

Date: July 3, 2024

To: Michael Cantoni, EPA/OAQPS/SPPD

From: Fallon Clemens and Jeff Coburn, RTI International

Subject: Meeting Record for June 26, 2024, meeting between American Fuel and Petrochemical Manufacturers (AFPM), American Petroleum Institute (API) and Representatives of OAQPS (U.S. EPA)

On June 26, 2024, representatives of the U.S. Environmental Protection Agency (EPA) and their contractor (RTI International) participated in a meeting with American Fuel and Petrochemical Manufacturers (AFPM) and American Petroleum Institute (API). The names and affiliations of the participants are included in Attachment 1. An outline of AFPM/API's discussion points are included in Attachment 2. The purpose of the meeting was to discuss data AFPM collected from a recent tank survey, and industry's main concerns with the proposed new source performance standards (NSPS) subpart Kc rule and with the Gasoline Distribution rules that were recently promulgated.

Introduction:

- Industry representatives began the meeting by asking the EPA if September 30, 2024 remains the target date for final signature for NSPS Kc. EPA representatives confirmed.

NSPS Kc

- Industry representatives stated their main concern is the change to the existing modification structure because it conflicts with the historical precedence of modification.
- Industry representatives stated AFPM conducted a survey of 15 AFPM member companies regarding the number of tanks that would be impacted. They estimated 750 tanks will be impacted over the next two years.
- Industry representatives expressed concerns about using permit requirements because permit requirements are often quite varied. For example, they may include listings of the types of liquids stored, the allowed Reid vapor pressure of the liquids that can be stored, or just a description of type of tank permitted.
- Industry representatives stated, there should be a vapor pressure threshold for tanks below which the rule does not apply. Currently, if a "modification" occurs (i.e., a higher vapor pressure liquid is stored), but the new material is still well below the thresholds needed for controls, the modification would trigger a recordkeeping requirement to show the control requirements do not apply and a Title V permit revision would be needed to incorporate this new recordkeeping requirement.

Including a minimum applicability threshold as in NSPS Kb would avoid this unnecessary permitting burden.

- Industry representatives stated that tanks could trigger a modification while still in-service due to variability of the liquid stored. Out-of-service upgrades are reasonable, but in-service changes would then require the tank to be taken out of service.
- Industry representatives stated the rule would require thousands of tanks to be modified which would lead to supply chain issues.
- Industry representatives stated the change in the definition of modification will unequally affect otherwise equal equipment based solely on historical use.
- Industry representatives offered to provide additional information on the topics discussed.

Gasoline Distribution

- Industry representatives stated they will be filing a petition for reconsideration prior to the July 8, 2024, deadline.
- Industry representatives stated their most urgent issue is related to the equipment leak provisions because of insufficient clarity about applicability triggers, inconsistent language compared to other rules, and concerns about timing.
- Industry representatives stated facilities should be allowed to assume the previous load is the same as the current load.
- Industry representatives requested a capital expenditure test dedicated to equipment components that will show that small projects, for a window of time based on capital cost replacement, do not trigger the rule.
- Industry representatives stated they do not think the air dilution parameter is applicable to enclosed combustors. Industry representatives explained that if they cannot certify the previous load was not gasoline liquid then it has to be controlled as a gasoline liquid, which requires the control of lower Btu gases (from diesel loading), resulting in significant additional auxiliary fuel with secondary impacts if the air dilution parameter must be met. Industry representatives presented their data indicating there is no performance degradation at low air dilution parameter values for an enclosed combustion device.
- EPA representatives asked industry representatives to clarify how they calculated the air dilution parameter, particularly if staged burners were used. Industry representatives responded that they used a single stage enclosed combustor for their data as that is type of device used by the majority gasoline distribution facilities.

At the conclusion of the meeting, industry representatives asked if EPA representatives had any additional questions. No questions were asked.

Attachment 1
Participants in June 26, 2024 Meeting

Note: In person attendants are marked with an asterisk.

AFPM & API Representatives

Keith Andrepoint
Abdul Bamgbose
Yazdani Behdad
Leslie Bellas* – AFPM
Vinod Borlepwar
Svend Brandt-Erichson
Don Bristol
Arron Civera
Jason Compton
Jay Cruz*-ILTA
Eric Dominiack
Matt Fuller*
Corbin Hennick
Terri Hollomon
Nicholas Johnson
Aaron Jones
Kayla Ledergerber
Keith Petka
David Keatley
David Kennebeck
Harold Laurence*-ILTA
Allison LeBrun
Barry Ledbetter
William Lee
Mia Lombardi
Paul Newman
Keith Ocheski
Kristine Pelt
Brett Peterson
Hannah Placzek
Brigitte Postel
Derek Reese* – API
Al Reich*-Barr Engineering
Charles Roccaforte* – Exxon Mobil
Timothy Roessler
Ian Stallman
Kevin Stoodt
Ray Terrazas
Dale Thanjan
Kimberly Trostel

Richard Vogel
U.S. EPA Representatives
Andrew Bouchard*
Michael Cantoni*
Jennifer Caparoso
Owen Daly
RTI International (EPA Contractor)
Fallon Clemens
Jeff Coburn
David Randall

Attachment 2 AFPM/API's list of discussion points

Anti-Trust Reminder

Introductions

Purpose

- Are there any outstanding information needs by EPA to fully evaluate industry's issues raised on proposed rule?
- Update EPA on results of industry survey of "affected" tanks under proposed changes to "modification."
- Target promulgation is assumed to be September 2024 timeframe. Assumed OMB review, but thought EPA indicated it would not?

Industry Issues of Significant Concern

- ***Definition of modification – this remains industry's largest concern based on its historical precedent and broad-reaching change created by shift in interpretation.***
 - EPA's analysis that only a small number of tanks will be impacted by this change is incorrect.
 - While existing NSPS Kb tanks are likely to be less impacted by "modification" definition change, there are large number of tanks which are not currently Kb.
 - More importantly for the majority of existing tanks, the permit language is insufficient to meet EPA's position that modification triggers would not apply to "previously authorized service".
- ***Summary of Key Survey Responses/Data:***
 - Survey respondents consisted of 15 AFPM member organizations covering a range of facilities in the petroleum transportation and refining sectors across multiple states. Please note this represents a fraction of the tanks that would be covered by Kc.
 - Survey respondents' assessment of modification impacts: ***up to 750 tanks could be classified as modified in the next two years***, compared to the EPA's initial assessment of 30 over the next five years.
 - The EPA's assumption that previously authorized storage may prevent modifications from occurring could provide some relief; however, it presents additional issues due to differences in air permit representations across jurisdictions.
 - Absence of a true vapor pressure threshold adds to the potential burden of modification triggers as well. This creates potential permitting actions and administrative burden for no change in emissions potential or equipment changes.

- Absence of a “de minimis” increase in vapor pressure will be especially problematic for evaluation of modification trigger. This is particularly acute for gasoline storage facilities during our mandated seasonal RVP blend requirements or from batch to batch.
- In practice, many facilities could try to permit as high a VP as reasonably expected, but this runs the risk of overstating VOC emissions increases.
- In many states, triggering NSPS Kc would require a T-V permit action and public notice which can range from 9-12 months for even the smallest change.
- EPA’s assessment of modification/upgrade impacts not only appears low but may be underestimating the effort needed to upgrade the tanks since there is no extension for achieving compliance once NSPS Kc is triggered.
- As explained in previous discussions, the logistical challenges for multiple tank outages and the resulting supply chain disruptions and operational constraints will be significant.
- Unclear the applicability of “produced waters” with respect to proposed NSPS. There is no discussion of the overlap or provisions for tanks also listed applicable sources under NSPS OOOOa/b/c.
- In-service inspections are a critical need for regulated tanks and can be conducted in a manner able to meet the proposed NSPS Kc requirements as confirmed by survey respondents.

Related Issues/Concerns:

- Request for a TVP applicability threshold being re-established.
- Recognition of tank design to accommodate is very different from “switch of raw materials.”
- In-service inspections and consistency with Subpart WW.
- Prohibition of vapor-mounted seals and secondary seal mandate represents serious consequences for tank design and utilization. Further, cost assumptions are too low emission reductions overstated.
- EPA should incorporate vapor balancing as an alternative control option for Subpart Kb and Kc.
- How will the rule be implemented – concern over retroactive tank service changes for example.
- Recognition of pressure limitation conflicting with API 650 and 2000. Simple proposed language provided.
- Unslotted guidepoles is in direct conflict with other regulatory standards. Straightforward edits provided which would satisfactorily address concerns.
- Request for clarity on roof landing/approaching landing height alarms and simplification of requirement to have them is sufficient with existing recordkeeping/reporting of landings.
- Concentration limit as alternative to 98% reduction efficiency as provided in other regulations.
- Improvements to LEL monitoring requirement.
- Recognition that repeat performance testing is not necessary.

- Industry provided several additional methods for determining vapor pressures of mixtures and proposed language.
- Definitions of pressure relief device and degassing requested.
- Include language to address rule overlaps and reporting requirements as requested by industry.
- Inspection and repair deadlines should be clearly defined – language provided.

Path Forward/Next Steps

- Additional clarifying information needed by EPA?
- Additional details from Industry Survey?
- Further discussion?