



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

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OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Mr. Red Cavaney
President and Chief Executive Officer
American Petroleum Institute
1220 L Street, NW
Washington, D.C. 20005

Dear Mr. Cavaney:

This letter addresses an issue regarding the enforcement tolerance for the reformulated gasoline (RFG) standards for VOC emissions performance.

As you know, under 40 CFR § 80.78(a)(1)(v) the gasoline at facilities upstream of retail outlets must meet the RFG standards for VOC emissions performance from May 1 through September 15 each year, and at retail outlets these standards must be met from June 1 through September 15 each year. These standards are a minimum 25% reduction in VOC emissions in southern RFG areas, and a minimum 23.4% in northern RFG areas. However, the Environmental Protection Agency (EPA) recognizes a 2% tolerance when evaluating compliance with these standards at locations downstream of the refinery, subject to certain conditions. This VOC tolerance does not apply to RFG when it is produced at the refinery or is imported. The tolerance is allowed because, due to testing variability, a refiner's test results could show compliance for some particular RFG yet a downstream party's test results could show noncompliance for that same RFG.

The 2% VOC tolerance, which was announced in a letter of March 26, 1998, includes the condition that the tolerance applies at terminals each spring only after the terminal has obtained a test result showing compliance with the VOC standard without application of the tolerance.¹ This has been termed the "no tolerance for the first turn" condition. This condition was intended to ensure that the tolerance is used to address testing variability, and not as a means for blending winter-grade RFG into VOC controlled RFG.

¹The March 26, 1998 letter stated that this exercise of enforcement discretion would be withdrawn effective January 1, 1999. However, by letter of February 19, 1999, this exercise of enforcement discretion was made permanent. In addition, by letters of March 16, 2001 and April 6, 2001, EPA announced that the 2% test tolerance also applies to RFG subject to VOC standards for RFG containing 10% ethanol and used in Chicago or Milwaukee.

The March 26, 1998 letter also notes the prohibition in 40 CFR § 80.78(a)(1)(v) against combining non-VOC controlled RFG with VOC controlled RFG during the period May 1 through September 15 at terminals. This prohibition applies regardless of the VOC emissions performance of the RFG, because the VOC standards may be met on average by the refiner or importer. Thus, during the period May 1 through September 15 a terminal operator may only add RFG classified as VOC controlled to a storage tank containing VOC controlled RFG, unless the gasoline is reclassified as non-VOC controlled and distributed only after September 15.

The March 26, 1998 letter further notes that the VOC standards applicable to terminals apply on a per-gallon basis. Therefore, if the RFG contained in any part of a terminal tank fails to meet the applicable VOC standard, the RFG would be in violation even if the standard is met on average for the whole tank.

We have received comments from several petroleum companies stating that the "no tolerance for the first turn" condition on use of the 2% VOC tolerance creates operational difficulties at some terminals during the annual spring transition to VOC controlled RFG. The difficulty occurs because in some cases terminal tanks must be stripped of essentially all winter-grade RFG before refilling with VOC controlled RFG in order to obtain the requisite test results showing compliance without a tolerance. The companies stated that removing this condition would assist in increasing the overall supply of RFG during the transition period.

We now believe it is appropriate to remove the "no tolerance for the first turn" condition from use of the 2% VOC tolerance at terminals. The significance of increased RFG inventories during the spring transition period outweighs the potential adverse environmental effects that may result from this change. Moreover, the potential adverse environmental effects of this change are minimal due to the prohibition against blending winter RFG into VOC controlled RFG, described above, which remains in effect.

Therefore, effective immediately, RFG in terminal storage tanks may be classified as VOC controlled if the terminal operator has a test result showing the RFG meets the applicable VOC standard with application of the 2% tolerance. This includes the first occasion the RFG is classified as VOC controlled each spring.

In summary, the following requirements apply to terminal operators when meeting the RFG standards for VOC emissions performance each year:

1. Before May 1, VOC controlled RFG may be added to a storage tank containing non-VOC controlled (winter) RFG in order to transition the RFG in the storage tank to meet the VOC standards.
2. No later than midnight on April 30 the RFG must meet the applicable standard for VOC emissions performance with application of the 2% tolerance. This standard must be met on a per-gallon basis, so separate tests of the tank strata (upper, middle and lower) must each show compliance. At this point the terminal tank should be classified as containing VOC controlled RFG.

3. During the period May 1 through September 15, the RFG in the storage tank will be in compliance with the VOC standards so long as the RFG meets the applicable standard for VOC emissions performance with application of the 2% tolerance.
4. During the period May 1 through September 15 only VOC controlled RFG may be added to the tank (i.e., non-VOC controlled RFG may not be added) unless the gasoline is reclassified as non-VOC controlled and is distributed only after September 15.

If you have any questions, you may call Erv Pickell of the Air Enforcement Division, at 303-236-9506.

Sincerely,

A handwritten signature in black ink, appearing to read "Sylvia K. Lowrance", with a long horizontal flourish extending to the right.

Sylvia K. Lowrance
Acting Assistant Administrator