

Testimony of

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Docket No. EPA-HQ-OAR-2019-0282

**Proposed Rule: Reclassification of Major Sources as Area Sources
under Section 112 of the Clean Air Act**

Thank you for the opportunity to provide comments on this proposed rule. I am Janice Nolen, National Assistant Vice President for Policy at the American Lung Association. This year, the Lung Association marks our 115th anniversary of commitment to saving lives by improving lung health and preventing lung disease, through research, education and advocacy.

The American Lung Association strongly opposes the proposed rule. The altered reading presented in the proposal violates the clear language of the Section 112 of the Clean Air Act. These changes would allow thousands of tons more emissions of some of the most dangerous air pollutants, threatening the health and lives of millions of Americans. This is unacceptable.

For nearly 25 years, EPA has required steps to limit emissions of 187 toxic air pollutants as required by the Clean Air Act. Those toxic pollutants include: carcinogens like asbestos, benzene and formaldehyde; acid gases like hydrochloric acid; and neurotoxins like toluene and PCBs (polychlorinated biphenyls). They include many that harm respiratory health directly, including emissions of nitrogen oxides and sulfur dioxides. And, as EPA acknowledges, these emissions directly and indirectly increase particulate matter and ozone.

The historic interpretation of Section 112 has worked to reduce pollution for decades. Since 1995 EPA has required manufacturers, foundries, smelters, oil plants and industrial boilers to install technology that the cleanest, similar facilities have used to limit emissions—and then to keep using it to reduce these toxic emissions.

These programs have reduced millions of tons of pollution from the air our children breathe. In 2014, EPA provided its [Second Integrated Urban Air Toxics Report to the Congress](#) on the progress made to reducing millions of tons of these toxic pollutants over the prior two decades. The report found that from **1990 to 2012, these HAP reductions had cut an estimated 1.5 million tons per year of hazardous air pollutants from stationary sources** and roughly 3 million tons of criteria pollutants as a co-benefit of HAP reductions.¹

These facilities are big polluters. There are nearly 8,000 such facilities across the nation, according to EPA's tally.

EPA’s proposal clearly violates Clean Air Act language. EPA has historically enforced this requirement based on the correct interpretation of Section 112 of the Act. The language explicitly spells out that major source controls apply to any facility “*that emits or has the potential to emit . . . 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants.* (Emphasis added).” These sources should remain categorized and regulated as major sources because they can or could spew tons of these dangerous emissions into the lungs of people who live and work downwind.

In the Regulatory Impact Assessment, EPA at least recognizes that permitting these emissions to increase substantially will have harmful effects on human health—they just conclude that they cannot calculate just how bad this will be. They acknowledge that opening the smokestacks means they will probably spew more unfiltered toxic emissions, but EPA can’t estimate how those added tons will affect human health. That means that this proposal only calculates how much polluters will benefit from not having to follow the law. The likely extremely high costs to public health from hospital visits, medical treatment, days missed at work and school and the substantial economic impact of lives lost—none of those estimates are considered.

Fortunately, others have stepped up to provide some estimates of the added pollution burden. The Environment Integrity Project estimated that one major source of lead emissions would have been limited to emitting 2,000 pounds a year. Under the new interpretation, the plant could spew 18,000 pounds of lead into the air each year.

In another example, a chemical plant could go from emitting its current 490 pounds of methanol each year to emitting 19,510 pounds annually—nearly 40 times as much—under this new policy.²

Bottom line: If EPA adopts this approach, millions of Americans will face greater risk from these deadly pollutants. The people who live near them deserve the protection that the Clean Air Act intended, whether they are in “Cancer Alley” in Louisiana³, or in Chicago where 32,000 people, more than half of them low income, live within one mile of a single “major source” plant.⁴

We at the American Lung Association will submit more comments on this proposal in writing later. However, we want to emphasize here: Changing this quarter-century approach to protecting public health completely fails to follow the clear meaning of the Clean Air Act and must not happen. We oppose this proposed rule.

Thank you.

¹ U.S. Environmental Protection Agency. National Air Toxics Program: [The Second Integrated Urban Air Toxics Report to Congress](#). EPA-456/R-14-001. August 21, 2014.

² Environmental Integrity Project (EIP). [Toxic Shell Game: EPA Reversal Opens Door to More Hazardous Air Pollution](#). March 26, 2018.

³ Lartely J and Laughland O. : “Cancer Town: ‘Almost every household has someone that has died from cancer’ A small town, a chemical plant and the residents’ desperate fight for clear air.” The Guardian. May 6, 2019.

<https://www.theguardian.com/us-news/ng-interactive/2019/may/06/cancertown-louisiana-reserve-special-report>

⁴ EIP, pg 14.