

responses. Respondents are asked to complete simple forms from available information and no request is made to create or develop emission estimates from information in the literature.

Information is requested from approximately 1,000 aerospace manufacturing and rework facilities on general facility information, coatings and spray booth information, other process information (e.g., storage tanks, composite processing, etc.), emission control devices used at the facilities and their basic design and operating features, quantity of air emissions, pollution prevention programs at each facility, and information regarding startup and shutdown events. This information is necessary for EPA to adequately characterize residual risk at these facilities, to characterize emissions and control measures for operations not currently regulated, and to develop standards for new and existing aerospace facilities under section 112 of the Clean Air Act (CAA), if appropriate. The information will be collected from the electronic completion of simple forms, which will be compiled to develop a computer database.

The EPA is charged under section 112 of the CAA with developing national emission standards for 189 listed hazardous air pollutants (HAP). The Aerospace Manufacturing and Rework Facilities Maximum Achievable Control Technology (Aerospace MACT) standard (40 CFR 63, subpart GG), is a national emission standard for HAP developed under the authority of section 112(d) of the CAA. EPA is required to review each MACT standard and to revise them "as necessary (taking into account developments in practices, processes and control technologies)" no less frequently than every eight years. These reviews are commonly referred to as "technology reviews." In addition, EPA is required to assess the risk remaining (residual risk) after implementation of each MACT standard and promulgate more stringent standards if they are necessary to protect public health. Under EPA's residual risk and technology review (RTR) program, EPA is addressing these two requirements concurrently. EPA is updating the information they currently possess and filling identified data gaps in that information in order to provide a thorough basis for the RTR efforts. The data collection effort will gather additional information to allow comprehensive and technically sound analyses that will form the basis for future rulemaking decisions. Responses to the ICR are mandatory under the authority of section 114 of the CAA.

**Burden Statement:** The one-time public reporting burden for this collection of information is estimated to average 228 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; 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.

**Respondents/Affected Entities:** Owners or operators of existing aerospace manufacturing and rework facilities.

**Estimated Number of Respondents:** 1,000.

**Frequency of Response:** Once.

**Estimated Total Annual Hour Burden:** 227,700.

**Estimated Total Annual Cost:** \$10,965,834 in labor costs and no annualized capital or O&M costs.

**Changes in the Estimates:** This is a new collection.

Dated: September 22, 2010.

**John Moses,**

*Director, Collection Strategies Division.*

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**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-R06-OAR-2010-0510; FRL-9207-4]

### Audit Program for Texas Flexible Permit Holders

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

**ACTION:** Final Notice of Clean Air Act (CAA) voluntary audit compliance program for flexible permit holders in the State of Texas (hereinafter "Audit Program"); response to public comments.

**SUMMARY:** EPA is offering holders of Texas flexible air permits an opportunity to participate in a voluntary Audit Program that is intended to expeditiously identify the federally-enforceable CAA unit specific emission limitations, operating parameter

requirements, and monitoring, reporting, and recordkeeping (MRR) requirements for determining compliance for all units covered by a facility's flexible permit. EPA believes that the program will generate environmental benefits for the public in Texas as well as a measure of regulatory stability for holders of Texas flexible permits. This Final Notice makes modifications to the Audit Program based on comments received during the public comment period. A separate document contains the Agency's Response to Comments (RTC).

**DATES:** Executed Audit Agreements may be submitted no later than December 27, 2010. Participants who execute an Audit Agreement by November 12, 2010 will receive a waiver of the gravity component of any penalties resulting from noncompliance uncovered by the Audit.

### ADDRESSES:

**Docket:** EPA has established a docket for this action under Docket Identification No. EPA-R06-OAR-2010-0510. 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 at <http://www.regulations.gov> or in hard copy at the Air Enforcement Section (6EN-AA), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas, 75202-2733.

**FOR FURTHER INFORMATION CONTACT:** To submit executed Audit Agreements or for more information on the Audit Program for Texas flexible permit holders, please contact Mr. John Jones, Air Enforcement Section (6EN-AA), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone

(214) 665-7233; fax number (214) 665-3177; e-mail address, [jones.john-l@epa.gov](mailto:jones.john-l@epa.gov).

#### SUPPLEMENTARY INFORMATION:

### I. Audit Program for Texas Flexible Permit Holders

#### *Audit Program Overview*

Texas flexible permits are not part of the federally—approved State Implementation Plan (“SIP”), and thus, only contain applicable state permit requirements. Flexible permits are not the appropriate mechanisms for embodying federal requirements, and are not independently federally-enforceable. On September 25, 2007, EPA sent notice letters to all facilities that were issued a flexible permit informing them that flexible permits were pertinent only to Texas State air permit requirements and that facilities were “obligated to comply with the federal requirements applicable to (their) plant, in addition to any particular requirements of (their) flexible permit.” Moreover, on September 23, 2009, EPA proposed the disapproval of the Texas flexible permit program as an amendment to the Texas SIP because it does not meet federal Nonattainment New Source Review or Prevention of Significant Deterioration (hereafter collectively referred to as “NSR”) requirements (74 FR 48480). EPA followed that proposal with several objections to Title V permits that relied on flexible permits to encompass federal NSR requirements because the terms of the Texas flexible permit are not incorporated into the federally—approved Texas SIP. EPA finalized disapproval of the Texas flexible permit program on July 15, 2010 (75 FR 41312).

EPA is proposing the Audit Program as a mechanism for Texas Flexible Permit holders to transition these permits into SIP approved NSR permits. Under the Audit Program, participants would need to commission a comprehensive third-party Audit to determine all federally-applicable unit-specific limitations and requirements and to evaluate the federal CAA compliance status of emission units covered under the facility’s Texas flexible permit. The terms and process of the Audit would be set forth in an agreement executed by EPA and participants.

Under the agreement, the third-party auditor would identify for each emission unit regulated under the source’s flexible permit, all current federally—applicable CAA requirements, including: (1) Emission limitations/standards; (2) operational limitations/special conditions; (3)

monitoring, recordkeeping, and reporting (MRR) requirements; and (4) specific references for all federal requirements identified (*e.g.*, permit number, specific Maximum Achievable Control Technology, State Implementation Plan citation). The auditor will also need to review and assess the adequacy of the MRR requirements in current permits to evaluate whether MRR is sufficient to demonstrate compliance with all federally applicable emissions limitations and federal standards. Where deficiencies exist, the auditor will provide recommendations for more effective or supplemental MRR requirements.

To the extent that it is determined that a source is not in compliance with NSR requirements with respect to a particular emission unit, the agreement provides that the auditor will include an evaluation of the current (2010) Lowest Achievable Emissions Rate or Best Available Control Technology (hereinafter collectively referred to as “LAER/BACT”) for that emissions unit and will recommend an applicable LAER/BACT limit for that emissions unit. Identification of non-compliance with NSR requirements through the Audit Program may require further discussion with EPA regarding a path forward for bringing that emission unit into permanent, consistent compliance with the CAA.

As set forth in the agreement, the third party auditor will perform a year-by-year examination of operational and permitting history of those emission units under the flexible permit. The primary deliverable from the third-party Audit will be a detailed Audit Report that describes the audit process and its conclusions, including clearly organized summary tables of all applicable CAA requirements for each emissions unit that will provide the basis for necessary permitting revisions by the Texas Commission on Environmental Quality (TCEQ). In addition to identifying all applicable unit specific emission limitations, special conditions, operating parameters, and MRR requirements, the auditor will also evaluate the CAA compliance status of the emissions units included under the Texas flexible permit.

The agreement provides that the Audit Participant will then have an opportunity to comment on the results of the third-party Audit, and to propose to EPA alternative emission unit requirements. The parties may elect to negotiate emission unit requirements in the post-audit period.

Finally, under the agreement, any emission unit requirements agreed upon

during the post-audit negotiation with EPA, would be memorialized in a Consent Agreement and Final Order (“CAFO”) with EPA. The CAFO would set forth the agreed upon emission unit requirements and would require their inclusion in an amended Title V permit and appropriate federally-enforceable permits (*e.g.*, NSR, Texas SIP permits).

As part of this voluntary program, the Audit Participant will also agree to work with its surrounding community to develop Community Project(s) focused on improving, protecting, mitigating, and/or reducing community risks to public health or the environment. The nature and valuation of Community Projects will be based upon the outcome of the Audit and will be finalized during post-audit negotiations with EPA. The details of the Community Projects will be fully described in the CAFO memorializing the results of the Audit.

EPA is offering this program under its discretionary CAA enforcement authority and participation in the Audit Program is purely voluntary. However, interested parties are required to submit an executed Audit Agreement to apply for this program. Participants choosing to enroll in the Audit Program will be required to meet the specific requirements of the third-party Audit set forth in this Notice and memorialized in an Audit Agreement signed by the Audit Participant and EPA. It is important to emphasize that although participation in this Audit Program is voluntary, participants who successfully complete the program and successfully resolve any non-compliance of specific alleged violations will receive appropriate covenants and releases as part of that non-compliance resolution. Merely conducting an Audit does not release a participant from potential liability.

EPA’s Audit Policy, “Incentives for Self Policing: Discovery, Disclosure, Correction and Prevention of Violations,” 65 FR 19,618 (April 11, 2000) recognizes the critical role of environmental auditing in protecting human health and the environment by identifying, correcting, and ultimately preventing violations of environmental laws, particularly by responsible corporate citizens. This Audit Program reflects the purpose and incentives of EPA’s Audit Policy, and participants who execute an Audit Agreement by November 12, 2010 will receive a waiver of the gravity component of any penalties resulting from noncompliance uncovered by the Audit; provided such noncompliance is successfully resolved through a Consent Agreement and Final Order (CAFO) under this audit process. EPA reserves the right to collect any

economic benefit that may have been realized as a result of noncompliance.

Persons who have not secured independently federally-enforceable construction and/or operating permits for all CAA applicable requirements, through participation in this program or through other appropriate mechanisms, may be the subject of federal enforcement action. Nothing in this notice should be read to preclude EPA from taking enforcement action where it determines such action is appropriate to address non-compliance.

#### *Texas Flexible Permit Program History*

In the period from 1996 through 2002, the State of Texas proposed a series of modifications to its Federal CAA SIP intended to make its flexible permit program part of the SIP. The flexible permit program, currently codified at 30 TAC 116.710, allows groups of emission sources to be clustered together and issued permit limitations as if they were a single emission source.

EPA has never approved the Texas flexible permit program for inclusion in the SIP. On September 25, 2007, EPA issued a letter to all flexible permit holders making the following points:

- Permits issued under the Texas flexible permit rules reflect Texas state requirements and not necessarily the federally-applicable requirements.
- Texas flexible permit holders are obligated to comply with the applicable federal requirements (e.g., New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), Prevention of Significant Deterioration (PSD), and Non-attainment New Source Review (NNSR), terms and conditions of permits approved under the federally-approved Texas SIP).

- EPA would consider enforcement against sources for failure to comply with applicable federal requirements on a case-by-case basis, including against emission sources that were modified or constructed without the issuance of a federally-enforceable permit.

EPA could initiate enforcement proceedings against these sources on a case-by case basis. However, such an enforcement undertaking on a case-by case basis is not an efficient approach to improving air quality and achieving compliance with the CAA. Therefore, EPA is exercising its discretion to allow holders of flexible permits to participate in this voluntary Audit Program as a mechanism to proactively address the status of emission units operating under the Texas flexible permit program.

#### *Audit Program Implementation*

Any facility that chooses to participate in the voluntary Audit Program will conduct an independent third-party audit of all emission units covered by the source's Texas flexible permit to identify/reinstate all of an emission unit's federally-applicable requirements, and to identify each emission unit's CAA compliance status as discussed under the Audit Program Overview. A final CAFO will require that the facility submit applications for Title V and appropriate federally-enforceable permits to the State of Texas in order to memorialize the requirements identified by the audit process for each emission unit.

The Audit Program shall be implemented in the following steps:

1. *Submittal of an executed Audit Agreement by the Audit Participant.* This agreement will memorialize the specific requirements of the independent third-party audit, as well as the company's commitment to work with its community to develop a Community Project(s). EPA will have 15 days to object to the third-party auditor selected by an Audit Participant. Any EPA objections shall be based on concerns regarding the independence of the auditor. Executed Audit Agreements under the Audit Program must be postmarked no later than 90 days after the date of publication in the **Federal Register**.

2. *Completion of Audit Report.* No later than 160 days, or a timeframe agreed upon by EPA, after the date that the Director of the Compliance Assurance and Enforcement Division of EPA Region 6 signs the Audit Agreement, the independent Third-Party Auditor shall submit an Audit Report to the Audit Participant and EPA. This report will include a table containing all of the applicable emission unit requirements for each unit covered by the Audit Participant's Texas flexible permit as well as an analysis of the CAA compliance status for each emissions unit. The Audit Report will include an examination of the operational and permitting history of process units covered by the flexible permit, and those affected by the flexible permit (i.e., in netting calculations). For the purpose of providing transparency to the community on the audit process, the Auditor will work with the Audit Participant to prepare a version of the Audit Report with any confidential business information removed. The non-confidential business information versions of the Audit Report will be made available to the public by EPA.

3. *Audit Participant's comments regarding the Audit Report.* No later than 90 days from the completion of the Audit Report, the Audit Participant shall submit its comments, if any, regarding the Audit Report to EPA. The Audit Participant may specifically address its concerns regarding the CAA compliance determinations and the emission unit requirements identified in the Audit Report. For purposes of providing transparency to the community on the audit process, the Audit Participant will also prepare a version of the comments on the Audit Report with any CBI removed. The Audit Participant's comments regarding the Audit Report will be made available to the public by EPA.

4. *Audit Participant and community development of significant Community Project(s).* After the completion of the Audit, the Audit Participant shall work with the community surrounding the facility to develop community project(s). Within 90 days after completion of the Audit Report, the Audit Participant will submit to EPA a final Community Project proposal for approval. The Community Project proposal shall include a detailed description of the project(s) and a schedule for project(s) implementation (projects must be completed within one year of the CAFO date), a clear discussion of air nexus, and a discussion of the community involvement and outreach conducted as the project was developed. The Audit Participant's Community Project proposal will be made available to the public for review.

5. *Resolution of NSR non-compliance.* One of the major objectives of the third-party auditor will be the evaluation of the permitting history and operational changes and modifications made during the period of the Texas flexible permit for compliance with applicable Federal NSR requirements. Identification of non-compliance with the NSR program may require the installation of LAER/ BACT and will require further discussion with EPA regarding a path forward for bringing non-compliant emission units into permanent, consistent compliance. As previously discussed, EPA has elected to waive the gravity portion of any penalties resulting from noncompliance identified through the Audit for those Audit Participants that proactively initiate an Audit Agreement within 45 days of Final Audit FRN publication. In addition, any final CAFO will provide a release and covenant not to sue for the violations alleged.

6. *Filing of a Consent Agreement and Final Order (CAFO) with the Region 6*

*Judicial Officer.* The CAFO would set forth the Audit Participant's obligation to comply with the requirements of the attached CAFO Compliance Plan and Schedule and commitment to seek the inclusion of agreed upon emission unit requirements in its Title V permit and appropriate federally-enforceable permits. No later than 30-days after the effective date of the CAFO, the Audit Participant will apply to the appropriate permitting authority for a modification of its existing Title V permit to include emission unit requirements (as defined in the model below), a compliance plan, and, if warranted, a compliance schedule as outlined in 30 TAC 122 § 132(e)(4) and 40 CFR 70.5(c)(8). In addition, the Audit Participant shall apply for modifications or for new permits memorializing the emission unit requirements set forth in the CAFO. The CAFO must address all emission units under the flexible permit. EPA will not negotiate settlements where certain emission units are excluded from the settlement discussions. A source will receive a covenant-not-to-sue and release regarding civil liability for possible past violations of the CAA addressed in this CAFO provided that CAA compliant emission unit specific requirements are incorporated into a federally-enforceable permit.

The proposed CAFO shall be made available for public comment for a period of 30 days. EPA will consider any public comments, and as appropriate, seek to work with the Audit Participant to revise the CAFO based on such public comments. After the end of the CAFO public comment period and after any revisions are made, EPA will seek finalization of the CAFO by the Region 6 Judicial Officer. The Agency reserves its right to modify the CAFO. The offering of the CAFO for public comment does not explicitly create an obligation for EPA response or inclusion of such comments in the final CAFO or elsewhere, nor does this create any rights for public objection to the final CAFO.

The text of the Audit Agreement is available for download in either a Word version file or as a portable document format (pdf) file at <http://www.regulations.gov>. Unless explicitly indicated, the text of the Audit Agreement is not subject to negotiation. Entities wishing to participate shall submit: an executed copy of the Audit Agreement with specific site details filled into the provided blanks; a list of emission units covered under its Texas flexible permit; a copy of its current Texas flexible permit, and all permits or other authorizations that applied to the

facility prior to the issuance of the Texas flexible permit.

*Conclusion:* The above represents a short summary of the Audit Program. The Texas Flexible Permit Audit Agreement is available in the public docket for this notice at <http://www.regulations.gov>, and represents the full requirements of the program. In addition, EPA has provided a Model CAFO for Audit Participants in the docket at <http://www.regulations.gov>.

EPA is proposing the Audit Program to ensure that Texas flexible permit holders have a path forward to secure compliance with the requirements of the CAA. As EPA has stated that Texas flexible permits are not independently federally-enforceable permits, industry representatives have expressed concern regarding the legal ramifications of operating facilities and making changes at facilities that do not have independently federally-enforceable permits. Representatives of citizens living in areas near facilities regulated under flexible permits are concerned that in some instances flexible permits allow facilities to emit more harmful pollution than would be allowed under federal law. We believe the Audit Program has the potential to result in beneficial reductions in the levels of air pollutants being emitted by flexible permit holders as well as providing industry a legal framework for continuing operations until independently federally-enforceable permitting authorizations can be obtained.

## **II. Response to Comments Received on EPA Audit Program for Flexible Permit Holders**

On June 17, 2010, EPA solicited comments on an audit program for Texas flexible permit holders (75 FR 34445). The following are EPA's responses to comments received during the comment period on EPA's Audit Program for Flexible Permit Holders. EPA thanks those individuals for their comments and as indicated below, the Agency made several modifications to the Audit Program based upon these comments. As indicated in the **Federal Register** Notice, EPA has chosen to generally respond to comments received.

### *A. Community Projects*

#### **I. Community Projects as a Condition of the Audit**

We received numerous comments regarding the requirement to conduct a Community Project as part of the Audit Agreement. Commenters stated that by requiring a Community Project as a

prerequisite to participation in the Audit Program, EPA was presuming noncompliance.

In response to these comments, EPA clarified in the Audit Agreement that the condition regarding Community Project(s) would address the SIP and Title V violations identified in the attached model CAFO inherent to all flexible permit holders in addition to any other noncompliance issues identified by the audit. As a result, the agency believes that a commitment from the Audit Participants to conduct a Community Project is a critical element in addressing noncompliance in addition to proactively addressing community concerns regarding potential impacts from noncompliance.

#### **II. Community Project Upfront Valuation**

Several Commenters indicated that the Community Project valuation should not occur until after the Audit is completed. Additional comments received indicated that the large upfront expenditure for the Community Projects would have a "chilling effect" on voluntary participation in the Audit Program.

EPA has addressed the concerns regarding the significant upfront costs regarding these projects by removing the upfront Community Project valuation and the Tiering table. EPA has elected to link the valuation of the Community Projects to the findings of the third-party Audit. Noncompliance identified by the Audit will result in Community Projects, injunctive relief and potentially civil penalties. As referenced in the Audit FRN, this Audit Program reflects the purpose and incentives of EPA's Audit Policy, and participants who execute an Audit Agreement within 45 days of the Final Audit publication will receive a waiver of the gravity component of any penalties resulting from noncompliance uncovered by the Audit.

#### **III. Community Involvement**

A Commenter requested that the outreach regarding the Community Projects extend beyond the currently established groups and involve the impacted communities. The Commenter further requested that EPA take further steps to encourage meaningful participation from the community by providing notification to the community or establishing a Web site to identify those participating in the Audit Program.

In response to these comments, EPA included language in the Audit Agreement specifying that outreach to the community to obtain input on

Community Projects should extend beyond any pre-established community advisory panels.

EPA has also added language to the Audit Agreement committing the Agency to establish a Web site of all executed Audit Agreements. The Agreements will identify the points of contact for the company, and EPA encourages individuals with ideas specific to the Community Projects to submit them to the company representative for consideration.

#### *B. Tiering of Facilities*

##### *I. Additional Clarification on Tiering Process*

EPA received numerous comments regarding the tiering process including numerous requests for clarification on how the facility tiers were established.

As indicated above, EPA has elected to remove the Tiering table and upfront valuation for Community Projects and link the valuation of the Community Projects to the findings of the third-party Audit including the initial violations identified in the model CAFO.

#### *C. Third-Party Auditor*

##### *I. Auditor Qualifications*

Several Commenters provided comments and recommendations regarding the qualifications and certifications of the third-party Auditor.

In response to these comments, we made numerous changes to the Auditor qualifications to include flexibility with regard to the Auditor's familiarity with the concepts of independence and professional care while conducting the Audit. Specifically, we added an additional certification option by the Board of Environmental Health & Safety Auditor Certifications (BEAC), along with the current ISO 19011 requirement.

We also modified the certification condition that the Third-Party Audit results be certified by a professional engineer in the State of Texas. We modified the Audit Agreement to allow for additional flexibility by removing the condition that the professional engineer be certified in Texas and, in addition, we are allowing for a certification by a certified auditor.

##### *II. Auditor Guidance*

One Commenter requested that EPA provide specific direction to the Third-Party Auditor regarding EPA's policies and guidance related to RMRR—Routine Maintenance Documentation in Audit Report from EDF.

In response to this comment, EPA added additional language to the Audit Agreement specifying that in addition to

applying the version of NSR regulations in the approved Texas SIP, the Third-Party Auditor shall also perform their NSR analysis consistent with Agency principles formally identified in EPA NSR Guidance Documents.

#### *D. Audit Program*

##### *I. Procedural Concerns*

A Commenter expressed procedural concerns with EPA's process for taking comments on this voluntary approach as well as procedural concerns with the Audit Program.

With this notice, EPA has proposed a voluntary path forward under its enforcement discretion that the agency would find acceptable toward settlement of violations associated with Texas Flexible Permits. This is a voluntary process, and does not replace or change any existing rules, regulations, or policies. Given the universe of permittees, EPA is attempting to provide upfront clarity on an acceptable enforcement path where the Agency would resolve existing or potential liability associated with flexible permits. EPA provided additional process by taking comments on the approach. All other options remain. This approach does not take the place of appropriate and required permitting. Obtaining an appropriate valid federal permit is a condition of such a settlement. While the auditor will make recommendations and control levels will be agreed to for a settlement, the Audit and CAFO are clear that these are minimum levels of control for settlement and do not prejudice what Lowest Achievable Emission Rate/Best Available Control Technology (LAER/BACT) determinations are made by the permitting authority. All permitting requirements and procedures must be met at that time.

##### *II. Audit Timeline*

One Commenter expressed concern that 160 days was not adequate time to conduct a detailed permitting and compliance audit of a complex facility.

In response to this comment, EPA added language to allow for additional time for audit completion if agreed upon by EPA. EPA recognizes the importance of having adequate time to conduct the comprehensive audit and does not want a hard timeframe to limit participation or encourage a cursory review.

##### *III. CBI*

A Commenter requested that EPA establish an expedited CBI challenge process so that the community can have meaningful participation in the Audit process.

EPA understands the Commenter's concerns and is in agreement that the Audit process should be as transparent as possible. However, EPA is required to follow 40 CFR Part 2, Subpart B, which specifies the extent to which information subject to a business confidentiality claim is available to the public and the challenge and determination process the Agency must follow.

#### *E. CAFO*

##### *I. Releases Given to Audit Participants*

A Commenter expressed concern that the scope of EPA's proposed release and covenant not to sue could be interpreted over broadly.

The Commenter was correct that EPA's intent is to release only those CAA violations expressly alleged and addressed in the CAFO. EPA will tailor each CAFO beyond the limited example provided to include case specific facts and clarify the scope of the release and covenant not to sue.

The Commenter made a related comment concerning detail that should be required in the Audit Report regarding what emission requirements and changes in operational measures or control technologies must be implemented to ensure that disclosed non-NSR violations are eliminated by complying with the CAFO.

EPA recognizes more detail will be required if the Audit identifies noncompliance or concerns broader than NSR and would expect such additional information to be provided in the audit. If insufficient information is provided to make a decision on appropriate measures to address a violation, it would not be alleged or resolved in the audit CAFO but more appropriately handled separately.

##### *II. Stipulated Penalties*

A Commenter urged EPA to incorporate stipulated penalties into the CAFO to sanction failing to fully and timely comply with all the substantive requirements of the CAFO.

While we understand the comment, the agency's interest is in compliant permits and this is why we made any release and covenant conditional on full compliance with the CAFO and obtaining the necessary permit(s). Many of the milestones of the audit will be prior to the CAFO and the emission limits of the CAFO will be enforceable until the emission limits are incorporated into valid federal permits.

Dated: September 20, 2010.

Al Armendariz,

Regional Administrator, Region 6.

[FR Doc. 2010-24289 Filed 9-27-10; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9207-8; Docket ID No. EPA-HQ-ORD-2010-0633]

### Draft Toxicological Review of Urea: In Support of Summary Information on the Integrated Risk Information System (IRIS)

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

**ACTION:** Notice of public comment period and listening session.

**SUMMARY:** EPA is announcing a 60-day public comment period and a public listening session for the external review draft human health assessment titled, "Toxicological Review of Urea: In Support of Summary Information on the Integrated Risk Information System (IRIS)" [EPA/635/R-10/005]. The draft assessment was prepared by the National Center for Environmental Assessment (NCEA) within the EPA Office of Research and Development (ORD). EPA is releasing this draft assessment solely for the purpose of pre-dissemination peer review under applicable information quality guidelines. This draft assessment has not been formally disseminated by EPA. It does not represent and should not be construed to represent any Agency policy or determination. After public review and comment, an EPA contractor will convene an expert panel for independent external peer review of this draft assessment. The public comment period and external peer review meeting are separate processes that provide opportunities for all interested parties to comment on the assessment. The external peer review meeting will be scheduled at a later date and announced in the **Federal Register**. Public comments submitted during the public comment period will be provided to the external peer reviewers before the panel meeting and considered by EPA in the disposition of public comments. Public comments received after the public comment period closes will not be submitted to the external peer reviewers and will only be considered by EPA if time permits.

The listening session will be held on November 16, 2010, during the public comment period for this draft assessment. The purpose of the listening session is to allow all interested parties

to present scientific and technical comments on draft IRIS health assessments to EPA and other interested parties attending the listening session. EPA welcomes the comments that will be provided to the Agency by the listening session participants. The comments will be considered by the Agency as it revises the draft assessment after the independent external peer review. If listening session participants would like EPA to share their comments with the external peer reviewers, they should also submit written comments during the public comment period using the detailed and established procedures described in the **SUPPLEMENTARY INFORMATION** section of this notice.

**DATES:** The public comment period begins September 28, 2010, and ends November 29, 2010. Comments should be in writing and must be received by EPA by November 29, 2010.

The listening session on the draft assessment for urea will be held on November 16, 2010, beginning at 9 a.m. and ending at 4 p.m., Eastern Daylight Time. To present at the listening session, indicate in your registration that you want to make oral comments at the session and provide the length of your presentation. To attend the listening session, register by November 9, 2010, via e-mail at [saundkat@versar.com](mailto:saundkat@versar.com) (subject line: Urea Listening Session), by phone: 703-750-3000, ext. 545, or toll free at 1-800-2-VERSAR (ask for Kathy Coon, the Urea Listening Session Coordinator), or by faxing a registration request to 703-642-6809 (please reference the "Urea Listening Session" and include your name, title, affiliation, full address and contact information). When you register, please indicate if you will need audio-visual equipment (e.g., laptop computer and slide projector). In general, each presentation should be no more than 30 minutes. If, however, there are more requests for presentations than the allotted time allows, then the time limit for each presentation will be adjusted. A copy of the agenda for the listening session will be available at the meeting. If no speakers have registered by November 9, 2010, the listening session will be cancelled, and EPA will notify those registered of the cancellation.

**ADDRESSES:** The draft "Toxicological Review of Urea: In Support of Summary Information on the Integrated Risk Information System (IRIS)" is available primarily via the Internet on the NCEA home page under the Recent Additions and Publications menus at <http://www.epa.gov/ncea>. A limited number of paper copies are available from the Information Management Team

(Address: Information Management Team, National Center for Environmental Assessment (Mail Code: 8601P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone: 703-347-8561; facsimile: 703-347-8691). If you request a paper copy, please provide your name, mailing address, and the draft assessment title.

Comments may be submitted electronically via <http://www.regulations.gov>, by e-mail, by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

The listening session on the draft urea assessment will be held at the EPA offices at Potomac Yard (North Building), Rm. 7100, 2733 South Crystal Drive, Arlington, Virginia 22202. Please note that to gain entrance to this EPA building to attend the meeting, you must have photo identification and must register at the guard's desk in the lobby. The guard will retain your photo identification and will provide you with a visitor's badge. At the guard's desk, you should provide the name Christine Ross and the telephone number 703-347-8592 to the guard on duty. The guard will contact Ms. Ross who will meet you in the reception area to escort you to the meeting room. When you leave the building, please return your visitor's badge to the guard and you will receive your photo identification.

A teleconference line will also be available for registered attendees/speakers. The teleconference number is 866-299-3188, and the access code is 926-378-7897, followed by the pound sign (#). The teleconference line will be activated at 8:45 a.m., and you will be asked to identify yourself and your affiliation at the beginning of the call.

**Information on Services for Individuals with Disabilities:** EPA welcomes public attendance at the urea listening session and will make every effort to accommodate persons with disabilities. For information on access or services for individuals with disabilities, please contact Christine Ross by phone at 703-347-8592 or by e-mail at [IRISListeningSession@epa.gov](mailto:IRISListeningSession@epa.gov). To request accommodation for a disability, please contact Ms. Ross, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

**Additional Information:** For information on the docket, [www.regulations.gov](http://www.regulations.gov), or the public comment period, please contact the Office of Environmental Information (OEI) Docket (Mail Code: 2822T), U.S.