

RUBBER
manufacturers
association

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May 15, 2017

U.S. Environmental Protection Agency
Office of Regulatory Policy and Management
Attention Docket ID No. EPA-HQ-OA-2017-0190
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Re: Evaluation of Existing Regulations (April 13, 2017)

I. Introduction

The Rubber Manufacturers Association (RMA) is the national trade association representing major tire manufacturers that produce tires in the United States, including Bridgestone Americas, Inc., Continental Tire the Americas, LLC; Cooper Tire & Rubber Company; The Goodyear Tire & Rubber Company; Kumho Tire Co., Inc.; Michelin North America, Inc.; Pirelli Tire North America; Sumitomo Rubber Industries, Ltd.; Toyo Tire Holdings of Americas Inc. and Yokohama Tire Corporation. RMA supports the goal of Executive Orders 13771 and 13777 to reduce regulatory burdens by implementing and enforcing regulatory reform to repeal, replace, or modify rules that are outdated, unnecessary, or ineffective. We appreciate the opportunity to contribute to this process by providing comments on EPA's Evaluation of Existing Regulations (April 13, 2017). As the EPA advances its regulatory reform priorities, RMA encourages the agency to adopt the recommendations provided in RMA's comments.

II. Background

On January 30, 2017, the President issued Executive Order 13771, "Reducing Regulation and Controlling Regulatory Costs," which requires that for every new regulation issued, two be identified for elimination, unless prohibited by law. The executive order also provides each agency with a regulatory budget of \$0 for fiscal year 2017, meaning that for any new regulation that imposes costs on the public, the agency must identify cost savings elsewhere, unless prohibited by law.

On February 24, the President issued Executive Order 13777, "Enforcing the Regulatory Reform Agenda," which directs each federal agency to select a regulatory reform officer and task force to evaluate existing regulations and to make recommendations to the agency head regarding which rules to prioritize for repeal, replacement, or modification. The Executive Order also directs the task forces to base their recommendations on input received from those affected by federal regulations including states, businesses, NGOs, and trade associations.

On March 24, EPA Administrator Scott Pruitt issued a memorandum outlining EPA's steps to comply with E.O. 13777. The memorandum identified members of EPA's regulatory reform task force and directed EPA's various offices to provide recommendations to the Administrator this month. On April 11, EPA opened Docket ID No. EPA-HQ-OA-2017-0190 to receive comments on regulatory reform

from the public. Comments submitted to this docket will be compiled and cited in memoranda from the task force to the Administrator recommending how to implement E.O. 13777.

III. RMA encourages EPA to meet residual risk and technology review (RTR) deadlines outlined in the Blue Ridge case

As Administrator Pruitt works to refocus EPA on its traditional mission of implementing the nation's environmental laws, RMA would like to be a resource for the agency. For example, with court orders in Blue Ridge v. Pruitt and California Communities Against Toxics v. Pruitt, the agency has over 30 RTRs to complete by 2020. To support the agency in meeting the court deadline for review of the rubber tire manufacturing National Emission Standards for Hazardous Air Pollutants (NESHAP), RMA is committed to continuing its collaborative work with the agency to provide information about the industry that will assist the agency in completing the RTR review.

For the past year, RMA has been working to educate the agency about tire manufacturing and how air emissions from tire manufacturing are calculated. RMA members voluntarily agreed to provide emissions data to the agency in lieu of EPA sending a section 114 request for the information. We plan to continue to assist the agency so it can complete the rubber tire manufacturing RTR by the 2018 and 2020 deadlines outlined in the Blue Ridge case.

IV. RMA members are committed to effective implementation of the Frank R. Lautenberg Chemical Safety for the 21st Century Act (LCSA)

RMA supported the bipartisan effort to revise and update the Toxic Substances Control Act (TSCA). As EPA works to implement the LCSA, it is important that the agency has sufficient time to develop the key framework rules, which establish the process the agency will follow going forward. RMA commented and recommended solutions to address issues with the inventory reset rule, the prioritization rule, the risk evaluation rule, and the first risk management rule issued under the LCSA (see attached comments as appendices).

The LCSA establishes that the TSCA program be funded through a combination of congressional appropriations and new industry fees up to \$25 million per year. Additionally, the law requires TSCA to be funded by Congress at levels no lower than those from 2014 (\$56 million annually). Both the congressional appropriations and industry fees are critical to the success of the LCSA implementation. We support a federal approach for risk evaluation and risk management of chemical substances that pose an unreasonable risk to avoid a patchwork of unworkable, varying state regulations.

V. RMA recommends that EPA stay the effective date of the nanomaterial reporting rule until guidance is issued to clarify reporting obligations in the rule

As noted *supra*, RMA supported the bipartisan effort to revise TSCA and enact the Frank R. Lautenberg Chemical Safety for the 21st Century Act (LCSA). The LCSA makes clear that EPA should not require reporting that is unnecessary or duplicative and, if reporting is needed, EPA should minimize compliance costs for reporting. LCSA Section 8(a). Unfortunately, the nanomaterial reporting rule does not appear to meet the statutory criteria of the LCSA. Additionally this rule is not required by the LCSA. Instead, this rule appears to create unnecessary reporting burdens and costs for industry without providing clarity on several issues, including what is considered a nanomaterial, whether mixtures or articles or research materials with nanomaterials are covered by the rule, and what health data should

be provided. Given that this rule is overly burdensome, unnecessary, and contrary to the requirements of LCSA section 8(a), RMA recommends that the agency stay the rule and provide guidance to clarify reporting obligations in the rule.

VI. RMA encourages EPA to accept RMA's petition for reconsideration of the Phase 2 rule and issue technical corrections to address the issues raised

On December 23rd, 2016, RMA filed a petition for reconsideration of EPA's Phase 2 Rule, Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles (81 Fed. Reg. 73478, Oct. 25, 2016). As noted in the petition, RMA supports the goals of the Phase 2 rulemaking and appreciates the opportunity to partner with other stakeholders in contributing to better fuel economy and GHG emission reductions. RMA also appreciates several changes made to the final rule, addressing issues raised in RMA comments, such as the changes incorporating tire-pressure monitoring systems ("TPMS") into the greenhouse gas emission model ("GEM") and basing EPA's recall authority on the plain language of the Clean Air Act.

However, RMA believes that on several other issues such as lab alignment, standards for non-box and non-aero box trailers, SAE J1025 and J2452, and adjustable spread axle trailers, the agencies should reconsider their approach as these issues if left unaddressed could increase compliance burdens and costs. Since filing the petition, RMA has been working with EPA staff on finding solutions to the issues raised in the petition. In line with the goal of E.O. 13777 to identify solutions to regulatory provisions that may be ineffective, RMA recommends that EPA accept the RMA petition for reconsideration, continue working with the tire manufacturing industry, and propose technical fixes to the Phase 2 rule. For your reference, RMA has included its petition as an appendix to these comments.

VII. RMA recommends that EPA designate biomass as carbon neutral and remove the burden of ASTM testing to determine the biogenic fraction of tire-derived fuel (TDF)

In several EPA policies, including the Greenhouse Gas Reporting Rule, the Biomass Accounting Framework and the Clean Power Plan, EPA has determined that biomass, including the natural rubber fraction in tires, does not contribute net CO₂ to the atmosphere. Additionally, on May 5th, 2017, the President signed into law H.R. 244, an appropriations bill that directs EPA to deem biomass as renewable and carbon neutral as long as the energy production does not result in a loss of carbon sinks. Consistent with EPA's past policies and Congress' directive, RMA recommends that EPA determine that biomass, which includes the natural rubber fraction in tires, does not contribute net CO₂ to the atmosphere when combusted.

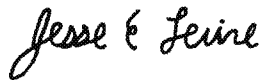
Additionally, RMA recommends that EPA reduce the burden of calculating the biogenic or natural rubber fraction in tire derived fuel (TDF). In the current greenhouse gas reporting rule, if municipal solid waste (MSW) or TDF makes up less than 10% of a unit's generated energy, then the user can calculate biogenic CO₂ emissions by multiplying the natural rubber average by the fuel mass, heat value and emission factor according to the section 98.33(e)(3)(iv) formula. But if MSW or TDF makes up more than 10% of a unit's generated energy, then costly and burdensome ASTM air emission tests are required to determine biogenic CO₂ emissions. These ASTM tests are unnecessary for TDF because RMA surveyed members for natural rubber percentages in passenger/light truck and truck/bus tires and then weighted those percentages by sales data for each company for the past ten years to calculate a consistent 24% natural rubber average for the total scrap tire stream.

Given that TDF has a consistent biogenic fraction, the section 98.33(e)(3)(iv) formula for calculating biogenic CO₂ emissions should not be limited to units in which TDF makes up less than 10% of a unit's generated energy. While ASTM test methods to identify biogenic material may make sense for MSW, a material with compositional variability, they do not for TDF. Therefore, RMA recommends that EPA propose to amend the greenhouse gas reporting rule to allow all TDF users to calculate biogenic CO₂ emissions based on the natural rubber average because regardless of the percentage of TDF used in a unit, the net result should be a 24% reduction in GHGs given that TDF has a consistent biogenic fraction.

VIII. Conclusion

RMA again thanks the EPA for its consideration of our response to the agency's request for comment: Evaluation of Existing Regulations (April 13, 2017). If you have any questions please contact Sarah Amick (samick@rma.org; 202-682-4836) or Jesse Levine (jlevine@rma.org; 202-682-4866).

Respectfully submitted,



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