generation period, DER price, specific use restrictions if applicable, generator and user nonattainment area classification, and DER user's needs and requirements.

The EPA also believes that small market players, i.e., generator or user sources that generate or use relatively small market quantities, should not be disadvantaged by registry access requirements or the listing fee structure. The EPA does not wish in any way to discourage small sources from taking advantage of the benefits of open market trading.

The EPA has addressed the issue of double-counting of DER uses through the proposed rule's notice requirements. States must ensure that unique identification is assigned to each ton of DER's generated and reported in the Notice and Certification of Generation that each generator source would be required to submit. States could then check that a specific DER was used only once by cross-referencing DER use notices with the DER generation notice. This check would be more complicated in a case where use occurred in a State other than the generator source's State. Therefore, the proposed OMTR would require that States that allow such uses must have a memorandum of understanding (MOU) or similar agreement approved by the EPA, which facilitates checking for double-use of DER's.

While EPA recognizes that this function might best be performed through a national registry, a question remains as to whether EPA, State governments, or the private sector should provide these services. The EPA is inclined to encourage registry development in the private sector. For resource and efficiency reasons, EPA believes the private sector is a more appropriate choice than EPA. Thus EPA requests comment on (1) whether the private sector should provide such services; (2) whether registries should be subject to regulation to assure access and coverage of relevant information; (3) whether EPA or the State should operate registries; and (4) whether a national registry, as opposed to multiple regional or local registries, is necessary for the open market program to function properly.

H. Protocol Development and Approval

A key to integrity in the operation of the open market trading system is accurate quantification of the amount of surplus DER's created and of the amount needed to meet compliance obligations. Emissions quantification is generally divided into two conceptual components. First, emissions quantification protocols specify the type of data needed on emissions rates and operating rates (e.g., monitoring methods, emissions factors, production rate or other activity measures) and address other critical methodological issues (e.g., data quality and statistical considerations). Second, specific data must be developed pursuant to such protocols and used to calculate specific results. Quantification protocols can be defined to varying degrees of specificity in advance of particular emissions reduction actions. The actual data used in particular cases, naturally, can be developed and evaluated only case-by-case.

A number of cross-cutting factors must be considered regarding the development of emissions quantification protocols. On the one hand, both emission sources and compliance authorities have strong interests in certainty. Federal and State authorities want to be sure that methods are technically sound and that sources can be held to follow them. Sources want methods they can use with assurance of predictable outcomes at the time of compliance determinations. Based on these concerns, some State and industry stakeholders have urged that protocols be reviewed and approved by EPA before DER's are introduced into the market. This would give both sources and compliance authorities a common yardstick with which to gauge the validity of DER's and the greatest certainty of outcomes, without requiring redundant resource investment by multiple States.

On the other hand, a protocol pre-approval requirement would greatly strain governmental resources and significantly dampen development of the open market system. Given the variety of source types eligible to participate and the variety of emissions reduction strategies available to them, dozens (possibly hundreds) of specific quantification protocols would be needed. Resource constraints on EPA and States could severely limit the number of such protocols that could be developed and approved in the near future, even with the benefit of partnerships with industry and others. Many DER generation and use actions could be delayed or precluded by the unavailability of pre-approved protocols and the lack of a route for proceeding without such protocols.

In response to these cross-cutting considerations, EPA has tried to develop a middle ground that provides a sufficient measure of certainty and predictability with due regard for governmental resource constraints and the need for flexibility to adapt to new situations. The EPA intends to issue guidance containing criteria for acceptable emissions quantification protocols. The criteria would set forth meaningful standards for the kinds and quality of data required to support the calculation of amounts of emissions reduced by generators or needed by users. DER Generators and users would be able to employ these criteria to develop specific quantification protocols for their applications. Compliance and enforcement authorities would be able to use these criteria to determine whether submitted protocols, and associated data, are sufficient to establish compliance. The guidance would be issued with the final model OMTR and revised and expanded as necessary from time to time. Generators and users would be able to rely on, and would be held to, the guidance in effect at the time they generated DER's or at the time they determined their need for DER's to meet compliance obligations, respectively.

In addition, EPA intends to create a mechanism for working with States, industry, and the environmental community to develop and approve specific quantification protocols for priority types of generation and use activities. It is envisioned that some such protocols would be drafted by industries, and others by EPA or States. They would be reviewed by a multi-stakeholder process prior to an EPA approval decision. The EPA believes that in many cases emissions quantification protocol development may not be a large additional burden. This could be especially true for protocols that determine the amount of DER's needed to be in compliance, since user sources subject to emissions limits may be already familiar with the task of evaluating their emissions levels.

The EPA specifically requests comments on two variations on this basic approach. In both cases, sources would develop their own protocols subject to EPA's protocol guidance criteria where no pre-approved protocol existed. Where EPA-approved protocols existed, however, two options could be followed. In one case, a source would be required to use the pre-approved protocol unless it obtained EPA's approval of an alternative protocol. In the other case, a source would be allowed to use an alternative of its own design in lieu of the pre-approved protocol, so long as the alternative conformed to the criteria in EPA's protocol guidance.

The model rule would allow State OMTR's to incorporate EPA's protocol guidance and specific pre-approved protocols by reference. In this way, a