



U.S. Environmental Protection Agency
Final Plan for Periodic Retrospective Reviews of Existing Regulations
EO 13563 Progress Report, January 2014

EPA Plan #	Agency / Sub-Agency	RIN / OMB Control Number	Title of Initiative / Rule / ICR	Brief Description	Actual or Target Completion Date	Anticipated savings in costs and/or information collection burdens, together with any anticipated changes in benefits	Progress updates and anticipated accomplishments	Notes
2.1.1 and 2.1.11(a)	EPA/OAR	RIN 2060-AQ86	Gasoline and diesel regulations: reducing reporting and recordkeeping. Vehicle regulations: harmonizing criteria air pollutant requirements with CARB	As part of the Tier 3 vehicle and fuel standards rule, EPA is reviewing existing gasoline and diesel regulations that apply to fuel producers, ethanol blenders, fuel distributors, and others for areas where recordkeeping and reporting obligations can be modified to reduce burden. In regard to vehicle regulations, EPA is assessing opportunities to harmonize testing and compliance requirements with CARB's vehicle emission standards.	EPA proposed Tier 3 Motor Vehicle and Emission Standards on May 21, 2013. EPA signed the final rule on March 3, 2014.	EPA proposed a number of amendments to the fuels program regulations in 40 CFR part 80. With regard to regulatory streamlining, the majority of these items involve clarifying vague or inconsistent language, removal or updating of outdated provisions, and decreasing the frequency and/or volume of reporting burden where data is either no longer needed or is redundant in light of other EPA fuels programs. In general, we believe that these changes would reduce burden on industry with no expected adverse environmental impact. In addition, EPA will request comments on potential areas in the fuel regulations that may benefit from a more comprehensive streamlining effort. The Tier 3 rule will also harmonize federal vehicle criteria pollutant emission standards with CARB's LEV III standards, allowing the auto manufacturers to more efficiently produce on fleet of vehicles that will meet all the standards. This is directly responsive to the auto manufacturers input during the regulatory review comment process.	A Small Business Advocacy Review Panel to obtain advice and recommendations of representatives of the small entities potentially subject to the rule's requirements was completed on October 3, 2011. The final rule was signed on March 3, 2014.	http://www.epa.gov/otaq/tier3.htm 40 CFR Part 80 - Regulation of Fuels and Fuel Additives The proposal was published on May 21, 2013 (78 FR 29816). Subpart D - Reformulated Gasoline (80.40 through 80.89) Subpart E - Anti-Dumping (Conventional Gasoline) (80.90 through 80.124) Subpart H - Gasoline Sulfur (80.180 through 80.415) Subpart J - Gasoline Toxics (MSAT1) (80.800 - 80.1045) Subpart L - Gasoline Benzene (MSAT2) (80.1200 - 80.1363)
2.1.2(a.)	EPA/OAR	RIN 2060-AP66	Equipment and leak detection and repair: reducing burden	EPA intends to reduce burden on industry and streamline leak detection and repair (LDAR) by using an optical gas imaging instrument to find leaks.	EPA is developing a protocol for using the optical gas imaging (OGI) instrument for the Alternative Work Practices for Leak Detection and Repair, but EPA expects that the revisions to the AWP will not occur until after the OGI protocol is finalized. See progress update for 2.1.2(b). A draft AWP is not expected until at least late 2015.	Using the OGI instrument where permissible, may reduce monitoring time since the instrument can image multiple pieces of equipment simultaneously from a distance, which also removes the need to designate equipment as unsafe-to-monitor or difficult-to-monitor.	A draft AWP is not expected until at least late 2015, which would follow issuing a final protocol for OGI technology.	
2.1.2(b.)	EPA/OAR	RIN 2060-AR00	Equipment and leak detection and repair: reducing burden	EPA intends to reduce burden by developing and consolidating state-of-the-art uniform standards for controlling equipment leaks that will then become applicable when they are referenced in other regulatory actions.	EPA proposed the Uniform Standards for Equipment Leaks and Ancillary Systems on March 26, 2012. The final rule is expected in December 2014. That Uniform Standards proposal included the option to use OGI in lieu of the more traditional Method 21 for detecting equipment leaks. Due to resource constraints, the EPA does not have a timeline to finalize these Uniform Standards. However, EPA is moving forward with the development of the OGI protocol, which will be proposed in early 2015. Where the EPA has an active rulemaking underway for a specific source category, if the EPA believes that the use of OGI as an alternative to Method 21 is appropriate for that source category, the EPA may propose the option to use OGI once the protocol is final.	Burden reduction associated with the OGI will be dependent upon the requirements for using OGI that will be housed within the protocol under development., Once the protocol is final, the EPA will be able to estimate burden reductions for source categories where EPA plans to allow the OGI method in lieu of Method 21.	EPA is moving forward with the development of the OGI protocol, which will be proposed in 2015.	

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2.1.3	EPA/OECA and EPA/OW		Regulatory certainty for farmers: working with the U.S. Department of Agriculture (USDA) and states					Action Completed (Refer to January 2013 Report)
2.1.4	EPA/OCSP		Modernizing science and technology methods in the chemical regulation arena: reducing whole animal testing, reducing costs and burdens and improving efficiencies	EPA seeks ways to more efficiently assess the health and environmental hazards, as well as the exposure potential, of chemicals while reducing costs and burdens. A new work plan would develop new science-based approaches like computational toxicology tools (e.g., in vitro and in silicomethods) to prioritize chemicals and focus on effects of concern for risk assessment/management purposes and to develop tools that allow the agency to base these risk managment decisions on sufficient, credible data.	EPA plans to finalize each analysis and apply these methods to prioritize the EDSP universe of chemicals. The agency presented a draft prioritization methodology to the FIFRA SAP in January 2013 and while the panel positively endorsed the overall prioritization methodology, there were recommendations to increase the efficiency and scientific integrity of the overall risk-based prioritization method. To that end, EPA anticipates additional external peer reviews in 2014 and 2015 to demonstrate the use of advanced computational methods for chemical prioritization.	The initial benefits will be to decrease the time it takes to collect the necessary information to make decisions from years to months. The cost savings will come from reduced data generation and review times.	In November 2012, EPA released a white paper entitled, "The EDSP Universe of Chemicals and General Validation Principles" that describes some general validation concepts to analyze computational toxicology tools for regulatory decision making. The cross-agency EDSP21 work group performed several critical analyses to present a proof of concept for the use of quantitative structure activity relationship, physicochemical properties, exposure information and Tox21 high throughput assays in a comprehensive prioritization methodology. In early 2012, EPA also established a stakeholder workgroup under the Pesticide Program Dialogue Committee (PPDC) that is addressing communication and transition issues as EPA phases these new test methods into its pesticide registration and review programs. This workgroup met seven times in 2013. On January 29, 2013 the multi parameter prioritization scheme was presented to the FIFRA Scientific Advisory Panel external peer review. On July 9, 2013 EPA held a workshop entitled "Where Vision Meets Action: Practical Application of 21st Century Methods" intended to provide an opportunity to dialogue with stakeholders on how OPP envisions applying new science to change the way we evaluate the risks of pesticides, and to examine the challenges and benefits of making this transition.	For EDSP: http://www.epa.gov/endo/pubs/re gaspects/index.htm For PPDC: http://www.epa.gov/pesticides/ppdc/testing/index.html EPA's recently released policies that will reduce animal testing are available at http://www.epa.gov/oppfead1/cb/csb_page/updates/2013/new-testing-approach.html
2.1.5 and 2.1.7	EPA/OCSP	RIN 2070-AJ75	Electronic online reporting of health and safety data under TSCA, FIFRA and FFDCA: reducing burden and improving efficiencies. Quick changes to some TSCA reporting requirements; reducing burden.	EPA is exploring transitioning from paper-based reporting to electronic reporting for industries regulated under TSCA, FIFRA, and FFDCA. Online electronic reporting can reduce burden and costs for regulated entities. The changes to TSCA reporting requirements are intended to reduce reporting burdens and to clarify reporting requirements. Considerations include the submission of an electronic copy in the place of 6 paper copies, the additional requirement of including "Robust Summaries" of test results with test data, and the use of the Inventory Update Reporting Form to format submission of preliminary assessment information.	EPA issued a final rule related to Electronic reporting under TSCA on December 4, 2013. With regard to electronic reporting under FIFRA & FFDCA, on October 14, 2011, EPA implemented an electronic submission option via CD/DVD that covers many aspects of the pesticides registration processes. EPA provided detailed guidance and a downloadable tool to facilitate electronic submission via CD/DVD of registration and endocrine disruptor screening program orders.	Online electronic reporting is expected to reduce burden and costs for the regulated entities by eliminating the costs associated with printing and mailing reports to EPA, many of which are required in multiple copies, completing the forms through look-up features and error checks, and maintaining paper records. It is also providing the opportunity for increased efficiencies in terms of record retrieval and information sharing within the company. At the same time, it will improve EPA's efficiency in reviewing the submissions, in particular for lengthy scientific studies. The regulated community has indicated that these savings could be substantial, but there may be an initial offset from burden related to initial registration into the system that will be used for the online reporting portal.	EPA proposed the "eTSCA Reporting" rule on April 27, 2012 (77 FR 22707) and the final rule on December 4, 2013 (78 FR 72818). In the pesticide context, EPA contracted with a company to facilitate streamline business processes and is developing a roadmap to support a paperless office, including true e-submission of pesticide registration application materials. The Alternatives Analysis was completed in February 2013 and EPA is in the process of analyzing internal workflows in preparation of selecting one of the options put forth in the alternatives analysis as a potential path forward.	Action completed. For TSCA: http://www.epa.gov/oppt/newchemicals/epmn/epmn-index.htm For Pesticides: http://www.epa.gov/pesticides/regulating/registering/submissions/
2.1.6	EPA/OSWER		National Priorities List rules: improving transparency					Action Completed (Refer to January 2013 Report)

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2.1.8	EPA/OW	RIN 2040-AF25	National Pollutant Discharge Elimination System (NPDES): coordinating permit requirements and removing outdated requirements	EPA intends to review the regulations that apply to the issuance of NPDES permits, which are the wastewater permits that facility operators must obtain before they discharge pollutants to any water of the United States. EPA intends to revise or repeal outdated or ineffective regulatory requirements for wastewater facilities.	EPA expects to propose modifications to NPDES permit regulations in September 2014.	EPA estimates that public notice of draft permits in newspapers for NPDES major facilities, sewage sludge facilities and general permits currently costs approximately \$1.6 million per year (this excludes the costs of preparing the content of the NPDES public notice, and the costs of the other methods to provide notice besides newspaper publication, such as direct mailing). Any savings from EPA's planned rule, however, are likely to be less than this amount. The new rule would allow, but not require states and the Federal Government to use electronic public notice instead of newspaper publication. Some states would continue to publish at least some notifications in newspapers. In addition, there would be offsetting costs to provide electronic notice, and EPA does not currently have estimates of those costs.	Final rule is expected in September 2015.	
2.1.9	EPA/OW		National primary drinking water regulations - Long Term 2 Enhanced Surface Water Treatment: evaluating approaches that may maintain, or provide greater, public health protection	EPA intends to evaluate effective and practical approaches that may maintain or provide greater protection from Cryptosporidium and other pathogens in the water treated by public water systems for protection and stored prior to distribution to consumers. EPA plans to conduct this review expeditiously to protect public health while considering innovations and flexibility.	The review process for LT2-will be completed in conjunction with the 6-year review process, no later than March 2016.		EPA held a stakeholder meeting on LT2 on December 7, 2011, which focused on analytical methods. The agency held a second stakeholder meeting on April 24, 2012, which focused on uncovered finished water reservoirs. EPA held a third stakeholder meeting on November 15, 2012, which focused on source water monitoring data and current LT2 treatment technique requirements (e.g., binning, microbial tool box options). EPA will consider input provided by stakeholders as the agency determines options to enhancing protection from pathogens in drinking water.	The National Primary Drinking Water Regulations: Long Term 2 Enhanced Surface Water Treatment Rule RIN 2040--AD37 was promulgated, January 5, 2006.
2.1.10 and 2.2.3	EPA/OW		Integrated planning for municipal wastewater and stormwater sources.					Action Completed (Refer to September 2012 Report)
2.1.11(b)	EPA/OAR	RIN 2060-AQ54	Vehicle Regulations: harmonizing requirements for GHG and Fuel Economy Standards					Action Completed (Refer to September 2012 Report)
2.1.12	EPA/OAR	RIN 2060-AQ41	Multiple air pollutants: coordinating emission reduction regulations and using innovative technologies					Action Completed (Refer to September 2012 Report)
2.1.13	EPA/OAR	RIN 2060-AO60	New Source Performance Standards (NSPS) reviews and revisions under the CAA:	This review is included in the Plan to ensure that EPA prioritizes NSPS reviews to focus on those that, in keeping with EO 13563, promote innovative technologies while upholding EPA's mission to protect human health and the environment.	EPA issued an advanced notice of proposed rulemaking in October 2011. EPA expects to issue a proposed notice of determination in Summer 2014.	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. This burden reduction will allow the government and stakeholders to focus on those NSPS with greater opportunities for meaningful improvements in air quality and public health.	EPA is reviewing public comments submitted in response to the ANPRM and preparing a proposed notice of determination.	76 FR 65653 http://federalregister.gov/a/2011-27441

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2.1.14	EPA/OAR		CAA Title V Permit programs: simplifying and clarifying requirements	EPA is reviewing the Title V implementation process to determine whether changes can be made to simplify and clarify the process for industry, the public, and government resources.	Work is progressing on a guidance document, though timing is still to be determined.	EPA believes the improvements will reduce burden on the public, the permitting agencies and the permittees. This action should realize a benefit of \$200 to \$300 per permit revision when fully implemented.	EPA began the review process to implement this recommendation during the fall of 2011. EPA has started to identify areas for improvement and is establishing a work group to develop options for possible improvements to include in a potential future action. While some areas of improvements have been identified, work on this has slowed due to resource constraints including furloughs.	
2.1.15	EPA/OP		Innovative technology: seeking to spur new markets and utilize technology					Action Completed (Refer to January 2013 Report)
2.1.16	EPA/OP		The costs of regulations: improving cost estimates	The goals of the Retrospective Cost Study are to evaluate whether ex-ante and ex-post cost estimates of regulations differ substantially and, if so, to explore the reasons causing the divergence. If systematic differences in between ex ante and ex post cost estimates are detected, we hope to identify the source of the differences and determine if there are defensible means of correcting for them in our ex-ante cost estimation methodology.	EPA anticipates issuing a revised report in Spring 2014.	The ultimate goals of this effort are to improve our ex-ante cost modeling and to inform future revisions to EPA's Guidelines for Preparing Economic Analyses.	An Advisory Meeting with the SAB-EEAC to discuss the Phase I report entitled "Retrospective Study of the Costs of EPA Regulations: An Interim Report of Five Case Studies" was held on April 19 and 20, 2012 with additional meetings held in July and September. The Agency asked for input on whether the approaches employed in the study are appropriate and how the analyses could be improved. The SAB completed its review of EPA's interim report and the Agency received the SAB Advisory report dated April 11, 2013. EPA is currently working on incorporating the SAB's recommendations, as appropriate.	
2.2.1	EPA/OAR	RIN 2060-AQ97	Vehicle fuel vapor recovery systems: eliminating redundancy					Action Completed (Refer to May 2012 Report)
2.2.2	EPA/OAR	RIN 2060-AP06	New Source Performance Standards (NSPS) under the CAA for grain elevators, amendments: updating outmoded requirements and relieving burden	The NSPS for Grain Elevators was promulgated in 1978 with the latest amendments made in 1984. Since that time there have been a number of changes in the technology used for storing and loading/unloading grain at elevators. The rule has seen increased activity of late, due to the increase in ethanol production that has lead to bumper crops of corn being grown, which, in turn, has led to a need for increased grain storage. For these reasons a review and potential change in certain definitions is necessary to ensure the appropriate standards are being applied consistently throughout the industry.	EPA expects to issue a proposed rulemaking by February 2014.	The industry will realize some benefits in regulatory certainty moving forward as the current regulation is being interpreted differently across the country. EPA is revising the standards in response to industry requests for EPA to clarify the standards as they relate to temporary grain storage.	A draft proposed rule is undergoing internal review. The grain elevator trade coalition petitioned EPA in early February 2012 to review and repeal the NSPS. The Agency plans to evaluate the petition in conjunction with this lookback exercise. Numerous meetings with the industry trade coalition were held throughout 2012 and 2013 to update them on the progress of the rulemaking and hear their concerns as we proceed. The schedule for the proposed rule has been revised due to additional intra-agency coordination and revised analysis.	
2.2.4	EPA/OSWER	RIN 2050-AG20	E-Manifest: reducing burden	This rule establishes the legal and policy framework for collecting hazardous waste shipment data electronically, thereby replacing the current, burdensome paper manifest system that requires 6-copy forms to be completed, carried and signed manually.	The final rule was published on February 7, 2014 (79 FR 7517).	Implementation of e-Manifest could result in annual cost savings exceeding 75 million, and annual burden reductions of between 370,000 and 700,000.	The "Hazardous Waste Electronic Manifest Establishment Act" was signed into law by the President on October 5, 2012. The Act authorizes EPA to establish a national electronic manifest (e-Manifest) system that will be initially funded by appropriations and ultimately funded by user-fees. The Act requires EPA to promulgate its e-Manifest regulation within one year of the Acts enactment (i.e., October 5, 2012). The Act also requires EPA to establish the e-Manifest system within three years of the Act's enactment. The rule described in this update codifies several of the essential provisions of the Act, provides the legal and policy framework to authorize use of e-manifests, and amends the existing manifest regulations to announce EPA's policy on electronic signatures and access to information (CBI).	Action Completed
2.2.5	EPA/OSWER		Electronic hazardous waste Site ID form: reducing burden					Action Completed (Refer to July 2013 Report)
2.2.6	EPA/OW		Consumer confidence reports for primary drinking water regulations: providing for the open exchange of information					Action Completed (Refer to January 2013 Report)

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2.2.7	EPA/OW		Reporting requirements under Section 303(d) of the Clean Water Act (CWA) reducing burden					Action Completed (Refer to July 2013 Report)
2.2.8	EPA/OCSP		Export notification for chemicals and pesticides: reducing burden and improving efficiencies					Action Completed (Refer to May 2012 Report)
2.2.9	EPA/OW		Water quality trading: improving approaches					Action Completed (Refer to July 2013 Report)
2.2.10	EPA/OW	RIN 2040-AF16	Water quality standard regulations: simplifying and clarifying requirements	EPA intends to review water quality standard (WQS) regulations to identify ways to improve the Agency's effectiveness in helping restore and maintain the Nation's waters and to simplify standards.	EPA proposed a targeted set of revisions to the WQS regulation in September 2013.	States, tribes, stakeholders, and the public will benefit from the clarifications of the WQS regulations by ensuring better utilization of available WQS tools (variances & designated use change) that allow states and tribes the flexibility to implement their WQS in an efficient manner while providing transparency and open public participation. Although associated with potential administrative burden and costs in some areas, the proposal has the potential to partially offset these costs by reducing regulatory uncertainty and consequently increasing overall program efficiency. Furthermore, more efficient and effective implementation of state and tribal WQS has the potential to provide a variety of economic benefits associated with cleaner water including the availability of clean, safe, and affordable drinking water, water of adequate quality for agricultural and industrial use, and water quality that supports the commercial fishing industry and higher property values. Nonmarket benefits of the proposal include the protection and improvement of public health and greater recreational opportunities.	The comment period for the proposed rule closed on January 2, 2014. More information on this action, including on the public meetings and webinars held can be found at http://water.epa.gov/lawsregs/lawsguidance/wqs_index.cfm .	
2.2.11	EPA/OAR		State Implementation Plan (SIP) process: reducing burden					Action Completed (Refer to May 2012 Report)
2.2.12	EPA/OW	RIN 2040-AF15	National primary drinking water regulations for lead and copper: simplifying and clarifying assumptions	Efforts to revise the Lead and Copper Rule (LCR) have been ongoing. This review is part of the Retrospective Review Plan because, in addition to improving public health protection, EPA is seeking ways to simplify and clarify requirements imposed on drinking water systems to maintain safe levels of lead and copper in drinking water. EPA is also planning to address the revised definition of lead free plumbing materials from the 2011 Drinking Water Lead Reduction Act that becomes effective January 4, 2014. Industry and other stakeholders have been asking for clarification on new EPA plans to implement this statute.	EPA currently expects to issue a proposed rulemaking in September 2015.		A Small Business Advocacy Review Panel to obtain advice and recommendations of representatives of the small entities potentially subject to the rule's requirements was completed on April 16, 2013. EPA will conduct stakeholder engagement through a NDWAC working group. The NDWAC working group will provide input to the full NDWAC on 5 key issues of the LCR revisions. EPA discussed the goals of the working group at the December 11-12, 2013 NDWAC meeting.	The 1991 National Primary Drinking Water Regulations for Lead and Copper RIN 2010-AB51, has been previously reviewed and revised in 2000 RIN 2140-AC27, and 2007 RIN 2040-AE83
2.2.13	EPA/OSWER	RIN 2050-AF08	Adjusting threshold planning quantities (TPQs) for solids in solution: reducing burden and relying on scientific objectivity					Action Completed (Refer to May 2012 Report)
2.2.14	EPA/OCSP		Integrated pesticide registration reviews: reducing burden and improving efficiencies					Action completed. (Refer to July 2013 Report)
2.2.15	EPA/OCSP	RIN 2070-AJ20	Certification of pesticide applicators: eliminating uncertainties and improving efficiencies	A review of EPA's regulations on certification and training of pesticide applicators will help clarify requirements and modify potentially redundant or restrictive requirements.	EPA intends to propose improvements to these regulations in 2015.	Savings may result from streamlining activities which could reduce the burden on the regulated community by promoting better coordination among the state, federal, and tribal partnerships; clarifying requirements; and modifying the regulation.	EPA has identified proposed improvements and is completing the proposed rulemaking package for issuance in 2015.	

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2.2.16	EPA/OSWER		Polychlorinated biphenyls (PCB) reforms: improving efficiencies and effectiveness					Action Completed (Refer to January 2013 Report)
2.2.17(a.)	EPA/OSWER		Hazardous waste requirements for retail products: clarifying and making the program more effective					Action Completed (Refer to May 2012 Report)
2.2.17(b.)	EPA/OSWER	RIN 2050-AG39	Hazardous waste requirements for retail products: clarifying and making the program more effective	EPA intends to review the data and information in our possession about pharmaceutical products that may become wastes to address these issues as part of a rulemaking on pharmaceutical waste management.	EPA expects to publish a proposed rulemaking in August 2014.	Savings estimates are not available at this time. It is too early in the process of the proposed rulemaking on pharmaceutical waste management to determine savings in costs and information collection burdens. A benefit of the rule will be to ensure these pharmaceutical hazardous wastes are managed and disposed of safely.	The proposed rule is under development.	
2.2.17(c.)	EPA/OSWER	2050-AG72	Hazardous waste requirements for retail products: clarifying and making the program more effective	This NODA is part of the Agency's continuing effort to better understand concerns from all stakeholders about RCRA's applicability to the retail sector, what materials may be affected, what the full scope of the issues are, and what options may exist for addressing the issues.	EPA published a Notice of Data Availability (NODA) on February 14, 2014 (79 FR 8926).	It is not possible to calculate savings and benefits until the agency has identified specific actions to be taken.	EPA has conducted outreach to stakeholders in the retail community to gather additional information regarding the hazardous waste issues they are facing. EPA has held several listening sessions with Advanced Auto Parts, Ball Corporation, the Consumer Specialty Products Association (CSPA), COSTHA, GRR Aerosols, Inc., The Home Depot, RILA, Safeway, and Walmart to better understand the issues the retail sector confronts in complying with the RCRA hazardous waste generator regulations. EPA representatives also conducted site visits at an Advance Auto Parts retail store, a Loews retail store, and a Walmart retail store, distribution center and return center. To complete information gathering EPA published a NODA that 1) presents the data and information gathered so far from stakeholders and public sources, 2) requests additional relevant data and information from the stakeholders and public, 3) requests comments on issues of concern for managing retail product waste and options for addressing the issues. EPA will use information to evaluate possible next steps.	
2.2.18	EPA/OW	RIN 2040-AF29	National Primary Drinking Water Regulations: Group Regulation of Carcinogenic Volatile Organic Compounds (VOCs)	EPA intends to coordinate drinking water regulatory requirements and regulate more cost-effectively by addressing contaminants as groups. The plan is to group contaminants into one regulation, which will utilize the same analytical methods for measurement and/or can be removed by the same treatments or control processes.	EPA expects to issue a proposed rulemaking in December 2014.		EPA plans to conduct a public stakeholder meeting prior to proposal of rulemaking.	This action may revise drinking water standards for up to 8 VOCs. The standards for the 8 regulated VOCs were promulgated in phases. Phase I: July 8, 1987(Vol 52, No. 130) includes: TCE, 1,2-dichloroethane, vinyl chloride, benzene, carbon tetrachloride. Phase II&IIB: January 20, 1991(Vol 56, No 20) & July 1, 1991(Vol 52, No 126) includes: PCE and 1,2-dichloropropane. Phase V: July 17, 1992(Vol 57, No 138) includes: dichloromethane. There were no RINs published for these original rules.
2.2.19	EPA/OP		Section 610 reviews: coordinating requirements					Action Completed (Refer to July 2013 Report)

EPA Responses to Comments

Improving Our Regulations: Final Plan for Periodic Retrospective Reviews of Existing Regulations

EPA posted its draft Plan on May 26, 2011. The comment period closed on July 27, 2011. Responses to major, substantive comments received during that time period appear below. As part of our effort to continually solicit feedback from the public, this docket remains open; however, no substantive responses have been submitted since July 2011.

Comment: Commenter believes the EPA has violated the letter and spirit of the President's executive order of January 18 that called for a regulatory process based on "public participation and an open exchange of ideas." The commenter contends that the EPA's proposed settlement agreements requiring the issuance of new source performance standards for greenhouse gas (GHG) emissions from new, modified and existing power plants and refineries are a case in point.

Response: The agency is very supportive of early involvement of stakeholders in the regulatory process. For example, for existing, modified and reconstructed power plants, the EPA is on track to issue proposed emission guidelines and standards by June 1, 2014, and final emission standards by June 1, 2015. To gather information for the development of emission guidelines, the EPA has set in motion an extensive outreach process with a diverse range of stakeholders. This process has included multiple listening sessions nationwide, as well as meetings with various stakeholders and the general public. Outreach will continue throughout the rulemaking process, including public hearings to be held after the rule is proposed.

Comment: With regard to action 2.1.13 (NSPS reviews and revisions under the CAA), one commenter generally agreed that in cases where emissions control technologies have not changed, there is no benefit to revising the standards. One commenter raised an issue regarding the multipollutant strategy concept and the need to speak to how the EPA is going to address issues that already exist regarding conflicting dates for different regulations or timelines that are not conducive to a multipollutant strategy approach.

Response: EPA's goal is to, where possible, align reviews for rules that cover the same sector and address all of them concurrently. However, due to litigation and court-ordered schedules, concurrent reviews in the pulp and paper sector are not possible during the current round of reviews. In this circumstance, during the individual rule review EPA considers the potential impacts and conflicts that may occur between the rules. The individual rule proposals are then prepared by taking these impacts/conflicts into account.

Comment : Commenter expressed a need for industry to be more involved in the rulemaking process early on. Other commenters called for increased transparency regarding the data and analysis used to support rulemakings.

Response: The agency is very supportive of early involvement of stakeholders in the regulatory process. For example, for existing, modified and reconstructed power plants, the EPA is on track

to issue proposed emission guidelines and standards by June 1, 2014, and final emission standards by June 1, 2015. To gather information for the development of emission guidelines, the EPA has set in motion an extensive outreach process with a diverse range of stakeholders. This process has included multiple listening sessions nationwide, as well as meetings with various stakeholders and the general public. Outreach will continue throughout the rulemaking process, including public hearings to be held after the rule is proposed. EPA is also committed to making the data and analyses that support our rulemakings available and our docketing policy and practices support this.

Comment: One commenter remains concerned that EPA is not proposing reasonable steps to ease the burden of unreasonable regulations on industry and specifically suggests that EPA drop its efforts to regulate refinery greenhouse gas emissions.

Response: EPA has not yet proposed or finalized NSPS specifically regulating greenhouse gas (GHG) emissions from refineries. While such a rule may be developed in the future, as of this time, EPA has instead finalized amendments to the refinery NSPS (NSPS subparts J and Ja) that will result in GHG reductions as cobenefits of criteria pollutant reductions. Further, to meet its statutory obligations, EPA will soon propose the risk and technology review for the refineries NESHAP (40 CFR subparts CC and UUU); this proposal may also result in GHG reductions as a result of controlling air toxics emissions.

Comment: One commenter expressed opposition to the requirement for permitting of GHG sources under the Prevention of Significant Deterioration program.

Response: Since this comment was received, this issue has been the subject of litigation. The Supreme Court is currently reviewing the basis for EPA's position on permitting of GHG sources.

Comment: One commenter suggested EPA amend Subpart AAA (residential wood heaters) to include an electronic certification submission requirement. Further, the commenter encouraged EPA to take the necessary budgeting steps to ensure prompt implementation of the electronic submission system once it is incorporated into Subpart AAA.

Response: EPA agrees that moving to an electronic certification submission process as expeditiously as possible is the best way to ensure timely submission, review, and approval of data. We have included a requirement for electronic reporting in our current proposal. However, our work on the specific electronic templates for this rule (and other rules) is dependent upon funding being available to complete the system and to add the data fields needed to support this particular rule.

Comment: One commenter noted that installation of conversion kits on existing cars and trucks to allow them to operate on cleaner fuels like E85 represents a large environmental opportunity, but California requires testing and certification of conversion kits prior to sale. The cost of testing the conversion kits is so as at to make testing impossible for inventors.

Response: The existing fleet of vehicles does present an opportunity for environmental improvement and converting those vehicles to run on cleaner fuels could offer a potential way to achieve meaningful emission reductions. Unfortunately, it is extraordinarily difficult to change a vehicle to operate on a different fuel than the one it was designed for without negative consequences. Without rigorous testing it is not possible to know with confidence that conversion to a different fuel, including E85, will actually achieve any reductions. In fact for vehicles built within the last 10 years, it is quite likely that absent careful engineering and testing of a conversion kit that the converted vehicle will have higher emissions (of hydrocarbons and oxides of nitrogen) and will be less reliable for consumers. EPA and the California Air Resources Board have both worked over time to strike an appropriate balance between the need for adequate testing to protect the environment and the desire not to create barriers to innovations that could reduce emissions from the existing fleet of vehicles. To this end, EPA in 2011 adopted new rules specifically designed to streamline processes for clean alternative fuel conversion manufacturers. Additional information about EPA's most recent rulemaking on this issue can be found here - <http://www.epa.gov/otaq/consumer/fuels/altfuels/altfuels.htm>

Comment: One commenter urged EPA to establish separate deadlines for each stage in the cleanup process for abandoned hazardous waste sites on the National Priorities List. The commenter also urged Congress to increase funding for the Superfund Trust Fund.

Response: Since each site has unique circumstances and conditions, EPA develops a remedial action plan specifically for that site. Cleanup levels and any timeline (if available) are described in each site's Record of Decision (ROD). Detailed information on the progress for each phase of the cleanup process is provided by state for each proposed, final and deleted NPL site here: <http://www.epa.gov/superfund/sites/query/query.htm/npltotal.htm>. The comment on increased funding is outside the scope of the regulatory review plan.

Comment: One commenter asked EPA to repeal the Phase IV Land Disposal Restrictions on blast slag and use of the Toxicity Characteristic Leaching Procedure (TCLP) prior to land disposal.

Response: EPA discussed the TCLP issue in detail in the proposed and final regulation preambles for the Phase 4 rules (see 61 FR 2354-2356, January 25 1996, and 63 FR 28579 and 28597-99, May 26, 1998). EPA considered industry arguments for the use of the Synthetic Precipitation Leaching Procedure (SPLP), but decided to retain the use of TCLP for mineral processing waste. The letter incorrectly asserts that the SPLP test does not require particle size reduction. The language in the SPLP on particle size reduction is identical to the TCLP language (see Section 7.1.3 of both test methods). No data (that would form the basis for a reconsideration) is presented in the comment on the leaching potential/safety of the commenters slag under their proposed management conditions. Further, describing the proposed disposal as simply a monofill or industrial non-hazardous landfill still allows for a broad range of plausible conditions that could affect waste leaching, which the commenter also does not identify.

Comment: One commenter suggested that EPA's factors for selecting rules for retrospective review was inappropriately focused on rules with a high volume of public comments requesting review and that EPA's rule selection should, instead, be based on two criteria— if circumstances

have changed or if there is updated data on cost and benefits -- and reviews should be designed to maximize net benefits. The commenter also recommended that EPA ensure that stakeholders have opportunity to participate in all stages of the retrospective review process.

Response: EPA works closely with stakeholders in all phases of regulatory development. During the development of the *Preliminary Plan for Retrospective Review*, EPA held a series of public meetings and opened several dockets to receive comments related to various environmental topics. Resulting retrospective reviews often involve further outreach and consultation with EPA's regulatory partners and/or regulated entities. Many of EPA's stakeholders have experience and knowledge to inform the agency of a significant regulation that could be improved upon with current or renewed analysis. The four-step process that EPA developed for conducting its retrospective reviews allows for stakeholder input both in the nomination of which actions might be reviewed (Step 1), as well as in commenting on or participating in the retrospective review itself (Step 3).

Economic analyses provide a means to organize information and to comprehensively assess alternative actions and their consequences. Provided early in the regulatory design phase, economic analysis can help guide the selection of options, to the extent consistent with the statutory framework. Ultimately, good economic analysis based on sound science should lead to better, more defensible rules. EPA strives to adhere to the principles of EO 12866 and EO 13563 and to maximize net benefits in regulatory decision making, taking into account non-quantified benefits and costs, but also considers many other factors as well such as enforceability, technical feasibility, affordability, and ethics to name a few.

Comment: Commenters criticized EPA for primarily selecting rules in its Preliminary Plan for Retrospective Review that are already underway as existing EPA rulemakings. Additionally, one commenter suggested that EPA's review should extend beyond regulations to other administrative actions including baseline studies, preliminary determinations, guidance, policy statements, enforcement policy, and enforcement actions. One commenter also suggested that the five year period between retrospective review plans is too long.

Response: EPA acknowledges that many of the actions selected for retrospective review fit in the category of rules that have already been scheduled for review. Traditionally, up to two-thirds of EPA's regulatory program is comprised of reviewing existing rules, as directed by various laws such as the Clean Air Act and the Safe Drinking Water Act. EPA believes that statutory- or judicially-mandated reviews are aligned with the goals of EO 13563 to determine whether "such regulations should be modified, streamlined, expanded, or repealed..." Moreover, as one commenter acknowledges, many of the items EPA nominated in its *Preliminary Plan for Retrospective Review*, as well as those selected in the *Final Plan for Retrospective Review*, included broad non-regulatory initiatives that are cross-cutting, forward-looking, and innovative. In addition to encouraging innovative compliance approaches (<http://www2.epa.gov/innovation>), EPA articulated three additional broad initiatives in the Final Plan: electronic reporting, improved transparency, and a systems approach with integrated problem-solving.

In addition, EPA routinely and frequently engages with stakeholders about regulatory issues. Through these interactions, EPA is able to add actions to our regulatory program at any time –

the Agency does not need to wait until the next iteration of its review plan to add actions. Given the resources required to develop retrospective review plans, budget constraints, and the time it takes to finish the reviews already committed to, EPA continues to believe that a 5 year period between plans is appropriate.

Comment: One commenter suggested that EPA follow Advocacy's *A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act.*"

Response: EPA adheres to the statutory requirements of RFA section 610 concerning its section 610 reviews and follows Advocacy's suggestions pertaining to those statutory requirements. As suggested by Advocacy's guidance, EPA maintains a list of ongoing and upcoming section 610 reviews of EPA rules on EPA's webpage (<http://www.epa.gov/sbrefa/section-610.html>). EPA also coordinates with Advocacy as EPA's 610 reviews are opened so that Advocacy may highlight the opportunity to participate in those reviews through its own information channels such as its own website and Regulatory Alerts.

Comment: One commenter suggested that the typical 30 to 60 day comment period is often not long enough for industry and asked EPA to provide more time to evaluate and comment on rules.

Response: EPA values early public involvement during the development of rules and the comment period is a critical part of the Agency's public engagement process. The period of time for public comment on an action is chosen based on a number of considerations including the complexity and scope of the rule, as well as any statutory and court imposed deadlines. For most significant actions, EPA provides a 60 day comment period. However, upon request and when time allows, the Agency frequently grants comment period extensions. In addition to the public comment period, the Agency often requests public feedback during the early stages of rule development through the use of public listening sessions and meetings with stakeholders.

Comment: One commenter is concerned that an omnibus electronic reporting rule would hamper consideration of industry-specific concerns.

Response: It is EPA's policy to begin our regulatory development process with the assumption that all reporting will be electronic, unless there is a compelling reason to use paper reporting. EPA is also committed, through its E-Enterprise initiative to work with States, local governments, tribes, and territories to identify and prioritize which existing paper-based programs should be transitioned to electronic reporting and how.

Comment: One commenter noted that EPA should integrate regulatory review with strategic planning.

Response: EPA's strategic planning incorporates many considerations, including analysis of regulatory actions in developing future strategies. Consideration of the broad initiatives discussed in the Agency's retrospective review plan are also incorporated in strategic planning, and we regularly review programmatic progress through our Performance Management Framework. Several of our Agency Priority Goals, which are contained in our Strategic Plan, directly relate to regulatory actions. For example, EPA's E-Enterprise Agency Priority Goal

relates to increasing the efficiency of all EPA regulations by incorporating an e-reporting component, and progress on this and other Priority Goals are reviewed quarterly. In addition, EPA, along with other Federal Agencies, is beginning implementation of Strategic Reviews – an annual review of progress on each objective under our Strategic Plan, and regulatory actions will be among the considerations in these reviews.

Comment: One commenter noted that EPA should look for ways to encourage innovation and prioritize how scarce resources should be spent.

Response: EPA agrees and is always look for ways to encourage innovation, particularly in the current budget climate. As noted by Administrator McCarthy, traditional approaches to risk reduction and pollution control can only go so far to deliver the long term and broad environmental quality we seek. The interplay between different media and different statutes also requires renewed attention to improve "synergy" and long-term solutions. Incentive-based efforts to complement our base of solid regulations and a review of new and key existing regulations to examine sustainable enhancements are important actions. Integrating efforts with a new commitment to innovation, the high-level use of data and information, partnerships, incentives, new and expanded constituencies, and environmental education will build momentum.

Comment: One commenter expressed disappointment that EPA failed to review and reinstate the opt-out provision in the Lead RRP.

Response: The commenter is referencing a revision to the 2008 LRRP rule that EPA finalized on May 6, 2010. For the reasons discussed in the 2010 final rule, the Agency concluded that it is important to require the RRP work practices and training and certification requirements in target housing even if there is no child under age 6 or pregnant woman residing there. The commenter did not provide any new information and EPA does not believe that this provision warrants further consideration under EO 13563.

Comment: One commenter asked about the proposed rule and the process EPA was using to get public comment Lead; Clearance and Clearance Testing Requirements for the Renovation, Repair, and Painting Program. EPA had mentioned plans to hold public meetings in May and June 2011, and the commenter wanted to know if they had been scheduled. More generally, the commenter wanted to know if and how a member of the public could be notified when a candidate regulation under EPA review is having a hearing or public comment period.

Response: In the context of the Lead; Clearance and Clearance Testing Requirements for the Renovation, Repair, and Painting Program rulemaking, for which a final action was taken in July 2011, the public meetings were all announced in the Federal Register. In addition, EPA sent out email notifications through a listserv we maintain that allow entities and individuals interested in our programs to register to receive notifications and announcements. Information about that rulemaking is part of the record, and can be accessed through <http://www2.epa.gov/lead/lead-renovation-repair-and-painting-program-rules>. In the context of the general request, EPA publishes notice of proposed rulemakings in the Federal Register. The public is offered the opportunity to comment on these documents and the close of the public comment period is specifically noted. Extensions of public comment period are also published in the Federal

Register. EPA also often notifies the public about meetings in either the notice of proposed rulemaking or in a separate Federal Register notices. Member of the public can also register to receive EPA announcements at www.epa.gov. In addition, once an activity has been initiated with the opening of a public docket, anyone can register to receive different notices associated with that docket at www.regulations.gov.

Comment: With regard to record retention for asbestos-containing materials in schools, one commenter stated that 40 CFR 763.84 should be revised to include provisions for disposal of records so that impacted entities do not need to maintain records forever.

Response: 40 CFR 763.84 outlines the general responsibilities of local education agencies. Although not enumerated in that section, the collection and central retention of records related to the asbestos management plans and activities related to ACBMs in the schools is one of the essential responsibilities of the local education agencies. The applicable recordkeeping requirements (which are found in 40 CFR 763.94) require the local education agency to maintain specific records for each homogeneous area where all ACBM has been removed for 3 years after the next reinspection required under §763.85(b)(1), or for an equivalent period. As long as the asbestos is being managed in-place, the local education agencies must retain records related to their asbestos management plans, which includes the location of the ACBM and any activities or events that impacted that ACBM. EPA believes that these records are essential for the local education agencies to ensure compliance, as well as to protect the public. In addition, due to the elimination of funding for the asbestos program at EPA, current guidance states that the Agency can no longer dedicate any resources to managing the MAP Rule or the AHERA Rule. As such, the Agency is unable to consider any rulemaking in this area.

Comment: One commenter requested inclusion of the Long Term Enhanced Surface Water Treatment Rule (LT2) in to the EO 13563 Plan.

Response: EPA has included LT2 in the final EO 13563 agency plan. The agency is continuing to gather information and data from stakeholders that will assist with the LT2 review, including information/data from municipalities.

Comment: One commenter suggested that EPA clarify permit requirements for Sanitary Sewer Overflow and peak flow wet weather discharges. Such review might include only wet weather blending practices, one element of an SSO policy under development that was subject to public comment in Fall 2010. The commenter raised concerns that EPA had already begun review of blending prior to developing EPA's Retrospective Review Plan, and that the Agency should take a fresh look at regulatory burdens rather than repackage existing initiatives.

Response: EPA had added an action in our plan that included SSO, CSO and wet weather discharges. We combined two actions into the Integrated planning for municipal wastewater and stormwater sources action (2.1.10 and 2.2.3). We completed this goal and issued the Integrated Municipal Stormwater and Wastewater Planning Approach Framework on June 5, 2012 that describes the integrated planning concept. The Integrated Planning effort is more than a repackaging of existing initiatives. The integrated planning approach presents a framework for municipalities to assess priorities and sequencing of actions they must take to comply with the

Clean Water Act. See September 2012 Progress Report for more information regarding this action.

Comment: One commenter suggested that EPA coordinate NPDES permit requirements and remove outdated requirements.

Response: EPA intends to revise or repeal outdated or ineffective regulatory requirements regarding the issuance of NPDES permits. Revisions to the regulations may allow, but not require, states and the Federal Government to use electronic public notice of draft permits instead of newspaper publication.

Comment: One commenter agreed that EPA should review and update NPDES requirements. The commenter would like EPA to retain the option of public newspaper notice in cases where it may be the best available option to inform the public in a particular area. The same commenter supported the move toward more electronic reporting, but noted problems in some states with electronic signatures procedures. EPA should allow paper submissions to continue until the technology is improved and uniformly implemented.

Response: EPA believes newspaper notices and paper reporting submissions may be the best notification methods in some locations where electronic notifications are not widely used. Revisions to the regulations may allow, but not require, states and the Federal Government to use electronic public notice of draft permits instead of newspaper publication.

Comment: One commenter encouraged EPA to consider differentiating between public notice requirements for minor and intermittent violations and those required for health-related and persistent violations of all kinds while revising consumer confidence report regulations.

Response: EPA's "Consumer Confidence Report" (CCR) Rule Retrospective Review Summary (<http://water.epa.gov/lawsregs/rulesregs/sdwa/ccr/upload/epa816s12004.pdf>) differentiates the violation levels as follows and provides the level (Tier 3) that could be used for reporting in the CCR. More precisely:

Reporting Tier 3 Public Notice in the Consumer Confidence Report

The Public Notification (PN) Rule requires public water systems to notify their customers when they violate drinking water standards and regulations (including monitoring requirements) or otherwise provide drinking water that may pose a risk to consumer's health. 40 CFR §§141.201-211. The PN Rule specifies three categories or tiers of public notification.

- A Tier 1 notice is required for violations or situations that have significant potential to have serious adverse effects on human health as a result of short-term exposure. Water systems have 24 hours to notify people who may drink the impacted water.
- A Tier 2 notice is required any time a water system provides water with levels of a contaminant that exceed drinking water standards or that has not been treated properly, or that has a significant potential to have serious adverse effects on human health. Water systems must provide a Tier 2 notice as soon as possible, but within 30 days of learning of the violation or situation.

- A Tier 3 notice is required for all other violations (e.g., failure to monitor or comply with established testing procedure) or situations not included in Tier 1 or Tier 2. The water system has up to 12 months from the date of the violation to provide a notice of this situation to its customers.

The PN Rule allows community water systems to use the CCR to meet Tier 3 PN requirements (both initial and repeat notices) as long as the CCR is provided to customers no later than 12 months after the community water system learns of the Tier 3 violation. 40 CFR § 141.204(d).

Comment: Commenters noted the importance of public participation and transparency, in general, and in developing the Plan and its implementation, specifically.

Response: As outlined in responses to other comments (above), EPA is proud of its long commitment to transparency and public involvement in its regulatory development work and in other significant activities, such as the development of the EO 13563 Plan. Specifically, in developing the Plan the Agency took numerous steps to ensure stakeholders and the general public had opportunities to provide input and were able to follow along and understand its process, for example: In February, 2011, the Agency published a Notice in the Federal Register which 1) publicized an upcoming Public Meeting, 2) solicited comments, and 3) announced the establishment and availability of several public dockets. Further, the Agency established a proxy email box to receive public comments and inquiries and it launched a website so the public could learn the status of actions of interest. To this day, the Agency keeps the E.O.13563 public docket open, proxy mailbox active, and website updated. In addition, the Agency publishes an update on its Plan commitments twice a year.

Comment: Two commenters requested that EPA include state and local administrative and implementation costs in benefit cost estimates for rules.

Response: One of the key challenges facing state-EPA partnerships is that of funding. There continues to be a confluence of growing fiscal constraints faced by many states and federal agencies, coupled with a steady increase in federal environmental and public health mandates. EPA is sensitive to State funding concerns and recognizes that major increases in either EPA or state budgets are unlikely -- while the scope and breadth of environmental programs continues to grow.

Several years ago, EPA agreed to work in conjunction with the [Environmental Council of the States \(ECOS\)](#) and several participating member states, to undertake a series of case studies to investigate and analyze the nature and extent of demands placed on states when EPA issues a regulation. A set of reports were [developed](#) that looked at EPA's and the states' information and methods used to estimate the costs to states charged with administering a selection of EPA regulations. Information was obtained from EPA economic reports developed at the time the regulations were initially promulgated, and through questionnaires provided to the states regarding their own estimates of the costs they incurred to administer these regulations. The report sought to draw some comparisons between these two costs estimates -- exploring where differences appear and investigating the potential reasons for these differences.

From the outset of the effort, it was understood that because of limitations with the analytical methods and quality of the data, the study would be incapable of producing definitive evidence necessary to draw firm conclusions on the abilities of either the EPA or the states to produce precise and complete cost estimates for the EPA regulations included in the case studies. EPA's analytic framework used to estimate the economic costs of new regulations does not match up well with the budgetary or accounting-based framework states may rely upon to track their administrative costs for these same rules. Despite these and other limitations, the study did serve as a constructive effort to investigate the variety of issues associated with collecting and reporting information on the administrative costs to states charged with implementing EPA's regulations.

A follow-up [paper](#) was developed that built upon the recognized partnership between EPA and the states in implementing regulations and achieving environmental protection goals. EPA produced the paper to offer a brief overview of the roles and responsibilities that states play in promoting environmental protection. It also highlighted the growing environmental and financial pressures that states continue to face, and to identify some of the collaborative opportunities that states and EPA are pursuing to streamline more labor-intensive processes to make our current system of environmental protection as efficient and cost effective as possible.

Comment: One commenter noted that it can be complex to understand industry specific costs, particularly in the commercial aviation industry.

Response: While the first five rules selected for retrospective cost assessment do not directly touch the air transport industry, we will keep your comments in mind should future rules selected via stratified random sampling do so. Our experience in carrying out the first five case studies, confirms that it is critical to incorporate industry-specific considerations and characteristics. In several of the case studies, EPA used industry experts to inform the study and found their expertise to be critical to the success of the study.

Comment: One commenter noted that EPA's retrospective cost study should compare the ex ante versus ex post values of both benefits estimates and cost estimates. The same commenter also noted that EPA should reconsider its methodology and questioned whether five is a sufficiently large sample size to be broadly representative.

Response: The ultimate goal of our Retrospective Cost Study is to inform future improvements to our cost estimation methodologies. While we recognize that the potential for over- and under-estimation exists for both benefit and cost analyses performed as part of the regulatory development process, analysis of benefits in this context would require a different set of expertise and is beyond the limited scope of this particular project. That said, EPA does have separate efforts underway to improve and inform benefits analysis.

The five rules described in this project were selected to serve as pilot case studies. The purpose of these pilot case studies is to explore various methodologies for information collection to gauge which are most appropriate to measure ex post compliance costs for a range of rules. Therefore, these five rules were not chosen randomly, but rather were chosen to cover various media, source

categories, and types of regulations. More information about the rule selection process and preliminary findings can be found in the draft, interim report presented to EPA's Science Advisory Board for review:

[http://yosemite.epa.gov/sab/sabproduct.nsf/02ad90b136fc21ef85256eba00436459/3A2CA322F56386FA852577BD0068C654/\\$File/Retrospective+Cost+Study+3-30-12.pdf](http://yosemite.epa.gov/sab/sabproduct.nsf/02ad90b136fc21ef85256eba00436459/3A2CA322F56386FA852577BD0068C654/$File/Retrospective+Cost+Study+3-30-12.pdf)

We recognize that five case studies is not a sufficiently large sample from which to draw robust conclusions. Additional case studies are underway and were selected using stratified random sampling.

Comment: One commenter noted that EPA should anticipate the future need for data on a rule's efficiency and effectiveness so as to facilitate future retrospective reviews.

Response: EPA is considering ways to leverage current data collection efforts and monitoring requirements to enhance and facilitate future retrospective assessments.

Comment: One commenter urged the Agency to clarify that in conducting its retrospective reviews (and developing new regulations) it will consider the cumulative effect of a regulation in the context of all regulations applicable to the industry, not just EPA regulations.

Response: In Section 4.3, the draft Plan provides more information regarding the "Coordination, simplification, and harmonization across agencies." Specifically, the plan calls for the Agency to consider the following questions in performing its retrospective assessment:

- If this regulation requires coordination with other EPA regulations, could it be better harmonized than it is now?
- If this regulation requires coordination with the regulations of other federal or state agencies, could it be better harmonized with those regulations than it is now?

In addition, for all economically significant rules, the Agency examines economic efficiency based on a comparison of the incremental costs and incremental benefits. An action is warranted on economic efficiency grounds if the benefits of the action justify its costs. In the typical individual pollutant framework, EPA accounts for cumulative effects in its rule-making most directly by properly updating the baseline to reflect other established programs and policies.

EPA strives to use the most up-to-date data on relevant prices in its cost estimates. Market prices depend on a variety of factors, including the cost of production, which includes the cost of complying with environmental regulation. Thus, using the most up-to-date data on relevant prices ensures that the cumulative effects of past regulation are incorporated in the agency's economic analyses.

EPA also updates its industry and firm-level models (when they are available) to include all compliance actions that were required by previous regulation. This is done by estimating the emission controls and associated costs incremental to a baseline that includes all current major rules and state regulations and other salient factors such as the state of technological development.

EPA also attempts to reduce cumulative costs while meeting policy goals and legal requirements by implementing performance-based rules. For performance-based rules, EPA estimates the cost of the Best Available Technology (BAT) at the time the rule is promulgated -- but this does not mean that the regulated industry has to use this technology. Industry is free to choose a less costly but effective method for achieving compliance that best meet its technical and economic needs. For example, when EPA's Office of Ground Water and Drinking Water (OGWDW) issued its Arsenic Rule, iron-based absorptive media was still in the research phase so it was not included as a BAT, but has since become commercially viable and is widely used by water systems to comply with the Arsenic Rule.

In March 2011, EPA issued the Second Prospective Report on the Benefits and Costs of the Clean Air Act. This extensively peer-reviewed study was developed pursuant to section 812 of the 1990 Clean Air Act Amendments to assess the cumulative benefits and the costs of the entire Clean Air Act.

Comment: Two commenters suggested that EPA improve estimates of the effect of a regulation on jobs.

Response: Benefit-cost analysis (BCA) requires evaluation of both the social benefits and costs associated with the regulation. The social cost of a regulation includes the value of lost output associated with the reallocation of resources (including labor) away from production of traditional outputs and towards pollution abatement. The social benefits of a regulation include, among other effects, reductions in medical expenditures and lost work days caused by pollution-related health effects. The research literature does not provide a clear way to incorporate job impacts directly in the benefit-cost analysis. EPA is currently reviewing methods and research literature for quantifying job impacts of regulations and generally conducts a jobs assessment for economically significant regulations. During periods of sustained high unemployment, EPA recognizes that employment impacts are of particular concern and questions may arise about the existence and magnitude of such impacts. EPA is in the process of developing improved guidance for its analysts on the development of appropriate employment impact assessment. The guidance will be informed by the peer-reviewed, published literature in this field and will be based on the best available science. When included, these economic impact analyses will be presented alongside the benefit cost analyses.