

compounds, nitrogen oxides, and carbon monoxide. The inventory covers point, area, non-road mobile, on-road mobile, and biogenic sources.

(c) The Knox and Lincoln Counties nonattainment area is classified as moderate. The Lewiston and Auburn nonattainment area is classified as moderate and consists of Androscoggin and Kennebec Counties. The Portland nonattainment area is classified as moderate and consists of Cumberland, Sagadahoc and York Counties. The Hancock and Waldo Counties

nonattainment area is classified as attainment.

(d) The Governor's designee for the State of Maine submitted 1993 periodic year emission inventories for the Hancock and Waldo Counties area on May 13, 1996 as a revision to the State Implementation Plan (SIP). The 1993 periodic year emission inventory requirement of section 182(3)(A) of the Clean Air Act, as amended in 1990, has been satisfied for the Hancock and Waldo counties area.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

2. In § 81.320 the "Maine-Ozone" table is amended by revising the entry for "Hancock County and Waldo County Area" to read as follows:

§ 81.320 Maine.

* * * * *

MAINE—OZONE

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Hancock County and Waldo County Area:				
Hancock County	Apr. 29, 1997	Attainment.		
Waldo County	Apr. 29, 1997	Attainment.		

¹ This date is November 15, 1990, unless otherwise noted.

[FR Doc. 97-4963 Filed 2-27-97; 8:45 am]
BILLING CODE 6560-50-P

40 CFR Part 63

[AD-FRL-5695-9]

RIN 2060-AD93

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule: amendments.

SUMMARY: The EPA is promulgating, as a direct final rule, amendments to the "National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution (Stage I)" (the "Gasoline Distribution NESHAP"). These amendments implement a proposed settlement agreement with the American Petroleum Institute noticed for comment on November 15, 1996 regarding improvements in the screening equations for determining applicability of the Gasoline Distribution NESHAP. This action also addresses some clarifications to the NESHAP that were requested by other parties. These clarifications do not change the level of the standards or the intent of the NESHAP promulgated in 1994.

In the proposed rules section of this Federal Register, the EPA is proposing

a rule that is identical to this direct final rule. If significant, adverse comments are received on the proposed rule by the due date (see **DATES** section below), this direct final rule will be withdrawn and all such comments will be addressed in a subsequent final rule based on the proposed rule. If no significant, adverse comments are timely received on the proposed rule, then the direct final rule remains effective upon publication, and no further action is contemplated on the parallel proposal published today.

DATES: This rule is effective April 14, 1997, unless adverse comments are received by March 31, 1997. If adverse comments are received, the EPA will publish timely notice in the Federal Register withdrawing the direct final rule.

Judicial Review. Under section 307(b)(1) of the Clean Air Act (Act), judicial review of NESHAP is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of these direct final amendments. Under section 307(b)(2) of the Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

ADDRESSES: *Docket.* Docket No. A-92-38, category VIII 1997 Amendments, containing information considered by the EPA in developing the final amendments, is available for public

inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday, except for Federal holidays, at the EPA's Air and Radiation Docket and Information Center, room M1500, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460; telephone (202) 260-7548. A reasonable fee may be charged for copying. This docket also contains information considered by the EPA in proposing and promulgating the original Gasoline Distribution NESHAP.

FOR FURTHER INFORMATION CONTACT: For information concerning applicability and rule determinations, contact the appropriate EPA regional or Office of Enforcement and Compliance Assurance (OECA) representative:

- Region I: Greg Roscoe, Air Programs Enforcement Office Chief, U.S. EPA, Region I, JFK Federal Building (SEA), Boston, MA 02203, Telephone number (617) 565-3221
- Region II: Kenneth Eng, Air Compliance Branch Chief, U.S. EPA, Region II, 290 Broadway, New York, NY 10007, Telephone number (212) 637-4080, Fax number (212) 637-3998
- Region III: Walter K. Wilkie, U.S. EPA, Region III (3AT12), 841 Chestnut Building, Philadelphia, PA 19107, Telephone number (215) 566-2150, Fax number (215) 566-2114
- Region IV: Lee Page, U.S. EPA, Region IV (AR-4), 100 Alabama Street, SW, Atlanta, GA 30303-3104, Telephone number (404) 562-9131, Fax number (404) 562-9095

Region V: Howard Caine (AE-17J), U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, Telephone number (312) 353-9685, Fax number (312) 353-8289

Region VI: Sandra A. Cotter (6EN-AT), U.S. EPA, Region VI (6PD-R), 1445 Ross Avenue, Dallas, TX 75202-2733, Telephone number (214) 665-7347, Fax number (214) 665-7446

Region VII: Bill Peterson, U.S. EPA, Region VII, 726 Minnesota Avenue, Kansas City, KS 66101, Telephone number (913) 551-7881

Region VIII: Heather Rooney, U.S. EPA, Region VIII (8ART-AP), 999 18th Street, Suite 500, Denver, CO 80202-2405, Telephone number (303) 312-6971, Fax number (303) 312-6826

Region IX: Christine Vineyard, U.S. EPA, Region IX (Air-4), 75 Hawthorne Street, San Francisco, CA 94105, Telephone number (415) 744-1197

Region X: Chris Hall, Office of Air Quality (OAQ-107), U.S. EPA, Region X, 1200 Sixth Avenue, Seattle, WA 98101-9797, Telephone number (206) 553-1949 or (800) 424-4372 x1949

OECA: Julie Tankersley, U.S. EPA, Office of Enforcement and Compliance Assurance (2223A), 401 M Street, SW, Washington, DC 20460, Telephone number (202) 564-7002, Fax number (202) 564-0050.

For information concerning the analyses performed in developing the final rule amendments, contact Mr. Stephen Shedd, Waste and Chemical Processes Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541-5397 or fax number (919) 541-0246.

SUPPLEMENTARY INFORMATION: An electronic version of these final amendments and the proposal preamble is available for download from the EPA Technology Transfer Network (TTN), a network of electronic bulletin boards developed and operated by the Office of Air Quality Planning and Standards. The TTN provides information and technology exchange in various areas of air pollution control. The service is free, except for the cost of a phone call. Dial (919) 541-5742 for data transfer of up to 14,400 bits per second. If more information on the operation of the TTN is needed, contact the systems operator at (919) 541-5384. The TTN is also available on the Internet (access: <http://ttnwww.rtpnc.epa.gov>).

The information presented in this preamble is organized as follows:

- I. Background and Summary of Action
- II. Summary of and Rationale for Rule Changes

- A. Improvement of Emission Estimation Screening Equations
- B. Clarifications
 - 1. Excess Emissions Reports
 - 2. Definition of Bulk Gasoline Terminal
 - 3. Potential to Emit and Federal Enforcement
 - 4. Demonstration of Compliance
 - 5. Oxygenated Gasoline
 - 6. Reporting Emissions Inventories
- III. Administrative Requirements
 - A. Paperwork Reduction Act
 - B. Executive Order 12866
 - C. Regulatory Flexibility
 - D. Unfunded Mandates Reform Act
 - E. Regulatory Review
 - F. Submission to Congress and the General Accounting Office

I. Background and Summary of Action

On December 14, 1994 (59 FR 64303), the EPA promulgated the "National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution (Stage I)" (the "Gasoline Distribution NESHAP"). The Gasoline Distribution NESHAP regulates all hazardous air pollutants (HAP) 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. The regulated category and entities affected by this action include:

Category	Examples of regulated entities
Industry	Bulk gasoline terminals. Pipeline breakout stations.

This table is not intended to be exhaustive but, rather, provides a guide for readers regarding entities likely to be interested in the revisions to the regulation affected by this action. To determine whether your facility is regulated by this action, you should carefully examine all of the applicability criteria in 40 CFR 63.420. If you have questions regarding the applicability of this action to a particular entity, consult the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

On March 29, 1995, the American Petroleum Institute (API), a trade association having members who own or operate facilities potentially subject to the Gasoline Distribution NESHAP, submitted a Petition for Administrative Stay and for Reconsideration of the Gasoline Distribution NESHAP. After lengthy negotiations with API, the EPA provided notice and requested public comment on a proposed settlement in the Federal Register on November 15, 1996 (61 FR 58547). No comments were received on the proposed settlement during the 30-day comment period. The

EPA also issued a guidance memorandum (available on the TTN and in the docket), "Guidance Concerning Notifications Required by December 16, 1996 Under Gasoline Distribution NESHAP (40 CFR Part 63, Subpart R)," Bruce Jordan to EPA Regional Offices, November 21, 1996, clarifying the notification requirements for major sources that plan to be an area source by the first substantive compliance date of the rule, December 15, 1997.

As a result of the settlement agreement, the EPA has made modifications to the screening equations in the promulgated rule to make them more useful to facilities attempting to demonstrate that they are area sources, and therefore not subject to the control requirements of the NESHAP. These modifications are discussed in detail in Section II.A of this notice.

In response to requests by other parties, the EPA has also made several clarifications to the final NESHAP, as discussed in Section II.B of this notice, that are not a direct result of the settlement agreement. First, the language of the rule has been revised to clarify that the requirement for an excess emissions report applies to all affected facilities whether or not they have a continuous monitoring system. Second, the definition for *bulk gasoline terminal* has been inserted directly into the rule instead of cross-referencing the definition in the new source performance standards for bulk terminals. Third, the term "federally enforceable" has been replaced with the term "limitations on potential to emit" (PTE) to accommodate any eventual outcome of the EPA's current consideration of PTE issues. Fourth, the requirement that compliance be demonstrated upon the EPA's request has been clarified to include the calculations and assumptions used for the applicability screening equations. Fifth, the EPA has clarified the intended meaning of the term "reformulated or oxygenated gasoline containing methyl tert-butyl ether (MTBE)" as used in defining the parameter "CF" for the applicability screening equations. Sixth, the EPA has clarified that there is no requirement to submit emissions inventory documentation that a facility is not a major source to the Administrator for approval. These emissions inventory documents need only be maintained at the facility and provided upon request.

II. Summary of and Rationale for Rule Changes

A. Improvement of Emission Estimation Screening Equations

The final Gasoline Distribution NESHAP provides two options for facilities to obtain area source status for this rule and thus not be subject to the control requirements of this major source standard. These options are the use of an emission screening equation or performance of an HAP emissions inventory for the facility. The emissions inventory provision is currently implemented outside the provisions of this rule and approved by the permitting authority. The screening equation option allows facilities to use a specified equation in the 1994 final rule to determine their area source status under this rule, as long as they are in compliance with the equation parameters and the recordkeeping and reporting requirements in the rule. These screening equations were developed to provide facilities with a way of determining whether they are a major source without obtaining an area source determination outside the provisions of this rule.

The 1994 final rule contains two screening equations in § 63.420 (one for use by bulk gasoline terminals and one for pipeline breakout stations) to make an estimation of the total HAP emissions from the major gasoline operations at the facility. The equations identify facilities that have the potential to emit (PTE) less than 10 tons per year (tpy) of a single HAP or less than 25 tpy of a combination of HAP, which are the criteria for area sources. Since the equations in the final rule included only gasoline storage and transfer operations, the rule did not allow the equations to be used by facilities that have HAP emissions from other products (such as distillates) or that emit HAP from gasoline operations not accounted for in the equations.

The API, as part of the settlement, requested that the EPA incorporate additional modifications to those changes made to the screening equations before the 1994 promulgation in order to make the equations more useful to facilities attempting to demonstrate that they are area sources within the structure of the rule. The API said that the "other" HAP emissions not considered in the equation are routinely very low, and virtually every bulk gasoline terminal has such HAP emission sources. (The API's comments were directed toward bulk terminals, but they can be applied to also cover pipeline breakout stations.) As a result, they felt that the equation, as

promulgated, had very little utility as a means of screening for rule applicability. The EPA reviewed API's supporting information and agreed that the utility of the screening equations needed to be improved.

The EPA and API investigated the development of a factor or expression to account for "other" HAP emission sources at marketing facilities. These other HAP sources consist of activities not already accounted for in the screening equations (i.e., sources other than gasoline storage vessels, gasoline loading racks and cargo tanks, and gasoline vapor leaks from equipment components). HAP emission sources not arising directly from the storage and handling of gasoline occur routinely in this source category, and include distillate fuel, additive tanks, wastewater storage/handling tanks, cleaning/degassing of tanks, subsurface recovery (and other remedial actions), service station tank bottoms storage, sample handling/laboratory activities, and pipeline transmix (interface) storage (i.e., transmix with no gasoline content). Gasoline mixtures in storage tanks, such as transmix containing gasoline, are considered to be "gasoline" in the emission screening equations and also in the standards.

The EPA agreed that the utility of the equations would be further enhanced by including a factor to account for these other HAP emission sources (OE). However, the EPA believed that it was necessary to limit the percentage of total facility HAP emissions that a facility could claim from other emission sources because such sources are most likely not currently permitted or subject to current enforceable limits on emissions, are part of another source category ["Organic Liquids Distribution (Non-Gasoline)"] that has yet to be studied, or are collocated at other facilities (refineries, chemical plants, military bases) and not the primary source of emissions. The API surveyed some of its member companies and concluded that HAP emissions from other sources at gasoline bulk terminals are low, ranging from 0.1 to 3.5 tons/yr. Based on this information, API suggested limiting the OE value to 5 percent of total facility HAP emissions. The EPA agrees with API that limiting the value of OE to 5 percent is appropriate to represent typical facilities in this source category. If a facility finds that OE contributes more than 5 percent of its total HAP emissions, then the facility fits into a combination of source categories and must use the emissions inventory approach to determine HAP emissions and the applicability of the Gasoline Distribution NESHAP.

Since the screening equations were originally and continue to be normalized, or set equal to "1," to determine area source status, OE should thus be divided by either 10 or 25 (the tpy cutoffs defining a major source) to be incorporated into the equation. The API suggested, and the EPA agreed, that OE (in tpy) should be normalized by dividing by 25 (or multiplying by 0.04), since the OE factor will be calculated from a variety of emission sources and these emissions will most likely be composed of a combination of HAP, rather than a single HAP. Additionally, since the allowable value is small (5 percent of total facility HAP emissions), the resulting environmental effect from adding this parameter to an equation designed for screening purposes is expected to be small.

B. Clarifications

1. Excess Emissions Reports

The EPA was requested after promulgation to clarify whether the owner or operator of a pipeline breakout station needs to submit the excess emissions report required under § 63.428(h), even though the facility is not required to install a continuous monitoring system (CMS) in conjunction with the operation of a control device. The commenter also asked whether the information to be included in such a report would be limited to that indicated in § 63.428(h)(4) (late repairs of leaking equipment), and whether the required reporting frequency would be semiannual or quarterly.

The final rule promulgated in 1994, in § 63.428(h) (1) through (4), specifies information that must be included in excess emissions reports submitted by bulk gasoline terminals and pipeline breakout stations. In summary, there are four elements of information required to be included in the excess emissions report as excess emissions. They are:

- (1) Exceedances or failures to maintain the monitored operating parameter value of the vapor processor,
- (2) Failures to take steps to assure that reloadings of nonvapor-tight gasoline cargo tanks will not occur,
- (3) Reloadings of nonvapor-tight gasoline cargo tanks before vapor tightness documentation on those tanks is obtained by the facility, and
- (4) certain information on equipment leaks for which no repair was attempted within 5 days or completed within 15 days after detection. The section also states that the excess emissions report is to be filed as required under § 63.10(e)(3) of CFR part 63, subpart A (General Provisions). Section

63.10(e)(3)(i) specifies that an "excess emissions and continuous monitoring system performance report and/or a summary report" shall be submitted by each owner or operator of an affected source required to install a CMS. Also, if the CMS data are to be used for compliance and the source experienced excess emissions, quarterly reporting is required. [(§ 63.10(e)(3)(i)(C)).

The EPA believes that this question may have arisen due to the different characteristics of bulk terminals versus pipeline breakout stations, and the different elements of information specified for the reports in § 63.428 and § 63.10. Items (1) through (3) required under § 63.428 are primarily intended to refer to activities at a bulk terminal, where the loading of gasoline cargo tanks will be controlled with a vapor processor combined with a vapor tightness (test and repair) program for the cargo tanks. However, item (1) would also apply to pipeline breakout stations that elect to install a control device and CMS for storage vessel emission control in response to § 63.427(c) and § 60.112b(a)(3). In that case, the report required from sources "required to install a CMS" under § 63.10(e)(3)(i) would be appropriate for pipeline breakout stations. However, for most breakout pipeline breakout stations, only item (4) pertaining to the repair of equipment leaks is applicable.

The EPA's intent in the final rule [as described in the preamble to the 1994 promulgated standards (59 FR 64316)] was to require a semiannual report under § 63.428(g) and § 63.10(e)(3) for bulk terminals and pipeline breakout stations, with this frequency increasing to quarterly in the event that any specified excess emissions occur that are listed in § 63.428(h)(1) through (4). Section 63.10(e)(3)(i)(C) requires the quarterly reporting frequency to be followed until a facility's request to reduce the frequency is approved.

In summary, all bulk terminals and pipeline breakout stations are required to submit this report, and each facility should include the information pertinent to its own situation. The initial reporting frequency is semiannual, but will increase to quarterly if excess emissions are experienced. The EPA reviewed the language of the rule and found that the rule needed revision to clarify this approach. Today's action revises the language of the rule to clarify and make more explicit the EPA's original intent that the requirement for an excess emissions report applies to all affected bulk terminals and pipeline breakout stations with or without a CMS.

2. Definition of Bulk Gasoline Terminal
In the 1994 promulgated rule, several terms were defined in § 63.421 through cross-referencing with definitions already provided in the Act; in 40 CFR 60, subparts A, K, Ka, Kb, and XX; and in 40 CFR 63, subpart A. One term intended to be defined in this way was "bulk gasoline terminal." The definition for bulk gasoline terminal (as included in 40 CFR 60, subpart XX) is as follows:

Bulk gasoline terminal means any gasoline facility which receives gasoline by pipeline, ship or barge, and has a gasoline throughput greater than 75,700 liters per day. Gasoline throughput shall be the maximum calculated design throughput as may be limited by compliance with an enforceable condition under Federal, State or local law and discoverable by the Administrator and any other person.

The approach of cross-referencing the definition of one of the affected sources apparently created confusion, possibly because a definition for "pipeline breakout station" was explicitly included in § 63.421. In order to lessen the confusion, and to clearly specify that the Agency intended to apply the same facility definition to bulk terminals as was used in the bulk terminal NSPS, the definition is being inserted directly into subpart R under § 63.421. This change does not create new requirements in the rule, but merely makes more explicit the EPA's intent concerning the definition of a bulk gasoline terminal.

3. Potential To Emit and Federal Enforcement

The EPA is also replacing the term "federally enforceable" as a condition for some of the emission screening equation parameters with the term "limitations on potential to emit" (PTE). The purpose of this change is not to make any substantive decision regarding the PTE issues that are currently under review by the Agency, but rather to recognize that those issues exist and to minimize any confusion regarding how those issues should be dealt with in the interim as they relate to the Gasoline Distribution NESHAP. The EPA believes that using the term "limitations on potential to emit" will eliminate the need for subsequent amendments to this rule as it relates to PTE issues. PTE is defined in § 63.2 Definitions, of the General Provisions of subpart A of part 63, and the term "limitations on potential to emit" has been added to the list of definitions in § 63.421.

As discussed in the February 29, 1996 (61 FR 7718) Gasoline Distribution final rule amendments, the EPA is

considering a number of options regarding the requirements on potential to emit limits, in response to the *National Mining* court decision. In addition, the EPA created a 2-year transition period (January 1995 until January 1997) during which the EPA will recognize limitations on PTE, so long as those limits are enforceable as a practical matter. In a policy memorandum (available on the TTN and in the docket), "Extension of January 25, Potential to Emit Transition Policy," John S. Seitz and Robert I. Van Heuvelen to EPA Regional Offices, August 27, 1996, the EPA has extended this transition period for 18 months until July 31, 1998, which is later than the December 15, 1997 control equipment compliance date for all MACT source categories, including the Gasoline Distribution NESHAP. Accordingly, for the critical applicability date¹ for the Gasoline Distribution NESHAP, the EPA wishes to clarify that State-enforceable limits that are enforceable as a practical matter will be treated by the EPA as acceptable limitations on potential to emit. If, as a result of the PTE rulemaking, a decision is made that yields a requirement that PTE limitations must be federally enforceable for some or all sources, an appropriate transition period will be given to allow time for such sources to obtain federally enforceable limits.

4. Demonstration of Compliance

Section § 63.420(f) of the final rule requires an owner or operator to demonstrate compliance with any provision of the rule to which the facility is subject, upon request by the EPA. The rule has been amended to clarify that this demonstration also needs to be made, upon request, for the parameters and assumptions used in performing calculations for the applicability screening equations. This change does not impose any new requirements, but has been made to eliminate any chance for ambiguity in interpreting this rule provision.

¹ Affected sources must either be in full compliance with the major source emission standards in the Gasoline Distribution NESHAP or have been determined to be an area source no later than December 15, 1997. Additionally, each affected source was required to submit an initial notification by December 16, 1996 if it is (1) a major source, (2) a major source on December 16, 1996 and plans to be an area source by December 15, 1997, or (3) using one of the emission screening equations in § 63.420. These latter major sources (no. 3) must include in the notification a non-binding description of and a schedule for the actions that are planned to achieve area source status [§ 63.428(a)].

5. Oxygenated Gasoline

The emission screening equations in § 63.420 of the final rule use the parameter "CF" to account for the higher HAP content of the modified gasolines that are marketed to comply with Federal and State ozone and carbon monoxide control programs. These *reformulated* and *oxygenated* gasolines, in addition to other formula changes, contain significant levels of oxygenate, frequently the HAP methyl tert-butyl ether (MTBE), which supplies oxygen in the combustion process to reduce the amount of carbon monoxide emitted in tailpipe exhaust. The higher CF factor of 1.0 for these gasolines that use MTBE as an oxygenate, versus a CF factor of 0.161 for "normal" gasolines, reflects the fact that the overall HAP content of reformulated and oxygenated gasolines using MTBE as an oxygenate is significantly higher than the HAP content of normal gasoline.

The definitions given in § 63.421 for reformulated and oxygenated gasolines cross-reference existing definitions already codified at 40 CFR 80.2(ee) and 40 CFR 80.2(rr), respectively. The CFR defines *oxygenated gasoline* as "gasoline which contains a measurable amount of oxygenate." However, this definition may not adequately distinguish oxygenated gasoline from normal gasoline. The reason is that, in addition to its use as an oxygenate, MTBE is often used in generally smaller concentrations to boost the octane rating of normal gasoline. Although the MTBE present in these gasolines is generally minimal, the EPA was concerned that even these small amounts could be construed as qualifying a gasoline as "oxygenated." The EPA's intent was not to specify the higher CF factor for normal gasolines with minor amounts of MTBE, but only for those gasolines with a sufficient quantity of MTBE to create a substantially higher HAP content than found in normal gasolines.

Section 211(k) of the Act specifies a minimum oxygen content for reformulated gasolines of 2.0 percent by weight, while EPA guidelines issued in response to section 211(m) recommend a minimum oxygen content of 2.7 percent by weight for oxygenated gasolines. The EPA's final regulations to implement the reformulated gasoline program, promulgated on February 16, 1994 (59 FR 7716), specify a minimum allowable per-gallon oxygen content for reformulated gasoline of 1.5 weight percent when the standards are being achieved on an average basis. In order to include all of the allowable modified fuels in the CF factor definition, the same oxygen content of 1.5 weight

percent is being used in these rule amendments as the cutoff defining these high-HAP gasolines. Since reformulated and oxygenated gasolines are frequently oxygenated using MTBE, this minimum oxygen content was converted to MTBE volume percent. Based on the molecular composition and density of MTBE and a typical density for gasoline, the value of 1.5 percent oxygen by weight was calculated to be equivalent to 7.6 percent MTBE by volume (available in the docket). Since this value is not inconsistent with the existing definitions for reformulated and oxygenated gasolines, but only specifies a minimum gasoline MTBE content, the promulgated definitions for "reformulated gasoline" and "oxygenated gasoline" are being retained in the rule. The two definitions for the term CF have been amended to incorporate this minimum MTBE content.

The EPA emphasizes that this change merely clarifies the Agency's intent in specifying a higher CF value for reformulated and oxygenated gasolines that use MTBE as an oxygenate. The higher CF factor of 1.0 is intended to be used in the screening equations by those facilities that handle gasoline blended with significant amounts (7.6 volume percent or more) of MTBE. The 1.0 factor should *not* be used by facilities that handle only gasoline having trace amounts of MTBE. The change has no effect on the control programs that require the marketing of these fuels, nor does it change or add any reporting, recordkeeping, or testing requirements for affected facilities.

6. Reporting Emissions Inventories

The owner or operator of a stationary source in this category is allowed to use methods other than the emission screening equations (typically an emissions inventory) to establish that the 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 CFR 63.420(a)(2) and (b)(2)]. Some confusion has been expressed as to whether these documents must in all cases be submitted to the Administrator for approval prior to December 16, 1996 as an alternative to the results of the screening equation or whether it is appropriate to maintain these records at the facility. This action clarifies that there is no requirement to submit these emissions inventory type documents for approval either prior to or after December 16, 1996, and that these documents may be maintained at the

facility. However, the owner or operator is required [§ 63.420(f)], "upon request," to demonstrate compliance with all of the applicability provisions, including this determination that the facility is not a major source.

III. Administrative Requirements

A. Paperwork Reduction Act

The information collection requirements of the previously promulgated NESHAP were submitted to and approved by the Office of Management and Budget (OMB). A copy of this Information Collection Request (ICR) document (OMB control number 2060-0325) may be obtained from Ms. Sandy Farmer, Information Policy Branch, Environmental Protection Agency, 401 M Street, S.W. (mail code 2136), Washington, DC 20460, or by calling (202) 260-2740.

Today's amendments to the Gasoline Distribution NESHAP have no impact on the information collection burden estimates made previously. No additional certifications or filings were promulgated. Therefore, the ICR has not been revised.

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether a regulation is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The criteria set forth in section 1 of the Order for determining whether a regulation is a significant rule are as follows:

- (1) Is likely to have an annual effect on the economy of \$100 million or more, or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal government communities;
- (2) Is likely to create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Is likely to materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) Is likely to raise novel or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The Gasoline Distribution NESHAP promulgated on December 14, 1994 was treated as a "significant regulatory action" within the meaning of the Executive Order. An estimate of the cost and benefits of the NESHAP was prepared at proposal as part of the background information document

(BID). This estimate was updated in the BID for the final rule to reflect comments and changes made in developing the final rule. The amendments issued today have no impact on the estimates in the final BID. Pursuant to the terms of Executive Order 12866, it has been determined that this action is a "non-significant regulatory action" within the meaning of the Executive Order. As such, this action was not submitted to OMB for review.

C. Regulatory Flexibility

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. When the Agency promulgated the Gasoline Distribution NESHAP, it analyzed the potential impacts on small businesses, discussed the results of this analysis in the Federal Register, and concluded that the promulgated regulation would not result in financial impacts that significantly or differentially stress affected small companies. Since today's action imposes no additional impacts, the EPA has determined that these amendments will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act, signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of \$100 million or more. Under section 205, the EPA must select the most cost effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that today's action does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. Therefore, the requirements of the Unfunded Mandates Reform Act do not apply to this action.

E. Regulatory Review

In accordance with sections 112(d)(6) and 112(f)(2) of the Act, this regulation will be reviewed 8 years from the date of promulgation. This review may

include an assessment of such factors as evaluation of the residual health risk, any overlap with other programs, the existence of alternative methods of control, enforceability, improvements in emission control technology and health data, and the recordkeeping and reporting requirements.

F. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the EPA submitted a report containing the final amendments and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of the amendments in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Petroleum bulk stations and terminals, Reporting and recordkeeping requirements.

Dated: February 21, 1997.
Carol M. Browner,
Administrator.

For the reasons set out in the preamble, part 63 of chapter I of title 40 of the Code of Federal Regulations 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:

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

2. Section 63.420 is amended by revising the equation and the terms "CF" "CE", "Q" and "EF" in paragraph (a)(1), and by adding the term "OE" to the list in paragraph (a)(1) to read as follows:

§ 63.420 Applicability.

- (a) * * *
- (1) * * *

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

CF=0.161 for bulk gasoline terminals and pipeline breakout stations that do not handle any reformulated or oxygenated gasoline containing 7.6 percent by volume or greater methyl tert-butyl ether (MTBE), OR

CF=1.0 for bulk gasoline terminals and pipeline breakout stations that handle reformulated or oxygenated gasoline containing 7.6 percent by volume or greater MTBE;

CE=control efficiency limitation on potential to emit for the vapor processing system used to control emissions from fixed-roof gasoline storage vessels [value should be added in decimal form (percent divided by 100)];

* * * * *

Q=gasoline throughput limitation on potential to emit or gasoline throughput limit in compliance with paragraphs (c), (d), and (f) of this section (liters/day);

* * * * *

EF=emission rate limitation on potential to emit for the gasoline cargo tank loading rack vapor processor outlet emissions (mg of total organic compounds per liter of gasoline loaded);

OE=other HAP emissions screening factor for bulk gasoline terminals or pipeline breakout stations (tons per year). OE equals the total HAP from other emission sources not specified in parameters in the equations for E_T or E_P. If the value of 0.04(OE) is greater than 5 percent of either E_T or E_P, then paragraphs (a)(1) and (b)(1) of this section shall not be used to determine applicability; * * *

* * * * *

3. Section 63.420 is amended in paragraph (b)(1) by revising the equation and the text following the equation to read as follows:

§ 63.420 Applicability.

- * * * * *
- (b) * * *
- (1) * * *

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

where:
EP=emissions screening factor for pipeline breakout stations, and the definitions for CF, T_F, CE, T_E, T_{ES}, T_I, C, and OE are the same as provided in paragraph (a)(1) of this section; or

* * * * *

4. Section 63.420 is amended by revising paragraph (f) to read as follows:

§ 63.420 Applicability.

* * * * *

(f) Upon request by the Administrator, the owner or operator of a bulk gasoline terminal or pipeline breakout station subject to the provisions of any paragraphs in this section including, but

not limited to, the parameters and assumptions used in the applicable equation in paragraph (a)(1) or (b)(1) of this section, shall demonstrate compliance with those paragraphs.

* * * * *

5. Section 63.421 is amended by adding in alphabetical order definitions for "bulk gasoline terminal" and "limitation(s) on potential to emit" to read as follows:

§ 63.421 Definitions.

* * * * *

Bulk gasoline terminal means any gasoline facility which receives gasoline by pipeline, ship or barge, and has a gasoline throughput greater than 75,700 liters per day. Gasoline throughput shall be the maximum calculated design throughput as may be limited by compliance with an enforceable condition under Federal, State or local law and discoverable by the Administrator and any other person.

* * * * *

Limitation(s) on potential to emit means limitation(s) limiting a source's potential to emit as defined in § 63.2 of subpart A of this part.

* * * * *

6. Section 63.428 is amended by revising paragraphs (g) introductory text and (h) introductory text to read as follows:

§ 63.428 Reporting and recordkeeping.

* * * * *

(g) Each owner or operator of a bulk gasoline terminal or pipeline breakout station subject to the provisions of this subpart shall include in a semiannual report to the Administrator the following information, as applicable:

* * * * *

(h) Each owner or operator of a bulk gasoline terminal or pipeline breakout station subject to the provisions of this subpart shall submit an excess emissions report to the Administrator in accordance with § 63.10(e)(3), whether or not a CMS is installed at the facility. The following occurrences are excess emissions events under this subpart, and the following information shall be included in the excess emissions report, as applicable:

* * * * *

[FR Doc. 97-4885 Filed 2-27-97; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 180

[PP-5F4578/R2277A; FRL-5590-4]

RIN 2070-AB78

Glufosinate Ammonium; Tolerances for Residues

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA is correcting the table under § 180.473, paragraph (c) to reflect the tolerance for residues of glufosinate ammonium on corn, field, forage as stated in the petition submitted by AgrEvo USA Co.

DATES: This correction is effective on February 5, 1997.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne Miller, Product Manager (PM) 23, Registration Division, (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 237, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-305-7830, e-mail: miller.joanne@epamail.epa.gov.

In FR Doc. 97-2838, appearing at page 5333 in the issue for Wednesday, February 5, 1997, on page 5338, in § 180.473, in the table to paragraph (c), the entry for "corn, field, forage," is corrected as follows:

§ 180.473 Glufosinate ammonium; tolerances for residues.

* * * * *

Commodity	Parts per million	Expiration
Corn, field, forage	4.0	July 13, 1999

List of Subjects in Part 180

Environmental protection.

Dated: February 18, 1997.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 97-4624 Filed 2-27-97; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3800

[WO-660-4120-02-24 1A]

RIN 1004-AC40

Mining Claims Under the General Mining Laws; Surface Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Land Management (BLM) is amending its surface management regulations at 43 CFR subpart 3809. The final rule requires submission of financial guarantees for reclamation of all hardrock mining operations greater than casual use, increases the types of financial instruments acceptable to satisfy the requirement for a financial guarantee, and amends the noncompliance section of the regulations to require the filing of plans of operations by operators who have a record of noncompliance. In addition, the final rule removes section 3809.1-8 on existing operations, which is no longer applicable, because all activities that were in operation in 1980 and continue in operation have now complied with this section.

EFFECTIVE DATE: March 31, 1997.

ADDRESSES: Inquiries or suggestions should be sent to the Solid Minerals Group at Director (320), Bureau of Land Management, Room 501 LS, 1849 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Richard Deery, (202) 452-0350.

SUPPLEMENTARY INFORMATION: On July 11, 1991 (56 FR 31602), BLM published a proposed rule to require submission of financial guarantees for reclamation for all hardrock mining operations greater than casual use, to designate additional financial instruments that would satisfy the requirement for a financial guarantee, and to amend the noncompliance section of the regulations to require the filing of plans of operations by operators who have a record of noncompliance. The extended 90-day comment period expired on October 9, 1991. The BLM received 218 comments on the proposed rule, including 3 citizen-petitions with numerous signatures. Of these comments, 58 were from public interest groups, 51 were from business entities or associations, 22 were from government agencies, and 135 were from individuals, not including the petitions. All of the comments were