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VIA: www.regulations.gov

Ms. Susan Lyon Stone (stone.susan@epa.gov)
Health and Environmental Impacts Division
Office of Air Quality Planning and Standards
U.S. Environmental Protection Agency
Mail Code C504-06
Research Triangle Park, NC 27711

Re: **Docket No. EPA-HQ-OAR-2008-0699**
Comments on Behalf of NACS and SIGMA

Dear Ms. Stone:

Please find below the comments of the National Association of Convenience Stores (“NACS”) and the Society of Independent Gasoline Marketers of America (“SIGMA”), with respect to the Environmental Protection Agency’s (“EPA’s” or the “Agency’s”) Proposed Rule Regarding National Ambient Air Quality Standards for Ozone (“Proposed Rule” or the “Proposal”).¹

The Proposal would have a significant negative impact on the retail motor fuels market in the United States. These comments are intended to ensure that the Agency is fully aware of these consequences as it proceeds with the rulemaking process.

Specifically, the stricter National Ambient Air Quality Standards for Ozone (“Ozone NAAQS”) that EPA has proposed would increase the heterogeneity of the U.S. motor fuels market. This would result in higher retail fuel prices for consumers. Under the Proposed Rule, a significant portion of the United States will be designated as nonattainment areas. This would result – through a combination of automatic regulatory triggers and states’ efforts to implement policies to satisfy the Ozone NAAQS – in a greater variety of special gasoline specifications in different states, and even in different regions within states. Balkanizing the motor fuels market in this manner injects stress into the gasoline supply system. Operations at refineries, pipelines, and storage terminals would be affected, resulting in increased wholesale motor fuel prices and more price volatility. The higher costs that motor fuel retailers assume as a result of these consequences are inevitably passed on to consumers in the form of higher prices at the pump. The supply system’s stress would be particularly acute during times of supply disruption, such as weather events, refinery outages or pipeline delays.

¹ 79 Fed. Reg. 75234 (Dec. 17, 2014).

I. BACKGROUND

NACS is an international trade association representing more than 2,200 retail and 1,800 supplier company members. NACS member companies do business in nearly 50 countries worldwide, with the majority of members based in the United States. The U.S. convenience store industry, with approximately 1.8 million employees and 151,000 stores across the United States, posts nearly \$700 billion in total sales, and accounts for approximately \$500 billion in motor fuel sales alone each year.

SIGMA represents approximately 260 independent chain retailers and marketers of motor fuel. SIGMA members represent significant diversity within the industry. While 92 percent are involved in gasoline retailing, 66 percent are involved in wholesaling, 36 percent transport product, 25 percent have bulk plant operations, and 15 percent operate terminals. Member retail outlets come in many forms including travel plazas, traditional “gas stations,” convenience stores with gas pumps, cardlocks, and unattended public fueling locations. Some members sell gasoline over the Internet, many are involved in fleet cards, and a few are leaders in the mobile refueling movement.

Collectively, NACS and SIGMA represent approximately 80 percent of the motor fuel sales in the United States.

II. LOWER OZONE NAAQS WILL TRIGGER MORE STRINGENT CONTROL MEASURES THAT NEGATIVELY AFFECT THE RETAIL MOTOR FUELS MARKET

A significant portion of the United States will be designated as nonattainment areas under EPA’s Proposed Rule. Pursuant to the Clean Air Act (“CAA”), nonattainment areas must be further classified based on the severity of their nonattainment. Stricter Ozone NAAQS would lead to enhanced ozone control measures designed to bring states into attainment. Such measures will include, among other things:

1) The introduction of RFG in what are now conventional gasoline areas

The Clean Air Act and its implementing regulations require the use of RFG in areas classified as “severe” ozone nonattainment areas. In addition, states are permitted in their State Implementation Plans (“SIPs”) to require RFG in areas that have not reached “severe” nonattainment status. Such requirements could further their efforts to come into attainment with the Ozone NAAQS, and would become more prevalent if the Proposal is finalized as currently drafted.

2) *More states and/or localities imposing lower Reid Vapor Pressure (“RVP”) requirements*

The Clean Air Act and its implementing regulations prohibit the sale of gasoline with an RVP above 9.0 pounds per square inch (“PSI”) in all areas designated attainment for ozone. For areas designated as nonattainment, a lower RVP of 7.8 PSI is required during summer months. In addition, states are permitted to require an even lower RVP than is required under the CAA. As with RFG requirements, this could further states’ efforts to come into attainment with the Ozone NAAQS, and would also become more prevalent if the Proposal is finalized as currently drafted.

3) *Certain states retaining costly and unnecessary “Stage II” vapor recovery requirements*

A number of states continue to require motor fuel retailers to implement Stage II vapor recovery systems, even though these systems are no longer mandatory under federal law.² Although EPA has acknowledged that such systems are largely redundant due to equivalent control measures (known as “onboard refueling vapor recovery”, or “ORVR”) being in “widespread use” throughout the motor vehicle fleet, some states are still able to modestly enhance their efforts to attain the Ozone NAAQS by maintaining this costly and unnecessary requirement in their SIPs. If the Proposal is finalized as currently drafted, it would discourage those states from eliminating this requirement.

III. A GREATER NUMBER OF STATES AND LOCALITIES BEING SUBJECT TO STRICTER RFG AND RVP REQUIREMENTS WOULD BALKANIZE THE MOTOR FUELS MARKET AND INCREASE THE RETAIL PRICE OF FUEL

A greater variety of gasoline specifications, such as RFG and various RVP requirements (collectively referred to below as “special gasoline blends”), makes it more complex and expensive to supply gasoline to consumers.³ This is true for several reasons, spanning most of the supply chain:

- A less fungible gasoline market results in a smaller number of refiners serving specific states or regions. Not all refineries will manufacture product that meets the specifications of every locality in the country, or even in the refinery’s vicinity. This diminution in supply sources inevitably imposes upward pressure on price. In addition, refineries that do manufacture special gasoline blends necessarily expend additional resources to do so, and these costs are passed down through the supply chain and ultimately absorbed by the consumer.

² See 77 Fed. Reg. 28772 (May 16, 2012).

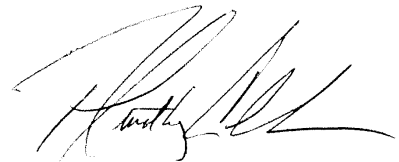
³ See generally GAO Report, “Gasoline Markets: Special Gasoline Blends Reduce Emissions and Improve Air Quality, but Complicate Supply and Contribute to Higher Prices.” June 2005, available at <http://www.gao.gov/new.items/d05421.pdf>.

- A greater variety of gasoline specifications will reduce pipeline capacity and raise the costs of transporting gasoline via pipeline. Specialized gasoline blends generally cannot be mixed in the pipeline with blends that meet different specifications. They also tend to be shipped in smaller batches because demand for the product is limited to the areas that require the special blend. When pipelines have to accommodate a greater variety – and smaller batches – of specialized gasoline blends, they must transport a smaller quantity of fuel and transport that fuel at slower speeds. This raises the cost and complexity of shipping gasoline via pipeline.
- The need to keep special gasoline blends separated from other blends that meet different specifications creates storage complexities. When special gasoline blends reach a storage terminal, they must be stored in separate tanks from other blends. Because special gasoline blends are often shipped in smaller batches – particularly if they are only required in a limited area – the tanks in which the blends are stored are often not filled to capacity. Thus, terminal operators forfeit the ability to fully utilize their storage tanks. This imposes added costs and complexities on terminals.
- The supply complexities outlined above are particularly troubling for “independent” motor fuel retailers that do not have branding or supply agreements with an integrated oil company. These retailers generally seek to purchase product from a variety of suppliers at the lowest price available. They also tend to sell gasoline at retail for a lower price than their branded competitors. When supply is “short” – on account of fewer refineries serving a region, product transportation delays, limited storage capacities at nearby terminals, or a severe weather event – independent fuel retailers have fewer sources from which they can identify the lowest cost supply. Simple economics dictate that decreases in supply lead to price increases for consumers.

IV. CONCLUSION

NACS and SIGMA appreciate the opportunity to provide these comments, and urge the Agency to consider the issues discussed above as it finalizes the Proposed Rule.

Sincerely,



R. Timothy Columbus
General Counsel
NACS and SIGMA