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EPA Docket Center  
Environmental Protection Agency  
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1200 Pennsylvania Ave., NW.  
Washington, DC, 20460



*Transmitted via email: a-and-r-docket@epa.gov*

Attention: **Docket ID No. EPA-HQ-OAR-2005-0172**

Dear Sir or Madam:

The National Steering Committee for the national network of state Small Business Ombudsman and Small Business Environmental Assistance Programs thanks you for the opportunity to comment on the Proposal to Revise the National Ambient Air Quality Standards for Ozone, which were published in the *Federal Register* on January 19, 2010 in Docket ID No. **EPA-HQ-OAR-2005-0172**. The state Small Business Ombudsman and Small Business Environmental Assistance Programs (SBO/SBEAP) were created under Section 507 of the Clean Air Act Amendments of 1990. For more than 15 years, the SBO/SBEAPs have provided extensive, hands-on assistance to small businesses to help them understand and comply with environmental regulations. Therefore, we offer comments and experience relevant to the implementation of EPA standards.

The SBO/SBEAPs, through their Technical Subcommittee, review proposed rules to assess their affects on small businesses. The Technical Subcommittee has **more than 50 members representing 9 of the 10 EPA regions and 25 states**. Comments from the National Steering Committee for SBO/SBEAPs reflect a wide range of experience with the efforts of small business to comply with such standards.

#### *Comments*

The proposed changes to the NAAQS for ozone will impact the compliance requirements for commercial and industrial sources of emissions, including small businesses. As a result of lowering the ozone standard, states will be required to implement rules to ensure compliance with the National Ambient Air Quality Standards (NAAQS). The implementation and enforcement of these rules in the form of lower emission limits and mandated process standards (which must assure attainment and maintenance of the NAAQS) will greatly impact small businesses.

The NAAQS changes will result in the EPA's development and distribution of Control Technique Guidelines (CTGs), as required by the Federal Clean Air Act. CTGs are a clear indication of the impact that lowering the ozone standard will have on small businesses. By developing the CTGs, EPA acknowledges that Reasonably Available Control Technology (RACT) will be realized only through changes in current VOC producing processes, many of which have direct and substantial effects on small businesses. These changes include the use of low VOC chemicals, physical process changes, and in some cases installation and operation of expensive VOC control systems. While CTGs are guidance, and have not been through federal rulemaking processes that allow for public review and comment, EPA uses the CTGs as guidance in assessing whether states have appropriately implemented RACT as required by the Clean Air Act (CAA), §§ 110, 172, and 182. Additionally, CTGs are often used as guidance for assessing whether Reasonably Available Control Measures (RACM) have been implemented by states as required by CAA, §§ 110, 172 and 182. The CTGs contain EPA's assumptions regarding appropriate VOC emissions limitations for both large and small businesses. If revised or new CTG's are developed, EPA should take steps to insure the CTG's are reasonable for smaller sources; SBEAP's/SBO's can serve as a valuable partner in providing this perspective. Use of the CTGs as guidance by EPA in determining whether CAA

requirements have been met is illustrative of the fact that the NAAQS has direct impacts on small businesses, since the CTGs provide recommendations for controls for small businesses.

In addition, the proposed changes will result in a large number of new counties in states across the country being designated as non-attainment for ozone for the first time. Each of these counties will include small businesses impacted by the proposed rule. Not only will the small businesses in the newly designated counties be affected by new RACT standards, there will likely be lower permit thresholds bringing many more into the permit system as well. States across the country will be hard pressed to find the resources to educate and assist these businesses impacted by this proposed rule.

Finally, if EPA proceeds with the standard and an area fails to achieve attainment, EPA must ensure that penalties are not imposed on small businesses which have installed RACT, BACT or LAER.

To address these implementation issues, the National Steering Committee makes the following recommendations:

**Resources-** The Clean Air Act Amendments contained a federally enforceable provision to provide small business assistance programs in each state. The mandate to provide and fund these programs should have the same urgency and accountability as other mandatory environmental programs. NAAQS changes will result in further strain on programs that have been historically underfunded, understaffed, and in some states nonexistent. There is a need for designated funding to help the 507's adequately provide compliance assistance to small businesses, including gaining knowledge on VOC technologies. Resource needs for ensuring adequate technology, financing, testing, and training for small business owners who need to make equipment or process changes needs to be addressed.

**Penalties -** States failing to meet the standard should be prohibited from charging Section 185 fees to small businesses which may be impacted by these changes and have installed RACT, LAER, or BACT.

We appreciate the opportunity to comment on the proposed revisions to the NAAQS for Ozone. Please contact Barb Johnson, Co-Chair of the NSC Technical Subcommittee at 800/578-8898 if you need clarification or would like to discuss any of these issues.

Sincerely,

  
Annette Fulgenzi  
Chair, National Steering Committee

cc: Jan King, USEPA OAQPS  
Keith Holman, US SBA