

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 755

[OPPT-61624A; FRL-6758-3]

RIN 2060-AJ00

Proposed Prohibition on Manufacture, Import, Sale, Storage, and Transportation of Methyl Tertiary Butyl Ether for use in the United States as a Gasoline Additive

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed rule would generally prohibit, effective four years from the date of promulgation, the manufacture, import, sale, storage and transportation of both methyl tertiary butyl ether (MTBE) for use in the United States as a fuel additive in gasoline and MTBE-blended gasoline. This rule is proposed under the authority of section 6(a) of the Toxic Substances Control Act (TSCA) to eliminate unreasonable risks to the environment associated with the use of MTBE as a fuel additive in gasoline. Unlike other components of gasoline, MTBE dissolves and spreads readily in the groundwater underlying a spill site, resists biodegradation, and is more difficult and costly to remove from groundwater. Low levels of MTBE can render drinking water supplies unpotable due to its offensive taste and odor. In light of MTBE's demonstrated potential to contaminate drinking water resources and the availability of acceptable substitute fuel additives, EPA proposes to ban the use of MTBE as a fuel additive in gasoline (i.e., use as an oxygenate, and an octane enhancer) . EPA believes the action proposed is the least burdensome alternative available under current statutory authorities to adequately address the risks associated with MTBE use as a fuel additive. As discussed in Unit V.D. of this preamble, an MTBE ban would be much more cost effective, and less burdensome, if legislative action were taken to remove the Clean Air Act oxygen mandate for reformulated gasoline. Additionally, ethyl tertiary butyl ether (ETBE), tertiary amyl methyl ether (TAME), di-isopropyl ether (DIPE) and tertiary butyl alcohol (TBA) have certain structural similarities to MTBE leading to EPA's concern that they too may have the potential to contaminate drinking water supplies when used as fuel additives. The Agency seeks comment on whether regulatory action addressing these substances may be appropriate.

DATES: Comments, identified by docket control number OPPT-61624A, must be received on or before [insert date 90 days after date of publication in the **Federal Register**]. Requests that EPA hold an informal public hearing must be received on or before the close of the comment

period. If a hearing is requested, EPA will publish a notice in the **Federal Register** announcing the time and place for an informal public hearing. The Agency may elect not to hold a hearing on this proposal or to postpone or cancel any public hearing should it determine that a supplemental proposal is necessary.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPT-61624A in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: *For general information contact:* Barbara Cunningham, Acting Director, Environmental Assistance Division, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7408), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554-1404; e-mail address: TSCA-Hotline@cpa.gov.

For technical information contact: Karen Orehowsky, Office of Transportation and Air Quality, Fuels and Energy Division, 6406J, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (202) 564-9674; e-mail address: orehowsky.karen@cpa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

I.A. Does this Action Apply to Me?

You may be regulated pursuant to this action if you manufacture, import, sell, store, or transport MTBE for use as a fuel additive in gasoline or MTBE-blended gasoline. In addition, any person that exports, or intends to export, MTBE or MTBE containing gasoline is subject to the TSCA section 12(b) export notification requirements in 40 CFR part 707, subpart D. Potentially regulated categories and entities may include, but are not limited to:

Type of entity	NAICS codes	Examples of potentially regulated entities
Chemical Manufacturers and Importers	325, 32411	Persons who manufacture (defined by statute to include import) MTBE for use as a fuel additive in gasoline.
Chemical Exporters	325, 32411	Persons who export, or intend to export, MTBE.
Petroleum refiners, blenders, and importers	324110	
Gasoline marketers and distributors	422710, 422720	

This listing is not intended to be exhaustive, but rather it provides a guide for readers regarding entities likely to be regulated by this action. Other types of entities not listed in the table in this Unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine if you or your business is affected by this action, you should carefully examine the applicability provisions at 40 CFR 755.XX of the proposed regulatory text in this document. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

I.B. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

I.B.1. Electronically. You may obtain electronic copies of this document, and certain other related documents that are available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under "**Federal Register--Environmental Documents.**" You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

I.B.2. In person. The Agency has established an official record for this action under docket control number OPPT-62164A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The