



EHS Support and Advocacy for the Communications Industry

May 20, 2011

Via Electronic Submittal

EPA Docket Center (EPA/DC)
Environmental Protection Agency
Mailcode: 2822T
1200 Pennsylvania Avenue, NW
Washington DC, 20460
Attention Docket ID Number EPA-HQ-OAR-2006-0790

Re: Comments on National Emission Standards for Hazardous Air Pollutants for new and existing sources for Area Source Industrial, Commercial, and Institutional Boilers; Proposed Notice of Selected Reconsiderations, Docket ID Number EPA-HQ-OAR-2006-0790

To Whom It May Concern:

The Environmental, Health & Safety Communications Panel (EHSCP), formerly the National Telecommunications Safety Panel (NTSP), appreciates this opportunity to provide comments in response to the referenced notice of reconsideration published by the Environmental Protection Agency ("EPA", or the "Agency") on March 21, 2011. The EHSCP is a consortium of telecommunications environmental, health, and safety professionals dedicated to promoting employee safety and health, and environmental responsibility throughout the telecommunications industry. The EHSCP strives to provide constructive input in the development and implementation of environmental, health, and safety standards and guidelines that affect the varied businesses within telecommunications industry. As such, the panel maintains an active advocacy role, providing comments and recommendations to federal and state agencies when issues concern the telecommunications industry. More information regarding the EHSCP may be found at www.telsafe.org.

EHSCP member companies own and operate boilers that appear to be regulated by these rules. These boilers are utilized to provide hot water and comfort heating, and, are for the most part similar to hot water heaters that are specifically exempted from the rules. Our boilers are not operated to support industrial or commercial processes.

While the EHSCP supports EPA's efforts to address emissions from area sources, we believe that the costs and other burdens associated with the inclusion of these boilers in the rule, as well as with certain of the requirements of the rule, greatly outweigh the minute, if any, environmental benefit that may be

achieved by these requirements. These comments explain our concerns and suggest means of making the rules less burdensome without losing any of the environmental benefits of the rule.

1. The Rule Should Clearly Provide That Hydronic Boilers That Do Not Heat Water To Its Boiling Point And Which Are Not Part Of A Commercial Process Are Exempt From The Rule.

In response to Document Control Number: EPA-HQ-OAR-2006-0790-0838.1
Comment Excerpt Number: 1, in the Area Source Final Response to Comments, EPA stated that:

Units that burn solid waste and space heaters that do not boil water are exempt from this rule. Additionally, the rule exempts hot water heaters as defined in the rule. These exemptions are for units that are either excluded by statute or not within the original category as listed. Hot water heaters are similar to units in residences that are not affected by today's rule. Other noncommercial, noninstitutional, nonindustrial heat sources that could conceivably be used to warm water, such as "cook stoves" suggested by one commenter, are not within the source category.

While the exemption for units burning solid waste and hot water heaters as defined in the rule is clearly stated in §63.11195(c) and (f) respectively, the exemption for units that do not boil water, such as hydronic boilers that circulate water thru pipes and radiators in a closed loop, is not clearly stated. The telecommunications industry uses hydronic heaters for comfort heating as well as for heating water. In cases where the boiler is only utilized for comfort heating, they are only used during the heating season.

Accordingly, the EHSCP requests that EPA add a paragraph to §63.11195 identifying hydronic boilers that do not heat water to boiling or to greater than 160 psig as a type of boiler not subject to this subpart.

2. The Timeframe for Initial Compliance with Biennial Tune Up Requirement Should Be Extended

The area source final rule, published on March 21, 2011 with an effective date of May 20, 2011, requires boilers not subject to an emission limit to comply with work practices by March 21, 2012. This is a deviation from the proposed area source rule which proposed a compliance date of three years from publication of the final rule in the federal register. The final rule only allows the owners or operators 10 months from the effective date to comply with the biennial requirement. This is not practical because many of these boilers are only operated seasonally and may not be utilized again until the winter heating season begins. Due to the short time frame, owners and operators that have boilers that are used solely for comfort heating may only have a few months to

conduct these initial tune-ups. Additionally, section §63.11223(b)(6)(iii) of the final rule, requires that the type and amount of fuel used over the 12 month period prior to the biennial tune-up of the boiler be maintained. On March 21, 2012, the final rule will only have been effective for 10 months. It does not seem reasonable for the EPA to require fuel records for a time period longer than the effective date of the rule. Furthermore, major sources with existing boilers under 10 mmbtu/hr subject only to work practices, have two years longer to comply with the work practice standard than area source boilers. The major source rule compliance date for existing boilers subject to work practices is March 21, 2014.

To address these inconsistencies, the EHSCP requests that the EPA revise the compliance timeframe for area sources to comply with the biennial tune-up requirement to be two years from the effective date of the rule as follows:

§63.11196(1) If the existing effected boiler is subject to a work practice or management standard of a tune-up, you must achieve compliance with the work practice or management standard no later than ~~March~~ May 21, 201~~23~~.

3. Recordkeeping and Associated Reporting Requirements Should Be Clarified

EPA had proposed requiring records documenting monthly fuel use by each boiler and the total fuel usage amount with units of measure. During the comment period for the proposed rule for area source boiler, the EHSCP requested that EPA adjust the recordkeeping and associated reporting requirements because the proposed approach was unnecessarily burdensome for small area source oil fired boilers that do not have an individual fuel meter and may share a common fuel source with a variety of equipment. The EHSCP requested that EPA revise this requirement to eliminate the fuel consumption information and retain the requirement to document fuel type and description, allowing documentation of fuel type to be based on purchase records. In response to the EHSCP comments on the proposed rule (Document Control Number: EPA-HQ-OAR-2006-0790-1960.1 Comment Excerpt Number: 6), in the Area Source Final Response to Comments EPA states:

The recordkeeping requirement (63.11225(b)(4) of the total fuel use for each calendar month is only applicable to affected boilers subject to an emission limit. In the final rule, only coal-fired area source boilers are subject to an emission limit. The recordkeeping requirement (63.11225(c)(2)(ii)) to document monthly fuel use for each boiler has been revised to clarify that this provision is requesting information on the type(s) of fuels burned and not the amount of fuel burned.

While we appreciate the EPA's efforts to revise the regulation as requested, we do not believe that the final rule is clear in this matter. The final rule states in §63.11225(c)(2)(ii) (emphasis added):

*Records documenting the fuel type(s) used monthly by each boiler, including, but not limited to, a description of the fuel, including whether the fuel has received a non-waste determination by your or the EPA, **and the total fuel usage amount with units of measure.***

Additionally, section §63.11223(b)(6)(iii) states that a biennial report containing the following must be kept onsite and submitted if requested (emphasis added):

*The **type and amount** of fuel used over the 12 months prior to the biennial tune-up of the boiler.*

There is concern that the final rule may be subject to interpretation which may require area source boilers to install fuel meters as stated in our original comments. Therefore, we respectfully request that the EPA further revise sections §63.11225(c)(2)(ii) and §63.11223(6)(iii) respectively as follows:

*Records documenting the fuel type(s) used monthly by each boiler, including, but not limited to, a description of the fuel, including whether the fuel has received a non-waste determination by you or the EPA. **Fuel purchase or delivery receipts showing the type of fuel delivered may be used to satisfy this requirement.***

*The ~~type and amount~~ of fuel used over the 12 months prior to the biennial tune-up of the boiler. **Fuel purchase or delivery showing the type of fuel delivered may be used to satisfy this requirement.***

4. On-Site Records Should Not Be Required If Records Are Readily Available In Other Formats

The final rule requires records to be kept on-site for the first two years. During the comment period the EHSCP and other commenters requested that such records be allowed to be maintained on or off-site provided that they are readily available to the EPA because many sites with small area source boilers are unmanned or remotely located and the option to maintain records in a centralized location or in electronic format would enhance companies ability to manage recordkeeping requirements and ensure that records are readily available to regulator. The EPA disagreed that many facilities that contain area source boilers subject to the proposed rule are unmanned or located in remote areas. The disagreement regarding where boilers covered by this rule are located may at least in part be due to lack of clarity regarding which boilers are NOT subject to the rule as discussed earlier in these comments.

EPA also stated that these boilers require on-site operators. Licensed boiler operators are not required in all states, in fact, according to a final report entitled "Small Business Advocacy Review Panel on EPA's Planned Proposed Rule: Combined Rulemaking for Industrial, Commercial, and Institutional Boilers and Process Heaters at Major Sources of HAP and Industrial Boilers and Commercial and Institutional Boilers at Area Sources" dated March 23, 2009 licensed operators were only required in "11 states and 18 major cities. In many instances, when a licensed operator is required is dependent on size and operating pressure of the boiler. Boilers located at large industrial facilities generally have dedicated operators who have been trained in the proper operation and maintenance of boilers. Boilers located at commercial and institutional facilities generally are smaller than those at industrial facilities and do not have dedicated operators but are operated by staff personnel (e.g. custodian) who do not have the same degree of training in good combustion practices."

The regulations adopt a one-size-fits-all recordkeeping requirement that does not allow for scenarios where there is no onsite operator present to manage record retention. For example, unmanned locations with seasonal heating requirements in order to prevent pipes from freezing and resulting damage to telecommunication infrastructure. Furthermore, there is no distinction in boilers that are operated on seasonal basis. The telecommunications industry utilizes boilers for space heating as well as for heating water. In cases where the boiler is only utilized for space heating, they are only used during the heating season.

While there are significant costs and burdens associated with requiring records such as initial notifications, compliance certifications, or biennial reports on-site, the EHSCP is unaware of any environmental benefit associated with such requirements. Therefore, the EHSCP respectfully requests that the EPA allow for centralized and/or electronic recordkeeping as long as the records are readily available upon request.

On behalf of the EHSCP member companies, thank you again for the opportunity to comment under the reconsideration of this rule. Should you have any questions about the information included in these comments please contact Barbara Patton at 205-663-8951 or if the EHSCP may be of further assistance in this matter, please contact me.

Sincerely,



Grif Bond, Chair
Environmental, Health & Safety Communications Panel
919-554-7283
Manager- Environmental Health & Safety
CenturyLink