

November 19, 2002

QUESTIONS TO BE RAISED IN TERMINAL PRESENTATION  
ON ULTRA LOW-SULFUR DIESEL FUEL

1. Terminal operators who import product from abroad are in most instances responsible for compliance with the low sulfur diesel fuel rule. These importers understand that if a cargo of on-highway diesel fuel enters the U.S. and does not comply with the 15 ppm standard, they can choose to blend the product to specification if it is possible. These importers would then designate the product as compliant when it leaves the terminal gate. Would EPA please confirm this interpretation.
2. As EPA is aware, terminals often serve in two different capacities - (1) as an import facility; and (2) a downstream facility when product is received from a U.S. refiner or importer. As such, terminal operators believe that the 2 ppm testing tolerance would only apply to those operations of the terminal when it is acting as a "downstream facility." Would EPA please confirm this interpretation.
3. Terminals have no financial incentive to downgrade product from 15 ppm to 500 ppm. However, there is concern about contamination and the 20 percent downgrade limitation, particularly within the first several months following implementation. Will EPA issue a technical amendment that would allow the industry to downgrade the 15 ppm product without limitation, or at least remove the limitation for the first six months of the program.
4. If terminals opt to wash barges, tanks, equipment and trucks before running 15 ppm diesel fuel through their systems, the flushing process will generate substantial volumes of oily-water waste. Has the EPA given thought to assisting the industry deal with this waste?
5. Availability of ultra low-sulfur kerosene is vital for blending with diesel fuel during the winter months, particularly in the Northeast and other cold regions of the country. Terminal operators are very concerned about availability of this product. What information does the EPA have about anticipated supply and is it encouraging greater production of this new product?

6. If a terminal imports off-spec kerosene (higher than 15 ppm), terminal operators are planning to blend the kerosene with diesel fuel so that the ultimate diesel fuel leaving the terminal gate and entering into commerce meets the 15 ppm standard. Would EPA please confirm that this process is permissible for an importer?
7. Terminal operators believe it is appropriate for them, even when acting as a "downstream facility," to ensure that the diesel fuel leaving the terminal gate complies with the 15 ppm sulfur standard. Terminal operators recommend that EPA determine compliance when the product leaves the facility, not when the product is still in tank before distribution. However, if such testing and determination is to be conducted on product in storage, the EPA should use an "average" of the sulfur content of the tank to determine compliance.
8. Despite careful planning and advanced implementation, terminals are concerned that problems will arise during the first six months of the program as they did in 1993. Would EPA exercise its enforcement discretion and refrain from bringing actions for violations for that phase-in period?
9. Terminal operators currently marketing ultra low-sulfur diesel fuel (15 ppm) are concerned about the accuracy of the equipment available today in the field for testing. Will EPA recommend which equipment industry should use for testing? What equipment has the Agency decided to use to determine compliance?