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U.S. EPA Proposed NSPS/NESHAP for Synthetic Organic Chemical Manufacturing Industry: American Chemistry Council/Fuel and Petrochemical Manufacturers/U.S. Tire Manufacturers/Vinyl Institute Comments

08/10/2023

The American Chemistry Council, American Fuel & Petrochemical Manufacturers, U.S. Tire Manufacturers Association, and Vinyl Institute (collectively "ACC") submitted July 7th comments to the United States Environmental Protection Agency ("EPA") on the:

Proposed New Source Performance Standards for the Synthetic Organic Chemical Manufacturing Industry and National Emission Standards for Hazardous Air Pollutants for the Synthetic Organic Chemical Manufacturing Industry and Group I & II Polymers and Resins Industry ("Proposed Rule")

See 88 Fed. Reg 25,080 (April 25, 2023).

EPA has stated that the Proposed Rule resulted from its technological review of the Hazardous Organic National Emission Standard for Hazardous Air Pollutants ("NESHAP") and Group I & II Polymers and Resins Industry and its eight-year review of the National New Source Performance Standards ("NSPS") that apply to the Synthetic Organic Chemical Manufacturing Industry.

Additional provisions found in the Proposed Rule include:

- Amendments to the NSPS for Equipment Leaks of Volatile Organic Compounds
- Strengthening the Emission Standards for Ethylene Oxide Emissions and Chloroprene Emissions
- Removing Exemptions from Standards for Periods of Startup, Shutdown, and Malfunction and Adding Work Practice Standards for Such Periods Where Appropriate
- Addition of Provisions for Electronic Reporting

Initial points regarding the Proposed Rule raised in the ACC comments include:

- Represents a significant and precedential effort that will introduce many changes to an already complicated suite of Clean Air Act regulations.
- Represents six separate rulemakings in one.

- Will have significant implications for several groups of chemical manufacturing industries.
- Includes potential restrictions that may force numerous facilities offline, creating potential supply disruptions for critical products
- A voluntary second risk analysis and assessment for the source categories which is:
- An extraneously discretionary decision likely inconsistent with its statutory authority.
- Deeply flawed and artificially inflates risk due to EPA's failure to account for emissions updates or improvements from facilities.

Examples of arguments raised in the comments include:

- EPA is improperly taking an approach that precludes its consideration of costs for the proposal's most burdensome requirements.
- EPA does not have authority to perform additional residual risk reviews.
- Both the statute and previous court decisions mean EPA cannot circumvent the limitation by reconsidering its prior actions.
- EPA's failure to consider costs circumvents Congressional intent that cost be considered except in limited circumstances.
- EPA's decision to voluntarily take a path that precludes consideration of costs is arbitrary.
- EPA has tools to direct controls for the units for which EPA has determined risk is acceptable.
- EPA's residual risk announcement significantly overstates the risk associated with low-level exposure to ethylene oxide.
- Revisions to flare emission point parameterization.
- Modeling file input should be revised to reflect current facility emissions.
- EPA improperly considers infrequent, one-time, and startup, shutdown, and malfunction events its risk assessment.
- Limitations on total mass of ethylene oxide flared per year.
- EPA's proposed solution to replace flares with thermal oxidizers is not practical from a timing and cost perspective.
- Definition of "in ethylene service."
- EPA's impact analysis overstates emissions reductions and underestimates costs.
- Addition of wastewater to heat exchange systems.
- Definition of "in ethylene oxide service" for process vents.
- EPA should revise the definition of "in ethylene oxide service" for storage tanks.
- Process vent and storage tank control device requirements.
- Maintenance vents requirements for ethylene oxide.
- EPA should revise the definition of "in ethylene oxide service" for equipment.

A copy of the comments can be downloaded [here](#).