ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61
[OAR–2002–0082, FRL–7561–1]

National Emission Standards for Hazardous Air Pollutants for Asbestos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; amendments.

SUMMARY: On November 20, 1990, the EPA issued national emission standards for hazardous air pollutants (NESHAP) for asbestos under section 112 of the Clean Air Act (CAA). This action would amend the citation for labeling containers of asbestos waste materials, based on requirements in the Occupational Safety and Health Administration (OSHA) asbestos standard for the construction industry for proper labeling of asbestos waste. The amendments are being made to correctly cite the appropriate numbering for proper labeling of asbestos waste.

In the Rules and Regulations section of this Federal Register, we are taking direct final action on the proposed amendments because we view the amendments as noncontroversial and anticipate no adverse comments. We have explained our reasons for the amendments in the preamble to the direct final rule. If we receive no significant adverse comments, we will take no further action on the proposed amendments. If we receive significant adverse comments, we will withdraw only those provisions on which we received significant adverse comments. We will publish a timely withdrawal in the Federal Register indicating which provisions will become effective and which provisions are being withdrawn. If part or all of the direct final rule in the Rules and Regulations section of today’s Federal Register is withdrawn, all comments pertaining to those provisions will be addressed in a subsequent final rule based on the proposed amendments. We will not institute a second comment period on the subsequent final action. Any parties interested in commenting must do so at this time.

DATES: Comments. We must receive written comments on or before October 20, 2003, unless a hearing is requested by September 29, 2003. If a timely hearing request is submitted, we must receive written comments on or before November 3, 2003.

ADDRESSES: Comments. By U.S. Postal Service, send comments (in duplicate, if possible) to: Air and Radiation Docket Center (6102T), EPA West, Room B–108, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. In person or by courier, deliver comments (in duplicate, if possible) to: Air and Radiation Docket Center, Attn: Docket Number OAR–2002–0082, U.S. EPA, 1301 Constitution Avenue, NW., Room B–108, Washington, DC 20460. We request that a separate copy of each public comment also be sent to the contact person listed below (see FOR FURTHER INFORMATION CONTACT).

FOR FURTHER INFORMATION CONTACT: Ms. Susan Fairchild, U.S. EPA, Minerals and Inorganic Chemicals Group, Emissions Standards Division (Mail Code C504–05), Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711, telephone number (919) 541–5167, electronic mail address, fairchild.susan@epa.gov.

SUPPLEMENTARY INFORMATION: Regulated Entities. Entities potentially regulated by this action are owners and operators of: asbestos mills, fabricating and manufacturing operations that involve asbestos or asbestos-containing products, demolition and renovation operations involving asbestos-containing building materials, industries in which asbestos-containing materials are spray applied, and active and inactive asbestos waste disposal sites.

Categories and entities potentially regulated by this action include those listed in the following table:

<table>
<thead>
<tr>
<th>Category</th>
<th>NAICS</th>
<th>Examples of Regulated Entities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Industrial</td>
<td>23</td>
<td>Construction.</td>
</tr>
<tr>
<td>Industrial</td>
<td>23594</td>
<td>Wrecking and Demolition Contractors.</td>
</tr>
<tr>
<td>Industrial</td>
<td>562112</td>
<td>Hazardous Waste Collection.</td>
</tr>
<tr>
<td>Industrial</td>
<td>562211</td>
<td>Hazardous Waste Treatment and Disposal.</td>
</tr>
<tr>
<td>Industrial</td>
<td>5629</td>
<td>Remediation and Other Waste Management Services.</td>
</tr>
<tr>
<td>Industrial</td>
<td>56191</td>
<td>Packaging and Labeling Services.</td>
</tr>
<tr>
<td>Industrial</td>
<td>333292</td>
<td>Small Arms Ammunition Manufacturing.</td>
</tr>
<tr>
<td>Industrial</td>
<td>33634</td>
<td>Motor Vehicle Systems Manufacturing.</td>
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<tr>
<td>Industrial</td>
<td>327</td>
<td>Nonmetallic Mineral Product Manufacturing.</td>
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<tr>
<td>Industrial</td>
<td>3279</td>
<td>Other Nonmetallic Mineral Product Manufacturing.</td>
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<tr>
<td>Industrial</td>
<td>32791</td>
<td>Abrasive Product Manufacturing.</td>
</tr>
<tr>
<td>Industrial</td>
<td>32799</td>
<td>All Other Nonmetallic Mineral Product Manufacturing.</td>
</tr>
</tbody>
</table>

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in §61.140 of the final rule. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding FOR FURTHER INFORMATION CONTACT section.

Docket. EPA has established an official public docket for this action under Docket ID Number OAR–2002–0082. The official public docket is the collection of materials that is available for public viewing at U.S. EPA, 1301 Constitution Avenue, NW., Room B–108, Washington, DC 20460. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744. The telephone number for the Air Docket Center (6102T) is (202) 566–1742.

Electronic Access. An electronic version of the public docket is available through EPA’s electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at http://
Comments received after the close of the comment period will be marked late. The EPA is not required to consider these late comments.

Electronically. If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. The EPA’s policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA’s electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Your use of EPA’s electronic public docket to submit comments to EPA electronically is EPA’s preferred method for receiving comments. Go directly to EPA Dockets at http://www.epa.gov/edocket, and follow the online instructions for submitting comments. Once in the system, select “search” and then key in Docket ID No. OAR–2002–0082. The system is an anonymous access system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

Comments may be sent by electronic mail (e-mail) to air-and-r-docket@epa.gov. Attention: Docket ID No. OAR–2002–0082. In contrast to EPA’s electronic public docket, EPA’s e-mail system is not an anonymous access system. If you send an e-mail comment directly to the Docket without going through EPA’s electronic public docket, EPA’s e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA’s e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA’s electronic public docket.

You may submit comments on a disk or CD ROM that you mail to the mailing address identified in this document. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.


By Hand Delivery or Courier. Deliver your comments (in duplicate, if possible) to: Air and Radiation Docket, Attention Docket ID No. OAR–2002–0082, U.S. EPA, 1301 Constitution Avenue, NW., Room B–108, Washington, DC 20460. Such deliveries are only accepted during the Docket’s normal hours of operation as identified in this document. We request that a separate copy also be sent to the contact person listed under FOR FURTHER INFORMATION CONTACT.


CBI. Do not submit information that you consider to be CBI electronically through EPA’s electronic public docket or by e-mail. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Office (C404–02), Attention: Ms. Susan Fairchild, U.S. EPA, 109 TW Alexander Drive, Research Triangle Park, NC 27711, telephone number (919) 541–7966, at least two days in advance of the potential date of the public hearing. Persons interested in attending the public hearing must also call Mrs. Garrett to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed emission standards.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public
docket and EPA’s electronic public docket. If you submit the copy that does not contain CBI on disk or CD-ROM clearly that is does not contain CBI. Information not marked as CBI will be included in the public docket and EPA’s electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the FOR FURTHER INFORMATION CONTACT section.

Worldwide Web (www). In addition to being available in the docket, an electronic copy of this action will also be available through the WWW. Following signature, a copy of this action will be posted on EPA’s Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules: http://www.epa.gov/ttn/oarpg. The TTN at EPA’s Web site provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Direct Final Rule. A direct final rule identical to the proposal is published in the Rules and Regulations section of today’s Federal Register. If we receive any significant adverse comment pertaining to the amendments in the proposal, we will publish a timely notice in the Federal Register informing the public that the amendments are being withdrawn due to adverse comment. We will address all public comments concerning the withdrawn amendments in a subsequent final rule. If no relevant adverse comments are received, no further action will be taken on the proposal and the direct final rule will become effective as provided in that action.

The regulatory text for the proposal is identical to that for the direct final rule published in the Rules and Regulations section of today’s Federal Register. For further supplementary information, the detailed rationale for the proposal and the regulatory revisions, see the direct final rule published in a separate part of this Federal Register.

Statutory and Executive Order Reviews

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq., generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today’s proposed rule amendments on small entities, a small entity is defined as: (1) A small business whose parent company has fewer than 750 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today’s proposed rule amendments on small entities, we certify that this action will not have a significant economic impact on a substantial number of small entities. We believe there will be little or no impact on small entities because the purpose of today’s proposed amendments is to update the rule with the correct OSHA labeling citations, and the amendments would not impose new requirements or compliance costs on industry.

For information regarding other administrative requirements for this action, please see the direct final rule located in the Rules and Regulations section of today’s Federal Register.

List of Subjects in 40 CFR Part 61

Environmental protection, Air pollution control, Hazardous substances.


Marianne L. Horinko,
Acting Administrator.
[FR Doc. 03–23847 Filed 9–17–03; 8:45 am]
BILLING CODE 6560–50–P