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To: John F. Morrall III/OMB/EOP@EOP

cc:
Subject: Comments

Comments on Office of Management and Budget's (OMB) draft Report to Congress on the Costs and Benefits of Federal Regulations (Report), specifically Chapter IV, Recommendations For Reform. Please contact me at 202 554-2512 if their is a problem reading the attachment. Thank you,

Sincerely,

Jason M. Lynn

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NATSO, Inc.
Government Affairs
499 S. Capitol Street, SW
Suite 502
Washington, DC 20003
202 554-2510

May 22,2002

Mr. John Morrall
Office of Information and Regulatory Affairs
Office of Management and Budget
NEOB, Room 10235
725 17th Street, NW
Washington, D.C. 20503

Dear Mr. Morrall:

NATSO, Inc., the professional association of the travel plaza and truckstop industry appreciates the opportunity to comment on the Office of Management and Budget's (OMB) draft Report to Congress on the Costs and Benefits of Federal Regulations (Report), specifically Chapter IV, Recommendations For Reform.

These comments will follow the suggested format for Regulatory Reform Improvements contained in the Report.

Name of Regulation

Control of Air Pollution From New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements; (Final Rule).

Regulating Agency

Environmental Protection Agency (EPA)

Citation

Federal Register: January 18,2001 (Volume *66,* Number 12)
40 CFR Parts 69, 80, and 86

Authority

The Clean Air Act, various Sections.

Description of Problem

While the travel plaza and truckstop industry supports efforts to improve our nation's air quality, NATSO has serious concerns with EPA's Final Rule and the effect it may have on our nation's energy supply and delivery system. These concerns and objections center on the provision in the Final Rule that will allow for a "phase-in" approach to the introduction of the reduced sulfur diesel fuel. This phase-in will result in the temporary manufacture, sale, and use of two separate grades of highway diesel fuel for a period of four years, from 2006-2010. After the four-year phase-in period has ended, the highway diesel market will return to the use of a single grade of highway diesel fuel, as is currently the case.

Because the travel plaza and truckstop industry is currently configured to carry a single grade of highway diesel fuel, the presence of two separate grades of highway diesel would cause tremendous expense and disruption to the industry as these fuels would need to be segregated throughout the distribution chain to prevent misfueling and cross-contamination.

The temporary presence of two separate grades of highway diesel fuel will force truckstop operators to either undertake massive capital investments to upgrade their location to carry both grades of diesel, or turn away a significant segment of their customer base by only carrying one grade of diesel. This will be an especially difficult decision for smaller independent truckstops, and could put many out of business.

Furthermore, the phase-in would seriously jeopardize the integrity of our nation's energy supply and delivery system and place both supply and demand for the new ultra-low fuel and new engines required by the Final Rule at risk, thereby seriously jeopardizing the success and viability of the Rule, while resulting in no improvement in air quality or the environment.

Background

The Final Rule requires that refiners reduce the sulfur content of highway diesel fuel from its current level of 500 parts per million (pprn), to 15 ppm by June 1,2006. All 2007 model year heavy-duty diesel vehicles and beyond will require the new ultra-low 15 ppm fuel in order to operate. Those heavy-duty vehicles manufactured prior to 2007 will be able to operate with either the 500 ppm diesel, or the 15 pprn diesel.

Under the rule's phase-in provision, refiners must produce 80 percent of their highway diesel fuel at the 15 ppm level by June 1,2006. Refiners will be allowed to continue to produce 20 percent of their highway diesel fuel at the 500 ppm level in 2006, with this percentage being phased down to zero by June 1, 2010, at which point all highway diesel fuel must meet the 15 ppm standard. Small refiners will be permitted to continue to produce 500 ppm highway diesel until the June 1, 2010 deadline if the refiner is able to certify that a sufficient supply of the 15 ppm diesel is available in its PADD from other suppliers.

The entire diesel fuel delivery system, from refinery to retail, is currently handling a single grade of highway diesel fuel. The presence of two different grades could have a disastrous effect on our energy delivery system; including reductions in the supply of diesel, spot outages, price spikes, tremendous cost increases, and fuel cross-contamination.

Proposed Solution

NATSO would propose that EPA re-open the comment period for the phase-in portion of the Final Rule. NATSO is not suggesting that the entire rule be re-examined or re-opened, only that the comment period for the phase-in portion of the rule be re-opened for comment.

Estimate of Economic Impacts

Because the travel plaza and truckstop industry is configured to carry a single grade of highway diesel, the introduction of a second separate grade through a phase-in would force the truckstop industry to make tremendous capital investment to carry both products at retail, or force operators to turn away a significant portion of their customer base by choosing to carry only one grade of diesel.

Significant capital expenditures would need to be made to ensure that these separate grades of diesel are properly segregated to prevent their cross-contamination, and to avert misfueling at the pump. Importantly, the costs associated with upgrading a truckstop to provide both grades of highway diesel would prove to be an unrecoverable expense as the use of these two diesel fuels would be temporary.

A survey of NATSO member travel plazas and truckstops was conducted to determine both the ability of the industry to carry two grades of highway diesel and the costs that would be required to do so. The preliminary results of which were submitted to EPA for review in September 1999. A total of 228 truckstop operators responded to the survey, many of which have more than one location.

When asked if the operator's truckstop's current fueling infrastructure would allow for them to offer an additional grade of diesel fuel in addition to current fuel offerings at no additional expense, 95 percent of respondents answered, No.

When asked what financial challenges the operator would face if required to carry an additional grade of highway diesel fuel, **45** percent of respondents stated it would cost over $100,000 per location, 15 percent of respondents stated it would cost over $75,000 per location, and 16 percent stated it would cost over $50,000 per location. The remainder of respondents estimated costs at less than $50,000 per location.

The enormous expense required to re-configure a truckstop would result from the need to purchase additional storage tanks to segregate the second grade of diesel; the need to tear up concrete for additional tank installation and the requisite re-piping and remanifolding of tank lines; the purchase of new pumps and monitors, as well as additional compliance expenses which would result from the presence of two highway diesel fuels; not to mention the increased cost to acquire product.

These burdensome costs would be extremely prohibitive, unrecoverable due to the temporary use of two fuels in the market, and would need to be borne by an industry that largely consists of small independent owner/operators who are still recovering financially from the 1998 underground storage tank upgrades. The introduction of a second grade of highway diesel could therefore force many truckstop operators out of business, and have the additional effect of further reducing diesel fuel supply.

The phase-in would only serve to increase costs for the entire diesel fuel distribution chain. The presence of two separate grades of diesel fuel would require the segregation of these fuels and subsequently require a massive overhaul and disruption of the entire diesel distribution chain. These costs, unlike the capital costs required of refiners, would be unrecoverable due to the temporary nature of the two-fuel system.

NATSO appreciates the opportunity to comment on the Office of Management and Budget's (OMB) draft Report to Congress on the Costs and Benefits of Federal Regulations. Please feel free to contact me should you have any questions.

Sincerely,

Jason M. Lynn
Senior Director, Government Affairs