

measures taken to remedy the misconduct?

25. As stated earlier, we cannot determine in advance how much credit is given for self-reporting. It is possible, however, that prompt and full self-reporting of violations, coupled with steps to correct the adverse impact on customers or third parties from the misconduct, may result in a significant reduction in the amount of civil penalty or no civil penalty being assessed. Companies should still expect to disgorge any unjust profits.

3. Cooperation

26. Cooperation may come in any context—a company response to a Commission inquiry, audit, or investigation, or in voluntary self-reporting of misconduct. We expect cooperation, as entities subject to our jurisdiction are required to provide us with information at our request.²⁸ Still, we will give some consideration to exemplary cooperation, that is, cooperation which quickly ends wrongful conduct, determines the facts, and corrects a problem. Cooperation must come very early in the process, however, and must be in good faith, consistent, and continuing. No credit will be given if a company does no more than the minimum, or delays cooperation, or purports to cooperate but actually engages in conduct that impedes the Commission's activities or consumes Commission resources unnecessarily. The following are indicative of cooperation for which credit may be given when we determine the appropriate penalty to be imposed for wrongdoing. Although these factors are similar to those described above with respect to self-reporting, they remain relevant in the context of cooperation because, under appropriate circumstances, the Commission will consider these factors even for entities that did not self-report violations, provided that cooperation was provided once the violation was uncovered.

- Did the company volunteer to provide internal investigation or audit reports relating to the misconduct? Did the company hire an independent outside entity to assist the company's investigation?
- Did senior management make clear to all employees that their cooperation has the full support and encouragement of management and the directors of the company?
- Did the company facilitate Commission access to employees with

knowledge and information bearing on the issue, and actively encourage such employees to provide the Commission with complete and accurate information?

- Did the company identify culpable employees and assist the Commission in understanding their conduct?
- Did the company make records readily available, with assistance on searching and interpreting information in the records?
- Did the company fairly and accurately determine the effects of the misconduct, including identifying the revenues and profits resulting from the misconduct and the customers or market participants adversely affected by the misconduct?

27. It is possible for an entity to comply with the majority of the stated factors in part, but without wholeheartedly devoting its resources and efforts to cooperation. Likewise, it is conceivable for an entity to cooperate in certain aspects yet hinder enforcement investigation in others. Lack of cooperation is a serious matter and will be weighed in deciding appropriate remedies. Uncooperative conduct includes such things as failing to respond to data requests in a timely manner; failing to produce documents and witnesses within a reasonable period; misrepresenting the nature or extent of the misconduct; claiming that records are unavailable when they are; limiting staff access to employees; inappropriately directing or influencing employees or their counsel not to cooperate fully or openly with the investigation; engaging in obstructive conduct during investigative testimony or interviews; providing specious explanations for instances of misconduct that are uncovered; failing properly to search computer hard drives for documents and electronic images; and failing to provide documents in the way they are maintained in the normal course of business. The manner in which a company approaches cooperation will be an important factor in determining whether, and how much, credit may be given for cooperation.

Conclusion

28. The factors discussed in this Policy Statement provide guidance to the industry on the approach we will take to future enforcement. It is consistent with past Commission practice, and with the practices of other federal agencies with similar powers. Entities subject to the Commission's jurisdiction should expect firm but fair enforcement in the future, including the use, as appropriate, of the substantial

new civil penalty authority provided by EP Act 2005.

29. At the same time, entities can take steps to improve and ensure compliance by their officers, employees, and agents with our statutes, orders, rules, and regulations. We place a high value on internal compliance, self-reporting, and cooperation. The credit we will give for mitigating factors, including proactive steps taken by companies, depends on many factors and cannot be reduced to a predictable quantity. But where many of the positive factors of internal compliance, self-reporting, and cooperation are present, we will take those factors into account in determining the appropriate penalties for violations.

By the Commission.

Magalie R. Salas,

Secretary.

[FR Doc. 05–21899 Filed 11–1–05; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OAR–2005–0118, FRL–7993–3]

Agency Information Collection Request Activities: Renewal of the Collection Request for the Outer Continental Shelf Air Regulation; EPA ICR Number 1601.06, OMB Control Number 2060–0249

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA has submitted a renewal for a continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB). The proposed request was for renewal of an existing approved collection which is scheduled to expire on October 31, 2005. Before submitting the ICR to OMB for review and approval, EPA solicited comments on specific aspects of the proposed information collection as described below. The EPA received comments submitted to the docket from the U.S. Department of the Interior Minerals Management Service and has responded by making certain suggested changes and corrections which are found in this final document.

FOR FURTHER INFORMATION CONTACT: David Sanders, Ozone Policy and Strategies Group, Mail Drop C539–02, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–

²⁸ FPA section 301(b), 16 U.S.C. 825b(b); NGA section 8(b), 15 U.S.C. 717g(b); NGPA section 304(a), 15 U.S.C. 3314(a).

3356; fax number: (919) 541-0824 ; e-mail address: sanders.dave@epa.gov.

SUPPLEMENTARY INFORMATION: The EPA has established a public docket for this ICR under Docket ID number OAR-2005-0118, which is available for public viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket is (202) 566-1742. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at <http://www.epa.gov/edocket>. Use EDOCKET to obtain a copy of the draft collection of information, view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified above.

The EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, is available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to <http://www.epa.gov/edocket>.

Affected entities: Entities potentially affected by this action are all outer continental shelf sources except those located in the Gulf of Mexico west of 87.5 degrees longitude (near the border of Florida and Alabama). For sources located within 25 miles of States' seaward boundaries, the requirements are the same as those that would be applicable if the source were located in the corresponding onshore area (COA).

In States affected by this rule, State boundaries extend three miles from the coastline, except off the coast of the Florida Panhandle, where the State's boundary extends three leagues (about nine miles) from the coastline.

Title: Outer Continental Shelf Air Regulations, EPA ICR Number 1601.06 and OMB Control Number 2060.0249, expiration date: October 31, 2005.

Abstract: Sources located beyond 25 miles of States' boundaries are subject to Federal requirements (implemented and enforced solely by EPA) for Prevention of Significant Deterioration (PSD), New Source Performance Standards (NSPS), National Emissions Standards for Hazardous Air Pollutants Standards (NESHAPS), the Federal operating permit program, and the enhanced compliance and monitoring regulations. Before any agency, department, or instrumentality of the Federal government engages in, supports in any way, provides financial assistance for, licenses, permits, approves any activity, that agency has the affirmative responsibility to ensure that such action conforms to the State implementation plan (SIP) for the attainment and maintenance of the national ambient air quality standards (NAAQS). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information request unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and 48 CFR chapter 15. Section 176(c) of the Clean Air Act (42 U.S.C. 7401 *et seq.*) requires that all Federal actions conform with the SIPs to attain and maintain the NAAQS. Depending on the type of action, the Federal entities must collect information themselves, hire consultants to collect the information or require applicants/sponsors of the Federal action to provide the information.

The type and quantity of information required will depend on the circumstances surrounding the action. First, the entity must make an applicability determination. If the source is located within 25 miles of the State's seaward boundaries as established in the regulations, the requirements are the same as those that would be applicable if the source were located in the COA. State and local air pollution control agencies were requested to provide information concerning regulation of offshore sources and were provided opportunities to comment on the proposed determinations. The public also was provided an opportunity to

comment on the proposed determinations.

The EPA did solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Burden Statement

Total Industry Respondent Burden and Costs

The estimated industry respondent burden for total labor hours and costs associated with one-time/periodic activities are estimated to be 30,575 hours and \$1,654,248, respectively. Total labor hours and costs associated with annual activities are estimated to be 30,244 hours and \$1,636,362, respectively. Total industry respondent costs annualized over the 3-year time period are estimated to be \$1,636,362 per year.

Total State and Local Agency Burden and Costs

The estimated State and local agency burden for total labor hours and costs associated with one-time/periodic activities are estimated to be 3,821 hours and \$206,333, respectively. Total labor hours and costs associated with annual activities for that time period are estimated to be 3,801 hours and \$205,254, respectively. Total costs annualized over the 3-year time period are estimated to be \$204,102 per year.

Total EPA Burden and Costs

The estimated EPA burden for total labor hours and costs associated with one-time-only activities are estimated to be 3,549 hours and \$170,359, respectively. Total labor hours and costs associated with annual activities are estimated to be 3,532 hours and \$169,515, respectively. Total costs annualized over the 3-year time period are estimated to be \$168,672 per year.

Burden means the total time, effort, or financial resources expended by persons

to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: October 26, 2005.

Mary E. Henigin,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 05-21926 Filed 11-1-05; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT-2003-0004; FRL-7736-7]

Access to Confidential Business Information by the General Accountability Office

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized the General Accountability Office (GAO), access to information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA) and the Federal, Insecticide, Fungicide, and Rodenticide Act (FIFRA). Some of the information may be claimed or determined to be Confidential Business Information (CBI). **DATES:** Access to confidential business data started on October 1, 2005.

FOR FURTHER INFORMATION CONTACT:

Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554-1404; e-mail address: TSCA-Hotline@epa.gov.

Additional information on the GAO request and security issues can be obtained from: Erik R. Johnson, Acting Information Management Official (IMO) and Primary Information Security Officer (ISO), Office of Prevention, Pesticides and Toxic Substances (OPPTS), Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,

Washington, DC 20460; telephone number: (202) 564-0521; e-mail address: Johnson.Erik@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Notice Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are or may be required to comply with laws administered by EPA. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Documents?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPPT-2003-0004. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include CBI or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566-1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566-0280.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, to access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket

facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

II. What Action is the Agency Taking?

On August 16, 2005, in accordance with 40 CFR 2.209, the Comptroller General of the GAO requested access to information collected through the authority of TSCA and FIFRA. Some of this information has been treated as CBI. GAO needs this information in connection with its review of EPA's risk assessment processes. EPA has granted GAO access to these materials effective October 1, 2005.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA and FIFRA, that the Agency has provided GAO access to these CBI materials on a need-to-know basis only. All access to TSCA and FIFRA CBI under this arrangement, takes place at EPA Headquarters, and GAO Headquarters located at 441 G St., NW., Washington, DC 20548.

Clearance for access to TSCA and FIFRA CBI under this arrangement may continue until May of 2006. Access started on October 1, 2005.

GAO personnel have signed non-disclosure agreements and were briefed on appropriate security procedures before they were permitted access to the CBI.

List of Subjects

Environmental protection,
Confidential business information.

Dated: October 18, 2005.

Susan B. Hazen,

Assistant Administrator, Office of Prevention, Pesticides, and Toxic Substances.

[FR Doc. 05-21839 Filed 11-1-05; 8:45 am]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

[OPP-2005-0263; FRL-7742-9]

MCPB Risk Assessment, Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's risk assessments and related documents for the phenoxy herbicide, MCPB (4-(2-methyl-4-chlorophenoxy) butyric acid), and opens a public comment period on these documents. The public is encouraged to suggest ideas or proposals to address the risks identified. EPA is developing a Reregistration Eligibility Decision (RED) for MCPB through a modified, 4-Phase