

## EPA APPROVED (STATE OR COUNTY) SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Explanation
Lockheed Martin Aeronautics Company.	.....	04/16/05	11/28/06 [Insert citation of publication].	Requirement that Lockheed Martin Aeronautics Company comply with EPA's Aerospace CTG at its Pinellas County facility.

\* \* \* \* \*

[FR Doc. E6-20073 Filed 11-27-06; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 61 and 63**

[EPA-R01-OAR-2006-0345; FRL-8238-1]

**Approval of the Clean Air Act, Section 112(I), Authority for Hazardous Air Pollutants: Asbestos Management and Control; State of New Hampshire Department of Environmental Services****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** The EPA is proposing to approve New Hampshire Department of Environmental Services' (NH DES) request to implement and enforce its regulation entitled "Asbestos Management and Control" in lieu of the Asbestos National Emission Standard for Hazardous Air Pollutants (Asbestos NESHAP) as it applies to certain asbestos-related activities. Upon approval, NH DES's rule will be federally enforceable and will apply to all sources that otherwise would be regulated by the Asbestos NESHAP with the exception of inactive waste disposal sites that ceased operation on or before July 9, 1981. These inactive disposal sites are already regulated by State rules that were approved by EPA on May 23, 2003. NH DES's request seeks to adjust the federal rules by demonstrating the equivalency of its rules to the federal requirements.

**DATES:** This direct final rule will be effective January 29, 2007, unless EPA receives adverse comments by December 28, 2006. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect. The incorporation by reference of certain publications in this rule is approved by the Director of the **Federal Register** as of January 29, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-

R01-OAR-2006-0345 by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *E-mail*: lancey.susan@epa.gov.
3. *Fax*: (617) 918-0656.
4. *Mail*: "EPA-R01-OAR-2006-0345", Daniel Brown, Manager, Air Permits, Toxics & Indoor Programs Unit, Office Of Ecosystem Protection, U.S. Environmental Protection Agency, One Congress Street, Suite 1100 (CAP), Boston, MA 02114-2023.
5. *Hand Delivery or Courier*: Deliver your comments to: Daniel Brown, Manager, Air Permits, Toxics & Indoor Programs Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, One Congress Street, Suite 1100 (CAP), Boston, MA 02114-2023. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding legal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R01-OAR-2006-0345. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov*, or e-mail, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any

disk or CD-ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding legal holidays.

In addition to the publicly available docket materials available for inspection electronically in the Federal Docket Management System at *www.regulations.gov*, and the hard copy available at the Regional Office, which are identified in the **ADDRESSES** section of this **Federal Register**, copies of the state submittal and EPA's technical support document are also available for public inspection during normal business hours, by appointment at the State Air Agency: Air Resources Division, Department of Environmental Services, 6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095.

**FOR FURTHER INFORMATION CONTACT:** Susan Lancey, Air Permits, Toxics & Indoor Programs Unit, Office Of Ecosystem Protection, U.S. Environmental Protection Agency, One Congress Street, Suite 1100 (CAP), Boston, MA 02114-2023, telephone number (617) 918-1656, e-mail lancey.susan@epa.gov.

**SUPPLEMENTARY INFORMATION:**

This **SUPPLEMENTARY INFORMATION** is organized as follows:

- I. Background and Purpose.
- II. What requirements must a state rule meet to adjust a Section 112 rule?
- III. When did the authority to implement and enforce Section 112 standards become effective in New Hampshire?
- IV. What are the differences between NH DES's regulations and the Asbestos NESHAP?
- V. What action is EPA taking?
- VI. Opportunities for Public Comments
- VII. Statutory and Executive Order Reviews

**I. Background and Purpose**

The Environmental Protection Agency (EPA) first promulgated standards to regulate asbestos emissions on April 6, 1973 (see 40 FR 8826). These standards have since been amended several times and re-codified as a National Emission Standard for Hazardous Air Pollutants (NESHAP) in 40 CFR part 61, subpart M, "National Emission Standard for Asbestos" (Asbestos NESHAP). The Asbestos NESHAP applies to several asbestos-emitting categories, and includes emission and/or work practice standards for: asbestos mills, including their waste disposal practices, and roadways; numerous manufacturing operations that use commercial asbestos, including their waste disposal practices; demolitions/renovations; spraying and fabricating operations; installation of insulating materials; and both active and inactive waste disposal sites.

On November 15, 2005 and January 10, 2006, respectively, EPA received an application, and a supplement to that application, from the NH DES. The application, which was determined to be complete on April 13, 2006, concerned a rule adjustment pursuant to the provisions of 40 CFR part 63, subpart E, section 63.92. Specifically, NH DES requested the rule adjustment in order to implement and enforce New Hampshire Rule Env-A 1800 entitled "Asbestos Management and Control" in place of the Federal asbestos regulations found at 40 CFR part 61, subpart M, except for inactive waste disposal sites not operating after July 9, 1981.

EPA is approving this request and incorporating it into 40 CFR parts 61 and 63. This action will have a beneficial effect on air quality by reducing asbestos emissions. This action is being taken under section 112 of the Clean Air Act.

**II. What requirements must a state rule meet to adjust a Section 112 rule?**

Under CAA section 112(l), EPA may approve state or local rules or programs to be implemented and enforced in

place of certain otherwise applicable Federal rules, emissions standards, or requirements, when the state or local rules are determined to be no less stringent than the corresponding Federal rules or requirements. The Federal regulations governing EPA's approval of state and local rules or programs under section 112(l) are located at 40 CFR part 63, subpart E (see 58 FR 62262, November 26, 1993 as amended at 65 FR 55810, September 14, 2000). Under these regulations, a state air pollution control agency has the option to request EPA's approval to adjust a state rule for the applicable section 112 Federal rule (NESHAP). To receive EPA approval using this option, the requirements of 40 CFR part 63, subpart E, sections 63.91 and 63.92 must be met. Upon approval, the state agency is given the authority to implement and enforce its rule in place of the NESHAP.

Section 112(l)(5) of the Act requires that a state's NESHAP program contain adequate authorities to assure compliance with each applicable federal requirement, adequate resources for implementation, and an expeditious compliance schedule. These are also requirements for an adequate operating permits program under 40 CFR part 70. On September 24, 2001, EPA promulgated full approval of the state's operating permits program as administered by NH DES (See 66 FR 48806). In addition, on May 16, 2001, EPA provided "up-front" approval of NH DES's request to implement and enforce alternative requirements in the form of title V permit terms and conditions for subpart S, "National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry" (Pulp and Paper MACT I), and subpart MM, "National Emission Standards for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semicheical Pulp Mills" (Pulp and Paper MACT II) (see 66 FR 27032). Under 40 CFR 63.91(d)(2), once a state has satisfied up-front approval criteria, it needs only to reference the previous demonstration and reaffirm that it still meets the criteria for any subsequent submittals. NH DES has affirmed that it still meets the up-front approval criteria.

Additionally, the "rule adjustment" option requires EPA to "make a detailed and thorough evaluation of the state's submittal to ensure that it meets the stringency and other requirements" of 40 CFR 63.92 (see 65 FR 55840). A rule will be approved if EPA finds: (1) The state or local rules are "no less stringent" than the corresponding Federal regulations, (2) the state or local

government has adequate authorities to implement and enforce the rules, and (3) the schedule for implementation and compliance is "no less stringent" than the deadlines established in the otherwise applicable Federal rule. See 40 CFR 63.92(b).

**III. When did the authority to Implement and Enforce Section 112 Standards become effective in New Hampshire?**

On October 2, 1996, EPA approved New Hampshire's program under section 112(l)(5) and 40 CFR 63.91 for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This delegation mechanism only applied to Part 70 sources (see 61 FR 51370). On May 9, 2002, the NH DES submitted a request to EPA to receive straight delegation of authority to implement and enforce NESHAPs and New Source Performance Standards (NSPSs) for both major and area sources under a new delegation mechanism. NH DES sought to take delegation of these standards by incorporating the standards into NH DES's regulations. On September 19, 2002, EPA approved this delegation mechanism (see 67 FR 59001). Among other standards, NH DES incorporated by reference the Asbestos NESHAP, with the exception of 40 CFR 61.151, the standard for inactive waste disposal sites for asbestos mills and manufacturing and fabricating operations.

NH DES did not request straight delegation of § 61.151 because it had submitted a partial rule substitution pursuant to 40 CFR 63.93 for a portion of that rule. On May 23, 2003, EPA approved NH DES's request for a rule substitution for inactive waste disposal sites not operating after July 9, 1981 (68 FR 31611). NH DES's request sought no change in delegation relative to inactive asbestos waste disposal sites not operating after July 9, 1981. Therefore, NH's request for a rule adjustment applies to Subpart M, except for those inactive waste disposal sites not operating after July 9, 1981.

**IV. What are the differences between NH DES's regulation and the Asbestos NESHAP?**

NH DES's asbestos rule Env-A 1800 *Asbestos Management and Control* has incorporated by reference most, but not all, of the federal national emission standards for hazardous air pollutants (40 CFR part 61, subpart M) for asbestos. What follows is a comparison of those sections of 40 CFR part 61, subpart M that NH DES has not adopted with the applicable sections of New Hampshire's

rule, demonstrating that New Hampshire's rule is in each case equivalent to, or more stringent than, the federal rule.

The rule in which NH DES incorporates by reference, with certain exceptions, 40 CFR part 61, subpart M reads as follows: "Env-A 1807.01 Federal Regulation. Under the authority of RSA 141-E:4,II(a)(3), the owner or operator of a facility subject to this chapter shall comply with the provisions of 40 CFR 61, subpart M, as in effect on July 1, 2004, except for: (a) The definition of "facility" in 40 CFR 61.141; and (b) The provisions of 40 CFR 61.145(c)(1)(i), 61.145(c)(1)(ii), 61.145(c)(1)(iv), 61.149(c)(2), 61.150(a)(4), 61.150(a)(5), 61.150(b)(3), 61.151 with respect to disposal sites not operated after July 9, 1981, 61.151(c), 61.152(b)(3), 61.154(c), 61.154(d), 61.155(a) and 61.157."

New Hampshire's definition of "facility" at Env-A 1802.01(n) includes single family dwellings, and is thus more stringent than the federal definition, which excludes residential buildings with four or fewer units.

Env-A 1807.01(b): The first three exceptions under Env-A 1807.01(b), namely 40 CFR 61.145(c)(1)(i), 61.145(c)(1)(ii), and 61.145(c)(1)(iv), are demolition work practices that may be considered together. Section 61.145 contains the standard for asbestos demolition and renovation, subsection (c) contains the procedures for asbestos emission control, and paragraph (1) provides for the removal of all regulated asbestos-containing material (RACM), except RACM need not be removed before demolition if:

(i) It is Category I nonfriable ACM that is not in poor condition and is not friable;

(ii) It is on a facility component that is encased in concrete or other similarly hard material and is adequately wet whenever exposed during demolition; or

(iii) They are Category II nonfriable ACM and the probability is low that the materials will become crumbled, pulverized, or reduced to powder (i.e., made friable) during demolition.

In Env-A 1802.01 NH DES adopts the federal definitions for RACM and Category I and II nonfriable ACM. However, unlike in the federal rule, in Env-A 1805.09, NH DES requires that even (i) Category I nonfriable ACM that is not in poor condition and is not friable, (ii) RACM on facility components that are encased in concrete or other similarly hard material and (iv) Category II nonfriable ACM must be removed prior to demolition. Therefore, New Hampshire's rule is more stringent

than the federal rule at 40 CFR 61.145(c)(1)(i), 61.145(c)(1)(ii), and 61.145(c)(1)(iv).

The next exception to the federal rule in New Hampshire's rule is 40 CFR 61.149(c)(2). This section, together with §§ 61.150(a)(4), 61.151(c), 61.152(b)(3), 61.154(d) and 61.155(a), is non-delegable to the states under the provisions of 40 CFR 61.157.

NH DES did not to adopt 40 CFR 61.150(a)(5), which provides an exception to the standard for waste disposal for manufacturing, fabricating, demolition, renovation, and spraying operations. Section 61.150(a) states that each owner or operator of an applicable source shall "discharge no visible emissions to the outside air during the collection, processing, packaging, or transporting of any asbestos-containing waste material \* \* \*" Subparagraph (5) states: "As applied to demolition and renovation, the requirements of paragraph (a) of this section do not apply to Category I nonfriable ACM waste and Category II nonfriable ACM waste that did not become crumbled, pulverized, or reduced to powder." NH DES will regulate both Category I and Category II nonfriable ACM in demolitions, and therefore did not to adopt the provisions of 40 CFR 61.150(a).

For the same reason, NH DES did not adopt 40 CFR 61.150(b)(3). Paragraph 61.150(b) states that "All asbestos-containing waste material shall be deposited as soon as is practical by the waste generator" at an approved site. Subparagraph 61.150(b)(3) excludes "Category I nonfriable ACM that is not RACM." Again, NH DES has chosen to regulate this material.

NH DES did not adopt 40 CFR 61.151 with respect to disposal sites not operated after July 9, 1981. This is a special case covered by New Hampshire's waste management regulation Env-Wm 3900, for which equivalency has already been determined by EPA.

Finally, NH DES did not adopt 40 CFR 61.154(c). This section contains the standard for active waste disposal sites. Paragraph (c) provides an alternative to the "no visible emissions" standard of 40 CFR 61.154(a), but New Hampshire's rule is more stringent than the federal rule, in that it does not allow this alternative approach.

In conclusion, in each case where New Hampshire's asbestos rule Env-A 1800 differs from the federal asbestos NESHAP 40 CFR part 61, subpart M, New Hampshire's rule is more stringent or at least equivalent to the federal rule. Also, NH DES incorporated the 40 CFR part 61, subpart A General Provisions

into New Hampshire's rule Env-500. Consequently, with this approval, the general provisions of subpart A will apply to any source subject to New Hampshire's asbestos rule Env-A 1800.

## V. What action is EPA taking?

After reviewing NH DES's rule adjustment request and equivalency demonstration for the Asbestos NESHAP as it applies to certain asbestos-emitting operations, EPA has determined this request meets all the requirements necessary for approval under CAA Section 112(l) and 40 CFR 63.91 and 63.92. Accordingly, the NH DES is granted the authority to implement and enforce Env-A 1800 entitled "Asbestos Management and Control" in place of the Federally-approved Asbestos NESHAP except for inactive waste disposal sites that ceased operation on or before July 9, 1981. Although this approval grants NH DES primary implementation and enforcement responsibility, EPA retains the right, pursuant to CAA section 112(l)(7), to enforce any applicable emission standard or requirement under CAA section 112. As of the effective date of this action, NH DES's Env-A 1800 is the Federally-enforceable standard for asbestos sources under the NH DES's jurisdiction. This rule will be enforceable by the EPA Administrator and the citizens under the CAA.

## VI. Opportunities for Public Comment

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve this delegation request should relevant adverse comments be filed. This rule will be effective January 29, 2007 without further notice unless the Agency receives relevant adverse comments by December 28, 2006.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on January 29, 2007 and no further action will be taken on the proposed

rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## VII. Statutory and Executive Order Reviews

### A. Executive Orders 12866 and 13045

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review." This rule is not subject to Executive Order 13045, entitled, "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under Executive Order 12866.

### B. Executive Order 13211

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

### C. Executive Order 13175

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This final rule does not have tribal implications. This action allows the State of New Hampshire to implement equivalent state requirements *in lieu of* pre-existing Federal requirements as applied only to certain asbestos-emitting activities. This action will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

### D. Executive Order 13132

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action simply allows New Hampshire to implement equivalent alternative requirements to replace a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, Executive Order 13132 does not apply to this rule.

### E. 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 not-for-profit enterprises, and small governmental entities with jurisdiction over populations of less than 50,000. This final rule will not have a significant impact on a substantial number of small entities because approvals under 40 CFR 63.92 do not create any new requirements. Such approvals simply allow the state to implement and enforce equivalent requirements in place of the Federal requirements that EPA is already imposing. Therefore, because this approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

### F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate, or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector.

This Federal action allows New Hampshire to implement equivalent alternative requirements *in lieu of* pre-existing requirements under Federal law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

### G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

### H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be

inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, the NTTAA does not apply to this rule.

#### *I. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 29, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

#### **List of Subjects**

##### *40 CFR Part 61*

Environmental protection, Air pollution control, Administrative practice and procedure, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

##### *40 CFR Part 63*

Environmental protection, Air pollution control, Administrative practice and procedure, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 17, 2006.

**Robert W. Varney,**

*Regional Administrator, EPA New England.*

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### **PART 61—[AMENDED]**

■ 1. The authority citation for part 61 continues to read as follows:

*Authority:* 42 U.S.C. 7401 *et seq.*

#### **Subpart A—General Provisions**

■ 2. Section 61.04 is amended by redesignating paragraph (c)(1) as paragraph (c)(1)(i), and adding paragraph (c)(1)(ii) to read as follows:

#### **§ 61.04 Address.**

\* \* \* \* \*

(c) \* \* \*  
(1)(i) \* \* \*

(ii) The remainder of the sources subject to the part 61 subpart M Asbestos provisions, except for those listed under paragraph (c)(1)(i) of this section, must comply with the New Hampshire Regulations Applicable to Hazardous Air Pollutants, September 2006. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from the Air and Radiation Docket and Information Center, U.S. EPA, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC. You may examine this material at the above EPA office or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

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#### **PART 63—[AMENDED]**

■ 3. The authority citation for part 63 continues to read as follows:

*Authority:* 42 U.S.C. 7401 *et seq.*

#### **Subpart A—General Provisions**

■ 4. Section 63.14 is amended by redesignating paragraph (d)(5) as paragraph (d)(5)(i), and adding paragraph (d)(5)(ii) to read as follows:

#### **§ 63.14 Incorporation by reference.**

\* \* \* \* \*

(d) \* \* \*  
(5)(i) \* \* \*

(ii) New Hampshire Regulations Applicable to Hazardous Air Pollutants, September 2006. Incorporation by Reference approved for § 63.99(a)(29)(iv) of subpart E of this part.

\* \* \* \* \*

#### **Subpart E—Approval of State Programs and Delegation of Federal Authorities**

■ 5. Section 63.99 is amended by adding paragraph (a)(29)(iv) to read as follows:

#### **§ 63.99 Delegated Federal authorities.**

(a) \* \* \*  
(29) \* \* \*

(iv) Affected asbestos facilities (i.e., facilities found under 40 CFR part 61, subpart M, except those listed under paragraph (a)(29)(iii) of this section),

must comply with the New Hampshire Regulations Applicable to Hazardous Air Pollutants, September 2006, (incorporated by reference as specified in § 63.14) as follows:

(A) The material incorporated in the New Hampshire Regulations Applicable to Hazardous Air Pollutants, September 2006, (incorporated by reference as specified in § 63.14) pertains to those affected asbestos facilities in the State of New Hampshire's jurisdiction, and has been approved under the procedures in 40 CFR 63.92 to be implemented and enforced in place of the federal NESHAPs found at 40 CFR part 61, subpart M (except for those listed under paragraph (a)(29)(iii) of this section).

(B) [Reserved]

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[FR Doc. E6-20157 Filed 11-27-06; 8:45 am]

BILLING CODE 6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 707**

[EPA-HQ-OPPT-2005-0058; FRL-8104-9]

RIN 2070-AJ01

### **Export Notification; Change to Reporting Requirements; Technical Correction**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; technical correction.

**SUMMARY:** EPA issued a final rule in the **Federal Register** of November 14, 2006, concerning amendments to the Toxic Substances Control Act (TSCA) section 12(b) export notification regulations at subpart D of 40 CFR part 707. This document is being issued to correct a typographical error.

**DATES:** This technical correction is effective January 16, 2007. In accordance with 40 CFR 23.5, this rule shall be promulgated for purposes of judicial review at 1 p.m. eastern daylight/standard time on December 12, 2006.

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPPT-2005-0058. All documents in the docket are listed on the [regulations.gov](http://www.regulations.gov) website at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly