

December 23, 2008

Air and Radiation Docket  
US Environmental Protection Agency  
Mail Code: 2822T  
1200 Pennsylvania Ave., NW.  
Washington, DC, 20460



Transmitted via email: [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov)

Attention: **Docket ID No. EPA-HQ-OAR-2008-0334**

Dear Sir or Madam

The National Steering Committee for the national network of state Small Business Ombudsman and Small Business Environmental Assistance Programs thank you for the opportunity to comment on the proposed National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources, which was published in the *Federal Register* on October 6, 2008 in Docket ID No. EPA-HQ-OAR-2008-0334. The state Small Business Ombudsman and Small Business Environmental Assistance Programs (SBO/SBEAPs) were created under s. 507 of the Clean Air Act Amendments of 1990. For over 15 years, the SBO/SBEAPs have provided extensive, hands-on assistance to small businesses to help them understand environmental regulations such as the National Emissions Standards for Hazardous Air Pollutants (NESHAP) and similar standards.

The SBO/SBEAPs have indicated to USEPA, through the small business liaison at OAQPS, that we are interested in helping to investigate the business impact for as many of the area source NESHAP rules as we have volunteers with time to participate. Our goal is to help USEPA issue area source NESHAPs that are clear and easy for small businesses to comply with and are also rules that the SBO/SBEAPs and states can implement with minimal resources. The SBO/SBEAPs, through their Technical Subcommittee, continue to work with USEPA to develop rules that small businesses can comply with along with implementation tools and templates that will benefit all affected small businesses. Comments from the National Steering Committee on the proposed rule reflect the experience of SBO/SBEAPs with the efforts of small business to comply with such standards.

#### *Preamble*

The concept of determining the “total resource effectiveness”, or TRE, as explained in the preamble causes great concern. The main reason for the concern is that none of the explanation of how to conduct this determination is included in the rule language itself. This seems to be a rather complex evaluation, and as such it should not be left to an explanation in the preamble and cross-reference language in a rule targeting smaller businesses.

#### *Applicable Limits and Standards*

The most outstanding concern that we have with these requirements is the abundant use of cross-references, which include at least six NESHAPs and one NSPS. These cross-references vary in their purpose throughout the rule language in such a way as to make it very confusing. In some cases a reference will mean the affected source has to comply with the requirements in the other rule. In others, the reference explains how sections of this rule replace portions of the other rule. The following **example** shows how, in just one paragraph, the language includes not only multiple cross-references but also one reference in which it appears that portions of the cross-referenced rule have been included in or replaced by this subpart:

#### *s. 63.11496(a)*

“(1) You must determine the sum of organic HAP emissions from all of your batch process vents using test data or the procedures in Sec. 63.1257(d)(2)(i) and (ii) of subpart GGG of this part and

Sec. 63.2460(b)(1) through (5) of subpart FFFF of this part. Emissions for a standard batch in a process may be used to represent emissions from each batch in that process. You must maintain records of the calculations. Calculations are not required if you comply with Sec. 63.2460(b)(5) of subpart FFFF of this part. References in Sec. 63.2460(b) of subpart FFFF to Group 1 batch process vents within a process means vents that must meet the emission standards for batch process vents in Table 2 to this subpart.”

The number of paragraphs with similar content includes, but is not limited to, the following sections: 63.11496(b)(1) and (3), (d), (e), (f)(3); 63.11500(a)(1), (b); 63.11501(a), (b)(2) and (7), (c); 63.11502.

Our recommendation is that USEPA should write in all the requirements that are intended to apply to area source chemical manufacturers within this NESHAP, and refrain from using cross-references to another rule as much as possible. This would be the best way to ensure a clear understanding of an affected source’s obligations under the rule.

#### *Notification and Compliance Deadlines*

Make it clear what the initial notification and compliance status deadlines are instead of relying upon the General Provisions references. Include the exact dates in the language of the rule.

#### *Definitions*

Similar to the comments above on cross-referencing other regulations, we recommend that any definitions used for this specific subpart from the other regulations are incorporated directly. This will ensure a better understanding of the requirements under the rule.

Finally, we are concerned about the difference between this rule and formats used in some of the earlier area source rules. We would like to suggest that it makes more sense for EPA to remain consistent in its rule writing and provide a simple, easy to read format such as was used in Subpart HHHHHH. For this rule in particular, it may be helpful to use additional tables following the rule language to summarize requirements for specific units or processes.

We appreciate the opportunity to comment on the proposed revisions to the National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources. Please contact Renee Lesjak Bashel , Chair of the NSC Technical Subcommittee at 608-264-6153 if you need clarification or would like to discuss any of these issues.

Sincerely,



Annette Fulgenzi  
Chair,  
SBO/SBEAP National Steering Committee

cc: Joan Rogers, USEPA Small Business Ombudsman  
SBO/SBEAP National Steering Committee members  
Renee Lesjak Bashel, Chair, Technical Subcommittee  
Sharon Nizich, USEPA, OAQPS  
Keith Holman, US SBA