



#### **National Steering Committee**

Lisa Ashenbrenner Hunt, Chair  
Jennifer Collins, Vice-Chair

#### **Regional Representatives**

Region 1 – Sara J. Johnson, NH  
Region 2 – Harry Ching, NY  
Region 3 – Jeremy Hancher, PA  
Region 4 – Melissa Collier, MS  
Region 5 – Dan Sowry, OH  
Region 6 – Lloyd Kirk, OK  
Region 7 – Lynelle Ladd, KS  
Region 8 – John Podolinsky, MT  
Region 9 – Scott Tallini, AZ  
Region 10 – Belinda Breidenbach, ID

[www.nationalsbeap.org](http://www.nationalsbeap.org)

September 13, 2019

VIA REGULATIONS.GOV

The Honorable Andrew Wheeler  
Administrator  
United States Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, DC 20460-0001

Re: Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act (Docket ID No. EPA-HQ-OAR-2019-0282; FRL)

Dear Administrator Wheeler,

The National Steering Committee (NSC) for the network of state Small Business Ombudsmen (SBO) and Small Business Environmental Assistance Programs (SBEAPs) thanks you for the opportunity to comment on the Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act.

For more than 25 years our members have provided extensive, hands-on assistance in helping businesses comply with environmental regulations. Many among this group have lengthy experience working in various regulatory programs; additionally, most members maintain a close relationship with the regulatory programs in their states to better assist businesses. We have detailed knowledge of environmental regulations with an awareness of the impact of regulations on businesses nationwide. The state SBO/SBEAPs were mandated by Section 507 of the 1990 Clean Air Act Amendments to provide free and confidential environmental compliance assistance to small businesses. Assistance from SBO/SBEAPs is the most economical solution to small businesses striving for environmental compliance and many times is their only economically feasible solution. Even beyond that, SBO/SBEAPs actively advocate for businesses on numerous federal and state rulemaking processes and initiatives such as this. Consequently, our day-to-day efforts result in fewer, more meaningful but less burdensome regulations affecting businesses. In addition, by helping achieve compliance through collaborative non-enforcement methods, we also provide a much more effective and efficient alternative to time-consuming and costly enforcement actions carried out by environmental compliance programs.

The SBO/SBEAPs support U.S. EPA's proposal to allow major sources of hazardous air pollutants (HAPs) to reclassify as area sources when their emissions drop below the major source thresholds. We have observed that many small facilities (autobody shops, printers, small spray coaters, etc.) have the potential-to-emit (PTE) HAPs above major source thresholds but have small actual emissions. Under EPA's Once-In, Always-In (OIAI) policy, a facility covered by a MACT standard under 112(d) of the Clean Air Act that did not obtain a federally enforceable state operating permit limiting its operations below the major source level was required to obtain a complex, costly, and stringent Title V permit. This option was only available during a very short window of time following the beginning of the rulemaking and before the first substantive compliance date.

The policy did not provide an incentive for reducing air emissions once the threshold that triggers applicability had been reached. Codifying the removal of this policy to

allow businesses that make process changes that permanently reduce their emissions to fall to a lower regulatory tier would:

- provide incentive for businesses to make capital investments to pursue those changes;
- reduce the regulatory impact, particularly in the form of recordkeeping and reporting;
- spur innovation in seeking out new and different processes that ultimately result in lower emissions from the business; and
- make measurable improvements in air quality.

Many small businesses were unnecessarily permitted as affected sources under a MACT. Many more reduced their HAP emissions below MACT thresholds, or even eliminated the equipment or materials containing HAPs. However, under the OIAI policy, all these businesses had to continue demonstrating compliance with the regulations which usually entail very complex recordkeeping and annual certification, at a minimum.

The OIAI policy created a competitive disadvantage for these facilities when compared to new facilities. This resulted in a lifetime punitive sentence on affected businesses that may never have exceeded emission limitations contained in the regulations.

Additional arguments against the OIAI policy include the following:

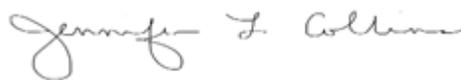
- There is no regulatory basis for the policy.
- No rulemaking was ever pursued to make the policy a rule.
- Rulemaking to modify the policy failed on two attempts.
- The policy contradicts the definition of “major source,” which has no temporal component.
- The 112(j) MACT Hammer proposal was changed to allow backsliding.

In closing, the National Steering Committee of the National Small Business Environmental Assistance Programs strongly supports codifying the revocation of the Once-In, Always-In policy. Revocation will benefit small businesses that are not large emitters of hazardous air pollutants and benefit the environment by providing an incentive for businesses to pursue pollution prevention measures. We thank you for your consideration of these comments.

Sincerely,



Lisa Ashenbrenner Hunt  
Chair, National Steering Committee  
WI DNR SBEAP  
[Lisa.AshenbrennerHunt@wisconsin.gov](mailto:Lisa.AshenbrennerHunt@wisconsin.gov)  
608.266.6887



Jennifer Collins  
Vice Chair, National Steering Committee  
IDEM, Pollution Prevention and Compliance Assistance  
[jcollins1@idem.in.gov](mailto:jcollins1@idem.in.gov)  
317.234.9730

CC: David Rostker, U.S. Small Business Administration, Office of Advocacy  
Rhonda Wright, U.S. EPA, Office of Air Quality Planning and Standards  
Paula Hoag, U.S. EPA, Office of Small and Disadvantaged Business Utilization