



AMERICAN PETROLEUM INSTITUTE

Tier 3 Gasoline Rulemaking

Good morning and thank you for providing the opportunity for API to testify at today's hearing on the Tier 3 Rulemaking. I am Patrick Kelly with the American Petroleum Institute. API is the national trade association representing all segments of the U.S. oil and natural gas industry. Its more than 500 members – including large integrated companies, exploration and production, refining, marketing, pipeline, and marine businesses, and service and supply firms – provide most of the nation's energy. The industry also supports 9.2 million U.S. jobs and 7.7 percent of the U.S. economy, delivers \$86 million a day in revenue to our government, and since 2000, has invested over \$2 trillion in U.S. capital projects to advance all forms of energy, including alternatives.

America's petroleum refining industry is a strategic and valuable asset for the United States. Maintaining a strong domestic refining industry is critical to the nation's economic security. This rulemaking could have significant impacts on domestic refiners, which are already heavily regulated.

API opposes the proposed requirement to further reduce average gasoline sulfur with this Tier 3 regulation. This rulemaking is discretionary, and API has serious doubts as to the Agency's justification for it. API commissioned studies on the costs and benefits associated with further reductions in gasoline sulfur content and found that they are not necessary for meeting more stringent vehicle emissions standards, will yield little air quality benefits, and will impose enormous costs.

API has serious concerns with the EPA process for developing this rule. We have been insisting EPA demonstrate a scientific justification of this rule and for two and a half years



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did not receive data. One week ago today, EPA dumped over 600 documents into the docket. Prior to EPA publishing the proposed rule in the Federal Register, EPA publishes a comment deadline that gives industry very little time to analyze the data and provide meaningful input. EPA needs to extend the comment deadline to at least 90 days after the NPRM has been published in Federal Register, or until mid-August, whichever occurs later. EPA needs to be transparent in its rulemakings, and to not circumvent public participation in the process.

Reducing gasoline sulfur to an average of 10 parts per million is expensive. Research API shared with the Agency shows nearly 10 billion dollars in capital costs. The annual compliance cost is 2.4 billion dollars; or 6 to 9 cents per gallon marginal cost. EPA should not consider these costs in a vacuum. Refiners need to balance these costs with the cumulative costs of other federal and state regulations. Our domestic refiners are put at a competitive disadvantage against foreign refiners.

API assessed the air quality benefits of the proposed standards, and found that over the next decade the requirements would yield only very small additional reductions in ozone over the current regulations. Tier 2 was a costly rule as well, but it yielded measurable environmental benefits. The air quality benefits of the Tier 2 program are still being realized. More than half the cars on the road today are pre-Tier 2 and the air quality benefits of that rule will continue to be realized as the fleet turns over. The prospect of spending just as much money for a negligible air quality benefit doesn't make sense.

Automakers insist they need 10ppm gasoline to enable lean-burn GDI engines. Yet in Europe and Japan where automakers made similar fuel demands, lean burn GDI engine penetration peaked at 2% and tailed off. Research shows this technology would not



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reach more than 3% of the U.S. fleet by 2020. Sulfur levels in diesel fuel were capped at 15 ppm to enable an emissions control technology that never took off in the marketplace. We need not make the same mistake with gasoline. Automakers can meet the emissions standards without further reducing sulfur in gasoline.

EPA's 3-year lead-time is grossly inadequate. Six years is workable; five years is the absolute minimum. Three years is insufficient to ensure against potential market disruptions. Technology and maintenance improvements at refineries have steadily progressed and refiners are able to operate for about 5 years before a turnaround is required. Refinery turnaround is most efficient time to make the changes that will be required for Tier 3. EPA's 3 year lead time means that normal refinery maintenance schedules will likely be disrupted to make the necessary changes for Tier 3 – potentially impacting gasoline supply and increasing the costs to make the Tier 3 changes.

EPA claims to have offered "flexibilities" in the proposed rule that purportedly reduce the burden of compliance. Small refinery exemptions are of limited utility if a pipeline company does not accept gasoline exceeding the standard; a situation that occurred in the Tier 2 introduction. The cost reduction benefits from averaging, banking and trading of credits in the Tier 3 rule are not comparable to Tier 2. The opportunity to generate credits is limited by a refinery's ability to significantly reduce sulfur levels with their existing equipment and configuration. Tier 2 sulfur credits remain in circulation. To determine the extent that an ABT program provides a benefit, EPA should publish aggregate, (non-company or region specific) data on remaining Tier 2 credit balances. With such a short lead-time, the opportunity to generate sufficient credits to cover both the Tier 2 requirements and bank credits for Tier 3 between now and January 1, 2017 will



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be limited. To the extent that a refinery is unable to secure any Tier 3 credits, they will have to be able to meet the proposed 10 ppm average sulfur standard starting in 2017.

EPA is proposing a reasonable approach to sulfur cap levels by maintaining the current standard, but that won't help lower costs very much. Sulfur cap levels have a more dramatic impact on local supply in the event of a disruption; but do not change the cost of meeting a 10ppm average sulfur standard. If a batch of higher sulfur gasoline is produced, it will take a lot of near-zero sulfur gasoline batches to get below 10 ppm average.

API does not agree with EPA's proposal to change the certification fuel to E15. Instead, E10 should be used as the new certification fuel. The vast majority of vehicles in the current fleet were not designed to operate on fuels exceeding E10, and, because of this, E10 will likely be the predominant fuel in the marketplace for many years into the future. The certification fuel should match the fuel that new vehicles will actually use when they are in operation. Therefore, the most appropriate fuel to use for certification is E10.

EPA also proposed to use a 9.0 pound Reid Vapor Pressure certification fuel. EPA should recognize the prevalent use of ethanol in the marketplace as well as its impact on fuel volatility and set the certification fuel RVP standard at 10 psi. The analysis API shared with EPA on sulfur and RVP reductions showed a significant cost and supply impact of reducing RVP, and we remain concerned that EPA will move forward with RVP reductions as a separate rulemaking effort. EPA should set the certification fuel RVP standard to reflect the in-use fuel to mitigate any potential emission impact.



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The proposed rule seeks comment on allowing automakers to test and certify vehicles on a higher octane, higher ethanol content (such as E30) certification fuel for engines optimized for using such a blend, if they can demonstrate that such a fuel would be used by the operator and would be readily available nationwide. EPA should not move to finalize such a specification as a part of this rulemaking. A flexible fuel vehicle, certified on premium gasoline can be made today and fueled at nearly every gasoline station. However, the market has not demanded more premium octane, or higher ethanol content fuels. In fact, recent EIA data shows that the consumption of premium motor gasoline in the US has fallen by more than 50% from its peak in the late 1980s. It is not reasonable for EPA to lead the introduction of a new specification fuel in this rulemaking ahead of the requisite research and collaboration necessary to develop a new specification.

We would, however, like to commend EPA for those aspects of the proposal that relate to regulatory streamlining, especially those involving the removal of obsolete provisions in other fuels regulations such as the reformulated gasoline program, the rationalization of reporting requirements, and the adoption of Performance-Based Measurement Systems (PBMS). The proposed adoption of PBMS is particularly gratifying as it is a topic which the petroleum industry has been working with the EPA for over 17 years.

We will be submitting more detailed comments in our written response. I thank you again for the opportunity to speak here today and am happy to answer any questions.