



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR - 8 2019

ASSISTANT ADMINISTRATOR  
FOR ENFORCEMENT AND  
COMPLIANCE ASSURANCE

Mr. David H. Lax  
Scientific Advisor  
American Petroleum Institute (API)  
1220 L. Street, NW  
Washington, D.C. 20005-4070

RE: No Action Assurance Related to Reformulated Gasoline Testing

Dear Mr. Lax:

This letter is in response to your letter, dated February 15, 2019, requesting a No Action Assurance (NAA) relating to the reformulated gasoline (RFG) regulations at 40 C.F.R. § 80.65(e)(1) that require refiners and importers to determine the aromatics and olefins content of RFG and reformulated gasoline for oxygenate blending (RBOB) prior to the gasoline leaving the refinery or import facility. In your letter, you explained that there is an ongoing shortage of a specialized dye indicator used in the ASTM D1319 test method for determining the aromatics and olefins content of gasoline, and that this shortage is not likely to be resolved before the industry begins to produce volatile organic compound (VOC) controlled RFG and RBOB for the 2019 high ozone season. You explained that relief from the testing timing requirement will allow refiners and importers to use independent laboratories that use test methods that comply with the performance-based measurement system (PBMS) to determine the aromatics and olefins content of RFG and RBOB.

The U.S. Environmental Protection Agency has determined that there is an insufficient supply of a specialized dye indicator used in the ASTM D1319 test method and that this shortage will likely result in a disruption of RFG supplies unless the EPA provides this NAA regarding the requirement to test for aromatics and olefins prior to gasoline leaving the refinery or import facility. The EPA has also determined there are independent labs that have or plan to obtain PBMS-compliant test methods for aromatics and olefins and that these laboratories should be able to manage the anticipated requests from industry to complete these tests after gasoline leaves the refinery or import facility but prior to the time refiners and importers are required to submit their RFG reports to the EPA.

In light of the anticipated disruption in the supply of RFG and RBOB caused by the shortage of dye indicator used in the ASTM D1319 test method and the ability for refiners to use other PBMS-complaint test methods, the EPA will exercise its enforcement discretion to not pursue enforcement for violations of the requirement at 40 C.F.R. § 80.65(e)(1)(iv) to test RFG or RBOB for aromatics and olefins prior to the gasoline leaving the refinery or import facility, subject to the conditions of this NAA as provided

below. The issuance of this temporary NAA is in the public interest. It will prevent supply disruptions and maintain the environmental benefits of the emissions reductions required under the RFG program.

Pursuant to this NAA, refiners and importers are required to take all reasonable precautions to assure that the RFG and RBOB they produce meets all applicable standards prior to leaving refinery or import facilities and are required to determine the aromatics and olefin values using a PBMS-compliant test method before the RFG reporting deadlines. Refiners and importers will continue to be liable for violations arising from any RFG or RBOB they produce that fails to meet the applicable RFG VOC reduction standards. Refiners and importers will also continue to be liable for failing to timely submit their RFG reports to the EPA.

On November 8, 2018, the EPA responded to an earlier letter from API about the dye shortage and explained that refiners and importers who are not able to meet the regulatory test methods should use the default values for aromatics and olefins set forth at 40 C.F.R. § 80.80(e). Given that this NAA provides a mechanism to determine the values of these parameters using PBMS-compliant test methods, refiners and importers will no longer need to use these default values.

This NAA is in the public interest and will not result in increased emissions. This NAA will terminate at 11:59 pm (EDT), September 15, 2019. The EPA reserves the right to extend, revoke, or modify this NAA. This NAA does not apply to any other federal, state or local requirements that apply to the production, sale, and distribution of RFG or RBOB.

If you have any questions concerning this issue, please contact Phillip Brooks at (202) 564-0652 or [brooks.phillip@epa.gov](mailto:brooks.phillip@epa.gov).

Sincerely,



Susan Parker Bodine