



August 4, 2011

Administrator Lisa Jackson
Environmental Protection Agency
Washington, DC 20460

VIA REGULATIONS.GOV

RE: Comments on National Emission Standards for Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units (NSPS: Docket No. EPA-HQ-OAR-2011-0044; NESHAP: Docket No. EPA-HQ-OAR-2009-0234)

Dear Administrator Jackson:

The Small Business Administration (SBA) Office of Advocacy (Advocacy) submits the following comments on the Environmental Protection Agency's (EPA) proposed air emissions regulations on electric utility steam generating units (EGUs) under the Clean Air Act section 111 (standards of performance for criteria pollutants) and section 112 (national emission standards for hazardous air pollutants), a.k.a the Utility MACT or EGU MACT rule.¹ Advocacy believes that EPA has not sufficiently complied with the requirements of the Regulatory Flexibility Act or adequately considered the impact this rulemaking would have on small entities. In addition, because of the haste with which EPA has engaged in this rulemaking, EPA has not given itself the opportunity to engage in meaningful outreach and consultation with small entities. Advocacy therefore strongly recommends that EPA seek to revise the court-agreed deadlines to which this rulemaking is subject, re-convene the Small Business Advocacy Review panel, prepare a new initial regulatory flexibility analysis, and issue it for additional public comment prior to final rulemaking.

The Office of Advocacy

Congress established the Office of Advocacy under Pub. L. No. 94-305 to advocate the views of small entities before Federal agencies and Congress. Because Advocacy is an independent body within the U.S. Small Business Administration (SBA), the views expressed by Advocacy do not necessarily reflect the position of the Administration or the SBA.² The RFA,³ as amended by

¹ National Emission Standards for Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units, 76 Fed. Reg. 24976 (May 3, 2011).

² 15 U.S.C. § 634a, *et. seq.*

Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA),⁴ gives small entities a voice in the federal rulemaking process. For all rules that are expected to have a “significant economic impact on a substantial number of small entities,”⁵ EPA is required by the RFA to conduct a SBAR Panel to assess the impact of the proposed rule on small entities,⁶ and to consider less burdensome alternatives. Moreover, federal agencies must give every appropriate consideration to any comments on a proposed or final rule submitted by Advocacy and must include, in any explanation or discussion accompanying publication in the Federal Register of a final rule, the agency’s response to any written comments submitted by Advocacy on the proposed rule.⁷

SBAR Panels

Since the passage of SBREFA in 1996, EPA has been a “covered agency” under section 609 of the RFA. In that time, EPA, the Office of Management and Budget’s (OMB) Office of Information and Regulatory Affairs (OIRA) and SBA have jointly conducted almost 40 panels. EPA has also published valuable guidance to its program offices on compliance with the RFA, including the conduct of SBAR panels.⁸

SBAR panels give Small Entity Representatives (SERs) an opportunity to understand a covered agency’s upcoming proposed rule and provide meaningful recommendations to aid in the agency’s compliance with the RFA. The process starts with the covered agency notifying Advocacy with “information on the potential impacts of the proposed rule on small entities and the type of small entities that might be affected[.]”⁹ Upon convening of the panel, the RFA states that “the panel shall review any material the agency has prepared in connection with this chapter, including any draft proposed rule, collect advice and recommendations of each individual small entity representative identified by the agency after consultation with the Chief Counsel, on issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c)[.]”¹⁰

³ 5 U.S.C. § 601, *et. seq.*

⁴ Pub. L. 104-121, Title II, 110 Stat. 857 (1996)(codified in various sections of 5 U.S.C. § 601, *et. seq.*).

⁵ *See* 5 U.S.C. § 609(a), (b).

⁶ Under the RFA, small entities are defined as (1) a “small business” under section 3 of the Small Business Act and under size standards issued by the SBA in 13 C.F.R. § 121.201, or (2) a “small organization” that is a not-for-profit enterprise which is independently owned and operated and is not dominant in its field, or (3) a “small governmental jurisdiction” that is the government of a city, county, town, township, village, school district or special district with a population of less than 50,000 persons. 5 U.S.C. § 601.

⁷ 5 U.S.C. § 604, *as amended by the* Small Business Jobs Act of 2010, Pub. Law No. 111-240, Sec. 1601.

⁸ *Final Guidance for EPA Rulewriters: Regulatory Flexibility Act as amended by the Small Business Regulatory Enforcement Fairness Act*, OPEI Regulatory Development Series, U.S. EPA, November 2006.

⁹ § 609(b)(1).

¹⁰ § 609(b)(4). Section 603(b), paragraphs (3), (4), and (5) read:

“(3) a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;

“(4) a description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;

“(5) an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rule.”

Section 603(c) reads:

Advocacy believes that these requirements, read together and in the context of activity to be conducted prior to proposed rulemaking, require the agency to provide sufficient information to the SERs so that they can understand the likely form of the upcoming rulemaking, evaluate its potential economic impacts, and recommend alternative regulatory options that would minimize any significant economic impact while preserving the agency's regulatory objectives. Advocacy also believes that the statute clearly intends that the agency provide deliberative information as part of this process.

EPA has shared this view of the panel processes in the past. In 1997, EPA's Interim Guidance for Implementing SBREFA stated that the EPA program office must provide SERs "with enough information about the rule for them to be able to judge the likely impacts of the rulemaking on small entities."¹¹ EPA's 2006 guidance on panels goes into more detail:

EPA does not believe the RFA requires you to prepare a full economic analysis of potential impacts for the Panel process, nonetheless, EPA clearly must provide some information – either quantitative or qualitative – on the potential impacts. . . . The RFA does not require you to prepare for comment by the Panel what essentially would be a draft IRFA for all regulatory alternatives you have identified. You do, however, need to describe in sufficient detail, including some analysis of the impact on small entities and environmental benefits, each significant regulatory alternative you have identified that accomplishes the statutory mandate.¹²

Advocacy, EPA and OIRA have each separately observed that implementation of the EPA guidance has been effective in allowing SERs to provide informed advice about regulatory alternatives for the past 14 years. EPA has benefited enormously from well-prepared panels and has testified to the benefits of the SBREFA panel process. However, panels work well only when the SERs are able to participate meaningfully and understand the problems that EPA wants to address and the regulatory alternatives that EPA believes will effectively and efficiently address those problems.

"(c) Each initial regulatory flexibility analysis shall also contain a description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities. Consistent with the stated objectives of applicable statutes, the analysis shall discuss significant alternatives such as –

- "(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
- "(2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;
- "(3) the use of performance rather than design standards; and
- "(4) an exemption from coverage of the rule, or any part thereof, for such small entities."

¹¹ *EPA Interim Guidance for Implementing the Small Business Regulatory Enforcement Fairness Act and Related Provisions of the Regulatory Flexibility Act*, EPA SBREFA Task Force, U.S. EPA, February 5, 1997.

¹² *Final Guidance for EPA Rulewriters: Regulatory Flexibility Act as amended by the Small Business Regulatory Enforcement Fairness Act*, November 2006, at 65.

I. The SBAR Panel did not meet the requirements of the RFA.

A. The formal notification and pre-panel outreach were inadequate.

Advocacy has been concerned about the adequacy of EPA's compliance with the RFA during this rulemaking, starting with the formal notification of EPA's intent to convene an SBAR panel.¹³ EPA's formal notification did not include information on the potential impacts of the rule as required by section 609(b)(1), and subsequent information provided by EPA to the panel members during the conduct of panel was similarly lacking.¹⁴ EPA provided no information on potential impacts until EPA's submission to OIRA under EO 12866, well after consultation with the SERs was complete.¹⁵

Advocacy also consistently raised concerns about EPA's rulemaking schedule and the pressures it put on the SBAR panel. With the formal notification, EPA advised that preparation for this panel would be abbreviated because of negotiated settlement agreement deadlines. Deviating from historical practice and current EPA guidance, EPA indicated that it would not conduct a pre-panel outreach meeting and comment period for the SERs. Although these pre-panel consultations are not required by statute, they have served a very important purpose. Unfortunately, in this case, EPA did not provide the opportunity for the SERs to engage with EPA on the draft outreach materials, and EPA did not revise the outreach materials to provide information the SERs might have requested. The SERs commented that the lack of pre-panel consultation harmed their ability to participate meaningfully and that this was inconsistent with EPA's prior practice.¹⁶

B. EPA did not identify regulatory alternatives for the SBAR panel to consider.

EPA did not present a proposed regulatory approach with sufficient detail for SERs to identify potential economic effects or suggest specific regulatory alternatives. Instead, the SERs were presented with broad discussions of statutory authorities and raw data upon which EPA would eventually make discretionary judgments. EPA did make available the testing reports from

¹³ Advocacy received formal notification of EPA's intent to convene an SBAR panel on this rulemaking on October 8, 2010. The formal notification is included as attachment A.

¹⁴ Presentation: "*Rulemaking for Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units; SER Outreach Meeting, December 2, 2010*" available at www.regulations.gov, Document ID. EPA-HQ-OAR-2009-0234-2922 [hereinafter *SER Outreach Materials*].

¹⁵ EPA submitted to OIRA a draft of this proposed rule and a draft regulatory impact analysis for interagency review under Executive Order 12866 on February 19, 2011. The materials submitted to OIRA are available at www.regulations.gov, Document ID. EPA-HQ-OAR-2009-0234-2958.

¹⁶ See, e.g., Letter from James R. French, Assistant to the General Manager, Wyandotte Municipal Services, to Bob, Wayland, Combustion Strategies Group Leader, U.S. EPA (December 16, 2010) (available at www.regulations.gov, Document ID. EPA-HQ-OAR-2009-0234-2921, Attachment, Appendix C, No. 7) ("The highly abbreviated nature of this particular small business review panel that has been established for the EGU MACT rule prevents small WMS members from having the meaningful advisory role contemplated by SBREFA. Only one panel meeting was provided and after that meeting, panel members were given a mere 14 days to prepare written comments. . . . This is not consistent with the three prior SBREFA SER panel meetings where WMS was invited to participate.")

individual facilities as they were processed by EPA's program office, but these testing reports gave little insight into EPA's plans for the rulemaking or the potential impacts.¹⁷

Despite Advocacy's concerns about the adequacy of the outreach materials, EPA convened the panel on October 27, 2010. The same day, Advocacy staff advised the SBAR Chair that the panel would not satisfy the requirements of the RFA. SERs also raised objections to the lack of information provided.

In written comments, SERs stated that they do not believe they were provided the opportunity for effective participation in the Federal regulatory process as required by SBREFA. Specifically, SERs indicated that they were not provided descriptions of significant alternatives to the proposed rule, differing compliance or reporting requirements or timetables that take into account the resources available to small entities, and the clarification, consolidation, or simplification of compliance and reporting requirements for small entities.¹⁸

EPA responded to these criticisms in the panel report:

EPA appreciates the SERs' concerns, but believes that it has fulfilled its statutory obligations under SBREFA and has afforded SERs sufficient opportunity to suggest regulatory alternatives, and thus, makes no recommendations to address these concerns. The time constraints of the small business advocacy review process with respect to the Utility NESHAP were explained at the beginning of the process. That is, due to the regulatory schedule there could only be one SER outreach meeting. The nature of the information to be provided was also outlined to the SERs at the start of the process. EPA believes that it has provided sufficient information to allow SERs to make suggestions concerning regulatory alternatives (e.g., regarding subcategories, HAP and HAP surrogates, monitoring requirements, control technologies potentially required to meet standards, CAA authorities to establish health-based emission limits and work practice standards) as part of the small business advocacy review process, and the SERs have in fact made many productive suggestions EPA will seriously consider as part of the rulemaking process.¹⁹

Advocacy does not believe this explanation relieves EPA of its obligations under section 609(b). First, explaining in advance that there will be deficiencies in the panel process does not excuse those deficiencies. Advocacy appreciated EPA's candor and endeavored to participate fully in the preparation for and proceedings of the panel despite these deficiencies. Second, as the SERs

¹⁷ See *SER Outreach Materials*, *supra* note 14, at 13, and, e.g., Letter from Allen Bonderman, General Manager, Atlantic Municipal Utilities, to Madelyn Barch, Regulation Management Division, Office of Policy, U.S. EPA (December 16, 2011) (available at www.regulations.gov, Document ID. EPA-HQ-OAR-2009-0234-2921, Attachment, Appendix C, No. 1) ("... the material lacks any results of EPA's analyses of the data from the extensive information collection request ('ICR') that EPA identified as being critical to the promulgation of an EGU MACT rule.").

¹⁸ *Final Report: Small Business Advocacy Review Panel on EPA's Rulemaking for Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units*, available at [regulations.gov](http://www.regulations.gov), Document ID. EPA-HQ-OAR-2009-0234-2921 Attachment [hereinafter *SBAR Panel Report*], at 26-27.

¹⁹ *Id.* at 37-38.

themselves discussed, the information provided by EPA was not sufficient to allow for a discussion of regulatory alternatives that would accomplish EPA's regulatory goals while minimizing burden on small entities, as required by the RFA. As a result of the lack of information presented, SERs could only respond with a listing of factors that EPA should consider in developing its rulemaking and with general information about compliance technologies without knowing whether those technologies would be required. One SER stated: "As a result of the poor and inadequate preparation by the U.S. EPA and failing to meet the statutory requirements, [American Public Power Association] can offer only general comments on EGU MACT rulemaking in these comments."²⁰

C. EPA did not provide deliberative materials to the other SBAR panel members.

EPA did not provide the panel members with draft materials as they were developed, whether discussion papers outlining EPA's eventual regulatory approach, draft proposed rules, or discussions of regulatory alternatives. As discussed above, the RFA requires EPA to provide the other panel members with deliberative materials, including draft proposed rules. However, between November 17, when the SERs were first provided with the outreach materials and invited to the December 2 outreach meeting and February 19, when EPA submitted a draft proposed rule and a complete draft regulatory impact analysis to OMB for interagency review under EO 12866, EPA provided no additional materials to the other panel members. Since the SBAR panel deliberations were still ongoing, even through February, such additional analyses could have guided the panel's deliberations towards regulatory alternatives that minimize the burden on small entities.

D. The SBAR Panel Report does not meet the statutory obligation to recommend less burdensome alternatives

The SBAR panel report addresses a wide variety of issues, but the members of the panel could not come to agreement on most. With the exception of those recommendations in which EPA rejected alternative interpretations of the Clean Air Act section 112 and relevant court cases, EPA panel members declined to make recommendations that went further than consideration or investigation of broad regulatory alternatives.

For example, in the panel's discussion of emission standards for area sources and health-based emission levels (HBEL), EPA panel members only recommended the Administrator consider using her discretion, which is little more than a restatement of existing statutory authority. Under Executive Orders 12866, 13272, and 13563, EPA is required to consider all of its discretionary authorities in the development of this rulemaking and to work to identify regulatory alternatives that maximize net benefits and consider burden on small entities.

However, because of the lack of information provided to the panel about potential impacts and regulatory alternatives, this SBAR panel had little beyond general recommendations to offer. For example, although OMB and SBA both recommended proposal of an HBEL, and OMB recommended proposal of a separate area source standard, the panel did not have information

²⁰ Comments by the American Public Power Association, *Id.*, Appendix C, No. 8.

necessary to evaluate these regulatory alternatives and identify ways in which they would minimize the burden on small entities.

Advocacy made this point in various places in the report:

. . . SBA does not believe that the Panel has information necessary to make recommendations beyond a restatement of EPA's existing obligations or to evaluate specific regulatory decisions and the impacts of those decisions on particular small entities or small entities in general. Therefore, SBA believes that the Panel can make no recommendations as to what specific regulatory options would "accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities."²¹

For these reasons, Advocacy is concerned that this panel was not true to the letter or spirit of section 609(b) or EPA's own guidance on the conduct of SBAR panels. Advocacy believes that court-agreed deadlines, no matter how generous or stringent, provide no relief to the agency's obligations under section 609(b).

II. The IRFA does not meet the requirements of the RFA

A. The IRFA does not demonstrate a consideration of the SBAR Panel Report or regulatory alternatives.

Advocacy believes that the initial regulatory flexibility analysis (IRFA)²² demonstrates major deficiencies in EPA's consideration of the impacts on small entities. An IRFA is intended to reflect an agency's consideration of the effects of its rulemaking on small entities and the development and analysis of alternatives that would accomplish similar regulatory goals while minimizing the burden on small entities. In addition, the RFA requires the agency to consider the SBAR panel report sufficiently to modify the proposed rule, where appropriate.²³ This consideration appears to be lacking in the proposed rule and the analysis accompanying it.

First, the description of significant alternatives is almost entirely quoted from the SBAR panel report. There is no discussion of how or even whether EPA considered the recommendations of the panel or its members. While Advocacy doubts that the SBAR panel report was the sum and total of EPA's consideration of the impacts on small entities, small entities and small businesses are not mentioned elsewhere in the RIA. Advocacy does not believe that an SBAR panel report is an adequate substitute for the agency's own "description of significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities."²⁴ This is particularly true for this panel report, in which Advocacy repeatedly asserted that the panel lacked the

²¹ *SBAR Panel Report*, *supra* note 18, Chapter 9.

²² See Chapter 10.1, *Regulatory Impact Analysis of the Proposed Toxics Rule: Final Report*, March 2011, available at regulations.gov, Document ID. EPA-HQ-OAR-2009-0234.

²³ 5 U.S.C. § 609(b)(6).

²⁴ 5 U.S.C. § 603(c).

information necessary to evaluate regulatory alternatives beyond a statement of EPA's general statutory authorities.

Second, although EPA would appear to have significant discretion in a number of areas, EPA does not discuss the potential impacts of its decisions on small entities or the impacts of possible flexibilities. In the few places in the proposed rule that EPA makes reference to small entities, in the discussion of area sources²⁵ and subcategorization,²⁶ EPA identifies the SERs as a source of the suggested alternative rather than a reasoned discussion of how the flexibility might affect small entities.

Third, where EPA does consider regulatory alternatives in principle, it does not provide sufficient support for its decisions to understand on what basis EPA rejected alternatives that may or may not have reduced burden on small entities while meeting the stated objectives of the rule. EPA only presented an economic analysis of costs for its preferred alternative. It did not evaluate the economic or environmental impacts of significant alternatives to the proposed rule. Thus EPA has not demonstrated that its preferred option is in fact preferable, by whatever metric EPA chooses. This is of particular concern for those areas of discretion discussed in the SBAR panel report.

Advocacy therefore believes that the IRFA published by EPA was inadequate under the RFA.

B. EPA underestimates the impact of the rule on small entities.

Advocacy believes that EPA may have significantly understated the burden this rulemaking would impose on small entities because of the short timeline in which small entities will need to comply. EPA asserts that electric utilities that choose to retrofit their operations (instead of shutting down) will all be able to comply by 2015, or at the latest 2016.²⁷

EPA's assessment shows that a reasonable, moderately paced effort of the power sector and supporting industry, including some early starts, would result in many of the needed retrofits being installed by January 2015 with some needing up to an additional year. In order for all retrofits to be completed by January 2015, most projects would have to start early and the sector would have to engage in a more aggressive deployment program. In the event that individual projects cannot be completed by the January 2015 statutory deadline for compliance, the Clean Air Act offers affected sources the opportunity to apply for a one-year extension.²⁸

Advocacy notes that the ability of industry to comply quickly with these requirements is a key assumption behind EPA's further assertion that reliability of the electric grid will be unaffected by this rule.²⁹

²⁵ 76 Fed. Reg. at 25,020.

²⁶ *Id.* at 25,037.

²⁷ *An Assessment of the Feasibility of Retrofits for the Toxics Rule*, U.S. Environmental Protection Agency Office of Air and Radiation, March 9, 2011, available at regulations.gov, Document ID. EPA-HQ-OAR-2009-0234-3064.

²⁸ *Id.* at 3.

²⁹ *See Resource Adequacy and Reliability in the IPM Projections for the Toxics Rule*, available at regulations.gov, Document ID. EPA-HQ-OAR-2009-0234-2063.

Advocacy believes EPA's assessment is unreasonable and that many small entities that operate independent EGUs will be unable to meet the three- (or four-) year deadline. First, EPA's analysis considers only the demand for air pollution controls due to this rulemaking and the proposed Transport rule.³⁰ However, there are numerous upcoming EPA rules that will affect either EGUs or the suppliers of pollution control equipment that will tend to raise the costs of compliance, including

- the final Transport rule,³¹
- the upcoming NESHAPs for industrial, commercial and institutional boilers and the commercial and industrial solid waste incinerators,³² and
- standards of performance for greenhouse gas emissions from EGUs.³³

The RFA specifically requires EPA to consider "all Federal rules which may duplicate, overlap, or conflict with the proposed rule."³⁴ EPA's assessment of the availability of air pollution control expertise and equipment to meet these cumulative demands may be overly optimistic.

Second, starting early, as EPA suggests, is not an option for many small entities. Small entities have limited resources to devote to engineering and design, and they can and should be wary of obligating those resources based on a proposed rule, particularly one for which the underlying data has been questioned since it became available.³⁵ In some cases, these small entities cannot move forward with planning and consultation with regulatory bodies in the absence of a final rule. Small entities will find it difficult, if not impossible to comply in a timely manner. The additional 6 months (presuming EPA cannot extend the court-agreed deadline for this rule) will have little effect.

Third, an aggressive deployment program will significantly raise the costs of compliance. EPA describes further what measures might be used to more rapidly deploy emissions control equipment and recognizes that this could preclude standard industry cost controls.

Factors that will likely accelerate project schedules under the Toxics Rule include the use of overtime and/or two-shift work schedules during construction, and 5- or 6-day work weeks, instead of the 4-day x10-hr schedules often used to minimize cost when time is not of the essence.³⁶

³⁰ *Federal Implementation Plans To Reduce Interstate Transport of Fine Particulate Matter and Ozone*, 75 Fed. Reg. 4510 (August 2, 2010).

³¹ *Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone in 27 States*, available at http://www.epa.gov/airtransport/pdfs/TR_070611_WEB.pdf

³² For information on the status of these regulations, see <http://www.epa.gov/ttn/atw/boiler/boilerpg.html>.

³³ See <http://www.epa.gov/airquality/ghgsettlement.html>

³⁴ 5 U.S.C. § 603(b)(3).

³⁵ See, e.g., Letter to U.S. EPA Administrator Lisa Jackson from Lee Zeugin (May 6, 2011), available at www.regulations.gov, Document ID. EPA-HQ-OAR-2009-0234-9859.

³⁶ *An Assessment of the Feasibility of Retrofits for the Toxics Rule*, at 9.

However, EPA does not factor the costs of an aggressive deployment program into its Regulatory Impact Analysis.³⁷

Fourth, independent small entities will be in competition with larger rivals for the experts, workers, and resources necessary to come into compliance. Small entities in general cannot offer the scale of work that would attract and monopolize a supplier's attention when the entire industry will be attempting to retrofit in such a small window of time. EPA should recognize that some small entities may be unable to comply through no fault of their own.

Finally, there are a number of factors outside of the control of the utility that may raise the cost of compliance or make meeting the compliance deadlines impossible. The Public Utility Commission Study, prepared for EPA, presents a number of the complicating factors that can create significant uncertainty.³⁸ One significant area of uncertainty that concerns Advocacy is the role that State and local governing bodies may play in whether utilities are able to retrofit and, if they can, whether they can recuperate their costs. EPA should recognize that utilities cannot control the public processes that govern their operations and explore alternatives that would not penalize utilities engaged good faith efforts to come into compliance.³⁹

III. EPA has not considered the impacts of regulatory alternatives.

Based on the public docket made available by EPA after publication of the proposed rule, EPA has not presented evidence that it has seriously considered the impact this rule will have on small entities or available regulatory alternatives that would minimize that impact. Although EPA has the authority to exercise its discretion in the final selection of its preferred policy, Advocacy believes that EPA should not prejudice its exercise of discretion in the identification and analysis of regulatory alternatives.⁴⁰ The SBAR panel was unable to identify specific regulatory alternatives for EPA to consider, but it did identify numerous areas of discretion that may have had the effect of reducing the burden on small entities. In the absence of more fully specified

³⁷ "In the current economic environment, EPA does not anticipate (and thus this analysis does not reflect) significant near-term price increases in retrofit pollution control supply chains in response to the proposed Toxics Rule. To the extent that such conditions may develop during the sector's installation of pollution control technologies under the proposed Toxics Rule, this analysis may understate the cost of compliance." *Regulatory Impact Analysis of the Proposed Toxics Rule: Final Report* at 8-35.

³⁸ *Public Utility Commission Study*, M.J. Bradley & Associates LLC, March 31, 2011, available at regulations.gov, Document ID. EPA-HQ-OAR-2009-0234-3058.

³⁹ *See, e.g., id.* at 98 ("In Wisconsin, utilities are required to receive a Certificate of Authority before beginning any construction at their facilities, including emissions control projects. In these proceedings, the [Public Service Commission] reviews the project, including its proposed costs, although no assurances of cost recovery are given nor are utilities allowed to recover any costs before they are incurred. The length of these cases tends to vary greatly, generally depending on whether there are intervenors and public hearings. Cases with no intervenors can take less than a month, while those with intervenors and hearings often last more than a year.").

⁴⁰ President Obama has also instructed agencies to give serious consideration to reducing regulatory burdens on small businesses through identification and analysis of regulatory flexibilities, and:

I further direct that whenever an executive agency chooses, for reasons other than legal limitations, not to provide such flexibility in a proposed or final rule that is likely to have a significant economic impact on a substantial number of small entities, it should explicitly justify its decision not to do so in the explanation that accompanies that proposed or final rule.

Regulatory Flexibility, Small Business, and Job Creation: Memorandum for the Heads of Executive Departments and Agencies, January 18, 2011 (76 Fed. Reg. 3827).

regulatory alternatives and at least a cursory analysis of these options, it is difficult to see how EPA could have seriously considered alternatives to its proposal.

Similarly, Advocacy is concerned that EPA did not consider the panel's deliberations when it made decisions about the rule. The agency's selection of a preferred alternative usually precedes review by OMB under Executive Order (EO) 12866 by a few months, so that EPA staff may draft proposed rules and the RIA for its preferred regulatory alternatives. In this case, it is unclear how the panel's recommendation could have been a factor in EPA's selection of preferred alternatives, given that EPA delivered its draft proposed rule and draft RIA prior to the completion of the panel report.

Advocacy believes that EPA has sufficient discretion under the statute to consider seriously reasonable regulatory alternatives in the following areas.

A. EPA has not considered facility-wide emission standards in lieu of pollutant-by-pollutant MACT floors.

SERs strongly opposed EPA's practice of setting MACT floors on a "pollutant-by-pollutant" basis, and Advocacy and OMB jointly recommended that EPA seek comment on this issue. Advocacy continues to have significant concerns about this approach to setting the MACT floor.

The pollutant-by-pollutant approach entails determining the best performing unit or units in the category for each HAP and establishing the MACT floor separately for each HAP (or group of HAPs if a surrogate standard is established). Under this approach, the units on which the MACT floor are based may be different for each HAP if, for example, the best performing units for one HAP are poor performers for other HAPs.

The plain language of section 112(d)(2) requires standards that are based on the "maximum degree of reduction in emissions of the hazardous air pollutants subject to this section . . . that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable" ⁴¹ Advocacy interprets this language as being a mandate to pursue regulations based on existing technologies. EPA's use of the pollutant-by-pollutant approach would require overall emissions reductions across all HAPs that are not yet demonstrated as achievable.

In contrast, regulation of new mobile sources under section 211 of the Clean Air Act mandate "standards which reflect the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the model year to which such standards apply, giving appropriate consideration to cost, energy, and safety factors associated with the application of such technology." ⁴² In the regulation of new mobile sources, Congress explicitly allowed the Administrator to project into the future available technologies for emissions reduction. In the absence of such authority for HAPs, Advocacy believes the MACT floor should be based on emissions reductions achievable with currently installed technology. This requires a MACT floor based on emissions of all HAPs, not pollutant-

⁴¹ 42 U.S.C. § 7412(d)(2) (CAA § 112(d)(2)).

⁴² 42 U.S.C. § 7521(a)(3)(A)(i) (CAA § 211(a)(3)(A)(i)).

by-pollutant.

EPA explained its reliance on the “pollutant-by-pollutant” approach in the SBAR panel report.

As noted above, there are concerns with respect to the suggestion that MACT floors should be established using a facility-wide approach. Determining floors based on a facility-wide approach would lead to least common denominator floors – that is floors reflecting mediocre or no control, rather than performance which, for existing sources, is the average of what the best performing sources have achieved. For example, if the best performing 12 percent of facilities for HAP metals did not control organics as well as a different 12 percent of facilities, the floor for organics and metals would end up not reflecting best performance. This fact pattern has come up in every rule where EPA investigated a facility-wide approach. See, e.g. 75 FR at 54999 (Sept. 10, 2010). Thus, utilizing the single-facility theory proffered by the stakeholders would result in EPA setting the standards at levels that would, for some pollutants, actually be based on emissions limitations achieved by the *worst*-performing unit, rather than the *best*-performing unit, as required by the statute. Moreover, a single-facility approach would require EPA to make value judgments as to which pollutant reductions are most critical in working to identify the single facility that reduces emissions of HAP on an overall best-performing basis.⁴³

Advocacy does not believe that these arguments are a legal barrier to serious consideration of a facility-wide approach. While the statute requires EPA to consider emissions from the “best performing 12 percent of the existing sources” for standards for existing sources and the “best controlled similar source” for standards for new sources,⁴⁴ EPA has used the “lowest emitting” in both cases, as if the three terms are interchangeable.⁴⁵ However, the term “best” is ambiguous, open to a wide variety of interpretations. EPA has recognized this fact in other contexts. “The ‘best’ way for pursuing a goal is not always the one that most single-mindedly pursues that goal at all costs. Instead, the best way often depends on other considerations.”⁴⁶ EPA could consider the “best performing” to be the technology that “best” reduces overall HAPs rather than each individually.

EPA’s reluctance to make value judgments is not a reasonable argument against this approach. There are numerous metrics against which pollutants can be ranked or weighted, not least of which is the potential impact on public health. The fact that the task is difficult is not a justification for avoiding the task altogether. Congress has often required EPA to perform difficult tasks that require balancing competing interests.

Advocacy therefore strongly supports a reconsideration of EPA’s current practice of setting the MACT floor on a “pollutant-by-pollutant” basis.

⁴³ *Small Business Advocacy Review (SBAR) Panel Executive Summary & Final Report* at 28.

⁴⁴ See 42 U.S.C. § 7412(d)(3) (CAA § 112(d)(3)).

⁴⁵ See 76 Fed. Reg. at 25,041 and 76 Fed. Reg. at 25,047.

⁴⁶ Brief For The Federal Parties As Respondents Supporting Petitioner at 10, *Entergy Corp. v. Riverkeeper, Inc.*, 129 S. Ct. 1498 (2009) (Nos. 07-588, 07-589 and 07-597).

B. EPA has not considered limiting the rulemaking to mercury controls.

SERs strongly supported previous EPA interpretations of section 112 to allow for only control of mercury emissions from EGUs, and Advocacy and OMB jointly recommended that EPA seek comment on this issue. Advocacy agrees with the SERs and industry commenters that EPA may have overstated its obligation to regulate all hazardous air pollutants (HAPs).

Under CAA section 112(n)(1)(A), EPA must find that regulations of EGUs under section 112 are “appropriate and necessary.”⁴⁷ EPA has made such a finding for mercury, but EPA has not determined that emissions of other HAPs in the quantities emitted are detrimental to human health or the environment. Given that much of the public health and environmental benefits to this rule are derived from limits on criteria pollutants,⁴⁸ EPA could assert that regulation of HAPs other than mercury is not appropriate.

Advocacy believes that the requirement for an “appropriate and necessary” finding should be interpreted to require that EPA consider each HAP individually before regulating EGUs for that HAP under section 112. Advocacy also believes that this reading of the statute avoids the undesirable result of the Clean Air Act requiring substantial resources be devoted to the reduction of non-mercury HAP air emissions without any demonstrable benefit to public health or the environment.

This interpretation is also more consistent with EPA’s current practice of setting maximum achievable control technology (MACT) floors under section 112(d) on a “pollutant-by-pollutant” basis. Advocacy strongly disagrees with the pollutant-by-pollutant approach (see above). However, given EPA’s position on setting MACT floors, Advocacy believes that the pollutant-by-pollutant approach is permitted under the CAA if each emission standard under section 112(d) is considered a separate regulation. Each MACT floor is set in isolation and without consideration of the feasibility of achieving the MACT floor simultaneously with other MACT floors. On that basis, it is reasonable to read section 112(n)(1)(A) to allow EPA to regulate EGU emissions of each HAP separately as EPA makes an “appropriate and necessary” finding for each HAP separately.

EPA’s interpretations of the statute on the meaning of “appropriate” are inconsistent and unnecessarily limit EPA’s statutory discretion. On one hand, EPA argues that:

... the term “appropriate” is extremely broad and nothing in the statute suggests that the Agency should ignore adverse environmental effects in determining whether to regulate EGUs under section 112. Further, had Congress intended to prohibit EPA from considering adverse environmental effects in the “appropriate” finding, it would have stated so expressly.⁴⁹

⁴⁷ “The Administrator shall regulate electric utility steam generating units under this section, if the Administrator finds such regulation is appropriate and necessary after considering the results of the study required by this subparagraph.” 42 U.S.C. § 7412(n)(1)(A) (CAA § 122(n)(1)(A)).

⁴⁸ All of the significant public health and environmental benefits claimed by this rulemaking are due to emissions reduction in mercury, PM, and ozone, with minor contributions from carbon dioxide and sulfur dioxide. Of these, only mercury is a HAP under section 112.

⁴⁹ 76 Fed. Reg. at 24988.

However, EPA also argues that Congressional silence should in fact be interpreted as a prohibition.

We also maintain that the better reading of the term “appropriate” is that it does not allow for the consideration of costs in assessing whether hazards to public health or the environment are reasonably anticipated to occur based on EGU emissions. Had Congress intended to require the Agency to consider costs in assessing hazards to public health or the environment associated with EGU HAP emissions, it would have so stated.⁵⁰

EPA also mischaracterizes its options with respect to this subsection. EPA argues that:

. . . the appropriate finding may be based on a finding that any single HAP emitted from EGUs poses a hazard to public health or the environment. Nothing in section 112(n)(1)(A) suggests that EPA must determine that every HAP emitted by EGUs poses a hazard to public health or the environment before EPA can find it appropriate to regulate EGUs under section 112. Interpreting the statute in this manner would preclude the Agency from addressing under section 112 identified or potential hazards to public health or the environment associated with HAP emissions from EGUs unless we found a hazard existed with respect to each and every HAP emitted.⁵¹

EPA does not consider regulation of a subset of HAPs under section 112 because of the D.C. Circuit’s holdings in *Sierra Club v. EPA*⁵² and its predecessors. Advocacy believes that EPA should make an important distinction between these cases and EGUs. EPA had the authority to regulate under section 112 the industries addressed in these cases without the “appropriate and necessary” finding that was the necessary predicate to regulating EGUs.

For these reasons, Advocacy disagrees with EPA’s argument that it is legally obligated to establish MACT floors for all HAPs regardless of their impact on public health and the environment. Where EPA has a choice of legal interpretations, it should seriously consider and analyze alternate interpretations and the resulting regulatory options to determine their impacts on small entities.

C. EPA has not considered establishing Area Source emission or management practice standards.

SERs suggested that EPA establish separate emission standards for EGUs located at area sources of HAPs and that the standards be based on Generally Available Control Technologies (GACT) as allowed under section 112(d)(5) of the CAA. Specifically, SERs recommended that EPA establish management practice standards for area source EGUs. The EPA representative on the SBAR panel recommended considering this flexibility, the OMB representative recommended

⁵⁰ *Id.* at 24989.

⁵¹ *Id.* at 24988-89.

⁵² 479 F.3d 875, 883 (D.C. Cir. 2007) (holding that EPA has a clear statutory obligation to set emission standards for each listed HAP in cases involving industries producing brick and ceramic, citing to cases involving industries producing Cement and Lime.).

proposing this flexibility, and Advocacy supported considering the flexibility but again stated that there was insufficient information upon which to recommend a specific regulatory alternative. EPA did not propose area source standards. Based on the record available and the limited discussion of possible area source standards in the preamble, Advocacy sees no evidence that EPA seriously considered separate area source standards.

The Clean Air Act gives EPA broad discretion to set area source standards in place of the major source standards.⁵³ There are no standards that EPA must meet to exercise this authority. However, EPA, in describing its reasoning in the preamble to the proposed rule, cites non-existent barriers to exercising its authority. For example, EPA states:

If area sources tend to be very different from major sources and the capacity to control those sources is different, we could exercise our discretion under section 112(d)(5) to set GACT standards for area sources.⁵⁴

Similarly, EPA “solicit[s] comments on whether there would be a basis for considering area sources to be significantly different from major sources with respect to issues relevant to standard setting.” However, the Clean Air Act does not require that major sources and area sources be different in order to justify setting area sources standards.

EPA further asserts that a GACT and MACT would be too similar to justify the effort to distinguish between emission standards set using GACT and standards set under MACT. While perhaps true, Advocacy would have preferred a demonstration of this fact, showing the public what factors EPA would consider in setting a GACT for area source EGUs. Nonetheless, this neglects EPA discretion to set management practices for area sources instead, an option EPA appears not to address at all, despite a specific call by the SERs that it do so.

Finally, EPA states that since this rule regulated both major and area sources at the same time, it makes sense for them to meet the same requirements. Advocacy does not believe this is a reasonable justification for declining to exercise its discretion. EPA has in the past set different standards for major and area sources on the same day in parallel rulemakings.⁵⁵

Advocacy believes that EPA’s stated reasons for declining to specify or analyze an area source standard are inadequate under the RFA. EPA must give serious consideration to regulatory alternatives that accomplish the stated objectives of the Clean Air Act while minimizing any significant economic impacts on small entities. Although there may be a similarity between major and area sources, the SERs believe that an area source emission standard or management practice standard would minimize the burden on small entities, and the Clean Air Act clearly allows EPA to set such a standard. Advocacy believes that EPA therefore has a duty to specify and analyze this option or to more clearly state its policy reasons for excluding serious consideration of a separate standard for area sources.

⁵³ 42 U.S.C. § 7412(d)(5) (CAA § 112(d)(5)).

⁵⁴ 76 Fed. Reg. at 25021.

⁵⁵ See, e.g., 76 Fed. Reg. 15,608 and 76 Fed. Reg. 15,554 (March 21, 2011) (final NESHAP regulations for major and area source industrial, commercial, and institutional boilers).

D. EPA should have considered additional subcategorization schemes, including one on based on EGU size.

SERs identified a wide range of available options for subcategorization, but as with much else during the panel, Advocacy believes there was insufficient information available to evaluate the relative merits of these options. The EPA panel members and OMB recommended that EPA consider these subcategories and adopt a set of standards that would be consistent with the CAA and which would effectively reduce the burden on small entities.

In its proposal, EPA appears to have seriously considered only the EPA-proposed subcategorization. The preamble does not describe how it evaluated other alternatives nor upon what basis EPA concluded they were rejected, citing in most cases simply that different types of units were in the top 12 percent, making further subcategorization unnecessary.⁵⁶ The technical support documents available in the docket treat EPA's preferred subcategorization as a given assumption and do not provide additional support for EPA's decision or evaluate other subcategorization options.⁵⁷

EPA's own recommendation in the SBAR panel report was that it select a subcategorization that effectively reduces burden on small entities; Advocacy questions how EPA would accomplish that goal without a more detailed analysis of alternate subcategorization schemes.

EPA's rationales for its preferred subcategorization scheme have two major flaws. First, EPA adopts, without further justification, this same subcategorization scheme for new sources as well. Section 112(d) requires that new sources have "emission control that is achieved in practice by the best controlled similar source, as determined by the Administrator." Since EPA sets its new source standards based on the single lowest emitting source in each HAP, a subcategorization that relies on the presence of different types of EGUs in the top 12% is inappropriate. Subcategorization for new sources should consider each EGU type on its own merits.

Second, although the statute clearly gives EPA the discretion to subcategorize by size, EPA asserts that size is irrelevant to a source's emissions profile, since "the size should only affect the rate at which a unit generated electricity and, with a lower electricity generation rate, there is less fuel consumption and, therefore, less emissions of fuel-borne HAP (i.e., acid gas and metal HAP)."⁵⁸ This statement assumes that all boilers operate at the same energy efficiency and that all HAPs are equally extracted from fuel by boilers of all sizes. This statement also assumes that only HAPs are relevant to this rule. However, this rule would regulate PM emissions, and PM emissions may not follow the same logic. It is unclear upon what other information EPA based its rejection of size as a basis for subcategorization.

For these reasons, Advocacy does not see evidence that EPA seriously considered subcategorization schemes other than its preferred scheme.

⁵⁶ 76 Fed. Reg. at 25,037.

⁵⁷ *National Emission Standards for Hazardous Air Pollutants (NESHAP) Maximum Achievable Control Technology (MACT) Floor Analysis for Coal- and Oil-fired Electric Utility Steam Generating Units – REVISED*, May 18, 2011, available at regulations.gov, Document ID. EPA-HQ-OAR-2009-0234-9858.

⁵⁸ 76 Fe. Reg. at 25,037.

Recommendations

EPA has not presented evidence that it has meaningfully considered regulatory alternatives that would meet the objectives of the Clean Air Act while minimizing burden on small entities. Advocacy recognizes that EPA is working under a court-agreed deadline. This deadline has caused EPA to struggle with compliance with the RFA, SBREFA, and relevant Executive Orders. In order to cure the defects in EPA's compliance with the RFA, Advocacy strongly recommends that EPA do the following:

- Reconvene the SBAR panel to solicit more meaningful consultation with the SERs;
- Prepare an IRFA that includes descriptions of specific regulatory alternatives, the effects on small entities of the regulatory alternatives, and the policy reasons for selected among them;
- Release the IRFA for additional public comment before making any decisions about the EPA's preferred options for final rulemaking.

Advocacy recognizes that EPA will have to request of the litigants and the court an extension of the timeline for final rulemaking but feels strongly that this action is necessary.

Conclusion

Based on information available in EPA's docket and other comments by small entities, Advocacy believes that the EGU MACT proposed rule would have a negative impact on small utilities. The RFA requires EPA to consider these impacts and regulatory alternatives that would minimize burden on these small entities while meeting the objectives of the Clean Air Act. The RFA also requires EPA to conduct SBAR panels that provide small entities with sufficient information to understand the potential impacts of the rule and to consult on regulatory alternatives. Advocacy believes that EPA has not adequately complied with either of these mandates and has consequently proposed a rule that imposes greater costs on small entities than is necessary under the Clean Air Act.

Thank you for the opportunity to comment on this important proposal and for your consideration of Advocacy's comments. If you have any questions regarding these comments or if Advocacy can be of any assistance, please do not hesitate to contact David Rostker at (202) 205-6966.

Sincerely,

/s/

Winslow Sargeant, Ph.D
Chief Counsel for Advocacy

/s/

David Rostker
Assistant Chief Counsel for
Environment and Regulatory Reform

ATTACHMENT A

Formal Notification from EPA to Advocacy of Upcoming SBAR Panel
on the Utility MACT

Action Title: Rulemaking for Coal- and Oil-fired Electric Utility
Steam Generating Units

Tentative Schedule: October: Begin Small Business Advocacy Review (SBAR) Panel
November: EPA's Outreach Meeting w/ Small Entity Representatives
December: Complete SBAR Panel

Projected NPRM: March 2011

Description:

EPA plans to propose national emission standards for hazardous air pollutants (NESHAP) for coal- and oil-fired electric utility steam generating units (EGUs) pursuant to Clean Air Act (CAA) section 112(d). The NESHAP will apply to any existing, new, or reconstructed EGUs. The CAA definition of EGU includes both major and area sources of hazardous air pollutants (HAP). Major sources of HAP are those that have the potential to emit greater than 10 tons per year (tpy) of any one HAP or 25 tpy of any combination of HAP. Coal- and oil-fired EGUs have the potential to emit a number of HAP. While all HAP are pollutants of interest, those of particular concern are hydrogen fluoride (HF), hydrogen chloride (HCl), dioxins/furans, and HAP metals, including antimony, arsenic, beryllium, cadmium, chromium, cobalt, mercury, manganese, nickel, lead, and selenium.

In December 2000, EPA made a finding that it was appropriate and necessary to regulate EGUs under CAA section 112 and listed EGUs pursuant to section 112(c). On March 29, 2005 (70 FR 15994), EPA published a final rule (Section 112(n) Revision Rule) that removed EGUs from the list of sources for which regulation under CAA section 112 was required. This rule was published in conjunction with a rule requiring reductions in emissions of mercury from electric utility steam generating units (Clean Air Mercury Rule (CAMR), May 18, 2005, 70 FR 28606). The Section 112(n) Revision Rule was vacated on February 8, 2008, by the U.S. Court of Appeals for the District of Columbia Circuit. As a result of that vacatur, CAMR was also vacated and EGUs remain on the list of sources that must be regulated under CAA section 112.

The "electric utility steam generating unit" source category includes those units that combust coal or oil for the purpose of generating electricity for sale and distribution through the national electric grid to the public. The source category includes investor-owned units as well as units owned by the Federal government, municipalities, and cooperatives, among others. CAA section 112(a)(8) defines an "electric utility steam generating unit" as:

any fossil fuel-fired combustion unit of more than 25 megawatts electric (MWe) that serves a generator that produces electricity for sale. A unit that cogenerates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 MWe output to any utility power distribution system for sale is also considered an electric utility steam generating unit.

In the December 2000 regulatory determination, EPA made a finding that it was appropriate and necessary to regulate EGUs under CAA section 112. The February 2008 vacatur

of the Section 112(n) Revision Rule reverted the status to that of the December 2000 regulatory determination. Section 112(n)(1)(A) and the 2000 determination do not differentiate between EGUs located at major versus area sources of HAP. Thus, the NESHAP for EGUs will regulate units at both major and area sources.

In developing the vacated Clean Air Mercury Rule, EPA identified a total of 81 potentially affected small entities and determined that CAMR would not have a significant impact on a substantial number of those small entities. That determination was based on the fact that the final rule would not establish requirements applicable to small entities, other than new sources. At that time, EPA projected no new construction of coal-fired utility units. Additionally, CAMR did not establish requirements applicable to existing small entities because the final rule required each state to determine how to obtain the required mercury reductions, including which utility units to regulate.

Background on Regulated Community:

A program establishing new emission standards for EGUs would affect small businesses. EPA has identified approximately 537 facilities with 1,332 individual coal- or oil-fired units. We estimate that 92 companies operating coal- or oil-fired EGUs meet the Small Business Administration (SBA) definition of a small business.

Attachment 1 is a list of the small entities that we have preliminarily identified as being potentially impacted by the NESHAP for EGUs. While we believe the list is reasonably accurate, we are continuing to work to make our list of small, potentially-affected entities as complete and as accurate as possible.

Potential Small Entity Representatives:

The companies and trade associations that we suggest as small entity representatives (SERs), along with their contact information, are listed in Attachment 2. We recommend these trade associations as potential SERs because they represent members who are small businesses/entities. We have attempted to include representatives of coal- and oil-fired investor-owned EGUs as well as units owned by municipalities and cooperatives. We also have made an effort to ensure that all geographical areas are represented.

EPA Contacts:

Mary Johnson (Mail Code D243-01)
U.S. EPA
Research Triangle Park, NC 27711
Phone: (919) 541-5025, Fax: (919) 541-5450
E-mail: johnson.mary@epa.gov

Madeline Barch (Mail Code 1806A)

U.S. EPA
1200 Pennsylvania Ave. NW
Washington, DC 20460
Phone (202) 564-0234, Fax: (202) 544-0965
E-mail: barch.madeline@epa.gov

Nathaniel Jutras (Mail Code 1806A)
U.S. EPA
1200 Pennsylvania Ave. NW
Washington, DC 20460
Phone (202) 564-0301, Fax: (202) 544-0965
E-mail: jutras.nathaniel@epa.gov