

June 2, 2000

The Honorable Carol M. Browner
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Ms. Browner:

Enclosed for your consideration is the Report of the Small Business Advocacy Review Panel (SBAR Panel or Panel) convened for the planned proposed rulemaking on the **Reinforced Plastics Composites Maximum Achievable Control Technology Standard** that the Environmental Protection Agency (EPA or the Agency) is currently developing.

On April 6, 2000, EPA's Small Business Advocacy Chairperson convened this Panel under section 609(b) of the Regulatory Flexibility Act (RFA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). In addition to the Chair, the Panel consisted of the Director of the Emission Standards Division (ESD) within EPA's Office of Air Quality Planning and Standards, the Chief Counsel for Advocacy of the Small Business Administration (SBA), and the Deputy Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB).

The Report includes a discussion of the options under consideration for the proposed regulation under development, a description of the Panel's outreach to small entity representatives, a summary of small entity comments received by the Panel, and the Panel's findings and discussion.

Enclosure: Executive Summary

Sincerely,

Thomas E. Kelly, Chair
Small Business Advocacy
U.S. Environmental Protection Agency

John T. Spotila, Administrator
Office of Information and Regulatory Affairs
U.S. Office of Management and Budget

Jere W. Glover
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U.S. Small Business Administration

Sally L. Shaver, Director
Emission Standards Division
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Executive Summary

This section summarizes the Report of the Small Business Advocacy Review Panel (SBAR Panel or the Panel) convened for the proposed rulemaking on the Reinforced Plastics Composites MACT Standard that the Environmental Protection Agency (EPA or the Agency) is currently developing.

On April 6, 2000, EPA's Small Business Advocacy Chairperson convened this Panel under Section 609(b) of the Regulatory Flexibility Act (RFA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). In addition to the Chair, the Panel consisted of the Director of the Emission Standards Division (ESD) within EPA's Office of Air Quality Planning and Standards, the Chief Counsel for Advocacy of the Small Business Administration, and the Deputy Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget.

The Panel's findings and discussion are based on the information available during the term of the Panel. EPA is continuing to conduct analyses relevant to the proposed rule, and additional information may be developed or obtained during the remainder of the rule development process and from public comment on the proposed rule. Any options the Panel identifies for reducing the rule's regulatory impact on small entities may require further analysis and/or data collection to ensure that the options are practicable, enforceable, environmentally sound and consistent with the Clean Air Act (CAA or the Act).

Industries That May Be Subject to the Proposed Regulation

A MACT standard for the Reinforced Plastic Composites source category would directly affect a wide variety of processes that use thermosetting resins containing styrene and/or methyl methacrylate to make plastics with either glass reinforcement or no reinforcement. Processes include gel coating, resin spray up, resin hand lay up, polymer casting, filament winding, centrifugal casting, pultrusion, compression molding, injection molding, resin transfer molding, continuous lamination/casting, manufacture of sheet molding compound, and manufacture of bulk molding compound. EPA identified 302 facilities as owned by small businesses according to SBA's definition, which represents 78 percent of the total industry. Some facilities also paint the plastics after the molding process. (Painting operations will not be covered by this rule, but may be subject to a different NESHAP currently under development.) This standard would also affect any new source (any new facility or existing facility that undergoes significant reconstruction) using these processes.

Summary of Small Entity Outreach

The Panel met with small entity representatives (SERs) to discuss the potential reinforced plastics MACT and, in addition to the oral comments from SERs, the Panel solicited written input. In the months preceding the Panel process, EPA conducted outreach with small entities. On April 18, 2000, the Panel distributed an outreach package to the SERs. On May 2, 2000, the Panel met with SERs to hear their comments on preliminary options for regulatory flexibility and related information. The Panel also received written comments from the SERs in response to the

discussions at this meeting and the outreach materials. The Panel asked SERs to evaluate how they would be affected under a variety of regulatory approaches, and to provide advice and recommendations regarding early ideas to provide flexibility.

One of the SERs invited the Panel to tour several small facilities, including one owned by a SER (Altec), in Elkhart, Indiana. Several representatives of the Panel conducted this site visit on May 22, 2000, and were pleased to have this excellent opportunity to visit small facilities. These site visits were valuable for representatives of the Panel to see first hand how small reinforced plastics facilities operate.

Panel Findings and Discussion

Major Topics of Panel Discussion

The Panel discussed each of the issues raised in the outreach meetings and in written comments by the SERs. The Panel's key discussions centered around the nature of plastics and composites operations, how operations and economics differ between small and larger facilities, and the kinds of regulatory alternatives that might assist small facilities in complying with the MACT standard. The Panel spent considerable resources addressing SER concerns regarding the minimum level of control ("the floor") for existing sources in certain subcategories, the floor for new sources, and the above-the-floor level of control. Following are the Panel's findings and recommendations regarding these and related issues.

Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule

The Panel recommends that EPA evaluate ways to minimize the recordkeeping and reporting burdens under the rule. For example, a SER suggested that facilities should be allowed to use purchasing records rather than daily consumption records to determine compliance. The Panel recommends that EPA consider providing facilities a "compliant resins" option, where facilities have the opportunity to certify, in lieu of detailed recordkeeping and reporting, that all resins and gel coats used at their facility are at or below the HAP content required to meet the point value applicable to the facility. Moreover, the Panel recommends that EPA evaluate how a facility could streamline recordkeeping and reporting under this rule with that under the Toxics Release Inventory (TRI) program.

Other Relevant Federal Rules Which May Duplicate, Overlap, or Conflict with the Proposed Rule

The Panel is unaware of any Federal rules that may duplicate, overlap, or conflict with the proposed rule. However, the Panel notes that EPA is in the process of developing another MACT standard for facilities in the plastics industry that paint their products (surface coating), which has the potential to overlap, duplicate, and conflict with the proposed rule, and thus the Panel encourages EPA to consider the interaction of these rules as they are developed.

Regulatory Alternatives

The Panel considered a wide range of options and regulatory alternatives for providing small businesses with flexibility in complying with the MACT standards for reinforced plastics composites industry. As part of the process, the Panel requested and received comment on several ideas for flexibility that were suggested by SERs and Panel members. Taking into consideration the comments received on these ideas, as well as additional business and technical information gathered about potentially affected small entities, the Panel summarizes the major options below. The complete set of recommendations can be found in Section 9 of the Panel's full Report.

Major Panel Recommendations

1. The Panel recommends that EPA develop a subcategory for products that require a class one fire and smoke rating. EPA would then develop a separate floor for this subcategory. The Panel also recommends that EPA seek comment, in the notice of proposed rulemaking, on developing subcategories for other potential specialty products, including products that may require resins or gel coats containing a certain HAP content in order to be resistant to weathering and/or corrosion and/or to meet a strength requirement. The Panel further recommends that EPA examine the possibility of basing the floors for such specialty subcategories on work practice controls such as non-atomized resin application.
2. The Panel recommends that EPA include a provision in the proposal that would allow facilities that have multiple resin application processes (mechanical, manual, and filament winding) to use the same resin for all processes.
3. The Panel recommends that EPA develop two separate groups for pigmented gel coat. The first grouping will be white and off-white gel coats, which will be based on the data currently in the database and set at the current level. In addition, the Panel recommends that the floor for other (non-white) colors will be based on 37 percent HAP (this is the minimum level that provided acceptable performance according to SERs) and atomized application. The Panel also recommends that EPA solicit comment on these separate floors of pigmented gel coat and include a request for additional data on the HAP contents of these two types gel coats.
4. The Panel considered three alternatives to the above-the-floor option under consideration, to address SER concerns regarding the cost and feasibility of the above-the-floor option: a no above-the-floor alternative, an above-the-floor option where any source with 250 TPY (or more) is required to reduce emissions by 95 percent, and an above-the-floor option where the threshold would be 250 TPY for small businesses and 100 TPY for all other sources. The Panel believes that thresholds of 250 TPY or greater may have merit from a cost-benefit perspective. At this time, based on the available information, the Panel recommends that, at minimum, EPA propose to set the above-the-floor threshold at 250 TPY for small businesses and seek comment on the alternatives.
5. For new sources that emit 100 TPY or more of HAP, EPA considers the best control to be add-on controls that reduce emissions from a source by 95 percent. The Panel recommends that EPA evaluate this control based on the entire affected source. For facilities that emit less

than 100 TPY, the Panel recommends that EPA not consider add-on controls to be best control. For these small new sources, the Panel recommends that EPA propose to set the new source floor equivalent to the existing source floor. SERs also expressed concern about the definition of reconstruction, and suggested a definition of reconstruction as any expenditure that exceeds 50 percent of the cost of rebuilding the entire facility. Based on the input received on this issue, the Panel believes that EPA should use the suggested definition as its starting point and recommends that EPA explore this further as it develops the proposed rule.

The Panel believes that these ideas potentially could provide significant relief to small businesses while not compromising the environmental benefits of the program. In addition to the above regulatory alternatives, the Panel believes EPA should carefully consider all comments received during the outreach process on these and other issues of concern to small entities.

A full discussion of comments received and Panel recommendations are included in the Panel's final full Report.