



May 20, 2011

Lisa Jackson, Administrator
US EPA Headquarters
Ariel Rios Building (11011A)
1200 Pennsylvania Avenue NW
Washington, DC 20460

Docket Number: EPA-HQ-OAR-2002-0058

Petition for Reconsideration of the National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters, 76 Fed. Reg. 15608 (Mar. 21, 2011)

Dear Administrator Jackson,

The Business Council for Sustainable Energy (BCSE, the Council) petitions EPA to reconsider two components of the National Emission Standards for Hazardous Air Pollutants (NESHAPs) for New and Existing Sources for Major Source Industrial, Commercial, and Institution Boilers and Process Heaters (hereafter referred to as Boiler MACT).

The Council applauds EPA's effort throughout the rule to emphasize the role energy efficiency can play in reducing hazardous air pollutants (HAPs) emissions cost-effectively. As EPA noted in its Response to Comments, improved combustion efficiency reduces fuel usage, which, in turn, reduces emissions.ⁱ Driving energy efficiency in a consistent manner across regulations and rules has the potential to reduce emissions of multiple pollutants in a cost-effective manner. The Council offers these recommendations as ways to strengthen the rule's effectiveness and contribute to EPA's energy efficiency objectives:

1. Clarify that facilities may simultaneously adopt the alternative output-based compliance standard and average emissions;
2. Clarify that coal-fired facilities seeking to incorporate combined heat and power (CHP) or waste heat recovery (WHR) are eligible for a one-year compliance extension.

Though not singled out for reconsideration in EPA's March 21, 2011 Reconsideration Notice, the Council feels these issues are appropriate for Reconsideration under the Clean Air Act, Section 307(d)(7)(b). The output-based standard compliance option was not included in the proposed rule and was thus unable to be commented on during the Notice of Proposed Rulemaking. The Council also seeks clarification to allow for increased new development of CHP and WHR.

Allowing Output-Based Standards and Emissions Averaging

The BCSE supports the use of output-based standards wherever possible to encourage system-wide efficiency. As EPA has noted, "output-based emission standards provide a regulatory incentive to enhance unit operating efficiency and reduce emissions."ⁱⁱ The BCSE and others observe, however, that there does not seem to be an option for a regulated entity to simultaneously opt for output-based limitations and emissions averaging. Section 63.7522 of the rule instructs regulated entities that opt for emissions averaging to use formulae for establishing initial compliance (in 63.7522(e)(1) and (2)) and for demonstrating monthly compliance (in 63.7522(f)(1) and (2)) that provide only heat input-based emissions rates. The Council notes that there are no instructions or alternative formulae in 63.7522 for showing initial and monthly compliance using an output basis. Nor are there any directions in the energy efficiency/conservation crediting section (63.7533) on how to simultaneously opt for output-based emissions limitations and emissions averaging. The BCSE encourages EPA to

alter Section 63.7522 to allow and give clear direction for those regulated under the rule seeking to opt simultaneously for output-based emissions limitations and emissions averaging.

Considering Fuel-Switching + CHP/WHR as “Controls”

Under the rule as written, an owner operating a coal-fired boiler who wishes to use add-on controls to comply with the Boiler MACT can request a one-year extension from the permitting State should additional time be necessary for the installation of the controls.ⁱⁱⁱ The BCSE encourages EPA to clarify that the same one-year compliance extension can be offered to operators of coal-fired boilers who choose to switch to natural gas-fired systems that include CHP or WHR. CHP and WHR developers and environmental engineering firms have expressed concerns that the three year compliance window allowed for switching fuel from coal to natural gas may not provide sufficient time for boiler owners to decide on efficient CHP or WHR as their compliance approach and to have the equipment designed, permitted, and installed. Including CHP and WHR in the definition of “controls” under the Act will allow those choosing fuel-switching as a compliance option to install the most efficient systems possible.

Sincerely,



Lisa Jacobson
President

cc: Gina McCarthy, Assistant Administrator, Office of Air and Radiation, US EPA
Office of General Counsel, US EPA
Brian Shrager, Office of Air Quality Planning and Standards, US EPA

ⁱ 76 Fed. Reg. 15608, 15630, Mar. 21, 2011, “Final Rule: National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters.”

ⁱⁱ 76 Fed. Reg. at 15630-31.

ⁱⁱⁱ See 40 CFR 63.6 (Authorizing the Administrator or delegated state authority to “grant an extension allowing the source up to 1 additional year to comply with the standard, if such additional period is necessary for the installation of controls”).