



January 24, 2020

National Conference on Weights and Measures (NCWM)
Fuels and Lubricants Subcommittee
Committee Chair; Bill Striejewske, State of Nevada

Via email: wstriejewske@agri.nv.gov

Re: **Block 4: Items MOS-20.2 and FLR-20.3, and FLR 20.2 [E15 Waiver]**

We respectfully request these E15 waiver proposals from API referenced above be withdrawn. We give two reasons, duplication of efforts; asks one agency to perform the work of the other and the proposal has no clear technical justification.

There is no need for the proposed additional information related to non-certified natural gasoline to be in HB130 because it is simply an EPA concern and not a concern for the consumer. EPA is responsible for protecting the environment. State weights and measures staff utilize HB130 to assure consumer protection. They protect consumers by physically taking retail fuel samples and analyzing using proper standard methods. If fuels, including E15, do not meet ASTM D4814 or other State fuel regulations, enforcement measures can be taken. It also should be noted that the EPA has a retail quality survey regulatory requirement for E15 that is conducted by a third party.

API seems to be under the impression that this recent E15 rulemaking allowing the 1.0 psi vapor pressure waiver for E15 in the summer addressed blender pumps. On May 31, 2019 EPA Assistant Administrator Bill Wehrum stated at a press conference "*the final rule does not change in any way how we regulate blender pumps*"¹. The use of natural gasoline in flex fuel or blender pumps is not a new issue and was included in footnotes and preamble discussions. EPA was addressing this issue in a 2016 rulemaking, but the administration change has stalled this rulemaking. Since this is not a new issue, we suggest the urgency at NCWM can be reduced.

We would also like to point out that API is exaggerating poor quality claims if natural gasoline is the hydrocarbon component of flex fuel that makes up a small volume of the E15. They stated the consequences can be engine damage, voided engine warranties, not meeting octane and reduced miles per gallon. Although it is a scary talking point it is also not likely because this less than 2% natural gasoline that might possibly find its way to retail fuel is not of unknown quality. It is a combination of majority of C5 hydrocarbons that are also found in retail gasoline. Since 2004, due to marketplace fungibility natural gasoline used in ethanol nationwide have met the California-imposed limits for sulfur, benzene, aromatics and olefins. This became the de facto marketplace standard for natural gasoline. Tier 3 regulations required natural gasoline suppliers to register with the EPA and a pathway was

¹ http://hwcdn.libsyn.com/p/9/0/f/90f664f0bd7aefca/epa-e15.mp3?c_id=43846127&cs_id=43846127&expiration=1579816002&hwt=abf478f66b7c78cd89455f6746cd9dfc link is a recording and question is asked at the 9:00 minute mark.

provided for those suppliers to work with ethanol plants certifying the use of natural gasoline as a denaturant. EPA imposed sulfur regulations for air quality concerns. Product Transfer Documents and Certificate of Analyses are used for compliance. Ethanol producers know the quality of the natural gasoline they purchase.

The paper trail of PTDs required by the EPA are for environmental protections control and for the “deemed to comply” feature. To bring natural gasoline to certification the information EPA regulates would be sulfur, benzene, CHONS, and volatility. A lot of the quality analytes in the performance tables in ASTM D4814 are for environmental needs versus true driveability concerns with the fuel. Ironically octane, which is a true performance metric for the consumer is not even included in ASTM D4814.

As EPA acknowledges, sulfur and benzene are generally absent from undenatured fuel ethanol. It is the act of adding hydrocarbons to fuel ethanol that typically introduces both sulfur and benzene, both of which are controlled by EPA for environmental reasons. Being out of specification for these would not create consumer driveability issues as both analytes have been much higher before in fuel. Benzene also is not included in ASTM D4814 as performance specification.

EPA also imposes a CHONS statement, but with no testing requirement, which means the product can only be composed of carbon, hydrogen, oxygen, nitrogen and sulfur. This is to cover for unknown elemental contaminants that can be found in fossil gasoline sources.

The volatility concern was lessened by the rule allowing E15 the 1.0 psi waiver in the summer and it will be a physically tested by authorities as would be the posted octane and ethanol content which are API’s proposed concerns.

So, what does non-certified hydrocarbon via paperwork mean to the consumer as to assuring suitability or quality of their purchase. Nothing. It only means something to those in the supply chain per the deemed to comply feature. We are at almost 8 years after E15 debuted in the summer of 2012, now sold in 31 states, and still not one reported driveability issue.

In the E15 announcement President Trump stated EPA is working to streamline labeling and eliminating marketplace and regulatory barriers to the sale of E15. We understand the EPA deemed to comply feature and ethanol producers and major retailers have not been using natural gasoline as the hydrocarbon component of recent.

If interested in providing a level playing field for blending E15 then we ask API to work with us to petition the EPA to enable a pathway that achieves an equivalent level of environmental assurance as gasoline for the blender pump use of natural gasoline as hydrocarbon component in flex fuel blending of E15 in order to maximize economic efficiency and flexibility in the marketplace. This would be a consumer benefit.

We appreciate the consideration of our comments. Feel free to contact me if have any questions.

Kelly Davis
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