

May 12, 2015

US Environmental Protection Agency  
EPA Docket Center (EPA/DC)  
Mail Code 28221T  
1200 Pennsylvania Ave., NW.  
Washington, DC, 20460  
*Transmitted via email: a-and-r-docket@epa.gov*  
Attention: **Docket ID No. EPA-HQ-OAR-2009-0174**



Dear Sir or Madam,

The National Steering Committee (NSC) for the national network of state Small Business Environmental Assistance and Small Business Ombudsman Programs thank you for the opportunity to comment on the proposed rule entitled, “Electronic Reporting and Recordkeeping Requirements for New Source Performance Standards,” which was published in the *Federal Register* on March 20, 2015 in Docket ID No. **EPA-HQ-OAR-2009-0174**.

The state Small Business Environmental Assistance and Small Business Ombudsman Programs (SBEAP/SBO) were created under s. 507 of the Clean Air Act Amendments of 1990 and represent nearly all 50 states. For over 20 years, the SBEAP/SBOs have provided extensive, hands-on assistance to small businesses to help them understand environmental regulations such as the New Source Performance Standards (NSPS), National Emissions Standards for Hazardous Air Pollutants (NESHAP), and numerous state-based standards.

The SBEAP/SBOs have submitted comments during the development of previous EPA rules, most notably many of the area source NESHAP standards that regulate many small businesses. The SBEAP/SBO network, through their Technical Subcommittee, stands ready to work with EPA to develop rules that small businesses can comply with, understand, and implement in a timely fashion. In this age of technological advancement, our hope is that small businesses are not left behind or forgotten about as EPA continues to transition from paper reporting to electronic.

On behalf of the national SBEAP/SBO network, the NSC respectfully submits the following comments for your consideration:

### ***General Comments for Electronic Reporting***

The SBEAP/SBO national network understands increased electronic reporting is becoming a mainstay under EPA’s Next Generation of Compliance initiative. However, a “one size fits all” is demonstrated to fail when applied to small businesses without regard to their industry, location, access, and knowledge-base. We ask that EPA consider allowing greater flexibility for small businesses. For instance, if electronic reporting is made mandatory for a particular rule, then please consider that the requirement only be made mandatory for major sources while electronic reporting is made optional for area sources. This captures EPA’s need to track emission reductions over time.

In some states, electronic reporting seems like a good idea for permit engineers and reviewers, but there still is the issue of actually needing a hard copy signature. Some states have indicated that EPA has not granted approval to accept electronic signatures. This seems rather contradictory if EPA truly wants to go all in with electronic reporting.

The SBEAP/SBO network also requests clarification into the economic analysis that EPA conducted. In this analysis, how many small businesses were included? We note that a determination was made under the Regulatory Flexibility Act (RFA); however, more details would be greatly appreciated.

### ***Access to a Computer and Internet***

In our experience, many small businesses may not own computers or do not have access to the internet. In many states, these businesses are located in rural areas or belong to an industry sector that does not require the business owner to use computer on a daily basis. A [Fixed Broadband Deployment Map](#) as shown on the Federal Communications Commission website demonstrates that in many parts of the country, quite often in rural areas, there are census block areas without access to fixed broadband. [Figures](#) compiled by the Census Bureau as reported by [Governing.gov](#) demonstrate sizeable portions of each state with no internet connection anywhere. In addition, there are plenty of small business owners of the age and era when computer use was not as common as it is today, thus they rely on more traditional means of correspondence (e.g. fax, US mail). One state reported that a small business owner was literally crying because she could not figure out how to submit an electronic report. We urge EPA to simply acknowledge that not all business owners are as technologically savvy or have the appropriate resources for implementation of electronic reporting requirements.

Internet access through public means (e.g. a library) is not very reasonable given the amount of time required to complete each of the steps of registration to setup login/password, any delays in correspondence to confirm or approve said registration, and then enter the required data. Access at a home computer is more likely than access through public means, but then the issue becomes of one having adequate internet speed to interact with web links or download the needed software. We suggest EPA consider including a provision to allow for hardcopy submittal as it would be an important consideration for small businesses.

### ***Data Use***

The SBEAP/SBO network questions the benefits gained through electronic reporting as it is currently structured. At this time, it appears that making data available online has demonstrated minimal usefulness. Some states have commented that while data might be available in CEDRI, this data is not proving useful in performing a compliance review. In that case, the sources may be asked to submit additional information to the state to supplement the information that was already submitted via CEDRI, and in the end the reporting burden has increased rather than been reduced.

We understand the reasoning for EPA wanting to collect and use data from electronic reporting. It would be beneficial to have updated emission factors in a place such as WebFIRE to help small businesses estimate their air emissions. As small business environmental assistance providers, this is primarily what we do -assist small businesses with complex air regulations and help them estimate air emissions to try and see if permitting or other regulatory requirements apply. However, the development of this process in updating emission factors still seems like a long time coming. While electronic reporting may appear of utmost importance to EPA, this is simply not beneficial for small businesses at the present time.

### ***Double Burden of Reporting***

The current electronic reporting infrastructure makes it very confusing for small businesses to submit the required reports. Each rule may have only certain reports (i.e., Notification of Compliance Status, Performance Evaluation Results) that are required to be submitted electronically, while others are still submitted on paper. Yet, when the business (or their representative) attempts to use CEDRI or CDX to submit a required electronic report, the particular test method or form is not available. When questioned, EPA contacts will indicate that a custom report option may be used. This custom option is very generic and takes the submitter additional time, and possibly a few false starts that have to be deleted and started over, to complete the required report. Once submitted, the business is left with a measure of uncertainty regarding whether the custom option truly satisfied the required electronic report and may still submit a paper copy to be certain the report is received.

We also do not like the proposal that electronic reporting would satisfy federal requirements but could eliminate the need to keep hard copies. Since state inspectors often request hard copies during an inspection, it appears that the double burden would still exist. In addition, there are concerns with only keeping files electronically in the instance of a fire, a computer or hard drive is damaged or broken, computer virus, data breach, etc.

### ***Use of CEDRI/CDX/ERT***

In the proposed rule, there is mention of a phased in approach for users of ERT and CEDRI. We believe even with a phased in approach there may still not be enough time for small businesses to prepare for the changes. We feel that even having a basic awareness of this change will take much longer than 90 days unless there is a way for EPA to provide outreach or directly make contact with each affected NSPS source.

There are concerns that EPA's ERT is a Microsoft Access application. Because Access is a very specialized software program, not many small businesses actually purchase it or have a need for it. There are applications that allow the use of Access without having the software, but that may prove difficult to use and can cause bugs and other problems in the use of the ERT reporting tool. We have additional concerns of browser compatibility, other common IT issues, and that compliance assistance efforts do not (cannot) include IT assistance efforts.

EPA should develop an alternative reporting option whether it is web based or something other. If it is web based, it should be developed with the thought of having it be compatible with tablets or smartphones from the outset. Many business owners now bypass having a computer at work, and go directly to using the larger tablets for all computing needs.

### ***Transition Period from Paper Reporting to Electronic Reporting***

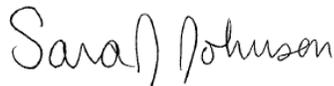
With regard to submitting reports via CEDRI no later than 90 days after the form becomes available in CEDRI, there seems to be a timing issue at play. As an example, if an annual report should be submitted no later than 90 days after the electronic form becomes available, what happens if the report was just submitted and the next annual report is not due for another 9 months? We suggest the language be changed to "Begin submitting reports via CEDRI for the next annual report after the form becomes available in CEDRI."

We suggest EPA consider lengthening the transition time to electronic reporting. There will be an obvious need for training, especially as new affected industries will be asked to report electronically. Please consider allowing at least 6 months for assistance providers to offer training, with additional lead time as to when reporting will be due. Often the standard 90 days is not enough time for the small business community to read, review, understand, and then report to EPA should the businesses suddenly learn they are affected by specific rule, or in this case, an NSPS.

Consider the general length of time and the steps needed for a small business, its consultant, or environmental assistance provider to prepare for reporting: understanding that a rule applies, estimating emissions, getting registered in CDX/ERT, entering the data, review and submit. We propose that EPA consider some sort of methodology to grant an extension for small businesses when extra time is needed. Similar to EPA's electronic reporting rule for NPDES facilities, EPA should offer either automatic or temporary waivers for small businesses. These waivers could be automatic for counties where only a small fraction of the population (e.g., less than 20 percent) has sufficient broadband availability or temporary waivers when an affected source lacks the obvious technical expertise or hardware technology to electronically report.

We greatly appreciate the opportunity to comment on this proposed rule. If you need any additional information or clarification of our comments, please contact Jeremy Hancher, Co-Chair of the NSC Technical Subcommittee at (215) 573-3410 or [hancherj@wharton.upenn.edu](mailto:hancherj@wharton.upenn.edu).

Sincerely,



Sara Johnson, M.S.  
Chair, National Steering Committee  
NH Small Business Ombudsman



Tony Pendola, PE  
Vice-Chair, National Steering Committee  
NC Small Business Ombudsman

Cc: Joan Rogers, EPA/SBO  
Brian Castro, SBA