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June 29, 2020

Via online submission at www.regulations.gov

U.S. Environmental Protection Agency (EPA)
Office of Air and Radiation
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Re: Docket ID No. Docket ID No. EPA-HQ-OAR-2018-0227 "Fuels Regulatory Streamlining" Notice of Proposed Rulemaking

Chevron appreciates the opportunity to review and comment on the referenced Notice of Proposed Rulemaking (NPRM). Chevron is a major refiner, fuel manufacturer, distributor and marketer of petroleum products in the U.S. This proposed rule affects Chevron's U.S. fuels operations which are directly impacted by the transition of fuel regulatory requirements from 40 CFR 80 to 40 CFR 1090.

Chevron has been engaged throughout the process that has culminated in the publication of this NPRM. We have participated in several workshops to discuss and develop the basis for the proposal, and we have provided input on the four prior discussion drafts. Chevron would like to thank the EPA for the multi-year collaborative process leading to the publication of the NPRM. We look forward to the future implementation of the new regulations. We urge EPA to work expeditiously to finalize this proposal in time for a January 1, 2021 start date.

Chevron is a member of both the American Petroleum Institute (API) and the American Fuel and Petrochemical Manufacturers (AFPM). We support and incorporate by reference the joint comments submitted by API and AFPM in response to this proposed rulemaking.

1. Timing of the Final Rule and the Implementation Date

Chevron supports EPA's efforts to implement the rule on January 1, 2021. However, we are concerned that the rule may not be finalized until very late in 2020. We would prefer to have a final rule as early as possible, ideally in September or October 2020, to maximize the time available to prepare for the new Part 1090 requirements. If a final rule is not available until later in 2020 or perhaps early 2021, this creates tremendous uncertainty for regulated parties. We believe additional discussion with EPA is warranted to consider different implementation scenarios if a final rule cannot be completed expeditiously. Our comments are based on having sufficient time between a final rule and the January 1, 2021 start date. Additional flexibility or alternative implementation plans may be necessary to accommodate delays in the approval and publication of a final rule.

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2. Use CARB gasoline and diesel outside of California

Chevron supports the flexibility provided in 1090.625 to sell California gasoline and diesel fuel outside of California. We agree with the assessment that California gasoline and diesel meet or exceed the emissions performance of federally regulated RFG, CG and ULSD. The NPRM provides two options: 1) recertify California gasoline or diesel fuel as compliant EPA fuels, which allows participation in the Averaging, Banking, and Trading program for gasoline sulfur and benzene; or 2) re-designating these fuels for direct distribution without the ability to generate sulfur and benzene credits. Each of these options provides operational flexibility for California refiners to meet the needs of the regional fuel markets and maximize supply reliability, without impacting the environment.

3. National Fuels Survey

Chevron supports the expansion of the National Fuels Survey Program (NFSP) to include RFG, CG, E15, and ULSD. The ability to increase the breadth of the program while reducing the overall compliance cost for participants is a welcome improvement. The program design should facilitate EPA oversight to help ensure regulatory compliance and encourage equitable enforcement across gasoline and diesel fuels offered for sale at retail.

We also support the continued exemption of California retail locations from the NFSP. The California Air Resources Board maintains their own oversight of gasoline and diesel fuel across the supply chain including retail locations. The exemptions provided in 1090.620(a) are warranted given California's existing program. We recognize that California refineries are subject to the National Sampling Oversight Program (NSOP) if they choose to meet the downstream oxygenate blending requirements for gasoline distributed and sold outside of California. However, California retail locations should remain exempt from the NFSP.

4. Gasoline deposit control additives

Regarding the proposed revisions to the gasoline deposit control additive certification, Chevron supports the comments submitted by API/AFPM and also the comments submitted separately by Chevron Oronite, our fuel and lubricants additive company. The proposed revisions will lead to higher treat rates and consumer cost, without demonstrating a specific environmental or performance benefit as a justification. We encourage EPA to address the concerns expressed in the comments submitted by Chevron Oronite and by API/AFPM.

5. Low volume throughput retail transition flexibility

Certain gasoline retail stations can experience low sales volumes, particularly for premium and mid-grade octane products, which can result in a reduced frequency of gasoline deliveries. This low throughput phenomenon may create difficulty for the station to meet the June 1 summer RVP requirement, even if the regional supply terminals have fully transitioned to compliant summer gasoline on May 1.

Under the NPRM, low throughput retail stations, which are unable to fully transition to summer gasoline by June 1, may be forced to remove or "pump out" the winter gasoline from their underground storage tanks. The pump out of winter gasoline may be required to allow a delivery of summer gasoline in sufficient volume to meet the RVP standard. The pump out operation is costly for the retailer. The pump out creates additional safety risk and potential for increased VOC emissions. Managing the transition at these locations is a manual, resource intensive operation.

In order to alleviate this concern, Chevron requests an exception be added in 1090.215(c) for summer RVP transition for low throughput retail stations. We propose that retail locations that have not received product during the 14 days prior to the June 1 RVP transition date should not be held to the summer RVP standard until they receive their next delivery. This approach is not unprecedented. The California Reformulated Gasoline Regulations (CCR Title 13, Section 2262.4(c)(3)) provides a mechanism for low throughput locations to have flexibility with RVP transitions. Similar provisions for low throughput retail stations are incorporated in other state regulations.

Our suggested revision to the regulatory text is as follows:

> 1090.215(c)(3) The gasoline is located at a retail station that has not received a delivery designated as summer gasoline in the 14 days prior to the June 1 RVP transition date. In this case, the gasoline at the retail station would not be required to meet the RVP standard until the station receives its next delivery designated as summer gasoline.

6. Substantially similar definition

In the preamble, the EPA proposes to include a requirement in 40 CFR 1090 that all gasoline, BOBs, and gasoline fuel additives must be “substantially similar” (SubSim) under CAA section 211(f)(1)(B) or have a waiver under CAA section 211(f)(4). Chevron supports inclusion of a requirement for gasoline and gasoline fuel additives to be SubSim since this is derived directly from CAA section 211. The need to regulate and enforce fuels based on the SubSim definition is particularly relevant for E15, where specific fuel composition, physical and chemical characteristics, and misfueling mitigation were established specifically for that fuel to be deemed substantially similar.

However, we oppose the concept of requiring a BOB to meet the SubSim definition or have a SubSim waiver as this is outside of the direction provided in CAA section 211. Including a requirement for a BOB to meet SubSim diverges from EPA’s prior interpretation which applies to finished fuels and fuel additives.

A BOB, by definition, means a gasoline designated for downstream oxygenate blending before being dispensed into a vehicle or engine’s fuel tank. The BOB should not be subject to SubSim since it is not a gasoline that will be directly consumed unless it is recertified or oxygenate is added. Modification of the SubSim interpretation to include BOBs is a significant change and should only be considered in a separate rulemaking.

In the NPRM, BOBs are included the proposed definition of gasoline. Therefore, a specific exception for a BOB is needed within the proposed §1090.260 Gasoline SubSim provisions. To acknowledge that a BOB is an unfinished fuel which should not be subject to CAA section 211(f)(1)(B) or CAA section 211(f)(4), we recommend the addition of the following language:

§1090.260 (a) Gasoline <u>(excluding BOBs)</u> and gasoline additives (including oxygenates) are subject to the substantially similar requirement in 42 U.S.C. § 7545(f) unless waived under 42 U.S.C. § 7545(f)(4).

We also suggest that the reference to BOB should be removed from the discussion on SubSim within the preamble.

7. Quality Control Procedures: Long term precision

Many of Chevron's concerns with the proposed quality control requirements are addressed within the API/APFM joint comments sections *3.2 – Attestation: SQC and PBMS Review, 3.16 – Sampling Homogeneity, and Appendix 1 – PBMS requirements*. However, a question remains on what constitutes "long-term" in the context of precision data within 1090.1375(b)(3). Other sections specifically define a number of days or number of data points for statistical evaluation, but neither is established in 1090.1375(b)(3) which leaves the section ambiguous. The criteria defined in other sections are either too brief or exceed the number of data points that would be needed to provide a meaningful indication of a "long term" control of precision. Chevron requests the EPA defines the duration in 1090.1375(b)(3) as either:

(1) the calibration/maintenance frequency interval stated in the VCSB test method used; or
(2) a 12 month period. This is consistent with the duration defined in 1090.1375(c) to meet an annual accuracy demonstration through participation in an ILCP.

8. Conclusion

Chevron appreciates the opportunity to comment on the Regulatory Streamlining NPRM. We support EPA's effort to implement these new regulations, which will improve our compliance ability and reduce cost while maintaining environmental protection. We appreciate EPA's collaborative effort to include regulated parties in the development of the NPRM. We believe that our comments, along with the comments submitted by API and AFPM, provide enhancements to the NPRM that will benefit both the EPA and the regulated community. We encourage EPA to finalize the rules in time to allow a smooth implementation of the entire program on January 1, 2021.

Please contact Joseph Sorena (jsorena@chevron.com; 832-854-4840) or Bob Anderson (bob.anderson@chevron.com; 925-842-5317) with any questions.

Sincerely,