Message

From: Brooks, Phillip [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E89130D467DF414390F076286D938815-BROOKS, PHILLIP]
Sent: 1/25/2018 10:00:30 PM
To: Chapman, Apple [Chapman.Apple@epa.gov]
Subject: Fwd: Reducing Regulatory Burdens: EPA withdraws "once-in always-in" policy for major sources under Clean Air Act

Sent from my iPhone

Begin forwarded message:

From: "Traylor, Patrick" <traylor.patrick@epa.gov>
Date: January 25, 2018 at 4:59:20 PM EST
To: "Brooks, Phillip" <Brooks.Phillip@epa.gov>
Subject: FW: Reducing Regulatory Burdens: EPA withdraws "once-in always-in" policy for major sources under Clean Air Act

This in across the transom. Implications for enforcement cases?

Patrick Traylor
Deputy Assistant Administrator
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
(202) 564-5238 (office)
(202)[redacted] (cell)

From: EPA Press Office [mailto:press=epa.gov@cmail20.com] **On Behalf Of** EPA Press Office
Sent: Thursday, January 25, 2018 4:55 PM
To: Traylor, Patrick <traylor.patrick@epa.gov>
Subject: Reducing Regulatory Burdens: EPA withdraws "once-in always-in" policy for major sources under Clean Air Act

Reducing Regulatory Burdens: EPA withdraws "once-in always-in" policy for major sources under Clean Air Act

WASHINGTON (January 25, 2018) - Today, the U.S. Environmental Protection Agency (EPA) issued a guidance memorandum withdrawing the "once-in always-in" policy for the classification of major sources of hazardous air pollutants under section 112 of the Clean Air Act. With the new guidance, sources of hazardous air pollutants previously classified as "major sources" may be reclassified as "area" sources when the facility limits its potential to emit below major source thresholds.

"This guidance is based on a plain language reading of the statute that is in line with EPA's guidance for other provisions of the Clean Air Act," **said Bill Wehrum, assistant administrator of EPA's Office of Air and Radiation.** "It will reduce regulatory burden for industries and the states, while continuing to ensure stringent and effective controls on hazardous air pollutants."

Today's memo is another step by which EPA is reducing unnecessary regulatory burdens that deterred innovative efforts to improve the environment. The "once in always in" policy has been a longstanding disincentive for sources to implement voluntary pollution abatement and prevention efforts, or to pursue technological innovations that would reduce hazardous air pollution emissions. States, state organizations and industries have frequently requested rescission of this policy, which was one of the most commonly cited requests in response to President Trump's Executive Order 13777. Today's EPA action is an important step in furtherance of the president's regulatory reform agenda while providing a meaningful incentive for investment in HAP reduction activities and technologies.

The Clean Air Act defines a "major source" as a one that emits, or has the potential to emit, 10 tons per year of any hazardous air pollutant, or 25 tons per year or more of any combination of hazardous air pollutants. Sources with emissions below this threshold are classified as "area sources." Different control standards apply to the source depending on whether or not it is classified as a "major source" or an "area source."

In a 1995 memo, EPA established a "once-in always-in" policy that determined that any facility subject to major source standards would always remain subject to those standards, even if production processes changed or controls were implemented that eliminated or permanently reduced that facility's potential to emit hazardous air pollutants.

Today's memo finds that EPA had no statutory authority under the Clean Air Act to place a time limit on when a facility may be determined to be an area source, and that a plain language reading of the Act must allow facilities to be reclassified as area sources once their potential to emit hazardous air pollutants falls below the levels that define major sources.

EPA anticipates that it will soon publish a Federal Register notice to take comment on adding regulatory text that will reflect EPA's plain language reading of the statute as discussed in this memorandum.

More information is available online at https://www.epa.gov/stationary-sources-air-pollution/national-emission-standards-hazardous-air-pollutants-neshap-9

Visit The EPA's Newsroom

<!--[if !vml]-->

<!--[endif]-->

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue Northwest
Washington, D.C. 20004

Unsubscribe