

Information Collection Request for Requirements for Control
Technology Determinations from Major Sources in Accordance
with Clean Air Act Sections, Sections 112(g) and 112(j).

Supporting Statement

PART A OF THE SUPPORTING STATEMENT

1. IDENTIFICATION OF THE INFORMATION COLLECTION

(a) Title and Number of the Information Collection

ICR: Control Technology for Equivalent Emissions Limitations by Permit under Section 112(j) of the Clean Air Act.

OMB Control Number: 2060-0266, EPA ICR # 1648.06.

(b) Short Characterization

Section 112(j) of the Clean Air Act as amended in 1990 (CAAA) requires that if EPA fails to promulgate a standard for a category or subcategory of major sources within 18 months after its scheduled date of promulgation, then sources must submit a title V permit application beginning on that date. States (with approved Title V operating permit programs) or EPA will issue permits containing MACT emission limitations determined on a case-by-case basis to be equivalent to what would have been promulgated by EPA pursuant to Clean Air Act Section 112(d). EPA has promulgated regulations implementing Section 112(j).

This ICR supports the regulations to implement Section 112(j) (40 CFR part 63, subpart B, §§63.50-56). It addresses the information collection burden (hours and costs) to industry respondents subject to these provisions; State and Local agencies that review applications submitted under these provisions; and the EPA oversight review of a percentage of State/Local decisions. As discussed further below, it may be that only activities related to the regulatory requirement to submit Part 1 and Part 2 permit applications are activities for which an estimate of burden need be calculated. However, we have estimated the burden associated with certain permitting activities that follow submission of Part 1 and Part 2 permit applications for informational purposes and to provide a conservative estimate of the overall burden. Whenever burdens and costs are presented in this Supporting Statement, we have provided both an estimate that includes only the burden associated with the submission of Part 1 and Part 2 permit applications (“application burden”) and an estimate that includes the application burden and burden associated with certain subsequent permitting activities (“overall burden”).

This ICR includes about 2,573 major sources (see Table 1) contained in 4 source categories for which MACT standards have been vacated by the United States Court of Appeals for the District of Columbia Circuit. We estimate up to about 2,573 existing and new sources may have to participate in the development of case-by-case MACT permit applications. The average administrative cost per source of these activities is estimated to be \$7,322.27 (\$3,130.31 application burden only) per source. Total estimated administrative costs may be up to \$29,986,998 (\$9,779,849 application burden only) for all sources in all 4 source categories over the next three years.

Further, the burden estimate is conservative, because we assume 2,360 boilers are subject to Section 112 and therefore covered by this ICR, based on the number of initial notifications received following promulgation of the boiler MACT. However, this assumption likely represents an overestimate of the number of such sources. EPA's major source boiler MACT was vacated by the DC Circuit Court of Appeals, along with a separate rule defining a "commercial or industrial solid waste incineration unit" for purposes of Section 129 of the Act (the definitional rule). NRDC V. EPA, 489 F.3d. 1250 (D.C. Cir. 2007). In the definitional rule case, the court held that Section 129's directive to regulate "any facility which combusts any solid waste material from commercial or industrial establishments" does not permit the exclusion of facilities that combust solid waste, but recover thermal energy for a useful purpose. The court then concluded that the flaws in EPA's definitional rule would necessitate revision of the major source boiler MACT rule as well, because the scope of facilities subject to the MACT would change. Therefore the court also vacated the boiler MACT. Once EPA revises both the definitional rule and the boiler MACT, it is likely that the number of sources subject to the boiler MACT will be smaller than those that would have been subject to the MACT the court vacated.

2. NEED FOR AND USE OF THE COLLECTION

(a) Need/Authority for the Collection

Section 112(j) of the Clean Air Act as amended in 1990 contains the need and authority for this information collection. [42 U.S.C. 7401 (et. seq.) as amended by Public Law 101-549]

Several commenters disputed any need for the information collection asserting that 112(j) does not apply in the case of vacatur. They argue that in the case of the vacatur, EPA did not fail to promulgate applicable standards and a vacatur does not erase a prior promulgation from history. They opined that a promulgation in good faith, even if later to be judged by a court to be not valid should not invoke 112(j) retroactively.

We disagree with the commenters. In light of the complete vacatur of the rules noted above, the "hammer" requirements of Section 112(j) apply. We have previously taken this position in pleadings filed in the D.C.Circuit. (*See, e.g.*, "Reply in Support of Motion for Voluntary Vacatur and Remand" and Opposition to Petitioners' Cross-Motion to Establish Deadline to Govern Remand in Natural Resources Defense Council, et. al. v EPA (No. 04-1385 and consolidated cases) and "EPA's Petition for Panel Rehearing" in Mossville Environmental Action Now and Sierra Club v. EPA, (No. 02-1282), attachment A and B, respectively). See also Environment Defense v Leavitt, 329 F. Supp 2d 55, 63-64 (D.D.C. 2004) (Court held that when the Court of Appeals vacated EPA's rule, the vacatur restored the status quo before the invalid rule took effect, the status quo presented a situation wherein EPA had failed to promulgate regulations in accordance with the deadline set out in the CAA.) Section 112(j) provides generally that major sources in a category or subcategory for which standards are not

promulgated must submit permit applications by given dates, and that federal or state permit writers must then determine on a case-by-case basis an emission limitation equivalent to the limitation that would apply if an emission standard had been issued in a timely manner under Section 112(d) or (h) of the Act. See CAA 112(j)(5), 40 CFR 63.55(a).

— Several commenters questioned the need for an ICR on other grounds. One commenter noted that the CAA itself requires permit applications and that the Paperwork Reduction Act should not be a vehicle to impede submission of permit applications for case-by-case MACT. The commenter further theorized that because the CAA assigns the permitting obligation directly to the States, the collection of information is not being performed on EPA’s behalf and thus the ICR approval is unnecessary. They added that OMB did not have discretion to deny approval of the request because it would interfere with the substantive requirements of a statute. Finally, they urged that OMB approve the previous submittal by EPA for an emergency ICR approval until this one could be approved.

We agree that the CAA requires permit applications and that the lack of an approved ICR for EPA’s 112(j) regulations does not affect the statutory requirement. We also agree that in most cases the regulatory process for obtaining a 112(j) limit is implemented by the states. However, under the PRA and the regulations implementing the PRA, these circumstances do not alter EPA’s obligation to have an approved Information Collection Request (ICR) in place for the information collection requirements contained in the Section 112(j) regulations. The ICR supporting implementation of these regulations expired in 2005 and was renewed only with respect to Section 112(g). We are working to expedite the renewal of the ICR for the 112(j) regulations and we hope that this will be accomplished with a minimum of unnecessary delay. We note that OMB’s regulations at 5 CFR 1320.3(b)(3) state “[a] collection of information conducted or sponsored by a Federal agency that is also conducted or sponsored by a unit of State, local, or tribal government is presumed to impose a Federal burden except to the extent that the agency shows that such State, local, or tribal requirement would be imposed even in the absence of a Federal requirement.”

Another commenter disputed the need for the collection of information and surmised that reactivating 112(j) would be a waste of time, as EPA will likely re-establish the boiler MACT before case-by-case MACT would be implemented. According to the commenter, the cost of implementing 112(j) would greatly outweigh any benefits. The commenter also asserts that EPA has not shown “whether the burden of the collection of information is justified by its practical utility,” and that EPA should first perform a reasonably thorough analysis of whether and to what extent implementation of the 112(j) regulations would be beneficial in view of the near-term issuance of a national MACT standard for the appropriate set of boilers.

We believe that obtaining ICR approval for the Section 112(j) regulations is important to ensure that an orderly process is in place for implementing the requirements of Section 112(j). Without the ability to rely on the information collection requirements in the regulations, there is likely to be confusion and inconsistency with respect to implementation of the statute.

Implementation of 112(j) is not a discretionary matter that we or the States have the ability to dismiss as “not worth the effort” as the commenter suggests.

Finally, a couple of commenters stated that Section 112(j) of the CAA is not self-implementing and that we should amend the Section 112(j) rule to include the vacatur scenario before acting on the ICR. Commenters argue that the regulations establish rules only for “original failures to promulgate” and did not invest into those regulations any intent or guidance as to vacaturs. They asserted that guidance alone should not be used, and any guidance itself should also go through notice and comment.

We do not agree that these comments are relevant to the issue of the need for the collection of information, but note that we do not agree with the commenters’ position. The provisions of the current 112(j) regulations adequately address the circumstances surrounding vacatur. The current rule contains provisions addressing timeframes other than “original failures to promulgate.” (See, e.g., 63.52(a)(2) (, 63.52(e) (establishing deadlines for Part 2 applications when Part 1 applications becomes due after the “failure to promulgate” dates established in Table 1 of the regulations). We also note that it is appropriate for an Agency to issue guidance when questions arise concerning a rule’s applicability under particular circumstances. Notice and comment may be required under certain circumstances, but not where, as here, an Agency is for the first time providing guidance as to how a broadly worded rule applies under a particular set of facts that may not have been specifically contemplated in promulgating the rules.

(b) Practical Utility/Users of the Data

The information collected in the permit applications will be used for the purposes of permit approval, compliance determination, and the selection of particular control technology on a case-by-case basis. The Federal or State administrator of the operating permits program will use the information for the case-by-case emission limit determinations. Because the information gathered is necessarily source-specific, the case-by-case determinations cannot be made without it.

3. NONDUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

3(a) Nonduplication

The information collection activities required under the Section 112(j) regulations are not routinely collected elsewhere by EPA. However, in this situation, the permitting authority may likely have collected much, if not all, of the information items previously in support of other applications in the course of implementing or preparing to implement the MACT standards that have been vacated. Most permitting authorities, though, will likely accept references to previously submitted information in lieu of significant duplication, in accordance with §63.53(b)(1).

3(b) Public Notice Required Prior to ICR Submission to OMB

A 60-day public review and comment period of the ICR renewal occurred after publication in the *Federal Register* on November 2, 2007.

3(c) Consultations

Six commenters provided letters with detailed comments during the public comment period. One commenter noted that we had not consulted with potential respondents prior to proposal of this ICR. The commenter also suggested that the ICR was incomplete to the point that it did not provide adequate opportunity for comment on the full range of the request and should be completely redone and repropose.

While consultations were not conducted specifically on this ICR, we did discuss with several stakeholders, including potential respondents, on several occasions the implications of the vacatur with respect to 112(j). During these discussions, many of the issues raised in comments on this ICR were discussed at great length. Potential respondents have also provided comments on this ICR and in some cases, we have made adjustments to the ICR estimates based on those comments. We disagree that the ICR should be rewritten and repropose. Some of the information the commenter requests, such as the true universe of sources, has not yet been settled; we disagree that this is a fatal flaw as we have included the most sources that would be subject, meaning that we have overestimated the potential impact.

3(d) Effects of Less Frequent Collection

Each applicant would submit the required information only once (a permit application) over the term of this ICR. There is no less frequent collection.

3(e) General Guidelines

The recordkeeping and reporting requirements contained in the Section 112(j) regulations do not violate any of the Paperwork Reduction Act guidelines contained in 5 CFR 1320.6.

3(f) Confidentiality

Any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40, Chapter 1, Part 2, Subpart B - Confidentiality of Business Information (CBI) (see 40 CFR 2; 41 FR 36902, September 1, 1976; amended by 43 FR 40000, September 8, 1978; 43 FR 42251, September 20, 1978; 44 FR 17674, March 23, 1979).

3(g) Sensitive Questions

This section is not applicable. This ICR does not contain any sensitive questions relating to sexual behavior or attitudes, religious beliefs, or other matters usually considered private.

4. THE RESPONDENTS AND THE INFORMATION REQUESTED

4(a) Respondents/SIC Codes

Respondents include owners/operators of *major sources* of hazardous air pollutants (HAPs) in the following source categories: polyvinyl chloride and copolymers production, brick and structural clay products manufacturing, clay ceramics manufacturing, and industrial, commercial, and institutional boilers and process heaters (Table 1). A major source is one that has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any HAP or 25 tons per year or more of any combination of HAP. The boilers source category cuts across a wide variety of industries, including both manufacturing and nonmanufacturing sources.

One commenter suggested that we include all source categories for which we project that the court will issue a complete vacatur.

We believe this to be unnecessary.

4(b) Information Requested

(i) Data items, including recordkeeping requirements

Implementation of the Section 112(j) program involves information submitted with the Part 1 and Part 2 applications for a Section 112(j) determination. Although we included the burden of developing permit terms and conditions in our proposed Supporting Statement, we now believe that such activities may not be information collection that is subject to the requirements of the PRA for the following reasons. First, to be a collection of information under the PRA, ten or more persons (respondents) need to be asked to report, provide, disclose, or record information in response to “identical questions.” In this case the “identical questions” consist of the information required in the Part 1 and Part 2 permit applications. Any information subsequently collected would be on a case by case basis between unique sources and the permitting authority and thus would not appear to be subject to the requirements of the PRA. Second, according to OMB regulations (5 CFR 1320.3(h)(9)), “[f]acts or opinions obtained or solicited through nonstandardized follow-up questions designed to clarify responses to approved collections of information” are not generally considered “information” under ICRs.

However, we do acknowledge that there is burden associated with development of permit terms and conditions related to Section 112(j) and thus, as noted above, for informational purposes and to ensure that we provide conservative estimates of burden, we will provide estimates burden associated with certain activities that occur after the submission of Part 1 and

Part 2 permit applications.

Section 112(j) regulations do not contain recordkeeping requirements.

The Section 112(j) regulations require a 2-part permit application. State and local agencies that develop the permit will review the information provided in the Part 1 and Part 2 permit applications. EPA will provide oversight to the process.

Part 1 of the application requires the following basic information about the source:

- (1) The name and address (physical location) of the major source.
- (2) A brief description of the major source and an identification of the relevant source category.
- (3) An identification of the types of emission points belonging to the relevant source category.
- (4) An identification of any affected sources for which a Section 112(g) MACT determination has been made.

This ICR provides an estimate for all sources to submit a Part 1 application. However, most sources should have already submitted a Part 1 application under the previous ICR approval. Because we do not know how many Part 1 applications will be resubmitted (a source can work with its permitting authority to determine whether or not it needs to resubmit its Part 1 applications), we have assumed that all will, resulting in an overestimate of the burden.

Part 2 of the application requires the following information from the source:

- (1) For a new affected source, the anticipated date of startup of operation.
- (2) Each emission point or group of emission points at the affected source which is part of a category or subcategory for which a Part 2 MACT application is required, and each of the hazardous air pollutants emitted at those emission points. When the Administrator has proposed a standard pursuant to Section 112(d) or 112(h) of the Act for a category or subcategory, such information may be limited to those emission points and hazardous air pollutants which would be subject to control under the proposed standard.
- (3) Any existing Federal, State, or local limitations or requirements governing emissions of hazardous air pollutants from those emission points which are part of a category or subcategory for which a Part 2 application is required.
- (4) For each identified emission point or group of affected emission points, an identification of control technology in place.

For many sources the permitting authority already has much of this information, gathered through previous title V permit submittals. A source may work with its permitting authority to determine what additional or revised information is necessary for a complete Part 2 application submittal.

(ii) *Respondent Activities*

Activities (see Table 2) that the owner or operator must perform are:

- Develop and submit Part 1 and Part 2 applications
- Submit applicability determination requests, as applicable
- File and maintain the permit applications and applicability determination requests
- Utilize legal and consulting resources, as desired

In addition, although we do not consider these to necessarily be activities that are within the scope of the PRA, the owner or operator will:

- Work with the permitting authority to develop the permit
- Participate in the public hearing
- File and maintain the final permit

Several commenters indicated that the burden estimates are low because we did not include burden for several activities and items they thought should be included, such as costs of compliance with case-by-case MACT provisions that are different from the vacated MACTs, review by consultants, applicability determination requests, legal expenses, responding to public comments, stack testing, development of HAP emissions data, development of recommended MACT, and gathering additional information when requested.

This ICR addresses required information and activities to meet the information collection provisions of the Section 112(j) rule. Several of the activities listed by the commenters are not information collection requirements that are imposed by the 112(j) regulations, such as development of recommended MACT, stack testing to develop information for the Part 2 permit application, and other activities associated with permit development. However, we do agree with commenters that legal review, consultant costs, and applicability determination requests can be associated with preparation of the Part 1 and Part 2 permit applications; although there is no basis for how many sources will avail themselves of these activities, we have assumed that 50 percent will, for burden estimate purposes. We have no information with respect to whether any particular State that would require additional data associated with the Part 2 application. Moreover, any such data requested is not required by the 112(j) rule and is not within the scope of the information collection that is the subject of this ICR. Compliance costs associated with meeting case-by-case MACT are not appropriate activities to include in information collection activities. We mistakenly implied that such costs were included in the prior draft Supporting Statement. We did not attribute burden to compliance costs associated with meeting case-by-

case MACT, but stated that it was because they would have applied after the time horizon of this ICR or would be pre-empted when the vacated MACTs were re-promulgated. While some ICRs may include capital and operational costs to install and operate systems to collect and submit information, this one does not, as it only deals with preparation and submittal of permit applications. Most of the information required by the permit applications is readily available to sources and in many cases has already been submitted to the permitting authorities in previous permit applications and amendments in preparation for meeting the vacated standards.

Another commenter took the position that our estimates were far too high and included activities that should not be considered burden under the PRA and this ICR, such as those considered as consequences that might flow from the application submittal, for example, responding to facility-specific questions, negotiating the permit, and participating in the public hearing.

As noted above, we believe that the commenter may be correct and thus are providing burden estimates that do not include burden associated with such activities. However, we are still providing an estimate for such activities for informational purposes and to provide a conservative estimate.

5. THE INFORMATION COLLECTED -- AGENCY ACTIVITIES, COLLECTION METHODOLOGY, AND INFORMATION MANAGEMENT

5(a) Agency Activities

This section addresses the activities of State and Local agencies, as the permitting authority, and EPA, in an oversight capacity. The permitting authority, typically the State or Local air agency, will perform the following activities (see Table 3.):

- Review Part 1 and Part 2 applications and deny or approve them
- File and maintain permit applications
- Interact with EPA as appropriate

In addition, although we do not consider these to be within the scope of the PRA, the permitting authority will:

- Develop the emission limitations for the source
- Prepare the draft permit
- Conduct a public hearing
- Review and analyze the public comments
- Issue the permit
- File and maintain the permit

Acting in an oversight capacity, EPA will perform the following activities (see Table 4):

- Review Part 1 and Part 2 applications
- Interact with the permitting authority

In addition, although we do not consider these to be within the scope of the PRA, EPA will:

- Review draft permits
- File and maintain the permit

5(b) Collection Methodology and Management

The owners or operators of the sources affected by these regulations will have the responsibility of submitting Part 1 and Part 2 applications to the permitting authority. It is the responsibility of the permitting authority to provide information necessary for EPA oversight review.

Qualified staff who work for the permitting authority will perform the permit application reviews and check the quality of data submitted by the applicant on a case-by-case basis. The permitting authority's employees will handle confidential information submitted by the applicant according to the permitting authority's confidential information handling procedures.

The Section 112(j) regulations do not require the request of information through any type of survey.

5(c) Small Entity Flexibility

Minimizing the information collection burden for all sizes of organizations is a continuing effort on EPA's part. EPA has reduced the information required by requiring only basic information needed by the permitting authority to make a case-by-case MACT determination.

One commenter suggested that we have not minimized the paperwork burden and did not consider burden reduction options. They suggested that we revise the boiler category to exclude solid waste incineration units, not send notifications to sources, and provide guidance on how to set case-by-case MACT limits.

We disagree that we have not tried to minimize the burden. We are ready to provide assistance to any permitting authority that needs help in setting case-by-case MACT. It is important to note that the court's decision in NRDC v. EPA did not address the legality of the Section 112(d)(4) standards that EPA established for certain boiler subcategories in the boilers rule. States can consider these vacated standards in establishing "hazardous air pollutant emissions limitations equivalent to the limitations that would apply if an emission standard had

been issued in a timely manner under Section 112(d) or (h) of the Act,” 40 C.F.R. 63.55(a). If States consider these vacated standards in developing Section 112(j) emission limitations, they should consider the recent court decisions to the extent those decisions addressed the legality of the standards at issue in those rules. One commenter, the National Association of Clean Air Agencies, has stated it is preparing a model case-by-case MACT that may assist States in developing permits.

5(d) Collection Schedule

This ICR does not require surveys. Each source affected by the Section 112(j) regulations is required to submit a permit application which the permitting authority must then review.

6. ESTIMATING THE BURDEN AND COST OF THE COLLECTION

6(a) Estimating Respondent Burden

This ICR requires the calculation of the amount of burden hours associated with each activity for each respondent. In the Section 112(j) permitting process for major sources, each respondent must submit the permit application in two parts as specified in Section 4(b)(i) of this Supporting Statement. Much of the information required in the Part 2 application will have already been submitted to the permitting authority in previous permit submittals; we expect the burden to be relatively low for this activity.

For the Section 112(j) regulations, burden for the respondents is administrative costs (preparing and submitting the permit applications).

Several commenters took issue with our estimates of burden for different activities. One commenter used their members and consultants to develop a better estimate for preparing permit applications; this commenter recommended using 4 hours as the burden for preparing both permit applications. Other commenters came to the opposite conclusion and believed that sources will spend significantly more hours than estimated in the proposed ICR, citing that sources will not reference previously submitted information, that States will require additional information and not rely on previously submitted information, and permit negotiations will be much more burdensome than EPA estimates.

We appreciate the commenters’ input. Because of the nature of case-by-case determinations, it is difficult to come up with a one-size-fits-all estimate. Some sources will incur burden far less than we have estimated and others perhaps far more. The commenters have offered speculative burdens. We believe that the burden will be far more than 4 hours for the activities involved in preparing and submitting both applications. We estimate the burden associated with the preparation and submittal of both applications to be over 90 hours (see Table 2), (or about 40 hours, excluding activities we do not believe are within the scope of the PRA).

However, we have assumed burdens for the sake of this estimate that we believe to be reasonable for the activities and information involved. None of the commenters has convinced us that the burden estimates are unreasonable and should be revised.

6(b) Estimating Respondent Costs

(i) Labor costs

A couple of commenters questioned the rates used and suggested that they should be higher. Although we believe those rates we selected and documented for the proposed ICR were reasonably acceptable and representative of full time employment across broad sectors that use boilers (institutional, manufacturing, academic settings), we have decided to use rates consistent with those selected for the boiler ICR proposed on December 7, 2007 (72 FR 69213), which are more representative of the manufacturing sectors.

Wage rates were based on May 2006 raw labor rates for the Manufacturing Sector (NAICS 31 thru 34), loaded using an overhead factor of 110%, and indexed to June 2007 using the Employment Cost Index. The resulting rates are \$115.12 for management personnel, \$77.77 for technical personnel, and \$30.58 for clerical personnel. These values were taken from the Bureau of Labor Statistics Occupational Employment Statistics Survey Web site and reflect the latest values available (May 2006). The Employment Cost Index is located at: <http://www.bls.gov/news.release/eci.t02.htm>. Table 2 provides a breakdown of labor hours and associated costs per occurrence for each activity in each part of the application process for existing and new sources.

(ii) Capital and Operation and Maintenance Costs

We do not expect sources to expend additional capital and O&M costs to gather information required by the Parts 1 and 2 permit applications.

6(c) Estimating State/Local Agency Burden and Cost

Similar to Sections 6(a) and 6(b), the activities for State/Local agencies are divided into the activities that would take place for both parts of the application process as described in Section 4(b)(i) of this Supporting Statement. Wage rates for State/Local employees were retrieved from the Bureau of Labor Statistics (http://stats.bls.gov/news.release/archives/ecec_09202007.pdf, Table 4. Employer costs per hour worked for employee compensation and costs as a percent of total compensation: State and local government workers, by occupational group and full-time and part-time status, June 2007) and are as follows: \$33.11 per hour for management labor, \$33.22 per hour for technical labor, and \$16.39 per hour for clerical labor. We added in the value of total benefits in BLS Table 4. We chose 20 percent of the base rate as the percentage of salary that constitutes overhead. The addition of benefits and overhead to the hourly rate produces a pay rate that reflects the true cost

to employ a State, Local, or Tribal agency worker. Following is a summary of the computed hourly wages for State, Local, and Tribal agency employees.

Hourly Labor Rates for State, Local and Tribal Respondents				
Labor Type	Hourly Rate	Benefits	Overhead (20 % Salary)	Adjusted Hourly Rate
Management	\$33.11	\$14.18	\$6.62	\$53.91
Technical	\$33.22	\$13.79	\$6.64	\$53.65
Clerical	\$16.39	\$10.21	\$3.28	\$29.88

Table 3 provides a breakdown of labor hours and associated costs for State/Local/Tribal agencies for existing sources and new sources, respectively.

6(d) Estimating Agency Burden and Cost

Under the Section 112(j) regulations, EPA would serve in an oversight capacity and audit approximately 10 percent of all applications processed by State/Local agencies. As recommended in the ICR Handbook, wage rates for EPA employees are based upon the Federal government pay scale. We calculated the hourly rates for EPA employees using information on annual salaries from the Internet site for the Office of Personnel Management. (<http://www.opm.gov/oca/08tables/pdf/RUS.pdf>; January 2008). We used the appropriate pay grade levels for management, technical, and clerical personnel. We divided the annual pay rate by 2080, the amount of working hours during a calendar year, to get the hourly wage rate. We then multiplied this rate by 1.6 to produce a pay rate that reflects the true cost to the Federal government to employ a worker. The value of 1.6 incorporates the addition of benefits at 40 % of salary and the addition of overhead at 20% of salary to the hourly rate. Following is a summary of the computed wages for EPA personnel.

Hourly Labor Rates for EPA						
Labor Type	Pay Grade	Annual Salary	Hourly Rate	Benefits (40 % Salary)	Overhead (20 % Salary)	Adjusted Hourly Rate
Management	GS-15	\$107,962	\$51.90	\$20.76	\$10.38	\$83.04
Technical	GS-12	\$65,315	\$31.40	\$12.56	\$6.28	\$50.24
Clerical	GS-6	\$33,135	\$15.93	\$6.37	\$3.19	\$25.49

Table 4 provides a breakdown in the amount of hours associated with each activity and the total burden hours and cost per occurrence for existing and new sources, respectively.

6(e) The Respondent Universe

In order to estimate the number of sources subject to the Section 112(j) regulations in the proposed ICR, EPA reviewed information in the originally promulgated MACT standards for the 4 source categories and allowed for a small amount of growth in the industries to the present time, unless subsequently otherwise provided or updated. We used the estimate provided by the Vinyl Institute for the number of polyvinyl chloride production facilities. For the boiler source category, two commenters noted the estimate was far too high; one commenter believed it was too low.

After the vacatur of the boiler NESHAP, the Agency began collecting data from EPA regional offices and delegated state authorities to revise its estimate of boilers and process heaters that may be impacted under a revised standard. Since the last boiler and process heater data gathering effort, many sources have shut down, others have selected to operate with a limit on their HAP emissions in order to avoid being subject to the boiler and process heater NESHAP, and some units have switched out older solid fuel units for newer equipment due to increased insurance and maintenance costs. Therefore, the Agency will base its boiler respondent pool on a revised list of initial notifications, Title V permits, and state applicability lists. Since the proposal of this ICR, data from Alaska, Alabama, Colorado, Delaware, Florida, Georgia, Indiana, Illinois, Kentucky, Louisiana, Michigan, New Jersey, New York, North Carolina, Ohio, Tennessee, Utah, and Wisconsin has been compiled and reviewed, and the Agency estimates that 2,360 existing boiler facilities will be subject to this ICR. However, for the boilers source category, this estimate is still likely high because in the court decision vacating the boilers rule, the court indicated that EPA had inappropriately included certain facilities in the category. At this time, though, without additional information, we are unable to determine a more appropriate estimate. The estimated number of potentially affected sources is shown in Table 1.

6(f) Bottom Line Burden Hours and Cost

Over the three-year period of this ICR, the estimated average annual burden and cost associated with the Section 112(j) regulations are 151,730 (45,576 application burden only) hours and \$9,995,666 (\$3,259,950 application burden only) respectively. Tables 5 and 5a contain the total estimated burden and cost breakdown associated with the Section 112(j) regulations. Tables 6 and 6a provide a summary of the estimated bottom line burden hours and costs associated with the Section 112(j) regulations.

6(g) Reasons for Change in Burden

The ICR 1648.04 spanned the period in which the Section 112(j) rule would have applied to any of the 59 source categories covered by the 2000 MACT standards (the 10-year bin). This ICR would affect only the 4 source categories covered by the MACT standards that have been vacated by the United States Court of Appeals for the District of Columbia Circuit (see Table 1). Unlike ICR No. 1648.04, which estimated the burden from the Part 1 application only (because all the MACT standards were promulgated before Part 2 applied), this ICR estimates burden for

preparing and submitting both the Parts 1 and 2 permit applications, as well as for the activities that we believe are not within the scope of the ICR such as developing the case-by-case title V permit terms and conditions, and the permit review and approval process.

This ICR also estimates the number of responses on a facility basis instead of an individual boiler basis as the previous ICR did, because each facility will submit one application for the facility, not each boiler. We have additionally updated the estimated number of respondents in the source categories that will be subject to this ICR.

Finally, EPA has updated the labor rates for respondents, State, Local, and Tribal agencies, and the EPA as discussed in Sections 6(b), (c), and (d) of this ICR. These adjustments were made to more accurately reflect the true cost of an hour of labor for the respondents, State, Local, and Tribal agencies, and the EPA. The unloaded hourly rates are different because they are based on the latest available rates from the BLS and the OPM. Table 7 provides a summary of the differences between burden hours and costs associated with each occurrence for the previous and current ICR.

Thus, the difference in the burden estimate is due to the adjustments discussed above, including number of respondents, submittal of permit applications, development of the case-by-case permit (non-PRA), and updated labor rates.

6(h) Burden Statement

This estimate includes all activities associated with the respondents or government agencies. Overall, the Section 112(j) program will have the following average annual burden: 79,420 (34,392 application burden only) hours and \$6,280,067 (\$2,684,763 application burden only) for respondents; 71,444 (10,978 application burden only) hours and \$3,667,100 (\$563,170 application burden only) for State/Local/Tribal agencies; and 866 (206 application burden only) hours and \$48,499 (12,018 application burden only) for the EPA. Tables 5 and 5a present the annual burden for respondents, State/Local agencies, and the EPA over the next 3 years.

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 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. An 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.

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 Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention: Desk Officer for EPA, and to the Director, Collection Strategies Division, Office of Environmental Information, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Avenue, NW, Washington, DC 20460. Include the EPA ICR number 1648.06 and OMB control number 2060-0266 in any correspondence.

Part B of the Supporting Statement

This section is not applicable because statistical methods are not used in the data collection associated with the Section 112(j) regulations.

TABLES

Table 1. Source Categories for which MACT Standards have been vacated

Source Category	Estimated # of sources at promulgation	Estimated growth rate	Years since promulgation	Total estimated number of sources
Polyvinyl chloride and copolymers production (Part 63, Subpart J)				21 (Vinyl Institute)
Brick and structural clay products manufacturing (Part 63, Subpart JJJJ)	68	3/yr	4	80
Clay ceramics manufacturing (Part 63, Subpart KKKKK)	8	1/yr	4	12
Industrial, Commercial, and Institutional Boilers and Process Heaters (Part 63, Subpart DDDDD)				2,360 (Revised EPA estimate) ^a
			Total	2,473

^a Number of major sources with boilers potentially subject to the MACT standard.

Table 2 Summary of Activities, Labor Hours, and Administrative Costs for Respondents					
Activity	Labor Hours per Occurrence (hr/occ)				Application Burden
	Management	Technical	Clerical	Total	
Wage Rate (\$/hr)	\$115.12	\$77.77	\$30.58		
A. Read applicable regulations to determine source applicability	0.5	1.0	0.0	1.5	1.5
Cost of A per occurrence	\$57.56	\$77.77	\$0.00	\$135.33	\$135.33
B. Collect basic information to fulfill 63.53(a)	0.0	1.0	0.0	1.0	1.0
Cost of B per occurrence	\$0.00	\$77.77	\$0.00	\$77.77	\$77.77
C. Prepare and submit Part 1 application	0.5	1.0	0.5	2.0	2.0
Cost of C per occurrence	\$57.56	\$77.77	\$15.29	\$150.62	\$150.62
D. File and maintain Part 1 application	0.0	0.0	0.2	0.2	0.2
Cost of D per occurrence	\$0.00	\$0.00	\$6.12	\$6.12	\$6.12
E. Collect information required by 63.53(b)(2)	0.0	4.0	0.0	4.0	4.0
Cost of E per occurrence	\$0.00	\$311.08	\$0.00	\$311.08	\$311.08
F. Fulfill any state or local requirements as set forth by 63.53(b)(2)(iii)	1.0	4.0	0.0	5.0	5.0
Cost of F per occurrence	\$115.12	\$311.08	\$0.00	\$426.20	\$426.20
G. Process, compile, and review Part 2 application for accuracy and appropriateness	1.0	8.0	2.0	11.0	11.0
Cost of G per occurrence	\$115.12	\$622.16	\$61.16	\$798.44	\$798.44
H. Prepare and submit Pt 2 App	1.0	4.0	2.0	7.0	7.0
Cost of H per occurrence	\$115.12	\$311.08	\$61.16	\$487.36	\$487.36
I. Store, file, and maintain application information	0.5	1.0	1.0	2.5	2.5
Cost of I per occurrence	\$57.56	\$77.77	\$30.58	\$165.91	\$165.91
J. Legal and consultant resources (1)				5.0	5.0
Cost of J per occurrence				\$500.00	\$500.00
K. Applicability determination request (1)	0.5	1	0.25	0.875	0.875
Cost of K per occurrence	\$57.56	\$77.77	\$7.65	\$71.49	\$71.49
L. Draft permit interaction	5.0	30.0	5.0	40.0	
Cost of L per occurrence	\$575.60	\$2,333.10	\$152.90	\$3,061.60	
M. Public hearing participation	5.0	5.0	0.0	10.0	
Cost of M per occurrence	\$575.60	\$388.85	\$0.00	\$964.45	
N. Store, file, and maintain permit	0.5	1.0	1.0	2.5	
Cost of N per occurrence	\$57.56	\$77.77	\$30.58	\$165.91	
Total Hours per Occurrence (hr/occ)	15.5	61.0	12.0	92.6	40.1
Total Cost per Occurrence (\$/occ)	\$1,784.36	\$4,743.97	\$365.43	\$7,322.27	\$3,130.31

(1) Totals reflect ½ of actual estimate to account for 50 percent of sources.

Table 3. Summary of Activities, Labor Hours, and Administrative Costs for S/L/T Agencies					
Activity	Labor Hours per Occurrence (hr/occ)				Application Burden
	Management	Technical	Clerical	Total	
Wage Rate (\$/hr)	53.91	53.65	29.88		
A. Answer respondents questions about submitting applications	0.0	0.2	0.0	0.2	0.2
Cost of A per occurrence	\$0.00	\$10.73	\$0.00	\$10.73	\$10.73
B. Review and file Part 1 applications	0.1	1.0	0.1	1.2	1.2
Cost of B per occurrence	\$5.39	\$53.65	\$2.99	\$62.03	\$62.03
C. Review Part 2 applications for technical completeness	0.0	4.0	0.0	4.0	4.0
Cost of C per occurrence	\$0.00	\$214.60	\$0.00	\$214.60	\$214.60
D. Analyze requests for confidentiality and provide protection	0.0	1.0	0.0	1.0	1.0
Cost of D per occurrence	\$0.00	\$53.65	\$0.00	\$53.65	\$53.65
E. Approve or disapprove application and notify respondents of decision	0.5	2.0	1.0	3.5	3.5
Cost of E per occurrence	\$26.96	\$107.30	\$29.88	\$164.14	\$164.14
F. Set emission limitations on a case-by-case basis	1.0	10.0	2.0	13.0	
Cost of F per occurrence	\$53.91	\$536.50	\$59.76	\$650.17	
G. Review/respond applicability determination request (1)	0.5	1	0.25	0.875	0.875
Cost of G per occurrence	\$26.96	\$53.65	\$7.47	\$44.04	\$44.04
H. Prepare draft permit	2.0	20.0	2.0	24.0	
Cost of H per occurrence	\$107.82	\$1,073.00	\$59.76	\$1,240.58	
I. Public hearing	5.0	5.0	1.0	11.0	
Cost of I per occurrence	\$269.55	\$268.25	\$29.88	\$567.68	
J. Interaction with EPA	2.0	5.0	0.0	7.0	2
Cost of J per occurrence	\$107.82	\$268.25	\$0.00	\$376.07	\$107.45
K. Analyze public comments	2.0	10.0	0.0	12.0	
Cost of K per occurrence	\$107.82	\$536.50	\$0.00	\$644.32	
L. Issue permit	0.5	2.0	1.0	3.5	
Cost of L per occurrence	\$26.96	\$107.30	\$29.88	\$164.14	
M. File and maintain permit	0.0	1.0	1.0	2.0	
Cost of M per occurrence	\$0.00	\$53.65	\$29.88	\$83.53	
Total Hours per Occurrence (hr/occ)	13.6	62.2	8.4	83.3	12.8
Total Cost per Occurrence (\$/occ)	\$733.18	\$3,337.03	\$249.50	\$4,275.67	\$656.63

(1) Totals reflect ½ of actual estimate to account for 50 percent of sources.

Table 4. Summary of Activities, Labor Hours, and Administrative Costs for the EPA					
Activity	Labor Hours per Occurrence (hr/occ)				Application Burden
	Management	Technical	Clerical	Total	
Wage Rate (\$/hr)	\$83.04	\$50.24	\$25.49		
A. Audit and review applications	0.1	0.2	0.1	0.4	0.4
Cost of A per Occurrence	\$8.30	\$10.05	\$2.55	\$20.90	\$20.90
B. Review draft permits	0.0	0.2	0.0	0.2	
Cost of B per Occurrence	\$0.00	\$10.05	\$0.00	\$10.05	
C. Interact with the permitting authority	2.0	5.0	0.0	7.0	2.0
Cost of C per Occurrence	\$166.08	\$251.20	\$0.00	\$417.28	\$119.22
D. Store, file, and maintain permit	0.5	1.0	1.0	2.5	
Cost of D per Occurrence	\$41.52	\$50.24	\$25.49	\$117.25	
Total Hours per Occurrence (hr/occ)	2.6	6.4	1.1	10.1	2.4
Total Cost per Occurrence (\$/occ)	\$215.90	\$321.54	\$28.04	\$565.48	\$140.12

Table 5. Administrative Burden and Cost Estimates for Respondents, State and Local Agencies, and the EPA

	Number of 112(j) Occurrences	Total Respondent Burden Hours (hr)	Total Respondent Costs	Total State/Local Burden Hours (hr)	Total State/Local Costs	Total EPA Burden Hours (a) (hr)	Total EPA Costs (a)	Total Burden Hours (hr)	112(j) Administrative Costs
Existing	2,473	229,000	\$18,107,974	206,001	\$10,573,732	2,497.7	\$139,843	437,498	\$28,821,549
New	100	9,260	\$732,227	8,330	\$427,567	101.0	\$5,655	17,691	\$1,165,449
3- Year Total	2,573	238,260	\$18,840,201	214,331	\$11,001,299	2,599	\$145,498	455,189	\$29,986,998
Annual Average	858	79,420	\$6,280,067	71,444	\$3,667,100	866	\$48,499	151,730	\$9,995,666
aEPA only reviews 10% of permit applications.									

Table 5a. Administrative Burden and Cost Estimates for Respondents, State and Local Agencies, and the EPA (Application Burden Only)

	Number of 112(j) Occurrences	Total Respondent Burden Hours (hr)	Total Respondent Costs	Total State/Local Burden Hours (hr)	Total State/Local Costs	Total EPA Burden Hours (a) (hr)	Total EPA Costs (a)	Total Burden Hours (hr)	112(j) Administrative Costs
Existing	2,473	99,167	\$7,741,257	31,654	\$1,623,846	593.5	\$34,652	131,415	\$9,399,754
New	100	4,010	\$313,031	1,280	\$65,663	24.0	\$1,401	5,314	\$380,095
3- Year Total	2,573	103,177	\$8,054,288	32,934	\$1,689,509	618	\$36,053	136,729	\$9,779,849
Annual Average	858	34,392	\$2,684,763	10,978	\$563,170	206	\$12,018	45,576	\$3,259,950
aEPA only reviews 10% of permit applications.									

Table 6. Bottom Line Burden and Cost Estimate for the Section 112(j) Program			
	Number of Respondents (a)	Total Hours Requested (hr)	Total Costs
3-Year Total	2,573	455,189	\$29,986,998
Annual Average	858	151,730	\$9,995,666
aNumber of Respondents consists of all existing sources affected by the section 112(j) program.			

Table 6a. Bottom Line Burden and Cost Estimate for the Section 112(j) Program (Application Burden Only)			
	Number of Respondents (a)	Total Hours Requested (hr)	Total Costs
3-Year Total	2,573	136,729	\$9,779,849
Annual Average	858	45,576	\$3,259,950
aNumber of Respondents consists of all existing sources affected by the section 112(j) program.			

Table 7. Comparison of Burden and Costs for Existing Sources for 2002 ICR and Current ICR						
Parameter	Unit	2002 ICR	Current ICR	Percent Difference	Application Burden Only	Percent Difference
Respondent Burden Hours per Occurrence	(hr/occ)	4.7	92.6	1870%	40.1	753%
State/Local Burden Hours per Occurrence	(hr/occ)	1.4	83.3	5850%	12.8	814%
EPA Burden Hours per Occurrence	(hr/occ)	0.6	10.1	1583%	2.4	300%
Total Hourly Wage Rate per Occurrence (Respondents)	(\$/hr)	55	70.1	27%	78.1	42%
Total Hourly Wage Rate per Occurrence (State/Local Agencies)	(\$/hr)	43	51.3	19%	51.3	19%
Total Hourly Wage Rate per Occurrence (EPA)	(\$/hr)	47	56.0	19%	58.4	24%
Respondent Cost per Occurrence	(\$/occ)	260	7,322	2716%	3130	1104%
State/Local Cost per Occurrence	(\$/occ)	61	4,276	6910%	657	977%
EPA Cost per Occurrence	(\$/occ)	24	565	2254%	140	483%
NOTE: Each occurrence is a combined Part 1 and Part 2 application.						