

Keith W. Holman

National Lime Association

Arlington, Virginia (2010 to present) **Deputy Executive Director**

Assist U.S. lime manufacturers in complying with EPA's greenhouse gas rules, air quality requirements, and other environmental issues.

Office of Advocacy, U.S. Small Business Administration

Washington, D.C. (2002 to 2010) **Assistant Chief Counsel, Energy and Environment**

Advocated for small business before the Environmental Protection Agency. Reviewed small business impacts from federal rulemakings involving air quality and climate.

Miller Nash LLP

Portland, Oregon (2000 – 2002) **Of Counsel**

Represented clients on environmental issues, including Clean Air Act permitting and enforcement matters.

United States Chamber of Commerce

Washington, D.C. (1999 – 2000) **Chief Regulatory Counsel**

Advised the Chamber on energy and environmental law matters; developed Chamber policies environmental, energy, and natural resource issues.

Perkins Coie LLP Of Counsel

Washington, D.C. (1997– 1999)

Advised clients on environmental permitting, enforcement, and transactional issues.

Jones, Day, Reavis & Pogue Associate

Washington, D.C. (1994 –1997)

Counseled clients on permitting, enforcement, and transactional matters under the Clean Air Act, Clean Water Act, and Resource Conservation and Recovery Act; resolved clients' environmental issues in property transfers.

U.S. Environmental Protection Agency

Washington, D.C./Atlanta, Georgia (1991–1994) **Assistant Regional Counsel**

Advised EPA Headquarters and regional offices on legal issues arising from the Clean Air Act's Title V operating permit program; represented EPA in enforcement actions involving air quality, hazardous waste, wetlands, and asbestos violations.

EDUCATION:

Northwestern School of Law of Lewis & Clark College

Portland, Oregon **J.D. 1988**

Member, Law Review (Articles Editor 1987-1988)

University of Washington

Seattle, Washington **B.A. 1983**

WRITING:

Keith Holman, *The Regulatory Flexibility Act at 25: Is the Law Achieving Its Goal?* 33Fordham Urban Law Journal 1119 (May 2006).

Keith W. Holman and David Novello, *Understanding the Clean Air Act Section 112 General Duty Clause*, 6 Journal of Environmental Law and Practice (West Publishing Co.) 26 (Winter 1999).

Keith W. Holman (continued)

Keith Holman and George Van Cleve, *Promise and Reality in the Enforcement of the Amended Clean Air Act*, 27 ELR 10097, 27 ELR 10151 (March, April 1997).

Keith Holman and Carla Pierce, *Streamlining EPA's Rulemaking Procedures for Operating Permit Program Submittals Under Title V of the Clean Air Act Amendments of 1990*; Position paper presented to EPA Headquarters in August 1992, recommendations adopted by EPA in May 1993.

Keith Holman, *Wickland Oil Terminals v. ASARCO, Inc. and the 1986 Superfund Amendments: The Tide Turns on CERCLA's Private Right to Recover Hazardous Waste Response Costs*, 17 Environmental Law 307 (1987).

HONORS/ACTIVITIES:

Adjunct Professor, University of Maryland Law School (2000-05)

Adjunct Professor, Georgetown University Law Center (1995-96)

Advocacy Excellence Award (2003, 2006, 2007, 2008)

Commendation, U.S. Department of Justice (1994)

U.S. EPA Special Achievement Award (1993)

Law Review Excellence Award (1987)

Member, ABA Special Committee on Climate Change (1998)

Member, District of Columbia, Georgia, and Oregon Bars

Committee on Oversight and Government Reform
Witness Disclosure Requirement - "Truth in Testimony"
Required by House Rule XI, Clause 2(g)(5)

Name:

Keith W. Holman

1. Please list any federal grants or contracts (including subgrants or subcontracts) you have received since October 1, 2008. Include the source and amount of each grant or contract.

None -

2. Please list any entity you are testifying on behalf of and briefly describe your relationship with these entities.

National Lime Association -

I am the Deputy Executive Director of the
National Lime Association

3. Please list any federal grants or contracts (including subgrants or subcontracts) received since October 1, 2008, by the entity(ies) you listed above. Include the source and amount of each grant or contract.

None -

I certify that the above information is true and correct.

Signature:

Keith W. Holman

Date:

April 1, 2011

Final Report
of the
Small Business Advocacy Review Panel
on EPA.s Planned Proposed Rule
National Emission Standards for
Hazardous Air Pollutants
for Lime Manufacturing Plants

March 25, 2002

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- Appendix E: Written Comments Submitted by SERs on March 5, 2002

1. Introduction

This report is presented by the Small Business Advocacy Review Panel (SBAR Panel or Panel) convened for the proposed rulemaking on the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Lime Manufacturing Plants that is currently being developed by the U.S. Environmental Protection Agency (EPA or the Agency). Under section 609(b) of the Regulatory Flexibility Act (RFA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), a Panel is required to be convened prior to publication of the initial regulatory flexibility analysis (IRFA) that an agency may be required to prepare under the RFA. In addition to EPA's Small Business Advocacy Chairperson, the Panel consists of the Director of EPA's Emission Standards Division (Office of Air and Radiation), the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, and the Chief Counsel for Advocacy of the Small Business Administration.

This report includes the following:

- background information on the proposed rule under development;
- information on the types of small entities that would be subject to the proposed rule;
- a summary of the Panel's outreach activities; and
- the comments and recommendations of the Small Entity Representatives (SERs).

Section 609(b) of the RFA directs the Panel to report on the comments of small entity representatives and make findings on issues related to identified elements of an IRFA under section 603 of the RFA. Those elements of an IRFA are:

- a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;
- projected reporting, record keeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirements

- and the type of professional skills necessary for preparation of the report or record;
- n identification, to the extent practicable, of all other relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule;
- any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities; and
- any impacts, on small entities, of the proposed rule or significant alternatives to the proposed rule.

Once completed, the Panel report is provided to the agency issuing the proposed rule and included in the rulemaking record. In consideration of the Panel report, and where appropriate, the agency is to make changes to the draft proposed rule, the IRFA for the proposed rule, or the decision on whether an IRFA is required.

It is important to note that the Panel's findings and discussion will be based on the information available at the time the final Panel report is drafted. EPA will continue to conduct analyses relevant to the proposed rule, and additional information may be developed or obtained during the remainder of the rule development process. The Panel makes its report at a preliminary stage of rule development and its report should be considered in that light. At the same time, the report provides the Panel and the Agency with an opportunity to identify and explore potential ways of shaping the proposed rule to minimize the burden of the rule on small entities while achieving the rule's purposes.

Any options identified by the Panel 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.

2. Background

2.1 Regulatory History

Under the Clean Air Act (CAA), as amended in 1990, EPA is required to regulate major sources of hazardous air pollutants (HAP). These pollutants are listed in the statute. Major sources are those that emit or have the potential to emit 10 tons per year (TPY) or more of a HAP or 25 TPY or more of a combination of HAP. On July 16, 1992, EPA, as required by statute, published a list of industry groups (known as source categories) that emit one or more of these air toxics. Lime manufacturing was on this list as a category of major sources. For listed categories of "major" sources the Clean Air Act (Section 112) directs EPA to develop emission standards that are based on the application of air pollution reduction measures known as maximum achievable control technology (MACT). The CAA requires EPA to complete all MACT standards for the listed source categories by November 15, 2000. Therefore, there is a

mandatory duty to promulgate the MACT standard for the Lime source category, and a statutory deadline for doing so. If EPA fails to promulgate final standards by May 15, 2002, a so-called hammer falls, requiring sources to apply for individual permits where MACT for each lime manufacturing source would be developed on a case-by-case basis. However, this hammer process does not relieve EPA of its obligation to issue national standards for the Lime Manufacturing source category, and any case-by-case standard issued as part of the hammer process must be superceded if the eventual national MACT standard is more stringent.

The law requires that MACT not be less stringent than:

- the emission control that is achieved in practice by the best controlled similar source, for new sources; and
- the average emission limitation achieved by the best performing 12 percent of the sources in the source category, for existing sources.

This mandated minimum level of control is referred to as "the MACT floor."

2.2 Description of Proposed Rule Under Development and Its Scope

The rule would apply only to lime plants that are major sources of HAP. In addition, lime manufacturing operations at pulp and paper production facilities, and beet sugar plants would not be subject to the rule. (Beet sugar plants typically operate only seasonally, and our analysis indicates that beet sugar plants are not major sources of HAP.) Further, lime hydration units and facilities that do not produce lime in a kiln would not be subject to the rule (There are some lime plants that are depot facilities only or produce lime hydrate only and thus would not be subject to the rule.) With respect to the emission points which would be regulated, emission limits would apply to the lime kilns/coolers, as well as to feed materials handling operations. Materials handling operations for the lime product would not be subject to the predecisional draft proposed rule. The emission limitations selected are all based on the MACT *floor*, as opposed to more costly beyond the MACT floor options. The pollutants for which emission limitations have been established include particulate matter (PM; a surrogate for HAP metals in the particulate phase) and hydrogen chloride (HCl). See the summary of the outreach meeting for the potential SERs (Appendix B) for more details on the draft proposed rule requirements.

There are about 110 lime manufacturing plants in the U.S. Thirty of these are captive plants located at beet sugar manufacturing plants, and would not be subject to the rule. EPA believes that about 70 percent of the sources in this source category are major sources. These facilities emit approximately 11,000 tons per year (TPY) of HAP. The primary HAP are hydrogen chloride and toxic metals.