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via email

**Ref.: Gasoline Distribution Area Source Final Rule and Proposed Amendments
(Docket ID No. EPA-HQ-OAR-2006-0406)**

The American Petroleum Institute (API) is a national trade association with nearly 400 member companies that are involved with all aspects of the oil and natural gas industry. We are writing to provide further commentary with respect to the issues raised in our letter of June 1, 2010, concerning the uncertainty that exists regarding the requirements for compliance with 40 CFR Part 63 Subpart BBBBBB, "National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities" (GD GACT).

A final rule was promulgated January 10, 2008 [73 Federal Register 1916], and proposed amendments were published in the Federal Register on December 15, 2009 [74 Federal Register 66470]. API submitted comments on the proposed amendments in a letter to EPA of February 16, 2010. We continue to be concerned about the issues raised in that letter, and we refer you to it for background on and discussion of these issues.

In that we are writing to provide further comment on our letter of June 1, 2010, this letter follows the item numbering of that letter, including the grouping of items into two categories.

Corrections and Clarifications

The first category of issues pertained to provisions of the proposed amendments which we believe constitute necessary corrections or clarifications to the rule. As noted in our letter of June 1, 2010, API is generally supportive of the corrections and clarifications presented in the proposed amendments of December 15, 2009, but there is a need for these proposed changes to become final in order to provide certainty as to the regulatory requirements. We offer the following observations concerning the seven items in this category:

- Company representatives who participated in a recent conference call indicated that their companies have been proceeding on the basis that the seven items in this category would become final, and thus they would only encounter a need for an extension on account of these items in the event that any of them were to not become final.



- It should be noted, however, that many companies with potentially affected facilities were not represented on this conference call, and thus there is the potential that individual companies may request an extension on the basis of the uncertainty that has been associated with these items.

- One of these items would benefit from further clarification, and another is in need of correction. These concerns were noted in our letter of February 16, 2010, and are repeated below:

Item 1 (June 1, 2010) as addressed in Item 8 of our February 16, 2010 letter:

§63.11092(b)(1)(i)(B)(2)(ii) & (b)(1)(iii)(B)(2)(ii). We appreciate EPA’s clarification that records of shutdown events may be either manual or electronic. We submit, however, that detailed requirements for the record of a shutdown event are specified in **§63.11092(b)(1)(i)(B)(2)(v) & (b)(1)(iii)(B)(2)(v)**, and thus the phrase “start and end of a” is unnecessary and potentially confusing. We request that this phrase be deleted such that the sentence reads as follows:

“A manual or electronic record of the **start and end of a** shutdown event may be used.”

Item 5 (June 1, 2010) as addressed in Item 12 of our February 16, 2010 letter:

Table 1, item 2. We appreciate EPA’s clarification, in the preamble of the proposed amendments, that the same rim seal requirements are intended regardless of whether the owner/operator opts to comply with **40 CFR Part 60 Subpart Kb** or **40 CFR Part 63 Subpart WW**. In either case, the secondary seal requirements are meant to not apply to internal floating-roof tanks that are subject only to **40 CFR Part 63 Subpart BBBB**. However, EPA’s attempt to make the necessary corrections in Table 1 failed to properly do so. In order to achieve the intended correction, Table 1 should be edited as follows:

If you own or operate . . .	Then you must . . .
1. A gasoline storage tank meeting either of the following conditions: (i) a capacity of less than 75 cubic meters (m ³); or (ii) a capacity of less than 151 m ³ and a gasoline throughput of 480 gallons per day or less. Gallons per day is calculated by summing the current day’s throughput, plus the throughput for the previous 364 days, and then dividing that sum by 365. 2. A gasoline storage tank with a capacity of greater than or equal to 75 m ³ and not meeting any of the criteria specified in item 1. of this Table.	Equip each gasoline storage tank with a fixed roof that is mounted to the storage tank in a stationary manner, and maintain all openings in a closed position at all times when not in use. Do the following: (a) Reduce emissions of total organic HAP or TOC by 95 weight-percent with a closed vent system and control device as specified in §60.112b(a)(3) of this chapter; or (b) Equip each internal floating roof gasoline storage tank according to the requirements in §60.112b(a)(1) of this chapter, except for the secondary seal requirements under §60.112b(a)(1)(ii)(B), and the requirements in §60.112b(a)(1)(iv) through (ix) and §63.1063(a)(1)(i)(C) and (D) of this chapter; and (c) Equip each external floating roof gasoline storage tank according to the requirements in §60.112b(a)(2) of this chapter, except that the requirements of §60.112b(a)(2)(ii) of this chapter shall only be required if such storage tank does not currently meet the requirements of §60.112b(a)(2)(i) of this chapter; or (d) Equip and operate each internal and external floating roof gasoline storage tank according to the applicable requirements in §63.1063(a)(1) and (b) except for the secondary seal requirements under §63.1063(a)(1)(i)(C) and (D) , and equip each external floating roof gasoline storage tank according to the requirements of §63.1063(a)(2) if such storage tank does not currently meet the requirements of §63.1063(a)(1).



Proposed Rule Expansion

The second category in our letter of June 1, 2010 consisted of items raised in the proposed amendments which we believe pose inappropriate potential expansion of the applicability of the rule. API continues to oppose expansion of the rule to emission points outside of the previously understood boundaries of the source category. This is not a matter of requesting exemptions, but rather is a matter of opposing the inclusion of sources in this rule which do not fall within the previously defined scope of the gasoline distribution source category.

Following the item numbering from our June 1, 2010 letter, we offer the additional comments listed below.

- 8) Process tanks. The proposed removal of the process tank exclusion from the storage tank/vessel definition would potentially extend the storage tank provisions to tanks or vessels that we believe were not intended to be subject to the rule, such as those used for oil/water separation and sumps. We believe that the rule should be revised to clarify that such tanks are not storage tanks, and are not part of the affected source under this rule.

Tanks used for oil/water separation should be described or defined as being those which receive water that has come into contact with hydrocarbons and which are used to separate and recover residual free product from the water prior to additional processing or disposal. In addition to conventional oil/water separators, this would include phase separation tanks used to process petroleum contact water.

Sumps should be described or defined as tanks or vessels which are necessary to collect drained liquid in order to accommodate pumping or transfer of the liquid. This would include a butane sample recovery tank (SRT), as well as conventional sumps. For terminals with butane blending, a SRT is part of the apparatus required by the applicable ASTM test method for the routine automatic product sampling performed for the butane blending process. These small tanks (250 or 500 gallons capacity) collect used samples of gasoline. A floating roof would not be feasible in such small tanks, and closing the tank with a pressure vent would interfere with the ASTM test method for which the tank is installed. The ASTM test method requires the analysis to be performed at atmospheric pressure, and thus the SRT is equipped with an open vent in order to prevent back pressure in the analyzer. The SRT is not used for gasoline "storage," but rather it collects material, for sampling purposes, within the butane blending process before the material is automatically transferred back into the system. The SRT is clearly a process tank, and it is regulated as such under the OSHA Process Safety Management (PSM) rules.

We did not interpret the original rule as being applicable to small process tanks such as sumps or oil/water separators. Should EPA expand the rule to apply to these vessels, such expansion would only become effective at such time as the expanded applicability is included in a final rule. Accordingly, the three-year compliance period for any emission points drawn into the rule by the expansion of the rule applicability would not begin until such time as a final rule is promulgated which expands applicability to that emission point. In the case of these small process tanks, however, we are hopeful that this is a moot point, in that we believe that it is not EPA's intent to expand the rule in this manner.



We continue to believe that the most effective way to exclude these miscellaneous tanks or vessels from the rule would be to adopt the 40 CFR Part 60 Subpart Kb definition for “storage vessel.” We are unaware of any compelling reason to have inconsistency in the definition of a term used by two different rules to refer to the same source. Furthermore, there is potential for unintended consequences in the altered definition proposed for GD GACT. For example, to characterize a sump as a storage tank or vessel could have the unintended consequence of characterizing a pipeline pumping station as a pipeline breakout station, in that the distinction between these two types of facilities is the presence of a storage vessel. While we would certainly welcome the exclusion of individual types of process tanks from the GD GACT rule, such as sumps and oil/water separators, we suggest that this be accomplished by including the Kb process tank exclusion in the definition of a storage tank/vessel. If EPA instead specifies a list of particular types of process tanks that are not subject to the rule, we propose the following: 1) sumps, including sample recovery tanks used in butane blending systems, and 2) oil/water separators, including phase separation tanks.

- 9) Tanks Storing Denatured Ethanol. As noted in our previous letters, API strongly opposes expansion of this gasoline rule to encompass denatured ethanol. Denatured ethanol does not meet the Reid vapor pressure criterion in the EPA definition of gasoline, nor does it meet the criterion of being “used as a fuel for internal combustion engines.” As documented in our comments of February 16, 2010, EPA has previously held that, “blend components that are stored separately from “gasoline” are not intended to be covered if they do not meet the criterion as a “fuel for internal combustion engines.”” Furthermore, EPA has expressly identified ethanol as a “blending agent” for gasoline, rather than being gasoline itself.

Furthermore, it is not appropriate to regulate denatured ethanol under any National Emission Standard for Hazardous Air Pollutants (NESHAP), in that it contains only a *de minimis* concentration of hazardous air pollutants (HAP). The concentration of HAP in denatured ethanol is less than half of one percent, and thus it falls well below the 5% threshold for regulation specified in the *Organic Liquids Distribution (non-gasoline)* NESHAP rule. Thus regulation of denatured ethanol under the NESHAP provisions has already been effectively evaluated by EPA, with the conclusion that regulation is not warranted.

- 10) Tanks Storing Transmix. API also continues to object to expansion of gasoline storage vessel requirements to tanks storing transmix. An owner or operator would not reasonably anticipate, from a plain reading of it, that the rule would apply to transmix. The definition of gasoline includes the criterion that it is “used as a fuel for internal combustion engines,” and no one would suggest that it is appropriate to route transmix to a service station pump. Furthermore, there was nothing in the Federal Register announcements for either the proposed rule [November 9, 2006 (71 FR 66064)] or the final rule [January 10, 2008 (73 FR 1916)] that would have informed the reader that the criteria in the specified definition of gasoline could not be relied upon for determining rule applicability. If EPA now extends the rule to apply to transmix, a three-year period should be allowed for achieving compliance. Furthermore, the Reid vapor pressure threshold of 4 psi should apply.
- 11) Continuous Monitoring Systems. Our objection with respect to the CMS requirement arises from the potential for the language as revised in the proposed amendments to be read as requiring an expansion of requirements beyond those specified in §63.11092(b)(1)–(b)(5). For example, the docketed record clearly supports that the monitoring requirements for a vapor processor would be fully met by compliance with §63.11092(b)(5)(i) for a facility complying with the performance testing alternative of



§63.11092(a)(2), but we are concerned that the language as proposed could be misconstrued as requiring some add-on monitoring device (the CMS) in addition to the requirements specified in §63.11092(b)(5). The preamble to the proposed amendments [December 15, 2009 (74 FR 66470)] states that the revised language “requires subject facilities to monitor vapor processors” (p. 66481, middle column, third paragraph). The intent of the rule would be more certain if this phrase were used in the rule language, rather than the phrase “continuous monitoring system.” We suggest that the rule text be revised as follows:

§63.11092(b) Each owner or operator of a bulk gasoline terminal subject to the provisions of this subpart shall **monitor the vapor processor** ~~install, calibrate, certify, operate, and maintain, according to the manufacturer’s specifications, a continuous monitoring system (CMS)~~ while gasoline vapors are displaced to the vapor processor systems, as specified in paragraphs (b)(1) through (5) of this section.

* * * * *

Furthermore, the edits suggested below to §63.11092(b)(5)(i) & (ii) would clarify which provisions of §63.11092(b) are triggered at the next performance test required by the Administrator:

§63.11092(b)(5) If you have chosen to comply with the performance testing alternatives provided under paragraph (a)(2) or paragraph (a)(3) of this section, the monitored operating parameter value may be determined according to the provisions in paragraph (b)(5)(i) or paragraph (b)(5)(ii) of this section.

(i) Monitor an operating parameter that has been approved by the Administrator and is specified in your facility’s current enforceable operating permit. At the time that the Administrator requires a new performance test, you must determine the monitored operating parameter value according to the requirements specified in paragraphs **(b)(1), (b)(3), and (b)(4)** of this section.

(ii) Determine an operating parameter value based on engineering assessment and the manufacturer’s recommendation and submit the information specified in paragraph (b)(4) of this section for approval by the Administrator. At the time that the Administrator requires a new performance test, you must determine the monitored operating parameter value according to the requirements specified in paragraphs **(b)(1), (b)(3), and (b)(4)** of this section.

If the rule language were edited in this manner, then the meaning would be clear and there would be no need for an extension of the compliance period in regard to this requirement. Again, our understanding is that EPA intends for the provisions of the rule itself to dictate the required monitoring requirements, but the use of the term CMS in the introductory paragraph of §63.11092(b) raises the potential for regulatory authorities to invoke unintended requirements for facilities that plan to comply with §63.11092(b)(5). Again, the docketed record clearly supports that EPA’s intent is for the provisions of §63.11092(b)(1)–(b)(5) to fully meet the CMS requirement, and that a facility electing to comply with §63.11092(b)(5) would not be subject to §63.11092(b)(1) until after the next performance test required by the Administrator. If what EPA is proposing is essentially the same as what is supported by the record, then we do not have an objection to the requirements of this section, but we request that the language be edited to clarify such intent.

However, if we are mistaken in our current understanding, and it is EPA’s intent to immediately impose the requirements of §63.11092(b)(1) on facilities that were planning to comply with §63.11092(b)(5), then three years should be allowed from the time of promulgation of that change in order to achieve compliance.



We appreciate your consideration of our concerns. If you have any questions, please contact me at 202-682-8319 or toddm@api.org.

Sincerely,

/s/

Matthew Todd

CC: KC Hustvedt, EPA
Susan Stahle, EPA