

# Evaluation of Existing Regulations: Petroleum Marketers Association of America June 2nd Comments



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The Petroleum Marketers Association of America (“PMAA”) submitted June 2nd comments to the United States Environmental Protection Agency (“EPA”) in response to the agency’s request for “Suggestions on Regulations Appropriate for Appeal, Replacement or Modification.”

EPA issued this request for comments on April 13th. See 82 Fed. Reg. 17793.

PMAA describes itself as a federation of 46 state and regional trade associations representing approximately 8,000 independent small business petroleum marketers nationwide. The organization’s members are engaged in the shipment, storage and sale of petroleum products including gasoline, diesel fuels, kerosene, jet fuel, aviation gasoline, propane, resin fuel, lubricating oils, and home heating oil both wholesale and retail level.

The Arkansas Oil Marketers Association is the State of Arkansas’s PMAA chapter.

A focus of PMAA’s comments were the federal underground storage tank (“UST”) regulations. EPA previously promulgated extensive amendments to the federal UST regulations in 2015. See 80 Fed. Reg. 41566 (July 15, 2015).

PMAA addresses various aspects of these federal regulations including:

- Delay Compliance Deadline to October 13, 2024
- Referencing the 2015 amendments to the federal UST regulations
- Imposition of High Compliance Costs
- Referencing what is characterized as a “significant burden on small business petroleum marketers” which is estimated to impose \$530,444,189 in additional compliance costs across the industry.
- Creation of an Unfair Competitive Disadvantage
- Stating that the previously UST amendments apply to petroleum marketers who have voluntarily made release prevention, overfill protection and leak detection upgrades to their UST systems stating that UST owners who have not made similar upgrades, or no upgrades at all, are required to do nothing under the amendments. Further arguing that such UST owners can continue to operate and maintain the systems at a lower standard and do nothing until equipment fails and requires replacement. The result is characterized as a disparity in application of the new requirements providing a strong economic incentive for UST owners to avoid upgrading systems and put those who have upgraded at a competitive disadvantage.
- More Time Needed for State Implementation

- Stating that only one state has submitted their final regulations to EPA for approval. Further arguing that state regulators have fallen behind on implementing the 2015 UST amendments due to a steep learning curve regarding the full scope of the new requirements, referencing “lingering confusion” that is stated to persist among state regulations over the scope of the new federal requirements because they are written as general performance standards rather than a prescriptive list of affirmative requirements.

The amendments are argued to impose affirmative regulatory requirements without any specific guidance on how to achieve compliance. Reference is made to compliance details being “left to third party industry standards” noting that “the only two industry standards currently available for this purpose impose significantly more regulatory requirements than the 2015 UST amendments” and citing concern that what is characterized as a “regulatory dissonance” is problematic for many state regulators who are bound by state law from adopting regulations more stringent than federal requirements. Concern is also expressed about what is described as “ongoing uncertainty among state regulators” that will cause them to overlook cost saving alternative compliance methods that were built into the final rule and interpretive guidance to benefit small business petroleum marketers.

PMAA’s comments were signed by Rob Underwood who is PMAA’s President.

[A copy of the comments can be downloaded here.](#)