Small/Intermediate Gasoline Bulk Storage Plants/NESHAP: Congressional Letter to U.S. Environmental Protection Agency Requesting Withdrawal of Proposed Gasoline Vapor Balancing Equipment Requirement



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

05/31/2023

A combined 82 Senators and Members of the United States House of Representatives sent a May 22nd letter to United States Environmental Protection Agency Administrator Michael Regan addressing certain aspects of EPA's proposed rule ("Proposed Rule") regarding Clean Air Act National Emission Standards for Hazardous Air Pollutants ("NESHAP") for gasoline distribution facilities and the standards of performance for bulk gasoline terminals. See 87 Fed. Reg. 35608-53642 (June 10, 2022).

Signatories on the letter included:

- United States Senator John Boozman (Arkansas)
- Congressman Steve Womack (3rd Congressional District – Arkansas)

The Proposed Rule constitutes the NESHAP Residual Risk and Technology Rule for the gasoline distribution facilities and standard performance for the bulk gasoline terminals NESHAP category.

Sources affected by the major source NESHAP for gasoline distribution source category include:

- Bulk gasoline terminals
- Pipeline breakout stations

The sources affected by the area source NESHAP for the gasoline distribution source category include:

- Bulk gasoline terminals
- Bulk gasoline plants
- Pipeline facilities

The May 22nd Congressional letter expresses concern about what it describes as the adverse economic impacts that the Proposed Rule could:

. . . impose on small business energy marketers, specifically in rural America and areas subject to extreme weather.

The letter reminds EPA that some customers, including state and local governments, farmers, ranchers, commercial end-users, and first responders, require a smaller volume of fuel than a full truckload on a less frequent delivery schedule. It is noted that therefore these entities use what are described as “small, family-owned bulk storage plants” that are used as intermediaries.

The NESHAP Proposed Rule would require the installation of gasoline vapor balancing equipment for delivering to a bulk storage plant and loading a cargo tank wagon. This is stated to potentially apply to virtually all small, intermediate storage bulk plants.

The economic costs of such a requirement are described in the letter, making:

. . . the intermediate storage of gasoline at, and its distribution from, these bulk plants unworkable.

This is stated to be because the Proposed Rule would lower the compliance threshold for small gasoline bulk plants from 20,000 gallons per day of actual throughput to just 4,000 gallons of daily maximum designed capacity.

The letter notes:

Since the proposed threshold in the NESHAP Subpart BBBBBB rule is based on a theoretical maximum design capacity rather than actual daily throughput, almost every small bulk plant in the nation would be negatively impacted by its requirements - forcing them to downsize, close, or face the high cost of compliance. In other words, we see this proposal inevitably and implicitly leading to higher fuel costs or eliminating intermediate gasoline storage at small bulk plants, impacting supply to end users offering vital services to their local communities and potentially cutting off whole communities during an emergency.

The letter requests that EPA withdraw the provisions of the Proposed Rule that apply to the small bulk plant facilities and convene a Small Business Advocacy Review panel to engage small business energy marketers in a discussion on its regulatory impact.

A copy of the letter can be downloaded here.