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June 29, 2020

Andrew Wheeler, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

RE: Proposed Rule, Fuels Regulatory Streamlining: EPA-HQ-OAR-2018-0227

Sent Via Electronic Submission

On behalf of the Petroleum Marketers Association of America (PMAA), I offer the following comments for submission in response to the EPA's proposed rule *for Fuels Regulatory Streamlining* (EPA-HQ-OAR-2018-0227).

Background

PMAA is a federation of 47 state and regional trade associations representing approximately 8,000 independent petroleum marketers nationwide. PMAA companies own and operate approximately 60,000 retail fuel outlets such as gas stations, convenience stores and truck stops fueling centers nationwide. These companies supply motor fuels to 40,000 independently owned retail outlets as well as heating oil to over eight million homes and businesses. PMAA members are engaged in the transport, storage and sale of petroleum products including gasoline, diesel fuels, kerosene, jet fuel, aviation gasoline, propane, racing fuel, lubricating oils, and home heating oil below the terminal rack at both the wholesale and retail level. PMAA members are the primary conduit for bringing petroleum products from the terminal rack to retail locations and represent a vital and indispensable link in the nation's petroleum distribution chain.

Comments

PMAA appreciates the opportunity to provide comments on the EPA's Fuels Streamlining proposed rule. PMAA generally supports the EPA's proposed streamline rule that would reorganize, consolidate and update the fuel regulations under 40 CFR Part 80.

- **Reorganization Under New Part 1090**

PMAA supports reorganizing the fuel regulations in Part 80 into a new Part 1090 and arrangement by regulated party. The haphazard regulatory structure of the current Part 80 is difficult and time consuming to navigate. The proposed organizational changes including, simplification of language, organizing regulations by regulated party, using dedicated subparts specific fuels and functions and removing outdated provisions will make the regulations easier to search, understand and ultimately to explain to regulated parties. PMAA believes it is particularly important to remove outdated provisions such as the ULSD PTD language and labelling requirements. Petroleum supply vendors still sell ULSD labels and other compliance products that are no longer required by referencing outdated provisions in advertising material. Removing these provisions will help prevent small business petroleum marketers from diverting compliance resources to products they no longer need. PMAA members are primarily small businesses who don't often have dedicated regulatory compliance officers to explain and implement regulatory requirements. Instead, principal officers involved in the day to day operations of their company are responsible for regulatory compliance, with assistance from PMAA staff. Simplifying the regulatory language and organizing it in a logical user-friendly framework will not only increase compliance, but also significantly reduce the regulatory burden on small business petroleum marketers. PMAA fully supports all the proposed changes and applauds the EPA for undertaking them.

- **Fuel Quality Survey Consolidation**

PMAA supports the EPA's proposal to consolidate the RFG, RVP, ULSD and E15 fuel quality surveys into a single one stop testing mechanism. PMAA agrees with the agency that the consolidation would lessen the regulatory burden on small business petroleum marketers by reducing the number of testing sites from 18,000 to approximately 5000 retail sites nationwide. However, PMAA remains concerned that the lack of adequate fuel quality testing above the terminal rack is exposing retail petroleum marketers to a higher risk of liability than if third party testing were performed across the entire petroleum distribution chain. PMAA members often cite the lack of verifiable upstream testing for downstream fuel quality problems. It is difficult, if not impossible under the current survey program for retail marketers to determine the origin of non-spec fuels in their possession without comprehensive fuel quality testing upstream.

- **Simplification of Summertime VOC Standards – RFG RVP Cap**

PMAA supports the EPA's proposal to simplify the RFG VOC standards by replacing the current complex model that averages emission performance, with a 7.4 psi RVP cap on reformulated gasoline. PMAA supports the change because it will create more fungibility by allowing comingling of RFG and conventional gasoline during the wintertime driving season. PMAA is concerned however, the proposed change facilitating comingling could cause delays upstream in the annual transition to summertime gasoline blends. The lack of upstream storage capacity and just-in-time inventory practices leaves little room for error in the timing of transition to summertime gasoline. Retail marketers depend on upstream parties for efficient turnover to summertime gasoline in order to meet their June 1 transition deadline and avoid liability for noncompliant fuel. PMAA would not support an RFG RVP cap if it threatened the efficient transition to summertime gasoline blends. PMAA requests the EPA fully consider the potential impact wintertime comingling of RFG and conventional gasoline would have on the transition to summertime blends and take the necessary actions to avoid delays that would prevent the timely turnover of retail tanks.

- **Downstream Oxygenate Blending - BOB**

The EPA is proposing to allow downstream parties to redesignate BOB when more oxygenate is added than indicated on PTDs, without triggering an array of onerous regulations that typically apply upstream parties. PMAA supports the provision because it would clarify downstream party obligations for higher content ethanol blending. However, PMAA is opposed to any provision that would permit downstream oxygenate blenders to identify E15 on PTDs, invoices or dispenser labels in any way that obscured the 15% ethanol content of the blend; including terms such as "Unleaded 88" or "Regular 88". PMAA believes use of these terms significantly increases the risk of misfuelling.

- **ULSD, Heating Oil, Diesel Fuel, Recertification**

PMAA supports the EPA's proposals to simplify the downstream recertification of distillates, removal of outdated provisions in the ULSD regulations and elimination of the prohibition against the presence of red dye in motor vehicle diesel fuel.

Recertification - PMAA believes simplifying the recertification process for distillates, particularly heating oil, will increase downstream fungibility and provide wholesale and retail distributors the flexibility needed to meet their residential and commercial customer supply obligations. Heating oil dealers must plan their supply needs based on the inexact science of predicting weather

temperatures months in advance. The quality of those predictions not only determine the quantity of supply available to heat residential homes, apartment buildings and commercial establishments, but also determines the price at which it will be sold. The process is unforgiving, especially for those who purchase seasonal supply at a fixed price. Problems arise for heating oil dealers with the occurrence of unexpected and prolonged severe wintertime temperatures that push demand beyond supply. The resupply of heating oil during unexpected severe wintertime temperatures can be unpredictable. Most heating oil is supplied by barge. Wintertime deliveries can be delayed for lengthy periods due to iced in port facilities that prevent offloading. When this occurs, heating oil dealers are forced to scramble for alternative supply sources to prevent customer freeze-ups.

The ability to recertify diesel fuel or kerosene as heating oil without triggering onerous testing and reporting requirements meant for terminal operators and refiners would help ease supply shortages during severe cold weather. Simplified recertification would also provide heating oil dealers with the ability to switch between diesel fuel and heating oil based on price differentials. The ability to recertify heating oil to diesel fuel is less in demand due to IRS dye requirements for nontaxable fuels in order to distinguish it from clear taxable on road motor fuels. Recertification to diesel fuel could only occur if the sulfur content of the heating fuel was limited to 15 ppm and the product is sold for a nontaxable use (by state or local government, in off-road vehicles or for use in emergency generators). Nevertheless, the simplification of the recertification process for distillates, along with removal of the prohibition against the presence of red dye in motor vehicle fuel will significantly improve downstream fungibility allowing heating oil dealers to more easily meet their supply needs and price their product more competitively.

PTDs - PMAA supports the EPA proposal to reorganize and consolidate PTD language into a new section, more fully identify exempt fuels, remove outdated language and allow petitions for alternate language. Reorganizing PTD language requirements under a single section is a much needed and greatly appreciated change. Currently, PTD language requirements are scattered throughout the regulations, making them difficult to find and track for possible changes. Probably the most frequent question PMAA receives from members relates to compliance with PTD requirements. PMAA believes that reorganizing PTD language into a single section, removing outdated PTD requirements, particularly ULSD notification requirements, would increase compliance among regulated parties.

PMAA applauds the EPA for providing a mechanism to petition the agency for alternative PTD language. PMAA members, particularly heating oil dealers with ticket printers limited to as little as 78 characters, often find it impossible to fit lengthy PTD language onto existing customer delivery tickets and invoice

Page 5. PMAA Comments - EPA-HQ-OAR-2018-0227

platforms. During the ULSD phase-in period, PMAA worked closely with the EPA to come up with over a dozen alternative PTD notifications that provided the required notice while at the same time adjusting for PTD and ticket meter space limitations as well as state and local government fuel notice requirements. Formalizing the process for obtaining alternative language will significantly reduce the PTD compliance burden on small business petroleum marketers and increase compliance. PMAA strongly supports this effort.

Finally, PMAA has no objection to the proposal requiring more specific PTD identifying language for R&D fuels or elimination of sulfur content language from heating oil dispenser labels.

Conclusion

Overall, PMAA welcomes the changes proposed in the Fuels Regulatory Streamlining rulemaking. PMAA believes these changes will increase compliance with EPA fuel regulations while significantly reducing the compliance burden they impose on small business petroleum marketers.

PMAA is prepared to answer any questions you may have or provide further stakeholder information on the Fuels Regulatory Streamlining rulemaking.

Sincerely,



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