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Laura Free
Regulatory Management Division
Office of Policy, U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460
Email: Free.Laura@epa.gov

Re: Risk Management Modernization Rule - Small Business Advocacy Review

Dear Ms. Free:

As the Superintendent for the Department of Public Utilities for the City of Troy, NY, I appreciate the opportunity to participate in this process. However, I am concerned with the quality of the information provided by the Agency to the SBREFA panel regarding to potential impacts on small utilities (and small businesses) that could result from the proposed revisions in rules for Risk Management Plans under the Clean Air Act. The cost and benefit data, as presented, does not support a transparent opportunity to myself and others on this panel to adequately evaluate projected impacts on small entities.

Much of the data was presented in a disparate fashion that inhibits an open, collaborative exchange of knowledge. For example, a concise summary of preliminary cost estimates was included as part of the September 22, 2015 information package (slide 28), but that summary format was not retained for purposes of the November 19, 2015 panel briefing. Various elements of the prior cost data were included, but it is unclear how some of this data has been updated, including supporting assumptions. This makes a review of the projected overall cost burden for each rule element more unclear, especially as it pertains to potential impacts on small systems.

Though the Agency does provide insight on cost estimates for each rule element, the Agency does not provide a comparative estimate of benefits per rule element. The benefits as reported derive an expected aggregate value per-accident-avoided based on average costs of historical on-site and off-site consequences. However, the information provided by the Agency does not provide any assumptions for how the various rule modifications under consideration would contribute to benefits claimed. The Agency approach is limited to one single benefit estimate that assumes all rule element modifications are implemented. This approach frustrates the purpose of

the SBREFA panel by inhibiting an objective review of the value contributed by each rule element modification. This is especially pertinent to my ability to represent the interest of fellow water utilities, since, according to the data provided, 49% of the water facilities potentially impacted by these rule changes are classified as small entities. I believe that, in order to support an effective and transparent review process, the Agency must provide a more comprehensive options analysis to allow objective consideration of the expected value provided by each proposed rule modification.

In addition, there appears to be some assumptions regarding various rule modifications that are not representative of burden the changes will have on small systems. The following assumptions require further consideration and justification:

- **Third Party Audits** - As reported by the Agency there is an average hourly rate difference of approximately \$25 for staff supporting a small government entity versus a large government entity. This is partially influenced by the Agency's assumption that management time will double if it is a large government entity (60hrs vs 30hrs), yet the difference between engineering staff is only 14hrs. As a small system manager, I would assert that additional time involved in hiring a third party auditor is not any less burdensome than it might be for a large governmental entity, since procurement rules and requirements are relatively similar. In addition, it is not clear why the Agency believes that additional attorney hours would not occur for governmental entities. At minimum it is likely to equivalent, if not greater, than what was reported for private entities.

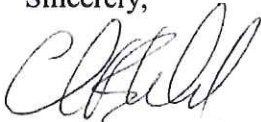
Furthermore, requiring a Third Party Audit for any RMP Incident, would add an unnecessary additional cost burden, as the current requirements for an Incident Investigation (handled by internal staff) accomplishes the desired remediation objective.

- **Incident Investigations & Root Cause Analysis** - The Agency assumption that managers would have zero added hours should such an action be necessary is inappropriate. Given the importance of such an investigation and analysis, I firmly believe that management would be involved in support and review of any such analysis.
- **New Responder ER Program Development** - The Agency does not provide any estimated cost for development of an emergency response program for small or large government entity, yet this rule modification would apply to these facilities. Inclusion of these facilities is anticipated since the Agency does provide an estimated cost for training personnel for local government entities. In general the Agency does not present a consistent breakdown of estimated costs by facility type which inhibits the transparency of a small entity impact assessment. It should also be noted again that an assumption of zero hours for management under personnel training is inappropriate and counter to purpose of this suggest rule modification.
- **Exercises** - The Agency provide no cost estimates for small or large government entities, which again inhibits effective analysis for purposes of this panel. In addition, while some facilities may run these exercises with in-house staff, my experience and observation is that, to be effective, this often requires consultant based facilitation ... especially for small entities, without the luxury of a large cadre of support staff. The data presented appears to capture the expect cost of staff time at a facility, however it should also capture the added burden placed on the various partnering organizations needed to make such exercises effective. This includes, but is not limited to law enforcement, fire/hazmat, and city/county/state emergency managers. This is an important consideration, especially

in communities with multiple RMP facilities, since they will all be required to host the proposed exercises with the same entities. Example one fire department may cover 10 RMP facilities, meaning the potential for ten (10) new exercises for the external response agency, versus one (1) for the facility. Therefore, the overall burden on various elements of a local government is much greater ... and not accounted for in this data provided by the Agency. This additional burden is not insignificant, especially in small communities with limited resources and in today's reality of strained budgets.

I appreciate the opportunity to participate in this process. The comments provided are intended to highlight opportunities for the Agency to increase transparency and clarity for evaluation of the proposed rule modifications by all entities potentially covered by this action, especially the smaller ones with less resources to shoulder any additional burden.

Sincerely,



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