

**21.2 Price Eligibility**

\* \* \* \* \*

**21.2.2 Price Application**

Apply prices based on the criteria in 400 and the following standards:

*[Revise item 21.2.2a by deleting the reference to NFMs to read as follows:]*

a. Standard Mail parcels are based on the container level and entry (see 443.5.0.

\* \* \* \* \*

**21.3 Mail Preparation****21.3.1 Basic Standards**

Prepare combined mailings as follows:

a. Different parcel types must be prepared separately for combined parcel mailings as indicated below:

*[Revise item a1 through a4 by deleting the references to NFMs to read as follows:]*

1. Standard Mail, Parcel Select, and Package Services machinable parcels. Use “STD/PSVC MACH” for line 2 content labeling.

2. Standard Mail, Parcel Select, and Package Services irregular parcels at least 2 ounces and up to (but not including) 6 ounces, except for tubes, rolls, triangles, and other similarly irregularly-shaped pieces. Use “STD/PSVC” for line 2 content labeling.

3. Standard Mail, Parcel Select, and Package Services tubes, rolls, triangles, and similarly irregularly-shaped parcels; and all parcels weighing less than 2 ounces. Use “STD/PSVC IRREG” for line 2 content labeling.

4. Combine all parcel types in 5-digit and 5-digit scheme containers. Use “STD/PSVC PARCELS” for line 2 content labeling.

\* \* \* \* \*

*[Revise title of 21.3.2 to read as follows:]*

**21.3.2 Combining Standard Mail, Parcel Select, and Package Services Machinable Parcels**

\* \* \* \* \*

*[Revise title of 21.3.3 to read as follows:]*

**21.3.3 Combining Standard Mail, Parcel Select, and Package Services Apps-Machinable Parcels**

\* \* \* \* \*

*[Revise title of 21.3.4 to read as follows:]*

**21.3.4 Combining Standard Mail (Under 2 Ounces), Parcel Select, and Package Services Other Irregular Parcels**

\* \* \* \* \*

**23.0 Full-Service Automation Option**

\* \* \* \* \*

*[Revise the title of 23.2 as follows:]*

**23.2 General Eligibility Standards**

*[Renumber current 23.3 and 23.4 as new 23.4 and 23.5, and add new 23.3 as follows:]*

**23.3 Eligibility for Waiver of Annual Fees and Waiver of Deposit of Permit Imprint Mail Restrictions**

Mailers who present only full-service automation mailings (of First-Class Mail cards, letters, and flats, Standards Mail letters and flats, or Bound Printed Matter flats) that contain 90 percent or more pieces eligible for full-service automation prices are eligible for the following exceptions to standards:

a. The annual presort mailing or destination entry fees, as applicable, will be waived for qualified full-service mailings.

b. Mailers may present qualified full-service mailings with mailpieces bearing a current valid permit imprint for acceptance at any USPS acceptance office that has *PostalOne!* acceptance functions without payment of any additional permit imprint application or annual mailing fees.

c. If any mailing (of the classes and shapes of mail in 23.3) presented under a mailing permit does not contain at least 90 percent of the pieces qualifying for full-service automation prices:

1. The mailer must pay the applicable annual fee before that mailing may be accepted.

2. The provision in 23.3b for presentation of mailings at multiple offices is discontinued for all mailings presented under the applicable permit imprint.

\* \* \* \* \*

**707 Periodicals**

\* \* \* \* \*

**2.0 Price Application and Computation****2.1 Price Application**

\* \* \* \* \*

**2.1.2 Applying Outside-County Piece Prices**

\* \* \* Apply piece prices for Outside-County mail as follows:

\* \* \* \* \*

c. Nonmachinable flats:

\* \* \* \* \*

*[Revise item 2.1.2c2 as follows:]*

2. Apply the “Nonmachinable Flats—Nonbarcoded” prices to pieces that meet the standards for nonmachinable flats in 707.26 but do not include a barcode.

\* \* \* \* \*

**708 Technical Specifications**

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**6.0 Standards for Barcoded Tray Labels, Sack Labels, and Container Placards**

\* \* \* \* \*

**6.2 Specifications for Barcoded Tray and Sack Labels**

\* \* \* \* \*

**6.2.4 3-Digit Content Identifier Numbers**

\* \* \* \* \*

**Exhibit 6.2.4 3-Digit Content Identifier Numbers****CLASS AND MAILING CIN HUMAN-READABLE CONTENT LINE**

\* \* \* \* \*

**STANDARD MAIL**

*[Delete the following heading and the six rows beneath it in their entirety.]*

**STD Not Flat-Machinable Pieces Less Than 6 Ounces—Nonautomation**

*[Delete the following heading and the five rows beneath it in their entirety.]*

**STD Not Flat-Machinable Pieces 6 Ounces Or More—Nonautomation**

\* \* \* \* \*

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes if our proposal is adopted.

**Stanley F. Mires,**

*Attorney, Legal Policy & Legislative Advice.*

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**BILLING CODE 7710-P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 60**

[EPA-HQ-OAR-2010-0223; FRL-9482-5]

RIN 2060-AO60

**New Source Performance Standards (NSPS) Review**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Advanced notice of proposed rulemaking.

**SUMMARY:** The purpose of this advanced notice of proposed rulemaking (ANPRM) is to request public comment on a proposed approach the EPA has developed to carry out the statutorily required periodic evaluation of the new source performance standards (NSPS) program. Consistent with Executive

Order 13563, "Improving Regulation and Regulatory Review," issued on January 18, 2011, this proposed approach will provide a streamlined process to ensure that public and private resources are focused on the rules that provide the greatest public health protection and are most likely to warrant revision to include current technology and eliminate obsolete or unnecessary requirements. By demonstrating the continued efficacy of the standards, the agency will be able to fulfill its statutory requirement to review, and, if necessary, revise NSPS at a minimum of every 8 years. This ANPRM is part of the EPA's effort to meet these statutory obligations. The agency is seeking comment on the overall approach to managing the NSPS program, in particular the criteria used to determine that no review is needed for a subset of NSPS.

**DATES:** Comments must be received on or before November 23, 2011.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2010-0223. All documents in the docket are listed in the Federal Docket Management System index at <http://www.regulations.gov>. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the NSPS Review Under CAA Section 111(b)(1)(B) ANPRM Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-OAR-2010-0223. The U.S. Environmental Protection Agency's (EPA's) policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>,

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

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Public Reading Room.

**FOR FURTHER INFORMATION CONTACT:** Ms. Janice Godfrey, Policy and Strategies

Group, Office of Air Quality Planning and Standards (D205-02), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; *telephone number:* (919) 541-3391; *fax number:* (919) 541-4991; *e-mail address:* [godfrey.janice@epa.gov](mailto:godfrey.janice@epa.gov).

**SUPPLEMENTARY INFORMATION:** Outline. The information in this ANPRM is organized as follows:

- I. General Information
  - A. What should I consider as I prepare my comments for the EPA?
  - B. Where can I get a copy of this document and other related information?
- II. Background Information
  - A. What is the NSPS program?
  - B. What is the status of the NSPS program?
  - C. What is the purpose of this ANPRM?
- III. Developing an NSPS Evaluation Strategy
  - A. What are the goals of an evaluation strategy for the NSPS program?
  - B. Which NSPS do not need review?
  - C. NSPS Potentially in Need of a Review
- IV. Request for Comment and Next Steps
- V. Statutory and Executive Order Review

#### I. General Information

*A. What should I consider as I prepare my comments for the EPA?*

Please provide data and explanatory information in a format that is thorough and complete enough for use by the EPA to justify any modifications to the proposed approach. Do not submit CBI to the EPA through <http://www.regulations.gov> or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD-ROM that you mail to the EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

*B. Where can I get a copy of this document and other related information?*

In addition to being available in the docket, an electronic copy of this ANPRM will be available on the Worldwide Web through the Technology Transfer Network (TTN). The TTN provides information about various areas of air pollution control. Following signature, an electronic version of this document will be posted at <http://www.epa.gov/ttn/oarpg> under "Recent Additions."

The EPA has also created a technical support document (TSD) that provides supporting data and information for this ANPRM. The TSD will also be available in the docket and on the TTN at <http://www.epa.gov/ttn/oarpg> under "Recent Additions."

## II. Background Information

### A. What is the NSPS program?

Clean Air Act (CAA) section 111 requires the EPA Administrator to list categories of stationary sources if such sources cause or contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. The EPA must then issue NSPS for such source categories. NSPS reflect the degree of emission limitation achievable through the application of the "best system of emission reduction" which the EPA determines has been adequately demonstrated. The EPA may consider certain costs and non-air quality health and environmental impacts and energy requirements when establishing NSPS. For a NAAQS pollutant or a Hazardous Air Pollutant (one listed under 112), only new or modified or reconstructed stationary sources are regulated. For other regulated pollutants, section 111(d) also requires states to set standards for existing sources.

Under section 111(b), the EPA has the authority to define the source categories, determine the pollutants for which standards should be developed, identify the facilities within each source category to be covered, and set the emission level of the standards. Air pollutants currently regulated through

various CAA section 111(b) standards include particulate matter (PM, PM<sub>2.5</sub>, PM<sub>10</sub>), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), lead (Pb), volatile organic compounds (VOC), sulfur dioxide (SO<sub>2</sub>), sulfuric acid mist, fluorides, hydrogen sulfide, reduced sulfur compounds, total reduced sulfur, and landfill gas. CAA section 111(b)(1)(B) generally requires the EPA to "at least every 8 years review and, if appropriate, revise" NSPS. While conducting a review of existing NSPS, the EPA has also promulgated emission limits for pollutants not currently regulated for that source category and added additional affected facilities where appropriate. See, e.g., 75 FR 54970 (Sept. 9, 2010),<sup>1</sup> 73 FR 35883 (June 24, 2009).<sup>2</sup> In addition, section 111(b)(1)(B) also states that the EPA need not conduct this review if the EPA determines that reviewing an NSPS "is not appropriate in light of readily available information on the efficacy of such standard."

In setting or revising NSPS, CAA section 111(a)(1) provides that NSPS are to "reflect the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any non-air quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated." The format of NSPS can vary from source category to source category (and even from facility type to facility type within an NSPS) including a numerical emission limit, a design standard, an equipment standard, or a work practice standard. In determining the best system of emission reduction, we typically conduct a review that identifies what emission reduction systems exist and how much they reduce air pollution in practice. This

<sup>1</sup> EPA promulgated emission limits for nitrogen oxides and sulfur dioxide to the NSPS for Portland Cement plants which had previously only regulated particulate matter emissions.

<sup>2</sup> In this rulemaking, EPA extended the coverage of the NSPS program to include additional affected facilities (e.g., delayed coking units) at a petroleum refinery.

allows the EPA to identify potential emission limits. We evaluate each system in conjunction with cost of achieving such reduction and any non-air quality health and environmental impact and energy requirements. The resultant standard is usually a numerical emissions limit, expressed as a performance level (i.e., a rate-based standard or percent control). Although such standards are based on the effectiveness of one or more specific air pollution control systems, section 111(b)(5) provides that the EPA may not prescribe a particular technology that must be used to comply with an NSPS, except in instances where the Administrator determines it is not feasible to prescribe or enforce a standard of performance, as defined in section 111(h). Upon promulgation, NSPS become national standards to which all new, modified, or reconstructed sources must comply.

### B. What is the status of the NSPS program?

Since December 23, 1971, the Administrator has promulgated over 70 NSPS. These standards can be found in the Code of Federal Regulations (CFR) at 40 CFR part 60. A list of all NSPS promulgated under the authority of CAA 111(b)(1)(B) is provided in Table 1, which includes the promulgation date of the original standards and information on the most recent activity. Not all **Federal Register** actions indicate a review of the standard. In many cases the most recent action includes only minor amendments. For example, on October 17, 2000, EPA made final minor amendments to numerous NSPS to include miscellaneous editorial changes and technical corrections to stationary testing and monitoring rules. See 65FR61768 through 65FR61792. Seventeen standards have been promulgated or revised within the last 8 years. In addition to those standards that are current within their review cycle, there are also multiple standards in different phases of the review process, including some standards that are in various stages of the litigation process.

TABLE 1—LIST OF CAA § 111(b)(1)(B)NSPS<sup>3</sup>

NSPS	Subpart	Date of promulgation (FR citation)	Date of most recent action (FR citation) <sup>4</sup>
Ammonium Sulfate Manufacture .....	PP	11/12/1980 (45FR74846)	10/17/2000 <sup>5 6</sup> (65FR61760)
Asphalt Concrete (Hot Mix Asphalt) .....	I	03/08/1974	02/14/1989 <sup>4</sup> (54FR6667)
Asphalt Processing and Roofing Manufacture .....	UU	08/06/1982 (47FR34147)	10/17/2000 <sup>3 4</sup> (65FR61762)
Auto/Light Duty Truck Surface Coating .....	MM	12/24/1980 (45FR85410)	10/17/2000 <sup>3 4</sup> (65FR61760)
Basic Oxygen Process Furnaces .....	N	03/08/1974 (39FR9318)	10/17/2000 <sup>3 4</sup> (65FR61756)
Basic Process Steelmak- ing Facilities (Integrated Steel Plants) .....	Na	01/02/1986 (51FR161)	10/17/2000 <sup>3 4</sup> (65FR61756)
Beverage Can Surface Coating .....	WW	08/25/1983 (48FR38728)	10/17/2000 <sup>3 4</sup> (65FR61763)
Bulk Gasoline Terminals .....	XX	08/18/1983 (48FR37578)	12/19/2003 (68FR70965)
Calciners and Dryers in Mineral Industries .....	UUU	09/28/1992 (57FR44496)	10/17/2000 <sup>3 4</sup> (65FR61778)
Coal Prep Plants .....	Y	01/15/1976 (41FR2234)	10/08/2009 (74FR51977)
Electric Utility Steam Generating Units <sup>7</sup> .....	Da	06/11/1979 (44FR33581)	01/28/2009 <sup>4</sup> (74FR5078)
Ferroalloy Production Facilities .....	Z	05/04/1976 (41FR18501)	10/17/2000 <sup>3 4</sup> (65FR61758)
Flexible Vinyl/Urethane Coating and Printing .....	FFF	06/29/1984 (49FR26885)	10/17/2000 <sup>3 4</sup> (65FR61768)
Fossil-Fuel Fired Steam Generators <sup>4</sup> .....	D	12/12/1971	01/28/2009 <sup>3 4</sup> (74FR5078)
Glass Manufacturing .....	CC	10/07/1980 (45FR66742)	10/17/2000 <sup>3 4</sup> (65FR61759)
Grain Elevators .....	DD	08/03/1978 (43FR34347)	10/17/2000 <sup>3 4</sup> (65FR61759)
Graphic Arts Industry/Publication Rotogravure Printing .....	QQ	11/08/1982 (47FR50644)	04/09/2004 <sup>4</sup> (69FR18803)
Industrial, Commercial, Institutional Steam Generating Units ...	Db	11/25/1986 (51FR42768)	01/28/2009 <sup>4</sup> (74FR5084)
Kraft Pulp Mills .....	BB	02/23/1978 (43FR7568)	09/21/2006 <sup>4</sup> (71FR55127)
Large Appliances Surface Coating .....	SS	10/27/1982 (47FR47778)	10/17/2000 <sup>3 4</sup> (65FR61761)
Lead Acid Batteries .....	KK	04/16/1982 (47FR16564)	10/17/2000 <sup>3 4</sup> (65FR61760)
Lime Manufacturing .....	HH	03/07/1978	10/17/2000 <sup>3 4</sup> (65FR61760)
Magnetic Tape Coating Facilities .....	SSS	10/03/1988 (53FR38892)	02/12/1999 (64FR7467)
Metal Coil Surface Coating .....	TT	11/01/1982 (47FR49606)	10/17/2000 <sup>3 4</sup> (65FR61761)
Metal Furniture Surface Coating .....	EE	10/29/1982 (47FR49278)	10/17/2000 <sup>3 4</sup> (65FR61759)
Metallic Mineral Processing Plants .....	LL	02/21/1984 (49FR6458)	10/17/2000 <sup>3 4</sup> (65FR61760)
Municipal Solid Waste Landfills .....	WWW	03/12/1996 (60FR9905)	09/21/2006 (71FR55127)
New Residential Wood Heaters .....	AAA	08/02/1985 (50FR31504)	10/17/2000 <sup>3 4</sup> (65FR61764)
Nitric Acid Plants .....	G	12/23/1971	02/14/1989 <sup>4</sup> (54FR6666)
Nonmetallic Mineral Processing Plants .....	OOO	08/01/1985 (50FR31328)	04/28/2009 (74FR19309)
Onshore Natural Gas Processing Plants—Equipment Leaks ...	KKK	06/24/1985 (50FR26122)	10/17/2000 <sup>3 4</sup> (65FR61773)
Onshore Natural Gas Processing: SO <sub>2</sub> Emissions .....	LLL	10/01/1985 (50FR40158)	10/17/2000 <sup>3 4</sup> (65FR61773)
Petroleum Dry Cleaners .....	JJJ	09/21/1984 (49FR37331)	10/17/2000 <sup>3 4</sup> (65FR61773)
Petroleum Refineries .....	J	03/08/1974 (39FR9308)	06/24/2008 (73FR35865)
Petroleum Refineries .....	Ja	06/24/2008 (73FR35867)	12/22/2008 <sup>4</sup> (73FR78552) (Stay)
Phosphate Fertilizers—Diammonium Phosphate Plants .....	V	08/06/1975 (40FR33155)	10/17/2000 <sup>3 4</sup> (65FR61757)
Phosphate Fertilizers—Granular Triple Superphosphate Stor- age Facilities.	X	08/06/1975 (40FR33156)	10/17/2000 <sup>3 4</sup> (65FR61757)
Phosphate Fertilizers—Superphosphoric Acid Plants .....	U	08/06/1975 (40FR33155)	10/17/2000 <sup>3 4</sup> (65FR61757)
Phosphate Fertilizers—Triple Superphosphate Plants .....	W	08/06/1975 (40FR33156)	10/17/2000 <sup>3 4</sup> (65FR61757)
Phosphate Fertilizers—Wet-Process Phosphoric Acid Plants ...	T	08/06/1975 (40FR33154)	10/17/2000 <sup>3 4</sup> (65FR61757)
Phosphate Rock Plants .....	NN	04/16/1982 (47FR16589)	10/17/2000 <sup>3 4</sup> (65FR61760)
Polymeric Coating of Supporting Substrates .....	VVV	09/11/1989 (54FR37551)	
Polymers Manufacturing Industry .....	DDD	12/11/1990 (55FR51035)	12/14/2000 (65FR78278)
Portland Cement .....	F	12/23/1971 (36FR24877)	08/09/2010 (75FR54970)
Pressure Sensitive Tape and Label Surface Coating Oper- ations.	RR	10/18/1983 (48FR48375)	10/17/2000 <sup>3 4</sup> (65FR61761)
Primary Aluminum Reduction Plants .....	S	01/26/1976 (41FR3826)	10/17/2000 <sup>3 4</sup> (65FR61757)
Primary Copper Smelters .....	P	01/15/1976 (41FR2338)	10/17/2000 <sup>3 4</sup> (65FR61756)
Primary Lead Smelters .....	R	01/15/1976 (41FR2340)	02/14/1989 <sup>4</sup> (54FR6668)
Primary Zinc Smelters .....	Q	01/15/1976 (41FR2340)	02/14/1989 <sup>4</sup> (54FR6668)
Refineries: Equipment Leaks .....	GGG	05/30/1984 (49FR22606)	06/02/2008 <sup>4</sup> (73FR31376)
Refineries: Wastewater .....	QQQ	11/23/1988 (53FR47623)	10/17/2000 <sup>3 4</sup> (65FR61778)
Rubber Tire Manufacturing .....	BBB	09/15/1987 (52FR34874)	10/17/2000 <sup>3 4</sup> (65FR61765)
Secondary Brass and Bronze Production Plants .....	M	03/08/1974 (39FR9318)	10/17/2000 <sup>3 4</sup> (65FR61756)
Secondary Lead Smelters .....	L	03/08/1974 (39FR9317)	10/17/2000 <sup>3 4</sup> (65FR61756)
Small Industrial, Commercial, Institutional Steam Generating Units.	Dc	09/12/1990 (55FR37674)	01/28/2009 (74FR5091)
SOCMI Air Ox Unit Processes .....	III	06/29/1990 (55FR 26922)	12/14/2000 (65FR78278)
SOCMI Distillation .....	NNN	06/29/1990 (55FR 26942)	12/14/2000 (65FR78279)
SOCMI Equipment Leaks .....	VV	01/18/1983 (48FR48335)	06/02/2008 <sup>4</sup> (73FR31375) (Stay)
SOCMI Reactor Processes .....	RRR	08/31/1993 (58FR45962)	12/14/2000 (65FR78279)
Stationary Combustion Turbines .....	KKKK	06/06/2006 (71FR38497)	3/20/2009 <sup>4</sup> (74FR11858)
Stationary Compression Ignition Internal Combustion Engines	IIII	7/11/2006 (71FR39172)	06/08/2011 (75FR32612)
Stationary Gas Turbines .....	GG	09/10/1979 (44FR 52798)	02/24/2006 <sup>4</sup> (71FR9458)
Stationary Spark Ignition Internal Combustion Engines .....	JJJJ	01/18/2008 (73FR 3591)	06/08/2011 (75FR32612)
Steel Plants: Electric Arc Furnaces .....	AA	09/23/1975 (40FR43850)	02/22/2005 (70FR8532)
Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels.	AAa	10/31/1984 (49FR43845)	02/22/2005 (70FR8533)
Sulfuric Acid Plants .....	H	12/23/1971 (36FR24877)	02/14/1989 (54FR6666)

TABLE 1—LIST OF CAA § 111(b)(1)(B)NSPS<sup>3</sup>—Continued

NSPS	Subpart	Date of promulgation (FR citation)	Date of most recent action (FR citation) <sup>4</sup>
Surface Coating of Plastic Parts for Business Machines .....	TTT	01/29/1988 (53FR2676)	10/17/2000 <sup>3 4</sup> (65FR61778)
Synthetic Fibers .....	H HH	04/05/1984 (49FR13651)	10/17/2000 <sup>3 4</sup> (65FR61768)
Volatile Organic Liquid Storage Vessels <sup>8</sup> .....	Ka	04/04/1980 (45FR23379)	12/14/2000 (65FR78275)
Volatile Organic Liquid Storage Vessels (incl. Petroleum Liquid Storage Vessels).	Kb	04/08/1987 (52FR11429)	10/15/2003 <sup>4</sup> (68FR 59333)
Wool Fiberglass Insulation Manufacturing Plants .....	PPP	02/25/1985 (50FR7699)	10/17/2000 <sup>3 4</sup> (65FR61778)

### C. What is the purpose of this ANPRM?

The purpose of this ANPRM is to request public comment on a strategy for focusing reviews of the NSPS so as to maximize the public health and welfare benefits while ensuring that the resources of stakeholders, state and local agencies, and the federal government are used most efficiently and effectively. As part of this strategy, we are proposing criteria that would be used to assess whether review of a particular NSPS is necessary during the review cycle. A listing of any NSPS for which we recommend not reviewing the standard based on these criteria (after considering comments to this ANPRM) will be published in the **Federal Register** for public comment. Subsequent to this ANPRM, all NSPS for which no review is warranted will be addressed with detailed technical information in a rulemaking proposal which will provide a further opportunity for public comment.

If, after review of the public comments, EPA determines there is sufficient evidence that a full review of a standard is warranted, EPA would withdraw its no review conclusion for that standard. Otherwise by having demonstrated the continued effectiveness of an NSPS, the agency

will have fulfilled its statutory obligations under 111(b) with respect to the 8-year review requirement for that standard.

In addition to fulfilling the mandate in CAA section 111(b)(1)(B), this process is also responsive to Executive Order 13563, “Improving Regulation and Regulatory Review,” issued on January 18, 2011, which directs each federal agency to “periodically review its existing significant regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency’s regulatory program more effective or less burdensome in achieving the regulatory objectives.” The EPA’s proposed approach will allow this process to be made more efficient, so that both public and private resources can be focused where it makes the most sense. This strategy will reduce the resource burden to the government and stakeholders by eliminating the need for costly and time consuming reviews of certain standards, which are not expected to result in any environmental benefits. By determining which NSPS are not in need of review, the agency can then focus its resources on the remaining NSPS that are in need of revision (or at least a closer review to determine if revision is needed). This ANPRM is seeking comment on this proposed process and on the appropriateness of the proposed criteria for making a finding that a current NSPS does not need review, and the application of those criteria in this evaluation of the NSPS program. Additionally, this ANPRM is seeking comment on pertinent factors for the prioritization of NSPS to be reviewed, and potentially revised.

### III. Developing an NSPS Evaluation Strategy

#### A. What are the goals of an evaluation strategy for the NSPS program?

The primary goal of the NSPS strategy is to assist the agency in fulfilling our statutory obligations in a streamlined process that ensures both public and private resources are focused on the rules that provide the greatest

improvement in air quality, health and welfare benefits and are most likely to warrant review and revision to include current technology and eliminate obsolete or unnecessary requirements. At the same time, this focus on NSPS where greatest emission reductions can be achieved promotes better use of resources for industry, government agencies, environmental organizations, and all other stakeholders and participants in the regulatory review process. Additionally, in some instances, sources remain well controlled through other CAA programs, such as the national emission standards for hazardous air pollutants (NESHAP), that have provided similar, if not more stringent, regulations than what would be required through the revision of existing NSPS or implementation of new NSPS. We are also aware that, in some instances, an evaluation of NSPS may show the current requirements of the standard continue to meet the statutory requirements, and no review is required.

To optimize the air quality, health and welfare benefits of the NSPS program, the EPA is proposing to prioritize NSPS reviews such that those NSPS likely to bring about greater benefits to public health and welfare through air quality improvements, including environmental justice considerations, are reviewed first. This prioritization is being done with consideration of multiple pollutants and processes, and synchronization of regulatory efforts as the primary driver, allowing the EPA to seek opportunities for increased air quality, health and welfare benefits, and greater administrative efficiency.

#### B. Which NSPS do not need review?

1. What is the EPA’s authority in determining whether to review NSPS?

As described previously, CAA section 111(b) (1) (B) requires the agency to review and, if appropriate, revise NSPS “at least every 8 years”. Section 111(b) (1) (B) also gives the EPA authority to determine that reviewing an NSPS “is not appropriate in light of readily available information on the efficacy of

<sup>3</sup> Table only includes NSPS promulgated under the authority of CAA § 111(b) (1) (B), and does not include standards promulgated under the authority of CAA § 129 or § 111(d).

<sup>4</sup> “Date of Most Recent Action” refers to the most recently dated **Federal Register** action affecting the referenced Subpart as referenced in the electronic Code of Federal Regulations (<http://www.gpoaccess.gov/cfr/>).

<sup>5</sup> On October 17, 2000 (65FR61743), EPA made editorial and technical changes to test method and continuous emission modeling system (CEMS) performance specification requirements for Part 60 and other regulations. This included organizational changes and the promulgation of Performance Specification 15, for Fourier Transform Infrared (FTIR) CEMS.

<sup>6</sup> Action was only minor amendment and not a full review of the standard.

<sup>7</sup> Subpart D was superseded by subpart Da and, thus, will not be reviewed or revised as all subpart D units that modify or reconstruct would be subject to subpart Da.

<sup>8</sup> Subpart K was superseded by subpart Ka and, thus, will not be reviewed or revised as all subpart K units that modify or reconstruct would be subject to subpart Ka.

such standard." In most instances, the EPA has met the requirement of this section solely through formal review and revision (when deemed appropriate) of standards.

We note that the majority of NSPS will be reviewed and considered for revision, as there are likely potential process improvements and technology advances that would alter the best system of emission reduction. In addition, a regular evaluation gives the EPA and the public the opportunity to consider whether requirements of a particular NSPS are outmoded or no longer necessary. However, there are some NSPS where currently available information indicates that there are no potential gains to public health and welfare from a review of the NSPS. When the continued efficacy of a standard is demonstrated, the agency believes that using its authority to not devote resources to a rulemaking in these cases should also be considered as an option. All NSPS, including those that we determined do not need review, will be subject to continual evaluation cycles, at least every 8 years. This ANPRM presents three independent criteria that the agency believes can be used to demonstrate that review of NSPS would not provide emission reductions and associated air quality, health and welfare benefits.

## 2. What are the criteria we believe are appropriate for determining the continued efficacy of NSPS?

We have identified three criteria that we have determined are appropriate to determine that review of existing NSPS would not result in any health and welfare benefits, and, thus, should not be reviewed in the current review cycle. For this programmatic evaluation, we believe that in most cases NSPS that meet any one of these criteria do not need to be reviewed. However, several possible conditions exist where a review might be appropriate, even if one or more of the criteria described above are met. For instance, if there are emissions units not addressed by the existing NSPS, or if there has been stakeholder interest (*e.g.*, environmental justice concerns) in updating an NSPS, then additional deliberation would be necessary before a decision not to review NSPS could be made.

The first criterion focuses on the existence of updated or new control technology, which is used to inform a decision on the potential improvement in air quality or health and welfare benefits. We address the criterion with the following questions: Have there been advances in control technologies, process operations, design or efficiency

improvements, or other factors that would lead to selection of a more stringent best system of emission reduction? Are there available controls for pollutants or emission sources that were previously uncontrolled? If available information on control technology indicates that review of the standard would not result in more stringent emission limits or no greater level of control, and would not provide improvements in air quality and health and welfare benefits, such standard would be listed as a potential candidate for no review.

There are certain source categories for which the information available from national databases (*e.g.*, the National Emissions Inventory), publicly available data, the EPA's interaction with stakeholders from industries, environmental organizations, state, local, and Tribal governments on other rulemakings provides a strong technical basis to assess the availability and economic feasibility of employing new control technologies, or design or efficiency improvements that could result in a revised best system of emission reduction determination. As an example, information developed under the CAA section 112 air toxics program provides a significant amount of information on control technologies and pollution control measures for stationary sources.

We specifically request comment on this criterion and the level of certainty required in making a finding that no review is needed based upon an evaluation of readily available information that indicates no greater level of control would be expected at the conclusion of an evaluation under this criterion.

The second criterion considers whether we anticipate any new, modified, or reconstructed sources within a source category, which would trigger applicability under the NSPS in question over the next 8 years. The predicted growth rate of an industry is used as an indicator of satisfying this criterion to the extent that no new, modified, or reconstructed sources are anticipated over the next 8 years. It is possible to have a predicted negative growth rate, and still trigger NSPS applicability through modification or construction of new sources at a rate less than the closure rate of existing facilities. Some of the source categories covered by the NSPS represent very mature industries for which there is currently no growth, and this trend has existed for numerous years. For example, industries that rely on metal and mineral raw materials have tended to move out of the country to be closer

to the sources of the raw materials. Copper mines in the U.S. have closed while new mines have opened in South America where there is greater access to raw materials. In other industries there have historically been multiple processes used to make some products, but cost, efficiency, and other forces have reduced the variety of processes in use. The result of these trends may be that NSPS address emission sources which are no longer in use, technology is outdated, and which likely will not be used in the future. Some other source categories include industries whose primary product has been superseded by a substitute product which serves the same purpose, but is produced using an entirely different process (*e.g.*, optical storage media as a substitute for magnetic tape) and as a result there are no expected new facilities or modifications of existing facilities. If this criterion were met, the rule would remain in effect for the remainder of the review cycle in the event that sources no longer in operation were to begin operation again.

The agency is requesting comment on the appropriateness of this second criterion. Specifically, we request comment on the level of certainty required in making a finding that no review is needed based on the expectation that no new sources are to be constructed, reconstructed or modified in the source category within the current 8 year review cycle.

The third criterion that may support a finding that review is not necessary is the existence of other regulatory programs that are applicable to the same pollutants (either directly or as surrogates) and emission sources as the NSPS, such that a revision of the NSPS would result in best system of emission reduction requirements that are no more stringent than another applicable CAA requirement. When evaluating a standard by this criterion, we will also ensure that no inconsistencies or conflicts exist with these other rules. The intent of this criterion is to avoid reviewing NSPS to adopt more stringent emission limitations that are already being achieved by another regulation, and, thus, providing no or limited actual additional health and welfare benefit while redirecting resources from revision of standards where there are potential significant emission decreases.

For example, the air toxics program implemented under CAA section 112(d) includes standards for major sources of toxic air pollutants based on Maximum Achievable Control Technology (MACT). Although the CAA section 112(d) program regulates air toxics, rules under the program sometimes

regulate the air toxics through the use of surrogates, such as criteria pollutants (PM and VOC). Section 112 establishes a minimum baseline or “MACT floor” for standards, which, for existing sources in categories or subcategories with 30 or more sources, is based on the average emission limitation achieved by the best performing 12 percent of existing sources. For new sources, the standards for a source category or subcategory cannot be less stringent than the emission control that is achieved in practice by the best controlled similar sources, as determined by the Administrator (CAA section 112(d)(3)). The MACT floors form the least stringent regulatory option the EPA may consider in the determination of MACT standards under section 112(d) for a source category. The EPA must also determine whether to control emissions “beyond-the-floor,” after considering the costs, non-air quality health and environmental impacts, and energy requirements of such more stringent control (CAA section 112(d) (2)).

MACT for new sources is the most stringent level of control identified under CAA section 112(d). Therefore, where the EPA regulated air toxics through regulation of criteria pollutants as surrogates for the toxic pollutant(s), it would be expected in most cases that the level of the MACT standard would reflect a level that would meet or exceed the best system of emission reduction when the same pollutants are covered. Therefore, where the MACT and NSPS have comparable applicability (e.g., covers the same emission sources and effectively controls the same pollutants), the MACT would in many cases accomplish emissions reductions that would be equivalent to or greater than those achieved by a revised NSPS. In such cases, even if new facilities are constructed, the MACT would serve to achieve the level of control that would otherwise be achieved through updating the NSPS through the review process. Under CAA section 112(d) (6), the MACT standards are also subject to technology reviews every 8 years.

Another potential consideration for applying this criterion is the potential interaction with other CAA programs such as Best Available Control Technology (BACT) requirements for New Source Review (NSR). The CAA and corresponding implementing regulations require that a permitting authority conduct a BACT analysis on a case-by-case basis, and the permitting authority must evaluate the amount of emissions reductions that each available emissions-reducing technology or technique would achieve, as well as the energy, environmental, economic and other costs associated with each technology or technique. Based on this assessment, the permitting authority must establish a numeric emissions limitation that reflects the maximum degree of reduction achievable for each pollutant subject to BACT through the application of the selected technology or technique. BACT requirements must be at least as stringent as the best system of emission reduction set by the NSPS.

The agency is requesting comment on the appropriateness of this third criterion. Although we are taking the position that this criterion is sufficient to make a finding that no review is needed, we solicit comment on whether interaction with other CAA requirements would make source categories meeting this criterion more appropriate for a streamlined review that incorporates the level of control achieved by the MACT into the NSPS, rather than a no review determination. We also solicit comment on how interaction with the CAA’s NSR programs (including the BACT, offset and netting regulations) should be accounted for in developing and implementing this criterion.

In addition to the three detailed criteria, several possible conditions exist where a review might be appropriate, even if one or more of the criteria described above are met. For instance, if there are emissions units not addressed by the existing NSPS, or if there has been stakeholder interest (e.g., environmental justice concerns) in updating an NSPS, then additional deliberation would be necessary before

a decision not to review NSPS could be made. In addition, if there are pollutants that are not currently regulated by an NSPS, but which the agency believes should be, we would likely take the opportunity to review the existing standards to see if they should be updated at the same time. If the NSPS is outdated, or could be made less burdensome without lessening the public health protection it provides, or conflicts with another applicable requirement, review might well be appropriate. These conditions have been considered in addition to a standard’s ability to meet one or more of the three criteria as the agency developed the NSPS evaluation. In instances where one of the above conditions indicated the need for further consideration, those NSPS would be recommended to undergo a traditional review, with subsequent potential revision.

In addition to taking comment on the general approach described in this ANPRM, we also request comment on the following: (1) Are the three criteria appropriate for determining whether NSPS should be reviewed, (2) are there additional criteria that should be used to make a finding that NSPS remains efficacious and, therefore, review of the standard is not needed, and (3) are there different criteria that should be used. In judging the appropriateness of criteria, commenters should also consider Executive Order 13563, which calls for periodic review of regulations “to make the agency’s regulatory program more effective or less burdensome in achieving the regulatory objectives.”

3. How many NSPS are potentially not in need of review?

Of the NSPS requiring periodic review, the majority of NSPS would be subject to review and potential revision, and would not meet the criteria for establishing no review as defined in this document. However, using the criteria outlined in this ANPRM, the agency has identified a limited number of NSPS as potential candidates to not undergo review. These NSPS are listed in Table 2 along with the applicable criteria.

TABLE 2—NSPS POTENTIALLY MEETING CRITERIA TO NOT BE REVIEWED BASED ON CAA 111(B)(1)(B) AUTHORITY

Subpart	NSPS	No review criteria		
		Level of control in current standard remains appropriate	No expected applicability of NSPS (No new/modified/reconstructed sources)	Equivalent/more stringent requirements in other CAA actions
P .....	Primary Copper Smelters .....	X	X	X
Q .....	Primary Zinc Smelters .....	X	X	X
T .....	Phosphate Fertilizers—Wet-Process Phosphoric Acid Plants .....			X

TABLE 2—NSPS POTENTIALLY MEETING CRITERIA TO NOT BE REVIEWED BASED ON CAA 111(B)(1)(B) AUTHORITY—Continued

Subpart	NSPS	No review criteria		
		Level of control in current standard remains appropriate	No expected applicability of NSPS (No new/modified/reconstructed sources)	Equivalent/more stringent requirements in other CAA actions
U	Phosphate Fertilizers—Super Phosphoric Acid Plants			X
V	Phosphate Fertilizers—Diammonium Phosphate Plants			X
W	Phosphate Fertilizers—Triple Superphosphate Plants		X	X
X	Phosphate Fertilizers—Granular Triple Superphosphate Storage Facilities.		X	X
EE	Metal Furniture Surface Coating		X	
MM	Auto/Light Duty Truck Surface Coating			X
NN	Phosphate Rock Plants	X	X	
QQ	Graphic Arts Industry/Publication Rotogravure Printing			X
BBB	Rubber Tire Manufacturing			X
HHH	Synthetic Fibers	X		
SSS	Magnetic Tape Coating Facilities		X	

We are requesting comment on the list of NSPS provided in Table 2 as potentially not in need of review. Specifically, we are soliciting comment on the appropriateness of NSPS not undergoing review based on the criteria indicated in Table 2. We are also soliciting comment on any additional NSPS that should be considered as potentially not in need of review based on the criteria provided in this document. For example, the following three NSPS may meet the third criterion that revision of the NSPS would result in best system of emission reduction requirements that are no more stringent than another applicable CAA requirement (i.e., NESHAP). However, a more detailed assessment would be necessary to ensure that the emission points covered by the other regulatory programs are comparable to those covered by the NSPS:

- Large Appliances Surface Coating, Subpart SS
- Flexible Vinyl/Urethane Coating and Printing, Subpart FFF
- Surface Coating of Plastic Parts for Business Machines, Subpart TTT

EPA is soliciting comments as to the extent to which the NESHAP sufficiently covers the above NSPS categories.

4. What are examples of how the no review criteria would be applied to NSPS categories?

Evaluation of NSPS categories for which no review is recommended may be influenced by comments received regarding the criteria as discussed in this document. However, we present as examples three NSPS categories that meet one or more of the criteria for which we believe, based on a

preliminary evaluation, review of the standards is not necessary. These three categories are described below, along with a brief description of the reasons for their selection. A more detailed description of these three examples, including the rationale for recommending no review, is provided in the TSD. All NSPS for which no review is recommended, including the three examples presented in this ANPRM, will be presented, with detailed technical supporting documentation, in a proposal following this ANPRM and will have further and full opportunity for public comment.

a. Primary Zinc Smelters NSPS Example

Primary Zinc Smelters is a source category for which currently available information indicates that there is no need at this time for review of the NSPS (40 CFR 60 subpart Q). Following an evaluation of the currently available technologies (i.e., double-absorption on sulfuric acid plant), we believe that a revised standard would not result in a more stringent level of control because no new control technologies, or design or efficiency improvements exist that would result in more stringent requirements.<sup>9</sup> We do not find the current requirements of the rule to be outmoded or unnecessarily burdensome. We also do not expect any applicability of the standard over the next 8 years as no new, modified, or reconstructed facilities subject to the

<sup>9</sup>The criterion that no new control technology exists that would result in more stringent requirements can be met when there is no new technology in existence at all or when there is no new technology that provides more effective controls. In the case of Primary Zinc smelters both conditions are met.

NSPS are expected, due to changes in the types of processes typically used (i.e., there have been no new facilities since 1974, and only one facility remains in operation). Furthermore, this category meets the criterion presented in this document that another CAA requirement would apply to any new, modified, or reconstructed facility with provisions that are effectively as stringent as what would likely be considered the best system of emission reduction under NSPS review. Specifically, in complying with the NESHAP (40 CFR part 63, subpart GGGGGG), the source must use control technologies that provide equal or more stringent SO<sub>2</sub>, PM, and opacity requirements than would result from revisions to the NSPS for both roaster and sinter processes. The agency believes that the Primary Zinc Smelters NSPS (subpart Q) meets all three of the criteria to not review a standard as described in this document. Therefore, the current standard would remain in effect until the next review cycle.

b. Magnetic Tape Production Operations NSPS Example

The second example of an NSPS category for which currently available information indicates that there is no need at this time for review of the NSPS is Magnetic Tape Production Operations (40 CFR 60 subpart SSS), consisting of coating and mixing operations at affected facilities. The agency concluded this because this industry has been in continual decline for over 20 years. As a result, there is no growth anticipated in the industry over the next 8 years, and there are no anticipated new sources, reconstructions, or modifications that would trigger NSPS



applicability. Consumer preferences and technology have changed such that the primary product of this industry has been superseded by a substitute product(s) which serves the same purpose, but is produced using an entirely different process (i.e., optical storage media). On this basis, we believe that there would be no emission reductions and associated air quality and health and welfare benefits in reviewing the best system of emission reduction for the magnetic tape production operations NSPS category. The new process for manufacturing optical storage media (e.g., compact disks) is assessed under the NESHAP for Surface Coating of Plastic Parts and Products (40 CFR part 63 subpart PPPP). Therefore, the current rule would remain in effect for the remainder of the review cycle. In subsequent NSPS reviews, the EPA would consider whether rescinding the rule permanently is an appropriate action in accordance with E.O. 13563.

#### c. Graphic Arts Industry/Publication Rotogravure Printing NSPS Example

The third example of an NSPS category for which currently available information indicates that there is no need at this time for review of the applicable NSPS is Graphic Arts Industry/Publication Rotogravure Printing (40 CFR part 60 subpart QQ). In accordance with criterion 3, the NESHAP (40 CFR part 63 subpart KK) for Printing and Publishing is significantly more stringent than the NSPS under subpart QQ. The NESHAP recently went through the EPA's Risk and Technology Review (RTR) process and no additional technology standards were adopted pursuant to CAA section 112(d)(6). Only two new facilities have been built in the past 15 years since the NESHAP was promulgated in 1996. Both of these facilities placed their presses in permanent total enclosures using carbon absorbers to achieve very efficient solvent recovery. As part of the EPA's RTR, it was determined that no new advancements in practices, processes or control technologies beyond those in place at the two new facilities were identified. The BACT level control at the two new facilities is representative of current industry practice and is state of the art technology, and a revised best system of emission reduction for the solvent recovery practice listed in the NSPS would not be more stringent. Under criterion 2, there has been almost no growth in the industry in the past decade. The number of publication rotogravure printing facilities has declined from 27 to under 20 in the last 10 years. Only two facilities have been

built in the last 15 years. No new facilities are anticipated during the next 8 year review cycle. Therefore, we do not expect applicability of the NSPS in the foreseeable future. Therefore, we believe no additional emission reductions would be achieved from a revision to the current standard. Thus the agency believes that the Publication Rotogravure Printing NSPS (subpart QQ) meets the criteria to not review as described in this document.

Detailed evaluations of the Primary Zinc Smelters source category, the Magnetic Tape Production Operations source category, and the Graphic Arts Industry/Publication Rotogravure Printing source category can be found in the TSD. Following comment on this ANPRM, more detailed analyses will be completed for other NSPS that meet one or more of the criteria listed in this document. The EPA is seeking comment on the appropriateness of the application of the proposed criteria as shown in these three examples. We are also seeking comment on any additional independent criteria that could be used in making a determination to not review NSPS.

#### C. NSPS Potentially in Need of Review

After identifying those NSPS that do not currently need review, the focus of the NSPS strategy will be on reviewing, and potentially revising, those remaining standards as required by the statute. This will be done through prioritization of NSPS based on multi-pollutant and sector-based<sup>10</sup> approaches. The benefits of multi-pollutant and sector-based analyses and approaches include the ability to identify optimal strategies that consider feasibility, costs, and benefits across multiple pollutant types—criteria, toxics, and others.

We intend to prioritize NSPS in need of a review based on a number of different criteria. Possible prioritization criteria would include the types and magnitude of emissions, population exposure, trends in industry growth, advances in control measures and technologies, level and accuracy of monitoring required by the existing standards, expected NSPS applicability, ability to synchronize NSPS review with other CAA requirements (e.g., RTR under CAA sections 112(f) and 112(d)

<sup>10</sup> A sector-based approach is based on integrated assessments that consider multiple pollutants in a comprehensive and coordinated manner to manage emissions and CAA requirements. (National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants; August, 2010.)

(6)), and availability of relevant information.

#### IV. Request for Comment and Next Steps

As described throughout this ANPRM, the EPA is soliciting comments to develop an evaluation plan for the NSPS program. We also encourage readers to submit other comments and supporting data that could help us further improve NSPS review strategies. To ensure a well balanced response and develop the best possible product, we encourage the submittal of both comments offering suggestions and changes and those supporting the strategies included in this ANPRM.

#### V. Statutory and Executive Order Reviews

Under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993), this is a “significant regulatory action” because we expected this action to raise novel legal or policy issues. Accordingly, the EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Order 12866 and 13563 (76 FR 3821, January 21, 2011) and any changes made in response to OMB recommendations will be documented in the docket for this action. Because this action does not propose or impose any requirements, and instead seeks comments and suggestions for the agency to consider in possibly developing a subsequent proposed rule, the various statutes and Executive Orders that normally apply to rulemakings do not apply in this case. Should the EPA subsequently determine to pursue a rulemaking, the EPA will address the statutes and Executive Orders as applicable to that rulemaking.

#### List of Subjects in 40 CFR Part 60

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 18, 2011.

**Gina McCarthy,**

*Assistant Administrator for Air and Radiation.*

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