PLAINTIFF'S EXHIBIT
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Federal Register

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November 20, 1990

Part III

Environmental Protection Agency

40 CFR Part 61

National Emission Standards for Hazardous Air Pollutants; Asbestos NESHAP Revision; Final Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[AD-FRL-3814-7]

RIN 2060-AC57

National Emission Standards for Hazardous Air Pollutants; Asbestos NESHAP Revision

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This Federal Register notice promulgates rules under section 112 of the Clean Air Act (CAA) for asbestos emissions and is based on the Administrator's determination that asbestos presents a significant risk to human health as a result of air emissions from one or more source categories and is therefore a hazardous air pollutant (*see* 36 FR 3031, March 31, 1971). The purpose of the revisions promulgated today is to enhance enforcement and promote compliance with the current standard without altering the stringency of existing controls. On January 10, 1989 the Environmental Protection Agency (EPA or the Agency) proposed amendments to the asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP) that would require control device and fugitive emission monitoring, recordkeeping, and reporting for asbestos milling, manufacturing, and fabricating operations. For planned demolitions and renovations, revisions to the notification requirements were proposed, and safety was added as a reason for exemption from the use of wet removal methods. Recordkeeping requirements were proposed for asbestos waste disposal. Clarifying revisions to several definitions and provisions were also proposed. Numerous comments were received on the proposed revisions, and today's notice responds to those comments, and incorporates changes as a result of those comments.

EFFECTIVE DATE: November 20, 1990. Under section 307(b)(1) of the Clean Air Act, judicial review of the actions taken by this notice is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 Days of today's publication of these rules. Under section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Background information document.* The background information document (BID) for the promulgated revisions may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina, 27711, telephone no. (919) 541-2777. Please refer to "Background Information for Promulgated Asbestos NESHAP Revisions," (Publication No. EPA 450/3-90/017). The BID contains a summary of all the public comments made on the proposed revisions and the Administrator's responses to the comments.

Dockets. Docket No. A-88-28 contains supporting information used in developing the final revisions to the asbestos NESHAP and is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket (LE-131), Room M-1500, 1st Floor, Waterside Mall, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For further information and official interpretations of applicability, compliance requirements, and reporting aspects of the promulgated revisions, contact the appropriate Regional, State or local office contact as listed in 40 CFR 61.04. For further information on the background of the regulatory decisions in the promulated revisions, contact Mr. Sims Roy, Standards Development Branch, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone no. (919) 541-5283. For further information on the technical aspects of the promulgated revisions, contact Mr. Ronald Myers, Industrial Studies Branch, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone no. (919) 541-5407.

SUPPLEMENTARY INFORMATION:

I. The Standards

The promulgated revisions implement section 112 of the Clean Air Act (CAA) and are based on the Administrator's determination that asbestos presents a significant risk to human health as a result of air emissions from one or more source categories and is therefore a hazardous air pollutant (*see* 36 FR 3031 (March 31, 1971)). The revisions promulgated today amend the asbestos NESHAP to enhance enforcement and promote compliance with the current standard without altering the stringency of existing controls.

Milling, Manufacturing and Fabricating

The revisions to the standards require asbestos milling, manufacturing and fabricating sources to conduct daily monitoring for visible emissions. While the absence of visible emissions does not mean there are no asbestos fibers being emitted, the presence of visible emissions does indicate a serious control device malfunction. Because visible emissions monitoring is intended primarily to detect serious control device malfunctions, weekly inspections of air cleaning devices are also required. In addition, the revisions promulgated require these sources to maintain records of the results of visible emissions monitoring and control device inspections, and to submit quarterly a copy of visible emissions monitoring records of visible emissions occurred during the quarter. The revision requires owners or operators who install fabric filters after the effective date of this rule to provide for easy inspection of the bags.

Demolition and Renovation

The revisions require the owner or operator of a demolition or renovation activity to provide additional information in notifications, and to renotify EPA if the start date of a demolition or renovation changes from that given in the original notification. Another revision requires owners or operators to give a 10-day notice for renovations. A person trained in the provisions of this rule and the means of complying with them is required to be on site when asbestos-containing material (ACM) is stripped, removed or disturbed. When wetting is suspended due to freezing temperatures, owners or operators are required to measure air temperature in the work area three times during the workday and keep daily temperature records for at least 2 years. The revisions also clarify EPA's position regarding the handling and treatment of nonfriable asbestos materials such as resilient floor covering, including vinyl asbestos floor tile, and roofing material.

Waste Disposal

The revisions require vehicles used to transport asbestos-containing waste material to be marked with the sign prescribed by the Occupational Safety and Health Administration during loading and unloading to warn people of the presence of asbestos. For all asbestos-containing waste material transported offsite, the revisions require that a waste shipment record (WSR) be provided to the waste site owner or operator at the time that the waste is

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