESSES: You may submit comments, identified by MB Docket Nos. 07–294; 06–121; 02–277; 04–228; MM Docket Nos. 01–235; 01–317; 00–244, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- *Mail:* Submit hand-delivery paper comments to the Commission's contractor at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. Submit commercial overnight mail to 9300 East Hampton Drive, Capitol Heights, MD 20743. Submit U.S. Postal Service First-Class, Express, and Priority mail to 445 12th Street, SW., Washington, DC 20554.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by *e-mail: FCC504@fcc.gov* or *phone:* (202) 418–0530 or TTY: (202) 418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Mania Baghdadi, (202) 418–2330; Amy Brett (202) 418–2300.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Fourth FNPRM adopted April 8, 2009, and May 5, 2009. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY–A257, Washington, DC 20554. These documents will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs*). The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Submit PRA comments to Nicholas A. Fraser, Office of Management and Budget, by e-mail at *Nicholas_A._Fraser@omb.eop.gov* or via fax at (202) 395–5167 and to Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC or by e-mail at *Cathy.Williams@fcc.gov* or *PRA@fcc.gov.*]

Filing Requirements

Ex Parte Rules. The Fourth FNPRM will be treated as ''permit-but-disclose'' subject to the ''permit-but-disclose'' requirements under Section 1.1206(b) of the Commission's rules. *Ex parte* presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, *ex parte* or otherwise, are generally prohibited. Persons making oral *ex parte* presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required. Additional rules pertaining to oral and written presentations are set forth in Section 1.1206(b) of the Commission's rules.

Comments and Reply Comments. Pursuant to sections 1.415 and 1.419 of the Commission's rules, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using (1) the Commission's Electronic Comment Filing System (ECFS); (2) the Federal Government's eRulemaking Portal; or (3) by filing paper copies. Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov.* Filers should follow the instructions provided on the Web site for submitting comments. For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov,* and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.