EPA’s “Once In, Always In” May Be Officially on the Way Out

EPA has proposed a rule that would officially eliminate the air regulations rule of “Once In, Always In” for hazardous air pollutant (HAP) emissions. As a result, EPA is estimating reduced regulatory burden for thousands of locations, and thousands of others could now have a better incentive to reduce air emissions.

**Background: Air Emissions Regs**

Locations that emit one or more of the 187 named hazardous air pollutants above a certain threshold are classified as “major sources.” As a result, they become subject to a number of additional regulatory obligations. They are required to follow certain rules established by their related Maximum Achievable Control Technology (MACT) rules and are required to complete annual Title V Air Emissions permitting.

If locations have HAP air emissions below the stated threshold, they are classified as “area sources.” The regulatory requirements at this level are much less stringent.

**What’s Once In, Always In?**

EPA’s Once In, Always In policy stated that once a location reaches that major source classification, they were always going to be a major source, not matter what – even if the company took steps to reduce emissions below that threshold. It was developed in 1995 as a guidance memo and originally intended to only be in place until the agency could propose amendments, but it stayed in permanently.

As part of the 2017 Executive Orders for agencies to review and reduce regulations, EPA looked at Once In, Always In. They determined the Clean Air Act really did not specify or support time limits. As a result, EPA issued its own interpretation memo saying there was no basis for major sources to have that classification permanently. These sources should have the ability to reclassify as area sources if they implemented the controls and reductions necessary to become area sources.

This new proposed rule is the formal step to make this interpretation final.

**The Benefits**

This rule will benefit companies that have already implemented technologies to control HAP emissions, and companies whose processes or operations have changed to the degree that they no longer emit or have the capabilities to emit HAPs above the threshholds.

EPA estimates that out of 7,920 major sources, approximately half will now be eligible to reclassify as an area source. Besides the lessened compliance burden, EPA estimates costs savings of $168.9 million in the first year, and $163-$183 million each year after.

Those companies who are still major sources will also now have a concrete incentive to make changes to operations that would further reduce HAP emissions.

**Public Comment**

Find out more information about this rule [here](https://www.epa.gov/stationary-sources-air-pollution/reclassification-major-sources-area-sources-under-section-112-clean). EPA is also soliciting public comment at regulations.gov. They want to hear about all aspects of their proposal including their interpretation of Once In, Always In, requirements for establishing effective HAP limits, allowing limits issued by states/local/tribal agencies as effective as long as they are legally and practically enforceable, and ideas for safeguards to ensure emissions are not increased.