

November 1, 2007

Docket ID No. EPA-HQ-OAR-2006-0359
Area Source NESHAP for Iron and Steel Foundries Docket
U.S. Environmental Protection Agency
Air and Radiation Docket and Information Center
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 Hazardous Air Pollutants for Iron and Steel Foundries Area Sources, which were published in the *Federal Register* on September 17, 2007 (72 *Federal Register* 52984). The National Association of Clean Air Agencies (NACAA) is the national association of air pollution control agencies in 53 states and territories and over 165 metropolitan areas across the country.

NACAA supports the establishment of effective regulations to reduce emissions of hazardous air pollutants from area sources, pursuant to the mandates of the Clean Air Act. The adverse effects of the emissions from these sources in the aggregate are significant and should be ameliorated. In order for these rules to be implemented properly, however, EPA should provide sufficient additional funds for state and local clean air agencies to carry out this important work. Currently, federal grants fall far short of what is needed to support state and local agencies in carrying out their existing responsibilities. In recent years, federal grants for state and local air programs have amounted to only about one-third of what they should be and budget requests for the last two years have called for additional cuts. Additional area source programs, which are not eligible for Title V fees, will require significant increases in resources for state and local air agencies, above and beyond what is currently provided.

Without increased funding, some state and local air agencies may not be able to adopt and enforce additional area source rules. Even for permitting authorities that do not adopt the rules, it is possible that implementation of the standards will increase the workload and resource needs of state and local agencies. For example, synthetic minor permits (or Federally Enforceable State Operating Permits) will need to incorporate all applicable requirements, which would include the area source standards. These requirements also must be enforced. However, Title V permit fee funds are not available for those efforts and many state and local air agencies do not have sufficient resources for these responsibilities. Accordingly, NACAA recommends that EPA provide state and local air agencies with sufficient additional grants so that they may participate in the implementation of these important rules.

We believe Iron and Steel Foundries should be well controlled and we generally support the pollution-prevention approach that EPA is proposing in the rule for addressing mercury. We support a requirement that each affected facility must participate in a program for removing mercury switches prior to being processed, either through the National Vehicle Mercury Switch Removal Program (NVMSRP) or an equivalent.

We are concerned, however, that the proposal has some serious deficiencies. Most significant is the lack of enforceable accountability measures that would ensure the effective implementation of the pollution-prevention approach contained in the rule. The proposal lacks any emissions monitoring requirements to assess and verify the reduction in mercury that the rule is designed to achieve. We also note that the proposed rule does not address any sources of mercury in the scrap beyond automotive switches. These concerns are explained in greater detail below.

Effectiveness of the Switch Removal Program

We believe it is critical that the rule call for provisions to monitor and verify the effectiveness of mercury source-reduction programs. This should be accomplished through written documentation and audits of the participation of suppliers, evaluation of switch-recovery rates, and mercury emissions testing and monitoring by affected facilities. We are dismayed that the proposal does not include such accountability measures.

We recommend that the final rule include explicit performance measures, as well as measures of accountability to ensure that the vehicle-switch collection and emissions reductions milestones are met. These accountability measures should include mercury emission testing requirements sufficient to verify, for each facility and on an industry-wide basis, that mercury removal programs are successful in reducing emissions and specific requirements to ensure the effectiveness of collection programs.

We believe there are monitoring technologies that are adaptable for use by any facility in this industry. Batch process emissions are tested and monitored in many industrial sectors and EPA has established emission standards for many batch processes without requiring the use of continuous monitors (e.g., Pesticide Active Ingredient Manufacturing, Miscellaneous Organic Chemical Manufacturing). There are several statistical techniques that account for the variability of emissions, the first of which is to require that facilities collect a sufficient number of measurements over time to allow for the proper characterization of variability.

EPA has recently promulgated the “sorbent tube” method for sampling stack gases at coal-fired power plants [40 CFR Part 75 Appendix K]. Because this method of monitoring mercury is capable of sampling flue gases over any period believed necessary (hours or even days), there appears to be little impediment to using this method to sample “batch” processes. Further, because the method is very simple to set up, mercury can be monitored far more frequently than with other mercury sampling methods.

It is very important that the rule include effective sampling or monitoring requirements, or it will be difficult to ascertain the program's emission reductions and effectiveness. One element of this monitoring program should include a requirement to test emissions within six months of the final rule to establish a baseline for each facility.

With respect to the effectiveness of the switch-removal element of the program, we recommend that the rule include enforceable measures of accountability that include consequences if the programs do not meet their goals. The proposal does not provide enforceability with respect to switch-removal programs nor does it ensure related emissions reductions. At the very least, the rule should include quantifiable performance measures, such as expectations that a certain percentage of switches will be collected from end-of-life vehicles.

Enforceability Across Media Programs

NACAA is concerned about the ability of air agencies to enforce a pollution-prevention program that will, in many cases, be overseen by solid and hazardous waste programs. The requirements of the switch-removal program must be incorporated in air permits and the provisions must be clearly understood and enforceable by air agencies, in cooperation with their counterparts in other media programs. If these provisions are not explicit in the program, this pollution-prevention approach will not be effective.

Other Mercury-Added Products

In addition to automotive switches, there are other products that contain mercury that are included in the scrap metal used by iron and steel foundries, amounting to a significant amount of mercury entering the system. These items include components in household and commercial appliances (e.g., tilt switches, thermometers and flame sensors), heating and air conditioning units and industrial equipment. We strongly recommend that the final standards address these other mercury sources as well, perhaps by inclusion in a removal program (e.g., expansion of the NVMSRP).

Removal of Other Contaminants

NACAA generally supports the philosophy behind EPA's proposed pollution-prevention provisions designed to remove chlorinated plastics, lead and free organic liquids from the feed stock. However, we are concerned that the metallic scrap restrictions and exemptions are vague and nearly unenforceable. For example, the proposed rule requires that facilities must have "written material specifications for the purchase and use of only iron and steel scrap that has been depleted (to the extent practicable) of organics and HAP metals in the charge materials used by the iron and steel foundry." The phrase "to the extent practicable" is used again in association with removal of used oil filters and chlorinated plastics. While the intent of these provisions is clear – it is almost impossible to ensure 100-percent removal – this phrase makes the requirement unenforceable. We recommend that EPA either define the terms or establish concrete criteria.

Residual Risk

Because the rule calls for standards under Generally Available Control Technology, rather than Maximum Achievable Control Technology (MACT), the source category will not be subject to a Residual Risk assessment under Section 112(f) of the Clean Air Act. If this is the case, then it is important that emissions of particulate matter and HAPs be regulated as well as possible under this rule.

Management Practice Language

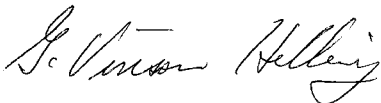
Some of the references in Part 63.10890 must be corrected. For example, in part 63.10890(c)(2), references are made to parts 63.10890(b)(2) and (b)(3), which do not exist. Additionally, in part 63.10890(d)(4) there is a reference to (b)(2), which does not exist.

Conclusion

In conclusion, NACAA believes there are many benefits to pursuing a pollution-prevention approach and are supportive of EPA's intention to remove pollutants, especially mercury, before they enter the iron and steel foundries. However, we believe EPA should address the serious concerns we have before issuing a final regulation.

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

Sincerely,



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