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NESHAP/Clean Air Act: U.S. Environmental Protection Agency Proposes Technology Review and Standards of Performance for Bulk Gasoline Terminals

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The United States Environmental Protection Agency (“EPA”) issued last week a prepublication proposed rule addressing Clean Air Act National Emission Standards for Hazardous Air Pollutants (“NESHAP”) for Gasoline Distribution facilities and the Standards of Performance for Bulk Gasoline Terminals.

The proposal constitutes the Residual Risk and Technology Review (“RRTR”) for the 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 required 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.

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
2. Residual Risk Review

The technology review requires that EPA review the technology-based MACT standards 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 remaining 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.

EPA notes in this prepublication proposal that the source categories addressed include:

. . . Gasoline Distribution regulated under 40 CFR Part 63, subparts R and BBBB and Petroleum Transportation and Marketing regulated under 40 CFR Part 60, subpart XX.

EPA had previously set MACT standards for the Gasoline Distribution major source category in 1994 and conducted the RRTR review in 2006.

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

EPA is proposing certain changes to the NESHAPs which include:

- NESHAP subpart R
- Require a graduated vapor tightness certification of 0.5 to 1.25 inches of water pressure drop over a 5-minute period (depending on the cargo tank compartment size for gasoline cargo tanks)
- Require fitting controls for external floating roof tanks consistent with the requirement in Clean Air Act New Source Performance Standards Subpart Kb
- Require semiannual instrument monitoring for major source gasoline distribution facilities
- NESHAP Subpart BBBB
- Lower the area source emission limits for loading racks at large bulk gasoline terminals to 35 milligrams of total organic carbon per liter of gasoline loaded (mg/L)
- Require vapor balancing for loading storage vessels and gasoline cargo tanks at bulk gasoline plants with maximum designed capacity throughput of 4,000 gallons per day or more
- Require a graduated vapor tightness certification from 0.5 to 1.25 inches of water pressure drop over a 5-minute period (depending on the cargo tank compartment size for gasoline cargo tanks)
- Require fitting controls for external floating roof tanks consistent with the requirement in Clean Air Act New Source Performance Standards Subpart Kb
- Require annual instrument monitoring for area source gasoline distribution facilities
- New Source Performance Standards Subpart XXa
- Proposing a new source performance standard Subpart XXa that facilities that commence construction after the relevant date must meet a 1mg/L limit and that facilities that commence modification or reconstruction after the relevant date must meet a 10mg/L limit
- Require a graduated vapor tightness certification from 0.5 to 1.25 inches of water pressure drop over a 5-minute period (depending on the cargo tank compartment size for gasoline cargo tanks)
- Require quarterly instrument monitoring

Note that the Energy Marketers of America (“EMA”) in its June 30 publication Weekly Review noted:

The EPA has not previously included small gasoline bulk plants, loading racks and cargo tank vehicles in NESHAP standards. However, there are indications that this equipment may become regulated for the first time under the EPA’s proposed rule. EMA is examining the 120-page proposed rule to determine if downstream gasoline distributing facilities and cargo tank vehicles could be regulated under NESHAP. If so, this could raise gas prices and put small businesses in a precarious situation. More details to come and again this is just a proposed rule so EMA will have time to comment and meet with Biden Administration officials to ensure small businesses are not impacted.

A link to the 120-page prepublication proposed rule can be downloaded [here](#).