UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 17 1999

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

Mr. Urvan Sternfels
President
National Petroleum Refiners Association
Suite 1000
1899 L Street, N.W.
Washington, D.C. 20036

Dear Mr. Sternfels:

This letter addresses the wintertime oxygen content gasoline program in the New York-Northern New Jersey-Connecticut Consolidated Metropolitan Statistical Area (the Tri-States CMSA) and the Lake Tahoe Air Basin area in California.

Section 211(m) of the Clean Air Act requires states with certain carbon monoxide (CO) nonattainment areas to include in their state implementation plans (SIPs) a requirement that gasoline must contain not less than 2.7 weight percent oxygen during certain cold months (the oxyfuel program). However, the States of New York, New Jersey and Connecticut have begun a SIP petition process to eliminate the oxyfuel program from the Tri-States CMSA, based on their belief that the oxyfuel program is unnecessary for CO attainment. In June, 1998, the Lake Tahoe Air Basin was redesignated by EPA as attainment for CO, and the State of California also has begun a SIP petition process to eliminate the oxyfuel program from this area based on their belief the oxyfuel program is unnecessary to maintain CO attainment status.

There is insufficient time for EPA to act on these SIP revision petitions before the date oxygenated gasoline must be produced and shipped in advance of the upcoming oxyfuel season. As a result, and in light of the information submitted by the states and the preliminary conclusions of the EPA regional offices, I agree that the oxyfuel program appears to be unnecessary in the Tri-States CMSA and in the Lake Tahoe Air Basin. Therefore, effective immediately I will exercise enforcement discretion and will not enforce the oxyfuel program standard in these areas. This commitment to not enforce the oxyfuel standard will remain in effect until EPA takes final action on the SIP revision petitions, or until the end of the 1999/2000 oxyfuel season, whichever occurs first.

As you are aware, EPA does not generally favor the use of no enforcement action assurances. We believe such action is appropriate here since EPA expects to approve the SIP revisions. Furthermore, we believe there will be no environmental harm from exercising this type of discretion, because our preliminary review indicates that the oxyfuel program is not

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necessary for these areas to achieve or maintain CO attainment status. This decision is consistent with prior action taken by EPA under similar circumstances.

If you have any questions, feel free to call me or Bruce Buckheit of my staff at (202)564-2265.

Sincerely,

Steven A. Herman
Assistant Administrator

cc: EPA, Regions I, II, and IX
California Air Resources Board
New York State Petroleum Council