

Analysis of Comments on Proposed Settlement in
American Foundrymen's Society, et al. v. US EPA
May 15, 2002

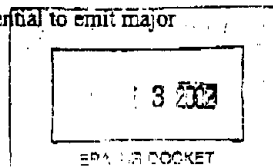
1. Comments of the Schenk/Atwood/Starkweather/Yahara Neighborhood Association (SASY)

SASY is a group which represents residents of Madison, WI who are concerned about emissions of hazardous air pollutants from an aluminum facility in their neighborhood. The facility in question is operated on two contiguous properties by the Madison-Kipp Corporation, under permits issued by the Wisconsin Department of Natural Resources. Although the letter refers to the facility as a foundry, it is probably best characterized as a specialized aluminum die casting operation. The facility does not melt purchased scrap, but it does use substantial amounts of chlorine flux to remove magnesium contamination from the aluminum castings.

SASY alleges that the settlement will exempt the facility in question from Subpart RRR. However, because the facility does not melt purchased scrap, and does not operate a sweat furnace, thermal chip dryer, scrap dryer, or delacquering or decoating kiln, it appears that the facility would not be considered to be a secondary aluminum production facility under the current Subpart RRR. The only ambiguity concerning the applicability of the present rule to the facility is that the compliance terms in the state permit allow the facility to melt "customer returns."

The present rule does not include customer returns among those materials that die casters may melt and still remain exempt from the rule. In contrast, the revisions to the applicability criteria to be proposed pursuant to the settlement would permit die casters who are exempt from the rule to melt those customer returns which have no solid paints or coatings. However, even in the absence of the change in applicability to be proposed pursuant to the settlement, we consider it likely that the facility would elect to revise the permit terms and avoid melting customer returns rather than lose its exemption from the current rule. In any case, nothing in the SASY comments expressly addresses the question of customer returns, nor does the comment provide any information which would cause us to reconsider our decision to revise the current applicability provisions to permit melting of certain customer returns.

SASY also expresses concern that the Madison-Kipp facility is permitted to emit substantially more hydrogen chloride per ton of aluminum processed than is allowed by Subpart RRR. However, the applicability exclusion in the present rule, which would be clarified in the new rule, is based on a determination that certain facilities should not be considered to be secondary aluminum producers, rather than on any determination concerning hydrogen chloride emissions from die casting facilities. Moreover, Subpart RRR itself does not regulate emissions of hydrogen chloride from sources that do not emit hazardous air pollutants in major source quantities, and we believe that die casting facilities that would be excluded from the rule are generally not major sources of HAP. The initial operating permit granted by the state to the Madison-Kipp facility expressly limited emissions of hydrogen chloride to less than major source quantities, although it is our understanding that these permit terms have been subsequently modified. We note that if there are aluminum die casters, foundries, or extruders which are not considered to be secondary aluminum production facilities but have the potential to emit major



source quantities of HAP, a separate MACT standard for these facilities may be necessary. Nothing in the settlement changes this situation.

SASY also expresses concern that there are no limitations on the amount of chlorinated dioxins and furans which can be emitted by Madison-Kipp or any corresponding testing requirement. While the settlement does not address this issue, it is our understanding that this statement is incorrect. The permit granted by the state limits emissions of 2,3,7,8-TCDD to 0.0001 pounds per year, and testing which has been done at the facility found no detectable 2,3,7,8-TCDD. Moreover, even though Madison-Kipp can melt contaminated internal scrap without being covered by the present Subpart RRR, the permit states that the facility can only charge scrap to its furnaces when chlorine is not being used, thereby significantly limiting the potential for formation of dioxins and furans. Thus, there is no reason to believe that emissions of dioxins and furans would be reduced if the facility were subject to Subpart RRR.

2. Comments of the Cambridge Health Project (CHP)

CHP opposes the proposed revision of the applicability criteria which would permit facilities to melt customer returns. CHP argues that there is no reason to conclude that melting scrap contaminated with oils and coating applied outside the facility is less likely to result in dioxin formation than melting purchased scrap with similar contaminants. At the outset, it should be noted that those customer returns which are contaminated with paints or other solid coatings are not included in the proposed applicability change. In any case, our decision to permit melting of certain customer returns is based on a decision to treat this scrap like contaminated internal scrap in deciding whether a facility is engaged in secondary aluminum production. Our decision is not based on any technical assessment regarding the likelihood of dioxin formation.

CHP argues that some foundries and die casters which have the potential to emit more than ten tons per year of chlorine (a listed HAP) may escape regulation entirely. We note that the same argument could be made concerning the applicability exclusion in the existing Subpart RRR. Our decision to exclude certain aluminum die casters, foundries, and extruders from the applicability of Subpart RRR does not constitute a determination that such facilities should be entirely unregulated. We believe that most, if not all, of the excluded facilities are only area sources of HAP. However, as we noted in our response to the SASY comments, if there is any facility which would be entirely exempt under the revised applicability provisions and also has the potential to emit major source quantities of HAP, a separate MACT standard may be necessary.

CHP expresses concern that there are dioxin emitting operations at some foundries that are presently unregulated, including sand casting, handling and shake out of used sand, and core making. We acknowledge that additional foundry operations might have been regulated under the original settlement, which required us to develop and promulgate a separate MACT standard for aluminum foundries. However, that settlement would also have delayed regulation of emissions from those foundry operations which will now be covered by Subpart RRR. In the event that we conclude in the future that additional foundry operations should be regulated,