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February 22, 2011

EPA Docket Center
EPA West (Air Docket)
Attention Docket ID No. EPA-HQ-OAR-2010-0786
U.S. Environmental Protection Agency
Mailcode 2822T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Sir/Madam:

On behalf of the National Association of Clean Air Agencies, thank you for this opportunity to comment on the proposed National Emission Standards for Shipbuilding and Ship Repair (Surface Coating); National Emission Standards for Wood Furniture Manufacturing Operation, which were published in the *Federal Register* on December 21, 2010 (75 *Federal Register* 80220). The National Association of Clean Air Agencies (NACAA) is the national association of air pollution control agencies in 51 states and territories and over 165 metropolitan areas across the country.

We believe the provisions Congress included in Section 112(f) of the Clean Air Act that were intended to ensure that unacceptable risks do not remain after the imposition of Maximum Achievable Control Technology (MACT) are a critical component of our country's clean air program. Likewise, the requirements under Section 112(d)(6) that call for EPA to review and revise the MACT standards as necessary to account for developments in controls are an important way of ensuring that our hazardous air pollution (HAP) program remains protective of public health. Therefore, we are concerned that EPA may be missing important opportunities to ensure that public health is improved and maintained through the proposed regulations. In light of the importance of the residual risk and technology review programs, NACAA offers the following comments and suggestions for improving the proposal.

Property-line Concentrations

In assessing the cancer risks related to the source category, EPA used long-term concentrations affecting the most highly-exposed census block for each facility. This analysis dilutes the effect of sources' emissions by estimating the impact at the centroid of the census block instead of at the property line. Census

blocks can be large geographically, depending on the population density, so the maximum point of impact can be far from the centroid, including at or near the property line where people may live or work. Further, even if the area near the property line is not developed, over time homes and businesses could locate closer to the facility. While it is possible that population distribution is homogenous over a census block, this assumption is not necessarily accurate in considering the predicted impacts from a nearby point source. NACAA was pleased to learn that EPA did consider the acute risks for HAPs at the “point of highest off-site exposure for each facility (i.e., not just the census block centroids)” for the non-cancer health effects (page 80229). However, NACAA recommends that the impact of carcinogens and non-carcinogens from all of the sources in a source category be calculated based on concentrations at the property line and beyond and take into account the maximum exposed individual.

Acute Exposure

We are gratified to see that EPA increased its reliance on the California Reference Exposure Levels (RELs) to address acute exposures in the residual risk assessments (page 80229). We have urged EPA to use the RELs for these assessments. However, we note that EPA is also using Acute Exposure Guideline Levels (AEGLs) or Emergency Response Planning Guidelines (ERPGs) values to address acute exposures in the residual risk assessments, which NACAA does not endorse. These limits were developed for accidental release emergency planning and are not appropriate for assessing daily human exposure scenarios. In the December 2002 EPA document, "A Review of the Reference Dose and Reference Concentration Processes," EPA states that the primary purpose of the AEGL program is to develop guidelines for once-in-a-lifetime short-term exposures to airborne concentrations of acutely toxic chemicals. They are not meant to evaluate the acute impacts from routine emissions that occur over the life of a facility. Unlike the reference concentrations (RfCs) for chronic exposures, the AEGLs and ERPGs do not include adequate safety and uncertainty factors and cannot be relied upon to protect the public from the adverse effects of exposure to toxic air pollutants. The use of AEGLs or ERPGs in residual risk assessments is not appropriate and does not ensure that public health is adequately protected from the acute impacts of HAP exposure.

Actual Emissions

NACAA has recommended in the past that EPA consider potential or allowable emissions, rather than actual emissions, in evaluating residual risk. Since facility emissions could increase over time for a variety of reasons, and with them the associated impacts, the use of potential or allowable emissions is more appropriate. We believe an analysis based on actual emissions from a single point in time could underestimate the residual risk from a source category. Further, the major source HAP thresholds are based on maximum potential-to-emit, as opposed to actual emissions, and air agencies issue permits based on potential emissions. Limiting the scope of a risk evaluation to actual emissions would be inconsistent with the applicability section of Part 63 rules. While we were happy to see that EPA is relying on actual emissions less than in previous residual risk assessments, we would still prefer to see the use of allowable emissions.

Startup, Shutdown and Malfunctions

NACAA is also gratified that the proposal calls for the elimination of the Startup, Shutdown and Malfunction (SSM) exemption (page 80225). Since NACAA agreed with the court decision of December 19, 2008 stating that there should not be an exemption to HAP standards during SSM events, we applaud EPA for proposing not to exempt SSMs, but instead calling for the established standards to apply at all times, including during SSM situations.

Facility-Wide and Cumulative Risks

We agree that it is necessary to put the risks posed by the source categories in context. Therefore, we are encouraged that EPA has paid extra attention to the impact of emissions from all HAP-emitting operations in a facility to determine the facility-wide risks and urge EPA to take additional steps to address those risks. Moreover, we urge EPA to respond to the Science Advisory Board's recommendation to present the risk assessment results "in the broader context of aggregate and cumulative risks, including background concentrations and contributions from other sources in the area" (page 80225).

Environmental Justice

We commend EPA for considering environmental justice issues by expressing concern about the disproportionate impacts of the HAP emissions on certain social, demographic and economic groups. We believe improvements are needed in the proposal to address environmental justice and we encourage EPA to continue to consider these factors in developing the final rule and subsequent regulations.

EPA asked for comment on the following environmental justice issues:

To examine the potential for any environmental justice issues that might be associated with each source category, we evaluated the distributions of HAP-related cancer and non-cancer risks across different social, demographic, and economic groups within the populations living near the facilities where these source categories are located. The development of demographic analyses to inform the consideration of environmental justice issues in EPA rulemakings is an evolving science. The EPA offers the demographic analyses in this rulemaking as examples of how such analyses might be developed to inform such consideration, and invites public comment on the approaches used and the interpretations made from the results, with the hope that this will support the refinement and improve utility of such analyses for future rulemakings. (page 80231)

NACAA wonders why other factors EPA recommended in the Environmental Justice Strategic Enforcement Assessment Tool (EJSEAT)¹ were not considered in this risk assessment. As stated in EPA's "Interim Guidance on Considering Environmental Justice During the

¹ EPA Office of Enforcement and Compliance Assurance, Environmental Justice Strategic Enforcement Assessment Tool. Available online at: <http://www.epa.gov/environmentaljustice/resources/policy/ej-seat.html>.

Development of an Action,”² the agency should consider addressing existing disproportionate impacts on minority, low-income or indigenous populations during rulemaking. NACAA recommends that EPA conduct a full evaluation of disproportionate impacts following the guidance in EJSEAT and an evaluation of how this risk assessment could reduce impacts to those communities. EPA’s Online Tracking Information System database appears to do this already at the facility-specific level and can be incorporated into the assessment to more accurately define the number of the individuals impacted by the emissions and the demographics of the impacted community. Additionally, we recommend the rule writers work with the EPA Office of Environmental Justice to adequately evaluate the proposed rulemaking with regard to communities experiencing disproportionate impacts.

Acceptable Risk and Ample Margin of Safety

The proposal included a request for input on determining acceptable risk and an ample margin of safety: “*We are also seeking comment on how best to consider various types and scales of risk estimates when making our acceptability and ample margin of safety determinations under CAA section 112(f)*” (page 80225). NACAA believes that assessing the population at risk for cancer by measuring the number of people at greater than one-in-one million risk, greater than ten-in-one-million risk, and greater than 100-in-one-million risk is a transparent way to make risk management decisions concerning acceptability and ample margin of safety determinations under Section 112(f) of the Clean Air Act. In using these metrics case-by-case, including for the two source categories in the current proposal, we urge EPA to strive to reach the lowest, most health-protective level of risk. We concur with EPA’s plan for addressing risk as described in the agency’s *Residual Risk Report to Congress* (March 1999), in which the agency stated (quoting from the 1989 benzene NESHAP):

In notifying the public of the 1989 benzene NESHAP, the Agency stated that it “strives to provide maximum feasible protection against risks to health from hazardous air pollutants by (1) protecting the greatest number of persons possible to an individual lifetime risk level no higher than approximately 1 in 1 million and (2) limiting to no higher than approximately 1 in 10 thousand the estimated risk that a person living near a plant would have” (page ES-11).

Formaldehyde

NACAA supports EPA’s proposal to revert to the use of the Integrated Risk Management System (IRIS) dose-response value for formaldehyde in the risk assessment (page 80228). We believe this value is more protective of public health than the Chemical Industry Institute of Technology value. As we commented in the past (September 12, 2005), we believe that it was inappropriate for EPA to ignore its own IRIS values and, without public review, adopt a less stringent potency value. This was especially troubling since the World Health Organization expressed increased concern about formaldehyde and there has been a high level of scientific controversy and inconsistency surrounding the health effects of formaldehyde. EPA should

² EPA’s Action Development Process Interim Guidance on Considering Environmental Justice During the Development of an Action. USEPA Office of Policy, Economics and Innovation. July 2010. Available online at: <http://www.epa.gov/environmentaljustice/resources/policy/ej-rulemaking.html>.

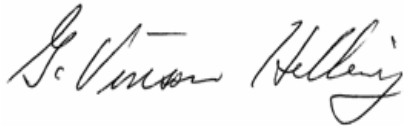
continue to use the existing IRIS factors until the agency has completed a thorough review process and updated IRIS. Because of the importance of this update, we also recommend that EPA accelerate the completion of the IRIS review in order to complete it as soon as possible.

Shipbuilding and Repair Strategies

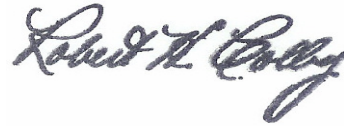
With respect to the Shipbuilding and Ship Repair standard, we are concerned that EPA based its decision that no additional controls are needed and that the existing standard provides an ample margin of safety in part due to “the uncertainty and lack of data associated with one potential risk reduction option identified, and the technological infeasibility of the other option identified” (page 80239). We urge EPA to obtain the necessary data regarding the two options to make a more informed decision, including contacting air quality agencies that currently regulate the source category. We compliment EPA on its intention to list welding and blasting operations at shipbuilding and ship repair facilities as a major source category under section 112(c)(5), but encourage EPA to determine the extent to which this action will address the risks remaining at these facilities before deciding that relying on this strategy is sufficient.

Thank you for this opportunity to comment on the proposal. Please contact us if we can provide additional information.

Sincerely,



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