

[Signed November 21, 1996]

MEMORANDUM

SUBJECT: Guidance Concerning Notifications Required by
December 16, 1996 Under Gasoline Distribution NESHAP
(40 C.F.R. Part 63, Subpart R)

FROM: Bruce Jordan, Director
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TO: Director, Office of Ecosystem
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Director, Air & Waste Management
Division, Region II
Director, Air, Radiation and Toxics
Division, Region III
Acting Director, Air, Pesticides and Toxics
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Region VIII
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The Gasoline Distribution national emission standard for hazardous air pollutants (NESHAP), 40 C.F.R. §§ 63.420 - .429, affects bulk gasoline terminals and pipeline breakout stations that are major sources. Under this rule, the owner or operator of an existing affected source must provide an initial notification of affected source status to the Administrator by December 16, 1996 (40 C.F.R. § 63.428(a)). The section addressing notifications further provides that if an affected source is a major source as of December 16, 1996 but its owner or operator plans for it to be an area source by the first substantive compliance date of the rule, December 15, 1997, then the owner or operator must include in its notification a non-binding description of this plan. The purpose of this memorandum is to clarify the requirements for

the notification concerning major sources that plan to be area sources in light of a recently signed settlement of litigation challenging the NESHAP and questions concerning the recordkeeping requirements for area sources. Please share this information memorandum with all affected parties.

1. Use of New Emission Screening Equations Described in Proposed Settlement Agreement is Allowed

One important rule-specific method for establishing that a source is an area source is through the use of equations (emission screening equations) that estimate the emissions from a bulk gasoline terminal or a pipeline breakout station based on the configuration of the source's equipment and controls as well as its gasoline throughput (40 C.F.R. §63.420(a)(1) & (b)(1)). An owner or operator could obtain a federally enforceable throughput limit for a source by using these equations and maintaining records of the source's calculated emissions. The rule currently prohibits the use of these equations at a facility that has hazardous air pollutant emissions from outside the source category, such as emissions from diesel or distillate fuel tanks, additive storage, and remediation activities, or if the facility has emissions from a few small sources within the source category that were not calculated in the original equation.

Raising issues concerning the emission screening equations, the American Petroleum Institute (API) sought judicial review and administrative reconsideration of the NESHAP. On October 29, 1996, the API and the EPA signed a settlement agreement in which the EPA agreed to initiate a rulemaking to modify the emission screening equations that would reflect additional sources of emissions not already reflected in these equations and would allow facilities with emissions outside the source category to use these modified equations. A copy of the settlement agreement and the Federal Register notice proposing the settlement are attached and are available on the TTN; the relevant revisions to the emission screening equations are described in paragraph 2 of the settlement agreement. The anticipated changes to the equations are presented in Attachment 3. The settlement agreement is undergoing the public comment required by the Clean Air Act § 113(g). The comment period lasts 30 days and ends on December 16, 1996, after which time the Administrator or the Attorney General may withhold final approval of the settlement. The Agency does not know of information or anticipate receiving new information that is likely to cause it to withhold its approval.

Under the terms of the settlement, the EPA has agreed to take final action on the revisions to the emission screening equations prior to August 29, 1997. Many sources that are not able to use the emission screening equations under the current rule will become able to use the modified emission screening

equations in the event that the rule is amended. In light of the anticipated modifications, it is reasonable for an owner to use the revised emission screening equations contained in the settlement as the basis for a major source's plan to become an area source by December 15, 1997. The owner or operator must include the information required for the use of the equations as part of its notification. Under the terms of the rule, this notification is nonbinding. In the event that the equations are amended as discussed in the settlement agreement, there would be no need for an additional notification by the owner or operator.

2. Recordkeeping Under 40 C.F.R. § 63.420(a)(2) & (b)(2)

The owner or operator of a stationary source is allowed to use other methods to establish that a facility is not a major source, provided that he or she "has documented and recorded to the Administrator's satisfaction that the facility is not a major source, or is not [collocated with] a major source" (40 C.F.R. § 63.420(a)(2) & (b)(2)). There is some confusion as to whether these documents must be submitted to the Administrator for approval prior to December 16, 1996 in all cases or whether it is appropriate to maintain these records at the facility. This memorandum clarifies that there is no requirement to submit these documents for approval prior to December 16, 1996 and that these documents may be maintained at the facility.

If you have any questions concerning this matter please contact Stephen Shedd at (919) 541-5397. Questions and comments concerning the attached settlement should be directed to Jon Averback at (202) 260-7718. Compliance questions and concerns should be directed to your regional office's staff or the delegated authority, or Julie Tankersley at (202) 564-7002.

3 Attachments

[Note: Attachments 1 & 2 were previously presented on the TTN and therefore not duplicated here.]

**Anticipated Changes to the Gasoline Distribution MACT
Emission Screening Equations
(40 CFR Part 63, Subpart R)**

PART 63--NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR
POLLUTANTS FOR SOURCE CATEGORIES

1. Revise Section **§63.420 Applicability**. by adding "0.04(OE)" to the equation and adding a definition of "OE" in paragraph (a)(1) as follows:

$$E_T = CF [0.59(T_F)(1-CE) + 0.17(T_E) + 0.08(T_{ES}) + 0.038(T_I) + 8.5 \times 10^{-6}(C) + KQ] + 0.04(OE)$$

OE = other HAP emissions screening factor for bulk gasoline terminals or pipeline breakout stations. OE equals the total HAP from other emission sources not specified in the other parameters in the equations for E_T or E_P . If the value of OE divided by 25 is greater than 5 percent of either E_T or E_P , then paragraphs (a)(1) or (b)(1) of this section shall not be used to determine applicability;

2. Revise Section **§63.420 Applicability**. by adding "0.04(OE)" to the equation in paragraph (b)(1) as follows:

$$E_P = CF [6.7(T_F)(1-CE) + 0.21(T_E) + 0.093(T_{ES}) + 0.1(T_I) + 5.31 \times 10^{-6}(C)] + 0.04(OE);$$

¹These are the anticipated changes to the Subpart R to fulfill the proposed settlement agreement signed by the EPA and API on October 29, 1996.