

SUPPLEMENTARY INFORMATION: Under Section 307(b)(1) of the CAA, judicial review of NESHAP is available only by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of publication of this rule. Under Section 307(b)(2) of the CAA, the requirements that are the subject of this action may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

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I. Regulatory Background and Purpose

Section 112 of the CAA requires the EPA to evaluate and control HAP emissions. The control of HAP is to be achieved through promulgation of emission standards under Sections 112(d) and (f), and of work practice standards under Section 112(h) where appropriate, for categories of sources that emit HAP. Pursuant to Section 112(c) of the CAA, the EPA published in the Federal Register the initial list of source categories that emit HAP on July 16, 1992 (57 FR. 31576). This list includes major and area sources of HAP for which the EPA intends to issue regulations between November 1992 and November 2000.

The CAA was created, in part, "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and productive capacity of its population" 42 U.S.C. § 7401(b). This final regulation will protect the public health by reducing emissions of HAP from surface coating operations at shipbuilding and ship repair facilities (shipyards).

Many shipyards are major sources of HAP emissions, emitting over 23 Mg/yr (25 tpy) of organic HAP, including toluene, xylene, ethylbenzene, methanol, methyl ethyl ketone, methyl isobutyl ketone, ethylene glycol and glycol ethers. All of these pollutants can cause reversible or irreversible toxic effects following exposure. The potential toxic effects include irritation of the eyes, nose, throat, and skin,

irritation and damage to the blood cells, heart, liver, and kidneys. These adverse health effects are associated with a wide range of ambient concentrations and exposure times and are influenced by source-specific characteristics such as emission rates and local meteorological conditions. Health impacts are also dependent on multiple factors that affect human variability, such as genetics, age, health status (e.g., the presence of pre-existing disease), and lifestyle.

The final standards will reduce VOHAP emissions from shipyard surface coating operations by 318.5 Mg/yr (350 tpy) from a baseline level of 1,362 Mg/yr (1,497 tpy). No significant economic impacts are associated with the final standards. No firms or facilities are at risk of closure as a result of the final standards, and there will not be a significant economic impact on a substantial number of small entities.

II. The Standards

The final rule is applicable to all existing and new shipbuilding and repair facilities that are major sources of HAP or are located at plant sites that are major sources. Major source facilities that are subject to this rule must not apply any marine coating with a VOHAP content in excess of the applicable limit and must implement the work practices required in the rule. Section 112(a) of the CAA defines major source as a source, or group of sources, located within a contiguous area and under common control that emits or has the potential to emit, considering controls, 9.1 Mg/yr (10 tpy) or more of any individual HAP or 22.7 Mg/yr (25 tpy) or more of any combination of HAP. Area sources are stationary sources that do not qualify as "major." The term "affected source" as used in this rule means the total of all HAP emission points at each shipbuilding and ship repair facility that is subject to the rule. "Potential to emit" is defined in the Section 112 General Provisions (40 CFR 63.2) as "the maximum capacity of a stationary source to emit a pollutant under its physical or operational design."

To determine the applicability of this rule to facilities that are within a contiguous area of other HAP-emitting emission sources that are not part of the source category covered by this rule, the owner or operator must determine whether the plant site as a whole is a major source. A formal HAP emissions inventory must be used to determine if total HAP emissions from all HAP emission sources at the plant site meets the definition of a major source. The actual emissions of HAP from most

shipyards are substantially less than the major source cutoff limits [i.e., 9.1 Mg/yr (10 tpy) of any single HAP, or 22.8 Mg/yr (25 tpy) of all HAP combined]. If the source becomes a synthetic minor source through accepting enforceable restrictions that ensure potential and actual HAP emissions will be below the major source cutoffs, the NESHAP does not apply. See promulgation BID Section 2.4 for additional details and the associated recordkeeping provisions (see ADDRESSES section of this preamble).

Existing major sources may switch to area source status by obtaining and complying with a federally enforceable limit on their potential to emit prior to the "compliance date" of the regulation. The "compliance date" for this regulation is defined as December 16, 1996. New major sources are required to comply with the NESHAP requirements upon start up or the promulgation date, whichever is later. Existing major sources may switch to area source status by obtaining and complying with a federally enforceable limit on their potential to emit that makes the facility an area source prior to the "compliance date" of the regulation. The compliance date for this regulation is December 16, 1996. A facility that has not obtained federally enforceable limits on its potential to emit by the compliance date, and that has not complied with the NESHAP requirements, will be in violation of the NESHAP. New major sources are required to comply with the NESHAP requirements upon start-up or the promulgation date, whichever is later. All sources that are major sources for HAP on the compliance date are required to comply permanently with the NESHAP to ensure that the maximum achievable reductions in toxic emissions are achieved and maintained. All major sources for HAP on the "compliance date" are required to comply permanently with the NESHAP to ensure that the maximum achievable reductions in toxic emissions are achieved and maintained.

The final standards impose limits on the VOHAP content of 23 types of coatings used at shipyards. Compliance with the VOHAP limits must be demonstrated on a monthly basis. The promulgated standards include four compliance options to allow owners or operators flexibility in demonstrating compliance with the VOHAP limits. The final standards also allow for an alternative means of compliance other than using compliant coatings, if approved by the Administrator. The Administrator shall approve the alternative means of limiting emissions if, in the Administrator's judgment,