Coalition for Responsible Waste Incineration

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Environmental Protection Agency
1200 Pennsylvania Ave, NW
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The Coalition for Responsible Waste Incineration (CRWI) appreciates the opportunity to submit comments on *Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act*; Proposed rule. 84 FR 36,304 (July 26, 2019). CRWI is a trade association comprised of 27 members representing companies that own and operate hazardous waste combustors and companies that provide equipment and services to the hazardous waste combustion industry.

Attached are specific comments on the proposed changes.

Thank you for the opportunity to comment on this proposed rule. If you have any questions, please contact me at (703-431-7343 or mel@crwi.org).

Sincerely yours,

Melvin E. Keener, Ph.D.
Executive Director

cc: CRWI members
E. Torres, EPA

Specific comments

1. On whether the EPA should include in the General Provisions to 40 CFR part 63 the hierarchy of acceptable data and methods a source seeking reclassification would use to determine the source PTE. This hierarchy could be the same or similar to the one provided in 40 CFR 49.158(a)(2) (Comment C-14 and Comment C-16).

   In the preamble (84 FR 36,316), the Agency discussed a hierarchy of acceptable data and/or methods for a source seeking reclassification. The first step in this hierarchy is to use source specific test data or continuous emissions monitoring systems data if available. If this data is not available, the next choice is a material balance approach. Where these data are not available, the next choice is source specific models. Finally, if these data are not available, emission factors may be used. In footnote 20 (84 FR 36,316), the Agency states that the use of emission factors in AP-42 are not recommended because those factors are an average. CRWI would like to point out that AP-42 already contains guidance on what is acceptable data (see page 3 of the Introduction). In AP-42, the Agency also chooses test data as the first choice but adds the caveat that those data only represent the conditions at the time of the test and may not be the best estimate of long-term emissions. The guidance goes on to state that a materials balance may provide a better estimate than would an individual test under certain circumstances. The point is that test data may not always provide the best estimate of long-term emissions. CRWI suggests that instead of using language similar to 40 CFR 49.158(a)(2), the preamble for the final rule simply make a reference to the guidance in AP-42 for what is acceptable data. This method generally follows the hierarchy in the proposed addition to 40 CFR 49.158(a)(2) but allows the flexibility to use other methods when test data may not be representative of typical operating conditions. This guidance has been used successfully since 1995. We see no reason it should not be used to support reclassification of a major source.

2. On whether . . . adding the same or similar requirements that are now in 40 CFR 49.158(a)(1) to 40 CFR 63.10 would be appropriate to create the minimum requirements that a major source of HAP must submit to its regulatory authority when seeking to obtain PTE HAP limitations to reclassify as area sources under section 112 of the CAA (Comment C-15).

   CRWI believes that the information required for a synthetic minor source permit application (40 CFR 49.158(a)(1)) is similar to what is needed to show that a major source can be reclassified as an area source. As such, we support adding similar language to 40 CFR 63.10 to facilitate any reclassifications.

3. On whether to be effective, HAP PTE limits need to undergo public notice and comment procedures (Comment C-28, Comment C-30, Comment C-35).

   CRWI does not believe this situation should be different from any other action that may trigger a permit change. If the situation triggers a permit change, it should

require public notice and comment procedures be followed. These criteria are already defined in 40 CFR 70.7. We see no reason to deviate from that procedure.

4. If notice and comment periods are required, should EPA allow electronic notices as opposed to newspaper notices? (C-32)

   CRWI supports the use of electronic notices wherever possible. The majority of the world is moving from print media to electronic media. Even the Agency is trying to require electronic reporting for performance test results and manifests. The use of electronic media should allow reaching more stakeholders while reducing costs for everyone in the process. We support the use of electronic notices when publicizing the availability of any notice and comment period.

5. On the inclusion of the specific considerations for monitoring, discussed above in the General Provisions of 40 CFR part 63 proposed regulatory text defining practicably enforceable (Comment C–24) …

   One of the criteria in the definition of "practically enforceable" is that the facility "Must specify a technically accurate numerical limitation…" This criterion leaves out the possible use of work practices. A number of major source and area source standards have work practices in addition to numerical limits (clean and replace burner components on a periodic basis, inspect flame pattern and adjust as needed, inspect air-to-fuel ration systems, leak detection and repair, etc.). We see no reason why work practices could not be equally effective at showing the facility meets their PTE limits and suggest the Agency add this to the definition.

6. On the proposed amendment to remove the time limit for record retention in 40 CFR 63.10(b)(3) so sources that obtain new enforceable PTE limits are required to keep the required record of the applicability determinations until the source becomes subject to major source requirements (Comment C-51).

   40 CFR 63.10(b)(3) requires that a facility keep records for five years on an applicability determination for a relevant standard. Once an applicability determination is made, the facility must make annual reports showing they remain in compliance with the standards for their applicable source category. Keeping the records for making the applicability determination for five years gives the permitting authority sufficient time to review that determination. This process is adequate for major sources and CRWI sees no reason it should not be adequate for reclassified area sources. Like all major sources, reclassified area sources are required to submit reports showing they remain as area sources. Should an area source forecast future emissions greater than the major source threshold, that source would be required to reclassify as a major source through a permitting action. CRWI believes that maintaining the applicability determinations for effectively the life of the source would impose a burden on the facility without additional environmental protection. We oppose the proposed modification to 40 CFR 63.10(b)(3).

7. EPA is proposing to add a new paragraph 40 CFR 63.9(k) that would require electronic submission of notifications and reports using CEDRI. They are also proposing to amend 40 CFR Part 63, Subpart EEE to make 40 CFR 63.9(k) applicable to that subpart. In the preamble (84 FR 36,336), the Agency states

   > This action does not impose any new information collection burden under the PRA. Specifically, this rule requires the electronic reporting of the one-time notification of the already required in 40 CFR 63.9(j) in the case where the facility is notifying of a change in major source status.

   CRWI has no objections to requiring the one-time notification of reclassification of a source using CEDRI. However, we are concerned that the actual regulatory language in 40 CFR 63.9(k) and Subpart EEE could lead a regulatory authority to conclude that any notifications or reporting (performance test results, semi-annual emissions reports, etc.) should be done using CEDRI. We suggest that the Agency modify this language to make it clear that the new requirements in 40 CFR 63.9(k) only apply when a facility is reclassifying from a major source to an area source or from an area source to a major source.