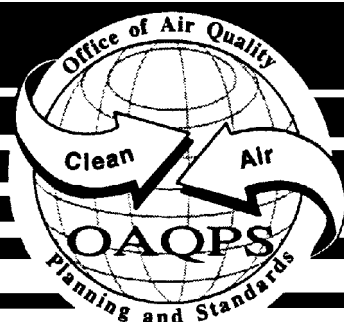


EPA

Office of Air and Radiation
Office of Air Quality Planning and Standards
Air Quality Policy Division
Integrated Implementation Group

August, 2006

**INFORMATION COLLECTION REQUEST
FOR CHANGES TO THE 40 CFR
PARTS 51 and 52
PSD AND NONATTAINMENT NSR:
DEBOTTLENECKING, AGGREGATION,
AND PROJECT NETTING**



Executive Summary

The EPA is proposing revisions to the regulations governing the major NSR programs mandated by parts C and D of title I of the Clean Air Act (CAA). These proposed changes reflect the EPA's consideration of the EPA's 2002 report to the President and its associated recommendations as well as discussions with various stakeholders including representatives of environmental groups, State and local governments, and industry. We propose to change how emissions from emissions units upstream or downstream from those undergoing a physical change or change in the method of operation are included in the calculation of an emissions increase for the project. Also, today's proposed changes would clarify and codify our policy of when emissions increases from multiple projects must be aggregated together to determine NSR applicability. Finally, we are clarifying how emissions decreases from a project may be included in the calculation to determine if a significant emissions increase will result from a project. We expect the proposed rules to improve implementation of the program by articulating and codifying principles for determining major NSR applicability that we currently address through guidance only. Furthermore, we expect the proposed rule provisions will provide greater regulatory certainty without sacrificing the current level of environmental protection, and facilitate the safe, efficient, and reliable operation of affordable facilities.

This ICR (OMB Control Number 2060-0003; EPA ICR Number 1230.16) is an update of OMB Control Number 2060-0003; EPA ICR Number 1230.17. The purpose of this ICR is to show the burden changes of this proposed rule. Table E.1 summarizes the overall change in burden.

Table E.1 Annual Change in Source, RA, and Federal Burden and Cost ^a

Regulatory Change	Number of Affected Entities	Average Annual Burden Hours	Average Annual Cost (\$1000)	Average Annual Cost per Entity (\$1000)
SOURCES				
Debottlenecking	1	-(839)	-(61.58 (labor) + 93.45 (ODC) = 155.03)	-155.03
Aggregation	0	0	0	0
Project Netting	1	-(577)	-(57.71 (labor))	-57.71
Change		-1416	-212.74	-106.37
RAs				
Permit Actions				
Debottlenecking	1	-(272 (PSD))	-(12.14 (PSD))	-12.14
Aggregation	0	0	0	0
Project Netting	1	-(109 (NSR))	-(4.86 (NSR))	-4.86
SIP Revision ^b	112	2240 / 3 = 747	99.97 / 3 = 33.32	0.298
Change		366	16.32	0.146 ^c
FEDERAL ^d				
Permit Actions				
Debottlenecking	1	-(14 (PSD))	-(0.62 (PSD))	-0.62
Aggregation	0	0	0	0
Project Netting	1	-(13 (NSR))	-(0.58 (NSR))	-0.58
SIP Revision ^e	112	560 / 3 = 187	24.99 / 3 = 8.33	8.33
Change		160	7.13	7.13

^a Costs are in November 2004 dollars

^b Lump-sum burden is expected to incur across years 2 and 3, but annualized here.

^c Change reflects the negative cost per entity for 2 fewer permit reviews per year, but uniformly applies the cost to all 112 entities subject to SIP revisions.

^d Federal government is one entity.

^e "112" reflects the number of SIP revisions that will be reviewed for approval by the Federal Government entity. Also, the burden and cost are expected to incur in year 3 only, but annualized here.

CONCLUSION:

This rulemaking represents a POTENTIAL DECREASE IN BURDEN to sources and RAs related to permit actions.

This rulemaking represents a ONE-TIME INCREASE IN BURDEN to States and other Reviewing Authorities to revise SIPs.

Because this rulemaking represents a decrease in burden on sources, the Agency determined this rulemaking represents NO SIGNIFICANT IMPACT ON A SUBSTANTIAL NUMBER OF SMALL ENTITIES.

CAVEAT: Nothing in this analysis should be construed as constituting the full effect of any of the program elements discussed. This analysis pertains to only a subset of the full effect - to those affected sources located in areas attaining the appropriate air quality standard and that are also Federally managed. The full effect of these programs, while discussed briefly in this analysis, lags the promulgation of this rulemaking due to the time needed for States to modify their SIPs.

1 Identification of the Information Collection

1.1 Title

This document fulfills the Agency's requirements under the Paperwork Reduction Act (PRA) with regards to determining the regulatory burden associated with the proposal of new applicability requirements for modifications at sources subject to parts C and D of Title I of the Clean Air Act (the Act, or CAA); that is, Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR), respectively.

EPA ICR NUMBER: 1230.16

**OMB CONTROL NUMBER:
OMB-2060-0003**

It has been assigned EPA ICR Number 1230.16. The title of this Information Collection Request (ICR) is "Information Collection Request for Changes to the 40 CFR Parts 51 and 52 PSD and NSR: Debottlenecking, Aggregation, and Project Netting"

1.2 Description

Historically, the program called the "major NSR program" derives its authority from parts C and D of Title I of the Act and is a pre-construction review and permitting program applicable to new and modified major stationary sources of air pollutants.

In areas not meeting National Ambient Air Quality Standards (NAAQS) and in ozone transport regions (OTR), the applicable NSR program is the "nonattainment" NSR program, implemented under the requirements of part D of Title I of the Act. In attainment areas (areas meeting NAAQS) or in areas where there is insufficient information to determine whether they meet the NAAQS ("unclassifiable" areas), the applicable program is the Prevention of Significant Deterioration (PSD) program, implemented under the requirements of part C of Title I of the Act. A source's applicability to either of these NSR programs must be determined in advance of construction and is pollutant-specific. When a source triggers major NSR in attainment areas, it must install best available control technology (BACT) and conduct air quality modeling and monitoring as necessary. If the source is located in a nonattainment area for a particular pollutant, it must, for that pollutant, install technology that meets the lowest achievable emission rate (LAER), secure emission reductions to offset any increases above baseline emission levels, and perform other analyses.

In its current form, the major NSR program is a combination of air quality planning and air pollution control technology program requirements for new and modified stationary sources of air pollution. In brief, section 109 of the Act requires us to promulgate primary NAAQS to protect public health and secondary NAAQS to protect public welfare. Once the Agency

set these standards, States must develop State Implementation Plans (SIPs) which contains emission limitations and other control measures to attain and maintain the NAAQS and to meet the other requirements of section 110(a) of the Act.

The provisions in section 110 of the Act include a requirement for States to have a preconstruction review program to manage the emissions from the construction and modification of any stationary source of air pollution to help assure that the NAAQS are achieved and maintained. This proposal has three major elements.

1. This proposed rule, in part, articulates how emissions from emissions units upstream or downstream of an emissions unit undergoing a physical change or change in the method of operation should be included in the calculation to determine if a significant emissions increase will occur (debottlenecking). The proposed changes for debottlenecking represent a change in the way emissions from debottlenecked units are considered when determining if a project would result in a significant emissions increase for purpose of major NSR applicability.
2. The proposed changes also clarify when emissions increases from multiple projects at a single major stationary source must be considered together (or aggregated) for the purposes of determining major NSR applicability. The proposed rule for aggregation is not a change for our existing policy. It simply is a clarification to EPA's existing policy that has been implemented through guidance.
3. The proposal would revise and change the current rules with respect to projects that involve both increases and decreases in emissions. Determining whether a "net emissions increase" will occur involves a two-step process and the proposal clarifies that all emissions changes that occur within the scope of a project are counted in Step 1 of the two-step NSR applicability test.

2 Need and Use of the Collection

2.1 Need / Authority for the Collection

Title I of the Act authorizes EPA to collect this information. Through the NSR program it requires owners or operators of emissions units that emit air pollutants to submit an application for a permit to construct, modify, or significantly alter the operations of each source of criteria pollutants.

2.2 Practical Utility / Users of the Data

For EPA to carry out its required oversight function of reviewing construction permits and assuring adequate implementation of the program, it must have available to it information on proposed construction and modifications. The burden estimates included in this ICR provide emissions, source, and control information for the PSD/NSR program.

2.3 Caveats and Considerations

The information in this ICR is based upon the best data available to the Agency at this time. However, inconsistencies in reviewing authority (RA) reporting techniques, and incomplete data sets, and sampling limitations imposed necessitated a certain amount of extrapolation and “best-guess” estimations.¹ Consequently, the reader should not consider the conclusions to be an exact representation of the level of burden or cost that *will* occur. Instead, this ICR should be considered a directionally correct assessment of the impact the programmatic changes included in this rulemaking *may* have over the next three years.

Throughout this ICR, the reader will observe estimated values that show accuracy to the single hour or dollar. However, reporting values at the single unit level can be misleading. In most situations, the proper way to present estimated data would be to determine an appropriate level of precision and truncate values accordingly, usually in terms of thousands or millions of units. For instance, a spreadsheet generated estimation of \$5,456,295 could be presented in the text as \$5.5 (millions) or \$5,456 (thousands). One problem with such an approach is the loss of data richness when the report contains a mixture of very large and very small numbers. Such was the case with this ICR, where source values are consistently in the millions and federal and State values in the tens of thousands. Consequently, to avoid the loss of information through rounding, this ICR reports all values at the single unit level and reminds the reader that there is no implied precision inherent in this style of reporting.

¹ The term “reviewing authority” is synonymous with the term “permitting authority” used in previous permit-related analyses. The reader should consider these terms interchangeable for comparison purposes.

3 Non-Duplication, Consultation, and Other Collection Criteria

- 3.1 Non-Duplication** For approval of a proposed ICR, the Agency must ensure that it has taken every reasonable step to avoid duplication in its paperwork requirements in accordance with 5 CFR 1320.9. Although the RAs will be required to revise a State's SIP, the proposed action imposes no new paperwork requirements.
- 3.2 Public Notice Requirements** For any existing rule, § 3507(g) of the PRA limits how long a Director may take to approve a collection of information to 3 years. The ICR for the 40 CFR Part 51 and 52 Prevention of Significant Deterioration and New Source Review Program was revised last in March 2006. This ICR analysis presents an update to that revision, based upon programmatic changes completed since then.
- A 60-day public comment period will be provided after proposal, during which all affected parties will be given the opportunity to comment on the proposed changes. All received comments will be considered, and some may be reflected in the development of the final regulatory language.
- 3.3 Consultations** Like the September 2005 revision (ICR#1230.18), this ICR is an update to the renewal for the ICR program (ICR #1230.17), completed in October 2004. This ICR incorporates the base elements of the overall program as they relate to these changes. As such, extensive consultation through public meetings and stakeholder meeting with environmental groups; industry; and State, local, and Federal agency representatives has been conducted for the permit application and review elements affected in this ICR update.
- 3.4 Less Frequent Collection** The Act defines the rate of reporting by sources, States, and local entities. Consequently, less frequent collection is not possible.
- 3.5 General Guidelines** OMB's general guidelines for information collections must be adhered to by all Federal Agencies for approval of any rulemaking's collection methodology. In accordance with the requirements of 5 CFR 1320.5, the Agency believes:
1. The NSR regulations do not require periodic reporting more frequently than semi-annually.
 2. The NSR regulations do not require respondents to participate in any statistical survey.
 3. Written responses to Agency inquiries are not required to be submitted in less than thirty days.
 4. Special consideration has been given in the design of the NSR program to ensure that the requirements are, to the greatest extent possible, the same for Federal requirements and those RAs who already have NSR construction permitting programs in place.

5. Confidential, proprietary, and trade secret information necessary for the completeness of the respondent's permit are protected from disclosure under the requirements of §503(e) and §114(c) of the Act.
6. The NSR regulations do not require more than one original and two copies of the permit application, update, or revision to be submitted to the Agency.
7. Respondents do not receive remuneration for the preparation of reports required by the Act or parts 51 or 52.
8. To the greatest extent possible, the Agency has taken advantage of automated methods of reporting.
9. The Agency believes the impact of NSR regulations on small entities to be insignificant and not disproportionate.

The recordkeeping and reporting requirements contained in the current NSR program and the changes proposed in this rulemaking do not exceed any of the Paperwork Reduction Act guidelines contained in 5 CFR 1320.5, except for the guideline which limits retention of records by respondents to 3 years. The Act requires both respondents and State or local agencies to retain records for a period of 5 years. The justification for this exception is found in 28 U.S.C. 2462, which specifies 5 years as the general statute of limitations for Federal claims in response to violations by regulated entities. The decision in U.S. v. Conoco, Inc., No. 83-1916-E (W.D. Okla., January 23, 1984) found that the 5-year general statute of limitations applied to the Clean Air Act.

3.6 Confidentiality

Confidentiality is not an issue for this rulemaking. In accordance with the Clean Air Act Amendments of 1990, the monitoring information to be submitted by sources as a part of their permit application and update; applications for revisions and renewals is a matter of public record. To the extent that the information required is proprietary, confidential, or of a nature that could impair the ability of the source to maintain its market position, that information is collected and handled subject to the requirements of §503(e) and §114(c) of the Act. Information received and identified by owners or operators as confidential business information (CBI) and approved as CBI by EPA, in accordance with Title 40, Chapter 1, Part 2, Subpart B, shall be maintained appropriately (see 40 CFR 2; 41 FR 36902, September 1, 1976; amended by 43 FR 39999, September 8, 1978; 43 FR 42251, September 28, 1978; 44 FR 17674, March 23, 1979).

3.7 Sensitive Questions

The consideration of sensitive questions, (i.e., sexual, religious, personal or other private matters), is not applicable to this rulemaking. The information gathered to establish a major NSR permit does not include personal data on any owner or operator.

**3.8 Environmental
Justice
Considerations**

The President's priorities in promoting environmental justice (EJ) are contained in Executive Order #12898. Because the NSR program operates nation-wide and across all industry classifications, the Agency does not believe there is a disproportionate EJ effect in the NSR program.

4 The Respondents and the Information Requested

4.1 Respondents/SIC and NAICS Codes

There are over 14,500 sources subject to Title I operating permits requirements in the EPA's Operating Permits Database, encompassing all industry classifications in 34 States and the District of Columbia.² This comprises the majority of the universe of potentially affected sources for the NSR program and for this ICR.³ Table 4.1 is a summary of the SIC/NAICS codes covered by the PSD/NSR program.

Table 4.1 Potentially Affected Entities

Industry Group	SIC	NAICS
Pulp Mills	261	32211, 322121, 322122, 32213
Paper Mills	262	322121, 322122
Chemical Processes	281	325181, 32512, 325131, 325182, 211112, 325998, 331311, 325188
Pharmaceuticals	283	325411, 325412, 325413, 325414
Petroleum Refining	291	32411
Automobile Manufacturing	371	336111, 336112, 336712, 336211, 336992, 336322, 336312, 33633, 33634, 33635, 336399, 336212, 336213
Steam Electric Plants	491	221111, 221112, 221113, 221119, 221121, 221122
Natural Gas Transport	492	48621, 22121

Eventually, this rulemaking will affect all States, territories, and possessions of the United States, as well as all local and Tribal governments, but for the first 3-year period of this rulemaking (the period covered by this ICR), most States will not be affected by this regulation due to the regulatory lag necessary for SIP review, revision, and approval. During this period, the only entities potentially affected by this final action will be located in areas where the Federal government has direct regulatory authority. These "Federally controlled areas" include, but are not limited to, Guam, Puerto Rico and the Virgin Islands; Washington D.C.; Hawaii, Illinois, Indiana, Michigan, Minnesota, North Dakota, Nevada, New Jersey, New York, Ohio, and South Dakota. The Federal government also has authority in Texas and Washington State, but only for one source category in each SIP, so this analysis will treat Texas and Washington State as though their SIPs were fully approved.

² The database does not include AK, AR, AZ, ID, KS, KY, MT, NJ, NM, PA, SD, TN, TX, UT, WA, and WY. While several of these States contain many sources subject to NSR, EPA believes the lack of their information in this database does not harm this analysis.

³ Information Collection Request for 40 CFR Part 51 and 52 Prevention of Significant Deterioration and Nonattainment New Source Review, Office of Management and Budget (OMB) Control Number 2060-0003; EPA Form Number 1230.17.

4.2 Information Requested

The data required by sources for a complete major NSR construction permit application can be found in the various parts of Title 40 of the Code of Federal Regulations (40 CFR). 40 CFR 50.166 specifies the minimum requirements that a PSD permit program under Part C of the Act must contain to warrant approval as a revision to a State Implementation Plan (SIP). 40 CFR 52.21 delineates the Federal PSD permit program which applies to all Federal holdings other than States, delegated Tribal lands, outer continental shelf sources, and States that have not submitted a PSD program meeting the requirements of 40 CFR 51.166. 40 CFR 51.165 specifies the elements of an approvable State permit for preconstruction review in nonattainment areas under Part D of the Act. 40 CFR Part 51, Appendix S (Offset Ruling) and 40 CFR 52.24 (construction moratorium) apply when a nonattainment area SIP has not been fully approved by EPA as having met the requirements of Part D of the Act. These citations can be found on the EPA website at:

<http://www.epa.gov/docs/epacfr40/chapt-I.info/subch-C.htm>

Respondent data and information requirements can be found in the current ICR for the PSD/NSR program, including appropriate references in 40 CFR part 51 for the data and information requirements that govern the way States implement NSR programs.

5 The Information Collected - Agency Activities, Collection Methodologies, and Information Management

5.1 Agency Activities

Table 5.1 summarizes the data and information requirements that State and local agencies must meet. Table 5.1 also shows the Part 51 references for the data and information requirements specified. The appropriate language from the CAA, 40 CFR 51 and 40 CFR 52 for State and local agencies is also included.

Table 5.1 Permitting Agency Data and Information Requirements

Requirement	Regulation Reference
Early FLM notification and opportunity to participate in meetings	40 CFR 51.166(p)(1)(ii)
Submission of all permit applications to EPA	40 CFR 51.166(q)(1)
Submission of notice of application, preliminary determination, degree of increment consumption, and opportunity for public comment	40 CFR 51.166(q)(2)(iv)
Submission to FLM of permit applications	40 CFR 51.166(p)(1)
Submission of written request to exempt sources from review	40 CFR 52.21(l)(4)(vi)
Written request for use of innovative control technology	40 CFR 51.166(s)
Establishing and operating a permitting program for all new sources	40 CFR 51.160
Provide notice to EPA of all permits	40 CFR 51.161(d)
Provide for public comment for all NSR permits	40 CFR 51.161

5.2 Collection Methodology and Management

This section discusses the development of burden estimates and their conversion into costs, which are separated into burden costs and capital and O&M costs. According to the latest guidance for ICRs (EPA 1995), capital and O&M costs display the cost of any new capital equipment the source or RA may have to purchase solely for information collection, assimilation, and storage purposes. For example, if a source had to purchase a new mini-computer to store and manipulate data, that computer would be a cost of administration subject to reporting in the ICR. In addition, the latest guidance instructs the Agency to differentiate the burden associated with a source's labor and that which it hires through outside contractors. To the extent a source contracts out for administrative purposes (e.g., employing consultants to perform monitoring functions), the burden associated with those contracted tasks are not a burden to the source - but they still remain a cost. The reader should read this section with the following considerations in mind:

- The Agency believes the time necessary to perform a task is independent of the origins of its labor. In other words, if a source would employ 20 hours of burden to fully perform a function, then a contractor hired by the source would also take

20 hours to perform that same task. Furthermore, the Agency assumes no economies or diseconomies of scale. The linear combination of any amount of contractor and source effort will also sum to 20. Therefore, the burden estimates in this ICR act as an accurate assessment of the total burden to affected sources and RAs.

- For some burden categories, the Agency believes the hours assigned to them will be divided between the source and outside contractors. For these categories, the Agency established a composite cost per hour by developing a weighted average of the source and contractor wages, with the weight defined by the percentage of total effort each burden source applied. Consequently, the cost developed in this ICR should be interpreted as an upper bound on the actual cost of administration by the source or RA. The methodology for determining cost per hour can be found in greater detail in section 6.2, below.

The owners or operators of new or modified major stationary sources affected by the major NSR regulations must submit construction permit applications to the RA, who logs in the permit applications, stores applications in a central filing location, notifies the Federal Land Manager (FLM) of the permit, and provides a copy of the application (if applicable) to the FLM and transmits copies of each application to EPA. Upon permit approval, the RA submits control technology information to EPA's RBLC database.

The RA reviews the permit and checks the quality of data submitted by the applicant on a case-by-case basis. The applicant will be required to submit information on how the data were obtained (*e.g.*, indicate whether emissions data were obtained through the use of emissions factors or test data) and how the calculations were performed. The RA personnel will check data quality by reviewing test data and checking engineering calculations, and by reviewing control technology determinations for similar sources. The RBLC and other sources will be reviewed for information on control technology determinations made for sources similar to the sources included in the permit application. Confidential information submitted by the applicant will be handled by the permit reviewing authority's (RA's) confidential information handling procedures. The public will be provided the opportunity to review a permit application and other materials relevant to the RA's decision on issuing the permit, including FLM findings, by obtaining a copy from the permit reviewing authority or by attending the public hearing. The NSR regulations will not require information through any type of survey.

5.3 Small Entity Flexibility

The Regulatory Flexibility Act (RFA) requires regulatory agencies, upon regulatory action, to assess that actions potential impact on small entities (businesses, governments, and small non-governmental organizations) and report the results of the assessments in (1) an Initial Regulatory Flexibility Analysis (IRFA), (2) a Final Regulatory Flexibility Analysis (FRFA), and (3) a Certification. For ICR approval, the Agency must demonstrate that it "has taken all practicable steps to develop separate and simplified requirements for small businesses and other small entities" (5 CFR 1320.6(h)). In addition, the agencies must assure through various mechanisms that small entities are given an opportunity to participate in the rulemaking process.

A Regulatory Flexibility Act Screening Analysis (RFASA) developed as part of a 1994 draft Regulatory Impact Analysis (RIA) and incorporated into the September 1995 ICR renewal analysis reported an initial regulatory flexibility screening analysis showed that the changes to the NSR program due to the 1990 Clean Air Act amendments would not have an adverse impact on small entities.⁴ This analysis encompassed the entire universe of applicable major sources that were likely to also be small-businesses. The Agency estimates there are approximately 50 "small business" major sources.⁵ Because the administrative burden of the NSR program are the primary source of the NSR program's regulatory costs, the analysis estimated a negligible "cost to sales" (regulatory cost divided by the business category mean revenue) ratio for this source group. Currently, there is no economic basis for a different conclusion at this time.

5.3.1 Measures to Avert Impacts on Small Entities

The Agency may not, as a general rule, exempt a major source of air pollution. Since the impacts of NSR regulations which may impact small entities occur predominantly at major sources, little room exists for regulatory flexibility to avert the impact of the proposed rulemaking on small entities through exemption. However, even though the Title V program does not have an adverse impact on a significant number of small businesses, EPA takes measures to assist sources in affected small entities through the implementation of small business stationary source technical and environmental compliance assistance programs, as called for in section 507 of the Act. These programs can reduce the reporting burden of small entities which are subject to major NSR and may significantly alleviate the economic burden on small sources by establishing programs to assist small businesses with determining what Act requirements apply to their sources

⁴ "Economic Assessment of the Impacts of Part C and D Regulatory Changes," June 2, 1994.

⁵ The definition for "small business" employed for all SIC categories in this analysis was any business employing fewer than 500 employees.

and when they apply, and guidance on alternative control technology and pollution prevention for small businesses.

5.3.2 Measures to Mitigate Impacts on Small Entities

Generally, EPA has several methods by which it can minimize the disproportionate effect of a rulemaking on small entities. Net costs can be reduced through the use of small business stationary source technical and environmental compliance assistance programs, the Agency can defer applicability for one or several source categories, and mitigation can be achieved by discretion of the Federal government. However, these avenues do not apply to the NSR program.

We believe that today's proposed rule changes will relieve the regulatory burden associated with the major NSR program for all sources, including any sources that are small businesses. This is because the proposed rule would simplify applicability determinations providing greater regulatory certainty, and clarify and simplify the regulatory process. As a result, the program changes provided in the proposed rule are not expected to result in any increases in expenditure by any small entity.

We have therefore concluded that today's proposed rule would relieve regulatory burden for all small entities.

5.4 Collection Schedule

Respondents are not subjected to a collection schedule per se under NSR permitting regulations of parts 51 and 52. In general, each major stationary source is required to submit an application as a prerequisite to receiving a construction permit. Preparation of a major source construction permit application is a one-time-only activity for each project involving construction of a new major stationary source or major modification of an existing major stationary source. The applicable SIP typically states the time period that is necessary to process a permit application and issue a permit. Consequently, a prospective source would be obliged to work backward from the desired commencement date for construction to determine the optimum submittal date for the application.

6 Estimating the Burden and Cost of the Collection

Burden means the total time, effort, of financial resources expended by person to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This include the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; and transmit or otherwise disclose the information. The burden estimate should be composed of (1) a total capital and start-up cost component annualized over its useful life; (2) a total operation, maintenance and purchases of services component. Each component should be divided into burden borne directly by the respondent and any services that are contracted out.

6.1 Estimating Respondent Burden

Although there have been regulatory changes to the NSR program since the 2004 renewal, we believe that those will generally not change the source's permit application requirements and, as such, the hourly burden estimates per permit application have been retained. They are listed with the line-item activities in Table 6.1.

Table 6.1 identifies the average burden by activity for the industrial respondents. This burden consists of the activities required to obtain a construction permit once a positive NSR applicability determination is made in association with a project involving a change in operation.

Table 6.2 identifies the average burden by activity for the RAs. These activities are for issuing NSR construction permits.

Table 6.1. Baseline Total Source Burden from the Renewal ICR

Activity	Hours per Unit
I. Part C (PSD)	
A. Preparation and Planning	
Determination of Compliance Requirements	170
Obtain guidance on Data Needs	120
Preparation of BACT Engineering Analysis	85
B. Data Collection and Analysis	
Air Quality Modeling	200
Determination of Impact on Air Quality Related Values	100
Post-construction Air Quality Monitoring	50
C. Permit Application	
Preparation and Submittal of Permit Application	50
Public Hearings	24
Revisions to Permit	40
D. Total	839
II. Part D (nonattainment)	
A. Preparation and Planning	
Determination of Compliance Requirements	150
Obtain Guidance on Data Needs	100
B. Data Collection and Analysis	
Preparation of LAER Engineering Analysis	40
Demonstrate Offsets	40
Prepare Analysis of Alternative Sites, Processes, etc.	60
Air Quality Modeling	100
C. Permit Application	
Preparation and Submittal of Permit Application	38
Public Hearings	25
Revisions to Permit	24
D. Total	577

Table 6.2. Baseline Total State and Local RA Burden from the Renewal ICR

Activity	Hours Per Unit
I. PART C (PSD)	
A. Attend Pre-application Meetings	36
B. Answer Respondent Questions	20
C. Log In and Review Data Submissions	16
D. Request Additional Information	8
E. Analyze for and Provide Confidentiality Protection	24
F. Prepare Completed Applications for Processing	32
G. File and Transmit Copies	8
H. Prepare Preliminary Determination	24
I. Prepare Notices for and Attend Public Hearings	40
J. Application Approval	40
K. Notification of Applicant of RA Determination	8
L. Submittal of Information on BACT / LAER to RBLC	16
M. Total	272
II. Part D (Nonattainment)	
A. Attend Pre-application Meetings	7
B. Answer Respondent Questions	10
C. Log In and Review Data Submissions	8
D. Request Additional Information	4
E. Analyze for and Provide Confidentiality Protection	4
F. Prepare Completed Applications for Processing	12
G. File and Transmit Copies	4
H. Prepare Preliminary Determination	8
I. Prepare notices for and Attend Public Hearings	18
J. Application Approval	16
K. Notification of Applicant Determination	2
L. Submittal of Information on BACT/LAER to RBLC	16
M. Total	109

In addition to issuing permits, the RAs must ensure their NSR programs contain the minimum elements that EPA specifies. The proposed rule would require debottlenecking as a minimum program element. Therefore the RAs must incorporate all these changes into their SIPs or demonstrate that an alternative approach is at least equivalent to these minimum program elements.

This rulemaking results in a small increase in the burden imposed upon RAs in the short term. Each RA must submit changes to their existing SIP programs or demonstrate that their existing programs are at least equivalent to EPA's new requirements. Because the changes needed for updating SIPs are small and the State requirements for SIP development differ from State to State, the EPA assumed it would take no more than 20 hours for RA to fully incorporate this rulemaking into its plan. This assumption includes legislative review, public comment, and all legal and legislative

processes necessary for all of the above components. We expect this burden to occur in year 2 of the period covered by this ICR.

6.2 Estimating Respondent Costs

In order to improve the accuracy of burden estimates, this ICR uses 2006 values with the wage rate methods established in the July, 1997 renewal ICR and confirmed in the 2001 and 2004 renewal ICRs. The single exception is the estimate of pre-construction ambient air quality costs, which were adjusted from the 2001 renewal ICR due to the lack of computational detail provided in the 1997 renewal.

6.2.1 Estimating Labor Costs

We estimated industry labor costs using a two-step process. First, we calculated an estimated in-house labor rate using the latest data from the Bureau of Labor Statistics (BLS). We then calculated an industrial respondent's labor rate reflecting a division between in-house technical staff and contractor staff.

6.2.1.1 In-house Labor Rates

To calculate the in-house labor rate, \$62.20/hr, we have used a graded approach in calculating labor cost as recommended in the ICR handbook. We used wage rates for industry respondents retrieved from the BLS. Because of the breadth of industry categories that could be affected, we used average industry rates for Engineering Managers (management), Environmental Engineers (technical), and Correspondence Clerks (clerical). Based on current BLS data for private sector benefits compensation, we used 28.8 percent of the total compensation to estimate benefits.⁶ We calculated the overhead rate as 50 percent of the total compensation rate (i.e. salary plus benefits). The addition of benefits and overhead to the hourly rate produces a pay rate that reflects the true cost to employ an industry sector worker. Table 6.3 summarizes this result. Following is a summary of the computed wages for industry personnel.

Table 6.3 Calculated In-house Hourly Labor Rates

Labor Type	Base Salary, Hourly Rate	Benefit Hourly Rate ^a	Overhead Hourly Rate ^b	Adjusted Hourly Rate	In-house Weighting (%)	In-house Hourly Rate
Management	50.10 ^c	14.43	32.26	96.79	5%	4.84
Technical	33.27 ^d	9.58	21.43	64.28	85%	54.64
Clerical	14.10 ^e	4.06	9.08	27.24	10%	2.72
Total					100%	\$ 62.20

a Benefits are 28.8% of Base Salary Hourly Rate based on Nov 2004 data from the Dept of Labor: Bureau of Labor and Statistics <http://data.bls.gov/cgi-bin/dsry>

b Overhead rate is 50% of Base Salary Hourly Rate plus Benefit Hourly Rate.

c Dept of Labor: Bureau of Labor and Statistics <http://www.bls.gov/oes/current/oes119041.htm>, November 2004

d Dept of Labor: Bureau of Labor and Statistics <http://www.bls.gov/oes/current/oes172081.htm>, November 2004

e Dept of Labor: Bureau of Labor and Statistics <http://www.bls.gov/oes/current/oes434021.htm>, November 2004

⁶ U.S. Department of Labor: Bureau of Labor Statistics: Bureau of Labor Statistics Data. <http://data.bls.gov/cgi-bin/dsry> Accessed April 2006.

6.2.1.2 Industrial Respondent Labor Rates

The labor rate used to calculate the industrial respondent's labor cost is \$73.40/hr and reflects a division of labor between in-house technical staff and managerial staff, and the involvement of outside consultants. The consultant rate in the 1997 ICR was estimated to be 60 percent higher than the loaded in-house rate. Therefore, we have estimated the current loaded consultant rate to be \$99.52 ($\$62.20 \times 1.60 = \99.52). The following methodology is detailed in the July 10, 1997 ICR. The industrial respondent's labor rate is calculated by taking 70% of the 2006 in-house rate ($\$62.20 \times 0.70 = \43.54), which is derived using fully loaded but weighted technical, clerical, and managerial staff wages, and adding the resulting labor rate to 30% of the 2006 fully loaded weighted consultant rate for technical, clerical, and managerial staff ($\$99.52 \times 0.30 = \29.86). The resultant industrial respondent's labor rate equals \$73.40/hr.

Following the same assumptions as the 2004 ICR renewal, approximately 13 percent of PSD sources submitting Part C (PSD) permit applications will conduct pre-construction ambient air quality monitoring. The average cost for this activity is estimated to be \$280,343, which is calculated using the same 3 year adjustment factor (1.16) as the previous ICRs and adding an additional growth of 10.66% (2/3 of 16%) for 2004. We have assumed that one of the three PSD permits submitted during the clearance period would be required to do this monitoring.

6.2.1.3 State and Local Respondent Labor Rates

The labor rate used to calculate the State and local respondents' labor cost is \$44.63/hr. This rate is the result of inserting 2006 Federal government pay schedule wage rates for clerical, technical, and managerial staff into the weighting system developed in the 1997 renewal ICR and described in the November 2002 parts 51 & 52 ICR update.⁷ For this ICR, the Agency employed the same methodology to determine 2006 Federal burden costs. Table 6.4 summarizes this result.

⁷ U.S., Environmental Protection Agency, Office of Air Quality Planning and Standards, *DRAFT INFORMATION COLLECTION REQUEST FOR CHANGES TO THE 40 CFR PART 51 AND 52 PREVENTION OF SIGNIFICANT DETERIORATION AND NEW SOURCE REVIEW APPLICABILITY REQUIREMENTS FOR MODIFICATIONS TO EXISTING SOURCES*, November, 2002, p. 29.

Table 6.4 Determination of Federal and State Wage Rates

Annual Salary of Permit Staff, GS 11 Step 3 (FY 06 Schedule)*		\$49,269.00
Annual Cost of Supervisory Staff, GS 13 Step 3 (FY 06 Schedule)*	\$70,220.00	
Factor (1/11)	0.09	\$6,319.80
Annual Cost of Support Staff, GS 6 Step 6 (FY 06 Schedule)*	\$32,765.00	
Factor (1/8)	0.13	\$4,259.45
Annual Applicable Salary of Permit Staff		\$59,848.25
Benefits (at 16%)		\$9,575.72
Sick Leave / Vacation (at 10%)		\$5,984.83
General Overhead		\$17,413.37
Total Cost Per FTE		\$92,822.17
Total Hourly Cost (Total Per FTE divided by 2,080 hours per year)		\$44.63

a <http://www.opm.gov/oca/06tables/html/ga.asp> April 2006

6.2.2 Estimating Capital and Operations and Maintenance Costs including Purchase of Services

Even if an applicant is a brand new company and the prospective source is a “greenfield” source (the EPA estimates less than one percent of the combined number of major and minor industrial respondents fit that description) most, and perhaps all, of the equipment needed to prepare permit applications (for example, the computers and basic software) will be part of the source’s business operation inventory. Furthermore, much of the data and regulatory and policy information for making technology determinations and even models for performing ambient air impact analyses are available in electronic form from several different EPA bulletin boards for just the communication charges, which are typically absorbed in routine business overhead expenses.

The EPA has conservatively estimated that 13 percent of major source permit applicants have to conduct pre-application ambient monitoring for the impacts analyses and that monitoring is conducted for approximately 4 months. As a practical matter, sources would probably contract this type of activity since it would generally be a one-time exercise. Consequently, EPA believes this cost is most often a direct cost associated with preparing permit applications. Based on this assumption, cost of capital equipment for pre-construction monitoring is negligible. To account for this cost in the ICR, EPA has added a line item direct cost to the total annual cost based on a contracted service cost of \$280,343 per permit. This cost, although not a fixed-capital cost, is nonetheless considered a start-up cost. As a result, the total estimated direct cost would be \$280,343 for the one PSD permit assumed to require ambient monitoring during the ICR period.

Since the purchase of capital equipment is believed to be an insignificant factor in permit application preparation, the EPA assumes the operation, maintenance, or services for same are negligible. Further, once a permit is issued, there is no operations and maintenance cost associated with it. It remains unaltered unless the source or the permitting authority discovers specific reasons to reexamine it and change any conditions or

specifications. If purely administrative, the changes are handled exclusively by the permitting authority. If changes have the potential for environmental consequences, the action may be significant enough to be counted as a separate and new application, to which a new burden and cost may be ascribed.

6.2.3 Capital/Start-up Operating and Maintenance (O&M) Costs

Capital/start-up and O&M costs are non-labor related costs. One-time capital/start-up costs are incurred with the purchase of durable goods needed to provide information. According to the Paperwork Reduction Act, capital/start-up cost should include among other items, preparations for collecting information such as purchasing computers and software, monitoring, sampling, drilling, and testing equipment. As stated above, we believe that as a practical matter sources would probably contract this type of activity rather than making a capital investment in equipment to be used as part of a one-time exercise. These costs, although not fixed-capital costs, have been included as start-up costs. For the same reason, that is, contracting out for this kind of expenditure/activity, the O&M costs associated with start-up capital equipment are zero for this ICR.

6.2.4 Annualized Capital Costs

Typically annualized capital cost would be derived from a discounted net present value of the stream of costs that would occur over the life of the permit, or the ICR, whichever is shorter. However, in the case of NSR, there are only up-front costs. The burden and cost of applying for and issuing each permit is unique, and since the cost of NSR permitting is incurred “up front”, it is a sunk cost to the source and does not require amortization over the life of the source. Therefore, the capital costs for the ICR to industry respondents in the second and third year are zero. Consequently, the annualized value of the costs of the proposed NSR package is equal to the cost of the first yearly outlay. The same annualized ICR burden and cost is reported for each year because, the EPA projects that the yearly average number of permit applications will be constant over the term of the ICR.

6.3 Estimating Agency Burden and Cost

Staff in EPA’s regional offices typically reviews major NSR permits. The EPA expects its review of NSR permits to comprise the tasks listed in Table 6.5. As described in section 6.2.1.3, we calculated Federal labor rates using the weighting developed in the 1997 ICR renewal and described in the November 2002 parts 51 and 52 ICR update. The estimated labor rate is \$44.63/hr.

In addition, there will be Agency burden resulting from these changes to review SIPS to verify that their changes fully meet the requirements of the program. Due to the nature of the changes needed, the Agency expects that, when the rule is fully in effect, that each SIP will require about 5 hours of review. We expect this burden to occur in year 3 of the period

covered by this ICR.

Table 6.5 Baseline Total Federal Burden from Renewal ICR

Activity	Hours Per Unit
I. PART C (PSD)	
A. Review and Verify Applicability Determination	2
B. Review Control Technology Determination	3
C. Evaluate Air Quality Monitoring	4
D. Evaluate Alternative and Secondary Impact Analysis	2
E. Evaluate Class I Area Analysis	2
F. Administrative Tasks	1
G. Total	14
II. Part D (nonattainment)	
A. Review and Verify Applicability Determination	2
B. Review Control Technology Determination	3
C. Evaluate Offsets	1
D. Evaluate Air Quality Monitoring	4
E. Evaluate Alternative and Secondary Impact Analysis	2
F. Administrative Tasks	1
G. Total	13

6.4 Estimating the Respondent Universe

For the purpose of estimating burden in this ICR, the respondent universe is defined by the annual number of permit applications avoided by major sources resulting in a reduction in the overall burden for sources to prepare the applications and RAs to issue them. It also includes the number of RAs that will have changes to their SIPs.

There are three elements of the proposed rule that could potentially result in a source that would otherwise be found to be subject to major NSR because of a significant emissions increase that would not be applicable because of the clarifications to the applicability requirements in the proposal.

6.4.1 Debottlenecking

EPA proposes a change in the way emissions from debottlenecked units are considered when determining if a proposed project will result in a significant emissions increase. The key change is to clarify the causation requirement of the NSR rules to tailor it to circumstances where emissions increase clearly result for the proposed change and not just from an upstream or downstream increase. We believe the universe of sources that will directly benefit from this change is small because major NSR will still apply to any new and existing units that debottleneck the process, if the actual change results in a significant emissions increase. Further, to the extent that debottlenecked units will be operated above their previously permitted levels as a result, these increased emissions must clearly be reviewed to address their air quality impact. Finally, this change will simplify the overall calculation of emissions increases from a project,

particularly at complex facilities like refineries where the calculation can be an extremely complicated and burdensome exercise.

For the 3-year period covered by this ICR, the limited nature of this rulemaking's effect on sources limits the impact of the debottlenecking provisions. The Agency anticipates that no more than one source per year will be able to avoid major NSR during the time covered by this ICR. For the purpose of this analysis we assumed that there will be one less PSD permit application filed per year than would have occurred without the proposed change.

6.4.2 Aggregation

EPA proposes that if a source or RA determines that project is dependent upon another project for its technical or economic viability, the source or RA must consider the project to be a single project and must aggregate the emissions increases for the individual projects in Step 1 of the major NSR applicability analysis. If a significant increase results, the source must conduct Step 2 of the NSR applicability test, which involves a netting calculation, to determine if the project is considered to be a major modification.

This proposal merely represents a clarification of, not a change to, our aggregation policy. It would codify objective criteria when emissions increases from multiple projects must be aggregated for NSR applicability. When combined with the lag between promulgation and implementation, we do not believe there will be any change in the number of major source permit applications filed as a result of this component of the proposal during the 3-year period covered by the ICR.

6.4.3 Project Netting

The proposal would revise and change current rules with respect to projects that involve both increases and decreases in emissions. The proposal would clarify that all emissions changes that occur within the scope of a project get counted in Step 1 of the NSR applicability test. This change allows a source to receive credit for emissions reductions that are achieved as part of an overall project without introducing complexity into the program.

We are requesting comment on the anticipated impacts of finalizing this particular change. For purposes of this ICR, we have assumed an impact comparable to the impact of the proposed debottlenecking changes. Accordingly, under this component of the proposed changes we estimate that there will be one less permit application filed per year during the 3-year ICR period. At this time we have made this conservative estimate. This assumption also is based on the impact of the regulatory lag in implementing the rule. For the purpose of the analysis, we assumed that

the avoided permit application would have been a nonattainment NSR permit.

6.4.4 SIP Revisions

For the number of respondents that are RAs, this analysis uses the 112 RA count used by other permitting ICRs for one-time tasks (e.g., SIP revisions).

6.5 Bottom Line Burden and Cost

The first 3 years following promulgation of this rulemaking will have a limited affect on sources, since it will take several years for reviewing authorities to modify their SIPs and have them approved by EPA. During this period, only federally-controlled areas will contain sources affected by this rule. During the period covered by this ICR revision, we estimate this rulemaking will produce a source burden decrease of 1,416 hours per year and a cost decrease of \$212,740 per year. For reviewing the 112 reviewing authorities, we estimate that this rulemaking will produce a burden increase of 366 hours per year and cost increase of \$16,320 per year (or about \$146 per entity per year). Table 6.6 displays the change in annual burden and costs for sources, reviewing authorities, and the Federal government, respectively.

The second column of Table 6.6 lists the number of emissions units affected, based upon the methodologies and assumptions discussed above in each section. The third column displays the change in hours per emissions unit for each program element, with negative numbers indicating a reduction in burden, zero indicating no change, and a positive value indicating an increased burden. The reader can re-create the annual hours for each burden category by multiplying the number of emissions units affected by the hours per unit. Column four displays the total cost of the expected burden, and column five displays the average cost, across only affected sources, for each element of the rulemaking.

Table 6.6 Annual Change in Source, RA, and Federal Burden and Cost ^a

Regulatory Change	Number of Affected Entities	Average Annual Burden Hours	Average Annual Cost (\$1000)	Average Annual Cost per Entity (\$1000)
SOURCES				
Debottlenecking	1	-(839)	-(61.58 (labor) + 93.45 (ODC) = 155.03)	-155.03
Aggregation	0	0	0	0
Project Netting	1	-(577)	-(57.71 (labor))	-57.71
Change		-1416	-212.74	-106.37
RAs				
Permit Actions				
Debottlenecking	1	-(272 (PSD))	-(12.14 (PSD))	-12.14
Aggregation	0	0	0	0
Project Netting	1	-(109 (NSR))	-(4.86 (NSR))	-4.86
SIP Revision ^b	112	2240 / 3 = 747	99.97 / 3 = 33.32	0.298
Change		366	16.32	0.146 ^c
FEDERAL ^d				
Permit Actions				
Debottlenecking	1	-(14 (PSD))	-(0.62 (PSD))	-0.62
Aggregation	0	0	0	0
Project Netting	1	-(13 (NSR))	-(0.58 (NSR))	-0.58
SIP Revision ^e	112	560 / 3 = 187	24.99 / 3 = 8.33	8.33
Change		160	7.13	7.13

^a Costs are in November 2004 dollars

^b Lump-sum burden is expected to incur across years 2 and 3, but annualized here.

^c Change reflects the negative cost per entity for 2 fewer permit reviews per year, but uniformly applies the cost to all 112 entities subject to SIP revisions.

^d Federal government is one entity.

^e "112" reflects the number of SIP revisions that will be reviewed for approval by the Federal Government entity. Also, the burden and cost are expected to incur in year 3 only, but annualized here.

6.6 Reasons for Change in Burden

Through years of negotiation, public meetings, and draft revisions, the Air Quality Policy Division has strived to streamline and simplify the reporting and recordkeeping requirements for the construction permit process mandated by the Act for sources of criteria and hazardous air pollutants. This rulemaking represents the culmination of many parts of that process. Because the goal of this effort was to reduce burden and costs, the reasons for the change in burden displayed in the tables above are self-evident.

6.7 Burden Statement

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously-applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. The Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under Docket ID Number EPA-HQ-OAR-2003-0160, which is available for online viewing at www.regulations.gov, or in person viewing at the Air and Radiation Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW, Washington, D.C. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566-1742. An electronic version of the public docket is available at www.regulations.gov. This site can be used to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select "search," then key in the Docket ID Number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, D.C. 20503, Attention: Desk Officer for EPA. Please include

the EPA Docket ID Number EPA-HQ-OAR-2003-0160 and OMB Control Number 2060-0003 in any correspondence.

NOTE: The EPA Docket Center suffered damage due to flooding during the last week of June 2006. The Docket Center is continuing to operate. However, during the cleanup, there will be temporary changes to Docket Center telephone numbers, addresses, and hours of operation for people who wish to make hand deliveries or visit the Public Reading Room to view documents. Consult EPA's Federal Register notice at 71 FR 38147 (July 5, 2006) or the EPA website at <http://www.epa.gov/epahome/dockets.htm> for current information on docket operations, locations and telephone numbers. The Docket Center's mailing address for U.S. mail and the procedure for submitting comments to www.regulations.gov are not affected by the flooding and will remain the same."