

**DEPARTMENT OF COMMERCE****National Institute of Standards and Technology****15 CFR Part 285**

[Docket No: 110125063–1062–02]

RIN 0693–AB61

**National Voluntary Laboratory Accreditation Program; Operating Procedures****AGENCY:** National Institute of Standards and Technology (NIST), Commerce.**ACTION:** Notice of proposed rulemaking; Request for comments.

**SUMMARY:** The Director of the National Institute of Standards and Technology (NIST), United States Department of Commerce, requests comments on a proposed amendment to regulations pertaining to the operation of the National Voluntary Laboratory Accreditation Program (NVLAP). NIST proposes to revise the description of how NVLAP establishes laboratory accreditation programs (LAPs). The amendment is needed to clarify the original intent of this section and to improve the readability and understanding of the agency's regulations.

**DATES:** Submit comments on or before April 28, 2011.**ADDRESSES:** Interested parties may submit comments, identified by RIN 0693–AB61, by any one of the following methods:

- *Federal eRulemaking Portal* at <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *E-mail:* [NVLAP@nist.gov](mailto:NVLAP@nist.gov).
- *Mail:* Sally S. Bruce, Chief, National Voluntary Laboratory Accreditation Program, National Institute of Standards and Technology, 100 Bureau Drive, Stop 2140, Gaithersburg, MD 20899–2140.
- *Fax:* (301) 926–2884, Attention: Sally S. Bruce.

*Instructions:* All comments received must include the agency name and Regulatory Information Number (RIN 0693–AB61) for this proposed rulemaking. Comments will be posted without change to <http://www.regulations.gov>, including any personal information provided. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NIST will accept anonymous comments (please enter

N/A in the required fields if you wish to remain anonymous).

**FOR FURTHER INFORMATION CONTACT:**

Sally S. Bruce, Chief, National Voluntary Laboratory Accreditation Program, National Institute of Standards and Technology, 100 Bureau Drive, Stop 2140, Gaithersburg, MD 20899–2140; telephone number: (301) 975–4016; e-mail address: [sally.bruce@nist.gov](mailto:sally.bruce@nist.gov); NVLAP Web site: <http://www.nist.gov/nvlap>.

**SUPPLEMENTARY INFORMATION:****Background**

Title 15 Part 285 of the Code of Federal Regulations sets out procedures and general requirements under which the National Voluntary Laboratory Accreditation Program (NVLAP) operates as an unbiased third party to accredit both testing and calibration laboratories. NVLAP establishes laboratory accreditation programs (LAPs) in response to legislation or requests from government agencies and private sector entities.

The NVLAP procedures were first published in the **Federal Register** on February 25, 1976, and have been revised several times. In 2001, major revisions to the procedures were published to ensure their consistency with certain international standards and guidance documents, and to reorganize and simplify part 285 for ease of use and understanding. While the existing regulations were accurate, the language was complex and difficult to understand; therefore, the procedures were rewritten in plain English and their subparts consolidated in order to make the regulations more user friendly.

**Description and Explanation of Proposed Change**

The purpose of this rule is to amend section 285.4, *Establishment of laboratory accreditation programs (LAPs) within NVLAP*, so that it conforms to the intent of the 2001 revisions to Part 285 of Title 15 of the CFR and makes the regulations easier to understand. NIST proposes to amend the last sentence in section 285.4 as follows: change the third instance of the word “and” to “or,” and add the words “to ensure open participation” after the phrase “other means.”

As a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA), NVLAP complies with the requirements of ISO/IEC 17011, *Conformity assessment—General requirements for accreditation bodies accrediting conformity assessment bodies*. The proposed change will allow

NVLAP more flexibility in determining how to best fulfill the requirements for impartiality found in ISO/IEC 17011, 4.3.2, by assuring a balanced representation of interested parties when evaluating the need for a requested LAP.

The original intent of the last sentence of section 285.4 was to allow NVLAP the flexibility to employ the most appropriate means to ensure open participation of stakeholders; however, the use of the word “and” may be misinterpreted to mean that a public workshop is required for each and every LAP request. There are numerous means by which consultation with interested parties may be accomplished exclusive of a workshop, which include, but are not limited to, meeting with government and individual industry stakeholders on a frequent basis, attending consortia and conferences at which regulators, specifiers, and requesters are in attendance, and soliciting public comments via public notices, electronic communications, and news articles. Further, the use of the word “or” does not preclude the use of both workshops and other means to collect the necessary information.

**Request for Comments**

The Director of the National Institute of Standards and Technology, United States Department of Commerce, requests comments on the proposed amendments to regulations found at 15 CFR part 285 pertaining to the National Voluntary Laboratory Accreditation Program.

Interested parties may submit comments by any one of several methods (see **ADDRESSES**). All comments received in response to this notice will become part of the public record and will be posted without change to <http://www.regulations.gov>.

**Classification***Executive Order 12866*

This proposed rule is not a significant rule for the purposes of Executive Order 12866.

*Executive Order 12612*

This proposed rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

*Regulatory Flexibility Act*

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that

this proposed rule will not have a significant economic impact on a substantial number of small entities for the following reasons: (1) The regulation is procedural and has no impact on any entity unless that entity chooses to participate, in which case, the cost to the participant is the same cost for any size participant; (2) access to NVLAP's accreditation system is not conditional upon the size of a laboratory or membership of any association or group, nor are there undue financial conditions to restrict participation; and (3) the technical criteria, against which individual laboratories are assessed, are not changed by this proposal.

#### *Paperwork Reduction Act*

This proposed rule does not involve a new collection of information subject to the Paperwork Reduction Act (PRA). The collection of information for NVLAP has been approved by the Office of Management and Budget (OMB) under control number 0693-0003. Notwithstanding any other provision of the law, no person is required to comply, nor shall any person be subject to penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

#### *National Environmental Policy Act*

This proposed rule will not significantly affect the quality of the human environment. Therefore, an environmental assessment or Environmental Impact Statement is not required to be prepared under the National Environmental Policy Act of 1969.

#### **List of Subjects in 15 CFR Part 285**

Accreditation, Business and industry, Calibration, Commerce, Conformity assessment, Laboratories, Measurement standards, Testing.

For the reasons set forth in the preamble, it is proposed that title 15 of the Code of Federal Regulations be amended as follows:

#### **PART 285—NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM**

1. The authority citation for 15 CFR part 285 continues to read as follows:

**Authority:** 15 U.S.C. 272 *et seq.*

2. Section 285.4 is amended by revising the last sentence to read as follows:

#### **§ 285.4 Establishment of laboratory accreditation programs (LAPs) within NVLAP.**

\* \* \* \* \*

For requests from private sector entities and Government agencies, the Chief of NVLAP shall analyze each request, and, after consultation with interested parties through public workshops or other means to ensure open participation, shall establish the requested LAP, if the Chief of NVLAP determines there is need for the requested LAP.

Dated: March 21, 2011.

**Charles H. Romine,**

*Acting Associate Director for Laboratory Programs.*

[FR Doc. 2011-7336 Filed 3-28-11; 8:45 am]

**BILLING CODE 3510-13-P**

### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52**

**[EPA-R06-OAR-2010-0404; FRL-9287-4]**

#### **Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Determination of Termination of Section 185 Fees**

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to determine that the State of Louisiana is no longer required to submit a section 185 fee program State Implementation Plan (SIP) revision for the Baton Rouge ozone nonattainment area to satisfy anti-backsliding requirements for the 1-hour ozone standard. This proposed determination ("Termination Determination") is based on complete, quality-assured monitoring data showing attainment of the 1-hour ozone National Ambient Air Quality Standard (NAAQS), which is due to permanent and enforceable emission reductions implemented in the area.

**DATES:** Written comments must be received on or before April 28, 2011.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA-R06-OAR-2010-0404, by one of the following methods:

*Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

*U.S. EPA Region 6 "Contact Us" Web site:* <http://epa.gov/region6/r6coment.htm>. Please click on "6PD"(Multimedia) and select "Air" before submitting comments.

*E-mail:* Mr. Guy Donaldson at [donaldson.guy@epa.gov](mailto:donaldson.guy@epa.gov). Please also send a copy by e-mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

*Fax:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), at fax number 214-665-7263.

*Mail:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

*Hand or Courier Delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R06-OAR-2010-0404.

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

*Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is