

STAPPA / ALAPCO

STATE AND TERRITORIAL  
AIR POLLUTION PROGRAM  
ADMINISTRATORS

ASSOCIATION OF  
LOCAL AIR POLLUTION  
CONTROL OFFICIALS

**DRAFT**

September 12, 2005

S. WILLIAM BECKER  
EXECUTIVE DIRECTOR

Attention Docket ID No. OAR-2003-0048  
Air and Radiation Docket and Information Center  
U.S. Environmental Protection Agency  
Mailcode: 6102T  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

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 Notice of Reconsideration of Final Rule for the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Plywood and Composite Wood Products, which was published in the *Federal Register* on July 29, 2005 (70 *Federal Register* 43826), and the related Proposed Rule, which was published in the *Federal Register* on July 29, 2005 (70 *Federal Register* 44012).

STAPPA and ALAPCO are opposed to the low-risk subcategory exemption included in the final NESHAP for Plywood and Composite Wood Products, which EPA published on July 30, 2004 (69 *Federal Register* 45944). We are gravely concerned about the concept of risk-based exemptions to Maximum Achievable Control Technology (MACT), as we expressed in our comments to the proposed rule (STAPPA/ALAPCO letter dated March 6, 2003), and disturbed by the specific manner in which EPA plans to implement them. We recommend that EPA completely eliminate the low-risk subcategory exemption from the final rule.

Section 112(d) of the Clean Air Act is clear in articulating a two-step process for addressing emissions of hazardous air pollutants through the MACT and Residual Risk provisions. It explicitly calls for a general reduction in hazardous air pollutant (HAP) emissions from all major sources nationwide through the establishment of MACT standards based on technology, *rather than risk*, as a first step. Congress did recognize the need for a risk-based program, however, and incorporated the residual risk program under Section 112(f) to *follow* the MACT standards (not to replace them). Congress clearly intended the risk-based approach to be used separately to augment and improve a

technology-based MACT standard that does not adequately provide protection for the public. The risk-based exemptions contained in the Plywood MACT clearly are contrary to the provisions of the Clean Air Act.

The exemptions would remove the benefit of the “level-playing field” resulting from the proper implementation of technology-based MACT standards. The establishment of a baseline level of control is essential to prevent industry from gaining a competitive advantage relating to installation – or failure to install – pollution controls or from moving to areas of the country that have the least stringent air toxics programs in order to avoid achieving the emission levels that are already met by the best-performing 12 percent of sources in their source category. Also, the need for a nationwide technology-based approach has been reinforced by the results of the National Air Toxics Assessment (NATA). The NATA information indicates that exposure to hazardous air pollutants is very high throughout the entire country in both densely populated urban areas and remote rural locations.

These exemptions also do not address ecological risks that may result from uncontrolled HAP emissions, including in those areas where few people currently live, but sensitive habitats exist.

As stated, we are opposed to the inclusion of the risk-based exemptions in the rule and believe they should be eliminated. Further, we have significant concerns with the specific manner in which EPA intends to implement the exemptions and believe there are many flaws in the agency’s approach.

### **The Role of State and Local Agencies**

The rule allows sources to submit low-risk demonstrations to EPA for approval. Once they have been approved, the sources are exempt from the MACT control requirements. This process is problematic for several reasons. First, as permitting authorities, state or local agencies have the right to disapprove risk-based demonstrations if they are incomplete or incorrect and, in fact, some state or local agencies would not allow an exemption without a thorough review of the risk assessment that the source prepared (e.g., during any public review process, the agency would find it difficult to defend an exemption it had not reviewed). Yet the rule is not clear that state and local permitting authorities can review and reject improper use of the look-up tables or site-specific analysis to establish eligibility for the exemption and that, if the demonstration is not approved, the source must comply with the emission limits and requirements of the NESHAP.

Second, the review of risk-based exemptions, which many agencies would deem necessary, could place a very intensive resource demand on state and local air agencies that must verify extensive emissions and stack information and review the risk assessments to ensure that they have been done properly. The review of these risk assessments would require expertise in risk assessment methodology that state and local

agencies may not possess. Many state and local agencies simply do not have the resources or expertise to accomplish those tasks.

Finally, the ability to certify compliance relies on a Title V permit that has enforceable conditions. The final rule requires that the parameters defining the affected facility as eligible for the health-based compliance alternative be included for incorporation in the Title V permit. However, a Title V permit requires conditions that include not just process parameters, but also the key inputs used in the eligibility demonstration (including, but not limited to, identification of reference concentrations used, look-up table values, emission rates, etc.). Those would all have to be enforceable conditions as well.

In summary, the process EPA has identified for the review and incorporation into permits of the risk-based exemptions is unworkable.

### **Scope of Risk Assessments**

Even assuming for the sake of argument that a risk-based exemption is allowable, and we do not believe it is, the risk-based exemption provisions in the final rule do not include a comprehensive consideration of the plants' impacts. For example, the final rule limits the analysis of risk to the impact of selected emissions units. However, the major-source status of a source is based on facility-wide emissions. In considering only a portion of the facility's emissions, the determination of low-risk is based on a distorted and unrealistic view of the facility's impact. Further, the EPA rule ignores the cumulative risk and persistent and background concentrations that come from exposure to multiple air toxics sources outside of the facility. Although individual sources may pose "low" risks, the accumulation of emissions from those sources, when taken together, can be quite significant. NATA data indicate that background concentrations of pollutants can be high. We believe it is important that those concentrations be incorporated when evaluating risk.

We believe risk assessments should incorporate all the emissions of at the facility and should consider nearby sources as well. Although the rule discusses considering these emissions during the Residual Risk evaluation, we are not comfortable waiting until then and relying on that program. The Residual Risk evaluations we have reviewed thus far are not generally as thorough as they should be, nor does it seem that future evaluations can be relied upon to include a full risk screening that accounts for other on-site and off-site sources. For example, background concentrations were not incorporated into the Coke Oven Residual Risk report published in March 2005 for benzene or any other HAP.

Also with respect to Residual Risk, we believe it is unclear how the risk-based exemptions will affect EPA's future Section 112(f) Residual Risk determinations. If the final plywood rule incorporates risk-based exemptions, which we strongly oppose,

sources that escape control through a risk-based demonstration should not be exempted from consideration during the Residual Risk process.

### **Dose-Response Value Used for Formaldehyde**

In this rule, as well as others that relate to formaldehyde, we recommend that EPA use the Integrated Risk Information System (IRIS) potency factor for formaldehyde. Adopting a different factor that has not undergone the full IRIS review process, particularly if it represents a less stringent factor, jeopardizes public health.

It is inappropriate that EPA would ignore its own IRIS values and, without public review, adopt a less stringent potency value for this rule. This is especially troubling since the World Health Organization has 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 continue to use the existing IRIS factors until the agency has completed its 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.

### **Deficiencies in Look-Up Tables**

We believe the values in the look-up tables will not be health-protective under worst-case conditions. This is a critical point, since it is the worst-case scenario that should be used during this screening level of risk assessment. Even with more stringent values, the look-up table would be flawed in that it relies on an average stack height based on the assumption that most stack heights are generally similar, but it incorporates weighted-averages in an attempt to make necessary adjustments. However, since dispersion is a non-linear function, it is impossible to try and simplify the effects of a stack. For example, the impact of a 40-foot stack is never one half the impact of a 20-foot stack. In fact, depending on the building heights and the distance to the receptor, the impact of the taller stack could be similar to the shorter one. The formulas do not account for the non-linearity of the atmosphere and may underpredict the impact of a shorter stack.

The use of the table should have been limited to conditions in which the stack heights are similar to those in the model. If they are not, then the more refined analysis should be required. Further, use of the look-up table should not be allowed for facilities in areas with complex terrain, since the assumptions used to develop the look-up table could not possibly account for this scenario. We are also concerned that the look-up table has not accounted for the common use of rain caps and for the likely event of building downwash.

### **Site-Specific Risk Assessment**

The rule allows facilities performing a site specific risk assessment to use any “scientifically accepted peer-reviewed assessment methodology” and provides the Air Toxics Risk Assessment Reference Library Volume 2 as an example. It does not require that the risk assessment methodology be approved by any regulatory agency as scientifically acceptable or applicable. Instead, the final rule specifically allows any methodology, and there is not even standardization of basic methods or parameters such as the years of exposure to an individual. Under the final rule, it appears the risk screening could be based on even a one-year exposure instead of the traditional lifetime exposure. Without specific parameters and methods or consideration of all the emission sources at the facility, the "refined" risk screening is meaningless and provides no real measure of health impact. Risk assessment is an evolving field and this provision does not provide clear guidance either for the sources or for regulatory agencies.

### **Extensions of Compliance Dates**

EPA requested comments as to whether all plywood sources should be granted a compliance extension (six-months to one year) if the deadline for the low-risk demonstrations is extended to April 1, 2007. Assuming EPA goes forward with the risk-based exemptions, which we oppose, we do not believe facilities that do not submit a low-risk demonstration should be granted any additional time to comply with the requirements. Further, since some facilities have already begun testing and compiling data for their low-risk demonstrations and others have already completed the work and are just waiting for the proposed rules to become final before they submit the demonstrations, they should be able to submit their demonstrations by December 2006. If an existing facility's low-risk demonstration is disapproved, the facility should be given no more than one year from the current compliance date to comply with all requirements of the rule. We want to eliminate the possibility that some facilities might submit unacceptable low-risk demonstrations just to obtain an extension.

### **Low-risk Demonstrations for New Sources**

If EPA proceeds with the risk-based exemption, new plywood sources should be required to submit a preliminary eligibility demonstration with their preconstruction permit application. State and local agencies need to know when the construction permit application is submitted that the facility plans to submit a low-risk demonstration and may be exempted from the MACT requirements at a later date. The Boiler/Process Heater MACT (Subpart DDDDD) requires a preliminary eligibility demonstration using emissions estimates, and then requires the facility to verify the data with source testing within 180 days of startup. The plywood sources should be required to do the same. Since there are no provisions in the Clean Air Act for extending the compliance date for new sources, a new source that is denied the exemption must comply at startup. Therefore, if the source has not obtained approval of a preliminary demonstration in advance, state and local agencies must include all the requirements of the plywood rule into these construction permits, and facilities will be expected to meet those requirements upon initial startup.

**Proposed Testing Exemptions**

The proposal states that emissions testing is not feasible for several process units, including blenders, sanders, and saws. These types of emission sources are normally controlled by baghouses due to the large amount of particulate matter generated by the processes. These baghouses are normally required to be tested for particulate matter, so exempting them from testing requirements is not necessary for the Plywood MACT. HAP emissions from these units can be high, so we recommend that actual test data, rather than emission factors, be used.

Thank you for your consideration of our comments. Please do not hesitate to contact us if we can provide additional information or if you have any questions.

Sincerely,

Lloyd L. Eagan  
Chair  
STAPPA Air Toxics Committee

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ALAPCO Air Toxics Committee