



Enviroscope

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Washington Update

Tighter Standards Proposed for Ozone & Particulates

U.S. Environmental Protection Agency (EPA) Administrator Carol Browner issued a proposed rule last November to dramatically tighten ambient air standards for ground-level ozone (a primary constituent of smog) and fine particulate matter from factories, power plants and automobiles. The proposed standards will put hundreds of counties across the nation out of compliance with the Clean Air Act. The impact on large and small manufacturers could be far-reaching, leading some to predict the standards will mean the costliest burden on manufacturing in the last 25 years.

The schedule for finalizing the standards is extremely aggressive. In response to a federal court-ordered deadline, EPA originally planned to issue the final standard in late June 1997. A coalition of the nation's governors, however, lead by Governor George Voinovich of Ohio, urged Browner to request a 60-day extension for the public comment period, as well as the final promulgation deadline. In February, the court allowed the deadline to be delayed for three additional weeks, to mid-July.

Surface Finishing Impacts

Traditional stationary emission sources, such as large coal-fired and other industrial furnaces that are now heavily regulated, will come under great scrutiny, as will chemical makers, petroleum refineries and producers, and automobiles. EPA's own analysis of the 20 industry sectors likely to face the highest cost impacts includes various surface finishing operations in SIC code 347—primarily organic coatings and

stripping processes, but also solvent uses in plating.

Because major emission reductions in the U.S. in the last 25 years have largely been achieved by regulating large stationary sources, smaller industry sources and automobiles are now increasingly popular targets to meet tougher standards. The proposed revisions to the ozone and particulate matter standard will result in both direct and indirect impacts on smaller facilities.

In terms of direct impacts, it is becoming more apparent that EPA will use a broad interpretation of its current statutory authority to pursue, among other things, lower current annual emission thresholds for major industry sources of volatile organic compounds, particulate matter (PM) and other emissions. Under this scenario, operations that are now considered relatively small could become "major" sources targeted for regulation. The rule will also increase energy and transportation costs and place new restrictions on commercial transportation. These changes alone will pose new challenges for small manufacturers.

Moreover, areas already in attainment for ozone and PM will face additional emission reduction requirements if their emission sources exacerbate downwind air quality problems in non-attainment areas. To achieve this objective, the agency is considering an implementation strategy for the new standards that replaces the current "attainment" versus "non-attainment" designations. Under the new scheme, a county may meet the new standards, but still shoulder tougher control requirements as an "area of influence" (AOI) where emission sources might worsen air quality in neighboring geographical regions.

Science & Progress

As debate on the issue heats up in Congress and state capitols, the science and probable health benefits associated with the proposed standards is attracting skepticism from some quarters. A chief critic has been Dr. George Wolff, chair of EPA's own Clean Air Science Advisory Committee (CASAC), which was commissioned to review the scientific underpinnings of the proposal. The CASAC was not in agreement on major issues, such as whether any of several options to tighten the ozone standards would make an appreciable difference on human health, or how finer particles are actually composed and formed in the atmosphere.

EPA's 1995 *Air Quality and Emissions Trends Report*, released last December after the standards were proposed, points out that only about six percent of all particulate matter in the country's air is generated by industrial sources. The vast majority is in the form of fugitive dust from paved and unpaved roads, construction and agriculture.

The agency's report also shows the nation's air quality has shown considerable improvement since the passage of the Clean Air Act (CAA) of 1970. In fact, emissions of major pollutants have dropped by an average of nearly 30 percent in the last 25 years.

With this success in hand, and additional progress underway as a result of EPA's issuance of dozens of new rules every year under the 1990 CAA amendments, the AESF, NAMF and MFSA joint Government Relations program, and other advocates, are now arguing that current air quality targets should be met first with current rules that are underway, and that further research must be

completed before moving forward on tightening the standards.

Congress is also asking serious questions of the agency on a range of issues, including the adequacy of current science as a basis for standard-setting, the likely cost impacts of the rules on industry in general (and small manufacturing in particular), and how progress already achieved in the nation's air quality is meeting human health and environmental protection goals.

Senate Environment and Public Works Committee chairman John Chafee (R-RI), who traditionally plays a moderate role on environmental issues, has taken an aggressive lead on questioning the need for tighter standards at this time. Chafee was the first to call for congressional hearings on the issue, and recently called EPA Administrator Browner to testify on Capitol Hill on the ramifications of the new rule. The House Science Committee and other panels are now holding hearings on the issue as well.

Industry Involvement

Government Relations is now attempting to get more complete information from EPA about the cost impact estimates for the surface finishing industry, and will continue to participate in a coalition of industry and public officials who support alternatives to the new standards in the form of better research and more targeted regulation. A small business task group was also formed recently to elevate small manufacturing concerns to top agency officials and the White House Office of Management and Budget. Government Relations is assisting the task group in developing strategy, and working with congressional staff and lawmakers to promote changes in the agency's position.

Grassroots Effort

Launched To Stem

Proposed Chemical Rule

Guess again if you thought EPA paperwork and reporting burdens were over. EPA is now moving aggressively to expand federal toxics reporting regulations under the Emergency Planning and Community Right-to-Know Act (EPCRA), or SARA Title III. The agency issued an advanced notice of proposed rulemaking (ANPR) last October that

calls for companies to publicly disclose not only their chemical releases under existing law, but their actual chemical *uses* throughout the production process.

Does Chemical Use

Equal Risk?

The initiative has largely escaped national media attention, but is a top priority for environmentalists, and it is extremely controversial. Aside from imposing new collection burdens on facilities that currently report their annual releases to the national toxics release inventory (TRI) database, the reporting system lays out a framework for EPA to ultimately measure materials used at facilities, and set stringent reduction goals over time for perceived "toxics," including many metals.

By using publicly available data, environmental groups are hoping to show that the billions of pounds of chemicals in production—even if never released to the environment—pose elevated risks to communities. The agenda is simple and has been vocalized by industry opponents: Chemical use equals citizens at risk.

Collection of this data also poses problems for companies seeking to protect proprietary information. Chemical makers are arguing that economic and national security issues are at stake, and that EPA's aim of dumping production data onto the Internet for activist groups to pursue creates a host of problems. One such problem is the potential for espionage specialists or terrorists to piece the information together with other sources and inflict damage on companies and the nation in ways not yet contemplated by the supporters of the public's "right-to-know."

Finishers Take Lead

In response to EPA's preliminary proposal, the surface finishing industry's joint Government Relations Program launched a major grassroots campaign to oppose the effort with letters to the agency from companies, suppliers and other industry professionals. So far, this effort has topped all others from industry groups nationwide. EPA intends to release a formal rulemaking proposal for public comment in late 1997 or early 1998.

Statutory Authority Questioned

The surface finishing industry and other trade groups have continued to

remind both the EPA and elected officials that the agency was never given the statutory authority by Congress to collect chemical-use data. The agency maintains its actions are legal, but it has had difficulty demonstrating this. Meanwhile, Representatives Frank Pallone (D-NJ) and Henry Waxman (D-CA) have expressed interest in introducing legislation in the 105th Congress that explicitly gives the agency authority to proceed with TRI expansion.

All finishers and suppliers should be concerned about new use reporting burdens on current chemicals, and also about the potential for EPA to:

- (1) Add new materials to the list in the future.
- (2) Lower reporting thresholds so that platers whose chemical uses are now low enough to be exempt would be new targets for regulations. **P&SF**

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