

Reclassification of Major Sources as Area Sources: U.S. Environmental Protection Agency Proposed Revisions to Clean Air Act Section 112 Regulations



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The United States Environmental Protection Agency (“EPA”) is proposing provisions to the General Provisions of the Clean Air Act National Emission Standards for Hazardous Air Pollutants (“NESHAP”).

David Carstens of Harbor Environmental forwarded a pre-publication copy of the rule and an associated EPA fact sheet.

EPA describes the proposal as implementing:

... the plain language reading of the “major source” and “area source” definitions of section 112 of the Clean Air Act (CAA) and provide that a major source can reclassify to area source status at any time by limiting its potential to emit (PTE) hazardous air pollutants (HAP) to below the major source thresholds of 10 tons per year (tpy) of any single HAP or 25 tpy of any combination of HAP.

However, potential to emit hazardous air pollutant limits must meet the effectiveness criteria of being legally and practically enforceable.

EPA also characterizes the proposal as clarifying the requirements that apply to sources that reclassify to area source status after the first substantive compliance date of an applicable NESHAP standard. Electronic notification is required when a source reclassifies.

The federal agency had previously issued on January 25, 2018, a guidance memorandum titled:

Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act

The memorandum discussed the statutory provisions that governed when a major source subject to a major source section under Section 112 could be reclassified as an area source – thereby avoiding being subject to major source requirements.

A link to the pre-publication rule can be found [here](#) and EPA fact sheet [here](#).