

percent of the time for a purpose other than on-the-job training, it would be used in a significant manner for a purpose other than job training. Thus, a production facility is not an on-the-job training facility for purposes of section 188 simply because new employees receive training on the machines they will be using as fully productive employees. A facility is considered to be used by an employer in connection with an occupational training program for his employees or prospective employees if at least 80 percent of the trainees participating in the program are employees or prospective employees. For purposes of this section, a prospective employee is a trainee with respect to whom it is reasonably expected that the trainee will be employed by the employer upon successful completion of the training program.

(4) *Qualified child care facility.* A "qualified child care facility" is a facility which is—

(i) Particularly suited to provide child care services and specifically used by an employer to provide such services primarily for his employees' children;

(ii) Operated as a licensed or approved facility under applicable local law, if any, relating to the day care of children; and

(iii) If directly or indirectly funded to any extent by the United States, established and operated in compliance with the requirements contained in Part 71 of title 45 of the Code of Federal Regulations, relating to Federal Interagency Day Care Requirements.

For purposes of this subparagraph, a "facility" consists of the buildings, or portions or structural components thereof, in which children receive such personal care, protection, and supervision in the absence of their parents as may be required to meet their needs, and the equipment or other personal property necessary to render such services. Whether or not a facility, or any component property thereof, is particularly suited for the needs of the children being cared for depends upon the facts and circumstances of each individual case. Generally, a building and its structural components, or a room therein, and equipment are particularly suitable for furnishing child care service if they are designed or adapted for such use or satisfy requirements under local law for such use as a condition to granting a license for the operation of the facility. For example, such property includes special kitchen or toilet facilities connected to the building or room in which the services are rendered and equipment such as children's desks, chairs, and play or instructional equipment. Such property would not include gen-

eral purpose rooms used for many purposes (for example, a room used as an employee recreation center during the evening) nor would it include a room or a part of a room which is simply screened off for use by children during the day. For purposes of this section, a facility is considered to be specifically used as a child care facility if such facility is actually used for such purpose and is not used in a significant manner for any purpose other than child care. For purposes of this subparagraph, a child care facility is used by an employer to provide child care services primarily for children of employees of the employer if, for any month, no more than 20 percent of the average daily enrolled or attending children for such month are other than children of such employees.

(5) *Placed in service.* For purposes of section 188 and this section, the term "placed in service" shall have the meaning assigned to such term in paragraph (d) of § 1.46-3.

(e) *Effective date.* The provisions of section 188 and this section apply to taxable years ending after December 31, 1971.

PAR. 2. Section 1.642(f)-1 is amended to read as follows:

§ 1.642(f)-1 Amortization deductions.

An estate or trust is allowed amortization deductions with respect to an emergency facility as defined in section 168(d), with respect to a certified pollution control facility as defined in section 169(d), with respect to qualified railroad rolling stock as defined in section 184(d), with respect to certified coal mine safety equipment as defined in section 187(d), and with respect to on-the-job training and child care facilities as defined in section 188(b), in the same manner and to the same extent as in the case of an individual. However, the principles governing the apportionment of the deductions for depreciation and depletion between fiduciaries and the beneficiaries of an estate or trust (see sections 167(h) and 611(b) and the regulations thereunder) shall be applicable with respect to such amortization deductions.

JEROME KURTZ,
Commissioner of
Internal Revenue.

[FR Doc. 78-24620 Filed 8-30-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION
AGENCY

[40 CFR Part 60]

[FRL 933-3]

STANDARDS OF PERFORMANCE FOR NEW
STATIONARY SOURCES

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule and Notice of Public Hearing.

SUMMARY: This action contains EPA's proposed list of major source categories for which standards of performance must be promulgated by August 1982. The Clean Air Act Amendments of 1977 require EPA to publish by August 1978, a list of the categories of major stationary sources which have not been previously listed as source categories for which standards of performance will be established. The intent of this action is to provide interested parties an opportunity to comment on the proposed list.

A public hearing will be held to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed list.

Comments. Comments must be received on or before October 30, 1978.

Public Hearing. The public hearing will be held on Friday, September 29, 1978.

Request to Speak at Hearing. Persons wishing to attend the hearing or present oral testimony should contact EPA by September 25, 1978.

Comments. Comments should be submitted to Gary D. McCutchen, Standards Development Branch (MD-13), Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, N.C. 27711.

Public Hearing. The public hearing will be held Friday, September 29, 1978, at 9 a.m. to 4 p.m., in room 3906, Waterside Mall, 401 M Street SW., Washington, D.C. Persons wishing to present oral testimony should notify Mary Jane Clark, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone number 919-541-5271.

Background Document. The background document for the proposed priority list may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, N.C. 27711, telephone number 919-541-2777. Please refer to "priorities for New Source Performance Standards Under the Clean Air Act Amendments of 1977 (EPA-450/3-78-019)."

Docket. EPA has determined that a docket is not required for this action, but public comments received and a copy of the background report used in

the development of this list will be available for public inspection and copying at the Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Gary McCutchen, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone number 919-541-5421.

SUPPLEMENTARY INFORMATION:

The new source performance standard (NSPS) program began in December 1970, when the Clean Air Act was signed into law. Authorized under section 111 of the act, NSPS were to require the best control system (considering cost) for new facilities, and were intended to complement the other air quality management approaches authorized by the 1970 act. A total of 28 source categories are regulated by NSPS, with NSPS for an additional 25 source categories under development.

During the 1977 hearings on the Clean Air Act, Congress received testimony on the need for more rapid development of NSPS. There was concern that not all sources which had the potential to endanger public health or welfare were controlled by NSPS and that the potential existed for "environmental blackmail" from source categories not subject to NSPS. This concern was explicitly expressed by the Governor of New Jersey, who felt that industry could threaten to leave, or simply not locate in, States with more stringent regulations than their neighbors. These concerns were reflected in the Clean Air Act Amendments of 1977, Specifically in section 111(f).

Section 111(f) requires that EPA publish a list of major stationary sources of air pollution not already listed under section 111(b)(1)(A); that is, for which NSPS have not yet been proposed or promulgated. The list is to be promulgated by August 7, 1978, after EPA has provided notice of and opportunity for public hearings and consulted with Governors and State air pollution control agencies. In developing priorities, EPA is to consider: (1) The quantity of emissions from each source category, (2) the extent to which each pollutant endangers public health or welfare, and (3) the mobility and competitive nature of each stationary source category, e.g., the capability of a new or existing source to locate in areas with less stringent air pollution control regulations. After the list is promulgated, Governors may submit applications under section 111(g) to add major source categories to the list, add any source category to the list which may endanger public

health or welfare, change the priority ranking, or revise promulgated NSPS.

DEVELOPING THE LIST

EPA initiated development of this list by compiling information on a large number of source categories from a number of literature resources. This preliminary list was evaluated using the criteria specified in section 111(f). A draft report describing this analysis was reviewed by the National Air Pollution Control Techniques Advisory Committee on April 6, 1978. A final report is now available which, in addition to describing the methodology used to apply the criteria, provides the resource material used in developing the list.

The background report may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, N.C. 27711 (specify "Priorities for NSPS Under the Clean Air Act Amendments of 1977," EPA-450/3-78-019).

The data were first analyzed to determine those sources which have the potential to emit 100 tons or more per year of any one pollutant. These major source categories were then subjected to a priority ranking procedure using the three criteria specified in the act. In summary, this procedure, which is described in more detail in the following section, first ranks source categories on a pollutant by pollutant basis. This results in nine lists (one for each pollutant—hydrocarbons (HC), nitrogen oxides (NO_x), particulate matter (PM), sulfur dioxide (SO₂), carbon monoxide (CO), lead (Pb), fluorides (F), acid mist (AM), and hydrogen sulfide (H₂S)) with each list ranked using the criteria in the act. In this ranking, first priority is given to quantity of emissions, second priority to potential impact on health and welfare, and third priority to mobility. Thus, sources with the greatest growth rates and emission reduction potential are high on each list; sources with limited choice of location, low growth and small emission potential are low on each list.

The nine lists are combined into one by selecting pollutant goals—a procedure which, in effect, assigns a relative priority to pollutants based upon the potential impact of NSPS. After the pollutant goals are selected, the final priority list is established through the selection of source categories which will have maximum impact on attaining the selected goals. The effect of this procedure is to emphasize control of organic (hydrocarbon), particulate matter, and NO_x emissions and to give carbon monoxide and noncriteria pollutants a lower priority.

The ranking of source categories on the list and, in fact, the differentiation between major and minor sources is

sensitive to the accuracy of the data utilized. The ranking is especially sensitive to emission factors, source sizes, and source category growth rates. Because the data base used to establish the priority list was obtained from a number of literature sources and because time was not available to perform an independent verification of these data, it is expected that further study will identify certain inaccuracies in the original data base. If such errors are identified after promulgation, EPA may, as described below, take action to reorder priorities, delete sources from the list, or add sources to that list.

In developing standards for source categories on the list, EPA's first activity will be a screening study. This activity takes approximately 2 months to complete for each source category and involves gathering basic data concerning the industry for which a standard is planned. This information is obtained from State and local agencies and from owners and operators of sources in the affected industry, and is more accurate and representative than the data base used in developing the priority list. EPA expects to initiate the screening studies for all source categories listed within 18 to 24 months after promulgation of the list and, therefore, even very large errors in the priority ranking will have little effect on the date a project is started. If the screening study indicates that an NSPS would have little or no effect on emissions, or that an NSPS would be impractical, a source category can be removed from the list at the completion of the screening study before a standard is developed. Finding that uncontrolled emission rates are below 100 tons per year or that the source category exhibits a low growth rate are examples of cases which could cause EPA to remove a category or lower its priority. EPA may, however, develop standards for sources which emit less than 100 tons per year, especially certain minor sources which, in aggregate, represent a large quantity of emissions.

The proposed list identifies major source categories, defined as categories which have average size sources with the potential (uncontrolled) to emit 100 tons per year (TPY) or more of any pollutant regulated under the act. Certain new sources of smaller than average size within these categories may have less than a 100 ton per year emission potential, just as very large units from nonlisted minor source categories may have more than this potential. Thus, this list of major source categories was developed only for the purpose of defining NSPS priorities and should not be used to define sources subject to new source review (NSR), which is conducted on a case-

by-case basis. Moreover, some NSR programs such as prevention of significant deterioration have separate and distinct criteria for defining a major source (e.g., 100 tons per year potential for certain source types and 250 tons per year for others).

Two groups of sources in addition to minor sources are not included on the proposed list. One group includes sources which could not be evaluated due to insufficient data. This lack of data suggests that these sources, which are identified in the background report, "Priorities for NSPS under the Clean Air Act of 1977," have not previously been regulated or studied and, therefore, are probably not major sources. Nevertheless, EPA will continue to investigate these sources and will add to the list any which are identified as being major.

The second group of unlisted source categories consists of those already listed under section 111(b)(1)(A). These are:

Fossil-fuel-fired steam generators.
Incinerators.
Portland cement plants.
Nitric acid plants.
Sulfuric acid plants.
Asphalt concrete plants.
Petroleum refineries.
Storage vessels for petroleum liquids.
Secondary lead smelters.
Secondary brass and bronze ingot production plants.
Iron and steel plants.
Sewage treatment plants.
Primary copper smelters.
Primary zinc smelters.
Primary lead smelters.
Primary aluminum reduction plants.
Phosphate fertilizer industry: Wet process phosphoric acid plants.
Phosphate fertilizer industry: Superphosphoric acid plants.
Phosphate fertilizer industry: Diammonium phosphate plants.
Phosphate fertilizer industry: Triple superphosphate plants.
Phosphate fertilizer industry: Granular triple superphosphate storage facilities.
Coal preparation plants.
Ferroalloy production facilities.
Steel plants: Electric arc furnaces.
Kraft pulpmills.
Lime plants.
Grain elevators.
Stationary gas turbines.

There are, however, some facilities (or subcategories) within these source categories for which NSPS have not been developed, but which may by themselves be significant sources of air pollution. A number of these facilities were evaluated as if they were separate source categories; three which ranked high in priority are included on the priority list to indicate that EPA plans to develop standards for them: Petroleum refinery fugitive emissions, industrial fossil-fuel-fired steam generators, and industrial-commercial incinerators. In addition to these, EPA will continue to evaluate

affected facilities within listed source categories, and may from time to time add these to the list. Sintering plants in the iron and steel industry is an example of a facility now being studied. Although the growth rate for new sintering capacity is presently very low, giving this facility a very low priority, EPA is continuing to assess emission control and measurement technology with a view toward possible development of a standard for sintering plants at a later date.

DETERMINING PRIORITIES

The methodology used to establish priorities is explained in detail in the report "Priorities for New Source Performance Standards Under the Clean Air Act Amendments of 1977." The description that follows conveys the basic concepts used, but does not detail the entire procedure.

The first task in the ranking procedure was to develop a method for applying the three criteria specified by the CAA amendments to each of the nine pollutants. The second task was to establish goals for each pollutant so that a single multipollutant priority list could be compiled.

The first CAA criterion, quantity of emissions, is represented by the emissions an NSPS would prevent after being in effect for a specified period of time; in this case, 10 years. Emissions for 1990 are first calculated assuming that the present level of control continues to be applied to new sources; the resulting 1990 emission level is termed T_s . Then 1990 emissions are calculated assuming a best level of control, representative of an NSPS, is applied to all new sources constructed between 1980 and 1990; this 1990 emission level is termed T_N . The emissions that could be prevented by an NSPS after 10 years is represented by the difference between T_s and T_N . The value of $(T_s - T_N)$ represents the first CAA criterion.

The approach used to derive an objective measure of the impact or extent to which public health or welfare could be endangered consists of first determining the ambient air concentration (X) for each pollutant in the vicinity of a typical facility. This involves several assumptions, including the type of meteorology and dispersion equations, concentration and quantity of emissions, and average stack heights and stack gas emission flow rates and temperatures. Since one pollutant could have no discernible effects at a concentration at which another pollutant could be dangerous, a method was needed to relate each of these ambient air concentrations to their health or welfare effects. The approach selected was to divide each ambient air concentration by an appropriate ambient threshold value

(ATV) for that pollutant. The ATV represents a level at which public health or welfare may be endangered. The ATV is represented by the national ambient air quality standard (NAAQS) for criteria pollutants and by a concentration based on the threshold limit value for the other pollutants studied. These "normalized" values range from 0.0001 to 176 and are used to represent health or welfare endangerment. A normalized value of 1.0 would mean that ambient concentrations in the vicinity of a typical facility are approximately equal to the ATV level.

Evaluation of the mobility and competitive nature of source categories was subjective. "Mobility and competitive nature" in this analysis refers to the feasibility of stationary source categories to relocate to, or locate new facilities in, areas with less stringent air pollution control regulations. Nonmovable stationary source categories were identified on the basis of being tied either to the market (e.g., dry cleaners) or to a supply of materials (e.g., mining operations). All other stationary source categories were considered movable by default.

For each pollutant, source categories were first separated into three groups: high, medium, and low emissions prevention potential ($T_s - T_N$). Each of these three emissions groups was then divided into three subgroups: high, medium, and low ambient air impact (X/ATV). Each of these subgroups was then split into two subdivisions: movable and nonmovable. Finally, within each of the 18 resulting subdivisions, source categories were ranked in order of emission prevention potential ($T_s - T_N$), from highest to lowest. Priority was given to high ($T_s - T_N$), high X/ATV, and mobility, so that a prioritized listing of these subdivisions is as follows, with highest priority first:

- (1) High ($T_s - T_N$), high X/ATV, movable.
- (2) High ($T_s - T_N$), high X/ATV, nonmovable.
- (3) High ($T_s - T_N$), medium X/ATV, movable.
- (4) High ($T_s - T_N$), medium X/ATV, nonmovable.
- (5) High ($T_s - T_N$), low X/ATV, movable.
- (6) High ($T_s - T_N$), low X/ATV, nonmovable.
- (7) Medium ($T_s - T_N$), high X/ATV, movable.
- (8) Medium ($T_s - T_N$), high X/ATV, nonmovable.
- (9) Medium ($T_s - T_N$), medium X/ATV, movable.
- (10) Medium ($T_s - T_N$), medium X/ATV, nonmovable.
- (11) Medium ($T_s - T_N$), low X/ATV, movable.
- (12) Medium ($T_s - T_N$), low X/ATV, nonmovable.
- (13) Low ($T_s - T_N$), high X/ATV, movable.
- (14) Low ($T_s - T_N$), high X/ATV, nonmovable.

- (15) Low (T_S-T_N), medium X/ATV, movable.
- (16) Low (T_S-T_N), medium X/ATV, nonmovable.
- (17) Low (T_S-T_N), low X/ATV, movable.
- (18) Low (T_S-T_N), low X/ATV, nonmovable.

This provides a separate priority ranking for each pollutant. Developing a combined multipollutant priority list requires the selection of pollutant goals.

A computer program was written to calculate 1990 emissions from each source/pollutant combination, then determine which 1990 pollutant estimate was furthest from its goal. This became the priority pollutant, and the top priority source category from that pollutant list was selected and an NSPS (E_N level of emissions) assumed for new sources in that category from that time on. It was assumed that NSPS were promulgated at the same time for any other pollutants emitted from that source category. The computer program then recalculates 1990 emissions, selects the new priority pollutant, and repeats the selection procedure. A standard-setting rate was assumed that, beginning in 1980, results in the promulgation by the end of 1982 of NSPS for all the source categories listed. The resulting list can be found in the background report (Table 3-12, p. 113), and is the basis for the listing of major source categories that appears in this notice.

The goals for PM, SO₂, NO_x, HC, and Pb were determined by assuming all NSPS are promulgated in 1980 and then calculating 1990 emissions based on NSPS control of all new sources during that 10-year period. For SO₂ and NO_x, emissions will still increase, but for PM, HC, and Pb, 1990 emissions would be lower than 1980 emissions despite growth. Although EPA cannot set all NSPS in 1980, the emission changes that result from such an assumption provide reasonable goals to aim for.

These goals are summarized below:

Pollutant	1990 emission without NSPS,* percent change from 1980 emissions	1990 goal percent change from 1980 emissions**
Particulate matter (PM)....	+30	-5
Sulfur dioxide (SO ₂).....	+20	+10
Nitrogen oxides (NO _x).....	+55	+20
Hydrocarbons (HC).....	+70	-30
Lead (Pb).....	+55	-20

*Does not take into account emission reductions that will accrue from State Implementation Plan revisions or New Source Review decisions (including prevention of significant deterioration and emission offsets).

**Determined by assuming that all NSPS are effective in 1980 and apply to all new sources constructed during the 10-year period 1980-90.

For the other pollutants (CO, AM, H₂S, and F), 1990 emissions would be lower than 1980 emissions if all NSPS were set in 1980, but these reductions are of lower priority than those listed in the preceding paragraph. The lower priority is based on prior EPA policy. AM, H₂S, and F are not regulated by National Ambient Air Quality Standards (NAAQS), and are considered lower priority than NAAQS or criteria pollutants. Although CO is a criteria pollutant, CO from stationary sources has not been considered a priority concern; emphasis has instead been on emissions from vehicles. Therefore, a 1990 goal of no increase over 1980 emissions was selected, which in effect deemphasizes CO, AM, H₂S, and F.

The goals calculated for these pollutants, based on the change in emission levels between 1980 and 1990, are shown below:

Pollutant	1990 emissions without NSPS,* percent change from 1980 emissions	1990 goal percent change from 1980 emissions
Carbon monoxide (CO).....	+30	**0
Acid mist (AM).....	+135	**0
Hydrogen sulfide (H ₂ S).....	+30	**0
Fluorides (F).....	+35	**0

*Does not take into account emission reductions that will accrue from State implementation plan revisions or new source review decisions (including prevention of significant deterioration and emission offsets).

**Setting a goal of 0 percent change has the effect of deemphasizing these pollutants since reductions below 1980 emission levels are possible.

At the beginning of the computer program, the priority pollutant is determined by the difference in tons of emissions per year between the first column (projected 1990 emissions) and the second column (the 1990 emissions goal).

IDENTIFICATION OF SOURCE CATEGORIES

There are some differences between the list in the background report (table 3-12) and the list which appears below. These differences are primarily a result of aggregation of subcategories which had been subdivided for size classification and priority ranking analysis. Nonmetallic mineral mining, for example, is composed of nine subcategories, eight of which were analyzed separately (stone, sand and gravel, clay, gypsum, lime, borax, fluorspar, and phosphate rock mining) and one of which is considered a minor source (mica mining). EPA plans to study the entire non-metallic mining industry at one time, since many of the processes and control techniques are similar. For this reason, the industry is identified by a single listing. This does not necessarily imply that a single standard would apply to all

sources within the listed category. Rather, as described below in the case of synthetic organic chemical manufacturing, the nature and scope of standards will be determined only after a detailed study of sources within the category.

Also, in addition to the major sources, three source categories not identified as being major source categories have been added to the list—organic solvent degreasing, industrial surface coating: metal furniture, and lead acid battery manufacture.

Organic solvent degreasing was chosen for study because this source category accounts for some 5 percent of stationary source emissions in a typical air quality control region. Thus, although individual facilities typically emit less than 100 TPY, this is a significant source of organic emissions and EPA considers it prudent to continue the development of a standard for this source category.

The metal furniture coating industry is also a significant source of organic emissions, and there are over 300 existing facilities with the potential to emit more than 100 TPY. For this reason, EPA has placed this source category on the list.

Lead acid battery manufacture is a significant source of lead emissions. An NSPS for this source category is expected to assist in attainment of the proposed National Ambient Air Quality Standard for lead.

EPA initiated work to develop standards for each of these source categories prior to the 1977 amendments to the CAA and plans to continue work on them. Interrupting work on these categories is not considered justified, as this would require that a significant amount of work be repeated.

One listed source category which deserves special attention is the synthetic organic chemical manufacturing industry (SOCMI). Preliminary estimates indicate that there may be over 600 different processes included in this source category, but only 27 of these processes have been evaluated and priority-ranked. For the other 575, there was not enough information available. As is the case with several other aggregate source categories, EPA expects to use generic standards to cover as many of the 600 processes as possible, so separate NSPS for each process are unlikely. Based on an effort which has been underway within EPA for 2 years to study this complex source category, the generic standards could regulate nearly all emissions by covering four broad areas: process facilities; storage facilities; leakage; and transport and handling losses. Also, since a number of the pollutants emitted are potentially toxic or carcinogenic, regulation under section 112, national emission standards for hazardous air pollutants

(NESHAP) rather than NSPS may be more appropriate. Therefore, SOCOMI is listed as a single source category. The 27 processes evaluated are considered the most likely candidates for NSPS or NESHAP coverage through generic standards, and are listed below:

Acrylonitrile Plants.
Acetic Acid Plants.
Acrylic Acid.
Acetic Anhydride Plants.
Cyclohexane Plants.
Cyclohexanol/Cyclohexanone Plants.
Dimethyl Terephthalate Plants.
Ethylene Dichloride Plants.
Ethylene Oxide Plants.
Ethylbenzene Plants.
Ethylene Plants.
Ethylene Glycol Plants.
Formaldehyde Plants.
Maleic Anhydride Plants.
Methanol Plants.
Methyl Methacrylate Plants.
Phenol Plants.
Propylene Oxide Plants.
Terephthalic Acid Plants.
Vinyl Acetate Plants.
Phthalic Anhydride (PAN) Plants.
Acetone Plants.
Carbon Tetrachloride Plants.
Adipic Acid Plants.
Methyl Chloroform Plants.
Styrene Plants.
Allyl Chloride Plants.

Additional information has resulted in the exclusion from the list of some source categories which are shown in the background report. Mixed fuel boilers and feed and grain milling are regulated by the NSPS for fossil-fuel steam generators and grain elevators, respectively. Beer manufacture has a much lower emission level than had been assumed in the background report, and whiskey manufacture was deleted due to a lack of any demonstrated control technology.

PUBLIC PARTICIPATION

The CAA requires that EPA, prior to promulgating this list of source categories, consult with Governors and State air pollution control agencies. An invitation was extended on February 28, 1978, to the State and Territorial Air Pollution Program Administrators (STAPPA) and the National Governors' Association (NGA) to attend the first Working Group meeting, March 16, 1978, and review the draft background report and the methods used to apply the criteria. On March 24, 1978, EPA notified each Governor and the director of each State air pollution control agency by letter of this project, inviting them to participate and/or comment:

(1) At the April 5-6, 1978, National Air Pollution Control Techniques Advisory Committee (NAPCTAC) meeting in Alexandria, Va.;

(2) When the final background report was mailed to them;

(3) When the list is proposed in the FEDERAL REGISTER; or

(4) At a public hearing to be held on the proposed list.

The draft background report was mailed to all NAPCTAC members, five of which represent State or local agencies, two of which represent environmental groups, and eight of which represent industry. Copies were mailed to six environmental groups and three consumer groups at the same time, and to a representative of the NGA.

Copies of the final report were sent to the Governors, State, and local air pollution control agencies, NAPCTAC members, environmental groups, the NGA, and other requesters in early July.

A public hearing will be held to discuss the proposed priority list in accordance with section 111(g)(8) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address above. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to Mr. Gary D. McCutchen at the address above.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours in Washington, D.C., at the U.S. Environmental Protection Agency's Public Information Reference Unit (address same as above).

Note that application for revision of the list at any time by a Governor is specifically permitted in section 111(g). EPA must evaluate an application within 90 days, explain why an application is not accepted, and implement acceptable applications following a public hearing on the proposed action. Applications relating to NSPS may be to (1) add a major source category to the list, (2) add a source category to the list, whether major or minor, if it has the potential to endanger health or welfare, (3) revise priorities if the criteria specified in the Act have not been properly applied, or (4) revise a promulgated NSPS that no longer reflects best control technology.

DEVELOPMENT OF STANDARDS

When the list of source categories is promulgated in the FEDERAL REGISTER, EPA will undertake a program to promulgate standards for those source categories by August 7, 1982. EPA has already initiated the development of standards for nearly half of the source categories listed; work on the remaining source categories will be initiated within the next 2 years.

It should be pointed out that several of the source categories listed could be subject to standards which may be

adopted under section 112 of the Clean Air Act (national emission standards for hazardous air pollutants or NESHAP). Included are byproduct coke ovens and several source categories within the petroleum transport and marketing industry. If standards are developed under section 112 for these or any other source categories on the list being proposed today, then standards would not be developed for those source categories under section 111.

The priority ranking is indicated by the number to the left of each source category and will be used to decide the order in which new projects are initiated, although this is not necessarily an indication of the order in which projects will be completed. In fact, higher priority source categories often present difficult technical and regulatory problems, and may be among the later source categories for which standards are promulgated.

It should be noted also that the source categories identified on this proposed list are not subject to the provisions of section 111(b)(1)(B) which would require proposal 120 days after adoption of the list. Rather, the promulgation of standards for sources contained on the list being proposed here will be undertaken in accordance with the time schedule prescribed in section 111(f)(1) of the Clean Air Act amendments. That is, 25 percent are to be promulgated by August 1980, 75 percent by August 1981, and all of the standards by August 1982.

Dated: August 24, 1978.

DOUGLAS M. COSTLE,
Administrator.

It is proposed to amend Part 60 of Chapter I of Title 40 of the Code of Federal Regulations by adding § 60.16 to Subpart A as follows:

§ 60.16 Priority List.

Priority number¹

STATIONARY FUEL COMBUSTION

16. Fossil-fuel-fired steam generators; Industrial boilers.
14. Stationary internal combustion engines.

METALLURGICAL PROCESSES

10. By-product coke ovens.
23. Foundries: Grey iron.
41. Foundries: Steel.
42. Secondary aluminum.
20. Secondary copper.
66. Secondary zinc.
67. Uranium refining.

MINERAL PRODUCTS

57. Asphalt roofing.

¹Low numbers have highest priority; e.g., No. 1 is high priority, No. 72 is low priority.

- 49. Brick and related clay products.
- 60. Castable refractories.
- 58. Ceramic clay.
- 48. Fiberglass.
- 38. Glass.
- 45. Gypsum.
- 19. Metallic mineral processing.
- 13. Mineral wool.
- 18. Non-metallic mineral processing.
- 64. Perlite.
- 21. Phosphate rock preparation.
- 43. Sintering: Clay and flyash.

POLYMERS AND RESINS

- 54. Polymers and resins: ABS-SAN resins.
- 12. Polymers and resins: Acrylic resins.
- 50. Polymers and resins: Phenolic resins.
- 62. Polymers and resins: Polyester resins.
- 30. Polymers and resins: Polyethylene.
- 55. Polymers and resins: Polypropylene.
- 53. Polymers and resins: Polystyrene.
- 51. Polymers and resins: Urea-melamine resins.

FOOD AND AGRICULTURAL

- 68. Alfalfa dehydrating.
- 44. Ammonium sulfate.
- 59. Ammonium nitrate fertilizer.
- 69. Animal feed defluorination.
- 63. Starch.
- 70. Urea (for fertilizer and polymers).
- 27. Vegetable oil.

WASTE INCINERATION

- 11. Incineration: Industrial-commercial.

BASIC CHEMICAL MANUFACTURE

- 1. Synthetic Organic Chemical Manufacturing.
- 61. Borax and boric acid.
- 47. Hydrofluoric acid.
- 65. Phosphoric acid: Thermal process.
- 40. Potash.
- 46. Sodium carbonate.

CHEMICAL PRODUCTS MANUFACTURE

- 52. Ammonia.
- 2. Carbon black.
- 31. Charcoal.
- 71. Detergent.
- 17. Explosives.
- 7. Fuel conversion.
- 34. Printing ink.
- 35. Synthetic fibers.
- 28. Synthetic rubber.
- 29. Varnish.

EVAPORATIVE LOSS SOURCES

- 6. Dry cleaning.
- 9. Graphic arts.
- 15. Industrial surface coating: Automobiles.
- 3. Industrial surface coating: Cans.
- 8. Industrial surface coating: Fabric.

- 37. Industrial surface coating: Large appliances.
- 32. Industrial surface coating: Metal coil.
- 5. Industrial surface coating: Paper.

PETROLEUM INDUSTRY

- 25. Crude oil and natural gas production.
- 72. Gasoline additives.
- 4. Petroleum refinery: Fugitive sources.
- 33. Transportation and marketing.

WOOD PROCESSING

- 24. Chemical wood pulping: Acid sulfite.
- 22. Chemical wood pulping: Neutral sulfite (NSSC).
- 36. Plywood manufacture.

CONSUMER PRODUCTS

- 56. Textile processing.

MINOR SOURCE CATEGORIES

- Lead acid battery manufacture.¹
- Solvent metal cleaning (degreasing).¹
- Industrial surface coating: metal furniture.¹

¹ AUTHORITY: Section 111 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7411, 7601).

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[4110-35]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration
[42 CFR Part 450]

MEDICAL ASSISTANCE PROGRAMS

Reimbursement for Eyeglasses and Hearing Aids

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of Intent to regulate.

SUMMARY: This notice asks for suggestions on how to lower the cost and improve the quality of eyeglasses and hearing aids paid for under State Medicaid programs (medical assistance, title XIX of the Social Security Act). Current regulations establish "customary charges which are reasonable" as the upper limit for payment for eyeglasses and hearing aids. The Department is considering whether to require use of volume purchasing or maximum allowable cost.

DATES: Closing date for receipt of comments October 16, 1978. Please refer to MMB-217-NI. Agencies and organizations are requested to submit comments in duplicate.

ADDRESS: Comments in writing to: Administrator, Health Care Financing

¹Not prioritized, but included on list. See explanation in preamble.

Administration, Department of Health, Education, and Welfare, P.O. Box 2366, Washington, D.C. 20013. Beginning 2 weeks from today, the public may review the comments on Monday through Friday of each week, from 8:30 a.m. to 5 p.m. in room 5225 of the Department's offices at 330 C Street SW., Washington, D.C. 202-245-0950.

FOR FURTHER INFORMATION CONTACT:

Henry Spiegelblatt, 202-245-0398.

SUPPLEMENTARY INFORMATION:

BACKGROUND

During the past decade the Department of Health, Education, and Welfare, the Federal Trade Commission, the U.S. Congress, and several consumer groups have investigated the production and delivery systems for eyeglasses and hearing aids. All have concluded that prices are often unreasonably high, which makes it difficult for many people who need these devices to get them. A comprehensive discussion of the history and problems surrounding the production and distribution of eyeglasses and hearing aids may be obtained by writing to the Medicaid Bureau, Health Care Financing Administration, 330 C Street SW., Washington, D.C. 20201. Following is a brief discussion of State experience and of studies of reimbursement practices.

PRESENT COVERAGE AND REIMBURSEMENT POLICIES

Provision of eyeglasses and hearing aids for Medicaid recipients is optional, except that these devices, as well as other vision and hearing services, must be provided by all States to eligible children under the early and periodic screening, diagnosis and treatment (EPSDT) program. Most States also provide special eyeglasses or contact lenses to Medicaid patients following cataract surgery.

Currently 33 States, Guam, and the Virgin Islands provide eyeglasses, and 27 States, Guam, and the Virgin Islands provide hearing aids. However, increasing State Medicaid budgets have recently forced a few States to drop these optional services. Unless costs can be reduced, other States may also be forced to drop them.

Current regulations at 42 CFR 450.30(b)(4) define *customary charges which are reasonable* as "the prevailing charges in the locality for comparable services under comparable circumstances". Since Medicare and most third-party insurers do not pay for hearing aids, and Medicare pays only for special eyeglasses, there are insufficient data about prices available for comparison.

Based on investigations of the eyeglasses and hearing aid production and