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Federal Trade Commission  
Office of the Secretary  
600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex A)  
Washington, DC 20580

Submitted electronically to: <https://ftcpublishcommentworks.com/ftc/RecycledOilReview/>

**Subject: 16 CFR Part 311 – Recycled Oil, Matter No. R811006**

Dear Federal Trade Commission:

The American Petroleum Institute (API) appreciates the opportunity provided by the Federal Trade Commission (FTC) to comment on the FTC's review of 16 CFR Part 311, Test Procedures and Labeling Standards for Recycled Oil. API is the only national trade association representing all facets of the oil and natural gas industry, which supports 10.3 million U.S. jobs and nearly 8 percent of the U.S. economy. API's more than 625 members include large integrated companies, as well as exploration and production, refining, marketing, pipeline, and marine businesses, and service and supply firms. They provide most of the nation's energy and are backed by a growing grassroots movement of more than 40 million Americans.

Our comments on 16 CFR Part 311 are provided below following the format suggested by the rulemaking notice.

1. **Need**: The current rule permits a manufacturer of an oil that contains "processed used oil" to claim the oil is an engine oil if the oil is determined by the manufacturer to be substantially equivalent to the engine oil performance standards defined in API 1509, Engine Oil Licensing and Certification System, Fifteenth Edition. Most North American, Japanese, and Korean gasoline and diesel engine manufacturers recommend oils that meet API performance standards. This rule helps consumers to distinguish more easily engine oils that comply with the standards.

As the FTC considers updates to this needed rule, regulators should also keep in mind that some changes to the rule are necessary to bring it in line with industry practice. One important change explained in item 4 draws a distinction between "manufacturer" and "oil marketer." Oil marketers are the organizations that determine if an oil meets a defined industry standard, not manufacturers as defined by the current rule.

2. **Benefits and Costs to Consumers**: The rule provides consumers with more choices of brands of engine oils that are defined by the oil marketer as meeting API performance standards.

3. Benefits and Costs to Industry Members: The benefit to industry members is similar to the benefit to consumers: the rule allows industry to provide more choices to consumers. Industry members also benefit from the freedom to use re-refined base stocks in their brands without fear of adverse reactions from consumers who might misinterpret the presence of re-refined base stocks in an oil as a sign of lower oil quality. Re-refined base stocks have been used in engine oils meeting API performance standards for many years. The oil marketer's claim that an engine oil meets an API performance standard should be sufficient to allay any concerns a consumer might have about the suitability of an oil for his or her vehicle.
4. Recommended Changes: If the rule remains in effect, the FTC should consider making the following changes (additions underscored and deletions in ~~striketrough~~):
  - a. 311.1(a): *Manufacturer* means any person or organization that ~~who~~ re-refines or otherwise processes used oil to remove physical or chemical impurities acquired through use ~~or who blends such re-refined or otherwise processed used oil with new oil or additives.~~

The proposed change to 311.1(a) is intended to distinguish base stock "manufacturers" and re-refiners from "oil marketers." Oil marketers are the organizations responsible for identifying the standard met by an engine oil. The term "oil marketer," if accepted for inclusion in the regulation, will need to be inserted wherever the term "manufacturer" is used to identify the organization responsible for the oil brand in the marketplace. A proposed definition for "oil marketer" is provided below.
  - b. 311.1(d): *Recycled oil* means processed used oil that has been deposited, collected, and managed in accordance with 40 CFR Part 279 ~~the manufacturer has determined, pursuant to section 311.4 of this part, is substantially equivalent to new oil for use as engine oil.~~

The proposed change to 311.1(d) is intended to clarify oil disposition once it has been introduced into a car or truck engine. The term "used oil" identifies the oil drained from a crankcase, "recycled oil" the used oil once it has entered the used oil management stream, "re-refined oil" one method used to repurpose used oil, and "processed used oil" a broader term that covers all potential methods that could be used to repurpose used oil.
  - c. 311.1(g): *Oil marketer* means the marketing organization responsible for the integrity of the brand name and the representation of the branded product in the marketplace.

The proposed definition for "Oil Marketer" is drawn from the current 17<sup>th</sup> Edition of API 1509.
  - d. 311.4: ... entitled "Engine Oil Licensing and Certification System," American Petroleum Institute ("API"), Publication 1509, Thirteenth Edition, January 1995. API Publication 1509, Thirteenth Edition, has been updated to API Publication 1509, ~~Fifteenth~~ Seventeenth Edition, ~~April 2002~~ September 2012 [Addendum 1, October 2014]. For this rule, the most recent edition of API Publication 1509, ~~Fifteenth Edition,~~ is incorporated by reference.
5. Impact on Information: Vehicle and engine manufacturers have for decades directed their customers to use engine oils meeting the performance standards published in the most recent edition of API 1509. This rule has and, if maintained, will in the future ensure that consumers will be able to determine easily if an oil manufactured with processed used oil is an oil recommended for their vehicle engine.
6. Compliance: API has for more than 30 years licensed oils against the performance standards published in API 1509. Oil marketers that demonstrate compliance with API 1509 and are

properly licensed by API are permitted to display API engine oil certification marks on their licensed oils. Today, more than 800 oil marketers and 16,000 engine oils are licensed by API to display the API certification marks. Some of these oils are made with re-refined base oils, and they are subject to the exact same requirements as oils made with “new” base oils.

7. Unnecessary Provisions: API believes the rule continues to be needed.
8. Technological or Economic Changes: API is not aware of any changes in technology that would impact this rule.
9. Conflicts with Other Requirements: API suggested a change to the definitions to define better the terms associated with the used oil collection and recycling process.
10. Update Rule Reference to API Document: API recommends that the reference to API 1509 be at minimum updated to reflect the current published edition (today, the Seventeenth Edition). The FTC should, however, consider amending the rule to refer to the “most recent edition” of API 1509 because the groups that participate in the maintenance and development of API engine oil standards update them every three to five years.

If you have any questions or concerns, please don't hesitate to reach out to me at 202/682-8227 or [searlesp@api.org](mailto:searlesp@api.org).

Sincerely,

Prentiss Searles  
[Signed electronically]