



US Environmental Protection Agency  
Office of Enforcement and Compliance Assurance

C.J.Krambuhl, Director  
Manufacturing, Distribution,  
and Marketing  
American Petroleum Institute  
1220 L Street, NW  
Washington, DC 20005-4070

August 28, 1996

re: Detergent Rule product transfer document  
requirement concerning oxygenates in gasoline

Dear Mr. Krambuhl:

This is in response to your letter on behalf of the American Petroleum Institute ("API") regarding certain issues associated with the Final Rule on Certification Standards for Deposit Control Additives ("Detergents Rule") (FR 35320 July 5, 1996). In that letter, you requested that EPA issue an interpretation clarifying 80.158(a)(5) and 80.171(a)(5) of the Detergent Rule to avoid an unnecessary regulatory burden.

These sections require gasoline marketers to identify on the product transfer documents ("PTDs") accompanying all gasoline, the oxygenates and other post-refinery components ("PRCs") found in the fuel. Specifically, API has requested that the Agency interpret or act upon these sections in a manner that would not interrupt gasoline distribution. In addition, your letter asserts that industry will not be able to comply with the oxygenate identification requirements by the September 3, 1996 effective date of the regulation and that such compliance is unnecessary at this time since no restricted-use detergents have been certified. Further, you asserted that compliance with this requirement would substantially alter the current gasoline distribution system by requiring additional product testing by pipelines and terminals.

The purpose of this PTD information requirement was to provide notice of the oxygenate/PRC (hereinafter referred to, in combination, as "oxygenate") status of gasoline to recipients, to enable these parties to use oxygenate use-restricted detergents in the gasoline. However, in light of the issues raised in your August 14 letter and comments presented at the API-sponsored workshop on the detergent certification rule, EPA recognizes that the PTD requirements in the rule are not consistent with current industry practices, may create additional burdens that require further evaluation and imposes requirements that will be

difficult to meet by September 3, 1996.

The Agency does not desire to disrupt the gasoline distribution system's present level of oxygenate fungibility nor to impose requirements that are not feasible within the required schedule. In addition, the Agency believes that regulated parties wishing to comply with any oxygenate use restrictions may determine oxygenate status by means other than PTD information.

In light of the above, EPA intends to initiate a rulemaking that would allow more thorough public comment regarding appropriate requirements to properly facilitate the use of restricted-use detergents by regulated parties. EPA intends to complete this rulemaking as soon as possible but anticipates completion no later than September 3, 1997.

Based on the concerns raised in your letter and current information which appears to indicate that restricted-use detergents are not likely to be certified in the near future, the agency believes the need for the subject PTD requirements is not essential at this time. Based on this information, EPA will exercise its enforcement discretion and not enforce the oxygenate/PRC information requirements found in 80.158(a)(5) and 180.161(a)(5) prior to September 3, 1997 or until the anticipated rulemaking establishes the need for these requirements, whichever comes first. EPA reserves the right to rescind this enforcement discretion at any time if it determines that restricted-use detergents are actually being certified and/or the above requirements have become appropriate.

Regulated parties are advised, however, that in the case of violations involving the improper use of an oxygenate/PRC restricted detergent, additional information or documentation regarding the oxygenate/PRC composition of the gasoline may be required in order to successfully assert an affirmative defense to such liability in accordance with 80.156(c)(1)(i) and 80.169(c)(1)(i). For example, such information or documents could include confirming test results of the oxygenate/PRC content by the party or supplier, a written statement from the supplier regarding oxygenate content (such as on a PTD), and/or a contract with the supplier that is designed to establish and ensure conformity with the applicable oxygenate use restriction for product being transferred, etc.

If you have any questions on this matter, you may call Bruce Buckheit, Director, Air Enforcement Division, Office of Regulatory Enforcement, at 202-564-2265.

Sincerely,

Steven A. Herman  
Assistant Administrator

cc: Mary D. Nichols  
Assistant Administrator for Air and Radiation  
U.S. Environmental Protection Agency  
National Petroleum Refiners Association  
Petroleum Marketers Association of America  
Chemical Manufacturers Association