NACAA
national association of clean air agencies

July 26, 2011

EPA Docket Center
EPA West (Air Docket)
Attention Docket ID No. EPA-HQ-OAR-2011-0344
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: Secondary Lead Smelting, which were published in the *Federal Register* on May 19, 2011 (76 *Federal Register* 29032). The National Association of Clean Air Agencies is the national association of air pollution control agencies in 51 states and territories and over 165 metropolitan areas across the country.

NACAA is generally pleased with EPA's proposed Residual Risk and Technology Review for the Secondary Lead Smelting source category and agrees with the agency's decision to require additional emission reductions and monitoring requirements beyond the original Maximum Achievable Control Technology (MACT) standard. We offer the following comments about specific elements contained in the proposal:

Actual Emissions – EPA requested comment on the emissions data and estimates and the fugitive emissions estimation methodologies (page 29038). 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 hazardous air pollutant (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 happy to see that EPA used potential emissions to determine the predicted ambient concentration on residual risk from the source category and encourage the agency to continue using potential emissions in the future.

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 (page 29039). 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. 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. 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.

Multipathway Exposure – EPA requested comments on the modeling approaches used (page 29042). NACAA commends EPA for multipathway exposure and risk modeling for those HAPs known to be persistent and bio-accumulative in the environment and for selecting those facilities expected to represent the high end of potential risks from this source category.

Total HAP Exposure – EPA requested comments on estimating and evaluating total HAP exposure (page 29047). NACAA believes that there will continue to be uncertainty in evaluating total exposure to HAPs until there is an accurate emissions inventory, which is why we recommend that EPA adopt a consolidated emissions reporting rule (CERR) for HAPs. The lack of a federal requirement to collect the basic information on how many HAPs are released from stationary sources into the surrounding community is a serious impediment to any attempt to evaluate total HAP exposure and risk in a sound technical manner. This comprehensive emissions information will also improve the risk estimates that result from the National Air Toxics Assessment.

California Reference Exposure Level – EPA is seeking comment on the use of California's acute Reference Exposure Level (REL) for arsenic (page 29052). NACAA supports the use of the California REL because we are unaware of any other peer-reviewed acute human health-based risk assessment level that could be used.

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 (page 29069). We believe improvements are needed in the proposal to address environmental justice and encourage EPA to continue to consider these factors in developing the final rule and subsequent regulations.

NACAA recommends that EPA in its environmental justice assessment conduct the socio-economic analysis separately for each of the facilities, rather than combine the outcome for all facilities. In the residual risk standard for Hard and Decorative Chromium Electroplating and

Chromium Anodizing Tanks, EPA conducted 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 chromium electroplating facility, regardless of projected risk. This type of analysis is especially important in instances where the secondary lead smelter is located in a minority and low-income community. Therefore, we recommend an analysis at the five-kilometer distance be conducted to assess facility impacts to nearby environmental justice communities.

NACAA questions 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 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 individuals affected by the emissions and the demographics of the affected 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.

Testing Schedule – The language in section 63.543(4) (page 29072) is confusing because it implies that testing must be done on a monthly basis, while section 63.543(5)(f) makes it clear that testing is an annual requirement. We recommend that these requirements be clarified.

Monitoring in Place of Enclosures – NACAA does not support the proposed provisions that would allow ambient air monitoring at existing sources in place of complete enclosures of lead bearing processes (page 29072, section 63.544). The purpose of establishing emission standards and control technology requirements is to reduce the emissions of HAPs. The non-cancer and cancer risk reductions associated with total enclosures of all lead-bearing processes to reduce fugitive emissions are clearly demonstrated for all facilities in the post-control scenario contained in the residual risk assessment. Accordingly, we do not support allowing partial enclosures with an air monitoring requirement option, since the total enclosures have been shown to be extremely effective in reducing fugitive emissions of lead and the other metal HAPs from these sources.

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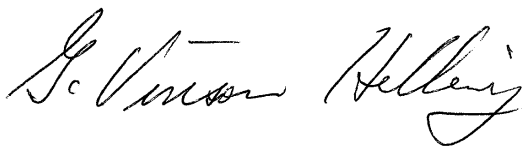
[1] EPA Office of Enforcement and Compliance Assurance, Environmental Justice Strategic Enforcement Assessment Tool. Available online at: http://www.epa.gov/environmentaljustice/resources/policy/ej-seat.html.

[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.

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

Sincerely,



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