

DIVISION OF MEASUREMENT STANDARDS PUBLIC MEETING
Manganese Hearing
March 14, 2013

Purpose of Meeting: To conduct a hearing regarding a change to the NAC 590 Regulation (see **Attachment 1**) to include a manganese labeling requirement. The requirement language and placement thereof in NAC 590.063, has been revised by the LCB (LCB File Number 189-12) and is reflected below:

Section 3. In addition to the requirements set forth in subsections 1 and 2, any person who sells gasoline at retail shall, if the gasoline contains manganese or any compound containing manganese, post on the pump or other device for dispensing the gasoline a label which includes the following language:

This gasoline contains or may contain manganese.

Section 4. The label required pursuant to subsection 3 must:

- (a) Be legible and conspicuous;
- (b) Be at least as large as 3 inches wide by 2 ½ inches long; and
- (c) Consist of black ink on a background that is yellow or white.

In Attendance:

Bill Striejewski --- Nevada Bureau of Petroleum Technology
Dave Jones --- Nevada Division of Measurement Standards
Dennis Belcourt---Nevada Deputy Attorney General
Gina Grey --- Western States Petroleum Association, Petroleum Industry
John Sande --- Western States Petroleum Association, Auto & Petroleum Industry
Kevin Fast --- AFTON Chemical, Chemical Industry
Lawrence Wah --- Nevada Petroleum Marketers Association (CSA), Petroleum Industry
Lea Tauchen --- Nevada Retail Association, Retail Industry
Michael Hillerby --- Honda, Auto Industry
Miles Heller --- British Petroleum, Petroleum Industry
Nick Economides --- Chevron Corp., Petroleum Industry
Paul Anderson --- Thomas Petroleum, Petroleum Industry and Board of Agriculture
Peter Krueger --- Nevada Petroleum Marketers Association (CSA), Petroleum Industry

In General:

The Administrator of the Nevada Division of Measurement Standards conducted a hearing 9:00 – 10:01, March 14, 2013, to solicit comments from industries and the public regarding manganese labeling. Comments and correspondence are attached

for reference.

Mr. Heller stated BP's position again supporting the labeling *if* the labeling reflected his language contained in the BP's letter submitted to the committee dated January 4, 2013 (see **Attachment 2**). BP does not support the LCB File Number 189-12 current labeling language.

Mr. Economides supports labeling *if* the labeling reflects the language in the BP's letter submitted to the committee dated January 4, 2013 (see **Attachment 2**). Mr. Economides and Chevron are opposed to the LCB File Number 189-12 current labeling language. Mr. Economides also expressed concerns about product transfer documents at each point of the manganese or MMT gasoline handling process. He also expressed concerns about enforcing the regulation.

Mr. Fast, Mr. Sandi, Ms. Grey and Mr. Belcourt initially elected to not comment.

Mr. Wah does not support manganese labeling and stated that the current LCB File Number 189-12 language conflicted with the EPA – more specifically the Clean Air Act. Mr. Wah then requested Mr. Jones provide any new information that Mr. Jones heard of regarding EPA laws and regulations. Mr. Jones responded that he knew very little and learned little on a phone conversation regarding waivers and the Section 211 of the Clean Air Act. But he did learn that MMT or manganese could enhance 85 octane level gasoline to a 87 octane level and that two states were currently using manganese in gasoline. Ms. Tauchen inquired as to which two; Mr. Jones did not know but would find out. (Mr. Jones later called the EPA and found out that the states of Wyoming and Indiana were adding MMT or manganese to gasoline; the EPA did not know where that refined gasoline was being shipped to or sold.)

During Mr. Wah's comments, Mr. Fast interjected that the EPA is internally conflicted regarding EPA guidelines referencing their Web Site and EPA Citations. Note: at the end of the Hearing Mr. Fast referenced EPA Citation 58 Federal Regulation 64.761, dated December 9, 1993, EPA Citations 59 Federal Regulations 4.2.238 dated August 17, 1994 and 4.2.2.7, and EPA Citation 60 Federal Regulation 3.6.414 dated July 17, 1995.

Mr. Wah reiterated his opposition to manganese labeling due to a conflict with the EPA and Clean Air Act; the State of Nevada is not contiguous with the EPA.

Ms. Grey recommended that the State should obtain more information before moving forward with the manganese labeling issue.

Mr. Anderson recommended that the State delays the manganese labeling action and move forward after the DAG's review of the potential conflict with the EPA's Clean Air Act.

Mr. Belcourt (DAG) specified he will not state a position. Mr. Belcourt asked what precludes the State to moving forward with the proposed labeling regulation; what are the preemption issues.

Mr. Krueger specified he is opposed to the proposed manganese labeling regulation and indicated that in his judgment the proposed change violates Section 211(C)(4) of the Clean Air Act. Mr. Krueger recommended the DAG conduct a legal interpretation of Section 211(C)(4) of the Clean Air Act before the State moves forward.

Mr. Hillerby does support manganese labeling but prefers language he provided in previous workshops; he can support the language provided by Mr. Heller's (BPs) letter (see **Attachment 2**). Mr. Hillerby agrees with Mr. Krueger and Mr. Fast to delay moving the proposed regulation forward until more information is acquired. Additionally, he requested a formal opinion from the State. Mr. Hillerby provided excerpts from the Federal Register – 5259-5 Fuel and Fuel Additives; Grant of Waiver Application and Title 42-The Public Health and Welfare section 7545 that further impacts the use of fuel additives (see **Attachment 3**).

Ms. Tauchen does not support manganese labeling and has concerns regarding the fuel transfer documentation monitoring. Specified liability concerns. Ms. Tauchen also inquired as to the other two states who use MMT. (Please refer to Mr. Wah's comment section.)

The meeting adjourned at 10:01.

Attachments:

- Attachment 1 – LCB File No. 189-12 – revised language
- Attachment 2 – BP Letter – Miles Heller authored
- Attachment 3 – Mr. Hillerby's Referenced Excerpts

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January 16, 2013

Dave Jones, *Administrator*
Division of Measurement Standards
2150 Frazer Ave.
Sparks, Nevada 89431

Re: LCB File No. R189-12

Dear Mr. Jones:

A proposed regulation of the State Board of Agriculture has been examined pursuant to NRS 233B.063 and is returned in revised form.

We invite you to discuss with us any questions which you may have concerning this review. Please make reference to our file number in all further correspondence relating to this regulation.

Very truly yours,

A handwritten signature in black ink that reads "Scott McKenna" with a long horizontal line extending to the right.

M. Scott McKenna
Senior Principal Deputy Legislative Counsel

Brenda J. Erdoes
Legislative Counsel

MSM/slj
Enclosure

PROPOSED REGULATION OF
THE STATE BOARD OF AGRICULTURE

LCB File No. R189-12

January 15, 2013

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted-material~~] is material to be omitted.

AUTHORITY: § 1, NRS 590.070.

A REGULATION relating to gasoline; requiring a person who sells at retail gasoline which contains manganese or any compound containing manganese to post on the pump or other device for dispensing the gasoline a label indicating that the gasoline contains or may contain manganese; and providing other matters properly relating thereto.

Section 1. NAC 590.063 is hereby amended to read as follows:

- 590.063 1. The octane rating number of the gasoline from the proof of transfer must be posted on the pump or other device for dispensing the gasoline.
2. The octane rating number of the product that is in the pump or other device for dispensing gasoline must not be lower than the octane rating that is posted on the pump or device.
3. *In addition to the requirements set forth in subsections 1 and 2, any person who sells gasoline at retail shall, if the gasoline contains manganese or any compound containing manganese, post on the pump or other device for dispensing the gasoline a label which includes the following language:*

This gasoline contains or may contain manganese.



Miles T. Heller

Senior Advisor, Regulatory Fuels Issues

BP West Coast Products LLC
2350 East 223rd St.
Carson, CA 90810

January 4th, 2013

Attn: Dave Jones,
Administrator of the Division of Measurement Standards
Nevada Department of Agriculture
2150 Frazer Avenue
Sparks, Nevada 89431

sent via e-mail

RE: Comments on Proposed Amendments to NAC 590 re Manganese Additive Labelling

Dear Mr. Jones,

BP appreciates the opportunity to provide the following comments in regards to the Division of Measurement Standards' proposal to require labelling of fuel pumps where the fuel dispensed contains, or may contain, manganese or manganese compounds.

These comments are consistent with those BP presented at the workshop on November 13th, 2012; and are submitted in advance of the deadline of January 10, 2013 and the upcoming workshop on January 17th, 2013.

BP is generally supportive of manganese additive labelling provided the regulatory language reflects the following three concepts:

- 1. Labelling is only required when manganese is intentionally added to the fuel being dispensed. It is not necessary to label to indicate that manganese is not present.**
- 2. Requires adequate product transfer document (PTD – typically the bill of lading) requirements to communicate to marketers and retailers when additive is present.**
- 3. The label should provide meaningful information to consumers enabling them to make an informed decision before they purchase the fuel.**

The most recent language proposal for the label is an improvement over the prior version and we appreciate the Division making this change. The current proposal reads "this fuel contains or may contain manganese" while the prior version simply stated that the fuel "may or may not contain" the additive. This new label language, coupled with regulatory language that makes it clear that a dispenser label is only required to be labelled when manganese is present in the fuel, will satisfy concept no. 1.

bp

Regulatory language is also needed to require the fuel provider who added the manganese, and any intermediate marketers/transporters, to include a statement on the PTDs that the fuel, in fact, contains manganese. This will ensure that the station operator/retailer knows when to affix a label to the dispenser and protects the owner from related liability if unaware that manganese was added.

Because the new label language provides some definitive information about the presence of manganese, the proposal is consistent with concept 3 above, but does not go far enough in our opinion. This is because the consumer will not know what actions to take based on this information alone. At a minimum, the label should inform the consumer to consult their owner's manual prior to fuelling as some auto manufacturers recommend against using fuel containing manganese or manganese additives. This type of information is what the consumer needs to make a clear choice.

We appreciate the opportunity to submit these comments and look forward to participating in the January 17th workshop.. Thank you for your consideration.

Sincerely,



Miles Heller
Senior Advisor, Regulatory Fuels Issues

Regulatory Affairs, 725 17th Street
NW., Washington, DC 20503.

Dated: July 10, 1995.

Richard Westlund,

*Acting Director, Regulatory Information
Division.*

[FR Doc. 95-17478 Filed 7-14-95; 8:45 am]

BILLING CODE 6560-50-M

[FRL-5259-5]

**Fuels and Fuel Additives; Grant of
Waiver Application**

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Notice.

SUMMARY: On July 13, 1994, I issued a decision denying the November 30, 1993 application of the Ethyl Corporation ("Ethyl") for a fuel additive waiver under Clean Air Act section 211(f)(4), 42 U.S.C. 7545(f)(4), to permit sale of HiTEC 3000, a fuel additive product containing methylcyclopentadienyl manganese tricarbonyl ("MMT"), for use in unleaded gasoline. 59 FR 42227 (August 17, 1994). In that decision, I found that Ethyl had demonstrated as required by Section 211(f)(4) that MMT would not "cause or contribute to a failure of any emission control device or system" in a vehicle to achieve compliance with the emission standards for which the vehicle has been certified. I also decided that the waiver application should nonetheless be denied because of my conclusion that there is a reasonable basis for concern regarding the potential adverse effects on public health which could result from the emissions of manganese particulates associated with MMT use.

On April 14, 1995, the United States Court of Appeals for the District of Columbia Circuit issued a decision in *Ethyl Corporation v. EPA*, No. 94-1505 (D.C. Cir.). In that decision, the Court held that Section 211(f)(4) does not afford me the discretion to consider factors other than the mandatory "cause or contribute" determination in deciding whether to issue a fuel additive waiver for HiTEC 3000. Based on this conclusion, the Court has instructed me to "grant Ethyl's request for a waiver." Accordingly, pursuant to the mandate of the Court, effective today I am granting Ethyl's November 30, 1993 application for a fuel additive waiver for HiTEC 3000.

EFFECTIVE DATE: The effective date July 11, 1995.

FOR FURTHER INFORMATION CONTACT:
Joseph R. Sopata, Chemist, Field
Operations and Support Division

(6406J), U.S. Environmental Protection
Agency, 401 M Street, S.W.,
Washington, D.C. 20460, (202) 233-
9034.

Dated: July 11, 1995.

Carol M. Browner,

Administrator.

[FR Doc. 95-17476 Filed 7-14-95; 8:45 am]

BILLING CODE 6560-50-M

[FRL-5259-4]

**Marsh Management Subcommittee;
Public Meeting**

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given of a two day meeting for the Marsh Management Subcommittee under the Ecosystem Sustainable Economies Committee of the National Advisory Council for Environmental Policy and Technology (NACEPT). The purpose of this subcommittee is to convene a consensus process among stakeholders in coastal Louisiana related to marsh management practices.

DATES: The Subcommittee will meet on August 2-3, 1995. The Subcommittee will meet on August 2 at 10 a.m. to 5 p.m. and on August 3, 1995 from 10 a.m. to 3 p.m.

ADDRESSES: Corps of Engineers New Orleans District Office located the Foot of Prytania, 7400 Leake Avenue, New Orleans, LA 70118. The meeting is open to the public, with limited seating on a first-come-first-served basis.

Anyone wishing to make oral presentations should contact Connie Cahanap by 4 pm Monday, July 24, 1995. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. Due to the time constraints, oral presentations will be strictly limited to three minutes and slots are limited. Available time slots will be allocated on a first-come, first served basis to those scheduling a presentation in advance. Written comments will be accepted at any time prior to the meeting.

FOR FURTHER INFORMATION CONTACT:
Connie Cahanap, Wetlands Division,
OWOW, Mail Code 4502F, US
Environmental Protection Agency,
Washington, DC 20460, (202) 260-6531.

Dated: July 10, 1995.

Robert H. Wayland III,

*Director, Office of Wetlands, Oceans and
Watersheds.*

[FR Doc. 95-17480 Filed 7-14-95; 8:45 am]

BILLING CODE 6560-50-P

[OPPTS-140230; FRL-4933-3]

**TSCA Confidential Business
Information; Revised Security Manual;
Notice of Availability**

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has adopted revisions to its procedures for handling confidential business information (CBI) under the Toxic Substances Control Act (TSCA). These revised procedures are set forth in a new TSCA CBI security manual for Federal employees and contractors, the availability of which is announced by this notice.

DATES: The requirements of the manual are effective July 17, 1995.

ADDRESSES: Copies of the revised manual are available from: The National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, Telephone: (703) 487-4650 or (800) 553-NTIS.

FOR FURTHER INFORMATION CONTACT:
Susan B. Hazen, Director, TSCA
Environmental Assistance Division
(7408), Office of Pollution Prevention
and Toxics, Environmental Protection
Agency, Rm. E-545, 401 M St., SW.,
Washington, DC 20460, (202) 554-1404,
TDD: (202) 554-0551, e-mail: TSCA-
Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA is issuing this notice to announce the revised TSCA security manual for Federal employees and contractors. The revised *TSCA Confidential Business Information Security Manual* supersedes the previous edition of the *TSCA Confidential Business Information Security Manual*. The revised manual includes changes and refinements in existing procedures developed since the publication of the previous manual.

Several changes to the manual have been made as a result of EPA's continuing efforts to improve the procedures for handling TSCA CBI. None of these changes reduce the level of protection afforded TSCA CBI.

Changes and clarifications include: (1) The transfer to the Office of Program Management and Evaluation from the Information Management Division of the duty of investigating and addressing

(c) Offending fuels and fuel additives; control; prohibition

(1) The Administrator may, from time to time on the basis of information obtained under subsection (b) of this section or other information available to him, by regulation, control or prohibit the manufacture, introduction into commerce, offering for sale, or sale of any fuel or fuel additive for use in a motor vehicle, motor vehicle engine, or nonroad engine or nonroad vehicle if, in the judgment of the Administrator, any fuel or fuel additive or any emission product of such fuel or fuel additive causes, or contributes, to air pollution or water pollution (including any degradation in the quality of groundwater) that may reasonably be anticipated to endanger the public health or welfare, or (B)² if emission products of such fuel or fuel additive will impair to a significant degree the performance of any emission control device or system which is in general use, or which the Administrator finds has been developed to a point where in a reasonable time it would be in general use were such regulation to be promulgated.

(2)(A) No fuel, class of fuels, or fuel additive may be controlled or prohibited by the Administrator pursuant to clause (A) of paragraph (1) except after consideration of all relevant medical and scientific evidence available to him, including consideration of other technologically or economically feasible means of achieving emission standards under section 7521 of this title.

(B) No fuel or fuel additive may be controlled or prohibited by the Administrator pursuant to clause (B) of paragraph (1) except after consideration of available scientific and economic data, including a cost benefit analysis comparing emission control devices or systems which are or will be in general use and require the proposed control or prohibition with emission control devices or systems which are or will be in general use and do not require the proposed control or prohibition. On request of a manufacturer of motor vehicles, motor vehicle engines, fuels, or fuel additives submitted within 10 days of notice of proposed rulemaking, the Administrator shall hold a public hearing and publish findings with respect to any matter he is required to consider under this subparagraph. Such findings shall be published at the time of promulgation of final regulations.

(C) No fuel or fuel additive may be prohibited by the Administrator under paragraph (1) unless he finds, and publishes such finding, that in his judgment such prohibition will not cause the use of any other fuel or fuel additive which will produce emissions which will endanger the public health or welfare to the same or greater degree than the use of the fuel or fuel additive proposed to be prohibited.

(3)(A) For the purpose of obtaining evidence and data to carry out paragraph (2), the Administrator may require the manufacturer of any motor vehicle or motor vehicle engine to furnish any information which has been developed concerning the emissions from motor vehicles resulting from the use of any fuel or fuel additive, or the effect of such use on the performance of any emission control device or system.

(B) In obtaining information under subparagraph (A), section 7607(a) of this title (relating to subpoenas) shall be applicable.

(4)(A) Except as otherwise provided in subparagraph (B) or (C), no State (or political subdivision thereof) may prescribe or attempt to enforce, for purposes of motor vehicle emission control, any control or prohibition respecting any characteristic or component of a fuel or fuel additive in a motor vehicle or motor vehicle engine—

(i) if the Administrator has found that no control or prohibition of the characteristic or component of a fuel or fuel additive under paragraph (1) is necessary and has published his finding in the Federal Register, or

(ii) if the Administrator has prescribed under paragraph (1) a control or prohibition applicable to such characteristic or component of a fuel or fuel additive, unless State prohibition or control is identical to the prohibition or control prescribed by the Administrator.

(B) Any State for which application of section 7543(a) of this title has at any time been waived under section 7543(b) of this title may at any time prescribe and enforce, for the purpose of motor vehicle emission control, a control or prohibition respecting any fuel or fuel additive.

(C)(i) A State may prescribe and enforce, for purposes of motor vehicle emission control, a control or prohibition respecting the use of a fuel or fuel additive in a motor vehicle or motor vehicle engine if an applicable implementation plan for such State under section 7410 of this title so provides. The Administrator may approve such provision in an implementation plan, or promulgate an implementation plan containing such a provision, only if he finds that the State control or prohibition is necessary to achieve the national primary or secondary ambient air quality standard which the plan implements. The Administrator may find that a State control or prohibition is necessary to achieve that standard if no other measures that would bring about timely attainment exist, or if other measures exist and are technically possible to implement, but are unreasonable or impracticable. The Administrator may make a finding of necessity under this subparagraph even if the plan for the area does not contain an approved demonstration of timely attainment.

(ii) The Administrator may temporarily waive a control or prohibition respecting the use of a fuel or fuel additive required or regulated by the Administrator pursuant to subsection (c), (h), (i), (k), or (m) of this section or prescribed in an applicable implementation plan under section 7410 of this title approved by the Administrator under clause (i) of this subparagraph if, after consultation with, and concurrence by, the Secretary of Energy, the Administrator determines that—

(I) extreme and unusual fuel or fuel additive supply circumstances exist in a State or region of the Nation which prevent the distribution of an adequate supply of the fuel or fuel additive to consumers;

(II) such extreme and unusual fuel and fuel additive supply circumstances are the result of a natural disaster, an Act of God, a pipeline

²So in original. Par. (1) does not contain a cl. (A).

or refinery equipment failure, or another event that could not reasonably have been foreseen or prevented and not the lack of prudent planning on the part of the suppliers of the fuel or fuel additive to such State or region; and

(III) it is in the public interest to grant the waiver (for example, when a waiver is necessary to meet projected temporary shortfalls in the supply of the fuel or fuel additive in a State or region of the Nation which cannot otherwise be compensated for).

(iii) If the Administrator makes the determinations required under clause (ii), such a temporary extreme and unusual fuel and fuel additive supply circumstances waiver shall be permitted only if—

(I) the waiver applies to the smallest geographic area necessary to address the extreme and unusual fuel and fuel additive supply circumstances;

(II) the waiver is effective for a period of 20 calendar days or, if the Administrator determines that a shorter waiver period is adequate, for the shortest practicable time period necessary to permit the correction of the extreme and unusual fuel and fuel additive supply circumstances and to mitigate impact on air quality;

(III) the waiver permits a transitional period, the exact duration of which shall be determined by the Administrator (but which shall be for the shortest practicable period), after the termination of the temporary waiver to permit wholesalers and retailers to blend down their wholesale and retail inventory;

(IV) the waiver applies to all persons in the motor fuel distribution system; and

(V) the Administrator has given public notice to all parties in the motor fuel distribution system, and local and State regulators, in the State or region to be covered by the waiver.

The term "motor fuel distribution system" as used in this clause shall be defined by the Administrator through rulemaking.

(iv) Within 180 days of August 8, 2005, the Administrator shall promulgate regulations to implement clauses (ii) and (iii).

(v)³ Nothing in this subparagraph shall—

(I) limit or otherwise affect the application of any other waiver authority of the Administrator pursuant to this section or pursuant to a regulation promulgated pursuant to this section; and

(II) subject any State or person to an enforcement action, penalties, or liability solely arising from actions taken pursuant to the issuance of a waiver under this subparagraph.

(v)(I)³ The Administrator shall have no authority, when considering a State implementation plan or a State implementation plan revision, to approve under this paragraph any fuel included in such plan or revision if the effect of such approval increases the total number of fuels approved under this paragraph as of September 1, 2004, in all State implementation plans.

³So in original. Two cls. (v) have been enacted.

(II) The Administrator, in consultation with the Secretary of Energy, shall determine the total number of fuels approved under this paragraph as of September 1, 2004, in all State implementation plans and shall publish a list of such fuels, including the States and Petroleum Administration for Defense District in which they are used, in the Federal Register for public review and comment no later than 90 days after August 8, 2005.

(III) The Administrator shall remove a fuel from the list published under subclause (II) if a fuel ceases to be included in a State implementation plan or if a fuel in a State implementation plan is identical to a Federal fuel formulation implemented by the Administrator, but the Administrator shall not reduce the total number of fuels authorized under the list published under subclause (II).

(IV) Subclause (I) shall not limit the Administrator's authority to approve a control or prohibition respecting any new fuel under this paragraph in a State implementation plan or revision to a State implementation plan if such new fuel—

(aa) completely replaces a fuel on the list published under subclause (II); or

(bb) does not increase the total number of fuels on the list published under subclause (II) as of September 1, 2004.

In the event that the total number of fuels on the list published under subclause (II) at the time of the Administrator's consideration of a control or prohibition respecting a new fuel is lower than the total number of fuels on such list as of September 1, 2004, the Administrator may approve a control or prohibition respecting a new fuel under this subclause if the Administrator, after consultation with the Secretary of Energy, publishes in the Federal Register after notice and comment a finding that, in the Administrator's judgment, such control or prohibition respecting a new fuel will not cause fuel supply or distribution interruptions or have a significant adverse impact on fuel producibility in the affected area or contiguous areas.

(V) The Administrator shall have no authority under this paragraph, when considering any particular State's implementation plan or a revision to that State's implementation plan, to approve any fuel unless that fuel was, as of the date of such consideration, approved in at least one State implementation plan in the applicable Petroleum Administration for Defense District. However, the Administrator may approve as part of a State implementation plan or State implementation plan revision a fuel with a summertime Reid Vapor Pressure of 7.0 psi. In no event shall such approval by the Administrator cause an increase in the total number of fuels on the list published under subclause (II).

(VI) Nothing in this clause shall be construed to have any effect regarding any available authority of States to require the use of any fuel additive registered in accordance with subsection (b) of this section, including any fuel additive registered in accordance with subsection (b) of this section after August 8, 2005.