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

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

The final rule allows a “major source” of hazardous air pollutants (“HAP”) to reclassify as an “area source” at any time after acting to limit emissions.

EPA argues that the rule will encourage facilities to pursue innovations in pollution-reduction technologies and relieve regulatory requirements intended for larger emission sources. Environmental organizations argued in opposition to the proposed rule that it creates a loophole allowing facilities to opt out of the NESHAP requirements and monitoring by reclassifying themselves as areas sources exempt from Maximum Available Control Technology standards.

The EPA “once-in-always-in” policy was established in 1995. It provided that a facility subject to major source NESHAP standards would always remain subject to such standards. This would be the case even where production processes were changed or controls implemented that permanently reduce the facility’s potential to emit HAPs.

The final rule provides a new EPA interpretation of the relevant Clean Air Act language. The agency states it has no authority to limit when a facility may be determined to be an area source. The rule concludes that facilities may be reclassified as area sources if they take an enforceable limit on their potential to emit HAPs that bring their level of emissions below the major source threshold.

The rule also finalizes amendments to:

- Clarify compliance dates
- Clarify notification and record requirements

Such clarifications apply to sources choosing to reclassify to area source status along with sources that revert back to major source status.

Environmental organizations such as the Sierra Club and Natural Resources Defense Council have indicated a judicial challenge will be filed.

A link to the final rule can be found [here](#).

