

December 30, 2007

Keith Holman
Office of Advocacy
US Small Business Administration

Delivered via E-mail

RE: Nominations of Existing Agency Rules for Reform

Dear Mr. Holman

The Technical Subcommittee for the Small Business Environmental Assistance Programs/Small Business Ombudsman (SBEAP/SBO) National Steering Committee is nominating the following rules or regulatory programs for reform:

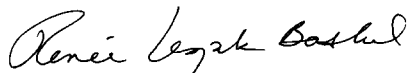
1. **Petroleum Dry Cleaner NSPS – 40 CFR Part 60, Subpart JJJ:** This is a case where the current technology regarding this sector has made the testing in the NSPS both obsolete and in many cases, impossible to perform. Not only are the current machines closed loop, but they utilize fire safety technologies, such as operating under a constant vacuum and/or nitrogen blanket. Most machines will shut down if any of the components are disconnected in order to conduct the testing specified in the outdated NSPS. These closed loop machines solvent usage (DF2000, SASOL, EcoSolv - high-flashpoint petrol) is in the range of 50-100 gallons/yr per 45 lb capacity machine - not the thousands of gallons per year of stoddard solvent (low flashpoint) that was typical using the transfer technology the regulation was designed to control 25 years ago. *This rule should be updated to reflect testing methods appropriate to the current technology in use in the industry. It may be possible to change the trigger of 84 pounds of dryer capacity back to its former basis of solvent usage (we believe it was 4500 gallons that was the original trigger) and make the problem moot.*
2. **“Once In Always In” policy** – US EPA Office of Enforcement and Compliance Assurance (OECA) have been enforcing a policy that once a facility was covered by a MACT standard under 112(d) of the Clean Air Act, that they would continue to be affected by the rule even if emissions were reduced such that they were below major source levels of hazardous air pollutants (HAP) or they eliminated the materials regulated. Many small businesses were erroneously permitted as affected sources under this rule. Also, many businesses have been able to completely eliminate materials containing regulated HAP. All of these businesses must continue to demonstrate compliance with the regulations, which usually entails very complex recordkeeping and annual certification at a minimum. During 2007, the Technical Subcommittee became aware of a rule that was being drafted by EPA to address situations where it would be appropriate to allow certain facilities to get out of being an affected source under MACT. Because of the level of burden involved in continuing to demonstrate compliance with a MACT standard that no longer applies to your operations, finalizing this rule to eliminate the “Once In Always In” policy would greatly benefit many small businesses. *Our recommendation is to review the current “Once In Always In” policy for its regulatory burden on small businesses and the needed reform is completion of the rule that EPA has started drafting but put on hold. (We have heard that there is a provision in the Omnibus Budget Bill that removed any funding for this rule making from EPA’s budget, so we hope there is still something you can do to affect the outcome.)*
3. **TRI reporting – EPCRA Section 313:** The issue is the recently lowered threshold to 100 pounds of lead. For the large majority of those now required to report because of this threshold, the trigger was strictly lead in batteries for fork-lifts or similar machines. There are likely thousands, and maybe tens of thousands, of small businesses now affected by TRI at this level and it’s not providing much environmental benefit. The scenario of lead contained within batteries is not the same as lead within a production process that can be released into the environment. *At a minimum, there should be an exemption on lead in batteries or similar operations that are usually well contained, or not otherwise part of a production process.* Another source affected by the low

lead threshold is the ready-mix concrete sector. I did not get all the details on the impact to them in time to submit this letter, but will do so as soon as possible.

4. **Paint Stripping/Miscellaneous Surface Coating – 40 CFR Part 63 subpart HHHHHH:** The SBEAP/SBO National Steering Committee submitted comments to EPA on the proposed subpart HHHHHH and are concerned about a couple issues that were not addressed in the final rule signed on December 14, 2007. *We are recommending that these issues be reviewed for possible reform as soon as possible, before businesses are required to comply with such burdensome or conflicting requirements.*
 - a. Instead of making it a simple recordkeeping or certification, small autobody shops have to **petition** the EPA Administrator to get approval to get out of the rule if they do not use any coatings that contain the target HAPs. This places an excessive burden on the smallest of the sources affected by this rule. For other surface coating operations, they just need to maintain supplier records to demonstrate they don't use the target HAPs. Part of EPA's reasoning was that autobody coating formulations involve a larger number of materials being combined to create one final paint mixture. It shouldn't matter how many coatings are involved, if you have the documentation to prove there are no target HAPs you should just be able to maintain those records and certify compliance. There is also no **incentive** to reformulate your coatings if the petition process is complicated, costly and/or burdensome.
 - b. The final rule has only created confusion over mobile sources (painters), and did not level the playing field.
 - c. Also, by the definition of paint booth it appears that this rule is still in conflict with booth requirements established by OSHA as we outlined in our comment letter to EPA.
5. **Weight exemption for trucks to allow for the additional weight of anti-idling units installed on the truck - 23 CFR Part 658.17(n):** This DOT-Federal Highway Administration rule allows all states to use this 400 pound exemption, but doesn't mandate it. Because of this, it is inconsistently applied across states. The inconsistency makes it very difficult for owners or operators to know whether or not they will be over the weight limits as they drive cross-country. *It would benefit the small fleet owners to have consistent application of these exemptions, especially as the installation of anti-idling technology benefits air quality in every state in which the truck makes an overnight stop.*
6. **NSPS for Small Industrial-Commercial-Institutional Steam Generating Units - 40 CFR Part 60 Subpart Dc:** The section of this rule that applies to small boilers of the size 10 to 30 million BTU/hr includes some daily recordkeeping requirements and there are no emission limits that apply. This is an excessive recordkeeping burden on usually very small businesses and commercial entities that would use units of this size. Most reasonable recordkeeping requirements, especially in the absence of a daily emission limit, are on a monthly basis. *This rule should be reviewed for excessive recordkeeping burden and revised to reflect more commonly used recordkeeping time frames.*

Thank you for this opportunity to provide input on federal regulations that deserve review and reform. If you have any questions on this letter you can contact me at 608.264.6153 or Renee.Bashel@wisconsin.gov.

Sincerely,



Renee Lesjak Bashel
Chair, Technical Subcommittee
SBEAP/SBO National Steering Committee

cc: Dan Nickey, Chair, SBEAP/SBO National Steering Committee