



Britt Cobb
Commissioner

**North Carolina Department of Agriculture
and Consumer Services**

N. David Smith
Deputy Commissioner

DATE: November 5, 2004

TO: Petroleum Refiners, Suppliers, Wholesalers, Retailers and Terminal Operators

FROM: N. David Smith, Chief Deputy Commissioner

SUBJECT: Diesel Lubricity – Enforcement Policy

In June of this year ASTM International (ASTM) approved the addition of a lubricity requirement to its standard for diesel fuel oils (ASTM D 975). The lubricity standard for No. 1 and No. 2 diesel fuels is effective January 1, 2005. Meeting this new requirement will likely require the addition of a lubricity additive, especially when ultra-low sulfur diesel fuel (ULSD) is widely manufactured and distributed by the petroleum industry, beginning in 2006. It is our understanding that currently 40% to 60% of the diesel fuel supply meets the new standard without the addition of a lubricity additive.

Recent discussions with petroleum industry representatives indicate the diesel lubricity requirement has created a number of uncertainties and logistical concerns, which may impact fuel supply. Lubricity additives are not permitted in jet fuel in any quantity. Some refined-product pipelines have expressed concern over the potential for “trail back” of lubricity additives into jet fuel during pipeline shipment. On October 15 Colonial Pipeline Company (the major transporter of petroleum products to North Carolina) announced they would not accept diesel products that contain lubricity additives for shipment on its system.

It is our understanding that some pipelines, including Colonial Pipeline Company, had assumed that a lower additive treatment rate for 2005 would not pose a “trail back” issue, but recent tests have indicated otherwise. Hence, there is great uncertainty as we come down to the January 1, 2005 deadline. Many industry representatives now believe the best approach for meeting the ASTM lubricity requirement would be to additize diesel fuels at bulk distribution terminals rather than ship the additized fuel via pipelines, but they note there is insufficient lead time to install the necessary equipment at all terminals prior to January 1, 2005, the effective date of the ASTM standard.

North Carolina adopts ASTM diesel fuel standards by reference, including subsequent amendments and editions. ASTM standards are enforceable by the Department immediately upon their effective date. With this in mind, some fuel suppliers have requested that the department temporarily suspend enforcement of the new diesel lubricity standard to allow fuel suppliers and terminal operators sufficient time to make the needed modifications at their facilities without disrupting the continuity of diesel fuel supplies.

After careful consideration of the issues involved, and in order to assure adequate supplies of diesel fuel and jet fuel for North Carolina motorists, the air transport industries, and businesses while maintaining consumer protection, the department has decided it will not enforce the diesel fuel lubricity standard (ASTM D 975, Table 1, Lubricity) prior to October 1, 2005, for terminal operators, fuel suppliers, and their customers.

To assist the department in monitoring implementation of the diesel lubricity standard, terminal suppliers are requested to provide the following information.

1. By December 31, 2004, submit a listing of terminals from which the supplier makes sales of diesel fuel into North Carolina, and an implementation plan demonstrating compliance with the lubricity standard.
2. Effective January 1, 2005 for all diesel fuel that does not meet the ASTM D 975 lubricity standard, advise customers via written notification on shipping documents, invoices, or other means that the diesel fuel is not certified as meeting the ASTM D 975 lubricity standard.

This temporary suspension of enforcement by the department is limited solely to the ASTM D 975 diesel lubricity standard. Enforcement of the lubricity standard will commence on October 1, 2005. In the event ASTM should successfully ballot a change to the D 975 standard that delays the effective date of the lubricity requirement, we will follow the modified standard rather than the process outlined in this letter.

Questions regarding this communication should be directed to Stephen Benjamin, Director, Standards Division, North Carolina Department of Agriculture and Consumer Services (Ph: 919-733-3313).

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