



US Environmental Protection Agency  
Air and Radiation  
Office of Transportation and Air Quality

March 1, 1996

Letter from EPA to Western States Petroleum Assoc. regarding CA/Federal RFG overlap issues. CA test methods, min. RVP and oxygen requirements.

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Dear Mr. Henderson,

You have requested, on behalf of gasoline refiners in California, that EPA modify certain requirements that apply in California under the federal reformulated gasoline (RFG) regulations. This action is believed necessary due to conflicts between the federal RFG program and the California Phase 2 reformulated gasoline program scheduled to begin on March 1, 1996. This letter addresses three of the matters you have raised. EPA is still evaluating the remaining issues, and will respond separately to those requests.

As you know, section 211(k) of the Clean Air Act (the Act) requires EPA to establish standards for RFG to be used in specified Ozone nonattainment areas (covered areas), as well as standards for non-reformulated, or conventional, gasoline used in the rest of the country, beginning in January, 1995. The RFG covered areas in California are Los Angeles and San Diego, and, beginning June 1, 1996, Sacramento, as a result of its redesignation as a Severe Ozone nonattainment area. The Act requires that RFG result in reductions in VOC and toxics emissions, no increase in NOx emissions, and also sets standards for oxygen, benzene and heavy metals. EPA promulgated the final RFG regulations on December 15, 1993.

During the federal RFG rulemaking, and in response to comments by California refiners, EPA concluded (1) that emission reductions resulting from the California Phase 2 standards are equal to or more stringent than the federal RFG standards, and (2) that the California Air Resources Board's (CARB's) enforcement program will be sufficiently rigorous that compliance with the California Phase 2 standards will be ensured. As a result, 40 CFR 80.81 of the RFG regulations exempts certain refiners of California Phase 2 gasoline from a number of federal RFG enforcement provisions intended to demonstrate compliance

with the federal standards. The federal RFG standards nevertheless apply in California. Moreover, California refiners are not exempt from federal enforcement requirements with regard to gasoline that is delivered for use outside California, because the California Phase 2 standards and the CARB enforcement program do not cover gasoline exported from California.

Use of the California Test Methods.

Both the federal RFG and the California Phase 2 programs require refiners to use certain test methods to demonstrate compliance with the standards applicable under these programs. However, in the case of the tests for four parameters (benzene, sulfur, oxygen, and aromatics) the methods specified under the two programs are different.

The 40 CFR 80.81 exemption allows California refiners to use the California Phase 2 program's test methods instead of the federal test methods when producing California Phase 2 gasoline that is used in California. However, California refiners are required to use the federal test methods specified under 40 CFR 80.42 for gasoline that is used outside California, including conventional gasoline subject to the anti-dumping standards specified under 40 CFR 80.101. You have requested that EPA extend the test method exemption to gasoline produced by California refiners that is exported from California.

EPA now recognizes that under certain conditions it may be appropriate to allow the use of non-federal test methods for gasoline exported from California because of the unique situation that exists in California, as compared to the remainder of the country. In particular, the standards under the California Phase 2 program will result in lower emissions than will result from federal RFG. Moreover, CARB is expected to enforce these standards in a comprehensive, aggressive manner that will result in high compliance.

Therefore, EPA intends to initiate a rulemaking to change the federal RFG regulations to allow this additional testing flexibility for California refiners. In addition, for a limited time and in certain situations, EPA will immediately give California refiners additional testing flexibility. In particular, EPA will not enforce the requirement, at 40 CFR 80.65(e)(1) and 80.101(i)(1)(i)(A), to test gasoline using the federal test methods specified under 40 CFR 80.46 for benzene, sulfur, oxygen or aromatics, with regard to gasoline that is produced in or imported into California but that is used outside California, provided the refiner or importer meets the following conditions:

- (1) The gasoline must be produced at a refinery located in California at which gasoline meeting the California Phase 2 standards and requirements is being produced; or the gasoline must be imported into California from outside the United States as California Phase 2 gasoline that meets the standards and requirements of the California Phase 2 program;

(2) When exported from California, the gasoline must be classified as federal conventional gasoline, and may not be classified as federal RFG; and

(3) The refiner must correlate the results from any non-federal test method to the method specified under 40 CFR 80.46 for any gasoline that is used outside California. This correlation must be satisfactorily demonstrated to EPA upon request.

Enforcement of the RFG requirements in this manner will expire at the conclusion of the rulemaking to incorporate these changes to the testing method requirements in the federal RFG regulations. EPA intends to complete the rulemaking by September 1, 1997, at which time the requirements will be enforced as promulgated.

Adjustment of the Reid Vapor Pressure Lower Limit.

The federal RFG program includes standards for the volatility, or Reid vapor pressure (RVP), of gasoline. The maximum RVP of RFG is controlled primarily because of the increased VOC emissions that result from gasoline with higher RVP levels.

In addition, the minimum RVP of both reformulated and conventional gasoline is controlled because of limitations in the data that were available to formulate emissions models used in the federal RFG program. The minimum RVP standard also addresses vehicle driveability problems, such as poor starting and running, that can occur when low volatility gasoline does not vaporize in the vehicle engine. As a result, under 40 CFR 80.42(c)(1), the nationwide summertime minimum RVP allowed in RFG is 6.6 pounds per square inch (psi), although under 40 CFR 80.45(f)(1) this minimum RVP standard changes to 6.4 psi beginning in 1998.

The California Phase 2 program sets a maximum summertime volatility standard of 7.0 psi. As a result, during the summer California refiners currently must meet an RVP standard of 6.6 psi minimum (a federal standard) and 7.0 psi maximum (a California standard). You have requested that EPA change the minimum RVP standard for RFG to 6.4 psi in California. In addition, the American Automobile Manufacturers Association has indicated in a letter to EPA that they agree to this change in the case of California gasoline.

EPA believes changing the minimum RVP standard for RFG in California to 6.4 psi is appropriate, and in the very near future intends to implement this change to the RFG standards through rulemaking. Therefore, for a limited time period, EPA will forego enforcement of the 6.6 psi minimum RVP standard for RFG under 40 CFR 80.42(c)(1) in California, provided the gasoline has an RVP equal to or greater than 6.4 psi.

Enforcement of the RFG requirements in this manner will

expire at the conclusion of the rulemaking to change the federal RVP standard in California, which EPA intends to complete by May 1, 1996, at which time the requirements will be enforced as promulgated.

#### Production of Certain California Gasoline That Does Not Meet the Federal RFG Standard for Oxygen

Section 211(k) of the Clean Air Act requires that the RFG standard for 2.0 weight percent (wt%) oxygen must be met in each covered area. When EPA promulgated the 40 CFR 80.81 California exemptions, the statewide standards for California Phase 2 gasoline would have been equal to or more stringent than the standards for federal RFG. With regard to oxygen, the California Phase 2 standards included a statewide flat limit of 1.8 to 2.2 wt% oxygen that was considered, in practice, to be equivalent to the federal 2.0 wt% standard. As a result, there was no need to distinguish between California Phase 2 gasoline used in the federally covered areas and California Phase 2 gasoline used in other markets in California, in order to have certainty that RFG standards would be met in each federally covered area in California.

The final California Phase 2 requirements were changed, however, and now allow gasoline that does not meet the federal RFG standard for oxygen. Specifically, under two alternative certification methods there is no minimum oxygen content requirement for California Phase 2 gasoline. However, under 40 CFR 80.81(e)(2), if a California refiner uses an alternative certification method they must demonstrate to EPA that their gasoline still meets all RFG per-gallon standards, or the enforcement exemption is withdrawn. Therefore, 40 CFR 80.81, in effect, requires that all California Phase 2 gasoline must meet the federal RFG standards in order to retain the enforcement exemptions. As a result, you have asked EPA to modify its requirements in order to allow California refiners to supply California Phase 2 gasoline containing less than 2.0 wt% oxygen to markets other than the federally covered areas.

EPA believes it is appropriate to modify 40 CFR 80.81 as you have requested, provided that requirements are implemented that would ensure compliance with the federal oxygen standard for RFG in each covered area in California. EPA further believes that these requirements could consist of annual gasoline quality surveys for oxygen content in each California covered area. EPA reached these conclusions because the California Phase 2 standards, with the exception of oxygen, are more stringent than the standards for federal RFG, including any gasoline formulation certified using the California predictive model. In addition, these standards will be appropriately enforced by CARB. EPA also concludes there is no public health or environmental risk from the changed oxygen requirements in non-federally covered areas.

Therefore, EPA intends to initiate a rulemaking to modify 40 CFR 80.81 to allow refiners to produce California Phase 2

gasoline containing less than 2.0 wt% oxygen for use outside the federally covered areas provided appropriate annual gasoline quality surveys for oxygen are conducted in each covered area in California. Further, these surveys must show an average oxygen content in each covered area of at least 2.0 wt%.

In addition, for a limited time and under certain conditions, EPA will allow California refiners to produce gasoline that contains less than 2.0 wt% oxygen for use outside the federally covered areas. In particular, EPA will not enforce the requirement at 40 CFR 80.81(e)(2) that California refiners must demonstrate that federal RFG per-gallon standards are met on each occasion California Phase 2 gasoline is certified under Title 13, California Code of Regulations, section 2265 (dealing with gasoline certification based on the California predictive model), provided that the following conditions are met:

(1) A program of gasoline quality surveys must be conducted in each RFG covered area in California each year to monitor annual average oxygen content; and

(2) The surveys must be conducted in accordance with each requirement specified under 40 CFR 80.68(b) and (c), dealing with surveys for RFG quality, and 40 CFR 80.41(o) through (r), dealing with the effects of survey failures, with the following exceptions:

(a) The surveys must evaluate for oxygen content, and evaluation for other gasoline parameters is optional;

(b) A minimum of four surveys (a survey series) must be conducted in each covered area each calendar year, except that the first survey series must be conducted during the period June, 1996 through May, 1997, and the surveys conducted during the period January through May, 1997 also will be included in the 1997 calendar year survey series;

(c) For 1996 only, the survey program plan under 40 CFR 80.68(c)(15) must be submitted to EPA no later than May 1, 1996, and the contract with the survey contractor must be in place and the funds must be paid to the contractor or placed into escrow, under 40 CFR 80.68(c)(16), by June 1, 1996.

Enforcement of the RFG requirements in this manner will expire at the conclusion of the rulemaking to modify 40 CFR 80.81 with regard to gasoline containing less than 2.0 wt% oxygen and to implement an oxygen gasoline quality survey requirement in California. EPA intends to complete this rulemaking by September 1, 1997, at which time the requirements will be enforced as promulgated.

It is important to note that California Phase 2 gasoline that does not meet the RFG standards, including the oxygen standard, is classified as conventional gasoline. In addition, the flexibility allowed in this letter does not alter the prohibitions under section 211(k)(5) of the Clean Air Act, and 40

CFR 80.78(a)(1), against selling or dispensing conventional gasoline to ultimate consumers in covered areas, and against selling conventional gasoline for resale in covered areas unless the gasoline is segregated and marked as "conventional gasoline, not for sale to ultimate consumers in a covered area."

If you have questions, you may call Janet Bearden, Acting Director, Air Enforcement Division, Office of Regulatory Enforcement, at 202-564-2260.

Sincerely,

/s/ 2/29/96

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Assistant Administrator

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