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# NESHAP/Clean Air Act: U.S. Environmental Protection Agency Final Rule Addressing Bulk Gasoline Terminals

03/19/2024

The United States Environmental Protection Agency ("EPA") has issued a prepublication final rule addressing Clean Air Act National Emissions Standard for Hazardous Air Pollutants ("NESHAP") for gasoline distribution facilities and the standards of performance for bulk gasoline terminals.

The final rule constitutes the residual risk and technology review ("RRTR") for gasoline distribution facilities and the standards of performance for the bulk gasoline terminals NESHAP source category.

Section 112 of the Clean Air Act establishes a two-stage regulatory process to address emissions of hazardous air pollutants ("HAPs") from stationary sources.

The first stage is the requirement to identify categories of sources emitting one or more of the HAPs listed in Section 112 of the Clean Air Act. A technology-based NESHAP (i.e., a MACT) standard is then issued for those sources.

Source categories addressed in this prepublication final rule include:

...gasoline distribution regulated under 40 CFR part 62, subparts RBBBBBB in petroleum transportation and marketing as regulated under 40 CFR part 60 subpart XX.

Within eight years of setting the MACT standard, the second stage is required to be undertaken. Two different analyses must be conducted. They include: 1) Technology review and 2) residual risk review.

The technology review requires that the EPA review the technology-based MACT standard and revise them as necessary (taking into account developments and practices, processes, and control technologies) but no less frequently than every eight years, pursuant to Section 112 (d)(6) of the Clean Air Act.

As to the residual risk review, EPA is required to evaluate the risk to public health after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, and adverse environmental effect.

Sources affected by the major source NESHAP for the gasoline distribution source category include:

- Bulk gasoline terminals
- Pipeline breakout stations

The sources affected by the area source NESHAP for the gasoline distribution source category include:

- Bulk gasoline terminals
- Bulk gasoline plants
- Pipeline facilities

The Energy Marketers of America (“EMA”) is a national trade association whose members operate many of the referenced facilities. The Arkansas Oil Marketers Association is a state chapter of this organization.

The EMA submitted comments to EPA arguing it had significantly underestimated the economic impact of the proposed rule on small business energy marketers. It expressed concern that the rule as proposed would unfairly subject small business energy marketers to the same regulatory requirements as much larger gasoline distribution facilities.

The EMA in its March 15th newsletter notes that the final NESHAP rule that the EPA adopted fortunately now has what it describes as “trigger language” that exempts most energy marketers from certain requirements. This is stated to be due to the final rule’s exemption of bulk plants with an annual average daily gasoline throughput that does not exceed 4,000 gallons per day. If not, they will not be subject to vapor-balancing equipment retrofit requirements.

The original proposed rule is noted to have required all bulk plants with the design capacity of 4,000 gallons or more per day of gasoline throughput to add vapor-balancing equipment to loading racks. EMA notes:

...the 4,000-gallon maximum design capacity language represents a theoretical gasoline throughput based on bulk plant design characteristics rather than actual daily gasoline throughput which is typically a much smaller volume.

EPA is also stated to have concurred with the Energy Marketers Association that the 4,000-gallon daily throughput be averaged on an annual basis rather than a daily basis.

The final rule changed cargo tank vapor tightness test standards from a graduated tightness requirement from 1.0 to 2.5 inches of water pressure drop over 5 minutes depending on compartment size to a slightly more stringent 0.50 to 1.25 inches of water pressure to drop over the same period. Also referenced by EMA is the requirement of annual leak detection inspection using optical gas imaging. However, the organization notes that monthly inspections using sight, sound, and smell remain “largely unchanged”.

By way of summary, the final rule includes:

- Volatile organic compound emission limits in a new subpart (X)(X)(a), for the bulk gasoline terminal new source performance standard, at affected facilities that commenced construction, reconstruction, or modification after June 10, 2022.
- Lower loading rack emission limits
- Strengthen cargo tank vapor-tightness requirements.
- Additional storage tank controls for major and area source NESHAP.
- Instrument monitoring to detect equipment leaks.
- Monitoring and operating requirements for control devices, including associated record keeping and reporting requirements.
- Electronic submission of compliance reports.
- Removal of startup, shutdown, and malfunctions exemptions and requiring that the standards always apply.

A link to the prepublication final rule can be found [here](#).

