

Service Bulletin RB.211-71-AG698, dated October 14, 2011 (for engines with Bombardier standard air intake cowls).

(h) Replacement of In-Service Air Intake Cowl Complete Forward Bulkhead Assemblies

For airplanes other than those identified in paragraph (g) of this AD: At the applicable time specified in paragraphs (h)(1) through (h)(12) of this AD, replace the forward bulkhead assembly, TAI spray ring assembly, and associated attachment fittings of the air intake cowl with new parts, in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin RB211-E4-A1003, Revision 1, dated August 15, 2012 (for engines with air intake cowls modified by Bombardier Aerospace STC ST02102NY [http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/256325188c3b1f2f8625705f004dd977/\\$FILE/ST02102NY.pdf](http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/256325188c3b1f2f8625705f004dd977/$FILE/ST02102NY.pdf), commonly known as a 535EX cowls); or Rolls-Royce Service Bulletin RB.211-71-AG698, dated October 14, 2011 (for engines with Dyna-Rohr or Bombardier standard air intake cowls.) Repeat the replacement thereafter at intervals not to exceed 144 months.

(1) For airplanes with air intake cowls having serial numbers 4001 through 4121 inclusive: Replace within 12 months after the effective date of this AD.

(2) For airplanes with air intake cowls having serial numbers 4122 through 4241 inclusive: Replace within 24 months after the effective date of this AD.

(3) For airplanes with air intake cowls having serial numbers 4242 through 4361 inclusive: Replace within 36 months after the effective date of this AD.

(4) For airplanes with air intake cowls having serial numbers 4362 through 4481 inclusive: Replace within 48 months after the effective date of this AD.

(5) For airplanes with air intake cowls having serial numbers 4482 through 4484 inclusive: Replace within 60 months after the effective date of this AD.

(6) For airplanes with air intake cowls having serial numbers 9001 through 9117 inclusive: Replace within 60 months after the effective date of this AD.

(7) For airplanes with air intake cowls having serial numbers 9118 through 9237 inclusive: Replace within 72 months after the effective date of this AD.

(8) For airplanes with air intake cowls having serial numbers 9238 through 9357 inclusive: Replace within 84 months after the effective date of this AD.

(9) For airplanes with air intake cowls having serial numbers 9358 through 9477 inclusive: Replace within 96 months after the effective date of this AD.

(10) For airplanes with air intake cowls having serial numbers 9478 through 9597 inclusive: Replace within 108 months after the effective date of this AD.

(11) For airplanes with air intake cowls having serial numbers 9598 through 9717 inclusive: Replace within 120 months after the effective date of this AD.

(12) For airplanes with air intake cowls having serial numbers 9718 through 9780 inclusive: Replace within 132 months after the effective date of this AD.

(i) Credit for Previous Actions

For engines with air intake cowls modified by Bombardier Aerospace STC ST02102NY [http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/256325188c3b1f2f8625705f004dd977/\\$FILE/ST02102NY.pdf](http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/256325188c3b1f2f8625705f004dd977/$FILE/ST02102NY.pdf), commonly known as a 535EX cowls: This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using Bombardier Alert Service Bulletin RB211-E4-A1003, dated June 27, 2012 (which is not incorporated by reference in this AD).

(j) No Reporting Requirement

Although Bombardier Alert Service Bulletin RB211-E4-A1003, Revision 1, dated August 15, 2012; and Rolls-Royce Service Bulletin RB.211-71-AG698, excluding Appendix 1 and including Appendices 2, 3, and 4, dated October 14, 2011; specify to submit certain reporting information to the manufacturer, this AD does not include that requirement.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: 9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(l) Related Information

(1) For more information about this AD, contact Kevin Nguyen, Aerospace Engineer, Propulsion Branch, ANM-140S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057-3356; phone: (425) 917-6501; fax: (425) 917-6590; email: kevin.nguyen@faa.gov.

(2) For Rolls-Royce service information identified in this AD, contact Rolls-Royce plc, P.O. Box 31, Derby, DE24 8BJ, United Kingdom; telephone 011 44 1332 242424; fax 011 44 1332 249936; email http://www.rolls-royce.com/contact/civil_team.jsp; Internet <https://www.aeromanager.com>. For Bombardier Service information identified in this AD, contact Short Brothers PLC, Airworthiness, P.O. Box 241, Airport Road,

Belfast, BT3 9DZ Northern Ireland; telephone +44(0)2890-462469; fax +44(0)2890-468444; Internet <http://www.bombardier.com>. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425-227-1221.

Issued in Renton, Washington, on October 12, 2012.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012-25780 Filed 10-18-12; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 58

[EPA-HQ-OAR-2012-0486, FRL-9741-6]

RIN 2060-AR59

Revision to Ambient Nitrogen Dioxide Monitoring Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to revise the deadlines established in the national ambient air quality standard (NAAQS) for nitrogen dioxide (NO₂) for the near-road component of the NO₂ monitoring network and to implement a phased deployment approach. This approach would create a series of deadlines that would make the near-road NO₂ network operational between January 1, 2014, and January 1, 2017. The EPA is also proposing to revise the approval authority for annual monitoring network plans for NO₂ monitoring.

DATES: Comments must be received on or before November 19, 2012.

Public Hearing. If anyone contacts the EPA by October 29, 2012 requesting to speak at a public hearing, a hearing will be held on November 19, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2012-0486 by one of the following methods:

- www.regulations.gov: Follow the online instructions for submitting comments.

- **Email:** a-and-r-Docket@epa.gov.

- **Fax:** (202) 566-9744.

- **Mail:** Docket No. EPA-HQ-OAR-2012-0486, Environmental Protection Agency, Mail code 6102T, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Please include a total of two copies.

• **Hand Delivery:** Docket No. EPA–HQ–OAR–2012–0486, Environmental Protection Agency, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2012–0486. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or email. The www.regulations.gov Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <http://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

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

DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744 and the telephone number for the Air and Radiation Docket and Information Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Mr. Nealson Watkins, Air Quality Assessment Division, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail code C304–06, Research Triangle Park, NC 27711; telephone: (919) 541–5522; fax: (919) 541–1903; email: watkins.nealson@epa.gov.

SUPPLEMENTARY INFORMATION:

A. Does this action apply to me?

This action applies to state, territorial, and local air quality management programs that are responsible for ambient air monitoring under 40 CFR part 58. Categories and entities potentially regulated by this action include:

Category	NAICS ^a code
State/territorial/local/tribal government	924110

^a North American Industry Classification System.

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

1. **Submitting CBI.** Do not submit this information to the EPA through <http://www.regulations.gov> or email. Clearly mark any of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. **Tips for Preparing Your Comments.** When submitting comments, remember to:

- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.

- Describe any assumptions and provide any technical information and/or data that you used.

- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

- Provide specific examples to illustrate your concerns, and suggest alternatives.

- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

- Make sure to submit your comments by the comment period deadline identified.

C. Where can I get a copy of this document?

In addition to being available in the docket, an electronic copy of this proposed rule will also be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following signature, a copy of this proposed rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: <http://www.epa.gov/ttn/oarpg/>. The TTN provides information and technology exchange in various areas of air pollution control. A redline/strikeout document comparing the proposed revisions to the appropriate sections of the current rules is located in the docket.

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Minority Populations and Low-Income Populations

I. Background

On February 9, 2010, the EPA promulgated minimum monitoring requirements for the NO₂ monitoring network in support of the revised NO₂ NAAQS (75 FR 6474). The NO₂ NAAQS was revised to include a 1-hour standard with a 98th percentile form averaged over three years and a level of 100 parts per billion (ppb), reflecting the maximum allowable NO₂ concentration anywhere in an area, while retaining the annual standard of 53 ppb.

As part of the NAAQS rulemaking, the EPA promulgated revisions to requirements for minimum numbers of ambient NO₂ monitors that included new monitoring near major roads in larger urban areas. In addition, these monitoring requirements included requirements to characterize NO₂ concentrations representative of wider spatial scales in larger urban areas (area-wide monitors), and monitors intended to characterize NO₂ exposures of susceptible and vulnerable populations. Specifically, the requirements for these minimum monitoring requirements are as follows:

The first tier of the ambient NO₂ monitoring network requires near-road monitoring.¹ There must be one microscale near-road NO₂ monitoring station in each Core Based Statistical Area (CBSA) with a population of 500,000 or more persons to monitor a location of expected maximum hourly concentrations sited near a major road. An additional near-road NO₂ monitoring station is required at a second location of expected maximum hourly concentrations for any CBSA with a population of 2,500,000 or more persons, or in any CBSA with a population of 500,000 or more persons that has one or more roadway segments with 250,000 or greater Annual Average Daily Traffic (AADT). Based upon 2010 census data and data maintained by the U.S. Department of Transportation Federal Highway Administration on the most heavily trafficked roads in the U.S. (<http://www.fhwa.dot.gov/policyinformation/tables/02.cfm>), approximately 126 near-road NO₂ sites are required within 103 CBSAs nationwide.

The second tier of the NO₂ minimum monitoring requirements is for area-wide NO₂ monitoring.² There must be one monitoring station in each CBSA with a population of 1,000,000 or more persons to monitor a location of

expected highest NO₂ concentrations representing the neighborhood or larger spatial scales. These NO₂ monitors are referred to as area-wide monitors. Based on 2010 census data, approximately 52 area-wide NO₂ sites are required within 52 CBSAs.

The third tier of the NO₂ minimum monitoring requirements is for the characterization of NO₂ exposure for susceptible and vulnerable populations.³ The EPA Regional Administrators, in collaboration with states, must require a minimum of 40 additional NO₂ monitoring stations nationwide in any area, inside or outside of CBSAs, above the minimum monitoring requirements for near-road and area-wide monitors, with a primary focus on siting these monitors in locations to protect susceptible and vulnerable populations.

All three tiers of the NO₂ minimum monitoring requirements are to be submitted to the EPA for approval. Currently, 40 CFR 58.10 and 58.13 require states to submit a plan for establishing all required NO₂ monitoring sites to the EPA Administrator by July 1, 2012. Further, these plans shall provide for all required monitoring stations to be operational by January 1, 2013.

II. Proposed Changes to the Ambient NO₂ Monitoring Requirements

A. Network Implementation Dates

We are proposing a phased implementation approach to allow more time for states to establish the required near-road NO₂ monitors on a schedule consistent with available resources. No changes are proposed for the implementation timing requirements for area-wide monitoring and for monitoring to characterize NO₂ exposures for susceptible and vulnerable populations.

Language in 40 CFR part 58, sections 58.10 and 58.13, requires states to submit their NO₂ monitoring network plan by July 1, 2012, and to have all required NO₂ monitors physically established and operational by January 1, 2013. The EPA believes that most states have monitoring stations currently in operation that either already house an NO₂ monitor, or could easily accommodate an NO₂ monitor, which would allow the state to satisfy the requirements for area-wide monitoring and for characterizing NO₂ exposures for susceptible and vulnerable populations without the need for additional funds or network alterations. Near-roadway monitors,

however, generally do not exist and represent a significant, new monitoring activity needing substantial resources to implement. The EPA is aware that a very large majority of state and local air agencies required to install one or more near-road NO₂ stations currently do not have the financial resources to install and operate these new monitoring sites.

During the 2010 NO₂ NAAQS review process, the EPA received comments from state and local agencies, along with representative Regional Planning Organizations (RPOs) and national associations, indicating that full funding from the EPA was essential to ensure that the near-road NO₂ network was implemented as required. For example, in their public comments on the proposed primary NAAQS for NO₂ (74 FR 34404, July 15, 2012), the National Association of Clean Air Agencies stated: "Particularly in light of the recent and anticipated demands of funding other new and expanded monitoring networks, including the source and population lead network, the air toxics in schools monitors, and the proposed rural ozone network, it is imperative that the near-road [NO₂] network be federally funded with new appropriations at requisite levels. State and local air agency budgets have been generally flat for a number of years, with some agencies struggling to match funds to support core programs. Without additional funding for near-road monitoring, provided under section 103 of the Clean Air Act (CAA) so that matching funds are not required, many agencies will be unable to fulfill this new responsibility." In response to these and other state comments, the EPA pursued an approach to fund all required near-road NO₂ monitors through CAA section 103, and thus removed the state burden of providing matching funds. As of federal fiscal year 2012, insufficient federal funds have been identified to fund all of the required near-road NO₂ monitors across the country by the original deadline promulgated in the primary NAAQS for NO₂ (75 FR 6474). However, the EPA has been able to identify limited available funding to support a phased deployment approach.

Where neither states nor the EPA can identify sufficient funding to implement all required near-road NO₂ sites, the EPA is proposing changes to the dates by which required near-road NO₂ monitors are to be identified in annual monitoring network plans and physically established. The EPA is proposing a phased implementation approach, where subsets of the required near-road NO₂ monitors will be funded over the course of multiple years,

¹ See 40 CFR part 58, appendix D, section 4.3.2.

² See 40 CFR part 58, appendix D, section 4.3.3.

³ See 40 CFR part 58, appendix D, section 4.3.4.

beginning in federal fiscal year 2012 and anticipated to extend through federal fiscal year 2015. The EPA believes that it will be able to identify sufficient grant funding to support this approach and, therefore, allow states to complete the near-road network.

The EPA is proposing the following adjustments to the dates by which near-road NO₂ monitors are to be included in Annual Monitoring Network Plans and physically established. Specifically, we are proposing that:

(1) Those near-road NO₂ monitors which are either a single required monitor or the first of two required monitors in CBSAs having 1 million or more persons shall be reflected in the state Annual Monitoring Network Plan submitted July 1, 2013, and that the monitors shall be operational by January 1, 2014.

(2) Those near-road NO₂ monitors which are the second near-road NO₂ monitor in any CBSA with a population of 2,500,000 persons or more, or in any CBSA with a population of 500,000 or more persons that has one or more roadway segments with 250,000 or greater AADT counts, shall be reflected in the state Annual Monitoring Network Plan submitted July 1, 2014, and the monitors shall be operational by January 1, 2015.

(3) Those remaining near-road NO₂ monitors required in CBSAs having 500,000 or more persons shall be reflected in the state Annual Monitoring Plan submitted July 1, 2016, and the monitors shall be operational by January 1, 2017.

Under these proposed changes, the EPA estimates that 52 near-road NO₂ monitors would be operational by January 1, 2014, in CBSAs having 1 million or more persons; an estimated 23 additional near-road NO₂ monitors would be operational by January 1, 2015, in any CBSA having 2.5 million persons or more, or those CBSAs with a population of 500,000 or more persons that has one or more roadway segments with 250,000 or greater AADT counts; and an estimated 51 additional near-road NO₂ sites would be operational by January 1, 2017, in those CBSAs having a population between 500,000 and 1 million persons. The EPA believes this proposed phased approach appropriately focuses the limited resources currently available. Further, the proposed approach plans to initially install by January 1, 2014, 52 monitors in 52 different CBSAs across the country in order to provide a level of national representation that includes variations in climate, population densities, and pollutant mixtures along with the near-road monitoring site variables including

traffic count, fleet mix, roadway design, congestion patterns, and local meteorology. The EPA is proposing that the second phase of the proposed network implementation approach establish any second near-road NO₂ monitor in a CBSA because these are the largest CBSAs or are CBSAs containing the most heavily trafficked roads where the additional characterization is desired due to the generally greater number of major roads across a potentially larger geographic area, or exceptionally high traffic volumes, which correspond to increased potential for exposure. The EPA is proposing the third and final phase of the network implementation to be all additional required near-road NO₂ monitors in CBSAs having a population between 500,000 and 1 million persons. The EPA solicits comments on the phased implementation of the required near-road NO₂ network as proposed, specifically with regard to the dates by which each proposed phase is to be included in annual monitoring network plans and operational.

The EPA is not proposing any changes to the implementation dates for area-wide NO₂ monitors or those NO₂ monitors to be operated to characterize susceptible and vulnerable populations. As noted above, the EPA believes that most states have monitoring stations currently in operation that either house an NO₂ monitor or could easily accommodate a relocated NO₂ monitor, which would allow the state to satisfy these two tiers of the required NO₂ monitoring network without need for additional funds or network alterations. The EPA is currently working with states to review their NO₂ networks and evaluate which of the currently operated monitors would be most appropriate to continue operating in support of required area-wide and susceptible and vulnerable population monitoring or to identify locations where an NO₂ monitor could be relocated to support these requirements.

B. Change in Annual Monitoring Network Plan Approval Authority

The EPA is also proposing to amend the regulatory text to have state and local air monitoring agencies submit their NO₂ monitoring network plans to their respective EPA Regional Administrator instead of the EPA Administrator for approval as it is currently stated in 40 CFR 58.10(a)(5). This change would make the NO₂ monitoring network plan submittals consistent with the requirements for submittal of Annual Monitoring Network Plans for ozone, carbon monoxide, sulfur dioxide, particulate

matter, and lead to EPA Regional Administrators. The EPA believes it most appropriate for states to submit such information regarding NO₂ monitoring to EPA Regional Administrators for approval as required for all other monitoring plans. The EPA requests comment on the proposed change in the approval authority for NO₂ monitoring plans.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a “significant regulatory action” under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is, therefore, not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). The proposed amendments to revise ambient NO₂ monitoring requirements do not add any information collection requirements beyond those imposed by the existing NO₂ monitoring requirements.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this rule on small entities, small entity is defined as (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this rule on small entities, I

certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will neither impose emission measurement requirements beyond those specified in the current regulations, nor will it change any emission standard. As such, it will not present a significant economic impact on small entities.

D. Unfunded Mandates Reform Act

This action contains no federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local, or tribal governments or the private sector. This action imposes no enforceable duty on any state, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA. This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action proposes to increase the time by which state and local air monitoring agencies must install and operate a subset of required NO₂ monitors and does not add any new requirements.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action proposes to increase the time by which state and local air monitoring agencies must install and operate a subset of required NO₂ monitors and does not add any new requirements. Thus, Executive Order 13132 does not apply to this action. In the spirit of Executive Order 13132, and consistent with the EPA policy to promote communications between the EPA and state and local governments, the EPA specifically solicits comment on this proposed rule from state and local officials.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This proposed rule imposes no requirements on tribal governments. This action proposes to increase the time by which state and local air monitoring agencies must install and

operate a subset of required NO₂ monitors and does not add any new requirements. Thus, Executive Order 13175 does not apply to this action. In the spirit of Executive order 13175, the EPA specifically solicits additional comment on this proposed action from tribal officials.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks, but merely proposes to increase the time by which state and local air monitoring agencies must install and operate a subset of required NO₂ monitors.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a “significant energy action” as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This action proposes to increase the time by which state and local air monitoring agencies must install and operate a subset of required NO₂ monitors and does not add any new requirements.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104–113 (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (EO) 12898 (59 FR 7629, Feb. 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

The EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This rule proposes to increase the time by which state and local air monitoring agencies must install and operate a subset of required NO₂ monitors and does not add any new requirements.

List of Subjects

40 CFR Part 58

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations.

Dated: October 5, 2012.

Lisa P. Jackson,
Administrator.

PART 58—AMBIENT AIR QUALITY SURVEILLANCE

1. The authority citation for part 58 continues to read as follows:

Authority: 42 U.S.C. 7403, 7405, 7410, 7414, 7601, 7611, 7614, and 7619.

Subpart B—[AMENDED]

2. Section 58.10, is amended by revising paragraph (a)(5) and paragraph (b)(12) to read as follows:

§ 58.10 Annual monitoring network plan and periodic network assessment.

* * * * *

(a) * * *

(5)(i) A plan for establishing a single near-road NO₂ site in CBSAs having 1 million or more persons, in accordance with the requirements of appendix D section 4.3.2 to this part, shall be submitted as part of the Annual Monitoring Network Plan to the EPA Regional Administrator by July 1, 2013. The plan shall provide for these

required monitoring stations to be operational by January 1, 2014.

(ii) A plan for establishing a second near-road NO₂ site in any CBSA with a population of 2,500,000 persons or more, or a site in any CBSA with a population of 500,000 or more persons that has one or more roadway segments with 250,000 or greater AADT counts, in accordance with the requirements of appendix D section 4.3.2 to this part, shall be submitted as part of the Annual Monitoring Network Plan to the EPA Regional Administrator by July 1, 2014. The plan shall provide for these required monitoring stations to be operational by January 1, 2015.

(iii) A plan for establishing a single near-road NO₂ site in all other CBSAs having 500,000 or more persons, but less than 1 million persons, in accordance with the requirements of appendix D section 4.3.2 to this part, shall be submitted as part of the Annual Monitoring Network Plan to the EPA Regional Administrator by July 1, 2016. The plan shall provide for these monitoring stations to be operational by January 1, 2017.

(iv) A plan for establishing or identifying area-wide NO₂ monitoring sites, in accordance with the requirements of appendix D section 4.3.3 to this part, shall be submitted as part of the Annual Monitoring Network Plan to the EPA Regional Administrator by July 1, 2012. The plan shall provide for these required monitoring stations to be operational by January 1, 2013.

(v) A plan for establishing or identifying any NO₂ monitor intended to characterize vulnerable and susceptible populations, as required in appendix D section 4.3.4 to this part, shall be submitted as part of the Annual Monitoring Network Plan to the EPA Regional Administrator by July 1, 2012. The plan shall provide for these monitors to be operational by January 1, 2013.

* * * * *

(b) * * *

(12) The identification of required NO₂ monitors as near-road, area-wide, or vulnerable and susceptible population sites in accordance with Appendix D, Section 4.3 of this part.

* * * * *

3. Section 58.13 is amended by revising paragraph (c) to read as follows:

§ 58.13 Monitoring network completion.

* * * * *

(c)(1) Near-road NO₂ monitors required in Appendix D, section 4.3.2 which are the single required site or the first of two required sites in any CBSA having 1 million or more persons must

be physically established and operating under the requirements of this part, including the requirements of appendices A, C, D, and E to this part, by January 1, 2014.

(2) Near-road NO₂ monitors required in Appendix D, section 4.3.2 as a second near-road NO₂ site in any CBSA with a population of 2,500,000 persons or more, or a site in any CBSA with a population of 500,000 or more persons that has one or more roadway segments with 250,000 or greater AADT counts, must be physically established and operating under the requirements of this part, including the requirements of appendices A, C, D, and E to this part, by January 1, 2015.

(3) Near-road NO₂ monitors required in Appendix D, section 4.3.2 in all other CBSAs having 500,000 or more persons, but less than 1 million, must be physically established and operating under the requirements of this part, including the requirements of appendices A, C, D, and E to this part, by January 1, 2017.

(4) Area-wide NO₂ monitors required in Appendix D, section 4.3.3 must be physically established and operating under the requirements of this part, including the requirements of appendices A, C, D, and E to this part, by January 1, 2013.

(5) NO₂ monitors intended to characterize vulnerable and susceptible populations that are required in Appendix D, section 4.3.4 must be physically established and operating under the requirements of this part, including the requirements of appendices A, C, D, and E to this part, by January 1, 2013.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 213

[Docket No. FRA-2011-0058, Notice No. 1]

RIN 2130-AC28

Track Safety Standards; Improving Rail Integrity

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FRA is proposing to amend the Federal Track Safety Standards to promote the safety of railroad operations

by enhancing rail flaw detection processes. In particular, FRA is proposing minimum qualification requirements for rail flaw detection equipment operators, as well as revisions to requirements for effective rail inspection frequencies, rail flaw remedial actions, and rail inspection records. In addition, FRA is proposing to remove regulatory requirements concerning joint bar fracture reporting. This rulemaking is intended to implement section 403 of the Rail Safety Improvement Act of 2008 (RSIA).

DATES: (1) Written comments must be received by December 18, 2012. Comments received after that date will be considered to the extent possible without incurring additional delay or expense.

(2) FRA anticipates being able to resolve this rulemaking without a public, oral hearing. However if FRA receives a specific request for a public, oral hearing prior to November 19, 2012, one will be scheduled and FRA will publish a supplemental notice in the **Federal Register** to inform interested parties of the date, time, and location of any such hearing.

ADDRESSES: *Comments:* Comments related to this Docket No. FRA-2011-0058, Notice No. 1 may be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to www.Regulations.gov. Follow the online instructions for submitting comments.

- *Mail:* Docket Management Facility, U.S. Department of Transportation, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

- *Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, West Building, Ground floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

- *Fax:* 202-493-2251.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. Please note that all comments received will be posted without change to www.Regulations.gov, including any personal information provided. Please see the discussion under the Privacy Act heading in the Supplementary Information section of this document.

Docket: For access to the docket to read background documents or comments received, go to www.Regulations.gov at any time or visit the Docket Management Facility, U.S. Department of Transportation, West Building, Ground floor, Room