



UNITED STATES DEPARTMENT OF COMMERCE  
National Bureau of Standards  
Washington, D.C. 20234

September 12, 1978

Mr. Sam Simon  
Federal Trade Commission  
6th and Pennsylvania Avenues  
Washington, D.C. 20580

Dear Mr. Simon:

Enclosed you will find a complete but still unofficial draft of the National Bureau of Standards (NBS) report on "Test Procedures for Recycled Oil to be Used as Burner Fuel," developed in response to the Energy Policy and Conservation Act (P.L. 94-163). This unofficial draft is also being transmitted to a small number of additional people in the government and private industry for their comments on the technical aspects of the report.

Please note that the present draft deals with test procedures which can be used to demonstrate substantial equivalency of recycled oil to virgin oil for purposes of operational performance when used as burner fuel.

As was related to you previously, there may be additional concerns related to the environmental impact of employing recycled oil as a fuel. NBS has investigated test procedures for several impurities commonly found in recycled oils, which may be of environmental concern. Our supplemental report on this subject which is essentially complete will be transmitted to you under separate cover as soon as the technical review process is completed.

Sincerely,

A handwritten signature in cursive script that reads "Donald R. Johnson".

Donald R. Johnson  
Deputy Director for Programs  
National Measurement Laboratory

Enclosure

September 15, 1978

Mr. Donald R. Johnson  
Deputy Director for Programs  
National Measurement Laboratory  
United States Department of Commerce  
National Bureau of Standards  
Washington, D.C. 20234

Dear Mr. Johnson:

As Assistant Director for the Division of Energy and Product Information for the Bureau of Consumer Protection, I have overall responsibility for the implementation of the Commission's obligations under Section 383 of EPCA. I wanted to take this opportunity to introduce myself, and to thank you for sending to Sam Simon the unofficial drafts of the National Bureau of Standards (NBS) report on "Test Procedures for Recycled Oil to be Used as Burner Fuel."

As you know from your meeting with Messrs. Simon and Aldhizer of my staff, there is not at this point agreement between our agencies on the division of responsibilities under the statute. We are currently working with our General Counsel and other senior staff at the Commission on this question. I am concerned that this matter be resolved in a reasonable manner acceptable to both agencies. I am confident that you share this concern.

We anticipate that we will be able to address the issue of statutory responsibilities more fully in our comments on the fuel oil document which you were kind enough to provide. I note that the document does contain the NBS position on the issue of statutory responsibilities, and I assume that comment on the NBS position is appropriate and welcome. Our comments, however, will have to await the completion of the General Counsel's review of the issue, which may take several weeks.

I am convinced that a serious attempt to resolve the differences before formal referral of the fuel oil document is in everyone's best interest, and will avoid possible public embarrassment of both agencies. Our informal staff comments based on our General Counsel's review may well provide the vehicle for accomplishing this result. If this method of proceeding is not acceptable to you, however, I would appreciate the opportunity to discuss this matter with you before formal referral occurs.

Sincerely,

Linda Colvard Dorian  
Assistant Director  
Division of Energy and  
Product Information

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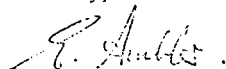
Mr. Carol M. Thomas  
Office of the Secretary  
Federal Trade Commission  
Washington, D.C. 20580

Dear Mr. Thomas:

Enclosed you will find a complete and official copy of the National Bureau of Standards (NBS) report on "Test Procedures for Recycled Oil to be Used as Burner Fuel," developed in response to the Energy Policy and Conservation Act (P.L. 94-163). This report contains test procedures which can be used to demonstrate substantial equivalency of recycled oil to virgin oil for purposes of operational performance when used as burner fuel.

As was related to you previously, there may be additional concerns related to the environmental impact of employing recycled oil as a fuel. NBS has investigated test procedures for several impurities commonly found in recycled oils, which may be of environmental concern. Our supplemental report on this subject, which is essentially complete, will be transmitted to you under separate cover as soon as the technical review process is completed.

Sincerely,



Ernest Ambler  
Director

Enclosure

December 7, 1978

Dr. Donald A. Becker  
Manager, Recycled Oil Program  
National Bureau of Standards  
Washington, D.C. 20234

Dear Dr. Becker:

I would like to thank you on behalf of the members of the Division of Energy with whom you met last Friday for a productive meeting and enlightening tour of the RBS testing labs.

For your records we have received the final HHS report on Recycled Oil used as Burner Fuel on Monday, December 4, 1978. Your cooperation throughout the course of this project has been critical to our ability to fulfill our responsibilities under EPCA. We look forward to future contact as the work progresses. In this instance, as in all others, you have been more than generous with your time.

Very truly yours,

Linda Colviri Dorian  
Assistant Director  
Division of Energy and  
Product Information

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*Handwritten:*  
JL  
12-7-78

FEDERAL TRADE COMMISSION  
WASHINGTON, D. C. 20580

BUREAU OF  
CONSUMER PROTECTION

December 7, 1978

Dr. John D. Hoffman  
Director  
National Measurement Laboratory  
National Bureau of Standards  
Washington, D.C. 20234

Dear Dr. Hoffman:

I would like to thank you on behalf of the members of the Division of Energy with whom you met last Friday for a fruitful and helpful discussion concerning our responsibilities under Section 383 of the Energy Policy and Conservation Act. You were very generous with your time and we appreciate it.

We have just received the NBS report required under EPCA and are busy analyzing it and addressing the obligations imposed on this agency in regard to this legislation. Your staff has been extremely cooperative in sharing its expertise with us throughout the course of this project. We look forward to future contact as the work progresses. Please do not hesitate to contact us on this and related matters.

Very truly yours,

*Linda Colvard Dorian*

Linda Colvard Dorian  
Assistant Director  
Division of Energy and  
Product Information

FEDERAL TRADE COMMISSION  
WASHINGTON, D. C. 20580

BUREAU OF  
CONSUMER PROTECTION

December 7, 1978

Dr. Donald R. Johnson  
Executive Director of  
Programs, National Measurement  
Laboratory  
National Bureau of Standards  
Washington, D.C. 20234

Dear Dr. Johnson:

I would like to thank you on behalf of the members of the Division of Energy working on the EPCA recycled oil project for making yourself available to meet last Friday. The discussion was quite helpful and beneficial to those of us whose legal training of necessity leaves us less than expert on these technical matters. We look forward to future contact with you as the work progresses.

Very truly yours,

*Linda Colvard Dorian*

Linda Colvard Dorian  
Assistant Director  
Division of Energy and  
Product Information

FEDERAL TRADE COMMISSION  
WASHINGTON, D. C. 20560

BUREAU OF  
CONSUMER PROTECTION

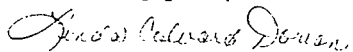
December 7, 1978

Dr. Steven Hsu  
National Bureau of Standards  
Recycled Oil Program  
Washington, D.C. 20234

Dear Dr. Hsu:

I would like to thank you, on behalf of the members of the Division of Energy with whom you met last Friday at NBS, for a helpful discussion and an interesting tour of your laboratory facilities. You have a great deal of valuable information to impart and the generous allocation of your time was very beneficial to us. I am sure that our responsibilities under EPCA will find us in frequent contact in the future. We shall look forward to that time. In the meantime, please contact us as the need arises.

Very truly yours,



Linda Colvard Dorian  
Assistant Director  
Division of Energy and  
Product Information



# FTC news

Federal Trade Commission *Washington, D.C. 20580*

\* \* \* HOLD FOR RELEASE UNTIL: Friday, September 19, 1980 \* \* \*

## "MOBIL 1" MAY INCREASE SOME CARS' OIL CONSUMPTION; MOBIL TO WARN CONSUMERS UNDER FTC AGREEMENT

The Mobil Oil Corp. has agreed to disclose in ads that some automobiles using "Mobil 1," the company's synthetic motor oil, may consume increased amounts of oil, the Federal Trade Commission announced today.

Contrary to an ad claim that Mobil 1 "reduces oil consumption up to 25 percent in engines in good mechanical condition," the product may actually increase oil consumption in some sports cars and older or high mileage cars, according to an FTC complaint prepared with the agreement.

Mobil Oil, a subsidiary of Mobil Corp., sold about \$30.5 billion in petroleum products in 1979, including more than \$20 million worth of Mobil 1 sold to 750,000 users. The company manufactures and sells various fuel, chemical and lubrication products throughout the U.S.

Under the agreement, if the company claims in ads or on labels or packaging materials that Mobil 1 results in reduced motor oil consumption, it must also recommend that users check oil levels frequently. The ads and other materials must contain the disclosures within six months after the effective date of the order.

Mobil 1 allegedly causes increased oil consumption in certain cars because of its low viscosity, or thinness, which allows it to escape rapidly through relatively wide openings between engine parts in certain cars. According to FTC staff, Mobil Oil received about 3,600 consumer complaints about Mobil 1 from March 1976 to April 1979.

(More)

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NOTE: This consent agreement is for settlement purposes only and does not constitute an admission by the company that it violated the law. When issued by the Commission on a final basis, a consent order carries the force of law with respect to future actions. A violation of such an order may result in a civil penalty of up to \$10,000.  
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The Mobil Oil Corp. has headquarters in New York.

The consent agreement will be placed on the public record for 60 days, until Nov. 21, after which the Commission will decide whether to accept it. Comments should be addressed to the Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue Northwest, Washington, D.C., 20580.

Copies of the complaint, the consent agreement and an analysis of the consent are available from the Public Reference Branch, Room 130, at the same address.

# # #

MEDIA CONTACT: Dee Ellison, Office of Public Information,  
202-523-3830

STAFF CONTACT: Juereta P. Smith, Dallas Regional Office,  
214-767-0032

File No. 792 3127

[Mobil]

UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION

In the Matter of  
MOBIL OIL CORPORATION,  
a corporation

FILE NO. 792 3127  
AGREEMENT CONTAINING  
CONSENT ORDER TO  
CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of Mobil Oil Corporation, a corporation, and it now appearing that said corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

IT IS HEREBY AGREED by and between Mobil Oil Corporation, a corporation, by its duly authorized officers, and their attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent Mobil Oil Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the state of New York, with its executive office and principal place of business located at 150 East 42nd Street, New York, New York, 10017.
2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.
3. Proposed respondent waives:
  - (a) Any further procedural steps;
  - (b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and
  - (c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.
4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby,

will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of §2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

#### ORDER

#### I

IT IS ORDERED that respondent Mobil Oil Corporation, a corporation, its successors and assigns, and its officers, representatives, agents and employees, directly or through

any corporation, subsidiary, division or other device, in connection with the advertising, labeling, offering for sale, sale or distribution of Mobil 1 in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, directly or indirectly, that use of such product results in reduced consumption of engine lubricating oil unless there is set forth, and in immediate conjunction with such representation, the following disclosure:

"NEW USERS OF [NAME OF PRODUCT] SHOULD CHECK OIL LEVELS MORE FREQUENTLY. SOME CARS WILL EXPERIENCE HIGHER OIL CONSUMPTION WITH LOW VISCOSITY OILS LIKE [NAME OF PRODUCT]."

PROVIDED HOWEVER, such disclosure shall not be required if (1) the representation concerns only vehicles which are not general purpose passenger automobiles and (2) the representations do not appear in media primarily directed to individual consumers.

## II

IT IS FURTHER ORDERED that the disclosures covered by paragraph I above:

1. If in print media, it shall be set forth clearly and conspicuously and shall be separated from the principal portion of the text of the advertisement so it can be readily noticed.

2. If on labels or packaging materials, shall be parallel to the base of the label or package and the letters must be easily readable.

## III

IT IS FURTHER ORDERED that if the disclosure required by paragraph I above is made in:

1. Radio advertising, the duration of the disclosure will be at least eight (8) seconds.

2. Television advertising, the disclosure may be in either audio or visual form; the duration of the disclosure will be at least eight (8) seconds.

3. Visual form in television advertising, each word shall be in letters of color or shade which contrasts with

the principal background against which it is displayed with letters that are easily readable and without distracting noise or action in the background.

## IV

IT IS FURTHER ORDERED that the provisions of this Order shall apply only to representations disseminated within the United States, any of its territories or the District of Columbia.

## V

For purposes of this Order,

"Mobil 1" shall mean any SAE 5W-20 synthetic motor oil manufactured or distributed by Mobil for use in the engines of general purpose passenger automobiles.

"General purpose passenger automobile" shall mean any automobile or light truck owned by individual consumers and principally used for personal transportation. It does not include commercial or rental fleets of automobiles or trucks, heavy or medium weight trucks, or trucks or automobiles primarily used for commercial purposes.

## VI

IT IS FURTHER ORDERED that respondent shall notify the Commission at least 30 days prior to the effective date of any change in the corporate respondent such as dissolution, assignment or sale, resulting in the emergence of a successor corporation, the creation or dissolution of any subsidiary, or any other change in the corporation which would affect compliance obligations arising out of this Order.

## VII

IT IS FURTHER ORDERED that the respondent shall forthwith distribute a copy of this Order to each of its operating divisions involved with the sale, distribution or advertising of Mobil 1 and to each of its officers, representatives and employees who are engaged in the preparation and placement of advertisements and creation of product labels for such product.

## VIII

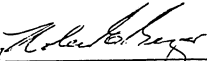
IT IS FURTHER ORDERED that any change required in the labels, containers or packing material used with Mobil 1 will be deemed to be in compliance with this Order if such changes are made and used with all Mobil 1 which is packaged after six (6) months from the effective date of this Order.

## IX

IT IS FURTHER ORDERED that the respondent shall, within sixty (60) days after service upon them of this Order, file with the Commission a report, in writing, setting forth the manner and form in which it has complied with this Order.


Signed this 18th day of April, 1980.


Mobil Oil Corporation; a corporation

By   
 (Name) (Title)  
**ROBERT E. GEIGER** ASSISTANT SECRETARY  
 27 LAWRENCE ROAD  
 MADISON, N. J. 07940  
150 East 42nd Street  
 (Street)

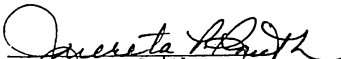
New York, New York 10017  
 (City and State)

  
 Attorney for proposed respondent  
 Mobil Oil Corporation

  
 Joseph L. Hickman  
 Counsel for the  
 Federal Trade Commission

  
 Samuel Carusi  
 Consumer Protection Specialist  
 Federal Trade Commission

APPROVED:

  
 Justeta P. Smith  
 Regional Director

UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION

In the Matter of  
MOBIL OIL CORPORATION,  
a corporation

DOCKET NO.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Mobil Oil Corporation, a corporation, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH ONE: Respondent Mobil Oil Corporation is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York, with its executive office and principal place of business located at 150 East 42nd Street, New York, New York, 10017.

PARAGRAPH TWO: Respondent is now, and for some time last past has been, engaged in the manufacture, sale and distribution of various fuel, chemical and lubrication products throughout the United States for use by industry and by the general public.

PARAGRAPH THREE: For several years last past, respondent has manufactured, and has sold and distributed to the general public through automobile service stations and other retailers throughout the United States a synthesized automotive lubricant under the trade name: "Mobil 1".

PARAGRAPH FOUR: Respondent causes Mobil 1 to be transported from various places of manufacture, storage and distribution in various states of the United States to purchasers thereof located in various other states of the United States. Respondent maintains, and at all times



material herein has maintained, a substantial course of trade in said product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PARAGRAPH FIVE: At all times material herein, respondent has been, and is, in substantial competition in or affecting commerce, with individuals, firms and corporations engaged in the sale and distribution of automotive lubricants for use by the general public.

PARAGRAPH SIX: In the course and conduct of its business, and for the purpose of inducing the sale of Mobil 1, respondent disseminates, and causes the dissemination of advertising by various means, including those in national publications and brochures distributed by the mail across state lines, point of sale promotional materials displayed or distributed in automobile service stations and in other retail stores throughout the United States, statements on Mobil 1 labels, and through television broadcasts transmitted by television stations located in various states of the United States which broadcast within said states and across state lines.

PARAGRAPH SEVEN: Typical statements in such advertising include, but are not limited to, "Reduces oil consumption up to 25% in engines in good mechanical condition," "Reduces oil consumption in engines in good mechanical condition," and "...Mobil 1 saves...up to 25% on oil consumption in engines in good mechanical condition."

PARAGRAPH EIGHT: By and through its advertisements, respondent represents, directly or indirectly, that by switching from conventional mineral oils to Mobil 1 purchasers will achieve in cars with engines in good mechanical condition a substantial reduction in the amount of engine lubricating oil consumed in the operation of such cars.

PARAGRAPH NINE: In truth and in fact, many purchasers of Mobil 1, by switching from a heavier viscosity conventional mineral oil, will not achieve a substantial reduction in the amount of oil consumed in the operation of their cars. To the contrary, the use of Mobil 1 may result in increased oil consumption in various types or categories of cars, including certain older or higher mileage cars, high performance cars, and cars with rebuilt or rebored engines, which, because of larger engine clearances, consume less oil of a heavier viscosity than they consume when Mobil 1 is used.

PARAGRAPH TEN: In the advertisements described in PARAGRAPH SIX, respondent fails to disclose that some types

of vehicles will experience increased oil consumption with the use of low viscosity oils such as Mobil 1. Therefore, respondent's advertisements and representations described in PARAGRAPHS SIX AND EIGHT, were and are unfair and deceptive.

PARAGRAPH ELEVEN: The use by respondent of the aforesaid unfair and deceptive statements, representations, acts and practices, directly or by implication, has had, and now has, the capacity and tendency to mislead members of the public into the erroneous and mistaken belief that said statements and representations were, and are, true and complete, and into the purchase of substantial quantities of respondent's products and services by reason of said erroneous and mistaken belief.

PARAGRAPH TWELVE: The acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's competitors and constituted, and now constitute, an unfair or deceptive act or practices and unfair methods of competition in or affecting commerce, in violation of Section 5 of the Federal Trade Commission Act. The acts and practices of respondent, as herein alleged, are continuing and will continue in the absence of the relief herein requested.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission, on this day of , issues its complaint against said respondents.

By the Commission.

SEAL

Carol M. Thomas  
Secretary

Analysis of Proposed Consent Order  
to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Mobil Oil Corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The proposed complaint alleges that Mobil Oil Corporation ("Mobil") violated Section 5 of the Federal Trade Commission Act by representing in its advertising and on product labels that by switching from a conventional mineral oil to Mobil 1 purchasers will achieve, in cars with engines in good mechanical condition, a substantial reduction in the amount of engine lubricating oil used.

The proposed complaint further alleges that many purchasers of Mobil 1 will not achieve a reduction in oil consumption by switching to Mobil 1 and that the use of Mobil 1, because of its lower viscosity, may result in an increase in oil consumption in various types and categories of cars, such as old or high mileage cars, high performance cars, and cars with rebuilt or rebored engines with large internal clearances.

The proposed order addresses these allegations by requiring Mobil to disclose in advertising and on product labels, when representations of oil savings claims are made, that new users of Mobil 1 should check oil levels more frequently because some cars will experience high oil consumption with a low viscosity oil like Mobil 1. (Viscosity is a measure of how easily the lubricant flows. The less viscous or "thinner" the lubricant, the easier it flows.) The purpose of the order is to alert consumers to check their oil levels carefully when first using Mobil 1 to determine if Mobil 1 is appropriate for their vehicles and to make sure there is sufficient oil in the crankcase.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Mr. BECKER. May I respond with a little bit of additional information. As the Congressman has stated, there are significant differences in various virgin oils. There is a wide range of characteristics of different molecular structures, of sulfur content, and of different compounds—hydrocarbons which contain sulfur, also nitrogen- and oxygen-containing compounds—and there is a wide range of differences between re-refined oils. Many of these differences overlap. The question is and still remains, we do not presently have—there is insufficient data in the literature in the United States or overseas in countries that have re-refined oils for many years—the technical basis for making decisions on test procedures for substantial equivalency. These do not exist in the literature. As a result we have to develop the data as well as the test procedures ourselves.

Dr. YAKOWITZ. We found that when we began this program the technical difficulty associated with the tests for re-refined oils was far beyond our original conception. To this end we moved forward with our present programs.

This comment is partially in answer to Mr. Dingell's question on the budget. We have moved forward to the point where the recycled oil program has well over 1.5 percent of the NBS budget and at least 10 percent of all the new hires made in the last 3 years.

The recycled oil program has a fairly high priority under NBS. The technical problems are extremely difficult. Our priority is to provide accurate answers so that consumers and the Congress will have a true test of substantial equivalency.

We are moving forward at what we consider to be a reasonable pace to do that. We will provide, of course, all of the answers, within our power, that you request for the record.

Mr. DINGELL. This is from the Association of Petroleum Refiners. This is some of their testimony:

The latest API/SAE code, SF, indicates oil suitable for use in 1981 model automobiles. The requirement of additional label information—recycled—implies that SF recycled is somehow different and perhaps inferior to a product labeled simply SF.

Both oils would be capable of meeting the same stringent quality and testing requirements; however, one would be required to bear different labeling.

Does anyone at the table take issue with that statement?

Mr. BECKER. Mr. Dingell, in terms of any particular oil that has been tested with the engine sequence tests, re-refined or virgin, there is no difference, but as I stated in my testimony—

Mr. DINGELL. You don't take issue with that statement?

Mr. BECKER. Mr. Dingell, there is a different concern—and that different concern is: As I stated in my formal statement, the concern is about the consistency of an oil in between these expensive engine tests. The U.S. military specification MIL-L-46152, which is the primary lubricating oil specification that is used all over the world, not just in the United States, requires that if the crude oil is maintained from the same crude source—that is, the same oil-field—and if there is no change in the refining technology then if you use the same additive package and the same treat level you only have to do this engine testing every 4 years.

A group from the American Society of Testing Materials, a task force including myself, worked with the Army in the revision of their military specification and made recommendations as to what

was needed so that re-refined oils could be used to fulfill the requirements of the military specification.

In this work, the ASTM tasks force recommended approximately 14 chemical and physical tests to be required on each base oil, re-refined or virgin, in order to try to assure that the consistency is the same.

However, this task force, in its conclusion, stated that there is not enough technical data available to assure that a re-refined oil would be consistent, that these 14 tests may not be sufficient, but that this was their best guess in terms of tests for consistency.

As I understand the Energy Policy and Conservation Act, NBS cannot put forth a "best guess." Substantial equivalency is a strong term and we have to be sure that the test procedures we report to the FTC will do the job.

Mr. DINGELL. Am I incorrect that the Department of Defense is using recycled oil on precisely the mechanism that we have been discussing?

Mr. BECKER. Mr. Chairman, they have revised their military specification. As I understand it, they have not yet procured re-refined oils.

Mr. DINGELL. They have specs and they do intend to procure, do they not?

Mr. FLORIO. Will the gentleman please yield?

Mr. DINGELL. Yes.

Mr. FLORIO. And they have in the past up until not too long ago used recycled oil? Is that not the case?

Mr. BECKER. I am not aware of them using re-refined oil. Just recently one re-refined oil was submitted for the State of Carolina and may have been accepted by the military. However, this oil is for the State's use and is not available to the military or to the general public. Other than their program of testing re-refined oil which has been going on for several years now, as far as I know they have not procured and used re-refined oil in their vehicles.

Mr. DINGELL. Let me read the question again.

The Association of Petroleum Re-Refiners says as follows:

The latest API/SAE code, "SF", indicates oil suitable for use in 1981 model automobiles. The requirement of additional label information—"recycled"—implies that "SF recycled" is somehow different and perhaps inferior to a product labeled simply "SF".

Both oils would be capable of meeting the same stringent quality and testing requirements; however, one would be required to bear different labeling.

Does anybody at the table have any quarrel with that statement?

Mr. BECKER. Mr. Dingell, in terms of the SF label classification, any manufacturer can put that on their can and only they stand behind it. There is no organization that is monitoring or really enforcing that label.

A recent study of the Department of Defense revealed that of 17 rebranded oils, not major brands, that were analyzed, in a significant fraction of those oils there was little or no evidence of any additive whatsoever. Those oils were labeled as SE or SF.

Mr. DINGELL. Maybe I can clarify this. Would API/SAE standards allow an oil which would meet the label SF test well enough for consumers or not as SF whether it was recycled or not recycled?

Mr. BECKER. Mr. Dingell, there are re-refined oils I would be happy to use in my automobile because I know the company in-

volved. But the API classification system is a voluntary classification system and it has to meet no standards. There is only the implication that they should be able to meet these engine tests.

Mr. DINGELL. Thank you, Mr. Chairman.

Mr. FLORIO. We have one more panel so we are going to terminate at this point but I will exercise the prerogative of the Chair and somewhat arbitrarily ask a question that is unrelated to this so that you can help me with a group of constituents.

A group of people came to see me over the weekend. They have undertaken a massive effort to bring to my attention the fact that there are insufficient standards applied to heating oil such that they determine heating oil freezes at 20° F.

They maintain that there is no national standard of quality in heating oil. Have you had any experience with this point that has been made?

Mr. BECKER. There is an ASTM specification for burner fuel oil and a Federal specification for fuel oil which would contain standards as such. However, heating oil is sold in commerce by grade rather than by specification; and there is very little reference to actual standards or testing showing that any grade of oil meets those standards.

The Department of Energy in Bartlesville Center does compile some test results of various samples that have been picked up from various areas of the country, and they report these on an annual basis in terms of the analytical data obtained. However, there really is no standard that is in force in commerce for heating oils.

Mr. FLORIO. So it is conceivable that these people are correct that their heating oil froze at 20° F?

Mr. BECKER. It is conceivable; yes, sir.

Mr. FLORIO. And there is no Federal system that sets a minimum standard? They made reference to the fact it is a private organization that establishes a qualitative system that is incorporated by reference on some of the oil company regulations.

They say they are approved by the Federal Government but in fact there really is no Federal Government standard; it is a private association that has these standards.

Mr. BECKER. The consumer could state they are purchasing according to the Federal specification UV-F-815d or the ASTM specification D-396. These specifications are both contained in the report. I mentioned earlier, NBS Technical Note 1130.

Mr. FLORIO. Thank you very much. We will be in contact with you to get more information.

I appreciate the panel's cooperation.

Our last panel is made up of Mr. Kimball L. Morris, president, Association of Petroleum Re-Refiners, and Ms. Mary T. Sheil, administrator, New Jersey State Office of Recycling, Department of Energy.

We welcome you to the committee. We appreciate your patience. Your statements will be made a part of the record in their entirety and feel free to proceed in any way you see fit.

**STATEMENTS OF MARY T. SHEIL, ADMINISTRATOR, STATE OFFICE OF RECYCLING, NEW JERSEY DEPARTMENT OF ENERGY; AND KIMBALL L. MORRIS, PRESIDENT, ASSOCIATION OF PETROLEUM RE-REFINERS, ACCOMPANIED BY JAMES McBAIN, EXECUTIVE DIRECTOR, APR**

Ms. SHEIL. I would like to express the regrets of Commissioner Jacobson in not being able to appear before you today to present his testimony. He is conducting hearings on the solar residential programs in the State of New Jersey today.

Chairmen, members of the subcommittee: I appreciate this opportunity to testify on the long overdue legislation on used oil recycling. This hearing is timely because the NJDOE has just launched a statewide used oil program designed to recover and recycle much of the 24 million gallons of used oil generated in New Jersey. I will discuss the program later on in my testimony.

I would first like to address some of the major impediments that need to be removed to foster the national development of used oil recycling and then focus on the proper legislation required to achieve that goal.

First, let me say the NJDOE strongly supports the recovery, recycling and reuse of used lubricating oils. However, support alone cannot make these kinds of objectives a reality, unless the major obstacles are resolved.

**LABELING ISSUE**

Probably, the most critical and detrimental obstacle facing the utilization of recycled oil today, is the lack of product acceptance. The Federal Trade Commission's labeling requirement, instituted in 1965, was intended to inform and protect the consumer from misrepresentation and mislabeling practices.

FTC based this labeling requirement on the fact that the public was entitled to know the origin of its oil purchases, and stipulated that re-refined oil products must clearly be labeled "Made from Previously Used Oils." This language is prejudicial and detrimental and places re-refined products out of the consciousness of the buyer. Furthermore, this language emphasizes the origin of the re-refined oil and not the characteristics and quality properties of the oil.

Let me present this scenario. It is argued, the customer has the right to know what he is buying. However, in absence of the present disclosure label, a customer purchases re-refined oil. Unknowingly, he might think he was buying virgin lube oil and hence deceived about the quality of the purchase. The counter argument, is that lube oil feedstock origin, whether it be used oil, virgin crudes—possibly inferior quality—or of diverse origin—probably from foreign sources—it is not necessarily related to the quality of the final product.

Hence, the "made from previously used oils" implies inferior quality in the minds of retail consumers and almost eliminates market acceptance. Furthermore, it seems odd that no other industry marketing recycled products is required to bear a label stating that the products was "previously used".

This situation needs careful consideration and appropriate Federal action to eliminate this obstacle.

## STATE RESPONSIBILITIES

Another major obstacle is evident to the oil re-refiner.

In order for the used oil re-refiner to maintain economic competitiveness, he must be assured a constant flow of used oil for feedstock purposes.

However, since the 1973 "energy crisis" and OPEC petroleum price increases, used oil has been an eagerly sought-after commodity. Why? Because higher and higher prices for virgin oil have increased the marketability and large profits available from selling untreated used oil as a virgin fuel or supplement.

Therefore, the failure to regulate the flow of used oil and the lack of Federal policy toward the proper disposal and reuse methods of used oil, have put re-refiners at a distinct disadvantage in the marketplace.

State governments have a responsibility to mandate policies that encourage greater recovery of used oil for re-refining, eliminate uncontrolled burning, and prohibit road oiling with untreated used oil.

As I stated earlier, New Jersey, like many other States—California, Illinois, and Oregon—have developed aggressive State programs that establish a network of collection points where used oil can be safely disposed for recycling. Furthermore, the Department's program requires collectors and recyclers to manifest or track their operations for greater control over the disposal of this potentially hazardous waste.

## ECONOMIC CONSIDERATIONS

The Department recognizes that re-refining used lubricating oil is the best method to maximize recovery and continued reuse of a valuable resource, however, this choice is governed by economic and environmental considerations.

The economics of re-refining are strongly affected by allowing burning of untreated used oil. When uncontrolled burning of used oil is permitted, the demand and price for used oil increases and virtually eliminates constant feedstock flow which drives re-refiners out of business.

Furthermore, the re-refiner has collection costs, processing costs, operational costs and, depreciation as well as administrative and overhead costs. On the other hand, the collector who sells used oil for indiscriminate burning only has collection costs. The collector may purchase used oil at 10 to 15 cents per gallon and then sells it to a fuel merchant, untreated, for 50 to 70 cents per gallon. A better profit per gallon than the major oil companies. This is compared to the re-refiner's profit margin which is less than one-tenth of the collector's profit.

As you can see, strong profit incentives dictate that the major portion of used oil supplies will wind up as an untreated fuel or fuel supplement.

## ENVIRONMENTAL CONSIDERATIONS

There are strong indications that used oil is mixed with various other chemicals such as toxic solvents and PCB's. The end result is a heterogeneous mixture of hazardous materials.



Indiscriminate dumping of used oil into the environment or waterways will probably have detrimental environmental and health effects. The direct burning of used oil requires extremely high temperatures and sophisticated emission control equipment which may allow safe burning.

However, such practices as burning untreated used oil, in my opinion, seriously jeopardize our public health and welfare. Current safeguards do not adequately address this problem.

The improper disposal collection and storage of used oil can become the melting pot for potentially hazardous materials.

Moreover, it may be very difficult or impossible to prevent the admission of hazardous materials into the collection system of used oil. Therefore, it is my belief that used oil should be classified as a hazardous waste and regulated accordingly. In addition, certain burning of used oil should be totally prohibited.

#### PROCUREMENT POLICIES

RCRA required Federal agencies and State governments to maximize their purchases of recycled products whenever \$10,000 or more of Federal funds are used. However, discrimination against recycled products, especially re-refined oil, continues to exist in governmental purchasing policies today.

What is needed are stronger and enforceable Federal and State procurement policies requiring the use of recycled oil. The New Jersey Department of Energy and Department of Environmental Protection have just completed a State recycling plan that recommends procurement guidelines for recycled oil, increasing from 10 percent in 1981 to 50 percent in 1986 by State agencies.

In addition, Federal legislation is necessary to eliminate unfounded bias, prohibit indiscriminate dumping and encourage the recovery and recycling of used oil.

At this point, I would like to outline what we consider are the appropriate actions that Federal legislation must address in order to achieve the above goals.

#### RECOMMENDED LEGISLATIVE ACTIONS

First. Expedite the revision of the FTC's present labeling requirement from "made from previously used oil" to "this is a recycled petroleum product."

Second. Require all marketers of petroleum lubricating products to prominently display the following statement on each container of oil: "Don't pollute—conserve resources—return used oil to collection centers."

Third. Require each State to submit a used oil recycling plan to encourage the recycling of used oil. These State plans must address:

(a) The collection and recycling of used oils, and indiscriminate dumping and burning of used oils,

(b) State procurement policies that would, to the maximum extent possible, use recycled oil in lieu of virgin oil.

(c) Establishing public awareness and educational programs on the benefits and uses of recycled oil.

This is one area in the development of our recycling program. We think next year a major activity will be to focus on education of the public through normal educational programs as well as promotional campaign-type programs to encourage the use of recycled product and to bring about awareness of recycled products.

We think that this is where there is a definite need for funding and for moving forward.

We believe that part of the problem is people have the wrong idea of what recycled products are and if we can conduct something that promotes the use of recycled products we can encourage people to buy recycled products which is one reason why we think the labeling should include the word "recycled."

There was an argument this morning if recycled oil is equivalent to virgin oil, don't label it at all. We think people should be aware it is recycled because we would like them to make the choice to purchase the product because it is a domestically produced product rather than a product from foreign sources.

(d) Elimination of used oil as a road oil or dust suppressant should be included.

(e) Implementation of a program that monitors the collection of used oil by manifesting and licensing of persons who collect, transport, store or treat used oil.

Fourth. Technical assistance should be provided by the designated Federal agency involving legal, institutional, technical and economic issues impeding the recycling of used oil.

Fifth. Used oil should be classified as a hazardous material and regulated. The regulation should include prohibited certain burning of used oil. Both actions should occur no later than 1 year after date of enactment.

Sixth. Authorization to appropriate not less than \$5 million and not more than \$15 million for the fiscal year 1982 and 1983. Appropriations awarded to States only with approved recycling plans.

We suggest these programs be awarded to States that have instituted recycling programs.

Seventh. EPA, USDOE should conduct studies:

(a) assessing various environmental problems associated with improper disposal of used oil, and

(b) projections on quality and quantities of future virgin and used oil feedstocks for purposes of producing lubricating oil.

The above legislative recommendations are necessary to develop a comprehensive national policy to encourage used oil recycling.

Used oil represents a valuable resource. Recycling used oil can mitigate future critical lubricating shortages which occur at any time. In addition, the recovery of used oil out of the waste stream will reduce the potential environmental hazards associated from the improper disposal and burning of used oil.

In summary, I support national legislation that addresses these issues and encourages used oil recycling.

Thank you and I appreciate this opportunity to provide this statement on New Jersey's policy on the recycling of used oil and shall be happy to answer any questions you might have.

Mr. FLORIO. Thank you very much. We would now like to hear from our other witness, Mr. Morris.

I have been informed we will have to vacate the room in a rather short period of time, so if you will, please summarize your statement.

#### STATEMENT OF KIMBALL L. MORRIS

Mr. MORRIS. I am Kim Morris, president of CAM-OR, Inc., a small public corporation which is actively engaged in the re-refining of used oils. I am here as president of the Association of Petroleum Re-Refiners (APR). Also here today is James McBain, executive director of APR.

I would like to briefly summarize the three problems involved here:

The first problem is the ability to compete in the marketplace for feedstock, that is, crude, in this sense. Unfortunately, the burning of used oil which is not processed, is a very, very profitable business. Let me give you an example. In the Detroit market, the wholesale market for crude oil is approximately 30 cents a gallon; the price for 1-percent sulfur is approximately 53 cents a gallon. The difference represents the profit margin for an indiscriminate businessman. That sounds like we are crying and cannot compete. But we can.

It is important for the committee to know in most cases the buyer does not know he is buying used oil. The FTC has no labeling requirement on that product. So the APR hopes the problem of indiscriminate fuel selling will be addressed under EPA's resource regulations that we hear will now be out by the end of the year.

These regulations should require the removal of contaminants to qualify as a fuel, or should require that used oil when burned as a fuel be burned in a high-efficient emission facility. It seems a paradox that we have clean air standards on one hand, yet on the other hand we are not concerned with what is burned in those boilers.

The second problem facing us is the need to convert to new technology. We have all heard about the acid/clay method. The environmental regulations require all of us, if we are to stay in the business, to make rather large capital investments. There are large technology companies like Phillips Petroleum supplying PROP plants which have been sold in Canada, Mexico, and around the world.

The area of technology is covered in our report; I will not go into it except to say the ability to market a product in the United States competitively without restrictions and for people to invest in the high capital costs which are required for these new technologies is essential.

I have tried very hard to get the permission of a major oil company to use their name in this testimony. On Friday I talked to these people. They have had a major study on whether they are going into re-refined oil. This company is the third largest producer of lubricant stocks in the United States. They have elected not to go into re-refined oil. They feel they cannot compete with the labeling requirement. They have concluded that re-refined oil is better than many virgin oils in the marketplace today and they have told me they really want to go into the re-refined oil market. I am not trying to encourage the large companies to get into our

business, but it is important for this committee to know the major oil companies have looked very hard at this market and the one thing that impedes them is the labeling requirement.

Even the recycling requirement is not satisfactory for them. They feel they should have a free ability to compete with a product that does meet SF.

Mr. DINGELL. I remember during World War I, the British troops were complaining they were compelled to use cannons made from scrap used in the days of the Armada. Finally it was concluded that scrap would provide cannons just as good as those coming from Scandinavia, the United States, and elsewhere around the world.

I am hard put to understand the difference here, if it meets the standards which are present in the virgin oil.

Mr. MORRIS. We have asked that oil company, and we believe they will write this committee a letter. We have been very aware that company has been studying this industry. They have had a seven-man task force about the last 7 months. We have asked them to write you a letter acknowledging who they are and why they are not going into the business.

The third problem facing our industry is failure to compete in the automotive lubricant area.

Mr. Dingell has listed some of my testimony on the SF recycled and the SF, but it is clear, the consumer has a right to know whether it is a fit product for the end use. The fact of the base stocks is immaterial as long as the product meets what is expected of the product.

We have suggested in this testimony that the API/SAE codes should be enforced by the FTC. Now they are not being enforced by anybody. It is a private kind of coding on motor oils, but they are not being enforced. General Motors ran a study of 100 SAE oils. Out of 100, only 30 passed basic tests. That is not a re-refined oil problem. It is a much bigger problem.

[Testimony resumes on p. 237.]

[Mr. Morris' prepared statement and attachment follow:]

STATEMENT OF  
THE ASSOCIATION OF PETROLEUM RE-REFINERS

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES  
SUBCOMMITTEE ON ENERGY AND POWER  
and  
SUBCOMMITTEE ON TRANSPORTATION AND COMMERCE

ON

S. 2412

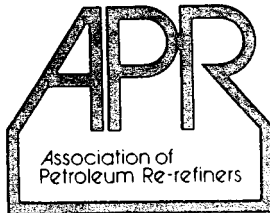
TO AMEND THE SOLID WASTE DISPOSAL ACT  
TO FURTHER ENCOURAGE THE USE OF RECYCLED OIL

and

H.R. 7833

TO AMEND THE SOLID WASTE DISPOSAL ACT TO ENCOURAGE  
THE RECYCLING OF USED OIL, AND FOR OTHER PURPOSES

SEPTEMBER 8, 1980



Association of Petroleum Re-refiners  
1101 Connecticut Avenue, N.W.  
Suite 700  
Washington, D.C. 20036  
(202) 857-1150

Mr. Chairman:

My name is Kim Morris. I am President of CAM-OR, Inc., a small public corporation which is actively engaged in the re-refining of used oils. I am here as President of the Association of Petroleum Re-refiners (APR). Also here today is James McBain, Executive Director of APR.

The Association of Petroleum Re-refiners was formed close to thirty years ago to represent the interests of a then growing industry. A concerned reading of APR minutes since its beginning bears sad witness to the demise of a once thriving industry and America's early, but unrecognized, ability to lessen today's dependence on foreign oil imports.

We have testified in the Congress this year, for the first time in generations, on legislation to revitalize an industry composed of small businesses and peopled by individuals more than capable and willing to take on and carry out the responsibility of growth that legislation, such as in the legislation before these subcommittees today, can generate.

We commend the Senate for passage of S. 2412, and the sponsors of H.R. 7833, and these two subcommittees for their recognition of a need to stimulate the growth of an environmentally sound and healthy re-refining industry. This legislation addresses some of the major obstacles to a viable re-refin-

- 2 -

ing industry in this country today. We thank you for the opportunity to express our views.

#### HISTORY

Used oil re-refining and reclamation in the United States dates back as early as 1915. Although re-refining techniques were not extremely sophisticated, the oil was being adequately renewed for the then current uses. The military used a great deal of this renewed oil during World War I and thereafter.

In 1932, commercial airlines began to use custom re-refined oils in aircraft engines. This generated substantial economic savings for the fledgling aviation industry and stimulated the use of re-refined oil by other industries as well.

World War II and the need to conserve limited supplies of lubricants led to an even wider use of re-refined lube products. For example, over 29 million hours of piston aircraft engine time were logged using re-refined oils. There were no recorded ill effects on engine wear. In fact, average engine life was increased by 50 percent.

Following World War II, the Air Force continued to use re-refined products, and by 1949 almost 25 percent of all Air Force engine lubricants were re-refined. However, with the advent of jet engines requiring sophisticated, and sometimes synthetic, lubricants, the need for re-refined oils declined.

At the same time America was becoming a mobile society, the American love affair with the automobile stimulated other markets to grow rapidly. The re-refining industry was able to compete favorably with virgin products, and by 1960

the industry claimed over 150 companies producing over 300 million gallons of re-refined lubricants - almost 18 percent of the nation's total consumption!

Today the industry is composed of less than ten companies producing less than 100 million gallons of quality re-refined lubricating oils.

What destroyed the dramatic growth of such a needed industry? There are many reasons, the most important of which are:

(1) Increased use of used oil as an unprocessed road dust suppressant and an unprocessed fuel increased the competition for collection of used oil, increasing its price, and thereby reducing the flow of used oil feedstock to the re-refiner.

(2) Lube oil formulations became more complex in order to satisfy specifications for higher performance engines. More sophisticated additives became more difficult to remove in the re-refining process. Higher levels of re-refining techniques were necessary. The industry began needed technological change, but the process of change and product quality did not improve as fast as automotive and lubricant technology. This cast the stigma of product inferiority, which still plagues our industry today.

(3) Over capacity in the virgin lube market caused prices for lube oils to drop sharply. The resulting lower price levels prohibited re-refiners from passing the increased costs of changing technology on to the consumer.



This cost/price squeeze continued to tighten and led to inefficient operation of most plants, created financial losses for many re-refiners, and stunted the needed technological growth.

The foregoing scenario is not unique. This country is replete with industries that have struggled through technological and market changes to emerge on stronger footings. But at the same time the re-refining industry was ebbing, government action profoundly increased its problems. Some of the actions that prevented the industry from completing the needed technological changes were:

- . Re-refined oils were excluded from the Department of Defense, procurement lists, and subsequently all government procurement lists.

- . The Federal excise tax was imposed unfairly on re-refined oil each and every time it was sold. This tax could not be passed on to the consumer and had to be absorbed by re-refiners.

- . The Federal Trade Commission labeling rule effectively prevented the re-refining industry from competing in the retail consumer motor oil market by requiring prejudicial language on the front of all re-refined oil containers.

The government actions tightened the cost/price squeeze further, resulting in more financial losses for re-refiners and the eventual decimation of the industry.

Today, as a result of Congressional action in passing the Energy Policy and Conservation Act (EPCA), the Resource Conservation and Recovery Act (RCRA), and the 1978 Energy Tax Act,

the Department of Defense specifications have been changed to allow the purchase of qualified re-refined oil, and re-refined oil has been exempted from the Federal excise tax. We commend Congress for its efforts in these regards.

By its action on this legislation, the Congress can make the difference between whether this industry will continue to struggle or hasten its recovery to full potential.

If this industry grows, the country will receive the benefits of a cleaner environment and the continued re-use of an already scarce resource. Projected lube oil demand for 1980 is over 2.8 billion gallons. Of that, over 900 million gallons (59,000 barrels a day), almost one third of our current lube oil needs, are potentially recoverable for re-use. All that's needed is a viable re-refining industry.

#### CURRENT PROBLEMS

There are three major problem areas that inhibit the growth of the re-refining industry in this country today. FIRST is the ability of the re-refiner to compete for used oil - his feedstock or his crude; the second involves the development and purchase of modern re-refining technology; and the third is consumer market acceptance for re-refined lube products.

Assuming that used oil is saved and collected, which we encourage, today's re-refiner must compete against those who pick up or purchase used oil, provide no treatment, and sell it for use as a fuel or fuel additive. Used oil contains lead, zinc, chromium, barium, and many other heavy metals which, in addition

to health problems, can cause boiler and refractory problems, as well as stack emission problems when burned in an undiluted state. Used oils can effectively be burned, if processed or if diluted with high proportions of virgin fuel and burned in facilities with high efficiency emission control equipment. Most of the used oil burning today can be classified as indiscriminate.

Unfortunately, selling unprocessed used oil for indiscriminate burning is very profitable. While the re-refiner has collection costs, processing costs, depreciation, as well as administrative and overhead costs, the indiscriminate fuel collector only has collection costs. If he can sell used oil at 10 to 15 cents a gallon over his collection costs, he can make an excellent profit. For example, in Detroit, the wholesale market price for used oil is about 30 cents per gallon. The one percent sulfur #6 fuel price is 53.5 cents per gallon, the difference of 23.5 cents represents the potential profit for the indiscriminate fuel seller. In many cases, partially processed used oil can compete against #2 fuel (78 cents per gallon), increasing the indiscriminate fuel sellers potential profit.

The re-refining industry believes that the problem of indiscriminate burning of unprocessed used oil can be restricted if used oil is classified as a hazardous waste under the pending regulations of the Resource Conservation and Recovery Act of 1976. If these regulations require the removal of heavy metals

and other contaminants from used oil in order to qualify as fuel, or if they restrict the burning of used oil to facilities with high-efficient emission control equipment, the re-refiner will be able to compete in the wholesale market for feedstock on an equal basis with the fuel processor.

The SECOND major problem facing today's re-refiner is technology. Increasing environmental regulations have created serious disposal problems for wastes generated by the acid/clay process used by re-refiners for generations. Consequently, the re-refiner has been forced to seek new technology to stay in business.

Today, a few re-refiners are using new processes incorporating vacuum distillation. Additionally, the recent development of the Phillips' re-refining process (PROP), although not currently producing, represents another of first-generation new technologies available. The capital costs of these technologies and processes, however, are extremely expensive.

For most re-refiners who are basically small business entrepreneurs, new process expenditures are an extremely high capital risk. In view of a declining market for their products and lack of market acceptance as an automotive lubricant caused by the restrictive FTC labeling requirements, most re-refiners have been unwilling or unable to make the financial commitment.

U.S. re-refiners who have taken the step to new processes - and there are very few - are the larger companies in the

industry that have built their business by "custom" re-refining for the railroads or industry. These companies have had a strong market base which allowed them to justify the capital investment. However, none of them are aggressively marketing "re-refined" motor oil in the retail market.

The THIRD major problem area has been and still continues to be the FTC's restrictive labeling requirement. The action by the FTC on August 18 was as far as the Commission could go on modifying the labeling regulations without the extensive hearing process required under the time consuming and cumbersome Magnuson-Moss Act. While the members of APR obviously prefer the new phraseology "recycled oil product" to the former requirement, "made from previously used oil," they still believe that quality re-refined oil should be able to compete in the market place free of restrictive labeling.

In comparison to the U.S., neither Canada nor Mexico have restrictive labeling requirements on re-refined motor oils. It is interesting to note that Shell Canada and Mohawk Lubricants of Canada have both announced plans to build major re-refineries. Texaco is purported to be planning a facility in Mexico. In the U.S., there is only one small re-refinery under construction and its owners have publicly stated that it will be used for re-refining specialized industrial lubricants. If the labeling restrictions are eliminated, the U.S. re-refining industry will begin to expand and develop.

There is no question that the APR members agree with the sponsors of these bills that there is a definite need for this legislation. Of most importance is the long-awaited recognition that the FTC labeling requirement has been and still is extremely detrimental to the growth of re-refining and thus to the nation's needs for resource recovery and environmental protection.

S.2412 fully removed the labeling requirement on re-refined oil, specifically recognizing the need to immediately eliminate any "unfounded bias against recycled oil." The Association of Petroleum Re-refiners strongly approves of this repeal of the labeling requirement.

APR strongly believes that the consumer has the right to know the quality and fitness for use of any lubricant product offered for sale. Most motor oil containers utilize the API/SAE quality codes, which are an indication that the product can meet specific standards of quality and fitness. Re-refined oils can and do meet the stringent requirements of these codes.

The latest API/SAE code, "SF", indicates oil suitable for use in 1981 model automobiles. The requirement of additional label information - "recycled" - implies that "SF Recycled" is somehow different and perhaps inferior to a product labeled simply "SF". Both oils would be capable of meeting the same stringent quality and testing requirements; however, one would be required to bear different labeling.

If the nation is to develop an active and growing re-refining industry, the artificial constraints that have been placed on it must be removed. The elimination of the labeling requirement will open a vast retail market for re-refined oil either directly as a lubricating product, or as a base stock in independently compounded lube oil products. This expanded market will generate needed investments in more efficient technology and promote the accelerated growth of this industry.

The APR disagrees with the provisions in S.2412 requiring that the EPA evaluate re-refined oils and promulgate new labeling requirements. The National Bureau of Standards is currently involved in an important study of all motor oil lubricants. The results of the study will be extremely beneficial to government and industry alike. APR urges that the Congress continue this important NBS activity. It is our further suggestion that at the conclusion of this study, NBS, the Department of Energy and the Federal Trade Commission institute an investigation to determine if any additional motor oil labeling information for ALL motor oils is needed by consumers to determine fitness and quality. Congress can then properly legislate any necessary labeling requirements.

APR also feels that the Federal Trade Commission should retain the right to instigate action against any producer of motor oils marketing a mislabeled product.

There are specific sections of the bills APR would like to address.

S.2412

Pg. 4, Section 9003 - As mentioned before, the regulations of the Federal Trade Commission related to the labeling of re-refined oil should be eliminated. EPA should not be required to promulgate new labeling regulations. As we have stated in the testimony, the National Bureau of Standards, Department of Energy and Federal Trade Commission should together determine if new labeling regulations are needed, and report back to Congress.

H.R. 7833

Definitions - We feel that the definitions in H.R. 7833 should parallel those in S.2412, which stem from the definitions of the American Society for Testing and Materials and will be commonly used. We are happy, as part of our exhibit, to submit the ASTM definitions as recently voted on, but not yet finalized.

Pg. 3, Section 2005-B (Labeling of Re-refined Lubricating Oil) - For the reasons outlined in our testimony, we oppose the requirement of stating "This is a recycled petroleum product." Labeling of this type keeps re-refined oil a second class citizen and prohibits the growth of the industry. We urge these committees to eliminate labeling requirements. Congressional action in this area should also supercede state labeling requirements.

Pg. 4, Section 5 (Assistance to States) - We support the assistance to states outlined in the Senate bill. It appears that the dollar authorization available to states in S.2412 encourages states to establish oil recovery programs. Any state should be able to apply for funds under this legislation, not just those states that have specifically approved plans.



Page 6, Section 7 (Prohibition on Certain Burning of Used Oil) and Page 7, Section 8 (Used oil as a Hazardous Waste) - It is our understanding that certain burning of used oil and used oil as a hazardous waste are to be treated under the RCRA regulations to be promulgated by the Environmental Protection Agency on October 31, 1980. While APR supports the concept of these sections and believes that restricted burning would be beneficial to the public health and environment, these sections may not be necessary to this bill if the committee can be given assurance by EPA that these areas will be covered in the forthcoming regulations.

Page 7, Section 9 (Study) - The EPA has already conducted an extensive study on the recycling of used oil. Study funds in this bill should be allocated to the National Bureau of Standards, Department of Energy and Federal Trade Commission to determine if additional labeling for all oil products is necessary.

In conclusion, APR believes the growth of the re-refining industry will alleviate American's burden of increasing energy requirements. Passage of this legislation will not only benefit a needed but struggling industry, but will also bring this country closer to the goal of energy independence.

## ASTM P-VII DEFINITIONS

1. Used Oil

Oil whose original characteristics have changed during use whether or not it has thereby been rendered unsuitable for further use for the purpose for which it was intended.

2. Waste Oil

Oil which through use, storage or handling has become unsuitable for its original purpose due to the presence of impurities, or loss of original properties, and which is not considered recyclable by normal criteria.

3. Inservice Oil

Used oil that is still suitable for further use for the purpose for which it was intended.

4. Oily Waste

A mixture of substances, such as; water solvents, dirt debris, or other materials with oil.

5. Recycling

The generic term for the re-refining, reclaiming, or re-processing of used oil for reuse - the product is recycled oil.

6. Re-refining

The use of refining techniques on used oil to produce lubricants or other petroleum products that are substantially equivalent in quality to original oil intended for the same purpose. Re-refining may include a combination of distillation acid, caustic solvent, clay and/or chemical treatments - the product is re-refined base oil.

7. Reclaiming

The use of physical methods and/or chemicals primarily to remove insoluble contaminants from used oil, thus substantially restoring it for further use. The methods may include settling, heating, dehydration, filtration and centrifuging - the product is reclaimed oil.

8. Reprocessing

The term used to describe minimal reclaiming that yields a product primarily for fuel use.

Mr. MORRIS. Let me turn the mike over for a few minutes to Jim McBain, who would like to address some of the specific issues.

Mr. FLORIO. Mr. McBain is the executive director of the Association of Petroleum Re-Refiners.

Mr. MCBAIN. As Mr. Morris has mentioned, we feel the approach in the Senate bill, which we support, is the elimination of the FTC ruling completely. We do not necessarily agree the EPA should be given the authority to relabel, but what we would like to see is one, the elimination of the FTC rule, including the recycled and that the Congress continue the NBS study. That study will be beneficial not only to the Government but private industry. There will be good information coming from it. At the conclusion of that study, rather than have some agency determine new labeling, have the FTC and Department of Energy look at current classification modes today. There are certain classifications that oils must meet in order to put SE or SF on that can. If more is needed, report back to you.

Mr. DINGELL. If SF label oil which comes, let us say, out of Elk Hills, just for purposes of discussion, has constituents A, B, C, D, E, F, and G, in precise and fixed quantities and nothing else, and if SF oil coming out of a re-refiner's business has exactly those same constituents in exactly the same quantities, what is the difference between the two oils?

Mr. MCBAIN. There is really none.

Mr. DINGELL. Is there any reason then where the two oils cannot be used interchangeably, one with the other?

Mr. MCBAIN. No.

Mr. MORRIS. I think that is a very interesting point. Most re-refined oil will go with a combination of virgin oil products. In fact, when the excise tax was repealed, the Congress elected to take a percentage of re-refined versus virgin oil for that excise tax. That legislation is in existence, but I know very few people who are blending virgin oil into recycled lubricants. I know of several who would like to do so, but if so, the label has to come off. If you blend a 60-40 blend of virgin and re-refined, the label has to be on the can.

Mr. DINGELL. If they are essentially the same oil or identical in terms of their constituents and present no difference in terms of their chemical constituency, blending and the functioning, what is the reason for requiring that this labeling difference persist?

Mr. MORRIS. That is the question we are asking.

Mr. DINGELL. Then the problem is you attack the oil from the performance in the engine. The way you attack the question is through whether the oil does what it is marketed to do as opposed to putting the word "recycled" on it; is that right?

Mr. MORRIS. Everyone will admit there have been problems.

Mr. DINGELL. Mr. Chairman, I observe our witnesses from the FTC and Department of Commerce are present. You both have heard that comment that I just raised. What is the argument against dealing with this question from the standpoint of how the oil functions and whether it is substitutable one for the other, if its chemical constituents are the same?

Mr. BECKER. Mr. Dingell, in response to your question, there is no problem if the constituents are exactly the same. In a lubricat-

ing oil, you are talking about thousands upon thousands of different kinds of molecules.

Mr. DINGELL. I understand that.

Mr. BECKER. And the only industry accepted way to determine acceptable performance is by the engine test.

Mr. DINGELL. But you protect the consumer by labeling.

Mr. BECKER. That is correct. However, the data does not exist at the present time to determine how often the performance tests have to be applied. When they cost over \$20,000, to determine the constituents of each batch of re-refined or new oil is too expensive. As a result, the consistency in between those tests is the basic problem that NBS is trying to address.

Mr. FLORIO. I understand what you are saying with regard to random samplings, but can there not be performance samplings for the process? Can not one review the process of re-refining and determine whether that process will result in a uniform standard of the end product through a licensing mechanism, perhaps?

Mr. BECKER. That would require a licensing mechanism, which we have considered in our naivete to be unworkable. This system is working in South Africa, where the South African Bureau of Standards licenses re-refiners. They have a set of tests as well as inspections on every refinery which receives permission to use their mark. But there also are re-refineries not under that system in South Africa, and which operate independently of that system.

Ms. DORIAN. It is highly appropriate and indeed the Commission is investigating oil performance claims. These are virgin oil products we are investigating. There are clearly problems in this area. The investigations are not public and the Commission has not issued a complaint. I think it is wholly appropriate activity to protect the consumer.

My second response is in terms of the disclosure. As I indicated to Chairman Florio, in response to a question raised by him, it is not so much Commission's philosophy or tenacity we are dealing with as Supreme Court precedent that the consumer has the right to know the origin of a product, even a recycled product that may be substantially equivalent to a new product. So we are in something of a bind in that regard.

Mr. FLORIO. Does the Commission feel the same motivation to go forward with regard to the burning of waste oil as a heating fuel? It has been represented to us on good source that in fact the burning of that product has a corrosive effect on boilers, small boilers and big boilers. Has the FTC done something about labeling waste oil that is burned? I assume no one is informed about that.

Ms. DORIAN. We would not have the expertise to determine the appropriate standards for burning of oil in home furnaces. You are posing a situation in which the burning of that oil would pose a safety hazard. In that instance, under section 5, authority of the FTC, we would proceed with an investigation—

Mr. FLORIO. No one has denied the fact that burning of waste oil has a corrosive effect on burners. Is this the first time you have heard that fact?

Ms. DORIAN. No.

Mr. DINGELL. If the chairman will yield, it also emits substantial substances of greater or less hazard to the public health.

Now, I find myself very curious as to the consumer's interest in knowing whether this oil will do as it is marked as going to do in terms of lubricating the engine.

Ms. DORIAN. That is correct.

Mr. DINGELL. So he does not care whether it comes from Saudi Arabia, from Pennsylvania, or Ohio, whether it comes from California, west Texas, or from the sweet, light crudes somewhere in the United States, does he?

Ms. DORIAN. I am not prepared to reach that conclusion, and the Supreme Court has reached a contrary conclusion.

Mr. DINGELL. He buys the oil because it will do something for the engine in his car.

Ms. DORIAN. I would assume that is the primary motivation. We have tried to indicate to this committee that we have to consider Supreme Court decisions saying that the consumer has a right to know.

Mr. DINGELL. Dear friend, the consumer has a right to know whether that oil will perform in his engine. If it is the same, whether it comes from a re-refiner's spigot or from a high-sulfur crude in California, he does not care about that, does he?

Ms. DORIAN. I frankly do not know. I will say the Supreme Court has reached the contrary determination.

Mr. DINGELL. They do that periodically, and have been overruled by the Congress in its good sense.

Why do you buy oil?

Ms. DORIAN. For performance characteristics.

Mr. DINGELL. Do you consider yourself an intelligent consumer?

Ms. DORIAN. I would like to consider myself so.

Mr. DINGELL. I would like to say buying for performance is good sense. That is what I buy my oil for. I find it curious as to what does the word "recycled" on the can tell me about the oil that is inside. Does it tell me anything?

Ms. DORIAN. It would indicate that it is an oil with a previously used origin.

Mr. DINGELL. Does it tell me anything about the performance of the oil? If it meets the performance characteristics, does the word "recycled" tell me anything else?

Ms. DORIAN. I would think not.

Mr. FLORIO. I would like to conclude the hearing with two observations, particularly with our two witnesses on the last panel. It is appropriate to sum up what this legislation is trying to do. Everyone is in agreement that it is inappropriate for waste oil to be disposed of in a way that jeopardizes the public health. Therefore, if we agree with that conclusion, then we opt for recycling that oil.

Recycling can be done in a number of different ways. The most preferred approach is the re-refining of that waste oil to be used particularly as a lubricating oil. That is one of the things we are trying to encourage.

A secondary approach to recycling is using that waste oil for burning as a fuel if there is no hazard associated with such burning.

A third approach, and I think it follows further down on the list of approaches to recycling, is using that waste oil as a road oil, if in

fact it can be used with no problems associated with the use of that as a road oil.

I think the House legislation, provides for all three types of recycling uses, with certain limitations and provisions for protection of the consumer.

Do any of the witnesses have any problems with what we are trying to do?

Mr. MORRIS. I have no problems, but I would have a comment on road oil. The promulgations promulgate a test for leaching to determine whether a material is hazardous or not. It seems to me to be a paradox to put oil on roads in a raw form unless the contaminants are removed. I do not believe if you took a sample from a road that had been oiled and run it through the regular leaching test, that you would pass the leaching standards in terms of the drinking water standards.

Mr. FLORIO. I am just attempting to address the question of totally prohibiting under all circumstances the use of waste oil as a road oiling device. I cannot conceive of too many situations where you would have to treat that, where it would not be a problem and still be economically feasible to use it. Nevertheless, I am not inclined to prohibit that use if it does not constitute an environmental or ground water problem. I wanted to address the concern of one of the other gentlemen on the committee.

Mrs. Sheil, with regard to the State program provided for under the House bill. I am proud to come from a State which I regard as both in the forefront and as one of the most sophisticated States in the field of recycling. But I do believe the aspects in the bill providing technical assistance can go a long way in relieving the thoughts of those who feel we will have this monolithic effect of putting inspectors into people's garages. I think the use of the State plans can go a long way in dealing with the substantive problems and can go a long way in relieving the fears of those who do not want to see a Federal regulatory system.

The State plans can very easily establish collection programs that will reach out to people. Your thought about citizen education programs is something that will find a ready audience. I go around my area of the State and the people are anxiously interested in taking part in these collection programs, whether it be the Jaycees or Boy Scouts. There is almost a sense of patriotism. Also, public sector procurement is something that will go a long way in providing incentives to bring those things forward, because you will be talking about the State buying some of these recycled materials. Does this enthusiasm for the State plan in any way comport with your feeling as to what we might do with this bill?

Ms. SHEIL. We have found the consumers are ready and waiting to be told what to do. We held hearings in the middle of July on scorching hot days. We had 400 to 500 people attend those hearings. Over 100 actually testified. The people are ready and willing. They want to know what to do. They will recycle if you make it convenient. Our recycling collection program in New Jersey sets up the motor vehicle stations as collection stations. When we announced these regulations, we had calls from people saying "When do they go into effect? I have had oil sitting in my garage for 2 years wanting to know what to do with it." If people know they

have an alternative to disposal methods, they will comply. We have no intentions in New Jersey of going into anyone's garage or watching anybody change their oil and seeing what they do with it. When there is a choice, most people will comply.

Mr. FLORIO. My experience mirrors your own. I agree with you 100 percent.

The gentleman from Michigan.

Mr. DINGELL. Apparently the problem with the labeling as I detect it is that Government agencies feel there is some difference in the performance or chemical constituency in re-refined oil. I think re-refined oil can be processed to the point where it is indistinguishable from oil refined from crude.

Now am I correct in that?

Mr. MORRIS. Yes, I would agree with you.

Mr. DINGELL. That statement is true.

If I come to the question how can we be assured the refiners do not become fly-by-nighters or take unfair advantage of the consumer by using recycled oil without labeling, the only way we can assure that is through a licensing mechanism. Am I correct in that appreciation?

Mr. MORRIS. I think most of the companies which are going to stay in this business will be fairly legitimate. It takes a great deal of capital to put in a re-refining facility.

Mr. DINGELL. What I am saying is, suppose we were to say, OK, we will pull off the word "recycled" and just require you to be licensed and market a product which is identical and meets the API or SAE standards. Would that meet your approval?

Mr. MORRIS. I would be happy to be the first one in line for that license.

Mr. DINGELL. Would the industry support that kind of provision?

Mr. MCBAIN. I think we probably wouldn't. Let me go over another scenario. We have heard in testimony that the Department of the Army found a number of oils labeled SE and SF which did not meet the standards. The question is, you have a standard in the market now, the API classification code, which indicates the oil has met a certain set of standards. If the Congress so desires in making the API classification code—

Mr. DINGELL. Suppose we dealt with the labeling as we do in the question of FDA by making them misbranded if they did not meet the standards?

Mr. MCBAIN. That is a possibility.

Mr. DINGELL. That is a cruel and harsh penalty, as for example the Food and Drug industry knows.

Mr. MCBAIN. If the oil is not an SE or SF, it is mislabeled already, if it does not meet the standards.

Mr. DINGELL. Then there may be two alternatives to the words "recycled" or "reused." One is through the branding mechanism; the other is dealing with it through licensing of the company which does the re-refining so you can assure they are complying in good conscience toward the consumer.

Mr. MCBAIN. Experience has shown many products are not SE or SF throughout the whole market, not just re-refined oil.

Mr. DINGELL. We are trying to explore opportunities to help your industry, and being able to work with the other folks. I am sure I

can get away with one, but I am not sure I can get away with the other.

Mr. FLORIO. The hearing is adjourned.

[The following statements and letter were received for the record:]



ASSOCIATION OF  
**AMERICAN RAILROADS**

AMERICAN RAILROADS BUILDING · WASHINGTON, D. C. 20036

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**WILLIAM H. DEMPSEY**  
President and Chief Executive Officer

September 22, 1980

The Honorable James J. Florio  
Chairman  
Subcommittee on Transportation and Commerce  
Committee on Interstate and Foreign Commerce  
United States House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

On September 8, 1980, the Subcommittee on Transportation and Commerce and the Subcommittee on Energy and Power held a joint hearing on used oil recycling. The Association of American Railroads (AAR) did not participate in the hearing, but it would like to submit a statement for the record on behalf of the AAR's member railroads.

The railroad industry uses a large amount of petroleum products. Of course, the railroads consume more diesel fuel than any other petroleum product -- slightly less than four billion gallons per year. In comments submitted to the Environmental Protection Agency in the spring of 1979, the AAR estimated that the railroads "reclaim" approximately thirty-three million gallons of diesel fuel each year. This diesel fuel is typically produced at fueling facilities. Commonly, fuel drips onto collector pans as locomotives are fueled. This diesel fuel is collected and then shipped for reclamation. It must be emphasized that this "waste" fuel has actually never been used. Due to its exposure to the environment, however, diesel fuel from collector pans must be filtered to eliminate dust and other miscellaneous particles that might have been picked up by the fuel. "Re-refining," as the term is usually used, does not take place.

The railroad industry also uses a large amount of lubricating oil. Used lubricating oil is drained from locomotives and stored in tanks for later shipment to a re-refiner. In the comments submitted to the Environmental Protection Agency last year, the AAR estimated that an average diesel shop might generate 275 gallons of used lubricating oil each day. Thus, the railroad industry's efforts to conserve diesel fuel and used lubricating oil are a significant contribution to the conservation of petroleum resources.

In drafting legislation to provide for the regulation of used oil, a distinction must be drawn between diesel fuel collected at fueling facilities and used lubricating oil. In the opening statements made by yourself and Chairman Dingell at the

September 8 hearing, concern was expressed over the presence in used oil of toxic substances such as heavy metals. The diesel fuel found in collecting pans has not been used and does not contain the toxic contaminants that would be found in oil that has been genuinely used. An AAR member railroad has run tests on this "waste" diesel fuel to determine if the amount of lead, chromium, silver, or barium in this fuel exceeds the EPA toxicity limits found in Part 261 of the Resource Conservation and Recovery Act regulations. The test results indicated that diesel fuel was well within the EPA limits (see attachment). It is clear that this diesel fuel does not present the problems associated with hazardous wastes. Used oil legislation should define "used" or "waste" oil to exclude diesel fuel. The legislation should also provide that a mixture is not a hazardous waste because it contains small amounts of used oil. At railroad fueling facilities, lubricating oil might drip onto collecting pans. The amount of lubricating oil in the resultant mixture of lubricating oil and diesel fuel is infinitesimal and should not result in unnecessary and burdensome regulation of the diesel fuel.

The railroads also burn a significant amount of used oil. The industry has burners equipped to handle used oil in a safe and effective manner. The burning of used oil plays an integral role in energy conservation and environmental protection. Section 7 of H.R. 7833 implies that the Administrator of the Environmental Protection Agency should prohibit the burning of used oil or at least severely restrict such burning. Passage of this bill with section 7 intact could severely hinder efforts toward environmental protection and energy conservation. The railroad industry strongly suggests removal or amendment of this section to clearly indicate Congressional intent that the burning of used oil in a beneficial manner shall not be restricted.

The railroad industry shares the concern expressed by yourself and Chairman Dingell over the improper utilization of used oil. Certainly, the proper handling of used oil would make a significant contribution to the protection of the environment and energy conservation. The railroad industry already recycles significant amounts of petroleum products and will continue its efforts to maximize their beneficial use.

Respectfully,

Attachment

TOXICITY DATA - DIESEL FUEL

|          | <u>Diesel Fuel Collected<br/>in Wastewater Plants<br/>(parts per million)</u> | <u>EPA Toxicity<br/>Limit<br/>(parts per million)</u> |
|----------|---|---|
| LEAD     | less than 2.5   | 5.0   |
| CHROMIUM | less than 1   | 5.0   |
| SILVER   | less than 0.1   | 5.0   |
| BARIUM   | less than 50  | 100.0   |

STATEMENT  
OF  
INDEPENDENT OIL COMPOUNDERS ASSOCIATION

I. INTRODUCTION

The Independent Oil Compounders Association (IOCA) is a voluntary non-profit association composed of approximately 150 small independent companies which compound, package and/or market lubricating oils and greases. Sales by independent oil compounders constitute approximately 20 percent of the lubricants market.

H.R. 7833 has both environmental and energy resource objectives. H.R. 7833 would revise the labeling requirements for new and re-refined oil, would make available to states technical assistance to assist in the removal of impediments to the recycling of used oil, and would require the promulgation of regulations establishing performance standards for the burning of used oil. The bill also would authorize federal grants to states to encourage the use of re-refined oil for lubricating oil in lieu of virgin oil, to inform the public concerning the uses of recycled oil, to prohibit the use of used oil as road oil or other on-land application, and to establish and implement programs for the collection, transport, storage and disposal of used oil.

In addition, the bill would require a federal inter-agency study to analyze supply and demand in the used oil industry. The analysis would include estimates of future supply and quality of used oil feedstocks for purposes of re-refining and estimates of future supplies of virgin crude oil available for refining for purposes of producing lubricating oil. The inter-agency study group also would be directed to assess environmental problems associated with the improper disposal or reuse of used oil, to address the collection cycle of used oil prior to recycling, and to compare the energy savings associated with re-refining and other uses of used oil.

Any increase in the reclamation and recycling of used oils primarily will affect supplies of oils which have been used as lubricants, because most other petroleum products are burned as fuel or consumed for feedstock uses. Thus, legislation such as

H.R. 7833, to encourage and facilitate the reclamation, recycling and reuse of used oil is of particular interest to IOCA members.

IOCA's primary interest in the pending recycling legislation relates to its potential impact on (1) base lube stock supplies and (2) the competitive structure of the independent lubricant industry.

## II. BASE LUBE STOCK SUPPLIES

Independent compounders increasingly are faced with uncertainties regarding supply levels and availability of the lube stocks which serve as the base for production of finished lubricating products. This uncertainty has two sources. First, crude oil supply disruptions experienced in recent years have caused uncertainty regarding supplies of all petroleum products, including base lube stocks.

Secondly, base lube stocks are produced by a limited number of refining companies. These refining companies market their base lube product at two levels. They sell base lube stocks to independent lubricant manufacturers. They also retain base lube stocks for processing into finished lubricating products, which then are marketed to end users and retailers. Thus, the refiners which are the independent lubricant manufacturers' suppliers are also their competitors. As a result, the independent lubricant industry is particularly vulnerable to base lube stock supply interruptions and other pressures during periods of market shortage.

Clearly, any measure which could serve to expand supplies, or sources of supply, of base lube stocks could help to relieve the supply pressures now most directly affecting or threatening to affect independent participants in the lubricant manufacturing industry.

Several provisions of H.R. 7833 could help to increase the supply of base lube stocks.

(1) Labeling Requirements, Section 4 would require the following label to be displayed prominently on all lubricating oil containers:

DON'T POLLUTE—CONSERVE RESOURCES  
RETURN USED OIL TO COLLECTION CENTERS.

Such labeling would serve two functions in promoting reclamation of used oil. First, it would tell purchasers not to dispose of used oil carelessly, in the trash can or on the ground. Thus it would raise their level of consciousness regarding the need for proper disposal of used oil. Secondly, the label would instruct purchasers that proper disposal can be accomplished by taking used oil to collection centers set up for that purpose.

Increasing the supply of reclaimed used oil will increase the availability of product for re-refining into reusable finished lubricants.

Therefore, IOCA supports the Section 4 requirement of instructive labeling on lubricating oil containers. We recommend only one revision in the labeling requirement. Lubricating oil labels already must contain a wide range of product information regarding grade, volume, A.P.I. classification, manufacturers or packager's identification, and descriptive information regarding the product's uses and specifications. The labeling proposed in Section 4 would add significantly to the existing label information.

IOCA recommends that the required language be shortened to read:

RETURN USED OIL TO COLLECTION CENTERS.

Such a consolidation would serve the two functions discussed above without being redundant. It would also provide greater prominence for the instruction to "RETURN USED OIL TO COLLECTION CENTERS" by reducing the print required on each oil container. It should be noted that such a consolidation in the labeling requirement is

particularly important for refined oil containers, which are required to bear the additional statement that "THIS IS A RECYCLED PETROLEUM PRODUCT".

(2) Inter-Agency Study. Section 9 of the bill would mandate an inter-agency study, to be undertaken by the Environmental Protection Agency, in cooperation with the Departments of Energy and Commerce. Section 9(3) directs the study to analyze present and future supply and demand in the used oil industry, including estimates of both virgin and used oil feedstocks. Section 9(2) requires that the study address the collection cycle of used oil prior to recycling.

IOCA believes that these two aspects of the proposed study should be given priority attention by the inter-agency committee. While the remaining two study areas are important, they are not as central to the development of a recycling and re-refining capacity as are the supply issues.

### III. COMPETITIVE STRUCTURE OF THE INDEPENDENT LUBRICANT INDUSTRY

The lubricant industry experience with both technical and marketing aspects of oil recycling is limited. Therefore it is not possible accurately to predict what recycling and re-refining incentives and/or disincentives would be created by H.R. 7833, or to understand fully the implications of the bill for the independent lubricant industry.

Several IOCA member companies currently are involved in reclaiming, re-refining or otherwise recycling used oil. Others are considering undertaking some form of participation in the oil recycling industry. Independent lubricant manufacturers could be affected by H.R. 7833 in several ways. They will be buyers as to the re-refined base lube stock. They will be sellers as to the finished products made from re-refined waste oil. Price and quality of the re-refined base lube stock will affect them both in their role as buyers and as sellers. To the extent that independent compounders can and do participate in the reclaiming and marketing of recycled oil, they will have the opportunity and ability to respond to the proposed incentives in ways which will produce desired results.

However, the high costs associated with re-refining may preclude many independent compounders from entering the recycling industry. The latter alternative implies two results. (1) Volumes of used oil recycled and reused could be limited and the intended results may not be realized. (2) Independent firms which cannot participate in re-refining will be placed at a competitive disadvantage in the marketplace, particularly relative to their refiner-suppliers which have the necessary assets and financial flexibility to support entrance into the re-refining industry.

The range of incentives proposed to facilitate and encourage recycling of used oil therefore should be structured in a way which will promote reclamation, recycling and reuse of used oil without adversely affecting those firms which cannot respond and which may not have access to recycled lube stocks or finished products made from a recycled base. The development of a recycled oil industry should be undertaken, but not at the expense of the existing independent lubricant industry, which historically has provided reliable products at competitive prices.

IOCA respectfully offers the following recommendations.

(1) State Contracts. Section 5, Assistance to States, would authorize grant funds for states to carry out certain activities, including the following:

- (B) Encouragement of persons contracting with the State to use to the maximum extent feasible, consistent with protection of the public health and the environment, re-refined oil for lubricating oil in lieu of virgin oil.

As has been discussed, refining companies which supply independent manufacturers also compete with them at retail and wholesale levels. They also are more likely both to have access to feedstocks for recycling and to have the financial capability to enter the re-refining industry. Urging procurement of re-refined oil products "to the maximum extent feasible," without requiring consideration of effects on the competitive structure of the lubricant industry, could have severe adverse effects. It could place independent firms, which are likely to have limited access to re-refined product, at a competitive disadvantage relative to refiner lubricant manufacturers, in seeking to win



state contracts. It could virtually freeze out of the competition for state contracts those independent firms without access to re-refined product.

The anti-competitive impact of the state contract provision could be reduced, without affecting its objective, by adopting language from a similar provision in the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), relating to federal procurement of recycled materials. Under that provision, federal procurement officers were directed to:

Procure items composed of the highest percentage of recovered materials practicable consistent with maintaining a satisfactory level of competition (emphasis added). 42 U.S.C. § 6962.

IOCA recommends that the state contract provision in Section 5 be amended at page 5, line 3, to read as follows:

(B) Encouragement of persons contracting with the State to use to the maximum extent feasible, consistent with maintaining a satisfactory level of competition within the lubricant industry, with protection of the public health and the environment, and re-refined oil for lubricating oil in lieu of virgin oil.

(2) Section 5 of the bill also would provide grants to states to provide for,

inter alia:

(E) Establishment and implementation of a program (including any necessary licensing of persons and including the use, where appropriate, of manifests) to assure that used oil is collected, transported, treated, stored, and disposed of, in a manner which does not present a hazard to the public health or the environment.

IOCA supports provisions which would encourage and facilitate the reclamation of used oil and the establishment of collection centers for that purpose. However, IOCA opposes the adoption of mandatory requirements, such as licensing and manifesting. First, it would not be realistic to expect or require lubricant marketers to exert any control over their products once they leave their premises. As a result, manifesting of lubricant products could produce no effect on the volume of used oil actually returned to marketers or collection centers.

Further, under Section 5(E) as introduced, states could require used oil to be returned to the marketer from whom it was purchased. Refiners could minimize the inconvenience of such a requirement by locating collection centers at their retail service stations. Independent marketers would enjoy no comparable convenience. Thus, a significant competitive advantage would be concern on refiner-competitors, to the detriment of the lubricant industry's independent participants.

Secondly, a mandatory collection program involving licensing and manifesting, would impose on the lubricant industry additional administrative, recordkeeping and cost burdens which could put some small independent firms out of business. Independent participants in the lubricant industry are less able than their refiner-competitors to bear the added costs of doing business which would result from a new regulatory scheme. The greater financial flexibility of refiner participants in the lubricating industry allows them more easily to absorb such costs or transfer them into downstream operations. Thus, any new regulatory program including that proposed in Section 5, would further disadvantage independent firms relative to their refiner-competitors.

Therefore, IOCA recommends that Section 5 of H.R. 7833 be amended at page 5, line 14, as follows:

Establishment and implementation of a program to encourage and facilitate the collection, transportation, treatment, storage, and disposal of used oil in a manner which does not present a hazard to the public health or the environment.

#### IV. CONCLUSIONS

The Independent Oil Compounders Association supports the objectives of H.R. 7833. In light of the uncertain supplies and the competitive structure of the lubricant industry, the Association urges that the bills be drafted (1) to focus priority attention on supply issues, and (2) to avoid the imposition of any incentive mechanisms which would harm the independent sector of the lubricant industry, or threaten the competitive viability of those independent compounders which can neither respond to the intended incentives nor gain access to recycled supplies to equalize their competitive positions.

REGIONAL RESOURCE RECOVERY COMMITTEE  
OF MONMOUTH COUNTY  
266 WALL STREET  
WEST LONG BRANCH, NEW JERSEY 07764  
—  
TELEPHONE: 201-229-7678 - 7041

SEP 23 A.M.

September 20, 1980

STATEMENT FOR THE WRITTEN RECORD ON "THE USED OIL RECYCLING  
ACT OF 1980"

Members of Regional Resource Recovery Committee of Monmouth County are grateful for the concern evidenced by the introduction of The Used Oil Recycling Act of 1980. This is extremely important legislation whose basic premises we support.

We fully support the labelling as described in Section 4, rather than the currently used term "made from previously used oil."

We believe the section on Assistance to States (Section 5) is of the greatest importance for the initiation of this re-education and re-training of the public.

We hope this legislation will move through the Congress as expeditiously as possible.

For the Committee,

*Mary H. Owen*

Mary H. Owen,  
Secretary

[Whereupon, at 1:03 a.m., the hearing was adjourned.]

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