NACAA
national association of clean air agencies

January 24, 2012

EPA Docket Center
EPA West (Air Docket)
Attention Docket ID Number EPA-HQ-OAR-2010-0895
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 (NACAA), thank you for this opportunity to comment on the proposed National Emissions Standards for Hazardous Air Pollutants: Ferroalloys Production, which were published in the *Federal Register* on November 23, 2011 (76 *Federal Register* 72508). NACAA is the national association of air pollution control agencies in 50 states and territories and over 165 metropolitan areas across the country.[1]

Eight years after the establishment of the Maximum Achievable Control Technology (MACT) standard for a source category, EPA is required to assess the residual risk that remains from emissions from the source category, as well as examine whether advancements in control technology warrant additional requirements. NACAA supports EPA's decision to require additional emission reductions and monitoring requirements beyond the original MACT standard for the Ferroalloys Production source category. We offer the following comments about specific elements contained in the proposal.

Additional Requirements – Because of the adverse health effects associated with exposure to the substances emitted by Ferroalloys Production facilities, NACAA is pleased that EPA is proposing additional control requirements in this action.[2] For example, the agency evaluated and is proposing measures to address emissions of four Hazardous Air Pollutants (HAPs) that were either not regulated in the 1999 Maximum Achievable Control Technology (MACT) standard for Ferroalloys Production or were only regulated for certain emission points. These include hydrogen chloride, mercury, polycyclic aromatic hydrocarbons (PAHs) and formaldehyde. We commend EPA for identifying these hazardous emissions and

[1] The views expressed in this letter do not necessarily represent the positions of every state and local air pollution control agency in the country.
[2] 76 *Federal Register* 72515, 72524-72528 and 72531-72532.

for proposing to regulate them at this point. Additionally, we are gratified to see that EPA is proposing new limits that reflect technological advances and the reduced emissions of which sources are capable.

Unacceptable Risks – We note that the some of the risks associated with the source category are high and that, even after controls, the maximum chronic noncancer inhalation Target Organ-Specific Hazard Index (TOSHI) is 2, which is twice the threshold amount. We are concerned that EPA has not reduced this risk to below 1, but we also recognize that the proposed measures in the rule would provide dramatic decreases to the TOSHI (from 90 to 2).[3]

Allowable Emissions – NACAA recommends that EPA consider potential or allowable emissions, rather than actual emissions, as much as possible 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. We were pleased to see that EPA used allowable emissions in parts of the rulemaking but were concerned about the fact that EPA used actual emissions in conducting its post-control risk assessment.[4] NACAA encourages the agency to use allowable emissions in the future, including in assessing acute health risks.

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.[5] 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 or wherever the maximum exposed individual is. 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. EPA itself alludes to this problem in the preamble to the proposed rule.[6] 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 the location of a source. Using HEM-3, EPA can identify the maximum individual risk at any point in a census block that is within a 50-kilometer radius from the center of the modeled facility. Based on HEM-3's power and ability, NACAA suggests that EPA abandon its use of the predicted chronic exposures at the census block centroid as surrogates for the exposure concentrations for all people living in that block. Rather, we recommend that EPA use the truly maximum individual risk, irrespective of its location in the census block, in its section 112(f)(2) risk assessments.

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[3] 76 *Federal Register* 72532.
[4] 76 *Federal Register* 72532.
[5] 76 *Federal Register* 72517.
[6] 76 *Federal Register* 72520.

Environmental Justice – We commend EPA for considering environmental justice issues by expressing concern about the disproportionate impacts of HAP emissions on certain social, demographic and economic groups.[7] However, we believe improvements are needed in EPA's methods of evaluating environmental justice and encourage EPA to continue to consider these factors in developing the final rule and subsequent regulations.

NACAA recommends that EPA conduct the demographic analysis on individuals projected to experience a risk greater than 1-in-1-million and *also* on individuals living within five kilometers of the facility, regardless of projected risk, consistent with the approach used for the Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks source category.[8] The socio-economic analysis for this rule did not evaluate potential disparities within five kilometers for cancer risk at maximum allowable emission levels. This type of analysis is especially important in instances where a facility is located in a minority and low-income community. Unfortunately, in the proposal, EPA *only* evaluated the risk to the population within a 50-kilometer radius, which could dilute the results by including populations not in the demographic groups most at risk. This is especially the case if the source is located in or next to a minority or low-income population. Therefore, we recommend an analysis at the five-kilometer distance be conducted to assess facility impacts to nearby environmental justice communities. NACAA also recommends that the rule writers work with the EPA Office of Environmental Justice to develop criteria and specific guidance on how to interpret and apply the outcome of these types of analyses in the rulemaking process.

Additionally, poverty statistics used to identify low-income communities should be updated to include 2010 census data, rather than relying on older information. The number of people in poverty in 2010 is the largest number in the 52 years for which poverty estimates have been published.[9]

Acute Exposure – We have expressed our concerns in the past with EPA's use of Acute Exposure Guideline Levels (AEGLs) or Emergency Response Planning Guidelines (ERPGs) values to address acute exposures in the residual risk assessments. These limits were developed for accident 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 stated 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. We are gratified to see that EPA has increased its reliance on the California

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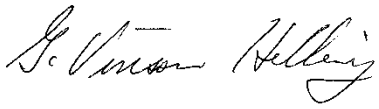
[7] 76 *Federal Register* 72541.
[8] 75 *Federal Register* 65089.
[9] US Census 2011. *Income, Poverty, and Health Insurance Coverage in the United States: 2010*. Available at http://www.census.gov/prod/2011pubs/p60-239.pdf.

Reference Exposure Levels (RELs) to address acute exposures in the residual risk assessments and we continue to urge EPA to use the RELs for these assessments.

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

Sincerely,



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