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ENVIRONMENTAL PROTECTION AGENCY

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Delisting of Source Category and Revision of Initial List of Categories of Sources and Schedule for Standards Under Section 112(c) of the Clean Air Act.

AGENCY: Environmental Protection Agency (EPA)

ACTION: Removal of the asbestos processing area source category from the initial list of categories of sources and schedule for standards for major and area sources of hazardous air pollutants.

SUMMARY: This notice removes the asbestos processing source category from the initial list of categories of sources of hazardous air pollutants (HAP), published on July 16, 1992 (57FR31576), and the schedule for promulgation of emission standards, published on December 3, 1993 (58 FR63941).

Today's rule finalizes the notice of proposed rulemaking published in the Federal Register (FR) on January 24, 1995 by removing an area source category (asbestos processing) that was listed on July 16, 1992 (57 FR31576). As presented in 60FR4624, this decision is based on data obtained during the initial stage of standards development for this source category. Under this listing, asbestos emissions from asbestos processing sources were studied to determine whether

they could be further reduced beyond the levels achieved under the existing National Emission Standards for HAP (NESHAP) that apply to these sources. These data conclusively show that asbestos emissions from specific plants that were the basis for the initial listing are significantly lower than previously estimated. As a result, the Agency believes that no source in the category emits asbestos in quantities that pose an individual risk greater than one in one million and that the previous determination that asbestos emissions from these plants pose a threat of adverse health effects is no longer supportable. The asbestos processing source category should therefore be removed from the source category list.

Docket. Docket No. A-94-69, containing supporting information used in developing this notice, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at the Agency's Air Docket, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For information concerning specific aspects of this notice of rulemaking, contact Susan Fairchild-Zapata, Minerals and Inorganic Chemicals Group, Emission Standards Division (MD-13), U.S. Environmental

Protection Agency, Research Triangle Park, NC 27711,
telephone number (919) 541-5167.

SUPPLEMENTAL INFORMATION:

I. Background

The Clean Air Act requires under section 112 that the Agency list and promulgate regulations requiring control of emissions of HAPs from categories of major and area sources. Section 112(c)(1) requires the Administrator to publish, and from time to time revise, if appropriate, in response to comments or new information, a list of all categories and subcategories of major and area sources of HAPs. Section 112(c)(3) requires that the Administrator list any area source category (one which emits less than 10 tons per year of any one HAP and less than 25 tons per year of all HAPs) that the Administrator finds poses a threat of adverse effects to human health or the environment. Pursuant to the specific listing requirements in section 112(c), the Agency published on July 16, 1992 (57 FR31590) a finding of adverse effects (specifically carcinogenic effects from exposure to asbestos) for the source category of asbestos processing. The asbestos processing source category was then listed as a source category that would be subject to emission standards. Following this listing, pursuant to requirements in section

112(e), the Agency on December 3, 1993 (58 FR63941) published a schedule for the promulgation of emission standards for each of the 174 listed source categories. The reader is directed to these two notices for information related to development of the initial list and schedule.

EPA published a notice of proposed rulemaking on January 24, 1995 (60 FR4624) that, when finalized, would remove the asbestos processing source category from the section 112 source category list and schedule. In this notice, EPA is finalizing that proposal. The reader is directed to that notice for information related to the proposal.

Summary of Comments Received

During the comment period between January 24, 1995 and February 23, 1995, Docket No. A-94-69 received a total of three comments in response to the 60 FR4624 notice of proposed rulemaking. No comments were received within 30 days after the close of the comment period and there was no request for a public hearing on issues related to the proposed deletion. All comments received were in support of the Agency's preliminary decision to revise the source category list by removing the asbestos processing area source category from the list.

Comments addressed the completeness of EPA's study, the adequacy of the extent of new information collected, the appropriateness of the (proposed) revision to the list, and the adequacy of existing regulations for controlling asbestos emissions from asbestos processing facilities. The commenters expressed the opinion that EPA's decision to revise the list as proposed is both accurate and reasonable.

- Mr. Russell K. Snyder, Executive Vice President of the Roof Coating Manufacturers Association (RCMA) commented, "...RCMA feels that the extensive information obtained by the Agency from over 250 companies, indicating that many companies no longer process asbestos and those remaining use appropriate control equipment, lends additional support and credence to the decision on the part of the Agency to de-list the asbestos processing industry. RCMA endorses the notice as consistent with the Clinton Administration's Common Sense Initiative regarding legislation and regulation based on thorough scientific and technical justification. Furthermore, RCMA feels that this notice is an excellent

example of EPA working with industry and environmentalists to develop necessary, intelligent and

- effective regulation."
- Mr. B.J. Pigg, President of the Asbestos Information Association (AIA/NA) commented that "AIA/NA previously filed comments with the Agency on its plans to assess asbestos processing emissions on October 26, 1992. As (AIA) noted there, U.S. processors currently employ very effective baghouse collection methods to minimize fiber release. These control methods will continue to be employed even after the area source category is delisted."
 - Mr. Frank P. Collis, environmental specialist with the Occidental Chemical Corporation commented, "...most facilities that would have been subject to the asbestos processing area source MACT standard are already subject to the existing asbestos NESHAP standard (i.e., 40 CFR 61 Subpart M). The development of an additional MACT standard would be duplicative, confusing to the regulated community and not the best use of the Agency's limited resources."

No comments took exception to the technical basis for the delisting, the new information received, the analyses conducted by the U.S. EPA to determine the validity of that information, or the rationale for the technical decision being made. The EPA analysis showed less than 10^{-6} maximum individual risk (MIR) and emission estimates 150 times less than the estimate originally used to list the asbestos processing source category as an area source category. Additionally, no comments were received regarding the specific legal basis for deletion.

II. Description of Revision

In today's notice, the Agency is removing the asbestos processing area source category on the Administrator's own motion, pursuant to section 112(c). As described in the proposed notice 60 FR 4624, the Agency has new information showing that no source or group of sources in the category emits asbestos in quantities which may cause a lifetime risk of cancer greater than one in one million. This refutes EPA's initial finding of a threat of adverse health effects on which the initial listing for this area source was based under section 112(c)(3).

EPA has, therefore, determined that no source or group of sources in the category emits asbestos in quantities which

may cause a lifetime risk of cancer greater than one in one million to the individual most exposed to asbestos emissions and that the previous determination under section 112(c)(3) is no longer supportable. EPA based its initial listing of this area source category solely on the risk to human health caused by the carcinogenic properties of asbestos emissions. New information contained in the docket thoroughly refutes the original data upon which EPA based its initial listing. EPA received no comment rebutting the statement that the Agency has met the legal requirements of section 112(c). Hence removal of this source category from the list of area source categories is appropriate in this instance.

Most friction product manufacturing facilities have discontinued their use of asbestos, but have significant emissions of other HAP. EPA notes that the information collected in connection with this decision also shows that a subcategory of asbestos processing sources, the friction product manufacturing subcategory, has individual facilities which emit more than 10 tons/year of a single non-asbestos HAP or more than 25 tons per year of a collection of non-asbestos HAPs (methyl chloroform, methyl ethyl ketone, formaldehyde, phenol, and toluene). Therefore, EPA intends to add a new friction products manufacturing category, including friction

product manufacturing facilities that do not use asbestos, to the source category list as a major source category in a general revision to the source category list that is currently being developed.

III. Administrative Requirements

A. Docket

The docket (Docket no. A-94-69) is an organized and complete file of all the information submitted to or otherwise considered by the Agency in the development of this proposed revision to the initial list of categories of sources. The principal purpose of this docket is to allow interested parties to identify and locate documents that serve as a record of the process engaged in by the Agency to publish today's proposed revision to the initial list and schedule.

B. Executive Order 12866

Under Executive Order 12866 (58 FR51735, October 4, 1993), the Agency must determine whether a regulation is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The criteria set forth in section 1 of the Order for

determining whether a regulation is a significant rule are as follows:

(1) Is likely to have an annual effect on the economy of \$100 million or more, or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal government communities;

(2) Is likely to create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Is likely to materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Is likely to raise novel or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This action raises the issue of delisting an area source category from the section 112 list of categories and sources and is therefore subject to OMB review.

C. Paperwork Reduction Act

This action does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act, 55 U.S.C. 3501 et seq.

D. Regulatory Flexibility Act Compliance

Pursuant to 5 U.S.C. 605(6), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities because it imposes no new requirements.

E. Unfunded Mandates Reform Act Compliance

As shown in the Information Collection Request Document (ICR), today's action imposes no costs on State, local and tribal governments. Accordingly, the EPA estimates that there is no direct cost to the private sector in any one year, and no total marginal costs to industry under today's proposal in any one year. Therefore, the Agency concludes that it is not required by Section 202 of the Unfunded Mandates Reform Act of 1995 to provide a written statement to accompany this proposed regulatory action because promulgation of the rule would not result in any expenditure by State, local, and tribal governments, in the aggregate or by the private sector, in any one year.

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Date

Carol M. Browner

Administrator