

August 23, 2010

EPA Docket Center
Environmental Protection Agency
Mail Code: 2822T
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Washington, DC, 20460



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

Attention: *Docket ID No. EPA-HQ-OAR-2006-0790*

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 proposed National Emissions Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers, which was published in the *Federal Register* on June 4, 2010 in Docket ID No. *EPA-HQ-OAR-2006-0790*. 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 Subcommittees, review proposed rules to assess their affects on small businesses. The Technical Subcommittees combined have **more than 40 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

Recommendation: Provide an exemption level for very small units that will have limited impact on emissions. We suggest providing a lower limit of 1 million BTU per hour (MMBTU/hr) on applicability of the regulations.

In Table 2 of the proposed regulation, existing units burning coal, biomass, or oil with heat input capacity of less than 10 million Btu per hour (MMBTU/hr) are required to conduct a boiler tune-up biennially. The new regulations do not require emission limits on these existing smaller units because it is cost prohibitive.

This regulation does not have a lower floor. Even very small units that produce very little pollution will be required to have a tune up. In general, this could impact very small companies and produce minimal reduction in pollution.

What the SBO/SBEAPs have learned in implementation of another Area Source Rule (subpart HHHHHH, specifically with respect to autobody refinishing shops) is that there are many who operate at such low levels (5 gallons of paint per year or less in many one-man shops) that even a new spray gun can be cost prohibitive to the level of cash flow for the business. Every rule should have some lower level where any regulation is clearly unreasonable and offers negligible environmental benefit.

Recommendation: Limits in Table 1 for new units should apply only to those with 10 MMBTU/hr heat input capacity or higher.

New units burning coal, biomass, or oil are required to meet emission limits for all size units according to Table 1 of this rule. Units that produce very little pollution will be required to have stack tests, control devices, etc. Per EPA's analysis of existing small units, this would be cost prohibitive for small businesses. Practical reduction of emissions through the use of biennial tune-ups of the unit, but not requiring specific emission limits, should be sufficient for any small unit, new or old.

Recommendation: Remove the more stringent control and testing requirements for mercury from biomass and oil-fired boilers under 10 MMBTU/hr.

In the federal register section on the rationale of the proposed regulation section G. *Alternative MACT Standards for Consideration*, the section states:

"Our analysis of the inventory for mercury under CAA section 112(c)(6) has led us to believe that we do not need to regulate biomass-fired and oil-fired boilers under MACT in order to meet our statutory obligations under this provision."

Additional testing and control devices should not be required if it is not needed to meet the "90%" requirement. If it is decided that the biomass and oil fired boiler need to be regulated, serious consideration should be given to not regulating small boilers (less than 10 MMBtu/hr). There can be serious cost impacts for small businesses.

Recommendation: For consistency, make the following changes for area sources: (1) all requirements for units less than 100 MMBTU/hr should be based on GACT instead of MACT when applied to area sources, (2) apply CO limits for area sources that are no more stringent than the major source boiler NESHAP.

Many small operations have oversized heating units for a variety of reasons. Often they purchased them secondhand to save money. For some, production levels may have called for the higher capacity at one time, but efficiencies gained or reduced production no longer require the same levels. In either case, for small to medium size units it is more reasonable to apply GACT as opposed to MACT.

This area source NESHAP sets a CO limit based on a "daily average" while the major source boiler NESHAP allows "30 day rolling average for units 100 MMBTU/hr or greater, 3-run average for units less than 100 MMBTU/hr". The "daily average" calculation is very difficult to manage no matter what size operation, but most particularly at small operations. And it also is more difficult to maintain a daily average when taking into account fluctuations in boiler operations from one day to the next.

Recommendation: Eliminate the need for a one-time energy assessment and composition of a comprehensive report for units below 100 MMBTU/hr.

The requirement of the performance of a one-time energy assessment and composition of a comprehensive report, without the delegation of any kind of enforcement authority, are nothing more than academic exercises. It is costly as well as time consuming, with little demonstrated environmental benefit for smaller operations. Because 100 MMBTU/hr is already used as a threshold for applying more stringent requirements in this rule, this would be a reasonable threshold for limiting the need for an energy assessment. In a setting where units of this size are necessary for plant or process heat, it is more likely to be of a size that the operation can afford and will see real improvements from performing such an assessment.

Or instead of eliminating the energy assessment, use it as an alternate to the stack testing requirement for units under 100 MMBTU/hr. It could include a requirement that some percentage of the recommendations for energy efficiencies be adopted in order to avoid stack testing.

Recommendation: Instead of biennial tune-ups for units 10 MMBTU/hr or less, set a trigger based on hours of operation of the unit.

Smaller operations can have a boiler that they do not use often. Requiring them to conduct a tune up at a set time period can be costly in relation to their use of the unit. Setting the trigger for requiring a tune up based on hours of operation, similar to changing your car's oil every 3,000 miles, would account for level of use. After an initial tune-up, have the following tune-up fall based on manufacturer's specifications or after 17,000 hours of operation or five (5) years, whichever comes first.

Recommendation: Reconsider the heavy regulation of biomass boilers as industry looks to renewable sources of fuel for reducing the use of more heavily polluting fuels.

At a time when states and even the federal government are creating programs to drive higher use of renewable energy sources, the EPA should seriously reconsider applying more stringent requirements on the use of biomass in boilers as this rule does. Consider applying the additional requirements to only units greater than 50 MMBTU/hr and below that level units would have the same limits as the existing units in Table 1 below 10 MMBTU/hr.

Recommendation: Modify or clarify the definition of biomass (should be biomass fuels) when including "animal manure, including litter and other bedding materials" so the rule does not include very small operations unintentionally.

First, the definition should read "biomass fuels" not just "biomass". This would match the proposed NESHAP for boilers and process heaters at major sources.

Second, the way it is currently defined veterinary clinics and similar small operations could potentially be affected by this rule in the event they burn bedding and litter from their kennels. This could create confusion in two ways. First, where they may have an incinerator to burn the animal carcasses and also burn waste bedding in the unit, the two wastes would make the unit fall under two rules. Second, if they don't incinerate carcasses but have a boiler that can burn the bedding/litter then they will now have many more restrictions on what was a better disposal option than sending that waste to a landfill. Operations like veterinary clinics appear to be a small business sector that was not addressed in the impact analysis for the rule.

Recommendation: Reduce the frequency or completely eliminate the periodic testing required for units below 100 MMBTU/hr. A new compliance test in the event a change is made to the unit that would impact the results of the initial compliance test, is reasonable.

In most state air permits, the smallest sources are only required to conduct a one-time compliance demonstration test to establish parameters for periodic monitoring. The only time an additional compliance test is required is in the event something changes (e.g., primary fuel, reconstruction) that would impact the performance experienced during the initial test. A similar practice for compliance demonstration with this rule would make the most sense.

Since 100 MMBTU/hr is already used in this rule as a threshold for applying more stringent requirements, this would make the most sense as a cut off for more frequent testing. Even then, something less frequent is more reasonable for area sources. If an area source is required to get a Title V permit, then testing for each permit renewal, once every five years, to re-establish the monitoring parameters would be a reasonable frequency. In some states, a single stack must have emissions at the major source level (100 TPY of criteria pollutants) before more frequent testing is required, such as a biennial basis - still not annual.

One consideration EPA does not appear to address is the capacity for stack testing firms to conduct such a high number of tests as would be required each year under this rule as proposed. Even if new firms

take up the task, many will take time to gain the necessary experience to do it well and provide accurate results.

Recommendation: Take the burden off small sources for providing data electronically. Consultant costs will be prohibitive, alongside the already high cost of testing.

At a recent training program, one of the SBEAPs reportedly learned that it can take a person—with experience using computers—a couple days to enter all the data into EPA’s online system as required in 63.11224(e). The consultant fee was reportedly thousands of dollars, just for the data entry. If they cannot afford to have someone else enter the data, small business owners and their staff often lack basic computer use experience sufficient to maintain the most basic records and spreadsheets much less use a complex application on their own. In addition, many small businesses may not have the computing power to deal with a program in Microsoft Access and transfer files that it generates.

Until EPA can streamline this system and make it something anyone can easily use, the burden of online data entry should be left to the major sources that are better able to afford the cost.

Recommendation: Clarify the requirements or consequences in the event a company switches fuel to natural gas at any point, including after the compliance deadline for the final rule.

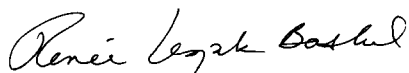
There should be a clear statement about whether sources can be allowed completely out of the rule requirements should they completely change to natural gas at any point.

Recommendation: Correct the following typos:

- 63.11221(a)(3) - too many “you have”
- 63.11211(a) - spell out CMS and all other acronyms the first time they are used in the rule

We appreciate the opportunity to comment on the proposed NESHAP for Area Sources: Industrial, Commercial, and Institutional Boilers. 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,



Renee Lesjak Bashel
Chair, National Steering Committee

cc: Jan King, USEPA OAQPS
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