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June 9, 2023

Honorable Administrator Michael S. Regan
U. S. Environmental Protection Agency
Docket Center, OAR
Mail Code 28221T
1200 Pennsylvania Avenue NW
Washington, DC 20460

Re: National Tribal Air Associations' Comments on the Environmental Protection Agency Office of Air and Radiation's Proposed Synthetic Organic Chemical Manufacturing Industry: Organic National Emission Standards for Hazardous Air Pollutants (NESHAP) - 40 CFR 63 Subparts F, G, H, I - Docket ID No. EPA-HQ-OAR-2022-0730

Dear Honorable Administrator Regan:

The National Tribal Air Association (NTAA) is pleased to submit this letter to provide comments on the U. S. Environmental Protection Agency's (EPA) Proposed Rules for Synthetic Organic Chemical Manufacturing Industry: Organic National Emissions Standards for Hazardous Air Pollutants. The NTAA is a member-based organization with 156 Member Tribes. The organization's mission is to advance air quality management policies and programs, consistent with the needs, interests, and unique legal status of American Indian Tribes and Alaskan Natives. As such, the NTAA uses its resources to support the efforts of all federally recognized Tribes in protecting and improving the air quality within their respective jurisdictions. Although the organization always seeks to represent consensus perspectives on any given issue, it is important to note that the views expressed by the NTAA may not be agreed upon by all Tribes. Further, it is also important to understand that interactions with the organization do not substitute for Nation-to-Nation consultation, which can only be achieved through direct communications between the federal government and American Indian Tribal Governments and Alaskan Natives.

Based on the NTAA's review of the rule the following general and specific comments are provided. The NTAA believes these rules are important to provide for more extensive protections for communities located around these facilities. These protections are important to address long standing disproportionate impacts on minority and low-income communities. Based on the risk assessment, once implemented, 96% of the populations living within 6 miles of these facilities risks are reduced to below 100 in a million.



General Comments:

Although these rules only have impacts on a “small” population of native community members, the impacts of these facilities are significant. Given the

toxicity of the pollutants being addressed by these rules, Ethylene Oxide is of particular concern. As seen in the demographic analysis, the post control risk to native populations surrounding these facilities drops from 6,000 to 5,000 individuals at risk greater or equal to 1 in a million and from 700 to 100 of Native Americans at risks greater than or equal to 50 in a million. These rules have the potential to significantly improve the health of Tribal community members. Thus, the NTAA believes it is important to comment on these rules. The NTAA also believes that beyond the health risks to Native American Populations, there may be important impacts on Tribal interests, history, and culture that are not reflected in the risk or demographic analysis. For this reason, it is important to offer Tribal consultation to Tribes not only in the 10 to 50 KM analysis range but also more broadly, where treaty rights or other cultural values may be impacted.

Additional General Comments:

1. The NTAA appreciates the addition of the Community demographic analysis that was used in the rule and encourages EPA to continue to use these analyses to help understand the impacts of these sources and the communities that will benefit from the rules. The NTAA also supports including the impacts of the surrounding sources in this demographic analysis. Although this understanding may not directly be within the scope of the authority of the rulemaking, it can help rule writers and decision makers in weighing between cost effective options in the future.
2. The NTAA supports the inclusion of fence line monitoring for these facilities. This technology has proven to be a valuable tool for petroleum refineries to timely detect problems and to address them more quickly, substantially reducing emissions from leaks and other fugitives.
3. NTAA supports the monitoring data to be submitted electronically and made available to the public on the Webfire database, allowing communities to have access to information that impacts them.
4. The NTAA supports the removal of the affirmative defense and Start up, Shut Down and Malfunction provisions as well as the affirmative defense provisions.
5. The NTAA supports the additional requirements for Dioxins and Furans in these rules.
6. The NTAA supports the improvement of requirements for flare operations, monitoring, and the increased monitoring and controls on pressure relief devices.

Specific Comments:

Subpart H

The NTAA Supports the following:

- A new definition for “in ethylene oxide service” (for equipment leaks, heat exchange systems, process vents, storage vessels, and wastewater).
- New operating and monitoring requirements for flares; and a requirement that owners and operators can send no more than 20 tons of EtO to all of their flares combined in any consecutive 12-month period.
- Sampling and analysis procedures for owners and operators to demonstrate that process equipment does, or does not, meet the proposed definition of being “in ethylene oxide service”.

For heat exchange systems, the NTAA Supports:

- To require owners or operators to use the Modified El Paso Method and repair leaks of total strippable hydrocarbon concentration (as methane) in the stripping gas of 6.2 parts per million by volume (ppmv) or greater.
- To require owners or operators to conduct more frequent leak monitoring (weekly instead of quarterly) for heat exchange systems in EtO service and repair leaks within 15 days from the sampling date (in lieu of the current 45-day repair requirement after receiving results of monitoring indicating a leak in the HON), and delay of repair would not be allowed.
- That the current leak monitoring requirements for heat exchange systems at 40 CFR 63.104(b) may be used in limited instances in lieu of using the Modified El Paso Method for heat exchange systems cooling process fluids that will remain in the cooling water if a leak occurs.

The NTAA does not support the proposal allowing owners or operators to choose the least stringent option for process vents given the toxicity of the pollutants being emitted. The NTAA understands the need for flexibility in operations but believes the most stringent option should be used.

- “To remove the 50 ppmv and 0.005 standard cubic meter per minute (scmm) Group 1 process vent thresholds from the Group 1 process vent definition, and instead require owners and operators of process vents that emit greater than or equal to 1.0 pound per hour (lb/hr) of total organic HAP to reduce emissions of organic HAP using a flare meeting the proposed operating and monitoring requirements for flares in NESHAP subpart F; or reduce emissions of total organic HAP or total organic compounds (TOC) by 98 percent by weight or to an exit concentration of 20 ppmv, whichever is less stringent.”
- As EPA stated in the proposed Commercial Sterilizer RTR, “We believe this is inconsistent with the Clean Air Act. While a MACT standard may be expressed in multiple formats so long as they are equivalent, the phrase “whichever is less stringent” suggests that these two

formats are not equivalent. Further, a MACT standard cannot allow compliance with a less stringent alternative standard.”

However, the NTAA does support the proposal:

- To remove the total resource effectiveness (TRE) concept in its entirety.
- To add an emission standard of 0.054 nanograms per dry standard cubic meter (ng/dscm) at 3 percent oxygen (toxic equivalency basis) for dioxins and furans from chlorinated process vents.
- That owners and operators reduce emissions of EtO from process vents in EtO service by either: (1) Venting emissions through a closed-vent system to a control device that reduces EtO by greater than or equal to 99.9 percent by weight, to a concentration less than 1 ppmv for each process vent, or to less than 5 lb/yr for all combined process vents; or (2) venting emissions through a closed-vent system to a flare meeting the proposed operating and monitoring requirements for flares in NESHAP subpart F.
- A work practice standard for maintenance vents requiring that, prior to opening process equipment to the atmosphere, the equipment must either: (1) Be drained and purged to a closed system so that the hydrocarbon content is less than or equal to 10 percent of the lower explosive limit (LEL); (2) be opened and vented to the atmosphere only if the 10-percent LEL cannot be demonstrated and the pressure is less than or equal to 5 pounds per square inch gauge (psig), provided there is no active purging of the equipment to the atmosphere until the LEL criterion is met; (3) be opened when there is less than 50 lbs of VOC that may be emitted to the atmosphere; or (4) for installing or removing an equipment blind, depressurize the equipment to 2 psig or less and maintain pressure of the equipment where purge gas enters the equipment at or below 2 psig during the blind flange installation, provided none of the other proposed work practice standards can be met.
- That owners and operators of process vents in EtO service would not be allowed to use the proposed maintenance vent work practice standards; instead, owners and operators would be prohibited from releasing more than 1.0 ton of EtO from all maintenance vents combined in any consecutive 12-month period.

The NTAA also supports the proposals for storage vessels:

- That owners and operators reduce emissions of EtO from storage vessels in EtO service by either: (1) Venting emissions through a closed-vent system to a control device that reduces EtO by greater than or equal to 99.9 percent by weight or to a concentration less than 1 ppmv for each storage vessel vent; or (2) venting emissions through a closed-vent system to a flare meeting the proposed operating and monitoring requirements for flares in NESHAP subpart F.
- A work practice standard to allow storage vessels to be vented to the atmosphere once a storage vessel degassing concentration threshold is met (i.e., less than 10 percent of the LEL) and all standing liquid has been removed from the vessel to the extent practicable.
- To define pressure vessel and remove the exemption for “pressure vessels designed to operate in excess of 204.9 kilopascals and without emissions to the atmosphere” from the

definition of storage vessel and require initial and annual performance testing using EPA Method 21 of 40 CFR part 60, appendix A–7 to demonstrate no detectable emissions (i.e., would be required to meet a leak definition of 500 parts per million (ppm) at each point on the pressure vessel where total organic HAP could potentially be emitted).

- To require all openings in an internal floating roof (IFR) (except those for automatic bleeder vents (vacuum breaker vents), rim space vents, leg sleeves, and deck drains) be equipped with a deck cover; and the deck cover would be required to be equipped with a gasket between the cover and the tank.
- Controls for guidepoles for all storage vessels equipped with an IFR.
- A work practice standard that would apply during periods of planned routine maintenance of a control device, fuel gas system, or process equipment that is normally used for compliance with the storage vessel emissions control requirements; owners and operators would not be permitted to fill the storage vessel during these periods (such that the vessel would emit HAP to the atmosphere for a limited amount of time due to breathing losses only while working losses are controlled).
- To revise the Group 1 storage capacity criterion (for storage vessels at existing sources) from between 75 cubic meters (m³) and 151 m³ to between 38 m³ and 151 m³.
- To revise the Group 1 stored-liquid maximum true vapor pressure (MTVP) of total organic HAP threshold (for storage vessels at existing sources) from greater than or equal to 13.1 kilopascals (kPa) to greater than or equal to 6.9 kPa.

For transfer racks, the NTAA supports the proposal:

- To remove the exemption for transfer operations that load “at an operating pressure greater than 204.9 kilopascals” from the definition of transfer operation.

For wastewater streams, the NTAA supports the proposal:

- To revise the Group 1 wastewater stream threshold to include wastewater streams in EtO service (i.e., wastewater streams with total annual average concentration of EtO greater than or equal to 1 ppm by weight at any flow rate).
- To prohibit owners and operators from injecting wastewater into or disposing of water through any heat exchange system in a chemical manufacturing process unit (CMPU) meeting the conditions of 40 CFR 63.100(b)(1) through (3) if the water contains any amount of EtO, has been in contact with any process stream containing EtO, or the water is considered wastewater as defined in 40 CFR 63.101.

For closed vent systems, the NTAA supports the proposal:

- That owners and operators may not bypass an air pollution control device (APCD) at any time, that a bypass is a violation, and that owners and operators must estimate and report the quantity of organic HAP released.



iii. NESHAP Subparts H and I

The NTAA supports the proposal for fenceline monitoring (i.e., monitoring along the perimeter of the facility's property line) in NESHAP subpart H for all emission sources. For equipment leaks and fenceline monitoring, to include:

- That all connectors in EtO service would be required to be monitored monthly at a leak definition of 100 ppm with no skip period, and delay of repair would not be allowed.
- That all gas/vapor and light liquid valves in EtO service would be required to be monitored monthly at a leak definition of 100 ppm with no skip period, and delay of repairs would not be allowed.
- That all light liquid pumps in EtO service would be required to be monitored monthly at a leak definition of 500 ppm, and delay of repairs would not be allowed.
- The proposed work practice standard for pressure relief devices (PRDs) that vent to the atmosphere that would require owners and operators to implement at least three prevention measures, perform root cause analysis and corrective action in the event that a PRD does release emissions directly to the atmosphere, and monitor PRDs using a system that is capable of identifying and recording the time and duration of each pressure release and of notifying operators that a pressure release has occurred.
- That all surge control vessels and bottoms receivers would be required to meet the requirements we are proposing for process vents.
- That owners and operators may not bypass an APCD at any time that a bypass is a violation, and that owners and operators must estimate and report the quantity of organic HAP released.
- To add a fenceline monitoring standard that requires owners and operators to monitor for any of 6 specific HAPs they emit (i.e., benzene, 1,3-butadiene, ethylene dichloride, vinyl chloride, EtO, and chloroprene) and conduct root cause analysis and corrective action upon exceeding the annual average concentration action level set forth for each HAP.

P&R I

The NTAA Supports the following proposal:

- Compliance dates for all of the proposed P&R I requirements.
- New operating and monitoring requirements for flares.
- Removing provisions to assert an affirmative defense to civil penalties.
- To reference the same fenceline monitoring requirements that we are proposing in Subpart H for HON sources.
- Sampling and analysis procedures for owners and operators of affected sources producing neoprene to demonstrate that process equipment does, or does not, meet the proposed definition of being “in chloroprene service”.
- A facility-wide chloroprene emissions cap of 3.8 tons per year (tpy) in any consecutive 12-month period for all neoprene production emission sources.

For heat exchange systems, the NTAA supports the proposal:

- To add the same requirements (except for EtO standards) listed in section I.A.2.a.i of the preamble and for heat exchange systems subject to the HON to also apply to heat exchange systems subject to P&R I.

For continuous front-end process vents, the NTAA supports the following proposals:

- That owners and operators reduce emissions of chloroprene from continuous front-end process vents in chloroprene service at affected sources producing neoprene by venting emissions through a closed-vent system to a non-flare control device that reduces chloroprene by greater than or equal to 99.9 percent by weight, to a concentration less than 1 ppmv for each process vent, or to less than 5 lb/yr for all combined process vents.
- To add the same requirements (except for EtO standards) listed in section I.A.2.a.ii of the proposal and for process vents subject to the HON to also apply to continuous front-end process vents subject to P&R I.
- That continuous front-end process vents in chloroprene service would not be allowed to use the proposed maintenance vent work practice standards; instead, owners and operators would be prohibited from releasing more than 1.0 ton of chloroprene from all maintenance vents combined in any consecutive 12-month period.
- To add an emission standard of 0.054 ng/dscm at 3 percent oxygen (toxic equivalency basis) for dioxins and furans from chlorinated continuous front-end process vents.

For batch front-end process vents, the NTAA Supports:

- To remove the annual organic HAP emissions mass flow rate, cutoff flow rate, and annual average batch vent flow rate Group 1 process vent thresholds from the Group 1 batch front-end process vent definition (these thresholds are currently determined on an individual batch process vent basis). Instead, owners and operators of batch front-end process vents that release total annual organic HAP emissions greater than or equal to 4,536 kilograms per year (kg/yr) (10,000 pounds per year (lb/yr)) from all batch front-end process vents combined would be required to reduce emissions of organic HAP from these process vents using a flare meeting the proposed operating and monitoring requirements for flares; or reduce emissions of organic HAP or total organic carbon (TOC) by 90 percent by weight (or to an exit concentration of 20 ppmv if considered an “aggregate batch vent stream” as defined by the rule.
- To add the same chloroprene standards that were proposed for continuous front-end process for batch front-end process vents at affected sources producing neoprene.
- To add the same work practice standards that we are proposing for maintenance vents as described for HON to P&R I.
- That batch front-end process vents in chloroprene service would not be allowed to use the proposed maintenance vent work practice standards; instead, owners and operators would be prohibited from releasing more than 1.0 tons of chloroprene from all maintenance vents combined in any consecutive 12-month period.

- To add an emission standard of 0.054 ng/dscm at 3 percent oxygen (toxic equivalency basis) for dioxins and furans from chlorinated batch front-end process vents.

The NTAA supports the proposal for storage vessels:

- That owners and operators reduce emissions of chloroprene from storage vessels in chloroprene service at affected sources producing neoprene by venting emissions through a closed-vent system to a non-flare control device that reduces chloroprene by greater than or equal to 99.9 percent by weight or to a concentration less than 1 ppmv for each storage vessel vent.
- To add the same requirements (except for EtO standards) listed in section I.A.2.a.ii of this preamble that we are proposing for storage vessels subject to the HON except the proposed requirements would apply to storage vessels subject to P&R I.

The NTAA supports the proposal for wastewater streams:

- To revise the Group 1 wastewater stream threshold to include wastewater streams in chloroprene service at affected sources producing neoprene (i.e., wastewater streams with total annual average concentration of chloroprene greater than or equal to 10 parts per million by weight (ppmw) at any flow rate).
- To prohibit owners and operators from injecting wastewater into or disposing of water through any heat exchange system in an elastomer product process unit (EPPU) if the water contains any amount of chloroprene, has been in contact with any process stream containing chloroprene, or the water is considered wastewater as defined in 40 CFR 63.482.

For equipment leaks and fenceline monitoring, the NTAA supports the proposals:

- To add the same requirements (except for EtO standards) listed in section I.A.2.a.iii of the proposed preamble and for equipment leaks subject to the HON except the proposed requirements would apply to equipment leaks subject to P&R I.
- to cross-reference P&R I facilities to the same fenceline monitoring standard in the HON (see proposed 40 CFR 63.184) that requires owners and operators to monitor for any of 6 specific HAP they emit (i.e., benzene, 1,3-butadiene, ethylene dichloride, vinyl chloride, EtO, and chloroprene) and conduct root cause analysis and corrective action upon exceeding the annual average concentration action level set forth for each HAP .

P&R II

The NTAA supports the proposal to add requirements for heat exchange systems and require owners and operators of wet strength resins (WSR) sources to comply with both the equipment leak standards in the HON and the HAP emissions limitation for process vents, storage tanks, and wastewater systems. The NTAA also supports the proposal to add the same dioxin and furan emission standard of 0.054 ng/dscm at 3 percent oxygen (toxic equivalency basis) for chlorinated process vents as in the HON and P&R I.



NSPS Subparts III, NNN, and RRR

The NTAA supports the proposal to amend the applicability of NSPS subparts III, NNN, and RRR so that they would only apply to sources constructed, reconstructed, or modified on or before April 25, 2023. Affected facilities that are constructed, reconstructed, or modified after April 25, 2023, would be subject to the new proposed NSPS subparts IIIa, NNNa, and RRRa

NSPS Subparts IIIa, NNNa, and RRRa

The NTAA does not support allowing owners or operator to use the less stringent as indicated below: “subparts IIIa, NNNa, and RRRa to require owners and operators to reduce emissions of total organic carbon (TOC) (minus methane and ethane) from all vent streams of an affected facility (i.e., SOCFI air oxidation unit processes, distillation operations, and reactor processes for which construction, reconstruction, or modification occurs after April 25, 2023) by 98 percent by weight or to a concentration of 20 ppmv on a dry basis corrected to 3 percent oxygen, whichever is less stringent”

As stated above, a MACT standard may be expressed in multiple formats so long as they are equivalent, the phrase “whichever is less stringent” in 40 CFR 63.362(d) suggests that these two formats are not equivalent. Further, a MACT standard cannot allow compliance with a less stringent alternative standard.

However, the NTAA does support the flexibility and options for operating in this proposal to include, allowing combustion of emissions in a flare meeting the same operating and monitoring requirements for flares that we are proposing for flares subject to the HON.

The NTAA also supports the proposal to eliminate the relief valve discharge exemption from the definition of “vent stream” such that any relief valve discharge to the atmosphere of a vent stream is a violation of the emissions standard. As well as the proposal to require the same work practice standards for maintenance vents as those proposed for HON process vents, and the same monitoring requirements that we are proposing for HON process vents for adsorbers that cannot be regenerated and regenerative adsorbers that are regenerated offsite.

NSPS Subpart VVa

The NTAA supports the amendment of the applicability of the existing NSPS subpart VVa so that it would apply to only sources constructed, reconstructed, or modified after November 6, 2006, and on or before April 25, 2023. Affected facilities that are constructed, reconstructed, or modified after April 25, 2023, would be subject to the new proposed NSPS subpart VVb.



NSPS Subpart VVb

The NTAA supports the proposal for new NSPS subpart VVb the same requirements in NSPS subpart VVa plus requiring that all gas/vapor and light liquid valves be monitored quarterly at a leak definition of 100 ppm and all connectors be monitored once every 12 months at a leak definition of 500 ppm (see section III.C.6.b of this preamble). For each of these two additional requirements, However the NTAA does not support the proposal skip periods for good performance.

In closing, thank you for the opportunity to comment on these rules. The NTAA appreciates that these rules will significantly reduce the emissions of Hazardous Air Pollutants and improve the health for communities near these facilities.

Respectfully,

Syndi Smallwood

Chair

Executive Committee, National Tribal Air Association

Cc: Pat Childers, Senior Tribal Program Coordinator, OAR
Carolyn Kelly, Program Manager, NTAA