

From: <S001627@swais.access.gpo.gov>
To: Multiple recipients of list
<epa-air@webster.rtpnc...>
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Subject: National Emission Standards for Hazardous Air
Pollutants for

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ENVIRONMENTAL PROTECTION AGENCY
40 CFR Part 63

[FRL-5343-5]

National Emission Standards for Hazardous Air Pollutants for
Source Categories: Gasoline Distribution (Stage 1)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of partial stay and reconsideration.

SUMMARY: Today's action provided in this document announces a
partial 3-month stay of the December 14, 1995 compliance date
for certain provisions of the December 14, 1994 ``National
Emission Standards for Hazardous Air Pollutants for Source
Categories: Gasoline Distribution (Stage 1)'. The December
14, 1995 compliance date for leak detection and repair
provisions and initial notifications is stayed for existing
facilities until March 7, 1996. The EPA is issuing this stay
pursuant to Clean Air Act section 307(d)(7)(B), 42 U.S.C.
7607(d)(7)(B), which provides the Administrator authority to
stay the effectiveness of a rule during reconsideration.

EFFECTIVE DATE: December 8, 1995.

FOR FURTHER INFORMATION CONTACT:

Mr. Stephen Shedd at (919) 541-5397, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

I. Background

On December 14, 1994 (59 FR 64303), the Environmental Protection Agency (EPA) promulgated in the Federal Register a rule, ``National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution (Stage 1)'' (the ``Gasoline Distribution NESHAP''). The Gasoline Distribution NESHAP regulates all hazardous air pollutants emitted from new and existing bulk gasoline terminals and pipeline breakout stations that are major sources of HAP emissions or are located at sites that are major sources of HAP emissions. Among the promulgated requirements for existing sources under this rule are the requirements that existing sources institute an equipment leak program and provide an initial notification of regulatory status and use of a screening equation before December 15, 1995 (40 CFR 63.424(e) and 40 CFR 63.428(a), (i)(1), and (j)(1)).

Whether a bulk gasoline terminal or pipeline breakout station is a major source or at a site that is a major source is determined by a site's ``potential to emit considering controls.'' CAA 112(a), 42 U.S.C. 7412(a). In the Gasoline Distribution NESHAP, the EPA promulgated two mechanisms for determining major source status that are specific to this rule: first, the NESHAP included equations for determining potential emissions from terminals and breakout stations based on the HAP content of gasoline, gasoline throughput, and emission rates from equipment used to handle gasoline; and second, the NESHAP allowed for case-by-case review or ``emissions inventory'' of a site's emissions. 40 CFR Sec. 63.420. The equations could be used only by bulk terminals and pipeline breakout stations that were at sites that had no other sources of HAPs. Other facilities would be able to establish potential to emit either by an emissions inventory or by using other means (outside the rule) that are generally available to sources under Subpart A of part 63, the General Provisions, and related guidance.

The American Petroleum Institute (API) submitted to the

EPA a petition for reconsideration (API Petition) of provisions of the Gasoline Distribution NESHAP affecting how bulk gasoline terminals and pipeline breakout stations may establish ``area source'' status (i.e., non-major source status), including the timing and method of obtaining potential to emit limits. Several developments since the promulgation of the Gasoline Distribution NESHAP have led the EPA to stay this compliance date to respond to the petition for reconsideration. In particular, as discussed in the Federal Register notice (60 FR 56133, November 7, 1995) proposing amendments of the compliance dates for the initial notification and the equipment leak detection provisions of the NESHAP, new information indicates that many sources that were assumed to be area sources may be unable to use the mechanisms for establishing area source status under the rule. The EPA is currently reconsidering certain provisions in the Gasoline Distribution NESHAP by collecting and considering comments on the November 7, 1995 proposal. The EPA plans to take final action on the proposed rule prior to the end of the stay announced in today's notice. The information being considered during this reconsideration of the Gasoline Distribution NESHAP is contained in Docket No. A-92-38 (See 40 FR 56133).

When the EPA promulgated the Gasoline Distribution NESHAP, the EPA anticipated that about 75 percent of all gasoline bulk terminals and pipeline breakout stations would be able to establish area source status before the first compliance date of this rule. Therefore, today's stay will apply to all existing sources.

II. Issuance of Stay

The EPA hereby issues a 3-month (from today's date) administrative stay of the December 14, 1995 compliance date (40 CFR 63.424(e) and 40 CFR 63.428(a), (i)(1), and (j)(1)) in the Gasoline Distribution NESHAP. The December 14, 1995 compliance date is stayed to until March 7, 1996. The EPA is reconsidering the compliance date in the rule and, following notice and comment procedures under section 307(d) of the Clean Air Act, will take appropriate action.

III. Authority for Stay and Reconsideration

The administrative stay and reconsideration of the Gasoline Distribution NESHAP and its associated compliance periods announced in this notice are being undertaken pursuant to section 307(d)(7)(B) of the Clean Air Act, 42 U.S.C. 7607(d)(7)(B). That provision authorizes the

Administrator to stay the effectiveness of a rule for 3-months to consider a request for reconsideration. Reconsideration is appropriate if the grounds for an objection arose after the period for public comment and if the objection is of central relevance to the outcome of the rule. The grounds for reconsideration of this rule arose after the public comment period. The timing of when potential to emit limits have to be in place, the types of acceptable methods for limiting potential to emit, and the scope of the emissions equations only became apparent subsequent to the comment period on the rule. Therefore, EPA is staying the effectiveness of the rule for 3 months in order to allow time to reconsider this issue.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact of a substantial number of small business entities.

Dated: November 27, 1995.
Carol M. Browner,
Administrator.

Title 40 of the Code of Federal Regulations, chapter I, part 63, subpart R, is amended as follows:

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

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

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

2. Section 63.420 is amended by adding paragraph (j) to read as follows:

Sec. 63.420 Applicability.

* * * * *

(j) Rules Stayed for Reconsideration. Notwithstanding any other provision of this subpart, the December 14, 1995 compliance date for existing facilities in Sec. 63.424(e) and Sec. 63.428(a), (i)(1), and (j)(1) of this subpart is stayed from December 8, 1995, to March 7, 1996.

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