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Respondents/Affected Entities: Owners and operators of the Polymer Manufacturing Industry.

Estimated Number of Respondents: 105.

Frequency of Response: Initial and semi-annual.

Estimated Total Annual Hour Burden: 14,691.

Estimated Total Annualized Capital, O&M Cost Burden: \$765,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1150.05 and OMB Control No. 2060-0145 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Policy, Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: August 11, 1999.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 99-21314 Filed 8-16-99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-6423-3]

Request for Information Concerning Transfrontier Movements of Wastes Destined for Recovery Operations Within the OECD Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is requesting specific information from interested parties, and the U.S. regulated community in particular, on imports and exports of secondary materials, wastes and hazardous wastes moving toward recycling operations in the 29 member countries of the Organization for Economic Cooperation and Development (OECD). This information will be used by EPA and other federal agencies in developing U.S. positions with respect to potential harmonization of certain provisions of OECD Council Decision C(92)39 concerning the control of transfrontier movements of wastes destined for recovery operations with those of the *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal* ("Basel Convention" or "the Convention"), including the possible replacement of the OECD waste lists (green, amber, and red) with the Basel waste lists (Annexes VIII and IX).

DATES: Responses to this document should be submitted no later than September 30, 1999.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F-1999-TMWA-FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, SW, Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA, address listed below. Comments may also be submitted electronically to: rcra-docket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F-1999-TMWA-FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste

(5305W), U.S. EPA, 401 M Street, SW, Washington, DC 20460. Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603-9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost \$0.15/page. For information on accessing this document electronically, see the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Ms. Julia Gourley, Office of Solid Waste (5304W), U.S. Environmental Protection Agency, Washington, D.C. 20460; telephone: (703) 308-8751; fax: (703) 308-0514; e-mail: gourley.julie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Internet Access

This document may be accessed at the following internet address: <http://www.epa.gov/epaoswer/hazwaste/exp-imp/oecd.htm>.

I. Background

A. Relationship of OECD Council Decision C(92)39 to the Basel Convention

The Basel Convention is an international treaty under the United Nations Environment Program (UNEP) that applies to transboundary movements (exports and imports) of hazardous and other wastes and their disposal. It opened for signature upon the conclusion of UNEP negotiations on March 22, 1989 and entered into force, 90 days after the 20th ratification, on May 5, 1992. As of June 17, 1999 there are 123 parties to the Basel Convention (countries and others that have ratified, acceded to, approved, or otherwise accepted it). The U.S. signed the agreement on March 22, 1990, but has not ratified it. The Basel Convention, therefore, does not apply to the U.S. at the present time.

The Basel Convention prohibits imports and exports of covered wastes between parties to it and non-parties; however, Article 11 of the Convention provides for an exception to this prohibition for those parties and non-parties that have entered into separate agreements that are consistent with the environmentally sound management provisions of the Convention. The member countries of the Organization

for Economic Cooperation and Development (OECD)¹ entered into an agreement governing transfrontier movements of wastes destined for recovery (recycling) operations pursuant to Article 11 paragraph 2 of the Basel Convention (see 61 FR 16290 for a detailed discussion). This agreement, known as OECD Council Decision C(92)39/FINAL, was adopted by the OECD Council on March 30, 1992, and is legally binding on all member countries that have accepted it (presently all but Hungary and Poland, or 27 of the 29 member countries). It is a pre-existing agreement pursuant to Article 11 paragraph 2 of the Basel Convention. The U.S. accepted the agreement and promulgated implementing regulations under the Resource Conservation and Recovery Act (RCRA) on April 12, 1996 (40 CFR part 262, subpart H). Nothing in today's document alters or amends these regulations, which remain in full force and effect.

B. History of OECD Harmonization Efforts

In April 1997, the Environment Policy Committee (EPOC) of the OECD directed one of its subsidiary bodies, the Working Group on Waste Management Policy (WGWMP) (formerly known as the Waste Management Policy Group or WMPG) to identify areas where it would be feasible and appropriate to harmonize the procedures and requirements of OECD Council Decision C(92)39/FINAL (hereafter referred to as C(92)39) with those of the Basel Convention, to identify areas where duplication between the two agreements could be eliminated, and to report back to it in spring 1999.

In fulfillment of this mandate, the WGWMP made the following eight recommendations to the EPOC:

(1) The OECD Control System and the related Council Acts should be retained in a streamlined form which would make the OECD Control System more efficient and effective and enhance harmonization with the Basel Convention;

(2) Certain procedural elements of the OECD Control System, such as time limits for the approval process for transfrontier movement, tacit consent (as well as the possibility for a written consent) and preauthorization

procedures, should be retained. The definitions of waste and hazardous waste, and the general principles concerning transfrontier movements of wastes should be retained;

(3) The OECD Control System should be harmonized with the Basel Convention by: (i) replacing the OECD green, amber, and red lists of wastes with Annexes VIII and IX of the Basel Convention, (ii) applying the green procedure to Annex IX wastes and the amber procedure (including the possibility of written consent) to Annex VIII wastes, and (iii) eliminating the present OECD Review Mechanism, but retaining the possibility of applying differing levels of control within the OECD Control System, in exceptional cases, to Annex VIII and Annex IX wastes, from those applied under the Basel Convention;

(4) The mandatory OECD data collection on exports and imports of waste, and periodic or annual review of action taken by Member countries in pursuance of a number of Council Acts should be eliminated;

(5) All waste related Council Acts except Council Decision C(92)39 should be consolidated into one Act;

(6) Work towards further harmonization of the different international control systems for transfrontier movements of wastes should be continued, with the ultimate goal of achieving a globally harmonized control system;

(7) The OECD work in the field of waste management should be reoriented to focus on emerging cross-cutting issues regarding reuse and recycling of waste such as: (i) adapting the control procedures to encourage the implementation of end-of-life product take-back programs and to facilitate closed-loop recycling of materials; and (ii) developing standards for environmentally sound management of wastes destined for recovery operations; and,

(8) WGWMP activities should be continued as a Part I program to facilitate participation of all Member countries in the work.

At its March 24–26, 1999 meeting, the EPOC endorsed these recommendations. The WGWMP is now exploring options for their implementation, including streamlining C(92)39 and harmonizing it with the Basel Convention where appropriate and consolidating the other legally-binding waste-related Council Acts into one Act. Formal negotiations between the member countries resulting in consensus agreement will be required before amendments to these Council Acts can be forwarded to the OECD

Council for adoption and entry into force.

EPA believes the harmonization of C(92)39 with the Basel Convention will be of interest to US stakeholders, including environmental interest groups and industry. The Agency calls attention to recommendation number 3 which is of particular significance because it would have the greatest impact on the operation of C(92)39. In addition to potential effects on transboundary movements of regulated hazardous wastes, this recommendation could affect movements of non-hazardous wastes, non-wastes, and secondary materials which may be within the scope of C(92)39.

II. Differences Between the OECD Control System and the Basel Convention

The overall goal of the Basel Convention is to protect human health and the environment against the adverse effects from the generation and management of hazardous wastes and other wastes. The main objectives of the Basel Convention are to:

- Reduce transboundary movements of Basel wastes to a minimum consistent with their environmentally sound management;
- Dispose of the wastes as close as possible to their source of generation;
- Minimize the generation of hazardous wastes in terms of quantity and hazardousness;
- Ensure strict control on the movement of wastes across borders as well as the prevention of illegal traffic;
- Prohibit shipments of waste to countries lacking the legal, administrative and technical capacity to manage and dispose of them in an environmentally sound manner; and
- Assist developing countries and countries in transition in environmentally sound management of their own wastes.

The Basel Convention establishes a system for controlling transboundary movements of hazardous wastes and other wastes for both final disposal and recycling (note: recycling is considered a type of disposal under the Convention). It sets out general obligations and specifies restrictions and prohibitions on imports and exports of such wastes. Its primary purpose is to protect developing countries from waste mismanagement.

In September 1995, the third meeting of the Conference of the Parties (COP III) adopted Decision III/1 containing an amendment to the Convention adding a new Article 4A prohibiting exports of hazardous waste for final disposal and

¹ The member countries of the OECD (also known as the "OECD area") are Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, S. Korea, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States.

recycling from parties listed in Annex VII (OECD countries, European Community and Liechtenstein) to states not listed in Annex VII. This amendment will enter into force when 3/4 of the parties present and voting at COP III (i.e., 62 parties) have ratified it. As of June 1999, 14 ratifications were registered with the UN Depository.

OECD Council Decision C(92)39 establishes a control system, complementary to the Basel Convention, for transfrontier movements of wastes destined for recovery operations within the OECD area. It designates three "tiers" of wastes according to their potential overall environmental risk: the green, amber and red tiers which have corresponding waste lists. C(92)39 requires control of transfrontier movements of amber and red tier wastes, but requires no control for green tier wastes destined for recovery operations, other than those normally applied to commercial transactions. Red list wastes are subject to a control procedure, which is almost identical to the Basel Convention. Amber list wastes are subject to somewhat less stringent control procedures, including allowing the competent authorities to use "tacit" (presumed) consent as a means of approval for a notified movement of waste, and to grant "pre-consent" to domestic facilities to accept amber list wastes under a streamlined set of requirements.

A. Comparison of OECD and Basel Convention Waste Lists

Both the Basel Convention and C(92)39 contain waste lists which generally define the scope of coverage of each agreement. Annex VIII of the Basel Convention contains the list of hazardous wastes that are generally subject to the requirements of the Convention when they are exported or imported. It is an elaboration of the categories and constituents of Annex I. Annex IX of the Convention contains the list of wastes and secondary materials that are generally outside the scope of the Convention, and thus are not subject to its provisions when exported or imported.

As mentioned above, C(92)39 contains three waste lists. The green list contains wastes and secondary materials generally considered to be non-hazardous in most or all OECD member countries. The amber list contains wastes generally considered to be hazardous by the member countries, while the red list consists of wastes considered extremely hazardous and that warrant full export/import controls.

The OECD lists were developed according to the following

environmental risk-based criteria in Annex 2 of C(92)39. These criteria reflect both the environmental hazard presented by the waste and the typical management practice (recycling operation) applied to it:

Properties

(1) Does the waste normally exhibit any of the hazardous characteristics listed in Table 5 of OECD Council Decision C(88)90? Furthermore, it is useful to know if the waste is legally defined as or considered to be a hazardous waste in one or more member countries.

(2) Is the waste typically contaminated?

(3) What is the physical state of the waste?

(4) What is the degree of difficulty of cleanup in the case of accidental spillage or mismanagement?

(5) What is the economic value of the waste bearing in mind historical price fluctuations?

Management:

(6) Is there technological capability to recover the waste?

(7) Is there a history of adverse environmental incidents arising from transfrontier movements of the waste or associated recovery operations?

(8) Is the waste routinely traded through established channels and is that evidenced by commercial classification?

(9) Is the waste usually moved internationally under the terms of a valid contract or chain of contracts?

(10) What is the extent of reuse and recovery of the waste and how is any portion separated from the waste but not subject to recovery managed?

(11) What are the overall environmental benefits arising from the recovery operations?

Another important distinguishing feature of the OECD waste lists is the inclusion of Customs codes. The OECD WGWMP coordinates closely with the Nomenclature and Classification Division of the World Customs Organization in comparing the waste listings with the Harmonized Commodity Description and Coding System (Harmonized System, or HS) and assigns HS codes accordingly, where applicable. In addition, the text of some OECD waste listings identically matches the counterpart text in the HS, which facilitates transboundary movements through Customs ports in the OECD member countries.

By contrast, the Basel Convention waste lists in Annexes VIII and IX of the Convention were developed based on the "intrinsic hazard" of the waste (e.g. poisonous, ignitable, corrosive, etc.),

and do not take into account how the waste is typically managed, and other environmental risk-based factors. The Basel Convention does not distinguish between disposal and recycling, so its lists contain wastes that are both recycled and disposed (whereas the OECD lists, for the most part, contain wastes and secondary materials that are typically recycled). In addition, the Basel lists do not, at present, contain HS (Customs) codes.

The remainder of this section describes some of the significant differences in the waste lists of the two agreements.

1. OECD Green List vs. Basel Convention Annex IX

The following six Basel Convention Annex IX listings do not have corresponding entries on the OECD green list:

- B1010 Thorium scrap
- B1030 Refractory metals containing residues
- B1050 Mixed, non-ferrous metal, heavy fraction scrap, not containing Annex I materials in concentrations sufficient to exhibit Annex III characteristics²
- B1100 Wastes of refractory linings, including crucibles, originating from copper smelting
- B3110 Fellmongery wastes not containing hexavalent chromium compounds or biocides or infectious substances
- B3120 Wastes consisting of food dyes

The following 21 entries on the OECD green list do not have corresponding entries on Basel Annex IX:

- GA190 Molybdenum waste and scrap
- GA200 Tantalum waste and scrap
- GA300 Chromium waste and scrap
- GC030 Vessels and other floating structures for breaking up, properly emptied of any cargo and other materials arising from the operation of the vessel which may have been classified as a dangerous substance or waste
- GC040 Motor vehicle wrecks, drained of liquids
- GC090 Molybdenum
- GC100 Tungsten
- GC110 Tantalum
- GC120 Titanium
- GC130 Niobium
- GC140 Rhenium

² If the OECD member countries agree to replace the OECD lists with the Basel Convention lists, minor wording changes will be necessary to correct language unique to the Basel Convention. For example, in Basel Annex IX listing B1050 above, the term "Annex I" could be deleted, while the phrase "exhibit Annex III characteristics" could be changed to "render it hazardous" or similar language conveying the same idea.

GE020 Glass fiber wastes	GM140 Waste edible fats and oils of animal or vegetable origin (e.g. frying oils)	trimmed edges) and down, not further worked than cleaned, disinfected or treated for preservation
GF010 Ceramic wastes which have been fired after shaping, including ceramic vessels (before and/or after use)	GN010 Waste of pig's, hog's, or boar's bristles and hair or of badger hair and other brush making hair	GO040 Parings and other waste of leather or of composition leather, not suitable for the manufacture of leather articles, excluding leather sludges
GG160 Bituminous material (asphalt wastes) from road construction and maintenance, not containing tar	GN020 Horsehair waste, whether or not put up as a layer with or without supporting material	The following six OECD green listings correspond to four Basel Annex IX listings, but with different wordings (Table 1).
GH013 Waste, parings, and scrap of plastics of polymers of vinyl chloride	GN030 Wastes of skins and other parts of birds, with their feathers or down, of feathers and parts of feathers (whether or not with	
GJ140 Waste textile floor coverings, carpets		

TABLE 1.—DIFFERENCES IN WORDING BETWEEN OECD GREEN LIST AND BASEL ANNEX IX

OECD green listing	Basel annex IX listing
GB030 Aluminum skimmings (excluding those that are flammable or emit, upon contact with water, flammable gases in dangerous quantities).	B1100 Aluminum skimmings (or skims) excluding salt slag.
GC020 Electronic scrap (e.g. printed circuit boards, electronic components, wire, etc.) and reclaimed electronic components suitable for base and precious metal recovery.	B1110 Waste electrical and electronic assemblies or scrap (not including scrap from electrical power generation) (including printed circuit boards) not containing components such as accumulators and other batteries included on Annex VIII, mercury switches, glass from cathode ray tubes and other activated glass and PCB capacitors, or not contaminated with Annex I constituents (e.g. cadmium, mercury, lead, PCB) or from which these have been removed, to an extent they do not possess any of the characteristics contained in Annex III.
GC150 Gold	B1110 Electrical and electronic assemblies (including printed circuit boards, electronic components and wires) destined for direct reuse (reuse can include repair, refurbishment or upgrading, but not major reassembly) and not for recycling or final disposal (in some countries these materials destined for direct reuse are not considered wastes).
GC160 Platinum (the expression "platinum" includes platinum, iridium, osmium, palladium, rhodium, and ruthenium)	B1150 Precious metals and alloy wastes (gold, silver, the platinum group, but not mercury) in a dispersible, non-liquid form with appropriate packaging and labeling.
GC170 Other precious metals, e.g. silver.	
GH014 Waste, parings, and scrap of plastics of polymers of fluorinated ethylene (teflon, PTFE).	B3010 The following fluorinated polymer wastes: perfluoroethylene/propylene (FEP), perfluoroalkoxy alkane (PFA), perfluoroalkoxy alkane (MFA), polyvinylfluoride (PVF), polyvinylidene fluoride (PVDF).

EPA is interested in comments regarding the significance of the differences between the non-hazardous lists of the two agreements and, in particular, whether the narrower scope of Basel Annex IX could have any significant bearing on intra-OECD trade in these wastes and materials.

2. OECD Amber and Red Lists vs. Basel Convention Annex VIII

Of perhaps greater significance are the differences in the lists of regulated hazardous wastes of the two agreements. A waste is classified as hazardous under the Basel Convention if it is linked to either a category or constituent in Annex I, unless it does not exhibit any of the characteristics of hazardous waste contained in Annex III (Article 1 paragraph 1(a)).³ If these criteria are not satisfied, the waste or material is not covered by the Convention (and may

therefore either be placed on Annex IX or remain unlisted). The scope of coverage in C(92)39, however, is not determined by such a combination of categories/constituents and hazard characteristics; thus, Basel's scope of coverage is narrower than that of C(92)39.

Two amber listings are covered by Annex II of the Basel Convention, "Categories of Wastes Requiring Special Attention: AB020 (residues arising from the combustion of municipal/household wastes), and AD160 (municipal/household wastes).

One OECD red listing (RB020, ceramic-based fibers of physico-chemical characteristics similar to those of asbestos) and the following 27 OECD amber listings do not directly correspond to entries on Basel Annex VIII (in most cases there is no linkage to Basel Annex I; in order to add them to Basel Annex VIII, at a minimum an amendment of Basel Annex I would be required):

- AA010 Dross, scalings and other wastes from the manufacture of iron and steel
- AA050 Aluminum ashes and residues
- AA060 Vanadium ashes and residues
- AA070 Ashes and residues containing metals or metal compounds not elsewhere specified or included
- AA110 Residues from alumina production not elsewhere specified or included
- AA190 Magnesium waste and scrap that is flammable, pyrophoric or emits, upon contact with water, flammable gasses in dangerous quantities
- AB010 Slag, ash and residues, not elsewhere specified or included
- AB030 Wastes from non-cyanide based systems which arise from surface treatment of metals
- AB070 Sands used in foundry operations
- AB120 Inorganic halide compounds, not elsewhere specified or included
- AB130 Used blasting grit

³In addition, wastes considered hazardous under a party's domestic laws and regulations are also subject to control under the Basel Convention (Article 1 paragraph 1(b)).

AB150 Unrefined calcium sulfite and calcium sulfate from flue gas desulfurization (FGD)

AC020 Bituminous materials (asphalt waste) not elsewhere specified or included

AC060 Hydraulic fluids

AC070 Brake fluids

AC080 Antifreeze fluids

AC140 Triethylamine catalyst for setting foundry sands

AC150 Chlorofluorocarbons

AC160 Halons

AC170 Treated cork and wood wastes

AC250 Surface active agents (surfactants)

AC260 Liquid pig manure; feces

AC270 Sewage sludge

AD090 Wastes from the production, formulation and use of reprographic and photographic chemicals and materials not elsewhere specified or included

AD100 Wastes from non-cyanide based systems which arise from surface treatment of plastics

AD120 Ion exchange resins

AD150 Naturally-occurring organic material used as a filter medium (such as bio-filters)

The following nine Annex VIII listings do not correspond to any OECD amber or red listing. There are several possible explanations for this: (i) these wastes are not typically recycled; (ii) the

Basel parties and OECD member countries disagree as to their hazardousness; and/or (iii) there are different criteria for listing wastes in Basel (intrinsic hazard) vs. C(92)39 (risk):

A1040 Wastes having as constituents: metal carbonyls; hexavalent chromium compounds

A1180 Waste electrical and electronic assemblies or scrap containing components such as accumulators and other batteries included in Annex VIII, mercury switches, glass from cathode ray tubes and other activated glass and PCB capacitors, or contaminated with Annex I constituents (e.g. cadmium, mercury, lead, PCB) to an extent that they possess any of the characteristics contained in Annex III (note the related entry on Annex IX: B1110)

A2060 Coal-fired power plant fly ash containing Annex I substances in concentrations sufficient to exhibit Annex III characteristics (note the related entry on Annex IX: B2050)

A3100 Waste parings and other waste of leather or of composition leather not suitable for the manufacture of leather articles containing hexavalent chromium compounds or biocides (note the related entry on Annex IX: B3090)

A3110 Fellmongery wastes containing hexavalent chromium compounds or biocides or infectious substances (note the related entry on Annex IX: B3110)

A4020 Clinical and related wastes; that is, waste arising from medical, nursing, dental, veterinary, or similar practices, and wastes generated in hospitals or other facilities during the investigation or treatment of patients, or research projects

A4130 Waste packages and containers containing Annex I substances in concentrations sufficient to exhibit Annex III hazard characteristics

A4140 Waste consisting of or containing off specification or out-dated chemicals corresponding to Annex I categories and exhibiting Annex III hazard characteristics

A4150 Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on human health and/or the environment are not known

The following 13 amber listings are broader in scope than their corresponding Annex VIII listings (Table 2).

TABLE 2.—AMBER LISTINGS BROADER IN SCOPE THAN CORRESPONDING ANNEX VIII LISTINGS.

OECD amber listing	Basel convention annex VIII listing
AA020 Zinc ashes and residues	A1080 Waste zinc residues not included in Annex IX, containing lead and cadmium in concentrations sufficient to exhibit Annex III characteristics.
AA040 Copper ashes and residues	A1090 Ashes from the incineration of copper wire. A1100 Dusts and residues from gas cleaning systems of copper smelters. A1110 Spent electrolytic solutions from copper electrorefining and electrowinning operations. A1120 Waste sludges, excluding anode slimes, from copper electrorefining and electrowinning operations. A1130 Spent etching solutions containing dissolved copper. A1140 Waste cupric chloride and copper cyanide catalysts.
AA161 Ash from incineration of printed circuit boards	A1150 Precious metal ash from incineration of printed circuit boards not included in Annex IX.
AA180 Used batteries or accumulators, whole or crushed, other than lead-acid batteries, and waste and scrap arising from the production of batteries and accumulators, not otherwise specified or included.	A1170 Unsorted waste batteries excluding mixtures of only Annex IX batteries. Waste batteries not specified on Annex IX containing Annex I constituents to an extent to render them hazardous.
AB110 Basic solutions	A4090 Waste acidic or basic solutions, other than those specified in the corresponding entry on Annex IX (note the related entry on Annex IX: B2120).
AB140 Gypsum arising from chemical industry processes	A2040 Waste gypsum arising from chemical industry processes, when containing Annex I constituents to the extent that it exhibits an Annex III hazardous characteristic (note the related entry on Annex IX: B2080).
AC030 Waste oils unfit for their originally intended use	A3020 Waste mineral oils unfit for their originally intended use.
AC090 Waste from production, formulation, and use of resins, latex, plasticizers, glues and adhesives.	A3050 Waste from production, formulation, and use of resins, latex, plasticizers, glues/adhesives excluding such wastes specified on Annex IX (note the related entry on Annex IX: B4020).
AC130 Ethers	A3080 Waste ethers not including those specified on Annex IX.
AC180 Leather dust, ash, sludges and flours	A3090 Waste leather dust, ash, sludges and flours when containing hexavalent chromium compounds or biocides (note the related entry on Annex IX: B3100).

TABLE 2.—AMBER LISTINGS BROADER IN SCOPE THAN CORRESPONDING ANNEX VIII LISTINGS.—Continued

OECD amber listing	Basel convention annex VIII listing
AD070 Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish.	A4070 Wastes from the production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish excluding any such waste specified on Annex IX (note the related entry on Annex IX: B4010).
AD110 Acidic solutions	A4090 Waste acidic or basic solutions, other than those specified in the corresponding entry on Annex IX (note the related entry on Annex IX: B2120).
AD130 Single use cameras with batteries	A1180 Waste electronic assemblies or scrap containing components such as accumulators and other batteries in Annex VIII.

The following 18 Annex VIII listings are broader in scope than their corresponding amber listings (Table 3).

TABLE 3.—ANNEX VIII LISTINGS BROADER IN SCOPE THAN CORRESPONDING AMBER AND RED LISTINGS.

OECD amber or red listing	Basel convention annex VIII listing
AA030 Lead ashes and residues	A1010 Metal wastes consisting of alloys of lead, but excluding such wastes as specifically listed on Annex IX. A1020 Wastes having as constituents or contaminants, excluding metal waste in massive form, lead or lead components.
AA080 Thallium waste and residues	A1010 Metal wastes and waste consisting of alloys of thallium, but excluding such wastes specifically listed on Annex IX. A1030 Wastes having as constituents or contaminants thallium; thallium compounds.
AA090 Arsenic waste and residues	A1010 Metal wastes and waste consisting of alloys of arsenic, but excluding such wastes specifically listed on Annex IX. A1030 Wastes having as constituents or contaminants arsenic; arsenic compounds.
AA100 Mercury waste and residues	A1010 Metal wastes and waste consisting of alloys of mercury, but excluding such wastes specifically listed on Annex IX. A1030 Wastes having as constituents or contaminants mercury; mercury compounds.
AB080 Waste catalysts not on the green list	A2030 Waste catalysts but excluding such wastes specified on Annex IX. A1140 Waste cupric chloride and copper cyanide catalysts.
AC010 Waste from the production/processing of petroleum coke and bitumen, excluding anode butts.	A3010 Waste from the production or processing of petroleum coke and bitumen.
AC040 Leaded petrol (gasoline) sludges	A3030 Wastes that contain, consist of or are contaminated with leaded anti-knock compound sludges.
DRC030 Leaded anti-knock compound sludges	A3180 Waste, substances and articles containing, consisting of or contaminated with polychlorinated naphthalene (PCN).
AC120 Polychlorinated naphthalenes	A3120 Fluff—light fraction from shredding.
AC190 Fluff light fraction from automobile shredding	A4160 Spent activated carbon not included in Annex IX (note the related entry on Annex IX: B2060).
AD170 Spent activated carbon having hazardous characteristics and resulting from its use in the inorganic chemical, organic chemical and pharmaceutical industries, waste water treatment, gas/air cleaning processes and similar applications.	
RA010 Wastes, substance and articles containing, consisting of or contaminated with polychlorinated biphenyl (PCB) and/or polychlorinated terphenyl (PCT) and/or polybrominated biphenyl (PBB), including any other polybrominated analogues of these compounds, at a concentration level of 50 mg/kg or more.	A3180 Wastes, substances and articles containing, consisting of or contaminated with polychlorinated biphenyl (PCB), polychlorinated terphenyl (PCT), polychlorinated naphthalene (PCN) or polybrominated biphenyl (PBB), or any other polybrominated analogues of these compounds at a concentration level of 50 mg/kg or more.
RC040 Peroxides other than hydrogen peroxide	A4120 Wastes that contain, consist of or are contaminated with peroxides.

EPA is interested in comments regarding the significance of the differences between the OECD amber/red lists and Basel Annex VIII for intra-OECD trade purposes.

3. OECD Green List vs. Basel Annex VIII, OECD Amber List vs. Basel Annex IX, and "Mirror Listings"

Finally, there are a number of entries in both C(92)39 and the Basel Convention that are either partially or entirely covered by entries on the opposite list in the other agreement. For

example, 18 Annex IX listings are at least partially covered by 17 amber listings (Table 4). This is largely due to the fact that the Basel Convention lists contain "mirror listings" "listings on both Annexes VIII and IX that differ either by specifying the particular contaminants or constituents that distinguish hazardousness from non-hazardousness, or by simply re-stating the Convention's scope of coverage (which is also the Annex IX chapeau); namely whether the waste contains Annex I material in sufficient quantities

to cause the waste to exhibit an Annex III characteristic. These mirror listings can be confusing for regulators and, in particular, Customs officials at border crossings who must make decisions about a particular shipment including verifying shipping documents and assessing tariffs. For example, it could be quite challenging for a Customs officer to fulfill his/her duties for a shipment of material coming under the following Basel mirror listing: "B1160 Precious metal ash from the incineration of printed circuit boards (note the

related entry on Annex VIII A1150)". When the Customs official looks to the mirror listing on Annex VIII, they would find the following wording: "A1150 Precious metal ash from incineration of printed circuit boards not included on Annex IX." Because many of the Basel mirror listings are not easily distinguishable, it is possible that transboundary movements within the

OECD area could be affected. EPA is interested in comments on this issue.

While there are some mirror listings on the OECD lists, they are significantly fewer in number and are typically distinguished more precisely, usually with one listing quite specific and its mirror listing board; for example, magnesium waste and scrap is mirror listed as follows: "GA210 Magnesium

waste and scrap (excluding those listed in AA190)" and, "AA190 Magnesium waste and scrap that is flammable, pyrophoric or emits, upon contact with water, flammable gasses in dangerous quantities." Table 4 presents the listings on Basel Annex IX which are at least partially covered by broader OECD amber listings.

TABLE 4.—BASEL ANNEX IX LISTINGS PARTIALLY COVERED BY OECD AMBER LISTINGS

OECD amber listing	Basel convention annex IX listing
AA020 Zinc ashes and residues	B1080 Zinc ash and residues including zinc alloys residues in dispersible form unless containing Annex I constituents in concentrations sufficient to exhibit Annex III characteristics or exhibiting hazardous characteristic H4.3. B1220 Slag from zinc production, chemically stabilized, having a high iron content (above 20%) and processed according to industrial specifications (e.g. DIN 4301) mainly for construction.
AA040 Copper ashes and residues	B1070 Waste of copper and copper alloys in dispersible form, unless they contain Annex I constituents to an extent that they exhibit Annex III characteristics. B1240 Copper oxide mill scale.
AA150 Precious metal bearing residues in solid form which contain traces of inorganic cyanides.	B1140 Precious-metal bearing residues in solid form which contain traces of inorganic cyanides.
AA161 Ash from incineration of printed circuit boards	B1160 Precious metal ash from the incineration of printed circuit boards (note the related entry on Annex VIII: A1150).
AA162 Photographic film ash	B1170 Precious metal ash from the incineration of photographic film.
AA180 Used batteries or accumulators, whole or crushed, other than lead-acid batteries, and waste and scrap arising from the production of batteries and accumulators, not otherwise specified or included.	B1090 Waste batteries conforming to a specification, excluding those made with lead, cadmium or mercury.
AB050 Calcium fluoride sludge	B2070 Calcium fluoride sludge.
AB090 Waste hydrates of aluminum	B2100 Waste hydrates of aluminum and waste alumina and residues from alumina production excluding such materials used for gas cleaning, flocculation or filtration processes.
AB100 Waste alumina	B2120 Waste acidic or basic solutions with a pH greater than 2 and less than 11.5, which are not corrosive or otherwise hazardous (note the related entry on Annex VIII: A4090).
AB110 Basic solutions	B2080 Waste gypsum arising from chemical industry processes not included on Annex VIII (note the related entry on Annex VIII: A2040).
AB140 Gypsum arising from chemical industry processes	B4020 Wastes from production, formulation, and use of resins, latex, plasticisers, glues/adhesives, not listed on Annex VIII, free of solvents and other contaminants to an extent that they do not exhibit Annex III characteristics, e.g., water based, or glues based on casein starch, dextrin, cellulose, ethers, polyvinyl alcohols (note the related entry on Annex VIII: A3050).
AC090 Waste from the production, formulation and use of resins, latex plasticizers, glues and adhesives.	B3130 Waste polymer ethers and waste non-hazardous monomer ethers incapable of forming peroxides.
AC130 Ethers	B3090 Leather dust, ash, sludges, or flours not containing hexavalent chromium compounds or biocides (note the related entry on Annex VIII: A3090).
AC180 Leather dust, ash, sludges and flours	B4010 Wastes consisting mainly of waste-based/latex paints, inks and hardened varnishes not containing organic solvents, heavy metals, or biocides to an extent to render them hazardous (note the related entry on Annex VIII: A4070).
AD070 Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish.	B2120 Waste acidic or basic solutions with a pH greater than 2 and less than 11.5, which are not corrosive or otherwise hazardous (note the related entry on Annex VIII: A4090).
AD110 Acidic solutions	B4030 Used single use cameras with batteries not included in Annex VIII.
AD130 Single use cameras with batteries	

In addition, five green listings are potentially covered by corresponding listings on Annex VIII (Table 5).

TABLE 5.—OECD GREEN LISTINGS AT LEAST PARTIALLY COVERED BY BASEL ANNEX VIII LISTINGS

OECD green listing	Basel convention annex VIII listing
GB020 Zinc-containing drosses:	A1080 Waste zinc residues not included on Annex IX, containing lead and cadmium in concentrations sufficient to exhibit Annex III characteristics.
GB021 Galvanizing slab zinc top dross (>90% Zn)	
GB022 Galvanizing slab zinc bottom dross (>92% Zn)	
GB023 Zinc die casting dross (>85% Zn)	
GB024 Hot dip galvanizer slab zinc dross (batch) (>92% Zn)	
GB025 Zinc skimmings	
GB040 Slags from precious metals and copper processing for further refining.	A1100 Dusts and residues from gas cleaning systems of copper smelters.
GC050 Spent Fluid Catalytic Cracking (FCC) catalysts (e.g. aluminum oxide zeolites).	A2030 Waste catalysts but excluding such wastes as specified on Annex IX.
GG040 Coal fired power plant fly ash	A2060 Coal fired power plant fly ash containing Annex I substances in concentrations sufficient to exhibit Annex III characteristics (note the related entry on Annex IX: B2050).
GN040 Parings and other waste of leather or of composition leather, not suitable for the manufacture of leather articles, excluding leather sludges.	A3100 Waste parings and other waste of leather or of composition leather not suitable for the manufacture of leather articles containing hexavalent chromium compounds or biocides (note the related entry on Annex IX: B3090).

Germany, possibly along with other OECD member countries, will submit applications to the Basel Convention review procedure for each of the missing 21 green listings seeking to add them to Basel Annex IX. These applications will be submitted in time to be placed on the agenda for the next meeting of the Technical Working Group (TWG) (which performs the review procedure functions within the Basel Convention) in spring 2000. The purpose of this is to attempt to minimize the inconsistencies between the lists as quickly as possible, with a view to the goal of substitution of the Basel lists for the OECD lists in C(92)39. The 27 missing amber listings will be addressed later, including whether and how to add them in light of the Annex I/Annex III scope of coverage. The issue of the different wording between the two sets of lists for the same or similar wastes and whether to submit applications to the Basel TWG to modify the Basel Annex VIII listings had not been discussed to date.

EPA is interested in learning whether members of the U.S. regulated community or others have an interest in submitting applications to the Basel TWG. Any such applications require the support of and must be submitted through at least one government—either a party or a non-party. Applications submitted through the U.S. government would need the support of and would be submitted by EPA.

III. Purpose of Today's Document

The purpose of today's document is to bring to the public's attention recommendation number 3 above and to solicit, on a voluntary basis, further information on the potential impacts of and issues associated with harmonization of C(92)39 with the Basel

Convention. Interested parties are welcome to provide information on any of the other recommendations; however, EPA is most interested in receiving information on recommendation number 3 at this time. EPA may publish future **Federal Register** documents seeking voluntary information regarding the other recommendations.

In consultations with members of the U.S. regulated community, EPA has been made aware of a number of general concerns. Most of these concerns fall into two main categories: (i) the proposed replacement of the green, amber, and red lists with Basel Annexes VIII and IX; and, (ii) the proposed replacement of the Review Mechanism with the adjustment procedure. In order for EPA and other federal agencies to fully understand the potential impacts of harmonizing OECD Council Decision C(92)39 with the Basel Convention, today's notice requests specific information from interested parties.

A. Specific Information Requested by EPA

In addition to other information requested throughout this notice, EPA is asking the U.S. regulated community and other interested parties to provide the following specific information. EPA notes that this request is strictly voluntary in nature; however, the Agency encourages any and all interested parties to provide the requested information as it will be helpful to negotiators in identifying potential areas of concern.

1. Waste Lists

Regarding replacement of the OECD green, amber, and red lists with Basel Convention Annexes VIII and IX, general concerns have been expressed that use of the Basel lists could affect

the flow of secondary materials and wastes throughout the OECD area. EPA is interested in specific, concrete examples of these concerns in addition to the following information:

a. *Statistics and Data.* For any and all items listed on the OECD green, amber, and red lists, and Basel Convention Annexes VIII and IX, the Agency is interested in any and all reasonably available information on: (i) established and anticipated future trade patterns within the OECD area, (ii) economic value of the trade in these wastes and materials, (iii) volumes of the wastes and materials moving within the OECD area, and (iv) any other relevant information. Of particular importance is information on secondary materials which, when recycled in certain ways, are excluded from the definition of solid waste under RCRA (e.g. characteristically hazardous sludges which, when reclaimed (including when exported within the OECD area for reclamation), are not solid wastes). Because these materials are not solid wastes in the U.S., but may be considered solid and hazardous waste in other OECD countries (and could therefore be subject to C(92)39 in those countries), EPA has no knowledge of the volume and economic value of this trade, and therefore does not fully understand how substitution of the Basel lists for the OECD lists could affect transboundary movements of these materials. EPA is also interested in receiving statistics on items listed in C(92)39, but that are not listed on Annexes VIII and IX (e.g. see section I(C)(1) above).

It should be noted that because the U.S. implements the terms of C(92)39 through RCRA, the current and any future OECD waste lists serve as guidance for the U.S. regulated

community as to how other OECD member countries likely regulate a material or waste under the terms of C(92)39. The scope of coverage for purposes of U.S. implementation of any harmonized OECD agreement will remain as it is under RCRA until and unless EPA obtains other statutory authorities that would allow or require changes to the current scope of coverage (such as, for example, amendments to RCRA to ratify and implement the Basel Convention).

b. Potential Effects on Transboundary Movements. The Agency is interested in any and all information regarding potential problems that could arise from the use of Basel Annexes VIII and IX to implement C(92)39 as compared to the green, amber, and red lists. For example, the OECD waste lists contain Harmonized System (HS), or Customs, codes where applicable. The Basel lists do not currently contain HS codes. Another example of how potential problems could arise is in the actual wording differences between the lists. For example, OECD green listing number GC020 has the following wording: "Electronic scrap (e.g. printed circuit boards, electronic components, wire, etc.) and reclaimed electronic components suitable for base and precious metal recovery", while the corresponding wording in Basel Annex IX listing number B1110 is: "Electrical and electronic assemblies (including printed circuit boards, electronic components and wires) destined for direct reuse (reuse can include repair, refurbishment or upgrading, but not major assembly), and not for recycling or final disposal (in some countries these materials destined for direct reuse are not considered wastes)". Another example would be OECD amber listing number AA060 "Vanadium ashes and residues" which has no corresponding Basel Annex VIII listing because vanadium does not belong to any category in Annex I of the Basel Convention, and therefore cannot be included in Annex VIII (i.e. vanadium is outside the scope of the Basel Convention). In practice, this could result in uneven control within the OECD area.

2. Waste List Review Procedures

The Agency is interested in comments regarding changing the current Review Mechanism for adjusting the green, amber, and red lists, to a new adjustment procedure. Currently, C(92)39 mandates a standing Review Mechanism to adjust, on a regular basis, the green, amber, and red lists of wastes in appendices 3, 4, and 5 respectively. Any government, regulated entity, or

other interested party can submit an application to the Review Mechanism to add, delete, move, or adjust a waste listing as long as the application is supported by at least one member government. Although some have indicated an interest in doing so, to date, no U.S. entity has ever submitted an application to the OECD Review Mechanism through EPA. This apparent lack of interest could indicate that the U.S. regulated community is generally satisfied with the OECD waste lists. Alternatively, it could mean that given the OECD waste lists serve only as guidance for the U.S. regulated community, there is not a strong need for waste list adjustments because there is no direct impact on the regulated community presented by the lists (although there can be significant indirect impacts if U.S. trading partners impose OECD controls on wastes or materials not regulated as hazardous under U.S. laws and regulations).

The future operation of C(92)39, in terms of adjustments to its new waste lists, would include a body similar to the Review Mechanism to be called the adjustment procedure. While the actual operation of the adjustment procedure would be similar to the current Review Mechanism, there would be some significant differences. Under this new ad-hoc body, a U.S. entity interested in applying to make changes to the OECD waste lists (e.g. to modify the wording of a particular listing or to move a particular listing from one list to the other) would be required to first submit an application to the Basel Convention review procedure. For example, and as previously discussed, Germany plans to submit applications for the 21 OECD green listings not currently in Basel Annex IX. If the resulting decision by the Basel COP was considered to be insufficient for purposes of intra-OECD trade, or if the COP declined to take action at all, the U.S. entity could then, with the support of EPA, submit an application to the OECD adjustment procedure seeking relief in the OECD forum. If approved by the OECD Council, the waste listing would take effect for intra-OECD transboundary movements. If not approved by the Council, several options are possible. One option would be that the Basel listing, as approved by the Basel COP, would apply within the OECD, as would be the case when no objection to a Basel listing were raised to the OECD Secretariat by an OECD member country. Another option would be that in the case where the Basel COP declines action, the unlisted waste or material would move within the OECD

according to the green tier (which would apply to Basel Annex IX wastes) if non-hazardous or to the amber tier (which would apply to Basel Annex VIII wastes) if hazardous. This is very similar to the status quo where unlisted wastes that are non-hazardous move according to the green tier, and unlisted hazardous wastes move according to the red tier (note: the European Union member countries implement this provision differently in that all unlisted wastes default to red tier controls, regardless of their hazardfulness). Because the red list and the corresponding red tier control procedure would be eliminated in the harmonized agreement, and amber tier controls are envisioned to apply to Annex VIII wastes, the default control procedure for an unlisted hazardous waste would be amber tier controls. A third option would be that the unlisted waste would be subject to the national procedures of the concerned OECD member countries. EPA is specifically interested in comments on these options.

3. Other Issues

Finally, EPA is interested in public comment on any other aspect of amending and harmonizing C(92)39 with the Basel Convention, including but not limited to: the value of the streamlined administrative procedures (e.g. tacit consent and pre-consent under the amber tier), the value of the risk-based approach to waste listing (including the criteria in Annex 2 of C(92)39, and the value of Customs codes in waste listings.

Dated: August 10, 1999.

Elizabeth Cotsworth,

Acting Director, Office of Solid Waste.

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FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

August 5, 1999.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13. An agency