



January 25, 2020

Ethan Bogren
Chairman Laws and Regulations Committee
National Conference on Weights and Measures
Mailed electronically: neb2@westchestergov.com

Bill Striejewski
Chairman Fuels and Lubricants Subcommittee
National Conference on Weights and Measures
Mailed electronically: wstriejewski@agri.nv.gov

Subject: L&R Agenda items Block 4 (MOS-20.2 and FLR-20.3) and FLR-20.2

Dear Messrs. Bogren and Striejewski:

As the National Conference of Weights and Measure determines the appropriate manner by which to update Handbook 130 to ensure the handbook is aligned with federal law, NACS, NATSO, and SIGMA – representing approximately 90% of retail sales of motor fuel in the United States – welcome the opportunity to comment on the proposed changes submitted by the American Petroleum Institute (API).

As the Conference is aware, the Environmental Protection Agency (EPA) adopted in June of 2019 new regulations to allow for gasoline blended with up to 15 percent ethanol to take advantage of the 1-pound per square inch (psi) Reid Vapor Pressure (RVP) waiver. Generally, our associations do not oppose language that would make clear that the Handbook has been updated to align with federal statute. We have reviewed API's proposal, and, while we have concerns with the current version of this proposal regarding the potential for conflicting interpretations by

regulators as described below, we do agree that there are issues that should be addressed in HB 130. We would welcome the opportunity to work with all interested parties to develop the proposal further, including the best way to reference the changes made to the Code of Federal Regulations.

Our concerns with API's current proposal involves the direct insertion of Code of Federal Regulations' language into the Handbook. This could result in state or local regulators' applying an interpretation of that language which is not identical to the interpretation applied by the federal agency which issued those regulations. It is our view that API's proposal, which would insert into the Handbook the exact language of the federal code, could result in a retailer's abiding by federal law, being subject to an interpretation of that law by state or local enforcement officials which is different than the interpretation applied by federal officials. This situation would, de facto, create separate standards for compliance—an untenable result for the regulated community. Were API's proposal modified in a manner that makes clear that any update to the Handbook that references the federal regulations resulting from the issuance of the 1-pound waiver for E15 blends is to be interpreted and enforced in a manner which is identical to that used by federal regulators to enforce the relevant requirements, our associations could be supportive.

Separately, with respect to API's proposal relating to the use of natural gas liquids (NGLs) in ethanol flex fuel (EFF), our associations are inclined to support the proposal. The 1-pound RVP waiver issued for E15 does not apply to E15 sold in attainment areas in the summer when that E15 has been produced by blending gasoline with E85 comprised of ethanol and NGLs. Additionally, the regulations do not require the Product Transfer Document (PTD) to inform the blender that NGLs were used in making the EFF. It would benefit marketers to know whether the E85 they purchase can be blended to produce E15 that can be sold in attainment areas in the summer.

Thank you for your consideration.

Sincerely,

Paige Anderson
NACS

David Fialkov
NATSO

Doug Kantor
SIGMA

cc: Don Onwiler, Executive Director, NCWM, don.onwiler@ncwm.com