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Environmental Protection Agency
2000 Traverwood Drive
Ann Arbor, MI 48105

Via portal: <http://www.regulations.gov/>

Re: Docket No. EPA-HQ-OAR-2018-0227
Proposed Rule: Fuels Regulatory Streamlining

The Renewable Fuels Association (RFA) appreciates the opportunity to provide comments on the Fuels Regulatory Streamlining proposed rulemaking. These written comments expand upon our oral testimony provided during a public hearing on this proposal held on May 28, 2020.

RFA is the leading national trade association representing U.S. fuel ethanol producers. Its mission is to advance the development, production, and use of low-carbon ethanol by strengthening America's ethanol industry and raising awareness about the benefits of renewable fuels. Founded in 1981, RFA serves as the premier forum for industry leaders and supporters to discuss ethanol policy, regulation, and technical issues. RFA's 300-plus members are working daily to help America become cleaner, safer, more energy secure, and economically vibrant.

We appreciate EPA's effort to remove the Part 80 expired provisions, eliminate the redundancy of numerous compliance provisions, and replace them with a single set of more concise provisions.

Definition of Gasoline

EPA's proposed rule provides a new definition for gasoline. The definition of gasoline is often discussed amongst the technical community and while the subject seems simple on the surface, the definition of the term for regulatory purposes is a very important topic. The current EPA definition of gasoline is satisfactory for regulatory purposes and the reasons for EPA proposing to modify the definition are unclear. We believe the new proposed definition could prove to be problematic.

The new definition of gasoline being proposed includes a requirement that the fuel meet ASTM D4814 Standard Specification for Automotive Spark-Ignition Engine Fuel. RFA has actively participated in the ASTM process to develop and refine fuel performance specifications for over 30 years. ASTM is a voluntary consensus standards body and can take years to reach consensus for updates to standard specifications. For example, E15 was approved for use by the EPA in 2011 but ASTM deliberated for over 5 years before finally completing updates that included E15 within the

standard. We feel EPA should remove this ASTM requirement to avoid any delays or roadblocks for commercial introduction of future fuels.

Also, this definition does not provide clarity regarding the regulation of mid-level ethanol blends (E16 – E50). It is unclear how EPA could or would regulate these blends or whether these blends are being included in definition and regulated as gasoline.

National Survey Program

We are pleased to see the proposed consolidation of the existing fuel compliance surveys into one National Survey Program. RFA has been working for years to reduce the costs and burdens associated with the E15 survey, which is the only survey program that is currently mandatory. Ethanol manufacturers have incurred unnecessarily large costs to fund the required survey and testing of ethanol content, summer RVP and compliance with mandatory labeling requirements. While we continue to question the need for an E15 survey program moving forward, we are encouraged that EPA is at least taking steps to reduce the cost and administrative burden. It is obvious that, overall, the projected cost reductions associated with this proposed rulemaking principally benefit petroleum refiners, but ethanol producers are pleased this expanded National Survey Program proposal should help ethanol producers lower their survey costs as well.

Detergency Requirements

We strongly support the long-awaited and necessary proposal to remove the certified detergency requirements for the gasoline portion of E85. This is something we have been encouraging EPA to do for many years. Certain detergents are not completely soluble in high ethanol content blends. Further, there is evidence that detergents may not provide any benefit and may even exacerbate deposit formation. More work needs to be done in this detergent additive area as related to higher ethanol blend fuels. Moving forward, we would like to see a higher minimum ethanol content for detergency certification requirements to assure increasing ethanol contents do not cause solubility problems with these additives.

E15 Labeling Requirements

In the fall of 2019, President Trump committed that EPA would begin a rulemaking to streamline labeling requirements for E15 and eliminate other marketplace and regulatory barriers to the sale of E15. This rulemaking would have been the perfect opportunity to propose elimination or revision of the label. Fortunately, because this is a proposal, it's not too late to address this issue. We encourage EPA to include provisions eliminating or substantially revising the E15 pump label in the final rule.

Certified Natural Gasoline as E85 Blendstock

Additionally, RFA would like to request additional changes the new Part 1090 to help with the economic efficiency of flex fuels. Natural Gasoline is a preferred gasoline component for E85¹, and

¹ Refers to ASTM D5798, Standard Specification for Ethanol Fuel Blends for Flexible-Fuel Automotive Spark-Ignition Engines

thousands of blender pumps have been installed. However, natural gasoline is not currently considered to be an allowable E85 blendstock if the E85 is used to make E15 at the pump due to the infeasibility of batch testing and certification. We feel it is unreasonable to subject E15 retailers who make the fuel with E85 via blender pumps to the registration, reporting and batch testing requirements that apply to gasoline producers.

Action to include language for the use of State regulators to interpret and enforce this use of natural gasoline in this manner is taking place now at the National Conference of Weights & Measures and we strongly feel EPA should remedy this issue while this streamlining rule is open. We would like to specifically request including in the final rulemaking a regulatory pathway for ethanol producers and natural gas liquids producers to enable natural gasoline for use as the gasoline component in E85 at a blender pump in order to blend a compliant E15.

The Tier III rulemaking provided a pathway for EPA sulfur certification for Denatured Fuel Ethanol; we feel similar regulatory procedures could be added for a certification process for natural gasoline to be used as the blendstock for E85 used in blender pumps producing E15. EPA proposed a method in the Renewables Enhancement and Growth Support (REGS)² rulemaking for doing this, but the REGS proposal that was never finalized.

Sulfur, benzene, CHONS, and volatility are necessary EPA parameters for certifying natural gasoline for this use thus enabling a pathway that achieves an equivalent level of environmental assurance as gasoline for the blender pump use of natural gasoline as gasoline component in E85 of E15 in order to maximize consumer benefits of economic efficiency and flexibility in the marketplace.

Suggested Compliance Options

EPA could include provisions to enhance flexibility for E85 producers and those entities downstream of the parent blendstock producers, with reliance on Product Transfer Documents (PTDs) to the maximum extent possible in lieu of batch testing to demonstrate compliance with the proposed sulfur, benzene, volatility, and CHONS requirements. We have a number of specific comments below related to demonstrating compliance with volatility, sulfur, benzene, and CHONS requirements for E85 that is used to manufacture E15.

1. Vapor Pressure (RVP)

At the retail blender pump when E85 made with natural gasoline is used to manufacture E15 per-batch testing is infeasible and unnecessary. Blender pumps should be allowed to demonstrate compliance with RVP requirements simply by maintaining PTDs to demonstrate that they made E85 from compliant parent blendstocks. We believe a maximum RVP for natural gasoline used to manufacture E85 could be adopted and an RVP compliance tool could be allowed to use in lieu of per-batch testing. Agency could work with stakeholders to refine and improve the tool, and RFA would be pleased to collaborate with

² Renewables Enhancement and Growth Support (REGS) Proposed Rule (EPA-HQ-OAR-2016- 0041; 81 Fed. Reg. 80828)

EPA in a process to develop an RVP compliance tool that is both accurate and simple to use. The volatility concern was lessened by the rule allowing E15 the 1.0 psi waiver in the summer and it will be a physically tested by authorities.

2. Sulfur and Benzene Content

As EPA acknowledges, sulfur and benzene are generally absent from undenatured fuel ethanol. It is the act of denaturing fuel ethanol with hydrocarbon denaturant that typically introduces both sulfur and benzene. In the case of E85, any sulfur and benzene in the finished motor fuel will have originated from the natural gasoline (hydrocarbon) blendstock used as a denaturant and preferred hydrocarbon component to make E85.

Blender pumps producing E15 with E85 should be allowed to demonstrate compliance with requirements simply by maintaining PTDs to demonstrate that they made E85 from compliant parent blendstocks. Sulfur and Benzene maximums can be set for natural gasoline with respect to demonstrating compliance and utilizing the dilution properties of ethanol for these parameters.

We believe natural gasoline suppliers and E85 blenders could have more flexibility for these maximums depending on the ethanol concentration of the E85. In lieu of a 10 ppm per-gallon sulfur cap and a 0.62% benzene cap on the natural gasoline used a gasoline component EPA could allow E85 blenders to calculate the sulfur and benzene from incoming Certificate of Analyses to assure an equivalent level of sulfur and benzene control as gasoline. In the REGS proposed rule, EPA proposes to limit the amount of natural gasoline in E85 to 32% of the finished fuel, including denaturant. In this example, if the maximum amount of certified natural gasoline blendstock is used to make a finished E85, it could have sulfur content as high as 31 ppm and still produce a finished E85 with sulfur content of 9.9 ppm. Similarly, "summer blends" of E85 in certain regions may contain as little as 17% natural gasoline. This means the finished E85 would still meet the 10-ppm sulfur limit even if the natural gasoline blendstock had sulfur content as high as 58 ppm.

This same dilution approach to E85 blending should apply to benzene limits as well, and current industry standards regarding benzene maximums would sufficiently ensure that the benzene content of finished E85 is below the specified 0.62% limit. Since 2004, ethanol denaturants available in the marketplace nationwide have met the California-imposed benzene limit of 1.10%. This has become the de facto marketplace standard for denaturant benzene limits, and denaturant buyers and sellers have demonstrated compliance with the California standards simply by maintaining PTDs. To ensure continued fungibility and flexibility in the E85 market, EPA should allow the California maximum benzene content of 1.10% for natural gasoline used as gasoline portion of E85. With a 1.10% benzene maximum on the natural gasoline blendstock, the benzene content of finished E85 blends made with the maximum allowable volume of natural gasoline (32%, including denaturant) would not exceed 0.35%. This is roughly half of the 0.62% limit proposed by EPA.

Blenders and blender pump operators could demonstrate that finished E85 sold to retail met the 10 ppm sulfur cap and 0.62% benzene maximum simply by maintaining records on

1) the sulfur and benzene content of E85 blendstocks, and 2) the composition of the finished E85 (i.e., percent volumes of denatured fuel ethanol and natural gasoline).

3. CHONS

EPA also imposes CHONS, which means the product can only be composed of carbon, hydrogen, oxygen, nitrogen and sulfur. Because the only potential source of non-CHONS elements in E85 would be the natural gasoline blendstock, we believe that only natural gasoline E85 blendstock producers need to demonstrate that their product is comprised only of CHONS elements and can add a statement to the PTD. Blenders and blender pump operators could be allowed to demonstrate CHONS compliance by maintaining PTDs for the parent blends. We do not believe additional controls are needed to prevent the presence of non-CHONS elements in E85.

EPA should allow the use of low-cost natural gasoline as the blendstock. Allowing E85 blenders to capture the benefits of ethanol dilution would enhance flexibility, help ensure natural gasoline remains economically viable as an E85 blendstock and guarantee finished E85 achieves an equivalent level of environmental performance when used at a blender pump to produce E15.

In closing we appreciate the hard work and dedication that the Office of Transportation and Air Quality put into this proposal to clarify and streamline its complicated fuel regulations.

If you have any questions, feel free to contact Kelly Davis, VP of Regulatory Affairs at kdavis@ethanolrfa.org