

July 14, 2003

General Provisions Docket

Category VI, Part 63 General Provisions (Subpart A)

Pollution Prevention Compliance Alternative Amendments

EPA Docket Center (Air Docket)

U.S. EPA West (MD-6102T)

Room B-108

1200 Pennsylvania Avenue, NW

Washington, DC 20460

Attention Docket ID No. OAR-2002-0044

Dear Sir or Madam:

On behalf of the State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO), thank you for this opportunity to comment on the proposed amendments to the "National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories: General Provisions," which were published in the *Federal Register* on May 15, 2003 (68 *Federal Register* 26249).

We wish to compliment the U.S. Environmental Protection Agency (EPA) for this proposal. As the preamble indicated, STAPPA and ALAPCO held numerous discussions with EPA to discuss ways to encourage pollution prevention projects at sources of hazardous air pollution. The result of these cooperative discussions was an agreed-upon set of principles that we were very pleased to see reflected in the proposed amendments to the General Provisions. We very much appreciate EPA proposing these provisions and believe they will promote the use of pollution prevention to reduce emissions of hazardous air pollutants (HAPs). While we are happy with the overall framework of the proposal, we would like to pose several specific questions and raise issues that we believe should be addressed and clarified in the final rule.

Definitions

We have several concerns related to the definitions contained in the proposal. First, the proposal defines "Source Reduction" and includes specifics under Section 63.2(2) that relate to equipment or technology modifications, process or procedure

modifications, etc. We believe this definition is vague and should be made more specific and clear.

Additionally, in section 63.2, the definition of “pollution prevention” is “source reduction,” where source reduction means “...any practice that reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream...and reduces the hazards to public health and environment.” In section 63.17 where the applicability of the pollution prevention exemption is addressed, the proposal discusses the elimination of a “hazardous air pollutant” with the use of pollution prevention techniques. “Hazardous air pollutant” is not defined in this section, but we assume EPA means the 188 HAPs listed in the Clean Air Act. Neither of these passages answers the question about whether eliminating a HAP by replacing it with a non-HAP is allowed or envisioned in this proposal. Would a proposal that eliminates HAPs but increases total volatile organic compounds be considered a pollution prevention activity that qualifies the source for an exemption from the NESHAP? Is a source expected to demonstrate that a non-HAP chemical is not a “hazardous substance, pollutant or contaminant entering any waste stream” within the process, and that a replacement chemical reduces the hazard to the public? How does EPA plan to address a situation in which HAPs are reduced but emissions to water or land are increased? Would such a measure be considered pollution prevention for purposes of this rule? We recommend that EPA discuss and clarify these issues in the final rule.

Interface with Title V

The proposal leaves several questions unanswered with respect to the interface of this rule with the Title V permitting program. We suggest that the final rule address specifically how this program will work within the Title V framework. We recommend, for example, that the final rule specifically state that any changes to Title V permits that result from implementation of this regulation should be made pursuant to each permitting authority’s existing procedures. Rather than stipulate that permitting authorities must determine whether to approve a request with 45 days, for example, each permitting authority should process the requests just as they would handle other modifications to existing permits.

Also with respect to Title V permits, the proposal indicates that sources should be able to implement the change after receiving written approval, but prior to revision of the Title V permit. However, this could mean the source is not operating in compliance with its permit. The final rule should specifically clarify at what point the source can make the change relative to the permit and how this will be accomplished relative to the requirements of the Title V program.

Resumption of HAP Use

The proposal allows a facility to be released from a NESHAP if it ceases use of the relevant HAP. However, if it resumes use of the HAP, then it is once again subject to the NESHAP. In that situation, is a source subject to the existing- or new-source

NESHAP requirements? Would the amount of time the source was exempt have any bearing on whether it must comply with the new- or existing-source NESHAP? We recommend that EPA address these questions in the rule.

Thank you for this opportunity to comment on the proposal. We would be happy to provide you with any additional information that is needed.

Sincerely,

Lloyd Eagan
Chair
STAPPA Air Toxics Committee

Robert Colby
Chair
ALAPCO Air Toxics Committee

cc: Steve Fruh (OAQPS)