

changes to be noncontroversial because the only effect is to correctly cite the appropriate OSHA labeling requirements referenced in the asbestos NESHAP for labeling containers of asbestos waste. The revisions adopted by the direct final rule retain the labeling requirements in 40 CFR 61.150. In the Proposed Rules section of this **Federal Register**, we are publishing a separate document that will serve as the proposal in the event that timely and significant adverse comments are received.

If we receive any relevant adverse comments on the amendments, we will publish a timely withdrawal in the **Federal Register** informing the public which provisions will become effective and which provisions are being withdrawn due to adverse comment. We will address all public comments in a subsequent final rule based on the proposed rule. Any of the distinct amendments in the direct final rule for which we do not receive adverse comment will become effective on the date set out above. We will not institute a second comment period on the direct final rule. Any parties interested in commenting must do so at this time.

Worldwide Web (www). In addition to being available in the docket, an electronic copy of this action will also be available through the WWW. Following signature, a copy of this action will be posted on EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules: <http://www.epa.gov/ttn/oarpg>. The TTN at EPA's web site provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541-5384.

Judicial Review. Under section 307(b)(1) of the CAA, judicial review of the direct final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by November 17, 2003. Under section 307(d)(7)(B) of the CAA, only an objection to the direct final rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by the direct final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements.

Outline. The following outline is provided to aid in reading this preamble to the direct final rule.

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I. Background

On November 20, 1990, the **Federal Register** published EPA's revision of the National Emission Standards for Hazardous Air Pollutants for Asbestos (asbestos NESHAP), 40 CFR part 61, subpart M (55 FR 48406). That final rule contained regulatory provisions for the labeling of asbestos waste that cited to regulations then in place from OSHA for proper labeling of asbestos waste. Subsequent to the publication of that rule, OSHA has renumbered the provisions cited in the asbestos NESHAP. The direct final rule amendments identify the current OSHA regulatory citations for properly labeling asbestos waste that is managed under the asbestos NESHAP.

II. Technical Amendment to the Asbestos NESHAP

The current OSHA citations identified in 40 CFR 61.150 (a)(1)(iv) and Table 1 found at 40 CFR 61.156 do not correctly identify the appropriate OSHA regulations. The direct final rule amendments will correct the paragraph and table to conform with the applicable and appropriate OSHA regulations.

A. How Are We Changing the Labeling Citations?

When EPA last revised the asbestos NESHAP, EPA's regulations regarding labeling (40 CFR 61.150(a)(1)(iv) and Table 1 found at 40 CFR 61.156) cited to regulations then in place from the Occupational Safety and Health Administration (OSHA) for proper labeling of asbestos waste. Those citations were 29 CFR 1910.1001(j)(2) and 1926.58(k)(2)(iii). Since that time, OSHA has renumbered the regulations cited in the NESHAP for labeling asbestos waste (see 59 FR 40964, August

10, 1994; and 60 FR 33973, June 29, 1995). The asbestos NESHAP regulation at 40 CFR 61.150(a)(1)(iv) will now cite 29 CFR 1910.1001(j)(4) and 1926.1101(k)(8). In Table 1-Cross Reference to Other Asbestos Regulations, the left hand column under OSHA, the citation 28 CFR 1926.58 will be deleted and replaced with 29 CFR 1101.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 5173, October 4, 1993), the EPA must determine whether the regulatory action is "significant" and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in standards that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that the amendments do not constitute a "significant regulatory action" because they do not meet any of the above criteria. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. Paperwork Reduction Act

The information collection requirements in the final rule were submitted to and approved by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and assigned OMB control No. 2060-0101. An Information Collection Request (ICR) document was prepared by EPA (ICR No. 0111.10) and a copy may be obtained from Susan Auby by mail at U.S. EPA, Office of Environmental Information, Collection Strategies Division (2822T), 1200 Pennsylvania Avenue, NW, Washington DC 20460, by e-mail at