



## Legislative & Regulatory Action Center

# REGULATORY ALERT

August 8, 2007

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### IMPORTANT DEVELOPMENTS: EPA REGULATIONS AFFECTING MARKETERS OF NON-ROAD DIESEL FUEL, DYED KEROSENE & HEATING OIL

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U.S. Environmental Protection Agency (EPA) regulations affecting non-road, locomotive and marine (or "NRLM") diesel fuel, dyed kerosene and heating oil began on June 1, 2007. As of that date, new wording was required on all product transfer documents (including shipping papers, delivery tickets and bills of lading) and new decals were required on fuel dispensers for these fuels. On August 1st, terminals were made subject to the new 500ppm standard for NRLM diesel fuel. On October 1st, petroleum marketers and wholesale purchaser consumers will be made subject to that same standard, and will no longer be able to dispense or distribute high sulfur (>500ppm) distillate fuel for use in NRLM applications. **This alert addresses some important developments concerning these rules.**

The New England Fuel Institute's ([www.nefi.com](http://www.nefi.com)) Compliance Kit provides accurate and comprehensive guidance information on these new regulations for petroleum marketers in the Northeast/Mid-Atlantic (NE/MA) area only\*. This alert supplements this compliance kit - for complete compliance information, please see the kit. Contact Jim Collura at [jimcollura@nefi.com](mailto:jimcollura@nefi.com) or (617) 924-1000, x216 to request the most up-to-date copy.

*\*The following states and counties are located in the Northeast/Mid-Atlantic (NE/MA) area: Massachusetts, Vermont, New Hampshire, Maine, Connecticut, Rhode Island, New York, New Jersey, Delaware, North Carolina, Virginia, Maryland, Washington D.C., (except for the counties of Chautauqua, Cattaraugus, & Allegany), Pennsylvania (except for the counties of Erie, Warren, Mc Kean, Potter, Cameron, Elk, Jefferson, Clarion, Forest, Venango, Mercer, Crawford, Lawrence, Beaver, Washington, & Greene), and the eight eastern-most counties of West Virginia (Jefferson, Berkeley, Morgan, Hampshire, Mineral, Hardy, Grant, & Pendleton).*

#### **1. TERMINALS IN NE/MA AREA MAY NO LONGER SELL HIGH SULFUR DIESEL FUEL FOR USE IN NRLM APPLICATIONS AS OF AUGUST 1, 2007**

Petroleum marketers in the NE/MA area may no longer pull high sulfur diesel fuel from the terminal rack as of August 1, 2007. The EPA intends to eliminate high sulfur diesel fuel as an NRLM product in this area of the country. Heating oil is the only remaining high sulfur product (other than jet fuel and heavy marine fuels) that should be available at NE/MA terminals. Some terminal operators may have incorrectly informed below the rack marketers that they too must not sell high sulfur dyed diesel to their customers. This is incorrect. Below the terminal rack petroleum marketers may continue to sell high sulfur diesel fuel for use in NRLM applications within the NE/MA area until October 1, 2007. In addition, if below the rack marketers have no high sulfur dyed diesel left in storage after August 1, they may purchase heating oil from terminals, re-designate it as high sulfur dyed diesel fuel and sell it for NRLM use until October 1, 2007.

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Marketers may re-designate heating oil as high sulfur dyed diesel fuel simply by changing the PTD designation on their shipping papers and delivery tickets to the following:

**"HS Dyed NRLM-may exceed 500 ppm sulfur.  
Not for use in non-road engines requiring ULSD or highway engines."**

It is important that the above appear on all product transfer documents below the terminal rack when re-designating heating oil to high sulfur dyed diesel for off-road use. Failure to do so could bring a fine of up to \$32,500 per day per violation. After October 1, 2007, only 15-ppm and 500-ppm dyed diesel may be used for off-road engines. After this date, heating oil use will be restricted to heating applications and in a limited number of stationary engines, such as generators. Heating oil may not be re-designated as high sulfur fuel *after* October 1, 2007.

## **2. EPA: "MISTAKE" ON DYED DIESEL SHIPPING PAPER & DELIVERY TICKETS**

Environmental Protection Agency (EPA) has announced a "mistake" on requirements for all product transfer documents (PTDs) of dyed diesel fuel beginning June 1, 2006. EPA previously approved PTD language for dyed diesel fuel, including bills of lading, shipping papers and delivery tickets, that reads:

**"500-ppm sulfur dyed LSD.  
Non-road or tax exempt use only. Not for use in 2007 and later vehicles."**

According to the EPA, the word "highway" should have been included before "vehicles" in the statement above. The word was mistakenly dropped when EPA officials approved a shortened version a year ago. The corrected PTD statement should read:

**"500-ppm sulfur dyed LSD.  
Non-road or tax exempt use only. Not for use in 2007 and later *highway* vehicles."**

NEFI Regulatory Counsel Mark S. Morgan, Esq. has contacted the EPA and expressed NEFI's opposition to any enforcement of the new requirement on fuel dealers. Morgan stressed that many fuel dealers around the country have already printed up their shipping papers and delivery tickets with the old language, which is absent the word "highway." The EPA has agreed to accept both versions of the wording until current supplies of pre-printed delivery tickets are used up, but has asked fuel dealers to include the new language in future printing runs. Members should note that the EPA language required on other delivery tickets (including heating oil) and on fuel dispensers remains unchanged.

## **ADDITIONAL QUESTIONS ON THE COMPLIANCE ISSUES DESCRIBED ABOVE???**

**See the New England Fuel Institute's NRLM Diesel Fuel Compliance Kit  
or contact the NEFI Legislative & Regulatory Action Center at (617) 924-1000, x216**

### **YOUR HELP IS NEEDED AND APPRECIATED!**

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