

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 63**

[OAR-2002-0035; FRL-7911-6]

RIN 2060-AM10

National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule; amendments.

SUMMARY: The EPA is taking direct final action on amendments to the national emission standards for hazardous air pollutants (NESHAP) for asphalt processing and asphalt roofing manufacturing, which were issued on April 29, 2003 under section 112 of the Clean Air Act (CAA). These amendments correct minor errors and add a clarifying exemption inadvertently omitted in the final rule. We are issuing these amendments as a direct final rule, without prior proposal, because we view the revisions as noncontroversial and anticipate no significant adverse comments. However, in the Proposed Rules section of this **Federal Register**, we are publishing a separate document that will serve as the proposal to amend the national emission standards for asphalt processing and asphalt roofing manufacturing, if significant adverse comments are filed.

If we receive any adverse comments on a specific element of the direct final rule, we will publish a timely withdrawal in the **Federal Register** informing the public which amendments will become effective and which amendments are being withdrawn due to adverse comment. We will address all public comments in a subsequent final rule based on the proposed rule. Any of the distinct amendments in the direct final rule for which we do not receive adverse comment will become effective on the date set out below. We will not institute a second comment period on the direct final rule. Any parties interested in commenting must do so at this time.

DATES: The direct final rule will be effective on August 15, 2005 without further notice, unless EPA receives significant adverse written comments by

June 16, 2005, or by July 1, 2005, if a public hearing is requested. If EPA receives such comments, it will publish a timely withdrawal in the **Federal Register** indicating which provisions will become effective and which provisions are being withdrawn due to adverse comment.

ADDRESSES: Submit your comments, identified by Docket ID No. OAR-2002-0035, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- Agency Web site: <http://www.epa.gov/edocket>. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

- E-mail: a-and-r-docket@epa.gov.
- Fax: (202) 566-1741.
- Mail: EPA Docket Center, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a duplicate copy, if possible.

- Hand Delivery: Air and Radiation Docket, Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B-108, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

We request that a separate copy also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

Instructions: Direct your comments to Docket ID No. OAR-2002-0035. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.epa.gov/edocket>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, [regulations.gov](http://www.regulations.gov), or e-mail. The EPA EDOCKET and the federal [regulations.gov](http://www.regulations.gov) websites are "anonymous access" systems, which means EPA will not know your identity or contact information unless you

provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EDOCKET on-line or see the **Federal Register** of May 31, 2002 (67 FR 38102).

Docket: All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Colyer, Minerals and Inorganic Chemicals Group, Emission Standards Division (C504-05), U.S. EPA, Research Triangle Park, North Carolina 27711; telephone number (919) 541-5262; facsimile number (919) 541-5600; electronic mail address colyer.rick@epa.gov.

SUPPLEMENTARY INFORMATION: *Regulated Entities.* Categories and entities potentially regulated by this action include:

TABLE 1.—REGULATED CATEGORIES AND ENTITIES

Category	NAICS ^a		SIC ^b	
	Code	Description	Code	Description
Manufacturing	324122	Asphalt shingle and coating materials manufacturing.	2952	Asphalt felts and coatings.
Manufacturing	32411	Petroleum refineries	2911	Petroleum refining.
Federal Government		Not affected		Not affected
State/Local/Tribal Government		Not affected		Not affected

^a North American Information Classification System.^b Standard Industrial Classification Code.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in §§ 63.8681 and 63.8682 of the final rule. If you have any questions regarding the applicability of this action to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Worldwide Web (WWW). In addition to being available in the docket, electronic copies of today's action will be posted on the Technology Transfer Network's (TTN) policy and guidance information page <http://www.epa.gov/ttn/caaa>. The TTN provides information and technology exchange in various areas of air pollution control.

Judicial Review. Under section 307(b)(1) of the CAA, judicial review of the direct final rule is available only on the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by July 18, 2005. Under section 307(d)(7)(B) of the CAA, only an objection to the direct final rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements that are subject to today's action may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Outline. The information presented in this preamble is organized as follows:

- I. Background
 - A. Technical Corrections
 - B. Nonapplicability Clarification
- II. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review
 - B. Paperwork Reduction Act
 - C. Regulatory Flexibility Act
 - D. Unfunded Mandates Reform Act
 - E. Executive Order 13132: Federalism
 - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
 - G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

I. National Technology Transfer Advancement Act

J. Congressional Review Act

I. Background

The EPA promulgated national emission standards for hazardous air pollutants for asphalt processing and asphalt roofing manufacturing on April 29, 2003 (68 FR 22975) (reprinted on May 7, 2003 at 68 FR 24562). Today's action includes amendments to correct errors in definitions and equations and adds language to one other provision (relating to applicability) so that the rule language conforms to the preamble discussion to the final rule. We are also adding an exemption to applicability to another rule inadvertently omitted from the final rule.

A. Technical Corrections

The promulgated rule contains definitions for Group 1 and Group 2 asphalt loading racks and asphalt storage tanks. A Group 1 loading rack currently is defined as one that loads asphalt with a maximum temperature of 260 °C (500 °F) or greater or with a maximum true vapor pressure of 10.4 kilopascals (kPa) (1.5 pounds per square inch absolute (psia)) or greater. Similarly, a Group 1 asphalt storage tank currently is defined as one that stores asphalt with a maximum temperature of 260 °C (500 °F) or greater or with a maximum true vapor pressure of 10.4 kPa (1.5 psia) or greater. Furthermore, in the final rule, we define a Group 2 asphalt loading rack as one that loads asphalt with a maximum temperature less than 260 °C (500 °F) or with a maximum true vapor pressure less than 10.4 kPa (1.5 psia). However, because the Group 2 definition also contains an "or," it creates the situation where a loading rack could fit both definitions. A Group 2 asphalt storage tank is defined in the promulgated rule as any tank that is not a Group 1 tank. The Group 2 asphalt loading rack should have had parallel language; that

is, a Group 2 asphalt loading rack should have been defined simply as any asphalt loading rack that was not a Group 1 loading rack in order to make Group 1 and Group 2 mutually exclusive.

However, an additional wording problem exists with the definitions of Group 1 asphalt loading rack and storage tank. Both definitions in the promulgated rule specify that loading racks or storage tanks that load or store asphalt at or greater than a certain temperature or pressure are considered to be Group 1. This creates the unintended problem of having to determine both temperature and pressure of the asphalt being loaded or stored to determine whether the tank or loading rack is Group 1 or Group 2. As stated in the preamble to the final rule (68 FR 23471, May 7, 2003), because of the testing problems associated with determining vapor pressure, we specify in the final rule that owners or operators could monitor temperature " * * * instead of requiring facilities to physically measure asphalt vapor pressure." To achieve the intended consequence of measuring temperature instead of vapor pressure of the asphalt, the wording in the Group 1 definitions should have been that both the temperature and vapor pressure criteria must be met before the loading rack or storage tank can be designated as a Group 1 emission point, so that if either the temperature or vapor pressure did not exceed the maximum value, the emission point would not be a Group 1 point. Thus, the owner or operator could use temperature alone to determine if an emission point was not considered Group 1, as stated in the preamble. Accordingly, we are revising the definitions for the Group 1 asphalt storage tanks and loading racks as those that load/store asphalt with a maximum temperature of 260 °C (500 °F) or greater and with a maximum true vapor pressure of 10.4 kPa (1.5 pounds psia) or greater.

Table 2 provides a decision matrix for determining Group 1 and Group 2 storage tanks and loading racks.

TABLE 2.—DECISION MATRIX FOR DETERMINING STORAGE TANK AND LOADING RACK GROUP

	VP < 10.4 kPa	VP ≥ 10.4 kPa
Temp < 260 °C	Group 2	Group 2.
Temp ≥ 260 °C	Group 2	Group 1.

We are also revising the wording of the definition of Group 2 asphalt loading racks to parallel that of Group 2 asphalt storage tanks. These changes should have no effect other than to ease the measurement burden for owners and operators.

We are also making a correction to the unit conversion constant, K, in Equation 4. The promulgated rule establishes K as 3.00E-05 (parts per million volume (ppmv))⁻¹ (gram-mole/standard cubic meter) (kilogram/gram) (minutes/hour). We have since determined that this is incorrect, both in value and in units. The correct value and units for K should be 1.10E-04 (ppmv)⁻¹ (kilogram/standard cubic meter) (minutes/hour).

We are correcting a cite in footnote “a” to table 5 to subpart LLLLL. The last sentence of footnote “a” references the data reduction requirements in “§ 63.9(g).” The reference should be “§ 63.8(g), Reduction of monitoring data.”

Finally, we removed English units from several equations that were based on metric units.

B. Nonapplicability Clarification

Several commenters on the proposed rule (66 FR 58610, November 21, 2001) wanted to ensure that emissions from the blowing still combust in a thermal oxidizer would not be considered a fuel gas and become potentially subject to the sulfur requirements of 40 CFR part 60, subpart J, Standards of Performance for Petroleum Refineries. Asphalt can contain some amounts of sulfur. Subpart J contains provisions that limit sulfur oxide emissions from the combustion of fuel gases at a refinery. We agree with the commenters that the addition of a combustion device to control blowing still emissions as required by the asphalt rule should not trigger the requirements of another rule. We also note that while asphalt blowing can occur at a refinery, it is not considered a refinery process subject to subpart J. In our background information document responding to comments on the proposed rule (National Emission Standards for Hazardous Air Pollutants:

Asphalt Processing and Asphalt Roofing Manufacturing-Background Information Document for Promulgated Standards, EPA-453/R-03-005, section 2.11.1), we stated that we were going to clarify explicitly that blowing still emissions are not subject to the fuel gas requirements of subpart J. However, we failed to add that provision to the final rule. Today's amendments correct that inadvertent omission.

II. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is “significant” and, therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines a “significant regulatory action” as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that the direct final amendments do not constitute a “significant regulatory action” because they do not meet any of the above criteria. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. Paperwork Reduction Act

The information collection requirements in the final rule (68 FR 22975, April 29, 2003) were submitted to and approved by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and assigned OMB control number 2060-0520. An Information Collection Request (ICR) document was prepared by EPA (ICR No. 2029.02) and a copy may be obtained from Susan Auby by mail at Office of Environmental Information Collection Strategies Division (MD-2822T), 1200

Pennsylvania Avenue, NW., Washington DC 20460, by email at auby.susan@epa.gov, or by calling (202) 566-1672. A copy may also be downloaded from the Internet at <http://www.epa.gov/icr>.

Today's action makes clarifying changes to the final rule and imposes no new information collection requirements on the industry. Because there is no additional burden on the industry as a result of the direct final rule amendments, the ICR has not been revised.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for EPA's regulations in 40 CFR part 63 are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's direct final rule amendments on small entities, a small entity is defined as: (1) A small business that is primarily engaged in the processing of asphalt or the manufacture of asphalt roofing materials according to Small Business Administration (SBA) size standards by NAICS code (in this case, less than 750 employees for affected businesses classified in NAICS code 324122, Asphalt Shingles and Coating Materials Manufacturing and less than

1,500 employees for businesses in NAICS code 32411, Petroleum Refineries); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analysis is to identify and address regulatory alternatives "which minimize any significant economic impact of the rule on small entities." (5 U.S.C. Sections 603 and 604.) Thus, an agency may conclude that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. The amendments in today's direct final rule improve the emission standards by correcting errors and omissions. These changes should have no effect other than to ease the measurement burden for owners and operators. In addition, we are making a correction to the unit conversion constant, a cite in footnote "a" to table 5, and removed English units from several equations that were based on metric units. After considering the economic impacts of today's direct final rule amendments on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-

effective, or least-burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least-costly, most cost-effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the direct final rule amendments contain no 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 in any 1 year. Thus, today's direct final rule amendments are not subject to sections 202 and 205 of the UMRA. The EPA has also determined that the direct final rule amendments contain no regulatory requirements that might significantly or uniquely affect small governments. Thus, today's direct final rule amendments are not subject to the requirements of section 203 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

The direct final rule amendments do not have federalism implications and will not have substantial direct effects on the States, on the relationship between the national government and

the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. None of the affected facilities are owned or operated by State governments. Thus, Executive Order 13132 does not apply to the direct final rule amendments.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 9, 2000) requires EPA to develop an accountable process to ensure "meaningful and timely input in the development of regulatory policies on matters that have tribal implications."

The direct final rule amendments do not have tribal implications, as specified in Executive Order 13175. They will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. No tribal governments own or operate facilities subject to the NESHAP. Thus, Executive Order 13175 does not apply to the direct final rule amendments.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant," as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the EPA must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. The direct final rule amendments are not subject to Executive Order 13045 because they are based on technology performance and not on health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

The direct final rule amendments are not subject to Executive Order 13211,

“Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) because they are not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104–113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to the OMB, with explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The direct final rule amendments do not involve technical standards and, therefore, are not subject to the NTTAA.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing the final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to the

publication of the direct final rule amendments in today's **Federal Register**. The direct final rule amendments are not a “major rule” as defined by 5 U.S.C. 804(2). The final rule amendments will be effective August 15, 2005.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: May 6, 2005.

Stephen L. Johnson,
Acting Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

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

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

Subpart LLLLL—[AMENDED]

■ 2. Section 63.8681 is amended by redesignating paragraph (e) as (f) and adding a new paragraph (e) to read as follows:

§ 63.8681 Am I subject to this subpart?

* * * * *

(e) The provisions of subpart J of 40 CFR part 60 do not apply to emissions from asphalt processing facilities subject to this subpart.

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■ 3. Section 63.8687 is amended by revising paragraphs (e)(1) and (e)(2) to read as follows:

§ 63.8687 What performance tests, design evaluations, and other procedures must I use?

* * * * *

(e) * * *

(1) To determine compliance with the particulate matter mass emission rate, you must use Equations 1 and 2 of this section as follows:

$$E = M_{PM}/P \quad (\text{Eq. 1})$$

Where:

E = Particulate matter emission rate, kilograms of particulate matter per megagram of roofing product manufactured.

M_{PM} = Particulate matter mass emission rate, kilograms per hour, determined using Equation 2.

P = The asphalt roofing product manufacturing rate during the emissions sampling period, including any material trimmed from the final product, megagram per hour.

$$M_{PM} = C * Q * K \quad (\text{Eq. 2})$$

Where:

M_{PM} = Particulate matter mass emission rate, kilograms per hour.

C = Concentration of particulate matter on a dry basis, grams per dry standard cubic meter (g/dscm), as measured by the test method specified in Table 3 to this subpart.

Q = Vent gas stream flow rate (dry standard cubic meters per minute) at a temperature of 20 °C as measured by the test method specified in Table 3 to this subpart.

K = Unit conversion constant (0.06 minute-kilogram/hour-gram).

(2) To determine compliance with the total hydrocarbon percent reduction standard, you must use Equations 3 and 4 of this section as follows:

$$RE = [(M_{THCi} - M_{THCo}) / (M_{THCi})] * (100) \quad (\text{Eq. 3})$$

Where:

RE = Emission reduction efficiency, percent.

M_{THCi} = Mass flow rate of total hydrocarbons entering the control device, kilograms per hour, determined using Equation 4.

M_{THCo} = Mass flow rate of total hydrocarbons exiting the control device, kilograms per hour, determined using Equation 4.

$$M_{THC} = C * Q * K \quad (\text{Eq. 4})$$

Where:

M_{THC} = Total hydrocarbon mass flow rate, kilograms per hour.

C = Concentration of total hydrocarbons on a dry basis, parts per million by volume (ppmv), as measured by the test method specified in Table 3 to this subpart.

Q = Vent gas stream flow rate (dscm/minute) at a temperature of 20 °C as measured by the test method specified in Table 3 to this subpart.

K = Unit conversion constant (1.10E–04 (ppmv)^{–1} (kilogram/dscm)(minute/hour)).

* * * * *

■ 4. Section 63.8698 is amended by revising the definitions of *Group 1 asphalt loading rack*, *Group 2 asphalt loading rack*, and *Group 1 asphalt storage tank* to read as follows:

§ 63.8698 What definitions apply to this subpart?

* * * * *

Group 1 asphalt loading rack means an asphalt loading rack that loads asphalt with a maximum temperature of 260° C (500° F) or greater and has a maximum true vapor pressure of 10.4

kiloPascals (kPa) (1.5 pounds per square inch absolute (psia)) or greater.

Group 2 asphalt loading rack means an asphalt loading rack that is not a Group 1 asphalt loading rack.

Group 1 asphalt storage tank means an asphalt storage tank that meets both of the following criteria:

(1) Has a capacity of 177 cubic meters (47,000 gallons) of asphalt or greater; and

(2) Stores asphalt at a maximum temperature of 260 °C (500 °F) or greater and has a maximum true vapor pressure of 10.4 kPa (1.5 psia) or greater.

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■ 5. Footnote “a” to Table 5 to Subpart LLLLL is amended by revising the last sentence as follows:

Tables to Subpart LLLLL of Part 63

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Table 5 to Subpart LLLLL of Part 63—Continuous Compliance With Operating Limits^a

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^a * * * Data from the CEMS and COMS must be reduced as specified in § 63.8(g).

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[FR Doc. 05-9594 Filed 5-16-05; 8:45 am]

BILLING CODE 6560-50-P